

Sporting nationality in the light of European Union law

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Abstract

The aim of this master's thesis is to answer the question of how to grasp and categorize the concept of sporting nationality in the EU. Its goal is to consider compliance of the rules set up by international sporting governing bodies determining athletes' eligibility in national teams with the concrete provisions of EU law. The provisions under scrutiny are mostly those laying down the prohibition of discrimination on grounds of nationality in the fields of EU citizenship, internal market freedoms and competition. The master's thesis simultaneously aims at suggesting concrete recommendations to international sporting governing bodies in order to better adapt their rules to EU law requirements.

The authors of this master's thesis first claims that rules governing athletes' eligibility in national teams fall within the scope of EU law since they have economic impact and effect. Secondly, it is submitted that these rules limit athletes' rights under EU law and constitute therefore a restriction to respective provisions of the EU legal order. That is why the question whether such a restriction to EU law may be justified is examined. In this respect, the Court of Justice provided sporting world with a useful manual on how to pass EU law scrutiny in *Meca-Medina & Majcen* in 2006. The Court of Justice switched the points of its previous case law, broadened the group of sporting rules coming under EU law and extracted four important elements that need to be taken into account when assessing sporting rules' compliance with EU law – their context, objectives, inherence and proportionality.

Working with the aforementioned general considerations, the analytical part of the master's thesis divides the rules governing sporting nationality into three groups according to the future attitude of the CJEU to these rules, which might be expected towards the background of its current case law. The master's thesis shows that some of these rules, notably certain waiting periods, quotas of naturalized athletes and rules prohibiting the change of sporting nationality, would probably be held incompatible with EU law in their current state. International sporting governing bodies should be therefore more attentive to EU law requirements since such a ruling of the CJEU declaring their rules contrary to EU law could represent another *Bosman* judgment flipping the world organization of sport upside down.