

Preface

*Je gaat het pas zien als je het doorhebt*¹

Johan Cruyff

This book is an introduction to sports law, in particular International (world-wide) and European (EU) sports law. The opening contribution is the starting and departure point for all others. It is the full text of the author's inaugural lecture on 10 June 2011 on *What is Sports Law?*, when he was officially appointed Professor of International and European Sports Law at the School of Law of Erasmus University Rotterdam. The Introductions and Conclusions (Summaries) of all articles where applicable are put in the perspective of the sports law doctrine that is developed and proposed in the inaugural lecture. And in the articles on European Sports Law (ESL) the sport specificity test is applied where applicable. In the 'sports betting' article a new, systematic method of jurisprudential analysis is presented and applied by this author, which in principle might be used for studying also other, non-EU jurisprudence.

Capita selecta in the book's subtitle also means *miscellanea*, not only in the meaning of the main themes dealt with in the book, but also regarding the emphases made and the examples given in individual contributions. So, for example the EU competition law side of sports betting is dealt with, but not the aspects of organized crime, sporting fraud and match-fixing that accompany sports betting and which now is an emerging theme in sports law. A crucial legal aspect of international football transfers ('buy-outs') is discussed, but not the specific role and function of agents with regard to transfers. And also the very special issue of sports taxation is not incorporated in this book. *Lex Olympica*, the law of the Olympic Games, does not get a separate treatment, but is represented via the 'sports boycotts' article and the 'passport shopping' theme in the 'sport and

¹ 'You will see it not until you have grasped it' is the title of a Dutch book (2004) by Pieter Winsemius (subtitle: *Over Cruijff en leiderschap* ['About Cruyff and Leadership']).

nationality' contribution. Sports image rights are not treated, although the ASSER International Sports Law Centre (hereafter: AISLC) in The Hague, the 'legal capital of the world,' produced a country studies book on the subject as was the case with players' agents, sports betting and other topics. Nevertheless, most relevant, 'hard core' aspects and themes are covered in the book, which is based on more than ten years of theoretical and practical experience on the part of the author in this field, in his capacity of the AISLC's Director (editor in cooperation with Dr. Janwillem Soek, of the *Asser International Sports Law Series* of book publications and of *The International Sports Law Journal* (ISLJ); project manager of applied research reports and studies for, in particular, the European Commission, mostly in the form of comparative legal country studies; organizer of conferences at home and abroad—the most recent addition being the annual conference of the Hague International Sports Law Academy (HISLAC) which was established in Djakarta (Indonesia), September 2010; and individual, private fundamental research). The 'comparative sports law' article represents a good example of what the Centre in cooperation with learned colleagues at home and abroad such as Professor Stefaan van den Bogaert (Leiden University) accomplished in the area of applied research. See for example also, on G-14 and EPFL in the 'Social Dialogue' article, or on the EU non-nationals issue in the 'sport and nationality' article. In the 'competition law and sport' article there is an—anonimised—example of the Asser legal advisory services included which was delivered by Professor Parrish (United Kingdom) (*Dutch Equestrian case*). The author himself was directly involved as a disciplinary arbitrator in the *Dutch Billiard case* (see the article on 'anti-doping law in sport').

In this book association football ('soccer') is the sport that is by far most on the agenda. It is the largest sport in the world, most popular all over the globe. It may be described as a *perpetuum mobile*: the elite football in Europe is a day-to-day commercialised and professionalised industry, which makes it a perfect subject of study from a EU Law perspective. The institutional 'Big Four' of global sports governing (judicial) bodies are specifically represented in this book: IOC, FIFA, CAS and WADA, to which for Europe UEFA must be added. American Sports Law is not treated in this publication, nor the sports laws of other regions in the world.

The way of writing and composing the articles can be characterised further as follows. First, the method of *close reading* was systematically used. It means that primarily the presentation of material is based on what the law, the jurisprudence and other documents of a legal nature exactly provide for. See for example, in particular the 'sport specificity' and 'sports betting' contributions in this book. Secondary comments and learned opinions were not systematically studied, also because the international sports law literature is very diversified and varied. There are leading authors like Professor Jim Nafziger (USA) for the universal, global part of sports law, and Professor Steve Weatherill (UK) for the EU sports law part, but there is only one issue that was and still is hotly debated worldwide in academic sports law circles and where one may find some line of developing reasoning over the years. That is—not very surprisingly—the fundamental topic of what sports

law is, where it consists of. In European Sports Law the hotly debated topic remains the core issue of ‘sport specificity,’ that is the sporting exceptions which are acceptable under EU Law.

Secondly, with regard to European Sports Law, the European Commission’s White Paper of Sport (2007) and its 2011 follow-up, the so-called ‘White Paper plus’ (‘Developing the European Dimension in Sport’) turned out to be of crucial importance, because both documents most neutrally and objectively describe the *status juris* (and of policy) in European Sports Law, in particular *re* freedom of movement and competition law issues. So, in some cases the Commission’s authority was heavily relied on by this author (see for example: on sport specificity; on TV rights in the ‘competition law’ article; the Social Dialogue in sport article).

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