



Hungarian Dragon Boat Federation

H-1118 Budapest, Rodostó utca 11. I/3.

Phone: +36 30 9336 094, Fax: +36 96 456 50

E-mail: info@sarkanyhajozas.hu www.dragonboat.hu



The Hungarian Dragon Boat Federation is a Member of the International Dragon Boat Federation (IDBF)

DECISION OF THE PEST CENTRAL DISTRICT COURT

Hungarian Dragon Boat Federation (HDBF) v Hungarian Canoe Federation (HCF)

HDBF POST COURT STATEMENT: *Peter Jarosi, the HDBF Vice-President, commented that he was very pleased that the Pest Court had clearly defined and clarified the status of the two federations. He was happy to see that the Hungarian Courts' had once again confirmed that the governing body for dragon boating in Hungary was the HDBF and that the Pest Court had ruled that the HDBF has the legal right to initiate court action to protect its rights over the governance of the sport.*

HDBF BACKGROUND: The Hungarian Dragon Boat Federation was established in 1998, as a sport federation and on the 28 August 2008, the Municipal Court of Budapest officially entered the Hungarian Dragon Boat Federation in the Register of National Sport Federations, as the legally recognized specific national governing body for Dragon Boating in Hungary.

Legal Standing. According to the Hungarian Act on Sport, only one specific federation per Sport can operate as a national governing body. Therefore in keeping with the Court of Budapest's recognition, the HDBF continued to operate as the governing body for Dragon Boating in Hungary.

Mandate. In registering the HDBF as the Sport's National Governing Body, the Budapest Municipal Court also established and confirmed that the mandate of the HDBF was to:

"Join together and co-ordinate sport clubs practicing dragon boating, to standardize such clubs' activities, and to represent such clubs and their dragon boat interests.

Establish contacts with other sport federations at national level; represent Hungarian dragon boating as a National Federation at international level and to fulfill all tasks prescribed by the Hungarian Sport Act for a national sport federation specific to its sport".

HCF Position. During this time the Hungarian Canoe Federation (HCF), despite the Court's ruling, claimed that as a Member of the International Canoe Federation (ICF) they were, de jure, the already existing Hungarian national governing body for Dragon Boating, as a discipline of canoeing.

Mediation. In keeping with its mandate, the HDBF tried to initiate mediation in different ways and at various forums with the HCF, to discuss the governance and representation of dragon and to find a solution to the situation which was in keeping with Hungarian Law and also acceptable to those practicing the Sport. Unfortunately all such initiatives by the HDBF were ignored by the HCF.

Additionally in 2009, the Court of Arbitration (CAS) had informed the International Dragon Boat Federation (IDBF) that the Court was not mandated to give a CAS Opinion to non-International Olympic Committee (IOC) Federations, such as the IDBF and thus also the IDBF Members.

THE COURT CASE: As a result of this situation the HDBF initiated in 2010, a civil court case against the HCF in an attempt to establish the relative legal standing of the two federations. In response the HCF immediately requested the Supreme Public Prosecutor's Office to cancel the registration of the HDBF as the specific National Governing Body for Dragon Boating.

The Prosecutor firmly refused this unprecedented request and pointed out that the Budapest Municipal Court, when registering the HDBF, had confirmed that in Hungary there were no other national sport federation specifically for dragon boating, so therefore the HDBF was entitled to all the rights and licenses associated with being a national federation for a specific sport.

It is a legally recorded fact that the HCF was registered as a national sport federation specifically for kayak and canoe sport only, by the Budapest Municipal Court on February 27, 2001.

It was only after the registration of the HDBF (1998) that the HCF started to organize competitive Dragon Boat Racing as a secondary paddling (canoeing) activity, not as Dragon Boat Sport's National Governing Body.

This action by the HCF was taken despite their prior knowledge that Dragon Boating is recognized by international sport organizations, such as Sportaccord, as an independent sport under the jurisdiction of the International Dragon Boat Federation (IDBF) which is the specific Sportaccord Member, world governing body for Dragon Boat Sport.

The HCF were also aware that in 2005 Sportaccord (then the General Association of International Sports Federations) had ruled that Dragon Boating and Canoeing were two different sports, which meant that dragon boating could not and cannot simply be claimed as a branch of kayak-canoe by a national canoe federation.

The International Olympic Committee (IOC) accepted the Sportaccord rulings on Dragon Boating and the status of the IDBF and since 2005, the Olympic Committee of Asia (OCA) has included Dragon Boating under IDBF Rules and Regulations in OCA multi-sports games.

Given such antecedents to the HCF claiming to represent Dragon Boating in Hungary and in order to protect the rights gained through its status as the specific national sport federation for Dragon Boating, the HDBF felt that it had no option other than to petition the Pest Central District Court.

THE COURT'S RULINGS.

The HDBF requested the Court to rule that as an independent sport dragon boaters in Hungary had the right to be governed exclusively by the HDBF as the specific sport federation legally registered for dragon boating under the Hungarian Sport Act and that therefore the HDBF was entitled and mandated to fulfill the tasks and exercise all the rights defined in the Act.

The HDBF, being committed to the development of Dragon Boating did not ask the Court to obligate the HCF to stop practising or organising dragon boating as an HCF secondary activity.

The Pest Central District Court, after a long process where many procedural issues had to be clarified, took an informed decision and made the following judgements, which have become final and non-appealable since then.

- 1. As to the HCF question whether the HDBF had the legal right to initiate a court case against the HCF, the Court stated that the initiation of legal proceedings by the HDBF was justified.*
- 2. The court declared that according to the Register maintained by the court, the HDBF is the specific federation for Dragon Boating and the HCF is the specific federation for kayak-canoe.*
- 3. According to the Hungarian Sport Act, there can be only one national sports federation per sport, specifically and exclusively for each sport.*
- 4. Given the facts in the case, neither the nature of the legal relationship between the parties nor any other reason, excludes the HDBF from initiating another court case against the HCF requesting condemnation instead of ascertainment.*

From the wording of the Court's judgment it is very clear that only the HDBF is entitled to exercise the rights of the specific National Governing Body for Dragon Boating in Hungary.

POST COURT SITUATION.

The Prosecutor by rejecting the HCF request to cancel the registration of the HDBF as the National Governing Body for Dragon Boating in Hungary and the Court in confirming in its judgment that the HDBF has the right to request the condemnation of HCF, has protected and ensured the rights of the HDBF as the Sport's National Governing Body under Hungarian law.

This means that the HDBF having proved all the facts and circumstances of the governance of Dragon Boating in Hungary, can if they so wish, request the Court to order the HCF to refrain from exercising any rights or tasks regarding dragon boating because such action by the HCF could violate the rights and legal interests of the HDBF as the recognised specific national sports federation for Dragon Boating.

The HDBF reiterates that from 1998 and even now despite the court case, they are ready to try and solve the current contentious situation so that with mutual respect, both parties can focus on bringing success to Hungarian sport, through dragon boating and canoe-kayak. To this end the draft agreement proposed by the HDBF and in the hands of HCF, still remains on the table as a sign that the HDBF continues to seek a good working relationship with the HCF.

Whilst the HDBF reserves all the rights accorded to it through its registration under the Hungarian Sports Act over the governance of Dragon Boating, as confirmed in the Pest Court judgement, the HDBF is willing to support all initiatives by any other entities concerning Dragon Boat Sport in Hungary and co-operate with all who are interested in promoting and developing the sport.

COURT OF ARBITRATION FOR SPORT (CAS) OPINION ON DRAGON BOAT GOVERNANCE:

In 2008, the International Canoe Federation (ICF) as an IOC recognised Federation, requested from the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, a CAS Opinion on various issues concerning the governance of Dragon Boating, The HCF were fully aware of this Opinion when they claimed, by virtue of their ICF Membership, to be the existing national governing body for Dragon Boating in Hungary.

The CAS Arbitrator advised the ICF in her 2008 CAS Opinion, of the following regarding the IDBF's standing as a member of GAISF (now Sportaccord) and the IDBF's proprietary equipment:-

'For each sport the GAISF recognizes only one federation governing its sport on a world level. So by becoming a member of the GAISF the IDBF was recognised to be the only federation governing its sport on a world level.'

'Since 1994 the standard for the boats used for racing follow specifications made by the IDBF. The boat and paddle specifications proposed by the IDBF are followed internationally and can be found on the IDBF's home page, the ICF follows these definitions in its Dragon Boat Racing Competition Rules.'

Corinne Schmidhauser. Sole Arbitrator.

The Court of Arbitration for Sport. Lausanne, 11 December 2008.

CONCLUSION:

It follows from the above CAS Opinion, that when an International Sports Federation (ISF) is recognised internationally as the specific federation governing its sport on a world level, that the Members' of that ISF are, de jure, the only sports bodies that can be recognised as specifically governing the same sport at 'national' level. This situation has been confirmed by the Hungarian Civil Courts' decisions in favour of the HDBF.