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ARTICLE

The Duty of Engagement: An Analysis of the 2016 European Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Events

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Safety and security concerns in the context of sporting events and, in particular,football, have existed for decades. This has led to responses from individual countries as well as on a supranational level through, for example, the Council of Europe (CoE) conventions. In this article, we critically analyse the CoE's2016 Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events (CETS, No.218). Hitherto, few analyses have concentrated on the scope and impacts of the Convention. Thus, this article first asks how contracting states should implement Article 8 of theConvention which enshrines a duty of engagement. Second, it questions how theConvention plays into the wider embrace of human rights in contemporary sport settings. The unfolding argument is that the Convention has been comparably under-researched within the literature on both human rights and sport mega-events and football-related legal analyses. Moreover, we argue that the Convention contains much potential for driving forward a more visible engagement with human rights law within a sporting context. In particular, Article 8, which enshrines a duty of engagement has the potential to foster a robust and transformative human rights compliant culture within the context of sport.

Keywords: football-related violence; security; safety; human rights; sport

Introduction

In their independent report into football fans' experiences of the crowd troubles and chaos that unfolded outside *Stade De France* for the May 2022 Champions League final in Paris between Liverpool and Real Madrid, Scraton et al. (2022) provide a powerful description of the heavy-handed policing approaches that were deployed against fans in what clearly appeared to be the shocking manifestation of a complete breakdown of fans' rights to basic safety and security at this particular sporting event. They noted that:

> Without provocation, riot police tear gassed fans standing in static queues. Fans were assaulted and robbed by local youths who then, without tickets and with the collusion of stewards, gained entry into the stadium. At the end of the match fans were herded from the stadium, again attacked by gangs and tear-gassed by police (Scraton et al. 2022: 8).

In many ways, these remarks symbolise the position which many governments and authorities adhere to, which holds that football fans represent a social group representing a threat to the social and public order (Tsoukala et al. 2016). As scholars have demonstrated, this is a position that has often had a serious impact on fans' basic civil and human rights (Pearson 2012; Spaaij 2013; Stott & Pearson 2006; Tsoukala 2009). In the wider context, concerns around safety and security, such as those that transpired at and emanated from the 2022 Champions League final, have long existed and continued to emerge in the context of modern-day sporting events in Europe. Since the 1980s, this has also led to responses from European institutions and organizations, who have sought to combat issues stemming from poor stadium standards, crowd disorder, "hooliganism", and other threat typologies typically associated with sporting events (Tsoukala 2009a). Indeed, following the events in Paris in May 2022, which culminated in the publication of the mentioned independent report, it was succinctly posited by the independent experts, whether, in the context of spectator

attendance and safety, "UEFA carried out inspections, in association with relevant agencies in Paris, to ensure its due diligence duty regarding the safety of fans in the Fan Parks; arriving at, entering, inside and exiting the stadium; and in the surrounding neighbourhood" (Scraton et al. 2022: 11). Such observations once again brought the issue of fans' safety, and the correlative obligations this place on host states and sport's governing bodies, squarely within legal confines.

Against this backdrop, this article provides an analysis of one of the key instruments in a European-wide context that exists to ensure fans' safety and security – namely, the Council of Europe's (CoE) 2016 *Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events* (CETS No.218). In doing so, the article examines how the Convention – sometimes called the Saint-Denis Convention – may be situated in the context of a wider embrace of human rights from organizations with a stake in sport and the more general proliferation of human rights discourses within a sporting context in the twenty-first century (McGillivray et al. 2019).

With its focus on multi-agency partnerships, stronger collaboration between European stakeholders, and the creation of welcoming environments at sporting events (Cleland et al. 2018), the 2016 Convention represents a pivotal moment in the supranational regulation of safety and security in football. Importantly, it updated the CoE's earlier 1985 *Convention on Spectator Violence and Misbehaviour at Sports Events* (as adopted on 19 August 1985) which was implemented shortly after the Heysel tragedy in May 1985 where 39 fans died (Taylor 1986). However, perhaps due to the relative infancy of the new Convention, it has not yet featured centrally in academic analyses. Over half a decade after the Convention was opened for signature for CoE members, few studies have critically analysed the Convention in relation to the distinct obligations it imposes on contracting states, or indeed its role in concretising the position of human rights in sport. Thus, despite the generalized acceptance that "[s]port provides one important site for the exploration of new horizons in human and civil rights" (McArdle & Giulianotti 2014: 3), the elision of the Convention from wider academic interrogation has undoubtedly curtailed it legal and operational refinement.

Therefore, it is this research gap that this article seeks to bridge. This paper engages with the following research questions and, in that respect, connects with the extant social, scientific and socio-legal scholarship on the European responses to violence, misbehaviour, and safety in sport, as well as the wider, burgeoning literature on the *nexus* between sport and human rights:

1. How should contracting states implement Article 8 of the Convention which enshrines a duty of engagement? And connectedly:
2. How does the Convention play into the wider embrace of human rights in contemporary sport settings?

By drawing on pre-existing bodies of literature, international human rights law, and official documents, this article argues that the Convention contains much potential for advancing a more practical and visible engagement with human rights law within a sporting context. The article commences with a discussion of the relationship between sport and human rights. It subsequently unpacks the supranational regulation of safety and security in European football for the purposes of locating the CoE within this wider regulatory framework. This section also captures the implementation of the 1985 Convention before it examines the key discernible features of the 2016 Saint-Denis Convention. By analysing the obligations imposed under Article 8 of the Convention – which enshrines a *duty of engagement* – this section explores how the implementation of the convention must not be viewed in isolation from broader human rights law. Rather, it is contended that the faithful adherence to the multi-agency stakeholder engagement which underpins and defines Article 8, necessitates the rigorous observance of wider human rights law. The article concludes with a summation of its key arguments and some observations on the wider implications arising from the Convention.

Situating the Human Rights-Sport Nexus

The previous two decades have undoubtedly borne witness to a more concrete embrace of the overlaps of sport and human rights (Horne 2018; McGillivray et al. 2021). Permeating much of the academic literature on this intersection has been the welcome elaboration of the distinct legal obligations which various stakeholders, from sport mega-event (SME) franchise holders to national governments, assume within a sporting context (Chappelet 2022; Giulianotti & McArdle 2014; Talbot & Carter 2018). Highly central to much of this scholarship has been the examination of the political, economic, social, cultural, and legal conditions which have either accelerated, or brought into dispute, the awarding of prestigious SME hosting rights to a particular country (Boykoff 2022; Millward 2017; Morel 2012), or the wider human rights concerns which have emerged following the granting of a specific event to a particular country (Chappelet 2021: Dowse & Fletcher 2018). More recently, Boykoff (2022: 343) discussed the connection between "sportswashing" and human rights, noting how mega-events may serve to distract the public from "unjust processes like gentrification, homelessness, and hyper-policing".

Enhanced by legal developments at the international level, including the adoption of the widely accepted United Nations' "Protect, Respect and Remedy" Framework – commonly referred to as the "Ruggie Principles" (Byrne & Lee Ludvigsen, 2022) – in addition to on-going efforts to secure an internationally binding treaty on business and human rights (MacChi 2018; UN 2021), the correlative consequences of which would undeniably alter the existing non-binding nature of the legal nexus between businesses and human rights, the legal parameters within which sport and human rights is now situated has undergone a notable and transformative evolution. Additionally, pronouncements at the

inter-governmental level have not only further solidified the overlap between sport and human rights. They have also accentuated the positive, enduring and influential reciprocity which exists between the two. This is evidenced by the UN's unequivocal vision for sport as part of its international developmental programme, as contained within the 2030 Agenda for Sustainable Development (Lindsey & Chapman 2017), where the organization states that sport is an "an important enabler of sustainable development" (UN 2015: para 37)

Moreover, one distinct area where the interface of sport and human rights has generated specific academic commentary is the area of stadia crowd control and the associated policing measures which are enacted and implemented to ensure fan safety (Pearson & Stott 2022) and counter football-related violence (Spaaij 2013; Tsoukala 2009a, 2009b). Indeed, much of the academic focus within this strand of research has examined the long-standing and complex relationship between policing and "football hooliganism", and the legal mechanisms introduced to prevent crowd disorder and violent behaviour within football contexts (e.g., James & Pearson 2015; Pearson & Stott 2022).

Simultaneously, in their recent analysis of the historical developments of crowd disorder and "football hooliganism", Pearson and Scott (2022: 26) remind us that the term has come to symbolise a:

> catch-all term that could be used to categorise young male football fans or types of behaviour ranging from criminal damage, running on the pitch, and throwing missiles, through to large-scale public disorder and interpersonal violence, occasionally involving weapons

Indeed, as Tsoukala (2009a: 59) argues, whilst sophisticated legal apparatuses have responded to "hooliganism" across Europe, this "legal specificity remain[s] paradoxical because it was developed in the absence of a proper legal definition of football hooliganism".

Notwithstanding, the domestic legislative, administrative and budgetary resources that are habitually deployed to prevent against such behaviour, and in pursuit of wider policing policies (Hester 2021; Stott et al. 2012; Lee Ludvigsen, 2022), the actions of police authorities are subject to the overarching human rights obligations of the state in question (Bullock & Johnson 2012). This consequently brings the question of football policing squarely within legal and judicial parameters. From a regional perspective, the influence of the European Convention on Human Rights (ECHR) and its associated jurisprudence has successfully amplified and developed the nature and breadth of the obligations which state and police authorities assume within a sporting context (Pearson & Stott 2022; Stott et al. 2020).

Central to much of the legal disputation arising within this context is the perceived legality and proportionality of domestic legal provisions which permit national authorities to detain individuals – often pre-emptively – who are deemed a risk of engaging in football hooliganism (Beckham 2001; Pearson 2005). Such disputes typically hinge on whether individual rights such as the right to liberty (Article 5 ECHR) or respect for personal and family privacy (Article 8) have been transgressed as a result of the application of the impugned domestic provision in question. For example, in the case of *S., V. and A. v. Denmark,*[1] the European Court of Human Rights not only made specific reference to the 2016 Saint-Denis Convention, but ultimately held that the detention of the applicants, to prevent football hooliganism, "struck a fair balance between the importance of the right to liberty and the importance of preventing the applicants from organising and taking part in a hooligan brawl".[2]

From a UK perspective, Stott and Pearsons (2006) analyse the legal measures enacted to combat English "football hooliganism" and in particular the use of Football Banning Orders (FBOs), pursuant to the Football Disorder Act 2000, which essentially act a means to prevent individuals who are deemed predisposed to "hooliganism", from travelling (initially abroad) to football matches, and often in the absence of a criminal conviction. In leading the authors to question the underlying human rights compliance of such measures, they note that FBOs are deployed "as a preventative rather than a punitive measure, in the manner of a civil injunction, therefore needing to follow a civil law procedure providing fewer protections for the defendant (for example, regarding the standard of proof and the admissibility of evidence)" (p. 243). Indeed, Hopkins' (2014) semi-structured interviews with police officers involved in the dispensing of FBOs reveal that, on occasion, "banning orders might be issued to supporters who could not be considered to be part of a risk group" (p. 292), therefore bringing the proportionality of such measures into question. And, whilst the legality of FBOs has been upheld by the UK Court of Appeal, they have been subject to extensive commentary and criticism (James & Pearson 2016; Pearson 2013). Thus, the departure point of this section is that the policing of football fans and the legislative measures often deployed in pursuit of such aims must also be situated within a wider human rights context and the scholarship that has accompanied relevant trends in sport.

The Supranational Regulation of European Football's Security and Safety

In order to fully understand how the CoE – as an institution promoting and monitoring human rights (De Beco 2012) – is entangled in the world of football, it is necessary to briefly revisit the wider supranational regulation of security and safety matters across Europe. Likewise, it is important to acknowledge how this supranational regulation emerged as a response to wider concerns and "moral panics" about football-related violence and "hooliganism" which came to involve European organizations such as UEFA, the Council of the European Union, in addition to the CoE (see Tsoukala 2009a).

Our primary focus remains on the CoE as the supervisory body with respect to the Saint-Denis Convention. With 46 member states, the CoE represents an international organization which seeks to promote international cooperation

in the realms of sport, culture, and human rights (Serby 2015). Besides being engaged in the response to violence and misbehaviour in sport, it has also engaged in the prevention of match-fixing in international sport as symbolised by its 2014 *Convention on Manipulation of Sports Competition*. In that sense, the involvement of the CoE in the sporting world is, in some ways, reflective of wider globalizing forces which have led to the expansion of supranational organizations in the international system that, again, has gained power and authority in global sport (see Giulianotti & Robertson 2012).

From a historical perspective, it is possible to trace the supranational regulation of security and safety in football back to the mid-1980s. Whilst issues associated with misbehaviour and violence had existed across European football contexts long before this, the Heysel stadium tragedy in Brussels, in May 1985, became a critical turning point. Described as the darkest hour in UEFA's competitions history, 39 Juventus supporters died and many more were injured in the Heysel tragedy during the European Cup final between Liverpool (England) and Juventus (Italy) (Coenen 2009) after some Liverpool fans had rushed at Juventus fans when a wall collapsed, crushing many underneath (Doidge et al. 2020). One key response – on a European level – became the CoE's (1985) *European Convention on Spectator Violence and Misbehaviour at Sports Events*, as adopted on 19 August 1985. Indeed, as Tsoukala (2007: 4) notes, the Heysel tragedy and subsequent European level responses came "to signify the beginning of a new period, from 1985 to late 1990s, in the course of which football hooliganism acquired, to some extent, a normative specificity" despite the aforementioned lack of a legal definition of what "hooliganism" essentially was.

In brief, the 1985 Convention made a number of recommendations about how violence in sport could be prevented and punished and marked an important step towards the enhanced European-wide co-operation between law enforcers and other stakeholders (Frosdick & Marsh 2005; Spaaij 2013). Whilst the 1985 Convention and its key ramifications have been subjected to detailed academic analyses elsewhere (Taylor 1986; Tsoukala 2009a), it should be acknowledged that this Convention not merely became a starting point of European institutions' intensified engagement with security and safety issues in sport (Tsoukala 2009a), but it also placed significant duties upon states who signed up to the Convention. For example, as Taylor (1986) observes, it recognized that both public authorities of member states and sport's governing bodies and associations had a separate but complementary responsibility to respond to and combat violence and misbehaviour in sport. By focusing on prevention (Article 3), international cooperation (Article 4) and the identification of misbehaving individuals in sport (Coenen et al. 2016), the 1985 Convention also involved the establishment of a standing committee to monitor its implementation and compliance across members states (Taylor 1986).

Notwithstanding, with its repeated emphasis on the restrictions designed to "screen out the *potential hooligan*" (ibid.: 611, emphasis), it is possible to not merely observe the precautionary logic ("potential hooligan") that inhibits the Convention vis-à-vis the individual or social groups that it sought to respond to, but how the spaces that it applied to stretched beyond the football stadia (for example, during supporters' travels to and from fixtures). At the same, time, Taylor (1987) remained clear that, in the response to "hooliganism" on a European level, the 1985 Convention did not:

> offer a simple solution to the problem of violence. It does, however, offer a competent framework outlining the preventive measures which may, if applied rigorously, help contain the problem. The vitality of the Convention, then, depends on the continued political will of each signatory nation and, perhaps, on a periodic reminder of the tragic events which gave rise to its creation (p. 653)

Indeed, this underpins how the *application* of the 1985 Convention has been questioned since the 1980s and how the "political will" of nations, in many respects, directly influenced the Conventions' effectiveness beyond representing a "competent framework". As such, within this supranational system which has evolved in line with the Convention – and beyond the CoE – it also remains important to point out, as Tsoukala (2009a, 2009b) shows, that throughout the 1990s and 2000s, the Council of the EU also started to engage more with safety and security matters in football, under the umbrella of "counter-hooliganism" – again – despite the legal vagueness of "hooliganism". Moreover, European football's governing body, UEFA, also provides its own set of safety and security regulations that participants in their competitions must comply with (Taylor 1987). In other words, and in this paper's context, what has emerged in Europe after 1985 is a supranational multi-level framework that regulates states and governments' responses to security issues in sport stemming from misbehaviour, violence, and anti-social behaviour (Coenen et al. 2016). As such, it is within this social and temporal context that we may situate the CoE's position as an influential actor within sport's securitization that represents one of the "decision-making centres" (Tsoukala 2009b) through its drafting of international treaties and conventions.

The Emergence of the 2016 Saint-Denis Convention

Adopted under the auspices of the CoE, the 2016 Saint-Denis Convention builds upon its 1985 predecessor. Although in its relative infancy, it is nonetheless argued that it possesses much capacity to harness and advance a more vigorous human rights compliant culture within a sporting context across Europe. In recognising that sport is not only "an essential part of democracy" (CoE 2022d: 2), the CoE further note that the practice of sport itself faces several "complex and ever-evolving threats" (ibid.) including, amongst others, continued violence at sporting events and human rights abuses. In this regard, and in light of its stated objectives, the significance of the Saint-Denis Convention assumes

increased import. Notwithstanding this however, engagement with the Convention has evaded critical academic scrutiny, the effect of which has arguably curtailed the development and operationalisation of the Convention itself, and its related provisions. Through providing a legal analysis of the Convention, and in particular the duty of engagement as enshrined in Article 8, it is argued that the Convention itself possesses the ability to foster a genuine, transferrable, and significant human rights complaint culture within European and domestic sporting contexts.

Unpacking The Saint-Denis Convention (2016)

Opened for signature on 3 July 2016 and entering into force on 1 November 2017, the 2016 Saint-Denis Convention, concretises the procedural, operational, logistical, and administrative measures necessary to ensure a safe, secure, and welcoming space at football and other sporting events (Article 2). According to the CoE (2016: 4), it:

> reflects widespread European experience which evidences that focusing only on security risks in isolation does not provide an appropriate or effective means for reducing risks or ensuring a safe, secure and welcoming atmosphere in stadiums.

Although still in its embryonic legal development, the Convention has since been ratified by 23 CoE member states. Instituted on the mutually reinforcing tripartite pillars of safety, security, and service, the Convention "not only takes practical measures to prevent and control safety, security and service but also sets out a series of measures for identifying and prosecuting offenders" (UK Gov, DCMS, 2022: para 37).

Containing 22 wide-ranging articles, from the requirement to ensure adequate domestic co-ordination arrangements for guaranteeing the implementation of a multi-agency approach to safety, security, and service at sporting events (Article 4), to the establishment of suitably tested emergency and contingency arrangements (Article 7), to the prevention and sanctioning of offending behaviour at sporting events (Article 10), the Saint-Denis Convention contains numerous duties which, on deeper examination, the discharge of which generates profound, if not, legally exacting procedural and substantive obligations on contracting states. Indeed, cutting across much of the legal and operational reach of the Convention is the need for domestic authorities to have regard to wider international best practice and cooperation in satisfying the requirements as articulated within the Convention. This includes for example, having regard to international best practice for establishing the multi-agency approach to delivering safety, security, and service at events (Article 4(4)), to ensuring compliance with international law in the prevention and sanctioning of offending behaviour at sporting events (Article 10(2)).

Moreover, one of the Convention's defining characteristics is its idiosyncratic legal character. In explicitly engaging with, and referring to, the role of the private sector within its operational ambit, the Convention unequivocally accepts, and affirms, the role of the private sector as a key stakeholder within its legal and lexical makeup. For instance, reference to the role of the private sector permeates numerous Convention articles. This includes the recognition within Article 2 of the role of the private sector in securing the aims of the Convention, the acceptance within Article 4(3) of the role which private actors play in guaranteeing a "multi-agency integrated approach to safety, security and service", the requirement within Article 5(6) that personnel from private agencies "are equipped and trained to fulfil their functions effectively", and the duty within Article 8(2) for contracting states to encourage all relevant stakeholders, including the private sector, to foster "mutual respect and understanding" among supporters, sports clubs and all agencies dealing with safety and security.

Indeed, cutting across the Convention is the repeated assertion and formalisation of the importance of a multi-agency approach with regards to its implementation. Further to this, Article 3(d) defines an agency as including any:

> private body with a constitutional, legislative, regulatory or other responsibility in respect of the preparation and implementation of any safety, security or service measure in connection with a football match or other sports event, inside or outside of a stadium

Thus, the inextricable centralisation of the role of the private sector within the Convention must and should not be overlooked. The practical and legal outworking's of this is that the obligations which these – and other Convention rights – impose on contracting states, and the manner in which they are implemented, brings responsibility for their implementation beyond the orthodox legal vertical axis connecting individual and state, and which once typified human rights law (Knox 2008; McConnell 2017). In other words, by ascribing a prominent role to the private sector, the Convention clearly envisages, and mandates, a proactive approach on the part of contracting states to ensure its implementation. In his cogent articulation of the recognition of the human rights obligations of the private sector, López Latorre (2020) states that such duties emanate from three related strands. These include the acknowledgement "that businesses are (partial) legal persons under international law, capable of bearing rights and obligations" (ibid.: 57), that "international human rights law allocates obligations to non-state actors, even though their enforcement depends on state and municipal law" (ibid.) and, finally, that "all human rights impose correlative obligations on all social actors, regardless of their nature as states or non-state actors, but those obligations depend on the role and the circumstances

of that particular actor" (ibid.). Such views further echo the voluminous scholarly treatment on the interface of business and human rights (Bilchitz 2021; De Schutter 2016; Deva & Bilchitz 2013), the aggregate position of which holds that the private sector can no longer be seen as separate to, or distinct from, wider human rights obligations. Thus, the ascendancy of the private sector has not only reoriented the archetypical state-centric parameters which once encased human rights law (Byrne & Lee Ludvigsen, 2022), but coupled with ongoing international efforts to secure a legally binding treaty on business and human rights as referred to earlier (UN 2021), the need to engage with the role of the private sector in the delivery and implementation of the Saint-Denis Convention becomes a clear necessity.

Therefore, although the Convention addresses a specific sporting thematic issue, the legal adherence to, and practical translation of, the duties which it contains, exist within a wider multi-layered legal framework, including international human rights law, which must and should guide its implementation. To avoid further, what Hafner-Burton and Tsutsui (2005: 1378) call the "paradox of empty promises" occurring, namely the outward ratification of an international treaty which is not subsequently followed through in terms of practical implementation by the state in question, we argue that sustained academic treatment and interrogation of the 2016 Saint-Denis Convention is required to amplify and delineate its core procedural and substantive requirements.

The Committee of the Saint-Denis Convention

Overseeing the implementation of the Convention, is the Committee of the Saint-Denis Convention. Established pursuant to Article 13 of the Convention, the Committee's primary function is to monitor the application of the Convention (Article 14). This includes, amongst other responsibilities, reviewing the provisions of the Convention, advancing recommendations concerning its implementation, recommending measures to keep the public informed about the activities undertaken within the framework of the Convention and facilitating the collection, analysis and exchange of information, experience, and good practices between States (Article 14(1) (a–g)). Empowered also to undertake visits to contracting states to assess compliance with the Convention (Article 14 (2)), the Committee is mandated to meet once a year (CoE 2022c: 9) to comply with its monitoring functions. Crucially, the purpose of monitoring is:

> to carry out a comprehensive and an integrated assessment of the relevant national legislation, policies and practices against the provisions and standards enshrined in the Convention, namely through questionnaires, visits and follow-up measures (CoE 2022c: 5)

With the first country-specific monitoring visit under the Convention having been earmarked to take place in Turkey in late 2022, current information is non-existent on the content, coverage, and quality of such country reports. However, moving forward, such reports will provide a valuable and transferrable jurisprudential source of knowledge in relation to the domestic implementation of the Saint-Denis Convention within individual countries. However, despite its relative infancy, recent recommendations advanced by the Committee provide an insight into the practical operation of the Convention and the likely guidance the Committee will prospectively provide to contracting states as regards its implementation moving forward. These include a recommendation issued in October 2021, providing guidance on how to implement the convention, and two subsequent recommendations issued in October 2022, the first of which – Recommendation 1 – provides for a "*Model Structure of a National Strategy on Safety, Security and Service at Football Matches and other Sports Events*" for contracting states to adopt, while the second – Recommendation 2 – details a sample "*national legislative and regulatory framework on safety, security and service at football matches and other sports events*" which can be transposed domestically by contracting states in fulfilling their obligations pursuant to the convention. Of particular significance, however, is the reference within both 2022 recommendations to wider human rights law as important referential sources upon which the implementation of the Convention is to be secured. In referring to the rights as set out in the ECHR and also the rights of disabled people "to participation in the life of the community" (CoE(a) 2022a: 4) within Recommendation 1, and general human rights law within Recommendation 2 (CoE 2022b: 7), the Committee clearly envisage wider human rights principles as central determinative and guiding standards in guaranteeing the implementation of the provisions outlined within the Saint-Denis Convention. Against this backdrop, it is contented that Article 8, which enshrines the duty of engagement, and which will now be examined, must be complied with, and delivered, in accordance wider international and regional human rights standards.

Article 8 of the Saint-Denis Convention: Enshrining a Duty of Engagement

Article 8 of the Saint-Denis Convention enshrines a duty of engagement with supporters and local communities. It states that:

1. The Parties shall encourage all agencies to develop and pursue a policy of proactive and regular communication with key stakeholders, including supporter representatives and local communities, based on the principle of dialogue, and with the aim of generating a partnership ethos and positive co-operation as well as identifying solutions to potential problems.
2. The Parties shall encourage all public and private agencies and other stakeholders, including local communities and supporter representatives, to initiate or participate in multi-agency social, educational, crime-prevention

> and other community projects designed to foster mutual respect and understanding, especially among supporters, sports clubs and associations as well as agencies responsible for safety and security.
>
> (COE 2016)

Set across two subsections, Article 8(1) encourages all agencies – public and private – to regularly communicate with sporting and footballing stakeholders, while Article 8(2) espouses a broader communitarian objective designed to develop respect and understanding amongst all stakeholders within a sporting – and especially the footballing – context. Indeed, in their first recommendation issues in 2021 (CoE 2021), the Committee on Safety and Security at Sport Events, set out several key suggestions in furthering the obligations as enunciated within Article 8.

These included the need for the development of a collaborative multi-agency communication and media strategy, which would, amongst other objectives, provide "supporters with important information on relevant legislative and regulatory provisions (and associated safeguards and reassurances)" (ibid.: para 51). Meanwhile, at the localized level, it was suggested that local authorities, police personnel, and football club representatives would communicate with local and visiting supporters about:

> designated/recommended areas for recreation before, during and after matches, and policing tolerance levels (offering clear advice on what constitutes unacceptable behaviour) as well as highlighting any additional or exceptional measures planned for what are designated as higher risk matches (ibid.: para 52).

Whilst such suggestions are aimed at securing a safe and welcoming environment for all football fans, it is contended that the successful and meaningful implementation of Article 8 requires a much more comprehensive and nuanced understanding of the obligations which international and regional human rights law imposes on contracting states. Indeed, as earlier alluded to, the Committee's recommendation references to the ECHR and wider disability rights, indicates a more expansive approach to the implementation of the Saint-Denis Convention.

Firstly, in view of the heterogenous composition of sporting and football "stakeholders" which, pursuant to Article 3 of the Convention, are defined as "spectators, local communities or other interested parties", the need for a wider appreciation of human rights law becomes apparent. Given that such stakeholders will invariably include children and young people (Thomson & Williams 2014), and disabled people (Brown 2022; Penfold & Kitchin 2022), amongst others, the need for a level of engagement which takes account of children's rights law on the one hand, and disability rights on the other, and the correlative duties which both legal disciplines generate, becomes an immediate operational priority as regards to Article 8. This is further underscored by the fact that, in their independent report into the Champions League final in June 2022, Scraton et al. (2022: 13) note that children and young people were subject to severely traumatising experiences, while safety on entering and exiting the stadium, including that which was used for disability purposes was "compromised".

Secondly, operationalising respect for children's rights law and disability rights within the delivery of Article 8 – and, indeed, the Convention more widely – requires an understanding of the distinct legal obligations – procedural and substantive – which arise within both contexts. Dealing firstly with children's rights law, the requirements under the UN Convention on the Rights of the Child (CRC) (1989), the most widely ratified international human rights treaty, become apparent. Containing several significant procedural obligations, it is arguably the right to participate in all matters which affect children pursuant to Article 12 CRC that is of direct relevance in the context of the duty of engagement under the Saint-Denis Convention's Article 8. Indeed, situated right across the extensive academic literature on Article 12 CRC is the fundamental requirement for children to be provided with all relevant information to enable them to participate in the first instance (Marshall et al. 2017), and for their views to be given due weight in accordance with their age and maturity (Daly 2018; Lundy 2007). Byrne and Lundy (2019: 362) argue that "for a policy to be children's rights-based, children and young people should be involved in its development" and, moreover, that involving children and young people as policy stakeholders is a way "of making adult decision-makers more accountable and can lead to better, more transparent governance" (p. 364). Indeed, the UN Committee on the Rights of the Child (2009, para 12), as the treaty-monitoring body which oversees the implementation of the CRC, has also stated that the views of children and young people "should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation". Therefore, it is axiomatic that compliance with Article 8 of the Sain-Denis Convention requires adherence to Article 12 CRC and further that all individuals – drawn from either the public or private sector – but who are involved within Article 8 matters must and should be fully appraised of the requirements arising under Article 12 CRC.

Similarly, from a disability rights perspective, the UN Convention on the Rights of Persons with Disabilities (UNCRPD) (2007) imposes important procedural obligations on states within the context of policy development. This, again, is of direct relevance to Article 8 of the Saint-Denis Convention. For instance, the UN Committee on the Rights of Persons with Disabilities (2018), which supervises the implementation of the UNCRPD has stated that contracting states should consult and engage "with organizations of persons with disabilities when conducting preparatory studies and analysis for formulating policy" (para 58), and further that states should "strengthen the capacity of organizations of persons with disabilities to participate in all phases of policymaking, by providing capacity-building and training on the human

rights model of disability, including through independent funding" (para 60). Such sentiments again underscore the reality that stakeholder engagement does not endure within a seamless administrative or bureaucratic paradigm. Rather, recognition of, and respect for, individual stakeholders, will on occasion require the adoption of specific measures to ensure their effective participation in matters affecting them. That this is true for those with disabilities, who represent a clear sporting and football constituency, is beyond doubt.

Additionally, in view further of the cross-fertilising nature of both the CRC and the UNCRPD as increasingly important judicial reference points within ECHR jurisprudence (Kilkelly 2010), and in light of the assertion by the Saint-Denis Committee on the importance of ECHR and disability rights, the need to consider both treaties within the framework of the Saint-Denis Convention further becomes apparent. Kilkelly (2001: 326) has argued that the CRC represents an "important interpretative tool" within the context of ECHR interpretation, while Liefaard (2015: 909) reminds us that the right to participate under Article 12 CRC has now increasingly "found its way to the case law of the European Court of Human Rights". Similarly, Favalli (2018) argues that the European Court of Human Rights has increasingly come to embrace the core legal tenets contained within the UNCRPD, while in the case of *Çam v Turkey*,[3] the Court made specific reference to the UNCRPD when interpreting the applicant's education rights under the ECHR. Thus, in view of the foregoing, the duty of engagement pursuant to Article 8 of the Saint-Denis Convention presents as a much more intricate and detailed obligation than that which may appear at first sight. Indeed, to give real and practical effect to the duty of engagement, it is paramount that wider human rights obligations are considered and adhered to, to ensure Article 8 has a substantive legal and procedural bite.

Furthermore, the duty of engagement must also be positioned within a broader context and must involve fan representatives and local communities in the dialogues around security and safety in football and in the co-creation of solutions to potential problems. Indeed, it is clear that since 2009 and 2016, Football Supporters Europe (FSE) and SD Europe have held observer status on the Standing Committee of the European Convention on Spectator Violence (T-RV). This, in turn, has enabled fan representatives to "have the opportunity to contribute to discussions of the body, which monitors the application" of that particular Convention (Numerato 2018: 75). Indeed, the role of fan networks within security and policing matters was discussed recently by Pearson and Stott (2022) and Lee Ludvigsen (2022). Given their role as *the* key stakeholder in the sport, it remains crucial that "[f]ans should not merely be seen as the targets of policing operations, but as a vital resource for those operations" (Pearson and Stott 2022: 165). However, whilst it is apparent that fans are recognized formally as legitimate dialogue partners for sport's governing bodies and European institutions (Lee Ludvigsen 2022), questions remain which ultimately posit whether fans are listened to sufficiently (Cleland et al. 2018). For example, in Lee Ludvigsen (2022) research, it is clear that fan representatives themselves felt that they could play an integral part in keeping football fans safe. One of the primary reasons cited for this was fan networks' knowledge and expertise on fan culture and existing working relationships with fans across various European settings. In that sense, although further empirical work is needed on the level of impact of fan networks within football's securitization, it is possible and necessary to consider fans as important actors of knowledge transfer before, during and after international and domestic football matches relevant to the Convention.

Conclusion

As Pearson and Stott (2022: 20) recently noted, the incidents of disorder at Euro 2020's final day in London and the crowd troubles that emerged outside *Stade de France* for the 2022 Champions League final – the same place where, coincidentally, the 2016 Convention was opened for signature six years earlier – "demonstrate once again that the issue of managing football crowd disorder is still pressing". Whilst security and safety concerns associated with football-related violence (and so-called "hooliganism"), social disorder, or misbehaviour have remained among the key talking points after some major European football events in recent years, it still remains important to remember that "the risk of violence is often given more attention than the risk to the safety of fans, as was clearly the case once again at the Champions League final in Paris in 2022" (ibid.: 11) and alluded to in this article's introductory section. Nevertheless, the securitization of European football is still characterized by "new legislation, stricter policing, and new stadium architecture [which] continue to be introduced to try to prevent violence of any kind", but still, the drafting of new rules and legislation has often proceeded with "a lack of dialogue" with fans (Doidge et al. 2020: 154). In sum, this presents an opportune moment to reconsider European-wide responses and mechanisms that are put in place to regulate the safety and security of European football and other sporting events.

By tying into these recent trends and simultaneously updating Taylor's (1987) analysis of the 1985 Convention, this article provided an analysis of the CoE's 2016 Saint-Denis Convention. In doing so, we situated this convention, a key response to safety and security issues in sport, and an update to the 1985 convention (cf. Taylor 1987) within the wider scholarship that has appraised the sport and human rights pairing by pointing towards the legal obligations of stakeholders within a sporting event context. Notwithstanding, this scholarship has mostly examined the human rights contexts of sport mega-events like the World Cup or the Olympics (e.g., Chappelet 2022; Talbot & Carter 2018) and given less attention to the international organisations and treaties that are in place to promote human rights across sport including the Saint-Denis Convention.

In the post-2016 context, whereby 23 CoE member states have thus far ratified the Convention, its articles, the obligations it imposes and the manner in which they are implemented has hitherto received extremely limited academic

analysis from both legal scholars and social scientists (Di Giandomenico 2020). While the CoE's 1985 Convention (Taylor 1986) and its Convention on Manipulation of Sports Competitions (Serby 2015) have been analysed, scholars are yet to fully explore the Saint-Denis Convention and its implications. In itself, this is surprising. Especially because there is "little international legislation that can [currently] be directly applied to sport" and the 1985 and 2016 Conventions remain two exceptions to this rule (Chappelet 2018: 730). By addressing this research gap and seeking to illuminate the Convention's implementation by using Article 8 therein and the duty of engagement as an example, this article drew upon legal texts, human rights law, policy documents, and secondary sources to advance our existing knowledge on the Convention.

In arguing that the Convention has the potential to drive forward a more visible engagement with human rights law within the sporting world, this article has demonstrated that the implementation of Article 8 can potentially foster a more robust and transformative human rights compliant culture within sport. However, despite the changes to the more generalized security context as well as trends within the areas of football-related violence or offences (Pearson & Stott 2022) it is prudent to echo Taylor's (1986: 653) conclusion from his analysis of the 1985 Convention – namely, that the success of the Convention will depend on each signatory's continued political will and that it cannot promise nor provide a "simple solution" to problems of violence, anti-social behaviour, or wider security issues in European sport. Such an argument, more broadly, remains important because *if* the 2016 Convention – as intended – is going to replace the 1985 Convention, then it is crucial that its impact and scope are critically evaluated by analysts.

As one of the first papers focusing explicitly on the Saint-Denis Convention, we contend that this article advances the literature in two primary ways. First, by connecting with the growing literature on the relationship on sport and human rights where sport governing bodies' relationship with human rights has evolved in line with societal conceptions of human rights (Chappelet 2021). Second, concerning the literature on security governance in sport and by building on the work of Tsoukala (2009a) and Taylor (1986), we extend the existing knowledge on the position of the CoE within sport's "security field" (cf. Bigo 2000) and, specifically, how the under-researched 2016 Convention represents one mechanism through which international organizations not merely engage with, but influence global sport.

Simultaneously, there are other articles and aspects of the 2016 Convention that remain ready for future scholarly engagement. This includes, for example, various stakeholders' understandings of the Convention's implementation and/or the role of the private sector in that regard. Additionally, insights from fan networks and other standing committee observers that monitor its implementation, also demand scholarly interrogation. Researchers may also analyse the Saint-Denis Convention and its wider relationship to macro- and meso processes of "Europeanization" and "pan-European" cooperation between private and public actors in the global field of sport where international organizations, as Giulianotti and Robertson (2012) write, organize, and enhance the reflexivity on international interdependencies.

Notes

[1] (Applications nos. 35553/12, 36678/12 and 36711/12) 22 October 2018.

[2] Ibid, para 173.

[3] Application no. 51500/08, 23 February 2016.

Competing Interests

The authors have no competing interests to declare.

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