



## Ombudsperson for the 2010 Winter Olympic Games: Sports Law in Action

By Yann Bernard

February 2010



During the Olympic Games, the athletes and their entourage must deliver the performances of their lives. Many elements could prevent them from performing to the best of their ability, however, and interpersonal conflicts within the team and unethical or even dishonest behaviour on the part of competitors are not the least of them.

For the past several years, the Canadian Olympic Committee (COC) has adopted a strategy that has proven to be successful in reducing the risk of such occurrences: integrating a lawyer and mediator within the team as ombudsman.

The COC has done me the great honour of entrusting me with this role among the Canadian contingent that will go to Vancouver for the 2010 Olympic Games. It's an exciting job for a lawyer who has devoted part of his life to sports and the ideal opportunity to place one's profession at the service of one's passion.

The ombudsman has both an internal and an external role to play within the Canadian team. Internally, he lives with the team in the Olympic village, participates in their daily lives, and helps resolve any internal disputes that may arise either among the delegation members or between them and the COC. In such cases, he may serve as mediator or advisor to ensure that the fairest and most appropriate decisions are made. The speed and efficiency demanded by the context of the Olympic Games, the short time frames involved, and the need to make decisions with a huge impact on the rights and aspirations of the athletes make this a critical, high-pressure job.

Externally, the ombudsman represents the Canadian contingent as spokesman or attorney before various authorities such as the Court of Arbitration for Sport (CAS) in disputes with external actors such as international federations or foreign delegations, whose interests may conflict with those of Canada.

Seen from this perspective, the ombudsman's role is to help ensure that Olympic rules and values are respected and that Canadians reap the full benefits of their performance without undue or unfair interference. In this context, the ombudsman is part of a larger team composed of coaches, delegation officials, and COC staff members whose aim is to ensure the athletes deliver their best possible performances.

What prepared me for this role was primarily my twenty-five years of fencing competition at the national and international levels and my fifteen years of practice in administrative, labour, and sports law.

In sports, I experienced the highs and lows of an athlete's life while representing Canada for many years on the World Cup circuit in the foil and then the épée. Four world championships, extensive traveling, and the many international tournaments in which I participated taught me about the life of an athlete, a team member, and a competitor. The psychological, behavioural, and social pressures that can lead to interpersonal or even legal problems must be understood if we are to prevent and resolve conflicts that can arise within a team as competitive and successful as the Canadian Olympic team. The many possible sources of stress and conflict can not all be anticipated and prevented, of course, but understanding how they can arise and the various ways people react to them is a basic prerequisite for the role of ombudsman.



While no member of the Canadian Olympic management team wants to have to turn to a court or other authority to settle a dispute in which Canadians are involved, the team must be fully prepared for such a possibility so that no injustice that could prevent Canada or any of its athletes from claiming their rightful place is tolerated. It's up to the ombudsman to help ensure that the team is prepared to act as effectively and efficiently as possible to represent Canadian interests should there be a need for litigation during the Games. The procedures employed by the CAS (of which an ad hoc division will be established at the site) are similar to those of administrative tribunals before which many Canadian labour and administrative law practitioners appear every day. My current professional practice has thus prepared me well for many of the challenges I will face in Vancouver.

The COC has wisely decided to involve the ombudsman in the daily lives of the athletes and their entourage at Vancouver's Olympic Village. As was the case when I held the same position at the 2007 Rio Pan American Games, this strategy helps build a relationship of trust between the ombudsman and those most likely to need his advice and assistance: the athletes, the coaches, and the delegation heads. The ombudsman must therefore be one of the easiest people in the village to locate and contact.

The direct impact of this presence, particularly among the athletes, allows the ombudsman to ensure that conflicts likely to interfere with the athletes' performance are quickly resolved.

It is vital that the athletes know exactly who the ombudsman is and how to find him and that they do not hesitate to communicate with me the moment a problem arises. Any other member of the support team may also serve as a communication channel in requesting the services of the ombudsman.

It is a real honour for me to contribute to the success of Canadian athletes and thus continue my long commitment to amateur sports by exchanging my fencing gear for my law books.

Many Canadian lawyers practice their profession among athletes and members of the sports community in various capacities. The arbitrators at the Sport Dispute Resolution Centre of Canada and those who appear before them are well-known examples. I am pleased to think that I will also be representing that community of lawyers when I participate in the Games.

See you in Vancouver! ■