

## ASSIGNMENT OF BROADCASTING RIGHTS AS A SOURCE OF FINANCING SPORTS ACTIVITIES

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Mario Lukinović<sup>1</sup>, Sonja Bunčić<sup>2</sup>, Milovan Bratić<sup>3</sup>

<sup>1</sup>Faculty of Law, Union University, Belgrade, Serbia

<sup>2</sup>Faculty of Technical Sciences, University of Novi Sad, Novi Sad, Serbia

<sup>3</sup>Faculty of Sport and Physical Education, University of Niš, Niš, Serbia

**Abstract.** *The goal of this paper is to provide a review of the transfer of rights to broadcasting sporting events as one source of financing sporting activities and clubs through comparative practice and current legal regulations. Sports and the law are deeply intertwined, primarily due to the fact that sports are exposed to various challenges, ranging from doping, prevention of violence at sports manifestations, all the way to competition regulations, managing sports organizations and business processes. In this paper, we will analyze the positive legal regulations that enable the realization of income based on the right to broadcast. Sources of financing are necessary for the conduct of sporting activities. The most successful clubs generate the biggest part of their revenue through leasing broadcasting rights for sporting events and marketing. Broadcasting sporting events not only enables generation of direct revenue, but also removes the shackles of previously existing spatial barriers and thus contributes to the popularity of sports, athletes and their clubs. Occurrences such as the coronavirus pandemic have led to the organization of sporting events in controlled conditions, without the presence of an audience or with numerous limitations and restrictions. In such situations, numerous institutions have offered interactive forms of communication with the consumers (online museum tours, concerts, etc.), thus not only minimizing losses, but also maintaining contact with the audience. This situation has proven the significance of digital communication with the consumers. Even though the year 2020 went by without the previously planned Olympics and, in most cases, without sports fans in the stands, the sporting industry recorded a jump (from 388.28 billion dollars in 2020 to 440.77 billion of dollars in 2021). The growth in earnings was achieved predominantly due to the increase in media revenues.*

**Key words:** *sport, financing, broadcasting, sporting manifestations, mechanism of solidarity in sports.*

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**Corresponding author:** Mario Lukinović

Faculty of law, Union University, Goce Delčeva 36, 11070 Belgrade, Serbia

E-mail: [mario.lukinovic@pravnofakultet.rs](mailto:mario.lukinovic@pravnofakultet.rs)

## INTRODUCTION

Whether sports emerged from the need of man for games is yet to be determined by science, but we can undoubtedly say that it stopped being a game a long time ago, and is more and more directed towards generating profit. Contemporary sports are not deprived of fun and a positive impact on the development of the human body, but they have largely become an economic branch that generates huge profits. For the owners of sports clubs, as well as for the athletes themselves, profit is often more important than trophies, which leads to a departure from the basic competitive principles on which sports were created. In order to survive, “small” sports require material support, which is also important for creating conditions for the development of the youth, as well as for the survival of sports in smaller communities.

Even though the presence of spectators at sporting events often has even a decisive influence on their conduct, in the last few decades, the popularity of media broadcasting is on the rise (Rotondo, 2015). The development of mass-media, as well as increasingly advanced technologies, enabled faster and more interactive broadcasting of sporting manifestations from all geographical meridians, reaching even the most distant regions and biggest poverty, thus widening the circle of users onto literally the entire planet (Milutinović, 2015). With overcoming physical distance between the venue of sporting events and the consumers' place of residence (Spasić, 2011) came the changes in cultural, social and other relations, which have, to a significant extent, contributed to commercialization of sports in general.

Most countries recognize sports as a category of significant social interest (Strategy on Sports Development in the Republic of Serbia for period 2009-2013/“The Official Gazette”, no. 110/2008), since they help the promotion of social and educational values, health, as well as contribute to the international reputation of a state and connects people (Tomić, Tomić, Pavić, Madžar & Primorac, 2019), encourage confidence and tolerance, strengthen team spirit and the respect for discipline, impact the ability to adjust and accept competition, etc. (The Strategy for the Development of Sports in the Republic of Serbia for the Period from 2014 to 2018, “The Official Gazette”, no. 1/2015). By performing a public activity of special social interest through the creation and broadcasting of radio and television programs, the broadcasters in fact use the intellectual creation and performance of third parties.

### **Authorization to broadcast sports event**

With the growth and rapid evolution of sports, and especially with the expansion and popularization of football, the television broadcasting of the most significant sporting manifestation gained significance as well, given that they actively impact the affirmation of sports and their popularization among the youth through their indisputable influence on the television audience (Ilić, 2021). Intellectual property rights contributed to sports becoming an industry measured in hundreds of billions of dollars, thus making the revenue made through selling tickets just a smaller segment of profit generation.

Intellectual property is a field of civil law consisting of industrial property rights (patents, trademarks, geographical indications and topography of semiconductor products) and copyright and related rights. The Law on Copyright and Related Rights regulates these issues. Copyright regulates the rights of literary, scientific and artistic works (Stojanović, 2008). Related rights include: performing rights - the right of the performer, the right of the film producer - the producer of the videogram, the right of the phonogram - the right of the producer of the phonogram, the right of the producer of the show, the right of the producer of the database and the right of the first publisher. The Law on Copyright and Related Rights

("Official Gazette of the RS", No. 104/2009, 99/2011, 119/2012, 29/2016 - US decision and 66/2019) is considered to be public broadcasting by broadcasting radio or television program signals, from the broadcasting entity, to receiving devices via a network of transmitters (terrestrial broadcasting), cable distribution systems (cable broadcasting) or satellite stations (satellite broadcasting). Our positive law does not view sports events as copyrighted works but as a subject of related law (Popović, 2012). The subject of protection of this right is the broadcast of certain content, regardless of whether it is a copyright work or not. The subject of protection is neither the broadcast signal, nor the content that is the subject of the show, but the producer of the show enjoys related legal protection "on the totality of the broadcast content" (Ljubojev & Dukić-Mijatović, 2018).

The issue of providing legal protection for organizers of sporting events and their monopoly over broadcasting rights is not equally resolved in comparative law. Italy, like Serbia, ensured protection of sporting audiovisual rights through producer rights – broadcasting rights. In France, the protection is being ensured in spite of the authorship and related rights, and it is being ensured in accordance with Article L333-1 of the French Law on Sports (Code du sport Article L333-1), which gives the organizers of sporting events the right to manage sporting events and competitions (The Draft Report with Recommendations to the Commission on the Challenges of Organizing Sports Events in the Digital Environment, 2020).

The Court of Justice of the European Union stated its opinion in the case of Football Association Premier League Ltd, as well as in the case of Caren Murphy, that sports events are not considered an author's work because they are not a "work", because they are "subject to rules of the game, which does not allow creative freedom in terms of copyright", but given that each sporting event is unique and in this respect original, the protection of their property rights is governed by related law (the producer of the show) (Draft report with recommendations to the Commission on challenges organizers of sporting events in the digital environment, 2020). The subject of protection of broadcasting sports events is not intellectual creativity, but the industrial activity of the producer of the show, who invested certain resources in its creation and broadcasting (Ljubojev & Dukić-Mijatović, 2018).

The development of broadcasting radio and television as forms of electronic media of mass communication which transmit movable and non-movable pictures in the forms of program content directed towards the broadest public via radio-waves or the cable distribution system to the suitable receptors brought about the need for providing protection to broadcasting agencies from unauthorized use of shows, their unauthorized recording and duplication, as well as from unauthorized public presentation. The basis for the introduction of this type of legal protection is not founded in the mere need for legal protection of this type of activity, but first of all in the general interest of spreading information and culture provided by this type of activity (Henneberg, 2001). This right is enjoyed by producers of audiovisual works for the first recording, as well as broadcasters (The Draft Report with Recommendations to the Commission on the Challenges of Organizing Sports Events in the Digital Environment, 2020). The organizers of sporting events are the carriers of the rights, and thus they can act as producers, or transfer these rights to a third body by contract.

The emergence of new technologies conditioned the fact that, besides television operators, many telecommunication companies and online video platforms are increasingly and more strongly participating in the market of sports broadcasting. Nowadays, there are several hundred television stations broadcasting sporting content world-wide. In such a harsh

competition, many multimedia companies have recognized sporting events broadcasting as a comparative advantage, putting exploitation of these rights first (Evens, Iosifidis & Smith, 2013), due to which the growing sums of money are needed to cede the rights to broadcast sports TV programs. The broadcasters that are not able to financially partake in this race are often oriented towards “small” sports, thus quenching the “hunger” of consumers for sporting contents.

Thus, for an increasing number of sports clubs and associations, the assignment of broadcasting rights has become the dominant source of income, which enables transfers of successful athletes, and daily maintenance and investment in infrastructure. By granting exclusive broadcasting rights to the media, broadcasters today sell much more than the broadcast itself. Besides the revenue that can be acquired through subscriptions for watching sporting events, significant profit is also made through advertising and sponsoring sporting manifestations. The rights of the show producers last 20 years from the moment of broadcasting of the first protected show.

Broadcasting “live” program through radio diffusion does not exhaust all the possibilities for using this work. This primarily implies the recording and reproduction of videos, that is, allowing the event to be recorded (Urem, 1969). Given that the recordings of sporting events usually satisfy the necessary level of originality, they do enjoy protection as authorship works, according to what their reproduction, copying, multiplication, and distribution in any way for commercial purposes is forbidden. Everyone who wishes to publish a broadcasted content or its part, no matter the media (electronic, print or Internet media), must get the written approval of the broadcaster.

A contract signed by the broadcaster and the authorized body (sports club, sporting association or an association they belong to or have previously authorized) means the assignment of rights the broadcasting rights for a certain sporting event, its parts or its recording. The contract also stipulates the time-frame within which the broadcaster is authorized to broadcast, as well as the territory on which the broadcast is conducted. Territorial restriction of broadcasting can be implemented in several ways: within the borders of a certain state, its federal unit or a region. It is quite common that every contract refers to one broadcaster solely, but there are also cases when the rights are being leased to several countries, especially in cases when several broadcasters exist within one network (Janjić, 1971).

### **Legal framework of regulating sports as an economic activity within the EU**

Regulation of sports within the European Union has come a long way, growing from a benevolent attitude that implied encouragement of sports as an activity that is significant for healthy and regular development of the citizens of the union, sports for everyone (The European Model of Sport, 1999), to regulation of sports as an economic activity that must be harmonized with the rules of community laws that regulate the economic game. Equality and freedom on the EU market for all the participants is the basic mechanism of exercising market freedoms determined by Articles 101-109 of the Treaty of Lisbon, which forbid violation of competition, but also the use of state aid for this purpose (Medić, 2018).

The perception of sports, that is, more precisely said, professional sports as an economic activity that would be subjected to the EU rules on free market game, was definitely instigated by the decisions of the Court of Justice of the European Union in the case of Walrave, in which the opinion that sports, when representing an economic activity, must fall under the field of the UFEU, and the sports practice must fulfill the demands of the

European Law (Walrave and Koch v. Association Union Cycliste Internationale and Others, 1974). A significantly grand change in the perception of sports as an economic activity was caused by the Bosman case (Union Royale Belge des Sociétés de Football Association ASBL v Jean- Marc Bosman, 1995) whose Decision confirms that sport is subject to all relevant provisions of the TFEU whenever it comes to economic activities in sport, including the Community provisions on freedom of movement for workers, the application of which is not decisive for the employer to be an entrepreneur (par. 3 & 4 ) The decision helped clarify the limitations of the decisions and rules used by sports organizations. The ECJ found that the TFEU was subject to rules that not only had a specific purpose related to sport, but also required that the amount of the transfer be paid in the case of hiring a player for another club after the expiry of the contract. 5). This decision of the court shook all European umbrella sports organizations because after it, sport became an important issue in the agenda of European institutions, especially economic activities in football, which were in conflict with European law (Garcia, 2007).

Despite high level of criticism and resistance to the new position of professional sports, sports regulation went towards including sports in the legal activities of the EU (Niemann & Brand, 2008). A new approach to the issue of sports was opened by the adoption of the White Paper on Sport (2007). It also contained some controversial issues, such as those on player transfers and TV rights (Bačić & Bačić, 2011). Until the adoption of this act, the EU Commission did not have a significant role in sports issues, but this document emphasizes that "sports activity is subject to EU law" and that sport is subject to competition law, internal market provisions as long as it is an economic activity (Figlel, 2007). Equality and freedom in the EU market for all participants is the basic mechanism for exercising the fundamental market freedoms set out in Articles 101-109 of the Treaty on the Functioning of the European Union (hereinafter: UFEU), which prohibits distortions of competition and the use of state aid for this purpose (Medić, 2018). Sport should be subject to these rules in its economic activities.

At the same time, one should keep in mind the autonomy of sport (the founding EU did not provide for any special competence of the Union in the field of sport until the Lisbon Treaty), which is indisputable for all sports that do not produce economic effects of sports rules. In this sense, every act of a certain sports federation can be subjected to the EU Law compliance test, and thus, if determined that it violates some of the basic market freedoms, it can be subjected to possible restrictions (Medić, 2018). Up until the Treaty of Lisbon, sport regulations were based on EU court decisions, recommendations of the European Commission, and the soft law instruments. The most significant documents from this corpus are the Amsterdam Declaration, together with the Amsterdam Contract, as well as the Nice Declaration (2000) and the Nice Contract. Therefore, the focus remained on amateur sports and their social, educational, and cultural function, which was clearly pointed out in the White Paper on Sport (European Commission, 2007).

A new era of sports regulation within the EU has begun, as we have already emphasized with the adoption of the Contract on the functioning of the European Union – the Treaty of Lisbon. It defines (article 165) the jurisdiction of EU bodies in the field of sports, and it was determined that the Union will contribute to the encouragement of the European dimension in sports, taking into account the specific nature of sports, their structures based on volunteering, as well as their social and educational role. The economic activity in sports, as well as an increasing commercialization, have opened up a special sensitive issue of financing in sports within the field of regulation. For the European model of sports, defined by two basic

principles – solidarity and democracy (Scheerder, 2020), when speaking of the issue of financing, a partnership is necessary between the public authorities, sports organizations and the economy. It is characteristic that sports should be financed from public funds, and within these funds, the majority ends up being provided by the local community. Financing from public funds within the EU is based on decentralization. Thus, the foundation is the relation between providing funds from the state budget and providing them from the local community budgets, in favor of the local communities whose investments in sports have tripled in their communities (Đurđević, 2007). Generally speaking, the funds necessary for financing amateur and high-end sports are provided by the state. On one hand, investment in sports is directed towards ensuring good health of the nation, while on the other, towards promoting the state, its politics and values in the most efficient manner (Mićović, 2019). In France, for example, the state allocated 36.9 billion euros in 2017 (Institut national de la jeunesse et de l'éducation populaire, 2017).

Contrary to amateur and high-end sports that survive due to public source funding, professional sports are based on private source financing. In this case, sports represent an economic activity and it relies on their own sources, which constitute revenue acquired through selling tickets, memberships, donations, sponsorships, sales of goods marked with trademark for commercial purposes. Nowadays, in the world of new communication, the most significant source of financing for professional sports is the transfer of rights to broadcasting and re-broadcasting sporting events.

### **Rights to sports events broadcasting in the EU**

Regulation of sports events broadcasting rights went through a gradual development, which grew hand-in-hand with the development of possibilities of broadcasting that were offered by the new technology, such as satellite broadcasting, which was to a great extent useful for the sports sector in Europe. Football was especially able to sell the sporting events broadcasting rights to the new wave of commercial operators who accepted the new technology (Parrish, 2003). The new trend confirmed that sports are slowly turning into the sports industry, that is, they have some features of economic activities, which require supranational regulation, and thus the European Union emerged as the key regulator.

The key problem that sports face in comparison to media and regulation of sporting events broadcasting on the TC within the European Union is the fact that sports club associations, such as the leagues and alliances, as well as international associations of national sports alliances, have the character of economic subjects with a monopoly, that is, a dominant position on the market. This problem is reflected in two directions – firstly in the internal relations of these subjects with their members, as well as in the international relations of the members. The other side of the problem is the relation of these subjects with third parties. In essence, the problem lies in the fact that alliances and leagues, according to the rule, are not the “original” carriers of broadcasting rights, since they are considered as the organizers of sporting events. The clubs, as organizers of sporting events, hold the original broadcasting rights in their hands. Legally speaking, the leagues, that is, the alliances, can get broadcasting rights only through a contract. This creates a controversial situation, because this is a classic monopoly practice which results in a restriction of the economic autonomy of clubs and a restriction of competition in the field of TV rights. The question is whether there is a basis to exclude this practice from the principle of prohibition of monopolistic associations and to consider it permissible, for justified reasons based on the specifics of sport in relation to other

economic activities. Even though the said problem should be resolved in accordance with the rules of competition and through mechanisms that refer to economic subjects, here it is not the case. In practice, special contracts are rarely signed on the topic of transferring broadcasting rights from the clubs to the league or the alliance, but it is believed that this issue is resolved through sports regulations of the alliance (league) that have the character of a contract for the clubs within this association (Đurđević, 2017).

The European Commission admitted that there is a difference between the method of work and assessment of the existence of competition in sports and other economic sectors. Justification, especially the concentration of TV rights in sports associations, was based on the specifics of the system of sports competitions that require coordination at a higher level of organization, such as associations. On the other hand, the concentration of TV rights in the hands of sports associations gives greater opportunities for their commercialization in a centralized way, in a package, for the entire cycle of competition. In principle, in sports, the goal of the game is not to eliminate weaker competitors, but to preserve the uncertainty regarding the results and nurture the rules in sports, so the Commission did not deal with the mentioned "sports rules". The rules, without which sports could not exist – in fact necessary for the organization of some sport or its competitions – should not, in principle, be subjected to application of EU competition rules (Schaub, 2002). Transfer of broadcasting rights to an alliance or a league, joint sale of broadcasting rights, could represent a horizontal limitation of competition, contrary to Article 101(1) of the UFEU, but they are included by exception through the acceptance of Article 101(3) of the UFEU in certain cases. Therefore, the European Court concluded in the Meca-Medina case (David Meca-Medina and Igor Majcen v Commission of the European Communities, 2006) that the specifics of the sports must be respected, but that the said case is not “a key that opens every lock”, and thus that sports problems must be resolved on a case-by-case basis. So, the Commission must thus examine every case separately in relation of the competition rules. In the White Paper on Sport (2007), the Commission recognized the essential role of audio-visual rights as the primary source of revenue for professional sports in the European Union.

In accordance with the previously stated attitude, the regulatory framework which governs the contracts on transfer of broadcasting rights within the EU recognizes several models for the transfer of broadcasting rights in sports. The first one is – common (collective) sale of rights, whereas the rights are being sold to already existing associations in the name of sports clubs. The collective sale enables the leagues and national sports federations to sell media rights to their games and sports collectively, and then reallocate the revenue among the clubs, national governing bodies and basic/mass sports (Parlasca, 2006). If some clubs or sports independently negotiate their rights, it might mean that there would be a lesser amount of revenue for them, and thus a smaller possibility for reallocation for mass sports or smaller sports.

The second model is exclusiveness – implying that the holders of broadcasting rights in sports should sell their rights exclusively to one broadcaster, which significantly increases their value. The issue that was to be solved here is the issue of the monopoly position and the competition rules of this form of sales. The European Commission passed in 2003 a Decision in which it spoke of competition, referring to the UEFA sale of media rights, which was, since then, used as a template for sports sale of media rights (European Commission decision, 2003). Sometime later in 2006, a Decision was passed on the Premier League (European Commission, 2006), and in 2003, the Decision on the Bundesliga (European Commission, 2003). The Commission explicitly supported the notion of exclusiveness, stating that the

“UEFA arrangement regarding the joint sale offers the consumers certain advantages of media products focused on the league of this pan-European competition of football clubs that are being sold through one point of sale which, usually, under different rules, could not be produced and distributed equally efficiently” (Article 53. of the EEA Agreement).

At the same time, this model enables the increase in advertising revenue, since the advertisers would have a defined target group. It was believed that the revenues generated with broadcasting rights through exclusiveness are increasing and bring along better conditions for the sport. All these benefits are stated in more detail in the Commission decision from 2003, and they support exclusiveness in the sense of economic efficiency. But what is more important for sports is the issue of allocation of funds acquired in such a way for the basic/mass sports. Due to that, the mechanisms of solidarity between the professional and basic sports are another significant factor for the world of sports (Expert Group on Sustainable Financing of Sport, 2017), and will later be further elaborated on.

The third aspect of broadcasting rights is the territoriality, because sports are linked to a certain territory. According to the rule, the competition provisions forbid measures such as absolute territorial protection, which limit the competition and creates divisions within the EU internal market. However, until now, the legal practice and the practice of decision-making regarding the territorial exclusivity in agreements within the carriers of audio-visual sports rights and providers of media content was interpreted in the sense that such absolute territorial protection in sports is allowed (Katsarova, 2017).

The Commission accepted this model for broadcasting rights (territorialism) in its decision on UEFA from 2003, in which it is stated that the media rights to football events, such as the UEFA Champions' League are usually being sold on the national basis. This is due to the character of distribution, which is national, as well as due to national regulatory regimes, language barriers and cultural factors. This is especially expressed through competitions of the national team or national clubs in international competitions, which represent a common interest within the broadcasting territory. Article 14 of the AVMSD (Directive 2010/13/EU) stipulates that the events of greater importance for certain members should be chosen and inscribed in advance on the list of certain sporting events that are being broadcasted for free. The European Commission must be informed on all the lists that are being adopted, as well as on the consent given by the Contact Committee (founded for the purpose of monitoring the said Directive). Here we can certainly mention several sporting events – from Giro d'Italia in Italy to the All-Ireland Senior Championship in Hurling in Ireland – which are predominantly of territorial significance, but their value and attractiveness differ throughout Europe (Expert Group on Sustainable Financing of Sport, 2012).

#### **Solidarity mechanism in sports and the benefits of sporting events broadcasting rights within the EU**

Extremely high revenue that is being generated from sporting events broadcasting rights, as a result of the commercialization of sporting activities, cannot remain within a certain club or a league that is the most popular or within a sport that has the biggest participation in this revenue, but, to some extent, it must be invested in basic sports. The European Commission adopted the “organized mechanism of solidarity in sports”, one of the special characteristics of the sports structure, which enables recognition of the specificity of sports and the so-called European approach to sports. This has a special significance, given that Article 165 of the

Treaty of Lisbon enables the development of EU sports politics, with a special emphasis on specificity of sports and promotion of fair play in sports competitions (Laskowski, 2019).

The mechanism of solidarity in European sports is a term that implies reallocation of funds from one part of sports to another, that is, from professional sports into basic sports, or from one field of sports to another. This reallocation can be either horizontal or vertical. When speaking of horizontal reallocation, the distribution of funds is being conducted between different sports, and when we speak of vertical solidarity, then the reallocation is being conducted between different levels of the same sport. We have already pointed out that the UEFA gained special benefits in terms of joint sale of broadcasting rights, and therefore its role in solidarity in sports on the EU level is significant. According to the UEFA Financial Report from 2019/2020, the revenue generated from media rights for the said period amounted to 2,593.3 million euros, which is a total of 84.9% of total revenue of this association. According to the same report, 70% of the said revenue is being invested in different sports programs. From the available amount, about 80% is being reallocated to clubs of the national alliance that have at least one club participating in the group phase of the UEFA Championship League. The remaining 20% is being distributed to national alliances that do not have clubs participating in the group phase of the UEFA Championship League.

In other words, organized sport implies the existence of certain mechanisms for funds overspilling, and the most significant revenues come from media rights and player transfers. The associations which enjoy concentrated rights to commercialization of sporting events broadcasting have a commitment to reallocate most of their funds to other clubs, so that every club benefits from broadcasting, no matter whether it participated in the concrete competition. Finally, the uniqueness of organized sports refers to the fact that there is no high-end, that is, professional sports is the system of recruitment, and training of younger athletes is not provided (Đurđević, 2017).

### **The sporting events broadcasting rights in the Serbian environment – regulations and dilemmas**

The regulation of rights to sporting events broadcasting in Serbia is based on the fundamental principles accepted and derived from the legal framework of the European Union which treats sports as a category of significant social interest. The relation of sports and the media is regulated by several legal sources. The strategy of development of sports within the Republic of Serbia recognizes revenues generated through sale of TV rights as a source of financing in sports, but it was, at the same time, said that they are quite small (Strategy of Sports Development in the Republic of Serbia 2014-2018), and the relation of media and sports, according to the same document, asks for mutual cooperation through national associations and media representatives (Strategy of Sports Development in the Republic of Serbia 2014-2018). Furthermore, legal sources of regulation of broadcasting rights are found in the Law on Sports, which regulated the jurisdiction of sports associations in this field (The Official Gazette RS, 10/2016). A very significant legal source is the Law on Electronic Media (Official Gazette RS83/2014 & 6/2016) which regulates broadcasting rights, among other things, of sporting events as well, in accordance with the previously mentioned rules within the European Union, where the model of exclusiveness and territoriality is governed on a national level. The Law on Electronic Media (article 64) stipulates that the “provider of the service of television broadcasting under the jurisdiction of the Republic of Serbia cannot exclusively broadcast the events that are on the list of the most important events of special

significance for all the citizens in a manner that would deprive a significant part of the public in the Republic of Serbia, EU member state of a state that has signed an international agreement that is legally binding for the Republic of Serbia of following these events”.

The mentioned article of the Law on Electronic Media stipulates that, as in the European Union, the obligation of making the list of the most significant sporting events, not only local, but foreign as well, that are of special significance for all the citizens and to which the exclusive right over broadcasting can be enjoyed solely by the provider of the television broadcasting service to whom the access is free and whose coverage zone includes the entire territory of Serbia, and of which the said provider informs the European Commission (The Official Gazette RS 83/2014 & 6/2016). In order to entirely regulate the issue of determining the said lists, a Rulebook on the manner of formulation of the list of the most important events of special significance for all the citizens and enjoying the rights to access to events of big interest for the public was passed (The Official Gazette RS, no. 25/2015) and has been implemented since 2015. This bylaw more closely regulates the method and conditions for forming the list of sporting events of big interest for the public.

Formally speaking, there are conditions and regulatory frameworks that enable the source of financing in sports from sale of broadcasting rights to be developed in our country as well. Unfortunately, numerous examples from the practice deny that. The European club association published this year as well detailed research regarding the revenue generated through TV rights which the participants in European competitions enjoy in national championships, and what is interesting for Serbian football is the fact that the “Red Star” club is undoubtedly ranked last on the list.

The “Red Star”, in spite of great sport results achieved in the previous several years, has been placed last when speaking of revenue generate from the sale of TV rights to the national championship. On an annual basis, this club earns 80 thousand euros from the sale of TV rights for the national championship, which is incomparably less than all the other European teams. The revenue generated from TV rights makes up to 0,3% of total revenue of this club, while the revenue of other clubs in the region generated through TV rights amounts to 30 to 40% of the total revenue. It is difficult to explain how clubs in the region, that is, in the Western Balkans countries (Bulgaria or Croatia) generate much higher revenues from this right, while in our country the results are lacking, that is, the revenues are almost negligible (for example, “Dinamo” from Zagreb generates 500 thousand euros from TV rights, and the “Rijeka” football club generates about 250 thousand euros) (Ivanović, 2021). Obviously, the problem lies in the insufficient understanding of commercialization of sports and the demands of the contemporary moment to direct sports towards private sources of funding, which is present in our public.

#### CONCLUSION

In countries in which there is no financing system in high-end sports and where prices of sporting manifestations tickets cannot be as expensive as in Western countries, as is the case in Serbia, financing sports is, to the greatest extent, left to the local government bodies that are not able to sufficiently provide adequate conditions for practicing these sports. Due to the significance sports hold as a part of the mass culture and the reflection of the state of the society, the nurture of sports also represents the nurture of the values it represents: nobility, determination, sportsmanship, bravery, etc. Still, Western perception of sports, which has

become dominant, is to a great extent directed at self-financing, and thus, all forms of financing of sports are important for their survival and further development.

The examples of the most elite basketball competitions, the Euro League and the Olympics, testify to the symbiotic relation between sports and the media market. Contrary to the former Championship Cup, where only the achieved sports results were cherished, upon selection of new members of the Euro League, priority is given to clubs from the countries that are recognized as big markets. Even the International Olympic Committee tailors the list of Olympic sports “in an attempt to attract younger audience and express the trend of urbanization of sports” through actually adapting to the sensibility of the sponsors that follow the broadcasting of this sporting event.

In the Republic of Serbia, smaller national broadcasters of sporting events have on numerous occasions pointed to the fact that the broadcasts of the most attractive foreign sporting championships have a negative impact on the interest for local sports. Moreover, small markets, such as ours, cannot successfully generate revenue from broadcasting rights that could provide a quality organization of infrastructure expenses or finance the arrival of high-end sports stars. However, if sports associations and clubs were to systematically organize financing, then the revenue generated through transfer of rights could surely represent a significant support in ensuring an adequate ambiance for the conduct of sporting activities.

A special problem is the realization of the mechanism of solidarity in sports in the right measure, horizontal solidarity and vertical. A state can, from its own revenue, provide for just one part of the funds necessary for the development of sports, which is not enough. Thus, the revenues generated through sporting events broadcasting rights should contribute, as the new source of finance, to the stronger development of sports and provision of continuity in creation of sports youth.

The generation of revenue through donations or sponsorship is legitimate and would not cause any dilemma, if only they were not made by companies whose shares are owned by the state. The question is whether in such cases it is a violation of competition in the market or a violation of the principle of solidarity in sports, whether such revenues can be considered revenues from public sources or are they revenues from private funds. This opens a wide range of questions, especially if we take into consideration the fact that the real situation in financing of sports quite differs from the one provided by our regulations.

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## USTUPANJE PRAVA NA EMITOVANJE KAO IZVOR FINANSIRANJA SPORTSKIH AKTIVNOSTI

*Cilj ovog rada je da se kroz uporednu praksu i aktuelnu zakonsku regulativu da osvrtno na prenos prava na emitovanje sportskih događaja kao jedan od izvora finansiranja sportskih aktivnosti i klubova. Sport i pravo su duboko povezani, prvenstveno zbog toga što je sport izložen različitim izazovima od dopinga, preko sprečavanja nasilja na sportskim manifestacijama, do takmičarske regulative, upravljanja sportskim organizacijama i poslovnim procesima. U radu ćemo analizirati aspekte prava koji omogućavaju ostvarivanje prihoda po osnovu prava na emitovanje. Za odvijanje sportskih aktivnosti neophodni su izvori finansiranja. Najuspešniji sportski klubovi najveći deo svojih prihoda ostvaruju kroz ustupanja prava na prenos sportskih događaja i marketing. Prenos sportskih događaja ne omogućava samo direktne prihode od emitovanja već i skida okove ranije postojećih prostornih barijera i tako doprinosi popularnosti sporta, sportista i njihovih klubova. Pojave poput pandemije virusa COVID-19 uslovile su održavanje sportskih događaja u kontrolisanim uslovima bez prisustva publike ili uz brojna ograničenja i restrikcije. U takvim situacijama mnoge institucije ponudile su interaktivne vidove komunikacije sa konzumentima (onlajn obilasci muzeja, koncerti i sl.) umanjujući gubitke ali i održavaju kontakt sa publikom. Ta situacija pokazala je značaj digitalne komunikacije sa konzumentima. Iako je 2020. godina protekla bez planirane Olimpijade i uglavnom bez navijača na tribinama sportska industrija je zabeležila skok (sa 388,28 milijardi dolara u 2021. godini na očekivanih 440,77 milijardi dolara u 2021. godini). Rast je ostvaren prvenstveno zahvaljujući povećanjem medijskih prihoda.*

Ključne reči: *sport, finansiranje, sportske manifestacije, Mehanizam solidarnosti u sportu.*