New EU Governance Modes in Professional Sport: Enhancing Throughput Legitimacy

Arnout Geeraert *KU Leuven*

Abstract

This article explores the limits and opportunities for enhancing the democratic legitimacy of EU actions in the field of professional sport using new modes of governance. It presents a conceptual toolkit by which the 'throughput legitimacy' of an EU policy can be analysed. Analysing the throughput legitimacy of the European social dialogue, we establish that, by improving the latter, both input and output legitimacy can be increased. The EU could borrow some of the positive elements of the social dialogue approach and incorporate them in the steering of other issues in professional sport. For instance, it may be interesting to pre-establish certain conditions on representativeness and relevance for participation in the policy process. Crucially, working on a clear theme-per-theme-basis instead of organising outsized gatherings such as the EU sport forum would definitely benefit throughput legitimacy.

Keywords

Since the ratification of the Treaty of Lisbon, the article 165 of the Treaty on the Functioning of the European Union (TFEU) grants the EU a formal role in the field of sport. As such, 'sporting bodies can no longer claim that sport is none of the EU's business' (Weatherill 2011: 12). Since the member states only granted the EU a supporting competence, i.e. the weakest type of the three principal types of EU competence, the EU can only coordinate or supplement the actions of the member states. From a legal point of view, the importance of the new legal provision is thus essentially symbolical, as it merely legitimises EU action already taken in the field of sport and, in addition, will not change the approach of the Court of Justice of the EU (CJEU) in sport cases as established in the 1974 *Walrave* (CJEU, Case 36/74 *Walrave* [1974] E.C.R. 1405) and the 2006 *Meca-Medina* CJEU, Case C-519/04 (*Meca-Medina and Majcen v. Commission* [2006] E.C.R. II-3291cases) (Van den Bogaert and Vermeersch 2006; Weatherill 2006; Vermeersch 2009; Weatherill 2011). From a practical viewpoint, the concrete policy instruments the EU has at its disposal for interventions in sport also remain unchanged. Given the weak EU sporting competence, these can be classified under the heading of so-called soft-instruments.

That being said, there are a number of reasons why it can be expected that the EU will increasingly play a more prominent role in the governance of professional sport. Currently, it is generally assumed that the EU offers sports bodies a degree of "supervised autonomy", which implies that EU institutions do not have a proactive role in directly regulating sports governance, but that they 'play a supervisory role to ensure sport organisations behave within the limits of EU law' (Foster 2000: 58; García 2007: 218; García 2009: 280). Indeed, it is fair to say that the EU has been rather reactive in its approach towards professional sports (Croci 2009: 150). However, three indications suggest a certain shift towards a more proactive attitude. First of all, article 165 TFEU unquestionably created 'institutional momentum' (Weatherill 2011: 12) since it obliged EU institutions to their approaches to sport. For instance, the Council, which no longer works on a mere informal basis on sport, has been issuing increasingly significant resolutions on sport (Council of the European Union 2010, 2011a, 2011b), and there have been preparatory initiatives and studies on match-fixing, doping, the transfer system in football, players' agents and good governance in sport governing bodies.

Secondly, while EU actions in sport could and still can be linked to other areas of competence, the new budget for sport, intended for sport-specific projects, opens a range of opportunities to the funding of sport-specific initiatives, facilitating a 'coherent pattern of development' (Vermeersch 2009: 6). Finally, the Lisbon Treaty seems to have made the Commission's tone less cautious towards sport governing bodies: if they are not respectful of principals of good governance, they can expect their autonomy to be to be curtailed (European Commission 2011: 10; Interview European Commission Administrator July 2013). Altogether, it is clear that the Lisbon treaty brought in its wake a dynamism which opened a window of opportunities for the development of the role of the EU in professional sport (Interview European Commission Administrator, July 2013).

The shift towards a more proactive approach suggests that the Commission will do more than merely play a supervisory role to ensure sport organizations behave within the limits of EU law. The approach of the EU towards professional sports through soft-instruments will increasingly be in line with the so-called '*new modes of governance*', which have gained in salience in EU governance since the 1990s (Kohler-Koch and Eising 1999; Scott and Trubek 2002; Radaelli 2003; Tömmel and Verdun 2009; Héritier and Rhodes 2011). New modes of governance are characterised by their use of soft policy instruments such as incentivisation, bargaining, persuasion and information/monitoring instead of the traditional command and control. As such, they offer both limits and opportunities with regard to the democratic legitimacy of the EU. It is the aim of this contribution to analyse these in the light of EU initiatives in professional sport. Given the importance the EU attaches to promoting democracy, transparency, accountability and inclusiveness in sport (European Commission 2011: 10), it seems logical that its own approach to sport adheres to those very standards.

This article proceeds as follows. First, it briefly discusses the rise and nature of new modes of governance in the EU and the concrete policy instruments that emerge from this new approach. Consequently, the conceptual shortcomings of "supervised autonomy" with regard to characterising the approach of the EU towards sport are highlighted. Next, the limits and opportunities of the new modes of governance with regard to the *input* and *output* legitimacy of the EU are discussed. Subsequently, *throughput legitimacy* is introduced as a concept by which the input and output legitimacy of new modes of governance can be improved and a toolkit is presented by which the concept can be analysed, on the basis of a number of basic criteria that emerge from the literature on democratic governance. Finally, the article analyses the throughput legitimacy of the European social dialogue in professional football and its consequences for input and output legitimacy. Bringing together UEFA and the European representative organizations for football leagues, clubs and players, the European Union Sectoral Social Dialogue Committee in the Professional Football sector was established in 2008 and in April 2012, an agreement on minimum requirements for standard football players' contracts was reached. The European social dialogue in professional football presents the EU's first experience with an established new mode of governance (Smismans 2008) in the field of professional sport and thus constitutes an excellent case for analysis. In the end, lessons with regard to input and output legitimacy are drawn for future EU initiatives in professional sport and it is briefly discussed how throughput legitimacy can also be useful for the search for more democratic legitimacy in the sports world in general.

MOVING BEYOND SUPERVISED AUTONOMY TO THEORIZE THE ROLE OF THE EU IN SPORT GOVERNANCE: NEW MODES OF GOVERNANCE

Elaborating on Foster (2000), García (2009, 2013) argues that the EU current approach towards sports federations corresponds with "supervised autonomy", which implies that EU institutions do not have a proactive role in directly regulating sports governance, but that they play a supervisory role to ensure that sport organizations behave within the limits of EU law. The problem with "supervised autonomy'" conceptualised by Foster (2000: 58) as the regulation of sport by the

Commission through competition policy which allows for exemptions to be granted in particular cases, is that it has a strong regulatory bias and, as such, does not take into account the role of the EU in sport beyond its 'regulatory mode' (Wallace 2005: 81). The part the Commission can play in professional sport is limited to its role as public enforcer of EU competition law. In this capacity, the Commission has the competence to investigate whether practices of undertakings comply with the provisions on competition policy. The definition of the concept does not fully cover reality, since the EU has a much broader role to play in professional sport. The EU can use – and has used - softer governance approaches in line with the new modes of EU governance in order to "steer" professional sport instead of regulating it, for which it lacks formal authority. Since the reality of the Lisbon Treaty suggests that the way forward for the EU in professional sport is new modes of governance, a new dimension needs to be added to the three-fold typology to theorize the role of the EU in sport governance presented by Foster (2000) and García (2009). This section takes a closer look at the new modes of governance in the EU in order to set the scene.

The emergence of new modes of governance in the EU dates back to the 1970s. It could initially be regarded as a transitional arrangement between policy making rooted at the national level and a formal competence for action by the EU. There were certain areas where the EU did (and does) not hold a strong mandate, for instance where member states fundamentally disagree about policy approaches or want to retain authority, but where some form of collective action was nevertheless deemed necessary (Wallace 2005: 85; Büchs 2007). New modes of governance have been on the rise in EU governance since new, softer methods of governance gained in salience in the 1990s in a response to questions about the effectiveness of uniform EU legislation and the legitimacy for further delegation of regulatory powers to the EU (Kohler-Koch and Eising 1999; Scott and Trubek 2002; Radaelli 2003; Büchs 2007: 22-27; Tömmel and Verdun 2009; Héritier and Rhodes 2011). Much in line with the increasing literature on governance, traditional forms of command and control through legislation were viewed as exclusive, static, incapable of addressing societal complexity, unable to adapt well to changing circumstances, and limited in their production of the knowledge needed to solve problems. It is presumed that, by moving away from command and control towards a system of "governance", the EU is able to promote flexibility and learning through the use of soft law. The Commission acknowledged these processes and presented its 2001 White Paper on Governance in which it stressed that 'proposals must be prepared on the basis of an effective analysis of whether it is appropriate to intervene at EU level and whether regulatory intervention is needed. If so, the analysis must also assess the potential economic, social and environmental impact, as well as the costs and benefits of that particular approach' (European Commission 2001: 20). In case regulatory interventions are not deemed necessary, recourse should be found with new modes of governance, which do not produce legislation, but EU decisions of a different kind: recommendations, advice on best practices, information and guidelines (European Commission 2009).

While academic literature offers little differentiation between new modes of governance - they are often grouped together by scholars - there exists no generally accepted single method of classification (e.g. Best 2008; Héritier and Lehmkuhl 2011: 51-53). In addition, the EU has not had much (positive) experience in the steering of private actors and therefore such governance modes need to further crystallise (Best 2008: 14-16: Verbruggen 2009: 430). It seems therefore advisable to present a classification of the concrete policy instruments that emerge from new modes of governance in order to interpret the concept. In this regard, Héritier and Lehmkuhl (2011: 57-58) distinguish between incentivisation, bargaining, persuasion, information/monitoring and model function (see Table 1).

Table 1: Policy instruments that emerge from the new modes of governance in the EU

Instruments used to attain a stated policy goal	Definition
Incentivisation	Positive and negative inducements to produce a desired behaviour
Bargaining	Exchange of resources and positions between actors to reach a defined policy goal
Persuasion	Actors' behaviour is influenced by arguments and reasoning
Information/monitoring	Desired behaviour is prompted by the spread of information and possible monitoring of the desired performance and the publication of results ('naming' and 'shaming')
Model function	Relies on the positive influence that a successful behaviour, the model, may have on other actors

Source: adapted from Héritier and Lehmkuhl 2011: 57-58

DEMOCRATIC LEGITIMACY

This section discusses the limits and opportunities of new modes of governance for contributing to the democratic legitimacy of the EU. It starts from the classic distinction by Scharpf (1970, 1999), who divided democratic legitimation into *output* and *input*. In short, the *output legitimacy* of the EU can be assessed in terms of the effectiveness of the EU's policy outcomes *for* the people. Policies are *input legitimate* when they are in line with the popular will expressed by the political majority of the elected assemblies and thus, the focus here is on policy *by* the people. Importantly, recent work on the democratic legitimacy of the EU has added another dimension to this debate: interest intermediation *with* the people, which Vivien Schmidt (2013) has recently labelled '*throughput legitimacy*'. Schmidt demonstrates how enhancing throughput legitimacy may lead to improved input and output legitimacy, but she did not operationalize the concept. Hence, the subsequent section presents a conceptual toolkit by which the throughput legitimacy of an EU policy can be analysed.

Input legitimacy

Policies are input legitimate when they are in line with the popular will expressed by the political majority of the elected assemblies. That so-called "participatory rhetoric" is however problematic in EU policy-making, as the distance between the directly affected citizens and their representatives is quite large(Sharpf 1999: 9); the European Parliament elections fail to attract citizen interest and they have low turnout rates, and EU citizens cannot express their approval or disapproval of EU policies since there is no EU government to vote in or out (Scharpf 1999; Mair 2006; Hix 2008; Schmidt 2013: 12), although the Lisbon Treaty introduces the requirement by the European Council to take account of the results of the European Parliament elections when nominating the candidate as President of the Commission. In addition, from a more constructivist point of view, the majority rule will only be accepted in polities with a "thick" collective identity - that is, in polities based on pre-existing commonalities of history, language, culture, and ethnicity (Sharpf 1999: 9-10). As the notion of EU citizenship, as introduced by the Treaty of Amsterdam, currently primarily is a legal concept rather

than a political reality, this is currently not (yet) the case. Consequently, almost no scholars think the EU has sufficient input legitimacy (but see Lenaerts 2013).

However, the rise of new modes of governance is said to contribute to the input legitimacy of the EU (Zeitlin and Pochet 2005; Kohler-Koch 2007; Sabel and Seitlin 2010). For instance, in their seminal article, Joanne Scott and David Trubek (2001) contend that in new modes of governance, a broad range of actors are expected to be involved, thus developing a new form of input legitimacy. This view is increasingly being adjusted or even refuted by those who claim that new modes of governance have a negative impact on input legitimacy since the European Parliament remains seriously marginalised or totally outside of the consultation processes of the new governance modes, and the latter have a negative impact on input legitimacy of EU policy processes (Raunio 2006; Borrás and Conzelmann 2007: 541; Büchs 2007: 150). Such arguments are in line with the constructivist stance that citizens' interests are not pre-existing and public and parliamentary discussions are crucial for establishing these (Büchs 2007: 150). In addition, the danger exists that policy processes in new modes of governance suffer from a lack of accountability with regard to the European Parliament (Lord 2004; Bovens, Curtin and 't Hart 2010; Menon and Peet 2010). Finally, strong and resourceful elites may be privileged, and, in this regard, direct participation of private actors may even constitute an impediment for increasing input legitimacy of policy processes (Sørensen and Torfing 2005; Borrás and Conzelmann 2007; Büchs 2007: 148; Greenwood 2007; Skelcher 2007; Sørensen and Torfing 2009: 234; Schmidt 2013: 16).

Output legitimacy

Since the EU cannot be regarded as democratic in the input sense, according to Sharpf (1999), a more modest form of legitimisation must uphold the Union. Sharpf therefore introduces the concept of 'output-oriented legitimacy', where political choices are legitimate if and because they effectively promote the common welfare of the constituency in question: 'government *for* the people' (Scharpf 1999: 6-10). According to Scharpf (1999: 11-12), output-oriented legitimacy requires no more than the perception of a range of common interests that is sufficiently broad and stable to justify institutional arrangements for collective action. Thus, he restricts his argument to "consensual" policy areas (Sharpf 1999: 22).[1] New modes of governance in the EU are said to contribute to the output legitimacy of the EU since horizontal, networked forms of governance are deemed more effective than traditional forms of command and control (Klijn and Koppenjan 2004). However, this view has been criticised later on, as empirical results for the new modes of governance remained rather limited (Hodson 2004; Zeitlin and Pochet 2005; Idema and Kelemen 2006; Büchs 2007; Haztopoulos 2007; de la Porte and Pochet 2012).

INCREASING INPUT AND OUTPUT LEGITIMACY VIA THROUGHPUT LEGITIMACY

Although often discussed in literature in input or output terms, Schmidt (2013) demonstrates how throughput mechanisms can be brought under a more general rubric for the purpose of analytic reasons, constituting a third and distinct criterion in the normative analysis of democratic legitimacy. Throughput encompasses the numerous ways in which the policy processes work in order to ensure 'the accountability of those engaged in making the decisions, the transparency of the information and the inclusiveness and openness to civil society' (Schmidt 2013: 7). Throughput legitimacy moves beyond the traditional input-output dichotomy by focusing on the quality of interactions among actors engaged in EU decision-making process (Schmidt 2013: 7-8).

By enhancing the throughput legitimacy of new modes of governance, issues with regard to their input and output legitimacy can be remedied (Sørensen and Torfing 2005; Sørensen and Torfing 2009). Throughput legitimacy can lead to increased output legitimacy since particular governance processes are seen as preconditions for better output performance, and to improved input legitimacy since certain institutional processes or deliberative interactions are preconditions for better input participation (Schmidt 2013: 14).

Introducing a toolkit for analysing throughput legitimacy

This section presents a toolkit for analysing the four dimensions of throughput legitimacy, emerging from the literature on democratic governance, based on Schmidt's analysis (2013), and efficacy, accountability, transparency and inclusiveness and openness to civil society.

Efficacy

According to Eva Sørensen and Jacob Torfing (2009), new modes of governance can contribute to effective governance only provided that the network of actors involved in the governance, i.e. the *governance network*, is carefully meta-governed by politicians, public manager and other relevant actors. Meta-governance holds that the most appropriate way of controlling governance networks is by "steering", which entails that, via a series of more or less subtle and indirect forms of governance, meta-governors should seek to shape the free actions of the network actors in accordance with a number of pre-defined general procedural standards and substantial goals. Thus, 'the conditions for interaction of relatively free and self-responsible actors within governance networks are structured in order to ensure conformity with some generally defined objectives' (Sørensen and Torfing 2005: 202).

In order to meta-govern effectively, meta-governors must combine 'hands-off' and 'hands-on' forms of meta-governance (Sørensen and Torfing 2009: 247). Hands-off forms of meta-governance - meaning at a distance from the self-regulating governance networks - are adequate in the initial phase of the steering of the governance network. The term comprises network design and network framing as meta-governance methods. Network design involves the shaping and structuring of governance networks, either by encouraging the formation of particular forms of networks, or by relying on pre-established networks. During this process, meta-governors influence inclusion and exclusion of certain actors and the empowerment of weaker actors and determine the scope of the network (Sørensen and Torfing 2005: 204). Network framing involves the formulation of the political goals and objectives, which can be broadly defined, to be pursued by the network and the allocation of resources. Sometimes, a legal framework that facilitates and constraints the network, may even be drawn. Network framing must always be backed by the continuous monitoring and critical evaluation of the output of the network (Sørensen and Torfing 2005: 204).

Hands-on forms of meta-governance are recommended when the governance network shows signs of failure and close interaction between the meta-governors, and the governance network is needed. This is for instance the case when conflicts arise between network actors, when deadlocks occur, when key actors are excluded from the policy deliberations, or, when policy output stays too far from what is deemed acceptable by the meta-governors (Sørensen and Torfing 2009: 247). The first hands-on form of meta-governance is network management, which includes attempts by meta-governors to reduce tensions through conflict management, promoting favourable conditions and providing inputs and resources for joint action, and empowering certain actors (Kickert and Koppenjan 1997: 47-51; Sørensen and Torfing 2009: 247). The second hands-on form of meta-

governance is network participation, which requires the participation of the democratically elected politicians in the networks. This way, it is possible to get first-hand knowledge of the policy processes and exert political authority in order to influence the network (Sørensen and Torfing 2005: 204-205, 2009: 247). Hands-on forms of meta-governance are not only appropriate in the case of governance network failures, as it is also quite common in policy areas closely related to the core functions of the state (Sørensen and Torfing 2009: 247). However, if the relative autonomy of the network is a key political goal, as is the case with sport at the EU level, hands-on forms of meta-governance may be avoided by elected politicians and public administrators. The efficacy of the policy processes of course also depends on democratic quality. For instance, deliberations between actors need to be governed by a 'democratic ethos', ensuring openness, relative transparency, respect and a commitment to reach a rough consensus (Sørensen and Torfing 2005: 211-214; Torfing, Sørensen and Fotel: 2009: 291-294).

Accountability and transparency

As mentioned earlier, the danger exists that policy processes in new modes of governance suffer from a lack of accountability with regard to the European Parliament (Lord 2004; Bovens, Curtin and 't Hart 2010; Menon and Peet 2010). It is therefore important that the Parliament has the possibility to scrutinise the policy processes of these modes. In addition, whereas accountability within an EU context in general implies that EU actors are responsive to participatory input demands and can be held responsible for their output decisions, it is essential that the network of actors engaged in the policy processes of the new methods of governance are responsive to public contestation, meaning that they should respond positively to constructive proposals raised in public debate (Harlow and Rawlings 2007; Torfing, Sørensen and Fotel 2009: 291).

The members of the civil society organizations that are involved in the policy processes of the new modes of governance constitute 'a demos of directly affected people' (Sørensen and Torfing 2003: 617). In order to have a positive effect on input legitimacy, those whose interests are being represented therefore must have access to information about the policy processes and the capacity and opportunity to critically evaluate the pursuit and construction of their interests and preferences. Furthermore, the representatives must of course be responsive to criticism from the represented and they must represent who they claim to represent (Sørensen and Torfing 2005: 206; Torfing, Sørensen and Fotel 2009: 288-289).

Conceptually, transparency is closely related and even connected to accountability. In the narrow sense of the term, accountability 'requires institutions to inform their members of decisions and of the grounds on which decisions are taken' (Woods 1999: 44). In a similar vein, public accountability is crucial to prevent new modes of governance from 'operating in the dark' (Fox and Miller 1995; Dryzek 2000; Newman 2005). It is therefore paramount that narrative accounts are produced that seek 'to justify decisions, actions and results in the eyes of the broader citizenry' (Torfing, Sørensen and Fotel 2009: 291).

Inclusiveness and openness to civil society

Although democratic procedures are subject to endless contestations, there are certain general rules and norms that are generally accepted as inherent to a democratic grammar of conduct, such as the participation in policy processes by those who are affected by the policy (Arnstein 1969; Pateman 1970). Interest group participation in policy making or 'functional representation' through interest groups therefore has been identified as a form of democracy in its own right as well as a corrective

to representative democracy (Cohen and Rogers 1992, Kohler-Koch 2007; Kröger 2008). However, none of the affected stakeholders must be marginalised in a way that systematically prevents them from influencing policy (Young 2000). It is mentioned above that the danger exists in new governance modes that strong and resourceful elites are privileged, diminishing the input-legitimacy of policy processes. Therefore, the degree of inclusion in new modes of governance should be 'a function of the intensity of the actors' affectedness, and the included actors should be able to influence the decisions' (Torfing, Sørensen and Fotel 2009: 294). Since the relevance of the respective actors included in the policy processes may decline and the presence of other actors may indeed become more pertinent, the inclusion and exclusion of actors must be subject to on-going consideration and negotiation.

THE CASE OF THE EUROPEAN SOCIAL DIALOGUE IN PROFESSIONAL FOOTBALL

This final section analyses the European social dialogue in professional football. In particular, conclusions are drawn on the positive and negative effects of the relevant policy processes on input and output legitimacy. Using the toolkit presented in the previous section for assessing the elements of throughput legitimacy suggested by Schmidt (2013), key points for attention with regard to the democratic legitimacy of a more proactive EU approach in professional sport are uncovered. Although the European social dialogue in professional football constitutes a special case as the EU can rely on pre-established practices and even a legal framework (Colucci and Geeraert 2012), this does not mean that the conclusions of this paper cannot be translated to sport-specific EU actions.

The data for the analysis was gathered firstly through documentary analysis, which included official press releases from various actors, the memoranda of understanding concluded between UEFA and the involved stakeholders, official EU policy documents and relevant academic literature. Secondly, since many internal processes remain informal and are thus not accessible in written form, seven semi-structured qualitative interviews were conducted and used as the primary source of information about internal processes, assessments and viewpoints. The focus was on the (assumed) diverse viewpoints of the actors (see Bogason and Zølner 2007: 13); the interviews were conducted in person (5) and over the phone (2) in August and September 2012 and in July 2013 with representatives from Union of European Football Associations (UEFA) (2), European Club Assiciation (ECA), Fédération Internationale des Associations de Footballeurs Professionnels (FIFPro), the European Commission (2) and the European Parliament. European Professional Football Leagues (EPFL) declined to cooperate.

Background

On the conclusion of the agreement on new FIFA rules on international transfers of football players between the main football associations FIFA and UEFA on the one side, and the EU Commissioners in charge of competition, sport and social affairs on the other side, the Commission invited FIFA and UEFA to encourage clubs to start or pursue social dialogue with the representative bodies of football players and for this purpose, and offered the Commission's assistance. In July 2008, following the signing of the Rules of Procedure by the participating parties, the European Union Sectoral Social Dialogue Committee in the Professional Football sector (SDCPF) was established. The committee brings together UEFA and the European representative organizations for football leagues (EPFL), clubs (ECA) and players (FIFPro). In April 2012, the relevant internal bodies of the involved organizations ratified an agreement on minimum requirements for standard football players' contracts.

Efficacy

The European Commission was quite successful as meta-governor (see Table 2). First of all, since it had been encouraging the formation of a social dialogue committee in professional football since 2001, it has been very involved in the network design of the SDCPF. The Commission also provided important resources to the SDCPF actors and supported projects and studies. This resonates with the Commission's role under article 154 (1) TFEU, which limits its task to taking 'any relevant measure to facilitate social dialogue by ensuring balancing support for the parties'.In terms of network framing, the Commission provided important resources to the SDCPF actors. According to all interviewees, indirect financial support through, for instance, the reimbursement of travel expenses by the Commission is particularly important to FIFPro, whose budget is far more limited than those of the other participating organizations. The Commission made sure that actors are brought together in a room, where they are obliged to dialogue. The legal framework of the EU social dialogue is helpful and 'provides an interesting platform for the conclusion of agreements' (Interview: Stakeholder official, August 2012). However, there are also serious limitations (Colucci and Geeraert 2012). The objectives of the Committee are clear: to deliver opinions on labour matters to the Commission; to reach agreements in accordance with the Treaty provisions on social dialogue; and, to encourage and develop social dialogue at sectoral level (European Commission 2008: Article 1).

Table 2: The meta-governance of the European social dialogue in football by the European Commission

Type of meta-governance	Distinction of the types	Definition	European social dialogue in football
Hands-off	Network design	The shaping and structuring of governance networks, either by encouraging the formation of particular forms of networks, or by relying on pre-established networks	• Encouraged the formation of the committee since 2001 • Support to a number of projects
	Network framing	The formulation of the political goals and objectives, which can be broadly defined, to be pursued by the network and the allocation of resources	• Broad formulation of objectives • Support to a number of projects • Reimbursement of travel expenses
Hands-on	Network management	Attempts by meta-governors to reduce tensions through conflict management, promoting favourable conditions and providing inputs and resources for joint action, and empowering certain actors	• Drafting of compromise agreement • Bi-lateral talks with actors during impasse • Empowering of FIFPro
	Network participation	The participation of democratically elected politicians in the networks in order to get first-hand knowledge of the policy processes and to exert their political authority in order to influence the network	Avoided due to the autonomy of sport, the political sensitiveness of the issue and a lack of interest

Source: adapted from Kickert and Koppenjan 1997: 47-51; Sørensen and Torfing 2005: 204; Sørensen and Torfing 2009: 247; own analysis

The Commission also succeeded in managing the network. When the SDCPF reached an impasse in early 2011, the Commission tried to reconcile differences, for instance by organising bilateral negotiations with the individual parties (Interview: Stakeholder official, September 2012) and eventually drafted a compromise agreement 'which would eventually serve as the basis for the final agreement' (Interview: Stakeholder official, August 2012). The Commission has also exercised some form of indirect pressure to come to a solution. In case the impasse had not been resolved, the Commission would have refused to renew the committee's budget, which would have resulted in the death of the committee (Interview: Stakeholder official, September 2012). This would entail high political costs for the participating parties, since 'it is very important to have good relations with the EU' (Interview: Stakeholder official, August 2012). There is no network participation by democratically elected politicians in the social dialogue in professional football. This is of course due to the political sensitiveness of interventions in professional sport, but the *sui generis* nature of the EU, i.e. the lack of a traditional government, also plays an important part. Instead, meta-governance was conducted by public administrators, which is in fact customary (Kingdon 1984; Kickert, Klijn and Koppenjan 1997; Skelcher, Mathur and Smith 2005).

The deliberations between actors were generally governed by a 'democratic ethos'. The interviewees all agree that negotiations happened in a relatively good atmosphere. One described the relation between the actors as 'cordial' (Interview: Stakeholder official, August 2012). Another contended that, while there were some disagreements from time to time, after the negotiations, the negotiators were 'happy to enjoy a beer together' (Interview: Stakeholder official, August 2012). One stakeholder official was slightly less positive and held that 'of course there was some hostility from time to time, but I would rather call it passion' (Interview: Stakeholder official, September 2012). Furthermore, the negotiations reportedly were relatively transparent, although ECA and EPFL often tuned their proposals and measured them with UEFA before introducing them to FIFPro (Interview: Stakeholder official, August 2012). One interviewee argued that the latter was 'necessary in order to reach a solution' (Interview: Stakeholder official, August 2012). Finally, despite some worrying reports on FIFPro's website (FIFPro 2011), the stakeholder interviews reveal that there certainly was a commitment to reach a consensus agreement.

Accountability and transparency

A general issue in new modes of EU governance, the European Parliament only plays an extremely marginal role in the European social dialogue in football. It has expressed its support for social dialogue in sport in general and football in particular in its 2008 Resolution on the White Paper on Sport (European Parliament 2008, points 105-106). In its 2012 Resolution on the European dimension in sport, the Parliament reiterates its support for social dialogue in sport in general (European Parliament 2012, recital AB; point 49). One interviewee stated that the Parliament does not offer much solid support to the SDCPF (Interview: Stakeholder official, September 2012). Two other interviewees frame this in the general lack of interest of EU-level politicians in the social dialogue in football (Interview: Stakeholder official, August 2012, September 2012).

The stakeholder interviews reveal that, in general, ECA and FIFPro had a sufficiently broad mandate to conclude an agreement on behalf of the represented organizations, despite there being some issues in the past with regard to the latter organization (see Irving 2002: 713; Dabscheck 2003: 97-102). The ECA official did admit that ECA administrators sometimes had to make some efforts to have certain elements sold to the ECA member base. All interviewees pointed to the fact that there were some serious doubts as regards EPFL's mandate. At a certain point, its CEO was not even sure about the scope of EPFL's mandate (Interview:Stakeholder official, August 2012). Reportedly, especially the Spanish and Italian leagues are very reluctant to give away their bargaining powers to EPFL (Colucci and Geeraert 2012: 221-222; Interview: Stakeholder official, August 2012). Such

reluctance is in fact a familiar issue in EU level social dialogue (see De Boer, Benedictus and van der Meer 2005; European Commission 2010: 17) and the ratification process following the signing of the agreement on MRSPC in the SDCPF underlined these issues. Certain stronger leagues did not want to ratify any agreement and eventually, those countries where the standard of contractual protection is above the standards provided in the SDCPF agreement on MRSPC - 16 in total- were excluded from the agreement by means of a side-letter agreement (ECA, EPFL, FIFPro and UEFA 2012). Since the agreement on MRSPC had to be ratified by the relevant internal bodies of the signatory parties, the represented organizations definitely had the opportunity to critically evaluate how their interests and preferences were pursued by the representative organizations.

Narrative accounts published by the network are very scarce. Apart from FIFPro, which regularly produced (rather cynical) news articles on the SDCPF on its website, the actors and the Commission limited themselves to the reporting of key-events such as the installation of the Committee and the signing and ratification of the agreement. The Commission in particular could do a better job in providing objective information on the actions and decision in the Committee. For instance, the side-letter agreement which excludes 16 countries from the scope of the MRSPC agreement is nowhere mentioned or explained. On the contrary, the Commission mistakenly reports that 'the Agreement covers not only the 27 EU Member States but all 53 national federations which are members of UEFA' (European Commission 2012).

Inclusiveness and openness to civil society

Decisions with regard to labour issues in football above all affect players and clubs. In the SDCPF, European football players are represented by FIFPro Europe, and clubs are represented by ECA and – indirectly- EPFL. One could argue that ECA is more relevant than EPFL, but the top European leagues represented by EPFL are equally affected since they have an important role to play in the implementation of the agreement because the agreement will have to be implemented in the national bargaining agreements in order for it to have any direct legal effect (Colucci and Geeraert 2012). The stakeholder interviews revealed that all the included actors were able to influence decisions in the network. This is also evident from an analysis of the negotiations in the Committee (Colucci and Geeraert 2012: 223-229). All interviewees share the same unambiguously clear view that, perhaps apart from the occasional reporting on the instalment of the committee, there was and still is no interest from the press in the SDCPF. Consequently, there was no opportunity for the actors to display any responsiveness towards external criticism.

When social partners make a joint request to take part in social dialogue at European level, organizations representing both sides of industry must fulfil certain criteria, which are assessed by the Commission (European Commission 1998: Article 1). In the White Paper on Sport, the European Commission acknowledged that 'relevant third bodies' could be invited to take part in the social dialogue 'as observers' (European Commission 2007, para. 5.3). Moreover, as the Commission acknowledged the difficulty to predetermine the form of a social dialogue in the sports sector and, therefore, it declared to be ready to 'examine any request to set up a sectoral social dialogue committee in a pragmatic manner' (European Commission 2007: para. 5.3). The most suitable representative organizations for workers and employers in European football are currently involved in the SDCPF, although the Commission applied its predetermined criteria rather loosely, which indicates that mutual recognition by the involved parties is more important than actually meeting those criteria. At this point, the only excluded organization that could possibly be interested in participating in the SDCPF is FIFA. FIFA very much is a 'relevant third body' with regard to labour issues in football and therefore would certainly be accepted by the Commission 'as an observer' in the Committee.

The danger that strong and resourceful elites are privileged is extremely pertinent in European football governance. UEFA formally has as an objective that it ensures the needs of the different stakeholders in European football are properly taken into account. However, clubs have considerably more control over UEFA than players. At the end of the 1990s, UEFA realised that clubs, as opposed to players, have – and considered - the "exit" option (Hirschmann 1970), when a group of elite European clubs threatened to establish a European Super League outside of its structures. In addition, UEFA's statutes stipulate that every Executive Committee member, except the UEFA president, has to hold office in a national federation (UEFA 2012: Article 21.3) and the latter are highly receptive to clubs' concerns (Interview UEFA official, 11 July 2013). Moreover, while the more regular contact between FIFPro officials and UEFA is a relatively recent phenomenon, UEFA has a tradition of dealing with clubs and never directly with players. Clubs consequently have managed to obtain important concessions from UEFA. For instance, they take a majority of the seats in UEFA's Club Competitions Committee, which among others draws up recommendations and exchanges views regarding possible modifications to the existing UEFA club competitions and to the regulations governing these competitions (UEFA 2012: Article 22). Furthermore, the recently renewed memorandum of understanding between ECA and UEFA includes arrangements on an increase of the agreed amount to be distributed to clubs for giving their players away to national teams; an insurance covering the risk of injury while on international team duty; and the international match calendar (UEFA and ECA 2012).

FIFPro's participation in the social dialogue has unquestionably improved its representativeness and legitimacy, and has thus enhanced its position in the governance of European football. By providing expertise and indirect financial support through, for instance, the reimbursement of travel expenses, the Commission further contributed to the empowerment of FIFPro. Finally, by making sure that actors are brought together in a room, where they are obliged to dialogue, the Commission made sure that FIFPro was able to influence the decisions made by the governance network (Interview: Stakeholder official, September 2012). This is in line with other active EU policies that help to address potential asymmetries of power between different constituencies of groups, for instance through EU funding (Greenwood 2007: 344).

CONCLUSION

This article looked into the limits and opportunities for enhancing the democratic legitimacy of EU actions in the field of professional sport, given the legal context in which these necessarily take place. By analysing the throughput legitimacy of the European social dialogue in professional football, it was shown that by improving the latter, input and output legitimacy can be increased (see Table 3 for detailed conclusions of the analysis). In general, careful meta-governance by the European Commission contributed the most to output legitimacy since it facilitated and accelerated the conclusion of an agreement. In addition, the degree of inclusion in the policy processes was clearly a function of the intensity of the actors' affectedness and the affected demos, constituted by the represented organizations, and could influence policy, increasing input legitimacy. Crucially, however, the European Parliament was not involved, few narrative accounts were made available, and incorrect information was published, impeding public contestation and thus decreasing input legitimacy.

It is important to stress that many of the positive points with regard to throughput legitimacy result directly from the pre-existing structures, uses, experience, processes, the legal framework, and other peculiarities connected to the specific EU governance mode that is the European social dialogue. The EU can fall back on 15 years of experience and established practices in this field, while it lacks an established (and successful) approach in the steering of private actors in other fields.

Table 3: General conclusions of the study

Throughput Legitimacy Dimensions	Suggested Criteria	Impact on Legitimacy		General Conclusions
Efficacy	• Meta-governance • Deliberations between actors are governed by a democratic ethos	Case: • European Commission did a very good job as meta-governor • Deliberations between actors were generally governed by a democratic ethos		
		Input		
		Output		Meta-governance and democratic ethos in deliberations contribute to output legitimacy of the EU since they hastened the conclusion of the agreement.
Accountability and Transparency	• European Parliament scrutinises policy process • Responsiveness to public contestation • Represented demos has access to information about policy processes • Represented demos can critically evaluate pursuit and construction of their interests and preferences • Responsiveness from representatives to concerns raised by represented • Narrative accounts are produced that seek to justify policy in the eyes of the broader citizenry	Case: • Marginal role and lack of interest European Parliament • No public contestation • In the case of EPFL, the represented organisations were not aware of the policy processes • Agreement had to be ratified by relevant internal organs of the parties, so member organisations could reject it; therefore there was high responsiveness from representative organisations towards represented organisations • Narrative accounts are scarce and often incorrect		
		Input		EU can increase input legitimacy by producing narrative accounts of higher quality more regularly, which may then lead to more public contestation. European Parliament needs to be involved in the policy process. FIFPro, ECA and EPFL are very responsive towards represented organisations.
		Output		EPFL did not inform its members of the policy processes and this has repercussions for the effectiveness of the policy outcome since certain members refused to ratify and thus implement the agreement.
Inclusiveness and Openness to Civil Society	• Degree of inclusion is a function of the intensity of the actors affectedness • No actor is marginalised in a way that prevents it from influencing policy • Actors are able to influence decisions • Inclusion and exclusion are subject to on-going consideration and negotiation	Case: • Directly affected organisations are represented • FIFPro risks being marginalised in football governance but, thanks to meta-governance by the European Commission, was empowered • All the actors were able to influence policy • Only potentially relevant actor currently not included is FIFA		
		Input		The affected demos could influence the policy process.
		Output		The inclusion of relevant and representative organisations facilitates the multi-level implementation of policy.

It may be worthwhile to borrow some of the positive elements of the social dialogue approach and incorporate them in the steering of other issues in professional sport, for instance match-fixing or doping. For example, it can be interesting to pre-establish both certain objectives that have to be attained and conditions on representativeness and relevance for participation in the policy process.

Crucially, working on a theme-per-theme-basis instead of organising outsized gatherings such as the EU sport forum would definitely benefit throughput legitimacy.

Finally, our conclusions are also valuable for analysing the democratic legitimacy of the governance of professional sport when the EU does not take up a steering role. Since international sport organizations govern substantial areas of social life through their administrative decisions and public derogations, states have implicitly delegated certain tasks (related to the regulation of a public good, namely sport) to them (Cutler, Haufler and Porter 1999; Hirst 2000: 20). In a similar vein, Héritier and Lehmkuhl (2008: 5) speak of 'a tacit or explicit tolerance of governance actors' policymaking on the part of governments'. Accordingly, it seems logical that these organizations adhere to high degrees of throughput legitimacy. In addition, while focusing exclusively on the *input legitimacy* of these organizations is not very useful, putting the focus purely on their effectiveness, or *output legitimacy*, also does not tell us anything about the democratic quality of their internal processes. By improving their throughput legitimacy, however, they can improve both their input and output legitimacy.

Further research could focus on the underlying mechanisms that ensure effective steering of the sports world. It has been established that the effectiveness of new modes of governance depends largely on whether they operate 'in the shadow of hierarchy', that is, a credible threat of regulatory intervention (Sharpf 1994; Héritier and Lehmkuhl 2008; Héritier and Rhodes 2011). In the case of sport, the shadow of hierarchy seems rather pale due to the EU's limited competence. Sport bodies however seem to be willing to engage with the EU due to a latent fear of EU law, which may explain why an agreement was reached in the SDCPF, while extremely few agreements are reached in other European sectoral social dialogue committees exactly because of the lack of a shadow of hierarchy (Best 2008: 14; Smismans 2008; Geeraert 2013). Against this background, it could also be useful to focus on the effects of conflicting meta-governance messages (or a lack of support from the Council) on the effectiveness of EU steering. Finally, since the reality of the Lisbon Treaty suggests that the way forward for the EU in professional sport are new modes of governance, a new dimension should be added to the typology that was introduced by Foster (2000) and García (2009) to theorise the role of the EU in sport governance. Further research could explore the benefits of this new dimension by comparing them with the traditional trinity of self-regulation without the intervention of the EU law, enforcement of private rights through the CJEU, and supervised autonomy.

<div align="center">***</div>

Acknowledgements

Correspondence Address

Arnout Geeraert, Leuven International and European Studies (LINES) Institute, Faculty of Social Sciences, KU Leuven, Parkstraat 45/3602, 3000 Leuven, Belgium [arnout.geeraert@kuleuven.be]

<hr>

[1] On this note, with regard to EU involvement in professional sport, it is true that EU citizens tend to allocate the responsibility to the EU for those policy domains which are characterised by an endogenous internationalisation (Niedermayer and Sinnott 1995; De Winter and Swyngedouw 1999). Moreover, according to a Eurobarometer Survey from 2004, a majority of EU citizens are in favour of a greater EU intervention in sport (European Commission 2004).

REFERENCES

Arnstein, S.R. (1969). A ladder of citizen participation. *Journal of the American institute of planners* 35 (4): 216-224.

Best, E. (2008). Alternative Regulations or Complementary Methods? Evolving Options in European Governance. *Eipascope* 1 (3): 1-10.

Bogason, P. and Zølner, M. (2007). *Methods in democratic network governance.* Basingstoke: Palgrave Macmillan

Borrás, S. and Conzelmann, T. (2007). Democracy, legitimacy and soft modes of governance in the EU: The empirical turn. *Journal of European integration* 29 (5): 531-548.

Bovens, M., Curtin, D. and 't Hart, P. (eds) (2010). *The Real World of EU Accountability: What Deficit?* Oxford: Oxford University Press.

Büchs, M. (2007). *New governance in European social policy: the open method of coordination*. Basingstoke: Palgrave Macmillan.

Colucci, M. and Geeraert, A. (2012). The 'Social dialogue' in European professional football. *Comparative Labor Law and Policy Journal* 33 (1): 203-234.

Council of the European Union (2010). Resolution on the EU structured dialogue on sport (2010/C 322/01), Brussels.

Council of the European Union (2011a). Resolution on the representation of the EU Member States in the Foundation Board of WADA and the coordination of the EU and its Member States' positions prior to WADA meetings (2011/C 372/02), Brussels

Council of the European Union (2011b). Resolution on a European Union Work Plan for Sport for 2011-2014 (2011/C 162/01), Brussels.

Croci, O. (2009). Taking the Field: The EU and Sport Governance, in I. Tommel and A. Verdun (eds.) *Innovative Governance in the European Union: The Politics of Multilevel Policymaking*. Boulder: Lynne Rienner: 139-158.

Cutler, C., Haufler, V. and Porter, T. (1999). The contours and significance of private authority in international affairs, in A. Cutler, V. Laufler and T. Porter (eds.) *Private Authority and International Affairs*. Albany: State University of New York Press: 333-375.

de la Porte, C. and Pochet, P. (2012). Why and how (still) study the open method of co-ordination (OMC)? *Journal of European social policy* 22 (3): 336-349.

De Winter, L. and Swyngedouw, M. (1999). The Scope of EU Government, in H. Schmitt and J. Thomassen (eds.) *Political representation and legitimacy in the European Union*. Oxford: Oxford University Press: 47-73.

Dabscheck, B. (2003). International unionism's competitive edge: FIFPro and the European Treaty. *Industrial relations* 58 (1): 58-108.

De Boer, R., Benedictus, H. and van der Meer, M. (2005). Broadening without intensification: The added value of the European Social and sectoral dialogue. *European journal of industrial relations* 11 (1): 51–70.

Dryzek, J.S. (2000). *Deliberative democracy and beyond*. Oxford: Oxford University Press.

European Commission (2004). *Special Eurobarometer 213: the citizens of the European Union and Sport*, Brussels.

ECA, EPFL, FIFPro and UEFA (2012). *Side-letter agreement regarding the minimum requirements for standard player contracts in the professional football sector in the European Union, and the rest of the UEFA territory*, unpublished.

European Commission (2007). The EU and sport: background and context. Accompanying document to the White Paper on Sport. SEC (2007) 935, Brussels.

European Commission, (2008). *Rules of procedure for the European Sectoral Social Dialogue Committee in the Professional Football Sector*. Available from http://ec.europa.eu/employment-social/dsw/public/actRetrieveText.do?id=8679. Accessed on 20 September 2012.

European Commission (2009). Impact assessment guidelines. SEC(2009) 92 final, Brussels.

European Commission (2010). Staff working document on the functioning and potential of European sectoral social dialogue. SEC (2010) 964 final, Brussels.

European Commission (2011). Developing the European dimension in sport. COM (2011) 12 final, Brussels.

European Commission (2012). *Social partners in professional football sign agreement on minimum standards for players' contracts*. Available from http://ec.europa.eu/sport/news/20120420_en.htm. Accessed on 20 September 2012.

European Council (1997). Declaration No. 29, on Sport, Attached to the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, Brussels.

European Council (2000). Declaration on the Specific Characteristics of Sport and Its Social Function in Europe, of Which Account Should Be Taken in Implementing Common Policies, Presidency Conclusions, Brussels.

European Council (2008). European Council Declaration on sport, Presidency Conclusions. Brussels European Council, 11-12 December 2008, Brussels.

European Parliament (2008). Resolution of 8 May 2008 on the White Paper on Sport. 2007/2261(INI), Brussels.

European Parliament (2012). Resolution of 2 February 2012 on the European dimension in sport. 2011/2087(INI), Brussels.

FIFPro (2011). Only FIFPro is ready to sign minimum requirements. Press Release (Mar. 1, 2011). Available from http://www.fifpro.org/news/news details/1469. Accessed 20 September 2012.

Foster, K. (2000). Can sport be regulated by Europe? An Analysis of Alternative Models, in A. Caiger and S. Gardiner (eds.) *Professional Sport in the European Union: Regulation and Re-regulation*. The Hague: TMC Asser Press: 43-64.

Fox, C.J. and Miller, H.T. (1995). *Postmodern Public Administration*. Thousand Oaks, CA: Sage.

García, B. (2007). UEFA and the European Union: From Confrontation to Cooperation. *Journal of Contemporary European Research* 3 (3): 202-223.

García, B. (2009). Sport governance after the white paper: the demise of the European model? *International Journal of Sport Policy and Politics* 1 (3): 267-284.

Geeraert, A. (2013). A principal-agent perspective on good governance in international sports. The European Union as *ex post* control mechanism. Thesis (PhD). KU Leuven.

Greenwood, J. (2007). Organized Civil Society and Democratic Legitimacy in the European Union. *British Journal of Political Science* 37 (2): 333-357.

Harlow, C. and Rawlings, R. (2007). Promoting Accountability in Multi-level Governance. *European Law Journal* 13 (4): 542–62.

Haztopoulos, V. (2007). Why the Open Method of Coordination is bad for you: a letter to the EU. *European law journal* 13 (3): 309–342.

Héritier, A. and Lehmkuhl, D. (2008). The shadow of hierarchy and new modes of governance. *Journal of public policy* 28 (1): 1-17.

Héritier, A. and Lehmkuhl, D. (2011). Governing in the shadow of hierarchy: New modes of governance in regulation, in A. Héritier and M. Rhodes (eds.) *New modes of governance in Europe. Governing in the shadow of hierarchy*. Houndmills, UK: Palgrave Macmillan: 48-74.

Héritier, A. and Rhodes, M. (eds.) (2011). *New modes of governance in Europe. Governing in the shadow of hierarchy*. Houndmills, Basingstoke: Palgrave.

Hirschman, A. O., (1970). *Exit, voice, and loyalty: responses to decline in firms, organisations, and states.* Cambridge, MA: Harvard University Press.

Hirst, P. (2000). Democracy and governance, in J. Pierre, ed. *Debating governance – authority, steering and democracy*. Oxford: Oxford University Press: 13-35

Hix, S., (2008). What's Wrong with the European Union and how to fix it. Cambridge: Polity Press.

Hodson, D. (2004). Macroeconomic co-ordination in the euro area: The scope and limits of the open method. *Journal of European Public Policy*, 11 (2): 231 – 248.

Idema, T. and Kelemen, D.R. (2006). New modes of governance, the Open Method of Co-ordination and other fashionable red herring. *Perspectives on European Politics and society*, 7 (1): 108-123.

Irving, J. G. (2002). Red Card: the Battle over European Football's Transfer System. *University of Miami Law Review*, 56 (3): 667–726.

Kickert, W.J.M., Klijn, E.H. and Koppenjan, J.F.M. (1997). *Managing Complex Networks: Strategies for the Public Sector*. London: Sage.

Kingdon, J.W. (1984). *Agendas, alternatives and public policies*. Boston, MA: Little, Brown and Company.

Klijn , E.-H. and J.F.M. Koppenjan (2004). *Managing uncertainties in networks*. London: Routledge

Kohler-Koch, B. (2007). The organization of interests and democracy in the EU, in B. Kohler-Koch and B. Ritberger (eds.) *Debating the democratic legitimacy of the European Union*. Lanham MD: Rowman and Littlefield: 255–271.

Kohler-Koch, B. (2010). Civil Society and EU Democracy: 'Astroturf' Representation? *Journal of European Public Policy*, 17 (1): 100–116.

Kohler-Koch, B., and Eising, R. (1999). *The Transformation of governance in the European Union*. London: Routledge.

Kröger, S. (2008). Nothing but consultation. *European Governance Papers (EUROGOV)*, No. C-08-03. Available from: http://connex-network.org/eurogov/pdf/egp-connex-C-08-08.pdf. Accessed on 10 July 2013.

Lenaerts, K. (2013). The principle of democracy in the case law of the European Court of Justice. *International and Comparative Law Quarterly* 62 (2): 271-315.

Lord, C. (2004). *A Democratic Audit of the European Union*. Basingstoke: Palgrave Macmillan.

Mair, P. (2006). Political Parties and Party Systems, in P. Graziano and M. Vink (eds.) *Europeanization: New Research Agendas*. Basingstoke: Palgrave Macmillan: 154-166.

Menon, A. and Peet, J. (2010). *Beyond the European Parliament*, Centre for European Reform Essays (December). Available from: http//:www.cer.org.uk. Accessed on 10 July 2013.

Newman, J. (2005). Participative governance and the remaking of the public sphere, in J. Newman (ed.) *Remaking governance: peoples, politics and the public sphere*. Cambridge: Polity Press: 119–138.

Niedermayer, O. and Sinnott, R. (1995). *Public opinion and internationalized governance*. Oxford, UK: Oxford University Press.

Noel, E. (1993). *Working together - the institutions of the European Community.* Luxembourg: Office for Official Publications of the European Communities.

Pateman, C. (1970). *Participation and democratic theory*. Cambridge: Cambridge University Press.

Radaelli, C. (2003). *The Open Method of Coordination: A New Governance Architecture for the European Union?* Stockholm: SIEPS.

Raunio, T. (2006). Does the OMC really benefit national parliaments? *European Law Journal* 12 (1): 130–131.

Sabel, C. F. and Zeitlin, J. (2010). *Experimentalist governance in the European Union: towards a New Architecture*. Oxford: Oxford University Press.

Scharpf, F.W. (1970). *Demokratietheorie zwischen Utopie und Anpassung*. Konstanz: Universitätsverlag.

Scharpf, F. W. (1994). Games real actors could play: positive and negative coordination in embedded negotiations. *Journal of Theoretical Politics*, 6 (1): 27–53.

Scharpf, F.W. (1999). *Governing in Europe*. Oxford: Oxford University Press.

Schmidt, V. (2013). Democracy and Legitimacy in the European Union Revisited: input, output and 'throughput'. *Political Studies* 61 (1): 2-22.

Scott, J., and Trubek, D. M. (2001). Mind the gap: Law and new approaches to governance in the European Union. *European Law Journal* 8 (1): 1 – 18.

Skelcher, C. (2007). Does Democracy Matter? A Transatlantic Research Design on Democratic Performance and Special Purpose Governments. *Journal of Public Administration Research and Theory* 17 (1): 61-76.

Skelcher, C., Mathur, N. and Smith, M. (2005). The public governance of collaborative spaces: discourse, design and democracy. *Public Administration*, 83 (3): 573-596.

Smismans, S. (2008). The European social dialogue in the shadow of hierarchy. *Journal of Public Policy*, 28 (1) 161-180.

Sørensen, E. and Torfing, J. (2003). Network politics, political capital, and democracy. *International Journal of Public Administration* 26 (6): 609–34.

Sørensen, E. and Torfing, J. (2005). The democratic anchorage of governance networks. *Scandinavian Political Studies* 28 (3): 195–218.

Sørensen, E. and Torfing, J. (2009). Making governance networks effective and democratic through metagovernance. *Public Administration* 87(2): 234–258.

Tömmel, I. and Verdun, A. (eds.) (2009). *Innovative governance in the European Union: The politics of multilevel Policymaking*. Boulder: Lynne Rienner.

Torfing, J., Sørensen, E., and Fotel, T. (2009). Democratic anchorage of infrastructural governance networks: The case of the Femern Belt Forum. *Planning Theory* 8: 282-308.

UEFA (2012). *UEFA Statutes*. Nyon: UEFA.

UEFA and ECA, (2012). *Memorandum of understanding between the Union des Associations Européennes de Football (UEFA) and the European Club Association (ECA).* Nyon: UEFA.

Van den Bogaert, S. and Vermeersch, A. (2005). *Sport in the European constitution: all sound and no fury?* Maastricht faculty of law working paper 2005/8.

Verbruggen, P. (2009). Does Co-Regulation Strengthen EU Legitimacy? *European Law Journal* 15 (4): 425-441.

Vermeersch, A. (2009). The Future EU Sports Policy: Hollow Words on Hallowed Ground? *International Sports Law Journal* 9 (3-4): 3-7.

Wallace, H. (2005). An institutional anatomy and five policy modes, in H. Wallace, W. Wallace and M.A. Pollack (eds.) *Policy making in the European Union.* Oxford: Oxford University Press: 49–90.

Weatherill, S. (2006). Anti-doping revisited – the demise of the rule of 'purely sporting interest'? *European competition law review* 27 (12): 645-657.

Weatherill, S. (2011). *EU Sports Law: the effect of the Lisbon Treaty*. Legal research paper series, University of Oxford, No 3/2011.

Young, I.M. (2000). *Inclusion and democracy*. Oxford: Oxford University Press.

Zeitlin, J. and Pochet, P., with Magnusson, L. (eds.) (2005). *The Open Method of Co-ordination in action: The European Employment and Social Inclusion strategies*. Brussels: Peter Lang.