

RESEARCH ARTICLE	Broadcasting rights related to sports events and competitions	
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Abstract The spread of encrypted sports channels and the rise in investments in the sports sector have led to the monopolization of the broadcasting of many sports events. This has sparked legal controversy regarding the audiovisual rights of sports events and competitions. Some argue for the importance of encrypting sports channels and allowing them to monopolize events and competitions, restricting their broadcast to the public in order to protect their investments. On the other hand, another view holds that this infringes on the public's right to access sports information. What is undisputed, however, is that all legal scholars agree on the need to grant legal protection to the audiovisual rights of sports events and competitions, even if they differ on the legal nature of these rights.		
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Introduction

The phenomenon of encrypted sports channels and sports programs has become one of the most discussed topics in the media and across various sports, political, and economic circles. Interest in the subject has grown due to the increasing size of investments in the sports sector, in addition to the fact that sports have become one of the most important means of tourism and cultural promotion.

Furthermore, the rapid spread of certain sports has led to a broader public interest in them, with millions of fans flocking to media outlets that provide various games and sports disciplines. This phenomenon has also attracted the attention of investors who have started injecting large amounts of money into this field of human and economic activity.

The growing popularity of sports and the massive investments in the sector have led to the emergence of encrypted sports channels and programs. The issue of purchasing and monopolizing the broadcast of many sports events has become the focus of fierce competition among various television channels.

Public opinion within the sports community has been divided over this phenomenon: some support it, arguing that revenues from encryption are used to develop sports and fund various projects; while others oppose it, viewing encryption as a violation of the public's right to access sports information, and therefore call for the recovery of these rights that have been confiscated by the owners of encrypted sports television channels.¹

To address this topic, we will discuss in the first section the right to exploit broadcasting rights related to sports events and competitions, while the second section will focus on the owners of this right.

Section One: The Right to Exploit Broadcasting Rights Related to Sports Events and Competitions

We will first address the legal nature of broadcasting rights related to sports events and competitions, and then the holders of these rights.

Subsection One: The Legal Nature of Broadcasting Rights Related to Sports Events and Competitions

Neither the Algerian legislator nor the French counterpart has defined the meaning or scope of the right to exploit sports events and competitions, nor have they defined these events and competitions themselves, which constitute the source of this right. This has made it difficult to determine the legal nature of this right. Some consider it a copyright or a related right, while others reject this notion and regard it as a property right governed by the rules of civil law.

1/ Rights Related to Sports Events as Copyrights:

Literary and artistic property rights are divided into copyrights and related rights. In Algeria, copyrights and related rights are regulated by Ordinance No. 03-05 dated July 19, 2003², and are granted to any creator of intellectual work, regardless of the type of the work, its form of expression, or its merit³. Article 02 of Ordinance No. 03-05 states: "The provisions of this ordinance guarantee the protection of the rights of: authors of literary and artistic works, performing artists or musicians, producers of audio or audiovisual recordings, and broadcasting organizations in the field of audio or audiovisual broadcasting..."

Among the works protected by copyright are original works created in the fields of literary, artistic, musical, and audiovisual production, as well as derivative works that borrow formal elements from the original production yet remain innovative due to their composition and the form of their expression. Examples include translations, adaptations, plays, and musical arrangements. The criterion for the protection of these works is originality, which refers to the creative aspect that gives uniqueness to the work, allowing it to be distinguished from other works of the same type⁴.

A debate has emerged over the possibility of protecting broadcasting rights related to sports events and competitions as copyrights. Some argue that these rights can be considered copyrights on the basis that sports federations, when organizing sports events and competitions, issue licenses, approve venues, and grant awards and certificates—elements that reflect originality. Therefore, broadcasting rights related to sports events could be classified as copyrights and be subject to the corresponding legal framework⁵.

However, others, as will be explained later, argue that this is not possible, considering that sports events and competitions cannot be defined as intellectual works within the meaning of the law due to the absence of the innovation and originality elements required for copyright protection. Consequently, copyright protection cannot be applied to sports events and competitions.

2/ Rights Related to Sports Events and Competitions as Related Rights:

According to Article 107 of Ordinance No. 03-05, related rights are defined as: "those rights granted to any artist who performs or plays a work of intellectual creation or a work from traditional cultural heritage, to any producer who produces audio or audiovisual recordings related to these works, and to any audio or audiovisual broadcasting organization that produces programs to communicate these works to the public." These rights are called "related rights" because they are granted to those who are adjacent to the author—performers, musicians, producers of phonograms and videograms, and broadcasting entities—without infringing upon the rights of the author⁶.

Many legal scholars have likened the organizer of sports events and competitions to a producer, since they organize such events within a specific framework, assume responsibility for financial investment, and present the events as a product. Thus, the organizer is considered the owner of that product. Based on this, broadcasting rights related to sports events and competitions have been classified as related rights⁷.

This is the same position taken by Professor Christoph Caron, who rejected the notion that broadcasting rights related to sports events and competitions constitute a property right governed by general property law. He considered it more logical to associate these rights with the legal system of related rights, in order to protect the financial investments of the organizers of sports events and competitions⁸.

3/ Rights Related to Sports Events and Competitions as Property Rights Governed by General Rules:

French and European courts have adopted an approach different from that of legal scholars. In several cases, they considered that the nature of the right related to the exploitation of broadcasting rights for sports events and competitions is a property right within the meaning of civil law, rejecting the classification of such rights as copyright or related rights.

A/ The Position of French Courts:

French courts have clearly expressed, in the context of two cases, their tendency to protect the right of the organizer of sports events and competitions to exploit their investments, but without basing this protection on intellectual property rights. Rather, it was founded on general legal principles, by classifying the exploitation right as a property right under civil law. A ruling by the Paris Court of Appeal went in the same direction⁹, as will be shown through the following two cases:

- **Case No. 01¹⁰:**

The facts of the case involve the company *Tour de France*, which granted *Amaury Sport Organisation* the exclusive right to produce and market video recordings of the Tour de France competitions from 1993 to 1999. However, Amaury Sport Organisation proceeded to produce and market recordings for other years not covered by the agreement.

- **Case No. 02¹¹:**

The case concerns *L'Automobile Club de l'Ouest*, which created a car race under the name *Le Mans*, organized by the Sports Association of the Automobile Club de l'Ouest. The Automobile Club de l'Ouest is the holder of the trademark *Le Mans*. The company *Dragon Édition* produced and marketed a book on the occasion of the event, including photos and texts related to the race, without the organizer's approval.

In both cases, the court rejected the application of intellectual property law and instead raised the issue of tort liability based on unfair competition.

B/ The Position of the European Court of Justice ¹²:

The European Court of Justice adopted a position similar to that of the French judiciary and partially excluded the application of the intellectual property legal framework in the case of Murphy. The facts of the case are as follows: the English Premier League granted exclusive broadcasting rights for Premier League football matches to the company BSkyB. However, certain pubs broadcasted these matches without going through the exclusive rights holder, instead using decoding devices from foreign broadcasters. As a result, the Premier League filed a lawsuit, claiming ownership of copyright.

The European Court of Justice rejected this legal basis, stating: "These sports matches cannot be considered intellectual creations within the meaning of European Union copyright law."

The Court clarified its ruling through a press release ¹³, in which it confirmed that the right to exploit broadcasting rights related to sports events and competitions cannot be protected under the copyright or related rights framework. However, it specified a few exceptional cases where copyright protection may be invoked. These include:

- The opening ceremony of sports events and competitions,
- The official anthem of the Premier League,
- Videos and films produced to highlight key moments of the sports events and competitions,
- Logos and emblems.

Subsection Two: The Owners of the Right to Exploit Broadcasting Rights Related to Sports Events and Competitions

The actors involved in organizing sports events and competitions are numerous. In this section, we will address the original holder of the right to exploit broadcasting rights related to sports events and competitions, and explain the extent of each party's relationship to these rights.

1/ The Original Owner of the Right to Exploit Broadcasting Rights Related to Sports Events and Competitions

To determine the original holder of the right to exploit broadcasting rights related to sports events and competitions, a distinction must be made between national and international sports events and competitions.

A/ Concerning National Events and Competitions:

Article 164 of Law No. 13-05 on physical and sports activities states:

"Depending on the nature of the competitions, the marketing of advertising printed on sportswear and the ownership of all other rights arising from sports performances and competitions particularly those broadcasted via audiovisual or electronic means and taking place on or across national territory, as well as all international competitions involving Algerian athletes are assigned to the National Olympic Committee, the National Paralympic Committee, national sports federations, leagues, and sports clubs. The modalities for applying this article shall be defined by regulation."

From this, it is understood that the persons mentioned in the article must meet the following conditions to enjoy the right to exploit sports events and competitions:

- They must be the organizer of the sports event or competition;
- The event or competition must take place on or across Algerian territory (i.e., be a national event);

- In the case of an international event, Algerian athletes must participate, and in such cases, the right is limited to marketing advertising printed on sportswear, without extending to ownership of broadcasting rights.

Observations on the Algerian Legislator:

- The issue of rights to exploit sports events and competitions is addressed in a single article, Article 164 mentioned above.
- The wording of Article 164 is general and vague, and to date, no implementing regulation has been issued to clarify its application.

To reinforce this principle, Article 81 of the Statutes of the Algerian Football Federation provides that the Federation and its members (i.e., sports clubs) are the original owners of all rights related to the events and competitions under their supervision, including all financial rights, registration rights, and broadcasting rights.

Additionally, French legislation under Article L.333-1¹⁴ of the Sports Code provides that sports federations and organizers of sports events referred to in Article L.333-5 are the owners of the exploitation rights for the events and competitions they organize.

This article defines two categories of rights holders:

- **National sports federations**, which exclusively organize events and competitions that confer titles and official certificates. Under this framework, sports teams are excluded from owning rights related to such events and competitions, despite being the material organizers—particularly by providing sports facilities, athletes, and other logistical resources to ensure the security and smooth conduct of the events.
- **Other organizers** of sports events and competitions, including natural or legal persons subject to private law, who may organize events only upon prior approval from the relevant sports federation. However, they are not allowed to grant recognized titles or certificates¹⁵.

Accordingly, the general rule is that the organizers of sports events and competitions are the holders of the right to exploit the associated broadcasting rights.

B/ Concerning International Sports Events and Competitions:

When a sports event or competition is held at the national level, the organizer is considered the holder and original owner of the rights to exploit the event, particularly broadcasting rights. However, the issue arises when an international sports event or competition is organized—who holds the exploitation rights in such cases? This is especially relevant when the event is organized by the national federation or national Olympic committee under the supervision of the relevant international federation or the International Olympic Committee.

The international sports federation or the International Olympic Committee is considered the owner of the rights to exploit sports events and competitions, and this is usually stipulated in their statutes. For example, Article 07, paragraph 2 of the Olympic Charter states that the International Olympic Committee (IOC) is the exclusive owner of all broadcasting rights related to the Olympic Games¹⁶.

When an international sports federation delegates the organization of a sports event or competition to a national sports federation or a state—such as the FIFA World Cup—it retains the exploitation rights for itself, particularly broadcasting and advertising rights. It manages these rights directly and concludes contracts for their sale. Alternatively, it may authorize the national organizing federation to negotiate the sale of exploitation rights with third parties, with the final approval and contract conclusion remaining the prerogative of the international federation.

In some cases, a joint committee may be formed between the international and national federations, which is responsible for negotiating and managing the exploitation rights related to these events and competitions.

Moreover, the international federation may relinquish part of the rights to the participating teams. For example, the Union of European Football Associations (UEFA) grants the participating teams in the UEFA European Championship the right to manage the exploitation rights of the matches in which they participate during the initial stages of the competition, while UEFA retains the right to manage the exploitation rights of the final matches.

2/ The Derivative Owner of Exploitation Rights Related to Sports Events and Competitions:

The organizer of the sports event or competition is considered the original holder of the rights to exploit the event. This organizer, in turn, markets and sells these rights to television channels in exchange for significant financial sums. As a result, these television channels become the derivative holders of the right to exploit the broadcasting rights related to sports events and competitions, and they have the right to manage and use them accordingly.

The sale of broadcasting rights for sports events and competitions has taken on considerable economic importance due to the large amounts of money involved. Here are some notable examples:

- The German company **Kirch** paid FIFA the amount of **1.7 billion euros** for the rights to broadcast the **2002 and 2006 FIFA World Cup** matches.
- The channel **Canal+** paid the **International Olympic Committee** the amount of **3 billion euros** for the rights to broadcast the **Olympic Games from 2000 to 2008**.
- The channels **Canal+** and **TPS** paid the **French Football Federation** the amount of **1.2 billion euros** for the rights to broadcast the **French Football Championship matches from 2001 to 2004**¹⁷.

3/ The Rights of Other Stakeholders in Sports Events and Competitions:

The organization of sports events and competitions is not limited to sports federations, as the actual actors who bring these events to life are the sports teams and athletes. So, what are the rights of this category, and what is their share of the financial revenues generated by sports events and competitions?

Article 166 of Law No. 13-05 on physical and sports activities stipulates that profit shares resulting from sponsorship, financing, equipment contracts, or the marketing of the image of an athlete or group of athletes shall be subject to an agreement between the concerned parties, under which such profits shall be distributed.

However, in the absence of implementing texts clarifying the mechanisms of such distribution and even in the absence of regulatory texts issued by sports federations we refer to the case of the French Ligue 1. The broadcasting rights for Ligue 1 matches are marketed by the Ligue de Football Professionnel (LFP). The revenue generated from this marketing is shared between the LFP, the French Football Federation (FFF), and the participating teams.

The LFP and the FFF each receive a specific percentage based on a prior agreement between them, while the share allocated to the participating teams is distributed among them based on various criteria: solidarity and sporting results¹⁸. To illustrate this further, we present an example of how revenues from the sale of broadcasting rights for Ligue 1 matches in the 2013–2014 season were distributed¹⁹:

During the 2013–2014 season of Ligue 1, the Ligue de Football Professionnel distributed a total of 488 million euros among the 20 clubs participating in the top-tier championship. This revenue was based on the income generated from the sale of broadcasting rights. To ensure fairness—considering that some teams attract far higher viewership than others, and that some clubs have invested significantly more than others—the League distributed a fixed and equal amount to all teams, in addition to a second amount that varied from team to team.

- **The Fixed Amount:** This represents **48%** of the total amount distributed to the clubs, equivalent to **€234.9 million** (i.e., **€11.4 million** per team). This fixed amount is itself composed of two parts:

- The **first part** is **€9.4 million** for each team in exchange for their participation in the league.
- The **second part** is **€2.3 million** for each team to cover infrastructure upgrade costs, as required by the **Ligue de Football Professionnel**.

- **The Variable Part:** This accounts for **52%** of the total amount distributed to the clubs, amounting to **€254.1 million**. It was allocated based on two criteria:

- **Team ranking in the current season:** An amount of **€137.7 million**, representing **28%** of the total distributed amount, was allocated based on this criterion. The share of each team differed depending on:

- **The team's ranking in the current season:** Based on this measure, **€114.2 million** was distributed among the top 17 teams. The better the team's ranking, the higher the amount received. The three relegated teams to **Ligue 2** were excluded. The distribution was made according to a predefined reference scale. As a result, the team that finished **1st place** received **€16.9 million**, while the team in **17th place** received **€1.8 million**.

- **Average ranking over the last five seasons:** Based on this criterion, **€23.5 million** was distributed among all 20 teams. This measure was intended to reward teams that consistently achieve high rankings each season. The team that ranked first based on this average **Olympique de Marseille** received **€3.4 million**.

- **Viewership Rate:** This criterion concerns the audience share for each team. Broadcasting organizations tend to choose matches involving popular and widely supported teams in order to attract the highest viewership. Based on this criterion, **24%** of the total amount equivalent to **€115.4 million**—was distributed.

The **Joint Ministerial Decree dated July 30, 2006**²⁰ outlines how revenues from sports events held in the facilities of Multi-Sports Complexes (MSCs) are to be shared, as follows:

For official sports competitions under the Wilaya (regional) championships or similar, and regional championships or similar ²¹:

The revenue share after deducting taxes and fees stipulated by applicable legislation and regulations is determined as follows:

- **50%** for the MSC managing the preparation and logistical organization of the event, including costs related to security, civil protection, ticketing, and temporary staff hired for this purpose;
- **20%** for the relevant national sports federation responsible for the technical organization of the competition, including expenses for referee compensation and technical committees;
- **30%** for the host sports club.

For official sports competitions under the Algerian Cup ²²:

The revenue share after applicable deductions is as follows:

- **50%** for the MSC as above;
- **20%** for the relevant national sports federation for technical organization;
- **30%** for the participating sports clubs, i.e., **15% for each club**.

For sports events of international or friendly nature held in MSC facilities ²³:

The revenue share after applicable deductions is as follows:

- **50%** for the MSC as above;
- **50%** for the national sports federation or sports club organizing the event, to cover expenses related to accommodation, meals, transportation of foreign teams, and referee/committee compensation.

For national friendly sports events held in MSC facilities legally authorized by national or regional sports federations:

The revenue share after applicable deductions is as follows:

- **50%** for the MSC as above;
- **50%** for the sports club or other organizer covering the event's organizational expenses, including referee and committee compensation.

For official dual-status national competitions held at national, regional, or wilaya level ²⁴:

The revenue share after applicable deductions is as follows:

- **50%** for the MSC as above;
- **20%** for the relevant national sports federation, as above;
- **30%** distributed as follows:

For dual competitions between clubs at the regional and wilaya levels:

- **20%** for the regional-level sports club;
- **10%** for the wilaya-level sports club.

For dual competitions between national-level clubs and regional or wilaya-level clubs:

- **25%** for the national-level sports club;
- **5%** for the regional or wilaya-level sports club.

Conclusion:

It can be said that the Algerian legislator has identified the holders of broadcasting rights for sports events and competitions and granted them legal protection through Law No. 13-05 on physical and sports activities and their development, in order to align them with the technological advancements and innovations used in the audiovisual field. Broadcasting rights have become increasingly vulnerable to piracy in the modern era, which necessitates greater efforts to protect these rights due to their unique nature and characteristics.

This study has led to a set of findings and recommendations that can be summarized as follows:

First: Study Findings:

- Broadcasting rights related to sports events and competitions have not been granted sufficient legal protection within the national legal framework.
- The Algerian legislator has explicitly granted the right to exploit broadcasting rights to the organizers of sports events and competitions; however, it has not clarified the mechanisms for exercising this right, nor its nature, scope, and limits.
- Sports events and competitions have become subject to repeated infringements, especially through piracy, which calls for efforts to protect them in order to safeguard the rights and investments of their organizers.

Second: Recommendations:

- It is necessary to establish and define specific legal mechanisms and means to regulate the right to exploit broadcasting rights related to sports events and competitions.
- The regulatory text defining the legal framework for the exploitation of broadcasting rights related to sports events and competitions, as provided for in Article 164 of Law No. 13-05 on physical and sports activities and their development, must be issued.
- Legal provisions must be enacted to clearly define the boundaries of the right to exploit broadcasting rights related to sports events and competitions in a way that ensures a balance between the rights of event organizers and the public's right to access information

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¹¹Commercial Court of Nanterre, December 12, 2002, Case: ACO and ASAACO v. SARL Dragon Éditions.

¹²CJEU, October 4, 2011, Case C-429/08, Premier League v. Murphy: "...With regard to the objective of protecting intellectual property rights, the Court notes that FAPL cannot claim copyright over Premier League matches, as these matches cannot be regarded as intellectual creations specific to an author and, therefore, as 'works' within the meaning of EU copyright law..."

¹³CJEU, Press Release No. 102/11: "...Nonetheless, the Court decides that broadcasting in a café or restaurant of programs containing these protected works, such as the opening video sequence or the Premier League anthem, constitutes a 'communication to the public' under the Copyright Directive, which requires the author's authorization..."

¹⁴Article L333-1: “Sports federations, as well as the organizers of sports events mentioned in Article L.331-5, are the owners of the exploitation rights of the sports events or competitions they organize.”

¹⁵Frédéric Buy and others, op. cit., pp. 694-695.

¹⁶Article 07.2 of the Olympic Charter: “...The Olympic Games are the exclusive property of the IOC, which holds all rights and data relating thereto, including without limitation all rights related to (i) the organization, exploitation and marketing of the Olympic Games, (ii) the recording of still and moving images of the Games for media use, (iii) the registration of audiovisual recordings of the Games, and (iv) the broadcasting, transmission, retransmission, reproduction, presentation, distribution, making available or other communication to the public, by any means now known or to be developed in the future, of works or signals containing audiovisual recordings of the Olympic Games...”

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