



Prof. Dr. Ulrich Haas

FS 22

Introduction to Sports Law

1 July 2022 (08:00 – 10:00)

Duration: 120 minutes

- Please check at receipt of the exam the number of question sheets. The examination contains 1 page and 1 question.

Notes on solving the questions

- In your answer to the questions please examine and refer to all problems raised.

Notes on marking

- Points are distributed as follows:

Question 1 100% of total points

We wish you a lot of success!



Exam: Introduction to Sports Law

Facts:

On 12 April 2021, the New York Times revealed that 12 European football clubs formed a company called “European Super League” (ESL) with the aim of organising a semi-closed breakaway European competition. According thereto, the shareholders of the company running the ESL (the ESL Company) participate on a permanent basis in the ESL. Another 5 clubs would participate in the ESL on a non-permanent basis, i.e. upon invitation of the ESL Company for an individual season.

The shareholders of the ESL Company are – inter alia – Real Madrid, FC Barcelona, Atlético de Madrid, Manchester United FC, Manchester City, Chelsea FC, Arsenal FC, Tottenham Hotspur FC, Liverpool FC, Juventus FC, Inter Milan and AC Milan.

In a press release dated 18 April 2021, UEFA condemned the ESL as a “...*cynical project, a project based on the personal interest of a small number at a time when society is more than ever in search of solidarity*” and announced that UEFA “*will consider all possible remedies, at all levels, legal as well as sporting, to prevent this.*” Furthermore, UEFA referred to Art. 49 of its Statutes that reads as follows: “*UEFA shall have the sole jurisdiction to organise or abolish international competitions in Europe in which member associations and/or their clubs participate*”. UEFA also announced that all clubs participating in the ESL “*will be banned from playing in any other competition at ... European and national level, and their players could be denied the opportunity to represent their national teams.*”

Still in April 2021, the ESL Company lodged before the Madrid Commercial Court n°17 an application instituting ordinary proceedings against UEFA. The aim of the proceedings is to prevent UEFA from taking any measures that would put a stop to the creation of the ESL. The ESL Company submits that the threat of sanctioning clubs participating in the ESL is contrary to the Treaty on the Functioning of the European Union (TFEU). The ESL Company submits that the monopoly exercised by UEFA regarding the organization and management of national and European football competitions, as well as the exclusivity in the management of economic returns from their competitions, together with the sanctions, prevent the existence of free competitions in the EU market of sports competitions. UEFA accepts that the ESL Company is not not subject to its rules and regulations and that it is free to creating its own competition. Members simply need to make a choice and resign from UEFA and the national federations. In any event, UEFA submits that it is pursuing a legitimate goal, i.e. to ensure the integrity of competitions and free access to all clubs to the competitions as well as to enact a harmonised match calendar and a solidarity mechanism between the clubs at different sporting levels.

Exam Question:

How will the Spanish court rule on the issues relating to the TFEU?

Please provide an expert opinion on all the European law issues raised.

Article 267 TFEU is not to be addressed.