



---

Volume 23 | Issue 1

Article 1

---

4-1-2016

## Olympic Game Host Selection and the Law: A Qualitative Analysis

Ryan Gauthier

Follow this and additional works at: <https://digitalcommons.law.villanova.edu/mslj>



Part of the [Entertainment, Arts, and Sports Law Commons](#)

---

### Recommended Citation

Ryan Gauthier, *Olympic Game Host Selection and the Law: A Qualitative Analysis*, 23 Jeffrey S. Moorad Sports L.J. 1 (2016).

Available at: <https://digitalcommons.law.villanova.edu/mslj/vol23/iss1/1>

This Article is brought to you for free and open access by Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in Jeffrey S. Moorad Sports Law Journal by an authorized editor of Villanova University Charles Widger School of Law Digital Repository.

# JEFFREY S. MOORAD SPORTS LAW JOURNAL

---

---

VOLUME XXIII

2016

ISSUE 1

---

---

## OLYMPIC GAME HOST SELECTION AND THE LAW: A QUALITATIVE ANALYSIS

RYAN GAUTHIER\*

*The process used to select the hosts of the Olympic Games is under increased scrutiny due to the withdrawal of many cities from the 2022 Winter Olympic Games host selection process and the selection of hosts with questionable human rights records. Scholarship, particularly legal scholarship, examining the hosting of the Olympic Games is rapidly increasing. Absent from much of this scholarship is a thorough examination of the host selection process. Understanding the host selection process is crucial when considering issues faced by host cities as many of the issues can be traced back to the host selection process.*

*This article examines the process used to select the hosts of the Olympic Games, focusing on legal issues addressed by the host selection process. A qualitative analysis of the questions asked by the International Olympic Committee ('IOC') of cities that bid to host the Olympic Games, and their responses to those questions, is the core of this article. The article asks what the role of law is in the host selection process and whether legal issues are integral to the selection of a host for the Olympic Games. The results of the qualitative analysis are used to frame future research for discussing reform of the host selection process, namely to include human rights protections.*

I. INTRODUCTIONS .....	2
II. PREVIOUS STUDIES .....	6
III. SCOPE OF INQUIRY .....	9

---

\* Ph.D. 2015, Erasmus University Rotterdam; J.D., 2010, Harvard Law School; B.A., 2006, Carleton University; Member, State Bar of New York. An early version of this research was presented at the 12th International Symposium for Olympic Research at the International Centre for Olympic Studies at Western University in Oct. 2012. I would like to thank the Erasmus Trust Funds for financing my attendance at the Symposium. I would like to thank the International Olympic Committee Library for their assistance in my research, and their hospitality during my time in Lausanne. I would also like to thank the staff of the Jeffrey S. Moorad Law Review for their comments and editorial assistance. Finally, I would like to thank Ellen Hey and Joe Weiler for their comments of earlier versions of this article. All errors in this article are solely attributable to the author.

(1)

2	JEFFREY S. MOORAD SPORTS LAW JOURNAL	[Vol. 23: p. 1
	A. State Public Law .....	9
	B. Years of Examination .....	10
	C. The Documents .....	13
	D. The Questions .....	15
IV.	METHODOLOGY .....	15
V.	ANALYSIS OF BIDS MADE TO HOST THE OLYMPIC GAMES .....	18
	A. General Legal Issues .....	20
	B. Intellectual Property/Ambush Marketing .....	25
	C. Customs and Immigration .....	30
	D. Anti-Doping .....	35
	E. Media .....	38
	F. Safety/Security .....	42
	G. Taxation .....	44
	H. Environment .....	46
	I. Technology .....	49
	J. Government Support .....	50
VI.	DISCUSSION .....	52
	A. What Issues of State Public Law Arises in the Bids and What Changes Does the IOC Require? .....	52
	B. Differences in Answers and Legal Issues as Qualifiers .....	53
	C. Changing IOC Questions .....	56
	D. Lessons for Reformers .....	57
	E. Reflections on Methodology .....	58
VII.	CONCLUSIONS .....	59
	APPENDIX: IOC QUESTIONS THAT IMPLICATE STATE-LEVEL PUBLIC LAW ISSUES .....	62

#### I. INTRODUCTIONS

Prior to the 2012 London Summer Olympic Games, local shops wanted to “get into the spirit” of the Games. Butcher shops arranged their sausages in the shape and color of the Olympic Rings, while florists did the same. However, these actions often ran afoul of the *London Olympic Games and Paralympic Games Act*,<sup>1</sup> and the shops were asked by authorities to cease-and-desist.<sup>2</sup> The *London Olympic Games and Paralympic Games Act* was not an attempt by the United Kingdom government to crack down on Olympic celebration, but was a legislative package passed to honor the promises

1. London Olympic Games and Paralympic Games Act, 2006, c. 12 (U.K.).

2. See Jeré Longman, *Where Even Sausage Rings Are Put on the Chopping Block*, N.Y. TIMES, July 25, 2012, at B11.

London (and the U.K.) made when it won the rights to host the Olympic Games in 2005. One such promise was to prevent ambush marketing, the implementation of which perhaps went overboard.<sup>3</sup>

Studies of the Olympic Games have greatly expanded across disciplines over the past decade. Yet, the legal aspects of the Olympic Games remain under-explored. Authors working in other disciplines have touched on legal issues. As discussed in Part II, concern has been raised over how the Olympic Games may impede the exercise of civil rights, such as the freedom of speech, or over broader concerns associated with an increasingly “securitized” state. Other concerns have been expressed over zoning provisions that would facilitate the removal of marginalized groups, and reductions in labor and environmental protections on Olympic-related construction sites.

Legal studies of the Olympic Games focus on the laws enacted by a particular hosting city and state. Some of these studies are of a general nature, such as the examination of the *London Olympic and Paralympic Games Act* by Mark James and Guy Osborn.<sup>4</sup> Other studies have focused more closely on an individual area of law, usually intellectual property law. Such studies were done for Beijing 2008, Vancouver 2010, London 2012, and Rio 2016.

I hope to expand upon the prior legal studies, while also departing from them, by examining the process used to choose the host of the Olympic Games. The International Olympic Committee (“IOC”) selects the host of the Olympic Games from several candidates through a process where the IOC sets out requirements to host the Olympic Games and the cities vying to host the Games respond by submitting bids. The host selection process that the IOC uses is a two-stage process, set out in the Olympic Charter.<sup>5</sup> The core of each of these stages is arguably the questionnaires that the IOC requires aspiring host cities to answer. In the first stage, formally titled the “Candidature Acceptance Procedure,” the IOC accepts bids from cities interested in the Olympic Games. These cities submit the answers to the IOC’s questionnaire, which as of

---

3. See generally Ryan Gauthier, *Major Event Legislation: Lessons from London and Looking Forward*, 14 INT’L SPORTS L.J. 58 (2014).

4. Mark James & Guy Osborn, *London 2012 and the Impact of the UK’s Olympic and Paralympic Legislation: Protecting Commerce or Preserving Culture?*, 74 MODERN L. REV. 410 (2011).

5. INT’L OLYMPIC COMM., OLYMPIC CHARTER, R. 33 (Sept. 9, 2013) [hereinafter OLYMPIC CHARTER], available at [http://www.olympic.org/Documents/Olympic%20Charter/Olympic\\_Charter\\_through\\_time/2013-Olympic\\_Charter.pdf](http://www.olympic.org/Documents/Olympic%20Charter/Olympic_Charter_through_time/2013-Olympic_Charter.pdf).

2020, comprised of 105 questions.<sup>6</sup> These cities are known as “Applicant Cities.” Following an evaluation by the IOC, cities that do not perform well enough are eliminated, and the remainder move on to the “Candidature Procedure.” The remaining cities, known as “Candidate Cities,” also answer an IOC questionnaire, which includes 164 questions (and numerous more sub-questions).<sup>7</sup> Following a second evaluation by the IOC, the one hundred or so members of the IOC then vote to select the host city. Upon the selection of the host city, the IOC and the host city sign a contract specifying the rights and responsibilities of the parties. A preliminary phase, the “Invitation” phase, is taking place as of host selection for the 2024 Summer Olympic Games.<sup>8</sup>

The host selection process has come under particular scrutiny in recent years, for a few reasons. First, the selection of a host for the 2022 Winter Olympic Games has been nothing short of disastrous for the IOC. What looked to be a promising field of Munich, St. Moritz, Stockholm, Oslo, Krakow, Lviv, Beijing, and Almaty was swiftly decimated as bids were defeated by public referenda (Munich, St. Moritz, and Krakow), geopolitical events (Lviv), and by governments refusing to support the bid (Stockholm, Oslo). With only Beijing and Almaty bidding to host the 2022 Winter Olympic Games, the Games are already being tagged as “the Games nobody wants.”<sup>9</sup> Oslo’s withdraw was particularly poignant as it was the last European city to withdraw, and upon its withdrawal, oversaw a backlash over the IOC’s demands throughout the host selection process (although many of the demands were issues of protocol addressed in the “Technical Manuals” used for Games preparation, not in the

6. INT’L OLYMPIC COMM., 2020 CANDIDATURE ACCEPTANCE PROCEDURE: GAMES OF THE XXXII OLYMPIAD (2011) [hereinafter 2020 CANDIDATURE ACCEPTANCE PROCEDURE], available at [http://www.olympic.org/Documents/Host\\_city\\_elections/2020\\_CAP.pdf](http://www.olympic.org/Documents/Host_city_elections/2020_CAP.pdf).

7. INT’L OLYMPIC COMM., 2020 CANDIDATURE PROCEDURE AND QUESTIONNAIRE: GAMES OF THE XXXII OLYMPIAD (2012) [hereinafter 2020 CANDIDATURE PROCEDURE], available at [http://www.olympic.org/Documents/Host\\_city\\_elections/FINAL-2020-CPQ-May-2012x.pdf](http://www.olympic.org/Documents/Host_city_elections/FINAL-2020-CPQ-May-2012x.pdf).

8. *2024 Bid Process Gets Underway with New Invitation Phase as IOC Begins to Implement Olympic Agenda 2020 Reforms*, INT’L OLYMPIC COMM. (Jan. 15, 2005), <http://www.olympic.org/news/2024-bid-process-gets-underway-with-new-invitation-phase-as-ioc-begins-to-implement-olympic-agenda-2020-reforms/242779>.

9. See Brian Blickenstaff, *Nobody Wants to Host the Olympics*, VICE SPORTS (Nov. 13, 2014), <https://sports.vice.com/article/nobody-wants-to-host-the-olympics>; Lisa Abend, *Why Nobody Wants to Host the 2022 Winter Olympics*, TIME (Oct. 3, 2014), <http://time.com/3462070/olympics-winter-2022/>; *The 2022 Winter Olympics: the Games Nobody Wants to Host*, THE GUARDIAN (May 28, 2014), <http://www.theguardian.com/sport/2014/may/28/winter-olympics-2022-games-nobody-wants>; Barty Petchesky, *Nobody Wants to Host the 2022 Olympics*, DEADSPIN (May 27, 2014), <http://deadspin.com/nobody-wants-to-host-the-2022-olympics-1582151092>.

host selection process itself).<sup>10</sup> Second, Sochi, the host of the 2014 Winter Olympic Games, was met with reports of human rights abuses, including displacement of persons and poor treatment of migrant workers. Combined with concerns over human rights abuses in Qatar, a bidder to host the Olympic Games in 2016 and 2020, and host of the 2022 FIFA World Cup, and the problems faced in Beijing during the 2008 Summer Olympic Games, concerns have been raised over the selection of hosts with poor human rights records. Finally, the IOC recently underwent a reform process, titled Agenda 2020, which, despite hopes for significant reform, made minimal changes to the host selection process, namely adding the “invitation phase.”<sup>11</sup>

This article hopes to advance the current discourse around the host selection process via a thorough examination of issues of state law that are raised throughout the host selection process. By examining the host selection process, this article seeks to answer three research questions. First, what issues of a state’s public law come into play during the host selection process? More specifically, what changes in state law does the IOC request or require of states whose cities are bidding to host the Olympic Games? Also, how do bidders respond to these requests and requirements?

Second, are the legal issues raised in the bidding process an integral part of a bid, or are they mere background concerns as suggested by others, discussed below? In answering this question, it is also asked whether bids differentiate themselves from other bids, by perhaps promising more changes, or particular legislative packages attractive to the IOC.

Third, what lessons can be drawn from the current host selection process, and the IOC’s requests and requirements for legal changes, for advocates of substantive reform—namely the inclusion of human rights protections—for the host selection process? In order to suggest changes to a process, one should understand the process they want to change. However, this article will not address procedural reform to the host selection process.<sup>12</sup>

---

10. See Feargus O’Sullivan, *Oslo Didn’t Really Want the 2022 Winter Olympics*, CITYLAB (Oct. 6, 2014), <http://www.citylab.com/politics/2014/10/oslo-doesnt-want-the-2022-winter-olympics/381133/>.

11. INT’L OLYMPIC COMM., AGENDA 2020: CONTEXT AND BACKGROUND (Dec. 9, 2014) [hereinafter AGENDA 2020], available at [http://www.olympic.org/documents/olympic\\_agenda\\_2020/olympic\\_agenda\\_2020-context\\_and\\_background-eng.pdf](http://www.olympic.org/documents/olympic_agenda_2020/olympic_agenda_2020-context_and_background-eng.pdf).

12. Issues of procedural reform have been addressed by this author in a prior work, and will be part of the author’s upcoming Ph.D. dissertation. See Ryan

This article will not attempt to evaluate the quality of the bids submitted, nor will it engage in any form of prediction as to what makes a bid successful. The IOC's Working Group for Applicant Cities and the Evaluation Commission for Candidate Cities summarize and evaluate the bids, and are far more qualified to do so due to their expertise and proximity to the IOC. In addition, other studies have attempted to predict which bids would be successful, and have met with mixed results.<sup>13</sup>

The remainder of this article will proceed in six parts. Part II outlines the relevant literature. Part III delineates the scope of inquiry. Part IV discusses the methodology of qualitative data analysis that is used to examine the bids. Part V analyzes the bids by legal theme addressed, discussing the background questions, and highlighting the questions that relate to changes in public law. Part VI discusses the implications of the data, and of the methods used, for future research. Part VII concludes by emphasizing the possibilities for future research.

## II. PREVIOUS STUDIES

Literature examining the Olympic Games relevant to this article can be split into two bodies: law and the Olympic Games, and literature from other disciplines that focuses on bidding to host the Games. In regards to law and the Olympic Games, one legal study has examined the role of law in bidding to host the Olympic Games, in passing. In their article, Stephen A. Stuart and Teresa Scassa outline the guarantees required by the IOC in the Candida-

---

Gauthier, *International Sporting Event Bid Processes and How They Can Be Improved*, INT'L SPORTS L.J., no. 1-2, 2011, at 3.

13. See Arne Feddersen, Wolfgang Maennig & Phillip Zimmermann, *How to Win the Olympic Games – The Empirics of Key Success Factors of Olympic Bids* (Univ. of Hamburg, Hamburg Contemporary Economic Discussions No. 2, 2007) [hereinafter Feddersen et al., *How to Win the Olympic Games*], available at <http://www.hced.uni-hamburg.de/WorkingPapers/200702.pdf>. This study examined a variety of quantitative factors such as the host city's population, gross domestic product, etc., and found that only the distance of the Olympic Village from the sporting venues, average temperature, and the number of hotel beds within fifty minutes of the venues to be statistically significant variables. *Id.* at 11. See Arne Feddersen & Wolfgang Maennig, *Determinants of Successful Bidding for Mega Events: The Case of the Olympic Winter Games*, in INTERNATIONAL HANDBOOK ON THE ECONOMICS OF MEGA SPORTING EVENTS 70 (Wolfgang Maennig & Andrew Zimbalist eds., 2012) [hereinafter Feddersen & Maennig, *Determinants of Successful Bidding for Mega Events*]. This study examined some similar factors and some new factors related to the prior study as applied to the Winter Olympics, and found a much higher significance amongst the variables.

ture Procedure of the host selection process.<sup>14</sup> They do so to argue that the IOC could use its clout to improve post-Games sustainability,<sup>15</sup> but point out that most of the guarantees protect the IOC's intellectual property rights, and by extension its commercial interests.<sup>16</sup> Stuart and Scassa do not address the broader role of public law in the bids, outside of the guarantees, nor do they examine how the hosts respond to these guarantees. Otherwise, literature on law and the Olympic Games focuses on legislation passed to support the hosting of the Olympic Games, leaving aside bidding to host the Olympic Games.<sup>17</sup>

Literature on bidding to host the Games tends to fall into four categories: (1) personal anecdotes;<sup>18</sup> (2) discussing the value proposition of hosting the Games;<sup>19</sup> (3) deconstructing a failed bid;<sup>20</sup> or (4) attempting to determine factors influencing the success of a bid.<sup>21</sup> Aside from the personal anecdotes, these studies are usually conducted from a political science or an economics perspective.

---

14. Stephen A. Stuart & Teresa Scassa, *Legal Guarantees for Olympic Legacy*, 9 ENT. & SPORTS L.J. 1, para. 7 (2011), available at [http://www2.warwick.ac.uk/fac/soc/law/elj/eslj/issues/volume9/stuart/stuart\\_scassa.pdf](http://www2.warwick.ac.uk/fac/soc/law/elj/eslj/issues/volume9/stuart/stuart_scassa.pdf).

15. *Id.* paras. 4–5.

16. *Id.* para. 15.

17. See, e.g., James & Osborn, *supra* note 4; Carlos E. Bacalao-Fleury, Note, *Brazil's Olympic Trials: An Overview of the Intellectual Property Challenges Posed by the 2016 Rio de Janeiro Games*, 2011 U. ILL. J.L. TECH. & POL'Y 191 (2011); Teresa Scassa, *Faster, Higher, Stronger: The Protection of Olympic and Paralympic Marks Leading Up to Vancouver 2010*, 41 U.B.C. L. REV. 31 (2008).

18. See, e.g., JOHN FURLONG WITH GARY MASON, PATRIOT HEARTS: INSIDE THE OLYMPICS THAT CHANGED A COUNTRY 56–77 (2011).

19. See, e.g., Stephen B. Billings & J. Scott Holliday, *Should Cities Go for the Gold? The Long-Term Impacts of Hosting the Olympics*, 50 ECON. INQUIRY 754 (2012); Richard Pomfret, John K. Wilson, & Bernhard Lobmayr, *Bidding for Sport Mega-Events* (Univ. of Adelaide, School of Economics Working Paper Series No. 0089, 2009), available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.167.7867&rep=rep1&type=pdf>; John R. Gold & Margaret M. Gold, *Olympic Cities: Regeneration, City Rebranding and Changing Urban Agendas*, 2 GEOGRAPHY COMPASS 300 (2008).

20. See, e.g., Robert A. Baade & Allen R. Sanderson, *An Analysis of the Political Economy for Bidding for the Summer Olympic Games: Lessons from the Chicago 2016 Bid*, in INTERNATIONAL HANDBOOK ON THE ECONOMICS OF MEGA SPORTING EVENTS 85 (Wolfgang Maennig & Andrew Zimbalist eds., 2012); Kamilla Swart & Urmilla Bob, *The Seductive Discourse of Development: The Cape Town 2004 Olympic Bid*, 25 THIRD WORLD QUARTERLY 1311 (2004); Noam Shoval, *A New Phase in the Competition for the Olympic Gold: The London and New York Bids for the 2012 Games*, 24 J. URB. AFF. 583 (2002); Christopher R. Hill, *The Politics of Manchester's Olympic Bid*, 47 PARLIAMENTARY AFF. 338 (1994).

21. See, e.g., Feddersen & Maennig, *Determinants of Successful Bidding for Mega Events*, *supra* note 13; Feddersen et al., *How to Win the Olympic Games*, *supra* note 13; Hans M. Westerbeeck, Paul Turner & Lynley Ingerson, *Key Success Factors in Bidding for Hallmark Sporting Events*, 19 INT'L MKTG. REV. 303, 309 (2002) [hereinafter Westerbeeck et al., *Key Success Factors*]; P.R. Emery, *Bidding to Host a Major Sports Event: The Local Organising Committee Perspective*, 15 INT'L. J. PUB. SECTOR MGMT. 316



Law's absence from the bidding literature may be because it is seen as a "background" factor in bidding to host the Olympic Games. This view is highlighted in Christer Persson's qualitative study *The Olympic Games Site Decision*.<sup>22</sup> Examining the selection of the 2002 Winter Olympic Games host, Persson surveyed the bidders involved, as well as the IOC members who voted on those Games. The survey asked respondents to grade the level of importance of bid components (e.g., sports facilities, finances, transportation infrastructure).<sup>23</sup> Persson did not include "legal aspects" as he felt they "do not constitute messages that distinguish one winning bid from the another [sic], but are basic requirements to qualify the bids for further evaluation."<sup>24</sup> Another study, carried out by Hans M. Westerbeek, et al., surveyed a variety of international sporting organizations.<sup>25</sup> The central question asked was: "How important is the issue presented in the following statement, when aiming to attract a hallmark sporting event to a city."<sup>26</sup> The study suggested various factors, such as political support, and bid team composition. Any mention of "legal aspects," or something of a similar nature, was absent.

Legal studies of the Olympic Games have not addressed the bids submitted to host the Games, while research on bidding to host the Games has declared that legal aspects are a background component. As a result, an area that comprises a significant component of hosting the Olympic Games, not to mention an entire section of both the Candidature Acceptance and Candidature Procedures set forth by the IOC, has been ignored. This study aims to remedy this situation, filling the gap of bidding to host the Olympic Games and its impact on law.

---

(2002); Lynley Ingerson & Hans M. Westerbeek, *Determining Key Success Criteria for Attracting Hallmark Sporting Events*, 3 PAC. TOURISM REV. 239 (1999) [hereinafter Ingerson & Westerbeek, *Determining Key Success Criteria*].

22. Christer Persson, *The Olympic Games Site Decision*, 23 TOURISM MGMT. 27 (2002) [hereinafter Persson, *The Olympic Games Site Decision*]. See also Christer Persson, *The Olympic Host Selection Process* (2000) (unpublished Ph.D. dissertation, Luleå University of Technology), available at [http://pure.ltu.se/portal/files/102851764/LTU\\_DT\\_0037\\_SE.pdf](http://pure.ltu.se/portal/files/102851764/LTU_DT_0037_SE.pdf).

23. Persson, *The Olympic Games Site Decision*, *supra* note 22, at 30–31.

24. *Id.* at 31.

25. Westerbeek et al., *Key Success Factors*, *supra* note 21.

26. *Id.* at 309 (citing Ingerson & Westerbeek, *Determining Key Success Criteria*, *supra* note 21).

### III. SCOPE OF INQUIRY

To answer the research questions posed in this article, I will examine changes in state-level public law requested or required by the IOC in its questionnaires, and the responses by bidding cities, for the Olympic Games from 2012–20. Thus, the elements framing the scope of this article are: “state public law,” “years of examination,” and “documents to be consulted.”

#### A. State Public Law

Although it is cities, not countries, which bid for the right to host the Games, the commitment of the state government is essential. Most of the questions of a legal nature that are asked by the IOC address state law, not local law. Therefore, the level of analysis for this article is the highest level of government in a country, referred to here as the “state.” Regional governments may be taken into consideration when appropriate, such as in a case where all but one bidder addressed a particular law at the state level, but one bidder addressed such laws through provincial jurisdiction. In such a case, it is more useful to include the outlier, rather than eliminate the bid from consideration simply due to this jurisdictional issue. This inclusionary policy also holds for super-national law, namely when European Union law trumps national legislation. By focusing on the state, areas of truly local concern, such as altering traffic patterns or enacting sign ordinances are excluded. Sometimes these issues are taken up in federal legislation enacted in support of the Olympic Games, but to avoid getting bogged down in minutiae the same guidelines as above are used: if the issue is normally a local issue, even if it is applied at a different level by some bidders, then it is excluded.<sup>27</sup>

Since the state is the unit of analysis, the focus of the type of law is predictably, “public law.” “Public law” is defined as either the “body of law dealing with the relations between private individuals and the government,” or “[a] statute affecting the general public.”<sup>28</sup> The research questions guiding this article ask about legislation passed as a result of the Olympic Games, inherently limiting the scope to matters of public law. Therefore, issues of private law that arise during the Olympic Games, such as contracts entered

---

27. For instance, the London Olympic Games and Paralympic Games Act, 2006, c. 12 (U.K.) spends much space ensuring that the Olympic Delivery Authority could create and implement an Olympic Transportation Plan, including implementing road closures. *Id.* §§ 10–18.

28. BLACK’S LAW DICTIONARY 581 (3d Pocket ed. 2006).

into between sponsors and the Organising Committees for the Olympic Games (“OCOGs”), are not considered.

Also not considered are issues that are not reasonably foreseeable from the questions and answers given in the bidding process. For instance, prior to the Vancouver 2010 Winter Games, a group of female ski jumpers filed a lawsuit against the Vancouver Olympic Games Organising Committee (“VANOC”).<sup>29</sup> The IOC had determined that ski jumping events would take place for men, but not for women. The jumpers sued VANOC (not the IOC), alleging a violation of section 15(1) of the Canadian *Charter of Rights and Freedoms*,<sup>30</sup> which provides for equal benefit of the law regardless of, *inter alia*, sex.<sup>31</sup> This case, at least in part, was predicated upon public law. However, it is unreasonable to expect bidders to anticipate these sorts of lawsuits, arising because of an IOC decision made more than three years after awarding Vancouver the right to host the Games.<sup>32</sup>

#### B. Years of Examination

The Games of 2012–2020 are selected for analysis based upon the evolution of the host selection process used by the IOC.<sup>33</sup> The modern, two-stage process of host selection has been around since at least the selection of the 2002 Winter Olympic Games, which was completed in 1995. However, in late 1998, corruption amongst the IOC members during the selection of Salt Lake City as the host of the 2002 Games was revealed.<sup>34</sup> As part of the IOC’s reforms following the “Salt Lake City Scandal,” the host selection process was also addressed. Of particular interest to this study, the reforms altered IOC questionnaires beginning with the 2008 Summer

29. *Sagen v. Vancouver Organizing Comm. for the 2010 Olympic & Paralympic Winter Games* (2009), 2009 BCSC 942, 98 B.C.L.R. 4th 141 (Can.).

30. Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, *being* Schedule B to the Canada Act, 1982, c. 11, § 15(1).

31. The British Columbia Court of Appeals dismissed the case, holding that the *Charter* did not apply to VANOC as it was not a governmental body, and because hosting particular events under the Olympics banner was not “furthering any Canadian government policy or program.” *Sagen v. Vancouver Organizing Comm. for the 2010 Olympic & Paralympic Winter Games* (2009), 2009 BCCA 522 (Can.) at para. 49.

32. *See id.* at paras. 13, 18.

33. The years referred to will refer to the year of the Olympic Games that are being bid upon. If a year is cited that does not relate to a bid, but relates to a calendar year in which a particular action takes place, it will be indicated so.

34. *See, e.g.*, Thomas A. Hamilton, *The Long Hard Fall from Mount Olympus: The 2002 Salt Lake City Olympic Games Bribery Scandal*, 21 MARQ. SPORTS L. REV. 219 (2010); INT’L OLYMPIC COMM., IOC CRISIS AND REFORM CHRONOLOGY (1999), *available at* [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_590.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_590.pdf).

Olympic Games.<sup>35</sup> As of the selection of the host for the 2012 Summer Olympic Games, the questionnaires have largely stabilized in form and content and can be used for comparison. The year 2020 was selected as the end point as the selection process for the 2020 Summer Olympic Games took place in 2013, and coincided with the time period that the research was conducted.

The host selection process for the years examined can briefly be described as follows. First, a city submits an initial bid to the IOC about nine years prior to the Games. These bids are based upon questions asked by the IOC, discussed below. These cities are known as Applicant Cities. The IOC establishes an ad-hoc Working Group to evaluate the bids, scoring the bids by category.<sup>36</sup> Those bids that meet the minimum requirements continue through the host selection process. These remaining cities then submit a second round of bids, also based on questions asked by the IOC, which are more in-depth. These cities are known as Candidate Cities. These bids are evaluated by the IOC's Evaluation Commission. The Evaluation Commission does not score the bids, although for the 2022 host selection process (not discussed in this article), the Commission was asked to provide a "risk assessment."<sup>37</sup> Finally, the IOC Session (the general membership of the IOC) votes to select the host of the Games from the Candidate Cities, requiring the selected city to receive a majority of votes.

CITIES THAT BID TO HOST THE OLYMPIC GAMES:  
2012–2020

City Name	Country	Games Bid for (Candidate Cities)
Almaty	Kazakhstan	2012
Annecy	France	<b>2018</b>
Baku	Azerbaijan	2016, 2020
Borjomi	Georgia	2014
Chicago	United States of America	<b>2016</b>
Doha	Qatar	2016, 2020
Havana	Cuba	2012
Istanbul	Turkey	2012, <b>2020</b>
Jaca	Spain	2014
Leipzig	Germany	2012

35. See INT'L OLYMPIC COMM., FACTSHEET: HOST CITY ELECTION 2 (2013), available at [http://www.olympic.org/Documents/Reference\\_documents\\_Factsheets/2020-Host\\_City\\_Election.pdf](http://www.olympic.org/Documents/Reference_documents_Factsheets/2020-Host_City_Election.pdf).

36. Although in the years 2012–2018, the Working Group also provided an aggregate score for the entire bid.

37. AGENDA 2020, *supra* note 11, at 18.

12 JEFFREY S. MOORAD SPORTS LAW JOURNAL [Vol. 23: p. 1

London	United Kingdom	<b>2012</b>
Madrid	Spain	<b>2012, 2016, 2020</b>
Moscow	Russia	<b>2012</b>
Munich	Germany	<b>2018</b>
New York City	United States of America	<b>2012</b>
Paris	France	<b>2012</b>
Prague	Czech Republic	2016
PyeongChang	South Korea	<b>2014, 2018</b>
Rio de Janeiro	Brazil	2012, <b>2016</b>
Rome	Italy	2020 (Abandoned)
Salzburg	Austria	<b>2014</b>
Sochi	Russia	<b>2014</b>
Sofia	Bulgaria	2014
Tokyo	Japan	<b>2016, 2020</b>

Using the bids for 2012–20 allows for a manageable sample size of thirty-two bids to host the Summer and Winter Olympic Games. These bids represent twenty-four cities in nineteen countries. All include bids at the “Applicant City” stage, while eighteen bids moved on to the second stage of the host selection process, becoming “Candidate Cities.” The eighteen Candidate Cities represent fourteen cities from eleven countries. These numbers, thirty-two and eighteen, are the general sample sizes for many of the answers to the IOC’s questions. However, some of the IOC’s questions were asked of Candidate Cities from 2012–18, and Applicant Cities during the 2020 bidding process. In these cases, the sample size will be twenty-one bids (fifteen Candidate Cities, and six Applicant Cities). When referring to bids, the terms “bids” and “bidders” will be used, as well as “Applicant Cities” and “Candidate Cities” to differentiate the different steps in the host selection process. When the study refers to cities or states as the unit of analysis, the distinction of “cities” or “states/countries” will be made.

This sample also includes a bid by Rome for the 2020 Summer Olympic Games, which is marked as “abandoned.” Rome had intended to bid on the 2020 Games, but abandoned the bid on the eve of the deadline for the submission of the Applicant City bids due to a decision by the government to not support a bid for the Games while engaging in austerity economics.<sup>38</sup> Aside from the government guarantees regarding funding, Rome’s bid documentation is otherwise generally complete. Therefore, the contents of Rome’s bid are useful for this study.

---

38. Rome is now considering a 2024 Olympic Bid. See Andrew Dampf, *Rome 2024 Olympic Bid Could Also Involve Vatican*, ASSOCIATED PRESS, Dec. 15, 2014, available at [http://www.apnewsarchive.com/2014/Rome\\_2024\\_Olympic\\_bid\\_could\\_also\\_involve\\_Vatican/id-e4b69b19053a45509ad589c6518bd4f3](http://www.apnewsarchive.com/2014/Rome_2024_Olympic_bid_could_also_involve_Vatican/id-e4b69b19053a45509ad589c6518bd4f3).

For this analysis, the decision has been made to treat each bid as a separate unit. As can be seen in the chart above, there are more bids than there are cities and countries. This discrepancy results because some cities bid multiple times to host the Olympic Games, and some countries have multiple cities bidding over time. Seven of the nineteen cities have bid multiple times, with two cities bidding three times. Four of the eleven countries have also had bids originating from different cities within the country. The choice has been made to use “bids” instead of “cities” or “states” for three reasons. First, the purpose of this thesis is to examine bids, via the bid books, not cities. Second, prior studies, particularly empirical studies, have used “bids” as opposed to cities.<sup>39</sup> Third, using “bids” allows the analysis to capture the changes, or lack thereof, across the years that are made by those who bid multiple times.

A risk of this approach is that multiple bids originating from the same city, or bids originating from the same country, would have similar or even identical responses to the IOC questionnaires, and could skew the results. For instance, Madrid unsuccessfully bid three times, while London successfully bid once. Yet, if these two cities answered a question differently, Madrid’s bids, if they did not change their responses, would “count” more than London’s one response. Additionally, if all instances of possible identical responses were eliminated, then sections of the European bids that acknowledge the primacy of European Union law would have to be excluded as well. Fortunately, the use of qualitative analysis with this sample size enables the addressing of these types of situations in the analysis. In the example used above, it would be acknowledged that all three divergent responses come from one particular city, providing context to the responses.

### C. The Documents

The primary documents used in this article are the IOC questionnaires and the “bid books” submitted by the cities in response. As these documents establish a “question-and-answer” format, this article will follow suit. Questions come from the Candidature Acceptance Procedures and the Candidature Procedures developed by the IOC setting forth their formal requirements in bidding to host the Olympic Games. These Procedures were obtained from

---

39. See Feddersen & Maennig, *Determinants of Successful Bidding for Mega Events*, *supra* note 13, at 72; Feddersen et al., *How to Win the Olympic Games*, *supra* note 13, at 7–8.

the IOC's website.<sup>40</sup> Answers come from the application files, or "bid books," submitted by each Applicant and Candidate City for each Olympic Games that they are applying to host.<sup>41</sup> These bid books were obtained from the Olympic Library in Lausanne, Switzerland, or online through the IOC Collection of the Réseau des bibliothèques de Suisse occidentale,<sup>42</sup> with the exception of Rome's 2020 bid, which was obtained through a different website.<sup>43</sup>

Beyond the questionnaires and bid books, other IOC documents have also been consulted as secondary sources of information. Following the evaluation of the Applicant and Candidate Cities, the IOC publishes a set of Working Group Reports and Evaluation Commission Reports, respectively. These reports are obtained from the IOC's website. The Working Group Reports recommend whether or not Applicant Cities should move on to become Candidate Cities, sometimes by assigning scores, but as of the 2020 Games, absent a score.<sup>44</sup> Evaluation Commission Reports are somewhat of an "executive summary" of the bids submitted by the Candidate Cities. These formats mean that new publicly available information outside of the bid books is scarce, except in some situations, such as when a site visit clarifies previous statements. The reports will be used to reveal if any of the guarantees granted by the bidders were sub-standard, as the precise text of most of the guarantees were not included in the bid books, but in a separate "guarantee file," which was often unobtainable. The reports will also be

---

40. See Int'l Olympic Comm., *Host City Elections, Documents*, OLYMPICS.ORG, <http://www.olympic.org/host-city-elections/documents-reports-studies-publications> (last visited Jan. 30, 2016) (listing select "Host City Elections" for selection of procedures from 2008–24).

41. The term "bid book," while somewhat colloquial, will be used throughout this article. The books are referred to as "Replies to the IOC Questionnaire," "Application File," and "Candidature Acceptance Application," amongst others. Thus, the term "bid book" will be adopted as shorthand for citation. The citation format that will be used for the bid books will be as follows: City, Year, Candidature Acceptance Procedure (Applicant City) or Candidature Procedure (Candidate City), volume number (if applicable), page number. For instance, if the author cites to a provision in Doha's bid book that speaks about restrictions on the press (or absence thereof) for the 2020 Games, it would be cited as: Doha 2020, Applicant City, 76. The use of *supra* will be avoided for clarity.

42. *Digital Library – IOC Olympic Studies Centre*, RERO DOC, <http://doc.rero.ch/collection/CIO?ln=en> (last visited October 10, 2012).

43. See Rome 2020, Applicant City, *available at* [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_590.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_590.pdf).

44. See INT'L OLYMPIC COMM., REPORT BY THE IOC CANDIDATURE ACCEPTANCE WORKING GROUP, Games of the XXXII Olympiad in 2020 7 (2011) [hereinafter 2020 WORKING GROUP REPORT], *available at* [http://www.olympic.org/Documents/Host\\_city\\_elections/Final-report-2020-Working-Group-English.pdf](http://www.olympic.org/Documents/Host_city_elections/Final-report-2020-Working-Group-English.pdf).

used to clarify information, or to reveal any strong IOC reactions to responses.

#### D. The Questions

The bulk of the IOC Questionnaires consists of the IOC setting forth questions to or requirements for the bidding cities. Some of these questions asked by the IOC take the form of an actual question: “What are the existing laws, if any, in your country that relate to sport?”<sup>45</sup> Some of them read as an implied question: “Describe the regulations in force in your country regarding immigration and entry visas.”<sup>46</sup> Others read like an order: “Provide a guarantee from the relevant authorities to provide all security, medical, customs, immigration and other government-related services at no cost to the Organising Committee (OCOG).”<sup>47</sup> Regardless of the manner of wording, these statements by the IOC will be referred to as “questions” throughout this article for ease of reference.

This article is interested in the change of legislation brought about by hosting the Olympic Games. Thus, questions that request or require changes in legislation by potential hosts will be the focus. There are forty-two questions and sub-questions across the Applicant City and Candidate City procedures that can be said to directly refer to state-level public law issues.<sup>48</sup> During the analysis, questions that request changes will be highlighted in bold for ease of reference.

#### IV. METHODOLOGY

To answer the research questions above, the questionnaires that the IOC asks of the bidders, and the bidders’ response to those questions are analyzed. To undertake this analysis of the bidders’ responses, I will conduct a qualitative document analysis of the bids from 2010–2020. Qualitative document analysis is a “systematic procedure for reviewing or evaluating documents” that examines data to “elicit meaning, gain understanding, and develop empirical knowledge.”<sup>49</sup> The analysis of the documents “yields data . . . that are then organized into major themes, categories, and case exam-

---

45. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 93.

46. *Id.* at 94.

47. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 84.

48. *See infra* Appendix I.

49. Glenn A. Bowen, *Document Analysis as a Qualitative Research Method*, 9 QUALITATIVE RESEARCH J., no. 2, 2009, at 27.



ples specifically through content analysis.”<sup>50</sup> Procedurally, qualitative document analysis follows three steps that are inspired by the school of grounded theory: immersion into the data, data reduction, and interpretation of the data.<sup>51</sup> When the researchers receive the data, they begin to skim or review the data to get a general idea of what is in the documents. Once there is familiarity with the documents, data reduction/coding may begin. Often, as the research progresses, new information comes to light, or needs to be interpreted differently, and the data units or codes change.<sup>52</sup> Finally, interpretation of the data is carried out.

In regards to the present research, the author consulted six particular documents to immerse himself in the data. To understand the types of questions asked by the IOC, the author consulted the IOC questionnaires for the 2018 Candidate Cities, and the 2020 Applicant Cities, as these were the most recent questionnaires available. To understand the answers that might be provided by the bidders, the author reviewed two bids submitted by the 2018 Candidate Cities (PyeongChang and Munich), and two bids submitted by 2020 Applicant Cities (Doha and Tokyo). Data reduction was guided by the IOC’s organization of the questionnaire across distinct themes. Thus, questions were categorized according to those themes, with a few exceptions, detailed below. The questions were analyzed as discrete units. *In vivo* coding, where the researcher uses a key word or phrase recurring throughout the question, was relied upon for initial, and in some cases, final coding of the responses to the questions. The codes were analyzed for similarities and differences, and responses have been so grouped for the analysis.

This study is novel in that it uses a qualitative methodology to study the bids submitted to host the Olympic Games, instead of a quantitative methodology. Prior studies examining the selection of Olympic host cities have used both qualitative and quantitative analysis with mixed results. The qualitative studies used surveys,<sup>53</sup> while the quantitative studies relied on pre-existing documentation, most

---

50. *Id.* at 28.

51. See Jane Forman & Laura Damschroder, *Qualitative Content Analysis*, in *EMPIRICAL METHODS FOR BIOETHICS: A PRIMER* 39, 46 (Liva Jacoby & Laura A. Siminoff eds., 2008); see also Lisa Webley, *Qualitative Approaches to Empirical Legal Research*, in *THE OXFORD HANDBOOK OF EMPIRICAL LEGAL RESEARCH* 926, 944 (Peter Cane & Herbert Kritzer eds., 2010); Bowen, *supra* note 49, at 32.

52. See Webley, *supra* note 51, at 944.

53. See Persson, *The Olympic Games Site Decision*, *supra* note 22, at 30; Westerbeek et al., *Key Success Factors*, *supra* note 21, at 312.

particularly on the bid books.<sup>54</sup> Given the two options, qualitative analysis is preferred for three reasons: the inductive nature of the study, the reliance on nominal variables, and the small sample size. First, qualitative analysis is well-suited to inductive analysis, where general principles are derived from an observation of data, while quantitative analysis is more suited to testing a hypothesis by measuring correlation and causation.<sup>55</sup> Since this thesis is determining *what* is required of bidders and *what* their responses are, and then deriving principles for further evaluation, qualitative analysis is preferred. Second, studies that use quantitative analysis tend to use at least some variables that are classified as ordinal, interval, or ratio variables.<sup>56</sup> These are variables that have some sort of rank-ordering to them, such as population, income, or even preference indication (e.g., “on a scale of 1–10, please rank how you feel about X”). These variables permit analyses that test correlation amongst variables, the heart of quantitative analysis. These sorts of variables are used in the studies that sought to determine which factors were predictive of a bidder being selected as a host city of the Olympic Games.<sup>57</sup> On the other hand, the variables used in this study are nominal variables. Nominal variables are those that have no rank-ordering, (i.e., no category is greater or lesser than the other). These sorts of variables lend themselves to qualitative analysis, particularly when there are no quantitative variables involved. Third, the small sample size of only thirty-two bids allows for qualitative analysis, whereas a larger sample size would cause one to lean towards using quantitative analysis.

In spite of the benefits of using qualitative document analysis, concerns do arise with validity and reliability. The potential validity weakness is that the documents themselves may not reflect objective reality. This is a common concern with the use of documents as every document created serves some primary purpose, and that purpose is generally not to aid researchers.<sup>58</sup> In the case of bids to the

---

54. See Feddersen & Maennig, *Determinants of Successful Bidding for Mega Events*, *supra* note 13, at 74; Feddersen et al., *How to Win the Olympic Games*, *supra* note 13, at 7–8.

55. Webley, *supra* note 51, at 928–29. The dividing line between qualitative and quantitative analysis is not a clear-cut distinction. See *id.* at 930.

56. EARL BABBIE, *THE PRACTICE OF SOCIAL RESEARCH* 137–39 (11th ed. 2007). These are variables such as preference ranking, population, distance, or Gross Domestic Product that have some sort of rank-order. *Id.*

57. See Feddersen & Maennig, *Determinants of Successful Bidding for Mega Events*, *supra* note 13, at 74–77; Feddersen et al., *How to Win the Olympic Games*, *supra* note 13, at 8–10.

58. See Bowen, *supra* note 49, at 33; see also Webley, *supra* note 51, at 939.

Olympic Games, the documents were created as a source of information for the IOC, but also to present the city as a viable and attractive host of the Olympic Games. With this in mind, one might ask whether the bidders might stretch the truth, or even outright lie, to gain a competitive advantage in the cutthroat race to host the Games. Related is the concern that the bid books may contain incomplete information, due to simple accident. Yet, for this study, the books are studied as an end in themselves, not as some purely objective representation of reality. Second, the statements made by the bidding cities are considered to be binding by the IOC.<sup>59</sup> Whether or not false statements in the bid books can be sanctioned by the IOC is up for debate.<sup>60</sup> Regardless, even if the bidders lie, the bids are illustrative of what they think is important, and if the IOC can rely on the claims made in the bid books, so can this study.

The concern about the reliability of the study is a standard concern with qualitative studies and that the study may not be reproducible. Yet, this study uses documents that are publicly available. Therefore, other researchers can reproduce the methodology above and verify the results. There may be different interpretations of the data and results, but such interpretations will only lead to a richer discussion.

#### V. ANALYSIS OF BIDS MADE TO HOST THE OLYMPIC GAMES

The analysis of the bids submitted to host the Olympic Games covers ten legal themes: (1) “general” legal issues, (2) intellectual property rights/ambush marketing, (3) customs and immigration, (4) anti-doping, (5) media, (6) safety and security, (7) taxation, (8) environment, (9) technology, and (10) government support. These categories are nearly identical to those used by the IOC, with

59. This consideration is less applicable for the Applicant City bid books, but certainly applies to the Candidate City documentation. The IOC, in its Candidature Procedure, requires a standard text guarantee from bidders that should (as opposed to shall) include the following statement whereby the Candidate City: “Understand(s) and agree(s) that all representations, warranties and covenants contained in the Candidate City’s bid documents, as well as all other commitments made, either in writing or orally, by either the Candidate City (including the Bid Committee) or its NOC to the IOC, shall be binding on the city.” 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 224. This statement also applies to commitments made during site visits. *Id.* at 30.

60. For instance, Franck Latty is concerned that the sporting institutions are not granted full legal security, and a less-than-scrupulous host could take advantage of their sovereign position and override particular event-related guarantees such as freedom for athletes to enter the territory. To secure the sporting bodies’ position, Latty suggests arbitration clauses, or the reliance on bilateral investment treaties as a mechanism to ensure compliance. See Franck Latty, *Transnational Sports Law*, INT’L SPORTS L.J., no. 1-2, 2011, at 34, 36–37.

some exceptions. First, the category of “intellectual property/ambush marketing” is comprised of questions from the IOC categories of “legal aspects” (i.e., general/miscellaneous) and “marketing.” This rearrangement is made because intellectual property issues are important to the IOC and thematically fit together with each other. Second, as of the 2020 Games, “customs and immigration” has merged with “legal aspects.”<sup>61</sup> However, given the size and complexity of the “customs and immigration” category, and recognizing that it has been a separate category for four of the five Games that are examined, it is kept separate here. Third, a question on taxation of media members has been moved from the “media” category to the “taxation” category, as it deals more with taxation than media. Finally, a question on lotteries has been moved to the “general” section from its place in the questionnaire under “marketing” as it is a minor question not necessitating its own section.

Beyond the questions asked by the IOC in the questionnaires, there is also a recent development: the inclusion of “pre-requisite criteria” established by the IOC in 2011 for the 2020 Olympic Games host selection process.<sup>62</sup> These pre-requisite criteria mandate that: the dates of the Summer Olympic Games must be in the window of July 15 and August 31 (absent an exception from the IOC); the National Olympic Committee (“NOC”) must be compliant with the World Anti-Doping Agency’s (“WADA”) rules; and, disputes over the host selection process are subject to the jurisdiction of the Court of Arbitration for Sport (“CAS”), to the exclusion of national courts.<sup>63</sup> The latter two criteria have legal relevance, and are discussed here, in the sections on anti-doping, and general legal issues, respectively. They fit comfortably within those categories, despite being physically located in annexes to the questionnaire.<sup>64</sup>

The structure for each section will be as follows: (1) introducing each section, providing background information where needed; (2) quoting the question that the IOC has asked, which requests or requires bidders to change their laws, and addressing changes to the question over time; (3) discussing the responses of the bidders to the question, repeating steps 2 and 3 per IOC question; and, (4) discussing any other notable responses from the other questions that address legal issues.

---

61. See 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 93–95.

62. See 2020 WORKING GROUP REPORT, *supra* note 44, at 5.

63. *Id.*

64. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, Annex I, available at [http://www.olympic.org/Documents/Host\\_city\\_elections/2020\\_Annex1.pdf](http://www.olympic.org/Documents/Host_city_elections/2020_Annex1.pdf).

## A. General Legal Issues

The questions within the category of “General Legal Issues” do not belong to a particular theme, and are generally found under the IOC category of “legal aspects” in the IOC Candidature Acceptance and Candidature Procedures.<sup>65</sup>

The key question within the “legal aspects” section straightforwardly asks Applicant Cities: “Do you envisage the implementation of any new laws to facilitate the organisation of the Olympic Games? Explain.”<sup>66</sup> Responses of the bidders to this question are mixed. Seventeen bidders said they would change their laws, while fourteen said they would not. One bidder, Sofia, did not answer the question.

Yet, looking at the responses in detail, nuance emerges. Of the bidders who said they anticipated new laws, ten did not provide any details. Seven bidders responded with specifics as to which laws they would address. The common type of law to be addressed was anti-ambush marketing laws (Moscow, New York City, and Chicago).<sup>67</sup> London stated it would implement a new law allowing the national lottery to raise funds for the Olympic Games.<sup>68</sup> Jaca’s bid focused on anti-doping efforts.<sup>69</sup> New York City offered to modify state legislation regarding firearms competitions, authorization of medical treatment of athletes by their team physicians, and restrictions on street vendors.<sup>70</sup> Baku, for both its 2016 and 2020 bids, laid out a long list of laws that it would change.<sup>71</sup>

The bidders that did not anticipate changes to their laws also varied in the details of their responses. Of these fourteen bidders, six simply stated they did not anticipate a need to change any laws. Five bidders said they did not anticipate changing their laws, but that they would do so if required. In a strange set of responses, three bidders stated that they did not anticipate the implementation of any new laws, but then went on to describe the new laws they planned on implementing. Almaty indicated that they would implement new intellectual property and ambush marketing laws,<sup>72</sup> while Rome stated that it would review and revise its anti-ambush

65. *See id.* at 93; 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 76.

66. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 93.

67. Moscow 2012, Applicant City, at 13; New York City 2012, Applicant City, n. pag; Chicago 2012, Applicant City, at 13.

68. London 2012, Applicant City, at 12.

69. Jaca 2014, Applicant City, at 17.

70. New York City 2012, Applicant City, n. pag.

71. Baku 2016, Applicant City, at 15; Baku 2020, Applicant City, at 73.

72. Almaty 2014, Applicant City, at 19.

marketing laws.<sup>73</sup> Istanbul's 2020 bid stated that Turkey would undertake a comprehensive review of its Olympic Law, and revise it if necessary.<sup>74</sup>

From these responses, it appears that not all bidders are automatically on board with the idea that they would have to change their legislation in the effort to host the Olympic Games. However, it does raise the question as to whether the bidders that say they foresaw no changes in law remain consistent throughout the rest of the bidding process, and actually propose no changes to their laws in other questions.

Six other "general" legal questions were asked of the bidders. First, in response to the question asking if there are any obstacles to the organization of the Olympic Games in their country,<sup>75</sup> the bidders unanimously state that there are none. Such a response is unsurprising as announcing any legal obstacles may be tantamount to admitting that there will be problems with hosting the Games.

A second question asks Applicant Cities whether a referendum would be required to host the Olympic Games, and if opponents could force such a referendum.<sup>76</sup> The part of the question about "forcing a referendum" has been asked since the 2020 bidding process. It should be noted that not only was one Olympic Games moved due to a referendum,<sup>77</sup> several bids for the 2022 Winter Olympic Games were cancelled due to negative referendum outcomes.<sup>78</sup> Bidders generally responded that a referendum would not be held in their country. Only Sofia's bid mentioned that referendums at a local level were a possibility.<sup>79</sup> The other exceptional

73. Rome 2020, Applicant City, at 101.

74. Istanbul 2020, Applicant City, at 73.

75. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 93.

76. *Id.* at 98.

77. The 1976 Winter Olympic Games were moved from Denver, U.S.A. to Innsbruck, Austria. The state of Colorado voted on a referendum in 1972, enacting a state constitutional amendment, prohibiting the state from "levying taxes and appropriating or loaning funds for the purpose of aiding or furthering the 1976 Winter Olympic Games. The ballot initiative was passed with a vote count of 514,228–350,964, or 59.4% to 40.6%. *Ballot History*, Initiative, An Act to Amend Articles X and XI of the State Constitution to prohibit the State from levying taxes and appropriating or loaning funds for the purpose of aiding or furthering the 1976 Winter Olympic Games, 1972 Colorado Ballot No. 8 (Colo. 1972), *available at* <http://www.leg.state.co.us/lcs/ballothistory.nsf/835d2ada8de735e787256ffe0074333d/185275e7a6d5715787256ffd006a4944?OpenDocument>; *see also* Colo. Const. art. XI, § 10 (repealed 1991).

78. *See* Christopher Clarey, *Bidders are Melting Away*, N.Y. TIMES, May 29, 2014, at B12, *available at* [http://www.nytimes.com/2014/05/29/sports/olympics/bidders-for-2022-winter-games-are-melting-away.html?\\_r=0](http://www.nytimes.com/2014/05/29/sports/olympics/bidders-for-2022-winter-games-are-melting-away.html?_r=0).

79. Sofia 2014, Applicant City, at 13.

bid was from Prague. Although there was no requirement for a referendum in the Czech Republic for Prague's bid,<sup>80</sup> the IOC Candidature Acceptance Working Group noted a petition brought forward by "Municipalities Against Tax Discrimination" requesting a referendum.<sup>81</sup> That there was no requirement in the Czech Republic, but a possibility for opponents to the Games to force a referendum, may have led to the later inclusion of the language on "forcing a referendum."

A similar question was asked of the Candidate Cities for the 2018 Games, where the IOC not only asked about legislation *allowing* for a referendum, but also the legal implications for a referendum that was negative to the hosting of the Olympic Games.<sup>82</sup> All three bidders had stated in the Applicant City stage that referendums were not *required* by legislation to host the Olympic Games. Of the three bidders, Annecy and Munich stated that although national referendums were not a possibility, that local referendums were.<sup>83</sup> Given the local nature of the Games, it would seem that local referendums are likely more important than national referendums. PyeongChang only addressed national referendums,<sup>84</sup> although the IOC Evaluation Commission noted that local referendums were also possible for PyeongChang's bid.<sup>85</sup> Only Munich seemed to grapple with the legal consequences of a referendum, by stating that a "simple poll" asking a question such as "Are you in favour of Bavaria withdrawing its support for the Munich 2018 Bid" would be impermissible, but regulations enacted under state law could be subject to a referendum.<sup>86</sup> Thus, it is conceivable, without examining Bavarian referendum laws, that a referendum such as the one that held up the Denver Winter Olympic Games could pass muster in Munich. In fact, the IOC's Evaluation

---

80. Prague 2016, Applicant City, at 15.

81. INT'L OLYMPIC COMM., GAMES OF THE XXXI OLYMPIAD 2016 WORKING GROUP REPORT 18 (2008) [hereinafter 2016 WORKING GROUP REPORT], *available at* [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1317.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1317.pdf).

82. INT'L OLYMPIC COMM., 2018 CANDIDATURE PROCEDURE AND QUESTIONNAIRE: XXIII OLYMPIC WINTER GAMES 78 (2010) [hereinafter 2018 CANDIDATURE PROCEDURE], *available at* [http://www.olympic.org/Documents/Host\\_city\\_elections/2018\\_CPQ-ENGLISH-FULL.pdf](http://www.olympic.org/Documents/Host_city_elections/2018_CPQ-ENGLISH-FULL.pdf).

83. Annecy 2018, Candidate City, Vol. 1, at 55; Munich 2018, Candidate City, Vol. 1, at 59.

84. PyeongChang 2018, Candidate City, Vol. 1, at 61.

85. INT'L OLYMPIC COMM., REPORT OF THE IOC 2018 EVALUATION COMMISSION: XXIII OLYMPIC WINTER GAMES 103 (2011) [hereinafter 2018 EVALUATION COMMISSION REPORT], *available at* [http://www.olympic.org/Documents/Commissions\\_PDFfiles/Evaluation\\_Commission/FINAL\\_DRAFT\\_2018\\_EV\\_COM-ENG.pdf](http://www.olympic.org/Documents/Commissions_PDFfiles/Evaluation_Commission/FINAL_DRAFT_2018_EV_COM-ENG.pdf).

86. Munich 2018, Candidate City, Vol. 1, at 59.

Commission noted that in Munich, a group sought “a referendum to challenge the legality of the Host City Contract.”<sup>87</sup> The bid committee responded to the IOC that municipal contracts cannot be reversed.

Third, the IOC asks bidders if they have any laws relating to sport.<sup>88</sup> The bidders offer a diverse set of responses, outlining national and local laws, with some enshrining the right to participate in sport in their Constitutions. The subject matter of the laws ranges from mere “support/promotion” to the provision of funding, consumer protection, intellectual property rights protection, and anti-doping laws.

Fourth, Candidate Cities were asked to describe any legislation they had in relation to lotteries.<sup>89</sup> All but three of the Candidate Cities said they would provide for lotteries. The two American bids and Munich said they would not allow lotteries.<sup>90</sup> The two French bids allowed lotteries and also mentioned that they would take steps to prevent betting on Olympic events.<sup>91</sup>

Fifth, the IOC asked Candidate Cities whether there were any, national or international obligations binding your country (e.g. national law, international treaties or European Union rules and requirements) that could lead to a conflict with the obligations of the City, the NOC and the OCOG pursuant to the Host City Contract and the Olympic Charter, including obligations of a commercial, financial, fiscal or legal nature.<sup>92</sup>

Prior to the 2016 Games, the question emphasized competition law as an issue to be addressed.<sup>93</sup> Candidate Cities were almost uniform in their responses that there would be no impacts. Only Salzburg hinted at a possible impact, hinting that European Union rules on procurement could cause delay, except that the minimal amount of infrastructure required for the Games would minimize

---

87. 2018 EVALUATION COMMISSION REPORT, *supra* note 85, at 34.

88. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 93.

89. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 119.

90. New York City 2012, Candidate City, Vol. 1, at 135; Chicago 2016, Candidate City, Vol. 1, at 141; Munich 2018, Candidate City, Vol. 1, at 139.

91. Paris 2012, Candidate City, Vol. 1, at 149; Annecy 2018, Candidate City, Vol. 1, at 147.

92. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 78.

93. See INT’L OLYMPIC COMM., 2014 CANDIDATURE PROCEDURE AND QUESTIONNAIRE: XXII OLYMPIC WINTER GAMES IN 2014 75 (2006) [hereinafter 2014 CANDIDATURE PROCEDURE], available at [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1078.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1078.pdf).



this delay.<sup>94</sup> The response from the PyeongChang 2018 focused on competition law, perhaps a holdover from PyeongChang's 2014 bid response when competition law concerns were to be emphasized, but PyeongChang also states that:

Due to this [protection of free and fair competition], the aforementioned parties [non-OCOG-businesses and the Republic of Korea] are not commercially, financially or legally bound by obligations concerning the Host City, the NOC or POCOG under the Host City Contract or the Olympic Charter; rather, they are subject to internationally established universal criteria concerning the hosting of the Winter Games. The 1988 Seoul Olympic Games and the 2002 FIFA World Cup™ Korea/ Japan were hosted under the same principles.<sup>95</sup>

This puzzling response gives no explanation of “internationally established universal criteria,” nor is any reference to this concept made anywhere else in the bid.

Also, until the 2016 Games, the question asked about the impact that such agreements “would have upon the organisation and staging” of the Games,<sup>96</sup> but then changed the question in 2016 to focus on the conflict that such agreements would have with “the obligations of the City, the NOC and the OCOG pursuant to the Host City Contract and the Olympic Charter.”<sup>97</sup> Wording changes such as this may signal a movement from a concern with the practical aspects of hosting the Games, to a more legalistic format of compliance with the Host City Contract and the Olympic Charter.

Finally, as one of the new “pre-requisite criteria” for the 2020 Games, the IOC required Applicant Cities to sign a declaration granting jurisdiction over any disputes “arising from the period of the application of the city in connection with the 2020 Candidature Acceptance Procedure or its interpretation” to the CAS.<sup>98</sup> Swiss law is the law governing the dispute.<sup>99</sup> The IOC found that the 2020

---

94. See Salzburg 2014, Candidate City, Vol. 1, at 48, 50.

95. PyeongChang 2018, Candidate City, Vol. 1, at 61.

96. 2014 CANDIDATURE PROCEDURE, *supra* note 93, at 75.

97. INT'L OLYMPIC COMM., 2016 CANDIDATURE PROCEDURE AND QUESTIONNAIRE: GAMES OF THE XXXI OLYMPIAD 76 (2008) [hereinafter 2016 CANDIDATURE PROCEDURE], *available at* [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1318.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1318.pdf).

98. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at Annex I: CAS Declaration, *available at* [http://www.olympic.org/Documents/Host\\_city\\_elections/2020\\_Annex1.pdf](http://www.olympic.org/Documents/Host_city_elections/2020_Annex1.pdf).

99. *Id.*

Applicant Cities that submitted bids (i.e., Rome was not evaluated as it did not submit a bid at the end) met the criteria. Similarly, Candidate Cities from 2012–20 have been required to sign an “undertaking,” that requires them, *inter alia*, to sign the host city contract without reservation, and to follow the rules regarding the Olympic Marks. The “undertaking” refers all disputes to the CAS, but it seems that this clause is limited to disputes “in connection with this Undertaking.”<sup>100</sup>

### B. Intellectual Property/Ambush Marketing

Intellectual property and anti-ambush marketing protection are vital to the IOC and to the Organizing Committees of the Olympic Games (“OCOGs”). The eleven sponsors who belong to The Olympic Partners (“TOP”) Program paid \$957 million (USD) to the IOC for the right to sponsor the Olympic Games from 2008–2012.<sup>101</sup> The IOC is thus highly motivated to protect its trademark and brand, and through that the investment, trademarks, and brands of its sponsors.

Trademark protection for Olympic marks has been attempted to be made on a global scale through the *Nairobi Treaty on the Protection of the Olympic Symbol*.<sup>102</sup> However, relatively few parties have signed onto the Treaty since its adoption in 1981. As of July 15, 2015, there are only fifty-two state parties.<sup>103</sup> Of these parties, only six of the nineteen countries that make up the G20 (not counting the European Union) have the Treaty in force in their states. Of the thirty-two bids for the Olympic Games considered in this article, only nine bidders (28%), representing six of the seventeen countries that bid on the Games, had the Treaty in force at the time of their bids.<sup>104</sup> Kazakhstan has recently acceded to the *Nairobi Treaty*, while Azerbaijan acceded after its 2016 bid, likely in anticipation of its 2020 bid.

100. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 59.

101. INT’L OLYMPIC COMM., OLYMPIC MARKETING FACT FILE 11 (2012 ed.) [hereinafter OLYMPIC MARKETING FACT FILE], available at [http://www.olympic.org/Documents/IOC\\_Marketing/OLYMPIC-MARKETING-FACT-FILE-2012.pdf](http://www.olympic.org/Documents/IOC_Marketing/OLYMPIC-MARKETING-FACT-FILE-2012.pdf).

102. Nairobi Treaty on the Protection of the Olympic Symbol, Sept. 26, 1981, World Intellectual Prop. Org., available at [http://www.wipo.int/wipolex/en/treaties/text.jsp?file\\_id=287413](http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=287413).

103. Nairobi Treaty on the Protection of the Olympic Symbol, Sept. 26, 1981, Contracting Parties, World Intellectual Prop. Org., available at [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=22](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=22) (last visited Feb. 8, 2016).

104. These bidders are: Baku 2020, Doha (x2), Havana, Moscow, Rio de Janeiro (x2), Rome, and Sochi.

Unlike trademark protection, ambush marketing is a concept that is not clearly-defined.<sup>105</sup> Trademark protection is often defined in one of two ways. First, ambush marketing may be defined as an organization creating an association between itself and an event, but without obtaining permission from the event rights-holder.<sup>106</sup> The organization is attempting to obtain goodwill from the event.<sup>107</sup> Second, ambush marketing may be defined as an organization purposefully undermining a competitor's sponsorship benefits.<sup>108</sup> The focus here is on the deceit and confusion of consumers.<sup>109</sup> A more extreme version would be when a company falsely portrays itself as an event sponsor.<sup>110</sup> To add to the debate over ambush marketing, there are questions about whether ambush marketing is an insidious practice that needs to be curtailed,<sup>111</sup> or whether it is simply ingenious marketing.<sup>112</sup> Laws such as trademark infringement, or torts such as "passing off," false advertising, or "dilution" may be applicable,<sup>113</sup> but most ambush marketers are savvy enough to avoid running afoul of these causes of action.<sup>114</sup> As an entity that is the target of ambush marketing, regardless of the definition, the International Olympic Committee has demanded that hosts enact anti-ambush marketing legislation.

The IOC asks Candidate City-stage bidders questions that could lead to changes in public law in intellectual property law and anti-ambush marketing measures. Candidate cities are required by the IOC to:

---

105. Dana Ellis, Teresa Scassa & Benoit Séguin, *Framing Ambush Marketing as a Legal Issue: An Olympic Perspective*, 14 *SPORT MGMT. REV.* 297, 298 (2011).

106. Edward Vassallo, Kristin Blemaster & Patricia Werner, *An International Look at Ambush Marketing*, 95 *T.M.R.* 1338, at 1339 (2005), *cited in* Scassa, *supra* note 17, at 47.

107. James & Osborn, *supra* note 4, at 422.

108. Steve McKelvey, *Sans Legal Restraint, No Stopping Brash, Creative Ambush Marketers*, *BRANDWEEK*, Apr. 18, 1994, at 20, *cited in* Juda Strawczynski, *Is Canada Ready for the Vancouver Winter Games? An Examination of Canada's Olympic Intellectual Property Protection*, 62 *U. TORONTO FAC. L. REV.* 213, 214 (2004).

109. *See* Bacalao-Fleury, *supra* note 17, at 197; *see also* Strawczynski, *supra* note 108, at 214.

110. *See* Jennifer L. Donatuti, Note, *Can China Protect the Olympics, or Should the Olympics be Protected from China?*, 15 *J. INTELL. PROP. L.* 203, 209 (2007).

111. Sudipta Bhattacharjee & Ganesh Rao, *Tackling Ambush Marketing: The Need for Regulation and Analysing the Present Legislative and Contractual Efforts*, 9 *SPORT IN SOC'Y* 128, 130 (2006).

112. Vassallo et al., *supra* note 106, at 101.

113. *Id.* at 89–92; Jane Sebel & Dominic Gyngell, *Protecting Olympic Gold: Ambush Marketing and Other Threats to Olympic Symbols and Indicia*, 22 *UNSW L.J.* 691, 695–99 (1999).

114. Ellis et al., *supra* note 105, at 300, 305.

[E]nsure that the Olympic symbol, the terms “Olympic” and “Olympiad” and the Olympic motto are protected in the name of the IOC and/or that they have obtained, or shall obtain from their government and/or their competent national authorities, adequate and continuing legal protection to the satisfaction of the IOC and in the name of the IOC.

Describe the legal measures in force in your country to protect the Olympic symbol, emblems, logos, marks and other Olympic-related marks and designations.

What commitments do you already have in place from the government of your country to such effect?

Provide a declaration from the government of your country stipulating that all necessary legal measures have been taken, or will be taken, to protect the above-mentioned Olympic-related marks and designations in the name of the IOC.

An equivalent level of protection must be guaranteed for the Paralympic marks and the term “Paralympic” to the satisfaction of the IPC and IOC.<sup>115</sup>

Generally speaking, all of the bidders provided that they had taken the necessary legal measures to protect the Olympic and Paralympic marks. All eighteen Candidate Cities explicitly assured the IOC that they had protected the Olympic symbol. The only exceptional case was the IOC’s concern over Moscow’s statement that it would “take appropriate measures” to protect the marks, and the bid’s providing of the registration of the marks not in English (presumably in Russian).<sup>116</sup> Twelve explicitly assured the IOC that they had protected the worlds “Olympic” and “Olympiad,” amongst others, with an additional bidder protecting “word marks.” Eight bidders explicitly stated that they protected the Olympic motto “*citius, altius, fortius*,” while the four bidders from France and Russia provided protection to the Olympic anthem. Tokyo’s bids explicitly mentioned “mascots” as something to be protected under trademark.<sup>117</sup> The language on the “Paralympics” was added for the 2020 Games, and the three 2020 Candidate Cities stated they already protected the Paralympic marks.

---

115. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 77.

116. INT’L OLYMPIC COMM., REPORT OF THE IOC EVALUATION COMMISSION FOR THE GAMES OF THE XXX OLYMPIAD IN 2012 48 (2005).

117. Tokyo 2016, Candidate City, Vol. 1, at 68; Tokyo 2020, Candidate City, Vol. 1, at 38.

Only one bidder proposed new laws to enhance trademark protection. Sochi proposed new laws to give authorities “the ability to confiscate property and liquidate firms that commit gross violations of intellectual property rights.”<sup>118</sup> That only one bidder proposed a new law at all is striking since the IOC expressly requires that “all necessary legal measures have been taken, *or will be taken*.”<sup>119</sup> If new measures will not be taken, the bidders must be confident that their trademark protections are sufficient for the IOC. Such confidence does not always prevent new legislation, however. Canada and the United Kingdom both passed new trademark protection laws for the Olympic symbols prior to their Games despite already having such laws in place.<sup>120</sup> While some countries may indeed have stronger trademark protection in place than Canada or the U.K., one could expect more bidders to propose a willingness to at least consider new laws.

Finally, only one bidder, Rio de Janeiro, mentioned the *Nairobi Treaty*.<sup>121</sup> The Russian bids, Moscow and Sochi, did not mention the *Nairobi Treaty*, despite its being ratified by Russia at the time of bidding.

The IOC appears to realize that ambush marketing and trademark protection, while related, are indeed separate issues. In spite of the concerns with defining and preventing ambush marketing, discussed above, the IOC requires Candidate Cities to:

Provide (a) written guarantee(s) from the relevant government authorities confirming that the legislation necessary to effectively reduce and sanction ambush marketing (e.g. preventing competitors of Olympic sponsors from engaging in unfair competition), and, during the period beginning two weeks before the Opening Ceremony to the Closing Ceremony of the Olympic Winter Games eliminate street vending, prevent un-authorized ticket resale, control advertising space (e.g. billboards, advertising on public transport, etc.) as well as air space (to ensure no publicity is allowed in such airspace) will be passed as soon as possible but no later than 1 January [of two calendar years before the Games are to be held].<sup>122</sup>

---

118. Sochi 2014, Candidate City, Vol. 1, at 51.

119. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 77 (emphasis added).

120. See Scassa, *supra* note 17, at 38–39; James & Osborn, *supra* note 4, at 411.

121. Rio 2016, Candidate City, Vol. 1, at 69.

122. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 115.

The responses from the Candidate Cities focused on the provision of guarantees, with few bidders outlining legislative initiatives, and detailing anti-ambush marketing campaigns. First and foremost, the bidders provided the guarantees required by the IOC. All bidders had complied and provided the guarantees, with one exception. Annecy's bid relied on the Geneva, Switzerland airport as the primary airport to serve the Games, and for the city of Geneva to provide 13% of the hotel rooms.<sup>123</sup> However, Annecy's bid did not provide an anti-ambush marketing guarantee from the Swiss authorities, which was seen as a potential "risk" by the IOC Evaluation Commission.<sup>124</sup>

Although bidders provided the required guarantees, few bidders provided any details as to what steps they would take. Given the difficulty of implementing effective anti-ambush marketing legislation, discussed above, the lack of detail included in the bids may be expected. Five of the eighteen Candidate City bids have stated that they would proactively pass new legislation: London, Madrid 2012, Madrid 2020, and the two PyeongChang bids.<sup>125</sup> Salzburg, Rio de Janeiro, and Istanbul pledged to at least consider, if not enact, new legislation if it was considered necessary.<sup>126</sup> However, the closest any of these eight bids came to providing any sort of detail on what such legislation would entail was Rio's pledge to "focus on the speed of decision [sic] and response to support anti-ambush measures."<sup>127</sup> The absence of proactive implementation of anti-ambush marketing legislation speaks to either a great confidence that the bidders have in their present legislation, or a lack of realization of what such laws entail. Even Rome's bid, in the Applicant City stage, pointed out that although Italy had held the Games in Torino in 2006, studies were being undertaken to strengthen anti-ambush marketing laws.<sup>128</sup>

Although only eight Candidate Cities (representing six unique cities) explicitly considered at least the possibility of passing new legislation, nine bidders representing six cities outlined broader anti-ambush marketing campaigns. These campaigns generally in-

---

123. 2018 EVALUATION COMMISSION REPORT, *supra* note 85, at 43.

124. *Id.* at 70.

125. London 2012, Candidate City, Vol. 1, at 47; Madrid 2012, Candidate City, Vol. 1, at 121; Madrid 2020, Candidate City, Vol. 1, at 85; PyeongChang 2014, Candidate City, Vol. 1, at 121; PyeongChang 2018, Candidate City, Vol. 1, at 131.

126. Salzburg 2014, Candidate City, Vol. 1, at 118; Rio de Janeiro 2016, Candidate City, Vol. 1, at 139; Istanbul 2020, Candidate City, Vol. 1, at 105.

127. Rio de Janeiro 2016, Candidate City, Vol. 1, at 86.

128. Rome 2020, Applicant City, at 101.

clude three key elements: education of local businesses and other relevant groups, call centers to report instances of ambush marketing, and a single responsible body for monitoring and/or enforcement. Seven bidders outline educational measures, four pledge to establish contact centers, and four offer to establish a single department or dedicated team to deal with ambush marketing concerns. PyeongChang's 2018 bid also included internet monitoring and enforcement of ambush marketing attempts.<sup>129</sup> While the fact that more bidders outlined anti-ambush marketing campaigns as opposed to outlining legislation is surprising, the inclusion of such campaigns should not come as a shock. The academic literature regularly hints that legislation alone is not enough, and that a more encompassing anti-ambush marketing campaign is required, and one-half of bidders seem to follow the same track.<sup>130</sup>

The provision for ticket resale was added only for the 2020 Games, and the 2020 bidders provided either little information on anti-ticket touting legislation, or in the case of Madrid, no information on ticket-touting legislation.

### C. Customs and Immigration

Over 10,500 athletes attended the London 2012 Olympic Summer Games.<sup>131</sup> These athletes represented 204 National Olympic Committees, while four athletes, three from the Netherlands Antilles, and one from South Sudan, participated under the Olympic Flag.<sup>132</sup> These athletes need to bring in items for their competitions such as guns, bows and arrows, horses, medical equipment, and other items that would often be barred entry to a country, or at least be subject to severe import duties and other restrictions. In addition to the athletes who need to enter the host country, support staff, media, and spectators also need and want to attend the Olympic Games, leading to hundreds of thousands more people who are entering and exiting the host country in a period of less

129. PyeongChang 2018, Candidate City, Vol. 1, at 131.

130. See Ellis et al., *supra* note 105, at 299; Vassallo et al., *supra* note 106, at 100.

131. INT'L OLYMPIC COMM., LONDON 2012 FACTS & FIGURES 1 (2012), available at [http://www.olympic.org/Documents/Reference\\_documents/Factsheets/London\\_2012\\_Facts\\_and\\_Figures-eng.pdf](http://www.olympic.org/Documents/Reference_documents/Factsheets/London_2012_Facts_and_Figures-eng.pdf).

132. *Id.* Athletes compete for their National Olympic Committees, not for their countries. OLYMPIC CHARTER, *supra* note 5, R. 40–41. Since neither the Netherlands Antilles nor South Sudan had established a National Olympic Committee prior to the 2012 Games, the IOC took the decision to allow them to compete under the Olympic Flag.

than a month.<sup>133</sup> Then, a month later, the influx of visitors takes place again with the Paralympic Games. To process these visitors, the IOC requires a bidder to state its plans to reduce the burdens erected by immigration and customs formalities on entry to a country for the time period around the Games.

The International Olympic Committee requires assurance that its global constituency, namely IOC members, representatives from the international sporting federations (International Federations, or “IFs”) and athletes, are able to enter the country hosting the Olympic Games. Yet, IOC requirements do not necessarily mean that all who are associated with the Olympic Games are admitted. For instance, Mowaffak Joumaa, the head of the Syrian Olympic Committee, and a general in its military, was refused entry to the United Kingdom for the 2012 Olympic Games, due to his ties with the Syrian government and its violent suppression of opposition.<sup>134</sup>

Provide a guarantee from the relevant authorities that, notwithstanding any regulations in your country to the contrary that would otherwise be applicable, accredited persons in possession of a valid passport and an Olympic identity and accreditation card will be able to enter into the country and carry out their Olympic function for the duration of the Olympic Games and for a period not exceeding one month before and one month after the Olympic Games, in accordance with the Accreditation and Entries at the Olympic Games – Users’ Guide.<sup>135</sup>

This guarantee was required of Candidate Cities from 2012–18, and of Applicant Cities in 2020. All twenty-one cities involved provided the guarantees. Related to this question, is the requirement of a guarantee by the Applicant Cities from 2012–20 to guarantee “free access to and free movement around the host country for all

---

133. The United Kingdom’s Office for National Statistics London estimated that 420,000 visitors came to the U.K. specifically to attend the Olympic Games. UNITED KINGDOM OFFICE FOR NATIONAL STATISTICS, OVERSEAS TRAVEL AND TOURISM, AUGUST 2012 7 (2012), *available at* [http://www.ons.gov.uk/ons/dcp171778\\_282767.pdf](http://www.ons.gov.uk/ons/dcp171778_282767.pdf). However, overall visitors to the U.K. were 5% lower than in years past. *Id.* at 1. The Olympics tends not to cause a boost in short-term tourism as potential tourists stay away to avoid the perceived crowds, expenses, and other negative attributes of visiting during the Olympics. See Shoval, *supra* note 20, at 595.

134. See Helen William, *Syria Olympics Chief General Mowaffak Joumaa ‘Refused Visa’*, THE INDEPENDENT (London) (June 22, 2012), <http://www.independent.co.uk/news/uk/home-news/syria-olympics-chief-general-mowaffak-joumaa-refused-visa-7876261.html>.

135. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 94.



accredited persons.”<sup>136</sup> This question was asked in the “Government Support” section, and all bidders provided the guarantee, although Sofia’s guarantee was deemed by the IOC’s Working Group to require amendment to “include precisely and without qualification the wording required by the IOC” in regards to free access and movement.<sup>137</sup>

During the years examined in this article, the European states that participate in the joint customs and border union known as the “Schengen Area,” enacted the Specific Procedures and Conditions Facilitating the Issuing of Visas to Members of the Olympic Family Participating in the Olympic Games and Paralympic Games.<sup>138</sup> States that are parties to the Schengen Agreement have agreed to implement common criteria for entry into the Schengen Area, thus losing some control over their own borders.<sup>139</sup> In the first years of the Schengen Agreement, ad-hoc regulations were enacted for the Athens and Turin Games.<sup>140</sup> Since those Games, bidders have relied on their precedent.<sup>141</sup> For the 2020 Games, Madrid’s 2020 bid could point to the new procedures, which would facilitate entry into Spain.<sup>142</sup>

While the athletes, IOC and IF personnel, and spectators are the heart of the Olympic Games, those who work in the years leading up to the games in preparation of the venues are just as vital. The IOC informs bidding cities that, “certain Games-related personnel [e.g., monitors of test events, or anti-doping personnel] will require temporary entry into the host country to perform their

---

136. *Id.* at 97.

137. INT’L OLYMPIC COMM., XXII WINTER OLYMPIC GAMES IN 2014: REPORT BY THE IOC CANDIDATURE ACCEPTANCE WORKING GROUP TO THE IOC EXECUTIVE BOARD 22 (2006) [hereinafter 2014 WORKING GROUP REPORT], available at [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1073.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1073.pdf).

138. Commission Regulation 810/2009 of July 13, 2009, Establishing a Community Code on Visas, Annex XI, 2009 O.J. (L 243) 49 (EC), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:0058:en:PDF>.

139. However, internal border controls may be re-established for a limited period by a member of Schengen for reasons of “public policy or national security.” Council of the European Union, The Schengen *Aquis* as referred to in Article 1(2) of Council Decision 1999/435/EC of 20 May 1999, Title II, Ch. 1, Art. 2(2), 2000 O.J. (L 239) 20 (EC), available at [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2000\\_239\\_R\\_0001\\_01&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2000_239_R_0001_01&from=EN).

140. See Regulation 2046/2005 of the European Parliament and of the Council, 2005 O.J. (L 334) 1 (EC), available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R2046&from=EN>; Council Regulation 1295/2003, 2003 O.J. (L 183) 1 (EC), available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003R1295&from=EN>.

141. See, e.g., Paris 2012, Candidate City, Vol. 1, at 79.

142. Madrid 2020, Applicant City, at 72.

Olympic duties prior to the Olympic Games. Such persons may be required to domicile in the country for at least one year before the Olympic Games.”<sup>143</sup> The cities are asked to “[d]escribe the process and average length of time required to apply for and issue work permits for temporary entry of personnel to work and domicile in the country and how this will be adjusted, if necessary, in order to conform with the requirements referred to above.”<sup>144</sup>

Similar to the previous question, this question was asked of Candidate Cities from 2012–18, and then asked of the Applicant Cities for 2020. Additionally, the portion “how this will be adjusted, if necessary,” was not asked in 2012.

Only one bidder, Baku, proposed legislation. Baku stated that it would legislate a fast-track process in the proposed omnibus Olympic Law it would pass if awarded the Games.<sup>145</sup> Otherwise, the other changes suggested by bidders were of a regulatory or administrative variety, as opposed to a legislative proposal. Tokyo’s bids would have suspended the need to obtain a Certificate of Eligibility prior to arrival in Japan.<sup>146</sup> Munich’s bid pledged that Germany would do away with a working visa requirement for those who were working for less than three months in the country.<sup>147</sup> Rio de Janeiro includes TOP sponsors as a group to be included in any expedited work visa procedures.<sup>148</sup> As to the rest, bidders described how they would grant the applications for work permits “priority” status, would “expedite” the work permits, or would ensure that a “dedicated team” would handle the permits.

Closely related to the previous question, the IOC asks bidders to:

Provide a guarantee stating that the temporary entry of certain personnel into your country for the organisation of the Olympic Games will be authorised and that such persons will obtain appropriate work permits in an expedited and simplified manner, without any duties or taxes being payable.<sup>149</sup>

---

143. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 95.

144. *Id.*

145. Baku 2020, Applicant City, at 73, 79.

146. Tokyo 2016, Candidate City, Vol. 1, at 78; Tokyo 2020, Applicant City, at 74.

147. Munich 2018, Candidate City, Vol. 1, at 71.

148. Rio 2016, Candidate City, Vol. 1, at 79.

149. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 79.

All of the Candidate Cities granted the guarantees required of them by the IOC. Rio made the point that none of those admitted under the scheme would be constrained by local labor laws.<sup>150</sup> Annecy stated that Switzerland would recognize the French permits granted under this scheme.<sup>151</sup> Similar to the previous question, Madrid 2020 explicitly included the TOP sponsors.<sup>152</sup>

In addition to the guarantees regarding the entry of persons, the IOC strives to ensure that items that are considered essential to the Olympic Games are able to be brought into the host country without burdens such as bans on importation or customs duties. These essentials include things such as sporting and medical equipment. The IOC thus asks Candidate Cities to:

Provide a guarantee from the relevant authorities, concerning the import, use and export of goods, including consumables, required by the IOC, IFs, NOCs and their delegations, broadcasters, written and photographic press, sponsors and suppliers, free of all customs duties, in order for them to carry out their obligations regarding the celebration of the Olympic Games.<sup>153</sup>

The question had some minor changes, which were the addition of “consumables” in 2014, and the refining of the term “media” to “broadcasters, written and photographic press” in 2020. All bidders signed the guarantee required. The bids from France and South Korea made explicit a condition that the items imported not be sold or donated, but consumed or re-exported.<sup>154</sup> Five other bidders from four countries made re-export a condition of not imposing customs duties.<sup>155</sup>

Several other questions are asked by the IOC, but simply ask hosts to describe regulations that are in existence, or will be in place for test events prior to the Games, and are not addressed in detail here, but listed in the Appendix to this article.

---

150. Rio 2016, Candidate City, Vol. 1, at 79.

151. Annecy 2018, Candidate City, Vol. 1, at 73.

152. Madrid 2020, Candidate City, Vol. 1, at 51.

153. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 79.

154. Paris 2012, Candidate City, Vol. 1, at, 83; PyeongChang 2014, Candidate City, Vol. 1, at, 63, 77; Annecy 2018, Candidate City, Vol. 1, at, 77.

155. London 2012, Candidate City, Vol. 1, at 63; Sochi 2014, Candidate City, Vol. 1, at 61; Tokyo 2016, Candidate City, Vol. 1, at 78; Madrid 2020, Candidate City, Vol. 1, at 51; Tokyo 2020, Candidate City, Vol. 1, at 44.

## D. Anti-Doping

Doping in modern sport has been a concern of the international bodies for over half a century.<sup>156</sup> Despite its history, doping truly became an Olympic concern only at the 1960 Olympic Games, when Danish cyclist Knud Enemark Jensen died, and an autopsy showed the presence of an amphetamine.<sup>157</sup> Jensen's official autopsy showed that he died from heatstroke (having rode in the team time trial in temperatures around 38–40 degrees Celsius), while a fall off his bike, subsequent skull fracture, and treatment in an overheated tent probably did more damage than any amphetamine.<sup>158</sup> Regardless of the cause of death, the incident spurred the IOC to form a Medical Commission, who then formed a sub-commission on doping, leading to a list of prohibited substances, and the beginning of drug testing at the 1968 Olympic Games.<sup>159</sup> Since then, the anti-doping fight has escalated in earnest with the establishment of the World Anti-Doping Agency (WADA) in 1999.<sup>160</sup> The WADA's goal is to establish a harmonized, global legal anti-doping regime, and the IOC's requirements reflect this mission.<sup>161</sup>

The IOC requires bidders to sign onto and implement the relevant provisions of the key international anti-doping instruments. The IOC is also concerned about cooperation between anti-doping authorities and local/state authorities.

The IOC's primary concern is that host states:

Provide a guarantee from the relevant national authority confirming that

- a. the (WADA) World Anti-Doping Code and the IOC Anti-Doping Rules (which are based on the World Anti-Doping Code) which are in force in 2020 will apply upon the occasion of the Olympic Games; and
- b. should there be any conflict between, on the one hand, the World Anti-Doping Code and the IOC Anti-

---

156. Richard W. Pound & Kerwin Clarke, *Doping in Sport*, in HANDBOOK ON INTERNATIONAL SPORTS LAW 133, 133 (James A.R. Nafziger & Stephen F. Ross eds., 2011).

157. See Verner Møller, *Knud Enemark Jensen's Death During the 1960 Rome Olympics: A Search for Truth?*, 25 SPORT IN HISTORY 452, 470 (2005).

158. *Id.* at 462, 465 (using the term "sunstroke" instead of "heatstroke").

159. Pound & Clarke, *supra* note 156, at 133–34.

160. *Id.* at 135.

161. See, e.g., John T. Wendt, *Toward Harmonization: British Olympic Ass'n v. World Anti-Doping Agency*, 23 MARQ. SPORTS L. REV. 155, 156 (2012); Lorenzo Casini, *Global Hybrid Public-Private Bodies: The World Anti-Doping Agency*, 6 INT'L ORG. L. REV. 421, 443–45 (2009).

Doping Rules and, on the other hand, any other anti-doping rules applicable in your country, the World Anti-Doping Code and the IOC Anti-Doping Rules shall take precedence

c. the relevant authority(ies) of the host country will provide its (their) full cooperation and support for the implementation of the IOC Anti-Doping Rules at the time of the Olympic Games, in particular in relation to investigations and procedures regarding athletes' support personnel or any other person involved in trafficking, or in assisting in any way in relation to the use of prohibited substances or prohibited methods, and that relevant laws are in place in order to ensure the foregoing.<sup>162</sup>

Parts a) and b) of this guarantee have been required since 2014, and all bidders from 2012–20 delivered on these guarantees. In the bid books, some were less than explicit on every point, but as the guarantees themselves are included in a separate file, the details may have been spelled out there. Only one bidder ran into problems: the IOC was concerned about Spanish compliance with the WADA Code during Madrid's 2016 bid as Spain had just passed new anti-doping legislation.<sup>163</sup> As of the 2020 bids, Spain treats doping as a criminal offense.<sup>164</sup> Part (c) of the question has only been asked since the 2018 Games. This question was perhaps spurred into existence by Madrid's response to the 2016 variant of this question, where the Spanish authorities pledged cooperation in regards to investigations and procedures.<sup>165</sup> This question as a whole may be concerning, as bidders are essentially required to promise to enforce a set of unknown future rules, and in the case of the WADA Code and IOC Anti-Doping Rules, have international rules take precedence over national laws and regulations.

The theme of cooperation is again addressed by the IOC in a second question:

What legislation is in place or will be implemented to allow cooperation and sharing of information between the sports authorities and the public authorities (police, cus-

---

162. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 86.

163. INT'L OLYMPIC COMM., REPORT OF THE 2016 IOC EVALUATION COMMISSION, GAMES OF THE XXXI OLYMPIAD 75 (2009) [hereinafter 2016 EVALUATION COMMISSION REPORT], available at [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1469.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1469.pdf).

164. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 86.

165. Madrid 2016, Candidate City, Vol. 3, at 25.

toms) in relation to the fight against doping and to implement the commitments of the Host Country under the UNESCO Convention and the WADA Code?<sup>166</sup>

This question was asked of Candidate Cities in 2018 and of Applicant Cities in 2020. Most bidders had already adopted legislation to facilitate cooperation and sharing of information. Annecy and PyeongChang pledged to pass legislation in the future to enable cooperation, while the other bidders already had such laws in place.

Third, in a show of how important these international instruments are to the IOC, as of the 2020 Games, compliance with the WADA under the Copenhagen Declaration and the UNESCO Convention are now one of three prerequisites to bid on the Games. Bidders are required to provide the following statement:

“([N]ame(s) of the duly authorised national authority) hereby confirm(s) that (name of the country) has signed the Copenhagen Declaration on Anti-Doping in Sport and ratified the UNESCO Convention against Doping in Sport, Paris 19 October 2005, and that legislation is in place (or will be in place by 7 September 2013) to implement the commitments of the UNESCO Convention against Doping in Sport.”<sup>167</sup>

On its face, it seems curious that the IOC could require bidders to sign and ratify international agreements as a condition precedent to bidding to host the Olympic Games. Requirements such as this particularly raise concerns about the influence of the IOC in a state's affairs. Yet, most national governments or National Olympic Committees have already signed these two agreements, most well before it became a requirement to do so.<sup>168</sup>

Fourth, prior to the 2020 Games, the IOC only asked bidders if they had signed agreements with WADA, or had ratified the UNESCO Convention.<sup>169</sup> All bidders stated they had signed the

166. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 86.

167. *Id.* Annex 1, available at [http://www.olympic.org/Documents/Host\\_city\\_elections/2020\\_Annex1.pdf](http://www.olympic.org/Documents/Host_city_elections/2020_Annex1.pdf).

168. There were 193 signatories to the Copenhagen Declaration, and 172 parties to the UNESCO Convention as of November 20, 2012. See *Copenhagen Declaration List of Signatories*, WORLD ANTI-DOPING AGENCY, <http://www.wada-ama.org/en/World-Anti-Doping-Program/Governments/Copenhagen-Declaration-on-Anti-Doping-in-Sport/List-of-signatories/> (last visited Nov. 23, 2012); *International Convention Against Doping in Sport*, UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION, <http://www.unesco.org/eri/la/convention.asp?KO=31037&language=E> (last visited Nov. 23, 2012).

169. See, e.g., 2018 CANDIDATURE PROCEDURE, *supra* note 82, at 172.

WADA Code (or come to some sort of agreement with WADA), and the UNESCO Convention. The UNESCO Convention had only come into existence during the 2014 bidding process, and so the 2014 bidders were in the process of ratifying the Convention. Only the Salzburg bid had problems ratifying the UNESCO Convention during the 2014 process.<sup>170</sup> Although signing the UNESCO Convention was not a requirement of the 2016 bidding process, five of the seven Applicant Cities indicated that their countries had signed the UNESCO Convention. The exceptions were Rio de Janeiro, which did not mention the Convention,<sup>171</sup> and Chicago, which went to great pains to point out that it was optimistic that the U.S. federal government would ratify the treaty in 2008,<sup>172</sup> which did occur by the time of the Evaluation Commission Report.<sup>173</sup>

Finally, the IOC asks bidders to divulge what legislation they have on doping.<sup>174</sup> Unsurprisingly, all of the bidders have some sort of anti-doping rules, whether through legislation or regulation. Many bidders tout that they have recently updated their laws prior to bidding to host the Games, and are in full compliance with the WADA Code.

#### E. Media

The 2012 Summer Olympic Games lays claim to a potential global audience of almost five billion people.<sup>175</sup> Television broadcasting rights are particularly lucrative for the IOC, with broadcasting rights for the 2009–12 period generating \$3.914 billion (USD) in revenue, four times the revenue generated by the global sponsors that belong to the TOP Program.<sup>176</sup> To reach this global audi-

---

170. INT'L OLYMPIC COMM., IOC 2014 EVALUATION COMMISSION REPORT, XXII OLYMPIC WINTER GAMES IN 2014 40 (2007) [hereinafter 2014 EVALUATION COMMISSION], available at [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1187.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1187.pdf).

171. However, Brazil did ratify the Convention (Dec. 18, 2007) shortly before the deadline for the submission of their Applicant City bid (Jan. 14, 2008). See *International Convention Against Doping in Sport*, *supra* note 168; INT'L OLYMPIC COMM., CANDIDATURE ACCEPTANCE PROCEDURE: GAMES OF THE XXXI OLYMPIAD IN 2016 24 (2007), available at [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1213.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1213.pdf).

172. Chicago 2016, Applicant City, at 17.

173. 2016 EVALUATION COMMISSION REPORT, *supra* note 163, at 21.

174. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 86.

175. INT'L OLYMPIC COMM., IOC MARKETING: MEDIA GUIDE LONDON 2012 15 (2011) [hereinafter MEDIA GUIDE LONDON 2012], available at [http://www.olympic.org/Documents/IOC\\_Marketing/London\\_2012/IOC\\_Marketing\\_Media\\_Guide\\_2012.pdf](http://www.olympic.org/Documents/IOC_Marketing/London_2012/IOC_Marketing_Media_Guide_2012.pdf).

176. OLYMPIC MARKETING FACT FILE, *supra* note 101.

ence, there are 5,600 broadcasting staff,<sup>177</sup> and 20,000 credentialed journalists.<sup>178</sup> Due to the large number of media members converging on a single country for a short period of time, and desire to protect the investment made by its broadcasting partners, the IOC wants to ensure that media members can carry out their jobs unencumbered. To this end, the IOC asks bidders whether the media members would be subject to the local labor laws. The IOC also inquires into the state of restrictions on the import and export of media material.

Labor law dominates the media question asked by the IOC. Media members, numbering in the tens of thousands, and mostly foreign-based, are required to work in the host country for several weeks around the Olympic Games. The imposition of labor restrictions by state regulation or by unions could prevent the media from working at all in the country. The IOC wants to prevent labor laws from being a barrier and asks:

Would Olympic related personnel, especially the media, broadcasters, the OBS and their personnel, and timing and scoring services be subject to union regulations or labour laws, and if so what special waivers will be introduced to enable the OBS, rights holders and media to fulfil their professional responsibilities without being constrained by the host country's media reporting regulations, labour laws, trade union agreements or regulations, if any, with regard to reporting and filming in the Host City or country.

Explain.<sup>179</sup>

This question was asked of Candidate Cities prior to 2020, and of Applicant Cities in 2020. Prior to 2016, the question simply read: "Would broadcasters of the OBO [i.e., the current OBS], and their personnel, normally be subject to union regulations or labour laws."<sup>180</sup> After 2016, the prospect of special waivers was raised, and in 2020 the reference to timing and scoring services was added.<sup>181</sup>

Thirteen of the twenty-one bidders replied that their labor laws would not apply. Paris, Rio, Annecy, and Munich promised to pro-

---

177. MEDIA GUIDE LONDON 2012, *supra* note 175, at 15.

178. *The London 2012 Olympics in Numbers*, THE INDEPENDENT (London) (July 11, 2011), <http://www.independent.co.uk/sport/olympics/the-london-2012-olympics-in-numbers-2326316.html?action=gallery&ino=13>.

179. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 95.

180. *See, e.g.*, 2014 CANDIDATURE PROCEDURE, *supra* note 93, at 220.

181. *See, e.g.*, 2016 CANDIDATURE PROCEDURE, *supra* note 97, at 228.



vide exceptions or waivers to create a “flexible” environment for the media to operate in. Finally, Paris and Chicago stated that their labor laws would apply to members of the media.<sup>182</sup> Both Munich and Annecy’s bids received somewhat of a rebuke by the IOC. Both cities agreed to adapt their laws to meet the requirements of the Olympic Games. The IOC stated that if either city “were awarded the Games, it would be essential for these provisions to be implemented.”<sup>183</sup> It seems that the IOC is perhaps less patient than in the past with bidders who do not explicitly state that their labor laws do not apply.

Yet, beyond these blanket pledges that labor law will or will not apply, the responses to the question begin to diverge. Seven of the bidders point out that their *employment standards* will apply to the media. Three of the seven are the Madrid bids, two are the American bids, two are the French bids, and one is from Austria. This total also includes two bidders, New York City and Salzburg, who state that although employment standards would apply, labor laws would not apply.<sup>184</sup> Moscow’s bid strangely exempted foreign media from labor laws, but applied them to the Olympic Broadcasting Services.<sup>185</sup> Thus, while the majority of bidders exempted media from labor laws, it is not a universal sentiment.

This question does have a definitional concern. The question uses a single term, “labor law,” which may be interpreted differently in different countries. While European states are more likely to consider labor as a body of law that governs all forms of employment,<sup>186</sup> Canada and the United States view labor law as specifically referring to the right of employees to associated and collectively bargain, with “employment law” as the regime that governs the workplace more broadly.<sup>187</sup> Thus, there could be confusion

182. Paris 2012, Candidate City, Vol. 3, at 193; Chicago 2016, Candidate City, Vol. 3, at 161.

183. 2018 EVALUATION COMMISSION REPORT, *supra* note 85, at 31, 66.

184. New York City 2012, Candidate City, Vol. 3, at 175; Salzburg 2014, Candidate City, Vol. 3, at 208.

185. Moscow 2012, Candidate City, Vol. 3, at 147.

186. See *Employment, Social Affairs & Inclusion: Labour Law*, EUROPEAN COMMISSION, <http://ec.europa.eu/social/main.jsp?catId=157&langId=en> (last visited Jan. 31, 2016) (defining labor law as body of legislation that “defines your rights and obligations as workers and employers,” and stating that EU labour law covers two main areas: working conditions and informing and consulting workers).

187. See, e.g., Cynthia Estlund, *Reflections on the Declining Prestige of American Labour Law Scholarship*, 23 COMP. LAB. L. & POL’Y J. 789, 795, 798 (2002); compare British Columbia Labour Relations Code, R.S.B.C. 1996, c. 244 (referring only to collective activity), with British Columbia Employment Standards Act, R.S.B.C. 1996, c. 133.

amongst bidders as to what, exactly, the IOC is looking for. Some bidders directly explain the different applicability of labor and employment law, while others seem to be less clear on this distinction. For example, Salzburg stated that Austrian labor law was generally not applicable, and that the contract of the home country of the media member would govern. Yet, “minimum requirements concerning the legal entitlement of posted employees relevant to wages, paid holiday and working times” would apply.<sup>188</sup> Thus, under a Canadian/American definition, “labor law” would not necessarily apply, but “employment law” would apply. A response such as this may be an example of a bidder trying to make a distinction between the two laws, or it may be the bidders trying to have it both ways by appearing to be compliant with the IOC, and yet having their particular laws apply.

The IOC asked Candidate Cities through 2018, and Applicant Cities as of 2020, if there were any restrictions on the export of media materials for consumption abroad, and on the import of media materials into the host country. To do their job effectively, the media needs to be able to, at a minimum, broadcast the images of the Olympic Games around the globe. Ideally, the media will also be able to roam the area around the host city and country, reporting on cultural and other human-interest stories during the lead-up to and duration of the Games. The presence of the media becomes problematic when potentially sensitive issues such as human rights concerns, delays in Games preparation, and other things that the hosts may not want to be brought to international attention, are taking place. To minimize the restrictions on the media, the IOC asks bidders to: “Specify, if applicable, any restrictions or regulations concerning the use of media material produced on the national territory intended principally for broadcast outside the territory.”<sup>189</sup>

Of the twenty-one bidders asked this question, fourteen stated they had no restrictions on the export of media materials. The seven bidders with restrictions actually said they had no restrictions, and then went on to list restrictions. These seven bidders represented only four cities: Madrid, Tokyo, Rome, and Baku. Restrictions to export were: violations of intellectual property rights (Madrid, Tokyo, and Rome),<sup>190</sup> violation of tort law (Madrid and

188. Salzburg 2014, Candidate City, Vol. 3, at 208.

189. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 95.

190. Madrid 2012, Candidate City, Vol. 1, at 65; Madrid 2016, Candidate City, Vol. 1, at 81; Tokyo 2016, Candidate City, Vol. 1, at 78; Madrid 2020, Applicant City, at 74; Rome 2020, Applicant City, at 107; Tokyo 2020, Applicant City, at 76.

Rome),<sup>191</sup> violation of criminal law (Madrid 2016),<sup>192</sup> and violation of national security (Baku).<sup>193</sup> The IOC noted that further clarification would be required on Baku's restriction.<sup>194</sup>

Just as a country may not want media to broadcast images from within their borders to the outside world, the host country may also be concerned with the effect on global media materials being brought into their country. There may be restrictions on such material, and to that end, the IOC asks bidders if "there is any law prohibiting or limiting by name or number the importation of foreign newspapers, periodicals or other publications."<sup>195</sup>

Generally, the bidders stated that they had no limitations on the importation of publications. Ten of the twenty-one bidders simply stated that there was no prohibition on importation, without any caveats. There were four common importation restrictions mentioned: material that violated public morals (seven bidders), material that violated criminal law (six bids), material that violated intellectual property law (five bids), and pornography (three bids). Other reasons were mentioned once: incitation of war, protection of youth, pro-Nazi party propaganda, and seditious material. These importation restrictions appear to be accepted by the IOC as reasonable limitations on the importation of media materials, even for a broad, vague category such as "public morals." In contrast to exportation, discussed above, the restrictions that were mentioned were spread across a greater number of cities bidding, with eight of the seventeen cities mentioning restrictions on import, as opposed to the four cities with restrictions on export.

#### F. Safety/Security

Olympic Games are "highly visible, 'deeply symbolic' occasions."<sup>196</sup> This status establishes the Games as a valuable target for disruption by a group looking to gain instant notoriety, the most notorious of which was the hostage-taking of Israeli athletes in 1972. But it is not just the threat of terrorism that must be addressed; various other forms of criminality such as fraud, kidnapping, and human trafficking, as well as attempts by groups to use

191. Madrid 2012, Candidate City, Vol. 1, at 65; Madrid 2016, Candidate City, Vol. 1, at 81; Madrid 2020, Applicant City, at 74; Rome 2020, Applicant City, at 107.

192. Madrid 2016, Candidate City, Vol. 1, at 81.

193. Baku 2020, Applicant City, at 81.

194. 2020 WORKING GROUP REPORT, *supra* note 44, at 53.

195. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 95.

196. Malcolm N. MacDonald & Duncan Hunter, *The Discourse of Olympic Security: London 2012*, 24 DISCOURSE & SOC'Y 66, 67 (2013).

the Games as a platform for advancing their political agenda, are also considered and addressed by hosts.<sup>197</sup>

To meet these various security threats, the host cities and states need to organize security amongst national police and emergency forces, local forces, and even the military. To ensure interoperability amongst these disparate groups, the IOC asks bidding cities:

If necessary, is your government willing to make modifications to the laws, standards and administrative procedures considered necessary within the legislative organisation of the country in order to achieve an efficient structure and a safety and security operation that is appropriate to the special circumstances of the Olympic Games?

If so, what would be the timeframe for such a procedure?<sup>198</sup>

This question was asked of Candidate Cities from 2012–18, as well as of the 2020 Applicant Cities. A similar question to this was asked of Applicant Cities from 2012–18, without the references to “Standards and administrative procedures.”<sup>199</sup> In regards to the latter question, six of those twenty-six applicant cities did not mention a willingness to introduce new laws. That the IOC asked this question in both the Applicant City and Candidate City stages until 2020 shows the importance of security to the IOC.

All of the bidders stated that they would modify their laws if necessary. Bidders often used evasive language such as “any legal or regulatory measures that would prove useful or complementary will be considered favourably,”<sup>200</sup> while some were more resolute, promising that if new legislation would be required, “appropriate measures will be promptly implemented.”<sup>201</sup> The secondary question about the time frame was added for the 2020 bidders, with only Baku and Doha providing some sort of time frame (a few months, and a few days, respectively),<sup>202</sup> Istanbul and Rome referring to expedited processes and “appropriate time frames,”<sup>203</sup> and Madrid

197. Ying Yu et al., *Governing Security at the 2008 Beijing Olympics*, 26 INT’L J. HIST. SPORT 390, 392 (2009).

198. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 88.

199. See, e.g., INT’L OLYMPIC COMM., 2018 CANDIDATURE ACCEPTANCE PROCEDURE: XXIII WINTER OLYMPIC GAMES 84 (2009) [hereinafter 2018 CANDIDATURE ACCEPTANCE PROCEDURE], available at [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1451.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1451.pdf).

200. Paris 2012, Candidate City, Vol. 3, at 53.

201. Tokyo 2020, Applicant City, at 58.

202. Baku 2020, Applicant City, at 61; Doha 2020, Applicant City, at 58.

203. Istanbul 2020, Applicant City, at 61; Rome 2020, Applicant City, at 87.

and Tokyo not addressing the matter at all. The reason that many of the respondents may not be overly-enthusiastic about introducing new laws may be because they have already made claims that their laws are sufficient to ensure an appropriate security operation at the Games, discussed below.

### G. Taxation

Similar to the temporary nature of employment created by the Olympic Games, as seen above, there are also a number of temporary economic activities created by the Olympic Games, which may be subjected to taxation such as the sale of goods, or employment. Any taxation by the government would reduce the income received by the IOC, or the OCOG. As the IOC distributes much of the funds received from the Games to the IFs representing the various sports, taxation could also reduce the funds available to the development of sport.<sup>204</sup> As a practical bidding matter, a tax regime hostile to the IOC would make a city a less appealing candidate.

As there were no questions that directly called for a change in legislation by the host state, the analysis will proceed with a brief examination of the general questions asked on taxation. The IOC begins its section on taxation by asking Candidate Cities to “provide a statement from the competent authorities” that price-gouging, particularly with hotel rates, will not occur before and during the Olympic Games.<sup>205</sup> The “competent authorities” leaves a lot of leeway for who these authorities may be, and many responses do not touch upon public law authorities. The key to these responses instead is the use of signed guarantees from hotels, and other groups that may engage in price gouging (e.g., taxi companies). Only three bids mention legislation: the two French bids mention they have legislation in effect that allows the government to enact measures to prevent price-gouging,<sup>206</sup> while the bid from Sochi promises to enact legislation to prevent price-gouging.<sup>207</sup> Some bidders state or allude that they will rely on local regulations.

The other questions in the section focus specifically on taxation. The IOC asks bidders to “describe the various types of taxes”

---

204. The IOC claims to distribute 90% of its revenues from the Olympic Games to International Federations, National Olympic Committees, and the Organising Committees for the Olympic Games, while keeping 10% for administrative costs for the IOC. OLYMPIC MARKETING FACT FILE, *supra* note 101, at 6.

205. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 84.

206. Paris 2012, Candidate City, Vol. 1, at 119; Annecy 2018, Candidate City, Vol. 1, at 111.

207. Sochi 2014, Candidate City, Vol. 1, at 93; *see also id.* at 49.

that bidders levy at all levels of government, which may impact the Olympic Games.<sup>208</sup> The types of taxes that are generally enumerated by the bidders include: personal income tax, corporate income tax, value added tax, customs duties, accommodation/entertainment tax, and stamp duties. There are other taxes that are specific to individual bidders. Bidders often state in this section that they will reduce the impact of the tax burden on the IOC, or that they will outright exempt the IOC from these taxes, whether through legislation, regulation, or simply re-defining a transaction type from one that is taxable to one that is not taxable.

Organizing Committees of the Olympic Games may also be subject to taxation in the host country, and the IOC is curious about the legal form of the OCOG.<sup>209</sup> Particularly, the IOC wants to know about the OCOG's tax status, and the impact of the tax status on the OCOG. Bidders seem to have different names for what appears to be the same thing. For instance, Salzburg pledged to establish the OCOG as an "Austrian limited liability company ("Gesellschaft mit beschränkter Haftung – GmbH") with a non-profit tax status," while Rio proposed a "non-profit civil association," and Tokyo stated its OCOG would be a "public interest incorporated foundation."<sup>210</sup> Generally, the OCOGs are a not-for-profit or a non-profit (10 bidders), or a public-interest organization (4 bidders). Munich can likely be added to this latter category, but it is unclear to the researcher. Munich pledged to establish its OCOG as a LLC, which would be considered a "special purpose enterprise" or a non-profit limited liability company, and receive some tax exemptions.<sup>211</sup> London pledged to turn what would eventually become LOCOG into a "Shell Company."<sup>212</sup> In regards to the impact of tax due to the status of the OCOG, bidders generally grant reductions or create exceptions to the taxes, easily done due to the general proposals to establish the OCOG as a non- or a not-for-profit. However, sometimes there is specific legislation to ensure that the OCOG would not be taxed.<sup>213</sup>

Not only might the IOC and OCOG be taxed for their activities in the host country, but also for payments (e.g., royalties) made by

---

208. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 85.

209. *Id.*

210. Salzburg 2014, Candidate City, Vol. 1, at 104; Rio de Janeiro 2016, Candidate City, Vol. 1, at 121; Tokyo 2016, Candidate City, Vol. 1, at 114.

211. Madrid 2018, Candidate City, Vol. 1, at 107.

212. London 2012, Candidate City, Vol. 1, at 101. A "shell company" is one that engages in business transactions, but does not have any significant assets itself.

213. *E.g.*, Madrid 2016, Candidate City, Vol. 1, at 123.

the OCOG to the IOC. The IOC thus wants to know if this would be the case.<sup>214</sup> Of the eighteen bids, ten specifically declared that there would be no taxes. Eight declared that there would be tax, and all eight offered exceptions. Three said that the OCOG would cover the tax (Paris, Annecy, and Tokyo 2020),<sup>215</sup> while the two PyeongChang bids said that there would be no tax if the payments could be classified as business income, not royalties,<sup>216</sup> and all of the Madrid bids said they would try to exempt the payments from taxation.

Finally, in the section on “media,” the IOC asks bidders if the media, namely the broadcasters or the Olympic Broadcasting Services, would be subject to taxes for their work, specifically on their production and equipment.<sup>217</sup> Exemptions were made by all bidders for broadcasting and for the importation of equipment to be used for broadcasting. Only Madrid’s 2020 bid stood apart, stating that it would impose employment income tax on OBS members, but only because the OBS has established its tax domicile in Spain.<sup>218</sup>

#### H. Environment

Under the Olympic Charter, one of the roles of the IOC is “to encourage sustainable development in sport and to require that the Olympic Games are held accordingly.”<sup>219</sup> The environment has been considered the “third pillar of Olympism,” alongside sport and culture, for over two decades.<sup>220</sup> To fulfill these aims, the IOC established a sport and environment commission in 1995,<sup>221</sup> and has worked with the United Nations Environment Program to improve environmental standards at the Olympic Games.<sup>222</sup> Despite the IOC’s stated concern for the environment, and its mandate to

214. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 85.

215. Paris 2012, Candidate City, Vol. 1, at 123; Annecy 2018, Candidate City, Vol. 1, at 115; Tokyo 2020, Candidate City, Vol. 1, at 72.

216. PyeongChang 2014, Candidate City, Vol. 1, at 101; PyeongChang 2018, Candidate City, Vol. 1, at 115.

217. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 85.

218. Madrid 2020, Candidate City, Vol. 3, at 125.

219. OLYMPIC CHARTER, *supra* note 5, R. 2.13.

220. See, e.g., INT’L OLYMPIC COMM., OLYMPIC MOVEMENT’S AGENDA 21: SPORT FOR SUSTAINABLE DEVELOPMENT 33 (1999), available at [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_300.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_300.pdf).

221. See *The IOC, Sport and Environment Commission*, OLYMPIC.ORG, <http://www.olympic.org/sport-environment-commission> (last visited July 16, 2012).

222. See, e.g., *UNEP Sport & the Environment: UNEP and the International Olympic Committee*, UNITED NATIONS ENVIRONMENT PROGRAMME, [http://www.unep.org/sport\\_env/Olympics\\_UNEP.aspx](http://www.unep.org/sport_env/Olympics_UNEP.aspx) (last visited Mar. 21, 2013).

ensure that the Games are environmentally sustainable, the IOC does not ask bidders any questions that request or require that they change their legislation to better protect the environment. The IOC instead asks bidders generally about the environmental impacts of hosting, and potential plans for mitigating the environmental impact of the Olympic Games. The plans the IOC asks about are: (1) the use of environmental impact assessments, (2) green building codes, and (3) compliance with national and international agreements.

First, the IOC asks applicant cities whether “environmental impact studies [have] been carried out on any of [their] proposed venues and does legislation in [their] country require [them] to carry out environmental impact studies? If so, at what stage of planning?”<sup>223</sup> In the candidate city stage, the IOC requires that bidders carry out environmental impact assessments to be submitted to the IOC.<sup>224</sup> Almost all of the cities affirmatively answered this question. Only Borjomi and Baku stated that environmental impact studies were not mandatory in their countries for the Olympic Games.<sup>225</sup> While the IOC Working Groups for these Games did not comment further on Borjomi and Baku’s absence of environmental impact assessments, both of these countries scored very poorly in this category.<sup>226</sup> Conversely, although Doha had pledged to conduct environmental impact assessments, the IOC responded saying “further information will be required on how Qatari standards and systems for environmental management and performance compare with globally recognized standards.”<sup>227</sup>

Here, the value of analyzing bids, not cities, and doing so across time, is demonstrated. Baku seems to have taken some sort of cue from its bid for the 2016 Games, and applied it to its 2020 bid. For the 2016 Games, Baku had stated that despite environmental impact studies not being mandatory outside of the oil industry, environmental impact studies would be carried out to “international standards as appropriate” in preparation for the Games.<sup>228</sup> Baku had increased their commitment to the environment in 2020, pledging to establish an Olympic Law that would re-

---

223. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 70.

224. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 81.

225. Borjomi 2014, Applicant City, at 49; Baku 2016, Applicant City, at 22; Baku 2020, Applicant City, at 29.

226. 2014 WORKING GROUP REPORT, *supra* note 137, at 59; 2016 WORKING GROUP REPORT, *supra* note 81, at 58.

227. 2020 WORKING GROUP REPORT, *supra* note 44, at 64.

228. Baku 2016, Applicant City, at 22.



quire the application of a “Strategic Environmental Assessment (SEA) to the entire Games masterplan and concept during the Candidature stage,” and conducting an environmental impact assessment for all new venues in compliance with EU standards and regulations.<sup>229</sup>

On the other hand, while Baku and Borjomi proclaimed an absence of environmental impact assessments, some cities appeared to be willing to go above-and-beyond the environmental requirements. Leipzig promised to comply with the Eco-Management and Audit Scheme, an environmental standards program developed by the European Commission that automatically grants the participating site the ISO 14001 environmental standard.<sup>230</sup> New York City included remediation funds as part of its Olympic Games budget for sites that could potentially create an adverse environmental impact.<sup>231</sup> PyeongChang pledged to include experts and non-governmental organizations in the environmental process.<sup>232</sup> Finally, all European Union members were bound by EU environmental standards.<sup>233</sup>

Second, the IOC began asking bidders about the application of “green” building standards. For the 2018 Games the IOC asked Applicant Cities whether they had any “existing standards for ‘Green’ building in [their] country? What measures in terms of environmental protection do [they] intend to apply in the construction/refurbishment of Olympic-related infrastructure (including venues)?”<sup>234</sup> In response, Annecy’s 2018 bid stated that all venues would meet the Minergie P – Eco Label standard, equivalent to LEED “Platinum” certification, while Munich and PyeongChang relied on national standards.<sup>235</sup> The IOC asked the candidate cities for the 2018 and 2020 Olympic Games if they “intend[ed] to apply any ‘Green’ building certification systems in the design, construction, refurbishment and operations of Olympic-related infrastructure[.]”<sup>236</sup> The candidate cities responded that they would apply various “green” building certification systems, such as the LEED sys-

---

229. Baku 2020, Applicant City, at 29.

230. Leipzig 2012, Applicant City, at 49.

231. New York City 2012, Applicant City, § 23.

232. PyeongChang 2018, Applicant City, at 45.

233. *See, e.g.*, Leipzig 2012, Applicant City, at 49; Madrid 2016, Applicant City, at 45.

234. 2018 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 199, at 86.

235. Annecy 2018, Applicant City, at 47; Munich 2018, Applicant City, at 67; PyeongChang 2018, Applicant City, at 45.

236. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 82.

tem, or other, similar, local systems. The use of particular “green” building standards may have been inspired by Rio’s response to the question below regarding compliance with various regulations. Rio stated that it would follow LEED guidelines in construction, the first bid in the sample to mention the standards in the legally-focused categories.<sup>237</sup>

Third, the IOC has asked candidate cities to guarantee that construction work will comply with: “local, regional and national environmental regulations and acts” and “international agreements regarding planning, construction and protection of the environment.”<sup>238</sup> All of the Candidate Cities provided the guarantees. In the IOC evaluations, the only remark of note was whether a bid had signed on to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, which only the American bidders had not.

### I. Technology

The “media” category has demonstrated the significant impact of broadcasting on the Olympic Games’ success. Given the considerable sums of money that broadcasters spend on the rights to show Olympic events, it is imperative that the broadcasters can show the events without disruption due to technical issues. However, none of these issues require intervention from public authorities beyond administrative measures, and as such, the IOC does not ask any questions that request or require changes to national legislation.

The IOC intends to ensure the ability to broadcast the Games by requesting that bidders (Candidate Cities prior to the 2020 Games, Applicant Cities in 2020): “Provide (a) guarantee(s) from the competent body(ies) that it (they) is (are) prepared to allocate, manage and control the necessary frequencies for the organization of the Olympic and Paralympic Games.”<sup>239</sup> All of the bidders provided the guarantee, although complications arose with the Salzburg bid when the frequencies could not be provided free of charge. The OCOG had set aside \$1.4 million, but the Evaluation Commission felt that this was too low of an amount.<sup>240</sup>

The IOC is beginning to reach beyond frequency guarantees, however. As of 2020, Applicant Cities are asked to “[d]escribe the role of the regulator and other governmental agencies in the devel-

---

237. Rio de Janeiro, Candidate City, Vol. 1, at 105.

238. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 82.

239. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 91.

240. 2014 EVALUATION COMMISSION, *supra* note 170, at 36.

opment of new energy facilities and in the regulation of service levels to clients.”<sup>241</sup> The Applicant Cities provided the information requested, identifying the regulator and their authority. Baku used this opportunity to speak about its investment in future energy projects.<sup>242</sup>

## J. Government Support

The IOC asks several final legal questions under the heading of government support. Government support is unquestionably vital to an Olympic bid. If the government does not support a bid, which also includes financially backing the Games, the bid will come to a swift end. This was seen with Rome’s 2020 bid. While there have been Olympic Games that have relied largely on backing from the private sector, notably the American Olympic Games in Los Angeles, Atlanta, and Salt Lake City, the Olympic Games are largely backed by public authorities.

The IOC asks Applicant Cities about “the status of support of the national, regional and local governments for your bid and for the organization of the Olympic Games.”<sup>243</sup> All of the bidders stated that they had support at all levels, with two exceptions: Prague and Rome. Prague’s bid communicated the history of the bid, and of the approval by the Czech Olympic Committee, and the mayor of Prague, but made no mention of national, regional, or any other level of government.<sup>244</sup> The IOC’s Working Group responded by expressing “concern about the degree of government support.”<sup>245</sup> The Rome bid also did not receive the support of the federal government in the bid book. In fact, because the federal government publicly stated that it would not provide financial backing for the Games, the bid was abandoned on the day before it was to be submitted to the IOC.<sup>246</sup> Similarly, the IOC asked candidate cities to provide guarantees from their national, regional, and local authorities in regards to their support.<sup>247</sup> The guarantees were granted.

---

241. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 92.

242. Baku 2020, Applicant City, at 69.

243. 2020 CANDIDATURE ACCEPTANCE PROCEDURE, *supra* note 6, at 97.

244. Prague 2016, Applicant City, at 11.

245. 2016 WORKING GROUP REPORT, *supra* note 81, at 18.

246. See *2020 Olympics: Government Scuttlers Rome’s Bid to Host*, BBC.COM (Feb. 14, 2012), <http://www.bbc.co.uk/news/world-europe-17030257>.

247. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 74.

Second, the IOC asks Applicant Cities to guarantee the respect of the Olympic Charter in two separate questions.<sup>248</sup> All of the Applicant Cities provided the guarantees to both questions, however two problems with the guarantees usually cropped up. First, the wording of the guarantee did not necessarily conform to the IOC-required texts. This was the case for at least four bids: Chicago, Jaca, Almaty, and Sofia.<sup>249</sup> Similarly, Munich's 2018 bid subjected the guarantees to the Free State of Bavaria's "constitutional competence and authority" and to the "limits of applicable laws," which led the IOC to request more unqualified support in the candidate city stage.<sup>250</sup> The second problem with the guarantees occurred when a second country would act as a transportation hub or be used to stage some events, and the IOC required that the second country also provide the guarantees. This was the case with Annecy (using Geneva as a transport hub), and Salzburg (wanting to host some events on German territory).<sup>251</sup>

The IOC doubled its efforts to secure "respect" for the Olympic Charter by asking candidate cities to respect the Olympic Charter, as well as the Host City Contract.<sup>252</sup> Again, the Candidate Cities provided their guarantees. Unlike several problems with the Applicant Cities, the IOC only mentioned problems with two guarantees from the Candidate Cities. Similar to Munich's Applicant City bid, Madrid's Candidate City bid stated that the guarantees would be "within the scope of the [local and regional government's] powers," and the IOC was concerned that "this qualification may reduce their effectiveness."<sup>253</sup> Chicago's bid was also problematic, as the City of Chicago and the United States Olympic Committee made "a number of legal submissions to the IOC regarding the application of the Host City Contract which were not accepted by the IOC."<sup>254</sup>

---

248. *Id.* at 97.

249. 2016 WORKING GROUP REPORT, *supra* note 81, at 17; 2014 WORKING GROUP REPORT, *supra* note 137, at 19, 20, 22.

250. INT'L OLYMPIC COMM., XXIII OLYMPIC WINTER GAMES 2018 WORKING GROUP REPORT 12 (2010) [hereinafter 2018 WORKING GROUP REPORT], available at [http://www.olympic.org/Documents/Host\\_city\\_elections/2018\\_Working\\_Group\\_Report\\_EN.pdf](http://www.olympic.org/Documents/Host_city_elections/2018_Working_Group_Report_EN.pdf).

251. *Id.* at 13; 2014 WORKING GROUP REPORT, *supra* note 137, at 18.

252. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 77.

253. 2016 EVALUATION COMMISSION REPORT, *supra* note 163, at 66.

254. *Id.* at 12.

## VI. DISCUSSION

Following the analysis of the bids, answers to the above research questions can be deduced. The three research questions essentially asked: (1) what issues of state public law arise in the host city selection process, and how do bidders respond to the IOC's requests/requirements?; (2) are legal issues a central component of a bid, or are they perhaps mere background concerns; and, (3) what lessons might be learned for those advocating reforms to the substance of the host selection process? This Part will examine these three research questions, as well as one that was not brought up initially — how the IOC requirements change over time — in addition to offering observations on the methodology used.

### A. What Issues of State Public Law Arises in the Bids and What Changes Does the IOC Require?

The answer to “what issues of a state’s public law arise during the bidding process?” has been revealed through the course of the above analysis. Nine main categories of law were examined, in addition to one “general” catch-all category of disparate questions: (1) “general” legal issues, (2) intellectual property rights/ambush marketing, (3) customs and immigration, (4) anti-doping, (5) media, (6) safety and security, (7) taxation, (8) environment, (9) technology, and (10) government support.

Of these areas, the IOC made requests or required bidders to implement or alter their laws. There changes were in the categories of: intellectual property/anti-ambush marketing, customs and immigration requirements, anti-doping rules, labor regulations for media members, and security organization. These twelve questions provide a finite scope for measuring change that arise from the bidding process. It also suggests a finite scope for examining the legislation enacted by the actual host cities. However, other questions concerning public law are asked by the IOC, and these may indirectly induce legislative change. While these twelve questions are not the complete picture, they are the focus of the IOC's efforts to influence state law.

Notably, the IOC does not ask questions related to human rights. For instance, there is a question in labor law, but it only relates to media members. To put on an Olympic Games, tens of thousands of jobs are created in construction, amongst other industries.<sup>255</sup> Not asking for any information on labor standards is a sig-

---

255. INT'L OLYMPIC COMM., TECHNICAL MANUAL ON WORKFORCE 32 (2005).

nificant oversight for a large infrastructure project such as the Olympic Games. The only item to touch on labor relations was assurances in the 2016 and 2018 Evaluation Commission reports that strike action would be low, due to positive relationships between the government and labor unions.<sup>256</sup> Perhaps the absence of such a wide-sweeping employment law question is because the workers in fields such as manufacturing are clearly covered by prevailing labor laws. Conversely, the media are part of a global workforce, and their presence in the country is often transient. Regardless, the question on labor law and the media reveals that the IOC, prior to Agenda 2020, shows little concern with general human rights conditions in a potential host country.

#### B. Differences in Answers and Legal Issues as Qualifiers

The second research question asks whether legal issues might prove decisive in the host selection process, or whether they are mere “qualifiers” or “basic requirements” of a bid. If a particular criterion is important, there will likely be variability amongst the bidders, as they attempt to distinguish themselves. However, the lower the variability, the less likely that the issues are decisive.

Generally, the responses to the questions are highly uniform, with few deviations from the norm. Even across cities that bid multiple times, the responses were similar. The bids from Madrid, PyeongChang, and Tokyo appear relatively stable in their responses. This may be because these bids come from developed states, or from countries that have recently held major sporting events and are used to the legal requirements of the events. An outlier is the pair of bids from Baku, as it increased its environmental commitments from its 2016 bid to its 2020 bid. This finding supports a claim made by Caitlin Pentifallo and Rob VanWynsberghe that bidders engage in a form of “mimetic isomorphism,” where bids end up becoming homogeneous in an attempt to deal with uncertainty and constraint.<sup>257</sup>

When a bidder does promise something outside of the “norm,” it does not appear to be an asset to the bid. Baku again is an outlier here, given its promise to enact legislation to support the Olympic Games in the first question addressed in this article. Baku’s de-

256. 2016 EVALUATION COMMISSION REPORT, *supra* note 163, at 30, 48; 2018 EVALUATION COMMISSION REPORT, *supra* note 85, at 68.

257. Caitlin Pentifallo & Rob VanWynsberghe, *Blame it on Rio: Isomorphism, Environmental Protection and Sustainability in the Olympic Movement*, 4 INT’L J. SPORT POL’Y & POL. 427, 428 (2012).

tailed promises stood out from the generalizations of the other bids. This approach could have made Baku appear proactive in addressing their legal shortcomings, but could also lead to Baku looking underprepared to host the Olympic Games. There is no indication from the IOC Working Groups that evaluated Baku's bid as to which case prevails, but the detail Baku provides is notable.

In instances where bidders promised more than others, the promised element had a chance to become a requirement for future editions of the Games. As an example, Madrid's 2016 bid mentioned cooperation in anti-doping investigations by officials. In 2018, it became a requirement. There may also be a similar case in the environmental field, with Rio's mention of LEED standards paving the way for the IOC to ask bidders whether and what green building codes they would be using. These assertions are somewhat speculative however, as it is unclear why particular questions are added to the IOC questionnaire, and access to the records that might show reasons are under embargo. It will be worthwhile to see whether PyeongChang's response that it will monitor the internet for potential ambush marketing attacks will be a standard requirement in the future.

In general, the Evaluation Commission has cautioned against going above-and-beyond generally:

There is a growing tendency for Candidate Cities to try to go above and beyond IOC requirements in the bid phase. Whilst such offers may appeal to a certain client group or represent "nice to haves", the future OCOG inevitably finds itself facing additional costs to deliver services that have not been requested by the IOC and thus represent an unnecessary inflation of Games services. The Commission wishes to draw attention to this as a matter of general concern to the IOC.<sup>258</sup>

It would be useful to this study to be able to prove that a bid was eliminated for failing to comply with the minimum requirements for legal issues. However, those bids that did have problems with compliance, either with IOC requirements, or in relation to the prevailing responses, tend to come from bids that would be seen as "weaker" bids anyways.<sup>259</sup>

There may be a case to be made from the bidding to host the 2018 Youth Olympic Games ("YOG"). The Youth Olympic Games

---

258. 2018 EVALUATION COMMISSION REPORT, *supra* note 85, at 6.

259. This applies to, for instance, Baku's bid.

were first held in 2010, for athletes aged 14–18. These Games are smaller in scale, and focus more on involving youth in sport and culture than on competition *per se*. The Youth Olympic Games are bid on and hosted separately from the other Olympic Games, and held in a cycle counter to the Olympic Games (i.e., in a year where a Summer Olympic Games occurs, a Winter Youth Olympic Games will occur). The YOG bidding is roughly the same as the Olympic Games bidding, although with fewer questions asked of the bidders. When the city of Rotterdam, the Netherlands, bid to host the YOG in October 2012, the federal government was in the midst of an election. It was not until January 2013 that the Dutch government provided the guarantees required for the bid.<sup>260</sup> In the meantime, the Working Group evaluating the bids labeled Rotterdam to be the bid with the most risks to the IOC, placing Rotterdam behind Glasgow, Buenos Aires, Medellin, and Guadalajara.<sup>261</sup> While the Dutch government did deliver the guarantees following the report of the Working Group, this untimely delivery likely hastened Rotterdam's failure to advance past the Applicant City stage.

Finally, prior to the 2020 Games, the IOC Working Group weighed responses when awarding numerical scores to the bids.<sup>262</sup> In 2018, the last year of weighted responses, the Working Group used a category "Government support, legal issues and public opinion," and assigned the following weights: a) Government support and commitment: 65%; b) Olympic Charter, legal aspects and anti-doping measures/WADA compliance: 20%; c) Public opinion: 15%.<sup>263</sup> This was but one of eleven separate categories (including "overall concept"), meaning that, at most "legal aspects" was valued at perhaps 1.5% of the bid. The 2016 Working Group gave an even lesser weighting to legal issues with a division of: a) Government support and commitment: 70%; b) Olympic Charter, legal aspects and anti-doping measures/WADA compliance: 15%; c) Public opinion: 15%.<sup>264</sup> The category as a whole received the lowest possible weighting of the eleven categories, further reducing the value of "legal aspects."<sup>265</sup> While such a weighting is not dispositive, it is

260. See *Government to Underwrite Rotterdam Youth Olympics Bid*, DUTCHNEWS.NL (Jan 10, 2013), [http://www.dutchnews.nl/news/archives/2013/01/government\\_to\\_underwrite\\_rotte.php](http://www.dutchnews.nl/news/archives/2013/01/government_to_underwrite_rotte.php).

261. INT'L OLYMPIC COMM., 3RD SUMMER YOUTH OLYMPIC GAMES IN 2018: REPORT OF THE IOC WORKING GROUP 31–32 (2012), available at [http://www.olympic.org/Documents/YOG/2018/YOG\\_2018-Working\\_Group\\_Report-ENG.pdf](http://www.olympic.org/Documents/YOG/2018/YOG_2018-Working_Group_Report-ENG.pdf).

262. 2020 WORKING GROUP REPORT, *supra* note 44, at 7.

263. 2018 WORKING GROUP REPORT, *supra* note 250, at 11.

264. 2016 WORKING GROUP REPORT, *supra* note 81, at 16.

265. *Id.* at 9.



evidence that legal issues are not necessarily of utmost importance to a bid.

Given the above, it seems that legal issues are indeed what Persson calls a “qualifier.”<sup>266</sup> This does not undermine the importance that law plays in the host selection process. While there may not be much room for differentiation, failure to meet the criteria could be fatal to a bid.

### C. Changing IOC Questions

Although not a research question prompted by the researcher, it can be seen that not only do the bidders’ responses change to the IOC’s questions over time, but that the IOC’s questions also change over time. There are particular reasons behind each question change, perhaps due to a response from a bidding city, or the experience of an Olympic Games. Regardless of the reasoning, two patterns emerge.

First, the IOC is asking more of cities at an earlier stage in the process. This is particularly visible in the 2020 host selection process, as many questions were moved from the Candidate City stage to the Applicant City stage. The IOC has determined that “Bid cities generally have a greater understanding of the Olympic requirements and are better prepared at an earlier stage of the process.”<sup>267</sup> Due to this increased level of preparedness, the IOC had determined that a re-balancing of the two phases would lead to better risk assessment of the bids earlier on in the host selection process, saving money and time for all parties concerned.<sup>268</sup> Practically, this shift means that bidders must do more, at an earlier stage, reducing the room for error.

Second, the process is becoming more formalized over time. This can be seen, for instance, in the IOC’s creation of pre-requisites to bidding. It seems odd to have a category of pre-requisites when the IOC already has guarantees that they require of the bidders. In particular, the two legal pre-requisites take their cue from questions that have already been asked of bidders in the past. While the questions have normally been asked of Candidate Cities, the IOC is now asking them of Applicant Cities, but not as guarantees, but as pre-requisites. Without access to the Executive Board debates, it cannot be determined exactly why this decision was taken. This can also be seen, for example, in the question about

---

266. Persson, *The Olympic Games Site Decision*, *supra* note 22, at 31.

267. 2020 WORKING GROUP REPORT, *supra* note 44, at 6.

268. *Id.*

international agreements. The IOC's question has moved from an emphasis on the execution of the Olympic Games to compliance with the Host City Contract and the Olympic Charter. It seems strange that compliance with the legal instruments takes precedence over the execution of the event itself.

With the shifting of questions from Candidate Cities to Applicant Cities, and the increased formalism of the requirements, bidders may be unduly burdened. It is unclear whether the "invitation phase" by the IOC can or will mitigate the impact of these additional requirements earlier in the process.

#### D. Lessons for Reformers

This study revealed that the IOC did not rely solely, or even in a large part, on requiring guarantees from bidders to undertake certain legislative reforms. Of the forty-two questions addressed, only eleven were ones that required guarantees from the bidders. Instead, the IOC asked many questions that appeared to be simple "information-gathering," asking bidders what their plans were on a particular topic. Such information-gathering allows the IOC to evaluate the quality of the bids in an *ex post* (after-the-fact) manner as opposed to setting down requirements in an *ex ante* (before-the-fact) fashion. This can be seen for example, in the environmental section. The question asking bidders about green building standards allowed bidders to discuss the standards they would use, a bit about the standards, and what it would mean for the Games. However, the question requiring a guarantee that the bidders would follow their own environmental laws did not allow for such a discussion on what these laws might be, how they might relate to the Games, and so on. While guarantees are good for, say, the host city contract, they are not as useful for the bidding process.

For those who call upon the IOC to establish requirements that hosts respect human rights, it might be more useful, and more in line with current IOC practices, to ask for information about human rights protection. On the one hand, it appears that requiring a guarantee that, say, labor laws will be respected by contractors, would likely lead to an answer which reads, "the relevant guarantee is provided," which leads to no value in evaluating the bid. Instead, it would be of greater value to ask a bidder what plans they have to ensure contractors comply with labor laws. Bidders might answer with details on inspections, particularized labor tribunals, or other programs to respect and enforce labor rights. This way, bidders are more likely able to differentiate themselves on the basis of human

rights protection, and if they are required to enumerate particular plans, then it is easier to hold them accountable.

Additionally, as noted above, bidders would submit information that would go “above-and-beyond” the standard answers given by other bidders, and may be incorporated into future requirements. Thus, it may make more sense to put pressure on a bidder from a developed country to “set the bar” with promises to protect particular human rights that may be negatively affected by the Olympic Games, and outline programs to do so. Doing so in a bid might show that such a thing can be asked of bidders, and put pressure on the IOC to include the item as a future question of bidders.

#### E. Reflections on Methodology

In Part Two of this article, I examined prior studies that relied on a quantitative approach. However, the studies perhaps tried to do too much, to predict the outcome of the host selection process. In this article, I used a qualitative analytical approach, with a more modest goal, to determine if a neglected area of the host selection process was perhaps determinative of the bid. I would argue that the qualitative approach is as illuminating as a quantitative approach in examining bids to host the Olympic Games, particularly in “intangible” areas.

One drawback of a qualitative analysis is determining whether or not a question impacts public law sufficiently as to be included. For instance, the question in the environmental section discussing green building standards could be considered to be unrelated to public law as the standards themselves may have nothing to do with public law. Yet, a question requiring a guarantee that national and international accessibility standards will be applied for construction of facilities (particularly for the Paralympic Games, which are hosted shortly after the Olympic Games in the same city), and a question on sustainable sourcing of products and services,<sup>269</sup> were deemed by this researcher not to sufficiently impact public law. This is certainly a debatable inclusion or exclusion. While this does not detract from the overall evaluation of the bids, perhaps a more stringent rationale for what questions would be included or excluded would be of use to future researchers.

Another potential drawback of using a qualitative approach is disagreements over classification of answers. However, this concern is mitigated through the use of publicly-available documents, al-

---

269. 2020 CANDIDATURE PROCEDURE, *supra* note 7, at 82, 150.

lowing other researchers to support or refute my classifications and analysis. Throughout this research, however, I found the analysis of the bids to be reasonably straight-forward, with not only answers being similar, but the language used to be similar, which decreases the likelihood of error of interpretation on my part.

Finally, for future research, it would be of value to obtain more insight on how a bid is constructed. In particular, information on who is drafting the bid, and how they go about doing so might answer some of the questions raised by the increasable similarity between the bids. If the bids were largely drafted by the same groups of consultants, or if the drafters of the bids simply used previous bids from other cities as templates, or even “boilerplate,” that would be valuable to know, particularly given the IOC’s concern over bids being too similar.<sup>270</sup>

## VII. CONCLUSIONS

This article has worked to serve two purposes. First, this article has sought to advance the current discourse about the host selection process, and legal issues surrounding the Games. The analysis of the bids submitted to host the Games has provided an understanding of how bidders react to the IOC requests, and has supported a finding that bids do not necessarily seek to differentiate themselves, at least legally. What this means for future bids is uncertain, as the IOC significantly changed the host selection process in July 2015, which will begin with the 2024 host selection.<sup>271</sup> Whether it addresses concerns of bids being similar, remains to be seen.

Secondly, this article has sought to understand how the host selection process may be reformed to improve the Olympic Games, particularly for those who may be affected by the Games. In December 2014, shortly before the submission of this article, the IOC passed its Agenda 2020 reforms. Agenda 2020 made one particularly notable recommendation: “to include in the host city contract clauses with regard to Fundamental Principle 6 of the Olympic

---

270. See Robert Datnow, *Breaking the Olympic Cycle: The IOC’s Bidding Dilemma*, SPORTSBUSINESS INT’L (Nov. 14, 2013), <http://www.sportbusiness.com/sportbusiness-international/breaking-olympic-cycle-ioc%E2%80%99s-bidding-dilemma>.

271. Robert Livingstone, *IOC Drops Applicant Phase and Short List From 2024 Olympic Bid as Part of Sweeping Changes To Process*, GAMESBIDS (Aug. 2, 2015), <http://gamesbids.com/eng/summer-olympic-bids/2024-olympic-bid-news/ioc-drops-applicant-phase-and-short-list-from-2024-olympic-bid-as-part-of-sweeping-changes-to-process/>.

Charter as well as to environmental and labour-related matters.”<sup>272</sup> A similar provision had already made its way into the bidding process earlier that year as part of the bidding to host the 2022 Winter Olympic Games, requiring that the bidder:

Provide (a) guarantee(s) from the competent authorities stating that all venue construction and infrastructure development projects necessary for the organisation of the Olympic and Paralympic Games will comply with:

- Local, regional and national regulations and acts
- International agreements and protocols, ratified by the Government of the Host Country or otherwise applied in the Host Country (Please list) with regard to planning, construction, protection of the environment, health and safety and labour laws.<sup>273</sup>

While this seems to be a promising step forward, IOC, both in its Evaluation Commission report, and through the President of the IOC, Thomas Bach, has cautioned that “the IOC has to respect the laws of a sovereign state,” the Commission report particularly in regards to the question above.<sup>274</sup> A statement such as this indicates that the IOC may not work with great zeal to ensure that environmental and labor rights are protected by the host state.

However, this research has shown that the IOC frequently requires sovereign states to adjust their laws to accommodate the Olympic Games. When the IOC asks for a guarantee, or even something less than a guarantee, they usually get it, and when they do not, the bidder is not selected to host the Games. Even if the legal requirements are “mere qualifiers” to host the Games, the reality is that the hosts must then at least meet the legal demands of the IOC. This has been seen recently in the bidding process for the 2024 Summer Olympics, where the mayor of Boston declined to sign the guarantee requiring that a host city will cover any financial

272. AGENDA 2020, *supra* note 11, at 15.

273. INT’L OLYMPIC COMM., 2022 CANDIDATURE PROCEDURE AND QUESTIONNAIRE: XXIV OLYMPIC WINTER GAMES 81 (2014), *available at* [http://www.olympic.org/Documents/Host\\_city\\_elections/FINAL\\_2022\\_Candidature\\_Procedure\\_and\\_Questionnaire-FINAL.pdf](http://www.olympic.org/Documents/Host_city_elections/FINAL_2022_Candidature_Procedure_and_Questionnaire-FINAL.pdf).

274. INT’L OLYMPIC COMM., REPORT OF THE 2022 EVALUATION COMMISSION 26, 72 (2015), *available at* [http://www.olympic.org/Documents/Host\\_city\\_elections/ioc\\_evaluation\\_commission\\_report\\_sp\\_lr\\_eng.pdf](http://www.olympic.org/Documents/Host_city_elections/ioc_evaluation_commission_report_sp_lr_eng.pdf); *Thomas Bach: IOC Ready to “Walk the Talk”*, AROUND THE RINGS (July 30, 2015), [http://www.aroundtherings.com/site/A\\_\\_52488/Title\\_\\_Thomas-Bach-IOC-Ready-to-Walk-the-Talk/292/Articles](http://www.aroundtherings.com/site/A__52488/Title__Thomas-Bach-IOC-Ready-to-Walk-the-Talk/292/Articles); *Thomas Bach Slams Politicians*, ESPN (Feb. 2, 2014), [http://espn.go.com/olympics/winter/2014/story/\\_/id/10402263/ioc-thomas-bach-blasts-politicians-shunning-sochi-olympics](http://espn.go.com/olympics/winter/2014/story/_/id/10402263/ioc-thomas-bach-blasts-politicians-shunning-sochi-olympics).

shortfall.<sup>275</sup> This decision, amongst others, led to the United States Olympic Committee pulling its support for the Boston 2024 Olympic bid.

So long as the legal requirements are “mere qualifiers,” the IOC will receive bids that sound similar in regards to legal requirements. This is likely to be the case in regards to the environmental and labor rights guarantee mentioned above, meaning that it may be possible that little progress is made on this issue. However, all hope is not lost. As discussed in Section VI.D, a particularly progressive bidder could make (and hopefully carry-out) a particularly effective program that ensures environmental and labor rights are protected, which may make its way into future bid requirements. Even progress such as ensuring that intellectual property laws, discussed at the beginning of this article, are adapted to local circumstances and implemented appropriately, would be a strong start.

---

<sup>275</sup>. See Katharine Q. Seelye, *Support Lacking, U.S.O.C. Pulls Bid*, N.Y. TIMES, July 28, 2015, at B11.

APPENDIX: IOC QUESTIONS THAT IMPLICATE STATE-LEVEL  
PUBLIC LAW ISSUES

*Questions highlighted in bold indicate questions that request or require a change in legislation by the bidder.*

**General/Miscellaneous**

AC9.1	What are the legal obstacles, if any, to the organisation of the Olympic Games in your country?
AC9.2	What are the existing laws, if any, in your country that relate to sport?
<b>AC9.3</b>	<b>Do you envisage the implementation of any news laws to facilitate the organisation of the Olympic Games? Explain.</b>
AC10.13	Does legislation in your country require you to carry out a referendum to be held on a project such as the Olympic Games? Could you be forced into a referendum by opponents to the Olympic Games project? If so, what would the legal implications be if the referendum was negative? If a referendum was required, this should be carried out prior to the selection of Candidate Cities and the results of such a referendum should be provided to the IOC.
AC Appendix	<i>(The city wishing to organise the Olympic Games) and (the NOC) declare that any dispute arising during the period of the application of the city in connection with the 2020 Candidature Acceptance Procedure or its interpretation shall be definitely settled, to the exclusion of the ordinary courts, by the Court of Arbitration for Sport in Lausanne, pursuant to the Code of Sports-related Arbitration. Swiss law shall be applicable to the dispute. The seat of arbitration shall be at Lausanne, Switzerland, and the proceedings shall be conducted in the English language.</i>
CC4.5	Identify all the implications of national or international obligations binding your country (e.g. national law, international treaties or European Union rules and requirements) that could lead to a conflict with the obligations of the City, the NOC and the OCOG pursuant to the Host City Contract and the Olympic Charter, including obligations of a commercial, financial, fiscal or legal nature.
CC7.7	What is the current legislation in place regarding lotteries in general and sports lotteries specifically?

**Intellectual Property/Ambush Marketing**

CC4.3	<p>The Candidate City and the NOC must ensure that the Olympic symbol, the terms “Olympic” and “Olympiad” and the Olympic motto are protected in the name of the IOC and/or that they have obtained, or shall obtain from their government and/or their competent national authorities, adequate and continuing legal protection to the satisfaction of the IOC and in the name of the IOC.</p> <p>Describe the legal measures in force in your country to protect the Olympic symbol, emblems, logos, marks and other Olympic-related marks and designations.</p> <p>What commitments do you already have in place from the government of your country to such effect?</p> <p>Provide a declaration from the government of your country stipulating that all necessary legal measures have been taken, or will be taken, to protect the above-mentioned Olympic-related marks and designations in the name of the IOC.</p> <p>An equivalent level of protection must be guaranteed for the Paralympic marks and the term “Paralympic” to the satisfaction of the IPC and IOC.</p>
CC7.3.1	<p>Provide (a) written guarantee(s) from the relevant government authorities confirming that the legislation necessary to effectively reduce and sanction ambush marketing (e.g. preventing competitors of Olympic sponsors from engaging in unfair competition), and, during the period beginning two weeks before the Opening Ceremony to the Closing Ceremony of the Olympic Winter Games eliminate street vending, prevent un-authorized ticket resale, control advertising space (e.g. billboards, advertising on public transport, etc.) as well as air space (to ensure no publicity is allowed in such airspace) will be passed as soon as possible but no later than 1 January 2018.</p>

**Customs/Immigration**

AC9.6	Describe the regulations in force in your country regarding immigration and entry visas.
AC9.7	Give precise details of the health and vaccination recommendations or regulations for persons entering your country.
AC9.8	<p>In accordance with Rule 53 of the Olympic Charter, the Olympic identity and accreditation card is a document which establishes the identity of its holder and confers upon the latter the right to take part in the Olympic Games. Together with a passport or other official travel documents of the holder, the Olympic identity and accreditation card authorises entry into the country or the Host City. It allows the holder to stay and perform his Olympic function for the duration of the Olympic Games, including a period not exceeding one month before and one month after the Olympic Games.</p> <p>The Olympic identity and accreditation card is delivered, under the authority of the IOC, to persons eligible for accreditation.</p> <p><b>Provide a guarantee from the relevant authorities that, notwithstanding any regulations in your country to the contrary that would</b></p>



	<b>otherwise be applicable, accredited persons in possession of a valid passport and an Olympic identity and accreditation card will be able to enter into the country and carry out their Olympic function for the duration of the Olympic Games and for a period not exceeding one month before and one month after the Olympic Games, in accordance with the Accreditation and Entries at the Olympic Games - Users' Guide</b>
AC9.9	What would the entry regulations be for members of the Olympic Family to attend test events prior to the Olympic Games?
AC9.10	Describe the regulations in force in your country regarding the entry of animals (i.e. guide dogs for the blind, horses) into your territory.
AC9.11	<b>Describe the process and average length of time required to apply for and issue work permits for temporary entry of personnel to work and domicile in the country and how this will be adjusted, if necessary, in order to conform with the requirements referred to above.</b>
AC9.13	Specify, if applicable, any regulations concerning the import of special products and equipment required by accredited persons to carry out their duties at the Olympic Games: e.g. firearms and ammunition (for sports competitions or security services), photographic and audio-visual equipment, medical equipment and products, computer equipment, foodstuffs etc.
AC9.14	What are the regulations with regard to the import, use and export of goods required for test events prior to the Olympic Games?
CC4.8	<b>Provide a guarantee stating that the temporary entry of certain personnel into your country for the organisation of the Olympic Games will be authorised and that such persons will obtain appropriate work permits in an expedited and simplified manner, without any duties or taxes being payable.</b>
CC4.9	<b>Provide a guarantee from the relevant authorities, concerning the import, use and export of goods, including consumables, required by the IOC, IFs, NOCs and their delegations, broadcasters, written and photographic press, sponsors and suppliers, free of all customs duties, in order for them to carry out their obligations regarding the celebration of the Olympic Games.</b>

### Anti-Doping

AC6.10	Does your country have a National Anti-Doping Organisation (NADO)? Is this National Anti-Doping Organisation independent or part of the NOC? Explain Does your country have any legislation on doping? Explain. <b>What legislation is in place or will be implemented to allow cooperation and sharing of information between the sports authorities and the public authorities (police, customs) in relation to the fight against doping and to implement the commitments of the Host Country under the UNESCO Convention and the WADA Code?</b>
--------	--

AC6.11	<p>Provide a guarantee from the relevant national authority confirming that</p> <p><b>A. The (WADA) World Anti-Doping Code and the IOC Anti-Doping Rules (which are based on the World Anti-Doping Code) which are in force in 2020 will apply upon the occasion of the Olympic Games; and</b></p> <p><b>B. Should there be any conflict between, on the one hand, the World Anti-Doping Code and the IOC Anti-Doping Rules and, on the other hand, any other anti-doping rules applicable in your country, the World Anti-Doping Code and the IOC Anti-Doping Rules shall take precedence; and</b></p> <p><b>C. the relevant authority(ies) of the host country will provide its (their) full cooperation and support for the implementation of the IOC Anti-Doping Rules at the time of the Olympic Games, in particular in relation to investigations and procedures regarding athletes' support personnel or any other person involved in trafficking, or in assisting in any way in relation to the use of prohibited substances or prohibited methods, and that relevant laws are in place in order to ensure the foregoing.</b></p>
AC Appendix	<p>“False(name(s) of the duly authorised national authority) hereby confirm(s) that (name of the country) has signed the Copenhagen Declaration on Anti-Doping in Sport and ratified the UNESCO Convention against Doping in Sport, Paris 19 October 2005, and that legislation is in place (or will be in place by 7 September 2013) to implement the commitments of the UNESCO Convention against Doping in Sport.”</p>

### Media

AC9.12	<p>Would Olympic related personnel, especially the media, broadcasters, the OBS and their personnel, and timing and scoring services be subject to union regulations or labour laws, and if so what special waivers will be introduced to enable the OBS, rights holders and media to fulfil their professional responsibilities without being constrained by the host country's media reporting regulations, labour laws, trade union agreements or regulations, if any, with regard to reporting and filming in the Host City or country. <b>Explain.</b></p>
AC9.15	<p>Specify, if applicable, any restrictions or regulations concerning the use of media material produced on the national territory intended principally for broadcast outside the territory.</p>
AC9.16	<p>Is there any law prohibiting or limiting by name or number the importation of foreign newspapers, periodicals or other publications?</p>

### Safety/Security

AC7.5	<p>Does legislation permit a single management structure that will be effective whatever the origin of the human and technical resources that are used, and without functional or territorial restrictions?</p>
-------	---

AC7.6	<b>If necessary, is your government willing to make modifications to the laws, standards and administrative procedures considered necessary within the legislative organisation of the country in order to achieve an efficient structure and a safety and security operation that is appropriate to the special circumstances of the Olympic Games? If so, what would be the timeframe for such a procedure?</b>
AC7.7	Is it possible to limit and exercise effective control over the use of air space affected by the Olympic Games and, if so, how?

**Taxation**

CC6.3	Provide a statement from the competent authorities on how they intend to ensure that there will be no price gouging before and during the Games, with particular reference to hotel rates and related services for anyone attending the Games, including non-accredited spectators.
CC6.5.1	Describe the various types of taxes (direct and indirect, including social contributions, fees and custom duties) which are currently levied in your country from all levels of government (national, regional and/or local) and which may have an impact should the Olympic Games be hosted in your country.
CC6.5.2	Which legal form do you expect your Organising Committee to take and what tax status do you expect the Committee to be subject to?
CC6.5.4	Would any taxes be levied in relation to sums of money paid by the OCOG to the IOC (e.g. royalties)?
CC14.5	Would broadcasters or the OBO, and their personnel, normally be subject to specific taxes for broadcasting work such as taxes on production and/or equipment?

**Environment**

AC3.7	Have environmental impact studies been carried out on any of your proposed venues and does legislation in your country require you to carry out environmental impact studies? If so, at what stage of the planning and construction process?
CC5.4	Provide (a) guarantee(s) from the competent authorities stating that all construction work necessary for the organisation of the Olympic Games will comply with: Local, regional and national environmental regulations and acts International agreements and protocols regarding planning, construction and protection of the environment
CC5.5	Do you intend to apply any “Green” building certification systems in the design, construction, refurbishment and operations of Olympic-related infrastructure?

**Technology**

AC8.13	Provide (a) guarantee(s) from the competent body(ies) that it (they) is(are) prepared to allocate, manage and control the necessary frequencies for the organisation of the Olympic and Paralympic Games.
AC8.16	Describe the role of the regulator and other governmental agencies in the development of new energy facilities and in the regulation of service levels to clients.

**Government Support**

AC10.5	What is the status of support of the national, regional and local governments for your bid and for the organisation of the Olympic Games in your city/region?
AC10.7	Provide a covenant from the government of your country stating the following: “Name(s) of the duly authorised representative(s) hereby confirm(s) that the government of name of the host country guarantees the respect of the Olympic Charter; guarantees that it will take all the necessary measures in order that the city fulfils its obligations completely; and guarantees free access to and free movement around the host country for all accredited persons on the basis of a passport (or equivalent document) and the Olympic identity and accreditation card referred to in the Olympic Charter.”
AC10.9	Provide a letter of guarantee, signed by both your country’s NOC and your city authorities, stating the following: “Names of the duly authorised representatives hereby confirm that the name of the host country’s NOC and name of the city authorities will respect and comply with all obligations set out in the Olympic Charter.”
CC4.1	Provide a covenant from all authorities concerned by your project of hosting the Olympic Games guaranteeing the following: The respect of the provisions of the Olympic Charter and Host City Contract The understanding and agreement that all commitments made are binding Taking the necessary steps so that the city fulfils its obligations completely Covenants must be obtained from the following authorities: The government of your country All local and regional authorities concerned by your project of hosting the Olympic Games Standard text provided for this guarantee in the Model Guarantees File.