

De la relation

DELSOL AVOCATS
LA QUALITÉ DE LA RELATION

#30 July 2024

DELSOL Avocats
newsletter

PARIS 2024 : ALL ATHLETES TRAINING HARD



Henri-Louis DELSOL & Emmanuel KAEPPÉLIN
Managing partners

The upcoming Olympic and Paralympic Games in Paris have led us to dedicate this newsletter to the world of sport and its stakeholders.

Many of our clients are directly or indirectly involved in the event: businesses, associations and sports federations, local authorities and, of course, the athletes themselves. Over these pages, we bring you insight into our expertise on some of their concerns.

Our firm has much to learn from sport's values: self-belief, inclusion, determination, respect and excellence. Sport implies following agreed rules, forming a team with a role for every member and learning as much from defeats as victories. Sport is also the perfect illustration of the need to work together with complete individual commitment to secure the best results.

For all those reasons, the firm has long partnered several sports competitions, including the Volleyball and Beach Volleyball sections of the Sports at the Paris Bar (SPAB) association, the "Schuss Solidaire" organized by the ambitious Sport dans la Ville association and women's chess competitions sponsored by the Paris Bar's association of chess-playing lawyers.

Yet sport is not just a sponsorship and communication tool for DELSOL Avocats. "*Mens sana in corpore sano*" ("A healthy mind in a healthy body") said Roman poet Juvenal. Although exercise's health benefits are scientifically proven, the pandemic reminded us of its positive effects on quality of life and wellbeing too. And so we endeavour to encourage sport and exercise regularly within the firm. Our teams take part in Juris'Run in Bois de Boulogne, the DJCE football tournament in Lyon, weekly sessions with a personal trainer as well as the annual skiing weekend, which is an important opportunity for teambuilding and teamwork.

Let the games begin!



The Olympic and Paralympic Games, both opportunity and challenge

On 13 September 2017, the International Olympic Committee chose Paris's bid to host the Olympic and Paralympic Games from 26 July to 8 September 2024. It will be the third time that the city has welcomed the Olympics after the 1900 and 1924 Games.

Organizing the world's biggest sports event is both an opportunity and challenge that presents a number of tests, whether in terms of infrastructure and accessibility, security, the environment, budget or national pride.

On the starting blocks

Our teams are on the starting blocks alongside our clients to help them manage the Games' ramifications on their companies and business dealings.

After all, sport is an industry in itself affecting many of the firm's clients first or secondhand.

Sport in the headlines

In this, the thirtieth issue of its *De la relation* newsletter, DELSOL Avocats offers its analysis of several topical issues connected to this major event.

We will discuss emergency arbitration mechanisms during a sports competition, data sharing between health regulatory bodies and the OCOG, ambush marketing and protecting the terms and symbols associated with the Games, plus athletes' image rights and the tax aspects of sponsorship agreements.

Testimonial

One of our clients, the French Golf Federation, has also agreed to share the Games' impact on its activities, as described by its Head of Legal & Membership Development. He tells us more about how golf has responded and how it sees the Olympic legacy.

Communicating during Paris 2024

Ambush marketing: the limits not to be crossed

As Paris 2024 approaches, many businesses are being tempted to run ambush marketing campaigns that involve associating their image with the Games without being official partners. It is a high-risk strategy.

Protecting the terms and symbols associated with the Games

Olympic terms and symbols are the property of the International Olympic Committee (IOC). That includes not only the Olympic symbol (five rings), but also the Games' emblem, mascots, pictograms and terms such as "Olympics", "Olympic Games", "Olympiad" and the name of the host city ("Paris 2024").

Any companies using Olympic terms and symbols in their communications without the permission of the IOC or its exclusive licensees are leaving themselves open to legal action for fraud and unfair competition. "Olympic pricing" campaigns, sales messaging on social media with the hashtags #olympicgames and #paris2024, or promotional codes and competitions referring to the Games are just some of the marketing operations regularly punished by the courts.

Precautions for communicating on the Games

Copying Olympic terms and symbols or distributing marketing messages that create uncertainty over the brand's involvement in the organization of the Games should be avoided.

Communications around the Games must be purely informative or topical, limited to a brief presentation of the facts (giving the schedule of sports meetings, sharing results, etc.) with no ambiguity over official sponsor status.



Stéphane PERRIN
Partner



Damien REMY
Counsel

Data sharing between health regulatory bodies and the OCOG*

The involvement of massage—physiotherapists and pharmacists in Paris 2024

As healthcare professionals specializing in sport and exercise medicine, massage—physiotherapists have been asked to volunteer for the 2024 Games and support the athletes throughout the event.

A temporary health centre will be created within the Olympic village for the duration of the 2024 Games and will include a pharmacy. For that reason, pharmacists are also being asked to volunteer.

The need to meet legal practice requirements

Although they will serve as "volunteers" in the 2024 Games, the massage—physiotherapists and pharmacists must be fully registered with their professional body to work with the athletes. For that reason, the OCOG must be able to check that candidates meet the legal practice requirements outlined in France's Public Health Code.

Reaching an agreement with the regulatory bodies

The OCOG has therefore entered into a data exchange agreement with the Massage—Physiotherapy Council and Pharmaceutical Council, giving the OCOG access to the registration status of professionals who have volunteered for Paris 2024. Concretely, its provisions stipulate that the OCOG provide the list of candidates and that the regulatory bodies confirm the legal practice requirements. Data is shared in compliance with the applicable data protection regulation.



Jeanne BOSSI MALAFOSSE
Partner

The Olympic Games and arbitration

Emergency arbitration mechanisms

As for previous Games, the International Council of Arbitration for Sport (ICAS) has created an ad hoc division of the Court of Arbitration for Sport for Paris 2024, tasked with resolving disputes that may arise during the Games. The court comprises a dozen arbitrators appointed by ICAS. The court's jurisdiction is strictly limited to disputes that occur in the period between ten days before the opening ceremony and the closing ceremony. Access to the *ad hoc* court is only open after all internal remedies have been exhausted.

Speedy proceedings

Rapidity and urgency are the most characteristic features of the court. Applications can be submitted at any time in French, English or Spanish and decisions will be released within 24 hours of their proper filing. In the most urgent cases, the court can order temporary measures, such as allowing an athlete to take part in the Games despite a positive drug test. The speed is such that an eminent specialist has described proceedings as "rock and roll".

Examples of rulings

The court's rulings can cover an athlete's suspension, a national sports federation's selections or an Olympic Committee decision affecting participants. However, only in wholly exceptional circumstances will the court interfere in the field of play decisions taken by umpires and referees.



Charles PRICE
Of Counsel

* Organizing Committee for the Olympic Games

Athletes' image rights

The tax aspects of sponsorship agreements

Ahead of the Olympic Games, athletes representing sports with varying degrees of popularity may earn a significant proportion of their income by using their image to endorse a business and its brands.

The complex tax qualification of income derived from athlete endorsements

Unfortunately, French lawmakers have not created a specific tax and social security scheme for the income generated by athlete endorsements. The first question that then arises is whether such income should be seen as a salary (subject to national insurance contributions) or a fee (subject to income tax in the non-commercial profits – BNC – category

and to social security contributions of 17.2%). Whilst in principle athlete endorsements generate income taxed in the BNC category, sponsorship agreements can be recategorized as modelling contracts, which has significant fiscal and social effects.

The risk of recategorizing sponsorship agreements as modelling contracts

The Labour Code defines modelling services as: *"any person who, even occasionally, presents to the public, directly or indirectly via reproduction of his/her image on any visual or audiovisual medium, a product, service or advertising message; or poses as a model, with or without the subsequent use of his/her image."*

Modelling contracts are presumed to be contracts of employment with remuneration subject to the fiscal and social rules on paid labour. Therefore, case law tends to outline the services that may come under the scope of modelling on one hand and sponsorship agreements on the other. As such, a kit manufacturer contract should be treated as a salary for the athlete (Speedo Order of 23 June 2022, number 21.10.416).

In any event, a case-by-case analysis is necessary to ensure the correct tax treatment of sponsoring top athletes.



Léa ZERILLI
Counsel



We interview Basile LENOIR,

Head of Legal & Membership Development with the French Golf

Sports federations, formed as governing bodies, administer their sport and manage their practice. They operate with complete independence in the framework of a government delegation or accreditation. They are at the grassroots of French sport and are stakeholders in the Paris 2024 Olympic Games.

Alexis BECQUART interviews Basile LENOIR, Head of Legal & Membership Development with the French Golf Federation.



Alexis BECQUART: What impacts are the Paris 2024 Olympic Games having on your federation?

Basile LENOIR: Beyond the selection of French athletes under the umbrella of the international federation, our federation has the privilege of hosting the 2024 Olympic Games' golfing event at Le Golf National in Yvelines. Le Golf National is our federation's hub, like Roland-Garros for tennis, Marcoussis for rugby and Clairefontaine for football. Le Golf National was built in 1991 with the aim of hosting the world's biggest

golf events: the annual French Open, the World Team Championships in 1994 and 2022, and the Ryder Cup in 2018. So it's the culmination of over thirty years of federation strategy.

A.B.: What measures have you taken as a result?

B.L.: We've created a consortium including the International Golf Federation and the four professional Tours (American and European, female and male) to meet OCOG specifications for staging the sports events. We were selected by the OCOG, which will

manage the logistical delivery of the event at Le Golf National itself with some of our dedicated teams and more than 500 volunteers. The principle is to deliver the competition at cost price with fixed remuneration and a variable component maximizing savings under the Paris 2024 Organizing Committee's control.

A.B.: How do you anticipate the Olympic legacy?

B.L.: The Government has asked us to put a programme in place to anticipate a potential influx of new players after the Games. We're already benefiting from the 100 small structures plan created with the same objective after the 2018 Ryder Cup. With our 750 member clubs, our digital tools are ready to manage any exceptional demand triggered by a podium finish and medal from our four French athletes (two men and two women).



Alexis BECQUART
Partner

Counsels: three co-options and two arrivals

DELSOL Avocats has co-opted three new Counsels in Mergers & Acquisitions, Employment Law and Non-profit Organizations, and also welcomed two Counsels in Real Estate Law and Mergers & Acquisitions.

Co-options



Caroline DALAGE works primarily on fundraising, sales, acquisitions and restructurings, both national and international. A lawyer with the Lyon Bar since 2013, Caroline joined DELSOL Avocats in 2017.



Jessica NEUFVILLE has gained nearly ten years' experience in Employment Law within the firm. She works notably on the employment aspects of mergers & acquisitions and court-ordered buyouts, restructurings for expanding or failing companies as well as collective bargaining. She has been a lawyer with the Lyon Bar since 2015.



Arnaud LAROCHE assists members of the Social and Solidarity Economy and provides legal and tax expertise at every stage of their development. He also works on the legal and fiscal structuring of individual or corporate sponsorship as well as launching shareholder foundations. He has been a lawyer with the Paris Bar since 2018.

Arrivals



Clément MOGAVERO, who specializes in Mergers & Acquisitions and Corporate Law, works on behalf of international groups and has developed expertise in coordinating projects involving several countries in varied sectors (manufacturing, services, health, biotech, aerospace, agri-food, event management, sport, etc.). He has largely practised within international English-speaking firms.



Pauline TORRAS guides property developers, landholders and management companies through complex real estate transactions, contractual negotiations with all parties in the construction process as well as litigation relating to development and rental management. From 2010 to 2015, she was an associate at DELSOL Avocats before continuing her career at another firm's Paris office until 2019. She then held in-house legal adviser positions.

DELSOL Avocats now has nearly 130 lawyers and legal advisers, including 36 partners and 18 counsels. These co-options and recruitments reflect the skills gained and shared within the firm and the ambition to strengthen our teams with talented go-getters.

Rankings

DELSOL Avocats is regularly ranked amongst the top business law firms by the French and international legal press and has recently been recognized in various rollcalls.

Ranked in "Corporate/M&A: Mid-Market" and "General Business Law" by Chambers and Partners since 2023, the firm joined the "Litigation: Highly regarded" category this year.

We are mentioned in ten categories of the Legal 500 EMEA guide:

- Construction,
- Data privacy and data protection,
- Dispute resolution: commercial litigation,
- Dispute resolution: white-collar crime,
- Employment,
- Healthcare and life sciences,
- M&A,
- Private equity: venture/growth capital,
- Tax,
- The Regions.

Our teams' expertise has also been recommended in **Le Point** magazine's rollcall of French law firms in Commercial, Business and Competition Law, Tax Law, Corporate Law, Real Estate Law, Mergers & Acquisitions, Compliance, Labour Law (Employers) as well as Criminal Business Law.



Finally, DELSOL Avocats was highlighted by the Paris edition of **Le Palmarès du Droit** and was given five recognitions in the following categories:

- Tax Litigation: Gold Award,
- Wealth Law: Gold Award,
- Nonprofit Organizations: Gold Award,
- Mergers & Acquisitions: operations >€50 M: Silver Award,
- Life Sciences - Health: Bronze Award.

These accolades reflect our clients' satisfaction and our peers' esteem. They drive us to keep working hard with the same high standards.

In the press...

Doctrines

18/06/2024

The legal intelligence platform Doctrine launched a new compendium on international taxation: the Doctrine Encyclopaedia.

DELSOL Avocats contributed to its compilation via eight tax lawyers: Mathieu LE TACON, Julien MONSENEGO, Léa ZERILLI, Eve DAUVOIS, Franck GAPENNE, Justine MARLOT, Sophie MORAINÉ and Louis-Guillaume NICOLAS.

LE FIGARO

21/05/2024

Xavier DELSOL answered questions on the topic "How to donate to a charity or foundation whilst remembering a loved one" in the Asset section of Le Figaro.

02/05/2024

Hélène VEY-MORIT and Grégoire HUGON contributed to the "Competition section: the law on anticompetitive practices and control of concentrations" – Sept. 2023/Jan. 2024" of Dalloz Actualité.

01/05/2024

Philippe PACOTTE and Henri HAGUET wrote an article entitled "Home help and restructuring: squaring the circle?" for the journal Juris associations.



01/05/2024

Léa ZERILLI contributed to the extended article "Taxing athletes in an international context" in the tax relief chapter published in JFA (Juristes & Fiscalistes Associés).

30/04/2024

Philippe MALIKIAN was interviewed for the article "Earnouts, MAC clauses and extensive due diligences are complicating small-cap M&As" published in La Lettre Option Law & Affaires.



22/04/2024

Anna MILLERET-GODET wrote an article on "Sharing value: the new requirement to negotiate windfall profits" in La Lettre des Juristes d'Affaires.

09/04/2024

Philippe PACOTTE and Quentin KERAVAL wrote an article entitled "Restructuring with PSE: where to integrate measures to prevent professional risks?" in Les Cahiers Lamy du CSE.

08/04/2024

Jean-Baptiste AUTRIC was interviewed on the topic: "Patronage and sponsorship: the AFA publishes a practical guide" in La Lettre des Juristes d'Affaires.

DÉCIDEURS Patrimoine

07/03/2024

Sébastien POPIJN answered questions from Marine FLEURY in the magazine Décideurs Patrimoine to mark the launch of the DELSOL Avocats office in Brussels: "Belgium is France's second trading partner."

03/03/2024

Axelle BODILLARD wrote an article: "Donations to charities based or working overseas" in the journal Associations mode d'emploi.

28/02/2024

Marie d'OZOUVILLE wrote an article entitled "The legal responsibilities of an association" in the journal Associations mode d'emploi.

21/02/2024

Jeanne BOSSI MALAFOSSE and Grégoire PETYT provided their analysis in the article "Implementation of the Data Act: towards a European internal data market" published in La Lettre Option Droit & Affaires.

09/02/2024

Lionel DEVIC and Jean-Baptiste AUTRIC were interviewed by LJA Magazine for the article "Foundations in law firms: to what end?"

Work highlights

 <p>Acquisition of LDLC Arena</p>	 <p>Merci Julie fundraising</p>	 <p>Merger with Euroconsult and launch of Novospace</p>	 <p>Majority stake in HIGHNORMA</p>	 <p>Acquisition of upOwa</p>
 <p>Divestiture in EXSTO Group</p>	 <p>Founding family regaining control of KING JOUET</p>	 <p>Sale to UP COOP</p>	 <p>Sale of the company and its German subsidiary</p>	 <p>Contractual assistance for staging sports events</p>

Spotlight on...

... the new value-sharing requirements for employers, a French company launching a Belgian subsidiary, transposing the CSRD Directive plus inspections and seizures.

Anna MILLERET-GODET, Sébastien POPIJN, Philippe MALIKIAN and Hélène VEY-MORIT have analysed these topical legal issues.

You can find these video podcasts as well as previous episodes in the videolibrary by scanning the QR Code opposite.



	
	

Events

14/06/2024

Lionel DEVIC co-chaired a breakfast conference on the topic "*Fully preparing your exit for lasting philanthropy*" alongside Denis DUVERNE, founder of the Borénis Foundation and former Chairman of the AXA Group, and Rodolphe PASQUIER-DESVIGNES, Director of the Saint-Irénée Foundation.

12/06/2024

Laurent BUTSTRAËN spoke at the "*Philanthropy Mornings*" organized by ODDO BHF Banque Privée to analyse the fundamentals and areas to watch during the conference entitled: "*Measuring impact: a necessity for the future of philanthropy.*"

04/06/2024

Jeanne BOSSI MALAFOSSE, Apolline LEFAURE and their team chaired first in Paris on 27 February and then in Lyon a breakfast on the topic "*The European regulation on artificial intelligence (AI Act) – Anticipating your AI projects' compliance with the future applicable legal framework.*"

04/06/2024

DELSOL Avocats partnered Finance Day on the topic "*How can finance contribute to a fair ecological transition?*" organized by CredoLending at Théâtre de la Madeleine in Paris. Jean-Baptiste AUTRIC, Xavier DELSOL and Lionel DEVIC attended and manned a stand.

31/05/2024

DELSOL Avocats organized a meeting with the Canadian firm THERRIEN COUTURE JOLI-CŒUR, attended by Jean CHAREST, former Premier of Quebec and Deputy Prime Minister of Canada, and his partner Natacha MIGNON, a specialist in immigration law, to discuss potential collaboration between the two firms, which are already joined by the USLAW and TELFA networks.



16/05/2024

Amaury DUMAS-MARZE took part in the "*Struggling businesses: practical ways to avoid the worst*" morning event alongside auditor Benoît NOWACZYK as part of the conference organized by DFCG Auvergne-Rhône-Alpes.

22/04/2024

Emmanuel KAEPPELIN and Sébastien POPIJN took part in the "*Cross-border exchange*" seminar organized by TELFA and USLAW in New York on the topic of international mergers & acquisitions.

04/04/2024

Jeanne BOSSI MALAFOSSE and Apolline LEFAURE chaired a webinar on "*References in the interoperability, security and ethics of health digital services.*"

21/03/2024

Jeanne BOSSI MALAFOSSE and Apolline LEFAURE organized a webinar entitled "*Security & GDPR: Access to medical information.*"



08/03/2024

Léa ZERILLI chaired a roundtable on "*Taxing athletes in an international context*" as part of the colloquium organized by Jean Moulin Lyon 3 University under the scientific supervision of Laurent CHESNEAU, Associate Lecturer, Business Law Centre.



13/02/2024

Jean-Baptiste AUTRIC spoke at a breakfast "*Two hours on all the legislative & regulatory news for the organizations and businesses in the SSE*" in collaboration with the CRESS (Regional Chamber of the Social and Solidarity Economy) and Baker Tilly.

18/01/2024

Frédéric SUBRA and Jean-François DEFUDES chaired a breakfast in Lyon on the topic "*2024 Finance Act*" addressing the tax measures affecting businesses and individuals. A breakfast was also organized by Mathieu LE TACON and Léa ZERILLI in Paris on 11 January to present the tax provisions for individuals. Julien MONSENEGO chaired a webinar aimed at businesses on 9 January.

DELSOL Avocats: Committed to sport and to charity

Once again, DELSOL Avocats has shone in various sports events this year, strengthening its ties with the legal community and with social and charitable initiatives.

The firm took part in the second "*Schuss Solidaire*" organized by Sport dans la Ville, with a team led by Delphine BRETAGNOLLE. The event will enable over 400 young people to stay at a holiday resort in Drôme Provençale.

DELSOL Avocats was represented at the traditional DJCE football tournament in Lyon by a team comprising Jean-Baptiste AUTRIC, Renaud-Jean CHAUSSADE and their sons. This was a friendly and fair-play celebration of the beautiful game for recent DJCE graduates and legal professionals!

The firm also took part in the Juris'Run at Bois de Boulogne on 9 June. It was an opportunity to share a fun experience and for Mathilde COMMARET to excel by finishing third in the women's 5 K.

Finally, DELSOL Avocats has been proud to support the Paris Bar's sports association for many years and again sponsored the World Company Sport Games in Catania, Sicily from 19 to 23 June 2024.