Sports Law, Policy & Diplomacy Journal

SLPD Institute

Pravni fakultet Faculty of Law
Sveučilište u Rijeci
University of Rijeka

SPORT&EU
est 2005

Vol. 3 / No. 2 (2025)

UNIVERSITY OF RIJEKA, FACULTY OF LAW
Institute of Sports Law, Sports Policies and Sports Diplomacy &
Jean Monnet Chair in EU Sports Law, Policy & Diplomacy

in partnership with

Sports Law, Policy & Diplomacy Journal

ISSN (*Online*) 2975-6235

UDC 3:796
DOI https://doi.org/10.30925/slpdj

Vol. 3 **No. 2**

Rijeka, 2025

Co-funded by the European Union

REGULATING SPORT AFTER SUPERLEAGUE: COMPETITION, GOVERNANCE, AND THE SOCIETAL DIMENSION OF MEDIA RIGHTS IN THE EU AND THE ITALIAN FRAMEWORK

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UDC 349:796
342.727(450:4EU)
DOI https://doi.org/10.30925/slpdj.3.2.3
Received on November 28, 2025
Accepted on December 12, 2025
Preliminary communication

Abstract

The *Superleague* judgment marked a pivotal moment in the evolution of EU sports regulation, prompting a renewed examination of how competition law interacts with the governance and societal functions of sport. This article explores the implications of the judgment for the regulatory framework governing sport in Europe and Italy, with particular attention to the treatment of media rights as a vehicle for financing sport's broader social mission. While media rights represent a crucial source of revenue, their allocation and exploitation cannot be understood solely through the lens of market power or commercial efficiency. Instead, they sit at the intersection of competition law, sporting autonomy, and the principles of solidarity and competitive balance that underpin the European sports model. By integrating EU-level jurisprudence with national regulations, the article argues that the case law provides an opportunity to strengthen a coherent regulatory approach that balances commercialisation with public-interest objectives.

Keywords: *Superleague, TV rights, Solidarity, Collective Selling, Competition Law.*

1. INTRODUCTION

The commercialisation of media rights has become a defining feature of modern European sport. Sport fans across the globe experience elite sport via media channels and forge

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memories that are framed through the means of the media chosen. Broadcasting revenues now constitute the principal source of income for many clubs and competitions, in particular with reference to professional football. Their relevance is so significant that it underpins the financial sustainability of the system. However, the legal framework governing the exploitation of these rights remains contested, sitting at the intersection of European Union competition law, national regulation, and the regulatory autonomy of sporting bodies. The tension between economic imperatives and the public interest in maintaining sport's social and cultural role has become increasingly pronounced in recent years.

At the European level, the regulatory model of collective selling has long been scrutinised by the European Commission[1] and the Court of Justice of the European Union (CJEU).[2] While collective arrangements can generate efficiencies and facilitate solidarity mechanisms within the sporting pyramid, they also restrict competition and require justification under Articles 101 TFEU. The famous *SuperLeague* judgment[3] marked a turning point, as the CJEU reaffirmed the applicability of competition law to sport and set new benchmarks for proportionality, transparency, and solidarity. This ruling has important consequences for the governance of sport across Europe, particularly regarding the exploitation of audiovisual rights.

Against this European backdrop, the Italian legal framework offers a particularly instructive case study. Since the "Melandri Decree"[4] of 1999 and the subsequent Legislative Decree No. 9/2008,[5] Italy has codified a collective selling system for audiovisual rights while distinguishing between "events" and "competitions" as separate legal categories. Italian jurisprudence and antitrust practice, including the 2024 decision of the Italian Competition Authority (AGCM)[6] concerning amateur football tournaments, illustrate how EU principles are reshaping domestic approaches to the organisation of sports events. At the same time, the Italian system continues to grapple with the *Ein-Platz-Prinzip*[7]—the rule that only one federation may be recognised per sport—raising further questions about the compatibility of national governance traditions with EU competition law.

This article pursues three main research objectives: first, to analyse the evolving application of EU law to the commercialisation of sports media rights, with particular reference to the *SuperLeague* judgment and Commission practice; second, to examine the development of the Italian legal framework on audiovisual rights and its interaction with European principles; and third, to assess the contemporary relevance of the *Ein-Platz-Prinzip* as a bridge between EU and national perspectives. The paper adopts a doctrinal legal methodology, drawing on

1 European Commission, Case COMP/C.2-37.398 — Joint selling of the commercial rights of the UEFA Champions League, http://data.europa.eu/eli/dec/2003/778/oj; Case COMP/38.173, Collective selling of FA Premier League's broadcasting rights, https://ec.europa.eu/competition/antitrust/cases/dec_docs/38173/38173_134_9.pdf and Case No IV/37.214 - DFB - Central marketing of TV and radio broadcasting rights for certain football competitions in Germany https://ec.europa.eu/competition/antitrust/cases/dec_docs/37214/37214_90_1.pdf

2 CJEU, Cases C-403/08 and C-429/08. *Football Association Premier League and Others v QC Leisure and Others Karen Murphy v Media Protection Services Ltd* [2011] ECR I-09083

3 CJEU, Case C-333/21, *European Superleague Company* [2023] ECLI:EU:C:2023:1011

4 Italy, Legislative Decree No. 242 of 23 July 1999 (so-called *Melandri Decree*).

5 Italy, Legislative Decree 9/2008 and subsequent amendment, in implementation of the Enabling Law 106/2007.

6 AGCM, Decision No. 31263 of June 18, 2024, A562, available at www.agcm.it.

7 Paul Fischer and Jan Wörner, "EU-Kartellrecht und Ein-Platz-Prinzip nach der Super League Entscheidung – Coubertins Erbe in Gefahr?," *Sport und Recht* 31, no.5(2024): 372-380.

case law, legislation, and regulatory decisions at both the European and national levels.

The article is structured in two main parts. The first addresses the European framework, tracing the evolution of the Commission practice and CJEU jurisprudence on media rights and competition law. The second examines the Italian framework, including legislative reforms, judicial practice, and the AGCM's 2024 decision. A third section then considers the future of the *Ein-Platz-Prinzip*, before concluding with a comparative discussion of convergence and tensions between EU and Italian approaches. By combining the European and Italian perspectives, the article aims to contribute to the broader debate on how best to balance commercialisation, competition, and solidarity in the governance of sport.

2. THE EUROPEAN FRAMEWORK

2.1. MEDIA RIGHTS AS THE FINANCIAL BACKBONE OF EUROPEAN FOOTBALL

The commercialisation of sports media rights has radically transformed professional sport in Europe. Broadcasting revenues are not merely an ancillary source of funding for clubs and leagues, but they have become the financial backbone of domestic leagues and international competitions, and constitute one of the main drivers behind the professionalism of the sector.[8]

The most common commercialisation model of sports media rights is collective selling, where clubs participating in a competition pool together their individual media rights to package them as a premium product for the market. This has allowed sporting bodies and clubs to maximise revenues, under a general assumption that these would be redistributed throughout the sporting pyramid for the benefit of the entire system.

While this model has essentially become the standard practice in the industry, it still raises fundamental questions under European and national competition law, given its restrictive effects on individual clubs, media operators, and consumers. It has long been recognised that collective selling amounts to a horizontal agreement between "undertakings" that primarily aims to restrict competition and maximise revenues for the members of the "cartel." Collective selling has the capacity to restrict the ability of clubs to sell rights individually, impose on media operators an obligation to negotiate with an entity that is granted a de facto monopolistic position on the supply side and reduce the choice of consumers on the demand side as to the provider of the final product. Further, rights sold are often combined with exclusivity clauses, allowing incumbent broadcasters to protect their position on the market from new entrants.[9]

Based on these effects, collective selling of rights is captured by the scope of application of Article 101(1) TFEU and its domestic counterparts at the Member States level. Under

8 See Deloitte Football Money League, 2025, https://www.deloitte.com/uk/en/services/consulting-financial/analysis/deloitte-football-money-league.html. According to the report, between 2017 and 2024, revenues from Broadcasting Rights accounted for an average of 50% of total revenues for the top 20 football clubs in the world.

9 European Commission, Decision COMP/C.2-37.398 at para 3.2 and for a discussion on the restrictive effects of joint selling on the market see T.M.C. Asser Instituut / IViR, Study on Sports Organisers' Rights in the European Union (February 2014), 77, https://ec.europa.eu/assets/eac/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf.

Article 101(1) TFEU, collective selling constitutes a restriction of competition. Its legality, therefore, depends on satisfying the cumulative conditions of Article 101(3): namely, that the arrangement improves the production or distribution of the product, ensures consumers receive a fair share of the benefits created, and does not eliminate competition in a substantial part of the market. Essentially, the legality of collective selling rests on the assessment of the efficiency it creates and its ability to counterbalance the negative effects of the restrictions on those affected.

2.2. COLLECTIVE SELLING AND COMPETITION LAW

Before turning to judicial scrutiny, it is necessary to recall the role that the European Commission played in developing a common approach to analysing the legality of collective selling of media rights. In the early 2000s, the Commission examined three arrangements, through which UEFA, the English Premier League, and the German Bundesliga respectively collectively exploited the broadcasting rights related to the competitions they organised.

In these three key Decisions, the Commission adopted an orthodox competition law approach, giving limited consideration to the connection between the conduct and its sporting justifications. The Commission held that the collective selling of media rights constituted a restriction of competition under Article 101 TFEU. In its analysis, the Commission acknowledged that collective selling could create efficiency by reducing transaction costs borne by broadcasters and rights owners, allowing for the creation of a unique and premium product, while also providing broadcasters with certainty about the product acquired and its longevity, which is necessary for long-term planning and cost recovery.[10]

The efficiency elements alone were not sufficient to outweigh the restriction. The Commission imposed a number of conditions including the subdivision of rights into packages, the imposition of an open and transparent tendering process for the sale of rights, and a limit to the duration of the exclusivity, which were specifically tailored to the relevant market affected in each case.[11]

As mentioned earlier, a crucial factor in the analysis under Article 101(3) TFEU is the ability of the arrangement to grant consumers a fair share of the benefit resulting from the restriction. According to the Commission's own Guidelines on the application of the provision,[12] the very same consumers that are negatively affected by the restriction should be receiving a fair share of the benefit. The Commission also defines consumers as all intermediate customers, direct or indirect users of the products, including the producers that receive the product of the agreement as an input, wholesalers, retailers and lastly final consumers.[13] Faithful to this

10 European Commission, Decision COMP/C.2-37.398 — Joint selling of the commercial rights of the UEFA Champions League, paras. 145 – 148.

11 Philp Kienapfel and Andreas Stein, "The Application of Articles 81 and 82 EC in the Sport Sector," *Competition Policy Newsletter* 3 (2007): 6–14; see also Stephen Weatherill, "The Sale of Rights to Broadcast Sporting Events under EC Law," *International Sports Law Journal* 6, no. 3–4 (2006): 3, https://doi.org/10.1007/978-90-6704-939-9_13; and Daniel Geey, "Collectivity v Exclusivity: Conflict in the Broadcasting Arena," *Entertainment Law Review* 15, no. 1 (2004): 7–11.

12 European Commission, Communication — Guidelines on the Application of Article 81(3) of the Treaty, OJ C 101 (27 April 2004).

13 Ibid., para. 84. It must be noted how this definition differs from the definition given in the area of Consumer

interpretation, the Commission considered that, in the case of collective selling of media rights, the consumers were – primarily - the broadcasters. However, broadcasters were already able to enjoy benefits such as the reduction of transaction costs and certainty of programming, as mentioned before. Instead, the benefits for final consumers were largely overlooked, as the Commission held that a trickle-down effect allowed broadcasters to reinvest the benefits they received to the advantage of their customers.[14]

For nearly a decade, the commercialisation of media rights was not discussed by the judicial authorities of the EU. It was not until 2011, with the *Murphy* case,[15] that the CJEU had the chance to consider the legality of the distribution system of media rights. In particular, the Court focused on the territorial restrictions associated with the exclusivity of the sale of media rights, holding that these are capable of partitioning the internal market of the EU into national markets, and affect the competition to an extent that conflicts with Article 101 TFEU.

Significantly, the Court rejected arguments based solely on the specificity of sport, treating the sale of media rights as a purely economic activity. While recognising that sport has particular features, the Court did not consider those features in the context of its competition law analysis.[16] This approach marked a decisive shift: unlike sporting rules relating to player eligibility or the organisation of competitions, the commercial exploitation of rights was to be scrutinised without any significant regard to the autonomy of sport. This move was welcomed, as it required both public authorities and sporting bodies to be more efficient and systematic in their approach. The distribution of rights was an economic activity, and its legality was to be assessed strictly with virtually no room for consideration of the specificity of sport.

The approach highlighted in the decision-practice of the Commission, and confirmed by the CJEU, was therefore to consider collective selling of media rights as a conduct aimed at pursuing economic objectives, where any cultural, societal and sporting considerations were overlooked. While this approach is orthodox in competition law, which should aim to protect fair and competitive conditions on the market,[17] it also ignores how the commercialisation of sport media rights affects a range of interests and parties. These include sports governing bodies, which need to raise revenues to ensure the sustainability of the entire movement, the right holders or licensed operators, and society as a whole, which benefits from the cultural and societal importance of sport expressly recognised in Article 165 TFEU.

law, according to which a consumer is any natural person who is acting for purposes which are not related to his trade, business, or profession. See Article 2 Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on Consumer Rights, OJ L 304, http://data.europa.eu/eli/dir/2011/83/oj.

14 For a discussion, see Ben Van Rompuy, *Economic Efficiency: The Sole Concern of Modern Antitrust Policy? Non-Efficiency Considerations under Article 101 TFEU* (Alphen aan den Rijn: Kluwer Law International, 2012).

15 CJEU, Joined Cases C-403/08 and C-429/08, *FAPL and Others; Murphy* [2011] ECR I-9083.

16 The Court however mentioned the specificity of sport, and Article 165 TFEU, in relation to the assessment of the conduct under Article 56 TFEU. See *Murphy*, para. 101.

17 Protocol 27 annexed to the TFEU clarifies that market integration constitutes the specific aim of competition law. See Ioannis Lianos, "Competition Law in the European Union after the Treaty of Lisbon," in *The European Union after the Treaty of Lisbon*, eds. Diamond Ashiagbor, Nicola Countouris, and Ioannis Lianos (Cambridge: Cambridge University Press, 2012), 252–283, https://doi.org/10.1017/CBO9781139084338.

2.3. THE SUPERLEAGUE JUDGMENT: PROPORTIONALITY, SOLIDARITY, AND CONSUMER BENEFIT

Against this backdrop, the decision in *Superleague* assumes particular importance. For the first time, the CJEU explicitly linked the commercialisation of media rights with the system of prior authorisation operated by governing bodies. Through this system, sport governing bodies are able to decide which entity is allowed to organise a competition involving the clubs and players affiliated to them. Authorisation rules, as well as eligibility rules for players, are characteristic expressions of the regulatory power of federations.[18] In this regard, the CJEU held that the abusive use of such rules could serve to protect the organiser's economic interests, given that the exploitation of media rights represents the primary financial objective of competitions.

This recognition reframes the analytical approach: rather than limiting competition law to the economic dimension, the judgment reintroduces the regulatory and sporting dimensions into the assessment of collective selling under competition law. This marks a departure from previous jurisprudence, which tended either to consider the regulatory power of governing bodies as autonomous or to treat the commercialisation of rights as a purely economic activity unrelated to the sport's organisational context.

The famous *Superleague* case raised questions about the use of authorisation rules by sports governing bodies, which the Court considered an instrument to protect their economic activity. This activity essentially consists of the exploitation of media rights arising from the competition they organise.[19] As the case focused on UEFA's authorisation rules, the competitions that were arguably protected were the inter-club competitions organised by UEFA with the Champions League being the most lucrative.

In this connection, the Court analysed the model of media rights exploitation under Article 101 TFEU, holding that collective selling constitutes a restriction of competition, and proceeded to discuss whether the conditions under 101(3) could be met in the case. While leaving the task of assessing the specific circumstances of the case to the referring domestic court, the CJEU made some very significant considerations.

The Court acknowledged that collective selling can generate efficiencies, notably by reducing transaction costs and enabling rights holders to market a product "infinitely more attractive" than what could be offered by individual clubs.[20] With respect to the sharing of benefits with consumers, the Court accepted—at least in theory—the argument advanced by UEFA: that a substantial portion of the revenues obtained through collective selling would be redistributed across the system, benefiting all levels of the football pyramid. However, in this regard, the Court held that solidarity mechanisms should benefit not only clubs participating in the competition, but also those outside it, as well as amateur clubs, professional and non-professional players, women's football, youth development, and other stakeholders. In the

18 Stefaan Van den Bogaert and Ben Van Rompuy, "The New Testament for Sports and EU Competition Law in European *Super League, ISU*, and *Royal Antwerp*." *Common Market Law Review* 62, no. 2 (2025): 577–622, https://doi.org/10.54648/cola2025029.

19 CJEU, Case C-333/21, *European Superleague Company* [2023] ECLI:EU:C:2023:1011, para. 233

20 Ibid., para. 232.

Court's view, the combined effect of an enhanced broadcasting product and the redistribution of revenues throughout the pyramid should demonstrably confer advantages upon fans, final consumers, and all EU citizens engaged in amateur sport.[21]

By adopting this broader definition of 'consumers', the Court departed from the earlier decision-making practices of the Commission, which, in previous collective selling cases, identified as users those who operate on the upstream market, where the restriction had its primary effect, meaning the broadcasters which were acquiring the rights from the leagues.[22] Instead, the Court seemed to imply that this definition must comprise a much broader category of users, one that is more loosely linked to their status as consumers, but rather as citizens engaging with football.

2.4. BROADER IMPLICATIONS FOR THE EUROPEAN MODEL OF SPORT

The Court's reasoning in *Superleague* explicitly referred to essential features of football competitions at the European level—such as the need to preserve competitive balance and the interdependence between elite and grassroots levels, where lower-tier clubs contribute to player recruitment and training. In doing so, the Court attached particular importance to the pyramidal structure of football and its interconnections: only a system in which solidarity is embedded can fulfil the social, educational, and integrative functions that the EU attributes to sport.[23]

Solidarity represents a distinctive feature of the sporting system. It may take a *horizontal* form, operating among clubs participating in the same competition, or a *vertical* form, linking clubs across the different levels of the football pyramid.[24] The notion of solidarity within sport is not confined to the redistribution of financial resources; it also encompasses mechanisms designed to sustain the broader ecosystem of the game. Examples include the obligation to release players for international duty—enabling national federations to generate revenues that can be reinvested in the sport—and transfer rules that redistribute funds to training clubs through solidarity payments and training compensation.[25]

Solidarity is also a core objective of UEFA, which seeks to promote the growth of football in Europe and support the development of national associations. In its *United for Success: UEFA Strategic Vision 2024–2030*,[26] UEFA reaffirms its commitment to maintaining the link

21 Ibid., para. 234.

22 European Commission, Decision COMP/C.2-37.398 — Joint selling of the commercial rights of the UEFA Champions League, paras. 169-173. It should be reminded that the Commission has stated that the category of consumers who is supposed to receive a fair share of the benefits resulting from the restrictive agreement is the same affected by the conduct. European Commission, Communication — Guidelines on the Application of Article 81(3) of the Treaty, OJ C 101 (27 April 2004), at 43.

23 CJEU, Case C-333/21, *European Superleague Company* [2023] ECLI:EU:C:2023:1011, para. 235

24 Katarina Pijetlovic, *EU Sports Law and Breakaway Leagues in Football* (The Hague: T.M.C. Asser Press, 2015), 35, https://doi.org/10.1007/978-94-6265-048-0.

25 Here, the reference is to FIFA training compensation and solidarity payments. See Michele Colucci and Maria José Vaccaro, eds., *Vincolo sportivo e indennità di formazione* (Roma: SPLC, 2010); Francisco López Frías et al., "Whose Interests? Which Solidarity? Challenges of Developing a European Super League," *Soccer & Society* 24, no. 4 (2023): 463–78, https://doi.org/10.1080/14660970.2023.2194511.

26 UEFA.com, *United for Succes*, *UEFA Strategic Vision 2024-2030*, accessible at: https://www.uefa.com/news-media/news/028a-1a200a82f2dd-6e9595139108-1000--uefa-strategy-2024-30-united-for-success-

between grassroots and elite football, guided by seven foundational values: respect, equality, equity, openness, unity, integrity, and excellence. Yet, achieving this balance is particularly challenging. Any system of solidarity redistribution inevitably affects the financial interests of clubs participating in elite competitions, as it diverts a share of revenues towards the wider football structure. Measures of this kind are therefore likely to encounter resistance from the same clubs that sought to establish the *SuperLeague*. Nevertheless, if governing bodies wish to rely on sporting objectives to justify restrictive practices such as collective selling, they must demonstrate that these objectives are genuinely and effectively pursued in practice.

In this regard, the CJEU implicitly recognises the multi-sided nature of modern sports governing bodies and of the "product" they commercialise. On the one hand, it acknowledges the economic value of sporting broadcasts; on the other, it insists that such economic objectives must be balanced against the public interests linked to sport's social and cultural functions.[27] The Court makes explicit reference to these sporting objectives within its analysis of collective selling under Article 101(3) TFEU—an assessment that traditionally focuses on economic considerations. This approach illustrates that economic and sporting objectives are mutually constitutive dimensions of the same regulatory space, rather than competing.[28]

The CJEU ultimately tasked the referring court with carrying out the detailed assessment of whether a restriction existed and whether the conditions of Article 101(3) TFEU were satisfied. This allocation of responsibility signals that national courts and competition authorities must now conduct a thorough and independent analysis of collective selling arrangements. For many years, such practices were generally considered legitimate on the basis of the Commission's earlier decisions. However, the Court implicitly criticised this decision-making practice for its limited examination of the extent to which consumers actually benefited from collective selling. Following the *Superleague* case, this approach is no longer sufficient. Collective selling constitutes a restriction of competition and, as such, demands a rigorous assessment of market conditions and of the governing bodies' genuine commitment to efficiency and sporting values.

The Court's decision to leave the concrete application of these principles to national authorities further underscores that the enforcement of competition law is a shared competence within the EU legal order.[29] At the same time, it also raises the risk of divergent interpretations and

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27 This dimension is also recognized in Article 165 TFEU, and in provisions of a "soft law" nature such as the Nice Declaration attached to the Council Conclusions: "Sports federations play a central role in the necessary solidarity between the various levels of activity: they allow the access of a large public to sporting events, the human and financial support for amateur practices, the promotion of equal access for women and men to sporting activity at all levels, the training of young people, the protection of the health of athletes, the fight against doping, the fight against violence and racist or xenophobic demonstrations." See Nice Declaration, Annex IV, "Declaration Relating to the Specific Characteristics of Sport and Its Social Functions in Europe," point 8 https://www.europarl.europa.eu/summits/nice2_en.htm.

28 Monti has argued that such pro-competitive benefits could have also been considered in the context of the analysis that categorises the restriction by object or effect. See Giorgio Monti, "EU Competition Law after the Grand Chamber's December 2023 Sports Trilogy," *TILEC Discussion Papers* (2024), http://dx.doi.org/10.2139/ssrn.4686842.

29 European Union. Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty. OJ L 1/1 (2003), http://data.europa.eu/eli/reg/2003/1/oj.

inconsistent application across Member States. To reflect on these developments, the next section turns to the experience of the Italian legal order, where the collective selling of media rights has been codified and interpreted within a distinct institutional and regulatory context.

3. THE ITALIAN FRAMEWORK

3.1. LEGISLATIVE EVOLUTION: FROM THE DECREE-LAW 15/1999 TO LEGISLATIVE DECREE 9/2008

Before discussing the application of the principles established in the *Superleague* judgment in the context of the Italian system of media rights distribution, it is worth highlighting the main characteristics of the Italian framework. To this end, the essential features of Legislative Decree 9/2008, currently in force, will be outlined, including a comparison with the preceding regulatory framework. Particular emphasis will be placed on the legislative provision for the collective selling of audiovisual rights and the statutory distinction between an "event" and a "competition". This discussion, together with a brief illustrative description of the intra-federation organisation of Italian professional football, will allow for a clearer interpretation of how the principles established at the European level have been applied in the most recent Italian case law.

The current framework established by the Italian legislator for the organisation of sporting events and the entitlement, exercise, and protection of related rights is the product of an evolution that has sought to balance a range of interests. For the present investigation, it is useful to trace the essential features of this complex positive law, paying particular attention to the difficulties inherent in identifying the organiser of a sporting event. Determining who qualifies as an organiser of a specific sporting event or competition is, within the Italo-European legal system, both decisive yet not straightforward. Furthermore, the notions of 'event' and 'competition' warrant careful consideration, as the legislator outlines a peculiar distinction (see next section).

The principal legal instrument in the area is Legislative Decree 9/2008 (and subsequent amendments), which provides the «Regulation of the Entitlement and Commercialisation of Sports Audiovisual Rights and Related Resource Allocation».[30] Before this, the matter lacked specific legislation, although legal literature had already recognised the complexity of the issues underlying the commercialisation of audiovisual rights, partly in light of developments in other jurisdictions.[31]

The first legislative intervention concerning the relationships connected to the organisation and economic exploitation of sporting activities occurred with Decree-Law15/1999, converted into Law No. 78/1999. This intervention, which was objectively advantageous for major sports clubs, aimed to remedy the (presumed) risk of violating antitrust obligations. Prior to this

30 Enacted to implement Law 16/2007.

31 Massimo Coccia, "Coordinamento e competizione nello sport," in *Sport e mercato*, eds. Antonio Flamini and Luca Di Nella (Napoli: ESI, 2006), 35 ff.; Amelia Bongarzone, "Sport, immagine ed informazione nello sfruttamento dei diritti televisivi," *Rass. dir. econ. sport* (2006): 375 ff.; Geremia Romano, *I diritti radiotelevisivi sulle manifestazioni sportive*, in *Contributi di diritto civile* (Torino:Giappichelli, 2004), 124 ff.; Elena Poddighe, *Diritti televisivi e teoria dei beni*, 2nd ed. (Padova: CEDAM, 2003).

legislative intervention, it was standard practice for sports clubs to collectively manage the revenues derived from sporting events through their leagues, or the federations themselves. At a time when very few broadcasters were able to (or were interested in) transmitting all matches of entire competitions, this risk was indeed tangible.

Article 2(1)of Decree-Law 15/1999 contained only a few provisions, mainly aimed at identifying the entitlement to and defining the mode of exploitation of the so-called television rights over sporting events. The article stipulated: «Each Serie A and Serie B football club is the owner of the television transmission rights in codified form. It is prohibited for anyone to acquire, directly or indirectly, more than 60% of the exclusive codified transmission rights for Serie A sporting events, or the tournament of greatest value held in Italy. Should market conditions yield a single buyer, this limit may be exceeded, but exclusive rights contracts shall not exceed three years. The Competition and Market Authority, having consulted the Communications Regulatory Authority, may derogate from the 60% limit or establish other limits, considering market conditions, the overall entitlement of other sports rights, contract duration, and the need to ensure effective competition, to avoid distortions detrimental to the negotiation of transmission rights for events considered of lower commercial value». No reference was made to the legal nature of these rights, the criteria for identifying the organizer of the «event» or the «competition», the definition of «event» and «competition» itself, the regulation of relationships between clubs, or between clubs and leagues or federations, the right to report; or the solidarity mechanisms supporting lower categories. Moreover, the scope of application of the legislation was limited to the main football competitions in the top tiers of the professional sector, thus raising concerns about its legality under Article 3 of the Italian Constitution.[32]

In summary, the sole guiding principle of the legislation was to recognise the right to individually exploit TV rights. Each club was free, with minimal limitations, to negotiate independently with broadcasters. This resulted in negative consequences for less prestigious sports clubs or those with fewer fans.

As noted earlier, the collective commercialisation of media rights may constitute a restriction of competition, whose legitimacy must be examined on a case-by-case basis under Article 101(3) TFEU.[33] Therefore, while it does not automatically entail an antitrust violation, the presence and extent of detrimental effects (such as market distortion or restrictions on users) must be ascertained using various parameters, and cannot be presumed exclusively on the basis of the mode of exploitation adopted. Indeed, some forms of restrictions are necessary

32 The distinction between the «professional sector» and the «amateur sector» is currently regulated by Article 38 of Legislative Decree 36/2021. The previous regulation (Law 91/1981) often led to serious discrimination, including gender discrimination, between the very few professional athletes (who were protected as workers) and the vast number of amateur athletes (who were not protected as workers, despite often being paid). Furthermore, the preceding legislation on audiovisual rights completely excluded amateur sports. This is particularly relevant considering that until 2021, female professionalism was not recognised in any sport or category in Italy, yet Article 3 of the Constitution mandates the principle of equality. For further analysis, refer to Emanuele Indraccolo, *Rapporti e tutele nel dilettantismo sportivo* (Napoli: ESI, 2008); and Emanuele Indraccolo, "Sport femminile e discriminazioni di genere," *AJI* 12 (2020): 596 ff.

33 European Commission, Case COMP/C.2-37.398 — Joint selling of the commercial rights of the UEFA Champions League; Case COMP/38.173, Collective selling of FA Premier League's broadcasting rights, and Case No IV/37.214 - DFB - Central marketing of TV and radio broadcasting rights for certain football competitions in Germany.

to ensure that clubs jointly cooperate to create a unitary, marketable product. In this regard, it could be argued that when clubs were entitled to manage rights individually, they were driven by their own self-interest. Ultimately, this widens the economic gap between clubs participating in the competition, affecting the overall profitability of the sporting product, which is primarily a consequence of the competitiveness of the competition and the uncertainty of the result.

3.2. LEGAL DISTINCTIONS BETWEEN "EVENT" AND "COMPETITION" AND THE COLLECTIVE SELLING OF AUDIOVISUAL RIGHTS UNDER LEGISLATIVE-DECREE 9/2008

The Italian legislator intervened in 2008[34] by implementing Enabling Law 106/2007 with Legislative Decree 9/2008 to outline a more comprehensive regulatory framework guided by new criteria. Article 2 of Legislative Decree 9/2008 provided an extensive set of concepts (letters a) through dd)) clarifying terms used in negotiations (event, competition, organiser, rights, platform, user, etc.). Significantly, the legislator chose to distinguish between «event» and «competition». An «event» is defined as «consisting of a single match, contested by two competing parties [...] normally organised by the party having the availability of the sports facility [...] intended for public enjoyment».[35] Conversely, a «competition» means «any sporting competition, organised in the official form of a professional championship, cup, or tournament [...] as well as any further events organised based on the outcome of the aforementioned competitions».[36]

Consistent with this bipartition, the legislator distinguished between the «event organiser» [Article 2, letter c)]— the club assuming responsibility for the event in its facility—and the «competition organiser» [Article 2, letter e)]—the party to which the relevant federation delegates the organisation of the competition. However, this distinction is based on a legal fiction (*fictio iuris*) which does not always reflect how the system operates in practice. A teleological interpretation would avoid splitting what is, in substance, a single and indivisible legal position into two artificial sub-categories.

Although the underlying interests are materially the same, their different practical configurations may justify differentiated regulations. Article 3 therefore provided that 'the competition organiser and the event organisers are co-holders of the audiovisual rights relating to the events [...]'." Conversely, the event organizer is granted the right to archive, a *species* of «audiovisual rights», defined as the right to conserve images for an archive or database, usable from midnight on the eighth day following the event's completion.[37]

34 Alessandro Di Majo, *I diritti audiovisivi nello sport* (Torino: Giappichelli, 2019); Luca Di Nella, "I diritti audiovisivi su eventi sportivi," *Rass. dir. econ. sport* 4, no. 1 (2009): 36 ff.; Luca Nivarra, "I diritti esclusivi di trasmissione di eventi," *Ann. it. dir. aut.* (2009): 33 ff.; Vincenzo Zeno-Zencovich, "La statalizzazione dei diritti televisivi sportivi," *Rass. dir. econ. sport* 4, no. 1 (2009): 126 ff.; Emanele Indraccolo, "Prime riflessioni sul d.lg. 9/2008," *Rass. dir. econ. sport* 3, no. 3 (2008): 419 ff.

35 Art. 2 (b).

36 Art. 2 (d).

37 Art. 2, o) 7.

However, Article 4 establishes a system of mandatory collective selling for audiovisual rights related to competition events, specifying that these rights are exclusively owned by the competition organiser. Any legal agreements made in violation of this principle are considered void. Furthermore, while the archive right is also attributed to the event organiser, they must allow the visiting sports club, under conditions of reciprocity, to maintain and commercially utilise the images of the specific event for their own archive. Pursuant to Article 6 *et seq.*, commercialisation is also entrusted to the competition organiser, following an analytical regulation.

3.3. GOVERNANCE ROLES OF CONI, FIGC, AND THE LEAGUES

Before examining the provisions adopted by the Italian Football Federation (FIGC) on competition organisation, it is useful to recall that the organisation of sporting activities constitutes the principal function attributed to the Italian Olympic Committee (CONI) in the Italian legal system.[38] This is reflected in CONI's own Statute, as well as in all the Statutes of National Federations.

Identifying the legal framework for the organisation of sporting events, therefore, requires an analysis of the rules issued by sports governing bodies. These endo-associative rules, where lawful and deserving of protection, help define the applicable law in the specific case, as they express negotiating autonomy consistent with the principle of subsidiarity[39] and with the specificity of sport.[40]

National sports federations frequently rely on other legal entities, such as Leagues, for the organisation of competitive events. The FIGC Statutes formalise this structure, requiring clubs to form distinct Leagues based on athlete status: professional clubs must form specific professional Leagues, while amateur clubs are grouped under the National Amateur League. While Article 9 assigns these Leagues the primary task of organizing competitive activities through championships, the FIGC retains superior regulatory and decisional-making control (Article 13). This control includes regulating club affiliations, defining championship structures in coordination with the Leagues, ratifying results (such as assigning the Champion title and confirming promotions/relegations), and overseeing the execution of sports justice and arbitration.

The Statute-Regulation defines the Lega Nazionale Professionisti Serie A as a private, unincorporated 'trade association' (Article 1) composed solely of the FIGC-affiliated clubs participating in the Serie A Championship. The League's functions (Article 1, paragraph 3) include the organisation of the Serie A Championship and related tournaments; the determination of calendars and schedules; the regulation of club–media relationships; the management of internal financial distribution; and the mandated commercialisation of collective audiovisual rights.

38 Italy, Article 2 of Legislative Decree No. 242/1999 (Melandri Decree).

39 Italy, Article 118 of the Italian Constitution.

40 Article 165 TFEU. For a critical commentary, see Luca Di Nella, "Lo sport nel diritto primario dell'Unione europea," *giustiziasportiva.it* (2010); and Luca Di Nella, "Costituzionalità della giustizia sportiva," *Rass. dir. econ. sport* 7, no. 1 (2012): 45 ff.; Andrea Lepore, "Principio di specificità e principio di sussidiarietà nello sport," *Rass. dir. econ. sport* 10, no. 2-3 (2015): 289 ff.

Of major economic significance are the highly detailed provisions in Article 18, which address the League's revenues, the principles governing the allocation of audiovisual rights proceeds, and the 'Parachute Payment' mechanism. Finally, Title IV sets forth the technical provisions required for the concrete conduct of competitive activities.

3.4. APPLICATION OF AUDIOVISUAL RIGHTS RULES IN ITALIAN JURISPRUDENCE: THE AGCM 2024 DECISION AND ITS EU LAW RESONANCE

Within the regulatory context just described, the case law of the Court of Justice mandates specific considerations on the topicality and scope of the *Ein-Platz-Prinzip* in the organisation of sport in Italy.[41]

However, before proceeding, it is worth recalling how the Italian Competition Authority (AGCM) has applied the principles articulated by the European courts in contexts involving sports regulatory power. The AGCM examined a complaint alleging that the FIGC had used its regulatory authority to prevent affiliated amateur clubs from taking part in youth tournaments organised by Sports Promotion Bodies (EPSs). The FIGC required clubs to obtain prior authorisation before entering these events and declined to conclude cooperation agreements with the EPSs, effectively limiting their ability to organise recreational football.

In the AGCM's view, the FIGC had arbitrarily adopted the concept of «competitive activity»,[42] which is not statutorily defined by the Italian legislature and has been the subject of scholarly debate. The FIGC is alleged to have recognised competitive status in any competition involving athletes above a certain age bracket, even when such activities were purely recreational, with the sole purpose of effectively excluding the EPSs from the market. The AGCM considered that these measures could amount to an abuse of dominance under Article 102 TFEU, because they extended the FIGC's control beyond competitive football and restricted both the freedom of clubs to participate in alternative competitions and the operational space of the EPSs. Consequently, the AGCM mandated the FIGC to immediately cease these anti-competitive practices and eliminate the regulatory constraints.[43]

Although the case concerned amateur youth football rather than media rights, it is illustrative of a broader pattern: a sports federation using its regulatory authority to impose pre-authorisation requirements that restrict access to competing organisers. This dynamic re-emerges, in a more economically significant form, in disputes concerning collective media rights and pre-authorisation rules for breakaway competitions, including the SuperLeague. Subsequently, the Regional Administrative Court of Lazio (TAR Lazio) annulled the sanction imposed by the AGCM, finding the underlying factual circumstances unproven.[44]

This case, regardless of its final outcome, represents a significant application of the principles established by the Court of Justice concerning competition in the sports sector. It is reiterated (also within the reasoning of the TAR ruling) that federations with regulatory functions

41 See section 4 above.

42 Regarding the concept of competitive activity and some of its questionable applications, see Emanuele Indraccolo, "Le certificazioni sanitarie di idoneità," *Riv. dir. sport* 66, no. 2 (2015): 307 ff.

43 AGCM, Decision No. 31263 of June 18, 2024, A562.

44 TAR Lazio, Decision of 17 February 2025, No. 3409, available at *giustizia-amministrativa.it*.

must comply with European antitrust rules and cannot adopt measures that limit market access without a justified reason of general interest and without respecting the principle of proportionality.

This outcome calls into question the pluralistic legal order theories sometimes applied to sport. According to these theories, the alleged autonomy of the fictitious «sports legal order» would permit the adoption of any endo-associative rule. On the contrary, sports rules are only valid and effective – and, therefore, binding – if they: 1) do not conflict with mandatory rules, public order, and morality («controllo di liceità») and 2) positively implement the values that characterize the only conceivable legal order, namely the Italo-European one («controllo di meritevolezza»).

Therefore, the functions of sports governing bodies and the limits to the exercise of their powers (including those related to the organisation of sporting events) must be found within the general legal system. Even endo-associative regulation in this matter cannot escape such controls.

4. THE *EIN-PLATZ-PRINZIP* AS A CONNECTING ISSUE

4.1. ITS RATIONALE IN THE CONI STATUTE

Having reached this point in the discussion, we can now consider the potential impact of the Court of Justice's decisions on the regulation of sports event organisation in Italy, and, by extension, on the audiovisual rights market. One aspect particularly relevant in this regard is the validity of the principle under which only one sports federation can exist for each sport. In this regard, Article 21(2) of the CONI Statute mandates that CONI recognises only one National Sports Federation for each sport. Should there be competing applications from multiple parties, the CONI National Council holds the power to facilitate the creation of a single common federative entity. If the interested parties fail to reach an agreement or form a unified entity, the National Council may still proceed to recognise the Federation composed only of the parties that have joined it.

The question is as following: in light of the recent case law of the Court of Justice, is a regulation, such as that of CONI, that mandates the *Ein-Platz-Prinzip* still relevant and, above all, in conformity with Italo-European law?

4.2. PRESSURE FROM EU COMPETITION LAW AND RECENT CJEU CASE LAW

It would not seem correct to read, between the lines of the European judges' reasoning, the definitive demise of the *Ein-Platz-Prinzip*[45] or, at least, its weakening or contraction. On the contrary, the decisions taken by the Court of Justice, similar to the AGCM's decision in the case evoked in the preceding section, align perfectly with the prevailing understanding of the legal dimension of the sports phenomenon, which precisely identifies the *Ein-Platz-Prinzip* as one

45 See also in the most recent German legal literature Paul Fischer and Jan Wörner, "EU-Kartellrecht und Ein-Platz-Prinzip nach der Super League Entscheidung – Coubertins Erbe in Gefahr?,", 372 ff.; see also BGH, 2 December 1974, II ZR 78/72, *NJW* (1975): 771 ff.; BGH, 23 November 1998, II ZR 54/98, *BGHZ* 140: 74 ff.

of the cornerstones for achieving the "physiological" organisation of sport.[46]

The issue, once again, is purely methodological: if the autonomy of sports governing bodies, which is rooted in their negotiating power, rather than constituting a different legal order, is founded on the functions identified by Article 165 TFEU and, today, by Article 33 of the Italian Constitution, those same functions operate as limits on the exercise of regulatory power. Thus, endo-associative rules that require the creation of a single entity to govern a sporting discipline and organise the related activities can be well justified in the interest of the "physiological" organisation of sport. They support the proper, programmatic functioning of the system. What such rules cannot do is prevent other actors from pursuing activities that serve the same social functions of the sanctioned competitions. If they do, the result is an inadmissible, counter-functional use of negotiating autonomy in the sporting context.

In the proposed perspective, the parameter for establishing whether the sports entity has fulfilled the function for which regulatory power is attributed to it can only be the principle of proportionality.[47] Particularly instructive, including in practical terms, are the European judges' observations on the "corrective measures" that federations may introduce to ensure that restrictions on the organisation of competitions parallel to official ones do not result in inadmissible violation.

4.3. RECONCILING NATIONAL STRUCTURES WITH EU PRINCIPLES

The impact of similar decisions on the domestic legal system – and, consequently, on the reference markets – can only be positive. This reflects the broader pattern seen in earlier Court of Justice precedents on sensitive issues in the governance of sport. One thinks, above all, of the *Bosman* case,[48] which raised concerns amongst scholars in the days immediately following the publication of the judgment, citing a crisis or total collapse of the professional sports economy,[49] due to the impossibility of profiting from the transfer of athletes whose contracts were expiring. These dire prognoses proved irremediably incorrect, although, obviously, the economic dynamics connected to the sector in question changed in the following years, partly due to numerous other factors (e.g., the extraordinary development of the audiovisual rights and merchandising market, the revenue generated by proprietary stadiums, or, more recently, income related to social media).

Similarly, it is reasonable to believe that the current judicial intervention will not undermine the sustainability of official sports, even where third parties manage to organise sporting events in competition with those organised within the federal scope. This is because the solidity of the current exploitation model for media rights related to sport seems to be guaranteed by the persistent existence of widely shared values deeply rooted in mass sports culture. Any further initiatives that juxtapose themselves with official events can only enrich the current

46 Roberta Landi, *Autonomia e controllo nelle associazioni sportive* (Napoli: ESI, 2016), 23 ff.

47 On the principle of proportionality applied to contract law see Pietro Perlingieri, "Nuovi profili del contratto," *Riv. crit. dir. priv.* 19, no. 2-3(2001): 223 ff.; and Pietro Perlingieri, "Equilibrio normativo," *Rass. dir. civ.* (2001): 334 ff., repr. in *Il diritto dei contratti fra persona e mercato* (Napoli: ESI, 2003), 441 ff.

48 CJEU, C415/93, *Bosman* [1995] EU:C:1995:463

49 Marcello Clarich, "La sentenza Bosman: verso il tramonto degli ordinamenti giuridici sportivi?," *Riv. dir. sport* 47, no. 3-4(1996): 393 ff.

scenario, contributing to the implementation of the functions of sport that the Italo-European legal system recognises and guarantees.

Moreover, it is known that, even before the Court of Justice's decision in *SuperLeague*, UEFA significantly modified its own rules regarding the authorisation of new competitions,[50] aiming to make the system, at least in intent, more compliant with European principles. This is not the appropriate venue to scrutinise the success of such interventions. What matters, rather, is noting how every attempt to conform sports endo-associative regulation to the rules and principles of the general legal system is always commendable. This is despite the boldly autonomist attitudes sometimes displayed by some sports governing bodies, and notwithstanding those in academic commentary who still today continue to support the existence of a «sporting legal order» separate and autonomous from the Italo-European legal system.

5. CONCLUSION

The analysis developed in this article highlights the extent to which the commercialisation of audiovisual rights, competition law, and the governance of sport have become increasingly interdependent within the Italo-European legal space. Within the European level, the *Superleague* judgment represents a decisive moment in the re-alignment of competition law with the organisational and social dimensions of sport. By clarifying the criteria under Articles 101 (and 102 TFEU), the Court has required governing bodies to demonstrate that restrictive practices—such as collective selling or prior-authorisation rules—are genuinely proportionate and serve objectives that extend beyond the pursuit of economic advantage. In doing so, the Court has implicitly broadened the notion of "consumer benefit" and foregrounded solidarity, competitive balance, and the protection of the sporting pyramid as legitimate considerations within the antitrust assessment.

The Italian legal system, with its codified model of centralised media-rights management and its longstanding reliance on the *Ein-Platz-Prinzip*, provides a valuable illustration of how these European principles are mediated within national structures. The evolution from individual to collective selling, the statutory distinction between "event" and "competition", and recent antitrust litigation reveal both the coherence and the limits of the domestic framework. At the same time, the AGCM's intervention—although later annulled—demonstrates that Italian authorities are increasingly attentive to the risks associated with the exercise of regulatory power in ways that restrict access to the market without sufficient justification.

Taken together, the European and Italian perspectives suggest that the future of sports governance will depend on the ability of institutions to balance economic imperatives with broader societal goals. The challenge, for both EU and national actors, is not to eliminate restrictions inherent in the organisation of competitions, but to ensure that such restrictions are transparent, proportionate, and consistent with the functions that sport is recognised to perform under Article 165 TFEU and Article 33 of the Italian Constitution. The continuing relevance of the *Ein-Platz-Prinzip* must therefore be assessed through this lens: as a

50 Roberta Landi, "Corte di giustizia europea e giudizio sportivo. Il caso Superlega," *Rass. dir. econ. sport* 20, no. 2(2024): 412 ff.

mechanism that may facilitate the coherent organisation of sport, provided that it does not become an instrument for the exclusion of legitimate competing initiatives. Ultimately, the integration of EU principles into national regulatory frameworks can contribute to a more sustainable and pluralistic sporting ecosystem—one capable of accommodating both the commercial realities of modern sport and its enduring social and cultural significance.

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