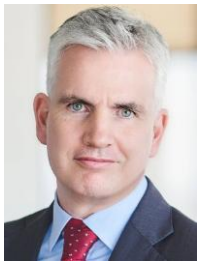
2 ECJ Rulings Give Guidance On Sport Agent Regs

By **Bill Batchelor, Antoni Terra and Michael Frese** (September 4, 2026, 2:33 PM BST)



Bill Batchelor

The European Court of Justice recently settled two long-running disputes on whether sports associations can regulate agents' economic activities — including rules on registration and licensing, remuneration, and solicitation of potential clients — in the July 9 **decision** in Rogon GmbH & Co. KG v. Deutscher Fußball-Bund; and the July 16 **decision** in RRC Sports GmbH v. Fédération Internationale de Football Association, or FIFA.[1]

Antoni Terra

The European Court of Justice, which is the European Union's highest court, confirmed that sports association rules can engage both the prohibition on:

- Anticompetitive agreements, under Article 101 of the Treaty on the Functioning of the European Union, as associations of competing undertakings, and the prohibition on abuse of dominance; and
- Article 102 of the TFEU, where the association has a monopoly on regulation and control of the relevant sport, its participants and ancillary activities, enabling it to abuse its position to the detriment of competition.

Michael Frese

Confirming standing precedent, the High Court confirms that sport is an economic activity which is subject to the antitrust rules, subject to only limited exceptions.

Agreements between competitors with no redeeming features — such as price fixing, market sharing or bid rigging — are generally automatically illegal by virtue of their unlawful objectives, that is, "by object" illegality.

There is no need to show that by object violations have an actual anticompetitive effect. Here, despite the impact on agents' economic activities of registration, solicitation of potential clients and remuneration rules, the high court found that sports associations' rules designed with a legitimate public interest objective, such as ensuring the integrity of sporting competitions, may not be illegal automatically.

The judgments offer a potential pathway for sports associations to implement regulations governing agents and other services ancillary to their sport.

This article summarizes the background of each case and discusses the court's analysis of the German Football Association and FIFA regulations, respectively, applying Articles 101 and 102 of the TFEU before considering potential justifications through noneconomic legitimate public interest objectives.

The Decisions

In Rogon, German football player agents challenged that country's player agent regulations for football associations, which required agent registration, compliance with league rules and disclosure of fees. The regulations prohibited agents acting on inward transfers from taking commission from the team's proceeds for future outward transfers of the same player or coach, and for transfers of minors.

In RRC, different German agents challenged FIFA's football agent regulations concerning international player and coach transfers.[2] The rules required a FIFA license, probity checks, restrictions on soliciting transfers of players or coaches, and fee disclosure. It capped remuneration and prohibited fees for future transfers.

Applying their findings in the 2023 decisions in European Superleague v. FIFA,[3] as well as in International Skating Union v. European Commission,[4] the high court ruled in Rogon and RRC that the German Football Association and FIFA are so-called associations of undertakings subject to Article 101, and hold dominant positions in relation to rulemaking for agents under Article 102.

Prohibition of Restrictive Agreements

The High Court confirmed the principle established in the 2002 decision in CJC Wouters v. Algemene Raad van de Nederlandse Orde van Advocaten, where this court held that there was an exception to Article 101 for restrictions in professional association rules that pursue a legitimate objective in the public interest and go no further than required for those objectives.[5]

Applying these principles, the court was prepared to allow sports associations not just to regulate sporting activity, but also enact rules affecting the wider "ecosystem which they

regulate and control," including third parties' activities, if necessary to pursue public interest objectives.[6]

Rules on sports-related third-party activities are therefore not "by object" restrictions if intended to maintain sporting standards or competitive balance.

This is also reflected in RRC, although the court identified two FIFA football agent regulations that could amount to restrictions of competition by object on the basis of having arbitrary effects or being distortive of competition:

- Restricting agents from claiming unpaid fees if the client player or coach transfers to another entity before the contract expires, or they terminate prematurely without just cause, even if not involved, could deprive the agent of remuneration for their services arbitrarily; and
- Prohibiting agents from approaching potential clients already subject to an exclusive representation contract while allowing the incumbent agent to renegotiate terms before a two-month negotiation window conferred an unjustified advantage on the incumbent likely to distort competition.

Sports associations may therefore regulate their sport and any ancillary activities in the EU insofar as such regulation is designed to achieve a legitimate objective related to the sport or those taking part. Conversely, without that legitimate purpose, a regulation impacting ancillary activities risks being found automatically anticompetitive by object.

Prohibition of Abuse of Dominance

The court also stated in RRC that Articles 101 and 102 must be interpreted and applied consistently.

Sports associations may commit so-called exclusionary abuses of a dominant position when regulatory powers are used to restrict competition in favor of its members.

Similarly, there can be an exploitative abuse where a sports association imposes unfair or arbitrary rules. The test is then whether a reasonably effective sports association could have adopted less restrictive rules to meet the same objectives.

Public Interest Justifications

Rogon confirms that public interest justifications can also be applied to sports association rules affecting third-party service providers.

In RRC, the court distinguished between rules protecting economic interests and those that pursued the public interest in promoting the integrity and competitive balance of the sport. FIFA football agent regulations' stated purpose of remedying market anomalies was purely economic in nature and so did not qualify as a legitimate public interest. Conversely, it was in the public interest for associations to establish rules on:

- Setting minimum professional and ethical standards;
- Preventing unethical behaviors;
- Protecting vulnerable players who lack experience of the transfer system; and
- Maintaining squad composition for the duration of the season.

Sports association rules that do not qualify as legitimate noneconomic public interest considerations under Article 101(1) could still benefit from the efficiencies-based justifications under Article 101(3).

The court indicated that the restriction of FIFA football agents' ability to profit from market anomalies could imply the existence of efficiency gains. However, this is not the case where the rule is applied inconsistently, as with FIFA football agent regulations, where different conditions applied to agents with and without an exclusive mandate in place.

The court also explained that abuses of dominance under Article 102 may be justified by efficiency gains subject to the same conditions set out in Article 101(3).

Practical Takeaways

The court indicates that sports associations may benefit from a narrow exception to Articles 101 and 102 to regulate sports and related economic activities. Regulation of ancillary activities must be intended to achieve a noneconomic objective with a legitimate public interest.

Qualifying objectives may include the following:

- Upholding the integrity of the sport to ensure participants compete on a level playing field;

- Requiring competitors and others involved to meet minimum ethical standards; or
- Protecting the interests or well-being of its participants, particularly those with less experience of ancillary processes such as player transfers.

In contrast, purely economic aims do not qualify as legitimate public interest goals and cannot be relied upon as justification for rules that may restrict competition.

Sports associations should also consider alternative means of achieving the objective and compare their potential impact on ancillary activities to ensure the rule with the least detrimental effects is implemented. For example, transparency obligations and informed consent requirements may be less restrictive of competition than blanket prohibitions on approaching potential clients.[7]

Conclusion

The Rogon and RRC judgments provide important guidance on the ability of sports associations to regulate economic activities of third-party service providers.

The court did not depart from its contextual approach to identifying by object restrictions, i.e., the need to conduct a rule-by-rule assessment and therefore to consider their relevant economic and legal context.[8]

According to the court, sports associations may rely on justifying objectives if they concern how the sport and ancillary activities are undertaken. However, justification will not be possible for rules whose only purpose is to remedy perceived economic market anomalies.

Associations may regulate ancillary economic services lawfully if they pursue legitimate public interests and are carefully balanced. This creates a potential pathway for associations to regulate activities ancillary to their sport.

Bill Batchelor and Antoni Terra are partners, and Michael J. Frese is former counsel, at Skadden Arps Slate Meagher & Flom LLP.

Skadden associate Vikram J. Pandit and intern Rayhane Ricci contributed to this article.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] https://infocuria.curia.europa.eu/tabs/document/C/2023/C-0428-23-00000000RP-01-P-01/ARRET/323424-EN-1-html; https://infocuria.curia.europa.eu/tabs/document/C/2023/C-0209-23-00000000RP-01-P-01/ARRET/323826-FR-1-html (no official translation available on 11 August 2026).

[2] In RRC, the ECJ also examined issues relating to the General Data Protection Regulation (GDPR) and Article 56 of the TFEU concerning the free movement of services. This note focuses on the arguments relating to EU competition law.

[3] C-333/21, European Super League, para. 115.

[4] Case C-124/21 P, ISU v. Commission, para. 90.

[5] Wouters (C-309/99): https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:61999CJ0309.

[6] ROGON, paras. 58-60.

[7] The ECJ acknowledged these alternatives as potentially less restrictive measures and deferred the assessment to the referring court.

[8] The ECJ followed the same approach earlier in 2026 in C-133/24, Tondela.