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The European Sports Act: A Proposal to Improve Sports Governance through EU Legislation

Jan Exner,^{*} Stephen Weatherill,[†] and Jan Zgliniski[‡]

Abstract: Sports organisations are poorly governed. Corruption and bribery have contaminated the activities of federations, major sporting events now habitually raise human rights concerns, the welfare of athletes is inadequately protected, while women remain under-represented in most decision-making bodies. The time is right for change. In this article, we propose to effect this change through regulatory intervention: a European Sports Act. We briefly review current sources of momentum in favour of reforming sports governance. Then, we make the case for the European Union to adopt legislation designed to improve standards of governance in sport, arguing that the EU is not only the best available actor, but also that it has the constitutional authority to regulate the sector. We formulate a European vision of sport based on the case law of the Court of Justice, existing EU sports policies, as well as Member States' sports legislation. Specific legislative wording for the European Sports Act is proposed.

Keywords: EU law; sports; good governance; human rights; European Sports Model

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I. INTRODUCTION

Sport needs reforming. Sports governing bodies, originally created to set rules and ensure fair competition, are increasingly pursuing commercial interests alongside their regulatory responsibilities. This has led to conflicts of interest, as financial gains are often prioritised over good governance. Sports organisations across Europe and the world have failed to uphold key public goods, such as maintaining open competitions, ensuring the integrity of sporting events, protecting the welfare of athletes, and fostering solidarity. These problems are compounded by a lack of diversity in leadership, with few women and minimal representation of key stakeholders such as athletes, clubs, and fans in decision-making processes. Poor governance weakens the case for autonomy and self-regulation.

The list of governance failures is long, and they affect a wide range of sports. The International Olympic Committee (IOC) has faced criticism regarding its opaque decision-making structures and inability to establish robust human rights protections for major sporting events. Formula 1 has been embroiled in a series of governance scandals which have fuelled calls for greater transparency and accountability. Cricket has had to reckon with reports of systematic racist and discriminatory conduct among its players and staff. But it is football which provides the clearest example of governance dysfunction. The sport has been known to nurture a culture of corruption and bribery. Football World Cups now habitually raise serious human rights concerns, causing disquiet among teams, fans, workers, and local communities. The position of female players and supporters continues to be fragile, with problems ranging from financial neglect to sexual abuse. Breakaway attempts like the European Super League upset traditional league and value systems, adding further to the competitive imbalances that have been growing over time and putting economic pressure on smaller clubs. The health of players is insufficiently protected, while federations continuously increase the number of matches played in competitions like the Club World Cup of the Fédération Internationale de Football Association (FIFA) and the Champions League of the Union of European Football Associations (UEFA). So is the welfare of fans, who suffer from inadequate infrastructures and see their concerns being disregarded in governance decisions.

The time is right for change. In this article, we propose to effect this change through regulatory intervention: a European Sports Act. Following the introduction, we briefly review current sources of momentum in favour of reforming sports governance (Section II). Then, we make the case for EU sports legislation, arguing that the European Union (EU or Union) is the best available actor to regulate the sector (Section III). We explain that the Union possesses the constitutional authority to legislate on sports governance (Section IV). Subsequently, we formulate a European vision of sport based on the case law of the Court of Justice (CJEU), existing EU sports policies, and Member States' sports legislation (Section V). The article finishes by proposing specific legislative wording for the European Sports Act (Section VI and Appendix).

II. THE MOMENTUM FOR REFORM

If left unregulated, sports governance will remain unrepresentative, financially self-serving, and resistant to meaningful change. But momentum is building behind the case for reform.

National lawmakers throughout Europe have begun to recognise the need for and potential of more extensive sports regulation.¹ France adopted a law aimed at ‘democratising sport’, which lays down term limits for presidents of federations and leagues, establishes a minimum quota for female officials, and imposes higher transparency requirements on sports organisations. Spain overhauled its Sports Act to strengthen athletes’ rights (e.g. by mandating maternity and breastfeeding policies) and supporters (e.g. by creating independent fan advisors); it also raised governance standards in the field by mandating stricter rules on conflicts of interest. The Polish government has proposed a 30 % requirement for women on boards of sports governing bodies to remedy existing gender imbalances. However, the most significant regulatory initiative has arguably emerged in the United Kingdom. Following several insolvencies of historic clubs, a growing sense of disenfranchisement among fans, and the pending threat of a European Super League, the British government conducted a review of football governance. The review inspired the Football Governance Bill, which is currently making its way through Parliament. The Bill foresees the creation of an independent football regulator with the authority to supervise the licensing of clubs, the protection of fan rights, the screening of owners and directors, and backstop powers regarding financial redistribution.

The EU, too, is increasingly addressing sports governance failures in its political communications. On 11 December 2019, Member States’ representatives in the Council adopted conclusions on combating corruption in sports, emphasising the urgent need for action.² Similarly, on 23 November 2021, the European Parliament adopted a resolution on EU sports policy, which highlights corruption, financial instability, human rights violations, and the growing influence of commercial interests in governance decisions.³ On 13 December 2021, the Council reaffirmed the importance of protecting the European Sports Model, pointing out widespread governance failures, including poor financial transparency, increasing commercial influence, and inadequate stakeholder representation.⁴ These measures testify to the EU’s awareness that effective governance reforms are necessary to safeguard the integrity and sustainability of European sport. They also underscore that the autonomy of sports governing bodies is conditional and ‘must be earned through good governance and upholding the highest standards of integrity in their sport.’⁵ In other words, good governance is a prerequisite for self-regulation.

¹ The same goes for lawmakers outside of Europe: e.g. Mexico recently enacted rules on equal pay for athletes, South Korea imposed more stringent requirements on safeguarding and Australia reworked its approach to sports integrity.

² Conclusions of the Council and of the Representatives of the Governments of the Member States Meeting within the Council on Combating Corruption in Sport [2019] OJ C416/3.

³ European Parliament, Resolution on EU Sports Policy: Assessment and Possible Ways Forward [2022] OJ C224/2.

⁴ Resolution of the Council and of the Representatives of the Governments of the Member States Meeting within the Council on the Key Features of a European Sport Model [2021] OJ C501/1.

⁵ Council, Combating Corruption in Sport (n 2) para 15.

As the failures in sports governance are becoming more apparent, the push for reform has been growing. In February 2024, European sports ministers issued a declaration supporting stronger governance principles, including transparency, democracy, integrity, and stakeholder representation. They urged the European Commission to explore mechanisms to reinforce the core principles of the European Sports Model, such as promotion-relegation structures, grassroots development, and fair competition.⁶ The declaration suggests that the point has been reached at which the EU needs to move beyond discussing policies and start implementing reforms.

We agree. Together with a growing group of scholars, we have long argued that the EU should take a more active role in regulating sports. In 2021, Joseph Weiler et al. advocated adopting EU legislation to improve football governance.⁷ Stephen Weatherill proposed that the EU move beyond reactive litigation and adopt binding governance standards for sports governing bodies.⁸ Similarly, Jan Zglinski emphasised the benefits of hard enforceable rules that would come with European sports legislation.⁹ Jan Exner has argued that litigation alone has not been sufficient to address governance failures and only a legislative approach can effectively reshape sports governance structures.¹⁰ Miguel Maduro contended that, given that entrenched self-interest obstructs reform from within, a proactive legislative approach is the only viable solution for long-term governance improvements in sports.¹¹ Public-interest organisations and bodies from within the sports industry have joined the call for change. FairSquare published two reports that expose the deep-seated governance flaws in international football and campaign for an EU-driven regulatory framework.¹² The Union of European Clubs has explored giving the EU the competence to enforce good governance standards.¹³ European Leagues

⁶ Déclaration des ministres des sports européens pour un modèle sportif basé sur la solidarité, le mérite sportif et l'impact sociétal du sport (8 February 2024) <<https://www.sports.gouv.fr/declaration-des-ministres-des-sports-europeens-pour-un-modele-sportif-base-sur-la-solidarite-le>>.

⁷ Joseph Weiler and others, 'Only the EU Can Save Football from Itself' *Euronews* (12 November 2021) <<https://www.euronews.com/2021/11/12/only-the-eu-can-save-football-from-itself-view>>.

⁸ Stephen Weatherill, 'Saving Football from Itself: Why and How to Re-Make EU Sports Law' (2022) 24 *Cambridge Yearbook of European Legal Studies* 4; Stephen Weatherill, 'The Impact of the Rulings of 21 December 2023 on the Structure of EU Sports Law' (2023) 23 *International Sports Law Journal* 409.

⁹ Jan Zglinski, 'Reforming Football: What the EU Can Do' (2025) *German Law Journal*; Jan Zglinski, 'Can EU Competition Law Save Sports Governance?' (2024) 23 *International Sports Law Journal* 475; Jan Zglinski, 'Who Owns Football? The Future of Sports Governance and Regulation after *European Superleague*' (2024) 49 *European Law Review* 454.

¹⁰ Jan Exner, 'Vnitřní Trh a Sport. Měla by EU Jen Reagovat, Nebo i Regulovat?' (Konference 30 let katedry evropského práva, Prague, 19 November 2023).

¹¹ Miguel Poiares Maduro, 'EU Law and Sports: A Match Made in Hell or in Heaven?' in Jeremias Adams-Prassl and others (eds), *The Internal Market Ideal: Essays in Honour of Stephen Weatherill* (Oxford University Press 2024) 217; Miguel Poiares Maduro and Joseph Weiler, '"Integrity", "Independence" and the Internal Reform of FIFA: A View from the Trenches' in Arnout Geeraert and Frank van Eekeren (eds), *Good Governance in Sport: Critical Reflections* (Routledge 2021); Miguel Poiares Maduro, 'Sports Governance after the Superleague Judgment: Going into Extra Time?' (2023) 23 *International Sports Law Journal* 482.

¹² Jan Zglinski and FairSquare, 'Laws for The Games: How the EU Can Reform Sports Governance' (2024) <https://fairsq.org/wp-content/uploads/2024/10/Laws-for-the-Games-Report_Pages_v3.pdf>;

FairSquare, 'Substitute: FIFA Not Fit to Govern World Football, External Reform Essential to Prevent Future Harm' (2024) <<https://fairsq.org/substitute-report/>>.

¹³ Union of European Clubs, 'European Professional Football Forum Highlights the Urgent Need for Reforms' (15 October 2024) <<https://www.ueceurope.org/post/european-professional-football-forum-highlights-the-urgent-need-for-reforms-in-football-governance>>.

and FIFPRO Europe have stressed the role of EU law in protecting fundamental rights and promoting social bargaining in football.¹⁴

These contributions reinforce the emerging consensus that only EU legislation can provide a structured and enforceable framework to address persistent governance failures in sports. We have, individually and jointly, supported the adoption of such legislation.¹⁵ The present article builds on these foundations and seeks to advance the debate by making a concrete proposal for a European Sports Act.

III. THE CASE FOR EU SPORTS REGULATION

1. The Failure of Self-Regulation

Sport is largely self-governed, with federations exercising regulatory authority over their respective disciplines. Against this backdrop, there was a legitimate expectation for a long time that self-regulation could serve as a mechanism for governance reform. Alas, this expectation has remained unfulfilled. This is not to say that positive developments have not materialised. World Athletics, for instance, has achieved gender parity in its governing council and improved the number of female officials and coaches.¹⁶ Tennis has progressed toward equal pay, particularly in Grand Slam tournaments.¹⁷ Women's football enjoys a far higher profile today than in the past, at least partly as a result of (as well as partly despite) the efforts of international and national federations.¹⁸ Yet, serious reform remains the exception, with systemic governance failures persisting. The reasons for this state of affairs are quickly understood. Sports governance structures are deeply entrenched, operating in a way that systematically excludes key stakeholders such as athletes, fans, and smaller clubs. The lack of external oversight – paired with the limited effectiveness of internal oversight provided by institutions such as the Court of Arbitration for Sport, which applies a check that tends to lack intensity and sometimes mis-reads the demands of EU and ECHR law¹⁹ – has allowed sporting governing bodies to

¹⁴ European Leagues and FIFPRO Europe, 'Joint Statement' (11 April 2025) <<https://fifpro.org/en/who-we-are/fifpro-members/fifpro-europe/joint-statement-european-leagues-and-fifpro-europe#:~:text=Through%20national%20collective%20agreements%2C%20employers,with%20EU%20law%20and%20policies>>.

¹⁵ Jan Exner and Stephen Weatherill, 'A Modest Proposal for an EU Regulation on Football Governance: If Not the EU, Then Who?' (2024) EU Law Live 1; Zgliniski, 'Reforming Football' (n 9).

¹⁶ World Athletics, 'World Athletics to Take Significant Steps towards Gender Equity in 2023' (7 March 2023) <<https://worldathletics.org/women-in-athletics/news/international-womens-day-gender-equity-2023>>.

¹⁷ Mary Roeloffs, 'Women's Tennis Promises Equal Prize Money As Men's Tennis By 2033' *Forbes* (27 June 2023) <<https://www.forbes.com/sites/maryroeloffs/2023/06/27/womens-tennis-promises-equal-prize-money-as-mens-tennis-by-2033/>>.

¹⁸ Suzanne Wrack, *A Woman's Game: The Rise, Fall, and Rise Again of Women's Football* (Guardian Faber Publishing 2023).

¹⁹ Antoine Duval, 'Lost in Translation? The European Convention on Human Rights at the Court of Arbitration for Sport' (2022) 22 *International Sports Law Journal* 132; Chui Ling Goh and Jack Anderson, 'The Credibility of the Court of Arbitration for Sport' (2022) 13 *Harvard Journal of Sports and Entertainment Law* 233; Johan Lindholm, 'A legit supreme court for world sports? The CAS(e) for reform' (2021) 21 *International Sports Law Journal* 1.

resist reforms and proper self-regulation. The increasing overlap between regulatory responsibilities and commercial objectives has generated severe conflicts of interest.

FIFA provides a prominent case study. Despite suffering from a multitude of corruption scandals for decades, every attempt at internal governance improvement has been undermined by its own leadership. From 2012 to 2014, its internal governance committee proposed a series of essential reforms, but they were largely blocked by senior officials who benefited from the existing system. In 2015, the U.S. Department of Justice's criminal prosecutions of FIFA executives exposed widespread corruption, prompting a much-publicised governance overhaul. However, this process was rapidly weakened when independent members of FIFA's ethics and governance committees were removed, signalling a return to internal control mechanisms that resist transparency and accountability.²⁰ According to Lise Klaveness, President of the Norwegian FA: 'If FIFA followed their own statutes ... and the reforms Gianni [Infantino, President of FIFA] put in place after his election in 2016, I think it would be very, very good. But they didn't'.²¹ Many national football associations rely on FIFA's financial subsidies, leading to a patronage system where loyalty to the organisation's leadership takes precedence over demands for governance reform.²² Although a human rights policy was formally adopted, concerns over human rights violations continue to grow, as seen in the exploitation of migrant workers during the 2022 Qatar World Cup and the questionable bidding process for the 2034 tournament.²³ A Human Rights Advisory Board that was established in 2017 ended up being disbanded in 2021, in spite of its members stressing the 'urgent need' for having independent scrutiny of the organisation's actions.²⁴ These issues show that FIFA prioritises commercial interests over ethical considerations. Why, it has been astutely asked, can't FIFA 'interfere to protect the workers' rights and lives in Qatar, but it can interfere in Brazil [for the 2014 World Cup] and change the local law in favor of selling beer from one of its sponsors'?²⁵ The answer lies in the ineffectiveness of self-regulation and the prioritisation of self-interest in football.

But the structural barriers that prevent effective self-regulation in sports governance go beyond football. The IOC has been accused of non-transparent decision-making, lack of accountability, financial mismanagement, and persistent corruption scandals related to host city selection. Despite mounting evidence of governance failures, tangible reform has remained elusive. Across international

²⁰ EA Brett and Alan Tomlinson, '(Mis)Governing World Football? Agency and (Non)Accountability in FIFA' (2024) 45 *Oxford Journal of Legal Studies* 108; Miguel Delaney, *States of Play: How Sportswashing Took Over Football* (Seven Dials 2024) Ch 11.

²¹ Philippe Auclair, 'Lise Klaveness: "If Fifa Followed Their Own Reforms, It Would Be Very Good. But They Didn't"' *The Guardian* (27 February 2025) <<https://www.theguardian.com/football/2025/feb/27/lise-klaveness-fifa-norway-world-cups-bidding-protest>>.

²² FairSquare (n 12) 169.

²³ Human Rights Watch, 'Joint Statement: Award of 2034 Men's World Cup to Saudi Arabia Risks Lives and Exposes FIFA's Empty Human Rights Commitments' (11 December 2024) <www.hrw.org/news/2024/12/11/joint-statement-award-2034-mens-world-cup-saudi-arabia-risks-lives-and-exposes>.

²⁴ FIFA Human Rights Advisory Board, Fifth Report (December 2020) <<https://digitalhub.fifa.com/m/4769eb55b4e22ba5/original/vforeiciz1fh06ld4a36-pdf.pdf>>.

²⁵ Obada S Zeidan and Simon G Fauser, 'Corporate Governance and Corporate Social Responsibility – the Case of FIFA' (2015) 13 *Problems and Perspectives in Management* 183, 189.

sports, governing bodies function as closed systems, where decision-making power is concentrated among a small elite with little or no input from stakeholders. Sporting governing bodies justify their autonomy by ensuring consistency and protecting sporting integrity, highlighting that only insiders possess the requisite expertise to make governance decisions.²⁶ Yet, they have abused this argument to block reforms and shield themselves against legitimate external scrutiny. While transnational governance is essential to prevent fragmentation across national regulations, it does not justify unchecked private governance – particularly when corruption, human rights abuses, and financial misconduct persist;²⁷ when sport is increasingly vulnerable to illegal activities, including match-fixing, fan violence, and racism;²⁸ and when gender inequalities and exclusionary tendencies abound.²⁹

Given the consistent failure of self-regulation, external oversight is the only viable solution to promote transparency, accountability, and integrity in sports governance. FIFA, the IOC, and other sporting governing bodies have proven unable or unwilling to undertake the necessary reforms, reinforcing the argument for an independent regulatory framework. The existing governance structures in international sports are fundamentally resistant to change, and the historical record demonstrates that attempts at internal reform have either failed outright or been actively undermined by the organisations themselves. Without regulatory intervention, sporting governing bodies will continue to prioritise their own financial and political interests over the integrity and fairness of sport. In the following, we shall examine what form this intervention could take.

2. The Limitations of Litigation

Litigation forms the traditional link between the EU and sports. Even before the creation of an explicit EU competence in this field with effect from 2009 as a result of the revisions made by the Treaty of Lisbon, the Court had been tasked to articulate the relationship between sport as an economic activity and the law of the EU's internal market.³⁰ First, in the application of the EU rules on free movement law and, later, in the light of competition law, the Court, granted periodic opportunities by legal disputes, has contributed to fleshing out what the subjection of sporting practices to EU law entails.³¹ The *Bosman* ruling of 1995 was a landmark case, striking down nationality-based restrictions in football transfers and requiring

²⁶ Weatherill, 'Saving Football from Itself' (n 8) 16.

²⁷ Antonio Di Marco, 'Sports Economy and Fight against Corruption: Which Limits to the Sporting Organisations Autonomy?' (2021) 32 *European Business Law Review* 877.

²⁸ Robert Miller and Kwabena Oppong, *The Final: Attack on Wembley* (Rogan Productions 2024).

²⁹ Lena Holzer, 'International Sports Federations as de Facto Lawmakers: Queer-Feminist Explorations of the Gendered Power of Sports Law' (2024) 37 *Leiden Journal of International Law* 891; Daniela Heerdt and Nadia Bernaz, 'Elements for FIFA's Feminist Transformation: The Case for Indicators on Football and Women's Rights' (2022) 20 *International Journal of Constitutional Law* 299; Borja García, 'Luis Rubiales as a Symptom of Spanish Sport Poor Governance Standards' (2023) *Managing Sport and Leisure* 1.

³⁰ The first ruling in this area was rendered in the 1970s, see Case 36/74, *Walrave and Koch v Association Union Cycliste Internationale and Others* EU:C:1974:140.

³¹ Andrea Cattaneo and Richard Parrish, *Sports Law in the European Union* (Wolters Kluwer 2020); Stephen Weatherill, *Principles and Practice in EU Sports Law* (Oxford University Press 2017); Peter W Heermann, *Verbandsautonomie im Sport: Bestimmung der rechtlichen Grenzen unter besonderer Berücksichtigung des europäischen Kartellrechts* (Nomos 2022).

reform of the transfer fee system to remove restrictions on players' movement within the EU once they were out of contract.³² More recently, in *European Superleague Company*, the CJEU ruled that FIFA and UEFA's exclusive control over the authorisation of new competitions lacked objectivity, transparency, equality, and proportionality.³³ Similarly, the *Diarra* case challenged FIFA's transfer rules, holding that certain regulatory restrictions on player mobility violated EU competition and free movement rules.³⁴ These cases illustrate a pattern of governance failures, where sports federations impose rules incompatible with EU law. More proceedings, including on agents regulations³⁵ and the international match calendar,³⁶ are on the horizon.

Litigation has played an important role in challenging governance failures in sports. Indeed, for a long time it has been the only method to jolt governing bodies towards reform. However, litigation remains an *ad hoc*, unpredictable, and ultimately insufficient mechanism for ensuring systemic reform. It does not provide a comprehensive or consistent framework for improving governance across the sector. Cases emerge sporadically, dictated by specific disputes rather than a broader regulatory strategy, leaving many critical governance issues unaddressed. The CJEU cannot act as a *de facto* regulator of sports governance; its role is limited to ruling on specific disputes rather than establishing a structured, long-term regulatory framework. Moreover, litigation is inherently reactive, meaning it only addresses governance failures after they have occurred rather than preventing them through proactive regulation. It is also highly resource-intensive, requiring affected stakeholders – often individual athletes, clubs, or organisations – to mount costly and time-consuming legal battles.³⁷ This inherently favours wealthier actors that can afford prolonged legal disputes. Smaller clubs, athletes, and other stakeholders often lack the means to challenge governance decisions, further bolstering the need for a structured framework.

Competition law, currently the most frequent legal basis for sports litigation, is not designed to regulate sport in all its facets. Unlike traditional economic sectors, sport requires a unique balance between competition and cooperation, as athletes and teams depend on each other to maintain competitive integrity and pursue non-economic objectives to a greater degree. The pyramid structure of sports, where governing bodies set and apply the rules universally, differs from conventional industries, where businesses act purely as competitors. While courts have adapted competition law principles to the sports sector, there is still considerable debate over whether existing competition law mechanisms adequately address sports regulatory needs.³⁸ Litigation-driven approaches using competition law, while sometimes

³² Case C-415/93, *Bosman* EU:C:1995:463.

³³ Case C-333/21, *European Superleague Company* EU:C:2023:1011.

³⁴ Case C-650/22, *FIFA v BZ* EU:C:2024:824.

³⁵ C-609/23 *RRC Sports* (pending).

³⁶ FIFPRO, 'European Leagues, FIFPRO Europe to File Joint Complaint to European Commission against FIFA Regarding International Match Calendar' (23 July 2024) <<https://www.fifpro.org/en/who-we-are/what-we-do/foundations-of-work/european-leagues-and-fifpro-europe-to-file-joint-complaint-to-european-commission-against-fifa-regarding-international-match-calendar>>.

³⁷ The case of Claudia Pechstein provides an illustration of the financial and personal strains that may result from sports litigation; see Michael Reinsch, 'Claudia Pechstein geht das Geld aus' *Frankfurter Allgemeine Zeitung* (1 July 2015).

³⁸ Pablo Ibáñez Colomo, 'Competition Law and Sports Governance: Disentangling a Complex Relationship' (2022) 45 *World Competition* 323; Petros C Mavroidis and Damien Neven, 'Legitimate

effective, remain incomplete, fragmented, and focused on individual disputes rather than systemic reform. Competition law, while useful, is not tailored to the complexities of sports governance. Can Member States regulate sports governance?

3. The Drawbacks of Member State Regulation

As already noted, more and more countries have started to respond to the governance failures we outlined. However, they face significant obstacles in doing so. Political and legal constraints often prevent national authorities from regulating sports due to notions of sporting autonomy. When states wish to intervene, sporting governing bodies can resist their efforts by threatening to exclude national teams or clubs from international competitions. FIFA and UEFA have suspended a number of national associations in the past when they deemed government intervention to constitute political interference. Greece, Italy, Poland, and Spain have been forced to abandon or tone down domestic governance reforms in this way.³⁹ Similarly, UEFA warned the United Kingdom that its plans to establish an independent football regulator might lead to sanctions against English teams in international tournaments.⁴⁰ The fear of exclusion from major competitions deters national governments from enacting reforms, reinforcing the power of governing bodies to defy accountability.⁴¹ Sporting governing bodies' rules prohibiting political interference ostensibly protect their autonomy and serve to insulate them from necessary oversight.⁴²

Similar considerations apply to Switzerland, where many international sports federations are headquartered. The Swiss government has traditionally maintained a *laissez-faire* approach without imposing substantial governance constraints.⁴³ If Switzerland were to introduce stricter regulations, federations could simply relocate

objectives in antitrust analysis: The FIFA regulation of agents and the right to regulate football in Europe' (2024) Concurrences N° 117111; Giorgio Monti, 'EU Competition Law after the Grand Chamber's December 2023 Sports Trilogy: European Super League, International Skating Union and Royal Antwerp FC' (2024) 77 *Revista de Derecho Comunitario Europeo* 11; Okeoghene Odudu, 'No One Is Bigger than the Game' in Jeremias Adams-Prassl and others (eds), *The Internal Market Ideal: Essays in Honour of Stephen Weatherill* (Oxford University Press 2024); Stephen Weatherill, 'Is This the End of Football's Transfer System? An Immediate Reaction to the Court's Ruling in Diarra (C-650/22)' *EU Law Analysis* (7 October 2024) <<https://eulawanalysis.blogspot.com/2024/10/is-this-end-of-footballs-transfer.html>>; Luc Peepkorn and Frank Wijckmans, "'By object" or not "by object": issues resolved?' (2025) 46 *European Competition Law Review* 132; Rusa Agafonova, 'ISU and *Superleague* judgments: sports governance in the market-driven era' (2023) 23 *International Sports Law Journal* 441; Mislav Mataija, *Private Regulation and the Internal Market: Sports, Legal Services, and Standard Setting in EU Economic Law* (Oxford University Press 2016).

³⁹ Susy Campanale, 'Italian Football at Risk from UEFA and FIFA after Passing Controversial Law July 11' *Football Italia* (11 July 2024) <<https://football-italia.net/italian-football-risk-uefa-fifa-controversial/>>; Ben Rumsby, 'Fifa Threaten to Kick Spain out of World Cup Following Alleged Government Interference in National Federation' *The Telegraph* (31 May 2018) <<https://www.telegraph.co.uk/world-cup/2017/12/15/fifa-threaten-kickspain-world-cup-following-alleged-government/>>.

⁴⁰ Dan Roan, 'Uefa Warns England Could Be Banned from Euro 2028 over Regulator Concerns' *BBC Sport* (14 September 2024) <<https://www.bbc.com/sport/football/articles/c9wkjnvpy2ko>>.

⁴¹ Weatherill, 'Saving Football from Itself' (n 8) 16.

⁴² Henk Erik Meier and Borja García, 'Protecting Private Transnational Authority Against Public Intervention: FIFA's Power Over National Governments' (2015) 93 *Public Administration* 890.

⁴³ Antoine Duval, 'Embedded *Lex Sportiva*: The Swiss Roots of Transnational Sports Law and Governance' in Antoine Duval, Alexander Krüger, and Johan Lindholm (eds), *The European Roots of the Lex Sportiva: How Europe Rules Global Sport* (Hart 2024) 17.

to more lenient jurisdictions; some are already preparing for this eventuality.⁴⁴ Furthermore, state regulation need not always be a progressive alternative to self-regulation. France's ban on Islamic veils in sports provides a case in point. While some international sports federations have removed restrictions on head coverings, French law continues to enforce hijab bans, preventing Muslim athletes from competing while wearing headscarves.⁴⁵ This demonstrates that shifting regulatory power from federations to states does not inherently result in fairer outcomes. In some instances, state intervention may introduce new forms of discrimination, rather than eliminating existing governance deficiencies.

Moreover, sport is a transnational activity that requires transnational regulation. Modern sport has evolved into a deeply integrated industry where athletes and clubs compete across multiple leagues and states. Governance issues are, thus, typically not confined to national borders but span regions, continents, and global markets, creating specific regulatory challenges. By contrast, national laws apply only within their national jurisdictions and lack the necessary international reach to adequately deal with these challenges. Consequently, domestic regulatory efforts struggle to keep pace with global sports' commercial and legal realities. Where national regulations were to emerge, they would likely diverge, leading to fragmentation that could compromise the uniformity essential for global sports governance. A transnational regulatory approach is therefore necessary.

International treaties have been proposed as a possible alternative. States would negotiate shared legal commitments to address certain key governance issues.⁴⁶ Play the Game, for instance, have suggested establishing a global agency to oversee corruption and bribery in sports governing bodies.⁴⁷ While undoubtedly valuable, such proposals face considerable obstacles. The effectiveness of these agreements is limited by the difficulty of achieving broad international consensus. Take the Convention on the Manipulation of Sports Competitions, which has been signed by only 43 countries and ratified by just 10.⁴⁸ Perhaps more problematically still, international treaties lack strong enforcement mechanisms. As a result, states often fail to uphold their international commitments.⁴⁹ Moreover, many states and governing bodies have vested interests in the current system, and political figures tend to maintain close ties with sports organisations. Hosting global events, sponsorship deals, and state funding for national teams, all contribute to a reluctance to impose stricter regulations. The examples of the Olympics in China and the Qatar 2022 World Cup highlight the deep entanglement of politics and sports, reducing

⁴⁴ FIFA, for instance, has recently amended its statutes to explicitly allow the organisation to change the place of its headquarters.

⁴⁵ Holzer (n 29) 904–905.

⁴⁶ Convention on the Manipulation of Sports Competitions (Macolin Convention) 2014; International Convention against Doping in Sport 2005.

⁴⁷ Grit Hartmann, 'ClearingSport – Towards an Agency Countering Crime and Protecting Integrity in World Sport' (2023) <<https://www.playthegame.org/publications/clearingsport-towards-an-agency-countering-crime-and-protecting-integrity-in-world-sport/>>; Play the Game, 'Towards an entity countering crime, corruption, and other integrity breaches in sport' (2025) <https://www.playthegame.org/media/dszj02da/towards-an-entity-countering-crime-corruption-and-other-integrity-breaches-in-sport_booklet.pdf>.

⁴⁸ Macolin Convention (n 46).

⁴⁹ Zgliniski and FairSquare (n 12) 6.

the likelihood that an independent agency with real enforcement powers would gain widespread support.⁵⁰

4. The Transformative Potential of EU Legislation

Against this backdrop, we want to propose that the EU is uniquely placed to regulate sports governance. Its regulatory expertise, enforcement capabilities, and transnational nature make it the strongest candidate for implementing effective reforms. The EU has a long-standing history of regulating sectors that require transnational attention, including financial markets, corporate governance, and online platforms. The Digital Services and Digital Markets Acts provide recent examples of successful EU intervention, which has established predictable rules designed for the needs of a particular industry. They testify to the Union's ability to develop and enforce regulatory frameworks that balance diverse interests while facilitating public accountability. Sports governance presents a similar challenge: ensuring that private regulatory bodies uphold principles of transparency, democracy, and accountability without stifling their necessary autonomy. The Sports Act could provide similar regulatory clarity and consistency for the sector.

A major advantage of the EU as a sports regulator is its ability to implement and enforce binding legal obligations. Given the EU's well-developed enforcement mechanisms, compliance rates among Member States are significantly higher than those found in international treaties.⁵¹ Consensus-building within the EU can be complex, but its established legislative and political frameworks allow for more streamlined collective decision-making. The EU can secure implementation of its rules by reliance on national authorities, agencies, and courts, while direct effect allows individuals and organisations to invoke EU rules in legal and administrative proceedings at national level. EU law provides binding and enforceable obligations which carry more practical force than orthodox international law. And unlike individual states, the EU has the market power and legal authority to enforce governance standards throughout its territory, as well as potentially beyond. This makes it more effective in ensuring transparency, accountability, and fair competition in sports.

A further benefit of EU regulation is its resistance to the coercive tactics of sporting governing bodies. Compared with individual governments, the EU is relatively immune to punitive measures aimed at regulatory initiatives. It does not field a national team that sporting governing bodies could threaten to expel from sporting competitions. Banning the teams of all 27 Member States would present significant political and legal difficulties and risk undermining the credibility and financial viability of international events.

Hence, the EU can – and should – do more. It needs to move beyond existing litigation and soft-law strategies to legislate on sports governance. EU institutions beyond the Court must play a greater role in regulating sports. Although the European Commission has engaged in multiple cooperation agreements with sports

⁵⁰ Maduro (n 11) 232–233.

⁵¹ Lisa Conant, 'Compliance and What EU Member States Make of It' in Marise Cremona (ed), *Compliance and the Enforcement of EU Law* (Oxford University Press 2012).

federations, including with UEFA,⁵² these have been voluntary and non-binding, limiting their effectiveness and consolidating rather than challenging the grip of governing bodies.⁵³ A legislative approach, in the form of adopting a dedicated Sports Act, would allow the laying down of binding good governance standards and create the necessary enforcement mechanisms to ensure compliance.

What is more, EU action would have the potential to reshape sports governance globally. Through the much-discussed ‘Brussels Effect’, EU laws can influence international standards due to the size and significance of the internal market.⁵⁴ This influence has been observed in competition law, digital rights, and environmental protection. In a similar way, legally binding governance requirements imposed by the EU would likely end up having an impact beyond Europe’s borders. Sports federations would have little choice but to comply, as failure to do so could result in exclusion from one of the world’s largest economic and sports markets. Past experiences provide illustrations of how this dynamic could play out. Following the *Bosman* ruling, for example, the EU’s stance on player mobility and transfer regulations ultimately affected the global football transfer system, as UEFA and FIFA extended the new framework beyond the jurisdiction of the EU. Nationality restrictions in club football were lifted within the Union because of EU law, but UEFA, in order to protect the integrity of its competitions, made the same changes for all participants, whether based in the EU or not. The awkwardness of sustaining differently constituted squads for European and domestic competitions prompted national leagues outside the EU also to adopt the same reforms.⁵⁵ Similarly, if the EU adopted binding governance rules ensuring greater transparency, stakeholder representation, and financial accountability, international federations would need to adopt these standards to avoid fragmentation and maintain commercial viability in Europe. By leveraging its market power, the EU can establish clear, enforceable rules that ensure greater accountability and democratic oversight in sports governance – not just in Europe, but worldwide.

Critics may argue that EU intervention would represent yet another attempt of the Global North to impose its authority. While we recognise this as a serious concern, we do not consider it to warrant inaction. Quite the opposite. EU regulation for sports governance has the potential to address governance failures that disproportionately harm countries and stakeholders in the Global South. The key is ensuring that these stakeholders are meaningfully involved at every stage of regulation – from problem identification to rule-making, implementation, and evaluation. Sports governing bodies have, despite their rhetoric of championing the Global South, frequently exploited developing countries. FIFA, to name but one example, has contributed to the displacement of marginalised communities in South Africa and Brazil; it has enabled the widespread abuse of migrant workers in Qatar;

⁵² European Commission, Decision C(2022)3721 on the adoption of the Arrangement for Cooperation between the European Commission and the Union of European Football Associations (UEFA).

⁵³ Henk Erik Meier and others, ‘The Capture of EU Football Regulation by the Football Governing Bodies’ (2023) 61 *Journal of Common Market Studies* 692; Zgliniski, ‘Reforming Football’ (n 9).

⁵⁴ Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020) 67; in relation to sport, Antoine Duval, Alexander Krüger, and Johan Lindholm (eds), *The European Roots of the Lex Sportiva: How Europe Rules Global Sport* (Hart 2024).

⁵⁵ Arie Reich, ‘The Impact of the Court of Justice of the European Union on the Israeli Legal System’, Ch 12 in Arie Reich and Hans Micklitz (eds), *The Impact of the European Court of Justice on Neighbouring Countries* (Oxford University Press 2020) 299–301.

and its weak stance on gender equality has sidelined women from leadership roles in football administration across the world. By introducing enforceable governance standards, EU regulation could be a corrective tool that protects vulnerable stakeholders, promotes fairer governance structures, and strengthens transparency across international sports.⁵⁶ If developed in cooperation with affected communities and designed to allow them to voice their interests, EU regulation could be a force for positive change in the Global South instead of (just) an external control mechanism.⁵⁷

Overall, the EU is singularly well positioned to regulate sports governance due to its regulatory expertise, enforcement mechanisms, and transnational legal framework. It has successfully regulated cross-border sectors like financial markets and digital platforms, demonstrating its ability to create structured governance models. A European Sports Act could provide similar clarity and accountability, ensuring that sporting bodies uphold transparency and democratic governance. Unlike individual states, the EU cannot be threatened with exclusion from international competitions, making it resistant to coercive tactics from sports federations. Given the size and influence of the internal market, governance standards imposed at the EU level would likely extend globally through the Brussels effect, forcing international federations to align with EU transparency, stakeholder representation, and financial accountability standards. The EU can drive systemic governance improvements worldwide by leveraging its regulatory power. As Weiler et al. argue: ‘The solution lies with the European Union. It is time for the EU to step up, legislate, and safeguard the foundations of European sport.’⁵⁸ If not the EU, then who?⁵⁹

IV. CONSTITUTIONAL FOUNDATIONS

Making a case for EU legislative intervention must first reckon with constitutional constraints. The EU does not enjoy a general regulatory competence. Instead, it may act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives stipulated by the Treaties. This is known as the ‘principle of conferral’. It is central to the nature of the EU that it must operate within the *limits* crafted by the Treaties.

Article 165 of the Treaty on the Functioning of the European Union (TFEU) provides the EU with the competence to support, coordinate, or supplement the actions of the Member States in sport. It grants the EU institutions the power to adopt incentive measures to contribute to defined objectives in the field of sport. It is explicitly stated that this shall not extend to the harmonisation of national laws. Article 165 TFEU is written with calculated restraint, a point which the Commission

⁵⁶ On how the EU can be depicted as opposing rather than pursuing ‘neo-colonialist’ trends beyond its borders, see Morgane Thorens, Nadia Bernaz, and Otto Hospes, ‘Advocating for the EU Corporate Sustainability Due Diligence Directive Against the Odds: Strategies and Legitimation’ (2025) 63 *Journal of Common Market Studies* 606.

⁵⁷ Zgliniski and FairSquare (n 12) 18–19.

⁵⁸ Weiler and others (n 7).

⁵⁹ Weatherill, ‘Saving Football from Itself’ (n 8) 17.

periodically notes in resisting appeals to develop legislative initiatives affecting sport.⁶⁰ Article 165 TFEU would not be adequate to support a measure with the ambitious reach that we propose. We do *not* wish to rely on Article 165 TFEU.

The measure's legal basis is instead provided by Article 114 TFEU. It would, therefore, be a measure of legislative harmonisation aimed at improving the functioning of the internal market. According to the first paragraph of Article 114 TFEU, the Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, 'adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market'.

The scope of Article 114 TFEU is not unlimited. That follows from the principle of conferral and, in more concrete terms, from the wording of the provision itself, which insists that it be used only in connection with the establishment and functioning of the internal market. The Court has taken the opportunity presented by litigation to elaborate on the criteria that must be satisfied for the EU to adopt measures based on Article 114 TFEU.⁶¹ To claim an authorisation to replace legislative divergence at national level with regulatory harmonisation at EU level, the EU must find obstacles to trade arising because the Member States have taken divergent measures which bring about different levels of protection and which prevent free movement within the Union; or alternatively, if there are no such obstacles, it must be likely that such obstacles will emerge in the future because the Member States are about to take divergent measures which will bring about different levels of protection and which will prevent free movement within the Union. In such circumstances, Article 114 TFEU authorises the Union legislature to intervene by adopting appropriate measures in compliance with Article 114(3) TFEU and with the legal principles mentioned in the Treaty, of which the most prominent are the principles of subsidiarity and proportionality and those stipulated by the Charter of Fundamental Rights.

It is well-known that this is a generously broad test. There are very few instances of the Court finding that an EU measure adopted on the basis of what is now Article 114 TFEU is not valid. The main reason is that it is rarely difficult to identify regulatory diversity among the Member States which is in some way harmful to the integration of markets within the EU. In any event, the Court has no demonstrable appetite for requiring sophisticated economic analysis of the effects of such diversity when it is asked to check whether a measure of harmonisation is covered by the grant of legislative competence made under the Treaty to the EU. This provides important context. Article 114 TFEU confers in principle only a limited competence on the EU, but those limits, associated with the need to show a connection to the functioning of the internal market, are generously broad. But this does not release us from the constitutionally mandated task of showing that the test is met in the EU regulating sports governance.

⁶⁰ European Parliament, 'Parliamentary Question | Answer for Question E-001039/24 | E-001039/2024(ASW)' (31 May 2024) <https://www.europarl.europa.eu/doceo/document/E-9-2024-001039-ASW_EN.html>.

⁶¹ Case C-380/03 *Germany v Parliament and Council* EU:C:2006:772, para 41; Case C-358/14, *Poland v Parliament and Council* EU:C:2016:323, para 36; Case C-547/14, *Philip Morris Brands and Others* EU:C:2016:325, para 62; Case C-482/17, *Czech Republic v Parliament and Council* EU:C:2019:1035, para 37.

We believe the conditions for reliance on Article 114 TFEU are met. The argument holds first that within the Member States, there are disparities between patterns of regulation of sport. Second, this results in the fragmentation of the internal market, both by impeding cross-border economic activity directly and by raising the risk of increased compliance costs due to different sets of national regulatory requirements. Finally, the EU may intervene by setting common standards which provide a foundation for economic activity within the EU internal market according to the harmonised rules addressing matters such as governance in sports, which the EU selects.

At present, there are significant differences in the way that sport is regulated at the national level that stem from both public regulation and self-regulation. This concerns general questions of regulatory technique – contrast, for example, the licensing system in France, which sets out comprehensive requirements for federations and leagues with the non-interventionist model preferred by Denmark. It also involves specific questions of substance – mandatory term limits for presidents in France, maternity protections for athletes in Spain, minimum quota for women on sports governing bodies in Poland, fan ownership of clubs in Germany and Sweden, and so on.⁶² There is a likelihood that these differences may deepen, as pressure to regulate sport intensifies. For example, although the UK is no longer a Member State, it is plausible that its decision to establish an independent regulator for football will trigger emulation within the EU, generating divergent approaches at the national level. The EU is competent to intervene pursuant to Article 114 TFEU not only where public regulation in the Member States is already different but also where it is likely or probable that differences will emerge.⁶³ The key constitutional requirement is that such differences are shown to affect the functioning of the EU internal market. They do so by reducing the appeal of cross-border activity; most of all by investors, but also plausibly by players and clubs. Moreover, divergences at the national level distort competition between clubs when they compete in European club competitions. Germany's 50+1 rule applicable in football is a good example: it has become commonplace for club owners and investors to complain about the disincentives to operate in Germany when compared with countries with less interventionist regimes.

Much regulation of sport in Europe already operates according to a harmonised model set by regional federations like UEFA, so we fully recognise that we need to demonstrate the existence of disparities between national practices which harm cross-border trade in order to make good on our claim that Article 114 TFEU provides an adequate base for our proposal to adopt a European Sports Act. We believe we can do so. Our proposal for EU legislation covers good governance requirements, human rights, solidarity, sporting competitions, and the rights of athletes. Doubtless the patterns of regulatory divergence are not precisely the same across these categories. It seems plausible, for example, that one may detect current variation in the treatment of good governance requirements and the rights of

⁶² Paul Fischer and others, 'Responsible Sport and State Oversight: Sports Organisations as Civil Society Organisations and Private Regulators in France and Germany' (2024) 24 *International Sports Law Journal* 3; Mickael Terrien, Antoine Feuillet, and Emmanuel Bayle, 'A Taxonomy of National Sport Federations Based on Their Financial Profiles: The Case of France's State-Subsidized Model' (2023) 28 *Managing Sport and Leisure* 490.

⁶³ Case C-58/08, *Vodafone and Others* EU:C:2010:321, paras 33, 36, 45.

athletes more readily than in the matter of human rights, solidarity, and sporting competitions. However, as explained, Article 114 TFEU may be relied on to address not only existing obstacles to cross-border economic activity in the internal market but also obstacles likely to emerge. Given the increasing concern about the human rights issues associated with high level sport, pressure to regulate at national level is only set to increase. The same is true of solidarity, given the increasingly straitened financial plight of many clubs.⁶⁴ And the momentum in favour of regulating sporting competitions is likely to accelerate in the wake of the increasing turbulence caused by the wave of litigation challenging existing organisational practices to which we refer to in Section III.2. The impact on the EU internal market of actual or potential national regulation on good governance requirements, human rights, solidarity, sporting competitions, and the rights of athletes is not uniform, but it is appreciable.

In making this case for an EU competence to adopt a Sports Act of the type we propose, it is helpful that the threshold requirement that an obstacle to trade arising because the Member States have taken divergent measures which prevent free movement within the Union does not mean that each and every provision of a measure based on Article 114 TFEU must be shown to have an established connection with cross-border trade. Reliance on Article 114 TFEU ‘does not presuppose the existence of an actual link with free movement between the Member States in every situation covered by the measure founded on that basis’.⁶⁵ The test is instead more flexible. The Court considers that ‘what matters is that the measure adopted on that basis must actually be intended to improve the conditions for the establishment and functioning of the internal market’.⁶⁶ Were it otherwise, the limits of the field of application of the EU measure would be ‘particularly unsure and uncertain, which would be contrary to its essential objective of approximating the laws, regulations and administrative provisions of the Member States in order to eliminate obstacles to the functioning of the internal market deriving precisely from disparities between national legislations’.⁶⁷ The Court allows a degree of flexibility in determining the breadth of a measure of legislative harmonisation based on Article 114 TFEU. Ultimately, the economic implications of national regulation on the EU internal market of the matters we address – good governance requirements, human rights, solidarity, sporting competitions, and the rights of athletes – are likely to vary in scale and intensity category by category, but we are confident that the overall package meets the Court’s threshold tests for reliance on Article 114 TFEU as a basis for EU legislation.

The Court has taken the view that ‘measures’ may cover not only the harmonisation of general laws but also the power to lay down measures relating to a specific product or class of products and, if necessary, individual measures concerning those products.⁶⁸ The key requirement is demonstrating a contribution to the better functioning of the internal market. Achieving the ‘unity of the market’,

⁶⁴ For the latest example, see Tom Burrows, ‘The decline of Girondins de Bordeaux: “It’s like the Titanic”’ *The Athletic* (21 September 2024) <<https://www.nytimes.com/athletic/5781741/2024/09/21/bordeaux-girondins-decline-financial-trouble/>>.

⁶⁵ *Germany v Parliament and Council* (n 61) para 80; Cases C-465/00, C-138/01, and C-139/01, *Österreichischer Rundfunk* EU:C:2003:294, para 41; Case C-101/01, *Lindqvist* EU:C:2003:596, para 40.

⁶⁶ *Germany v Parliament and Council* (n 61) para 80; *Österreichischer Rundfunk* (n 65) para 41.

⁶⁷ *Österreichischer Rundfunk* (n 65) para 42; *Lindqvist* (n 65) para 41.

⁶⁸ Case C-359/92, *Germany v Council* EU:C:1994:306, para 37.

as the Court put it in *UK v Parliament and Council*,⁶⁹ dictates a wide reading of ‘measures’ that may be adopted pursuant to Article 114 TFEU. Not just harmonisation in the classic sense of replacing national measures of general market regulation with EU rules of general application but also individual decision-making, agency creation and shaping of procedures, and methods for administrative co-operation fall within the scope of Article 114 TFEU provided they are sufficiently closely connected to the substance of harmonisation, rather than something ‘isolated’⁷⁰ or something that is a new form of entity existing alongside but leaving unaffected the diverse national forms.⁷¹ Article 114 TFEU is not a limitless competence, but it is a generously broad one.

It would be possible to base the Sports Act on a combination of Articles 53(1), 62, and 114 TFEU, all of which authorise the EU to harmonise laws to promote the functioning of its internal market. Several existing measures, such as those dealing with the harmonisation of rules on tobacco products, follow this model.⁷² However, this would mean that a directive would be required, whereas using Article 114 TFEU alone would permit a choice between a directive and a regulation. Our preference is, therefore, to use Article 114 TFEU alone as the legal base. There is no constitutional requirement to add Articles 53(1) TFEU and 62 TFEU alongside Article 114 TFEU. This is, moreover, consistent with legislative practice. A number of EU measures affecting both goods and services markets are based on Article 114 TFEU. Many are directives, which have tended to be the EU’s instrument of choice to leave space for implementation according to local preference and administrative culture. However, driven by anxiety that this may perpetuate fragmentation along national lines within the internal market, there has been a more recent push towards harmonisation by regulation. So, for example, a regulation based exclusively on Article 114 TFEU is the preferred form for the Digital Markets Act,⁷³ the Digital Services Act,⁷⁴ or the European Media Freedom Act.⁷⁵ The same goes for Regulations on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities,⁷⁶ the prevention of the use of the financial system for the purposes of money laundering or terrorist financing,⁷⁷ data collection

⁶⁹ Case C-270/20, *United Kingdom v Parliament and Council* EU:C:2014:18, para 106.

⁷⁰ Case C-217/04, *United Kingdom v Parliament and Council* EU:C:2006:279, para 60.

⁷¹ Case C-436/03, *Parliament v Council* EU:C:2006:277.

⁷² Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products [2014] OJ L127/1.

⁷³ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector [2022] OJ L265/1.

⁷⁴ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services (Digital Services Act) [2022] OJ L277/1.

⁷⁵ Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market (European Media Freedom Act) [2024] OJ L2024/1083.

⁷⁶ Regulation (EU) 2024/3005 of the European Parliament and of the Council of 27 November 2024 on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities [2024] OJ L2024/3005.

⁷⁷ Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [2024] OJ L2024/1624.

and sharing relating to short-term accommodation rental service,⁷⁸ and the establishment of a framework to facilitate sustainable investment.⁷⁹ It might be appropriate to add Article 157(3) TFEU to Article 114 TFEU as the legal base in so far as the proposal addresses gender equality.⁸⁰ That would not affect the choice of legal instrument, though. Article 157(3) TFEU, like Article 114 TFEU, permits adoption of ‘measures’, and therefore leaves open choice between regulation or directive.

Any exercise of a conferred competence to legislate in any area of shared competence must comply with the principle of subsidiarity. The Court has devised a formula which, in practice, permits a high level of legislative discretion. Where the EU is granted the competence to adopt common rules, the Court routinely finds that the adoption of common rules satisfies the demands of the principle of subsidiarity – because only the EU, and never the individual Member States, may adopt common rules. Our proposed measure based on Article 114 TFEU would, therefore, comply with the principle of subsidiarity. Much the same is true of the principle of proportionality. The Court consistently allows the EU legislature a broad discretion in an area which entails political, economic, and social choices on its part, and in which it is called upon to undertake complex assessments. This is the character of harmonisation pursuant to Article 114 TFEU and the Court will intervene only if a measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue.⁸¹

The measure would apply to federations engaged in economic activity in the EU. This is entirely normal and orthodox. It would, therefore, apply to federations based in the EU and also to federations based outside the EU in so far as they are active inside the EU. It is possible that the EU’s standards may also exert an extraterritorial effect in the form of the aforementioned Brussels effect,⁸² meaning voluntary compliance with EU standards by federations and/or adoption by third countries of binding rules based on the EU model. EU rules apply to firms based outside the EU on the straightforward basis that they are subject to EU law when they are economically active on the EU’s territory. So, it is well known that large companies based in North America are subject to EU rules such as the Digital Markets Act in so far as they are active in the EU, and that those EU rules are stricter than they are subject to in their home jurisdiction. Sport is structured differently. Take football. Most of the economic activity within the EU is organised by national associations. Accordingly, they would be the most obvious and immediate subjects of our proposed measure. But governing bodies like UEFA and FIFA do have a presence in the internal market as well, through the organisation of competitions such as the Champions League, European Championships, and the World Cup (as well as indirectly through their regulatory authority over national associations). The measure would cover them when they are active in the internal market.

⁷⁸ Regulation (EU) 2024/1028 of the European Parliament and of the Council of 11 April 2024 on data collection and sharing relating to short-term accommodation rental services [2024] OJ L2024/1028.

⁷⁹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment [2020] (OJ L198/13).

⁸⁰ Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies [2022] OJ L315/44.

⁸¹ See *Germany v Parliament and Council* (n 61) para 145; *Poland v Parliament and Council* (n 61) paras 78–79; *Czech Republic v Parliament and Council* (n 61) para 77.

⁸² Bradford (n 54).

V. A EUROPEAN VISION OF SPORT

A European Vision of Sport inspires our proposal. We believe that this vision can be extracted primarily from the case law of the CJEU and policy documents issued over time by the EU's institutions and by the Council of Europe, developed against the background of the practice of sporting governing bodies themselves. It embraces the values underpinning sport in Europe, such as participation based on sporting merit and pursuit of financial solidarity, as well as organisational aspects associated with the pyramid structure of governance and a single federation per sport. Our depiction of a European Vision of Sport is neither static nor uncritical. It is well known that different sports follow different models and that respect for the 'top-down' pyramid model is tempered by increasing demands for improved representation and transparency, while the single federation principle risks the entrenchment of self-serving choices by that federation.

A European Vision of Sport has a connection to the 'European Sports Model', but we use the notion of a 'vision' to insist on an inquiry which stretches more widely than a 'model'. The European Sports Model is a contested concept which lacks a uniform meaning. Its principal focus has long been on assumptions such as leagues that are open, not closed, in the sense that they involve promotion and relegation between different tiers within the competition; clubs that do not migrate from one city to another, still less from one country to another; a governance structure based on a pyramid and a single federation per sport, which in European football locates UEFA at the apex and cascades its rules downwards to national associations, and then to affiliated clubs and to registered players; an organic connection between elite professional sport, lower level sport and grassroots amateur sport, frequently involving a degree of income distribution according to notions of vertical solidarity within the sport.⁸³ The contrast with North American practice is obvious.⁸⁴ The point is not that all sports fit this model in Europe,⁸⁵ still less that the model is obligatory. The European Sports Model is predominantly a loose-edged description of embedded and incrementally developed social and cultural practices and expectations, and it is not at all the product of any legislative mandate.

These recognised features of the European Sports Model are also key components of a European Vision of Sport. However, we also want to insist on the importance of how decisions are taken, on whose behalf, and according to what types of representation. Such matters have not conventionally formed part of the debates about a European Sports Model. Indeed, governing bodies have in the past

⁸³ Floris de Witte and Jan Zgliniski, 'The Idea of Europe in Football' (2022) 1 *European Law Open* 286; Colin Miège, 'Qu'en est-il du « modèle sportif européen », 25 ans après l'arrêt *Bosman*?' *Sport et citoyenneté* (21 January 2021) <<https://www.sportetcitoyennete.com/articles/quen-est-il-du-modele-sportif-europeen-25-ans-apres-larret-bosman>>; Jack Meredith and Borja García, 'To Be or Not to Be Specific? Understanding EU Institutions' Definition of the Specific Nature of Sport' (2023) 1 *Sports Law, Policy & Diplomacy Journal* 17.

⁸⁴ James AR Nafziger, 'EU and North American Models of Organization' in James AR Nafziger and Ryan Gauthier (eds), *Handbook on International Sports Law* (2nd edition, Edward Elgar 2022); William Berry and William Morris, 'Scoring across the Pond: A Comparison of Football Governance Models' in Robby Houben (ed), *Research Handbook on the Law of Professional Football Clubs* (Edward Elgar 2023).

⁸⁵ Emmanuel Bayle, 'A Model for the Multi-Centered Regulation of World Sport' (2023) 15 *International Journal of Sport Policy and Politics* 309.

urged respect for the ‘European Sports Model’ precisely as a means to champion their own autonomy and to seek to shut down external scrutiny of their internal decision-making procedures. We do not accept that. A European Vision of Sport expects more.

This determination to break open the autonomy to which governing bodies commonly lay claim is fully in line with the several sources on which we draw to give shape to a European vision of sport.

1. Jurisprudential *acquis*

The Court in *MOTOE* tested the power of a governing body to approve new competitions organised by a third party against the demands of Article 102 TFEU.⁸⁶ The Court did not condemn the gatekeeping role typically performed by a governing body, but it insisted on a review of the way in which the function was performed. In particular, it objected to a power to give consent to applications for authorisation to organise competitions which was not subject to restrictions, obligations, and opportunity for review. Its vision is ‘equality of opportunity’ between the several interested organisers of events.⁸⁷

This thematic concern to respect the gatekeeping role played by governing bodies but at the same time to use EU law to impose constraints on *how* governing bodies take decisions with both regulatory and commercial significance also animates the Court’s *European Superleague Company* ruling of 21 December 2023.⁸⁸ The Court went out of its way to declare its receptivity to rules ensuring that participation in and conduct of competitions shall be based on sporting merit and equal opportunities. In addition, it accepted that rules on prior authorisation may be motivated by the pursuit of legitimate objectives including respect for the principles, values, and rules of the game which underpin professional football.⁸⁹ So, it may be lawful to act to suppress a competition which is not based on access via sporting merit. However, the Court added an insistence that the governing body must operate according to transparent, objective, and non-discriminatory criteria. The absence of such procedural integrity led to a finding that UEFA’s practices governing the authorisation of new competitions were not compatible with EU law.

Similarly, in *Diarra*, the Court’s interpretation of both Articles 45 and 101 TFEU allows for recognition of a legitimate regulatory role performed by FIFA in adopting common rules to regulate sport and provided some detail on how far this may reach.⁹⁰ But, as was the fate of UEFA’s authorisation procedure in *Superleague*, FIFA’s transfer system fell apart under detailed scrutiny. The ruling in *Diarra* challenges FIFA to pin down with more care how and why rules governing the consequences of unilateral termination of contract are necessary to protect the integrity of sporting competition, and to devise rules that genuinely do so.

Although the European Sports Model is not legally defined, it must comply with EU law. Put another way, EU law does not mandate what shall be the model of sport used in Europe, but it does rule out that it shall include practices or features

⁸⁶ Case C-49/07, *MOTOE* EU:C:2008:376.

⁸⁷ *Ibid*, para 51.

⁸⁸ *European Superleague Company* (n 33).

⁸⁹ *Ibid*, 143, 144, 176.

⁹⁰ *FIFA v BZ* (n 34) paras 100–103, 143–144.

which are not compatible with EU law. Article 165 TFEU directs that: ‘The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport’. The Court’s case law, driven for over 50 years by the accidents of litigation, illuminates what this entails. It reveals a willingness to engage with the motivations underpinning sports governance. Still, the Court is not prepared to grant governing bodies unconditional autonomy in choosing the way they operate in detail and in practice. By granting a voice to affected interests, EU law, interpreted by the Court, has the effect of softening some of the hierarchies assumed by the top-down pyramid governance model.⁹¹ Its decisions push governing bodies in the direction of transparency, objectivity, and non-discrimination in their procedures. They are built on the expectation that the claimed special features of sport shall be articulated with rigour and precision.

2. Policy *acquis*

In the Staff Working Document which accompanied its 2007 White Paper on Sport, the European Commission conceded that ‘any attempt at precisely defining the “European Sport Model” quickly reaches its limits’.⁹² However, in 2021 a resolution of the Council and representatives of the Member States on the key features of a European Sports Model is bolder.⁹³ It recognises that: ‘The key features for most of the values-based organised sport in Europe represent an organisation of sport in an autonomous, democratic and territorial basis with a pyramidal structure’,⁹⁴ which is ‘organised by one federation per sport, allowing for a comprehensive approach to rules’.⁹⁵ The Resolution identifies features ‘such as freedom of association, pyramidal structure, open system of promotion and relegation, grassroots approach and solidarity, role in national identity, community building and structures based on voluntary activity as well as its social, educational, cultural and health functions’.⁹⁶

As is explicitly noted in the 2021 Resolution,⁹⁷ the Work Plan for Sport of 2021-2024 had already located the topic of the European Sports Model within its ‘Priority area: Protect integrity and values in sport’.⁹⁸ Its Annex I promised to take account of the specificity of sport in investigating challenges faced by sports organisations, with the declared goal of knowledge building, analysis of the situation, and awareness rising. The Work Plan for Sport of 2024-2027 takes as an objective to support, further explore, and continue on-going discussions on the key features of a European Sport Model.⁹⁹ It notes that the key features of a European Sport Model

⁹¹ Borja García and Henk Erik Meier, ‘Limits of Interest Empowerment in the European Union: The Case of Football’ (2012) 34 *Journal of European Integration* 359.

⁹² European Commission, White Paper on Sport 2007 (COM/2007/0391) and accompanying document (SEC/2007/0935).

⁹³ Council, Resolution on the Key Features of a European Sport Model (n 4).

⁹⁴ *Ibid* 8.

⁹⁵ *Ibid* 9.

⁹⁶ *Ibid* 22, 30, 37.

⁹⁷ *Ibid* 5.

⁹⁸ Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council on the European Union Work Plan for Sport (1 January 2021 – 30 June 2024) [2020] OJ C 419/1.

⁹⁹ Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council on the European Union Work Plan for Sport (1 July 2024 – 31 December 2027) [2024] OJ C2024/3527 para 15.

are set out in the 2021 Resolution.¹⁰⁰ Its Annex promises thematic concern for ‘Openness of competitions, sporting merit, integrity, solidarity and values in sport’ with a goal of knowledge building and follow-up work and intent to study future developments, threats, and opportunities impacting the European Sport Model. This is not normative in ambition nor legislative in form. It is essentially a descriptive account of current practice. However, the point is that these documents reveal a wider vision than the European Sports Model narrowly understood. And this invites the introduction of a normative edge.

The 2021 Resolution on the key features of a European Sports Model emphasises in paragraph 11 that federations should have a central role in overseeing the organisation and functioning of their respective sport. The same paragraph cautions that they should reconcile in a democratic, balanced, and cohesive manner the interests of athletes, clubs, leagues, fans, and other stakeholders, as well as other sports organisations, in order for all to contribute to the healthy development of sport. Paragraph 14 lists threats to organised sport in Europe and calls for a response apt to safeguard the values and integrity of sport and to promote good governance. Paragraph 15 makes an explicit linkage between standards of governance and autonomy. It declares that good governance in sport is a ‘prerequisite for the autonomy and self-regulation of sport organisations and federations, in compliance with the principles of democracy, transparency, integrity, solidarity, gender equality, openness, accountability and social responsibility’. It adds that it ‘is essential that sport organisations and federations uphold and, where possible, raise their standards of good governance by giving voice to athletes and to fans’. In the same vein, paragraph 20 considers that it is ‘of overriding importance that values-based organised sport preserves the integrity of sport, adheres to good governance principles, respects national, EU and international law and maintains the level-playing field necessary to effectively implement the solidarity values between all actors’. This is a vision which transcends the orthodox debate about the European Sports Model. It sets out a wider agenda, within which the way that decision-making occurs is subject to scrutiny. It sets out principles of governance which are not currently the norm in sport.

A closely comparable approach is found in the 2019 conclusions of the Council and representatives of the Member States on combating corruption in sport.¹⁰¹ It is declared that ‘sports governing bodies should be able to maintain a high degree of autonomy in fulfilling their role in all fields of sport’, but this is not unconditional. It is coupled to the observation that: ‘This comes with an implicit recognition that any such autonomy must be earned through good governance and upholding the highest standards of integrity in their sport’.¹⁰² The document takes pains to locate this in the longer development of EU sports policy. The attached footnote in the 2019 document refers *inter alia* to a 2011 Commission report entitled ‘Developing the European Dimension in Sport’, in which it is stated that ‘Good governance in sport is a condition for the autonomy and self-regulation of sport organisations’ and that ‘the Commission considers that there are inter-linked principles that underpin sport governance at European level, such as autonomy within the limits of the law,

¹⁰⁰ Ibid 26, fn 10.

¹⁰¹ Council, Combating Corruption in Sport (n 2).

¹⁰² Ibid 15.

democracy, transparency and accountability in decision-making, and inclusiveness in the representation of interested stakeholders'.¹⁰³

It is not only the EU which is attentive to the linkage between sporting autonomy and respect for standards of good governance. The 2017 report 'Good Football Governance', published under the auspices of the Council of Europe's Committee on Culture, Science, Education, and Media, and closely associated with its rapporteur Anne Brasseur, identifies existing failings and makes a powerful case for reforming football's system of governance. The proposed agenda covers respect for human rights and the rule of law, internal democracy, accountability, transparency, solidarity, and compliance with the highest ethical values.¹⁰⁴ Moreover, a Declaration on Sport Integrity was adopted by the Committee of Ministers of the Council of Europe in September 2023.¹⁰⁵ This acknowledges the importance of sport for society and its contribution to the promotion of the Council of Europe's values – human rights, democracy, and the rule of law. It encourages the promotion of transparency, accountability, democracy, and ethical behaviour in sport, including the establishment of robust governance systems, conflict-of-interest policies, whistle-blower protection mechanisms, effective investigation and prosecution of corruption, manipulation of competitions, violence and other infringements of human rights, and the rule of law in the sport context.

A great many documents drawn up by public authorities in Europe share this thematic respect for the special role and status of governing bodies in sport, yet wish to emphasise the importance of holding them to standards of good governance which are commensurate with the power they exercise.¹⁰⁶ The Work Plan for Sport for 2021–2024 contains a list of 15 documents in its Annex II, entitled *Political background*, covering reports and resolutions issued by the Commission, the Parliament, the European Council, the Committee of the Regions, the Council and representatives of the Member States, and the Council of Europe.¹⁰⁷ There is no virtue in attempting to provide an exhaustive bibliography here. The point is that the vision is of a European Sports Model within which not only autonomy and sporting specificity, but also good governance is prized. The latter includes aspects such as democracy and representation; ethics and integrity; transparency and accountability; human rights; diversity and inclusion; social responsibility and solidarity; health, safety, and well-being; and regulation and structural adjustments.¹⁰⁸ We believe this sketches a compelling vision which goes beyond the European Sports Model as an organisational design and insists that standards of good governance supplement it. The question is: how to hold governing bodies to such standards?

The 2021 Resolution on the key features of a European Sports Model identifies the long list of features that were mentioned above, but its point is to encourage the

¹⁰³ European Commission, Developing the European Dimension in Sport (COM/2011/0012) para 4.1.

¹⁰⁴ Anne Brasseur, 'Good Football Governance' (Council of Europe, Parliamentary Assembly 2018) <<https://pace.coe.int/en/files/22616#trace-1>>.

¹⁰⁵ Declaration by the Committee of Ministers on Sport Integrity (Decl(27/09/2023)).

¹⁰⁶ On the (analogous) need to impose control on private power sourced in online platforms and other large transnational economic actors, see e.g. Orit Fischman-Afori, 'Taking global administrative law one step ahead: online giants and the digital democratic sphere' (2022) 20 *International Journal of Constitutional Law* 1006.

¹⁰⁷ EU Work Plan for Sport 2021–24 (n 98).

¹⁰⁸ Exner and Weatherill (n 15); Meredith and García (n 83).

Member States, the Commission, and the so-called ‘sport movement’ to provide support.¹⁰⁹ It does not suggest that the EU should adopt legislation to protect, still less advance, this model. Similarly, the Resolution espouses compliance with the principles of democracy, transparency, integrity, solidarity, gender equality, openness, accountability, accessibility, social responsibility, and respect for fundamental and human rights – but it is the Member States who are invited to promote this.¹¹⁰ Structures in sport should operate with a high degree of good governance, transparency, accountability, social responsibility, inclusivity, integrity, democracy, self-regulation, and respect for fundamental and human rights – but it is the Commission which is invited to promote this.¹¹¹ A mission to preserve and strengthen fundamental and human rights, gender equality, and social inclusion by avoiding all forms of discrimination and to ensure that effective internal and external mechanisms are in place to ensure compliance with good governance principles is announced – but it is the ‘sport movement’ which is invited to promote this.¹¹²

The same pattern animates the 2023 Conclusions of the Council and the representatives of the Member States on women and equality in the field of sport.¹¹³ There is vigorous emphasis on the importance of gender equality – but it is the Member States, the Commission, and the ‘sports movement’ which are encouraged to improve practice. The 2024 Conclusions of the Council and the representatives of the Member States on the contribution of self-organised sport to supporting active and healthy lifestyles in the EU adopt the same model.¹¹⁴ Something similar is found in the Declaration on Sport Integrity adopted by the Committee of Ministers of the Council of Europe in September 2023.¹¹⁵ This is rich in commitments to values such as human rights, democracy, and the rule of law, and it encourages the promotion of transparency, accountability, democracy, and ethical behaviour in sport. However, it is the Member States and sports organisations which are encouraged to enact relevant norms.

This is worthy. But it is also unrealistic. The reasons have been articulated above in Section III. In short, the Member States acting unilaterally can do little to supervise powerful governing bodies with global reach, most of which are based in Switzerland, a non-Member State. The Commission can advise and encourage, but this falls far short of what is required to make real this agenda of good governance. In any event, it has been demonstrated how UEFA has been rather successful in securing the Commission’s support for its existing practices.¹¹⁶ The ‘sport movement’ is currently far removed from full compliance with these good governance principles, and embedded self-interest prevents meaningful change occurring from within.¹¹⁷ An external impetus is required if this rhetorically vibrant

¹⁰⁹ Council, Resolution on the Key Features of a European Sport Model (n 4) paras 22, 30, 37.

¹¹⁰ Ibid 24.

¹¹¹ Ibid 33.

¹¹² Ibid 42–43.

¹¹³ Conclusions of the Council and of the Representatives of the Governments of the Member States meeting within the Council on women and equality in the field of sport [2023] OJ C2023/1362.

¹¹⁴ Conclusions of the Council and of the representatives of the governments of the Member States meeting within the Council on the contribution of self-organised sport to supporting active and healthy lifestyles in the European Union [2024] OJ C2024/3809.

¹¹⁵ Declaration by the Committee of Ministers on Sport Integrity (n 105).

¹¹⁶ Meier and others (n 53).

¹¹⁷ As discussed in Section III.1.

embrace of the importance of good governance in sport is to be converted into a genuine process of reform.¹¹⁸ The EU currently does no more than nudge the ‘sport movement’ in the direction of improvement, through policy documents of this type and through decisions of the Court which are infused with thematic concern to require transparency, objectivity, and non-discrimination, but which are *ad hoc* and unpredictable in their impact and which, moreover, are commonly the subject of grudgingly minimalist compliance by governing bodies.¹¹⁹

We take inspiration from these political commitments to the virtue of improved governance in sport coupled with judicial interpretation of EU internal market law. But we want to move the ground rules onto a more effective, predictable, and constitutionally stable basis. Our contention is that this vision can be made real in a systematic way only by legislative intervention and that it is only the EU that can provide this.

VI. THE PROPOSAL

There is a variety of shapes which European sports legislation could, in principle, take. This concerns its substantive scope, the level of harmonisation, as well as the enforcement structure. Three basic regulatory options, or ideal types, can be envisaged: centralised, decentralised, and mixed.¹²⁰

Option 1 is a centralised maximalist model. EU legislation would have a broad scope, covering all relevant aspects of sporting activity (or at least all those with a direct link to the internal market), similarly to the sports laws that exist in many Member States at present. This could range from core aspects of sports governance, such as the composition and powers of federations, to more specific issues like anti-doping, sporting infrastructure, club ownership, and athlete rights. The rules would govern the sector in a comprehensive manner, following a maximum harmonisation approach. An EU Sports Agency, modelled after the many existing EU agencies or domestic sports regulators, would be established to enforce them at both the national and European levels. Alternatively, enforcement powers could be assigned to the Commission.¹²¹ This could be combined with a licensing system that imposes *ex ante* compliance checks on sports governing bodies, professional leagues, and other actors covered by the legislation, drawing on current practices in a number of Member States.

¹¹⁸ FairSquare (n 12).

¹¹⁹ The reform of the transfer system after *Bosman* took over 6 years to complete; see Weatherill, *Principles and Practice in EU Sports Law* (n 31) Ch. 9.8. UEFA’s authorisation criteria revised after *Superleague* remain contaminated by discrimination in favour of UEFA’s own competitions; see Joe McGrath, ‘EU competition law and sports governance: a lesson of legitimacy and distrust’ (2024) 26 *Irish Journal of European Law* 181, 195–199; Stefaan Van den Bogaert and Ben Van Rompuy, ‘The New Testament for sports and EU competition law in *European Super League*, *ISU*, and *Royal Antwerp*’ (2025) 62 *Common Market Law Review* 577, 604–606.

¹²⁰ Note that some elements of these models could be combined (e.g. comprehensive EU rules with decentralised enforcement).

¹²¹ To allow the Commission to effectively discharge its new tasks, it would need to be provided with additional resources, e.g. through a DG Sport.

There is promise in this course of action. The European Sports Act would lay down far-reaching legal requirements, thus significantly raising governance standards and promoting sporting values in the Union as well as potentially beyond. The result would be a coherent Europe-wide approach to sports regulation, with centralised enforcement through an independent agency that would safeguard effective implementation. This would eliminate regulatory fragmentation and, by the same token, create the proverbial level playing field allowing federations, clubs, and athletes to compete (more) fairly. However, there are also drawbacks. The solution would tangibly limit Member State powers in an area which is marked by political sensitivities and divergent regulatory traditions. It would, likewise, make it impossible for individual governments to adopt higher standards, disincentivising valuable initiatives at the national level.

Option 2, then, rests on the polar opposite idea: a decentralised minimalist model. The European Sports Act would lay down some ground rules in a limited number of core areas of sports governance. The result would be partial and minimum harmonisation. In the fields not covered by the legislation, Member States could continue to regulate freely; in the fields that are covered, they could go beyond the standards laid down therein. Enforcement would happen at the national level through designated regulatory authorities. Coordination and exchange between those authorities would need to happen on a case-by-case basis or, alternatively, through a European network (see e.g. the Corporate Sustainability Due Diligence Directive) or board (see e.g. the European Media Freedom Act).

Let us be clear: this, too, would be progress. Even a narrow piece of EU sports legislation which is primarily or exclusively implemented by national authorities is likely to effect positive change. Governance standards in sports will improve for the benefit of athletes, fans, and local communities – less strongly, less rapidly, but still. The most significant advantage of the model is that it protects local autonomy to a greater extent than a centralised solution. This, however, is also its most serious disadvantage. It opens, by design, the door for fragmentation. Different rules will remain or emerge across Europe; the same rules will be enforced in different ways.¹²² What is more, by maintaining the power of Member States, the system, perhaps paradoxically, puts a higher degree of pressure on them. Given that national governments tend to struggle with regulating sports for fear of reprisals from powerful international federations, a model giving them wide autonomy with regard to law-making and implementation risks re-creating the dynamics that have led to the unsatisfactory status quo. Standing up to big governing bodies would continue to be challenging.

Option 3 – our proposal – presents a middle ground. It sets out rules on good governance and a few adjacent areas, such as social responsibility (including human rights), sporting competitions, and athlete rights, while not interfering in other domains. The harmonisation model and enforcement structure follow a bifurcated approach. For international sports organisations, the rules laid down in the Act are exhaustive (maximum harmonisation) and will exclusively be enforced by the to-be-created EU Sports Agency. For national sports organisations, Member States can adopt more stringent requirements (minimum harmonisation) and designate

¹²² See Giulia Gentile and Orla Lynskey, ‘Deficient by Design? The Transnational Enforcement of the GDPR’ (2022) 71 *International & Comparative Law Quarterly* 799.

national sports authorities to monitor compliance. This design harnesses the institutional strengths of the EU, notably the comparatively higher ability to regulate and control international federations, while giving Member States the possibility to adopt more ambitious solutions reflecting local preferences. Before getting to the text of the proposal, let us briefly outline its content and the regulatory choices underpinning it.

1. Scope of application

The European Sports Act applies to sports governing bodies and competition organisers. By the former, we mean organisations that are responsible for regulating or commercially exploiting a sport, such as federations and associations. By the latter, we mean entities of any legal form that organise sporting competitions, be they recurring or non-recurring. In some sports, the two functions can align – in others, they are separate. While governing bodies have historically been and, in many cases, continue to be the power centres in the sporting world, a number of leagues, tournaments, and events have begun to catch up, even overtake them, in terms of financial success and regulatory influence. The top football leagues in Europe exemplify this shifting dynamic. EU sports legislation must govern both types of actors to guarantee its effectiveness.

The scope of the Act will, as noted, extend to sports governing bodies and competition organisers established in the EU, as well as those which are established elsewhere but engage in commercial activities with businesses or consumers in the EU. Organisations with a turnover below a specified threshold in the last financial year, as well as a second, higher threshold covering the last four financial years (to accommodate the event cycle of many sports), will be exempted.

This framing serves a three-fold purpose. First, it reflects the practical realities of sports governance, many of whose central institutions, especially at the regional and international level, are based outside the Union. Regulating national federations only would be ineffective for achieving the goals of the legislation – whereas, say, second-tier football in Portugal or Slovakia would have to comply with detailed human rights obligations, flagship competitions such as the FIFA World Cup or UEFA Champions League would not. Second, the scope is delineated to reflect the constitutional limits of EU action. Legislation based on Article 114 TFEU requires a direct link with the internal market which, in turn, presupposes that sport constitutes an ‘economic activity’. The threshold ensures that the Act will not catch sporting activities at the local or amateur level. Finally, the requirement of a minimum turnover ensures that the Act is a good fit for its addressees. Small sports organisations following a ‘kitchen-table’ model may struggle with implementing good governance principles which originate in the corporate world.¹²³ Larger sports governing bodies generating significant revenues will not, or at least should not.

It bears emphasising that the Act respects the autonomy of sports. It does not question the regulatory powers and commercial functions of sports organisations. Nor does it impose a specific governance model on them. Sports governing bodies

¹²³ Lisa M Kikulis, ‘Trevor Slack, and Bob Hinings, ‘Institutionally Specific Design Archetypes: A Framework for Understanding Change in National Sport Organizations’ (1992) 27 *International Review for the Sociology of Sport* 343; Jeffrey A Alexander and Bryan J Weiner, ‘The Adoption of the Corporate Governance Model by Nonprofit Organizations’ (1998) 8 *Nonprofit Management and Leadership* 223.

and competition organisers remain free to choose the legal form and organisational structure that best suits their needs, as long as they comply with the basic requirements stipulated. Likewise, the Act maintains an important degree of Member State autonomy. It does not touch on a number of aspects that are typically covered by national sports acts, such as the employment status of athletes, rules for becoming coaches or agents, requirements as to the legal form of sports clubs, and so on. The aspects it does touch on can, following the minimum harmonisation model, be regulated in a more stringent way where desired.

2. Good governance

The substance of the proposal focuses, first and foremost, on good governance. The reason is simple: although good governance ‘will not solve all the problems’ in sport, ‘none of the problems will be solved’ without it.¹²⁴ Most Member States have enacted laws or adopted funding requirements for sports organisations to have explicit rules on good governance, albeit of varying scope and depth. Numerous definitions of the concept have emerged over the years,¹²⁵ but most centre around a few common themes that were outlined above. Our proposal reflects and channels these themes through four good governance principles: democracy, representation, transparency, and accountability. For each principle, a set of specific core requirements is established with which sports governing bodies and competition organisers must comply, drawing on European and international best practices. Following the idea of cascading good governance, federations must promote these principles with their members and affiliated organisations.¹²⁶

As part of the principle of *democracy*, sports organisations are required to have a clear governance structure that establishes a separation of powers between their institutional ‘branches’. They shall hold regular elections for board positions (at least every four years), which are based on objective and transparent criteria. Mandates of board members and executive directors will, reflecting a growing consensus among sports federations and regulators,¹²⁷ be subjected to term limits – two times four years, or eight years in total – to prevent the concentration of decision-making power. At least 25 % of board members will need to be independent; this, too, is a stipulation that is becoming increasingly common in global sports regulation as a means for promoting checks and balances.¹²⁸ To ensure compliance, an independent governance officer or committee will be established. We see these requirements as basic tools for securing that sports organisations are run in line with democratic ideals.

¹²⁴ Jens Sejer Andersen, ‘Foreword’ in Arnout Geeraert and Frank van Eekeren (eds), *Good Governance in Sport: Critical Reflections* (Routledge 2021).

¹²⁵ Ashley Thompson and others, ‘A Systematic Review of Governance Principles in Sport’ (2023) 23 *European Sport Management Quarterly* 1863.

¹²⁶ Sport England and UK Sport, ‘A Code for Sports Governance’ (2021) Tier 3 – Principle 4.1.

¹²⁷ France, Italy, and Spain all impose a three-term, twelve-year limit on presidents of sports federations, whereas Brazil has two-term, eight-year limit. The IOC, FIFA, and UEFA have similar rules in place. The term length for the Chairman of the International Cricket Council is two years, renewable twice (maximum of six years in total).

¹²⁸ The UK Code for Sports Governance requires that independent directors hold a minimum of 25 % of all board positions in national sports governing bodies. Other countries have imposed higher standards: the United States (one third), Canada (40 %) and Australia (over 50 %).

The related principle of *representation* seeks to ensure that all relevant stakeholders are able to participate and voice their views in decision-making processes in sports organisations. Gender balance is a key dimension in this context. Although some federations have acknowledged the ‘long-standing lack of women in positions of responsibility’,¹²⁹ little has been done to change the situation. The Act imposes a minimum quota of 40 % in relation to board positions for members of the underrepresented sex. This transposes the requirements established by the EU Directive on gender balance among directors of listed companies. It also echoes regulatory frameworks in Member States like France and, soon, Poland,¹³⁰ as well as best practices in sports governance.¹³¹ The obligation could, in the future, be combined with targeted requirements regarding leadership positions.¹³² In addition, sports organisations will be expected to set quantitative and qualitative objectives to improve the gender balance in other decision-making bodies. Both elements – the quota and the objectives – will be subjected to annual reporting duties, which will enable public monitoring of the progress made by means of indicators.¹³³ A similar requirement, without the binding quota, is adopted for diversity and inclusion.

There is a variety of other constituencies that are crucial for, yet systematically under-represented in sports. Our proposal focuses on two central stakeholders: athletes and fans. Instead of laying down fixed quotas here (a solution used e.g. in Spanish sports law¹³⁴), the Act requires that sports governing bodies and competition organisers have at least one athlete representative with voting rights on their board.¹³⁵ The selection of the representatives must be done by the athletes themselves, a safeguard against sham representatives installed by the sports governing bodies and competition organisers. The same approach is implemented in relation to fans, to ensure that their interests receive meaningful representation in decision-making processes. Further stakeholders, such as clubs, could be included.

The requirements stemming from the principle of *transparency* are comparably straightforward. Sports governing bodies and competition organisers should publish information that will enable stakeholders, regulators, as well as the general public to understand what they are doing, how, and why. This includes internal regulations, board decisions and minutes, activity reports, and financial statements.

¹²⁹ FIFA, ‘FIFA Women’s Football Strategy: 2024–2027’ (12 August 2024) <<https://inside.fifa.com/womens-football/strategy>>.

¹³⁰ Polish Ministry of Sport and Tourism, ‘Czas na kobiety w sporcie. Ministerstwo Sportu i Turystyki zapowiada nowelizację ustawy o sporcie’ (18 July 2024) <<https://www.gov.pl/web/sport/czas-na-kobiety-w-sporcie-ministerstwo-sportu-i-turystyki-zapowiada-nowelizacje-ustawy-o-sporcie>>.

¹³¹ World Athletics, for instance, has increased female representation in its Council to 40% as part of the #WeGrowAthletics campaign (n 16). For a critique, see Michele Krech, ‘Gender Equality in World Athletics: Transnational Norm Development by Private International Organizations’ (2025) 119 *American Journal of International Law* 1.

¹³² WIBF, ‘FTSE Women Leaders Review: Achieving Gender Balance’ <<https://www.wibf.org.uk/news/ftse-women-leaders-review-2025-progress-challenges-and-the-road-to-gender-parity/>>.

¹³³ Heerdt and Bernaz (n 29).

¹³⁴ Orden EFD/42/2024, de 25 de enero, por la que se regulan los procesos electorales en las federaciones deportivas españolas 2024 10030. Sports federations must ensure that every major stakeholder is represented proportionately in the general meeting, the respective shares being 30–50% for clubs, 25–40% for athletes, 15–20% for managers, 5–10% for judges and referees, and 1–5% for others.

¹³⁵ See, similarly, the Canadian Sports Governance Code (2021) which, however, only requires granting athlete representatives an observer status on the board.

Transparency is intimately connected with *accountability*. Sports organisations are expected to adopt a code of ethics whose application will be overseen by an independent officer or committee, conduct internal and external audits of their finances, and establish complaints procedures and whistleblower protection mechanisms to facilitate the detection of misconduct. The combination of these measures is meant to help sports organisations stay faithful to their mission and self-correct when they have gone astray.

3. Social responsibility

In addition to the good governance principles, the European Sports Act lays down a series of substantive requirements for sports governing bodies and competition organisers. One set of rules concerns social responsibility. Sports organisations must comply with human rights and environmental due diligence duties. Our proposal cross-references the Corporate Sustainability Due Diligence Directive, which, in terms of legislative technique, may not be the cleanest solution – a directive is addressed to the Member States, not private actors – but serves as a helpful placeholder. The directive represents a recent attempt at transposing the United Nations (UN) Guiding Principles on Business and Human Rights into EU law. Although it has attracted criticism from human rights experts troubled by the relatively modest ambition and scope,¹³⁶ it nevertheless represents a political breakthrough and it provides a viable blueprint. As most sports organisations will not meet its relatively high thresholds for staff and turnover figures, we consider an analogous application to be warranted. Human rights violations committed by international governing bodies such as the IOC or FIFA can, given their visibility and influence, have an impact which is just as or even more detrimental than those committed by large companies. The same goes for adverse environmental effects which are, in parts, directly tied to the staging of sporting events (notably travelling, construction, and operation of sites) but, in parts, also result from financial deals concluded by federations that run against their own sustainability objectives.¹³⁷

The alternative would be to adopt bespoke rules modelled on the UN principles for the sports context. Either way, at least two important additions should be made. For one, athletes, clubs, teams, and fans, including those in third countries, must be explicitly recognised for clarifying purposes as relevant stakeholders whose concerns are taken into consideration in the due diligence processes. For another, specific rules for the award and staging of sporting events are necessary.¹³⁸ As per the recommendations penned by John Ruggie, author of the UN principles for

¹³⁶ Claire Methven O'Brien and Jonas Christoffersen, 'The Proposed European Union Corporate Sustainability Due Diligence Directive Making or Breaking European Human Rights Law?' (2023) 40 *Anales de Derecho* 177; Christopher Patz, 'The EU's Draft Corporate Sustainability Due Diligence Directive: A First Assessment' (2022) 7 *Business and Human Rights Journal* 291; Heli Korkka-Knuts, 'Evaluating Corporate Accountability for Human Rights Violations: The (Uncertain) Efficacy of Administrative Sanctions under the EU Sustainability Due Diligence Directive' (2024) 35 *European Business Law Review* 481.

¹³⁷ Katie Gornall, 'Women footballers urge Fifa to end Saudi oil deal' *BBC Sport* (21 October 2024) <<https://www.bbc.co.uk/sport/football/articles/c39l89dv90zo>>.

¹³⁸ For a cautionary tale, see FairSquare, 'Le devoir de vigilance face au risque de travail forcé: Une analyse du secteur de la construction dans le contexte de la coupe du monde au Qatar' (analysing the French due diligence law <<https://fairsq.org/wp-content/uploads/2025/03/FairSquare-AJIRE-Final-report.pdf>>).

FIFA,¹³⁹ our proposal asks sports organisations to make human rights part of the bidding criteria and a substantive factor in host selection – which they are currently not, even in sports like football which have adopted specific policies in this area¹⁴⁰ – and to have effective monitoring and remedying mechanisms throughout the event’s life cycle. Note that none of this forecloses possible future developments in EU primary law, such as a direct application of the EU Charter to sports governing bodies.¹⁴¹

Our proposal recognises solidarity as a foundational principle of sports. It is crucial that sports governing bodies and competition organisers contribute to the sporting ecosystem on which their operations, as well as financial success, are built. The European Sports Act requires that they implement a fair sharing of revenue with those participating in sporting competitions, i.e. athletes, clubs, or teams, and make financial contributions towards the training of young athletes, infrastructure development, and grassroots initiatives. This does not go as far as the UK Football Governance Bill, which creates backstop powers for the independent regulator to impose binding redistribution agreements between the top and lower tiers of the football pyramid. However, it should, together with the reporting duties in this area, enhance public scrutiny of whether and how much sports organisations contribute, thus facilitating a better-informed conversation about resource allocation and, ultimately, promoting the sustainability of sports.

Sport without fans is nothing – and, yet, their concerns are frequently neglected in decision-making processes. This leads to a sense of disenfranchisement as well as, in some cases, poor protections. In addition to the rules on formal representation mentioned above, the European Sports Act introduces safeguards for supporters. It stipulates that sports governing bodies and competition organisers shall take concrete measures to ensure fan safety at sporting events. They shall also establish effective mechanisms for determining and considering the views of fans when taking decisions of strategic importance of both regulatory and commercial nature. Members and affiliated organisations, including clubs and teams, must also create tools for effective fan engagement on decisions of strategic importance for them, such as their name or appearance, location, and participation in new sporting competitions.¹⁴² Given that the Act is designed as a measure imposing minimum requirements only, sports governing bodies and competition organisers will be allowed to go further. So can Member States when regulating domestic sports organisations. As a result, more protective rules that stipulate fan ownership of clubs, as applicable in Germany and Sweden, or mandate the inclusion of an independent fan advisor on club boards, as in Spain, will remain compatible with EU law.

¹³⁹ John G Ruggie, “‘For the Game. For the World.’ FIFA and Human Rights’ (Harvard Kennedy School 2016) <<https://www.hks.harvard.edu/centers/mrcbg/programs/crj/research/reports/report68>>; Antoine Duval, ‘Ruggie’s Double Movement: Assembling the Private and the Public Through Human Rights Due Diligence’ (2023) 41 *Nordic Journal of Human Rights* 279.

¹⁴⁰ FIFA is a case in point. It assesses all bids for its World Cups according to human rights criteria, but these do not form part of the scoring process, meaning that there is no competitive advantage associated with the extent to which a bid is human rights compliant.

¹⁴¹ As proposed in *FIFA*, *Opinion of Advocate General Szpunar* [2024] ECJ C-650/22, EU:C:2024:375 paras 70–87. The Court ignored the point in its ruling, but the matter is sure to re-emerge in future litigation.

¹⁴² This draws on the fan engagement rules laid down in the UK Football Governance Bill, which introduce consultation requirements on elements of club heritage.

4. Sporting competitions

The European Sports Act sets out rules for sporting competitions. Breakaway projects like LIV Golf and the European Super League have stirred up controversy in the world of sports. In *International Skating Union* and *European Superleague*, the Court clarified the respective powers of sports governing bodies and competition organisers seeking to create new formats under the latter's umbrella.¹⁴³ Our proposal codifies and expands on the central tenets of this case law.

Sports governing bodies may create a system of prior authorisation for the creation of and participation in sporting competitions. This protects the regulatory prerogatives which they have so far enjoyed under their own statutes. Federations can adopt requirements by which new competitions intended to take place in their ecosystem must abide by and impose sanctions for violations. Where they choose to establish a prior authorisation mechanism, it must be based on substantive and procedural criteria that are clear, transparent, objective, non-discriminatory, and proportionate – requirements stemming from the Court's jurisprudence examined in Section V.1. In addition, they must consult stakeholders that would be affected by new competitions, including athletes, clubs, and fans, prior to taking an authorisation decision – this is a requirement that is meant to ensure that the voices of those most directly affected by changes in competition formats are duly considered. The Commission will have delegated powers to concretise both the authorisation and consultation criteria. These should enhance legal clarity and predictability and, thus, ultimately lower the need for further litigation.

5. Athlete rights

Protecting and nurturing athletes should be a priority for sports organisations. However, health and safety protections frequently remain inadequate, abuse and harassment scandals are widespread, and significant discrepancies in regulatory standards exist across sports. Against this backdrop, the European Sports Act seeks to strengthen two dimensions of professional sporting activity: athlete welfare and gender equality.

The first element aims at making sport safe. We draw on the insights of the latest IOC consensus statement on interpersonal violence and safeguarding here.¹⁴⁴ Sports governing bodies and competition organisers will have to monitor both the physiological and psychological risks that athletes are exposed to and lay down adequate protections, which are to be regularly reviewed in light of international best practices and scientific evidence. This is meant to prevent that serious health risks remain undetected for prolonged periods and, once identified, unaddressed, forcing athletes to resort to complex legal action, as illustrated by the high-profile cases concerning head injuries and chronic traumatic encephalopathy in sports like American football and rugby.¹⁴⁵ As an accompanying measure, sports organisations

¹⁴³ Case C-124/21 P *International Skating Union v Commission* EU:C:2023:1012; *European Superleague Company* (n 33).

¹⁴⁴ Yetsa A Tuakli-Wosornu and others, 'IOC Consensus Statement: Interpersonal Violence and Safeguarding in Sport' (2024) 58 *British Journal of Sports Medicine* 1322.

¹⁴⁵ Elise Michael, 'School of Hard Knocks: The Impact of the NFL Concussion Litigation' (2015) *Cardozo Arts & Entertainment Law* 289; Jonathan Kilgallon, "'The Highest Confidence That Repetitive Head

will have to ensure that athletes have regular access to health checks and mental health support.

In addition, the Act will require that sports governing bodies and competition organisers adopt a safeguarding policy which, likewise, is regularly reviewed in light of international best practices and scientific evidence. They must also establish or recognise a body that oversees compliance with the policy and enables athletes to report wrongdoing. Sports organisations across the world have for a long time pledged to create safe sport centres.¹⁴⁶ The Act imposes a legal obligation on them to deliver on that promise. It leaves open the exact shape the safeguarding body should take. This could be a governmental or non-governmental institution, or a mix of the two, which monitors one or several sports at the national, regional, or international level. We do not argue that a safeguarding body will be a panacea for all problems in this context; the Yates report on abusive behaviour and sexual misconduct in US Soccer is a forceful reminder of that.¹⁴⁷ But it will constitute a meaningful step towards better protection of athletes.

The second element of our proposal concerns gender equality. Despite the significant growth of women's sports, the position of many female athletes remains fragile. This is partly a result of the aforementioned problems surrounding abuse and harassment. It is partly also a result of the lack of financial resources, sporting infrastructure, and legal protections. The European Sports Act introduces an obligation on sports governing bodies and competition organisers to promote equality between men and women. This includes a duty to mainstream gender equality in all their policies, as well as several specific requirements.

One set of measures aims at creating the conditions allowing female athletes to engage and thrive in professional sports. Sports organisations must take concrete measures to increase the participation of athletes, coaches, and referees of the under-represented sex, as well as build – and require their members to provide – adequate infrastructure enabling training and competing. This seeks to address the basic hurdles many female athletes still face when trying to engage in sporting activities. It follows positive examples such as the Rugby Football Union's World Cup 2025 Impact Facility Fund, which incentivises the building of women-friendly sanitary facilities, social spaces, and changing rooms.¹⁴⁸

Another set of measures aims at improving the legal protections and financial benefits for female athletes. Following initiatives that have materialised in sports like tennis,¹⁴⁹ the Act obliges sports governing bodies and competition organisers to create a 'pathway to equal pay', which entails concrete measures towards equalising prize money for sporting competitions. For another, it asks sports organisation to

Collisions Causes Chronic Traumatic Encephalopathy"? Analysing the Scientific Knowledge in the Rugby Union Concussion Litigation of England and Wales' (2024) 24 *International Sports Law Journal* 20.

¹⁴⁶ FIFA, 'FIFA and UNODC Launch Cooperation Tackling Crime and Abuse' (16 September 2020) <<https://inside.fifa.com/news/origin1904-p.cxm.fifa.com/fifa-and-unodc-stress-importance-of-cooperation-in-tackling-crime-threat>>.

¹⁴⁷ Sally Yates, 'Report of the Independent Investigation to the U.S. Soccer Federation Concerning Allegations of Abusive Behavior and Sexual Misconduct in Women's Professional Soccer' (2022).

¹⁴⁸ Rugby Football Union, 'Rugby World Cup 2025 Impact Programme' (2025) <<https://rfu.widen.net/s/rzrzv9hvk/rfu-impact-25-year-2-final-report-10.02>>.

¹⁴⁹ Women's Tennis Association, 'WTA Announces New Tour Calendar and Pathway to Equal Prize Money' (27 June 2023) <<https://www.wtatennis.com/news/3557739/wta-announces-new-tour-calendar-and-pathway-to-equal-prize-money>>.

adopt a maternity policy which fulfils certain minimum standards: the right to 14 weeks of paid maternity leave; a prohibition against dismissal for reasons related to pregnancy or maternity; the right to continue working as an athlete or provide alternative services, while not losing one's eligibility for sporting competitions; adequate medical support and safeguards for breastfeeding. These are rights which women working outside sports have enjoyed in the EU since the early 1990s.¹⁵⁰ They are only gradually being embraced by sports federations and regulators across the world.¹⁵¹ Complementing the aforementioned requirement will be an obligation to conduct or fund research on the health of female athletes, a means for closing the gender gap in sports science (as well as health research more broadly) which has been damaging the career prospects and earning opportunities of women active in professional sports.¹⁵²

The chapter on athlete rights concludes with a clause that allows more protective standards to be adopted through collective bargaining. This is meant to facilitate and incentivise social dialogue. The provision clarifies that collective bargaining can, in principle, take place across the internal market and across all sports.¹⁵³ By incorporating the language of the Court of Justice's *Albany* jurisprudence,¹⁵⁴ it secures an exemption from both the (secondary) Sports Act and (primary) competition law.

6. Enforcement structure

Just as with its substantive content, there is, in theory, a variety of different ways in which the European Sports Act could be enforced. Our proposal is loosely inspired by the system introduced by the Digital Services Act, which we tweak to the specificities of the sports context. The Digital Services Act itself has its roots in the enforcement mechanisms that were created for EU competition law. It is based on a division of labour between Member State and EU authorities. The fundamental idea underlying this structure is that smaller or locally confined phenomena can, in line with the principle of subsidiarity, be effectively handled by domestic institutions, whereas larger or cross-border activities are best placed in the hands of the EU. In addition, private enforcement could occur for provisions which fulfil the CJEU's criteria for direct effect, i.e. are sufficiently clear, precise, and unconditional.

¹⁵⁰ Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding [1992] OJ L348/1.

¹⁵¹ For some positive examples, see the Rugby Football Union and Rugby Players' Association 2023 policy on maternity which entails 26 weeks of paid leave; the WTA special ranking rule that prevents tennis players who have been on maternity leave to lose their ranking; Art. 18quater of the FIFA Regulations on the Status and Transfer of Players which lays down employment protections for pregnant footballers.

¹⁵² Emma S Cowley and others, "Invisible Sportswomen": The Sex Data Gap in Sport and Exercise Science Research' (2021) 299 Women in Sport and Physical Activity Journal 146; Nash Anderson and others, 'Under-Representation of Women is Alive and Well in Sport and Exercise Medicine: What It Looks Like and What We Can Do About It' (2023) 9 BMJ Open Sport & Exercise Medicine 1.

¹⁵³ So far, social dialogue has been a patchy affair in sports (as well as other economic sectors), enjoying great success in some Member States and hardly any in others. At the EU level, the only sectoral dialogue that has been successfully established is that on professional football. The recent wave of litigation may incentivise more cooperation here, see Leanne O'Leary, 'ISU, Royal Antwerp, European Superleague & employment relations in sport' (2023) 23 International Sports Law Journal 431.

¹⁵⁴ Case C-67/96, *Albany* EU:C:1999:430.

In concrete terms, this means that Member States are meant to establish national sports authorities which will be responsible for enforcing the provisions of the Sports Act in relation to sports governing bodies and organisers whose activities are restricted to the territory of the given Member State. The German sports authority will oversee the German Handball Association, the Lithuanian sports authority will oversee the Lithuanian Basketball Federation, etc. By contrast, sports organisations which are active in more than one Member State or in a Member State and third country or only in a third country – think IOC, World Athletics, and UEFA – will be supervised by an EU Sports Agency, which would have to be established. An information exchange system will be created to facilitate communication between different national authorities and the EU agency. All regulatory authorities will have to have the necessary resources, expertise, and independence, including at least 50 % of board members who are not involved with sports organisations in any way. Sports organisations will be charged a proportionate supervisory fee to set up and maintain the monitoring system.

We provide an idea of what the enforcement powers of the national and EU sports authorities could look like – again, drawing on the provisions of the Digital Services Act. (Detailed provisions on the structure, competences, and legal status of the EU Sports Agency would eventually be laid down in a separate regulation.) Among these are powers of investigation, including conducting inspections, taking interviews, and searching the premises of sports governing bodies and competition organisers suspected of violating the rules. Consultations with stakeholders which raise serious concerns about their objectivity, transparency, or scope could be re-made. The reliance on the Digital Services Act playbook may feel heavy-handed, but it reflects our thematic concern that appeals to the autonomy of sports governing bodies have been consistently used strategically to shield them from scrutiny by public authorities. Therefore, appropriate competences are needed to turn the EU's legislation into a lived reality.

Teresa Ribera, the responsible EU Commissioner, has been reported to be concerned to establish a 'culture of compliance' with the Digital Markets Act in preference to hasty resort to the imposition of sanctions.¹⁵⁵ We would have the same ambition for the European Sports Act. Our aim is to improve the standards of governance found in sport. However, that aim is all the more likely to be achieved if the possibility of sanctions exists. The range of sanctions under the European Sports Act would be wider than under the Digital Services Act. In addition to the fines and periodic penalty payments for breaches of the Sports Act's requirements, the enforcement authorities could impose bans for systematic infringements of the good governance principles or serious infringements of the due diligence duties (regarding human rights and environmental risks), entailing a prohibition for sports governing bodies and competition organisers to stage and commercially exploit sporting events on Union territory as well as for EU teams or athletes to participate in them. This may feel like a drastic step, and it certainly would be a means of last

¹⁵⁵ Edith Hancock, 'EU Competition Chief Goes to Washington, With Tech Rulings Looming' *MSN* (1 April 2025) <<https://www.msn.com/en-us/politics/government/eu-competition-chief-goes-to-washington-with-tech-rulings-looming/ar-AA1C5wqR>>. See also Francesca Micheletti and Jacob Parry, 'Top EU official downplays expectations over Apple, Meta digital fines' *Politico* (8 April 2025) <<https://www.politico.eu/article/apple-meta-top-eu-official-downplays-expectations-over-apple-meta-digital-fines/>>.

resort. Yet, given the persistent reluctance of many a sports organisation to improve its governance standards, it might, in extreme cases, prove to be the only reliable way of effecting change.

VI. CONCLUSION

This, so we believe, is a proposal which strikes a good balance between ambition and feasibility. It imposes meaningful regulatory requirements without over-regulating. It improves sports governance standards while recognising and protecting the ability of sports federations to self-govern. It does not imagine the EU as a source of the ‘rules of the game’, but merely addresses the way in which sports are governed. Crucially, it respects the EU’s competences and the principles of subsidiarity and proportionality, combining elements of centralised and decentralised rule-making as well as enforcement. Our contention is not that this constitutes the only way forward – there may be valid reasons to embrace regulatory alternatives, some of which were identified above. But it constitutes an important step forward. Let the debate begin.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

on good governance in sport (European Sports Act)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in
particular Articles 114 and 157(3) thereof,

Having regard to the proposal from the European Commission,

After the transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,¹⁵⁶

Having regard to the opinion of the Committee of the Regions,¹⁵⁷

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Sport plays a multifaceted role in the European Union, encompassing not only social, cultural and health functions, but also significant economic aspects. As a sector involving large-scale commercial activities, including media rights, sponsorship agreements, event organisation and professional labour markets, it is increasingly integrated into the internal market.
- (2) Sports governance, the regulatory and managerial decision-making structures of sports governing bodies and competition organisers, has a considerable impact on the economic and legal conditions under which athletes, clubs, sponsors and fans operate.
- (3) Sports governance has traditionally been left to the autonomy of international federations, national associations and competition organisers. However, the drawbacks of self-regulation have become apparent over time. Systemic governance failures are endemic and range from patterns of corruption, to opaque decision-making structures, conflicts of interests, inadequate stakeholder representation, gender inequality, insufficient safeguards for athletes and disregard for human rights. They compromise the integrity of sport, reduce investor and consumer confidence, and threaten the fairness and sustainability of sporting competitions across the Union. They also hinder grassroots sports development, reinforce inequalities and facilitate violations of the fundamental rights protected under Union law.

¹⁵⁶ OJ C , , p. .

¹⁵⁷ OJ C , , p. .

- (4) The diversity of legal frameworks existing across Member States, which result from disparate regulatory traditions and levels of state intervention, create fragmentation in the internal market. This leads to uneven competitive conditions, additional compliance costs and uncertainty for transnational actors operating in the sports ecosystem. In the absence of coordinated Union action, further divergences are likely to arise. While often pursuing valuable objectives, regulatory initiatives at the Member State level risk further deepening fragmentation in the sector.
- (5) Sport is a transnational activity by nature, with athletes, clubs and competitions operating across borders. Therefore, effective governance of the sports ecosystem requires a coherent regulatory framework applicable throughout the Union, which establishes uniform minimum standards for transparency, democratic decision-making, accountability, stakeholder inclusion and human rights protection.
- (6) Union action is needed in light of the increasing economic importance and commercialisation of sports. The scale of operations of international governing bodies as well as powerful national associations and competition organisers warrants the establishment of binding regulatory standards applicable to their activities in the internal market.
- (7) The Court of Justice of the European Union (CJEU) has, in judgments such as *Bosman*, *MOTOE*, *European Superleague Company*, *International Skating Union* and *Diarra*, confirmed that sporting rules and practices are subject to Union law insofar as they constitute an economic activity. The Court has consistently required that the powers of sports governing bodies be exercised in accordance with the principles of transparency, objectivity, non-discrimination and proportionality. Despite the growing body of case law which contributes to regulating the sector, litigation is inherently reactive, fragmented and unpredictable. It does not provide a coherent, preventive and enforceable framework for sports governance. Legislative intervention is necessary to ensure consistent and systematic reform.
- (8) This Regulation seeks to address the existing gaps by establishing a comprehensive Union framework for good governance in sport, laying down harmonised rules applicable to sports governing bodies and competition organisers that engage in economic activities in the Union, irrespective of their place of establishment.
- (9) In line with Article 114 TFEU, this Regulation aims to ensure the proper functioning of the internal market by approximating the laws, regulations and administrative provisions of the Member States concerning the governance of sport, thereby facilitating cross-border provision of sports-related work, services and investments.
- (10) To ensure compliance with the principles of proportionality and subsidiarity, this Regulation does not seek to regulate all aspects of sport or to harmonise national sports laws in their entirety. Nor does it call into question the existence and autonomy of sports governing bodies. Rather, it sets out minimum requirements for their operations in areas directly linked to the functioning of the internal market.
- (11) A turnover threshold ensures that the obligations imposed are tailored to the size and scope of the relevant organisation's economic activities. Organisations active only at local or amateur level are excluded from the scope of application, thereby respecting the autonomy and social role of sport.

- (12) This Regulation builds upon the political commitments made by Union institutions and the Member States, notably the 2021 European Parliament Resolution on EU sports policy, the 2021 Council Resolution on the key features of the European Sports Model, the Council Conclusions of 2019 on combating corruption in sport and the Work Plan for Sport 2024–2027. These documents highlight the central role that values play in European sports.
- (13) The 2021 Council Resolution on the key features of the European Sports Model defines values-based organised sport as being based on freedom of association and values, such as good governance, safety, integrity, solidarity, including financial solidarity, the health and safety of athletes, respect of fundamental and human rights and gender equality as well as voluntary activity.
- (14) This Regulation seeks to ensure that sports governing bodies and competition organisers operating in the Union act in line with the idea of values-based sport and the key features of the European Sports Model. For that purpose, it lays down principles of good governance for sports organisations, which include democracy, representation, transparency and accountability. These principles have become standard benchmarks in sports governance codes adopted at national and international levels. They contain requirements such as the holding of regular elections, the imposition of term limits for executives, the establishing of independent ethics mechanisms, as well as the ensuring of adequate stakeholder representation and financial transparency.
- (15) Human rights and environmental due diligence obligations are introduced in line with the requirements of the Directive on corporate sustainability due diligence, adapted to the specific context of sports governance. Particular attention is given to the award and organisation of major sporting events, which must respect internationally recognised human rights.
- (16) Sports governing bodies may make the organisation of and participation in sporting competitions subject to prior authorisation. In line with the *European Superleague* and *International Skating Union* judgments, a system of prior authorisation shall be based on substantive and procedural criteria that are clear, transparent, objective, non-discriminatory and proportionate. The criteria may include compliance with the principles of openness and sporting merit.
- (17) This Regulation also aims to strengthen protections for athletes, fans and clubs, including through rules on health and safety, safeguarding policies, maternity rights and fair revenue sharing. These protections are essential to ensure the sustainability and inclusivity of sport.
- (18) The Regulation reflects the Union’s commitment to promoting equality between women and men in accordance with Article 157(3) TFEU and the Charter of Fundamental Rights. Binding obligations on gender representation and equal treatment in sports, echoing the requirements established in the Directive on gender balance among directors of listed companies, contribute to achieving this objective.
- (19) The constructive role played by social dialogue is acknowledged. Collective bargaining agreements aimed at improving conditions of work, employment and other aspects of athlete welfare are explicitly recognised and encouraged.

- (20) This Regulation provides a dual supervision mechanism to ensure effective enforcement. National sports authorities shall oversee compliance by national sports organisations. The EU Sports Agency shall be responsible for supervising federations and organisers operating across Member States or from third countries.
- (21) This Regulation will reduce fragmentation, increase legal certainty and support the development of a more transparent, inclusive and sustainable sports sector by setting clear and binding governance standards. It will enhance the European vision of sport by promoting the key values and features of the European Sports Model.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

- 1. The purpose of this Regulation is to contribute to the proper functioning of the internal market by improving good governance in sports, while promoting values-based sport and protecting the key features of the European Sport Model.
- 2. This Regulation lays down:
 - (a) principles of good governance for sports governing bodies and competition organisers;
 - (b) rules on social responsibility, sporting competitions and athlete rights in sports;
 - (c) rules on the implementation and enforcement of this Regulation, including as regards the establishing of national sports authorities and the EU Sports Agency.
- 3. This Regulation shall be without prejudice to obligations of sports governing bodies and competition organisers under other Union legislative acts.

Article 2

Scope

- 1. This Regulation applies to:
 - (a) sports governing bodies and competition organisers that have their place of establishment in the Union;

- (b) sports governing bodies and competition organisers that do not have their place of establishment in the Union, insofar as they engage in commercial activities with businesses or consumers that are established or located in the Union.
- 2. This Regulation shall not apply to sports governing bodies and competition organisers that had a turnover of less than EUR [amount] in the last financial year for which annual financial statements have been or should have been adopted and a turnover of less than EUR [amount] in the last four financial years for which annual financial statements have been or should have been adopted.

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) ‘sports governing body’ means any organisation responsible for regulating or commercially exploiting a sport, including federations and associations, irrespective of its legal form;
- (b) ‘sporting competition’ means a league, division of league, cup, tournament or other sporting event of professional nature, whether recurring or non-recurring;
- (c) ‘competition organiser’ means a company, body or other entity organising a sporting competition, irrespective of its legal form;
- (d) ‘board’ means an administrative, management or supervisory body of a sports governing body or competition organiser;
- (e) ‘director’ means a member of a board, including a member who is an employees’ representative;
- (f) ‘executive director’ means a member of a unitary board who is engaged in the daily management of a sports governing body or competition organiser or, in the case of a dual board system, a member of the board which carries out the management functions of a sports governing body or competition organiser;
- (g) ‘decision-making body’ means a permanent or temporary body that is charged with, or involved in, making decisions for a sports governing body or competition organiser, including in advisory capacity;
- (h) ‘athlete’ means a person currently competing in professional sporting competitions or a person who is retired and was competing in sporting competitions, not more than eight years previously.
- (i) ‘independent’ means a director who has no fiduciary obligation to a sports governing body or competition organiser, receives no direct or indirect material benefit from them, and is free of any conflict of interest of a financial, personal or representational nature;

- (j) ‘stakeholders’ means persons, groups or organisations directly affected by sports governance, including but not limited to players, clubs, fans, referees, sponsors, broadcasters and local communities;
- (k) ‘turnover’ means the amount derived by an undertaking within the meaning of Article 5(1) of Regulation (EC) No 139/2004.

Article 4

Autonomy of sports

This Regulation does not interfere with the autonomy of sports governing bodies and competition organisers, provided that their organisational structure, decisions and actions comply with the obligations established herein.

Article 5

Level of harmonisation

1. This Regulation does not affect the possibility for Member States to adopt more detailed or stricter rules for sports governing bodies and competition organisers falling within their competence, provided that those rules ensure higher levels of protection in accordance with the objectives of this Regulation and comply with Union law.
2. No provision in this section shall be interpreted as preventing Member States from having a system of prior authorisation for sports governing bodies and competition organisers falling within their competence.

CHAPTER II

GOOD GOVERNANCE

Article 6

Good Governance Principles

1. Sports governing bodies and competition organisers shall comply with the principles of good governance as laid down in Articles 7 to 10 (‘good governance principles’):
 - (a) democracy (Article 7);
 - (b) representation (Article 8);
 - (c) transparency (Article 9);
 - (d) accountability (Article 10);

2. Sports governing bodies and competition organisers shall promote and support the implementation of the good governance principles within their members and associated organisations.

Article 7

Democracy

1. Sports governing bodies and competition organisers must comply with the principle of democracy.
2. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall:
 - (a) establish a clear governance structure, which provides for a separation of functions and a system of checks and balances;
 - (b) hold elections for board positions in regular intervals not exceeding four years, ensuring that these are open, transparent and based on objective, clearly defined eligibility criteria;
 - (c) set term limits for board members and executive directors to a maximum of two consecutive terms of a maximum of four years each;
 - (d) ensure that at least 25 % of board members are independent;
 - (e) establish an independent governance officer or committee that effectively monitors compliance with democratic processes.

Article 8

Representation

1. Sports governing bodies and competition organisers shall ensure proportionate representation and effective participation of all relevant stakeholders in their decision-making bodies and processes.
2. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall:
 - (a) ensure that members of the underrepresented sex hold at least 40 % of board positions by DD/MM/YYYY;
 - (b) set quantitative and qualitative objectives with a view to improving the gender balance in all other decision-making bodies and processes;
 - (c) adopt a policy that outlines the specific actions to be taken to achieve the objectives referred to in points (a) and (b) and report annually on the progress made.

The number of board positions deemed necessary to achieve the objective laid down in point (a) shall be the number closest to the proportion of 40 %, but not exceeding 49 %.

3. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall:
 - (a) set quantitative and qualitative objectives with a view to improving diversity and inclusion on their boards as well as in all other decision-making bodies and processes;
 - (b) adopt a policy that outlines the specific actions to be taken to achieve the objectives referred to in point (a) and report annually on the progress made.
4. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall have at least one athlete representative with voting rights on their board. Athlete representatives shall be selected by the athletes of the sport or sports concerned.
5. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall have at least one fan representative with voting rights on their board. Fan representatives shall be selected by the fans of the sport or sports concerned.

Article 9

Transparency

1. Sports governing bodies and competition organisers shall comply with the principle of transparency.
2. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall publish:
 - (a) a clear statement of their vision, mission and strategy to achieve their objectives;
 - (b) their statutes or constituting documents, internal regulations and organisation charts;
 - (c) the agenda, minutes and decisions of their general meetings, as well as information on who participated in these meetings;
 - (d) the agenda, minutes and decisions of their board meetings, as well as information on the composition of the board;
 - (e) annual reports and financial statements, including information on the remuneration of the members of the board and senior management;
 - (f) the annual report on gender balance referred to in Article 8(2)(c);

- (g) the annual report on diversity and inclusion referred to in Article 8(3)(b);
 - (h) the external financial audits referred to in Article 10(2)(e);
 - (i) the annual report on solidarity referred to in Article 12(2)(c).
3. Publication of the information listed in paragraph 2 shall take place on the website of the sports governing body or a comparable, durable and openly accessible format.

Article 10

Accountability

1. Sports governing bodies and competition organisers shall comply with the principle of accountability.
2. As part of the obligation set out in paragraph 1, sports governing bodies shall:
 - (a) adopt or recognise a code of ethics that applies to the members of the board, management and staff;
 - (b) appoint an independent ethics officer or committee with investigative and enforcement powers that oversee the implementation of the code of ethics in a transparent, consistent and effective manner;
 - (c) enact and enforce rules on conflicts of interest, which lay down the circumstances in which a person is ineligible to serve on the board and other decision-making bodies;
 - (d) establish an internal financial officer or committee that conducts financial audits at least once a year;
 - (e) conduct financial audits by external independent auditors at least once every 4 years and make the findings publicly available;
 - (f) establish a complaints procedure and a whistleblower protection mechanism to encourage reporting of corruption, match-fixing and other unethical conduct;
 - (g) conduct annual ethics training programs for members of the board and management.

CHAPTER III

SOCIAL RESPONSIBILITY

Article 11

Human rights and environmental due diligence

1. Sports governing bodies and competition organisers shall conduct risk-based human rights and environmental due diligence as laid down in Articles 7 to 16 of Directive (EU) 2024/1760. In addition to the stakeholders referred to in Article 3(1)(j) and for the purpose of Article 13 of said Directive, they shall carry out effective engagement with athletes, clubs, teams and fans that are or could be directly affected by their actions, including outside the territory of the Union.
2. Sports governing bodies and competition organisers shall include human rights within their criteria for evaluating bids to host sporting competitions and make them a substantive factor in host selection. They shall lay down specific requirements for the host that must be followed throughout the preparation and staging of the sporting competition, including the establishment of an effective grievance mechanism for human rights-related complaints, and monitor compliance with these requirements.

Article 12

Solidarity

1. Sports governing bodies and competition organisers shall promote the principle of solidarity.
2. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall:
 - (a) ensure a fair sharing of revenue with the clubs, teams or athletes that are participating in sporting competitions;
 - (b) contribute to the training of young athletes, infrastructure development and grassroots initiatives;
 - (c) report annually on the revenue shared as part of the obligations referred to in points (a) and (b).
3. The Commission may adopt delegated acts in accordance with Article 50 to supplement this Regulation by laying down criteria for the obligations under points (a) and (b) of paragraph 2, specifying, in particular, the detailed methods and procedures for calculating revenue sharing and solidarity payments. The delegated act shall take into consideration the socio-economic context and organisational structure of the sport or sports concerned.

*Article 13***Fans**

1. Sports governing bodies and competition organisers shall serve the interests of fans.
2. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall:
 - (a) take appropriate measures to ensure the safety of fans;
 - (b) have effective means by which they determine the views of fans and have regard to those views when taking decisions of strategic importance, including major regulatory and commercial decisions;
 - (c) ensure that members and associated organisations, including clubs and teams, have effective means by which they determine the views of fans and have regard to those views when taking decisions of strategic importance for the member or associated organisation concerned, including decisions regarding their name or appearance, location and joining of new sporting competitions.

CHAPTER IV

SPORTING COMPETITIONS*Article 14***Sporting competitions**

1. Sports governing bodies may make the creation of and participation in sporting competitions subject to prior authorisation.
2. A system of prior authorisation established in accordance with paragraph 1 shall be based on substantive and procedural criteria that are clear, transparent, objective, non-discriminatory and proportionate. These criteria may include compliance with the principles of openness and sporting merit. Athletes, participating clubs or teams, non-participating clubs or teams and fans shall be consulted before an authorisation decision is taken.
3. A system of prior authorisation established in accordance with paragraph 1 may contain sanctions which are clear, transparent, objective, non-discriminatory and proportionate.
4. The Commission may adopt delegated acts in accordance with Article 50 to supplement this Regulation by laying down the content of the criteria for prior authorisation under paragraph 2, specifying, in particular, the requirements regarding clarity, transparency, objectivity, non-discrimination and proportionality, the principles of openness and sporting merit as well as the consultation of stakeholders referred to in that paragraph.

CHAPTER V

ATHLETE RIGHTS

Article 15

Athlete welfare

1. Sports governing bodies and competition organisers shall ensure the health, safety and welfare of athletes.
2. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall:
 - (a) monitor the physiological and psychological risks that athletes are exposed to and lay down adequate protections, which are regularly reviewed in light of international best practices and scientific evidence;
 - (b) ensure access to regular health checks and mental health support services for athletes;
 - (c) adopt a safeguarding policy to prevent and appropriately respond to concerns related to harassment and abuse in sport, which is regularly reviewed in light of international best practices and scientific evidence;
 - (d) establish or recognise a safeguarding body that effectively monitors compliance with the policy referred to in point (c), through which athletes can raise concerns and make complaints;
 - (e) conduct annual training on the applicable policies regarding harassment, abuse and other forms of misconduct for their staff and the staff of their members.

Article 16

Gender equality

1. Sports governing bodies and competition organisers shall aim to eliminate inequality, and to promote equality, between men and women. They shall integrate gender equality considerations into the design, implementation and evaluation of all their policies.
2. As part of the obligation set out in paragraph 1, sports governing bodies and competition organisers shall:
 - (a) take concrete measures to increase the participation of athletes, coaches and referees of the under-represented sex;
 - (b) build adequate infrastructure that enables athletes of the under-represented sex to train and participate in sporting competitions, and oblige their members and affiliated clubs or teams to provide such infrastructure;

- (c) create a pathway to equal pay, which includes concrete measures to equalise prize money for sporting competitions;
- (d) adopt and implement a maternity policy for athletes, which includes:
 - the right to a continuous period of paid maternity leave of at least 14 weeks;
 - a prohibition of dismissal for any reason related to pregnancy or maternity;
 - the right to continue providing sporting services during pregnancy, to provide alternative services or take medical leave during pregnancy if required for medical reasons, to return to providing the same sporting services or enjoy the same eligibility for sporting competitions after childbirth or the end of pregnancy;
 - adequate medical support during the pregnancy and after childbirth, as well as adequate safeguards for breastfeeding.
- (e) conduct or fund research on the physical and mental health of female athletes.

*Article 17***Collective bargaining**

Collective agreements aimed at improving conditions of work, employment and other aspects of athlete welfare may lay down provisions which are more stringent than those provided for in this chapter. Such agreements apply only in the geographical area and in the sport for which they have been concluded.

CHAPTER V

IMPLEMENTATION, ENFORCEMENT AND PENALTIES*SECTION 1****National sports authorities****Article 18***National sports authorities**

1. Member States shall designate a national sports authority to supervise compliance of sports governing bodies and competition organisers falling within their competence with the provisions of this Regulation.
2. The national sports authority shall be competent to supervise sports governing bodies and competition organisers that are established or operate, exclusively or primarily, in the territory of that Member State.

Article 19

Requirements for national sports authorities

1. Member States shall ensure that their national sports authorities perform their tasks under this Regulation in an impartial, transparent and timely manner. Member States shall ensure that their national sports authorities have all necessary resources to carry out their tasks, including sufficient technical, financial and human resources, as well as sufficient sports-related expertise, to adequately supervise all sports governing bodies and competition organisers falling within their competence. Each Member State shall ensure that its national sports authority has sufficient autonomy in managing its budget within the budget's overall limits, in order not to adversely affect the independence of the national sports authority.
2. When carrying out their tasks and exercising their powers in accordance with this Regulation, national sports authorities shall act with complete independence. They shall remain free from any external influence, whether direct or indirect, and shall neither seek nor take instructions from any other public authority or any private party. At least 50 % of the members of the national sports authority must be independent from any sports governing body and competition organiser.
3. Paragraph 2 of this Article is without prejudice to the tasks of national sports authorities within the system of supervision and enforcement provided for in this Regulation. Paragraph 2 of this Article shall not prevent the exercise of judicial review and shall also be without prejudice to proportionate accountability requirements regarding the general activities of national sports authorities, such as financial expenditure or reporting to national parliaments, provided that those requirements do not undermine the achievement of the objectives of this Regulation.

Article 20

Powers of national sports authorities

1. Where needed in order to carry out their tasks under this Regulation, national sports authorities shall have the following powers of investigation, in respect of conduct by sports governing bodies and competition organisers falling within the competence of their Member State:
 - (a) the power to require those sports governing bodies and competition organisers, as well as any other persons acting for purposes related to their trade, business, craft or profession that may reasonably be aware of information relating to a suspected infringement of this Regulation, including organisations performing the audits referred to in Article 10(2)(e), to provide such information without undue delay;
 - (b) the power to carry out, or to request a judicial authority in their Member State to order, inspections of any premises that those sports governing bodies and competition organisers or those persons use for purposes related to their trade, business, craft or profession, or to request other public authorities to do so, in order

to examine, seize, take or obtain copies of information relating to a suspected infringement in any form, irrespective of the storage medium;

- (c) the power to ask any member of staff or representative of those sports governing bodies and competition organisers or those persons to give explanations in respect of any information relating to a suspected infringement and to record the answers with their consent by any technical means;
 - (d) the power to carry out a consultation with athletes, clubs, teams and fans pursuant to Articles 11(1) and 14(2) in cases in which there are serious concerns about the objectivity, transparency or scope of the consultation undertaken by the sports governing body or competition organiser.
2. Where needed for carrying out their tasks under this Regulation, national sports authorities shall have the following enforcement powers, in respect of sports governing bodies and competition organisers falling within the competence of their Member State:
- (a) the power to accept the commitments offered by those sports governing bodies and competition organisers in relation to their compliance with this Regulation and to make those commitments binding;
 - (b) the power to order the cessation of infringements and, where appropriate, to impose remedies proportionate to the infringement and necessary to bring the infringement effectively to an end, or to request a judicial authority in their Member State to do so;
 - (c) the power to impose fines, or to request a judicial authority in their Member State to do so, in accordance with Article 21 for failure to comply with this Regulation, including with any of the investigative orders issued pursuant to paragraph 1 of this Article;
 - (d) the power to impose a periodic penalty payment, or to request a judicial authority in their Member State to do so, in accordance with Article 21 to ensure that an infringement is terminated in compliance with an order issued pursuant to point (b) of this subparagraph or for failure to comply with any of the investigative orders issued pursuant to paragraph 1 of this Article;
 - (e) the power to impose a ban, or to request a judicial authority in their Member State to do so, in accordance with Article 21 for systematic violations of the good governance principles or serious violations of Article 11;
 - (f) the power to adopt interim measures or to request a judicial authority in their Member State to do so, to avoid the risk of serious harm.

As regards the first subparagraph, points (c) and (d), national sports authorities shall also have the enforcement powers set out in those points in respect of the other persons referred to in paragraph 1 for failure to comply with any of the orders issued to them pursuant to that paragraph. They shall only exercise those enforcement powers after providing those other persons in good time with all relevant information relating to

such orders, including the applicable period, the fines or periodic payments that may be imposed for failure to comply and the possibilities for redress.

Article 21

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation by sports governing bodies and competition organisers within their competence. The penalties provided for shall be effective, proportionate and dissuasive.
2. Member States shall ensure that the maximum amount of fines that may be imposed for a failure to comply with an obligation laid down in this Regulation shall be 6 % of the annual worldwide turnover of the sports governing body or competition organiser concerned in the preceding financial year. Member States shall ensure that the maximum amount of the fine that may be imposed for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and failure to submit to an inspection shall be 1 % of the annual income or worldwide turnover of the sports governing body, competition organiser or person concerned in the preceding financial year.
3. Member States shall ensure that the maximum amount of a periodic penalty payment shall be 5 % of the average daily worldwide turnover or income of the sports governing body or competition organiser concerned in the preceding financial year per day, calculated from the date specified in the decision concerned.
4. Member States shall ensure that, in cases of systematic violations of the good governance principles or serious violations of Article 11, the sports governing bodies or competition organisers concerned can be banned from organising or commercially exploiting sporting competitions in the territory of the Union and that athletes, clubs or teams that are established or reside in the Union, or participate in sporting competitions taking place in the territory of the Union, can be prohibited from participating in these competitions.

Article 22

Activity reports

1. National sports authorities shall draw up annual reports on their activities under this Regulation. National sports authorities shall make the annual reports available to the public in a machine-readable format, subject to the applicable rules on the confidentiality of information pursuant to Article 47, and shall communicate them to the EU Sports Agency and the Commission.
2. The annual report shall include the following information:

- (a) an analysis of the compliance of sports governing bodies and competition organisers with the good governance principles and other provisions of this Regulation;
- (b) the number and subject matter of the investigations conducted and the enforcement measures taken in accordance with Article 20;
- (c) the number of complaints received pursuant to Article 23 and an overview of their follow-up.

Article 23

Right to lodge a complaint

Athletes, clubs, teams, fans, sports governing bodies and competition organisers and any body, organisation or association mandated to exercise the rights conferred by this Regulation on their behalf, shall have the right to lodge a complaint against sports governing bodies and competition organisers alleging an infringement of this Regulation with the national sports authority. Where the complaint falls under the responsibility of another national sports authority or the EU Sports Agency, the national sports authority receiving the complaint shall transmit it to that authority or the Agency. During these proceedings, both parties shall have the right to be heard and receive appropriate information about the status of the complaint, in accordance with national law.

Article 24

Mutual assistance

1. National sports authorities and the EU Sports Agency shall cooperate closely and provide each other with mutual assistance in order to apply this Regulation in a consistent and efficient manner. Mutual assistance shall include, in particular, the exchange of information in accordance with this Article and the duty of national sports authorities to inform all other national sports authorities and the EU Sports Agency about the opening of an investigation and the intention to take a final decision, including its assessment, in respect of a specific sports governing body or competition organiser.
2. For the purpose of an investigation, national sports authorities may request other national sports authorities to provide specific information in their possession as regards a specific sports governing body or competition organiser or to exercise their investigative powers referred to in Article 20(1) about specific information located in their Member State. Where appropriate, the national sports authority receiving the request may involve other public authorities of the Member State in question.
3. The national sports authority receiving the request pursuant to paragraph 2 shall comply with such request and inform the national sports authority making the request about the action taken, without undue delay and no later than two months after its receipt, unless:

- (a) the scope or the subject matter of the request is not sufficiently specified, justified or proportionate in view of the investigative purposes; or
- (b) neither the requested national sports authority nor other public authority of that Member State is in possession of the requested information nor can have access to it; or
- (c) the request cannot be complied with without infringing Union or national law.

The national sports authority receiving the request shall justify its refusal by submitting a reasoned reply, within the period set out in the first subparagraph.

SECTION 2

EU Sports Agency

Article 25

EU Sports Agency

1. The EU Sports Agency ('the Agency') is hereby established.¹⁵⁸ It shall contribute to implementing and enforcing this Regulation.
2. The Agency shall perform the following tasks:
 - (a) supervise compliance with the provisions of this Regulation of sports governing bodies and competition organisers falling within its competence;
 - (b) investigate infringements of this Regulation and impose penalties;
 - (c) facilitate information exchange with national sports authorities;
 - (d) provide guidance for sports governing bodies and competition organisers on compliance with the good governance principles and the other provisions of this Regulation;
 - (e) publish annual reports on compliance levels, challenges and best practices.
3. When carrying out its tasks and exercising its powers in accordance with this Regulation, the Agency must co-operate and engage proactively and constructively with sports governing bodies, competition organisers and other stakeholders, including in third countries.

¹⁵⁸ The creation of the EU Sports Agency should eventually be covered in a separate regulation, which would include some of the provisions in this Section as well as more detailed rules on the Agency's organisational structure, enforcement powers and legal status.

*Article 26***Competences of the Agency**

1. The Agency shall be competent to supervise compliance with the provisions of this Regulation of:
 - (a) sports governing bodies and competition organisers that are established or operate in the territory of more than one Member State;
 - (b) sports governing bodies and competition organisers that are established or operate in the territory of one or more Member States and a third country;
 - (c) sports governing bodies and competition organisers that are established or operate outside the territory of the Union but fall into the scope of this Regulation.
2. If more than one national sports authority claims competence over the same sports governing body or competition organiser, they shall refer the matter to the Agency, which will decide which authority has competence. The Agency shall take its decision based on Articles 18(2) and 26(1). The Agency can decide that the sports governing body or competition organiser concerned fall into its own competence.
3. The provisions of this Regulation are without prejudice to the powers of the Commission, in particular under Article 258 TFEU, to ensure compliance with Union law.

*Article 27***Reporting duties and annual report**

1. Sports governing bodies and competition organisers falling within the competence of the Agency shall submit annual reports to the Agency that detail their compliance with the good governance principles and other provisions of this Regulation.
2. The Agency shall draw up an annual report on the state of sports governance. The report shall contain an analysis of the compliance of sports governing bodies and competition organisers with the good governance principles and other provisions of this Regulation, as well as information on the number and subject matter of the investigations conducted and the enforcement measures taken by the Agency in accordance with the provisions of this Section. It shall also highlight best practices and make recommendations for improving governance standards in sports. The Agency shall transmit that report to the European Parliament, to the Council and to the Commission. The report shall be made public.

*Article 28***Supervisory fee**

1. The Agency shall charge sports governing bodies and competition organisers an annual supervisory fee.
2. The overall amount of the annual supervisory fees shall cover the estimated costs that the Agency incurs in relation to its supervisory tasks under this Regulation, in particular costs related to the information sharing system pursuant to Article 48 and to the supervisory tasks pursuant to this Section.
3. The Commission shall adopt implementing acts establishing the amount of the annual supervisory fee in respect of each sports governing body and competition organiser. When adopting those implementing acts, the Commission shall apply the methodology laid down in the delegated act referred to in paragraph 4 of this Article and shall respect the principles set out in paragraph 5 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 51.
4. The Commission shall adopt delegated acts, in accordance with Article 50, laying down the detailed methodology and procedures for:
 - (a) the determination of the sports governing bodies and competition organisers falling within the scope of this Regulation and the competence of the Agency;
 - (b) the determination of the estimated costs referred to in paragraph 2;
 - (c) the determination of the individual annual supervisory fees referred to in paragraph 5, points (b) and (c);
 - (d) the determination of the maximum overall limit defined in paragraph 5, point (c); and
 - (e) the detailed arrangements necessary to make payments.

When adopting those delegated acts, the Commission shall respect the principles set out in paragraph 5 of this Article.

5. The implementing act referred to in paragraph 3 and the delegated act referred to in paragraph 4 shall respect the following principles:
 - (a) the estimation of the overall amount of the annual supervisory fee takes into account the costs incurred in the previous year;
 - (b) the annual supervisory fee is proportionate to the worldwide annual turnover of each sports governing body or each competition organiser;
 - (c) the overall amount of the annual supervisory fee charged on a given sports governing body or competition organiser does not, in any case, exceed 0,05 % of its worldwide annual net income in the preceding financial year.

6. The individual annual supervisory fees charged pursuant to paragraph 1 of this Article shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council.
7. The Agency shall report annually to the Commission, European Parliament and Council on the overall amount of the costs incurred for the fulfilment of the tasks under this Regulation and the total amount of the individual annual supervisory fees charged in the preceding year.

Article 29

Initiation of proceedings by the Agency

1. The Agency may initiate proceedings in view of the possible adoption of decisions pursuant to Articles 36, 37, 38, 39 and 40 in respect of the relevant conduct by the sports governing body or competition organiser that the Agency suspect of having infringed any of the provisions of this Regulation.
2. Where the Agency decides to initiate proceedings pursuant to paragraph 1 of this Article, it shall notify all national sports authorities through the information sharing system referred to in Article 48, as well as the sports governing body or competition organiser concerned. The national sports authorities shall, without undue delay after being informed of initiation of the proceedings, transmit to the Agency any information they hold about the infringement at stake.
3. In the exercise of its powers of investigation under this Regulation the Agency may request the individual or joint support of any national sports authorities concerned by the suspected infringement. The national sports authorities that have received such a request shall cooperate sincerely and in a timely manner with the Agency and shall be entitled to exercise their investigative powers referred to in Article 21(1) in respect of the sports governing body or competition organiser at stake, with regard to information, persons and premises located within the territory of their Member State and in accordance with the request.

Article 30

Requests for information

1. In order to carry out the tasks assigned to it under this Section, the Agency may, by simple request or by decision, require the sports governing body or competition organiser concerned, as well as any other natural or legal person acting for purposes related to their trade, business, craft or profession that may be reasonably aware of information relating to the suspected infringement, including organisations performing the audits referred to in Article 10(2)(e), to provide such information within a reasonable period.
2. When sending a simple request for information to the sports governing body or competition organiser concerned or other person referred to in paragraph 1 of this Article, the Agency shall state the legal basis and the purpose of the request,

specify what information is required and set the period within which the information is to be provided, and the fines provided for in Article 38 for supplying incorrect, incomplete or misleading information.

3. Where the Agency requires the sports governing body or competition organiser concerned or other person referred to in paragraph 1 of this Article to supply information by decision, it shall state the legal basis and the purpose of the request, specify what information is required and set the period within which it is to be provided. It shall also indicate the fines provided for in Article 38, indicate or impose the periodic penalty payments provided for in Article 39 and indicate the bans provided for in Article 40. It shall further indicate the right to have the decision reviewed by the Court of Justice of the European Union.
4. The sports governing bodies or competition organisers concerned or other person referred to in paragraph 1 or their representatives shall supply the information requested. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.
5. At the request of the Agency, the national sports authorities shall provide the Agency with all necessary information to carry out the tasks assigned to it under this Section.
6. The Agency shall, without undue delay after sending the simple request or the decision referred to in paragraph 1 of this Article, send a copy thereof to the national sports authorities, through the information sharing system referred to in Article 48.

Article 31

Power to take interviews and statements

1. In order to carry out the tasks assigned to it under this Section, the Agency may interview any natural or legal person who consents to being interviewed for the purpose of collecting information, relating to the subject-matter of an investigation, in relation to the suspected infringement. The Agency shall be entitled to record such interview by appropriate technical means.
2. If the interview referred to in paragraph 1 is conducted on other premises than those of the Agency, the Agency shall inform the national sports authorities of the Member State in the territory of which the interview takes place. If so requested by that national sports authority, its officials may assist the officials and other accompanying persons authorised by the Agency to conduct the interview.

Article 32

Power to conduct inspections

1. In order to carry out the tasks assigned to it under this Section, the Agency may conduct all necessary inspections at the premises of the sports governing body

- or competition organiser concerned or of another person referred to in Article 30(1).
2. The officials and other accompanying persons authorised by the Agency to conduct an inspection shall be empowered to:
 - (a) enter any premises, land and means of transport of the sports governing body or competition organiser concerned or of the other person concerned;
 - (b) examine the books and other records related to the activities of the sports governing body or competition organiser or of the other person concerned, irrespective of the medium on which they are stored;
 - (c) take or obtain in any form copies of or extracts from such books or other records;
 - (d) require the sports governing body or competition organiser or the other person concerned to provide access to and explanations on its organisation, functioning and decision-making practices and to record or document the explanations given;
 - (e) seal any premises used for purposes related to the trade, business, craft or profession of the sports governing body or competition organiser or of the other person concerned, as well as books or other records, for the period and to the extent necessary for the inspection;
 - (f) ask any representative or member of staff of the sports governing body or competition organiser or the other person concerned for explanations on facts or documents relating to the subject-matter and purpose of the inspection and to record the answers;
 - (g) address questions to any such representative or member of staff relating to the subject-matter and purpose of the inspection and to record the answers.
 3. Inspections may be carried out with the assistance of auditors or experts appointed by the Agency pursuant to Article 35(2), and of national sports authorities of the Member State in the territory of which the inspection is conducted.
 4. Where the production of required books or other records related to the activities of the sports governing body or competition organiser or of the other person concerned is incomplete or where the answers to questions asked under paragraph 2 of this Article are incorrect, incomplete or misleading, the officials and other accompanying persons authorised by the Agency to conduct an inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection and the penalties provided for in Articles 38 to 40. In good time before the inspection, the Agency shall inform the national sports authority of the Member State in the territory in which the inspection is to be conducted thereof.
 5. During inspections, the officials and other accompanying persons authorised by the Agency, the auditors and experts appointed by the Agency, the national sports authority of the Member State in the territory of which the inspection is

conducted may require the sports governing body or competition organiser or other person concerned to provide explanations on its organisation, functioning and decision-making practices, and may address questions to its key personnel.

6. The sports governing body or competition organiser or other natural or legal person concerned shall be required to submit to an inspection ordered by decision of the Agency. The decision shall specify the subject matter and purpose of the inspection, set the date on which it is to begin and indicate the penalties provided for in Articles 38 to 40 and the right to have the decision reviewed by the Court of Justice of the European Union. The Agency shall consult the national sports authority of the Member State on territory of which the inspection is to be conducted prior to taking that decision.
7. Officials of, and other persons authorised or appointed by, the national sports authority of the Member State on the territory of which the inspection is to be conducted shall, at the request of that national sports authority or of the Agency, actively assist the officials and other accompanying persons authorised by the Agency in relation to the inspection. To this end, they shall have the powers listed in paragraph 2.
8. Where the officials and other accompanying persons authorised by the Agency find that the sports governing body or competition organiser or the other person concerned opposes an inspection ordered pursuant to this Article, the Member State in the territory of which the inspection is to be conducted shall, at the request of those officials or other accompanying persons and in accordance with the national law of the Member State, afford them necessary assistance, including, where appropriate under that national law, in the form of coercive measures taken by a competent law enforcement authority, so as to enable them to conduct the inspection.
9. If the assistance provided for in paragraph 8 requires authorisation from a national judicial authority in accordance with the national law of the Member State concerned, such authorisation shall be applied for by the national sports authority of that Member State at the request of the officials and other accompanying persons authorised by the Agency. Such authorisation may also be applied for as a precautionary measure.
10. Where the authorisation referred to in paragraph 9 is applied for, the national judicial authority before which a case has been brought shall verify that the Agency decision ordering the inspection is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. When conducting such verification, the national judicial authority may ask the Agency, directly or through the national sports authority of the Member State concerned, for detailed explanations, in particular those concerning the grounds on which the Agency suspects an infringement of this Regulation, concerning the seriousness of the suspected infringement and concerning the nature of the involvement of the sports governing body or competition organiser or of the other person concerned. However, the national judicial authority shall not call into question the necessity for the inspection nor demand information from the case file of the Agency. The lawfulness of the

Agency decision shall be subject to review only by the Court of Justice of the European Union.

Article 33

Interim measures

1. In the context of proceedings which may lead to the adoption of a decision of non-compliance pursuant to Article 36(1), where there is an urgency due to the risk of serious damage for the stakeholders affected by the decisions or actions of a sports governing body or competition organiser, or for good governance in the sport or sports concerned, the Agency may, by decision, order interim measures against the sports governing body or competition organiser concerned on the basis of a *prima facie* finding of an infringement.
2. A decision under paragraph 1 shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate.

Article 34

Commitments

1. If, during proceedings under this Section, the sports governing body or competition organiser concerned offers commitments to ensure compliance with the relevant provisions of this Regulation, the Agency may by decision make those commitments binding on the sports governing body or competition organiser concerned and declare that there are no further grounds for action.
2. The Agency may, upon request or on its own initiative, reopen the proceedings:
 - (a) where there has been a material change in any of the facts on which the decision was based;
 - (b) where the sports governing body or competition organiser concerned acts contrary to its commitments; or
 - (c) where the decision was based on incomplete, incorrect or misleading information provided by the sports governing body or competition organiser concerned or other person referred to in Article 30(1).
3. Where the Agency considers that the commitments offered by the sports governing body or competition organiser concerned are unable to ensure effective compliance with the relevant provisions of this Regulation, it shall reject those commitments in a reasoned decision when concluding the proceedings.

*Article 35***Monitoring actions**

1. For the purposes of carrying out the tasks assigned to it under this Section, the Agency may take the necessary actions to monitor the effective implementation and compliance with this Regulation by the sports governing body or competition organiser. Such actions may include, imposing an obligation on the sports governing body or competition organiser to retain all documents deemed to be necessary to assess the implementation of and compliance with the obligations under this Regulation.
2. The actions pursuant to paragraph 1 may include the appointment of independent external experts and auditors, as well as experts and auditors from competent national authorities with the agreement of the authority concerned, to assist the Agency in monitoring the effective implementation and compliance with the relevant provisions of this Regulation and to provide specific expertise or knowledge to the Agency.

*Article 36***Non-compliance**

1. The Agency shall adopt a non-compliance decision where it finds that the sports governing body or competition organiser concerned does not comply with one or more of the following:
 - (a) the relevant provisions of this Regulation;
 - (b) interim measures ordered pursuant to Article 33;
 - (c) commitments made binding pursuant to Article 34.
2. Before adopting the decision pursuant to paragraph 1, the Agency shall communicate its preliminary findings to the sports governing body or competition organiser concerned. In the preliminary findings, the Agency shall explain the measures that it considers taking, or that it considers that the sports governing body or competition organiser concerned should take, in order to effectively address the preliminary findings.
3. In the decision adopted pursuant to paragraph 1 the Agency shall order the sports governing body or competition organiser concerned to take the necessary measures to ensure compliance with the decision pursuant to paragraph 1 within a reasonable period specified therein and to provide information on the measures that that provider intends to take to comply with the decision.
4. The sports governing body or competition organiser concerned shall provide the Agency with a description of the measures it has taken to ensure compliance with the decision pursuant to paragraph 1 upon their implementation.

5. Where the Agency finds that the conditions of paragraph 1 are not met, it shall close the investigation by a decision. The decision shall apply with immediate effect.

Article 37

Penalties

In the decision referred to in Article 36, the Agency may impose the following penalties on the sports governing body or competition organiser concerned:

- (a) fines;
- (b) periodic penalty payments;
- (c) bans.

Article 38

Fines

1. The Agency may impose on the sports governing body or the competition organiser concerned fines not exceeding 6 % of its total worldwide annual turnover in the preceding financial year where the Agency finds that the provider, intentionally or negligently:
 - (a) infringes the relevant provisions of this Regulation;
 - (b) fails to comply with a decision ordering interim measures under Article 33; or
 - (c) fails to comply with a commitment made binding by a decision pursuant to Article 34.
2. The Agency may adopt a decision imposing on the sports governing body or competition organiser concerned or on another natural or legal person referred to in Article 30(1) fines not exceeding 1 % of the total annual income or worldwide turnover in the preceding financial year, where they intentionally or negligently:
 - (a) supply incorrect, incomplete or misleading information in response to a simple request or request by a decision pursuant to Article 30;
 - (b) fail to reply to the request for information by decision within the set period;
 - (c) fail to rectify within the period set by the Agency, incorrect, incomplete or misleading information given by a member of staff, or fail or refuse to provide complete information;
 - (d) refuse to submit to an inspection pursuant to Article 32;

- (e) fail to comply with the measures adopted by the Agency pursuant to Article 35; or
 - (f) fail to comply with the conditions for access to the Agency's file pursuant to Article 43(4).
3. Before adopting the decision pursuant to paragraph 2 of this Article, the Agency shall communicate its preliminary findings to the sports governing body or competition organiser or to another person referred to in Article 30(1).
 4. In fixing the amount of the fine, the Agency shall have regard to the nature, gravity, duration and recurrence of the infringement and, for fines imposed pursuant to paragraph 2, the delay caused to the proceedings.

Article 39

Periodic penalty payments

1. The Agency may adopt a decision, imposing on the sports governing body or competition organiser concerned or other person referred to in Article 30(1), as applicable, periodic penalty payments not exceeding 5 % of the average daily income or worldwide annual turnover in the preceding financial year per day, calculated from the date appointed by the decision, in order to compel them to:
 - (a) supply correct and complete information in response to a decision requiring information pursuant to Article 30;
 - (b) submit to an inspection which it has ordered by decision pursuant to Article 32;
 - (c) comply with a decision ordering interim measures pursuant to Article 33(1);
 - (d) comply with commitments made legally binding by a decision pursuant to Article 34(1);
 - (e) comply with a decision pursuant to Article 36(1).
2. Where the sports governing body or competition organiser concerned or other person referred to in Article 30(1) has satisfied the obligation which the periodic penalty payment was intended to enforce, the Agency may fix the definitive amount of the periodic penalty payment at a figure lower than that under the original decision.

Article 40

Bans

1. Where the Agency finds that a sports governing body or competition organiser commits systematic infringements of the good governance principles or serious infringements of Article 11, it may:

- (a) adopt a decision imposing on the sports governing body or competition organiser concerned a ban on organising and commercially exploiting sporting competitions in the territory of the Union;
 - (b) adopt a decision prohibiting the participation of athletes, clubs or teams that are established or reside in the Union, or participate in sporting competitions taking place in the territory of the Union, in the sporting competitions organised by the sports governing body or competition organiser concerned.
2. A decision pursuant to paragraph 1 shall only be made if other penalties have not been effective in bringing an end or do not promise to bring an end to the infringement concerned, or are inadequate due to the nature or severity of the infringement concerned.
3. Before adopting a decision pursuant to paragraph 1, the Agency shall communicate its preliminary findings and intention to adopt the decision to the sports governing body or competition organiser and give them reasonable time to respond.

Article 41

Limitation period for the imposition of penalties

1. The powers conferred on the Agency by Articles 37 to 40 shall be subject to a limitation period of five years.
2. Time shall begin to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, time shall begin to run on the day on which the infringement ceases. An infringement of the good governance principles shall count as a continuing infringement until the day on which the infringement ceases.
3. Any action taken by the Agency or by the national sports authority for the purpose of the investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. Actions which interrupt the limitation period shall include, in particular, the following:
 - (a) requests for information by the Agency or by a national sports authority;
 - (b) inspection;
 - (c) the opening of a proceeding by the Agency pursuant to Article 29(1).
4. Each interruption shall start time running afresh. However, the limitation period for the imposition of fines or periodic penalty payments shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without the Agency having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which the limitation period has been suspended pursuant to paragraph 5.

5. The limitation period for the imposition of fines or periodic penalty payments shall be suspended for as long as the decision of the Agency is the subject of proceedings pending before the Court of Justice of the European Union.

Article 42

Limitation period for the enforcement of penalties

1. The power of the Agency to enforce decisions taken pursuant to Articles 37 to 40 shall be subject to a limitation period of five years.
2. Time shall begin to run on the day on which the decision becomes final.
3. The limitation period for the enforcement of penalties shall be interrupted:
 - (a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation;
 - (b) by any action of the Agency, or of a Member State acting at the request of the Agency, designed to enforce payment of the fine or periodic penalty payment.
4. Each interruption shall start time running afresh.
5. The limitation period for the enforcement of penalties shall be suspended for so long as:
 - (a) time to pay is allowed;
 - (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice of the European Union or to a decision of a national court.

Article 43

Right to be heard and access the file

1. Before adopting a decision pursuant to Article 36(1), 37, 38, 39 or 40, the Agency shall give the sports governing body or competition organiser concerned or other person referred to in Article 30(1) the opportunity of being heard on:
 - (a) preliminary findings of the Agency, including any matter to which the Agency has taken objections; and
 - (b) measures that the Agency may intend to take in view of the preliminary findings referred to point (a).
2. The sports governing body or competition organiser or other person referred to in Article 30(1) may submit its observations on the Agency's preliminary findings within a reasonable period set by the Agency in its preliminary findings, which may not be less than 14 days.

3. The Agency shall base its decisions only on objections on which the parties concerned have been able to comment.
4. The rights of defence of the parties concerned shall be fully respected in the proceedings. They shall be entitled to have access to the Agency's file under the terms of a negotiated disclosure, subject to the legitimate interest of the sports governing body or competition organiser or other person concerned in the protection of their business secrets. The Agency shall have the power to adopt decisions setting out such terms of disclosure in case of disagreement between the parties. The right of access to the file of the Agency shall not extend to confidential information and internal documents of the Agency, national sports authorities or other public authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Agency and those authorities. Nothing in this paragraph shall prevent the Agency from disclosing and using information necessary to prove an infringement.
5. The information collected pursuant to Articles 30, 31 and 32 shall be used only for the purpose of this Regulation.

Article 44

Publication of decisions

1. The Agency shall publish the decisions it adopts pursuant to Article 33(1), Article 34(1) and Articles 36 to 40. Such publication shall state the names of the parties and the main content of the decision, including any penalties imposed.
2. The publication shall have regard to the rights and legitimate interests of the sports governing body or competition organiser concerned, any other person referred to in Article 33(1) and any third parties in the protection of their confidential information.

Article 45

Review by the Court of Justice of the European Union

In accordance with Article 261 TFEU, the Court of Justice of the European Union has unlimited jurisdiction to review decisions by which the Agency has imposed penalties. It may cancel, reduce or increase the fine or periodic penalty payment imposed, and cancel or limit the ban imposed.

Article 46

Implementing acts relating to Agency intervention

In relation to the Agency intervention covered by this Section, the Commission may adopt implementing acts concerning the practical arrangements for:

- (a) the proceedings pursuant to Articles 30 and 35;
- (b) the hearings provided for in Article 43;
- (c) the negotiated disclosure of information provided for in Article 43.

Before the adoption of any measures pursuant to the first paragraph of this Article, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the period set out therein, which shall not be less than one month. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 51.

SECTION 3

Common provisions on enforcement

Article 47

Professional secrecy

Without prejudice to the exchange and to the use of information referred to in this Chapter, the Agency and national sports authorities, as well as their respective officials, servants and other persons working under their supervision, and any other natural or legal person involved, including auditors and experts appointed pursuant to Article 35(2), shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy.

Article 48

Information sharing system

1. The Agency shall establish and maintain a reliable and secure information sharing system supporting communications between the Agency and the national sports authorities. Other competent authorities may be granted access to this system where necessary for them to carry out the tasks conferred to them in accordance with this Regulation.
2. The Agency and the national sports authorities shall use the information sharing system for all communications pursuant to this Regulation.
3. The Commission shall adopt implementing acts laying down the practical and operational arrangements for the functioning of the information sharing system and its interoperability with other relevant systems. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 51.

*Article 49***Representation of rights**

1. Without prejudice to Directive (EU) 2020/1828 or to any other type of representation under national law, athletes, clubs, teams and fans shall at least have the right to mandate a body, organisation or association to exercise the rights conferred by this Regulation on their behalf, provided the body, organisation or association meets all of the following conditions:
 - (a) it operates on a not-for-profit basis;
 - (b) it has been properly constituted in accordance with the law of a Member State;
 - (c) its statutory objectives include a legitimate interest in ensuring that this Regulation is complied with.
2. Sports governing bodies and competition organisers shall take the necessary technical and organisational measures to ensure that complaints submitted by bodies, organisations or associations referred to in paragraph 1 of this Article on behalf of recipients of the service through the mechanisms referred to in Article 20(1) are processed and decided upon with priority and without undue delay.

*Article 50***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 12, 14 and 28 shall be conferred on the Commission for an indeterminate period of time from DD/MM/YYYY.
3. The delegation of power referred to in Articles 12, 14 and 28 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following that of its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 12, 14 and 28 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the

European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Article 51

Committee procedure

1. The Commission shall be assisted by a committee ('the Sports Governance Committee'). That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 52

Review

1. By DD/MM/YYYY, and subsequently every three years, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.
2. The evaluation shall establish:
 - (a) whether this Regulation has effectively contributed to raising good governance standards in sports, promoting values-based sports and protecting the key features of the European Sports Model;
 - (b) whether the national sports authorities and the EU Sports Agency have effectively discharged their mandate;
 - (c) whether additional rules, including regarding the specific requirements laid down in Articles 7 to 10, or modifications regarding the mandate of the national sports authorities and the EU Sports Agency are needed to ensure good governance in sports.

Based on the evaluations, the Commission shall take appropriate measures, which may include legislative proposals.

3. The EU Sports Agency, national sports authorities and sports governing bodies shall provide any relevant information they have that the Commission may require for the purposes of drawing up the report referred to in paragraph 1.

Article 53

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from DD/MM/YYYY.