



INTERNATIONAL ASSOCIATION  
OF YOUNG LAWYERS

# **Sports and safety inside and outside the stadium Legal challenges**

**IBLC/ Sports Law Subcommittee**

**Prague, 2014 –Workshop E**

**General Report**

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### 1. Introduction

Sports events have become the perfect paradigm of highly crowded social events. From football to baseball, top sports game days equal a unique challenge for organizers in terms of safety for both those participating in such an event and those just attending as committed supporters.

Whatever sport we might think of, it seems clear that organizers need to stick to thorough legal frameworks when it comes to the safety aspects to be considered when putting together a big sports feast such as the Superbowl, a F1 Grand Prix or, specially this year, the FIFA World Cup final that took place in Rio de Janeiro in mid July 2014.

Needless to say, every sport might have its own set of particular rules but the aim of this paper is to get a glimpse of the general legal framework applicable to the safety aspects of big sports events in different jurisdictions. More specifically, the final goal would be to identify both the common principles probably shared by most of the regulations analyzed and the differences existing among them.

This general report is based on the national reports prepared following a questionnaire structured in 3 blocks each of them separately aiming at i) the general safety aspects, ii) insurance coverage and iii) the potential liabilities the parties involved in the organization might face.

A total of 10 national reports were eventually received from the following jurisdictions:

- |            |                 |
|------------|-----------------|
| 1. Brasil  | 6. Latvia       |
| 2. Canada  | 7. Poland       |
| 3. Finland | 8. Spain        |
| 4. Germany | 9. Sweden       |
| 5. Ireland | 10. Switzerland |

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This general report is based on the structure of the aforementioned questionnaire and it has been prepared by comparing the core of the approach of the detailed jurisdictions to the questions and matters addressed therein.

### **2. General Safety Aspects**

2.1 What is the legal framework applicable to the general safety aspects of big sports events in your country (prevention of violence, access and behavior inside the venues)?

#### 2.1.1. Brasil

Law nº 9.615/1998 is the backbone of the legal framework applicable to sports events in Brasil and the starting point for several developing regulations on specific matters.

#### 2.1.2. Canada

The core of the legal framework applicable to sports events that take place in Canada is defined by the Criminal Code, in which the general standards of safety and morality are set forth by outlawing the most violent sports, and prohibiting harmful or violent conduct.

Specific regulations (Trespass to Property Act, Private Security and Investigative Services Act, Liquor Licence Act) apply to several aspects of such events.

#### 2.1.3. Finland

The Finnish Assembly Act is applicable to the safety aspects of public events, including sports events.

Sports events do not essentially differ from other public events.

Sports federations and associations normally have their own safety regulation applicable to the organization of sports events.

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### 2.1.4. Germany

There is not a specific law applicable to sports events. Thus the legal framework applicable to sports events is integrated by several laws and regulations.

### 2.1.5. Ireland

The *Occupier's Liability Act, 1995* contains the safety obligations applicable to virtually any place where a sporting event is held.

The occupier is defined as “one who is in sufficient control of the premises that it is reasonable to impose a duty towards the entrant upon him”.

Other general legal texts may also apply to sporting events (*Criminal Justice (Public Order) Act, 1994, Fire Services Act, 1981 & Licensing of Indoor Events Act, 2003, Public Health Acts Amendment Act, 1890, Safety, Health and Welfare at Work Act, 1989 & Building Control Act, 1990*).

It is worth mentioning the *Code of Practice for Safety at Sports Grounds, 1999*, which applies to ground with a capacity of 20,000 spectators or more on a voluntary basis.

### 2.1.6. Latvia

General safety aspects of big sport events in Latvia are regulated by the Sports Law which defines the general rights and obligations of the event organizers, athletes and spectators.

In addition, the Public Entertainment and Festivity Event's Safety law shall also be considered as part of the core the legal framework applicable to sporting events in Latvia.

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### 2.1.7. Poland

The Mass Event Safety Act provides general legal provisions regarding safety aspects of public events (including big sport events).

### 2.1.8. Spain

Law 10/1990, of 15 October, on sports (*LEY 10/1990, de 15 de octubre, del Deporte*) is the backbone of the Spanish legal framework applicable to sports on a general basis.

Law 19/2007, of 11 July, against violence, racism, xenophobia and intolerance in sports (*Ley 19/2007, de 11 de julio, contra la violencia, el racismo, la xenofobia y la intolerancia en el deporte*) and the relevant developing regulations contain specific rules as regards the safety aspects of big sports events.

The Autonomous Communities also have the competence to develop their own laws and regulations, so the specific place where an event takes place within Spain will be a definitive criterion to determine the particular set of rules to consider.

### 2.1.9. Sweden

There seems not to be a general sports law. Hence, the legal framework applicable to sporting events is formed by the applicable provisions of the Swedish Penal Code and a number of laws dealing with specific aspects of the events (Act (2005:321) Regarding Refusal of Access to Sporting Events, Order Act (1993:1617)).

### 2.1.10. Switzerland

Switzerland has ratified the European Convention on Spectator Violence and Misbehavior at Sport Events and consequently enacted the Federal Act on Measures for Safeguarding National Security (BWIS, SR 120) although the second was eventually revoked.

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Currently, the legal framework applicable to sporting events would be formed by the inter-cantonal Concordat on the matter and developing normative, including provisions specifically enacted by particular sports associations.

### 2.1.11. Observations

There are very different legislative approaches among the compared jurisdictions. In general terms, it is possible to distinguish between countries with specific sports legislation (Brazil, Ireland, Latvia, Spain) and countries in which sporting events are regarded as just one type of public event with no specific normative (Canada, Finland, Poland, Germany, Sweden).

## 2.2 Are there any legal regulations applicable to specific sports or events?

### 2.2.1. Brasil

There actually are specific *ad hoc* regulations for certain events (Law n°12.663/2012 on the FIFA World Cup; Law n°12.035/2009, on the Olympic Games).

### 2.2.2. Canada

The Athletics Control Act regulates professional boxing and mixed martial arts.

Other applicable regulations are of a general application to sport and non-sport events.

### 2.2.3. Finland

There are no specific regulations for particular sports further than the mentioned safety regulations of the different federations and associations.

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2.2.4. Germany

There are no laws applicable to specific sports or events.

2.2.5. Ireland

There are specific laws for sporting events involving animals (*Greyhound Industry Act, 1958, Irish Horse Industry Act 1994 & Horse and Greyhound Racing Act, 2001, Wildlife Act, 1976*)

2.2.6. Latvia

There are no specific regulations for any sport in particular, although specific provisions may apply depending on the where the venue of the event is located (sports facilities or otherwise).

2.2.7. Poland

There are no specific regulations for any sport in particular.

2.2.8. Spain

There are no specific provisions at a legislative level but the statutes of the different Spanish federations and associations should be regarded as specific rules applying to the corresponding sports.

2.2.9. Sweden

There are no specific regulations for any sport in particular.

2.2.10. Switzerland

There actually are certain security regulations that were adopted in view of the particular problems caused by some sports such as football and hockey, although no national laws deal specifically with only one certain sports.

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### 2.2.11. Observations

Again, there different approaches among the 10 jurisdictions herein compared. Brazil has enacted specific regulations for the FIFA World Cup, but this is not a common methodology in the rest of the studied countries.

It is worth highlighting the case of Switzerland, where football and hockey made the authorities adopt certain security regulations, though they were not specific for those sports.

Also Canada and Ireland have specific regulations for boxing, in the first case, and sporting events involving animals, in the second.

### 2.3 Who is responsible for the enforcement of the relevant legal provisions during the event (owner of the facilities, promoter, organizer, police ...)?

#### 2.3.1. Brasil

On a general basis, both the owner of the relevant facilities and the organizers are responsible for the safety of both the athletes and the audience.

#### 2.3.2. Canada

The responsibility for the enforcement of the relevant legal provisions varies under the specific applicable legislation.

In general terms, there are different responsible people or authorities for each of the aspects of the event in question (safety and accessibility of the premises, maximum capacity, ...).

#### 2.3.3. Finland

The organizer along with the police is responsible for the implementations of the corresponding safety measures.



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2.3.4. Germany

The organizers are responsible for the safety aspects of the event.

The police authorities might be involved in bigger sports events.

2.3.5. Ireland

In general terms, the Irish police authorities are responsible of law enforcement in sporting events.

2.3.6. Latvia

The organizer of the event in question shall take care of the enforcement of the relevant legal provisions during the event.

2.3.7. Poland

The organizer is responsible for the safety conditions of the event, including both the athlete's and audience's safety.

2.3.8. Spain

On a general basis, the organizers are responsible for the enforcement of the relevant safety and anti-violence provisions set forth in Law 19/2007.

Particularly large events will of course result in the involvement of governmental authorities and the police.

2.3.9. Sweden

The police authorities are generally in charge of law enforcement during the event and they may also set specific obligations for the organizers.

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### 2.3.10. Switzerland

The responsibility for the enforcement is distributed among the relevant federal and cantonal authorities, although the organizers are responsible for taking adequate security measures.

### 2.3.11. Observations

It is common that the responsibility for the enforcement of the relevant safety provisions lies with the organizers of the event with the involvement of the Polices authorities. Such an involvement varies among the studied jurisdictions and in many cases depends on the size of the event in question.

## 2.4 What are the competent authorities as regards the enforcement of the relevant legal provisions?

### 2.4.1. Brasil

Specific competent governmental authority: the Extraordinary Bureau of Security for Big Events (*Secretaria extraordinária de segurança para grandes eventos – SESGE*).

### 2.4.2. Canada

Several authorities involved in the enforcement of the different regulations applicable to the various aspects of the event.

### 2.4.3. Finland

No governmental authorities further than the police are specified.

### 2.4.4. Germany

There administrative authorities involved at a regulatory level (authorizations, permits) and the police authorities are the main enforcement force.

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There are no references to any monitoring agency or body either.

### 2.4.5. Ireland

No specific monitoring authority is mentioned, except for the Racing Regulatory Body, which monitors the enforcement of the *Irish Horse Industry Act 1994* and *Horse and Greyhound Racing Act, 2001*.

### 2.4.6. Latvia

The police authorities and the Municipalities are the competent authorities for the purposes of ensuring the enforcement of the relevant legal provisions in the sporting events held in Latvia.

### 2.4.7. Poland

There are different levels of public administrations involved, including municipal, regional and governmental bodies.

### 2.4.8. Spain

The National Sports Council (*Consejo Superior de Deportes*), a public body dependent of the Ministry of Education, Culture and Sports, is on the top of the Spanish sports institutional system.

The National Sports Council has the competence to establish the general policies and coordinate the resources to ensure the enforcement of law in the sports sphere.

### 2.4.9. Sweden

The police and the prosecution authorities take care of the matter.

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### 2.4.10. Switzerland

The responsibility for the enforcement is distributed among the relevant federal and cantonal authorities.

### 2.4.11. Observations

It is surprising that not specific authorities or governmental bodies are mentioned in most of the national reports with exceptions of Brazil (Extraordinary Bureau of Security for Big Events) Spain (National Sports Council), and the particular mention to the Irish Racing Regulatory Body.

## 3. Insurance Coverage

### 3.1 Are there specific legal provisions applicable to the insurance coverage of big sports events in your country?

#### 3.1.1. Brasil

No general legal provisions applicable to the insurance coverage of big sports events.

There are some references to the matter in *ad hoc* regulations (FIFA World Cup, Olympic Games).

#### 3.1.2. Canada

Mandatory coverage: (i) loss caused by personal injury to the insured (accident insurance); and (ii) loss caused by the insured's legal liability to others (liability insurance).

Operators, associations and event organizers must in particular arrange coverage for the various forms of liability that may be incurred on premises, during transportation or through the activities of employees.

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3.1.3. Finland

Specific insurance obligations may be determined by the police authorities.

Liability insurance is not a common prerequisite for sport events organizers.

3.1.4. Germany

There are no obligations to insure the risks of sports events established by law.

Specific sports associations may demand the organizers to cover certain risks.

3.1.5. Ireland

There is no mandatory insurance coverage under Irish Law.

Nevertheless, sports associations might require their affiliates to contract insurance policies on a mandatory basis.

3.1.6. Latvia

The Regulations of the Cabinet of Ministers No. 298 of Mai 8, 2007 deals with the matter of the compulsory the insurance coverage of big sports events.

3.1.7. Poland

The Mass Event Safety Act includes a chapter dedicated to the organizers' liability for damages occurring during the event. In addition, developing regulations such as the Regulation of Minister of Finances on the mandatory civil liability insurance of the organizers of mass events, deal with the risks to be secured by such organizers.

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3.1.8. Spain

The laws mentioned in point 2.1.8 above contain specific provisions on this matter, including the necessity to contract adequate civil responsibility insurance on a mandatory basis.

3.1.9. Sweden

There are no specific legal provisions in this regard.

3.1.10. Switzerland

There are no specific mandatory provisions applicable to the insurance coverage of big sports events in Switzerland at the moment.

3.1.11. Observations

There is an absence of specific *ex lege* obligations in this regard in Brazil, Germany, Ireland, Sweden and Switzerland.

On the other hand, insurance is mandatory in Canada, Latvia, Poland and Spain but the said jurisdiction have very different approaches as for how this matter is regulated.

It is interesting to highlight the case of Finland, where specific insurance obligations may be determined by the police authorities.

3.2 What is the mandatory insurance coverage to be contracted as regards the celebration of big sports events? What are the minimum risks to be covered according to law?

3.2.1. Brasil

There are risks to be covered on a mandatory basis in relation to all types of events (not only sports), granting to viewers, participants and supporters an adequate insurance coverage in case of accident.

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Specific coverage for big events regarding cancellation and safety and security matters.

3.2.2. Canada

Comprehensive general liability policies to cover a set of specific risks are generally required.

3.2.3. Finland

The Finish Assembly Act does not include any specific provisions on this matter.

3.2.4. Germany

There is no mandatory insurance cover under German law.

3.2.5. Ireland

There is no mandatory insurance under Irish law.

3.2.6. Latvia

The said Regulations of the Cabinet of Ministers No. 298 of Mai 8, 2007 provided that liability insurance shall mandatorily cover a number of items such as expenses for medical care, disabilities, property damage, etc.

There is also a set of minimum liability amounts to be covered depending on the particular circumstances of the event in question.

3.2.7. Poland

The minimum civil liability amounts to be insured by the organizers, which depend on the size of the event, are regulated in detail in the

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Regulation of Minister of Finances on the mandatory civil liability insurance of the organizers of mass events.

### 3.2.8. Spain

Insurance should cover the potential liabilities arising from the breach of the organizers' obligations, which are very well detailed by law and include matters such as safety and condition of the facilities, access to such facilities, distribution of alcoholic drinks within the facilities and others, being worth considering that the *ex lege* organizers' obligations are not defined as a *numerous clausus* catalogue.

### 3.2.9. Sweden

There is no mandatory insurance under Swedish law.

### 3.2.10. Switzerland

There is no mandatory insurance under Swiss law.

### 3.2.11. Observations

The level of detail in the legal systems where this matter is present differs quite a lot from one jurisdiction to another, thus being quite difficult to identify any common principles, if any.

## 3.3 Who is legally bound to contract the relevant insurance policies in connection with big sports events?

### 3.3.1. Brasil

The organizers plus the corresponding participating parties in relation to their respective role and activities (local organizing committees, broadcasters, sponsors).



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3.3.2. Canada

This should be regarded as a contractual matter to negotiated and agreed upon by the relevant parties.

3.3.3. Finland

The organizer of the event should be responsible for contracting the relevant insurance policies in case the authorities have established such a prerequisite for a particular event.

3.3.4. Germany

There is no mandatory insurance under German law. General liability insurances are usually contracted by the organizers on a voluntary basis.

3.3.5. Ireland

There is no mandatory insurance under Irish law.

3.3.6. Latvia

The organiser of the sport's event is legally bound to conclude the third party liability insurance contract.

3.3.7. Poland

Organizers of ticketed events are legally bound to have adequate insurance in accordance with the Mass Event Safety Act.

3.3.8. Spain

The organizers as defined by law are responsible to ensure that all legal requirements are met, including the contracting of adequate insurance policies.

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Organizers are legally defined as the individual or legal entity who organized the competition or spectacle in question.

It is worth mentioning that when the organizers hire a third party to take care of the management of the event, both will be equally considered as organizers for the purposes of determining any potential liabilities.

### 3.3.9. Sweden

There is no mandatory insurance under Swedish law.

### 3.3.10. Switzerland

There is no mandatory insurance under Swiss law.

### 3.3.11. Observations

The organizers of sporting events are the party that should be covered with adequate insurance where such an obligation exists.

## **4. Organizers: Potential Liabilities**

### 4.1 What are the potential liabilities that might be faced in connection with big sports events (civil, administrative, criminal liabilities) and by whom?

#### 4.1.1. Brasil

Civil, administrative and criminal liabilities may accrue for the organizers.

Potential civil liabilities for the Federal Government may accrue in large events (FIFA World Cup).

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4.1.2. Canada

All civil, administrative and criminal liabilities in connection with sports events may be faced by spectators, participants and organizers depending on the particularities of the case.

4.1.3. Finland

All civil, administrative and criminal liabilities may be faced by the organizers.

4.1.4. Germany

The organizers might face civil, administrative and criminal liabilities, although administrative liabilities are uncommon.

Also, the organizers might be punished by the sports association involved in the event in question.

The notion of organizer is the backbone of the German liability attribution system.

4.1.5. Ireland

Both the organizers and the spectators may face a civil and even criminal liability at large sporting events.

4.1.6. Latvia

The organizers of sporting events might face all sorts of liabilities arising from the event in question.

Also subcontractors might be held liable for specific aspects of the event.

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### 4.1.7. Poland

Both civil and administrative liabilities commonly accrue from big sports events gone wrong. Less common, it is also possible that organizers face criminal liability in very particular cases.

### 4.1.8. Spain

All civil, administrative and criminal liability may accrue. It is even expressly foreseen by law that one sort of liability will not exclude another by default, although the *non bis in idem* principle is of course present in the disciplinary legal regime applicable to the organization of sporting events.

### 4.1.9. Sweden

The organizers might face even criminal liability accruing from the breach of certain legal provisions in the Order Act.

Also contractual and administrative liabilities may be faced by the organizers and the owners of the relevant facilities.

### 4.1.10. Switzerland

Organizers may face both contractual and non contractual liability and even face consequences based on the Swiss Criminal Code when attendees are injured or their lives are put at risk.

### 4.1.11. Observations

It is common among the jurisdictions herein compared that all civil, administrative and criminal liabilities may accrue depending on the nature and the origin of the damage caused during sporting events.

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4.2 Distribution of liability: is it possible to distinguish liabilities arising from sports events to an extent where each of the involved parties is held liable only for damage resulting from some specific risks or situations?

4.2.1. Brasil

Liabilities are indeed distributable among the parties involved in specific aspects of the event (engineers, constructors, private security,...).

4.2.2. Canada

Liabilities might be distributed among the parties involved either by the Court on the grounds of different legal concepts such as negligence, vicarious liability, and contributory negligence.

4.2.3. Finland

The organizers are generally regarded as the “center of imputation” of any liabilities arising from sports events.

The extent of the organizers’ liability also depend on the particularities of the sport in question, e.g., ice hockey games may result in different liabilities than a volleyball game based on the foreseeability of the potential damages.

4.2.4. Germany

The organizer is also in the German case regarded as the “center of imputation” of liability.

4.2.5. Ireland

The organizer is also in the Irish case regarded as the “center of imputation” of liability under the *Occupier’s Liability Act 1995*.

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Nevertheless, the Irish case law has established that the organizers liability shall be measured in accordance with the nature of the sporting event being organized and their general obligation to act reasonably in the circumstances.

### 4.2.6. Latvia

Distribution of liability results from the provisions of Public Entertainment and Festivity Event's Safety law, which defines obligations, areas of responsibility and liability of the persons involved in the organization of the event.

### 4.2.7. Poland

As a general rule, it is possible to distinguish liability of any person who causes damage during a mass sports event (organizers, spectators and even athletes).

### 4.2.8. Spain

Under Spanish law, the organizers work as the “center of imputation” of liabilities towards third parties on a general basis.

Nevertheless, the organizers might act against who actually caused the damage if they are compelled to respond for damages that were not directly caused by them.

The persons who suffered the damage may also take direct legal action against the actual responsible.

### 4.2.9. Sweden

Yes, the involved parties are held liable for their own acts and omissions.

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### 4.2.10. Switzerland

In general terms, organizers should respond for damages arising from a breach of their duty of care, whereas the facilities' owner should respond for damages caused by structural flaws of the premises.

### 4.2.11. Observations

On a general basis, liability accruing from sporting events is to be distributed among the involved parties in consideration of their respective responsibilities.

Nevertheless, it is common that the organizers are regarded as a "center of imputation" of liability (Finland, Germany, Ireland, Spain, Switzerland)

- 4.3 On the contrary, might someone be held liable for any damage occurred during the celebration of some sports event (owner of the facilities, promoter, organizer, police ...)?

#### 4.3.1. Brasil

Full comprehensive liability of the Federal Government is possible in big sports events.

#### 4.3.2. Canada

There is a need of a sufficient proximity between the damages and the person or entity to be held liable for it.

Thus, it is unlikely that anyone is held objectively liable for the actions of an unrelated third party.

#### 4.3.3. Finland

There are sports events in which strict liability does operate (motor sports) on the ground of the particular level of danger of the activity.

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Even in such cases, though, the organizers do not face unlimited liability.

4.3.4. Germany

The organizer can be held liable for any damage, provided that he (or its assignee) did not observe legal duties to maintain safety.

4.3.5. Ireland

Organizers will be generally liable for damages deriving from the condition of the premises. Injury sustained from acts of violence by fellow spectators will generally fall outside the scope of the organizers.

4.3.6. Latvia

The organizer, as the responsible general for the event, may be held liable for any damage occurred during its celebration.

4.3.7. Poland

It is not possible for a single person or entity to be held liable for any kind of damage occurred during the celebration of sports event.

4.3.8. Spain

Organizers will be compelled to respond for most of the damages occurred during the celebration of a sporting event unless it is very clear that there was no negligence or omission on their side, although even in such case they may be held as civilly liable for certain damages.



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4.3.9. Sweden

This is not a possibility under Swedish law.

4.3.10. Switzerland

The notion of strict liability should not apply to sporting events under Swiss law although the facilities owners may face liability for damages as a result of defects in the construction of the building or inadequate maintenance.

4.3.11. Observations

In general terms, it is not common that any involved party is automatically liable for any damage occurred during a sporting event.

On the other hand, the organizers hold a most delicate position a number of jurisdictions (Germany, Ireland, Latvia, Spain).

4.4 As an attendee, what legal action may I take in case of suffering damage on the game day? Against whom?

4.4.1. Brasil

It would be advisable to institute proceedings against both the organizers (private sector) and the Federal Government (when applicable).

4.4.2. Canada

Attendees might take legal action against different individuals or entities depending on the origin of the specific damage suffered during the event (organization of the event, a fellow attendee, inherent risks of the game).

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### 4.4.3. Finland

Action should be taken against the organizer as the prime responsible for the event although it should be considered that the organizers should not automatically be held liable for damages suffered by the audience.

It might be difficult to pursue legal action against other parties involved.

### 4.4.4. Germany

The precise legal action to be taken by an attendee depends on the sort of damage suffered and the origin of such damage.

An attendee may have a claim against several parties including the organizers, the public authorities involved, other attendees or even an athlete.

### 4.4.5. Ireland

On a general basis, legal action should be taken against the organizers (the “occupier”).

### 4.4.6. Latvia

An attendee who has suffered damages during the sports event can claim compensation for losses sustained from both the organiser of the sports event and /or its subcontractors.

### 4.4.7. Poland

The particular legal action to be taken by an attendee will definitely depend on the origin of the damage suffered.

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4.4.8. Spain

As an attendee, the most likely successful action to take will be that against the organizers regardless the actual or specific origin of the damage.

4.4.9. Sweden

The particular legal action to be taken by an attendee depend on the origin of the damage suffered (misbehavior of other attendees, poor condition of the facilities, etc.).

4.4.10. Switzerland

In general terms, attendees may take legal actions against the organizers based on the non- or bad-performance of their contractual obligations, although non-contractual liability may be also pursued in case of damage.

The liability of the facilities owners may be also directly pursued in specific cases.

4.4.11. Observations

The most common approach is that particular legal action to be taken by attendees should depend on the particular circumstances of the damage suffered.

In some jurisdictions, however, it is in any case possible to involve the organizers and seek their strict liability, as well as that of the public authorities (Brazil, Germany, Spain).