You’ll never walk alone again: The governance turn in professional sports

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This chapter looks into the main dimensions of the governance concept and their relevance for professional sport. Firstly, we discuss the peculiarities of sports governance by using a broader governance angle. Subsequently, we narrow governance as a concept down to three categorisations that emerge from the existing literature: governance as networks, governance as steering and good governance. By applying those three concepts, several governance issues emerge, all rooted in the traditional governance system of the sports world, namely hierarchical self-governance. We then discuss how the European Union (EU) can contribute to solutions to those issues and, finally, we present a case where the EU indeed contributed to better governance in sports: the social dialogue in professional football. On a final note, it must be stressed that the focus of this contribution is on the organisation of professional sports, mostly – but not exclusively- at the international level.

Introduction: the hierarchical self-governance of professional sports

The concept of governance is increasingly used for a number of social, economic and political practices in several spheres of social life, including policy making, regulation, the setting of rules, norms and standards, or broader when it comes to the study of the exertion of authority. Thus, in the last few decades, a significant body of governance literature has emerged. This has led to some considerable theoretical and conceptual confusion and therefore, ‘governance’ is often used very loosely to refer to rather different conceptual meanings. Van Kersbergen and van Waarden, for example, distinguish no less than nine different meanings regarding ‘governance’, which may lead to the conclusion that the term simply has ‘too many meanings to be useful’.

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2 European Environment Agency, Copenhagen, Denmark. The views presented in this chapter are solely those of the author and may not be regarded as representing an official position from the European Environment Agency.
Definitions on governance depend largely on the respective research agendas of scholars or on the phenomenon that is being studied, but it is mostly used or understood as a substitute for, or, an addition to more traditional notions of government. In that regard, while ‘government’ usually refers to the formal and institutional top-down processes which mostly, but not exclusively, operate at the nation state level, governance is widely regarded as ‘a more encompassing phenomenon’. Indeed, in addition to state authorities, governance also subsumes informal, non-governmental mechanisms and thus allows non-state actors to be brought into the analysis of societal steering. In addition, governance can also be differentiated from ‘governing’. According to Kooiman, the latter can be defined as those societal activities which make a ‘purposeful effort to guide, steer, control, or manage (sectors or facets of) societies’. Governance, then, is mainly concerned with describing ‘the patterns that emerge from the governing activities of social, political and administrative actors’.

The traditional governance model of professional sports can be categorised as hierarchical self-governance as two main characteristics stand out: autonomy and hierarchy. The former may explain why, compared to other policy fields, the governance literature has paid little attention to sports. Whereas governance as a concept is usually applied in connection with states, government interference in the activities of sport governing bodies (SGBs), especially at the international level, is a relatively recent phenomenon. Indeed, international SGBs have traditionally known a large autonomy and in that sense, they were subject to almost complete self-governance. The very essence of the construction of modern sport is rooted in

10 Ibid.
12 It must be noted that this does not apply for authoritarian regimes, in which sports are framed as an important element of nationalism, propaganda and international identity. However, the emphasis of this chapter is on sports governance in democratic and international contexts.

Classic liberalism, notably in the freedom of association. Accordingly, the two most influential and powerful international sports organisations, namely the International Olympic Committee (IOC) and Fédération Internationale de Football Association (FIFA), were established respectively in 1894 and 1904 by a class of people who believed in the separation of sport and the state as a sacred principle. Thus, autonomy from political institutions is not only a deeply rooted, but also a cherished principle in the sports world.

The other main characteristic of sports governance is hierarchy. The so-called ‘European model of sport’ is based on a system created in the last few decades of the 19th century by the Football Association (FA), the governing body of the game in England to this day. This model implies that Global Sport Governing Bodies (GSGBs) are the supreme governing bodies of sport since they stand at the apex of a vertical chain of command, running from international, over continental, to national and finally local organisations. That pyramidal set-up made sure that GSGBs had a governing monopoly over their respective sports at a global level, but it is very much centralised and even undemocratic since those at the very bottom, i.e. athletes who wish to take part in the competitions of the system, are automatically subject to the rules and regulations of the governing bodies, often without being able to influence them to their benefit.

This traditional system of hierarchical self-governance, which existed for almost an entire century, increasingly came under pressure and this has raised many issues with regard to sports governance. In the next section, we wield a theory-of-governance based approach in order to frame those issues. Thus, the aim is to demonstrate why functioning governance practices are difficult to achieve in the sports world. Subsequently, we discuss how the European Union may contribute to solutions to the raised issues and finally, we present the case of the social dialogue in professional football in order to substantiate our claims.

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16 Osvaldo Croci John and Forster: Webs of Authority: Hierarchies, Networks, Legitimacy, and Economic Power in Global Sport Organisations, in: Gregory Papanikos (ed.): The economics and management of mega athletic events: Olympic Games, professional sports, and other essays, Athens 2004, pp. 3-10. Other key elements of the European model of sport include the connection between grassroots and professional sport, the system of promotion and relegation and the national organisation of sport and its competitive structures, see European Commission, 1998.
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**Governance concepts and their relevance for sport**

Building upon previous work\(^{17}\), in what follows, we frame the above-mentioned governance issues under three categorisations of the governance concept, drawn from the existing literature: governance as networks, governance as steering and good governance. Those dimensions help to explain certain realities in the sports world. Governance as networks is an analytical tool that is helpful to explain the current shifts and map the actors in sports governance. Governance as steering views governance as the designated strategy when hierarchical rule is appropriate and is thus very relevant in the relation between political entities and international SGBs. Finally, good governance is a normative device by which we can assess the decency of governance processes. In the light of the many ‘failures of governance’\(^{18}\) in the sports world, this governance dimension becomes extremely relevant.

**Governance networks**

The classical view of a direct and almost exclusive connection between the state and the governing of society is less and less consistent with reality.\(^{19}\) Today, political systems and activities are no longer exclusively connected to – or even the prerogative of - states. According to many policy analysts, the public sector has seen this erosion of government in order to deal with today’s multi-layered society.\(^{20}\) Hence, government policies have evolved from a centralist, top-down model (labelled ‘government’) to a ‘governance’ model, which implies partnership, cooperation and collaboration are gradually replacing hierarchical authority.\(^{21}\) As such, society is increasingly being governed by interplay between state, market and civil society. Similar forms of governance also emerge at the international level. In order to compensate for the loss of governance capabilities of nation-states and to fill gaps in global


\(^{18}\) Ian Henry and Ping Chao Lee, 2004.

\(^{19}\) Hans Bruyninckx and Jeroen Scheerder: Sport, macht en internationale politiek. Een politicologisch kader. [Sport, power and international politics. A political framework], in: Jeroen Scheerder and Bert Meulders (eds.): Wedijver in een internationale arena. Sport, bestuur en macht [Competition in an international arena. Sport, governance and power], Ghent 2007, pp. 1-19.


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Regulation of global public goods, new forms of global governance are emerging. The term ‘governance network’ is used to describe public policy making and implementation through a web of relationships between state, market and civil society actors. Thus, the policy produced by these networks is a result of negotiations and bargaining between the involved actors rather than a result of authoritative decision-making by a single actor and hence, the networked process of rule and norm setting becomes the focal point in the governance as networks approach.

SGBs have been subject to a similar erosion of their hierarchical powers. The hierarchical sports system proved to be a tremendous source for conflict since it encouraged those at the bottom of the chain of command, dissatisfied with their lack of involvement in the policy processes, to find recourse before national and European courts. Together with the enormous commercialisation of sport, this resulted in the emancipation of SGBs’ internal stakeholders. In addition to sport’s internal stakeholders, certain civil society and especially market actors have also been successful in exerting pressure on SGBs in order to have their interest met. Finally, a certain ‘governmentalisation of sport’ took place, which implies that GSGBs no longer have a monopoly over the governing of their sport since ‘public authorities are contesting, competing, and cooperating with GSGBs for the regulation of sport’. Indeed, ‘failures of governance’ in sport have prompted the debate for more public oversight and control over the world of sports. Moreover, public authorities, realising the potential of sport for the accomplishment of non-sports related cross sectoral policy goals, have increasingly developed a state apparatus for the delivery and management of sport. In addition, due to the increased commercial and economic significance of sports, activities of

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29 Nils Asle Bergsgard et al., 2007, p. 47.
SGBs have been captured by economic laws and policies at different levels. Whereas governance literature, as has been discussed, speaks of a retreat of the state from the governance of society, an opposite evolution is thus playing in sports. However, when we regard SGBs as the main regulatory bodies of the sports world, their erosion, or rather delegation, of power mirrors recent evolutions in societal governance quite perfectly. Indeed, in an increasingly complex sports world, crowded with powerful stakeholders, the hierarchical authority of SGBs is eroding and is giving way to networked forms of governance such as partnership, cooperation and collaboration.

As a consequence of those trends, SGBs can no longer be regarded as the sole devisers and definers of policy in professional sports. Indeed, from an analytical point of view, the system of hierarchic self-governance is increasingly crumbling and giving way to a more networked governance, in which different stakeholders exert power in different ways and in different contexts in a complex web of interrelationships. In order to achieve significant policy change, actors in such networks must negotiate and bargain with each other and SGBs increasingly lose their ability to rule in a top-down manner. Indeed, they can no longer simply impose their will on passive stakeholders but need to negotiate with relevant powerful organisations with an interest in their policies.

True, SGBs have been very reluctant to accept interventions from state authorities in their activities and it is generally acknowledged that they adhere to a strong protectionist vision of sports governance. However, driven by pragmatism, they are willing to engage in networked governance arrangements with political institutions. For instance, SGBs can get a certain degree of legitimacy by associating themselves with public authorities at the international or European level. Another reason is lobbying. For instance, SGBs are currently more open to EU institutions in order to mitigate the impact of EU law on their activities or to proactively

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31 Hans Bruyninckx and Jeroen Scheerder, 2009.
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influence sports policy. Yet, there is also a growing awareness that they cannot manage certain governance issues in an increasingly complex sporting reality unilaterally. In that regard, the erosion of the hierarchic self-governance of the sporting world increasingly is its own choice, although that choice may predominantly be motivated by external pressures for more effective governance in high-profile issues such as match-fixing and doping.

On that note, SGBs do not seem capable of protecting their sports from the more avaricious and predatory ways of global capitalism in a unilateral way. Indeed, with the increased commercial and economic significance of sport in the past three decades, sport is more and more the target of, and integrated with, transnational business interests. In this constellation, we have seen the rise of transnational criminal networks involved in human trafficking, match-fixing, doping, etc. In the vein of recent shifts in societal governance, that may in fact call for other, more effective horizontal forms of governance since the traditional governing method of the sports world through vertical chains of command, which originates from a time when sport was exclusively an amateur activity, is not effective in an increasingly complex sports world that is crowded with different powerful stakeholders.

The rise of networked governance in sports also poses issues in terms of democratic legitimacy. Indeed, democratic problems in terms of lack of accountability and the privileging of strong and resourceful elites is an ever present danger in governance networks. With regard to the latter, the danger exists that the most powerful stakeholders are favoured by SGBs to the detriment of those that have less clout, but are nevertheless equally affected by the policies devised in the sport governance network.

**Governance as steering**

The notion of governance as steering recognises that the responsibility of state authorities is changing. Since governance networks are defined in term of their capacity for self-regulation,
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they cannot be controlled through the exercise of sovereign power. Hence, governance network literature has redefined the notion of political control in terms of ‘meta-governance’. Meta-governance holds that the most appropriate way of controlling governance networks is by ‘steering’. That means that, via a series of more or less subtle and indirect forms of governance, politicians should seek to shape the free actions of the network actors in accordance with a number of pre-defined general procedural standards and substantial goals. Thus, the conditions for interaction of relatively free and self-responsible actors within governance networks are structured in order to ensure conformity with some generally defined objectives. Governments thus increasingly facilitate and coordinate rather than managing society hierarchically through direct control – ‘steering’ instead of ‘rowing’. The effectiveness of steering is ensured when governance networks operate ‘in the shadow of hierarchy’. The latter is the case when the attempts of public authorities to steer are ultimately backed by the threat of replacing the governance network with hierarchical rule.

It is certainly true that SGBs have steered, rather than being steered, and this complicates attempts by public authorities to exercise some form of control over them. In addition, there is no ‘shadow of hierarchy’ cast over networked arrangements between SGBs operating at the international level and political institutions since attempts of public authorities to steer SGBs are not ultimately backed by the threat of replacing the governance network with hierarchical rule. Indeed, hierarchical rule over SGBs operating at the international level is virtually impossible. As such, like many multinational corporations operating on a global playing field, they are able to choose the optimal regulatory context for their operations and thus pick a favourable environment as the home base for their international activities. For most SGBs, including the largest organisations, this is Switzerland, where they are embedded into a legal system that gives them enormous protection against internal and external examination.

40 Fritz Scharpf: Games real actors could play: Positive and negative coordination in embedded negotiations, Journal of Theoretical Politics 6 (1994), pp. 27–53. However, if the actual attempts at regulating a self-regulating network become too tight, the network will cease to be a network, instead becoming reduced to an order-taking bureaucracy. Eva Sørensen and Jacob Torfing: Network governance and post-liberal democracy, in: Administrative theory and praxis, 27 (2) (2005b), p. 204.
42 Arnout Geeraert, Jens Alm and Michael Groll: Good governance in international sport organisations: an analysis of the 35 Olympic sport governing bodies, in: International journal for sport policy and politics,
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Moreover, powerful international sports organisations have important means of reprisal at their disposal.\(^43\) Indeed, they can withhold recalcitrant countries entrance to international football or withdraw their hosting of an important event.\(^44\) In addition, acting contrary to their preferences may be detrimental for bids to host major events.\(^45\) Moreover, organised sport is very popular with national politicians, who use it to win votes and often even become fans for political reasons. In the same vein, national sports federations often have strong ties with their national government, which international SGBs can utilise.\(^46\) All those issues complicate or even preclude public authorities from assuming a steering role over international SGBs.

**Good governance**

A third notion refers to good governance, a term which is normative in essence. Although there exists no single definition on good governance, it is often used as a sort of normative benchmark to judge governance practices. Accordingly, since the end of the Cold War, a ‘chorus of voices’ has been urging governments ‘to heed higher standards of democratic representation, accountability and transparency’.\(^47\) In the corporate world, good governance exists for a much longer time, although it is usually referred to as ‘corporate governance’. In general, this relates to the various ways in which private or public held companies are governed in ways which are accountable to their internal and external stakeholders.\(^48\) International institutions have issued checklists of factors that serve as a yardstick for good


\(^{44}\) For instance, FIFA was able to force Greece, Spain and Poland to abandon arguably legitimate interference in football matters, for instance by threatening to withhold these countries entrance to international football. In the case of Poland, FIFA received support from UEFA, who threatened to withdraw Poland from hosting the 2012 EURO, which would have caused an economic and political catastrophe. See Borja García and Henk Erik Meier: Keeping private governance private: Is FIFA blackmailing national governments?, Paper presented in the 13th EUSA Biennial Conference, Baltimore (Maryland, USA), 9-11 May 2013; Marek Kędzior and Melchior Szczepanik: Poland: new shape, old problems, in: Arne Niemann, Borja García and Wynn Grant (eds.): The transformation of European football: towards the Europeanisation of the national game, Manchester 2011, 204-219.


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Governance and are oriented towards core features of governance structures and processes that are especially to be found in OECD countries. They comprise factors that include key principles such as accountability, efficiency, effectiveness, predictability, sound financial management, fighting corruption and transparency. In addition, when they refer to the political area, they may also include participation and democratisation, since a democratic environment is seen as a key background variable for good governance.

Since most GSGBs are subject to a laissez-faire regime in their host country, outside of the scope of harmonising EU law, in general, they are not subject to mandatory basic organisational requirements connected to good governance. That far-stretching autonomy seems to have had a negative impact on the quality of the self-governance of these organisations. Indeed, a long list of rule or norm transgressions and ethical scandals in the sports world has accumulated in the last few decades and they seem to coalesce in their most visible and blatant form at the highest level of sports governance. These abuses are for a large part institutionally induced, since they have their origin in the organisational structures of GSGBs, which do not meet up to acceptable standards of good governance that exist for comparable organisations from the public or private sphere. Most notably, GSGBs have a lack of internal accountability arrangements and with regard to checks and balances, arguably the most topical issue is the total lack of independent ethics committees. In sum, these accountability deficits constitute a breeding ground for corruption and the lack of democracy and effectiveness.

Notwithstanding recent internal and external efforts, the impression is that there still is inertia towards the achievement of better governance in the sports world. In fact, the lack of accountability arrangements in GSGBs impedes the impetus for change towards better governance, since senior officials are not obliged to reflect on their current conduct. But even when there is a willingness to improve their governance, a homogeneous set of core principles for good governance in GSGBs is still missing, despite efforts by a multitude of

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50 Arnout Geeraert, Jens Alm and Michael Groll, forthcoming.
52 Arnout Geeraert, Jens Alm and Michael Groll, forthcoming.
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actors at different levels, and due to the peculiar structures of these organisations, codes from other sectors cannot be used as such.

**The added value of European Union involvement in professional sports**

*The European Union and professional sport*

At the European level, the much discussed *Bosman* ruling by the Court of Justice of the European Union (CJEU) from 1995 resulted in a definitive –but forced- EU involvement in professional sports. However, since the EU does not have a strong competence in sports, it has been struggling to find the right balance between allowing total autonomy and establishing an extensive framework for government intervention ever since. Currently, it is generally assumed that the EU offers sports bodies a degree of ‘supervised autonomy’: they can exercise their autonomy as long as they are respectful of European law and demonstrate a clear commitment to transparency, democracy and protection of the values of sport. Still, the impression is that thus far, the European Commission has been rather reactive in its approach towards professional sports. Since the entry into force of the Lisbon Treaty in 2009, article 165 of the Treaty on the Functioning of the European Union (TFEU) grants the EU an express - but complementary and thus very limited- role in the field of sport. This provides the EU institutions with new possibilities with regard to sports and a series of initiatives have indeed since been launched. While it is not the intention of this section to investigate the possibilities of article 165 TFEU, nor to zoom in on the EU sports policy as such, we try to demonstrate the added value of EU involvement through steering in professional sports using governance concepts. In particular, we use the governance as networks approach to demonstrate how the inclusion of the EU may lead to a more effective sports governance. In addition, we show the potential and benefits of steering by the EU in professional sports, in particular with regard to democratic control and good governance.

*Democratic control, the involvement of elected politicians and a more effective governance*

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53 Borja García, 2007a.
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In this section, we take a look at the added value of EU involvement in professional sports.

We postulate that the EU can put democratic control on SGBs; that (indirect) involvement of democratically elected politicians from the Council and the European Parliament in sports governance holds potential benefits since they are a resourceful, collectively oriented and democratically committed group; and, that the EU can contribute to a more effective governance of a complex environment due to its expertise and competence.

At the international level, a regulatory vacuum exists in which powerful transnational actors often have powers that dwarf those of many governments.\(^{56}\) Hence, the general worry with regard to globalization is that, in a globalized world, powerful actors are not accountable.\(^{57}\) Obviously, this goes for multinational companies, but the argument also applies to SGBs. The fact that there is no state actor holding these private organisations accountable is not without danger to the decency of their internal functioning since, in the absence of a ‘whip in the window’, the expectation is that the reliability of voluntary self-commitments suffers.\(^{58}\) Indeed, it is assumed that the potential threat that stricter regulations will be enacted unless the potentially affected actors adapt their behaviour to the expectations of the legislator, pushes those organisations which operate ‘in the shadow of hierarchy’ towards compliance. According to Wolf, ‘even the most prominent functional equivalents to the checks and balances institutionalised within the political systems of democratic states (...) cannot be provided by private actors alone’.\(^{59}\) Hirst even goes so far as to suggest that hierarchical organisations which are not subject to democratic control cannot be expected to have internal practices conductive to democratic manners.\(^{60}\) The EU seems to be the only actor capable of establishing some kind of democratic control on SGBs. Although it does not have a strong sporting competence, in principle it does possess the ability to intervene much stronger in the sports sector on the basis of its internal market powers. While that is currently not at all politically desirable, such form of latent pressure is ever present in sport matters and international sport organisations have been willing to engage with the EU institutions.

\(^{56}\) Andreas Georg Scherer and Guido Palazzo, 2011, p. 900.


\(^{58}\) Fritz Scharpf, 1994.

\(^{59}\) Klaus Dieter Wolf: Emerging patterns of global governance: the new interplay between the state, business and civil society, in Andreas Georg Scherer and Guido Palazzo (eds): Handbook of research on global corporate citizenship, Cheltenham 2008, p. 244.

primarily for that reason. As such, the EU has been able to influence the governance of sport at the highest level with consequences for multiple and various actors and sectors at the underlying levels.\textsuperscript{61} It would certainly be better if other regional organisations could contribute to a more global approach in sport, but the reality is that they hardly exist.\textsuperscript{62}

From a networked governance perspective, the involvement of democratically elected politicians in the steering of the sports world has the advantage that a resourceful, collectively oriented and democratically committed group is involved in the governance of the sport.\textsuperscript{63} Administrators in SGBs cannot be expected to take account of the larger environment, beyond their sport, yet at the same time, the rules and regulations they devise and the decisions they take often have a significant global socioeconomic impact. According to Sørensen and Torfing, the involvement of democratically elected politicians in the steering of a governance network also helps to make sure that policy produced by those networks is in line with the popular will expressed by the political majority of the elected assemblies.\textsuperscript{64} That so-called ‘participatory rhetoric’ is however somewhat problematic in EU policy-making, as the distance between the directly affected citizens and their representatives is quite large here.\textsuperscript{65} According to Sharpf, majority rule will only be accepted in polities with a ‘thick’ collective identity, that is, in polities based on pre-existing commonalities of history, language, culture, and ethnicity. That is not the case with regard to the EU, although processes of Union-wide political communication and opinion formation could eventually arise, facilitated by European political parties, European associations, and European media.\textsuperscript{66} As that is currently not yet the case, a more modest form of legitimisation must have to uphold the Union. Sharpf therefore introduces the concept of ‘output-oriented legitimacy’, where political choices are legitimate if and because they effectively promote the common welfare of the constituency in question: ‘government for the people’.\textsuperscript{67} According to Sharpf, output-oriented legitimacy requires no more than the perception of a range of common interests that is sufficiently broad and stable

\textsuperscript{61} E.g. Michele Colucci and Arnout Geeraert: The ‘Social dialogue’ in European professional football, in: Comparative labor law and policy journal, 33 (1) (2012), pp. 203-234.
\textsuperscript{62} Hans Bruyninckx, 2012.
\textsuperscript{63} Ngaire Woods, 1999, p. 45; Eva Sørensen and Jacob Torfing, 2005a, p. 215
\textsuperscript{64} Eva Sørensen and Jacob Torfing, 2005a, p. 202.
\textsuperscript{66} In that regard, the notion of EU citizenship, as introduced by the Treaty of Amsterdam, currently primarily is a legal concept rather than a political reality.
\textsuperscript{67} It must be noted that the democratic quality of Schapf’s notion of ‘output-oriented legitimacy’ seems doubtful, since such a legitimacy might just as well be provided by any dictatorship.
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to justify institutional arrangements for collective action. Arguably, that is the case with regard to professional sports.

Economic driving forces have transformed the world of professional sports in Europe into a complex network with growing interdependence between business interests and the sports world, which raises the question whether SGBs can continue to govern unilaterally. Those issues indeed call for a constructive collaboration between different authorities, relevant stakeholders, industry and sports bodies (multi-actor) at international, national and local level (multi-level). In that regard, EU involvement in sport may contribute to more effectiveness. For instance, a SGB does not have the capacity to criminalise practices connected to transnational criminal activities, which continue to spread due to the commercialisation of sport. The EU, in consultation with SGBs, can harmonise its Member States’ approach in those issues and thus contribute to the solution for the ‘regulatory overstretch’\textsuperscript{68} SGBs are confronted with. Moreover, the EU can provide knowledge and expertise in certain fields and sometimes even an interesting legal framework.\textsuperscript{69}

**The steering of the sports world**

It is very important to stress that we do not advocate a strong interventionist role for the EU. According to Sørensen & Torfing, public interference is important and warranted only if and when the issue at hand is of ‘great importance to the wider community’\textsuperscript{70} Issues such as match-fixing or doping are of course of great importance to the wider community in the EU, but the EU lacks a strong competence to tackle these. However, from a governance network point of view, that is not problematic since governance networks can be most effectively controlled through steering.

According to the governance as steering literature, steering is most effective when ‘hands-off’ and ‘hands-on’ forms of steering are combined.\textsuperscript{71} Hands-off forms of steering, that means, at a distance from the self-regulating governance networks, are adequate in the initial phase of the steering of the governance network. The term comprises network design and network framing. Network design involves the shaping and structuring of governance networks, either


\textsuperscript{69} e.g. Michele Colucci and Arnout Geeraert, 2012.

\textsuperscript{70} Eva Sørensen and Jacob Torfing, 2009, p. 295.

\textsuperscript{71} Eva Sørensen and Jacob Torfing, 2009, p. 247.
by encouraging the formation of particular forms of networks, or by relying on pre-established networks. During this process, meta-governors influence inclusion and exclusion of certain actors and the empowerment of weaker actors and determine the scope of the network.\(^{72}\) Network framing involves the formulation of the political goals and objectives, which can be broadly defined, to be pursued by the network and the allocation of resources. Sometimes, a legal framework that facilitates and constrains the network may even be drawn. Network framing must always be backed by the continuous monitoring and critical evaluation of the output of the network.\(^{73}\)

Hands-on forms of steering are recommended when the governance network shows signs of failure and close interaction between the meta-governors and the governance network is needed. That is for instance the case when conflicts arise between network actors, when deadlocks occur, when key actors are excluded from the policy deliberations, or when policy output stays too far from what is deemed acceptable by the meta-governors.\(^{74}\) The first hands-on form of steering is network management, which includes attempts by meta-governors to reduce tensions through conflict management, promoting favourable conditions and providing inputs and resources for joint action, and empowering certain actors.\(^{75}\) The second hands-on form is network participation, which requires the participation of the democratically elected politicians in the networks. That way, they can get first-hand knowledge of the policy processes and exert their political authority in order to influence the network.\(^{76}\) Hands-on forms of steering are not only appropriate in the case of governance network failures, as it is also quite common in policy areas closely related to the core functions of the state.\(^{77}\) However, if the relative autonomy of the network is a key political goal, as is the case with sports at the EU level, hands-on forms of meta-governance may be avoided by elected politicians and public administrators.

**The case of the sectoral social dialogue committee in professional football**

\(^{72}\) Eva Sørensen and Jacob Torfing, 2009, p. 204.
\(^{73}\) *Ibid.*
\(^{74}\) Eva Sørensen and Jacob Torfing, 2009, p. 247.
\(^{76}\) Sørensen and Torfing, 2005a, pp. 204-205
\(^{77}\) Sørensen and Torfing, 2009, p. 247.
In this section, we demonstrate how the EU has been able to steer a network of relevant football stakeholders towards an agreement that will contribute to the improvement of labour conditions for Eastern European football players. As such, we apply the theory advanced in the previous sections to a concrete situation and thus unveil the potential of EU steering in professional sports. The social dialogue committee in professional football constitutes a prime example of an issue-based governance network at the EU level in the field of sport. It is constructed around an issue that called for multi-level, multi-actor governance as Union Européenne de Football Association (UEFA), the governing body for football at the European continent, is unable to deal it with unilaterally, although that was not the basis for starting the committee, for which every actor surely had its own reasons. The subsequent analysis is conducted on the basis of, firstly, a documentary analysis, including official press releases from various actors, the memoranda of understanding concluded between UEFA and the involved stakeholders, official EU policy documents and relevant academic literature. Secondly, four semi-structured hour-long interviews were conducted with senior officials from the relevant stakeholders. Three interviewees actually conducted the negotiations on behalf of their respective organisations UEFA, ECA and FIFPro. EPFL respectfully declined to cooperate.

**Background**

In 2001, an agreement on new FIFA rules on international transfers of football players was reached between the main football associations FIFA and UEFA on the one side, and the EU Commissioners in charge of competition, sport and social affairs on the other side. These new regulations replaced the old transfer rules, which had to be abolished as a consequence of the Bosman ruling, in which the Court of Justice of the European Union (CJEU) ruled that prohibiting out-of-contract players to move to a different club and the 3+2 rule, a quota system allowing only three foreign players on a team in a national league, plus two other...
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foreigners if they played for 5 years without a break in the host country, was a violation of EU law. Recognising that social dialogue could be an effective method to find common solutions on employment matters between clubs and players, the Commission invited the global governing body for football, FIFA, and UEFA to encourage clubs to start or pursue social dialogue with the representative bodies of football players and thereunto, they offered the Commission's assistance. Ever since, the Commission has been supporting projects for the consolidation of social dialogue in sports in general and in football in particular.

In July 2008, following the signing of the Rules of Procedure by the participating parties, the European Union Sectoral Social Dialogue Committee in the Professional Football sector (SDCPF) was established. Professional football is the first sport where social dialogue, a means to conclude agreements and to foster cooperation between employers and employees, has been set up at the EU level, paving the way for other sports. The committee brings together UEFA and the European representative organisations for football leagues (European Professional Football Leagues - EPFL), clubs (European Club Association - ECA) and players (Fédération Internationale des Associations de Footballeurs Professionnels - FIFPro). In April 2012, the relevant internal bodies of the involved organisations ratified an agreement on minimum requirements for standard football players contracts.

The steering of the network

The European Commission has been very involved in the network design of the SDCPF. It had been encouraging the formation of a social dialogue committee in professional football since the conclusion of the 2001 agreement on new FIFA transfer rules and it had been supporting projects for the consolidation of social dialogue in football in particular. In addition, the Commission provided important resources to the SDCPF actors. According to all interviewees, indirect financial support through, for instance, the reimbursement of travel expenses by the Commission is particularly important to FIFPro, whose budget is far more limited than those of the other participating organisations. In that way, the Commission also contributes to the empowerment of stakeholders and makes sure that actors are brought together ‘in a room’, where they are obliged to dialogue. According to the interviewees, the Commission did not extensively try to regulate the network, limiting itself to bringing the parties in the SDCPF together and providing guidance with regard to EU law and social dialogue in general. That seems to resonate with the Commission’s role under article 154 (1) TFEU, which limits its task to taking ‘any relevant measure to facilitate social dialogue by
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ensuring balancing support for the parties’. When the SDCPF had reached an impasse in early 2011, the Commission tried to reconcile differences, for instance by organising bilateral negotiations with the individual parties\(^{81}\) and eventually drafted a compromise agreement ‘which would eventually serve as the basis for the final agreement’. \(^{82}\)

The Commission’s legitimacy to interfere in football is confined by limited competence but it can exercise some form of indirect pressure to come to a solution. At a certain point, the negotiations in the committee were deadlocked. Had this not been resolved, it would eventually have ended in the refusal from the Commission to renew the committee’s budget and consequently the death of the committee (Interview: stakeholder official, September 2012).\(^{83}\) That could entail high political costs for the participating parties, since ‘it is very important to have good relations with the EU’. \(^{84}\)

**A more effective governance of football**

Recently, FIFPro has reported about the many abuses in Eastern Europe regarding players’ contracts such as the absence of any guarantee in case of illness and/or injuries, penalties from 10% to 100% of salary and bonuses unilaterally determined by the club management, *etc.*\(^{85}\) The adoption of minimum requirements in standard players’ contracts at European Union level thus becomes very important in order to better define the duties and obligations of the contractual parties.

Minimum requirements must be implemented at the national level in collective bargaining agreements between leagues and representative organisations for players and cannot be imposed by UEFA unilaterally, given its limited regulatory powers over national football. According to one interviewee, UEFA progressively realised that social dialogue is needed in order to make progress in football\(^{86}\) and that it needed help from football’s stakeholder organisations. Thus, stakeholder organisations such as FIFPro, EPFL and ECA are needed since they can facilitate the implementation at the national level by their member base.

\(^{81}\) Stakeholder Official, in discussion with the author, September 2012.

\(^{82}\) Stakeholder Official, in discussion with the author, August 2012.

\(^{83}\) Stakeholder Official, in discussion with the author, September 2012.

\(^{84}\) Stakeholder Official, in discussion with the author, August 2012.


\(^{86}\) ‘UEFA understood about a year ago that MRSPC are needed to ensure the equal footing of competitions and to fight corruption and match-fixing’ Stakeholder Official, in discussion with the author, September 2012.
Please use the following reference for citations:

The European Commission has a good knowledge of the football sector and its stakeholders, but most importantly, a great expertise in the area of social dialogue. UEFA and the stakeholders thus can benefit from the latter. In addition, the EU legal framework for social dialogue is very helpful and ‘provides an interesting platform for the conclusion of European agreements’. One interviewee stressed that the Commission does well in providing guidance to the stakeholders on social bargaining agreements and what is possible in the SDCPF with regard to EU law, strikingly describing the Commission’s role as ‘the guardian of the treaties’, hence referring to its legal role under Article 17(1) of the Treaty on European Union.

In the end, the Commission was able to facilitate the conclusion of an agreement on minimum requirements for standard football player contracts, which will have to be implemented at the national level in the relevant countries and then may constitute a first step towards solutions to the abuses in Eastern Europe regarding players’ contracts.

**Better governance in football through enhanced democracy**

The interweaving of theoretical discussions of how to define democracy and the political discussions of how to institutionalise democratic forms of governance in the present societies means that democratic procedures are in fact subject to endless political contestations and therefore, it is extremely difficult to draw up a complete or unbiased list of democratic procedures. However, there are certain general rules and norms inherent to a democratic grammar of conduct, such as such as participation. In that regard, in a governance network, none of the affected stakeholders must be marginalised in a way that systematically prevents them from influencing policy.

UEFA formally has as an objective that it ensures that the needs of the different stakeholders in European football are properly taken into account. Nevertheless, clubs have considerably more control over UEFA than players. Indeed, at the end of the 1990s, UEFA realised that clubs, as opposed players, have –and considered- the option of ‘exit’, when a group of elite

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87 Stakeholder Official, in discussion with the author, September 2012.
88 Stakeholder Official, in discussion with the author, August 2012. However, there are also limitations see Michele Colucci and Arnout Geeraert, 2012.
89 Stakeholder Official, in discussion with the author, August 2012.
90 Sørensen and Torfing, 2005a, p. 212.
Please use the following reference for citations:

European clubs threatened to establish a European Super League outside of its structures. According to Hirschmann, exit is a viable solution as long as there are outside options available and this certainly goes for the richest and biggest clubs, since they can rely on their reputation and the quality of their players to attract a large audience in their own competition. Other clubs do not have the necessary means and are more ‘loyal’ to UEFA, mostly due to the historic appearance of UEFA’s competitions and the lack of a viable exit solution. In addition, UEFA’s statutes stipulate that every Executive Committee member, except the UEFA president, has to hold office in a national federation and the latter are highly receptive to clubs’ concerns. ECA’s powerful position in the governance of European football is underscored by current UEFA president Michel Platini himself, who states “I don't want to have a big fight with the clubs like in the past. We can do nothing without permission of the clubs”. Finally, the fact that UEFA, ECA and EPFL all reside in the same Swiss municipality, while FIFPro has its main office near Amsterdam in the Netherlands should also not be underestimated. Officials from the former three organisations meet on a regular basis, formally, but also informally, during lunches and social events. Moreover, while the more regular contact between FIFPro officials and UEFA is a relatively recent phenomenon, UEFA has a tradition of dealing with clubs and never directly with players.

Hence, clubs have managed to obtain important concessions from UEFA. For instance, they take a majority of the seats in UEFA’s Club Competitions Committee, which among others draws up recommendations and exchanges views regarding possible modifications to the existing UEFA club competitions and to the regulations governing these competitions. Furthermore, the recently renewed memorandum of understanding between ECA and UEFA includes arrangements on an increase of the agreed amount to be distributed to clubs for giving their players away to national teams; an insurance covering the risk of injury while on international team duty; and the international match calendar.

95 UEFA Statutes 2012, article 21.3.
96 Stakeholder Official, in discussion with the author, July 2013
97 Platini cited in Martin Samuel: I can’t do things that I want. If you think I can, it isn’t true. – Michel Platini exclusive, in: Daily mail, 25 May 2013.
98 UEFA Statutes 2012, Article 22.
99 UEFA and ECA: Memorandum of understanding between the Union des Associations Européennes de Football (UEFA) and the European Club Association (ECA), Nyon, 2012.
Please use the following reference for citations:

FIFPro’s participation in the social dialogue has definitely enforced its representativeness and legitimacy and has hence enhanced its position in the governance of European football, making it a stronger stakeholder with whom the other stakeholders are now forced to be reckoned with. In addition, by providing expertise and indirect financial support through, for instance, the reimbursement of travel expenses, the Commission further contributed to the empowerment of FIFPro. Finally, by making sure that actors are brought together ‘in a room’, where they are obliged to dialogue, the Commission made sure that FIFPro was able to influence the decisions made by the governance network.\(^\text{100}\)

Conclusion

This chapter aimed to explore the added value of a theory-of-governance approach to professional sports, focusing on both sports in general and the EU’s involvement therein. As summarised by figure 1, this approach has added value for both focuses. First, regarding the sport world in general, we found that a shift from hierarchical self-governance to networked governance is taking place in sports. That may lead to more effective governance, since networked governance is better suited for managing an increasingly complex sports world. This shift also entails a potential danger in terms of democratic performance, since stakeholders who lack clout may be marginalised in a way that systematically prevents them from influencing policy in a governance network. SGBs are willing to engage in networked governance arrangements with political institutions in order to get legitimacy and because they can mitigate political control by means of proactive lobbying. With regard to governance as steering, SGBs do not want to be steered by public authorities and they benefit from the lack of a ‘shadow of hierarchy’, i.e. the threat that networked governance may be replaced by hierarchical rule, and the means of reprisal they have at their disposal. Finally, when we focus on the sports governance through a normative lens, we find that the large autonomy of GSGBs has resulted in a low quality of self-governance and the lack of accountability arrangements within these organisations precludes the impetus for change from within.

Secondly, we applied the three dimensions of governance to the issue of EU involvement in professional sports. From a networked governance perspective, we established that EU involvement may lead to a more effective sports governance due to its expertise and its

\(^{100}\) Stakeholder Official, in discussion with the author, September 2012
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harmonising capacities. Indeed, whereas SGBs are often faced with a regulatory overstretch when trying to tackle certain governance issues that emerge in an increasingly complex sports world, the EU can provide a framework for intervention. We also established that the EU has a certain capacity to steer sports since, whereas SGBs are reluctant to be steered by national public authorities, they believe the opinions and concerns of the EU matter. In that regard, EU steering may lead to more democracy, for instance through the empowerment of marginalised, but nevertheless relevant stakeholders.

Figure 1. The outcomes of a theory-of-governance approach towards the sports world and the issue of EU intervention in professional sports

<table>
<thead>
<tr>
<th>Sports world</th>
<th>Added value of EU involvement in sports</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Governance as networks</strong></td>
<td></td>
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<tr>
<td>- Shift from hierarchical self-governance to networked governance</td>
<td>- The involvement of the EU may lead to a more effective sports governance due to its expertise and its harmonising capacities</td>
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<tr>
<td>- SGBs are willing to engage in networked governance arrangements with political institutions for pragmatic reasons</td>
<td></td>
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<tr>
<td>- Networked governance (as opposed to ‘government’) in sports may lead to increased effectiveness</td>
<td></td>
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<tr>
<td>- Danger exists that the most powerful stakeholders are favoured by SGBs</td>
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<tr>
<td><strong>Governance as steering</strong></td>
<td></td>
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<tr>
<td>- Steering of GSGBs by public authorities is complicated by the lack of a ‘shadow of hierarchy’ and the means of reprisal available to these organisations</td>
<td>- The EU has the capacity to steer sport, taking into account the public interest</td>
</tr>
<tr>
<td><strong>Good governance</strong></td>
<td></td>
</tr>
<tr>
<td>- The large autonomy of GSGBs has resulted in a low quality of self-government</td>
<td>- EU involvement in sport may lead to more democracy</td>
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</tbody>
</table>

On a concluding note, it is clear that interesting new avenues for research emerge from this chapter. Most notably, the steering role of the EU in professional sports deserves more
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Attention. In order to come to a better understanding of this role and its conditions for success, there is a need to move beyond description and further analyse the relationships between the involved actors, lifting it from mere description to solid analysis. Thus, future research could unpack the governance box and theoretically underpin those relationships. Seen from that angle, governance literature is a valuable stepping-stone towards an in-depth theoretical analysis of the limits and opportunities of the role of the EU in achieving better governance in professional sports. In any case, it is clear that the governance turn in professional sports is an irreversible evolution. Indeed, the time when SGBs unilaterally controlled sports definitively belongs to the past.