

From the Baltic to the Mediterranean: Sportswomen fighting for maternity rights

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The challenge

Combining maternity with a professional career is a challenge that women round the world are all too familiar with. For athletes who are required to maintain a certain level of physical condition and sporting results, the situation is even more demanding. The challenges faced by pregnant athletes are twofold. Practical difficulties of being temporarily unable to practice and to keep both form and results are further exacerbated by the fact that there is no uniform legal regulation protecting sportswomen in case of pregnancy. Here we look at examples of Poland and Italy where, despite growing awareness of the issue, there is still a lot of room for improvement.

From the Polish field...

Athletes' primary source of rights and obligations is their sports contract. Nonetheless, the peculiarity of sports law in Poland does not specify whether these contracts form an employment relationship, governed by labour law, or are a type of a services agreement under civil law. Moreover, sports contracts are usually silent on pregnancy issues, and this is when it is crucial to establish whether labour or civil law is the relevant system.

Under labour law, a pregnant athlete is conferred full maternity protection in case of and after pregnancy, including both the leave and financial allowances. More frequently however, sports contracts are governed by civil law which offers considerable flexibility. The flip side is, unfortunately, that it does not provide for any relevant guarantees in the event of maternity leave and, while it is possible to register for non-obligatory health insurance, the financial burden for this falls directly on the athlete.

The only exception to this is where a member of the Polish national team who participates in international championships can be awarded a scholarship for his/her sports results under the Polish Sports Act. If a female athlete with such a scholarship becomes pregnant, she retains her right to it for the duration of the pregnancy as well as for six consecutive months post-birth. It should be noted, however, that granting this scholarship is entirely voluntary.

The law itself does not seem to sufficiently secure the financial position of a sportswoman who becomes pregnant during her sports career. What then becomes of crucial importance is the attitude of the athlete and the other support she gets, for example from her family.

The latest sports news shows that where there is a will, there is indeed a way. Kamila Lićwinko, a Polish high jumper and 2017 World Championships bronze medallist is one example of this. After having a baby in 2018 she has returned to competition and is now targeting the 2019 world championships and thereafter the Tokyo 2020 Olympics. As she emphasized afterwards, the incredible support of her husband, who is also her professional trainer, was key to her successful return.

The situation becomes more complicated when talking about team sports, where all members of the team share responsibility for sports results. In 2009, Polish media buzzed with news of a handball club that introduced a contractual provision requiring female athletes to inform the club in advance about their maternity plans. Luckily, this situation met express disagreement from the government when the Polish Ministry of Sports addressed a letter to the Polish Handball Association in which it prohibited making female sports contracts dependent on their maternity plans.

Eight years later, Karolina Kudłacz-Gloc, a handball player in SG BBM Bietigheim and a captain of the Polish national team, announced her

pregnancy and temporarily suspended her career. Nevertheless, in the end of 2017 she returned to regular training and joined her team back for the 2017 World Championships in Germany.

... to the Italian track

The situation is similar in Italy, where Olympic medal winners and globally known athletes of the caliber of Federica Pellegrini (swimming), Sofia Goggia (skiing), Francesca Piccinni (volleyball) or Flavia Pennetta (tennis) are all athletes who are classified as 'amateur'.

How come? This is, unfortunately, what Italian law says: Law n. 91 of 1981 on professional sports gives each sports federation the option to seek qualification of their sport as professional with the Italian Olympic Committee. However, pursuant to the said law, only male sports are entitled to 'professional' recognition: female professionalism currently does not stand regardless of whether they play in individual or team sports. As a result, Italian sportswomen have no labour law protection, such as pension funds or sickness indemnities, not to mention the discrepancy between male and female wages. What is more, similar to Polish athletes, when sportswomen become pregnant, they have no guarantee whatsoever to be 'back on track' after maternity leave.

The good news is that, slowly but surely, developments have been taking place over the past few years. Most significantly, thanks to cooperation between the Government and the Italian Olympic Committee, as from 2018 pregnant athletes can apply for a monthly Euro 1,000 maternity allowance for a maximum ten-month period. This entitlement is subject to certain requirements, such as the athlete not being part of a military body; not having a day-job salary of more than Euro 15,000; and having being selected in the National Team at least once over the previous five years.

Although the gap between female sports environments in Italy and elsewhere is far from being bridged, the introduction of financial aid during maternity seems to be a starting point for an evolving landscape. This is all the more important as interest in female sports, particularly football, is increasing. On 24 March 2019 a record forty thousand spectators attended the match between Juventus Women and Fiorentina. As women's sports grows and develops, issues around maternity will need to be addressed head on.

To be continued

With athlete income deriving from sponsorship and endorsement deals, often with large international brands, protection in domestic legislation is only part of the story. In this commercial world, public perception and not regulation is making the difference. The US sportswear company Nike has recently changed its pregnancy policy and declared it will include provisions in future sponsorship contracts to protect female athletes' remuneration during and after pregnancy. This is an important step forward and hopefully a sign of better things to come that will give female athletes more independence and support when deciding on their life priorities in terms of a family.

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