The International Sports Law Journal
https://doi.org/10.1007/s40318-024-00263-y

ARTICLE

Royal Antwerp and home-grown players: re-shaping sports governance and EU sports law and policy

Richard Parrish[1] · **Luka Živić**[2]

Accepted: 19 February 2024
© The Author(s) 2024

Abstract
On 21 December 2023, the Court of Justice delivered judgments in *ISU*, *Superleague* and *Royal Antwerp*. This contribution considers the implications of *Royal Antwerp* on the use of home-grown player rules in European football, the effect on international sports governance more widely and how the judgment has altered the course of EU sports law and policy.

Keywords Home-grown players · International sports governance · EU sports law · EU sports policy

1 Introduction: the legacy of Bosman

The *Royal Antwerp* litigation reminds us that after nearly 30 years, the European Court's judgment in *Bosman* continues to cast light on, or shadow over, sports governance.[1] In the aftermath of *Bosman*, UEFA observed several negative effects for football including, inter alia, a lack of incentive for clubs to train players and a diminution of competitive balance in UEFA and national competitions.[2]

In response, for the 2006/07 football season, UEFA introduced the so-called home-grown player rule, a rule crafted to avoid the scent of the type of direct nationality discrimination condemned under *Bosman*. This rule, fully implemented for the 2008/09 season, requires every football team entering European club competitions to name eight 'home grown' players in their 25-player squad. At least four of these players must be 'club-trained', defined as a player who, irrespective of nationality and age, has been trained with the current club for a period of three entire seasons or of 36 months whilst between the age of 15 and 21. The remainder could be 'association-trained' meaning a player meeting the same eligibility as a club-trained player but being trained by another club in the same national association.

In 2020, a Belgian football player, subsequently joined by Royal Antwerp Football Club, failed in an action in the Belgian Court of Arbitration for Sport seeking a declaration that the UEFA rule, as implemented in Belgium, infringed Arts. 45 and 101 TFEU.[3] The Belgian rule differed from that of UEFA insofar as the 8 home-grown players on the 25-player squad list could be sourced from clubs in the same national association and there was an obligation for clubs to field at least six players who have been trained by a Belgian club.

The arbitral award was challenged in the Brussels Court of First Instance on the grounds of incompatibility with Belgian public policy. The claim was that the home-grown player rules infringe Arts. 45 and 101 TFEU as the rules restrict Royal Antwerp in recruiting and fielding players who do not meet the eligibility requirements whilst also diminishing the possibility for a player not meeting the requirements to be recruited and fielded by a club. The

[1] Case C-680/21 *SA Royal Antwerp Football Club v URBSFA* [2023] ECLI:EU:C:2023:1010; Case C-415/93 *URBSFA v Bosman* [1995] ECLI:EU:C:1995:463.

[2] Dalziel et al. (2013), p.9.

[3] Case CBAS 171/20 *Refaelov L. & Royal Antwerp FC v URBSFA*, 10 July 2020.

Richard Parrish is Professor of Sports Law at Edge Hill University (parrishr@edgehill.ac.uk). Luka Živić is Counsellor for Education, Youth and Sport at Permanent Representation of Slovenia to the EU in Brussels and Chair of Working Party on Sport in the Council of the EU during Slovenian Presidency in 2021 (Luka.Zivic@gov.si). The views of Mr Živić are personal and are not necessarily those of the organisation in which he is employed.

✉ Richard Parrish
parrishr@edgehill.ac.uk

Luka Živić
Luka.Zivic@gov.si

[1] Edge Hill University, Ormskirk, UK

[2] Brussels, Belgium

Published online: 28 February 2024

Brussels Court of First Instance made a preliminary ruling request to the Court of Justice.[4]

2 Judgment of the court of justice

2.1 Admissibility of the referral

Across 20 paragraphs, the Court explained in considerable detail why the request for a preliminary ruling was admissible in its entirety. The level of detail entered into, and the Court's receptiveness to the questions asked, raised expectations that the matter was to be definitively decided in Luxembourg. However, having established the principles that should apply, the Court left it to the referring court to undertake the detailed examination of whether the home-grown rules offend Arts. 101 and 45.

Although returning the substance of the dispute to the referring court will disappoint those wanting clarity, the approach aligns with the Court's contemporaneous judgment in *Superleague*.[5] Here the Court conditioned the autonomy of international sports federations on adherence to high standards of internal governance, thereby giving judicial expression to the main thrust of EU sports policy, expressed in the 2007 White Paper on Sport, the 2011 Commission Communication on Developing the European Dimension in Sport and successive EU Work Plans for Sport. The Court is now signalling its intention to be stricter on the enforcement of this principle but has outsourced the detailed scrutiny of governance standards to national courts. The attendant danger is that this runs the risk of creating a fragmented regulatory landscape fuelled by varying national court practice. It remains to be seen whether the EU's political and legislative processes will see fit to intervene.

2.2 Article 165 – special, but not so special

As per *Walrave*, sporting rules carrying economic effects, such as the contested rules, must be drafted and implemented in compliance with the general provisions of EU law.[6] According to AG Rantos in *Superleague*, the extent of this application is tempered by the horizontal reach of Art. 165 TFEU which requires the specific nature of sport to be taken into account and 'may justify a difference in treatment in certain respects'.[7] Across 13 paragraphs, repeated almost verbatim in *Superleague*, the Court dismantled that logic.[8]

The Court reminded those seeking to rely on the horizontal reach of Art. 165 that it is a provision intended to confer a supporting competence on the Union as per Art. 6(e), allowing it to pursue 'actions' in the area of sport rather than a 'policy'.[9] In constitutional terms, Art. 165 sits in Part Three of the Treaty, devoted to 'Union policies and internal actions' and not Part One which contains provisions of principle, including 'provisions having general application'. For example, within Part One, Art. 11 provides that environmental protection requirements *must* be integrated into the definition and implementation of the Union's policies and activities.

By contrast, although Art. 165 is a supporting measure located in Part Three, stating that '[t]he Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport', the Court argues that the 'article is not a cross-cutting provision having general application' and 'need not be integrated or taken into account in a binding manner' in the application of Arts. 45 and 101.[10] The corollary of this is that Art.165 cannot be regarded as a 'special rule exempting sport from all or some of the other provisions of primary EU law'.[11] Why the Court chose to say this last part is unclear, as very few have ever advocated that.

Whilst the Court has clearly declined the invitation to expand the reach of Art. 165, it has not, in adjudicative terms, significantly curtailed it. The Court acknowledges that sport carries considerable social and educational importance for the Union and its citizens, and in doing so refers to Art. 165.[12] It also states that it 'undeniably has specific characteristics' present not only in amateur sport but also when sport is practiced as an economic activity.[13] Consequently, and confirming the view of AG Szpunar in *Royal Antwerp*, the specific nature of sport, as provided for in Art. 165, can still be taken into account in the application of EU free movement and competition laws within the context of establishing whether the contested rule amounts to a restriction, and whether it can be justified and is proportionate. In doing so, at paragraph 105 of *Superleague* and 73 of *Royal Antwerp*, the Court states that when an infringement of free movement or competition law is alleged, the analysis *must* be based on a specific assessment of the content of

[4] Case 2020/5165/A *UL & Royal Antwerp FC v URBSFA*, Tribunal de première instance francophone de Bruxelles, Section civile, 13 December 2021.

[5] Case C-333/21 *European Superleague Company SL v FIFA and UEFA* [2023] ECLI:EU:C:2023:1011.

[6] Case 36/74 *Walrave and Koch* [1974] EU:C:1974:140, paragraph 4.

[7] Case C-333/21 Opinion of AG Rantos in *Superleague*, paragraphs 34–35.

[8] *Superleague*, paragraphs 63–75.

[9] *Royal Antwerp* paragraph 67.

[10] *Royal Antwerp* paragraphs 68–69.

[11] *Royal Antwerp* paragraph 69.

[12] *Royal Antwerp* paragraphs 70 & 144.

[13] *Royal Antwerp* paragraph 71.

that rule. In the case of a contested sporting rule, this will naturally involve an examination of the specificity of sport, given expression by Article 165. It seems that regardless of the horizontal question, the Court is seeking to achieve the same thing, albeit within a more orthodox framework.

A journey through the Court's sports related jurisprudence suggests that it is already receptive to claims that sport has a specific nature meaning that the Court's treatment of Art. 165 in *Royal Antwerp* renders that provision far from redundant in adjudicative terms. It is just not bound by it. This makes it somewhat surprising that the Court, usually known for its willingness to expand competences, has chosen to prescribe the boundaries of one such competence in its relative infancy. A form of double speak has taken hold. Sport is special, but not that special - or put more accurately, sport can be special in adjudicative terms but not so special constitutionally. Albeit a supporting competence, the location of Art.165 in Part Three of the Treaty places it alongside other provisions including those regarding internal market, fundamental freedoms, competition rules and even economic and monetary policy. The Court's treatment of it therefore seems a little unconvincing.

The Court's language will disappoint those who seek enhanced status and mainstreaming of sport within the EU's competence architecture. At one level, the Court's preference for the word 'action' over 'policy' simply reflects the constitutional limitations of a supporting competence, but by raising the issue so forthrightly, the Court could impede the dynamics that have driven the EU's 'policy' on sport to date and the judgment might embolden those who harbour doubts about the EU's involvement in the area of sport. This could result in conservative and defensive thinking across the Treaty's range of supporting competences, including in other areas of Art. 165, such as education and youth.[14] It also potentially leaves exposed other supporting competences, such as Art. 166, which specifically refers to the implementation of a 'vocational training *policy*'. Indeed, the Court's desire, expressed across the judgments of December 21st 2023, for sporting autonomy to be conditioned on adherence to high standards of sports governance, is itself judicial recognition of a key theme expressed in EU sport policy since the White Paper in 2007 and across several EU Work Plans for Sport since 2011.

The issue now turns to whether the Member States are willing to respond, and they might. In November 2021, the EU Ministers of Sport approved a Council Resolution on the key features of a European Sport Model which, among others things, invites Member States and the Commission respectively to 'preserve the specific nature of sport' and give 'practical effect' to it.[15] Although a resolution is a non-binding act, it serves to show willingness, albeit with an absence of weaponry, to do something at a EU level.

2.3 Art.101 TFEU

The Court's assessment of the application of EU competition law to sport also threw up a surprise. Since *Meca-Medina*, it was thought that not every sporting rule or practice that gave rise to restrictive effects fell within the scope of the Art. 101 prohibitions.[16] In particular, some contested sporting rules are incapable of being defined as restrictions under Art. 101 if the restrictive effects are *inherent* in the pursuit of legitimate objectives and proportionate. If such a determination is made, an assessment of whether the contested rule amounts to a restriction by *object* or *effect* is not required.

In *Royal Antwerp* the Court curtailed the application of this inherent rules doctrine by finding that it is applicable only in the context of sporting rules that pursue:

> 'certain ethical or principled objectives' and that the doctrine does 'not apply in situations involving conduct which, far from merely having the inherent 'effect' of restricting competition, at least potentially, by limiting the freedom of action of certain undertakings, reveals a degree of harm in relation to that competition that justifies a finding that it has as its very 'object' the prevention, restriction or distortion of competition'.[17]

So, the inherent rules doctrine does not apply to 101(1) *object* restrictions and in *Superleague*, the Court stated that it also does not apply to conduct which 'by its very nature infringes Article 102 TFEU'.[18] This is an unexpected and potentially damaging outcome for sports governing bodies. They might consider that just as *Meca-Medina* represented an unwarranted attack on the 'purely sporting' exception crafted in *Walrave*, so *Superleague* and *Royal Antwerp* have a similar effect on the *Meca-Medina* principles.

[14] To name a few, in the field of education and training, a strategic framework for European cooperation in education and training towards the European Education Area and beyond is in place which sets out several strategic priorities and also EU-level targets in order to achieve European Education Area until 2030. Available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32021G0226%2801%29.

[15] See paras 25 and 33 of Resolution of the Council and of the representatives of the Governments of the Member States meeting within the Council on the key features of a European Sport Model, OJ C 501, 13.12.2021. Available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A42021Y1213%2801%29.

[16] Case C-519/04P *Meca-Medina and Majcen v Commission* [2006] EU:C:2006:492.

[17] *Royal Antwerp* paragraphs 113 & 115.

[18] *Superleague* paragraph 185.

Or so we thought. Rather curiously at paragraph 54 the Court in fact seemed to breathe new life into the *Walrave* sporting exception by saying that 'certain specific rules which were adopted solely on non-economic grounds and which relate to questions of interest solely to sport per se must be regarded as being extraneous to any economic activity' and are therefore compatible with EU law. The purely sporting rules defence, assumed suffocated by *Meca-Medina*, lives. But an early Christmas present to the sports governing bodies it was not. It is inconceivable that the national court can be persuaded that the home-grown rule is extraneous to economic activity and at paragraphs 58–59, the Court makes this clear.

So, the main issue turns on whether the home-grown rule restricts competition by *object* or *effect*. If by object, the comfort blanket of the inherent rules doctrine cannot be invoked; if by effect it can. In *Royal Antwerp*, it is for the referring court to establish this. But the Court acknowledges that this determination should be made with due consideration to the specific nature of the sports market, recognising that it is the responsibility of the sports governing bodies, such as UEFA and the national associations, to adopt rules relating to the organisation and functioning of the sport in question.[19] This sentiment was expressed in both *Superleague* and *Royal Antwerp* and therefore the judgments should not be interpreted as representing an existential threat to the power of sports governing bodies to continue to act as legitimate regulators of their respective sports.

But, sports governance is not left entirely untouched. Across its three judgments made on December 21, the Court conditions the exercise of this regulatory autonomy on adherence to high standards of good governance. So, in *Superleague*, the pre-authorisation rules at issue did not meet the Court's required standards of good governance due to the absence of substantive criteria and detailed procedural rules suitable for ensuring that they are transparent, objective, non-discriminatory and proportionate.

If sporting rules are crafted with due consideration to good governance standards, then the Court appears willing to offer sports governing bodies a more favourable route through such that regulatory control can be preserved.[20] In a reassuring passage for the sports governing bodies, the Court acknowledges that 'sporting merit… can be guaranteed only if all the participating teams face each other in homogenous regulatory and technical conditions, thereby ensuring a certain level of equal opportunity.'[21] For this level of equality to be achieved, the Court recognises that this might require the market to possess a 'national requirement or criterion' such as that present in the home-grown rules.[22] However, it went on to say that it is for the referring court to determine whether the contested rules give rise to a 'sufficient degree of harm to competition to be able to be regarded as having as their 'object' the restriction of competition'.[23] The Court considered the proportion of players falling within the rule as a particularly relevant factor.[24]

On first look, it might appear that the object of the rule is indeed to restrict the recruitment choices of clubs and hence restrict competition. Clubs with significant financial means benefit from the existence of an international labour market. Since *Bosman*, the 'shop' is bigger with more choice, and they have the means to spend, and this might have consequential impacts on competitive balance and youth development. The object of the rule is to reduce the size of the shop and the choice on offer by endowing it with a national and local character insofar as the rules require clubs to recruit some players either locally (at a club level) or nationally (at association level). In *QC Leisure*, exclusive licensing agreements for intellectual property (sports broadcasts) that partitioned the single market along national lines were considered to be restrictions by object.[25] So, by analogy, the home-grown player rule could be considered another such partitioning measure.

But, the object of the rule is not to restrict competition, it is to secure the legitimate sporting objective of incentivising youth development. There is a difference between *QC Leisure* and *Royal Antwerp* in terms of the extent of the partitioning and the degree of resulting harm. In terms of UEFA's rule, the market is part local (the club-trained element) and part national (the association-trained element). For the Belgian rule, the market is more national as the rule partly restricts recruitment and selection to the Belgian national association. In *QC Leisure* the market was completely partitioned along national lines as a consequence of the use of exclusivity clauses supported by territorial limitations.

Therefore, the referring court will no doubt be invited by UEFA and the Belgian FA to conclude that the effect of the partial partitioning of the market and the subsequent harm inflicted on the clubs is not sufficiently great and injurious to competition for a finding of restriction by object. The restrictive effects felt by the clubs can therefore potentially be considered inherent in the pursuit of the objectives stated with the proportionality of the measure being made out with reference to the relatively small proportion of players that must satisfy the rule. But crucially, this assertion cannot be made in the abstract. The Court is clear that this requires the

[19] *Royal Antwerp* paragraphs 103–106.

[20] Although paragraph 176 of *Superleague* somewhat undermines this proposition.

[21] *Royal Antwerp* paragraph 105.

[22] *Royal Antwerp* paragraph 106.

[23] *Royal Antwerp* paragraph 108.

[24] *Royal Antwerp* paragraph 109.

[25] Case C-403/08 and C-429/08 *Football Association Premier League and Others* [2011] EU:C:2011:631.

support of ‘convincing arguments and evidence’, and it is for the referring court to interrogate these.[26] In this regard, the national court could undermine the inherent need within the rule by observing how national and supranational club competitions thrived prior to the introduction of the rule.

2.4 Art.101(3) TFEU

In the alternative, should the referring court make a finding that the rule restricts competition by object, only Art.101(3) can save it. Given the economic nature of the exemption criteria, the invocation of specificity of sport arguments becomes more problematic for sports governing bodies, particularly in light of the Court’s refusal to treat Art. 165 as a horizontal and binding provision. However, the Court offered some consolation for sports governing bodies in regards to specificity by stating that within a 101(3) assessment, account can be taken of ‘the particularities and specific characteristics of the sector(s) or market(s) concerned’ if these considerations are decisive for the outcome of that examination.[27] Although the Court leaves the detailed examination of the application of the exemption criteria to the referring court, it offered some guidance by way of an assessment of four cumulative conditions required to satisfy the criteria.

First, the home-grown player rule must be capable of resulting in efficiency gains within the football market. The key question here is whether the rule encourages professional clubs to recruit and train young players thereby intensifying competition through training. The judgment makes it clear that it is for UEFA and the Belgian FA to provide evidence of this link.[28] It will be a challenge isolating the impact of the rule from other considerations driving a club’s desire to train young players. Nevertheless, UEFA’s club-trained element is likely to be the most profitable source of a link between the rule and encouraging club training, leaving the association-trained element looking most vulnerable. This accords with the view of AG Szpunar who expressed doubts regarding the ‘general coherence’ of the association-trained element.[29] Particularly in large national associations, clubs can effectively buy half the quota from other clubs in the same association.[30] If this view is confirmed by the Belgian court, far from representing a defeat for UEFA, it offers the prospect of the rule being strengthened through an expanded club-trained element.

Second, if efficiency claims are made out, part of those gains must benefit users including clubs, players and spectators. Again, it is for the referring court to scrutinise the detail of claimed benefits, but two initial points might be relevant. First, the presence of the association-trained element might be considered to benefit only the larger clubs who can use financial strength to recruit from competitors operating in the same national association. Consequently, the benefit is not shared equally. The financial impact on ‘feeder’ clubs must also be considered. Second, in terms of benefit to players, the referring court will need to balance the benefit to those players whose selection chances are enhanced by the rule against the disadvantages felt by players whose recruitment becomes less attractive to teams. Furthermore, given that the association-trained element encourages the trade in young players, removing it might benefit these players should the result be that they stay longer at the club training them. This could entail benefits for their personal development and enhances their chances of benefitting from a dual career.[31] Art.165 specifically references the ‘educational function’ of sport and the need to protect ‘the physical and moral integrity of sportsmen and sportswomen, especially the youngest sportsmen and sportswomen’.

For the third condition to be satisfied, the rule must pass the necessity test. In this regard, the Court heard arguments that less restrictive means of achieving the stated objectives were available to UEFA and the Belgian FA including the imposition of player training requirements as part of a licencing system, the adoption of financial mechanisms designed to incentivise youth training or the establishment of a system of direct compensation for the costs borne by training clubs. The Court did not enter an analysis of these potential alternatives, instead directing the referring court to do so.

Finally, the Court also directed the referring court to assess whether the proportion of players required to satisfy the home-grown rule was too great. In doing so, the Court did not specifically endorse the European Commission’s 2014 reasoned opinion in the Spanish basketball case in which the Commission argued that whereas 32% of squad places under UEFA’s rule were reserved for home-grown players, in Spanish basketball the quota ranged from 40 to 88% rendering the measure disproportionate.[32]

[26] *Royal Antwerp* paragraph 120.

[27] *Royal Antwerp* paragraph 126.

[28] *Royal Antwerp* paragraph 120.

[29] Case C-680/21 Opinion of AG Szpunar in *Royal Antwerp*, paragraph 67.

[30] Or in the case of the Belgian rule, a club can source all its quota from other Belgian clubs.

[31] Dalziel et al. (2013), p.92.

[32] European Commission (2014), Basketball: Commission asks Spain to end indirect discrimination towards players from other Member States, accessed at: https://ec.europa.eu/commission/presscorner/detail/en/MEMO_14_293.

2.5 Art.45 TFEU

On the free movement question, the Court agreed with AG Szpunar that the Belgian rule is likely to give rise to indirect discrimination on the grounds of nationality and therefore requires justification and proportionality assessment, but the full assessment is to be made by the referring court.[33] By extension, the same conclusion can be drawn with regards to the UEFA rule even though the referring court did not specifically ask this question.

The Court repeated previous jurisprudence recognising as legitimate the objective of encouraging the recruitment and training of young players[34], but it did not assess claims that the home-grown rule promotes competitive balance as the referring court did not ask this. On the legitimacy of the training claim, the Court stated that Art. 165 promotes European sporting issues while taking account of the 'social and educational function' of sport, education clearly being connected to training.[35]

On whether the rule is suitable for achieving the objective, the Court acknowledged the legitimacy of UEFA and the Belgian FA to establish rules that 'create real and significant incentives' to increase or intensify the recruitment and training of young players without having to ensure 'in a certain and quantifiable manner in advance' the efficacy of the measure.[36] Presumably, in light of the Court's previous statements regarding the need to bring forward convincing arguments and evidence to justify potentially restrictive measures, the national court is still likely to want to see more than abstract arguments that the rule is likely to create such incentives. Given that the home-gown rules have now been operational for many years, the referring court will want to see data.

At paragraph 147, the Court casts considerable doubt on the suitability of the rules for achieving the stated objective. In particular, the Court observed that the association-trained elements of the contested rules appear inapt at creating these training incentives. Teams with significant financial means have little incentive to develop young players if they can fill the quota by recruiting players already trained in the same national association. By contrast, the requirement to reserve on the squad sheet a number of players trained by the club is more likely to create such incentives due to 'local investment in the training of young players, in particular when it is carried out by small clubs', and thus also contributing to the social and educational function of sport. Here, the Court seems to be siding with the view of AG Szpunar.

Finally, on the necessity of the rules, the Court made reference to the equivalent assessment required under the Art. 101 exemption criteria, namely the existence of less restrictive measures and the proportion of players required to satisfy the rule.[37]

3 Conclusions

On the specifics of the contested home-grown player rules, the association-trained element appears most susceptible to condemnation by the national court. The corollary of this is that should it wish to do so, UEFA could potentially go further in strengthening the club-trained element of its rule by also taking into account the proportion of players required to satisfy the home-grown rule. In this regard, the Court has confirmed that a sports governing body, such as UEFA, retains its right to regulate and that the pattern of regulation can entail the football market being endowed with national character. However, convincing arguments and evidence must be brought forward and interrogated, a job outsourced to national courts.

A combined reading of all three judgments rendered on December 21 supports the proposition that sports governance has now been placed centre stage by the Court. In its 2011 Communication on Sport, the Commission argued that '[g]ood governance in sport is a condition for the autonomy and self-regulation of sport organisations'[38], a theme continued in the 2021 Council Resolution on the key features of a European Sport Model which referred to 'the highest levels of good governance'.[39] These statements now have judicial meaning, but being more attentive to good governance standards might not in itself be sufficient for sport governing bodies as since *ISU* and *Superleague*, pre-authorisation rules are now, although still eligible as such, under considerable strain and subject to a framework with substantive criteria and detailed procedural rules which ensure transparent, objective, non-discriminatory and proportionate conduct.[40]

On the wider impact of December 21 on EU sports law and policy, the curtailment of both the inherent rules doctrine and the reach of Art. 165 is most notable. The impact on the sports movement might, however, not be so great. The inherent rules doctrine can still be applied to restrictions by

[33] *Royal Antwerp* paragraphs 136–140.

[34] *Bosman* paragraph 106; *Olympic Lyonnais SASP v Olivier Bernard and Newcatle UFC* [2010] ECLI:EU:C:2010:143, paragraph 39.

[35] *Royal Antwerp* paragraph 144 & 147.

[36] *Royal Antwerp* paragraph 145.

[37] *Royal Antwerp* paragraph 148.

[38] European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Developing the European Dimension in Sport, 11 COM(2011) 12 final (2011), p.10.

[39] Council Resolution on the key features of a European Sport Model, paragraphs 15 and 41.

[40] Case C-124/21 P *International Skating Union v Commission* [2023] ECLI:EU:C:2023:1012.

effect and whilst the specific nature of sport seems to have no binding application based on Art. 165, it is still relevant for the Court within the context of the wider justificatory regime.

Author contributions The work was jointly co-authored.

Data availability No datasets were generated or analysed during the current study.

Declarations

Conflict of interest Nothing to declare.

Open Access This article is licensed under a Creative Commons Attribution 4.0 International License, which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence, and indicate if changes were made. The images or other third party material in this article are included in the article's Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the article's Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder. To view a copy of this licence, visit http://creativecommons.org/licenses/by/4.0/.

References

Dalziel M, Downward P, Parrish R, Pearson G, Semens A (2013) *Study on the Assessment of UEFA's Home Grown Player Rule*, Study funded by the European Commission

Publisher's Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.