

# Contents

<b>1</b>	<b>What is Sports Law? <i>Lex Sportiva</i> and <i>Lex Ludica</i>: A Reassessment of Content and Terminology</b>	1
1.1	Introduction . . . . .	2
1.2	Does Such a Thing as ‘Sports Law’ Exist? . . . . .	3
1.2.1	Assessment Framework . . . . .	5
1.3	What Is ‘Sports Law’? . . . . .	8
1.3.1	<i>Lex Sportiva</i> . . . . .	8
1.3.2	Global Sports Law . . . . .	10
1.3.3	Transnational Sports Law . . . . .	12
1.3.4	<i>Lex Ludica</i> . . . . .	12
1.3.5	Public International Sports Law . . . . .	13
1.3.6	European Sports Law . . . . .	14
1.3.7	Summary . . . . .	15
1.4	A Reassessment of Content and Terminology . . . . .	15
1.4.1	Content . . . . .	15
1.4.2	Terminology . . . . .	20
1.5	The Hard Core of Sports Law . . . . .	24
1.6	Conclusion. . . . .	27
1.6.1	Postscript . . . . .	27
1.7	Annex . . . . .	28
1.7.1	1.7.1 An Etymology of the Termini Technici <i>Lex Sportiva</i> and <i>Lex Ludica</i> : Where Do They Come From? . . . . .	28
	References . . . . .	31
<b>2</b>	<b>Towards a Typology of (International) Comparative Sports Law (Research)</b> . . . . .	35
2.1	Introduction . . . . .	36
2.2	Studies and Reports: A Survey. . . . .	41
2.2.1	2.2.1 Public Studies and Reports . . . . .	41
2.2.2	2.2.2 Private Studies and Reports . . . . .	46
2.2.3	2.2.3 Private/Public Studies and Reports . . . . .	55

2.3	Summary and Conclusion . . . . .	63
	References . . . . .	65
<b>3</b>	<b>The Specificity of Sport: Sporting Exceptions in EU Law . . . . .</b>	<b>67</b>
3.1	Introduction . . . . .	68
3.2	Sport not in European Treaties . . . . .	70
3.3	Treaty of Amsterdam: 1997 Declaration on Sport . . . . .	70
3.4	Treaty of Nice: 2000 Declaration on Sport . . . . .	71
3.4.1	Comment . . . . .	72
3.5	The Declarations on Sport (Amsterdam, Nice) in the Jurisprudence of the European Court of Justice and Commission Decision-Making . . . . .	73
3.6	The 2007 White Paper on Sport . . . . .	75
3.7	The Specificity of Sport in the White Paper . . . . .	78
3.8	Sport in the Constitutional and Reform (Lisbon) Treaties . . . . .	79
3.9	Sport Specificity in the 2011 ‘White Paper Plus’ . . . . .	81
3.10	The Practical Application of the ‘Sport Specificity’ Concept in Commission Practice and ECJ Jurisprudence . . . . .	82
3.10.1	The Application of Internal Market Freedoms (Movement and Services) to Sport . . . . .	82
3.10.2	The Application of EU Competition Law to the Organisation of Sport . . . . .	85
3.11	Summary and Conclusion . . . . .	94
	References . . . . .	96
<b>4</b>	<b>EU Competition Law and Professional Sport: The Collective Selling of TV Rights in Europe and the Dutch Equestrian Case: How The <i>Meca Medina</i> ‘Test’ for Organisational Sporting Rules is Applied . . . . .</b>	<b>97</b>
4.1	Introduction . . . . .	98
4.2	Testing Organisational Sporting Rules Under EU Competition Law . . . . .	99
4.2.1	General Principles . . . . .	99
4.3	The Collective Selling of Sports Media Rights . . . . .	105
4.3.1	Introduction . . . . .	105
4.3.2	Market Definitions . . . . .	106
4.3.3	Competition Concerns Resulting from the Behaviour of Sellers . . . . .	107
4.3.4	Conclusion . . . . .	114
4.4	The Dutch Equestrian Case . . . . .	114
4.4.1	The Contested Procedure . . . . .	114
4.4.2	The EU Competition Law Provisions . . . . .	115

4.4.3	First Consideration: Is the Sports Association that Adopted the Rule Considered an Undertaking or an Association of Undertakings? . . . . .	116
4.4.4	Second Consideration: Does the Contested Rule Restrict Competition Within the Meaning of Article 101 TFEU or Constitute an Abuse of a Dominant Position Under Article 102 TFEU? . . . . .	118
4.4.5	Third Consideration: Is Trade Between Member States Affected? . . . . .	124
4.4.6	Fourth Consideration: Does the Rule Fulfil the Conditions of Article 101(3) TFEU? . . . . .	125
4.4.7	The Relevance of Article 165 TFEU. . . . .	126
4.4.8	Conclusions . . . . .	127
4.5	Summary and Conclusion . . . . .	128
	References . . . . .	130
<b>5</b>	<b>Sports Betting in the Jurisprudence of the European Court of Justice: A Study into the Application of the <i>Stare Decisis</i> Principle, or: The Application of the ‘Reversal Method’ of Content Analysis and The Essence of the ECJ Case Law on Sports Betting . . . . .</b>	<b>131</b>
5.1	Introduction . . . . .	132
5.1.1	Definition of ‘Sports Betting’ . . . . .	134
5.2	Legal and Factual Context of the Case-Law . . . . .	135
5.2.1	Zenatti (1999) . . . . .	135
5.2.2	Gambelli (2003) . . . . .	137
5.2.3	Placanica (2007) . . . . .	139
5.2.4	Commission v Italy (2007) . . . . .	143
5.2.5	Liga Portuguesa de Futebol Profissional (2009) (hereafter: Liga Portuguesa) . . . . .	144
5.2.6	Sporting Exchange Ltd (‘Betfair’) (2010) . . . . .	148
5.2.7	Ladbrokes (2010) . . . . .	151
5.2.8	Otto Sjöberg and Anders Gerdin v. Swedish State (2010) (hereafter: Sjöberg/Gerdin) . . . . .	153
5.2.9	Carmen Media (2010) . . . . .	155
5.2.10	Summary of the Legal and Factual Context of the Case-Law . . . . .	160
5.3	The Case-Law Presented According to the ‘Reversal’ Method . . . . .	162
5.3.1	Carmen Media . . . . .	162
5.3.2	Sjöberg/Gerdin . . . . .	164
5.3.3	Ladbrokes . . . . .	166
5.3.4	Sporting Exchange (‘Betfair’) . . . . .	168

5.3.5	Liga Portuguesa de Futebol Profissional . . . . .	170
5.3.6	Commission v Italy . . . . .	172
5.3.7	Placanica . . . . .	173
5.3.8	Gambelli . . . . .	176
5.3.9	Zenatti . . . . .	178
5.3.10	Analysis of the Case-Law . . . . .	179
5.4	Sports Betting and the Concept of ‘Sports Law’ . . . . .	186
5.5	Conclusion . . . . .	187
	References . . . . .	189
<b>6</b>	<b>History/Football Politics/Social Dialogue in Sport: Study into the Possible Participation of EPFL and G-14 in a Social Dialogue in the European Professional Football Sector . . . . .</b>	<b>191</b>
6.1	Preface . . . . .	192
6.1.1	Social Dialogue in Sport . . . . .	192
6.1.2	History: Football Politics (Asser G-14/EPFL Participation Study) . . . . .	195
6.2	Chapter 1: Introduction . . . . .	196
6.3	Chapter 2: Mandate, Tasks and Purposes . . . . .	198
6.3.1	Summary Concerning the Question of Mandate . . . . .	206
6.4	Chapter 3: (In)dependence . . . . .	206
6.4.1	Summary on (In)dependence . . . . .	214
6.5	Chapter 4: EU Admissibility Criteria . . . . .	215
6.6	Chapter 5: Representation in the Context of Present Social Dialogue Committees . . . . .	218
6.7	Chapter 6: Specificity of Sport . . . . .	222
6.8	Chapter 7: Agenda of Topics . . . . .	224
6.8.1	Artificial Turf . . . . .	226
6.8.2	“Home-grown” Players Rule . . . . .	226
6.8.3	Image Rights . . . . .	227
6.8.4	International Match Calendar . . . . .	228
6.8.5	Investment (Player) Funds . . . . .	229
6.8.6	Non-EU Nationals . . . . .	230
6.8.7	Pension Funds . . . . .	231
6.8.8	Players’ Agents . . . . .	231
6.8.9	Player Release System . . . . .	232
6.8.10	Pyramid Structure . . . . .	233
6.8.11	Salary Capping . . . . .	234
6.9	Chapter 8: Summary, Conclusions and Recommendations . . . . .	235
6.9.1	Informal Social Dialogue . . . . .	237
6.10	Postscript: New Developments in Football Governance . . . . .	237
6.10.1	Specificity of Sport . . . . .	239
	References . . . . .	240

<b>7 Sport and Nationality: “Accelerated” Naturalisation for National Representative Purposes and Discrimination Issues in Individual and Team Competitions Under EU Law . . . . .</b>	241
7.1 Introduction . . . . .	242
7.2 The “Accelerated” Naturalisation for National Representation Issue . . . . .	244
7.2.1 Comment . . . . .	246
7.2.2 Kalou Case . . . . .	250
7.3 Sport and Discrimination in EU Law . . . . .	252
7.3.1 The Discrimination of Sportspersons (“EU Non-Nationals”) in Individual National Championships . . . . .	252
7.3.2 The Discrimination of Professional Football Players (“EU Non-Nationals”) . . . . .	258
7.3.3 UEFA Home Grown Players’ Rule . . . . .	262
7.4 Summary and Conclusion . . . . .	265
References . . . . .	267
<b>8 International Professional Football Law: Webster, Matuzalem and De Sanctis—The CAS Transfer ‘Buy-Out’ Rulings . . . . .</b>	269
8.1 Introduction . . . . .	270
8.2 DRC and CAS . . . . .	271
8.3 FIFA Transfer Rules: Contractual Stability . . . . .	272
8.3.1 Comment . . . . .	276
8.4 ‘Valid Contract (Compensation) Cases’ . . . . .	278
8.4.1 Webster Case . . . . .	278
8.4.2 Matuzalem Case . . . . .	285
8.4.3 De Sanctis Case . . . . .	301
8.5 Conclusion . . . . .	311
References . . . . .	312
<b>9 Anti-Doping Law in Sport: the Hybrid Character of WADA and the Human Rights of Athletes in Doping Cases (Proportionality Principle) . . . . .</b>	313
9.1 Introduction . . . . .	314
9.2 WADA: A Public–Private Body . . . . .	315
9.3 The Dutch Billiard Social Drugs Case and the Principle of Proportionality . . . . .	319
9.3.1 First Instance: Instituut Sportrechtspraak: Royal Dutch Billiards Federation (KNBB) (Complainant) v N. Zuijkerbuijk (Defendant) . . . . .	319
9.3.2 Appeal: Court of Arbitration for Sport (CAS) . . . . .	328
9.4 Summary and Conclusion . . . . .	331
9.4.1 Question . . . . .	332

9.4.2	Answer . . . . .	332
References . . . . .		333
<b>10</b>	<b>Legal Aspects of Combating Transnational Football Hooliganism in Europe . . . . .</b>	<b>335</b>
10.1	Introduction . . . . .	336
10.2	UEFA Safety and Security Regulations . . . . .	337
10.3	UEFA Disciplinary Regulations (Edition 2006) . . . . .	338
10.4	The Court of Arbitration for Sport . . . . .	338
10.5	Council of Europe . . . . .	342
10.6	European Union . . . . .	344
10.6.1	After the Heysel Tragedy . . . . .	344
10.6.2	The Larive Report on Vandalism and Violence in Sport . . . . .	345
10.6.3	An Amended Resolution . . . . .	347
10.6.4	The 1996 Council Recommendation . . . . .	348
10.6.5	The Roth Report and the Resulting Resolution . . . . .	349
10.6.6	Binding Measures . . . . .	351
10.6.7	The Possibility of Stadium Bans . . . . .	352
10.6.8	The First Police Handbook . . . . .	353
10.6.9	The 2001 Handbook . . . . .	354
10.6.10	The Council Decision of 25 April 2002 . . . . .	361
10.6.11	The Council and Stadium Bans . . . . .	363
10.6.12	Ticketing . . . . .	364
10.6.13	Concluding Remarks . . . . .	369
10.7	Summary and Conclusions . . . . .	372
<b>11</b>	<b>International Sports Boycotts: Sport, Law and Politics . . . . .</b>	<b>379</b>
11.1	Introduction . . . . .	380
11.2	The Boycott of the 1980 Moscow Olympic Games and Détente . . . . .	382
11.2.1	Introduction . . . . .	382
11.2.2	Sport and the Final Act of Helsinki . . . . .	383
11.2.3	Assessment . . . . .	385
11.2.4	Afghanistan . . . . .	386
11.2.5	Reciprocity . . . . .	387
11.2.6	Sport and Politics . . . . .	388
11.2.7	The Olympic Charter . . . . .	390
11.2.8	National Representation . . . . .	392
11.2.9	Depoliticisation . . . . .	393
11.2.10	The IOC . . . . .	395
11.2.11	Conclusion . . . . .	396
11.2.12	Postscript . . . . .	397

11.3	The Sports Boycott of Nigeria: Sports, Politics and Human Rights . . . . .	398
11.3.1	South Africa . . . . .	398
11.3.2	Serbia Montenegro . . . . .	400
11.3.3	The 1980 Moscow Olympics . . . . .	401
11.3.4	Sports Boycott of Nigeria . . . . .	402
11.3.5	Starting Points for ‘Sports and Politics’ . . . . .	404
11.3.6	Conclusion . . . . .	406
11.4	The Olympics, China and Human Rights . . . . .	407
11.4.1	Introduction . . . . .	407
11.4.2	United Nations . . . . .	408
11.4.3	European Union . . . . .	409
11.4.4	The Netherlands . . . . .	410
11.4.5	IOC . . . . .	410
11.4.6	NOC*NSF . . . . .	410
11.4.7	Individual Athlete . . . . .	411
11.4.8	In Closing . . . . .	412
11.5	Annex 1 . . . . .	413
11.5.1	Statement NOC*NSF Beijing 2008 . . . . .	413
11.5.2	Public Debate . . . . .	413
11.5.3	Social Effects . . . . .	414
11.6	Annex 2 . . . . .	414
11.6.1	NSF ‘Basic Principles Concerning Sport and Politics’ . . . . .	414
11.7	Summary and Conclusion . . . . .	416
	References . . . . .	418