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Defending Athletes, Players, Clubs and Fans - A Manual for Human Rights Education and Litigation in Sport, in Particular Before The European Court of Human Rights

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Subject: Human rights

Other Related Subject: Sport.

***356** Dr. Daniel Rietiker, a distinguished Senior Lawyer at the European Court of Human Rights (the "Court"), brings a wealth of expertise to his role as the author of this remarkable book. In addition to his legal acumen, Daniel serves as a part-time Lecturer in Public International Law at the University of Lausanne in Switzerland and holds the esteemed position of Adjunct Professor at Suffolk University Law School in Boston, Massachusetts. His prior contributions exploring the intersection of sports and human rights, such as his article on "The European Court of Human Rights and FIFA",¹ demonstrate his deep understanding and interest in these complex dynamics. Now, with the release of this book, Daniel delves even further, offering profound insights into the intricate relationship between the European Convention on Human Rights (ECHR) and the world of sport. Daniel has written extensively on the principle of the effective protection of human rights, known as the "principle of effectiveness", a topic for which he is renowned.² It is no surprise that Daniel's zeal in promoting the effective protection of human rights has been extended to the field of sport. It must be said that he deals with this subject exceptionally well.

Daniel's ground-breaking book, namely, *Defending Athletes, Players, Clubs and Fans—A manual for human rights education and litigation in sport, in particular before the European Court of Human Rights*, a Council of Europe publication with a foreword by the former President of the Court, Robert Spano, represents a seminal work that unravels the complexities of asserting and protecting human rights in a range of sports and related disputes. With an unprecedented focus on navigating cases before the Court, the book delves into the Court's pivotal role in dealing with human rights complaints in sport, drawing from its jurisprudence and that of other jurisdictions, such as the US. Its comprehensive coverage encompasses various aspects of human rights application to sport, specifically addressing athletes, players, clubs, and fans. This invaluable handbook presents meticulously crafted summaries of the Court's evolving case-law in the dynamic field of human rights education, strategic litigation, and sports.

Exhibiting an unparalleled depth of analysis, this book stands out as an indispensable and highly sought-after resource for individuals seeking a profound understanding of the fascinating ways in which human rights are relevant to sport. As a beacon of knowledge and guidance, this handbook provides readers with the expertise necessary to navigate and comprehend the intricate nuances within this domain. By illuminating the crucial role of human rights education and strategic litigation in sport, the book will enable readers to engage with these issues meaningfully and will make a lasting impact. This handbook's meticulous attention to detail and comprehensive nature firmly cement its status as a must-have reference for scholars, practitioners, and enthusiasts, making an invaluable contribution to the ongoing discourse surrounding this captivating subject matter.

The uniqueness of this book lies in its exploration and analysis of the nexus between sports and the ECHR. Daniel seizes this opportunity to eloquently present a practical manual that seamlessly combines sports law and the ECHR's guarantees. This thoughtfully organised book is divided into four distinct ***357** parts, comprising twelve meticulously crafted chapters—a structure which ensures a comprehensive exploration of the subject matter, enabling readers to apprehend the intricacies of

the content with utmost clarity and depth. The author has provided readers with a systematic and immersive reading experience through this well-organised framework.

The book starts with an illuminating general introduction.

Part I, entitled "Theoretical Setting", comprises chapters on definitions; who can be held liable for human rights in sport?; and human rights violations occurring abroad.

In particular, this Part serves as the book's foundation, where Daniel masterfully delves into the fundamental concepts underpinning the intersection of human rights and sports. In addition to providing a comprehensive definition of these concepts, the author sheds light on crucial aspects such as the autonomy of sports and the intricate realm of *lex sportiva*. Furthermore, Daniel examines the pressing issue of accountability for human rights violations within the specific cohorts of athletes and players.

In this Part, the author emphasises that while private actors play a significant role in the world of sport, the primary responsibility for addressing human rights violations lies with the states. This responsibility is firmly rooted in international human rights law. By exploring the concept of positive obligations, the author skilfully highlights the Court's capacity to address complaints of human rights violations perpetrated by private actors.

Part I also delves into the intriguing question of whether states that provide a welcoming environment to international sports organisations, such as Switzerland with its hosting of FIFA, UEFA, and the IOC, bear a distinct responsibility for alleged human rights abuses committed by or within these organisations. This exploration sheds light on the complexities inherent in the relationship between human rights protection and sports, enabling readers to develop a nuanced understanding of this dynamic interplay.

Additionally, the first theoretical part of the book allows the author to navigate the intricacies of modern sports law construction and its correlation with the ECHR. The author draws attention to unique actors within an original framework by juxtaposing these two realms, offering readers a captivating and thought-provoking exploration.

Part II, entitled "Issues Already Addressed by the Court", comprises chapters on access to a court, fair trial and other procedural guarantees (arts 6, 7 and 8 ECHR); privacy in the fight against doping (art.8 ECHR and art.2 of Protocol No.4); freedom of expression of players (art.10 ECHR); and human rights of fans, in particular in the fight against hooliganism.

The same Part provides a remarkable opportunity for the reader to obtain an in-depth analysis of the Court's case-law. Within this Part, readers are treated to an eloquent and comprehensive overview of the legal issues that have been subjected to the Court's discerning scrutiny in the context of sports. It is truly awe-inspiring to witness the extent to which the Court has addressed allegations of human rights violations within the sporting arena, shedding light on the profound relevance of the fundamental safeguards enshrined in the ECHR. Furthermore, the book addresses the specific challenges posed by hooliganism in sports, demonstrating the relevance of several provisions of the ECHR. Notably, the Saint-Denis Convention emerges as a crucial instrument in combating violence in and around stadiums, serving as a significant interpretive tool for national authorities and the Court. The authors argue that in situations where a balance of interests is at stake, particularly under arts 10 and 11 ECHR, the jurisprudence of the Court tends to favour the security and safety of the public over the rights of individual fans or fan associations.

By exploring this diverse range of sports-related cases, this Part serves as a powerful testament to Daniel's profound expertise and meticulous research. The author adeptly navigates the rich tapestry of case-law from the Court, unravelling its profound implications for the field of sports law. Through this captivating journey, readers gain a comprehensive understanding of the countless legal dimensions within sports, solidifying the indispensable role of the Court in upholding human rights within this dynamic domain. *358

Part III, entitled "Potential Issues at Stake before the Court, Particularly for Vulnerable Groups", comprises chapters on discrimination; violence and sexual abuse; protection of athletes and players against hate speech; and trafficking in human beings.

This Part stands out for its innovative character, eloquently exploring uncharted areas in sports that have the potential to give rise to human rights complaints before the Court. The author's examination is firmly grounded in existing case-law decided by the Court in other fields, as well as the obligations of state parties to relevant treaties within the Council of Europe. Notably, these include 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, and the Council of Europe Convention on an Integrated Safety, Security, and Service Approach at Football Matches and Other Sports Events. Additionally, insights are drawn from issues addressed by other courts, most notably in the US.

Part III acknowledges that specific individuals, including children, women, racial and ethnic minorities, and other vulnerable groups, are more susceptible to human rights abuses within the realm of sports and beyond. Consequently, discrimination issues, particularly concerning disability, gender, gender identity, and sexual orientation, occupy a significant role in this book section.

This remarkable book observes the Court's limited exploration of violence and sexual abuse targeting women and children in sports-related applications. While the Court's jurisprudence on these matters is extensive in other domains such as schools, workplaces, childcare, religious institutions, and domestic settings, it is surprising that such allegations have not yet been adequately addressed within the context of sports, given the growing awareness and recognition of the pervasiveness of violence and abuse in the field. The book emphasises the practical and legal significance of conventions such as the Lanzarote and Istanbul Conventions, which are fully applicable to violence and abuse occurring in sports and explicitly address these activities. Their potential to combat and prevent such practices, while assisting victims, is unequivocal.

Moreover, the book sheds light on the Court's potential role in cases where athletes or players raise concerns about inadequate information or protection against risks to life and health inherent in contact sports. Leveraging the Court's robust case-law in other domains involving dangerous activities, the author asserts that several human rights guarantees, including the right to life (art.2), the prohibition of torture and inhuman or degrading treatment (art.3), and the right to respect for private and family life (art.8), may have relevance in such situations.

The pervasive issue of hate speech directed at athletes and players, particularly in online environments, presents distinct challenges to society and relevant stakeholders. While the Committee of Ministers of the Council of Europe has issued relevant recommendations, including within the realm of sports, the Court has yet to hear a case from a player or athlete alleging victimisation due to such speech. However, the book highlights the Court's establishment of essential general principles in other areas, implying that it could assume a watchdog function in addressing hate speech within the sporting context.

Finally, Part IV, entitled "Litigating Human Rights in Sport in Practice: Points to Remember when Applying to the Court", comprises a chapter on procedure. This Part offers a succinct overview of the Court's procedures and summarises crucial considerations for individual applications, particularly in the field of sports. Acknowledging the time constraints that law firms and litigators face, this Part provides practical and concise recommendations that will significantly assist lawyers in effectively representing athletes and players before the Court.

The book ends with valuable general conclusions, followed by three useful appendices: appendix I, incorporating the provisions of Rule 47 of the Rules of the Court which sets out the contents of an individual application before the Court; appendix II, annexing the official Court application form; and appendix III including the case-law cited in the book. ***359**

In conclusion, Daniel's book is an invaluable resource that meticulously explores the nexus between human rights and sports. With its well-structured and comprehensive approach, this magnum opus serves as a testament to Daniel's unparalleled expertise and unwavering dedication to examining the convergence of sports law and the ECHR.

Through a profound exploration of fundamental concepts, analysis of the Court's case-law, examination of uncharted areas, and provision of practical recommendations, the book offers readers a profound understanding of this compelling intersection. Scholars, practitioners, and sports enthusiasts will find this book an indispensable reference, as it significantly contributes to the ongoing discourse surrounding the captivating subject matter of human rights in sport. With its well-structured content and comprehensive approach, it stands out as a definitive resource that will enrich understanding of this fascinating topic.

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Footnotes

- 1 D. Rietiker, "The European Court of Human Rights and FIFA: Current Issues and Potential Challenges" (2020) 1 European Convention on Human Rights Law Review 62.
- 2 See further D. Rietiker, "The Principle of 'Effectiveness' in the Recent Jurisprudence of the European Court of Human rights: Its Different Dimensions and Its Consistency with Public International Law—No Need for the Concept of Treaty Sui Generis" (2010) 79(2) Nordic Journal of International Law 79, 245 et.seq. D. Rietiker, "Effectiveness and Evolution in Treaty Interpretation", *Oxford Bibliographies*, <https://www.oxfordbibliographies.com/display/document/obo-9780199796953/obo-9780199796953-0188.xml>.

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