Foreword

The human rights of athletes and players have been very prominently in the forefront of international news recently. The saga around Novak Djokovic's exclusion from the Australian Open in January 2022, due to his non-compliance with Australian health policy and his previous remarks on Covid-19, is only one example.

These recent events indicate that athletes and players, even top-level ones, can find themselves very suddenly in fragile positions when facing far-reaching decisions of states or powerful sports governing bodies, such as FIFA, UEFA or the International Olympic Committee (IOC). In this context, it has to be kept in mind that athletes and players are generally not able to challenge their exclusion from competitions before ordinary (state) courts due to very specific contract clauses excluding jurisdiction of ordinary courts in favour of the International Court of Arbitration for Sport (CAS). Such clauses may raise questions from a human rights' point of view

Sports arbitration is one such domain on which the European Court of Human Rights (the Court) has, quite recently, started to keep a closer eye. Cases such as *Mutu and Pechstein v. Switzerland, Platini v. Switzerland,* as well as *Ali Rıza and Others v. Turkey* are milestones for the protection of rights of athletes, players and high-ranking officials of sports governing bodies. Other high-profile cases are currently pending before our Court, in particular the case of *Mokgadi Caster Semenya v. Switzerland*, a top-level athlete from South Africa who complains that IAAF (now: World Athletics) has banned her in an arbitrary and discriminatory fashion from competing due to her naturally increased level of testosterone.

This case law indicates that the field of sport is not a self-contained regime and that the Court has jurisdiction to deal with allegations of human rights abuses of athletes and players in spite of the fact that the sanctions had been imposed by "private" bodies, such as FIFA, and had been endorsed by CAS as a non-state court.

For these reasons, I believe that Daniel Rietiker's book is very timely. It also closes a gap in literature. I am actually not aware of any book that has been written so comprehensively on the topic of human rights in sports, with a focus on the European Convention on Human Rights. His analysis not only includes athletes and players, but other actors involved in sport as well, such as clubs, fans and even migrants alleging that their human rights were violated when they were working on stadium construction sites.

The introductory part of Daniel's book (Part I) sets the stage by explaining certain key concepts of both the field of human rights and of the sport movement, such as autonomy of sports and the *lex sportiva*. It also raises the question of whom can be held responsible for breaches of human rights of athletes and players. It has to be kept in mind that, in spite of the numerous private actors involved in sport, the primary responsibility for human rights violations lies on the shoulders of the states, which are the only duty bearers under international human rights law. Daniel illustrates that

the key for the Court to deal nevertheless with complaints emanating from human rights violations perpetrated by private actors constitutes the concept of positive obligations. Finally, this part raises the question whether states, such as Switzerland, which are very welcoming to international sports federations, such as FIFA, UEFA and the IOC, bear a special responsibility for human rights abuses committed allegedly by or within these organisations.

Part II of the book gives a clear and comprehensive picture of the issues that have already been decided by the Court in the field of sport. It is surprising to what a large extent the Court has already dealt with allegations of human rights breaches in sports. Many of the guarantees enshrined in the Convention have turned out to be relevant. It is noteworthy to mention that the cases dealing with the protection of fans and fan clubs in the fight against hooliganism have so far been quantitatively as significant as the applications brought before the Court by athletes and players.

From my point of view, Part III of the book is the most original because it tries to come up, very eloquently, with new areas in sports that could potentially give rise to human rights complaints before the Court. This analysis is based either on existing case law decided in other fields by the Court, on the duties of states parties to relevant treaties concluded within the Council of Europe – in particular the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, or the Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events – or on such issues decided by other courts, in particular in the United States. The overall logic of this chapter is, very adequately, the presumption that certain people, such as children, women or racial and other minorities are more exposed to human rights abuses, in sport and elsewhere. It is therefore not surprising that discrimination issues, based on disability, gender, gender identity or sexual orientation, take a particularly significant place in this part of the book.

Finally, Part IV outlines, in a nutshell, the procedure before the Court and summarises the most important points that must be kept in mind before lodging an application, in particular in the field of sport. Considering the time constraints under which law firms and litigators work these days, the practical and compact recommendations given in this part of the book will assist lawyers defending athletes and players before the Court very effectively.

To sum up, I am convinced that Daniel's manual is a great tool for professionals and volunteers engaging in the field of sport. I highly recommend it not only to lawyers and litigators defending the rights of athletes and players before courts, but also to a larger readership. Apart from students, teachers and university professors who are genuinely interested in sports and human rights, any other persons who are involved in sport, in various functions and fields, might find the manual useful too. Trainers, coaches and members of clubs, federations, national Ministries dealing with sports and youth, as well as specialised bodies, such as WADA, might appreciate the book as an indispensable source for education and, at the same time, for the prevention of future human rights abuses in sport.

In its clarity and practical approach, it is also a book that is meant to build a bridge between, on the one hand, the world of sport with its own rules and principles and, on the other, the field of human rights. These two branches of law have been, until now, very separated and are characterised by a very high degree of specialisation among the respective lawyers. In the end, the main value of Daniel's book might be to enhance, very concretely and practically, the mutual understanding and the cross-fertilisation between these two worlds.

Robert Spano
Former President of the European Court of Human Rights
(May 2020 - Sept. 2022)

Introductory note

In June 2022, I connected with Daniel Rietiker in Lausanne, Switzerland, to discuss a collaborative project on sport and human rights. Our meeting represents a symbolic moment in sport and regulation because the intersection between marginalised athletes, human rights, sport regulation and law is at a crucial point of reckoning. With the rise of athlete activism and global anti-discrimination movements, the behaviour of sports bodies and their management of inclusion and exclusion in sport are under close scrutiny. There is a renewed focus on the relationship between sport and human rights with an increased body of research navigating how to align sport with human rights. Accompanying this, the role of judicial systems is also being critiqued.

Our multidisciplinary conversations concerning sport and human rights were both enriching and complex, probing the tensions between sport and the law, and developing further connections between the lived experiences of marginalised athletes and the regulatory legal and sport human rights framework. It was clear from this dialogue that there remains a gap in our insight into the theoretical and practical application of human rights to sport, specifically in the context of the European Court of Human Rights, which is considered to be the apex in the field of human rights.

This book remedies this shortfall by outlining the scope and limitations of the role of the Court in resolving human rights disputes in sport. It exemplifies progress in the acknowledgement of defending human rights in sport. Daniel demonstrates his remarkable knowledge of the Court in this handbook, covering every aspect of the actual and potential application of human rights to sport in respect of athletes, players, clubs and fans.

With the spotlight on the role of the Court, Daniel examines the past and present and even maps out future areas for inquiry by the Court in respect of sport human rights issues. With impressive knowledge of the contrasting jurisdictions and legal limitations, Daniel analyses an extensive range of nuanced case law to explore challenges and opportunities for the Court in this field.

This is a timely and necessary piece of work that will inform regulatory discussions in this area and prove a valuable reference point for sport and athletes in understanding the thorny interaction between sport and human rights. Daniel addresses significant technical legal characteristics concerning the enforceability of human rights provisions and Court judgments in sport disputes.

He also moves beyond the confines of those technical legal issues and offers a humanistic angle to the impact of the Court on athletes, players, clubs and fans. For instance, my area of expertise is centred around gender and race discrimination. The content includes interesting analysis of how those marginalised rights might be captured within the jurisdiction of the Court. The future of gender eligibility hinges on the current Semenya appeal to the Court. At the same time, English sports are facing

substantial challenges in relation to race discrimination. This handbook educates readers about the position of the Court within those debates.

Daniel has constructed a comprehensive handbook that draws upon difficult matters in a very accessible way. He bridges the gap in the literature by examining how the Court operates, theorises academic issues and offers practical guidance for various parties involved in law and sport.

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Preface and acknowledgements

In this preface, I want to, first of all, thank heartfully the persons who inspired and assisted me in the realisation of the present manual. My expression of deep gratitude goes in particular to:

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- to my family, in particular Yulia, for her patience with me during these years, and to our two little boy treasures. Finally, to my mum, for having been always supportive in my early endeavours. I dedicate this book to them.

Furthermore, I want to highlight three points that are particularly significant for me:

1. The particular vulnerability of certain groups of persons cannot be overstated when it comes to human rights abuses. This factor plays even a more important role in the field of sport, which is often dominated by traditional values and by rules established and governed in Europe, predominantly by men. Stereotypical thinking and discrimination find open doors in such an environment. As a result, the protection against discrimination of all kinds shall be a top priority for those fighting for human rights in sport.

2. For me, as a lawyer, judicial and procedural guarantees are key for the realisation of human rights, also in sport. The right to access to an independent and impartial tribunal or to an effective remedy is fundamental in this domain too. So far, cases have been brought to the Court mainly by world famous (former) athletes and players, such as Adrian Mutu, Claudia Pechstein or Michel Platini. These are individuals who are financially able to afford effective representation before disciplinary bodies or courts. However, judicial and procedural guarantees turn out to be even more important when less well-known athletes and players, maybe at the beginning of their careers, complain about violations of their human rights. For them, very basic guarantees, such as the right to legal aid or to be represented effectively, are fundamental in order to be heard and perhaps decisive for their future career. I do not see any reason why this category of athletes and players, whose salaries might in practice not be very different from ordinary "workers" and who do not enjoy the privileges of top athletes and players, should be less protected than any other profession, which has access to ordinary (labour) courts.
3. When I was about to finish writing and polishing the manuscript of this publication, Russian troops started what they called a "special military operation" against Ukraine (24 April 2022). As an almost immediate result, massive and widespread sanctions were announced and implemented against Russian individuals and legal entities. Artists, theatre players, opera singers or businessmen have lost contracts, jobs or their property based on an assumption of maintaining close ties with the Russian Government. Russian sportsmen and sportswomen, clubs and federations were not exempted. The timing of my book did not allow me to include these developments, but I feel it is important to add the following.

If such collective sanctions might be justified as an immediate reaction to the Russian armed attacks on the Ukrainian territory, the question of their legal basis and their proportionality remains open. In any event, history teaches us that procedural guarantees and legal remedies for individuals who are affected by measures of this kind are crucial in such situations. In times when international law and the rule of law are under immense pressure, the Court has demonstrated its relevance in numerous instances where states have been blamed for arbitrary or disproportionate measures against terrorism (see, for instance *El-Masri v.* "*the former Yugoslav Republic of Macedonia*" [GC], concerning extraordinary rendition of presumed terrorists) and, in particular, it has stressed the importance of judicial remedy against sanction regimes even without challenging the justification of the measures as such (see, among others, *Nada v. Switzerland* [GC] (2012) and *Al-Dulimi and Montana Management Inc. v. Switzerland* [GC] (2016) both concerning "black lists" of the UN Security Council established in the fight against terrorism).

In this regard, it is noteworthy to mention that the Court may remain relevant and accessible for Russian athletes, players, clubs and federations insofar as they could complain about bans, suspensions or exclusions from competitions before the CAS, then via the Swiss Federal Tribunal before the Court for measures taken, *inter alia*, by international federations. Since this kind of (arbitration) case is directed against

Switzerland, the fact that Russia has been expelled from the Council of Europe as a result of its actions in Ukraine is not relevant.

And I am ending with a hope: human-centred sports!

A couple of years ago, I started working to bring human rights thinking into the – also (like sport) very different and traditional – field of nuclear weapons in order to realise the goal of a world free of nuclear weapons (see, in particular, Daniel Rietiker, *Humanization of Arms Control – Paving the Way for a World Free of Nuclear Weapons*, Routledge, 2018). If the present publication serves, at least to a very modest extent, to "humanise" the field of sport further, by placing the rights and interests of athletes and players at the centre of attention and discussion instead of commercial and political considerations, an important goal of my efforts will be achieved. This concerns not only the rights of athletes and players, but also the bidding and selection processes for mega sports events, where important decisions in terms of human rights of potential stadium workers are taken, as the example of the FIFA World Cup in Qatar 2022 demonstrates.

Daniel Rietiker

List of abbreviations

The Court	European Court of Human Rights
The Convention	European Convention on Human Rights
Istanbul Convention	Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence
Lanzarote Convention	Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
Saint-Denis Convention	Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events
ATF	Arrêts du Tribunal fédéral (Judgments of the Federal Tribunal)
CAS	Court of Arbitration for Sports
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
EU	European Union
FIFA	Fédération Internationale de Football Association
FIFPro	Fédération Internationale des Associations de Footballeurs Professionnels (International Federation of Professional Footballers)
FNASS	Fédération nationale des associations et syndicats sportifs (National Federation of Sportspersons' Associations and Unions
HCC	Host City Contract
IAAF	International Association of Athletics Federations
ICCPR	International Covenant on Civil and Political Rights (UN)
ICERD	International Convention on the Elimination of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights (UN)
ILC	International Law Commission
ILO	International Labour Organization
IOC	International Olympic Committee

PILA	(Swiss) Private International Law Act
TFF	Turkish Football Federation
UDHR	Universal Declaration of Human Rights
UEFA	Union of European Football Associations
UN	United Nations
UNGP	United Nations Guiding Principles on Business and Human Rights
VCLT	Vienna Convention on the Law of Treaties (UN)
WADA	World Anti-Doping Agency
WADC	World Anti-Doping Code

General introduction

The organisation of sport has long been considered a "private" matter where human rights, developed traditionally to protect the individual against state interference, have only a very limited role to play. One of the characteristics of the domain of sport is that its principal actors, such as clubs or national and international sports federations (FIFA or IOC), are private entities and, therefore, not directly addressed by human rights standards. Moreover, certain international federations are financially very powerful and, therefore, important players on the global stage. Pursuing doubtlessly public interest goals, they are at the same time business oriented. Finally, their legal foundations are often rather thin insofar as they are often constituted as associations under (Swiss) private law. These factors make it difficult to hold them accountable for potential human rights violations.

However, recent cases decided by the European Court of Human Rights ("the Court" in this manual) indicate that there is a growing interaction between sport and human rights: *Mutu and Pechstein v. Switzerland* (2018) dealt with the right to a fair trial before the Court of Arbitration for Sport (CAS) of Adrian Mutu, an international football player, who had exhausted dispute settlement procedures within the English Premier League and FIFA, and Claudia Pechstein, a renowned German speed skater. In the case of *Platini v. Switzerland* (2020) (dec.), a former FIFA president challenged, in light of the right to private life, his suspension for four years from all football-related activities imposed by FIFA. In the case of *Šimunić v. Croatia* (2019) (dec.), a Croatian football player had been convicted by the Croatian authorities for addressing messages to spectators at a football match, the content of which expressed or incited hatred on the basis of race, nationality and faith. He claimed before the Court that there had been a violation of his right to freedom of expression. The case of *Fédération Nationale des Associations et Syndicats Sportifs (FNASS) and Others v. France* (2018), was introduced by player unions and individual players and athletes, claiming that the requirement that certain sports professionals provide information detailing their whereabouts for the purposes of unannounced anti-doping tests ("whereabouts requirement") would infringe their right to privacy.

Athletes and players are, however, not the only ones that have appealed to the Court. In the case of *S., V. and A. v. Denmark* (2018) [GC], several football fans challenged their detention, which had lasted for over seven hours, when they were in Copenhagen to watch a football game between the national teams of Denmark and Sweden in October 2009. The authorities justified their detention by the need to prevent hooligan violence. All these cases will be explained in more detail in this manual.

The purpose of this manual is to assist lawyers litigating the rights of athletes, players, clubs, fans and other people involved in sport, and to allow students and professors to address the topic of human rights in sport from an athlete's or a player's point of view. The focus is on practical aspects, rather than on theoretical considerations. The manual mainly deals with the instruments adopted within the Council of Europe, in particular the European Convention on Human Rights ("the Convention"), as interpreted and applied by the Court. Other instruments adopted within the Council of

Europe are also referred to, insofar as they inspire and clarify the interpretation of the Convention by the Court. The most relevant for this manual are the 2016 Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events (the "Saint-Denis Convention"), the 2011 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the "Istanbul Convention") and the 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the "Lanzarote Convention").[1]

The book is in four parts, containing in total 12 chapters.

Part I sets the theoretical framework, starting with the key concepts and particularities of the domain of sport and human rights law (Chapter 1). The Convention serves as example. Chapter 2 addresses the question of who has to reply to allegations of human rights violations in sport. Traditionally, only states are bound by human rights treaties, but this study elaborates whether sports governing bodies, in particular international and national federations, can nevertheless be held liable for human rights abuses, mainly through the concept of due diligence imposed on businesses. Chapter 3 deals with the question of sports-related human rights violations committed abroad and the question of who may be held responsible. An example often referred to recently is the situation of migrant workers being abused and exploited during the construction of football stadiums for a championship to be held outside Europe, such as the Football World Cup in Qatar 2022.

Part II addresses the human rights and situations in the field of sport that have already been dealt with by the Court. The relevant domains and the applicable human rights guarantees are already very diverse: access to courts, fair hearing and other procedural guarantees (Articles 6, 7 and 8 of the Convention) are discussed in Chapter 4, privacy in the fight against doping (Article 8, and Article 2 of Protocol No. 4) is examined in Chapter 5, freedom of expression of players and athletes (Article 10) is the subject of Chapter 6, and Chapter 7 looks at the human rights of fans, in particular in the fight against hooliganism (Articles 2, 3, 5, 10, 11, and Article 4 of Protocol No. 7).

Part III considers potential issues at stake in light of the special needs of particularly vulnerable groups of persons in sport. The non-exhaustive list contains the following issues: discrimination against persons with disabilities, against women and against intersex and transgender athletes (all in Chapter 8), violence and sexual abuse against women and children (minors), including the right to be informed about and protected against certain health risks, especially brain damage, in certain contact sports (Chapter 9), hate speech against athletes and players, based on racial or ethnic grounds and on sexual orientation or gender identity (Chapter 10), and trafficking in human beings, both in transfers of players, in particular minors, and in stadium construction and procurement supply chains (Chapter 11).

In Part IV, Chapter 12 is intended to give practical information to lawyers interested in litigating sports-related cases, by explaining the procedure and admissibility criteria before the Court. Finally, some general conclusions are drawn.

1. The text of all Council of Europe treaties, their explanatory reports, the status of signatures and ratifications, the declarations and reservations made by states are available at https://www.coe.int/en/web/conventions/.

Part I

Theoretical setting

Chapter 1

Definitions

1.1. KEY CONCEPTS AND PARTICULARITIES OF THE FIELD OF SPORT

1.1.1. Autonomy of the sport movement and lex sportiva

Sport long has been considered an autonomous, self-contained regime that does not need or want to be governed by external legal sources or authorities (Schwab 2018, especially 221-2; Cornu et al. 2017; Szyszczak 2007).

Apart from a few exceptions, in particular France, where sports organisations are considered to perform a public-service task, states rarely intervene in the regulation of sports (Cornu et al. 2017: 22). The sports movement operates within a highly integrated institutional set-up based on a pyramid structure, with the international federations on the top, exercising monopoly positions in relation to their particular discipline (ibid.). The Swiss Federal Tribunal in 2020 acknowledged the hierarchical structure of professional sports in the Caster Semenya case:

> The applicant alleges, not without relevance, that the relations between an athlete and a sports federation have certain similarities with those that exist between an individual and the State. It is true that the Federal Tribunal has observed that professional sport is characterised by a very hierarchical structure, both on international and national level. Established on a vertical axis, the relations between athletes and organisations that are dealing with the different sports can be distinguished from horizontal relations created by the parties to a contractual relationship.[2]

The current system guarantees considerable autonomy vis-à-vis the state authorities, and only a few exceptions exist, in particular the major North American professional sports leagues, which are not under the authority of the international federations (Cornu et al. 2017). The principle of the autonomy of the sports movement is widely recognised by states and international institutions, such as the European Union or the Council of Europe. The latter has, by Recommendation of the Committee of Ministers CM/Rec(2011)3, adopted on 2 February 2011, recognised and defined the principle as follows.

> The Committee of Ministers …
>
> [r]ecommends that the governments of Member States:
>
> 1. recognise the following features describing the autonomy of the sports movement:

2. ATF A4_248/2019, 25 August 2020, §9.4. Unofficial translation from the original French. Available at https://bit.ly/3vbknQR, accessed 21 April 2022.

the autonomy of sport is, within the framework of national, European and international law, the possibility for non-governmental non-profit-making sports organisations to:

- establish, amend and interpret the "rules of the game" appropriate to their sport freely, without undue political or economic influence;
- choose their leaders democratically, without interference by States or third parties;
- obtain adequate funds from public or other sources, without disproportionate obligations;
- use these funds to achieve objectives and carry out activities chosen without severe external constraints;
- co-operate with public authorities to clarify the interpretation of the applicable legal framework in order to prevent legal uncertainty and contribute, in consultation with public authorities, to the preparation of sports rules, such as competition rules or club rules of sports NGOs, which are legitimate and proportionate to the achievement of these objectives;

Likewise, the preamble of the Council of Europe Convention on the Manipulation of Sports Competitions (CETS No. 215), adopted in 2014, acknowledges that "in accordance with the principle of the autonomy of sport, sports organisations are responsible for sport and have self-regulatory and disciplinary responsibilities in the fight against manipulation of sports competitions". However, it adds that "public authorities protect the integrity of sport, where appropriate".

From a legal point of view and by analogy with the separation of powers within a state, the principle of autonomy has three aspects: first of all, the sports governing bodies, in particular the international federations, have a broad self-regulatory capacity; in other words, they produce themselves the standards which apply to them and their members, in particular in the disciplinary field (Cornu et al. 2017: 24). The ultimate expression of the self-regulatory capacity is the emergence of a *lex sportiva*, which can be defined as the body of law of international scope drawn up by sports organisations themselves with a view to regulating the conduct of sports competitions (ibid; Zakharova 2019).

Second, as a result of the pyramid structure and the highly integrated nature of the sports movement, the effectiveness of sports rules is ensured by arrangements and mechanisms that are also specific to the sports movement, not requiring state intervention (Cornu et al. 2017: 24). As an example, a decision taken by a national federation to suspend an athlete is systematically recognised by other national federations for competitions within their remit, or in cases where the international federation requires so (ibid.). In other words, executive power too lies within the exclusive competence of the sports governing bodies.

Third, sports organisations have the power to supervise the implementation of the *lex sportiva*, which they exercise in particular through their disciplinary authority and the construction of a genuine sports justice system with the Court of Arbitration for Sport (CAS) at the top. CAS can be regarded as the sports movement's supreme judicial body that has extremely broad powers due to the fact that a large number of sports federations have accepted its jurisdiction (Cornu et al. 2017). The unique position of CAS is reinforced by another specific feature of the sports justice system, namely the generally compulsory submission of members to arbitration and, as a result, the exclusion of the jurisdiction of ordinary state courts. Sports federations

insert a clause in their rules or statutes, making arbitration compulsory for their members. In other words, in joining the federations, athletes and other parties involved in sports competitions have generally no choice but to accept arbitration as the means of settlement of disputes (ibid: 31).

The broad use of arbitration procedures by the sport movement, of which CAS is only one example, can be considered an expression of the will of the federations to escape the control of national courts and, as a result, to shield themselves against interference by state power more generally (Cornu et al. 2017: 24-5).

To give an example of the monopoly position of sports governing bodies, we can briefly present the situation of FIFA, the global regulator of football, or soccer (Hock et al: 194). FIFA has developed a complex organisational structure, including its member associations, most of which represent a single country, and six regional confederations, in order to effectively regulate all parties participating in organised football competitions (ibid: 194-5). FIFA requires its confederations to ensure that international competitions in which clubs from national associations participate are organised with both the consent of the relevant confederation and the approval of FIFA (FIFA Statutes, Article 20 §3e). Moreover, FIFA has established private dispute resolution venues and sophisticated systems of sanctions and incentives promoting compliance with the decisions of the dispute resolution bodies (Gomtsian et al. 2018). In particular, FIFA recognises the mandatory jurisdiction of CAS to decide on disputes between FIFA, its members, confederations, leagues, clubs, players, intermediaries and other involved parties. This mechanism is another tool to ensure compliance with FIFA's global order. Hock and Gomtsian (at 194) claim that through this monopolistic position "FIFA effectively regulates every party that participates in organised football competitions, including players, clubs, coaches, managers, club investors, officials, sponsors, and spectators."

From a human rights point of view, the existence of regimes that claim to be self-contained are not unproblematic, especially in an area, such as contemporary sport, where important decisions are taken that affect people's financial existence, private and family life, health and reputation. In other words, the powers of sports organisations to adopt rules, and punish and monitor their members, are so extensive that their actions are likely to interfere in the members' fundamental human rights to no less a degree than an action by state authorities would (Cornu et al: 42). For this reason, it is crucial that the duty of states to respect human rights is enforced also in respect of acts and measures of sports organisations, even more so considering the generally weak position of athletes and other members vis-à-vis their federations due to the above-mentioned compulsory submission to arbitration and, as a result, the exclusion of important procedural guarantees offered by ordinary state courts (Zakharova 2020).

Recent developments go in that direction. Judgments such as *Mutu and Pechstein v. Switzerland*, rendered by the Court in 2018, have challenged the autonomy of the sport movement and the monopolistic position of sports governing bodies, raising the question whether this autonomy is sustainable in the long run. Under Article 1 of the Convention (Obligation to respect human rights), "[t]he High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms" deriving