The EU Sports Policy Route

The actions by the US authorities within the context of the 2015 FIFA corruption scandals were hailed throughout Europe and North America. The general feeling was one of relief: finally, decisive action was being taken against the rampant corruption within the organisation. The previous chapter demonstrated that the EU can also take repressive action against FIFA, although of a different nature. What distinguishes the EU from the USA, however, is that it has also shaped (international) sports governance through sports policy. In fact, realising that governance failures in sport require proactive and structural solutions, the EU has increasingly employed positive sporting measures under the EU sports policy route, next to the negative measures that characterise the EU law route.

Indeed, the increasing role of the EU in the field of sport has been characterised both by negative and positive integration (cf. Scharpf, 1996; also Parrish, 2003b, p. 250, Meier, 2009, and Vermeersch, 2009). The actions by the Commission and the CJEU under the EU law route can generally (but not exclusively) be categorised as negative integration, in the sense that they mostly comprise deregulatory measures (aimed at FIFA and UEFA and other SGBs) that seek to liberate markets by removing trade barriers. Such integration is ‘negative’ because both the CJEU and the Commission primarily tell SGBs what they cannot do (cf. García and Weatherill, 2012, p. 241). Positive integration, on the other hand, relates to the prescription or encouragement of practices through directives, regulations, or soft instruments by the EU. In other words, positive integration involves telling SGBs what they should do. The EU sports policy route is entirely characterised by positive integration.¹

This chapter focuses on the Commission’s role as supervisor for FIFA and UEFA under the EU sports policy route (see Figure 5.1). The first section demonstrates how a triangular interplay between the

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Supervisor: Commission

EU political principals:
Member states
European Parliament

Agents:
FIFA and UEFA

Figure 5.1  The EU sports policy route

Parliament and the member states, the Commission, and SGBs has gradually brought about a positive and direct sports policy – direct sports policy refers to sport-specific actions undertaken by the EU institutions. It shows how positive integration in the field of sport has been more and more directed not solely at the domestic level, but also at SGBs. The second section zooms in on the competences and capabilities of the Commission as supervisor of FIFA and UEFA under the EU sports policy route. Given its executive function in EU policy-making, the Commission fulfils a central controlling role under this route, yet it has only been delegated soft sporting competences. In practice, this largely confines its controlling actions to monitoring and steering, which have proved effective nonetheless since they operate under a threat of sanctions in the long run. The third section provides an overview of the Commission’s control of FIFA and UEFA, distinguishing between five general practices of monitoring and steering.

5.1 Towards positive and direct EU action in the field of sport

The development of a direct sports policy, directed at SGBs, presents a case of ‘creeping competence’ (Pollack, 1994), namely the gradual and incremental expansion of the EU policy agenda to the ‘new’ area of sport. Authors indicate that this development is characterised by neo-functionalist, neo-institutionalist, and inter-governmentalist elements of European integration (Barani, 2005; Meier, 2009). None of these classic theories of European integration, however, provides a complete