

Newsletter No. **28**

Swiss IP News We provide you with updates on new decisions, the relevant legislative process and other trends in the fields of intellectual property and unfair competition law from a Swiss perspective.

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Swiss National Ice Hockey Teams Forced to Change Jerseys After Missing Deadline and Relying on Verbal Assurances

In its recent decision [B-669/2024](#) of 15 October, 2024, the Swiss Federal Administrative Court ruled that the Swiss Ice Hockey Federation's (SIHF) application to continue using the Swiss coat of arms on jerseys had been submitted too late, emphasizing that reliance on verbal assurances from Federal Councillors is insufficient and does not replace formal, timely applications to the competent bodies.

Background

On 1 January, 2017, the revised Federal Act on the Protection of the Swiss Coat of Arms (CAPA) took effect, generally prohibiting private organizations from using the Swiss coat of arms;



Exceptions to those who had been using the Coat of Arms previously required applications within two years. The SIHF, which has been displaying the coat of arms on the jerseys of its national teams since 2015, continued to do so despite the new restrictions.

In June 2018, within the deadline, the SIHF sought support from the Federal Department of Defence, Civil Protection and Sport (DDPS), requesting a temporary delay in implementing the changes to avoid costly logo adjustments rather than a formal exemption. Only in October 2021, i.e. after the deadline for applications had ended, the SIHF formally

applied for continued use of the Swiss coat of arms, citing verbal assurances from Federal Councillors Parmelin and Baume-Schneider that its use on jerseys would be acceptable.

On December 15, 2023, the Federal Department of Justice (FDJP), through the Federal Institute for Intellectual Property (IPI), declined to consider the formal request, as it was filed too late. In response, the SIHF appealed this decision to the Federal Administrative Court on 31 January, 2024.

Decision

The Federal Administrative Court ruled that the SIHF's application could not be considered because it was submitted after the firm two-year deadline. The court further clarified that the June 2018 letter, which only requested a temporary delay, did not qualify as a formal application.

The court also dismissed the SIHF's appeal as far as it was based on the principle of legitimate expectation, clarifying that informal verbal assurances even from the Federal government (i.e., Federal Councillors) had no legal standing. The SIHF was aware that a formal application to the FDJP was required and should not

have relied on informal verbal statements made by Councillors during the 2018 World Hockey Championship in Denmark. Due to the late application, the SIHF is no longer allowed to display the Swiss coat of arms on national team jerseys.

That said, this decision may not be the final word on the matter, and there remains a possibility that the coat of arms could still appear on the players' jerseys in the future. The SIHF still has the political avenue available; this path has already been initiated through motions by Council of States member Damian Müller (see Motion No. 24.3143 'Is the National Team Losing to the Coat of Arms Protection Act?') and National Council member Matthias Aebischer (see Motion No. 24.3134 'Swiss Coat of Arms for National Teams'). Additionally, the judgment can be appealed to the Federal Supreme Court.

The Walder Wyss Newsletter provides comments on new developments and significant issues of Swiss law. These comments are not intended to provide legal advice. Before taking action or relying on the comments and the information given, addressees of this Newsletter should seek specific advice on the matters which concern them.