

ISDC's Letter

N°50



Institut suisse de droit comparé
Schweizerisches Institut für Rechtsvergleichung
Istituto svizzero di diritto comparato
Swiss Institute of Comparative Law

Special Edition – April 2019

Editorial

Editors: *Krista Nadakavukaren*

Authors (in alphabetical order): *Stéphanie De Dycker, Rémy Friedmann, Paul Mougeolle, Krista Nadakavukaren, Henrik Westermarck*

Dear ISDC Newsletter Readers,

The Institute has had a general focus point on business and human rights since 2015. Within that overall program we have completed a number of studies on different aspects of the legal frameworks relevant to economic actors, the flows of goods, services, and capital those actors generate, and the social, human, and environmental interactions of these actors with other stakeholders. The very broad nature of the project allows us to gain a macro-understanding of the laws that have been passed or proposed to mitigate the unintended negative effects of global business activity.

One sector that interests us is the sport industry. We are interested in particular in Sport Federations, of which there are quite a few here in Lausanne. Looking comparatively at Sport Federations' governance as a matter of business and human rights is a challenge. Not only are the differences in size and available resources for the various federations quite significant, but from a legal point of view, sport entities can also be difficult to address adequately. This is mainly because while most are private, some act in ways that are more public, not only in fulfilling roles of enhancing community life, but also in the power they may have over individuals. The significant public funding available to many of the teams which are their members' members also means that publics are interested in ensuring that the governance of each level is more than just adequate – good governance is now the standard for sports federation governance, just as it is the standard for states.

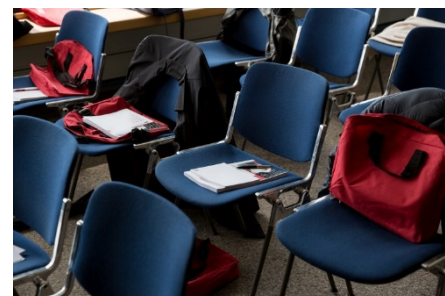


Table of Contents

Introduction	3
Centre for Sport and Human Rights	5
Enhancing Sports Governance	7
The French Duty of Vigilance	10
Sport Governance and Access to Justice	16
The Institute	18

When asking ourselves about the goodness of governance in sport, one of the ideas we had was to apply our prior interest in the regulation of supply chains to the sport industry. As you may have seen earlier, we published a small study Gold Supply Chains in 2017, which sparked our interest in the topic of supply chains, so it was a natural choice for a study on an activity that could apply the macro ideas of business and human rights to a specific industry.

Supply chains are particularly sensitive for human rights law because while many violations of the workers occur there, the links in the chain are usually legally separate entities from the Swiss or European corporations that purchase the goods produced. This leaves us with a legal difficulty in holding the companies accountable. The Institute's study on Access to Remedies sets out these problems in detail.

This Special Edition Newsletter is dedicated to highlighting the topic of Sport Governance as we have addressed it here at the ISDC. We include an entry on a study that our colleagues Henrik Westermarck, John Curran, and Stéphanie de Dycker and I developed (and Henrik presented) as well as an overview of a workshop that the Institute hosted with a non-governmental organization, SIGA, on the supply chain question.

I hope you find this Newsletter informative and perhaps even inspirational for your own work.

Krista Nadakavukaren

Introduction

Krista Nadakavukaren, Vice-Director, Swiss Institute of Comparative Law, Switzerland

On November 21, 2018, the ISDC hosted an event co-organized with the Sport Integrity Global Alliance (SIGA) on Sustainable Supply Chain Management in Sport. Six speakers as well as a keynote address and welcoming talks by representatives of SIGA and the Institute provided the audience with a broad overview of the ways in which supply chain management is moving onto the sport governance community's radar. The day also underlined what some of us suspected: that mainstreaming supply chain management in the sports world faces significant challenges.

Background: Supply Chain Management as an element of Good Governance

Good governance is a concept developed in the realm of international development assistance to explain why some recipient governments seemed to make better use of aid money than others. Factors such as adherence to law, financial accountability, policy making transparency, and low levels of corruption became synonymous for systems of government that are likely to be able to offer their citizens a way of life compatible with the ideals of peace and prosperity.

Transposed into the corporate sphere, good governance continued to emphasize a rule-based, transparent, and accountable administration, but added the element of responsiveness and responsibility for the effects of commercial decisionmaking on external stakeholders. The ideas of corporate good governance were thus bifurcated. Internally, the corporation should be managed to ensure that decisions are taken in the best interest of the corporation and that managers are accountable for their decisions. Externally, corporate governance should ensure that the company positively contributes to the economy and communities in its sphere of influence.

One of the aspects of corporate behavior that has a particularly strong tie-in to governance is in purchasing. In today's context of value chain-driven business, companies are looking to ensure that their supply chains are efficient and reliable, as well as profitable. The idea that these chains should also be socially and ecologically sustainable is growing as research demonstrates how multinational corporations' buying power can be tapped to influence conditions and practices downstream.

Sports and Governance

The Workshop's focus on sport permitted the participants to investigate supply chain management within a particular field that includes a wide variety of actors. From multi-billion dollar associations (such as FIFA) to informal neighborhood teams with no financial means, sport is a sector that crosses multiple divides: public/private; amateur/professional; big business/small business; commercial/recreational. Yet at almost every level, purchasing of supplies and services occurs and those in charge will have to decide the conditions under which this will be done.

In the area of mega-sporting events (such as the World Cup or the Olympic Games), supply chain management has already begun to be a focus of efforts to ensure sustainability. The Tokyo Olympic Committee, notably, has created a Code of Conduct for Suppliers to try to ensure that the 2020 Olympics are not tainted by allegations of abusive labor conditions or environmental destruction.

The workshop participants were encouraged to regard what has already started in the mega-events area and to begin to consider how supply chain management decisions taken on a daily basis could also become more sustainable – as one part of the sporting industry's commitment to good governance.

The Program

Following the welcomes by Krista Nadakavukaren Schefer (Vice Director of ISDC) and Emanuel Madeiros (Chairman of SIGA), Sven Arne (President of *European Athletics*) opened the event with a keynote address speaking to the challenges facing sport. Among those he mentioned was that of becoming more sustainable.

The first session of the workshop focused on the basics of supply chain management in the international legal context. Lukas Heckendorn (Vice Director of ISDC) set forth structure of the area of legal study known as "Business and Human Rights" as it is set forth in a document called the Guiding Principles on Business and Human Rights ("Guiding Principles", or GP). That document was the result of a multi-year study led by John Ruggie for the United Nations on the questions relating to how

legal accountability can be heightened for corporations that cause damage to the environment or harm individuals. Because a state's government may only directly regulate entities and persons located in territories within the state's jurisdiction, environmental damage, labor abuses, or societal harm to local communities often go unaddressed, due to host government's lack of enforcement capacity or political will to act against a foreign investor. Under the guidance set out in the GP, and today widely accepted in theory, only governments are obliged to protect human rights. Thus, human rights claims per se may only be raised against a state – even if it is a corporation that is paying sub-minimum wages or employing children or dumping toxins into the water supply.

The Guiding Principles posit that even without human rights obligations, the corporations have a responsibility to adhere to local law and to help victims gain a remedy for any harms they have suffered. Supply chains are particularly sensitive because while many violations of environmental or labor rights occur within the supply chain, the links in the chain are usually legally separate entities from the Swiss or European corporations that purchase the goods produced. This poses a legal difficulty in holding the companies accountable.

As one aspect of the business angle, we are interested in Sport Federations, of which there are quite a few here in Lausanne. Sport entities can also be difficult to legally address adequately. This is mainly because while all are private, some act in ways that are more public, not only in fulfilling roles of enhancing community life, but also in the power they may have over individuals.

The next talk was by Rémy Friedmann (Senior Advisor on business and human rights at the *Swiss Federal Department of Foreign Affairs*). Mr Friedmann is a member of the multi-stakeholder process that has led to the creation of the independent Centre for sport and human rights, based in Geneva. The Centre has developed rules applying in the MegaEvent environment for implementing good management down the supply chain.

The second session took up a number of topics in greater detail. Marc-Ivar Magnus (Vice President for Trade, Corporate Responsibility and Legal at *World Federation of the Sporting Goods Industry*) explained how the World Federation of the Sporting Goods Industry helps FIFA managing its supply chain through the FIFA Quality Program.

Stéphanie de Dycker (lawyer at the *ISDC* responsible for Belgium, Luxembourg, and the Netherlands) set forth how national systems are beginning to integrate sport governance requirements into their legal frameworks. She reminded the audience that even if the international push for good governance spurred the conceptualization of the problems of corporate governance, national laws may emerge faster and be more effective in achieving actual change.

Paul Mougeolle (PhD candidate at Potsdam and project coordinator for the French NGO *Notre Affaire à Tous*) then described the key legal notion of “due diligence” responsibilities in the business and human rights debate. The requirement that corporations actively search for areas where they might violate norms – as opposed to merely avoiding doing conscious harm – is one that French legislation has implemented, and one from which lessons can be drawn.

Finally, the workshop ended with a presentation by Colleen Theron (Director of *Ardea International*), who discussed her experiences with sports organizations who were trying to use supply chain contracts to improve governance. The reality of the difficulties faced by smaller sporting organizations in improving their supply chain management – starting with a lack of awareness and extending over a lack of resources and, sometimes, of will to engage – indicated that there is still a lot of work to be done in this exciting area of emerging norms and rules.

Centre for Sport and Human Rights' Guide for a Rights-Compliant Mega-Sporting Event

Rémy Friedmann, Senior Advisor, Federal Department of Foreign Affairs, Switzerland

Guidance on host actors:

The main actors involved in hosting mega-sporting events (MSE) are governments, local authorities, local organizing committees, the sports federations but also suppliers, sponsors and companies in charge of the infrastructure. Relations and responsibilities are often shared and intertwined. The aim of the task force that developed the Guide was to clarify as much as possible what needs to be done to ensure that each actor involved in hosting takes up its responsibility in integrating human rights from the onset of a mega-sporting event, starting from the concept and planning of a bidding process, throughout the organization and delivery, and in managing legacy.

In order to be able to do so it's key that host actors identify human rights risks and those who may be most exposed, for example local communities, workers, children, in order to prevent and mitigate them.

Host actors guide

The guide for a rights compliant mega-sporting event from the perspective of host actors that we are presenting aims to clarify roles and responsibilities across the range of host actors, so that they can ensure that human rights are respected and upheld across the lifecycle of MSE.

The guide and the interactive website were launched at the Gold Coast Commonwealth Games in April 2018.

The guide is structured along the different lifecycle phases of an MSE. Case studies will be accessible online at each stage of the guide:

1. Vision, Concept and Legacy

Here we look at how to integrate human rights into the long-term vision and planning of an event.

2. Bidding, Planning and Design

Here it's important to guarantee that the bidding process is fully transparent, that human rights are part of the bid, that the supporting infrastructure is subject to the same standards as event infrastructure, that human rights expectations are communicated across government and contractors and that access to land and resources is based on due process and stakeholder engagement.

3. Income Generation

The Guide shows how to ensure that hosting of the event supports local economies and suppliers and how to ensure that sponsors and broadcasters are subject to human rights due diligence and can identify human rights risks.

4. Sustainable Sourcing

The Guide show how to integrate sustainable sourcing in supply contracts (the Tokyo Olympics sourcing code is an example of that), how this is monitored, how the supply chains are disclosed and how access to remedy needs to be provided.

5. Construction

Addressing the specific risks associated with the migrant workforce is the main topic of this chapter along with the unfolding of joint site inspections, independent investigations, grievance mechanisms for workers and ongoing due diligence for contractors and sub-contractors.

6. Delivery and Operations

Ensuring that security and policing are subject to international principles on the use of force, that free speech and the rights of journalists are protected, that space for legitimate protest is guaranteed, that there is a harm-free environment for a diverse workforce and that the risks of modern slavery, trafficking and forced labour are effectively mitigated – these are the key elements of successful delivery an operations of an MSE.

7. Competition

The Guide shows how to guarantee that the human rights of athletes are upheld and protected, that anti-doping and integrity measures respect the rights of participants and that the risks to child athletes are specifically considered.

8. Legacy

Capturing lessons learned, ensuring that event infrastructure as a long-term and sustainable future and use events a platform for advancing human rights in host communities are the main elements to be taken into account for the aftermath of an MSE.

The Centre for Sports and Human Rights will help capturing lessons learnt and support the hosting of the MSE.

Enhancing Sports Governance at the national level: Comparative law aspects

Stéphanie De Dycker, Legal Adviser, Swiss Institute of Comparative Law, Switzerland

Numerous recent scandals in the sports world have stained the image of professional sports. Criminal activities such as doping, match-fixing, corruption, financial malpractices, illegal betting, violence and racism have shed light on the lack of transparency, democracy and accountability within many sports organisations. It is in this context that the concept of good governance of sports organisations has gained importance. In the sporting context, the notion of 'good governance' can be understood as 'the framework and culture within which a sports body sets policy, delivers its strategic objectives, engages with stakeholders, monitors performance, evaluates and manages risk and reports to its constituents on its activities and progress including the delivery of effective, sustainable and proportionate sports policy and regulation'¹.

In order to restore public trust in the sports world, several governments in Europe have engaged in a political process to encourage better governance within the sports organisations present on their territory. Such measures, which States implement separately or in combination with each other, include codes of conduct for collaborators and directors and covenants of ethical sports, voluntary governance codes, compulsory statutory provisions, measures that are specifically targeted at presidents of the most important sports organisations in the country, as well as self-evaluation questionnaires. Although these measures are designed to enhance the level of good governance within sports organisations, they seem to have a limited concrete impact.

In order to enhance their chances to effectively improve good governance within sports organisations, a few governments in Europe have recently decided to develop a new approach to the issue. Belgium, the Netherlands, and the United Kingdom, which traditionally consider that they should not intervene in the regulation of the Sports Movement present on their territory, have no direct control over sports organisations, and as a result they have barely any means to enforce policy changes within sports organisations. Consequently, the system put into place in these countries encourages good governance within the sports organisation by using the only leverage available to them: making public funding conditional upon compliance with a code on sports governance containing a defined set of requirements. Such mandatory rules for funded sports organisations began in the Netherlands in 2013², in Flanders in 2016³ and in the United Kingdom in 2017⁴.

These national codes for sports governance show important differences as to their functioning.

In the Netherlands, the NOC-NSF has developed 13 Recommendations for good governance in sports organisations as well as a mandatory code composed of Minimum Quality Requirements for the sports federations it funds⁵. As one of the Minimum Quality Requirements, sports federations must follow the principle 'comply or explain' by including a report on the

¹ EU Expert group on good governance, Principles of good governance in sport, p. 5, http://ec.europa.eu/assets/eac/sport/library/policy_documents/xg-gg-201307-dlvrb12-sept2013.pdf (Accessed 10.04.2019).

² *Minimale Kwaliteitseisen 2018*, in: *Bestedingsplan en Richtlijnen Sportagenda 2017+ Bestedingsjaar 2018, Bijlage A*, p. 33-35, <https://www.nocnsf.nl/.../4a1.-bestedingsplan-en-richtlijnen-2018.pdf> (Accessed 10.04.2019).

³ *Decreet van 10 juni 2016 houdende de erkenning en de subsidiëring van de georganiseerde sportsector*, B.S., 11.07.2016, 43201 ; see also: *Besluit van 16 September 2016 van de Vlaamse Regering tot vaststelling van de algemene erkennings- en subsidiëeringsvoorwaarden voor de georganiseerde sportsector*, B.S. 05.12.2016, 79793 ; see also : *Code Goed Bestuur in Vlaamse Sportfederaties*, Sport Vlaanderen, 2016, <https://www.sport.vlaanderen/media/4679/code-goed-bestuur-in-vlaamse-sportfederaties.pdf> (Accessed 10.04.2019).

⁴ Code for Sports Governance, UK Sport, Sport England, 2016, <http://www.ukssport.gov.uk/resources/governance-code> (Accessed 10.04.2019).

⁵ *De 13 aanbevelingen voor Goed Sportbestuur, Pas toe of leg uit!*, NOC-NSF, 2005, https://www.kenniscentrumsport.nl/publicatie/?de-13-aanbevelingen-voor-goed-sportbestuur&kb_id=2676 (Accessed 10.04.2019). see also: *Minimale Kwaliteitseisen 2018*, in: *Bestedingsplan en Richtlijnen Sportagenda 2017+ Bestedingsjaar 2018, Bijlage A*.

implementation of the 13 Recommendations in their annual report. In addition, the NOC-NSF requires its sports federations to undergo a full good governance self-scan every two years based on a detailed questionnaire.

The Code for Sports Governance from UK Sport and Sport England in the United Kingdom contains five themes and provides for 58 potentially mandatory requirements on good governance. Interestingly, the Code entails three tiers levels of requirements, depending on the type and the amount of subsidy applied for. As a result, the more important the grant funding applied for is, the stricter the requirements of good governance imposed upon the sports organisation, shall be.

The Code for good governance of Flemish Sports federations ('Code Goed Bestuur in Vlaamse Sportfederaties'), which was put into place by a Decree of the Flemish Region of 10 June 2016⁶, contains 40 principles, structured following three dimensions: Transparency, Democracy and Internal Responsibility and Control. Any sports federation present on the regional territory that wishes to benefit from grant funding is encouraged to comply with these requirements. The level of fulfilment of the requirements of the Code is measured by means of two series of indicators. Each sports organisation applying for grant subsidy is encouraged to meet the first series of 29 'hard' indicators within a certain timeline that will be set up in an agreement with the Flemish Sports Administration. In addition, among a second series of 14 'soft' indicators, sports organisations need to choose to progress on specific indicators, which correspond to specific topics of good governance, upon agreement with the Flemish Sports Administration. The progress measured based on the 'hard' and 'soft' indicators shall translate in an increase of the yearly subsidy.

While the system put into place in the Netherlands relies more on reporting duties than on financial advantages, the system implemented by UK Sport and Sport England in the United Kingdom and the one applicable in Flanders both focus on the granting of public funding. Both of them follow nevertheless a different approach. Hence, whereas the system implemented by UK Sport and Sport England in the United Kingdom focuses on the preservation of the value for money invested by the public, the system in Flanders is designed to encourage gradual improvement in the compliance with the requirements of the code. As a result, sports organisations benefitting from 'small' grant funding will need to comply with a higher threshold of compliance with sports governance requirements in Flanders than in the United Kingdom. In addition, the system in Flanders, which is based on the combination of 'hard' and 'soft' indicators, enables a sports federation to choose strategically not to progress on a specific – allegedly delicate – issue, and to compensate it by progressing on another – less problematic – topic, without any impact on its financial subsidy.

The content of the national codes for sports governance also differs importantly. Whereas the Code for sports governance of UK Sport and Sport England mainly focuses on questions of structural organisation and management within a sports organisation, the Flemish code as well as the Minimum Quality Requirements in the Netherlands also require sports organisations to adopt rules to tackle substantive issues such as match fixing, doping and sexual abuses or even rules on environmental and social responsibility. Measuring and encouraging a sports organisation to tackle in a complete and effective way sports policy issues such as doping, match fixing and unacceptable sexual behaviour, appears to be in line with the content of sports governance as encompassed at the level of international sports federations as well as with the definition of sports governance adopted at the European level⁷. In addition, including such policy issues can allow for differentiating between organisations which implement effective and complete policies to tackle such issues and other which do not.

⁶ *Decreet van 10 juni 2016 houdende de erkenning en de subsidiëring van de georganiseerde sportsector*, B.S., 11.07.2016, 43201 ; see also : *Besluit van 16 September 2016 van de Vlaamse Regering tot vaststelling van de algemene erkennings- en subsidiëeringsvoorwaarden voor de georganiseerde sportsector*, B.S. 05.12.2016, 79793 ; see also : *Code Goed Bestuur in Vlaamse Sportfederaties*, Sport Vlaanderen, 2016, <https://www.sport.vlaanderen/media/4679/code-goed-bestuur-in-vlaamse-sportfederaties.pdf> (Accessed 10.04.2019).

⁷ EU Expert group on good governance, *Principles of good governance in sport*, p. 5, http://ec.europa.eu/assets/eac/sport/library/policy_documents/xg-gg-201307-dlvrb12-sept2013.pdf (Accessed 10.04.2019).

Despite these differences, the objective sought by these national codes for sports governance remains the same: enhancing responsibility of sports organisations by improving their internal governance. Will States create new efficient ways for reaching this objective? Will other States adopt the system of mandatory codes for sports governance? Will such ideas continue to develop at the international or regional level? Would this be the case, we could be recognizing elements for the identification of general principles regarding good governance in sport.

The French Duty of Vigilance Act of 2017: The Changes Illustrated by the Vinci Case in Qatar

Paul Mougeolle, PhD Candidate, Potsdam University, and Project Coordinator for the French NGO Notre Affaire à Tous

The French Duty of Vigilance Act⁸ is considered as a major piece of legislation in the field of business and human rights⁹. Indeed, it is the first one in the world to convert the soft-law concept of *human rights due diligence* (HRDD) into a fully binding framework for ensuring that multinational corporations are held accountable for the results of their actions around the world. The French Duty of Vigilance Act (DVA) does this by imposing an obligation on parent and contracting or instructing companies ("*entreprises donneuses d'ordre*", i.e. above the supplier) to disclose and carry out due diligence in order to enhance the global protection of human rights and the environment.

The relevance of the French Act for the world of sport

In France, sport federations have the legal status of associations¹⁰. Because the DVA solely applies to French public limited companies of the French Commercial Code ("*sociétés anonymes*", i.e. publicly traded with a limited liability), sport federations are not technically within its scope of application. Nonetheless, the DVA is pedagogically relevant for the world of sport since it became the first piece of legislation which implemented HRDD into hard-law.

Even if this concept originally solely applied to businesses, major sport federations are expected to understand and implement HRDD. Indeed, after several scandals (such as the selection of Qatar as the site of the 2022 Football World Cup, where the working conditions are in flagrant breach of fundamental International Labor Organization standards) which brought to light sport organizations' connections to possible human rights violations, the author of the UNGPs, John Ruggie, drafted a special report called "FIFA and Human Rights"¹¹. There, he adapted HRDD to the world of sport and recommended its implementation by the FIFA. He also recommended its implementation as a bidding requirement in the selection rules for the hosting of future tournaments. But just what does HRDD mean concretely? And to what extent does it require corporations or sport federations to change their conduct? To answer these questions, the main provision of the DVA as well as the issues around its adoption will be set out (I). Then I will explain the general changes in French law with a concrete case linked to the world cup scandal in Qatar (II). Some conclusive words will eventually be shared on the growing legal & social pressure to implement HRDD, which also concerns the world of sport (III).

What is Human Rights Due Diligence (HRDD)?

The United-Nations Guiding Principles on business and human rights (UNGPs) emphasize business' social responsibility to implement HRDD. This concept aims at identifying, preventing, mitigating and accounting for adverse human rights impacts in the global business context. More precisely, according to the principles 17 – 21 of the UNGPs, business enterprises must take the necessary steps to cease and prevent their own human rights impacts, but also the one to which they contribute or the one to which their operations, products and services are directly linked.

I. The Duty of Vigilance Act: main provisions and issues around its adoption

In the aftermath of the Rana Plaza disaster in Bangladesh in 2013, deputies of the French National Assembly (MPs) decided to introduce a bill that foresees a translation of the concept of HRDD into hard law in 2013. Given the involvement of French

⁸ Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre.

⁹ See Sandra COSSART et al., The French Law on Duty of Care: A Historic Step Towards Making Globalization Work for All, *Developments in the Field, Business and Human Rights Journal*, 2 (2017), pp. 317–323. This legislation even influences the negotiations of the UN business & human rights Treaty, see: Human Rights Council, Report on the third session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, Thirty-seventh session 26 February–23 March 2018 : "*The recent French duty of vigilance law was a contemporary regulation that could serve as an inspiration for the working group.*"

¹⁰ Loi du 1er juillet 1901 relative au contrat d'association.

¹¹ J. RUGGIE, "For the game. For the world." FIFA and Human Rights. Corporate Responsibility Initiative Report No. 68. Cambridge, MA: Harvard Kennedy School, 2016.

brands in this new industrial catastrophe, the MPs considered that a mere social responsibility is not enough anymore. After a long procedure and many debates, the bill was adopted on the 27 March 2017.

Main provisions of the Act

The legislation provides two different scope of application. First, if a French public limited company (*société anonyme*) has more than 5,000 employees in its own structure and in its French subsidiaries, then the parent company must establish a vigilance plan with regard to the whole group and the supply chain, *a priori*¹² regardless of the legal structure and the geographic position of the controlled companies. The second option of the scope of application comes into consideration as soon as a French public limited company has more than 10,000 employees in its own structure and in its French and foreign subsidiaries¹³. According to the preliminary parliamentary work, this includes approximately 150 corporations, but this could finally amount to 300 business structures according to a 2019 report by French NGOs¹⁴. This number remains very unclear since any public institution is entitled to publish a list of subjected business enterprises nor taking care of the control of the implementation of the Act.

Either way, according to this legislation, the group headquarters must implement and publicly disclose an *effective* vigilance plan, which “shall include reasonable vigilance measures to allow for risk identification and for the prevention of severe violations of human rights [...] or environmental damage [...] resulting directly or indirectly from the operations of the company as well as from the companies it controls [...]”¹⁵ and the subcontractors. In other words, parent and contracting companies must demonstrate their control over their corporate group and supply chain in order to prevent and mitigate any salient adverse impacts. More precisely, the vigilance plan must show the implementation of the following measures:

- 1° Creation of mapping that identifies, analyses and ranks risks;
- 2° Development of procedures to regularly assess, in accordance with the risk mapping, the situation of subsidiaries, subcontractors or suppliers with whom the company maintains an established commercial relationship;
- 3° Implementation of appropriate action to mitigate risks or prevent serious violations;

¹² The act itself does not specify its extraterritorial reach. However, the lawmaker clearly intended to associate an extraterritorial reach to the duty of vigilance, see Proposition de loi n°2578 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, Enregistré à la Présidence de l'Assemblée nationale le 11 février 2015, exposé des motifs, p. 4:

« Il s'agit de responsabiliser ainsi les sociétés transnationales afin d'empêcher la survenance de drames en France et à l'étranger et d'obtenir des réparations pour les victimes en cas de dommages portant atteinte aux droits humains et à l'environnement. »

¹³ See original text, which was included into the Chapter V regarding *sociétés anonymes* of the *Titre II – Livre II* :

« Art. L. 225-102-4.-I.-Toute société qui emploie, à la clôture de deux exercices consécutifs, au moins cinq mille salariés en son sein et dans ses filiales directes ou indirectes dont le siège social est fixé sur le territoire français, ou au moins dix mille salariés en son sein et dans ses filiales directes ou indirectes dont le siège social est fixé sur le territoire français ou à l'étranger, établit et met en œuvre de manière effective un plan de vigilance. »

The French Constitutional Court restated the scope of application in a clearer way in its decision regarding the Act at the paragraph 3: « En vertu du paragraphe I sont soumises à l'obligation d'établir un plan de vigilance les sociétés ayant leur siège social en France et qui, à la clôture de deux exercices consécutifs, emploient au moins cinq mille salariés en leur sein et dans leurs filiales françaises, ou emploient au moins dix mille salariés en leur sein et dans leurs filiales françaises et étrangères.

¹⁴ Inter-associative report of 2019 : J. RENAUD et al., « Loi sur le devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, année 1 : Les entreprises doivent mieux faire », Action Aid, Amis de la Terre, Amnesty International, CCFD-Terre Solidaire, Collectif Ethique sur l'étiquette, Sherpa, Forum Citoyen pour la RSE, février 2019.

¹⁵ Translation provided by European Coalition for Corporate Justice, see original text :

“Le plan comporte les mesures de vigilance raisonnable propres à identifier les risques et à prévenir les atteintes graves envers les droits humains et les libertés fondamentales, la santé et la sécurité des personnes ainsi que l'environnement, résultant des activités de la société et de celles des sociétés qu'elle contrôle au sens du II de l'article L. 233-16, directement ou indirectement, ainsi que des activités des sous-traitants ou fournisseurs avec lesquels est entretenue une relation commerciale établie, lorsque ces activités sont rattachées à cette relation. »

- 4° Creation of an alert mechanism that collects reporting of existing or actual risks, developed in working partnership with the trade union organizations representatives of the company concerned;
- 5° Putting in place a monitoring scheme to follow up on the measures implemented and assess their efficiency.¹⁶

In addition, the Act specifies that the vigilance plan should be drafted in association with the company stakeholders involved, and where appropriate, within multiparty initiatives that exist in the subsidiaries or at a territorial level. Even though the vigilance plan must be published only once per year, the due diligence process should be an iterative one with daily implications in the business activities. The global vigilance strategy should also be determined by the highest level of the group, since it engages its liability.

Issues around the adoption of this legislation

Because of the potential effects on the French economy, this text was very controversial, even for the then-socialist government (TNCs). The MPs of the opposition even claimed throughout the parliamentary debates that this text was unconstitutional, and they immediately filed a legal challenge with the French Constitutional Court ("*Conseil constitutionnel*") after its adoption. According to them, the Act disproportionately restricts the freedom of entrepreneurship ("*principe de la liberté d'entreprendre*") because the vigilance plan obliges the disclosure of trade-secrets which constitutes a competitive disadvantage for French business enterprises, since any similar requirement exist in other countries¹⁷. Given that the constitutional court dismissed a similar provision of the "Sapin 2" Act on a reporting obligation of large corporations on financial assets in tax shortly before¹⁸, a rejection of the Duty of Vigilance Act was expected¹⁹. Finally, and surprisingly, the court did not overturn the enactment of the DVA. Merely a sanction ("*amende civile*" of 10.000€) was declared unconstitutional but this was not a decisive provision.

II. The substantive and procedural changes made by the Act

The Duty of Vigilance Act brought major changes to French law. These can be summarized in three points.

First, it introduced a clear obligation to supervise the entire corporate group and its supply chain. Moreover, because of the principle of separation of legal persons (the so-called corporate veil), one could argue that transnational businesses enjoyed immunity before the enactment of the DVA. Indeed, parent companies could control subsidiaries and determine their business strategy (and receive their benefits), without being held responsible for that (except in those cases of absolute control and precise deliberate involvement in the management of the subsidiary²⁰). The French Act, by imposing HRDD on the parent company, makes it possible to challenge their lack of control and influence over subsidiaries and suppliers, even if they do not hold 100% of the shares²¹.

¹⁶ Translation provided by European Coalition for Corporate Justice.

¹⁷ See the allegations of the French Senators in their motion: <https://www.conseil-constitutionnel.fr/les-decisions/decision-n-2017-750-dc-du-23-mars-2017-saisine-par-60-senateurs>.

¹⁸ See decision of the Council regarding the Sapin 2 Act: Décision n° 2016-741 DC du 8 décembre 2016, in particular para. 103 regarding the rejected provision. For a more detailed analysis of the similarities between the overturned provisions of the Sapin 2 Act with the Duty of Vigilance Act, see Paul MOUGEOLLE, « Sur la conformité constitutionnelle de la proposition de loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre », *La Revue des droits de l'homme [En ligne]*, Actualités Droits-Libertés, 2017, para. 67 – 99 ; see for the same opinion Sandra COSSART et al, quoted at the footnote 2.

¹⁹ See Sandra COSSART et al, quoted at the footnote 2.

²⁰ See the legal theories "*immixtion*", "*apparence*", "*co-emploi*", or "*unite économique d'entreprise*" developed by the French jurisdictions, Charley HANNOUN, « Le devoir de vigilance des sociétés mères et entreprises donneuses d'ordre après la loi du 27 mars 2017 », in : Dossier, Le devoir de vigilance, Droit Social n°10, Octobre 2017, p. 815.

²¹ The second paragraph of the art. L233-16 of the French Commercial Code determines the scope of application, see the original text in French:

« II.-Le contrôle exclusif par une société résulte :

1° Soit de la détention directe ou indirecte de la majorité des droits de vote dans une autre entreprise ;

Second, the legislation represents a paradigm shift in French law by opening access to justice to persons solely concerned by risks²². Indeed, if the measures described in the vigilance plan do not meet the five quoted requirements (see *supra*), do not respect the required scope or do not adequately address the situation, any person with a legitimate interest can file a formal notice to comply with the company in order to still prevent the harm. If the company still does not comply with the demand, the affected party may ask a French civil court to impose an injunction with periodic penalty payments. This mechanism aims to ensure that the duty of vigilance has its intended preventive effect.

Third, if damage occurs and if due diligence would have made it possible to avoid its occurrence, the company may be held civilly liable. Although proving the tort and the causal link with its resultant harm is often particularly difficult because the TNCs are the only ones who know their actual degree of responsibility, the new legislation tries to ease the problem of asymmetrical access to information by imposing the publication of the vigilance plan. This should ease the burden of proof by making it possible to know to which extent the company exercised HRDD before the harm occurred. Moreover, it is possible in French law to file a claim for a 'loss of chance to remain unharmed' ("*perte de chance*"). This allows the plaintiff to avoid having to demonstrate the causal link directly²³, but the damages awarded for this type of claim cannot be as high as for a genuine harm or loss.

Therefore, we can expect an increase in the number of civil proceedings against multinationals in the future. In fact, if the victims are well-informed of these changes, they may now feel empowered to file a suit. This could be the case if an incident arises which captures public's attention, such as in Qatar with the construction of the world cup stadiums. Coincidentally, a French group subjected to the DVA, Vinci, is also responsible for the construction of the stadiums in Qatar. Vinci was criminally charged of forced labor and modern slavery by the NGO Sherpa before its enactment²⁴. This case provides a perfect example to illustrate more concretely the changes made by the Act.

Illustration of the changes with the Sherpa v. Vinci case

As demonstrated by the *Vinci* case, victims did not often dare to file a claim personally, because of the former non-favorable state of the law²⁵ and the threat of reprisals²⁶. That's why NGOs which are advocating for more corporate accountability

2° Soit de la désignation, pendant deux exercices successifs, de la majorité des membres des organes d'administration, de direction ou de surveillance d'une autre entreprise. La société consolidante est présumée avoir effectué cette désignation lorsqu'elle a disposé au cours de cette période, directement ou indirectement, d'une fraction supérieure à 40 % des droits de vote, et qu'aucun autre associé ou actionnaire ne détenait, directement ou indirectement, une fraction supérieure à la sienne ;

3° Soit du droit d'exercer une influence dominante sur une entreprise en vertu d'un contrat ou de clauses statutaires, lorsque le droit applicable le permet. »

²² Before, only art. 9 of the French Civil Code, regarding the protection of the right to privacy, and art. 1252 of the French Civil Code, regarding the protection of the environment, enabled plaintiffs to act preventively to cease the harm endured in a non-urgent interlocutory proceeding (*procédure en référé*), see: Avis n° 569 présenté Par M. Alain ANZIANI, Sénateur au nom de la commission des lois constitutionnelles, de législation, du suffrage universel, du Règlement et d'administration générale (1) sur le projet de loi, ADOPTÉ PAR L'ASSEMBLÉE NATIONALE EN DEUXIÈME LECTURE, pour la reconquête de la biodiversité, de la nature et des paysages, 2016, pp. 34 – 35.

²³ Charley HANNOUN, « Le devoir de vigilance des sociétés mères et entreprises donneuses d'ordre après la loi du 27 mars 2017 », in : Dossier, Le devoir de vigilance, Droit Social n°10, Octobre 2017, p. 816 ; Paul MOUGEOLLE, « Sur la conformité constitutionnelle de la proposition de loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre », La Revue des droits de l'homme [En ligne], Actualités Droits-Libertés, 2017, para. 51.

²⁴ See Sherpa's press release : <https://www.asso-sherpa.org/2022-world-cup-qatar-sherpa-files-complaint-vinci-construn-the-ction-management-qatar-branch-qdvc>

²⁵ See this study, which details the procedural and the substantive legal barriers in Europe: SKINNER, R. MCCORQUODALE & O. DE SCHUTTER, *The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Business*, executive summary & recommendations, 2013, pp. 19 – 22.

²⁶ M-L. GUISLAIN, Sherpa's head of litigation for the Globalisation and Human Rights programme, underlines these difficulties:

such as Sherpa, were forced to report the matter to the public prosecutor. However, to hold the parent company liable for the acts of its subsidiary under French criminal law, it is necessary to establish complicity²⁷ or “deliberate endangerment of the life of others”²⁸. In other words, intent must be proven. This is a highly restrictive requirement which is difficult to prove and not adapted to this type of case, which often involves negligent conduct. Therefore, even though the facts in the *Vinci* case are quite clear, the criminal complaint lodged by Sherpa was dismissed²⁹. By the way, this type of criminal proceedings has never succeeded in France, probably because of the many political and practical hurdles faced by the prosecutors in those investigations³⁰.

Further, it is possible to file a counter-claim for defamation. In *Vinci*, the criminal complaint had such a strong reputational impact on Vinci that they demanded approximately 500.000€ damages to the NGO³¹. The civil society considers this type of retaliatory action as a SLAPP-litigation (“Strategic Litigation Against Public Prosecution”) to prevent legitimate legal actions. Even if this latter suit was eventually dismissed, *Sherpa v. Vinci* shows how much the former state of the law was unclear regarding the liability of multinational companies and how it enabled multinational businesses to remain unsanctioned.

Now, however, the victims in Qatar will be able to act against the parent company of Vinci after the release of the second vigilance plan in 2019, if they can demonstrate that they are still enduring a harm. This represents a major change because they will be able to legally force the parent company of Vinci to cease and repair the harm if the measures undertaken by the joint-venture in Qatar are still not sufficient.

III. Conclusion: Should or even shall sport federations conduct HRDD processes?

The presentation of the French Duty of Vigilance Act shows to what extent the liability regimes of multinationals can evolve. And States are truly under social and legal pressure to adopt new laws on HRDD. According to General Comment n°24 of the Committee on Economic, Social and Cultural Rights of 2017, States have a legal obligation to define adequate duties for transnational corporations such as HRDD³². Even if this Comment does not explicitly address sport federations, no valid reason exists not to extend HRDD to them. As stressed by the Committee in the first paragraph of its general comment, the risk of human rights violations by corporations is basically the main reason for the very existence and justification of the duty to

“The enormous pressure put on employees made our task very difficult; the migrants are terrorized by the threat of reprisals that they could suffer. Nevertheless, we have been able to collect conclusive evidence on the spot of undignified working and living conditions and remuneration that bears no relation to the work performed, which is carried out under duress and threats.”

²⁷ Art. 121-7 of the French Criminal code.

²⁸ Art. 223-1 of the French Criminal code.

²⁹ See the last press release of 22 November 2018 by Sherpa on the case: <https://www.asso-sherpa.org/2022-fifa-world-cup-in-qatar-new-complaint-against-vinci#.XITdhj5KjIU>

³⁰ None of the criminal complaints against parent companies of TNCs has ever succeeded. Indeed, according to Sherpa, the Lafarge Case is the first one in which “a multinational parent company in France is indicted for the activities of one of its subsidiaries abroad.” A high-level study coordinated by three expert Professors also highlighted the difficulties of these cases for the public prosecutors in Europe, see G. SKINNER, R. MCCORQUODALE & O. DE SCHUTTER, *The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Business*, executive summary & recommendations, 2013, p. 22 :

“In European jurisdictions where it is possible for businesses to be held criminally liable for human rights abuses committed overseas, prosecutions remain rare. For a number of reasons, linked either to the legal systems concerned or to the attitude of the prosecuting authorities, and because of the complexity of these cases, lack of resources and know-how, as well as lack of mandate, public prosecutors do not pursue cases involving corporate complicity in human rights violations that occur abroad.”

³¹ See <https://www.asso-sherpa.org/plainte-contre-vinci-au-qatar-vinci-porte-plainte-en-diffamation-et-demande-des-dommages-et-interets-exorbitants-lassociation-sherpa-et-ses-salaries#.XJjxkV9KjIV>

³² Committee on Economic, Social and Cultural Rights, General Comment n°24 (2017) on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context Business Activities, 10 August 2017, E/C.12/GC/24, para. 16 and 25 – 37.

regulate them³³. Accordingly, the obligation of States to protect human rights might have to constantly be adapted to new risks, including the ones arising out of mega sporting events.

Furthermore, many tort laws of common law jurisdictions already recognized a *duty of care*³⁴, which in some situations can give rise to an obligation to supervise other persons such as subsidiaries³⁵. According to the legal literature and some precedent, this type of duty could also arise in French³⁶ and German³⁷ tort law. This duty is not limited to businesses and can be applied to sport associations if certain conditions are met, such as if the damage was reasonably foreseeable and if there was sufficient proximity between the sport federation and another person directly responsible for the harm. Under these circumstances, the victims might already have a legal basis to hold the FIFA to account for having awarded the 2022 World Cup to Qatar, because it did know or should have known of the miserable working conditions existing there and did not take any action to require Qatar to improve them.

In light of the preceding comments, sport federations should implement HRDD to avoid liability, but also to meet social expectations. This will enable them to comply with new possible state regulations as well as with the new bidding requirements which are already being imposed by the FIFA and the Olympic Committees³⁸. This will lastly provide them a better reputation and better chances to host future tournaments and, of course, contribute to a better world.

³³ See first paragraph of the General Comment n°24:

“Businesses play an important role in the realization of economic, social and cultural rights, inter alia, by contributing to the creation of employment opportunities and, through private investment, to development. However, the Committee has been regularly presented with situations in which, as a result of States' failure to ensure compliance with internationally recognized human rights under their jurisdiction, corporate activities negatively affected economic, social and cultural rights. This General Comment seeks to clarify the duties of States parties to the Covenant in such situations, with a view to preventing and addressing the adverse impacts of business activities on human rights.”

³⁴ United Kingdom House of Lords, *Caparo Industries plc v Dickman*, [1990] 2 AC 605.

³⁵ England and Wales Court of Appeal, *Chandler v. Cape*, [2012] EWCA Civ 525, 25 April 2012.

³⁶ COURET A., SCHRAMM M-P., « L'indemnisation par une autre société du groupe des salariés d'une filiale en difficulté », *Revue des sociétés*, 2014 p.709 : « Hors le co-emploi, demeure la responsabilité civile » ; Cour de Cassation, Chambre civile 1, du 7 mars 2006, 04-16.179.

³⁷ SAAGE-MAAß M., *Arbeitsbedingungen in der globalen Zulieferkette. Wie weit reicht die Verantwortung deutscher Unternehmen?*, Friedrich Ebert Stiftung, Novembre 2011, S. 12 ; WESCHE P., EBERT I., „Die UN-Leitprinzipien für Wirtschaft und Menschenrechte und Zugang zu Abhilfe Ansätze für eine konsensorientierte Erweiterung der zivilrechtlichen Klagemöglichkeiten in Deutschland“, Business and Human Rights Ressource Center, 2016, S. 6 – 7; WESCHE P., SAAGE-MAAß M., “Holding Companies Liable for Human Rights Related to Foreign Subsidiaries and Suppliers before German Civil Courts: Lessons from *Jabirs and Others v Kik*”, *Human Rights Law Review*, 2016, p. 377-379.

³⁸ UN General Assembly, Working Group on the issue of human rights and transnational corporations and other business enterprises, Note by the Secretary-General, Seventy-third session Item 74 (b) of the preliminary list* Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms, 16 July 2018, p. 7.

Sports Governance and Access to Justice

Henrik Westermarck, Legal Adviser, Swiss Institute of Comparative Law, Switzerland

In September 2018, the European Association for Sport Management held its annual conference in Malmö, Sweden. The theme was “Managing sport in a changing Europe” and the conference attracted about 500 participants from 43 countries. As one of the speakers at the conference, I presented the ISDC’s project on sports governance. The following provides a brief overview of the project along with some initial observations.

In early 2018, the ISDC launched a project aiming to examine the concept of sports governance and the legal aspects related to this concept. Within this framework, we examined in particular the relationship between the rules and practices of international sports federations and national and international law. The interplay between these different kinds of regulations and laws can be complex. The same can be said about the various courts and other dispute settlement bodies enforcing these rules.

Generally, sports activities are organized in a structure that can be described as a top-down pyramidal structure. This is a monopolistic pyramid structure, with a single national association for each sport and country, operating under the umbrella of a single regional (e.g. European) and a single worldwide federation. At the national level, local sports clubs and organizations are members of the single national federation for the sport in question.

The Sport federations adopt rules themselves governing their sporting activities, for example on how long a match should be and who is eligible to participate. They also regulate issues that more indirectly relate to sporting activities such as doping and the governance of the federations. Regulations apply to the top-down pyramidal structure under which the international federations adopt further regulations which apply to their members (i.e. the national federations), which, in turn, adopt rules applicable to their members, and so on. Both international and national federations have put in place different mechanisms and bodies in order to settle disputes (often as a board within the sport federation in question).

The main sports governing bodies at the international level are the international sports federations (ISFs), such as FIFA, the International Association of Athletics Federations and the International Olympic Committee (IOC). However, there are other kinds of bodies playing a key role in different areas, such as the World Anti-Doping Agency (WADA) within the area of doping and the Court of Arbitration for Sport (CAS) which has the role of a “sports supreme court”.

These different international bodies are private associations created in accordance with private domestic law. Many international sports federations including the Olympic committee are based in Switzerland and are therefore subject to Swiss law.

It is worth noting, especially following several corruption scandals in recent years - such as the so-called FIFA-gate - that the wide autonomy that sports federations enjoy when it comes to organizing their sporting activities does not mean that they have any kind of immunity from legal proceedings. They are, like any other association, subject to national law.

Sport regulations of the different sports governance bodies, as interpreted by the dispute solving bodies, are often referred to as sports law or “*lex sportiva*”. This is, essentially, private law made by private actors, as opposed to regular laws adopted by states. The regulations essentially provide a system of self-governance. This autonomy has long been permitted by states, without any considerable intervention. This is because the sporting system was originally conceived as an autonomous regime, where state authorities and public law did not have a clear role to play. This is true not only for sports organized at the international level (the IOC and the ISFs), but also at the national level. However, there are exceptions, such as France, where the government has been active in adopting laws regulating the activities of sports associations.

In recent years, however, sports governing bodies have been challenged by strong demands from public authorities to increase their levels of legal scrutiny, democracy, transparency and respect for fundamental rights. At the international level, this is largely reflected in the growing interest of the governance of the ISFs and the development by various stakeholders of good governance principles. The interest from states and other external stakeholders is closely linked to the general

development of sports, characterized by the professionalization of sports and athletes and the commercialization of sports. Today, a number of sports such as football have turned into multi-billion dollar industries. In addition to *lex sportiva*, national law plays an important role in many aspects. In particular, national fundamental rights, such as those concerning non-discrimination and the right to a fair trial, must be observed as well as rules on doping and physical assaults. Moreover, various kinds of labour law provisions may come into play.

Traditionally, international law differs from state-based legal systems primarily because it, as a rule, applies to countries rather than to private actors. The 2005 UNESCO International Convention against doping in sports is one example of international law affecting sports. States members to this convention are required to take measures in order to combat doping in sport. Other examples of international law that may have an effect on rules on sports activities and the general organization of sports are Global and regional Human Rights obligations as laid down in the UN's Universal Declaration of Human Rights and the European Convention of Human Rights (ECHR).

The ECHR is of particular interest, with athletes bringing numerous cases before the European Court of Human Rights (ECtHR). The majority of the cases have been brought following disciplinary measures imposed on the athletes by sport dispute settlement bodies, generally the CAS, and have often concerned alleged violations of Article 6 of the ECHR, protecting the right to a fair trial. Various grounds have been put forward, such as the unfairness of proceedings before the CAS and the lack of impartiality and independence of the CAS and its arbitrators (see for example *Mutu v. Switzerland* and *Pechstein v. Switzerland*). Other articles in the ECHR that have been invoked include Article 4 (prohibition of slavery and forced labour), Article 8 (right to respect for private and family life) and Article 9 (Freedom of thought, conscience and religion). In a much-discussed case decided in 2018, a group of French athletes claimed that the doping rules which required them to file detailed information about their whereabouts violated their right to respect for their private and family life under Article 8 of the Convention (*Fédération Nationale des Syndicats Sportifs (FNASS) and others v. France*).

Given that the European Convention of Human Rights lays down obligations on States and not on private actors, a sporting rule which is incompatible with the convention would not amount to a breach by the federation that imposes it. Instead, the appropriate defendant in such a case would be the State where the federation is based, such State having a positive obligation to ensure that everyone can enjoy his or her rights under the convention.

Although sports are subject to limited regulation at the EU level, the EU courts have rendered a considerable number of judgments affecting European sports regulations (see in particular *36/74 Walrave and Koch*, *C-415/93 Bosman* and *C-519/04 P Meca-Medina*). In essence, the courts have found that sport may be a form of economic activity, in particular for professional athletes, and that sporting rules therefore must comply with EU rules on free movement of persons (workers) and services and EU competition rules.

Disciplinary action in the form of a long suspension from competing, for example, may ruin both the career and the financial situation of an athlete. There is therefore a strong need for proper access to justice for athletes subject to disciplinary or other kinds of sanctions under a sporting regulation. Identifying the possibilities that athletes have open to them for their case to be properly heard and for them to have a formal right of appeal against any decision, involves, at least to some extent, an examination of the relationship between sports regulations, national and international law.

Sports governance, in its broadest sense, can be explored from a variety of different perspectives. The present project has focused primarily on access to justice for athletes, revealing that the legal and non-legal avenues open to those participating in sport, particularly at the professional level, are numerous and fragmented. It is hoped that in shedding light on this relatively undeveloped area of sports governance, further research in the area may be inspired.

The Institute



Planned Events

- 23.05.2019 Journée de DIP : **Les mesures provisoires en droit international privé et en arbitrage international**
Symposium (**Program**)
- 26.09.2019 **Le droit & le mensonge**
Event

Events Being Planned

- Colloquium **Human Rights Due Diligence in France**
Colloquium **Comparative Family Law**
Colloquium **Vergleichendes Religionsrecht**
Colloquium **Comparative Migration Law**
Colloquium **Le droit coutumier comparé : Perspectives nationales et internationales**
Event **AirBnB**
Training **Journée doctorale** (in cooperation with the **CUSO**)
Workshop **Comparative Law Institutions**

Planned Publications

- Volume 87 **The Legal Framework for Countering Terrorist and Violent Extremist Content Online**
Volume 88 **Cohérence droit international privé**
Volume 89 **Mesures provisionnelles – Actes DIP 2019**
- Volume XX **Yearbook of Private International Law 2018-2019**

N'oubliez pas de vous rendre régulièrement sur notre site Internet www.isdc.ch, ou de consultez nos réseaux sociaux (Facebook, Twitter et LinkedIn). Vous pouvez également vous inscrire pour recevoir toutes les notifications sur les prochaines évènements en envoyant un email à news.isdc@unil.ch.

