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Transnational Sports Law

Franck LaUy

Abstract Certain legal expressions are in everyday use in doctrine or practice, as if their meaning was obvious, despite the conceptual vagueness that continues to surround them. The notion of “Transnational Sports Law” undoubtedly falls into this category. In this contribution, it is demonstrated that, regardless of the meaning given to the expression, the addition of the adjective “transnational” has conceptual virtues that provide sports law with a pertinent analytical framework. The concept of Transnational Sports Law offers a suitable theoretical framework for the analysis of the system of relations forged between the sporting legal order and the “public” legal orders—the sole obstacles to the unlimited development of the lex sportiva.

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Certain legal expressions are in everyday use in doctrine or practice, as if their meaning was obvious, despite the conceptual vagueness that continues to surround them. The notion of “Transnational Sports Law” undoubtedly falls into this category. With this contribution, I aim to demonstrate that, regardless of the meaning given to the expression, the addition of the adjective “transnational” has conceptual virtues that provide sports law with a pertinent analytical framework.

Yet it is still necessary to acknowledge the existence of “sports law,” something which is rejected by a certain school of thought. For E. Grayson, for example

“No subject exists which jurisprudentially can be called sports law. As a soundbite headline, shorthand description, it has no juridical foundation: for common law and equity create no concept of law exclusively relating to sport. Each area of law applicable to sport does not differ from how it is found in any social or jurisprudential category ...”

Rejecting the idea of sports law, these authors entitle their discipline “Sport and the law,” which consists of analysing the manner in which the law—namely state law (e.g., employment law, contract law, criminal law, etc.)—applies to the sporting domain. At best, certain of these authors recognise that the particularities of sport give rise to an independent offshoot of state law. This restrictive doctrinal approach can be criticised for at least two reasons:

i. First of all, because it can only be relevant for certain countries—generally through common law—which have not adopted legislation in the sporting domain. However, other states—often by tradition of civil law—have legislated on the subject. This is very much the case for France, which since the second half of the 20th century, has developed an increasingly dense body of legislation that is now grouped together in a sporting code covering numerous aspects of sporting activities. The code essentially allocates responsibilities in terms of the organisation of sporting activities between government, regional authorities, associations, companies, federations, the National Olympic Committee, etc., specifying the rights and obligations of the different parties involved (athletes, trainers), as well as organising the anti-doping effort; it also regulates the practice of sporting activities (sports facilities, insurance, hygiene and safety, etc.) and includes other measures relating to the funding of sport. Through a system of public service delegation, French law even operates a form of nationalisation of the national federations: although they retain association status under private law, their decisions are regarded as administrative decisions and come under the competence of the administrative judge. Undoubtedly, therefore, there exists French sports law of state origin which even attracts to it the sporting standards of the federations, thus invalidating the theory of “Sports and the Law.”

1 Grayson 1994, p. xxxvii. See also the presentation of the debate given by authors in favour of sports law: Gardiner et al. 1998, pp. 71 and 72; Parrish 2003, pp. 6 et seq.
2 Davis 2000-2001, pp. 211 et seq.
3 www.legifrance.gouv.fr
ii. Secondly, the “Sports and the Law” theory is state-centred, ignoring the law produced by the sporting bodies, whether they are international (the international federations and the International Olympic Committee, in particular) or national in scope. However, it is these bodies which, even before the states, organise sporting competition in its manifold aspects (rules of play, technical rules, qualification of athletes, anti-doping rules, in some cases the status and contracts of athletes, etc.). Taking the view that these standards cannot claim to have the quality of legal rules amounts to having a highly restrictive conception of the law, which is well out of step with the realities on the ground. The “Sports and the Law” theory finds its roots in the state positivism that necessarily links the law to the state, the sole entity capable of imposing compliance through physical constraint. However, pluralist theories have shown that neither power nor law are in essence linked to the state, but that they manifest themselves in any organised social group, whether it be pre-, infra-, supra- or para-state. From this perspective, it becomes clear that sporting bodies do indeed produce legal rules—a fact which in no way prejudices their degree of autonomy with regard to the law emanating from the states.

Having confirmed the existence of sports law, resulting both from public (state or even, by extension, inter-state) and private sources (the rules of sporting bodies), it is now necessary to analyse what the adjective “transnational” adds to or takes away from the concept.

An a contrario approach would permit the exclusion of sports law of national scope from the notion. Once the idea of transnationality involves going beyond a defined national territory, both the state rules applicable to sport and the rules of the national sporting bodies have to be set aside. It should, however, be noted that the rules of the national federations are often merely a transposition of the rules laid down by the international federations.

Transnational Sports Law can also be distinguished from International Sports Law, as the concept of international law (understood as international public law) originally refers to the law applicable to inter-state relations. With the diversification of international society, international law these days involves more varied subjects (intergovernmental organisations and private bodies, to a certain extent), of which it governs the status or relations. International law still only intervenes infrequently in the field of sport, so that, logically, the sporting bodies are not characterised as a subject of international law—with the possible exception of the

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4 See the writings of Kant, Hegel, Carré de Malberg, Kelsen etc.
5 See in particular Romano 2002, particularly p. 81; Virally 1960, chapter XV on the pluralism of legal orders.
6 Contra, see Nafziger 2004a, 376 p., for whom the conception of International Sports Law is close to that explained in the first part of this paper.
International Olympic Committee, which has succeeded in obtaining quite unique status, not dissimilar to that of the International Committee of the Red Cross.\(^7\)

With the *a contrario* approach proving insufficient to precisely define the concept of Transnational Sports Law, a positive definition becomes inevitable. If we depart the sporting domain for a moment, it appears that the notion of transnational law, very common in legal literature and even in practice, is characterised by an ambiguity which, far from constituting an obstacle to its application to the field of sport, on the contrary helps to highlight the diversity of the legal phenomenon that is sports law.

Three meanings can be drawn from this: a wide meaning, based on the theory of Jessup, covering any rule with external scope (Part 1.); a hybrid meaning, characterising the legal relations between public and private entities (Part 2.); a strictly private meaning, referring to the sectoral rules produced by self-regulated private global parties (Part 3.). While the last of these is the most meaningful from a conceptual point of view, the fact remains that the first two help to illustrate the varied dimensions of sports law.

### 1 The Wide Conception: Jessup’s Transnational Law

The spread of the expression “transnational law” within legal circles owes a great deal to the book of the same name published in 1956 by the renowned American lawyer Philip Jessup, who went on to become a judge in the International Court of Justice during the 1960s. Mindful of going beyond the traditional distinctions between internal law and international law and between public and private law, Jessup proposes the grouping together under a single description of all rules with an extra-national dimension:

“I shall use, instead of “international law” the term “transnational law” to include all law which regulates actions or events that transcend national frontiers. Both public and private international law are included, as are other rules which do not wholly fit into such standard categories.”\(^8\)

Apart from the rules of public international law and the national rules of private international law, the concept also encompasses internal law with international scope—public and private (civil or criminal)—and the principles applied to legal relations forged directly between private bodies. Defined in this way, transnational law embraces all legal rules, independently of their origin, that exceed the framework of a single national legal order. Through this emphasis of the existence of standards that were little known at the time, such as the law of international organisations or the general principles resulting from arbitration case law, Jessup

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\(^7\) Latty 2001, xix + 235 p.

\(^8\) Jessup 1956, p. 2.
raised the issue of the traditional boundaries of international law, which amounts to a success still palpable today in terms of the theory of transnational law.

Applied to sports law, Jessup’s Transnational Law would make it possible to group all standards into a single set “which regulates actions or events that transcend national frontiers” in the area of sport. The private rules of the international federations and the International Olympic Committee would thus sit alongside the few rules stemming from the international legal order, such as the 2005 UNESCO Convention against Doping in Sport, the conventions of the Council of Europe against doping and violence in stadiums, and the texts imposing a sporting embargo on certain nations (United Nations Convention against Apartheid in Sport of 10 December 1985, Resolution 757 (1992) of the Security Council imposing an embargo on Yugoslavia). To this list can be added the numerous soft law texts adopted by the United Nations General Assembly, UNESCO and other international bodies.\(^9\) Finally, the state rules likely to be applied to transnational sporting relations, for instance the Swiss law on associations—the IOC and most international federations have their headquarters in Switzerland—would also come under Transnational Sports Law.

Nonetheless, Jessup’s theory is not intended to be merely descriptive, as his proposal consists of suggesting that any judge (national or international, public or private) faced with a dispute transcending state borders may choose the rule of transnational law which they regard as being most commensurate with reason and justice for the resolution of the dispute.\(^10\) From this perspective, Jessup’s theory has not met with the anticipated success, insofar as each judge is the organ of an established legal order that does not leave them the latitude to import external standards at will. But what about specifically in relation to sport?

There is no doubt that if a sport-related dispute is being heard by a judge at a state court—which is tending to become rarer due to the more widespread recourse to arbitration—, they would give precedence to their national law and take the applicable international law into account only if their Constitution recognised its value,\(^11\) while the laws of another state would be implemented if the mechanisms of private international law referred to it.\(^12\) Similarly, they would apply the laws of international sporting bodies if so authorised by national law, via an explicit reference\(^13\) or by means of contractual mechanisms. However, under no

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\(^9\) On international sports law, see the contribution of Andreas Wax in this volume, and Latty 2007, pp. 652 et seq.

\(^10\) See Jessup 1956, pp. 106 et seq.

\(^11\) In France, article 55 of the Constitution envisages that international treaties have a value superior to the law.

\(^12\) See Loquin 2003, n° 186-95.

\(^13\) The French law of 1975 (amended on several occasions since 1984) thus envisaged that the sports federations were responsible for ensuring “compliance with the technical and ethical rules of their disciplines laid down by the international federations, the International Olympic Committee and the French National Olympic and Sports Committee.”
circumstances would a state judge be authorised to draw on a patchwork of transnational rules potentially concerning the situation in dispute. It is for this reason that the French Conseil d’État traditionally considers the rules of the international federations to be devoid of legal effect in French law unless they have been transposed by the national federations.\(^\text{14}\)

At the level of the Court of Arbitration for Sport, this is more of a grey area, as the CAS’s arbitration rules leave its arbitrators considerable room for manoeuvre. Within the framework of the appeals process, in addition to the “applicable regulations and the rules of law chosen by the parties” and, secondarily to “the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled,” the CAS may apply “the rules of law, the application of which the Panel deems appropriate.”\(^\text{15}\) In practice, it can be observed that the CAS’s divisions sometimes have differing interpretations of these provisions on the applicable law. While all divisions in the first instance apply the rules of the sporting bodies concerned, some make abundant reference to state law, sometimes making the sporting rules secondary to this,\(^\text{16}\) while others spontaneously free the sporting standards from any national legal order.\(^\text{17}\) Moreover, at the level of the relevant ad hoc division at the Olympic Games, “The Panel shall rule on the dispute pursuant to the Olympic Charter, the applicable regulations, general principles of law and the rules of law, the application of which it deems appropriate.”\(^\text{18}\) The divisions of the CAS therefore enjoy a degree of freedom of choice in terms of the rules to be applied, which appears to correspond to Jessup’s recommendations. The theory of Transnational Law is therefore implemented, at least to a certain extent, at the level of the CAS, not solely in its descriptive aspects (diversity of the rules applicable to transnational sporting relations) but also in its operational aspects (application of the most relevant rules by the judge).

\(^{14}\) See for example the Conseil d’État’s advisory opinion dated 20 November 2003, in Revue juridique et économique du sport, no. 72, September 2004, p. 65: “The international sports federations are subject to the legislation of the state where each of them has its headquarters and the regulations which they lay down do not apply within France’s internal law.”

\(^{15}\) Art. R58 of the Code of Sports-related Arbitration. “In the latter case, the Panel shall give reasons for its decision.”


\(^{18}\) Art. 17 of the Arbitration Rules for the Olympic Games (Vancouver 2010). The arbitration rules for other major international competitions (FIFA World Cup, UEFA European Championship, Commonwealth Games) envisage similar provisions (see for example art. 18 of the arbitration rules for the final phase of the FIFA World Cup 2010).
2 The Hybrid Conception: Transnational Law as the Law Governing Mixed Relations

The adjective "transnational" is commonly used in a specific sense to qualify relations between a state and a foreign private entity, especially in the context of investment law. The practice of state contracts (a petrol concession contract, for instance) gives rise to "hybrid" or "asymmetrical" relations between the state and a foreign private company. The term "transnational" takes into account the atypical nature of these legal relations in which contractual equality and state sovereignty are opposed, without in many cases being wholly reduced to either national or international law. These contracts generally include an arbitration clause providing for a tribunal to rule on disputes between the parties. This is commonly referred to as "transnational arbitration" or "mixed arbitration". Much has been written about the law applicable to disputes of this type by transnational tribunals: law of the contracting state? International public law? Other rules? In view of certain decisions reached in disputes of this type where general principles belonging to no identified legal order have been applied, some authors have posited the idea of transnational law specifically tailored to these mixed relations. Since the 1980s, however, the debate has lost its momentum and interest due to the exponential development of Bilateral Investment Treaties (BITs) between states. With the majority of disputes relating to investments now being raised on the basis of one of these BITs (even in the absence of contractual relations between the investor and the state), the transnational courts of arbitration are almost always called upon to settle disputes by applying international (public) law.

How does this hybrid conception of transnationality relate to sports law?

In the first place, Transnational Sports Law understood in this way could offer a characterisation of the standards adopted by the World Anti-Doping Agency (WADA). This body at the origin of the world anti-doping code and associated international standards is formed jointly by representatives of the public authorities and representatives of the Olympic movement. Formally at least, the standards which it produces are acts of private law, since the agency has foundation status under Swiss law despite its premises being located in Montreal. However, it is not out of the question to consider that the agency’s mixed composition in a way

20 Walde 2007, p. 94.
23 See our chronicle Arbitrage transnational et droit international général published in the Annuaire français de droit international from 2008.
reflects upon the law which it produces—transnational law in the hybrid sense of the term. The world anti-doping code and the international standards do not, however, possess any intrinsic legal force. They have an effect only insofar as the sporting bodies transpose their content into their own anti-doping regulations, while the states have adopted the UNESCO convention against doping, the main objective of which is to recognise the Code. But it is precisely because the WADA’s global anti-doping programme is the product of co-regulation within the agency that it can obtain the consent of both the sporting bodies and the public authorities.

Secondly, and de lege ferenda, the practice of State Contracts referred to above could effectively be found to apply at major international competitions (the Olympic Games or the FIFA World Cup, for example). The legal framework developed for the staging of these events does not guarantee full legal security to the sporting institutions, which are only contractually bound to the host city (for the Olympic Games) or to the chosen federation (in the case of the FIFA World Cup). However, the holding of such events on a country’s soil involves commitments on its part, if only to provide access to its national soil to athletes from all over the world. The states supply plenty of highly precise guarantees, appended to the bid and then to the organisation contract but in the event of a state defaulting, the sporting body risks only being able to count on its own resources to remind the state of its commitments. In practice, certain “hiccups” crop up now and then, such as the attempt by the Chinese authorities, on the eve of the opening of the Beijing Games, to limit accredited journalists’ access to websites deemed by it to be “subversive,” a problem eventually resolved via discreet “Olympic diplomacy.” Similarly, in the build-up to the 1976 Montreal Games, the Canadian authorities refused to let Taiwanese athletes enter their territory, as their country was not recognised by Canada.

Consequently, the international sporting bodies might seek to secure their legal relationship with the host state by entering into a “state contract” similar to those which foreign private companies make with the destination states for their investments. Subject to international law (so as to avoid national law, which the

25 Concerning the requirements of the CIO on the subject, see Latty 2007, pp. 584 et seq. The state guarantees demanded by FIFA are not included in any public FIFA regulation. However, the reading of the bid evaluation reports for the 2018 and 2022 World Cups, which include a paragraph headed “Legal and Government Guarantees”, permits the identification of the nature of FIFA’s requirements in this area. They concern access to the state’s territory for the competitors and persons affiliated to FIFA, security during the event (and the exclusion of any liability of FIFA in this regard), currency exchange, FIFA’s commercial rights, the use of national anthems and flags, telecommunications and the importing of the equipment required for the event’s organisation. These guarantees are also required to include total tax exemption for FIFA and its affiliates.

26 Essentially websites of human rights defence bodies or those in favour of a Free Tibet.


28 See the report written by J.-L. Chappelet et al. within the framework of the Enlarged Partial Agreement on Sport (Council of Europe), Chappelet et al. 2008, pp. 14–15.
contracting state has the power to amend to its advantage), such agreements strengthen the position of the private body, which is placed on equal footing with the sovereign state. The presence of arbitration clauses whereby any dispute is submitted to transnational arbitration also possesses certain dissuasive virtues which might suffice to prevent disputes between the body and the state hosting the event. A proposal of this type was formulated during the 1980s by the authors of a study commissioned by the IOC on the improvement of its legal status, but it failed to get past the Olympic drawing-board stage and subsequent changes to international investment law mean that its revival would not be worthwhile.

Lastly, it has to be acknowledged that the development of Bilateral Investment Treaties is likely to offer protection to international sporting bodies whose international events must be held on the territory of sovereign states. These treaties generally contain provisions whereby the state parties guarantee the investor parties equal, fair and non-discriminatory treatment (national treatment and/or treatment of the most favoured nation), together with full and complete protection and security. Some contain a clause concerning respect of the commitments made vis-à-vis investors, while the freedom of payments and money transfers relating to the investments is guaranteed. These treaties again offer the investors direct lines of recourse against the state, usually before the International Center for the Settlement of Investment Disputes (ICSID) or according to the arbitration regulations of the UNCITRAL (United Nations Commission on International Trade Law).

It is also worth noting that Brazil, which is due to host the FIFA World Cup in 2014 and the Rio Olympic Games in 2016, concluded a BIT in 1994 with Switzerland, the “home country” of both the FIFA and the IOC. Due to Brazil’s failure to ratify it, the treaty has not entered into force, but there is nothing to prevent this case being used as a basis for reasoning. If a state, through its behaviour, was to present an obstacle to the successful staging of the World Cup or the Olympic Games, or more prosaically, if it failed to fulfil the guarantees provided in terms of freedom of transfer of capital, for example, could the FIFA or the IOC not invoke its international liability on the basis of a BIT in force? The crucial and novel legal issue would be to determine whether the sporting competition could be regarded as an investment, as transnational case law fluctuates on this definition. After all, it has to be acknowledged that the construction of the infrastructure required to stage the Olympic Games or the World Cup involves investments made not by the IOC or the FIFA but by local partners not protected

29 Simma and Vedder 1985, study not published but referred to in Latty 2007 pp. 598–599. V. also the debate on the sedentarisation of the OG, launched at the time of the boycotts, when several proposals were formulated. Some of them involved the conclusion of contracts between the IOC and the states, covering the status of the permanent Olympic site and governed by international law (see Rich 1982, pp. 1–53).


by the BIT. Having said that, it is also noteworthy that the Switzerland/Brazil BIT includes international property rights and expertise in the definition of the investment, which would make it possible to include the international competition within the scope of the treaty. Once past the a priori surmountable obstacle of the existence of an investment, it would remain to be verified that the state concerned has indeed breached its international obligations resulting from the treaty. At the end of the process, the system would enable the body to obtain recompense for the damage incurred, although it is doubtful that the CIO or FIFA would wish to “jurisdictionalise” their generally peaceful relations with the states. So the corrective or even simply dissuasive virtues of this mechanism, which is highly (overly?) favourable to investors, should still not be neglected.

3 The Private Conception: Transnational Law as a Form of Global Sectoral Self-Regulation

We will now deal with the final manner in which Transnational Sports Law can be conceived, and in terms of the overall analysis of sports law, it is the most useful of the three.

Once again, it is in the economic sphere that this specific conception of transnational law has been developed, to refer to the self-regulation of international economic players. Observation of the contractual practices of private operators from international commerce and analysis of commercial arbitration case law in this field have led certain authors to propose the theory of a new *lex mercatoria* or New Law Merchant—in reference to the *lex mercatoria* of the Middle Ages, developed by market traders as a remedy for the legal insecurity arising from the multiplicity of feudal laws. The repetition of standard contracts for commercial uses and the formulation by the arbitrators of general principles of law are supplying this new *lex mercatoria* which, for a part of the doctrine, could even be used in relation to state contracts. Taking as a basis the institutionalist theory of the Italian lawyer Santi Romano, the existence of a “*lex mercatoria* legal order” concurrent with the legal orders of the states has even been propounded, an idea which has been written about extensively.

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33 These issues will be developed in our study “Sporting competition and international investment law. Some legal theories on the approach to the 2014 World Cup and the 2016 Rio Games”, to be published in the Brazilian Yearbook of International Law, 2011.
36 See supra Part 2.
37 Romano 2002.
The debate on the *lex mercatoria*, the existence of which is still debated,\(^{39}\) has had the merit of promoting the idea that legal communities depending on transnational solidarity are likely to self-regulate outside the framework of state law. Moreover, the phenomenon is not limited to the economic field, as an examination of the religious domain shows. The Catholic Church, the most institutionalised of the three main monotheist religions, is a grouping of a transnational community of followers subject to the canon law produced by the Church. Like the *lex mercatoria*, canon law is therefore a manifestation of the legal phenomenon characterised as “transnational law”: a law produced by private parties, without intervention from the states and beyond their borders, and intended to govern activities within the community concerned. Several transnational legal orders can be said to exist: commercial, religious … and sporting.

The law produced by the international sporting bodies (International Olympic Committee, international federations, continental federations, etc.) in effect constitutes a legal phenomenon similar to the *lex mercatoria* or to religious laws, insofar as these bodies—which are private entities—are at the origin of globally or at least extra-nationally-applied rules, designed to govern the system of sporting competition. Thus the neologism “*lex sportiva*” is being increasingly used as a direct reference to the *lex mercatoria*, either to indicate the set of transnational sporting rules,\(^{40}\) or in a more limited sense, referring only to the case law of the Court of Arbitration for Sport.\(^{41}\) Like the arbitrators of international commerce, the CAS has formulated a whole series of legal principles, either inspired directly by internal laws or deduced from the necessities of the sporting competition.\(^{42}\) Applying to the Olympic Movement as a whole, these principles combine with the Olympic Charter and the World Anti-Doping Code to ensure the unity of the transnational sporting legal order. Considerably more institutionalised, through the Olympic Movement, than the *lex mercatoria*, the *lex sportiva* constitutes a particularly clear manifestation of “transnational law.”

The *lex mercatoria* theory’s sole aim is not to describe the “internal coherence”\(^{43}\) specific to the community of economic operators. It encompasses an “external” dimension which requires the verification of its “survival” when it comes up against state or inter-state standards. This question of the degree of autonomy of transnational standards is precisely that which is endlessly posed on the subject of sporting standards. In this regard, the theory of transnational law offers a framework that makes it possible to understand this question in terms of relations between legal orders, or “relations between systems,” as Kelsen would say.\(^{44}\) Santi Romano, who has defended a pluralist conception of the law distinct

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\(^{40}\) See for example Loquin 2003, no. 186–90.

\(^{41}\) See for example Nafziger 2004b, pp. 3–8.

\(^{42}\) See Latty 2007, pp. 301 et seq.

\(^{43}\) Kahn 1982, p. 100.

\(^{44}\) Kelsen 1926, pp. 227 et seq.
from Kelsen’s monism, has very specifically insisted on the different relations likely to be forged between legal orders: a relationship in which one order is the presupposition of another; a relationship in which several orders which are independent of each other depend on another; relevance granted unilaterally by one order to another from which it is independent; a relation of succession between several orders.  

Due to the difficulty of verifying, in a few lines, the degree of autonomy of the lex sportiva as regards legal orders likely to restrict its effectiveness, only a few main “trends” will be mentioned, concerning the relationship between the transnational sporting legal order and the national, international and European Union legal orders.

Insofar as the international sporting bodies have internal legal statutes, they are by nature subject to the legal order of their headquarters. This being so, the liberalism of Western democracies permits the self-regulation of the associations as long as they do not come up against the public order of the states concerned. Even in this last scenario, as regards the multiplicity of sovereignties, the transnational standard deprived of effects on a given territory is likely to continue to be applied in the rest of the world. What is more, the increasingly widespread recognition of the CAS by sporting bodies is having the mechanical effect of dispensing with the state judge and often with the application of the states’ laws. The recognition by the states of the World Anti-Doping Code through the 2005 UNESCO Convention against doping is also helping to ensure the application of the anti-doping standards of the sporting bodies, without the states’ laws presenting an obstacle any longer.

The issue of doping aside, inter-state solidarity is too weak in the sporting field for the international legal order to be able to channel or even just effectively rival the lex sportiva. At European Union level, on the other hand, the autonomy of the lex sportiva is likely to be affected as soon as its standards have an economic scope, which is increasingly the case with the commodification and professionalisation of sport since the Samaranch era. This is because the integration of twenty-seven states into a single legal order is permitting the transnational standard to be effectively countered. The loss of autonomy is only limited, however, due to the recognition of sport’s particularities by European Union law.

The concept of Transnational Sports Law therefore offers a suitable theoretical framework for the analysis of the system of relations forged between the sporting legal order and the “public” legal orders—the sole obstacles to the unlimited development of the lex sportiva.

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45 Romano 2002, pp. 107 et seq.

46 For a more in-depth examination of this question, see Latty 2007, pp. 415 et seq.

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