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# Introduction into an innovative vision of the European sport framework from a taxation and fiscal angle. New possible scenarios regarding the European sport politics and policy

di Filippo Luigi Giambrone

(Ricercatore a tempo determinato presso l'Università degli Studi del Sannio di Benevento)

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## Abstract

*An important milestone for sports policy and measures in Europe is embodied by the settlement of the Lisbon Treaty. The required legal basis for shaping European sport policy may be attributed to the Treaty on the Functioning of the European Union (TFEU) in 2009. This gave the EU explicit power to act in the field of sport. Since Lisbon, the EU has been responsible for supporting and coordinating activities in the field of sport, but it cannot take measures to standardise or shift competences. The current sport policies of the EU institutions are consequently principally directed at putting into practice soft policy measures such as the advancement of exchanges and values in sport or the expansion of the European dimension of sport. This is reflected in distributive measures and the allocation of goods and resources. To sum up, European sport policy and measures over the past decade have been categorised by ongoing processes of growth and differentiation, while the demand for priorities and appropriate forms of coordination has boosted.*

\* Il presente lavoro è stato sottoposto al preventivo referaggio secondo i parametri della double blinde peer review.

## 1. Introduction.

The 1980s and mostly the 1990s can be highlighted as important timetable for the emergence of the European sport dimension. This can be reconducted to the fact that on the one hand, the increasing intersections between sport and the European Community/EU's common market, and the growing social importance of sport have led to the gradual birth of a European dimension of sport.

The great potential for tension between the traditional autonomy of sport and the general validity of Commission or EU law distinguishes and characterises European Sports politics from the beginning.

A special role within the EU framework with its own regulatory mechanisms could not be requested by organised sport. New challenges confronted moreover the latter one. The joint request of Member States, EU institutions and national sporting organisations as well European sporting federations to bolster measures at European level supporting a social, health and educational dimension of sport outlines from the other hand also the European sports policy. Sport got to be included in the declarations of Amsterdam and Nice in the 1990s and 2000s thanks to these developments. Finally due to these advancements it also happened to be enshrined in primary law in the Constitutional Treaty and the Lisbon Treaty.

The entry into force of the common market (end of 1992) and the Bosman ruling (1995) as well as the entry into force of the Lisbon Treaty (2009) and the Article 165 TFEU on sport can be regarded as the milestones of these two different pathways. Important changes over the past decades have been undergone by sport at European level. Various trends of growth and differentiation enable to summarize the development of European sports politics and policies briefly. One point which can be highlighted concerns the diversification related to the specific actors in question. The emergence of a European dimension of sport is distinguished by the emergence, increase and on behalf of this the differentiation of the actors. Nowadays a wide range of public and private actors are embedded in the organisation of sport whereas for a long time only European sporting federations were involved in the organisation of sport. The EU institutions managed to expand their sports-related resources through the establishment of structures in the field of sport and this shows the extent of its change for the very first time. A larger number of specialised private organisations in sport has also been established at European level, along with public authorities' structures.<sup>1</sup> The focus on the nation-state, sports politics and policies are now also carried out at European level, in addition to the orientation of umbrella organisations and federations, which are mainly based in Switzerland. To participate actively in the European policy cycle, stakeholders in sport devote their attention and commitment – to varying degrees – to policy-making in Brussels. An increasing role

<sup>1</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 101.

in sport is expected to be covered by a growing number of institutional players within the European multi-level system. In general, and individual fields of sport mostly they endeavour to acquire direct or indirect opportunities to participate in forming sports politics.<sup>2</sup>

As a second central feature of European sports politics, in addition to the number of actors, a growth of policies, as well as sectoral differentiation, can be regarded by the policy differentiation. Moreover, policy differentiation can be regarded as a second central feature of European sports politics. Only few sport policies have been dispatched at European level in the beginning. Nowadays it's difficult narrow down sports related areas, which aren't in any way embedded by activities located at European level. Within the mostly unmanageable volume of documents and opinions on European sports policy can be spotted a key element of this sectoral differentiation. From a general point of view can be stated, that only limited general statements can be made about the content dimension of sport development, this because individual policy areas in sport underlie specific characteristics and different constellations of actors. An important requirement is represented by the mainstreaming of sport into other policy fields. This sectoral differentiation and the attempts for better coordination and a more holistic view is documented by the resolution of the EP regarding an integrated approach to sports policy: good governance, accessibility, and integrity, which had been adopted by the EP on February 2017. Since the ratification of the Treaty of Lisbon in 2009, the European Union has limited competences in the field of sport policy. This policy has been assessed and examined in the above-mentioned report. It is based on the Fisas report on the European dimension of sport<sup>3</sup>. One of the objectives of the report in matter, is to provide the Commission with guidelines and recommendations to assess the implementation of its policies. Moreover, an example for the Member States and organised sport must be set, in accordance with the national and European authorities. The report is divided into three thematic areas: integrity, good governance, and accessibility.<sup>4</sup> Sport can be described as a reflection of society. Access to sport is now regarded as a fundamental right, with physical activity and sport equally open to all people, including more vulnerable groups such as the elderly, migrants, and people with disabilities. Because of this the EU is introducing a new paradigm- accessibility- into sport policy. Sport is a means of integrating people across cultural, ethnic, social, and national barriers. In addition, sport in Europe embodies today, at a time of great societal challenges, an important driver of social inclusion. In this regard physical activity and accessibility are connected to

<sup>2</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, p. 102.

<sup>3</sup> P7\_TA (2012)0025.

<sup>4</sup> EUROPÄISCHES PARLAMENT, *Bericht über ein Gesamtkonzept für die Sportpolitik: verantwortungsvolle Verwaltung, Zugänglichkeit und Integrität*, (2016/2143(INI), 2019, p. 20 ff.

each other. Degenerative diseases can be prevented by the means of sport and latter one contributes to a better quality of life and active aging. According to the World Health Organization, physical inactivity is the fourth leading cause of death worldwide. Due to its ageing population, demographic problems will arise in Europe, which will entail increasing social spending and thus budgetary challenges. At the same time, there is no longer any increase in physical activity. Increased physical activity must not only be at the heart of sports policy strategies, but also of education, social and health policy.

A VAT<sup>5</sup> exemption for grassroots sport in all Member States would be a concrete political opportunity to promote grassroots sport and voluntary work in sport.<sup>6</sup> As a matter of fact, within the EU, can be noticed, that most grassroots sport clubs are registered not- for- profit associations.<sup>7</sup> In essence, the general regulatory regime applying to this type of organisations is applicable to the grassroots sport clubs. In fact, within some Member States, special fiscal provisions are applicable to not-for-profit organisations which are recognised to have a public utility objective. A sport public utility status applying specifically to sport organisations exists in some cases, as in Portugal for example.<sup>8</sup> The sport clubs must fulfil various legally defined criteria, applying for example to the nature of their activities, their management structure and governance, the sources of incomes that they are authorized to receive, and be registered in order to have the opportunity to benefit from the particular provisions applying to organisations with a recognized public utility status. The grassroots sports organisations do not deem generally in a restrictive way the criteria for registration as a not- for profit association with a public utility (or sport public utility) and it can be also observed that the costs of registration are small with regard of the potential benefits that can descend from this operation. This barrier was not mentioned by the federations and other sport organisations interviewed within the context of the study, nor reported in the questionnaire submitted to the NOCs and members of ENGSO. Only in Spain does the number of sport organisations

<sup>5</sup> For an overview concerning the Italian taxation system confront, A. URICCHIO, *Manuale di diritto tributario*, Cacucci editore, Bari, 2020.

<sup>6</sup> EUROPÄISCHES PARLAMENT, Bericht über ein Gesamtkonzept für die Sportpolitik: verantwortungsvolle Verwaltung, Zugänglichkeit und Integrität, (2016/2143(INI)), 2019, p. 20 ff.

<sup>7</sup> For a deeper understanding on the way to maximising the role of grassroots sport in developing transversal skills evaluated from the EU council confront: Council 2015/C 172/03. Council conclusions on maximising the role of grassroots sport in developing transversal skills, especially among young people. (2015/C 172/03). 27.05.2015.

<sup>8</sup> EUROSTRATEGIES, *Study on the funding of grassroots sports in the EU With a focus on the internal market aspects concerning legislative frameworks and systems of financing*, 2011, pp. 100 ff; A. F. URICCHIO – F. L. GIAMBRONE, *European Finance at the emergency Test*, 2020; See Ch. SMEKAL, *Steuerpolitik in Deutschland und Österreich: 2 Nachbarn- verschiedene Wege?*, in V. ULRICH – W. RIED (eds.), *Effizienz, Qualität und Nachhaltigkeit im Gesundheitswesen*, Baden-Baden, 2007, 93 ss.; 1 BvR 16/13, ord. 6 November 2019; 1 BvR 276/17, ord. 6 November 2019.





benefiting from this status appear to be small, for reasons that could not be fully identified.<sup>9</sup> Both the not- for- profit status, but furthermore the legal framework of each Member States is relevant with regard of the fiscal regime which applies to sport clubs. The fiscal benefits, which can be derived and are applicable, even with regard of the not- for- profit, public utility clubs, diverge based on the type of activity organised, and the sources of income. The benefits can range, depending on the country, from lower taxes on income, which are engendered by the clubs (or lower taxes on some categories of income) as well as to reductions in property tax, in capital transaction tax, in payroll taxes and/or in local taxes; furthermore, reduced security contributions etc. Some examples can be mentioned, which endeavour to illustrate and to highlight the variety of existing situations and fiscal regimes within the EU. For example, in Germany, the Third Chapter of the Fiscal Code defines the requirements for being registered as an organisation of public-benefit purposes. Clubs that meet the requirements are exempt from corporate tax, trade tax, capital transactions tax, inheritance tax and real property tax.<sup>10</sup> The non-profit status is legally defined in Germany in § 52 section 1 of the Tax Code (Abgabenordnung). It states: "A corporation pursues charitable purposes if its activity is aimed at selflessly promoting the general public in the material, spiritual or moral field." Non-profit status is one of the tax-privileged purposes: Corporation tax: Income up to an amount of € 45,000 per year is tax-harmless (§ 64 para. 3 AO).

If the income is above this limit, the tax privilege is omitted, unless the revenue is necessarily part of the charitable activity, then there is a so-called special purpose operation. In practice, only the special purpose enterprises named in § 66 to § 68 Tax Code are of importance, for example hospitals, welfare institutions, science, education, and culture under the respective special conditions. Value added tax: If the corporation becomes entrepreneurially active to achieve its charitable purposes and the services provided are not exempt from VAT in accordance with § 4 UStG, the services are subject to VAT – taxable economic business operation – (for the reduced tax rate, see also: § 12 section 2 no. 8 Value Added Tax Act (Umsatzsteuergesetz). Many non-profit organizations in Germany are organized under civil law as a registered or unregistered association, in addition to foundations, non-profit limited liability companies (gGmbH)<sup>11</sup> and – more rarely – non-profit stock corporations, for

<sup>9</sup> EUROSTRATEGIES, *Study on the funding of grassroots sports in the EU*, 2011, pp. 100 ff.

<sup>10</sup> EUROSTRATEGIES, *Study on the funding of grassroots sports in the EU*, 2011, pp. 101 ff.

<sup>11</sup> In German tax law, the non-profit limited liability company (gGmbH) is a limited liability company whose proceeds are used for charitable purposes. Therefore, a non-profit GmbH as a corporation is exempt from corporation tax pursuant to § 55 sec. 1 no. 1 sentence 2 AO (Tax Code) in conjunction with § 5 sec. 1 no. 9 KStG and in conjunction with § 3 no. 6 GewStG from trade tax. The choice of the legal form GmbH is often made by non-profit companies that want to be economically active (for example, kindergartens, social stations, and hospitals), which can sometimes be difficult in the legal form of the registered association. In addition, the GmbH as a corporation allows a higher flexibility than the member-based association. The gGmbH (non-profit limited

example the Zoologischer Garten Berlin AG, which can also serve charitable purposes according to the statutes. Only corporations, including unregistered associations, are exempt from tax, but not partnerships such as for example the BGB company. Since 2000, donations to foundations can be claimed for tax purposes to a greater extent than donations to other non-profit institutions. Non-profit institutions are institutions that are maintained by institutions of church and free welfare care, parishes, foundations, associations or, more recently, by non-profit limited liability companies. Since the beginning of the 1990s, non-profit limited liability companies have increasingly been founded by natural persons. The commitment of these people is summarized under the term social entrepreneurship.<sup>12</sup>

The not-for-profit status in Hungary and Luxembourg determines the fiscal regime applying to sport organisations. Exemptions of income tax, corporation tax and dividend withholding tax can be benefited from sport clubs for example in Ireland, where the income of such legal bodies, as is shown to the satisfaction of the Revenue Commissioners, has been, or will be, applied for the sole purpose of promoting an athletic or amateur game or sport. Relief from capital gains tax is also given provided the proceeds of the gain are reinvested in acquiring new assets for the promotion of the game/sport in question. The clubs must be one the one hand member controlled and owned, and not-for-profit and on the other hand, legally established in the state and have its centre of management and control therein, to benefit from fiscal benefits. Moreover, as appropriate most of its trustees/directors/officers, must have their residence within the state. Furthermore, for example, public support and certain tax exemptions may be granted to registered not-for-profit associations, because qualified enough in Finland.<sup>13</sup> The criteria for

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liability company) is exempt from certain taxes in whole or in part, provided that its articles of association and actual management meet the requirements of non-profit law. The profits of a gGmbH must be used for the charitable purpose (or non-profit purposes) and may not be distributed to the shareholders. Exceptionally, a profit distribution is only permitted if the shareholders themselves are non-profit. The use of the tax advantages is based on §§ 51 ff. AO, the recognition of the non-profit status is carried out by the responsible tax office. The gGmbH is also subject to the provisions of the GmbH Act and the provisions of the German Commercial Code (HGB). The non-profit activity is indicated using the small letter "g" before the designation GmbH; In many cases, the long form "non-profit GmbH" is also used. This is intended to distinguish the gGmbH from commercially active GmbHs operating with the intention of making a profit. The use of the name gGmbH has been permitted since 29 March 2013. Art. 7 of the Act on the Strengthening of Volunteering of 21 March 2013 (Federal Law Gazette I 556) incorporated a corresponding § 4 sentence 2 into the GmbHG. The articles of association of the gGmbH can be designed in such a way that a change of purpose is only possible under special conditions. In this way, the gGmbH can be functionally approximated to a foundation. However, foundation law does not apply to a Stiftungs-gGmbH. It is also not subject to state foundation supervision. However, it often happens that non-profit foundations are shareholders of non-profit limited liability companies. However, the Foundation and the GmbH are also separate legal entities.

<sup>12</sup> Compare FEHRENBACHER, *Steuerrecht*, Bade-Baden 2019; VOGEL, LEHNER *Doppelbesteuerungsabkommen*, 7 Aufl., München, 2021; TIPKE, M.LANG, *Steuerrecht*, 24. Aufl., Köln, 2021.

<sup>13</sup> EUROSTRATEGIES, *Study on the funding of grassroots sports in the EU*, 2011, pp. 101 ff.



not-for-profit organisations ("organisations accruing collective benefits") to benefit from total income tax relief for small-scale, non-commercial business activities are defined by the Income Tax Act. Provided the fact, that nobody receives direct personal benefit from it, and that the funds are used entirely for the "general interest", to support the activities of the club, not-for-profit organisations, furthermore, do not pay taxes on income gained through sponsoring, fundraising, donations or even membership fees.<sup>14</sup> Given the case that certain club's activities imply non-members, nevertheless, such activities may be considered commercial in nature, which would inevitably make the club's revenue subject to taxation. It can be stated in this regard that the line between not-for profit activities and commercial activities isn't very clear.<sup>15</sup> It can be also deduced that the not-for-profit status sometimes goes hand in hand with restrictions on the type of activities that can be undertaken. As it emerged from several studies, with regard of certain countries, the sport organisations interviewed indicated that there were limits on the types of activities that they could undertake. For example, registered clubs cannot engage in commercial activities in Lithuania. In certain States like Finland registered clubs aren't eligible from tax exemption on commercial activities.<sup>16</sup> Furthermore other trends may be highlighted towards the significant changes which sport has undergone at European level over the past decades. The inter-institutional cooperation reflects a change of significant importance.

The structure of the between the Council, the Commission and Parliament intertwined interaction on sports has evolved, still a certain lack of regular cooperation may be identified.<sup>17</sup> Respectively the Council reflects the new centre of gravity with the expert groups it has established while the Parliament accrues the relevant task in promoting debates and finally the Commission embodies the working level. Yet many spectators are adamant that there seems to be less concerted inter-institutional cooperation in the field of sport, across different policy areas. Furthermore, ongoing debates on the role, function and character of physical activity and sport can be perpetuated here: According to statistics such as the special Eurobarometer survey on sport, the informal dimension of sport is given the importance of the number of people who play sports in a park, at home or on the way between work and home. Since informal participation in sport continues to rise, organised sport is confronted with several challenges: on the one hand, the latter is forced to do so in view of the changes in the work and leisure time of legal comrades resulting from the economic crisis to compete for its members. Furthermore, sport today must overcome structural and demographic challenges and be responsive to

<sup>14</sup> Cfr. TIPKE, M. LANG, *Steuerrecht*, 24. Aufl., Köln, 2021.

<sup>15</sup> EUROSTRATEGIES, *Study on the funding of grassroots sports in the EU*, 2011, pp. 104 ff.

<sup>16</sup> EUROSTRATEGIES, *Study on the funding of grassroots sports in the EU*, 2011, pp. 104 ff.

<sup>17</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 102.

situations such as the refugee crisis or the Covid-19 pandemic to bridge such serious circumstances.<sup>18</sup> Furthermore, it is worth highlighting at this point the obligation of sports matters granted or left to the Member States. The Member States have the benefits of Europe-wide coordination of the public interests of sport beyond the direct access of associations. Although the national interests also play an important role, they have not led to a blockade policy. Member States ensure that European recommendations and national legislation on sport are implemented based on partial commitments made at EU level. There has also been a change in the fact that the actors active in the field of sport are not only concentrating on the nation state, but are also turning to EU sports policy in different ways to participate accordingly in the decision-making process of sports policy through active participation.<sup>19</sup> It would behove us at this point to challenge the sport model that has been in place for so long. In the light of the decision taken by the European Commission on the International Skating Union and the recent ruling of the European Court of Justice, the question of the future of European sport is raised, based on these aforementioned circumstances and represents an ongoing discussion.

### 2.1. *The role of the ISU decision*

The ISU decision is characterised by the fact that it is seen in many respects as an attack on the monopoly enjoyed by sports federations and associations.<sup>20</sup> In the decision of the European Court of Justice concerning the ISU case, the Court held that the rules laid down by the International Skating Union, under which athletes were subject to severe and harsh sanctions with regard to participation in speed skating competitions not recognized by the ISU, appear to be contrary to European competition rules and must therefore be regarded as an infringement. On the other hand, the ISU's rules on arbitration have been wrongly objected by the Commission. The International Skating Union (ISU) is the only international governing body for figure skating and speed skating recognized by the International Olympic Committee (IOC).<sup>21</sup> With the organization of various speed skating competitions in

<sup>18</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 102.

<sup>19</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103.

<sup>20</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103; C.A. GIUSTI, F. L. GIAMBRONE, *The Biffi Judgement and the Suarez case. Judicial decision of the ECJ and possible reforms of the Italian civil code from an European point of view*, 2020, in, *Annali del CERSIG* (Centro di Ricerca sulle Scienze Giuridiche), ISBN: 9791280164100; Eastern European countries are often perceived as low tax countries, but have a framework which does not aid social protection for players: E.Y., "tax and career facilities for professional football players" in 2013.

<sup>21</sup> GERICHT DER EUROPÄISCHEN UNION, *Pressemitteilung Nr. 159/20, Urteil in der Rechtssache T-93/18 International Skating Union/ Kommission, Luxemburg*, den 16. Dezember 2020; For an in depth analysis concerning tax treaties and procedural law within the European Union Cfr. P. PISTONE, G. KOFLER, M. LANG, A. RUST, J. SCHUCH, K. SPIES, C. STARINGER (eds.), *Tax Treaties and Procedural Law*, vol. 18 WU Vienna European and

the context of the most important international competitions such as the European and World Championships and the Olympic Winter Games, it also carries out a business activity. In 2014, the Korean Icederby International Co. Ltd planned a speed skating event in Dubai (United Arab Emirates) with a new competition format. Since the ISU did not approve the event, the host company had difficulty getting professional speed skaters to participate, which is why it refrained from its project. According to the ISU statutes, speed skaters from the national ISU member associations are subject to a pre-approval regulation within the framework of so-called admission regulations. According to these provisions, as applicable at the time, the taking of an ice skater to an unauthorized competition was punishable by exclusion from all ISU competitions for life. By decision of 8 December 2017<sup>22</sup> ('the contested decision'), the European Commission, following a complaint lodged by two Dutch professional skaters, found that the ISU's licensing rules were incompatible with EU competition law (Article 101 TFEU) in that their purpose was to restrict the possibilities for professional speed skaters to participate at will in international competitions organised by third parties and thus to provide third parties with the organization of such competitions withheld indispensable services of the athletes. Accordingly, under threat of a periodic penalty payment, the Commission ordered ISU to bring the infringement thus found to an end, but did not impose a fine on it.<sup>23</sup> The ISU brought an action against the contested decision before the General Court of the European Union. The Court of First Instance, which is called upon to rule for the first time on a Commission decision finding that a regulation of a sports association is incompatible with EU competition law, confirms the merits of the Commission's classification of the contested legislation as a restriction of competition by common effect, but annuls the contested decision in part in so far as it concerns the requirements vis-à-vis the ISU.

The following assessment was made by the Court of First Instance. In the first place, the General Court held that the Commission was right to conclude that the authorization provisions were intended to restrict competition within the meaning of Article 101 TFEU. In that regard, the Court first notes that the situation in which the ISU finds itself may give way to a conflict of interest. On the one hand, the ISU performs a regulatory function by virtue of which it has the power to lay down the rules in the sports falling within its sphere of activity and thus to authorise

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International Tax Law and Policy Series, ISBN: 978- 90-8722-647-3, IBFD, 2020; C.A. GIUSTI, F. L. GIAMBRONE, *The nomophylactic function of the European Court of Justice in tax matters within the Italian and German experience. Possible Dispute Settlement Solutions for the Member States*, in, *comparative law review* 2019, ISSN: 2983- 8993.

<sup>22</sup> COMMISSION DECISION C (2017) 8240 final of 8 December 2017 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement (Case AT.40208 – Authorisation provisions of the International Skating Union).

<sup>23</sup> GERICHT DER EUROPÄISCHEN UNION, *Pressemitteilung Nr. 159/20, Urteil in der Rechtssache T-93/18 International Skating Union/Kommission*, Luxemburg, den 16. Dezember 2020.

competitions organised by third parties, while, on the other hand, during its business activities, it itself organises the most important speed skating competitions in which professional skaters must participate to earn a living. In that regard, the General Court held that, in the exercise of its regulatory function under Article 101 TFEU, a sports association is subject to the same obligations as those laid down in the settled case-law on the application of Articles 102 and 106 TFEU, with the result that, under those conditions, the ISU must ensure, when examining applications for authorisation, that third-party organisers of speed skating competitions are not unjustifiably deprived of access to the relevant market to an extent: that competition in this market is distorted.<sup>24</sup> After that clarification, the Court of First Instance then examines the substantive assessment of the authorisation provisions by the Commission. It notes at the outset that they do not explain the legitimate objectives they pursue and have only been laying down authorisation criteria since 2015, which, moreover, are not exhaustive. In those circumstances, the requirements applied since then cannot all be regarded as clear, transparent, non-discriminatory, and verifiable authorisation criteria which, as such, would be capable of guaranteeing competition organisers effective access to the relevant market. As a result, the court notes that even after the approval criteria were adopted in 2015, the ISU still had a wide margin of discretion to refuse the approval of planned third-party competitions. Moreover, as regards the system of penalties, the General Court emphasises that the severity of the penalties provided for is a point of particular relevance when it comes to identifying any obstacles to the proper functioning of competition on the relevant market.

The harshness of the sanction may discourage athletes from participating in competitions not authorised by the ISU, even if there is no legitimate reason for refusing the authorisation. In the present case, the court considers the sanctions provided for by the authorisation provisions to be disproportionate even after the weakening of the scheme in 2016. Since then, not only has the definition of the

<sup>24</sup> GERICHT DER EUROPÄISCHEN UNION, Pressemitteilung Nr. 159/20, Urteil in der Rechtssache T-93/18 International Skating Union/Kommission, Luxemburg, den 16. Dezember 2020; Within the European Union, football's professionals are operating on the EU internal market. The internal market and the Treaty freedoms necessitate levelled regulatory and supervisory grounds for professional football's key actors. It can be stated that regulatory and supervisory playing fields in professional football are unlevelled. For a better understanding concerning the European approach regarding tax treatment of professional players' remuneration Cfr. F. L. GIAMBRONE, *Tax Treatment of professional football players remuneration in Germany and Italy. A comparative and EU analysis of a sector with tax gaps from a fiscal and administrative angle*, in, *amministrativ@mente*, FASCICOLO N. 1/2022, ISSN 2036-7821. Regarding professional football clubs and football agents, the rules to approach the internal market and to provide their respective services within the internal market, as well as supervisory practices, can diverge from Member State to Member State, possibly hindering access to the internal market subject on the place of entry, and thereby hindering the establishment and functioning of a true internal market; for a deeper understanding on the principles of direct taxation within the European Union compare: M. LANG, P. PISTONE, J. SCHUCH, C. STARINGER, *Introduction to European tax Law: Direct Taxation*.



categories of infringements been vague, but the duration of the sanctions, in the case of taking part in unauthorised competitions by third-party organisers, has remained harsh in view of the average career duration of an ice skater.<sup>25</sup> Finally, the Court of First Instance examines the Commission's assessment of the objectives pursued by the authorisation provisions. In that regard, it recalls that the protection of the integrity of sport is a legitimate objective recognised in Article 165 TFEU. Therefore, it was legitimate for the ISU to establish rules that both prevent possible competition manipulation risks because of sports betting and to ensure the conformity of sports competitions with general standards. In the present case, however, the rules adopted by the ISU nevertheless go beyond what is necessary to achieve those objectives and are therefore not proportionate to them. Consequently, the Commission was right to consider that the restrictions resulting from the prior authorisation scheme could not be justified by the objectives at issue. Accordingly, the Commission was therefore right to conclude that the authorisation provisions are sufficiently restrictive, regarding their content, to be regarded as a restriction of competition by implication. In the second place, the Court of First Instance ruled on the lawfulness of the requirements contained in the contested decision with a view to bringing the infringement found to an end and partially upheld the applicant's application for annulment in that regard, namely in so far as the Commission, under threat of a periodic penalty payment, requested a substantial amendment to the ISU's rules on arbitration in the event of the maintenance of the prior authorisation scheme.<sup>26</sup> In that regard, the Court<sup>27</sup> notes that, in the Commission's view, the restrictions of competition imposed by the licensing provisions are exacerbated by those arbitration rules, which confer on the Arbitration Tribunal for Sport in Lausanne (Switzerland) exclusive jurisdiction to decide on actions against non-admission decisions and make such arbitration mandatory. As far as the Commission seeks to have guided itself in that regard by the Guidelines on the procedure for setting fines and, more specifically, by the concept of aggravating circumstances contained therein, the General Court emphasises that only unlawful conduct or circumstances aggravating the infringement may justify an increase in the fine for an infringement of EU

<sup>25</sup> GERICHT DER EUROPÄISCHEN UNION, Pressemitteilung Nr. 159/20, Urteil in der Rechtssache T-93/18 International Skating Union/Kommission, Luxemburg, den 16. Dezember 2020.

<sup>26</sup> GERICHT DER EUROPÄISCHEN UNION, Pressemitteilung Nr. 159/20, Urteil in der Rechtssache T-93/18 International Skating Union/Kommission, Luxemburg, den 16. Dezember 2020; Ch. SMEKAL, *Steuerpolitik in Deutschland und Österreich: 2 Nachbarn- verschiedene Wege?*, in V. ULRICH – W. RIED (eds.), *Effizienz, Qualität und Nachhaltigkeit im Gesundheitswesen*, Baden-Baden, 2007, 93 ss.; 1 BvR 16/13, ord. 6 November 2019; 1 BvR 276/17, ord. 6 November 2019.

<sup>27</sup> For an overview of ECJ cases related to direct taxation see M. LANG, *Recent Case Law of the ECJ in Direct Taxation: Trends, Tensions and Contradictions*, in EC Tax Review, 18, 2009, 99 ss; KOFLER, M. LANG, P. PISTONE, RUST, J. SCHUCH, K. SPIESS, STARINGER, KUNIGA, *CJEU - Recent Developments in Value Added Tax 2020*, Linde 2022.



competition law. In the present case, however, such unlawful circumstances do not exist. The Commission could therefore not regard the ISU's arbitration rules as an aggravating circumstance.<sup>28</sup>

As already stated, before the ISU decision has been regarded as a possible attack towards the monopoly of sporting federations and associations. It appears that the sport sector is keen to maintain its inherent autonomy and emphasises the fact that its specificity is based on the principles of solidarity, inclusiveness, and voluntary work. EU competition law is in no way used by the sports sector as a means of jeopardising the monopoly enjoyed by sports federations, which are entrusted on the one hand with the organisation of sports events or tournaments and on the other with the coordination of the sports calendar. Combined with the autonomy of associations protected both by the European Convention for the Protection of Human Rights and Fundamental Freedoms (Art. 11 ECHR) and by the EU Charter of Fundamental Rights (Art. 12 GRCh), the question arises to what extent the existing pyramidal and hierarchical structure of sport, which the associations enforce through the one-association and one-place principle, is not only recognized, but should even be protected.<sup>29</sup> In its 2007 White Paper on Sport, the European Commission considered the one-federation principle to be a legitimate objective.<sup>30</sup> However, the fact that this cannot justify every restrictive measure is recently demonstrated by the Commission's decision against the ISU and its rules on athletes affiliated with the ISU to enforce the one-place principle. However, regulations made by the sports associations can also have a restrictive effect on third parties who do not belong to the direct or indirect members of the association, but influence the economic success of the sports business in different ways. These include potential sponsors, sporting goods manufacturers, players' agents, investors, the media and – as in the ISU case – in addition to the effect on the athletes associated with the ISU – association-independent organizers of sports competitions. This raises the question of whether, in this respect, the autonomy of associations can be a factor influencing the application of antitrust law.<sup>31</sup> A challenge against professional sport that should not

<sup>28</sup> GERICHT DER EUROPÄISCHEN UNION, Pressemitteilung Nr. 159/20, Urteil in der Rechtssache T-93/18 International Skating Union/Kommission, Luxemburg, den 16. Dezember 2020.

<sup>29</sup> R. STREINZ, *Kartellrechtliche Vorgaben des Unionsrechts für das Sportrecht*, in: K. VIEWEG, *Erlanger Sportrechtstagungen 2018 und 2019, Beiträge zum Sportrecht*, p.20.

<sup>30</sup> EUROPÄISCHE KOMMISSION, *Weißbuch Sport*, KOM (2007) final, S. 14. Vgl. dazu und zu in diese Richtung tendierend gesehene Ansätze in der Rechtsprechung des EuGH-Horn (Fn. 1), S. 117 f; For an overview concerning the Italian Taxation profiles of sports facilities confront A. URICCHIO, *Profili fiscali dell'impiantistica sportiva*, in AA. VV., *Argomenti di diritto nazionale e internazionale dello sport e di giustizia sportiva*, Edizioni Duepuntozero, 2022; A. F. URICCHIO, F. L. GIAMBRONE, *The EU budget powering the recovery plan for Europe*, in, *Open Review of Management, Banking and Finance*, Regent's University London, Centre for Banking and Finance, 2020, ISSN2058-7422.

<sup>31</sup> See P. W. HEERMANN, *Verbandsautonomie im Verhältnis gegenüber Dritten – Kein Spiel ohne (kartell-)rechtliche Grenzen!* in, ZWeR, 2017, pp. 24 (32ff.).

be underestimated is posed by the doping, match-fixing and corruption scandals. Issues, such as those of optimal governance and integrity of sport policy, which are closely interwoven with debates on the legitimacy and integrity of sport, need to be explored in depth.

## 2.2 Corruption as a problem affecting the EU- economy

Corruption in the form of abuse of a particular function or public office for the benefit of others and to the detriment of third parties or the general public is to be found in all sectors of the economy. It is estimated that corruption in the EU economy<sup>32</sup> is causing billions in losses. Due to the increasing globalization and the economic success of individual sporting events, cases of corruption have repeatedly arisen in top-class sport. It should be noted at this point that lack of transparency and corruption contribute to exploitation, promotion of organized crime and tax fraud, for example in connection with dubious transfers and brokerage transactions in sports, but also in the filling of official posts, the allocation of media and advertising rights or the organization of major sporting events.<sup>33</sup> The Commission already stated in its White Paper on Sport (11.7.07) that professional sport needs to face new constraints and challenges, such as commercial pressure, corruption and money laundering. In its legally binding resolution on the White Paper on Sport, the European Parliament deplored the abusive practices of some match agents, which had led to corruption, money laundering and the exploitation of underage players and athletes. On 6.6.11 the Commission adopted a comprehensive package of laws and measures to combat corruption. The anti-corruption package consisted of a communication on the fight against corruption in the EU on the concrete objectives of the fight against corruption. On 3.2.14, the Commission published an EU anti-corruption report that reflected the data on corruption in the individual Member States.<sup>34</sup> On 20.5.15, the European Parliament and the Council of Ministers adopted a directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, which is intended to further develop criminal law measures at EU level and to monitor the financial system.<sup>35</sup> The 3rd

<sup>32</sup> A. URICCHIO, *Dall'economia alla fiscalità circolare: primi interventi e prospettive di riforma*, in Uricchio A., Selicato G. (a cura di), "Circular Economy and Environmental Taxation." Atti della Summer School Bari, 9-15 Settembre 2019, Cacucci Editore, 2021;

<sup>33</sup> DFB, *Europäische Sportpolitik*, 2019, p. 36 ff; Cfr. M. LANG, R. PETRUZZI, M. COTTANI, *Fundamentals of Transfer Pricing: Industries, Regions, New Technologies, and Other Topics* (gemeinsam mit Petruzzi/Cottani), Wolters Kluwer 2022.

<sup>34</sup> DFB, *Europäische Sportpolitik*, 2019, p. 36 ff.

<sup>35</sup> For an overview regarding the assessment of risks in the area of money laundering and terrorist financing with an impact on the internal market and cross-border activities Cfr. EUROPÄISCHE KOMMISSION, *Bericht über die Einschätzung der Risiken im Bereich der Geldwäsche und Terrorfinanzierung mit Auswirkungen auf den Binnenmarkt und grenzüberschreitende Tätigkeiten*, 2019; P. PISTONE, *Die gemeinschaftsrechtliche Verpflichtung zur Anrechnung von Quellensteuern im Ansässigkeitsstaat* (co-author Massoner, C.), in M. LANG, J. SCHUCH, C.

Work Plan of the EU Sports Ministers 2017-2020 also provides for anti-corruption measures in sport for the first time. By the end of 24/07/2019, the Integrity Expert Group is to prepare a proposal for Council recommendations for future EU action against corruption in sport.<sup>36</sup> On 24.7.2019, the Commission published a report on the assessment of risks in money laundering and terrorist financing with an impact on the internal market and cross-border activities. In it, the Commission points out that it will add to the watch list new sectors of the economy that have attracted attention in the recent past through negative reporting. For the first time, this also includes professional football.<sup>37</sup> In the Commission's view, this is a global economic sector of considerable economic importance. The organisational structures and lack of transparency contribute to the fact that the ground for the use of illegally acquired funds in professional football is in good shape. In particular, the investment of transfer sums worthy of payment without any discernible return on capital justifies the inclusion of professional football on the watch list. For example, the German Football Association and the German Football League are committed to fighting all forms of corruption in sport. Since 2016, the German Football Association has introduced a compliance management system that includes various measures against corruption, which are constantly being further developed and their compliance monitored. In 2011, the German Football Association and the German Football League also jointly issued a declaration of commitment on the handling of hospitality packages at football events against the background of legal requirements and developed a corresponding guideline. Since the guideline was taken up by practice as a good guide, it was updated and reissued in 2017 after several legislative changes with the participation of the Federal Ministry of the Interior and the Federal Ministry of Justice and Consumer Affairs. Furthermore, the conflicts arising between sports federations and commercial/interest groups should be subject to investigation. As mentioned elsewhere, the issue of autonomy versus intervention in the sport sector is arguably the most important feature that characterises EU sport policy. The most prominent problem is that a division has been established between the interests of traditional and non-profit sports organisations on the one hand and commercial providers on the other. Organised sport inevitably insists on its formally stated position by pointing to its special and specific role of being particularly beneficial to the sport sector through its contribution to providing essential services conducive to

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STARINGER (eds.), *Quellensteuern – Der Steuerabzug bei Zahlungen an ausländischen Empfänger*, ISBN: 978-3-7073-1718-3, Linde Verlag, pp. 133-153

<sup>36</sup> EUROPÄISCHES PARLAMENT, *Richtlinie zur Verhinderung der Nutzung des Finanzsystems zum Zwecke der Geldwäsche und der Terrorismusfinanzierung*, 2015; A. URICCHIO, *Profili fiscali dell'impiantistica sportiva*, in AA. VV., *Argomenti di diritto nazionale e internazionale dello sport e di giustizia sportiva*, Edizioni Duepuntozero, 2022.

<sup>37</sup> EUROPÄISCHE KOMMISSION, *Bericht über die Einschätzung der Risiken im Bereich der Geldwäsche und Terrorfinanzierung mit Auswirkungen auf den Binnenmarkt und grenzüberschreitende Tätigkeiten*, 2019.

the promotion and development of sport and society. This role does not apply to the same extent to commercial providers. Furthermore, no uniform participatory strategies can be identified in the sport sector. Even though the increased attention to European sport has developed into a central commonality of the relevant actors, this has ultimately not led to uniform reaction patterns and adaptation processes. The actors have different strategies for participation, apart from the fact that they have their own representations in Brussels and cooperate with each other across sport disciplines. It can be said that the activities organised by sports federations do not follow any particular pattern. Nor are there any signs of fusion.

As a result, statements about "optimal" models of adaptation and participation are of limited value. The extent of adoption of institutional or procedural elements from other EU member states is also limited so far. It can be said that sport policy has been given new impetus by the inclusion of sport in the relevant EU treaties. At the moment, the actors involved are trying to are still trying to find appropriate forms of consultation and coordination in order to adequately take into account the interests in a growing field.<sup>38</sup> An important point of reference is marked by the constant changes inherent in the sports sector. These constant changes, which are characterised both by the room for manoeuvre and the financial interests offered to primary and secondary players, contribute to considerable system dynamics. European sport policy is neither institutionally, procedurally nor sectoral fixed, but is subject to ongoing changes. A striking asymmetry has arisen from the comparison of the changes in sports policy at the European level in recent years with those at the national level. The extent and depth of change at European level are much more pronounced in sport than at national level. It can be concluded that the European Parliament does not have formal powers to advance legislative proposals, but it is able to participate in European sport policy in other ways. In 1983, the ECJ underlined that the EP was entitled "to discuss any issue concerning the Communities, to adopt resolutions on such issues and to list governments for action". On this basis, in the 1970s and 1980s, the European Parliament helped to lay the foundations for the use of sport and to arouse public interest in certain sports topics. The various studies commissioned by the European Commission to the European

<sup>38</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 102; A. URICCHIO, *Profili fiscali dell'impiantistica sportiva*, in AA. VV., *Argomenti di diritto nazionale e internazionale dello sport e di giustizia sportiva*, Edizioni Duepuntozero, 2022; Ch. SMEKAL, *Steuerpolitik in Deutschland und Österreich: 2 Nachbarn- verschiedene Wege?*, in V. ULRICH – W. RIED (eds.), *Effizienz, Qualität und Nachhaltigkeit im Gesundheitswesen*, Baden-Baden, 2007, 93 ss.; 1 BvR 16/13, ord. 6 November 2019; 1 BvR 276/17, ord. 6 November 2019; G. CORASANITI, *Manuale di diritto tributario internazionale*, (a cura di) Victor Uckmar e Paolo de' Capitani, I edizione Cedam, 2009, 333. ISBN 978-88-13-29125-9.



Parliament and by the resolutions and questions put to the European Commission by the European Parliament have helped to further develop the definition of the sports agenda.

### *2.3 Possible European sports scenarios*

To sum up, it seems appropriate at this point to cite the four conceivable and realistic scenarios concerning future European sports policy and its parliamentary dimension. These models are characterised by their reference to the European model and represent one of the links that make up the EU as a dynamic multi-level system. To put it more simply, the possible scenarios mentioned here should also be seen from the point of view of the possible effects they can have on the national and subnational levels of sports organisations existing in the Member States. These scenarios represent ideal types. However, the purpose could be to classify far-reaching existing approaches to the debate and to provide a certain order. The so-called status quo scenario could be added in the short term. The corresponding scenario is since the previously prevailing status quo system regarding sports policy and politics is to be maintained. It can therefore be assumed that no change in the EU's primary legal framework will emerge due to the numerous challenges arising regarding an imminent revision of the Treaty and a variety of veto players. Accordingly, the sports sector at European level is only given competences of a supportive nature. For the design of the future European sport policy, this would mean that activities under Article 165 would continue to be carried out, which primarily relate to the social, educational, and inclusive function of sport. As a result, the corresponding measures in question will be primarily distributive in nature. However, it cannot be ruled out that further interventions in the sports sector will take effect through the common market legislation. Future reform options will be based on the current legal framework and will be purely informal. According to this scenario, it can be concluded that it appears that adaptations and adaptations thought through by the respective actors are more susceptible to handling and will therefore come into play. Fundamental changes should rather be ruled out about this scenario. The interinstitutional agreements and soft-power instruments as well as intra-institutional reforms (e.B Rules of Procedure) can be classified among the gradual adjustments or adaptations. Although other national actors are also participating in the negotiations at European level, the rules remain institutionalised primarily in the Member States. The second scenario in question concerns a model based on the process of gradual communitarisation and thus to be classified as a medium-term objective.<sup>39</sup> It is based on the Community model, which is to be regarded as an extension of the current existing functional integration path. The idea

<sup>39</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103 ff.



on which the whole scenario is based can be summarized as a functional, institutional, and procedural spillover. Accordingly, in process which refers to a corresponding situation, in which a certain measure associated with a certain goal brings about a situation in which the original goal can only be achieved by further measures, which in turn bring about another condition and necessity for further measures, and so on".<sup>40</sup> Due to this above-mentioned economic approach, spillover processes can lead to the EU institutions being given additional powers or competences that are suitable for the design of exits in sport that become binding on the Member States. The question of a transfer of competence on the part of the Member States, as experts in the Treaties, in favour of the European Union should be investigated if the Lisbon Treaty were to be revised. According to this scenario, many options can be differentiated, as Member States have very different opinions on this. Should this school of thought be accepted by the Member States (well received by the Member States), it can therefore be assumed that competences will be further developed in some sport-related areas, such as social and educational policy. It is to be expected that qualified majority voting after a treaty revision will even become the preferred voting procedure in these areas of sport policy. It can be deduced that, on the one hand, the spectrum of certain activities could be extended by communitarisation, on the other hand, legitimacy could decrease due to the division of activities between the national and The European level.<sup>41</sup> However, other areas, such as health policy in the context of the fight against doping, could be left out. Furthermore, a long-term - "supranational" scenario has been proposed. The third scenario symbolises the model of a European constitution with supranational structures in the sports sector. This model would entail the need for fundamental and complete reforms, which would eventually lead to a common sports policy. Such a scenario would involve a clear division of responsibilities, a decentralization of power, and an institutional structure with an equivalent bicameral system and an elected government. Given the overall dynamics of the European system and the difficulties encountered by the current institutions and procedures, in the sense of this third scenario, the Heads of Government would be tempted to take a decisive step towards a supranational set of rules for sport. Based on the assumptions of this school of thought, one might expect that the institutions and actors of the Member States will be increasingly marginalized and replaced by EU institutions.<sup>42</sup> In the

<sup>40</sup> L. N. LINDBERG, *Political Dynamics of European Economic Integration*, 1963, p. 10; G. CORASANITI, "Manuale di diritto tributario internazionale", (a cura di) Victor Uckmar e Paolo de' Capitani, I edizione Cedam, 2009, 333. ISBN 978-88-13-29125-9.

<sup>41</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103 ff.

<sup>42</sup> With regard of a deeper understanding of the economic impact on sports confront: EUROPEAN COMMISSION, *Study on the Economic Impact of Sport through Sport Satellite Accounts*, in Publications Office of the European Union, Luxembourg, 2018; G. CORASANITI, "Manuale di diritto tributario internazionale", (a cura di) Victor Uckmar e Paolo de' Capitani, I edizione Cedam, 2009, 333. ISBN 978-88-13-29125-9.



spirit of this scenario, "With a particular focus on sport", national sports organisations would transform from arenas for national actors into European actors, replacing national influence. Any further amendment to the Treaties would give strength to the role of both supranational institutions and European sports organisations, while completely absent the right of veto by Member States and national sports organisations. The pattern of behaviour of the Council of Ministers would be dominated by articles allowing for qualified majority voting. The development of a 'true will' of the European people and the desired path to a federal union would therefore pave the way for a significant extension of Parliament's rights and powers. The European Parliament would have essential powers, such as formulating far-reaching political agendas, articulating ideals and strategies suitable for deepening the integration process, since federalism<sup>43</sup> presupposes a legitimate supranational order. Under this scenario, the European Parliament would play a key role in future European sport policy. The third scenario highlights federalist aspirations and ever closer political cooperation in sports policy at European level.

More policy areas will be included, both in professional and amateur sport. In the sense of this federalist scenario, instead of the dual legitimacy of a union of states and a union of peoples, a double legitimacy of public and private authorities at European level can be expected. Democratic participation (and consequently legitimacy) can therefore be achieved primarily at the supranational level, with sports organisations being institutionally more important and more involved. A federal EU does not seem unrealistic at the moment, because some of the supranational elements are now up for discussion and can be included without

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<sup>43</sup> The Italian experience of the last twenty years is characterised by a gradual strengthening of peripheral financial autonomy that follows, by a few years, the decentralisation of administrative functions according to criteria of subsidiarity and territorial competence. The phenomenon is very complex and deserves to be addressed in the double dimension of the institutional structures and of the governance models of the territory which, of course, involve profiles that are exorbitant from tax matters. It should first be pointed out that Italy is a democratic republic that recognises local autonomy. Article 5 of the Constitutional Charter places among the fundamental principles that 'the Republic, one and indivisible, recognises and promotes local autonomy; implements the broadest administrative decentralisation in the services that depend on the state; adapt the principles and methods of its legislation to the requirements of autonomy and decentralisation. For a better understanding of the Italian fiscal federalism Cfr. A. F. URICCHIO, *Le potestà in materia di spesa pubblica ai diversi livelli di governo*, in *Diritto e pratica tributaria internazionale*, n. 3, 1° luglio 2018, p. 756. According to the author the hierarchical structure of the Italian legal system identifies a division of competences and powers in the tax and financial matters that highlights some inconsistencies. The structures defined by the Constitutional Charter following the constitutional revision of 2001, in fact, are not fully declined by Delegation No 42 of 2009 or by its delegated decrees, having taken care to balance local autonomy with other fundamental values contained in the Constitution and, in particular, with the guarantee of compliance with the constraints deriving from the Community law and international obligations. The author, after retracing the Italian experience of the last twenty years, characterised by a gradual strengthening of peripheral financial autonomy that follows, by a few years, the decentralisation of administrative functions, focuses on the criteria of subsidiarity and competence that allow to promote a model of "responsible federalism," in compliance with the principle of coordination of public finances and European and national constraints.

implementing the idea of a federation. The White Book on the future of Europe explores how Europe will change over the next ten years; from the impact of new technologies on society and employment, to concerns about globalisation, to security issues and rising populism. The White Paper makes it clear what choice we face: either we are overwhelmed by such developments or we face them and seize the new opportunities they bring. Europe's population and economic weight are shrinking, while other parts of the world are growing. By 2060, each EU Member State will account for less than 1% of the world's population – a good reason to stick together to achieve more. Europe is a positive global force. Its prosperity still depends on openness and strong relations with its partners. The White Paper describes five scenarios; each one provides an outlook on where the Union could be in 2025, depending on Europe's course (see Annex). The scenarios cover various possibilities and serve as illustrations. They are therefore neither mutually exclusive nor exhaustive.<sup>44</sup>

#### *2.4 Future sports policy in relation to the future development of the EU according to scenario Nr. 4*

The White Book describes five scenarios; each gives an outlook on where the Union could be in 2025, depending on Europe's course. The scenarios cover various possibilities and serve as illustrations. They are therefore neither mutually exclusive nor exhaustive. The Scenario 1 focuses on the Business as usual - The EU-27 focuses on implementing its positive reform agenda in line with the Commission's 2014 policy guidelines "A new start for Europe" and the Bratislava Declaration adopted by all 27 Member States in 2016. In 2025, this could mean that Europeans will be able to move in self-driving, connected vehicles, but may encounter problems at border crossings due to unresolved legal and technical obstacles. Europeans almost always cross borders without having to stop for controls. Stricter security checks make it necessary to arrive at the airport or train station very early. According to Scenario 2 the emerging Focus should be addressed on the Single Market. The EU27 is re-focusing on the Single Market as the 27 Member States are unable to find a common position in an increasing number of policy areas. In 2025, this could mean that regular internal border controls will hinder trade and tourism. Finding work abroad is also becoming increasingly difficult and the transfer of pension rights to another Member State is not a matter of course. Anyone who gets sick abroad must reckon with high treatment costs. Europeans tend to use connected vehicles as there are no EU-wide regulations and technical standards. With regard of Scenario 3 << If you want more, you do more>>.<sup>45</sup> The EU 27 Union continues as before, allowing

<sup>44</sup> EUROPÄISCHE KOMMISSION, *Weißbuch zur Zukunft Europas*, 2017, p.1

<sup>45</sup> COM (2020) 27 final.

however, Member States were interested in joining forces to move forward together in certain policy areas, such as defence, internal security, or social affairs. One or more "coalitions of the willing" are formed. In 2025, this could mean 15 Member States setting up a corps of police officers and prosecutors to investigate cross-border criminal activity. Security-related information is shared directly as national databases are fully linked. In twelve Member States that have agreed to harmonise liability rules and technical standards, connected vehicles are widely used. The most effective one, which has been chosen from the Member states regards Scenario 4, according to which the Member States should do less but more efficient – The EU 27 focuses on achieving more results more quickly in selected areas and leaves other areas of activity to the Member States. Attention and limited resources are directed to selected areas.<sup>46</sup> In 2025, this could mean that a European telecoms authority has the power to release radio spectrum for cross-border communications services, such as those required for the unhindered use of connected vehicles. It also protects the rights of internet and mobile phone users regardless of their location in the EU. A new European Counter-Terrorism Agency<sup>47</sup> is helping to prevent and prevent serious attacks<sup>48</sup> by systematically monitoring and identifying suspects.<sup>49</sup> According to

<sup>46</sup> Cfr. A. F. URICCHIO, F. L. GIAMBRONE, *European Finance at the Emergency Test*, p. 288 ff; G. CORASANITI, "Manuale di diritto tributario internazionale", (a cura di) Victor Uckmar e Paolo de' Capitani, I edizione Cedam, 2009, 333. ISBN 978-88-13-29125-9.

<sup>47</sup> Although the responsibility to combat terrorism and safeguard security lies primarily with Member States, the terrorist attacks in recent years have shown that this is also a common responsibility they must assume together. The EU contributes to the protection of its citizens by acting as the main forum for cooperation and coordination between Member States. For a study concerning the peculiarities of the purposes of the control of so-called full jurisdiction in police law, highlighting the limits laid down by European law to the use of full jurisdiction and the inherent limits linked to the same police law Cfr. F. ROTA, *Full jurisdiction and police law*, available at <https://iris.unisannio.it/retrieve/e2046343-b1cf-b8f7-e053-1705fe0a0a2d/1778-7597-1-PB.pdf>. Professor Francesco Rota, addresses the issue of the relationship between full jurisdiction, discretion and political decisions involving choices and that of the relevance of the use of secrecy, limited participation and use of vague or indeterminate legal concepts in police law (which, from the perspective of the ECHR, are not considered as capable of limiting the control of full jurisdiction, also given the fact that the general attention to the politicity of choice by the ECHR does not seem to imply an independent prominence of national security, as an element that allows the content or applicability of the judicial review of full jurisdiction to be applied).

<sup>48</sup> In recent years, thanks to the impetus of supranational bodies, preventive measures have been established to combat corruption. Their introduction into the Italian system generates an administrative complexity that can contribute to worsening the quality of the administration and ultimately to create an environment conducive to the spread of corruption phenomena. For a better understanding concerning risk management in the fight against corruption: specific interventions and quality of administration Cfr. F. ROTA, *La gestione del rischio nel contrasto alla corruzione: interventi specifici e qualità dell'amministrazione*, in *Persona e amministrazione*, n. 1 del 2018, <http://ojs.uniurb.it/index.php/pealissue/view/186/showToc>. According to the author the efficiency of a system against risk is linked to the identification of a right balance between preventive measures and successful measures planned to deal with it, between risk management and emergency. Without wanting to look at anything else, it seems obvious the effects that an excess of emergency can have in terms of conculcating rights and, at the same time, the costs of excessive recourse to prevention seem obvious.

<sup>49</sup> Cfr. A. F. URICCHIO, F. L. GIAMBRONE, *European Finance at the Emergency Test*, p. 288 ff..



Scenario 5 Much more joint action should be undertaken from the Member States. Member States decide to share more competences and resources and to take decisions together.<sup>50</sup> Decisions are taken more quickly at EU level and implemented swiftly. In 2025, this could mean that European citizens<sup>51</sup> who want to complain about a project for an EU-funded wind turbine project in their region will have difficulty reaching the right authority as they will be referred to the competent European body. Thanks to clear EU-wide rules, connected vehicles can travel freely throughout Europe. Drivers can rely on an EU agency to enforce the rules. Because of the Financial Crises the Member States decided to embrace Scenario 4. The

<sup>50</sup> With regard of the Member States, which should decide to join their forces by sharing more competences, resources and taking decisions together in an unanimous way. From an administrative point of view, we should also remind about the fact that Member States Politics are incardinated within its administrative discretion. By trying to look at the traditional aspect of administrative discretion, without going too far back in time, after the former has been treated substantially as little more than a matter of merit, it has matured, emerged, a constitutionally advanced reading has been refined, referring to the interests in place in the decision to be taken, in the ongoing business; but at the same time, this approach has involved another important finding, more or less coeval, of the existence of a "political share" of the administrative decision, i.e. the indispensable presence of a certain screening of the situation, and above all of options, which would have to do with politics. For a more detailed analysis of the issue in concern Cfr. P. FORTE, *Pubblica amministrazione ad eminenza scientifica e tecnologica. Riflessioni teoriche*, in *Istituzioni del Federalismo*, Nr. 4, 2021, p. 995 ss. The author subjects administrative discretion to a test of effort in relation to our time characterised by technique, scientific knowledge, and the "distinction" between politics and administration, and finds evidence to assume that the administrative one, purified by the political quota, is not a function of the aims, but a practice for achieving objectives established elsewhere, even when they have vague, indeterminate definitions, since it consists precisely in determining a decision. Today's administrative decision, therefore, must be unfolded, it can be said physiologically, using techno-scientific knowledge, expertise, basing on the reasons for decision-making and the reliability of the resulting act, in a kind of technique of the singular fact.

<sup>51</sup> The concept of citizenship is so polysemic that it acknowledges a multiplicity of defining attitudes, also depending on the assessments of the diverse sciences that process its meaning. Citizenship is, in fact, forcibly dependent on the structures of the present, of each present, since it concerns both the relationship between individuals and that between them and the political order, and consequently with the juridical one; and this is not only because of the content of citizenship, of the set of rights and duties connected to it, but for the very vision of the community ordered in terms constituted by the concrete reality of today. For an investigation into the positive structures of the legal definition of the Italian citizenship concept, now and here, regarding the current Italian national law; and in particular, in view of considerations in relation to the current constitutional profiles of the discourse, so as to verify, in particular, whether or not citizenship is considered, described, defined by the Constitutional Charter and, in the face of a positive hypothesis, what consequences derive from it on the level of the legislation in force Cfr. P. FORTE, *Appunti per una base costituzionale della Cittadinanza*, in *Amministrazione in Cammino. Studi in Memoria di R. MARRANA*. According to Professor P. Forte, it is a rather widespread view that the Constitutional Charter does not cover a definition of citizenship, or even that it is not the task of a Constitution to establish it; this assumption is so pervasive that even on the occasion of a recent government proposal to amend the legislation on citizenship, it is stated that the Constitution deals only with the prohibition of depriving some of them for political reasons (Article 22 of the Constitution), but at the same time it is noted that there are many provisions that are addressed to "citizens" (with the exclusion, therefore, of foreigners and stateless persons) and which would give rise to rights and obligations only in the hands of those. However, that opinion must be well understood. It is true that there is a precise, conscious constitutional rule expressly aimed at citizenship, and that perhaps there are good reasons why that discipline is largely issued to ordinary law, but this does not deprive the argument of a dense constitutional network within which the legislator is called to limit himself.



economy is a relevant factor and because of these reasons sports policy should also take account and include in their decisions the supranational European decisions concerning the economy in their evaluation.

Reconnecting the possible sports scenarios with each other the last model is called the spill-back the re-self-governance scenario.<sup>52</sup> A regression or even a dissolution of the EU cannot be completely ruled out due to the continuing centrifugal forces. If the sport-related structures at European level were no longer supported by the existing legal framework, the structures of the EU would erode. The fact that competence lies with the nation states and is carried out in this respect by the sports organisations rather than in the past would threaten such a renationalisation of European sports policy. On the one hand, this scenario would reduce the financial resources available and thus fewer opportunities to emphasise the social and educational dimension of sport at European level and, on the other hand, a corresponding scenario would open up more flexibility and room for manoeuvre for national sports federations. These above scenarios are based on the opinions on the Conference on the Future of Europe proposed by the European Commission and the European Parliament at the end of 2019.<sup>53</sup> Since the Lisbon Treaty became legally binding, the EU has helped to highlight the importance of sport as an important economic factor. The EU Work Plan for Sport and the expert groups highlighted the economic dimension of sport regarding European sport policy.<sup>54</sup> In the future, the shaping of the European dimension of sport should be geared to the importance of sport for economic growth, innovation, employment, regional development and tourism development and its promotion should be promoted. Sport-related intellectual property rights are of particular importance in this area. Nevertheless, other aspects within the economic dimension must be given new emphasis. For example, the sports facilities should be considered at this point. Although sports facilities are of great importance for the promotion of physical activity, little attention has been paid to them so far. As municipalities are responsible for sports infrastructure, it is desirable to take greater account of sport at local level in Europe. The debate on the establishment of certain principles regarding the operation of sports facilities and sports infrastructures should be promoted by the EU. Such activities should be linked to the question of how these measures can be promoted and financed as part of a future implementation of sports infrastructure in the Structural and Regional Development Funds. The field of e-sports must be mentioned in more detail at this point. Regarding the controversial inclusion of e-sport, it is difficult to find a common

<sup>52</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103.

<sup>53</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103.

<sup>54</sup> COUNCIL 2011/C 162/01. *Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on a European Union Work Plan for Sport for 2011-2014 (2011/C 162/01)*. 1.6.2011.

position between the Member States in every respect. At this point, it would be desirable for the Member States to seek better coordination on the future status of e-sport.<sup>55</sup> This is of particular importance to enable both sports federations and authorities to develop future legal frameworks, in particular regarding doping and corruption issues. The results of the study "E-Sports Centres & Social Inclusion" will be of particular importance and must be considered. Furthermore, at this point, the European Green Deal should be highlighted.

In this regard, the areas of climate change and environmental degradation<sup>56</sup>, along with the Covid-19 pandemic, appear to be the most pressing global challenges coming to the fore. Strategies to meet these challenges are diligently outlined by the

<sup>55</sup> To learn more about the issue of environmental emergencies and taxation, please compare A. F. URICCHIO, *Emergenze ambientali e imposizione*, p. 321, in A. F. URICCHIO, M. AULENTA, G. SELICATO, *La dimensione promozionale del fisco*, 2015.

<sup>56</sup> There are different reactions of tax legislation with regard of the Member States within the European Union. In the anthropocentric vision that largely directs the understanding of the phenomenal world and the definition of the models of regulation 2, disaster is usually identified with the natural disaster, understood as a hydrometeorological event (floods, storms, cyclones), geological or geophysical (earthquakes, tsunamis, volcanic eruptions, landslides), biological (epidemics or contamination) suitable to cause human loss or serious damage to homes and productive activities. The state of serious pollution that characterises the city of Taranto has made it necessary to adopt emergency legislation to address the environmental emergency. The Legislator, however, has limited itself to providing stricter standards for polluting activities and to planning reclamation works, without introducing any fiscal measures. For a deeper understanding concerning solutions with regard of a taxation and European perspective Cfr. A.F. URICCHIO, *Il disastro ambientale di Taranto. Gli interventi finanziari e fiscali per fronteggiare il grave inquinamento*, in, *Rassegna Tributaria*, n. 1, 1° gennaio 2014, p. 44. Instead, it is necessary to promote a model of sustainable development, implementing also tax actions to address environmental emergencies and disasters: tax leverage is, in fact, a valuable tool to disincentive polluting productions and at the same time benefit both the economic activities engaged in the reclamation process and those affected by the effects of pollution. In this sense, the institute of the Zona Franca Urbana can represent a useful tool able to revive and redevelop urban districts characterised by serious phenomena of urban, social, and economic degradation while implementing strategies and development actions. The extent and injury to the economic sphere caused by natural events induces the legislator to intervene with subsidies of a financial nature or through tax advantages, redistributing, through general taxation, the costs of reconstruction. Measures to suspend tax or even clemential obligations usually accompany the aid itself in view of the exceptional and unforeseeable nature of the catastrophic event. So that, when nature rebels against man, he is ready to react by driving solidarity models of heterogeneous nature, ranging from subsidies, tax breaks, other funding from the public budget and can even ensure that taxpayers involved are subtracted, in whole or in part, from duties of a contribution nature. If, on the other hand, man violates nature 4, disrupting the fundamental ecological balances directly or indirectly, the reactions from the legal systems appear less immediate and intense. Environmental disasters of anthropogenic origin are often underestimated or even ignored to return to the center of attention on the unfortunate occasions when, accidentally, they add up to natural disasters (think the case of Fukushima in which the tsunami caused the accident to the nuclear reactor or violent floods whose consequences are amplified by uncontrolled deforestation, hydrogeological failure, or global warming of the planet) or when they produce exceptional damage. The deafness of human rapacity, in legitimising models of development that too often subordinate the protection of the environment to productive needs 5, leads to acceptance of the possibility of damage to ecosystems and health.

European Green Deal.<sup>57</sup> That is why sport should be given due consideration in appropriate activities. This could be done by integrating the sporting dimension of the Green Deal into EU programmes and projects.<sup>58</sup> From this point of view, the call for projects in the next scheduled Erasmus round should be at the top of the agenda. Calls to do so should seek to carry out an in-depth analysis of the impact of climate change on sport and, consequently, to analyse best practices both for the organisation of major sporting events and for local grassroots sport. Its financing should also recognise and exploit the potential of sport in terms of environmental education to increase the demand for sustainable sporting goods and services on the one hand and to raise awareness of environmental measures on the other.<sup>59</sup> Further policy recommendations along the political and urgency dimensions are also recommended as examples. Good governance is a very important point of reference. In the field of sport, good governance plays a central role due to the many critical developments of the past on the one hand and the growing importance of sports associations on the other. Despite the numerous initiatives taken at European level, there may be a lack of adequate monitoring and leadership of the related implementation activities. The European Commission stresses that funding is an important EU policy instrument for improving key areas of EU activities in sport; calls on the Commission to increase funding for sport under Erasmus+, paying particular attention to grassroots sport and education, and to increase the visibility and accessibility of sport so that it is increasingly taken into account in other funding programmes such as the ESI Funds or the Health Programme; calls for improved communication between the Commission and the Member States in order to make more effective use of these funds and to reduce the administrative burden on grassroots organisations. The Commission recommends that Member States create VAT<sup>60</sup> exemptions<sup>61</sup>, tax relief

<sup>57</sup> COM (2015) 614 final. *Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and social Committee and the Committee of the Regions Closing the loop - An action plan for the Circular Economy*. 2.12.2015.

<sup>58</sup> COM (2019) 640 final. *Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and social Committee and the Committee of the Regions, The European Green Deal* 11.12.2019.

<sup>59</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103.

<sup>60</sup> The Value Added Tax (VAT) is certainly the main tax in terms of revenue among the indirect taxes, governed by Decree No 633 of the President of the Republic of 26 October 1972 and subsequent amendments. Levied gradually, at the various stages of production and distribution of a good, is a consumption tax that is imposed on the final consumer and must not be affected by the number of steps a good takes before reaching the final consumer. Its assumption is the value added, i.e. the part of the value of a good or service that the undertaking adds with its activity, and which results from the difference between the value of the goods and services produced and sold by the undertaking and the value of the goods and services purchased by the undertaking and used in production. With VAT, therefore, an example of a perfect tax translation is realised: for all those involved in the production and distribution cycle of a good or service, the tax turns out to be a neutral transaction, except for the final consumer, who, by purchasing the goods or service to satisfy their own needs and not to sell it, pays the tax by taking the full burden. Transactions are considered to be subject to VAT when there are three

and other financial incentives for grassroots sport and actively use their respective tax systems to do so; considers that State aid rules should not apply to such support.

The most important and important goal is to achieve a culture of good governance in the long term. Consequently, the EU institutions should continue to give this area the highest priority, paying particular attention to implementation aspects. The main goal is to establish a culture of long-term good governance.<sup>62</sup> Both people and fundamental social rights attract particular attention in this context. Humanitarian aspects and social rights are increasingly coming into focus due to the organisation of major sporting events in emerging countries such as the BRICS countries, as well as the progressive commercialisation of sport and the role of the media that comes hand in hand with it. The EU sees itself as an advocate of values such as human dignity, fair play, freedom, democracy, equality, and the rule of law, which also play a role in sport. The EU should prioritise the prevention of such practices, given the increasing number of cases of physical, sexual, emotional, and psychological abuse of athletes in (top) sport systems. By ensuring the EU of activities and measures that result in a more athlete-oriented, non-threatening and non-hurtful (top) sports culture and behaviour, it could help to put a stop to such aforementioned practices. Regarding the implementation of such a sports policy, the EU institutions should insist that these values must also be considered when awarding major sporting events.<sup>63</sup> This could lead to European values being conveyed through sport at the same time. Superficially, attention should be paid less to the political instrumentalization of

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requirements — objective, subjective and territorial — and, in this case, are subject to all the requirements laid down in Title II of Presidential Decree No 633/1972. An interesting case is embodied by the "circulation" of the manufacturer's preliminary sales and VAT invoicing regarding the Italian legal order confront, P. PURI, *La "circolazione" del preliminare di vendita del costruttore e la fatturazione Iva*, in *Fondazione Nazionale del Notariato*, 1/2022, ISSN 2531-5315, according to whom, for the purposes of value added tax, the question is then made more complex by the taxable nature of the supply of the preliminary contract (even in the case of a supply free of charge) and the particular consequences that always for VAT purposes derive from the negotiation clauses normally used to overcome the problem of the supply of the contract. Of particular interest in these cases is the question of taxation with the consequent possibility of deduction and/or recovery of the tax paid on price advances at the time of the preliminary conclusion. Complications that — as we will see — we also find in some alternative figures that the application practice uses to achieve the same results.

<sup>61</sup> For an overview concerning the international taxation system please Cfr. V. UCKMAR, G. CORASANITI, P. de'CAPITANI DI VIMERCANTE, C. CORRADO OLIVA, *Manuale di diritto tributario internazionale*, Milano, Cedam ed., 2012, XXVI ss.; P. PISTONE, *Diritto tributario internazionale*, Torino, Giappichelli ed., 2017. Please also refer to G. CORASANITI, *Aggressive tax competition and State aid: brief considerations regarding the "Apple case"*, in *Proceedings of the Conference held in Rome at the Sapienza University of Rome on 19 February 2017*, P. BORIA (edited by), Milan, Cedam ed., 2018, p. 86; for an overview regarding the Italian permanent establishment in VAT Cfr. P. PURI, *La stabile organizzazione nell'Iva*, in *Riv. Dir. trib.*, 2/2000; P. PISTONE, *On Abuse and Fraud in VAT: Setting the Appropriate Boundaries for GAARs in the EU VAT System*, in M. LANG et al(eds.), *Improving VAT/GST - Designing a Simple and Fraud-Proof Tax System*, IBFD Publications, ISBN: 978-90-8722- 236-9, pp. 591-602.

<sup>62</sup> COUNCIL 2011/C 162/01. Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on a European Union Work Plan for Sport for 2011-2014 (2011/C 162/01). 1.6.2011.

<sup>63</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103 ff.



sport than to the sustainable development of sports diplomacy. The task of future European sports policy should be to further explore and test the possibilities of grassroots diplomacy. The representation of players and athletes can play an important role. In addition to the established Athletes' Commission, in recent decades their own interest groups have established themselves, especially in team sports, which represent the interests of athletes and players more independently. Through new forms of collective advocacy, athletes pursue the desire to realize professional goals and to meet the increased demands on social responsibility. In sport, therefore, against the background of the developments and problem areas briefly outlined here, an in-depth and up-to-date inventory of labour and social relations is urgently needed. In addition, the EU institutions should seek dialogue with the newly formed interest groups, while at the same time preventing uncontrolled growth. The European institutions have developed many sport-related activities in recent years, thus ensuring that they continue to develop their expertise within the institutions. This has also led to an expansion of sport-related structures within the institutions. In addition, to ensure a holistic approach, it would be necessary, in view of the importance of sport, to further develop the institutional expertise associated with sport on the one hand and the competences associated with it on the other.

Structures and resources are needed in the institutions to carry out permanent monitoring, to include the perspectives of all Member States and a greater number of sports federations, to place greater emphasis on sustainability and to improve the coordination that implemented these requirements. Sport seems to play a rather minor role at European level, given the social, health and educational impact of sport and the contribution of sport to GDP. Even in the literal sense, the fact that the word "sport" does not appear in the title of Mariya Gabriel, the Commissioner currently responsible for sport, seems to be an indication of this. Against this background, the importance of sport should be strongly considered on a symbolic level and the implementation of sport-related measures should be vigorously promoted. This can be achieved not least through the attention paid to sport by leading politicians such as the Commissioner responsible, the Head of the Directorate-General, the Presidencies, the Chairman of the CULT Committee and other parliamentary committees. An increase in funding for sport has recently been proposed under the current Multiannual Financial Framework. This increase is necessary in view of the impact and challenges of sport, but should be accompanied by an overarching agenda that clearly defines the results to be achieved and through which binding, independent monitoring system. This agenda would be given the important task of what results it should achieve and what binding independent monitoring system it would be subject to. Specific objectives can therefore be achieved by contributing



more efficient and targeted objectives and a more specific allocation across different sectors, rather than financing some activities. In this respect, the funding of sport through Erasmus+ cannot be regarded as a political act in itself. Given the impact of COVID-19<sup>64</sup> on organized sports, increasing funding seems even more necessary. At European level, the cancellation of events and competitions, the reduction of training courses, the loss of membership fees and sponsorship money, which are likely to lead to significant financial problems for the sports sector over a longer period, should also be recognised.<sup>65</sup> The general economic changes are likely to affect the economic situation of the sports industry in a variety of ways. It was to be expected that the demand for goods and services would decline due to unemployment, short-time work and/or fear of contagion. Due to a lack of transport facilities and lower demand, there could be a slump in exports. Supply could be significantly impacted by lockdown and social distancing measures, which would have an impact on employment across the industry in both the short and long term.<sup>66</sup> European sport policy regularly adopts sports policy strategies and measures. This often raises the question of which degree of support is efficient. The answer to this question depends on the expected costs and benefits.

Every economic assessment starts with a cost-benefit analysis. There are many different approaches to determining the economic effects of sport and sports strategies, for example impact studies, cost-benefit analyses, input-output analyses, cost-effectiveness analyses, social return on investment and contingent valuation

<sup>64</sup> The debate that attempts to portray the manner in which institutions respond, nowadays, to the more or less exceptional circumstances that can constitute real emergencies, such as COVID-19, cannot ignore the finding that, for many scholars of the modern state phenomenon, the management of risk and necessity, natural or social, is among the genetic factors, at the origin of every human aggregate, and therefore also of those particular forms of grouping that we now call with the expression "State", therefore also of the modern one. No one has ever doubted, it can be said, that emergencies arise, and that they require adequate answers, and this is probably among the motives that have led humans to aggregate and live together permanently; historical experience, however, has also shown that they can on the one hand be manipulated artificially, exaggerating certain events to bring them back within that class, and on the other hand, and consequently, to give rise to exceptional conditions that can allow, legitimise and make effective the improper alteration of the institutional balance. With regard of the COVID 19 impact on the improper alteration of the institutional balance Cfr. P. FORTE, *Caratteri della decisione pubblica di emergenza contemporanea*, in *L'Espresso*, 2021, p. 110 ss., according to whom, These are, in essence, the reasons why emergencies are considered dangerous, since, for the rest, they belong to the area of risk, an inevitable human condition, spent difficult and painful, but precisely — at least at the moment — not due, in itself, to the institutional arrangements, to the mechanics of sovereignty: no sovereign, neither enlightened nor divine, can guarantee the immunity of his people with respect to natural and social risks, while it is possible, as we will immediately see, to intervene to allow adequate reactions and, at the same time, to mitigate the dangers connected, precisely, to the manipulation and the extreme use of the emergency for the subversion of an order, of a balance.

<sup>65</sup> Confront with regard of the utility of an European sports dimension: EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, p. 103 ff.

<sup>66</sup> EUROPEAN COMMISSION, *Study on the Economic Impact of Sport through Sport Satellite Accounts*. Luxembourg: Publications Office of the European Union, 2018.

method. The term economic impact study is used on the one hand as a super-term for economic evaluations and on the other hand describes an independent economic evaluation instrument, which must be distinguished from other approaches. The main difference between an economic impact study and, for example, a cost-benefit analysis is that the former measures the additional income from, for example, a sports event, while the cost-benefit analysis focuses on the benefits for the inhabitants or the different types of costs.<sup>67</sup> Although the economic impact study can provide clues to the monetary value of the impact, a doctrine emphasizes that this is only hypothetical.<sup>68</sup> A cost-benefit analysis, on the other hand, makes this information available in real life.<sup>69</sup> There are two different approaches to impact analysis. The first approach focuses only on the money collected and ignores the fact that the residents have also spent money on event tickets, for example. It is believed that they would have spent the money even without the event. The second approach focuses on the additional income generated by the event.<sup>70</sup> A combination of both approaches can also be found in the literature. Cost-benefit analysis is one of the best-known instruments of economic evaluation.<sup>71</sup> It takes into account all possible costs and benefits (whether direct or indirect) and translates them into monetary values.<sup>72</sup> The presentation as a monetary value has the advantage that such a comparison to the return on investment can be drawn from other areas of economics.<sup>73</sup> By means of the cost-benefit analysis, quantifiable indicators of costs

<sup>67</sup> S. KÉSENNE, *The organization of European football and the competitive balance within and between nations*, in IASE Conference Papers 0518, International Association of Sports Economists, 2005.

<sup>68</sup> S. KÉSENNE, *The organization of European football*, 2005, p. 134.

<sup>69</sup> Preuss 2004; S. KÉSENNE, *The organization of European football*, 2005, p. 134; Crompton 1995

<sup>70</sup> new jobs, tax revenues; S. KÉSENNE, *The organization of European football*, 2005, p. 134.

<sup>71</sup> Cfr. P. A. ROBINSON, I.H. CAIRNS, *Stochastic Growth Theory of Type III Solar Radio Emission*, in, *Astrophysical Journal* v.418, 1993c, p.506.

<sup>72</sup> H. PREUSS, *Calculating the regional economic impact of the olympic games*, *European Sport Management Quarterly*, 4:4, 234-253, 2004, DOI: 10.1080/16184740408737479PREUSS; in order to understand the calculations regarding the translation of all possible costs and benefits into money values Cfr. M. KOVARSCHIK, Ch. WEIß, *An overview of Cache Optimization Techniques and Cache-Aware Numerical Algorithms*, 2003; A. ROBINSON, I. H. CAIRNS, D.A. GURNETT, *Clumpy Langmuir Waves in Type III Radio Sources*; Ch. SMEKAL, *Steuerpolitik in Deutschland und Österreich: 2 Nachbarn- verschiedene Wege?*, in V. ULRICH – W. RIED (eds.), *Effizienz, Qualität und Nachhaltigkeit im Gesundheitswesen*, Baden-Baden, 2007, 93 ss.; 1 BvR 16/13, ord. 6 November 2019; 1 BvR 276/17, ord. 6 November 2019.

<sup>73</sup> In this regard as mentioned above the monetary value entails the advantage that such a comparison relating to the return on investment can be strained from other areas of economics. Accordingly, after correcting for the main instrumental and selection effects, the thorough evaluations are strained between the Langmuir-wave properties, which have been predicted by the advanced stochastic-growth theory of type III sources and those recognised by the plasma wave experiment on ISEE 3. For a better economic and mathematical understanding Cfr. P. A. ROBINSON, I. H. CAIRNS, D.A. GURNETT, , *Clumpy Langmuir Waves in Type III Radio Sources: Comparison of Stochastic-Growth Theory with Observations* 1993a, in *Astrophysical Journal* v.407, p. 790; for an overview concerning digital services Cfr. M. BASSINI-G. FINOCCHIARO-O. POLLICINO, *L'UE verso il Digital Services Act: quale equilibrio tra democrazia e potere*; for an overview concerning the right to be forgotten Cfr. C.A. GIUSTI/ F.L. GIAMBRONE, *The relationship between European law and German law regarding the protection of the right*

and benefits can therefore be presented and possible alternatives can be evaluated so that decisions can be made.<sup>74</sup> However, the lack of available information is considered one of the biggest shortcomings of the cost-benefit analysis.<sup>75</sup> In contrast, the input-output analysis takes into account the exchange effects of different economic units. As a result, the results are limited to the direct economic influence.<sup>76</sup> Input-output analyses have been criticized for their rigidity, i.e., exclusion of factor restrictions, fixed costs and prices, and disregard for inactive macro effects.<sup>77</sup> Social return on investment (SROI) is an approach that measures the results of social investments. Decisions in sports policy (for example increasing sports participation) usually do not pursue monetary goals, but focus on health, social cooperation or improving the common good. It should be noted that only indicators that meet the SMART requirements (specific, measurable, attainable, realistic, timely) are used. SROI is seen as a management tool to support decision-making procedures.

The intangible benefits of sporting events and facilities can also be measured using the Contingent Valuation Method (CVM).<sup>78</sup> This method is particularly suitable for determining the values of public goods.<sup>79</sup> A hypothetical market is created by asking people about their willingness to pay for a particular circumstance (for example a country's success at the Olympic Games).<sup>80</sup> Although the analysis refers to a hypothetical scenario, this approach can still be used for rational decision-making technologies, since the method for example statements on the monetary valuation of an investment are possible. A representative study on the social relevance of top-class sport in German country showed that 72% of the people surveyed support a special support programme for German athletes and that a good two thirds (67.2%) would be willing to pay three euros a year for this funding programme. Almost a

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*to be forgotten as a fundamental right: the right to oblivion in the judgement of the German Constitutional Court "Right to be forgotten I" from a comparative point of view, in eu media laws, 2/2022.*

<sup>74</sup> M. D. BOOTMAN et al., The elemental principles of calcium signaling, 1979, [https://doi.org/10.1016/0092-8674\(95\)90179-5](https://doi.org/10.1016/0092-8674(95)90179-5).

<sup>75</sup> RUEDA-CANTUCHES, RAMIREZHURTADO, *A simple-to-use procedure to evaluate the social and economic impacts of sporting events on local communities*, *International Journal of Sport Management and Marketing* 2(5/6), January 2007.

<sup>76</sup> B. SÜSSMUTH, M HEYNE, "Economic Impact of National Sporting Success: The German Case," *IASE Conference Papers* 0608, *International Association of Sports Economists*, 2006.

<sup>77</sup> Although large-scale events are often supported by substantial public and private investment, the purported benefits for host communities, including residents and local businesses, have been questioned Cfr. L. Dwyer, P. Forsyth, *Public Sector Support for Special Events*, in *Eastern Economic Journal* (2009) 35, 481–499. doi:10.1057/ej.2009.31

<sup>78</sup> J. SIEGFRIED, A. ZIMBALIST, "The Economics of Sports Facilities and Their Communities." *Journal of Economic Perspectives*, 14 (3), 2000, 95-114.

<sup>79</sup> B. K. JOHNSON, J. C. WHITEHEAD, *Value of Public Good from Sports Stadiums: The CVM Approach*. *Contemporary Economic Policy*, 18, 2000, 48-58. <http://dx.doi.org/10.1111/j.1465-7287.2000.tb00005.x>.

<sup>80</sup> B. R. HUMPHREYS, *Alternative Measures of Competitive Balance in Sports Leagues*. *Journal of Sports Economics*, 3(2), 2002, 133–148.

third (29.5%) of those surveyed would spend more than three euros. Even abstract states such as the value of the first place in a medal table can be determined by means of a CVM study. A third of the people surveyed were willing to contribute to the first place in the medal table at the 2012 Summer Olympics in London. The amount of the contribution varied greatly between one and 500 euros. The average value was 17 euros per person.<sup>81</sup> These methods can evaluate the cost-effectiveness of European sports policy measures and sports promotion, and thus the economy can contribute to efficiency gains for greater efficiency. Which economic evaluation method for support of the decision-making process of sports strategies, however, depends both on the specific question and on the available data. The sport satellite accounts provide in this matter an important answer. At the level of the member states of the European Union as well as at the EU Commission, the need has increasingly been seen in recent years to have the economic importance of sport regularly determined by calculations based on macroeconomic calculations. The EU Commission therefore announced in the "White Paper on Sport" published in 2007 that a "satellite account for sport" should be developed at European level, which is based on the methodological approach practiced within the national accounts.<sup>82</sup> The White Paper on Sports of 2007 clearly states: "The Commission, in close cooperation with the Member States, will seek to develop a European statistical method for measuring the economic impact of sport as a basis for national statistical accounts for sport, which could lead in time to a European satellite account for sport." The "Vilnius Definition of Sport" clearly defined the production activities for which sport can be related within the classifications of economic statistics. In a comprehensive approach, far more than 400 activities relevant to sport were identified with the products assigned to them.<sup>83</sup>

These can be subdivided according to the following three differentiations of the concept of sport. The Statistical definition includes the "sporting activities" mentioned in NACE, Rev. 2 (classification of economic activities in the European Community) in economic sector 93.1 (for example clubs, associations, leagues, fitness centres). The Narrow definition has been established. In This matter all activities are necessary for the practice of sport (goods and services in the areas upstream of the value chain, including the manufacture of sports equipment, trade in sports goods, sports advertising); as well as all activities included in the "statistical definition". The Broad definition encompasses all activities that require sport as an advance payment, i.e., that are related to sport without being necessary for the practice of sport (goods

<sup>81</sup> C. BREUER & K. HALLMANN, *Unique selling proposition (USP)*, in LE Swayne & M DODDS (Hrsg.), *Encyclopedia of Sports Management and Marketing*, Bd. 4, Sage Publications, Thousand Oaks, Kalifornien, 2, 2011, S.1609-1611.

<sup>82</sup> Cfr. COM 2007.

<sup>83</sup> Cfr. SpEA 2007, Ahlert 2013.



and services on downstream markets, including sports tourism, sports media, sports nutrition); as well as all activities of the "narrow definition". The Sports satellite account developed for Germany is based on the broad definition of sport and on the recommendations for its development developed at European level. It considers the general methodological explanations for the creation of supply- and demand-side satellite accounts for other topics.<sup>84</sup> The importance of sport satellite accounts will be analysed in the next chapters. Moreover, the impact of Covid-19<sup>85</sup> on the sports sector through the adaption of sport satellite account will be generally introduced. Finally, the sport satellite account will provide for a general overview of the sports impact on the German economy through the application also of sport satellite accounts.

### 2.5 Covid-19 impact on the Sport sector

As stated by several European studies, lockdown measures, other restrictions, and the pandemic itself were most likely to have had a significant impact on the sports sector. It is expected that different sub-sectors will be affected to varying degrees, as there are different ways in which the sports sector can be affected by the current pandemic. However, corresponding sectors will be affected differently by the pandemic. These claims are based on a study carried out by the European Commission that would have had an impact on the foreseeable impact of the Covid-19 pandemic on a wide range of sectors closely linked to the sports sector in the future. Organisers, associations, clubs, athletes, local grassroots clubs, federations, coaches, and other employees are or may be affected by the Covid-19 pandemic in a variety of ways, as it has had a far-reaching impact on Member States' economies. The studies carried out by the European Union have summarised the following economic changes, which are set out in the following. The general economic changes

<sup>84</sup> EUROPEAN COMMISSION, *Study on National Sport Satellite Accounts (SSAs) in the EU- Technical Support at National level, Annex to Final Report*, 2021, p. 102 ff; FEDERAL MINISTRY FOR ECONOMIC AFFAIRS AND ENERGY, *The Economic Importance of Sport in Germany – Sports Satellite Account (SSK)*, 2018, p. 5 ff; see Annex 3 & European Communities et al. 2009, Ahlert 2013; C. SCHLOTTER, Chapter 18: Germany in Taxation of Entertainers and Sportspersons Performing Abroad (G. MAISTO (ed.), IBFD 2016), *Online Books IBFD* (accessed 26 August 2016 ); C. BUCICCO, *L'impresa nel diritto tributario. Introduzione al reddito d'impresa*, p.11-48, Rogiosi, ISBN:978-88-6950-464-8

<sup>85</sup> With regard of the COVID 19 impact on the improper alteration of the institutional balance Cfr. P. FORTE, *Caratteri della decisione pubblica di emergenza contemporanea*, in *L'Ircocervo*, 2021, p. 110 ss; For an in-depth analysis of inequality and prospects of citizenship with regard of Multiculturalism and integration features between constitutional principles and administrative measures please Cfr., F. ROTA, *Diseguaglianze e prospettive di cittadinanza. Multiculturalismo e integrazione fra principi costituzionali e misure amministrative*, in F. Cortese, G. Pelacani (a cura di), *Il diritto immigrazione. Studi sull'integrazione giuridica degli stranieri*, Napoli, Editoriale scientifica, 2017. According to the author the European Agenda on Migration takes the limits of European migration policy as a starting point and stresses that its success requires effective integration policies. As integration policies are primarily the responsibility of the Member States, the European Union intervenes by encouraging initiatives to promote integration and mutual trust.



are likely to have a different impact on the economic situation of the sports industry. Given that Member States were confronted with unemployment, short-time working and/or fear of contagion, it should have been assumed that demand for goods and services was declining. It was predictable that due to a lack of transport and lower demand, supply could be significantly affected by lockdown and social distancing measures, which would have an impact on employment in the sector both in the short and long term. Lower tax revenues and increased fiscal measures to directly address COVID-19<sup>86</sup> could impact the amount that can be spent on sports and infrastructure. This is likely to have different effects on organisations depending on the national and/or regional approach taken by the relevant government bodies to financial support. Furthermore, the dominant position of the cancellation of events must be emphasized. This leads to an immediate lack of revenue and directly affects the financial situation of sporting events, stadiums, and tourism. This would likely affect all levels of sport, both the professional and grassroots levels.<sup>87</sup> With regard to sponsorship money, initial indications were that they would be subject to a reduction in the short and possibly long term, as the economic downturn puts financial pressure on existing sponsors. Lower tax revenues and increased fiscal measures to directly address COVID-19 could impact the amount that can be spent on sports and infrastructure. This is likely to have different effects on organisations depending on the national and/or regional approach taken by the relevant government bodies to financial support. Furthermore, the dominant position of the cancellation of events must be emphasized. Multiple reports have been made several times about potential impacts on sports tourism, as both the cancellation of events and the pandemic and the associated lockdown measures affect the ability and willingness of individuals to travel and attend events.<sup>88</sup> Both the production and retail of sporting goods and equipment are affected by general economic trends, such as the closure of production facilities and retail. Several measures and initiatives have been recommended or implemented due to the likely serious impact of the pandemic on all areas of the sports sector.

Prior to this investigation, the organisations involved in the SHARE initiative<sup>89</sup> had prepared a position paper on the impact of COVID-19<sup>90</sup> on the sport sector, in which they encouraged EU and Member State authorities and sport stakeholders to rapidly

<sup>86</sup> With regard to the COVID 19 impact on the improper alteration of the institutional balance Cfr. P. FORTE, *Caratteri della decisione pubblica di emergenza contemporanea*, in *L'Ircocervo*, 2021, p. 110 ss.

<sup>87</sup> COM, *Mapping study on measuring the economic impact of COVID-19 on the sport sector in the EU*, 2020, p. 14 ff.

<sup>88</sup> European Economic Forecast: Summer 2020 (Interim). Available at: <https://ec.europa.eu/info/sites/info/files/economy-finance/ip132>.

<sup>89</sup> COM, *Mapping study on measuring the economic impact of COVID-19*, 2020, p. 14 ff.

<sup>90</sup> With regard to the COVID 19 impact on the improper alteration of the institutional balance Cfr. P. FORTE, *Caratteri della decisione pubblica di emergenza contemporanea*, in *L'Ircocervo*, 2021, p. 110 ss.

implement a series of support measures for the sport sector.<sup>91</sup> In order to assess the impact of COVID-19<sup>92</sup> on the sport sector and to enable a transnational exchange of information, questionnaires were sent to all participants of the Working Group on Sport in the Member States. This included access to comprehensive information on how the pandemic can affect the sector, on specific measures for the sports sector to limit the spread of COVID-19, on possible approaches to maintain training and preparation of athletes, on national and EU measures to support the sector in coping with the negative effects of the pandemic, on issues related to the functioning of national associations and sports clubs, on steps to resume activities after the pandemic and on examples of the use of EU funds to support the sports sector.<sup>93</sup>

#### *2.6.1 Update of sports satellite accounts, national projections, and Economic survey*

Sports satellite accounts or sports satellite systems can play a very important role as they help to provide a detailed statistical framework for measuring the economic importance of the sports sector. This considers elements that would otherwise remain invisible, as they are included as part of other sectors. An input-output table (IOT) or a quotation and usage table are used as core elements of each SSA. The IOT tables used by the EU and the Member States are specifically tailored to sport and are referred to as the Multiregional Input-Output Table for Sport (MR-IOT:S). This is a sector-specific data set that considers the flow of intermediate goods and services in the EU-28.

Analyses were carried out furthermore to produce national and sectoral projections (on a sectoral basis) for 2020. Both the effects on the supply side (for example production shutdown, closure of shops or hotels, cancellation of events) and on the demand side (for example lower foreign trade) were considered. It also considered the nature of the first steps taken by Member States to combat the pandemic, their duration, and their impact on individual sectors. An online economic survey of the relevant stakeholders was conducted. The aim pursued was to substantiate the economic analysis with practical insights, to give an indication of the current situation in the sports sector, to supplement the results of the economic analysis and to obtain additional information that is not visible elsewhere (for example, share of online sales or membership in a business cluster or network). The results should not be representative of a sector or a country.

<sup>91</sup> Position Paper on the Impact of the COVID-19 Crisis on the Sport Sector. Available at: <https://euoffice.eurolympic.org/blog/eoc-eu-office-coordinates-multi-stakeholder-covid-19-position-paper-asking-eu-support-sport>.

<sup>92</sup> With regard of the COVID 19 impact on the improper alteration of the institutional balance Cfr. P. FORTE, *Caratteri della decisione pubblica di emergenza contemporanea*, in *L'Arcocervo*, 2021, p. 110 ss.

<sup>93</sup> COM, *Mapping study on measuring the economic impact of COVID-19*, 2020, p. 14 ff.

### 2.6.2 *Perceived Economic Impact of COVID-19*

As can be induced from this chapter, the economic impact of COVID-19 on the sports sector is considerable. With the introduction of social distancing measures to limit the spread of COVID-19, the way and extent to which sports activities at professional and grassroots level can take place has been severely affected. The resulting disadvantages for athletes, sports clubs, broadcasters, retailers, freelancers, and sports associations are clearly noticeable. Stakeholders at the professional and grassroots level have identified several effects of the COVID-19 pandemic. Several professional leagues and activities were forced to suspend or cancel their activities within Europe. This measure was taken with the purpose of halting the spread of the virus. This measure, taken because of Covid-19, is to be regarded as a significant impairment of professional sport. Furthermore, stakeholders have recognised and defined several key burdens that, at their discretion, are likely to have a significant impact on professional sport. At this point, the uncertainty regarding the national and international competitions should be mentioned, which is able to limit the smooth running of day-to-day business in the planning and implementation of games and events. Furthermore, stakeholders are faced with the challenge of managing budgets, which was set up against the background of a sports calendar that is no longer up-to-date today. As a result of cancelled or postponed events, both lost or reduced business relationships and everyday lower investments can be found. Due to the cancellation of several events, it is therefore also to be expected that there will be missed tickets and broadcasts. This is also accompanied by a lower commitment of the fans.<sup>94</sup>

### 2.6.3 *Sport satellite accounts: the German example*

Sport is an important leisure activity for many people. Whether actively engaged as a recreational sport or passively pursuing as a spectator of sporting events, the enthusiasm for sports leads to many expenditures, such as sports equipment and clothing or entrance fees when attending sporting events. At the same time, the passive interest of citizens in sports and thus also their consumer behaviour is stimulated by top-class sport. The latter repeatedly catches the eye at international sports competitions such as European and World Championships with the successful participation of top German athletes. However, top-class sport itself can only develop successfully from a diverse and high-quality range of services and infrastructures for organised and non-organised grassroots sport. In Germany, this is

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<sup>94</sup> COM, *Mapping study on measuring the economic impact of COVID-19 on the sport sector in the EU*, 2020, p. 14 ff.

done by sports clubs, sports, and urban planning in the public sector, during school sports and, increasingly, by private sector providers.<sup>95</sup>

For fact-based advice on sports policy and sports practice, scientific support is of fundamental importance. The Federal Ministry of Economics pursues the goal of providing decision-makers in sports policy and sports practice with valid data material. Since autumn 2020, the economic statistics for the reporting years 2016 and 2017 have been available. Sports Satellite Account has been available for the reporting years 2016 and 2017 in the form of detailed revenue and expenditure tables of the national accounts. While updating this Sport satellite account, the very detailed survey results of the representative survey on sports-related consumer spending conducted in 2018 were incorporated. In addition, the project team updated the sports-specific data on sponsorship, advertising, and media rights<sup>96</sup> and on sports facility construction<sup>97</sup> for the reporting period. In this report, the results of the Sport satellite account for the years 2010 to 2017 are based on a very detailed overall calculation procedure. For the reporting year 2018, only an update will be made, as a complete overall calculation is not yet possible. The progress makes use of the sports economics project data already available for the 2018 reporting year and connects them consistently with the data wreath of the overall economic accounting.<sup>98</sup> The development of the economic importance of sport in the reporting period 2010 to 2018 is influenced in particular by the following influencing factors: From a sporting perspective, the two mega-events in 2012 are particularly noteworthy: The Summer Olympics in London and the UEFA European Football Championships took place in Poland and Ukraine. The latter was then held in 2016 in neighbouring France.<sup>99</sup> Major sporting events, if they take place in directly

<sup>95</sup> Ibidem.

<sup>96</sup> Cfr. I. an der HEIDEN, F. MEYRAHN, S. HUBER, G. AHLERT, H. PREUß, *Die wirtschaftliche Bedeutung des Sportstättenbaus und ihr Anteil an einem zukünftigen Sportsatellitenkonto. Forschungsbericht (Langfassung)* im Auftrag des Bundesministeriums für Wirtschaft und Technologie (BMWi). Mainz, 2012.

<sup>97</sup> Ibidem.

<sup>98</sup> specialist series 18 / series 1.4.

<sup>99</sup> EU- COMMISSION, *Study on National Sport Satellite Accounts (SSAs) in the EU- Technical Support at National level*, Annex to Final Report, 2021, p. 102 ff; Recent data indicates that EU workers residing in another EU Member State have increased from 4.7 million in 2005 to 8 million in 2013. See L. Andor, *Labour Mobility in the European Union - The Inconvenient Truth* (European Commission 2014), available at [http://europa.eu/rapid/press-release\\_SPEECH-14-115\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-115_en.htm). The increasing mobility of individuals inside the European Union has led to some distinguished scholars arguing in favour of the cross-border fractional allocation of income in each Member State. See K. van Raad, *Fractional Taxation of Multi-State Income of EU Resident Individuals – A Proposal*, in *Liber Amicorum Sven-Olof Lodin* p. 211 et seq. (K. Andersson, P. Melz & C. Silfverberg eds., Wolters Kluwer 2001); M. Mössner, *Source versus Residence- An EU Perspective*, 60 *Bull. Intl. Taxn.* 12 (2006), *Journals IBFD*; and P.J. Wattel, *Progressive Taxation of Non-Residents and Intra-EC Allocation of Personal Tax Allowances: Why Schumacker, Asscher, Gilly and Gschwind Do Not Suffice*, 40 *Eur. Taxn.* 6, sec. 5 (2000), *Journals IBFD*. For a recent analysis of the possible solutions to tax obstacles caused by different concepts of tax residence among member states, see F. Pitrone, *Tax Residence of Individuals within the European Union: Finding New Solutions to Old Problems*, 8 *World Tax J.* (2016), *Journals IBFD*.

neighbouring European countries, can also trigger positive economic knock-on effects at home. This also applies to the 2016 Summer Olympic Games in Rio de Janeiro and to the two Football World Cups in Brazil (2014) and Russia (2018).

The early elimination of the German national team from the FIFA World Cup in Russia has also reduced the event-related economic effects in Germany to a minimum. From an economic perspective, the reporting period will be massively influenced by the negative effects of the EU debt crisis, which temporarily slowed down the overall economic growth system of the German economy and brought with its deflator tendencies, some of which continue to this day. This development has also left its mark on the sports industry, as competition has intensified even further in these years (including low-budget gyms, Black Friday promotions in the retail trade) and consumer behaviour has changed (for example Internet shopping, digital media).<sup>100</sup> At the same time, the export-strong sectors of the manufacturing industry in particular benefited from the difficult global economic situation by being able to massively increase their exports as well as their imports. For example, imports and exports in the product group "Textiles, Clothing, Leather and Leather Goods", which is relevant for sportswear, increased by more than 30% between 2010 and 2018. In the reporting period, both positive and negative effects on sport as a cross-sectional wasteland thus had an economic impact. However, it turns out that the service-oriented sports industry is currently "weakening" compared to the export-oriented industrial economy (and the closely related business-related services) associated with it. Between 2010 and 2018, the contribution of sport to gross domestic product (GDP) fell by -0.3 percentage points from 2.6% in 2010 to 2.3% in 2018. In absolute terms, however, the sport-related contribution to GDP increased by +9.4 billion from EUR 66.7 billion in 2010 to EUR 76.1 billion in 2018. Especially at the end of the reporting period at the current edge in 2018, the sport-related GDP was able to achieve a slightly stronger growth of +8.6%, while the entire economy only recorded an increase of +7.1%.

#### 2.6.4 Consumption

<sup>100</sup> EU- COMMISSION, *Study on National Sport Satellite Accounts (SSAs) in the EU- Technical Support at National level*, Annex to Final Report, 2021, p. 102 ff; Federal Ministry for Economic Affairs and Energy, *The Economic Importance of Sport in Germany – Sports Satellite Account (SSK)*, 2018, p. 9 ff; I. FELICETTA, M. GUIDO, "E-Marketing by energy companies", da pag. 1034 a pag. 1046 (pagg. 13), in Demetris Vrontis, Yaakov Weber, Evangelos Tsoukatos (Eds), *Conference readings book proceedings, 9th Annual Conference of the EuroMed Academy of Business: Innovation, Entrepreneurship and Digital Ecosystems*, Varsavia, 14-16 settembre 2016, EuroMed Press: Cyprus (ISBN: 978-9963-711-43-7) (open source: <http://emrbi.org/wp-content/uploads/2016/08/euromed2016bof.pdf>). Partecipazione in virtual conference. Indicizzato in Isi/Wos, accession number WOS: 000390841500079



Sport-related consumption in Germany is most strongly determined by household consumption expenditure, both due to active sporting activity and general passive interest in sport. At around EUR 71.4 billion, this is the largest use component of the final demand for sport-related goods and services in 2018, sports accounted for a good percentage of all household final consumption expenditure. In the period under review, there was an absolute increase in demand for sport-related goods and services. The period from 2014 to 2016 was characterised by general consumer restraint. As a result, many of the sport-relevant goods prices have developed only very weakly – some even declining. Consumers were able to afford some of their sports-related activities and interests for less money and only slightly increased their overall sports-related consumption. The weak price development has somewhat slowed down the longer-term growth momentum of sports-related consumption by private households. This applies in particular to the beginning of the reporting period in the years 2010 to 2012. It was only at the end of the reporting period from 2016 to 2018 that it became apparent that sport-related consumption grew faster than the total sum of private households.<sup>101</sup> Government consumption for sports purposes amounted in 2018. This is about 2.2% of government consumer spending. This share declined slightly over the entire reporting period. However, due to the steady growth in government consumer spending, there is nevertheless an absolute increase in sport-related consumer spending by the state. These include such sport-related benefits of the local authorities (federal, state and local governments as well as social insurance), which are made available to citizens as social benefits in kind (for example within the framework of statutory health insurance) or without special remuneration as non-individualizable consumer expenditure (collective consumption, for example expenditure on school, popular and top-class sport).

#### 2.6.5 Investments

The monitoring carried out for the reporting period 2010 to 2018 thus shows that sport-related government consumption has developed somewhat more slowly compared to general government consumption. Especially at the end of the reporting period in the years 2016 to 2018, the state measures because of the high immigration of refugees stimulated general state consumption.<sup>102</sup> Overall demand for

<sup>101</sup> EU- COMMISSION, *Study on National Sport Satellite Accounts (SSAs) in the EU*, 2021, p. 102 ff; FEDERAL MINISTRY FOR ECONOMIC AFFAIRS AND ENERGY, *The Economic Importance of Sport in Germany*, 2018, p. 9 ff.

<sup>102</sup> EU- COMMISSION, *Study on National Sport Satellite Accounts (SSAs) in the EU*, 2021, p. 102 ff; FEDERAL MINISTRY for ECONOMIC AFFAIRS AND ENERGY, *The Economic Importance of Sport in Germany*, 2018, p. 9 ff; F. L. GIAMBRONE, "Aspekte des neuen italienischen Scheidungsrechts: "verkürzte Scheidung" und die damit in der Lehrmeinung einhergehenden Auslegungsprobleme", in: MÜHF - HAD, C.22, S.2, 2016 ( Rivista dell Università Marmara), eissn=2529-0142. For an overview related tot he topic of the controlled foreign company legislation Cfr. P. PISTONE, G. KOFLER, M. LANG, J. OWENS, A. RUST, J. SCHUCH K. SPIES, C. STARINGER (eds.), *Controlled*

investment developed significantly positively from 2010 to 2018 due to the gradual revival of the global economy, with a reduction in investment in equipment and a very buoyant domestic construction industry because of low interest rates. This is particularly evident at the end of the reporting period in 2018 with strong growth. By contrast, sports-related investment demand declined in the reporting period from 2010 to 2018. This is primarily since in the years 2009 to 2011 sport was also subsidized by government measures to stabilise the economy.<sup>103</sup> During the three-year period, a great package of money has been evaluated worth of funds from the economic stimulus package II was used to modernise the sports equipment. From the 2012 reporting year, however, it can be observed that the lower annual investment budgets regularly set in favour of sports infrastructure investments will again be realised, bringing the company closer to the level before the crisis in 2008. In addition, in the first years after 2011, sport-related investment activity initially declined because of increased government fiscal consolidation efforts during the implementation of the National Stability Programme. Only at the end of the reporting period in the years 2016 to 2018 will a slight revival take place. Sport-related investment demand grew by in 2018. However, it cannot thus follow up with the overall economic investment momentum. One reason for this is also different price developments. At the end of the reporting period, it can be observed that sports infrastructure investments recorded a weaker price increase in contrast to other investments.

#### 2.6.6 External Balance

Exports of sports goods will be characterised by extraordinary momentum throughout the reporting period and amounted increasingly in 2018. Compared to 2010, this represents a strong increase of 138.4% or EUR 3.4 billion and shows that in recent years German suppliers of sports goods have been able to massively expand their competitive position in international trade. As expected, however, significantly more goods and services are imported into Germany due to the direct demand from sports-related activities. In 2018, the import of sports-related goods accounts for approximately 2.0% of all imported goods. This represents a significant increase compared to 2010. As a result, the external balance of sport as a balance of sport-specific exports and imports is developing negatively due to the continuous increase in import surpluses in the reporting period because of the continuing globalisation of

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*Foreign Company Legislation*, vol. 17 WU Vienna European and International Tax Law and Policy Series, ISBN: 978-90-8722-644-2, IBFD, 2020.

<sup>103</sup> EU- COMMISSION, *Study on National Sport Satellite Accounts (SSAs) in the EU*, 2021, p. 102 ff; FEDERAL MINISTRY FOR ECONOMIC AFFAIRS AND ENERGY, *The Economic Importance of Sport in Germany*, 2018, p. 10 ff; M. TENORE, "Chapter 19: Italy in Taxation of Entertainers and Sportspersons Performing Abroad", in G. MAISTO (ed.), *IBFD 2016*, Online Books IBFD (accessed 26 1 August 2016), available on [www.ibfd.org](http://www.ibfd.org).

the goods markets. It thus makes a significant contribution to the comparatively weak development of sport-related gross domestic product, despite rising sport-related consumer spending.<sup>104</sup> As a result, the sports industry covered by the Sport satellite account grew compared to 2010. At the end of the reporting period, the growth momentum in production increased significantly. Of course, this is due to the previously mentioned solid development of sport-related final demand in the period 2016 to 2018. Despite the absolute increase in sport-specific production over the entire reporting period, this nevertheless represents a decline in relation to overall economic production. Their dynamism is significantly "slowed down" by the continuous increase in sport-related imports. Goods from the manufacturing industry account for about a good percentage of the total sport-specific production. This share does not include the sport-specific services of the construction industry. A great percentage of sport-related production activities can be attributed to retail. As expected, the half of the total sport-related production is accounted for by service providers. These consist of the services of the transport and hospitality industry, the services of the sector "Banking and insurance, real estate and business-related service providers," services of the sector "Information and communication" and the services of public and personal service providers." Other economic sectors" cover activities and the products assigned to them by those sectors of the economy which are in demand due to sport but do not have product characteristics of sport, including products of the chemical industry (for example detergents and cleaning agents), services of the finishing industry, services of the motor vehicle industry and petrol stations as well as products of information and communication technology (ICT).

#### 2.6.7 Taxes and Gross Value added

As a result of the sport-related provision of services, companies paid net property taxes of around EUR 9.5 billion to the state in 2018. Less the subsidies paid, these include non-deductible sales tax, import duties and other taxes on products. Sport-related revenue from net goods taxes accounts for 2.9% of total revenue and develops declined slightly in the reporting period 2010 to 2018 – in parallel with the sport-related share of total economic production – at -0.3 percentage points.<sup>105</sup>

The weaker dynamics of sport-related production compared to the overall development of production is also reflected in the development of gross value added. In 2018, out of EUR 3,024.4 billion of gross economic value added, EUR 66.6 billion was related to sport. Although sport-related value added has increased by

<sup>104</sup> EU- COMMISSION, *Study on National Sport Satellite Accounts (SSAs) in the EU*, 2021, p. 102 ff; FEDERAL MINISTRY FOR ECONOMIC AFFAIRS AND ENERGY, *The Economic Importance of Sport in Germany*, 2018, p. 9 ff.

<sup>105</sup> EUROPEAN COMMISSION (2021), *Study on National Sport Satellite Accounts (SSAs) in the EU*, 2021, p. 102 ff; FEDERAL MINISTRY FOR ECONOMIC AFFAIRS AND ENERGY, *The Economic Importance of Sport in Germany*, 2018, p. 14 ff.

EUR 8.3 billion since 2010, the share of sports economic value added in the overall economic value added still fell by -0.3 percentage points in the reporting period. In 2018, sport-related performance accounted for a good percentage of the total economic gross value added. It also becomes clear how sport as a cross-sectional economic activity generates value creation contributions in the various economic sectors. Due to sectoral differences in the value-added shares of production, there are shifts in the proportional shares. This primarily benefits the "Public and Personal Service Providers" division, which has a higher value creation intensity in the product process and uses significantly fewer services.

## 2.7 Conclusions

In 2007, it was decided to draw up the "Satellite Account for Sport" at European level according also to the White Paper on Sport (COM 2007). Results are now available for Austria, Cyprus, Poland, the United Kingdom, the Netherlands, Portugal, and Germany. At the international level, comparable key figures on sport-based employment, gross value added and consumption are discussed.

Through the studies promoted at national level it is possible to classify the sports satellite account results for Germany in the European context. Detailed national sports satellite account studies are currently available for seven EU Member States. Beyond the now outdated results for Cyprus, Poland, and the Netherlands, which were obtained in pilot studies, the sports satellite account results have been updated in the other EU countries. However, only for Germany comprehensively and regularly collected data on sport-related consumer behaviour are included in the sports satellite account calculations. As a rule, the lack of data based on the primary statistics leads to an underestimation of the economic importance of sport and makes an explanatory contribution to the very different shares of consumption and value added.<sup>106</sup> Although within the calculations for the German sports satellite accounts, the sport-specific expenditure of private households and investors in sports facilities according to the Vilnius definition of sport is primarily based on statistics, neither the value added nor the employment share of sport assumes a surprisingly high value

<sup>106</sup> EU- Commission (2021), Study on National Sport Satellite Accounts (SSAs) in the EU- Technical Support at National level, Annex to Final Report, p. 102 ff; Federal Ministry for Economic Affairs and Energy, The Economic Importance of Sport in Germany – Sports Satellite Account (SSK) 2018, p. 14 ff; For an overview related to the topic of the controlled foreign company legislation Cfr. P. PISTONE, G. KOFLER, M. LANG, J. OWENS, A. RUST, J. SCHUCH K. SPIES, C. STARINGER (eds.), *Controlled Foreign Company Legislation*, vol. 17 WU Vienna European and International Tax Law and Policy Series, ISBN: 978-90-8722-644-2, IBFD, 2020; Cfr. C. BUCICCO, *Problematiche e prospettive della tassazione dell'economia digitale* p.255-286 in *Diritto e Processo Tributario dialogo tra le Corti*- ISSN:2421-2385 vol. 3/2019; L. U. ROSSETTI and M. GUIDO, "The contribution margin in commercial companies of furniture. Some Considerations From the Italian Context", da pag. 1824 a pag. 1838 (pag. 15), in Demetris Vrontis, Yaakov Weber, Evangelos Tsoukatos (Eds), *Conference readings book proceedings, 8th Annual Conference of the EuroMed Academy of Business: Innovation, Entrepreneurship and Sustainable Value Chain in a Dynamic Environment*, Verona, 16-18 settembre 2015, EuroMed Press: Cyprus (ISBN: 978-9963-711-37-6)



and can plausibly be justified from a methodological, economic and sports institutional perspective. In addition, there are two studies published by the EU Commission,<sup>107</sup> which contain results for all EU member states on the national employment and value-added shares of sport for the reporting years 2012 and 2020. For many countries, the corresponding calculations are carried out according to a simplified and primarily supply-side methodology, which in the empirical foundation refers almost exclusively to freely available data.<sup>108</sup> Unfortunately, the authors of the studies published in autumn 2018 and 2020 present outdated unrevised values for Germany. The regular sports satellite account monitoring established in Germany with this research project is in line with definitions and methodological recommendations agreed at international/European level. Monitoring makes a central contribution to the provision of reliable and traceable data for fact-based advice on sports policy and practice. However, this is only possible because unpublished detailed data from the Federal Statistical Office as well as sport-specific primary surveys carried out specifically for this purpose within the research project can be used.<sup>109</sup>

### *2.7.1 Key findings and recommendations regarding a future framework of European sports policies and politics.*

The Treaty of Lisbon is credited with the important function of having functioned as an important milestone in terms of sport policy and related measures in Europe. In 2009, the adoption of the Treaty on the Functioning of the European Union (TFEU) gave the EU a legal basis for shaping European sports policy. This gave the EU explicit power to act in the field of sport. Since Lisbon, the EU has been responsible for supporting and coordinating activities in the field of sport, but it cannot take measures to standardise or shift competences. First and foremost, the adoption of soft policies, such as the promotion of exchanges and values in sport or the development of the European dimension of sport, concern the main objective of the current sport policies of the EU institutions.<sup>110</sup> This is particularly reflected in distributive measures and the allocation of goods and resources. Furthermore, the implementation of EU sport policy, despite the limited formal extension of the EU's

<sup>107</sup> European Commission 2018 & 2020.

<sup>108</sup> EUROPEAN COMMISSION (2020), *Mapping study on measuring the economic impact of COVID- 19 on the sport sector in the EU. A report to the European Commission. Final report. Written by Ecorys and SportsEconAustria (SpEA)*, Luxembourg.

<sup>109</sup> EUROPEAN COMMISSION, *Study on the Economic Impact of Sport through Sport Satellite Accounts. Research Report. Study carried out by SportsEconAustria Institute of Sports Economics & Sheffield Hallam University Sport Industry Research Centre*, Luxembourg, 2018.

<sup>110</sup> EU- KOMMISSION, *Studie für den Ausschuss für Kultur und Bildung- EU- Sportpolitik: Bewertung und mögliches künftiges Vorgehen*, 2021, p. 1 ff.



competences, represented a fundamental step towards the European dimension of sport. At this point, it must be noted that the number of public and private actors involved is constantly increasing. It covers more and more sectors and policy areas, and better funding and increasingly complex forms of advocacy help to highlight the main characteristics of the dynamism and growth associated with sport at European level. While the demand for priorities and appropriate forms of coordination has increased, both European sport policy and the associated measures have been characterised by ongoing growth and differentiation processes over the past ten years. EU sport policy encompasses activities that can be ordered to the EU institutions and the Member States, as well as the activities of European sports federations and other European interest organisations and national sports organisations.

The persistent horizontal differentiation between public and private actors is arguably an important feature that is coming to the fore, helping to distinguish sports policy and the measures that go with it. To influence sport in Europe, since the 1990s, increasingly private actor sports associations have been set up at European level. While European sports federations made sport-related decisions largely independently for many years, leagues and clubs, player and coach representatives, player advisors and various agencies are now also involved in the corresponding process. Both sectoral growth and differentiation should be highlighted as a second essential feature of European sport policy, in addition to the number of actors involved. Today, there are hardly any sport-related sectors that are not covered by activities at European level. This chapter seeks to pursue the objective of examining relevant policy areas in the light of four structural dimensions, namely an economic dimension, a social and cultural dimension and an overarching dimension that points to urgent challenges. The fact that the procedures and opportunities for participation in decision-making in the field of sport have become increasingly complex can be attributed to an increasing number of actors with a wide variety of interests. The fact that there are increased activities at European level and more stakeholders has led to an increasing differentiation of procedures in sport policy. The Member States are committed to European sport policy and contribute constructively to it, especially in the Council. Initially, they were not sure about transferring sports competences to the EU, but in many ways, they had recognised the benefits of Europe-wide coordination of public interests in sport, beyond direct access to federations.<sup>111</sup> European sport policy and related measures are not defined

<sup>111</sup> EU- COM, *Mapping of innovative practices in the EU to promote Sport outside of traditional structures*, 2020, p. 71; For an overview related to the topic of the controlled foreign company legislation Cfr. P. PISTONE, G. KOFLER, M. LANG, J. OWENS, A. RUST, J. SCHUCH K. SPIES, C. STARINGER (eds.), *Controlled Foreign Company Legislation*, vol. 17 WU Vienna European and International Tax Law and Policy Series, ISBN: 978-90-8722-644-2, IBFD, 2020; cfr. C. BUCICCO, *Problematiche e prospettive della tassazione dell'economia digitale* p.255-286 in

institutionally, procedurally, or sectoral, but are subject to ongoing changes due to individual decisions. The fact that more attention is being paid to sport at European level has led to a central commonality of all actors, but not to uniform reaction patterns and adaptation processes. It appears that there is a split in the relationship between the interests of traditional (non-profit) sports organisations and commercial providers in the sector, although at this point the conflict arising from autonomy and interference remains. The debate on the future of the European model of sport and its specificity, which is based on the principles of solidarity, inclusiveness, and volunteering, seems to be playing an important role in the light of the Commission's decision on the International Figure Skating Federation and the recent related judgment of the Court of Justice of the European Union. Although interinstitutional cooperation between the Council, the Commission and Parliament in the field of sport has become more structured, there is still a lack of regular cooperation on formal arrangements and procedures.<sup>112</sup> Some recommendations can be drawn here regarding the future of European sport policy and the measures that go with it. At this point, it is advisable to review the area in terms of coordination and cohesion and to take a more holistic approach. Since the Treaty of Lisbon became legally binding, European sport policy and the measures that go with it have been redefined and further developed over the last ten years. This ongoing differentiation has by no means contributed to greater visibility and efficiency and thus in no way promoted the (output) legitimacy of European sports policy. An improvement in the coordination of European sport policy would therefore be advisable. Both intra-institutional and interinstitutional cooperation need to be improved. Sport federations and professional stakeholders in the field of sport, as well as the Member States, should be consulted more closely. For sport to be included in political, economic, and social development strategies and programmes, it is advisable to strive for structural adjustments in the interests of general refinement. Exploring wider cross-sectoral links and mainstreaming sport in other relevant EU policies is essential for greater cohesion in this first key area.

The buzzword of good governance is particularly desirable in this context. Although numerous activities and projects have already been launched at European level, there is a lack of monitoring and support for the relevant implementation activities. Therefore, the EU institutions should continue to give high priority to this area, while paying particular attention to implementation aspects. The most important goal is to establish a culture of good governance in the long term. In view of the numerous

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Diritto e Processo Tributario dialogo tra le Corti- ISSN:2421-2385 vol. 3/2019; L. U. ROSSETTI and M. GUIDO, *"The contribution margin in commercial companies of furniture. Some Considerations From the Italian Context"*, da pag. 1824 a pag. 1838 (pagg. 15),

<sup>112</sup> EU-KOMMISSION, *Studie für den Ausschuss für Kultur und Bildung- EU- Sportpolitik: Bewertung und mögliches künftiges Vorgehen*, 2021, p. 1 ff.

critical developments in sport in the past and in view of the great importance of sports federations, good governance is of central importance. In recent decades, in addition to the established Athletes' Commission, separate interest groups have been formed, which represent the interests of athletes and players more independently. That is why the representation of players and athletes is of dominant importance. The central goal of the various activities is the desire of the athletes to realize professional goals through new forms of collective representation of interests and to meet the increased demands on social responsibility. A deeper and up-to-date inventory of labour and social relations in sport is urgently needed in view of the above-mentioned problem areas.

In addition, the EU institutions should seek dialogue with the newly formed stakeholders. Humanitarian aspects and social rights are increasingly coming to the fore due to the organisation of major sporting events in emerging countries, such as the BRICS countries, as well as the progressive commercialisation of sport and the stronger role of the media. At this point, the special position of human rights and fundamental rights must be emphasised. The EU sees itself as an advocate of values such as human dignity, fair play, freedom, democracy, equality, and the rule of law; these values are also important in sports.<sup>113</sup> The EU sees itself as an advocate of values such as human dignity, fair play, freedom, democracy, equality, and the rule of law; these values are also important in sports.

In view of the increasing cases of physical, sexual, emotional, and psychological abuse of athletes in (elite) sports systems, the EU should give priority to the prevention of such practices.<sup>114</sup> This objective can be achieved by supporting activities and implementing certain measures aimed at: to promote a more athlete-oriented, non-threatening and non-hurtful (top) sports culture and behaviour. When awarding major sporting events, the EU institutions should insist that such values be considered in the context of European sport policy. At the same time, European values can be conveyed through sport. In this context, the focus should be on the sustainable development of grassroots sports diplomacy. The task of future European sports policy should be to further explore and test the possibilities of grassroots diplomacy.<sup>115</sup> The second area focuses on policy areas. Although only rudimentary overarching recommendations for action can be made here, and each field should be dealt with individually, which is not possible in the context of a

<sup>113</sup> Council 2018/C 196/06. Conclusions of the Council and of the Representatives of the Governments of the Member States meeting within the Council on promoting the common values of the EU through sport (2018/C 196/06). 08.06.2018.

<sup>114</sup> Council 2017/C 189/09. Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on sport as a platform for social inclusion through volunteering (2017/C 189/09). 15.06.2017.

<sup>115</sup> EUROPEAN PARLIAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103 ff.

general recommendation, the corresponding proposals are intended to underline the importance of some specific fields. After more than ten years of being enshrined in primary law, sport is now becoming central areas to which particular attention should be paid in terms of profiling and prioritisation. Therefore, this study proposes not only to take a closer look at the scope of EU sport policy, but also to pay particular attention to the following four pillars: integrity, physical activity, health, and education. In addition, the problems caused by COVID-19<sup>116</sup> need to be addressed. On this basis, an action plan with clear support mechanisms should be developed.<sup>117</sup>

The parliamentary perspective and the role of the European Parliament (EP) are being analysed more diligently in the third area. The European dimension of sport has been raised in the public consciousness by the European Parliament through hearings, debates, policy initiatives and opinions. If issues relating to sport and sports services were to be placed on the agenda more frequently, this could help to increase the corresponding performance of the CULT Committee in terms of sports policy.<sup>118</sup> At this point, it should be emphasised that an increase in both vertical cooperation with national parliaments and horizontal cooperation between the Cult Committee and other standing committees on sport issues would be particularly recommended. The expertise of sports federations and organisations should be consulted by the European Parliament in terms of proactive policy advice. The European Parliament should be able to provide a framework for regular communication on sport, as parliaments serve as forums and advocates for public debates on sport. The successful development and establishment of a sustainable and sustainable European sport policy by broadening and deepening the knowledge and information base with the associated involvement of the Member States would be highly recommended. While promoting the wider dissemination of existing studies on sport, better access to existing materials for the development of sport at European level should also be encouraged. This objective would be met by the publication of an annual report on the development of sport (or sport policy) in Europe to ensure better access to information and data.<sup>119</sup> Moreover the Impact on the promotion of sport in the context of the EU's overarching policy objectives can be stated. Innovative practices to promote sport not only influence the way people play sport, but also have an impact on other important areas of development such as

<sup>116</sup> With regard of the COVID 19 impact on the improper alteration of the institutional balance Cfr. P. FORTE, *Caratteri della decisione pubblica di emergenza contemporanea*, in *L'Ircocervo*, 2021, p. 110 ss.

<sup>117</sup> EUROPÄISCHE KOMMISSION, *Studie für den Ausschuss für Kultur und Bildung- EU- Sportpolitik: Bewertung und mögliches künftiges Vorgehen*, 2021, p. 3 ff.

<sup>118</sup> EUROPÄISCHES PARLAMENT, *EU sports policy: assessment and possible ways forward*, 2021, p. 103 ff.

<sup>119</sup> EUROPÄISCHE KOMMISSION, *Studie für den Ausschuss für Kultur und Bildung- EU- Sportpolitik: Bewertung und mögliches künftiges Vorgehen*, 2021, p. 3 ff.



technological, sustainable, or social development.<sup>120</sup> Since sport is increasingly linked to everyday human life due to its flexibility in practice, it has proven to be a "gateway to effect". In the field of medical and psychological care, as well as for the continuous development of technological and digital material for the further improvement of human life, sport also provides inspiration for further research in this regard. The sports sector can play an important role in the development of better, more effective learning and competence acquisition techniques. In terms of the development of tourism and a cleaner, more sustainable lifestyle, sport and physical activity can help to offer healthier and more environmentally friendly perspectives in this regard. Given the challenges facing today's society, EU policy in recent years has increasingly focused on the above-mentioned aspects.<sup>121</sup> The EU's future policy objectives, in particular those set out for the Multiannual Financial Framework (MFF) 2021-2027, focus on the development of key areas such as health and well-being, research and innovation, digitalisation<sup>122</sup>, transition to a zero-carbon economy, sustainable tourism, environmental protection, lifelong learning, social cohesion and inclusion.<sup>123</sup> Over the last decade, EU policy-makers have gradually recognised the important contribution that sport and physical activity make to these policies listed above. Several milestones have already been reached in further recognising and developing the cross-sectoral dimension of sport.<sup>124</sup> In order to achieve the objectives of the following EU programmes and actions, these milestones are related to the recognition of the importance of sport. The Strategy for Recovery and Resilience, supported by the Next Generation EU, in the context of the COVID-19 pandemic; the sports sector is also linked to the European Green deal, through the development of an active and sustainable lifestyle, to link lifelong learning and the acquisition of soft skills through sport; EU cohesion policy through the contribution

<sup>120</sup> Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on the impact of the COVID-19 pandemic and the recovery of the sport sector, Brussels, 22 June 2020.

<sup>121</sup> EU- COM, *Mapping of innovative practices in the EU to promote sport outside of traditional structures*, 2020, p. 71.

<sup>122</sup> Cfr. C. BUCICCO, *Problematiche e prospettive della tassazione dell'economia digitale* p.255-286 in *Diritto e Processo Tributario dialogo tra le Corti*- ISSN:2421-2385 vol. 3/2019; For an in depth analysis concerning tax treaties and procedural law within the European Union Cfr. P.PISTONE, G. KOFLER, M. LANG, A. RUST, J. SCHUCH, K.SPIES, C. STARINGER(eds.), *Tax Treaties and Procedural Law*, vol. 18 WU Vienna European and International Tax Law and Policy Series, ISBN: 978- 90-8722-647-3, IBFD, 2020; I. FELICETTA and M. GUIDO, "E-Marketing by energy companies", da pag. 1034 a pag. 1046 (pagg. 13), in Demetris Vrontis, Yaakov Weber, Evangelos Tsoukatos (Eds).

<sup>123</sup> Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council on the European Union Work Plan for Sport (1 January 2021-30 June 2024) 2020/C 419/01.

<sup>124</sup> EU- COMMISSION, *Mapping of innovative practices in the EU to promote sport outside of traditional structures*, 2020, p. 71 ff.



that sport can make to regional development.<sup>125</sup> The recently published EU Work Plan for Sport 2021-2024 sets out well the cross-sectoral dimension of sport and physical activity and their contribution to these overarching EU policy objectives.<sup>126</sup> The latter aims to change the socio-economic and environmental dimension of sport by promoting innovation and digitisation in this sector; promote environmentally friendly sports practice and education; promote the construction of sustainable sports facilities. In addition, the Work Plan for Sport 2021-2027 recognises and further supports the contribution of sport to regional development through the use of the Recovery and Resilience Facility (part of the Next-Generation EU recovery strategy) or future cohesion policy funds to finance sport projects.<sup>127</sup> Moreover should sport policy contribute to the overall priorities of the Union's economic and social agenda and to sustainable development in order to stimulate jobs, growth and investment and to prepare for the post-2020 period as already stated in the Juncker's Commission.

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<sup>125</sup> COM (2019) 640 final. Communication From the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions The European Green Deal 11.12.2019.

<sup>126</sup> Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on the impact of the COVID-19 pandemic and the recovery of the sport sector, Brussels, 22 June 2020.

<sup>127</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, on the European Green Deal, COM (2019) 649 final, Brussels, 2019.