

# A Brief Discussion on Legal Risks of Beijing Winter Olympics

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**How to cite this paper:** Zhang, Z.H. (2018)  
A Brief Discussion on Legal Risks of Beijing  
Winter Olympics. *Open Journal of Social  
Sciences*, 6, 274-285.  
<https://doi.org/10.4236/jss.2018.612024>

**Received:** November 20, 2018

**Accepted:** December 26, 2018

**Published:** December 29, 2018

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## Abstract

Beijing Winter Olympics organizing committee is the risk subject. Incomplete laws and regulations, contractual risks and operational risks are the sources of legal risks, and legal risk identification, legal risk assessment and legal risk response are risk prevention and control procedures of the legal risks of Beijing Winter Olympics. On a macro level, comprehensive prevention and control in protection of laws and regulations, formulation of emergency plans, personnel training and introduction of professional legal services should be taken in.

## Keywords

Beijing Winter Olympics, Legal Risk, Prevention and Control Measures

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## 1. Introduction

On July 31, 2015, Beijing and Zhangjiakou jointly won the right to host the 2022 Winter Olympics and Winter Paralympic Games (hereinafter referred to as “Beijing Winter Olympics”). As the flame of the 2018 Pyeongchang Winter Olympics in South Korea slowly dies down, the Winter Olympics and Paralympics officially start the “Beijing cycle”. The risk management of the Beijing Winter Olympics is one of the professional works of the organizing committee of the Beijing 2022 winter Olympic and Paralympic games (“Winter Olympics organizing committee for short”) in the preparation and operation of the games, which is directly related to the success of the Winter Olympics. Legal risk of Olympic Games is an important part of Olympic Games risk. At the background of comprehensively advancing the rule of law and governing by law in the new era, the organizing committee of the winter Olympic Games attaches great importance to the legal risks of the winter Olympic Games. In May 2017 formally

established the legal affairs department, comprehensive legal work of the Winter Olympics, and entrust the China University of Political Science and Law School and sports law research center on the Olympics study on specific measures to prevent and control legal risks.

## **2. Risk Subjects**

The Winter Olympics are one of the Olympic Games. According to article 1 of the Olympic Charter, in a narrow sense, the main Olympic subjects include the international Olympic committee, national (regional) Olympic committee, international individual sports federation, organizing committee and so on. Broadly speaking, it also includes global partners, television broadcasters, new media operators and Olympic participants. For the Beijing Winter Olympics, the main risk is the Beijing Winter Olympics organizing committee.

## **3. Definition and Characteristics of Legal Risk in Winter Olympics**

### **3.1. Definition of Legal Risk of Winter Olympics**

Risk refers to “adverse events that may affect the achievement of goals” and “the possibility of danger turning into disaster”. Danger is “an event that causes injury or damage to a person or thing” and “a potential source of potential harm or loss” [1]. One component of risk is uncertainty. “Uncertainty” refers to the possibility of a difference between the actual result of an event and the expected result. Another component of risk is adverse consequences, usually manifested as injury or loss.

Legal risks are caused by legal factors, which are bound to be related to legal provisions, contractual agreements, infringement of rights, and indolence in exercising legal rights. This is one of the most fundamental characteristics that distinguish legal risk from other risks [2]. Whatever kind of legal risk, it comes down to the existence of relevant legal factors.

According to the definition of legal risks, legal risk of Winter Olympics refers to the possibility of adverse legal consequences arising from the change of the legal provisions, contractual stipulation and the operation of the risk subject During the preparation or holding of the Winter Olympics.

### **3.2. Characteristics of Legal Risk of Winter Olympics**

#### **3.2.1. Objectivity**

Risk is inherent in objective things and is not transferred by human will. People can only change the conditions of risk formation and development to a certain extent, reduces the probability of risk accidents and reduce the degree of loss, but not eliminate the risk completely. The same is true of legal risks in the Winter Olympics. We can only change the existence condition and the Winter Olympics event, reduce the legal risk occurrence frequency and loss degree, and prevent predictable legal risks, but we cannot eliminate them completely. As

Murphy's Law says: "if something is likely to go wrong, it will."

### **3.2.2. Universality**

Risk exists in all areas of production and life in modern society. To paraphrase Rousseau, "life is free, but life is always at risk." In terms of legal risks of the Winter Olympics, it exists in all fields of the Winter Olympics from a horizontal perspective, such as the protection of Olympic symbols, implicit marketing, broadcasting rights, security, insurance, etc. From the vertical perspective, legal risk runs through all stages of the development of risk events. The extensive legal risk of Winter Olympics is also reflected in the diversification of legal risk management. Legal risks involve not only the legal department of the Winter Olympics organizing committee, but also the management department of specific businesses. For example, the legal risk of implicit marketing is at the intersection of the legal department and the Marketing Department's risk management. Both departments should bear the risk management responsibility.

### **3.2.3. Predictability**

Although the development of legal risk will be affected by many factors, such as legal risk subject, risk environment and legal risk behavior, as these factors are all in a specific legal, regulatory and judicial environment, the predictability of law itself will make the existence and occurrence of a large number of legal risks have certain predictability. The behavior of the risk subject following or violating the laws and regulations will often produce predictable legal results, and the corresponding risk response measures will be taken timely.

### **3.2.4. Contingency**

From the whole society, the occurrence of risk accidents is inevitable. From the whole process of the Winter Olympics, the occurrence of risk accidents is a high probability event. But for certain Olympic Games and the preparation process, the occurrence of risk accidents is accidental, which is the contingency of risk. The contingency of risk is determined by the uncertainty of risk accident. Because during the preparation and the process of the Winter Olympics, the occurrence of risk accidents is uncertain, the occurrence time of risk accidents is uncertain, the occurrence of risk accidents is uncertain, and the amount of loss is uncertain. This is the contingency of risk. The uncertainties of the Winter Olympics have become more pronounced, making it difficult to identify and quantify the risks. However, once it can be identified and quantified, the risk of sporting events is greatly reduced.

### **3.2.5. Complexity**

The Winter Olympics is a major international sporting event. The preparation and organization of the games will be affected by political, economic, cultural and other factors, as well as restricted by the national preparing ability, organizing ability and operation management experience. Staff, spectators, athletes, technical officials and other main factors involved in the event, as well as physical

factors such as venue facilities and equipment will affect the successful operation of the event. Besides, the 2022 Winter Olympics in Beijing was jointly held by Beijing and Zhangjiakou city, Hebei province, Beijing is responsible for the preparation of the ice project and Zhangjiakou is responsible for the snow project. This has added more uncertainty and challenges to the transportation, venue construction and security of the Winter Olympics. These factors reflect the greater complexity of the legal risks of Beijing's Winter Olympics compared with previous ones.

### **3.2.6. Rapid Risk Changes**

The Greek philosopher Heraclitus famously said: "The only constant in the world is change itself." Everything in the world is changing, and so is the risk. Changes in risk have both increased or decreased in quantity and changed in quality, and the death of old risks and the emergence of new ones. Changes in risk are mainly caused by changes in risk factors, which also come from various aspects: With the change of political and legal systems, risks will increase and decrease; with the change of economic system and structure, the risk will change with the improvement of economic capability; With the improvement of science and technology, people's ability to understand and resist risks will enhance. However, these changes will also lead to new risks, such as: risk of national political security, computer virus, leak risk, etc. These rapid changes in the objective environment will lead to rapid changes in risk, especially in the rapidly developing modern society.

### **3.2.7. Wide Range of Influence**

As the range and depth of human participation in sports continue to expand, there will be more and more legal risks for the organizers of the winter Olympic Games, and the economic and social consequences of the relevant legal risk accidents will become more and more serious. Because Winter Olympics event is concerning global sports activities, once these legal risks occur, they will bring great damage to the personal rights and economic interests of sports organizations and participants in sports events. However, this kind of loss is not only measured by monetary and other economic losses, but also has an unquantifiable impact on human culture and spiritual civilization.

## **4. The Main Source of Legal Risk for the Beijing Winter Olympics**

### **4.1. Laws and Regulations Are Incomplete**

The preparation and holding of the Winter Olympics cannot be separated from the guarantee of the rule of law. The Winter Olympics operate under certain rules and the predictability of its legal risks can be greatly enhanced. While the imperfect rules will increase the uncertainty of legal risks. Although some relevant laws and regulations have been issued during the preparation of the 2008 Beijing Olympic Games, they are still incomplete.

First, the <Sports Law of the People's Republic of China> (hereinafter referred to as the "<Sports Law>") has been promulgated for more than 20 years [2]. The sports law was formulated at the historical stage when the reform and opening up entered into the gradual establishment of socialist market economy, the exploration and experience of sports legislation were not enough. In addition, during the implementation of more than 20 years, China has undergone tremendous changes at the political, economic and social levels, the concept of the rule of law and the legislative technology have also been improved, and the current <Sports Law> has not been adapted to the social development. In particular, the provisions of the <Sports Law> are too principled. There are also gaps in many aspects, such as management of selection and employment of athletes, management of sports competition discipline, and supervision of sports management activities. The <Sports Law> has no explicit provisions on sports rights, and its contents are mainly focused on the administrative management of sports and the maintenance of sports order. In practice, there are some sports legal system is lack of specific methods and procedures and interoperability is not strong, cannot implement. Sports disputes in general can rarely be brought directly under the <Sports Law>.

In addition, the regulations on the protection of Olympic symbols, which are tailored for the Olympic Games, have been revised and submitted to trial. But the legal text addresses only one aspect of the protection of the Olympic symbols, and in many other areas it is not enough to meet the needs of Beijing's preparations for the 2022 Winter Olympics. Especially like Olympic broadcast rights, without the support and protection of relevant laws concerning the right to broadcast, it can only be protected from the aspects of the right to audio and video products in the law of intellectual property rights or agreed by contract. The protection is weak, and it is easy to cause relevant disputes and lead to legal risks. Moreover, in the Internet information technology developed modern society, broadcast has not only confined to television, and transmitted more broadcast network, more advanced technology and leading to more challenges to the rights of legal risk prevention and control.

In addition, the <Legislative Law> has been amended to expand the local legislative power and define the boundary of the local legislative power. In accordance with the provisions of articles 72 and 82 of the new <Legislative Law>, Zhangjiakou city can only formulate local regulations and government regulations on "matters concerning urban and rural construction and management, environmental protection, historical and cultural protection and other aspects of matters", there is the expression "other aspects". For Zhangjiakou city, the need to get the confirmation from higher people's congress leading authority early that whether the Winter Olympics are a matter that can make local regulations and government regulations. In addition, Zhangjiakou is obviously not applicable to Beijing's local laws and regulations. In order to ensure the perfect connection between the hosting of the Winter Olympics in Beijing and Zhangjiakou, it is urgent for the two sides to explore the local legislative coordination mechanism,

which is also prone to the legal risk of legislative incoordination.

## 4.2. Contract Risk

Legal risk of credit investigation of contract subject: The examination of the subject qualification of the contract is the first work to be completed before the contract is concluded. In the context of the marketing operation of the Winter Olympics, a large number of goods and services are needed to be purchased. The other party to the contract, namely the supplier, determines all the key contents of the contract, such as quality, price and after-sales service. Supplier selection is the key to procurement, if the supplier chooses inappropriately, will affect the cost benefit directly, and may produce a series of legal risks. For instance, food supplier should guarantee food security and equipment supplier should guarantee the sport equipment up to standard, or the Beijing Winter Olympics organizing committee would be prosecuted when the athletes or spectators injured.

Legal risk of contractual terms: The contract clause is the product of both contracting parties' intention expression and agreement, which is the concrete form of the contract content and the basis for determining the rights and obligations of both parties. It can be seen that the agreement of contract clauses plays a crucial role in the final realization of the rights and obligations of both parties. The contract terms shall be clear, precise, accurate and complete and shall not contradict each other. If there is any problem in the agreement of the contract terms, it will affect the smooth performance of the contract, the establishment and entry into force of the contract and even the final purpose of the contract will be lost.

## 4.3. Operational Legal Risk

For the Winter Olympics, there are also operational risks at the legal risk level, for example, the contract management process is insufficient, the personnel lack the experience of operating the legal affairs of the Winter Olympics, the system security problem, the operational legal risk caused by the adverse event of force majeure or other events, etc. Operational risks are mainly caused by legal provisions or contractual agreements, including the fact that the legal provisions themselves are clear. But if the big sports event organization's internal arrangement left legal problems, may be due to the functions of law enforcement is not standard or implementation of the illegal behavior, it may also be because failure to ensure that the contract fully reflect its goals or involved in litigation.

# 5. Procedures for Risk Prevention and Control

## 5.1. Legal Risk Identification

Risk identification is the process of judging and classifying potential risks, making qualitative estimates of risk characteristics and risk consequences, and finally forming a reasonable list of project risks. Risk identification is the basis of risk quantification and evaluation and plays a very important role in the process of

risk management.

Through the recognition and understanding of risk identification, combined with the characteristic analysis of legal risk, legal risk identification is often the process of stand in the Angle of the specific legal risk main body, surrounding the legal risk management goal, analyze, judge or classify the objective phenomena or facts such as the legal risk environment, legal risk objects and legal risk behaviors of the risk subjects, and identify real or potential legal risks and their nature, characteristics and consequences. Legal risk identification is the first step of legal risk management and the basis of legal risk management. Only by correctly identifying the legal risks faced by the subjects of legal risk can people take the initiative to choose proper and effective methods to deal with them.

At present, the legal risks of the Winter Olympics are mainly concentrated on the imperfect rules of Olympic logo protection, the broadcasting rights, regulating ambush marketing. In addition, it is worth paying attention that the risks in the signing and performance of various contracts as well as the operational risks of the staff.

## 5.2. Legal Risk Assessment

Legal risk assessment refers to the quantitative assessment of the impact of legal risk events on personnel, property and other aspects and the possibility of loss before the occurrence of legal risk events. Legal risk identification is a qualitative analysis of legal risk, while legal risk assessment is a quantitative analysis of legal risk. If the question that legal risk identification answers is what kind of legal risk may arise, then the question that the legal risk assessment answers is how big is the legal risk? To what extent will legal risks lead to losses? Legal risk assessment is one of the most important and difficult parts of legal risk management and prevention and control.

In the Winter Olympics, different sports have their own characteristics, and risk assessment of sports events should be carried out. First of all, the project characteristics of the competition should be thoroughly studied. On the basis of risk identification of sports events, various risks that may occur in sports events themselves are analyzed qualitatively or quantitatively. According to the degree of influence and damage to the running of the event caused by the possible risks, the risk of each event is prioritized according to the level of each risk, and the risk of sports events is ranked from large to small. The aim is to identify the most important processes from the large number of risks encountered. Its main purpose: The first is to evaluate the probability of the occurrence of risk. The second is to assess the degree of loss caused by the occurrence of risk events. The third is the controllability of risk analysis. In general, risk assessment can be divided into 1 - 10 levels, the higher the level, the more serious the damage (see **Table 1**).

On the basis of legal risk identification and assessment, the risk of the Winter Olympic Games events is graded (see **Table 2**), and the risk management mechanism is established on the basis of determining the level.

**Table 1.** Risk criteria for the probability of occurrence of risk [3].

Possibility of risk	Probability	Risk standard
Very High	$\geq 1/2$	10
	$1/3$	9
High	$\geq 1/8$	8
	$1/20$	7
Medium	$1/80$	6
	$1/400$	5
	$1/2000$	4
Low	$> 1/15,000$	3
Very Low	$1/15,000$	2
Super Low	$1/150,000$	1

**Table 2.** Sports event risk rating [1].

Risk level	Meaning
Level 1 (especially serious risk)	Unacceptable risks, must be removed by possible measures.
Level 2 (more serious risk)	Risk should not be accepted and measures must be taken to reduce the risk unless the cost.
Level 3 (serious risk)	Risks should not be accepted and measures should be taken to reduce risks unless the risk reduction is exceeded beyond the benefits of risk reduction.
Level 4 (general risk)	Acceptable risks, further reduce risk when conditions permit

### 5.3. Legal Risk Response

After identifying and assessing legal risks, how to effectively control these risks is the most important question for the risk management of Winter Olympics, in order to reduce the probability and loss degree of risk. This is also the most fundamental risk prevention and control of the Winter Olympics. The basic means of risk prevention and control generally include risk avoidance, loss control, risk transfer and risk retention.

Risk avoidance refers to a risk management method that abandons certain risky activities or refuses to bear certain risks in order to avoid risk loss. In Winter Olympics, when the potential risk of the event is too high and the consequence of the event is beyond the tolerance of the organizer, while there is no other way to mitigate the risk, only voluntarily abandon or refuse to hold the event or replace it with other means to avoid risks. There are two main ways to avoid risk, one is to understand that the risk of hosting an event is high and refuse to host it; Second, because the new event will meet many previously unknown risks, and stop to avoid risks. At the Rio Olympics, British "Daily Mail" reported on August 8, 2016, the audience and athletes gathered in the Lagoa Stadium in Rio de Janeiro felt extremely disappointed. Due to the bad weather, the

Olympic organization committee might not be able to guarantee the safety of athletes and spectators, then the rowing competition was temporarily cancelled. This includes the women's double paddle and the men's four-person scull project. The most suitable situations for risk avoidance include: Specific risks with high loss frequency and loss range; The risk that the loss frequency is not high but the loss consequence is extremely serious and cannot be compensated for; The risk that the economic and social costs of adopting other risk management measures exceed the expected benefits of such activities.

Loss control refers to the management of risk by reducing the loss frequency of risk events or reducing the loss degree. Loss control is divided into loss prevention means and loss reduction means according to its purpose. Loss prevention means the possibility of reducing or eliminating the risk of loss of an event. For example: the control of the safety of the stadium, conduct security checks at the entrance of the audience, to avoid the risk of disturbance or fire in the venue due to inflammable and explosive materials carried by the spectators, so as to eliminate or reduce such risks. Loss reduction means the control technology at the time of risk occurrence and after loss occurrence. The purpose is to reduce the loss degree of adverse consequences after risk occurrence. The method of loss reduction is to develop emergency plan and action guide. For example, when a fire occurs, use the on-site fire-fighting equipment to put out the fire as soon as possible, rescue the injured person on the spot, etc., so as to reduce the damage caused by the on-site disaster.

Risk transfer refers to that, in order to avoid the risk loss, the organizer of the competition consciously transfers the sports risk to other organizations and individuals by means of insurance purchase and contract signing. The risk transfer did not reduce the probability and loss degree of the risk, but passed a part of the loss to a third party after the risk accident with the help of a contract or agreement. Such risk control measures are mainly applied to those risk events with small probability, but large loss, or risk situations that are difficult for the organizer to control. In a sense, risk transfer only indirectly reduces the loss frequency and reduces the loss range. For example, the Winter Olympics organizing committee buys personal accident insurance for all the participants or the live audience of the event by paying a fee to transfer the risk to the insurance company.

Risk retention refers to the risk response method that the risk liability subject reserves the risk within the sports organization by raising funds to pay the loss. Risk retention is the most convenient way to deal with risk. Generally, there are two situations: The first is that the risk loss is small and the probability of occurrence is high, the conditions for the use of other risk control methods have not been met, and it is not worth the special cost to deal with. The second is that the degree of risk loss is large, but the probability of risk occurrence is relatively small, so it is impossible to reduce, transfer or share the risk This is often said to be the force majeure events, such as floods, earthquakes, etc., the probability of

such risk events is very small, so sports event management organizations usually choose to keep this risk. The risk retention method is usually used in the following situations: One is when the cost of dealing with risk is greater than the cost of taking it; secondly, it is expected that the maximum loss caused by the occurrence of a certain risk is within the scope of the event organizer; Third, when the cost of adopting other risk control methods exceeds the loss caused by the risk itself, or when other risk control methods are not feasible; Fourth, due to the lack of necessary technical knowledge of risk management and insufficient understanding of the existence and seriousness of risks, the organizers themselves passively bear the risk losses.

## **6. Summary of Legal Risk Prevention and Control Measures for Beijing Winter Olympics**

There are all sorts of legal risks to a big sporting event like the Winter Olympics. Although the risks are not exactly the same, risk prevention and control measures are essential. It can prevent and reduce risk events and damage to the greatest extent, and ensure the safety and smooth running of the games.

### **6.1. Protection of Laws and Regulations**

In sports, China's legal system is relatively lacking, not to mention the legal risk of Winter Olympics. In this respect, we should improve the sports law and its related regulations, establish the sports law system with the <Sports Law> as the core, including comprehensive laws and regulations on the management of sports organizations, regulations on competitive sports, laws and regulations on social sports, conditions for sports security, laws and regulations on competitive sports. Such legal system construction can not only be applied to the prevention of legal risks of Winter Olympics, but also play an important role in regulating and managing the sports industry.

### **6.2. Making Contingency Plans**

Making emergency plan is one of the effective methods to prevent risks. In the face of the 2008 Olympic Games, the state council issued the <national emergency plan for public emergencies> in 2006. According to the spirit of the state council documents, the general administration of sport of China and the local sports bureaus have formulated their respective emergency plans to deal with emergencies. Therefore, when hosting the Winter Olympics, various kinds of risk contingency plans should also be made.

After analyzing, determining the probability of the risk and assessing the risk level, Olympic committee should determine the various risks with the participation of risk management experts, insurance brokers and professional insurance companies, based on the opinions and suggestions of relevant personnel of the organizing committee and relevant experts. According to the risk assessment of each accident hidden danger, we should carefully study its nature and character-

ristics, and formulate detailed contingency plans. The contingency plan should be practical and realistic, and be as detailed and complete as possible. It should not be carried away by luck. At the same time, we need to consider the financial capacity of the competition.

### **6.3. Legal Risk Training**

“People” is the most critical factor in risk management. Nowadays, the risks of sports events are increasingly complicated, big sports events like the Winter Olympics require more talent. Professional risk managers are required to manage the risk identification, evaluation, risk preplan, evasive execution and prevention and control of the event risk management, to make sure the orderly implementation of risk management. The difference between professional management talents and non-professional management talents is that professional talents can complete every step of risk management systematically, and make correct evaluation and forecast to the process and result of each link of risk management. From non-professional to professional, training is required. Training is a way to prevent risk, to train the organizing and management personnel of the Olympic Games, staff of various departments, volunteers and other personnel related to the legal affairs of the Winter Olympic Games, including laws and regulations, contract management, work requirements, methods and other aspects of comprehensive training. Comprehensive and scientific legal risk prevention and control training is of vital importance. It enables the staff to understand the situation of legal risks and to properly deal with them after the occurrence of legal risks.

### **6.4. Introduction of Professional Legal Services**

It is very necessary to introduce professional legal services to the legal issues in the preparation and holding of the Olympic Games, which is also a common practice in the world. Professional legal services can effectively reduce legal risks in the preparation and operation of the Winter Olympics. According to the demand for legal services for the 2022 Winter Olympics in Beijing, the organizers should actively create platforms for lawyers to serve large sports events. Determine the competition legal service institutions, the establishment of legal service supervision system through the open selection and recruitment method. Make necessary project management pass legal risk assessment and get legal guarantee to ensure the pertinence and effectiveness of legal service through project approval, task assignment, result acceptance, workload confirmation, cost audit and other processes. The organizers can also raise common legal issues in sports events and organize seminars to discuss them. Invite lawyers, legal experts and sports professionals to participate in the study of sports law, and improve the professional level of sports law for lawyers and sports workers. The organizing party may also set up a special talent pool for lawyers in the sports industry to provide legal consulting services to the demander and supplier of the laws of the

competition. In this regard, Beijing has relevant practical experience in hosting the 2008 Olympic Games. The Beijing municipal bar association established the Olympic legal committee in 2002 and the Olympic legislative lawyers working group in 2006, who completed a number of thematic studies and recruited lawyers to volunteer for the Olympics. The 2008 Beijing organizing committee for the Olympic Games has formed a legal working team with the full-time legal staff of the legal affairs department as the backbone, with the legal service agencies as the support, with internal and external different and orderly management and an innovative legal service model has been established. Strong awareness and exemplary conduct of the Beijing organizing committee for the Olympic Games in accordance with the law, and the successful practices of giving full play to the functions of the legal service department, provide consultation, advice and services for the organizing committee to make decisions in accordance with the law, and actively prevent and resolve legal risks can be used as the main reference for legal risk prevention of winter Olympic Games.

## 7. Conclusion

Legal risk is related to the success of the Beijing Winter Olympics, but there is still no research on legal risk of the Winter Olympics. Based on the characteristics of corporate legal risk management, the author puts forward the focal point and macro-measure of legal risk prevention and control of winter Olympic Games. However, there are still limitations in the research. This study is only a macro description of the legal risks of the winter Olympic Games, and the specific problems are not carried out. Moreover, the specific examples of legal risks are still not comprehensive enough and there are some omissions. I hope to attract more scholars to study the legal risks of the Winter Olympic Games. The hope is that we will do what we can to ensure that the Beijing Olympic Games will be a wonderful, extraordinary and outstanding Olympic Games.

## Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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