

# The Swedish Market Court case on the Loyalty Clause

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# The Swedish Sports Movement

- 3,4 million individual members
- 20 000 local sport clubs
- 69 special sports federations

*...and around 670 000 voluntary leaders and officials*

(Sweden has 9 million inhabitants)



The specificity of sports

The autonomy of sports



# It's about the autonomy and the right...

- ...of sport organizations at all levels to make their own decisions in a democratic way
- ...for General Assemblies to make decisions about statutes, competition rules and sanctions



## It all started in 2008:

- A licenced official of the Swedish Automobile Sports Federation (SBF) started a private racing circus called SMA
- The SBF discussed and decided about sanctions against him based on the "loyalty clause" in the SBFs competition rules
- The SBF informed the licensed drivers about what is said in the competition rules about the permission needed to compete in another league
- *The owner of SMA complained to the Swedish Competition Authority*



# The loyalty clause:

- Stipulates that licenced members cannot participate, either as a competitor or as an official, in competitions not sanctioned by the federation without the federations permission
- This clause is based on regulations in the statutes of the Swedish Sports Confederation (RF) – and can therefore also be found in most other sport federations statutes or competition rules
- *Why the loyalty clause is important?* I will soon explain...



In 2011 the Competition Authority decided that the SBF must change its competition rules.

*The SBF, supported by RF, appealed to the Market Court – with the following strong arguments.....*



# The main arguments:

- The decision is contrary to freedom of association (found in the Swedish constitutional law)
- There is no monopoly on sports in Sweden. We do not prevent anyone from participating in other competitions, nor from organizing sports outside RF.
- Solidarity is a condition for the entire sports movement – not only inside Sweden
- Competition requires order (we do not want parallel championships)





# So what is the problem...?

- A public authority forces a sport organization to change statutes or rules decided by their members in a democratic way in their General Assembly. Sometimes the rules are based on decisions made by the European or international federation
- If an individual member is not satisfied with a decision or a rule – he or she can now go to an authority to complain
- A voluntary sport club and a commercial business are now considered as exactly the same



# Summary of principled problems:

- The decision itself: does it open for parallel leagues and championships, and can sport organizations make their own decisions in the future?
- The situation with an authority forcing a sport organization to change statutes and rules...
- *So - what about the specificity of sports?* This principle is recognized by the EU – first time in the Nice declaration and second within the Lisbon Treaty



# Next to come

- The court will present their ruling on the 23rd of November
- Possible outcomes from the court:
  - they uphold the former decision in full, or partly
  - they remit the case to the EU Court
  - they embrace the opinion of the SBF and RF in full, or partly



*Thank you for your  
attention!*

