PEER REVIEWED ARTICLE

Sporting Exception In The European Union's Sports Policy

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Sports have certain specialities that allow the sports industry to be differentiated from other kinds of economic sectors. The functional role of sports in the fields of social and educational development and the distinctive framework of the sports regulation causes national and international sports governing bodies to have autonomy while determining the sport's governing rules[1]. Previously, the sport's governing bodies had full autonomy while regulating the sports; however, due to economic and politic reasons the European Union (EU) is involved in the regulation process of sports, even though the EU respected the characteristics of sports and promoted a regulatory space for the sports governing bodies. In this instance, the sporting exception appeared and was developed through the decisions of the Court of Justice or European Commission[2]. In this essay, I will try to explain the development and application of the sporting autonomy inside the EU's organisational policy.

1. Development of the Sporting Exception

The sporting exception came into being after a case by case examination of the Court of Justice and Commission in sports related issues. Therefore, the development of the sporting exception took a slow and progressive process which was influenced by the political improvements in the EU and industrial advancements in sports. Therefore, like the EU sports policy, the sporting exception is a product of the interaction of sports and the EU which started by the Walrave and Koch[3] case[4]. The case was the first sports related case which came in front of the Court of Justice through the request of a preliminary ruling decision of the national court. Also, the Walrave and Koch judgement became significant in terms of both the applicability of EU law and existence of a sporting exception definition. The Court of Justice stated that EU law will be applied to sports if sports consists of an economic activity in the meaning of the EC Treaty. However, the Court also brought the definition of 'purely sporting interest' and mentioned that there is a sporting exception in the sports regulation where EU law is not going to be applied. In the case, discrimination based on nationality in terms of a sports team's composition was found to be a

[1] Zylberstein, J (2008) The Specifity of Sport: A Concept Under Threat in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.100

[2] Colucci, M. (2010) Sports Law in Italy, Kluwer Law International: The Netherlands p.19

[3] Walrave and Koch v Union Cycliste Internationale, ECJ Case No: C-36/74 [1974] ECR 1405

[4] Anderson, J. (2010) Modern Sports Law, Hart Publishing: Portland, p.352

concept related to a 'purely sporting interest' and sports regulators were found to be authorized to decide it[5]. Two years later, the Court of Justice restated and extended this judgement in Dona v Montero[6], where the Court stated that discriminating against individuals of other member states on the grounds of nationality is opposed to EU law and such implications might be permissible only in noneconomic aspects. However, the Dona Case excluded the formation of national teams as a sporting exception and discrimination against sportsmen or sportswomen from other nationalities in a member states' national team was accepted by the Court of Justice because there is a 'purely sporting interest'[7]. Therefore the purely sporting interest definition became the limits of sports governing bodies in Europe by the end of the seventies. However this sporting exception that maintains autonomy for sports regulators changed more by the end of the nineties when the Treaty of Maastricht and Single European Market project promoted new characteristics to Europe's governance.

The Treaty of Maastricht, which was the builder of today's EU, came into force in 1993 and brought significant changes to the daily life of individuals in the EU's member states. The Treaty promoted the EU citizenship for the first time and tried to create a common will in the public of the EU by supporting a stronger European Parliament and new electoral rights for EU nationals[8]. Meanwhile, the Single European Market expanded the customs union in the economic aspect and brought important changes for EU nationals through introducing the free movement of people, goods, services and capital[9]. Therefore, the EU was under the influence of economic and socio-cultural developments just before the Bosman case [10]was arrived in the Court of Justice. For this reason, the Bosman rules, which changed the universal sports regulations, were determined by the Court of Justice with the motivation of using football as an instrument to help structure the new governance of Europe. First of all, sports and especially football was seen as an important economic asset that is necessary to be included in the EU's new economic structure established by

[5] James, M. (2010) Sports Law, Palgrave MacMillan: New York,p.47
[6] Dona v Mantero ECJ Case No: C-13/76 [1976] ECR 1333
[7] Colucci, M. (2008) In the Name of Specifity and Autonomy in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.29
[8] Duff, A. (1994) The Treaty of Maastricht: The Main Reforms in Duff A., Pinder, S. and Pryce, R. (eds.) Maastrich and Beyond: Building the European Union, Routledge: New York, pp.29-30
[9] Turmann, A. (2004) A New European Agenda For Labour Mobility, Centre for European Policy Studies: Brussels, p.20
[10] Union Royale Belge des Societes de Football Association ASBL & Others v Jean- Marc Bosman ECJ Case No: C-415/93 [1995] ECR I-4921

the Single European Market. In addition, sports were intended to be used as the means of creating a common will of Europe and help the awareness of European citizenship to increase, as the people of Europe gather around and show an enormous interest in sports[11].

For such reasons, in order to assist EU objectives, the Court of Justice narrowed the regulatory space of the international and national sports governing bodies in the Bosman case and adjusted the transfer system in sports to the principle of free movement. After the case, limits that applied to other nationalities in sports competitions were revoked for the EU citizens in EU member states because such limitations in sports was found to be discriminating on grounds of nationality. Moreover, through the free movement of workers principle sportsmen and women in the EU are entitled to move from their clubs without necessitating the consent of the club's board of management if their contractual period is ended. During the case, although UEFA claimed that there is a 'purely sporting interest' in the acceptance of these rules which provided the competitive balance in football and assisted the grassroots development, the Court of Justice found that implementations of these rules were not compatible with EU law [12]. On the other hand, Court of Justice mentioned the necessity to protect competition and youth development in football in terms of protecting its socio-cultural impact[13]. Although this point of view did not allow the previous transfer rules to remain, it helped the sporting exception to develop in the following cases.

To exemplify, in the Deliege case[14] the Court of Justice stated that there shall be a sporting exception in the selection criteria of the national teams, although restricting some sports people from international competitions is a discriminatory act and practically contrary to EU law. In addition, in the Lehtonen [15] case, the Court of Justice permitted existence of a restrictive transfer rule which did not allow players to transfer to a new club unless it was the transfer session. As the Advocate General stated; although transfer deadlines were not compatible with free movement principles of EU, sports governing bodies were entitled to stipulate such rules in order to protect the competitive balance in sport which was requested in the public domain.

[11] Gardiner et. Al. (2006) Sports Law, Cavendish:New York,p.158
[12] Schmidt, D. (2007) The Effects of the Bosman-Case on the Proffessional Football Leagues With Special Regard To the Top Five Leagues, Grin Verlag: Germany, pp.17-19
[13] Van den Bogaert, S. (2005) Practical Regulation of the Mobility of the Sportsmen in the EU Post Bosman, Kluwer Law International: The Netherlands, p.243
[14] Deliege v ASGC Ligue Francophone de Judo ECJ Case No: C-51/96 [2000] ECR I-2549
[15] Lehtonen v Fédération Royale Belge des Sociétés de Basket-ball ECJ Case No: C-176/96 [2000] ECR I-2681

Besides the free movement principles, EU competition law started to be discussed in sports related issues with the Piau[16] case. In the Piau case, both the Commission and Court of First Instance stated that the conditions brought by Federation Internationale de Football Association (FIFA) for the football agencies had a legitimate aim, although FIFA was seeking more difficult conditions for football agents than the EU competition law did for a regular agent. Therefore, even though the requirements of FIFA were excessive in regards of EU law, an open door was left by the EU as a sporting exception because those conditions were brought in order to protect players[17]. Finally, the Meca-Medina [18]case became significant in terms of defining the sport's governing bodies' field of competence inside of the EU's organisational policy. In addition to examining an anti-doping sanction in regards of both free movement rules and EU competition law, the case was significant for EU Sports policy because the Court of Justice stated that a sporting rule may be about a purely sporting interest and have an economic impact at the same time. First, the Court of First Instance denied the economic character that anti-doping regulations have. However, on appeal the Advocate General stated that although they have an economic impact, this was secondary and anti-doping rules were more linked with the character of rules that have a purely sporting specifity. Then the Court of Justice expanded the Advocate General's interpretation and accepted that EU law and the rules that have purely sporting interest clashes with each other as sports have an economic value and even the basic rules of sports might affect an economic activity in the meaning of article two of the EC Treaty. For this reason, the Court of Justice brought that whether it is related to a purely sporting interest or not, EU law will be applied to sports in every aspect if sports governing bodies restrict an economic activity. However, the Court mentioned that sports regulators have a 'conditional autonomy', if there is a legitimate sporting interest which is in need of being protected[19].

[16] Piau v Commission ECJ Case No: C-171/05P [2005] ECR I-37

[17] Colucci, M. (2008) In the Name of Specifity and Autonomy in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.31

[18] Meca-Medina v. Commission of the European Communities ECJ Case No: C-519/04 [2006] All E.R. (EC) 1057; [2006] E.C.R. I-6991; [2006] 5 C.M.L.R. 18

[19] Weatherill, S. (2006) 'Anti-Doping Revisited- the Demise of the Rule of 'Purely Sporting Interest?'. E.C.L.R. 27(12), 645-657, p. 646

2. Application of the Sporting Exception

Through the Meca-Medina judgement, international and national sports governing bodies find the opportunity to regulate sports on the grounds of principle of subsidiarity. Basically, the principle allows decisions to be taken from the units that are closest and competent to an issue that is subject to regulation inside a field of area where EU law is also applied[20]. However, to be an expert and close to the sports regulation is not enough for a sporting exception since the EU seeks some conditions to maintain a sporting autonomy. The previous case law shows that EU law may permit the existence of a sportive regulation that is opposed to EU law if there is a legitimate objective and a proportionate protection[21]. Lewis and Taylor define this process as the 'orthodox analytical three stage test' which looks for a sporting regulation which; restricts EU law, has a justified reason and has proportional precautions. Lewis and Taylor also state that the Deliege case shows that rather than finding answers to the three stage test, the Court of Justice might rely on rule of reason which can be more advantageous for the sport's governing bodies. However, Meca-Medina case is the signal that showed the orthodox criteria will be applied mostly in order to determine if there is a sporting exception or not[22]. Therefore a sporting exception solely appears when the regulation of sports governing bodies contradicts with the EU law. For this reason, application of the sporting exception is mainly a matter of EU free movement principles and EU competition law where the interests of sports governing bodies and EU intersect[23].

2.1. Application of the Sporting Exception in the Context of Free Movement Rules

In the context of sports, application of articles 45, 49 and 56 of the EC Treaty is an important part of the EU's sports policy.[24] These articles, which

[20] Estella de Noriega, A. (2002) The EU Principle of Subsidiarity and its Critique, Oxford University Press: New York, p.91

[21] Zylberstein, J (2008) The Specifity of Sport: A Concept Under Threat in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.100

[22] Lewis, A. And Taylor, J. (2008) Sport: Law and Practie, Tottel: West Sussex, Pp. 500-501

[23] Siekmann, R. (2008) Is Sport 'Special' in EU Law and Policy? İn Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.36

[24] Cygan, A. (2007) Competition and Free movement Issues in the Regulation of Formula One Motor Racing in A.Szyszczak, E, Cygan, A. and Bogusz, B. (eds.) The Regulation of Sport in the European Union, Edward Elgar : Cheltenham, p.77

regularize free movement of workers, establishment and services are supposed to be respected among national and transnational sports governing authorities at both amateur and professional levels. Although from the Walrave case it has been accepted that the applicability of EU law appears when sports consists of an economic activity, amateur sports have not been left out of free movement provisions because participating in sports is a social activity that every EU citizen should have in other EU states apart from their nationalities[25]. However, because of the special characteristics that sports have, the EU provided a regulatory area to sports governors in respect of free movement rules. In this instance, transfer seasons, transfer fees for training and improvement for players or the selection criteria of the national teams were left as exemptions and sports governing bodies become able to regulate sports in an opposing way to EU free movement rules in respect of protecting sporting interests.

Therefore, the EU requires a balance while applying the free movement provisions to sports regulation between the organisational benefits of the EU and sports. For this reason, the same objectives of sports governing bodies within different regulations or rules might face different reactions from Court of Justice. To exemplify, to increase competition, provide fairness and equal opportunity and maintain grass roots development in sports were the main motivations for restricting the transfers of players. However, such aims of the sports governors were not accepted by the Court of Justice in the Bosman case because, although there is a sporting interest, to restrict EU nationals by discriminatory rules based on nationality and contracts that have already expired was too excessive on grounds of the free movement rules of the EU[26]. On the contrary, the same objectives were found to be legitimate in the Lehtonen and Bernard[27] cases when the Court of Justice approved the necessity of transfer deadlines in respect of a purely sporting interest in the first case and permitted the sports clubs to obtain a compensation fee for the transfer of players trained and educated in their own sports schools, by the second one. Although in such cases the free movement rights of the players were restricted by sports governing bodies, the Court of Justice allowed a sporting exception because, unlike the Bosman case, the restrictions were compatible with the principle of proportionality because mediums that were taken by the sport's governing bodies were not redundant and sufficient enough to provide protection for certain objectives[28].

[25] Comission Staff Working Document, Sport and Free Movement [COM(2011) 12]
[26] Beloff et. Al (1999) Sports Law, Hart Publishing: Oxford-Portland Oregon, pp.77-78
[27] Olympique Lyonnais SASP v Olivier Bernard, Newcastle United FC ECJ Case No: C-325/08 [2010] All E.R. (EC) 615; [2010] 3 C.M.L.R. 14; [2011] C.E.C. 60
[28] Lewis, A. And Taylor, J. (2008) Sport: Law and Practie, Tottel: West Sussex, Pp. 503-504

For this reason, the case law after Bosman shows that proportionality is an important medium for EU in terms of granting a sporting exemption to sports governing bodies in respect of the areas covering free movement provisions. On the other hand, proportionality limited the sporting exception and expanded the context of the Bosman rules through the Kolpak[29] and Simutenkov[30] cases. After the Bosman case, free movement provisions were only applied within the boundaries of the EU and national federations were able to set quotas for non-EU nationals to take part in domestic competitions. However after the Kolpak and Simutenkov cases, the sportsmen from nations who had an Association or a Participation and Cooperation Agreement with EU, became entitled to have the same status with sportsmen from EU states if they have their resident and work permits. Therefore the Kolpak and Simutenkov judgements of the Court of Justice enlarged the impact of the application of the free movement rules in sports regulation in a contradicting way with the interests determined by the national sports regulatory bodies. In a similar way with the Bosman case sports federations were restricting the number of sportsmen from outside the EU in order to maintain grassroots development in sports. However, once again such discriminatory provisions were found excessive and were not seen as a proportionate measure to be taken although the interest to be protected was a legitimate one in the context of sport.

2.2. Application of the Sporting Exception in the Context of EU Competition Law

Secondly, the sporting exception is also applied in the field of EU competition law because of the intrinsic values that sports have. In a similar way with the free movement rules, EU competition law is an essential part of the EU's political foundation and provides single market to have a healthy working mechanism[31]. However, the EU provides sports to have a chance to protect its certain sporting interests because it has a socio-cultural impact that provides sports industry to be different. To exemplify, sports works for the youth development and have an educational role which requires a financial investment in the grassroots unlike other business areas. Moreover, in sports, to protect the competitive balance is more necessary than other businesses because of the mutual gain between clubs or athletes. Unlike the other business sectors, in sports, sports clubs or athletes are in need of each other in order to provide

[29] Deutscher Handballbund v Kolpak [2003] ECJ Case No: C-438/00 ECR I-4135

[30] Simutenkov v Ministerio de Educacion y Cultura ECJ Case No: C- 265/03 [2005] ECR I-2579

[31] Dabbah, M. (2010) International and Comperative Competition Law, Cambridge University Press: Cambridge, Pp.160-161

their successions to continue. Besides, in order to attract the audience, results are not supposed to be too predictable in sports; therefore, a competitive balance is even more necessary when it is compared to other business areas[32]. Also, the regulatory structure of sports or the so called the European Sports Model is a monopolistic framework since it follows a hierarchical power on grounds of regional basis and the European Federations have the authority to control this at top. Although the monopolistic control contradicts to EU competition law, the European Sports Model was accepted by the EU because this model was found to be essential for maintaining the European character of sports which brings a more democratic system that includes promotion and relegation of teams[33].

The sporting rules are opposed to EU competition law because they contradict articles 101 and 102 of the Treaty on the Functioning of the Union (TFEU) in most of the cases[34]. The reason behind sports regulation becomes controversial in respect of these two articles of TFEU is the restrictive characteristics of the decisions or actions taken by the sports federations and monopolistic creation of the sports regulation framework. In an opposing manner to such specialities of sports regulation, article 101 brings prohibition to anti-competitive actions or practices and article 102 aims to prevent abuse of a dominant position. However, because of the reasons that have been discussed above, the EU makes a sporting exemption in regards of the competition law and provides sports federations an open area to regulate. As an example, the package sale of the media rights of the major European leagues is anti-competitive in terms of article 101 of TFEU because the sports clubs that have significant publicity are losing the opportunity to market their own media rights[35].

However, the sporting exemption has limits in regards of the EU competition law in a similar way with free movement rulings. To determine these limits, the judgement of the Court of Justice in the MOTOE[36] case could be referred as an important criterion. The Case was about a private body in Greece, known as ELPA, which was authorized to both organize motorsports events

[32] Lewis, A. And Taylor, J. (2008) Sport: Law and Practie, Tottel: West Sussex, Pp. 503-504

[33] Blanpain, R. (2008)The Future of Sports in Europe, in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.3

[34] Parrish, R. (2003) Sports Law and Policy in the European Union, Manchester University Press: Manchester,p.111

[35] Russo et Al. (2008) European Commission Decisions on Competition, Cambridge University Press: Cambridge, p.216

[36] C-49/07 Motosykletistiki Omospondia Ellados NPID (MOTOE) v Eilliniko Dimosio ECR I-4863

and give consent to the organizations that have been presented to the ELPA through the other entrepreneurs. However, ELPA did not affirm the application of the MOTOE Company when they wanted to organize a motorcycle race and afterwards the dispute was taken to the Court of Justice with the claim that ELPA was abusing its dominant position in the motorsports organization market in Greece. First, the Court mentioned that ELPA was associated with economic activities like sponsorship agreements or marketing campaigns, therefore the body was an undertaking which is subject to EU competition law[37]. Secondly, on similar grounds with the Meca-Medina case, the Court stated that an authority like ELPA has the competence to refuse an application through reasons derived from safety, international standards or codifications or time schedule[38]. However, the Court pointed out that ELPA's decisions were questionable in regards of accountability since there is not a legal authority that can evaluate ELPA's conclusions. Therefore, through this case the Court of Justice first stated that although the sport's governing bodies are non-profit organizations technically, EU competition law might be applied to them. Besides, the Court accepted that sports' governing has a specific character that leads sports regulation to be associated with a sporting exemption. However, this exemption is not absolute and while regulating the sports, contradicting EU law or EU competition law especially, can only be affirmed in a narrow scope if the rules have a rational justification with a proportionate limitation for the application of the EU rules[39].

The Granada 74 case and the Future of the Sporting Exception

Since sports have become a big industry, the commercialization of the sports clubs has become an inevitable result for popular sports in Europe. Also, the judgement of the Court of Arbitration for Sports (CAS) in the Granada 74 case emphasizes the position of the sporting exemption and the sporting interests within the commercialization process of European football. Especially, the case might be seen important, as the decision caused a concern among the sport's governing bodies in respect of a shrinking in the concept of the sporting exemption[40]. The dispute came in front of CAS when a company bought the Spanish

[37] Subiotto, R. (2009) 'How Lack of Analytical Rigour Has Resulted in an Overbroad Application of EC Competition Law in the Sports Sector', I.S.L.R, 2, 21-29, p.25
[38] Lewis, A. And Taylor, J. (2008) Sport: Law and Practie, Tottel: West Sussex, p.419
[39] James, M. (2010) Sports Law, Palgrave MacMillan: New York,Pp.54-55
[40] Crespo Perez, J. (2008) The Specifity of Sport in the CAS Jurisprudence in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union

second division team, Ciudad de Murcia, and relocated to Granada with the name of Granada 74. Relocation was controversial on the same grounds as the foundation of the Milton Keynes Dons Football Club which was established after Wimbledon Football Club changed its name and address in a contrary way to the European characteristics of sport[41]. In addition, the Granada 74 case was more alarming in respect of the pyramid structure of European sport and the promotion and relegation system that has been accepted by the European Commission in the European Sports Model[42], because the company that owns Granada 74 already owned another football club in the fourth division, which was competing with the name Club Polideportivo Granada 74 (CP Granada 74). Therefore, in a contrary way to Union of European Football Associations (UEFA) regulations, the relocation caused the risk of competition between two football clubs which were controlled by the same authority. Besides, the sale of Ciudad de Murcia allowed Granada 74 to promote two divisions in theory, since the team which was in the fourth division started to run as the reserve team of the new Granada 74[43].

In a similar case in 1998, both CAS and European Commission mentioned that UEFA's restriction on common ownership of sports clubs can be seen as a proportionate remedy in respect of sporting interests when several football teams are controlled by a single entity become able to take on each other in the UEFA Cup of 1997[44]. However, unlike the decision of 1998, CAS did not see a problem in respect of article 2.1 of the UEFA Regulations that aim to protect the fairness of the competition between clubs because these teams were not going to face each other as they were in different leagues. The sponsorship agreements between Spanish clubs, such as the agreement between Sevilla Football Club and its reserve team Sevilla Atletico, were also considered in the case and such agreements were also justified within the context of commercial law on the same basis. Moreover, the opportunity of such teams to meet in the Spanish Cup was discussed and claimed to be not problematic if one of the

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Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.116

[41] Guardian (2004) Wimbledon Becomes MK Dons FC, [online] Available at: http://www.guardian.co.uk/football/2004/jun/21/newsstory.mkdons [Accessed:07.05.2011]

[42] European Commission, The European Model of Sport, p.3 [online] Available at: http://ec.europa.eu/sport/library/doc/a/doc248_en.pdf [Accessed: 07.05.2011]

[43] Crespo Perez, J. (2008) The Specifity of Sport in the Cas Jurisprudence in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, Pp.112-115

[44] AEK PAE and SK Slavia Praha v UEFA CAS 98/2000; Lewis, A. And Taylor, J. (2008) Sport: Law and Practie, Tottel: West Sussex, p. 426

teams rejects participation in Cup games[45].These justifications of the Granada 74 case might be seen understandable in terms of the application of commercial law to sports clubs since these clubs are companies. However, the interaction of sports and commercial law was criticised by FIFA President Sepp Blatter on the basis of sports specific interests[46]. Because the Granada 74 judgement legitimizes the promotion of sports clubs through financial investment and includes some issues which are contrary to basic sports ethics such as the fair play, it might be argued that the sporting exemption was denied in the case. However, through analysing the positive impact of commercialization and investments in sports in respect of youth development, maybe the Granada 74 case can be also seen as sensible. In this point, taking fair competition as the benchmark of the sports and insisting on it in every aspect or to accept 'rational scrutiny' of the commercial law to sports can be both argued in a solid way[47]. However, it can be said that the decision of CAS in Granada 74 case took the sporting exemption in a narrow scope than it is accepted among transnational sports governing bodies and EU sports policy. For this reason, Crespo Perez argues that this case can be seen as a signal that demonstrates the sporting exception can lose power or might not be a more autonomous economic activity in the context of the EU[48].

To conclude, the EU plays an important role in respect of sports regulation although the political integration is not directly concentrated on governing sports. However the EU shares this regulatory role with, international sports governing bodies and competence of these bodies is determined through the sporting exception. However, there is an obscurity in terms of defining the limits of the sporting exception which orientates sports governing bodies to expect a sporting autonomy which is identified by the future EU reform Treaty[49]. On the other hand, commercialization flow in sports causes the intrinsic values of

[45] Crespo Perez, J. (2008) The Specifity of Sport in the Cas Jurisprudence in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, Pp.114-115

[46] FIFA (2007) Blatter: Looking to the New Year [online] Available at: http://www.fifa.com/aboutfifa/federation/president/news/newsid=666229.html [Accessed:08.05.2011]

[47] Simon, R.L. (2010) Fair Play: the Ethics of Sport, Westview Press: USA, p.12

[48] Crespo Perez, J. (2008) The Specifity of Sport in the Cas Jurisprudence in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, p.117

[49] Colucci, M. (2008) In the Name of Specifity and Autonomy in Blanpain, R., Colucci M. And Hendrickx, F. (eds.) The Future of Sports Law in the European Union Beyond the EU Reform Treaty and White Paper, Wolters Kluwer Law International: The Netherlands, Pp.21-25

the sports to be softened or lost over a period of time[50]. In such circumstances, it is not easy to assume the future of the sporting exception exactly; however, within the organizational structure of the EU to support that the sporting exception will be more adjusted to the necessities of the commercialization process might be a reasonable argument for the future developments.

[50] Lewis, A. And Taylor, J. (2008) Sport: Law and Practie, Tottel: West Sussex, p.482

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