Game Over for Russian Athletes? Human Rights Aspects of Measures Adopted by International Sports Organisations as a Response to the Russian Aggression against Ukraine

Ayyoub Jamali
Institute for International Law and Comparative Constitutional Law, University of Zurich, Switzerland
hazhar.jamali@gmail.com

Alena Kozlová
Faculty of Law, Palacký University Olomouc, Czech Republic
alena.kozlova01@upol.cz

Kelly Ann Whelan
whelankap@gmail.com

Martin Faix
Faculty of Law, Palacký University Olomouc, Czech Republic
martin.faix@upol.cz

JAMALI, Ayyoub; KOZLOVÁ, Alena; WHELAN, Kelly Ann; FAIX, Martin. Game Over for Russian Athletes? Human Rights Aspects of Measures Adopted by International Sports Organisations as a Response to the Russian Aggression against Ukraine. *International and Comparative Law Review*, 2023, vol. 23, no. 3, pp. 182–209. DOI: 10.2478/iclr-2023-0008

Summary: The Russian invasion of Ukraine has tested the mettle of the international community, prompting not only States but also non-state actors to take deterrent action in response. Indeed, international sports organisations, namely the Fédération Internationale de Football Association (FIFA) and the Federation of European Football Associations (UEFA), have been relatively successful in shifting the power dynamics by introducing a complete ban on the Football Union of Russia (FUR), i.e., the Russian national and club teams. This article investigates the human rights implications of such actions by international sports organisations. First, the article departs from an assessment of the legal status of FIFA and UEFA under international law. It reflects how a legal link could be established vis-à-vis their human rights obligations. Second, it examines the human rights aspects of the impugned measures by FIFA and UEFA on the part of the Russian

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

athletes, further scrutinising them against the international human rights law principle of non-discrimination through a proportionality test. Finally, it draws basic pathways for how possible human rights violations committed in the context of measures adopted by such organisations could be remedied, outlining the challenges of arbitration and litigation in Switzerland.

Keywords: FIFA, UEFA, FUR, ban, human rights, Russia, Ukraine, non-state actors.

1 Introduction

On 24 February 2022, Europe woke up to a new, deadly match on its home pitch: Russia vs Ukraine. This illegal match of war instigated by Russia against Ukraine has prompted a plethora of legal quandaries for state actors, including the most basic principles undergirding the international legal order.[1] Yet, perhaps more significantly, it has also brought into question the power of non-state actors to engage in penalty measures[2] – namely, sporting international non-governmental organisations (SINGOs).[3] Indeed, as state actors such as the European Union (EU) turned to economic, diplomatic and travel sanctions to cripple Russia's ability to continue its invasion,[4] a range of SINGOs, from the powerful International Olympic Committee (IOC)[5] to the federations of individual sports, such as the International Ice Hockey Federation (IIHF),[6] have placed restrictions – including outright bans – on Russian athletes and teams competing in sports competitions. Perhaps the most expansive of the bans has

1 CAVANDOLI, Sofia, WILSON, Gary. Distorting Fundamental Norms of International Law to Resurrect the Soviet Union: The International Law Context of Russia's Invasion of Ukraine. *Netherlands International Law Review*, 2022.

2 Throughout the article, the terms 'penalties', '(penalty) measures', 'restrictions' and 'bans' will be used interchangeably, and although an action taken in order to counteract another will be implied, it is not submitted that such measures amount to 'countermeasures' or 'sanctions' within the meaning of international law.

3 This terminology is borrowed from ALLISON, Lincoln, TOMLINSON, Alan. *Understanding International Sport Organisations. First Edition*. London: Routledge, 2017, pp. 100–112.

4 The EU sanctions package includes individual sanctions targeting the assets and travel of the political elite, economic sanctions restricting imports from and exports to Russia and diplomatic measures. While outside of the scope of this article, such sanctions have also been imposed on Belarus. See, for example, Council Regulation (EU) 2022/259 of 23 February 2022 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2022] OJ L 042I/1; Council Regulation (EU) 2022/334 of 28 February 2022 amending Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine [2022] OJ L 57/1.

5 International Olympic Committee. *IOC EB recommends no participation of Russian and Belarusian athletes and officials.* [online]. Available at <https://olympics.com/ioc/news/ioc-eb-recommends-no-participation-of-russian-and-belarusian-athletes-and-officials> Accessed: 15.09.2022.

6 International Ice Hockey Federation. *IIHF Council takes definitive action over Russia, Belarus*. [online]. Available at <https://www.iihf.com/en/news/32301/iihf_council_announces_decisions_over_russia_belar> Accessed 14.09.2022.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

come from the football federations, particularly the Fédération Internationale de Football Association (FIFA) and its European counterpart, the Union of European Football Associations (UEFA). The two associations banned the Football Union of Russia (FUR) entirely, prohibiting national and club teams from competing and, further, ending sponsorship agreements with Russian companies.[7]

With these SINGOs having become actors issuing economically, socially and culturally damaging consequences for Russia due to its invasion of Ukraine, several legal, political and ethical questions have been raised regarding the imposition of such measures by non-state actors. What is the legal link between the measures of SINGOs and the human rights of athletes? If such a link exists, are SINGOs obliged to respect human rights, and if so, how? What are the sources and scope of these human rights obligations on the part of SINGOs? Indeed, these questions appear to be gaining increasing relevance in the international arena as the lack of a comprehensive regulatory framework for non-state actors – one through which they could be held accountable[8] – threatens to impact more individuals globally in an unpredictable manner.[9] Be it transnational companies (TNCs) whose activities have proved to have a significant impact on cross-border policy issues and the lives of individuals in third countries,[10] private military companies and their criminal liability gap under international humanitarian law,[11] or other organised groups with a position of power,[12] it is far from striking

7 FIFA. *FIFA/UEFA suspend Russian clubs and national teams from all competitions.* [online]. Available at <https://www.fifa.com/tournaments/mens/worldcup/qatar2022/media-releases/fifa-uefa-suspend-russian-clubs-and-national-teams-from-all-competitions> Accessed 14.09.2022.

8 ZAREI, Mohammad H., SAFARI, Azar. *The Status of Non-State Actors under the International Rule of Law: A Search for Global Justice. Rethinking International Law and Justice.* Routledge, 2015.

9 CARL ROM, Mark, HIDATA, Masaki, BZOSTEK WALTER, Rachel. *Non-state Actors beyond NGOs.* In: *Introduction to Political Science.* [online]. Available at: <https://openstax.org/books/introduction-political-science/pages/15-6-non-state-actors-beyond-ngos> Accessed 14.09.2022; DUVAL, Antoine, HEERDT, Daniela. FIFA and Human Rights – a Research Agenda. *Tilburg Law Review*, 2020, vol. 25, no. 1, pp. 1–11; ZAREI, Mohammad H., SAFARI, Azar. *The Status of Non-State Actors under the International Rule of Law: A Search for Global Justice. Rethinking International Law and Justice*. Routledge, 2015.

10 JENTSCH, Valentin. Corporate Social Responsibility between Self-Regulation and Government Intervention: Monitoring, Enforcement and Transparency. *European Business Law Review,* 2020, vol. 31, no. 2.

11 CAMERON, Lindsey. Private Military Companies: Their Status under International Humanitarian Law and Its Impact on Their Regulation. *International Review of the Red Cross*, 2006, vol. 88, no. 863, pp. 573–611; BRICKELL, Missye. Filling the Criminal Liability Gap for Private Military Contractors Abroad: U.S. v. Slough and the Civilian Extraterritorial Jurisdiction Act of 2010. *Legislation and Policy Brief*, 2010, vol. 2, no. 2.

12 WIJNINGA, Peter, OOSTERVELD, Willem Theo, GALDIGA, Jan Hendrik, MARTEN, Philipp, CHIVOT, Eline, GEHEM, Maarten, KNOWLES, Emily, MAAS, Matthijs, SCHELLEKENS, Menno, SILVEIRA, João, YANG, Michelle Yuemin, ZELINSKA, Olga, DE JONG, Sijbren, KOGUT, Pavel, VAN LUIT, Esther. *STRATEGIC MONITOR 2014*: *State*

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

that the question of how to establish a legal link between the actions of non-state actors and human rights obligations continues to arise in many different contexts.

The context of the measures adopted by SINGOs following the Russian invasion of Ukraine provides a fitting case study, the relevance of which clearly goes beyond this example. Due to the scope of this article and the vast number of SINGOs globally, this article limits the scope of discussion to the measures imposed specifically by FIFA and UEFA.[13] Both organisations are considered globally influential SINGOs[14] whose actions indirectly impact the lives of individuals in many countries.[15] The measures imposed by them also happen to be among the most expansive ones compared to other SINGOs. Given their scale and gravity, these measures are likely to interfere with the human rights of athletes.[16] Taking FIFA and UEFA as a case study thus paves the way for an analysis that highlights and pinpoints human rights issues arising from their actions. Moreover, the findings of this article bear relevance for other SINGOs, and by extension, for other globally operating non-state actors.

In search of answers to the questions raised above, this article will first examine the status of SINGOs under international law (section 2). Arguing that FIFA and UEFA do not have international legal subjectivity, it will further offer reflections on how a legal link could be established vis-à-vis their human rights obligations by invoking the due diligence obligation of Switzerland, where both organisations are domiciled, as supported by FIFA and UEFA' internal regulations and their commitment to the UN Guiding Principles on Business and Human Rights (UNGPs) (section 3). Following that, the penalty measures of non-state actors in the context of the Russian invasion of Ukraine will be outlined, focusing on FIFA and UEFA. The corresponding human rights concerns arising on the part of the Russian athletes will be discussed and scrutinised, namely from the standpoint of the principle of non-discrimination as the baseline for considering other human rights through a general proportionality test (Section 4). Finally, basic

and Non-State Actors: Beyond the Dichotomy. [online]. Available at: <https://www.jstor.org/stable/resrep12608.8> Accessed 27.08.22.

13 Both are football organisations governing national team and club team competitions. FIFA is the overarching body overseeing first regional organisations, including UEFA, and national bodies.

14 ALLISON, Lincoln, TOMLINSON, Alan. *Understanding International Sport Organisations. First Edition*. London: Routledge, 2017, pp. 100–112.

15 An example of such action is the pressure which FIFA previously exercised on Iran, and which led to Iran allowing women to enter the stadium to watch football alongside their male counterparts. For more information, please see MOTAMEDI, Maziar. *Iranian women allowed to watch football match after FIFA pressure.* [online]. Available at: <https://www.aljazeera.com/news/2022/8/25/iranian-women-allowed-to-watch-football-match-after-fifa-pressure> Accessed 10.11.2022.

16 DUVAL, Antoine, HEERDT, Daniela. FIFA and Human Rights – a Research Agenda. *Tilburg Law Review*, 2020, vol. 25, no. 1, pp. 1–11.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

pathways for how possible human rights violations committed in the context of measures by such non-state actors could be remedied through the legal frameworks in Switzerland, namely through the Swiss national justice system and the Court of Arbitration for Sport (CAS) will be drawn (section 5). This will be followed by concluding observations (section 6).

2 The Legal Status of SINGOs under International Law

Considering that the article takes FIFA and UEFA as examples of SINGOs introducing expansive measures[17] which entail human rights considerations regarding Russian athletes adversely affected by the latter,[18] it is necessary first to examine the legal status of SINGOs under international law. Only after their status is established is it relevant to discuss the sources of obligation, what responsibilities may arise, and under what legal framework. As such, the status of non-state actors more generally – or international non-governmental organisations (INGOs) – must be explored.

It should be noted that despite lengthy discussions, scholars have no consensus on the status of non-state actors in international law.[19] The traditional concept of designating States as virtually the sole subjects of international law has long resisted the course of time, creating little room for interpretative flexibility. After all, States are assumed to be the creators of international law, while other subjects only derive their legal subjectivity from them.[20] If INGOs were to have international legal subjectivity, it would thus imply that they have substantive rights and obligations within an established legal framework, which would likely be derived from States as the primary subjects.[21] While there may be international instruments seeking to bestow such rights and obligations upon INGOs,

17 FIFA. *FIFA/UEFA suspend Russian clubs and national teams from all competitions.* [online]. Available at <https://www.fifa.com/tournaments/mens/worldcup/qatar2022/media-releases/fifa-uefa-suspend-russian-clubs-and-national-teams-from-all-competitions> Accessed 14.09.2022.

18 ZHOU, Zheng. *The human rights of athletes amidst the sports boycott on Russia*. [online]. Available at: <https://www.humanrights.unsw.edu.au/students/blogs/human-rights-athletes-sports-boycott-russia> Accessed 28.09.2022.

19 It can be noted that non-state actors evade the traditional metric of international law – both conceptually and in actual fact – in that their interest usually does not lie in exercising control over a certain territory and population, the traditional criteria of statehood. Yet, despite the lack of a formal category, their emerging political role has, according to some scholars, blurred the normative understanding of their status and warrants some accommodation from the international legal system. *See* LINDBLOM, Anna-Karin. *Non-governmental organisations in international law*. Cambridge; New York: Cambridge University Press, 2005, pp. 111–112.

20 LINDBLOM, Anna-Karin. *Non-governmental organisations in international law*. Cambridge; New York: Cambridge University Press, 2005, pp. 111–112.

21 ZAREI, Mohammad H., SAFARI, Azar. *The Status of Non-State Actors under the International Rule of Law: A Search for Global Justice. Rethinking International Law and Justice*. Routledge, 2015.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

those are usually guiding and/or voluntary.[22] In any case, the legal consequences thereof remain contested.[23] Indeed, it is mainly the "creation and binding character of state-centric sources of treaties and custom"[24] that make it difficult to undertake a legal assessment of the status of INGOs under international law. In addition, there is no uniform belief that States are capable of sharing, or even willing to share, their authority with other participants in the international legal system.[25] This could be partly due to the fear of legitimising the activities of non-state actors engaging in controversial activities.[26] It is put forward that some States may not seek for INGOs to acquire international legal personality precisely because they may currently co-opt INGOs to do their bidding against individuals, opposition or minority groups while retaining a clean slate.[27] As a result of these uncertain variables, it is usually claimed that while INGOs may be in the process of acquiring some special status in international law, they are not international legal subjects.[28]

At the same time, some authors believe that the status of INGOs can no longer be viewed through the lens of the "traditional State-centred metric"[29] concerning their growing agency and capacity to make an impact internationally, as evidenced *inter alia* by statistical data.[30] It is argued that, because of their considerable political power in the international arena, they should be somewhat distinguished from other, smaller-scale actors. This logic does, *prima facie*, hold

22 An example of this can be the UN Guiding Principles on Business and Human Rights or various internal regulations of non-state actors by which they voluntarily choose to self-regulate themselves.

23 CÔTÉ, Charles-Emmanuel. Non-state Actors, Changing Actors and Subjects of International Law. In: N. SCOTT, Karen, CLAUSSEN, Kathleen, KANEHARA, Atsuko, CÔTÉ, Charles-Emmanuel (eds.). *Changing Actors in International Law*. 2020, pp. 1–24.

24 Ibid.

25 ZAREI, Mohammad H., SAFARI, Azar. *The Status of Non-State Actors under the International Rule of Law: A Search for Global Justice. Rethinking International Law and Justice*. Routledge, 2015.

26 CLAPHAM, Andrew. Human Rights Obligations of Non-State Actors in Conflict Situations. *International Review of the Red Cross*, 2006, vol. 88, no. 863, pp. 491–523.

27 CRAWFORD, James. *Human Rights and State Responsibility.* 12th Raymond & Beverly Sackler Distinguished Lecture Series, Thomas Jodd Research Center, University of Connecticut, pp. 4–5.

28 CÔTÉ, Charles-Emmanuel. Non-state Actors, Changing Actors and Subjects of International Law. In: N. SCOTT, Karen, CLAUSSEN, Kathleen, KANEHARA, Atsuko, CÔTÉ, Charles-Emmanuel (eds.). *Changing Actors in International Law*. 2020, pp. 1–24.

29 D'ASPREMONT, Jean (ed.). *Participants in the international legal system: multiple perspectives on non-state actors in international law*. London; New York: Routledge, 2013. Note that even the European Convention of Human Rights uses the concept of the 'living instrument doctrine', in which it presumes that a dynamic interpretation of the law is required with regard to societal developments, as established in European Court of Human Rights, *Tyrer v the United Kingdom* [1978] ECtHR No. 5856/72, para 31.

30 LINDBLOM, Anna-Karin. *Non-governmental organisations in international law*. Cambridge; New York: Cambridge University Press, 2005, pp. 111–112.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

true for SINGOs as well. Not many commentators would dispute the dynamic changes on the ground marked by SINGOs being able to both exercise regulatory authority over a large number of persons worldwide through the organisation of mega-sporting events and to hold sway over the behaviour of States where different policy measures are concerned.[31] World football occupies a position of great importance as far as the social domain is concerned, thus emphasising the very transnational authority of private governance yielding immense power – compared not only to smaller INGOs, but virtually the States themselves.[32] Hence, it is only natural that FIFA and UEFA come to mind in particular as having become internationally strong players whose actions are worth further legal analysis when looking at the status of SINGOs.[33]

Indeed, the fact that FIFA and UEFA can manage global events and negotiate with States on an equal footing supports the assumption that their status warrants re-evaluation.[34] Yet, their status has remained the same, as there is simply no such practice in international law that would allow similar changes to take shape on their own. In fact, a similar gap has been pointed out in respect of the activities of the previously mentioned TNCs and their supply chains[35] or private military companies.[36] In the case of TNCs, critics point out the governance gap as the logical result of international law's emphasis on rights as opposed to obligations,[37] the result of which may be unregulated activities in violation of international human rights standards. In any event, the ever-increasing influence of TNCs on States, as well as their impact on the enjoyment of social, political, and economic rights of individuals, stands in stark contrast with the ongoing legal vacuum.[38] In this context, the unanimously adopted UNGPs, and especially the Third Revised Draft of the Binding Treaty on Business and Human Rights, which is intended to hold TNCs accountable for their activities, clearly illustrate the persisting view of the international community that human rights do not fall outside the scope of private businesses, although consensus on the final wording

31 DUVAL, Antoine, HEERDT, Daniela. FIFA and Human Rights – a Research Agenda. *Tilburg Law Review*, 2020, vol. 25, no. 1, pp. 1–11.

32 Ibid.

33 DUVAL, Antoine, HEERDT, Daniela. FIFA and Human Rights – a Research Agenda. *Tilburg Law Review*, 2020, vol. 25, no. 1, pp. 1–11; MEIER, Henk Erik, GARCÍA, Borja, 2015. Protecting Private Transnational Authority Against Public Intervention: FIFA's Power Over National Governments. *Public Administration*, 2015, vol. 93, no. 4, pp. 890–906.

34 Ibid.

35 MARES, Radu. Regulating transnational corporations at the United Nations – the negotiations of a treaty on business and human rights. *The International Journal of Human Rights*, 2022, pp. 1–25.

36 SHEARER, David. *Private Armies and Military Intervention. First Edition.* Routledge, 2020.

37 JENTSCH, Valentin. Corporate Social Responsibility between Self-Regulation and Government Intervention: Monitoring, Enforcement and Transparency. *European Business Law Review*, 2020, vol. 31, no. 2.

38 MUHAMMED, Muhammed Hamid. Transnational Corporations and Human Rights. *Global: Jurnal Politik Internasional*, 2021, vol. 23, no. 2.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

of the Draft has not been reached for the time being.[39] A closer look at SINGOs suggests the same.

Thus, even though other categories of international subjects are recognised today, especially as many other participants become directly involved in international law-making and law enforcement,[40] the position held specifically by non-state actors remains subject to debate.[41] Rather than going into substantial details of the arguments either in support of or in opposition to the international legal status of non-state actors, which is demonstrably an impossible quest within the scope of this contribution,[42] this article will be content with unassuming any significant shifts in the understanding of international legal subjectivity. As illustrated above, the status of non-state actors is difficult to understand in simple terms, much less delineating with precision.[43] Even though global SINGOs exercise a level of global influence and power in a manner that is claimed to be analogous to States,[44] this does not automatically translate into sufficient legal grounds to proceed with the analysis on the presumption that FIFA and UEFA are *de facto* partial subjects of international law. Neither FIFA nor UEFA display characteristics which would differentiate them from other INGOs, albeit they may be able to participate internationally *as if* they were international subjects.[45] Therefore, they do not formally possess international legal subjectivity.

Yet, it is submitted that having legal subjectivity under international law is not a prerequisite for engaging SINGOs with international law, nor is it neces-

39 DUVAL, Antoine, HEERDT, Daniela. FIFA and Human Rights – a Research Agenda. *Tilburg Law Review*, 2020, vol. 25, no. 1, pp. 1–11.

40 MANYK, Alona. Participation of the nonclassical subjects of international law in lawmaking and law-enforcement. *European Journal of Law and Public Administration*, 2018, vol. 5, no. 1, pp. 46–53.

41 *See generally* LINDBLOM, Anna-Karin. *Non-governmental organisations in international law*. Cambridge; New York: Cambridge University Press, 2005, pp. 111–112; D'ASPREMONT, Jean (ed.). *Participants in the international legal system: multiple perspectives on non-state actors in international law*. London; New York: Routledge, 2013.; NOORTMANN, Math, REINISCH, August, RYNGAERT Cedric (ed.). *Non-State actors in international law*. Oxford: Hart, 2015.

42 D'ASPREMONT, Jean (ed.). *Participants in the international legal system: multiple perspectives on non-state actors in international law*. London; New York: Routledge, 2013.

43 DROUBI, Sufyan, D'ASPREMONT, Jean (ed.). *International organisations, non-state actors, and the formation of customary international law*. Manchester: Manchester University Press, 2020, p. 191.

44 This is to say that SINGOs can participate in negotiations with States as their equal, independent counterparts.

45 For instance, human rights INGOs were previously able to submit allegations to the International Criminal Court without being rejected on the basis of the standing rules of procedure. For more detailed information, *see* BANKS, Angela M. 2003. The Growing Impact of Non-State Actors on the International and European Legal Systems. *College of William & Mary Law School Faculty Publications*, 2003, p. 294.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

sary to hold them accountable.[46] In fact, other options may be considered, which will be explored in the following sections.

3 Possible Sources of FIFA and UEFA's Human Rights Obligations

Having concluded that neither FIFA nor UEFA has a formal legal status under international law, it is important to explore and discuss other bases in order to understand how international human rights obligations can be applied to SINGOs.

3.1 Due Diligence Obligation

It is asserted that the principle of due diligence can be invoked as a starting point to discuss how international human rights obligations may apply to non-state actors. The due diligence concept has gained centrality in international human rights law and has also played an essential role in reshaping and challenging the conventional view, which understands human rights obligations as aligned vertically, not horizontally.[47] Under the principle of due diligence, States must take all necessary measures to prevent, investigate and provide redress in instances when the provisions of their national laws are violated by subjects in their territory and under their jurisdiction – including non-state actors. As a matter of fact, it has been used as a legal basis to hold States accountable for human rights abuses perpetrated by non-state actors and successfully invoked by various international human rights bodies.[48] A notable example of this is the decision of the Inter-American Court of Human Rights (IACtHR) in the case *Velásquez Rodríguez vs. Honduras,* in which it held that an unlawful act violating human rights, even if not directly attributable to a State, may engage that State's responsibility due to a failure in exercising its due diligence obligation.[49] Apart from having its basis in the jurisprudence of human rights bodies, the due diligence principle is also enshrined in the UN Declaration on the Elimination of Violence Against Women[50] and the Beijing Declaration and Platform for

46 CÔTÉ, Charles-Emmanuel. Non-state Actors, Changing Actors and Subjects of International Law. In: N. SCOTT, Karen, CLAUSSEN, Kathleen, KANEHARA, Atsuko, CÔTÉ, Charles-Emmanuel (eds.). *Changing Actors in International Law*. 2020, pp. 1–24.

47 GONZÁLEZ, Carmen Pérez. The effective application of international human rights law standards to the sporting domain: Should UN monitoring bodies take central stage? *The International Sports Law Journal*, 2022, vol. 22, no. 2, pp. 152–164.

48 *ibid.*

49 Inter-American Court of Human Rights, *Velásquez-Rodríguez v. Honduras*, Judgment of July 29, 1988 (Merits), para 172.

50 UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, Art 2 (f).

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

Action addressing State responsibility for violence against women,[51] which further stresses its growing role in adjudicating human rights law related claims.[52]

In the case at hand, the due diligence principle creates an obligation on the part of Switzerland to take sufficient measures to ensure that sports organisations domiciled within its territory, such as FIFA and UEFA, abide by its national law. Considering that Swiss law reflects and mirrors international human rights standards it has pledged itself to by its monist legal tradition, the standard of protection afforded by subjects under its jurisdiction is substantively equivalent to the provisions of the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Social, Economic and Cultural Rights and the European Convention of Human Rights. In other words, those international treaties have automatically become part of its national law,[53] and even FIFA and UEFA have to act in accordance with them by virtue of being subjects of Swiss domestic law.[54] Therefore, linking FIFA and UEFA with international human rights law standards via the due diligence principle as emerging from the Swiss national system offers a basis which may be used as a source of material international human rights obligations when scrutinising their activities and in turn, be relied on by Russian athletes when initiating proceedings to secure their rights, as will be elaborated at a later stage of this article.

3.2 Internal Regulations

Internal regulations adopted by FIFA and UEFA could establish a further basis for discussing the applicability of human rights to non-state actors. In this vein, FIFA explicitly pledged to respect "all internationally recognised human rights and shall strive to promote the protection of these rights"[55] through a statutory commitment. In its Human Rights Policy[56], FIFA further recognises

51 United Nations, *Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women*, 27 October 1995, para 23–38.

52 For further information, please see GONZÁLEZ, Carmen Pérez. The effective application of international human rights law standards to the sporting domain: Should UN monitoring bodies take central stage? *The International Sports Law Journal*, 2022, vol. 22, no. 2, pp. 152–164; FARRIOR, Stephanie, CLAGETT, Brice. State Responsibility for Human Rights Abuses by Non-State Actors. *Proceedings of the Annual Meeting (American Society of International Law) Vol. 92, The Challenge of Non-State Actors*, 1998, pp. 299–306.

53 Switzerland is a monist state; in terms of hierarchy, international law takes precedence over domestic law principally.

54 On this note, the same analogy can be drawn when looking at how the EU law can create a binding effect upon individuals and the non-state actors within the EU due to the transposition of the EU law in the national systems of the Member States. In the same vein, international human rights law translates into the obligation of FIFA and UEFA as it is a part of Swiss law; Switzerland has ratified all the said human rights documents.

55 FIFA Statutes, Article 3.

56 FIFA. *Human Rights Policy May 2017 edition*. [online]. Available at: <https://digitalhub.fifa.com/m/1a876c66a3f0498d/original/kr05dqyhwr1uhqy2lh6r-pdf.pdf>. Accessed 25.09.2022.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

and endorses all international human rights treaties and documents under the International Bill of Human Rights[57] and outlines approaches for implementing its statutory commitments in accordance with the UNGPs. As such, it seeks to "ensure that dignity, respect and equal rights and opportunities are afforded to everyone involved in football in a spirit of freedom and justice"[58]. Similarly, through its Football Sustainability Strategy 2030, UEFA committed itself to promoting and respecting human rights.[59] In fact, its Strategy included various anti-discriminatory and human rights-related targets to be incorporated into European football by 2030.[60] While criticised for not addressing its responsibilities under the UNGPs,[61] the 2030 Strategy recognises various international human rights documents and standards, including the Universal Declaration of Human Rights and the UNGPs.[62] Therefore, the internal regulations of FIFA and UEFA are, in a material sense, relevant sources of human rights obligations.

Regarding their formal relevance and usability, they do not create enforceable obligations in international law. Still, they are relevant in the context of remedies sought by athletes when challenging the decisions such organisations make. After all, the legal impact of such recognition lies in opening a path towards its material application in the jurisprudence of Courts. In fact, the CAS tribunal has relied on FIFA's Statutes as a primary source of applicable law in its previous proceedings. For example, in *Club Raja Casablanca v FIFA*, CAS stated that "the starting point of the analysis will be the relevant FIFA Statutes. To the extent that there are gaps in these Statutes, the Sole Arbitrator will have recourse to Swiss law".[63] This is a crucial development implying that FIFA's will to be bound by particular standards is not only indicative of the court's assessment but its own substantive basis. FIFA and UEFA's internal regulations thus may substantiate the material source of human rights obligations.

57 The International Bill of Human Rights consists of the five core human rights treaties including the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Optional Protocol to the International Covenant on Civil and Political Rights and Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

58 UEFA. *Social and Sustainable Development, Human Rights Commitment.* [online]. Available at <https://editorial.uefa.com/resources/0270-13f89d361aaa-640357446989-1000/uefa_human_rights_commitment_2021.pdf> Accessed 25.09.2022.

59 *ibid.*

60 *ibid.*

61 Human Rights Watch. *UEFA Fails Test on Human Rights Strategy*. [online]. Available at: <https://www.hrw.org/news/2021/12/17/uefa-fails-test-human-rights-strategy> Accessed 25.09.2022.

62 UEFA. *Social and Sustainable Development, Human Rights Commitment.* [online]. Available at <https://editorial.uefa.com/resources/0270-13f89d361aaa-640357446989-1000/uefa_human_rights_commitment_2021.pdf> Accessed 25.09.2022.

63 Court of Arbitration for Sport, *Club Raja Casablanca v. Fédération Internationale de Football Association (FIFA)*, 2019/A/6345, Award of 16 December 2019, para 35.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

3.3 United Nations Guiding Principles on Business and Human Rights

Finally, it is advanced here that the UNGPs can be invoked to make an argument concerning the applicability of international human rights obligations to non-state actors and SINGOs more specifically. Unanimously endorsed by the UN Human Rights Council in 2011, the UNGPs represent the most authoritative document to date addressed to businesses to "avoid infringing on the human rights of others and [to] address adverse human rights impacts with which they are involved".[64] While they are not binding *per se* and they do not apply to FIFA and UEFA as non-profit associations, they illustrate how soft law plays an increasingly important role in the field of human rights, including through transcription to the jurisprudence of human rights courts. The UNGPs have been increasingly recognised and adopted by sports organisations as a roadmap for addressing human rights issues that may occur during the organisation of tournaments, and they have played a crucial role in bringing together various human rights obligations in the form of soft law standards which apply to both States and businesses.[65] In this context, as outlined in the previous section, it must be noted that FIFA and UEFA explicitly pledged themselves to act in conformity with the UNGPs, which clearly expresses their will to be bound by them, and in turn creates an additional ground for the courts to consider when deliberating on their human rights obligations and commitments.

In substance, the UNGPs define the scope of the human rights obligations that businesses should respect, namely the obligation to respect those rights "expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work".[66] These rights are considered the core internationally recognised human rights, codified in multiple instruments.[67] In respect of these rights, businesses not only have a responsibility

64 United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, HR/PUB/11/04 (2011), at Part II (a)(11); For a thorough analysis on the effect of the UNGPs, please see generally WOLFSTELLER, René, LI, Yingru. Business and Human Rights Regulation After the UN Guiding Principles: Accountability, Governance, Effectiveness. *Human Rights Review*, 2022, vol. 23, pp.1-17.

65 Mega-Sporting Events Platform for Human Rights. *Sports Governing Bodies and Human Rights Due Diligence. Sporting Chance White Paper 1.2, Version 1, January 2017.* [online]. Available at <https://www.ihrb.org/uploads/reports/MSE_Platform%2C_Sports_Governing_Bodies_and_Human_Rights_Due_Diligence%2C_Jan_2017.pdf> Accessed 20.11.2022.

66 United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, HR/PUB/11/04 (2011), at Part II (a)(12).

67 Including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the eight International Labour Organization core Conventions.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

to avoid exacerbating the impacts of human rights violations through their own activities but also must, where possible, prevent or mitigate such impacts linked to their operations.[68]

Importantly, various courts have referred to the UNGPs as an indicative source expressing the will of particular businesses to be bound by international human rights standards to substantiate their argumentation.[69] To illustrate, the IACtHR has invoked the UNGPs in asserting States' obligations in the context of business and human rights,[70] relying on them to oblige companies to respect and protect human rights by acting in accordance with them.[71] Such reliance of human rights bodies on the UNGPs is an important development illustrating the impact of this soft law on the courts' jurisprudence. The courts' reference to the UNGPs can thus be a starting point to discuss how they can indirectly bind their addressees.

The discussion regarding the human rights obligations of sports organisations is complex. Yet as discussed, the principle of due diligence, internal regulations and UNGPs provide grounds to discuss and establish the human rights responsibilities of these non-state actors in our assessment.

4. FIFA and UEFA's Measures and the Human Rights Concerns Thereof on Russian Athletes

4.1 Context of the Introduction of FIFA and UEFA's Measures

While not the first act of Russian aggression against a neighbour,[72] the invasion of Ukraine is unprecedented for several reasons: an exceptionally high humanitarian toll with approximately 6.8 million Ukrainian refugees in Europe,[73]

68 United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, HR/PUB/11/04 (2011), at Part II (a)(13).

69 Please generally see RIVKIN, David W. Rivkin. *UN Guiding Principles on Business and Human Rights at 10, The Impact of the UNGPs on Courts and Judicial Mechanisms.* [online]. Available at: <https://www.debevoise.com/insights/publications/2021/07/un-guiding-principles> Accessed 20.09.2022

70 Inter-American Court of Human Rights, *Kaliña and Lokono Peoples v. Suriname*, Judgment of January 28, 2015, para 224; In his concurring opinion in Inter-American Court of Human Rights, *Spoltore v. Argentina*, Judgment of July 25, 2008, Judge Patricio Freire elaborated on the place of the UNGPs in the legal framework of the Inter American Human rights System by stating that the "Court has incorporated into its conventional legal understanding the 'Guiding Principles on business and human rights".

71 *ibid*.

72 See for example the 2008 invasion of Georgia, Global Centre for the Responsibility to Protect. *The Georgia-Russia Crisis and the Responsibility to Protect: Background Note.* [online]. Available at: <https://www.globalr2p.org/wp-content/uploads/2021/07/the-georgia-russia-crisis-and-the-r2p-background-note.pdf.> Accessed 15.09.2022.

73 UNHCR. *Operational Data Portal: Ukrainian Refugee Situation*. [online]. Available at <https://data.unhcr.org/en/situations/ukraine> Accessed 23.08.2022.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

a deeply entrenched attack on an independent UN Member State's sovereignty in violation of Article 2 of the UN Charter and,[74] of particular relevance to this discussion, an unparalleled[75] number of measures undertaken by States, intergovernmental organisations and non-state actors, including SINGOs.

The autonomous measures of most non-state actors in reaction to Russia´s aggression have been largely economic in nature and were adopted by the TNCs, which are active on the Russian market either temporarily or permanently.[76] SINGOs, on the other hand, have acted slightly akin to how States have with diplomatic countermeasures. Indeed, "sports diplomacy" has become integral to the activities of SINGOs, with governments consistently using sport as a method of less intense and formalised diplomacy in a traditionally neutral space.[77] Such "sports diplomacy" in the context of countermeasures by SINGOs has been implemented across sports to exclude Russian athletes and teams from participation, including FIFA and UEFA.

Namely, on 28 February 2022, both FIFA and UEFA banned the FUR, prohibiting Russian national teams and clubs from international football competitions.[78] This ban immediately disqualified the Russian women's national team from the 2022 UEFA European Women's Football Championship held in July 2022, for which it had already qualified, and the men's national team from attempting to qualify for the 2022 FIFA World Cup. The ban also removed the Russian club Spartak Moscow from the Europa League. Further, UEFA ended its partnership with the state-owned Russian energy company Gazprom.[79] Previ-

74 Charter of the United Nations and Statute of the International Court of Justice, Art 2.

75 OEGG, Barbara, Elliott, Kimberly. *Russia and the effectiveness of economic sanctions between big players*. [online] Available at: <https://cepr.org/voxeu/columns/russia-and-effectiveness-economic-sanctions-between-big-players> Accessed 08.11.2022.

76 For an overview of these industries and sanctions, *see* FUNAKOSHI, Minami, LAWSON, Hugh, DEKA, Kannaki. *Tracking Sanctions Against Russia*. [online] Available at: <https://graphics.reuters.com/UKRAINE-CRISIS/SANCTIONS/byvrjenzmve/> Accessed 07.11.2022.

77 As scholars Murray and Pigman summarise: "In the modern, plural diplomatic environment, [SINGOs] can be said to practise a distinct type of diplomacy. These organisations and individuals consistently engage in representation to and negotiation with governments, the regional and national organising bodies of sport, large global firms that sponsor competition, global media firms and global civil society organisations (CSOs). Arguably, the impact of this category on diplomacy is greater by virtue of its volume, frequency and ability to engage the hearts, minds and wallets of the global public". MURRAY, Stuart, PIGMAN, Geoffrey Allen. Mapping the relationship between international sport and diplomacy. *Sport in Society*, 2014, vol. 17, no. 9, pp. 1098–1118.

78 FIFA. *FIFA/UEFA suspend Russian clubs and national teams from all competitions.* [online]. Available at <https://www.fifa.com/tournaments/mens/worldcup/qatar2022/media-releases/fifa-uefa-suspend-russian-clubs-and-national-teams-from-all-competitions> Accessed 14.09.2022.

79 UEFA. *UEFA ends partnership with Gazprom*. [online] Available at: <https://www.uefa.com/insideuefa/mediaservices/mediareleases/news/0272-148df50f5c71-e40e92534a4b-1000--uefa-ends-partnership-with-gazprom/> Accessed 09.09.2022.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

ously, Gazprom represented one of UEFA's biggest sponsors, providing $45 million per year in funding.[80]

4.2 Human Rights Aspects of the Impugned Measures on Russian Athletes: Non-discrimination

The core of what the measures of FIFA and UEFA put at stake clearly transcends the previously mentioned economically driven actions of TNCs. Strikingly, they touch upon and trigger concerns about the human rights of individual athletes banned from competing internationally.[81] While violations of different substantive rights[82] could be invoked by the athletes affected by the ban, the subsequent analysis will be limited to discussing the principle of non-discrimination. This is because, in the authors' view, the latter can be perceived as the very baseline for considering other human rights in that every other right contained in an international human rights treaty would be read in conjunction with it.[83]

The principle of non-discrimination is established under many international documents and treaties to which Switzerland is a party, such as Article 2 of the UDHR, Article 2 of the International Covenant on Civil and Political Rights,[84] Article 2 of the International Covenant on Social, Economic and Cultural Rights, or Article 14 of the European Convention of Human Rights. FIFA and UEFA are required to respect the general provision of non-discrimination due to the fact that they are part of the Swiss legal system. Moreover, SINGOs voluntarily bind themselves to this principle through their self-regulatory frameworks. Consequently, their minimum common denominator must apply to prevent them from discriminating against athletes on the grounds of nationality, race, gender, political view or another status. In the case at hand, such discrimination arguably occurs on the basis of nationality. At the same time, the particular athletes impacted by the measures may have little to do with their country´s policies, as will be discussed in more detail in the subsequent analysis.

Moreover, as already stated, under Article 3 of its Statutes, FIFA has committed itself to "respecting all internationally recognised human rights [and

80 PANJA, Tariq. *FIFA Suspends Russia, Ejecting It From World Cup Qualifying.* [online] Available at: <https://www.nytimes.com/2022/02/28/sports/soccer/fifa-russia-ban.html> Accessed 20.09.2022.

81 Inquiries into the compatibility of sports bans and the human rights of individual athletes have been present in international media, *see e.g.* WESTERBEEK, Hans, SPAAIJ, Ramon. *Boycotts in sport may not advance human rights. But they do harm individual athletes.* [online] Available at: <https://theconversation.com/boycotts-in-sport-may-not-advance-human-rights-but-they-do-harm-individual-athletes-185208> Accessed 10.11.2022

82 Be it the right to work, the right to private and family life or the right to legal remedies for instance.

83 *See* the text of Article 2 UDHR, Article 2 ICCPR, Article 2 ICESCR or Article 14 ECHR.

84 *See also* ICCPR General Comment No. 18: Non-discrimination. UN Human Rights Committee (HRC), 1989.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

to] to promote the protection of these rights" – to which non-discrimination clearly belongs.[85] It also explicitly codified the principle of non-discrimination in Article 4 of its Statutes, stating that "discrimination of any kind against a country, private person or groups of people on account of ethnic origin, gender, language, religion, politics or any other reason is strictly prohibited and punishable by suspension or expulsion"[86]. Further references to this principle of non-discrimination can be found in other self-regulatory frameworks. For example, in its Human Rights Commitment, UEFA establishes that it aims to "strive for an inclusive culture in which no one is discriminated against or excluded based on any personal traits".[87]

In the present case, the measures adopted by FIFA and UEFA are directly and explicitly targeting Russian national and sports clubs based on the grounds of their politics and national origin. Russian clubs are being treated adversely and differently than other foreign football associations in the sense that they are excluded from participation in international events. Therefore, the measures of FIFA and UEFA against Russian clubs appear *prima facie* to be discriminatory.

4.3 Are FIFA and UEFA Able to Justify a Similar Interference?

To determine whether the measures applied by FIFA and UEFA interfering with the rights of Russian sports clubs are in line with the principle of non-discrimination, it is necessary to evaluate and examine them in light of a general proportionality test.[88] According to international jurisprudence, and in the light of the jurisprudence of the CAS tribunal, the principle of proportionality requires that all actions and penalties must be "necessary", "expedient", and "least restrictive to the rights of concerned individuals or groups".[89] In the case of *W v FEL*, the CAS held that "the severity of a penalty must be in proportion with the seriousness of the infringement"[90]. In addition, the proportionality test must ensure that a person's loss from the restriction of the right is commensurate

85 FIFA, FIFA Statutes (2022).

86 Ibid.

87 UEFA Human Rights Commitment, para 3.

88 This assessment will be proceeded based on a common minimum denominator of the legal basis, necessity and proportionality mirroring international law standards. For more detailed information on the proportionality test used in our analysis, see CRAWFORD, Emily. *Proportionality*. [online] Max Planck Encyclopaedia of International Law. Available at: https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1459?prd=MPIL Accessed 10.11.2022.

89 Court of Arbitration for Sport. *The Court of Arbitration for Sport Dismisses the Appeals Filed by the Football Union of Russia (FUR), FC Zenir, FC Sochi, PFC CSKA Moscow and FC Dynamo Moscow*. [online]. Available at: <https://www.tas-cas.org/fileadmin/user_upload/CAS_Media_Release_8708_8709_8865_8866_8867_8868_Decision.pdf> Accessed 20.09.2022.

90 Court of Arbitration for Sport, *Arbitration CAS 99/A/246 W. / International Equestrian Federation (FEI)*, Award of 11 May 2000, para 3.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

with the benefit from the aim pursued.[91] Accordingly, the following sections will evaluate and examine these elements central to the discussion of proportionality.

4.3.1 Legal Basis for Suspending Russian Clubs

To discuss whether a measure interfering with a human rights standard passes the proportionality test, it is necessary to examine its legal basis in the first place. In the context of this article, the legal basis to suspend Russian clubs from sports events can be derived from the Statutes of FIFA and its affiliates. FIFA can rely on the provisions of its Statute to provide a legal ground for suspending Russian teams in international sports. To this end, while Article 4 (2) of the Statute points out the neutrality of FIFA in matters of politics and religion, it provides an exception to those matters affecting its objectives as set out in the Statute.[92] In this respect, Article 2 (a) of the Statute stipulates that one of the objectives of FIFA is to "improve the game of football constantly and promote it globally in the light of its unifying, educational, cultural and humanitarian values".[93] Article 3 of the Statute stipulates FIFA's commitment to respecting and promoting all international human rights norms.[94] Under Article 5 of the Statutes, FIFA is committed to promoting friendly relations among member associations and society for humanitarian objectives.[95] The legal ground for suspending the Russian clubs can be, therefore, implicitly derived from by taking into account Article 4 (2) of the Statutes seen in the light of FIFA's human rights and humanitarian commitments at the time when Russian aggression has led to the deprivation of fundamental human rights of millions of Ukrainians.

Regarding UEFA's decision to prevent Russian teams from participating in sports competitions, reliance on Article 8(3)(d) of UEFA's Statutes states that a member association may be excluded if FIFA has excluded it.[96] UEFA may also provide additional justification for its decision to suspend the FUR by pointing out its objective of promoting football in a spirit of peace and understanding and cooperating with FIFA.[97] Concerning the authority of FIFA and UEFA to impose restrictions on the Russian sports teams, references can be made to their residual powers as provided by their Statutes and Regulations. Article 34(12) of FIFA's Statutes stipulates that the "Council shall deal with all matters relating to FIFA that do not fall within the sphere of responsibility of another body".[98] In addition,

91 SIECKMANN, Jan. Proportionality as a Universal Human Rights Principle. In DUARTE, David, SAMPAIO, Jorge Silva Sampaio (eds.). *Proportionality in Law: An Analytical Perspective*. Springer Verlag, 2018, pp. 3–24.

92 FIFA Statutes, Article 4 (2).

93 *ibid*, Article 2 (a).

94 *ibid*, Article 3.

95 *ibid*, Article 5.

96 UEFA's Statutes, Rules of Procedure of the UEFA Congress Regulations governing the Implementation of the UEFA Statutes, Article 8(3)(d).

97 *ibid*, Articles 2 (b), 2 (m).

98 FIFA's Statutes, Art 34(12).

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

Article 8(2) of the FIFA Governance Regulations sets out the duties of the FIFA Council, including dealing with issues related to football and its political status and defining FIFA's overall strategy in matters related to sports and politics.[99] Regarding UEFA, Article 2(2) of its Statutes grants the UEFA the competence to adopt any measures deemed necessary for achieving its objective.[100] Moreover, Article 65 of its Statutes grants residual powers to the UEFA Executive Committee to decide on matters not covered in the Statutes following relevant FIFA regulations or "according to right and justice".[101]

Thus, FIFA and UEFA's decisions suspending FUR membership and preventing Russian clubs and national teams from participating in sports competitions derive their legal basis from their commitments to human rights and humanitarian values and the residual powers granted to them by their respective Statutes.

4.3.2 Necessity of the Measure: In Pursuit of a Human Rights Objective

The other elements central to the discussion of proportionality are the existence of a legitimate aim and the necessity and reasonableness of the measure in achieving the aim pursued.[102] In this context, it should be acknowledged that there has been ambiguity and inconsistencies when discussing the aims pursued by FIFA and UEFA for their decision to exclude Russian football clubs from international events. Initially, both FIFA and UEFA acknowledged that they had to take action against Russian football clubs since the Russian government's decision to invade Ukraine has led to huge human rights and humanitarian catastrophes in the country.[103] From this perspective, it can be argued that FIFA and UEFA have sought to promote respect for human rights by pressuring the Russian government to stop its aggression against Ukraine.

Regarding the question of whether the aim pursued by FIFA was legitimate, several points should be made. As discussed earlier, promoting human rights is an objective and principle to which FIFA has committed itself under its Statutes and relevant human rights documents. FIFA can argue that this human rights objective would have been compromised if it had allowed the Russian national

99 FIFA Governance Regulations (FGR), Art 8(2).

100 UEFA Statutes, Art 2(2).

101 *ibid*, Art 65.

102 CRAWFORD, Emily. *Proportionality*. [online] Max Planck Encyclopaedia of International Law. Available at: https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1459?prd=MPIL Accessed 10.11.2022.

103 This can be derived from the official statement of FIFA when announcing the ban decision on Russia by stating that "football is fully united here and in full solidarity with all the people affected in Ukraine": FIFA. *FIFA/UEFA suspend Russian clubs and national teams from all competitions.* [online]. Available at <https://www.fifa.com/tournaments/mens/worldcup/qatar2022/media-releases/fifa-uefa-suspend-russian-clubs-and-national-teams-from-all-competitions> Accessed 14.09.2022. In fact, FIFA and UEFA acted against Russia following the call from the International Olympic Committee to ban Russian athletes and teams from all global sporting events due to Russia's breach of "the Olympic Truce".

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

team and clubs to participate in international tournaments. This is especially clear considering that there is a strong social and cultural link between the Russian government and its national team and sports clubs. Further, many Russian clubs are owned by oligarchs who have strong connections to the Russian government.[104] In addition, the legitimacy of this aim can be further substantiated when taking into account that Russia breached the Olympic Truce, which as a result, led to a call from the IOC to ban Russia from taking part in international events.[105] This can serve as an additional ground to argue that the decisions of FIFA and UEFA to exclude Russian teams and clubs from international events has followed a legitimate aim of promoting human rights and humanitarian commitment.[106]

Despite the legitimacy of the aim pursued, it is crucial to analyse whether the measures adopted by FIFA and UEFA satisfy the requirement of necessity. A necessity assessment must be conducted to demonstrate whether excluding Russian football teams in competitions was necessary to achieve the goal of promoting human rights and humanitarian commitment. As part of this assessment, it is necessary to analyse whether FIFA and UEFA could have considered a less restrictive measure to achieve their aims whilst impacting the right of non-discrimination in a less extensive manner. In fact, the Olympic Committee recently released a statement discussing some possibilities to allow Russian athletes to participate in sporting events subject to strict conditions.[107] In this respect, it can

104 WILLIAMS, Martin, BALDWIN, Leigh. *Revealed: Russian army's football club channelling cash through London*. [online] Open Democracy. Available at: <https://www.opendemocracy.net/en/dark-money-investigations/cska-moscow-russia-army-football-club-channelling-cash-london/> Accessed 10.11.2022; Inkazan. *Who owns Russian football: from state corporations to billionaires*. [online] Available at: <https://inkazan.ru/news/2020-06-01/kto-vladeet-rossiyskim-futbolom-ot-goskorporatsiy-do-milliarderov-1462922?fbclid=IwAR16JDpjhLYe3NEP7znO4Iywsr-UNAdIVkgwQ1lSP_P0iLcgAhNyo9a2stE> Accessed 15.11.2022; RBC. *Without Gazprom and LUKOIL. What do private football clubs in Russia live on?* [online]. Available at: <https://sportrbc.ru/news/5fe4731e9a794762a1e6babe?fbclid=IwAR1KEVHZ27yCBP3bjk6fXUrbZCtQeQaiUH2F7oRoiPUW2PdOzUCFlIlKuJ8> Accessed 20.09.2022.

105 The UN General Assembly adopts the Olympic Truce before the Olympics. According to the Truce, all UN members agree not to engage in hostilities before, during and after the Olympics for a certain period of time. The Russian aggression in Ukraine breached the Truce which was supposed to last until 20 March 2022.

106 Nevertheless, the question of the legitimacy of such aim opens room for criticism. For one, FIFA could be criticised for its inconsistent approach to how it exercises its discretion to apply measures against its members in similar events. An example of this could be the conflict between Israel and Palestine where FIFA has refused to impose any penalty measures in relation to an Israeli-Palestinian dispute. The question remains as to why FIFA has been inconsistent in using its power to keep up with its human rights and humanitarian commitments in different situations involving human rights and humanitarian catastrophes.

107 International Olympic Committee, Statement on solidarity with Ukraine, sanctions against Russia and Belarus, and the status of athletes from these countries, 25 Jan 2023, https://olympics.com/ioc/news/statement-on-solidarity-with-ukraine-sanctions-against-russia-

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

be argued that FIFA and UEFA could have opted for a less restrictive measure instead of punishing the Russian athletes themselves. Theoretically, they could differentiate between those athletes who are related to and supportive of the government and those who are against the invasion.[108] The latter could have been allowed to participate in sporting events without using a national anthem or flag. This measure could be proportionate to FIFA and UEFA's objective of fulfilling their human rights commitments whilst causing less damage to the human rights of those Russian football players or clubs who may not be supportive of the invasion yet suffering from the actions of their government.[109] It is therefore concluded that the measures of FIFA and UEFA against FUR and its sport clubs does not fulfil the requirement of proportionality as they have failed to consider less restrictive measure for allowing certain Russian athletes to participate in sporting events whilst fluffing their human rights and humanitarian commitment.

4.3.3 Necessity of the Measure: In Pursuit of "Security" and "Smooth Organisation" of Matches

In the proceedings before the CAS, both FIFA and UEFA have referred to different reasons to justify their decision limiting the rights of the FUR and its sports clubs. They both argued that they were forced to suspend the FUR and exclude its football clubs and national teams due to pursuing the aim of ensuring the "security", "integrity", and "smooth organisation" of the matches.[110]

---

and-belarus-and-the-status-of-athletes (accessed on 12 February 2023).

108 It should be noted that it is very challenging to differentiate those athletes who are siding or against Putin's policy in Ukraine. While some have tried to promote anti-war slogans, there are many who remained silent on this matter for reasons of security. Nevertheless, it could be symbolically important for FIFA and UEFA to convey a message that their decision against FUR and its sport clubs is aimed at those who are related to Putin's war policy in Ukraine.

109 HARDING, Luke. *Lokomotiv Moscow manager resigns in protest at Russia's war on Ukraine*. [online] Available at: <https://www.theguardian.com/football/2022/mar/01/lokomotiv-moscow-manager-resigns-protest-russia-war-on-ukraine-markus-gisdol> Accessed 20.08.2022; SALCEDO, Andrea. *Russian soccer player Fedor Smolov publicly opposes Putin's decision to invade Ukraine: 'No to war'*. [online] Available at: <https://www.washingtonpost.com/nation/2022/02/25/fedor-smolov-russian-soccer-player-condemns-ukraine-invasion/> Accessed 20.08.2022. The question of Russian athletic participation is not a new one. Other SINGOs have had to consider discriminatory measures, often settling on less restrictive ones than presented by FIFA and UEFA. For example, the IOC required Russian athletes to compete at the 2020 Tokyo Olympics under the flag of the Russian Olympic Committee in response to the country's doping violations without any national symbols or anthem. If this had been considered by FIFA and UEFA, while the Russian government may have been impacted by not having its national teams compete under the Russian flag, individual athletes' rights would have been less impacted in terms of discrimination.

110 Court of Arbitration for Sport, *Football Union of Russia (FUR) v. Fédération Internationale de Football Association (FIFA) et al.*, 2022/A/8708 para 49–66.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

While acknowledging the importance of such aims and objectives, one may question the necessity and reasonableness of the measures applied in their pursuit. FIFA and UEFA could instead have opted for less restrictive measures to achieve these aims. These include adopting enhanced security measures and hosting matches on neutral pitches without the presence of spectators. To avoid provocations, Russian teams could be required to participate under the FUR's name and without using national symbols and anthem. Adopting such measures could ensure the aims pursued by FIFA and UEFA whilst having minimal effects on the rights of the FUR and its clubs and national teams.

However, upon a closer look at these alternative measures that FIFA and UEFA may have adopted, it is clear that such less restrictive options could be significantly unwieldy, lacking efficiency and feasibility. Firstly, because of the global outrage and condemnation of the events unfolding in Ukraine, accompanied by numerous protests across European cities, it is questionable whether enhanced security measures would be sufficient to ensure the security of all parties involved, including players, officials and team and security personnel.[111] Considering this volatile situation and assuming that there would even be a city or country willing to take the political cost of hosting the Russian teams is far from a foregone conclusion. An additional hurdle exists due to the difficulty for the Russian teams to travel abroad, especially due to the EU's closure of its airspace to Russian aircraft.[112] It can be therefore argued that the decision of FIFA and UEFA to ban Russian teams from sporting competitions temporarily is necessary and proportionate to its pursued objectives of the smooth organisation of tournaments and ensuring the safety and security of stockholders involved. As such is not in violation of human rights of Russian athletes – there were likely no other measures that FIFA and UEFA could adopt to achieve these objectives.

5 Possible Pathways for Accountability

Having concluded that a legal link between FIFA and UEFA and their international human rights obligations may be established and that the human rights of individuals may be violated subject to failing the proportionality test,[113] an assessment of pathways that could be used to challenge FIFA's and UEFA's measures should be drawn.

The first possible forum to challenge FIFA's and UEFA's actions in violation of human rights standards presents itself through the CAS, which has exclusive

111 It must be noted that the safety issue goes far beyond the mere boundaries of the playing pitch and stadium, since it involves the whole relevant hosting city. It must be noted that the safety issue goes far beyond the mere boundaries of the playing pitch and stadium, since it involves the whole relevant hosting city.

112 BBC. *Ukraine invasion: EU shuts airspace to Russian planes*. [online]. Available at: <https://www.bbc.com/news/world-europe-60539303> Accessed 20.09.2022.

113 Please see Section 4.3.2.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

competence to review decisions made by FIFA and its affiliates. This pathway, nonetheless, remains open to criticism. First, it is unclear whether the CAS possesses the sufficient institutional capacity to deal with human rights disputes.[114] Another issue relates to its arbitrators, whose expertise lies predominantly in commercial and sports law. Given their potentially limited exposure to international human rights law, their capacity to judge allegations against FIFA and UEFA may not provide a meaningful human-rights-oriented arbitral award. Russia had already challenged the ban in front of the CAS to no avail.[115] Despite the likely need for an institutional reform which would create more efficient checks and balances on the activities of SINGOs before the CAS, it is worth noting that the particular synergies between the latter and the European Court of Human Rights (ECtHR) had already become a subject of academic inquiry with an indicative overlap.[116]

The Swiss court system can offer another pathway to hold FIFA and UEFA accountable in the event of human rights violations. Under the civil liability procedure, both FIFA and UEFA can be sued for their involvement in alleged human rights violations. This has already been attempted by the Dutch Trade Union Confederation when it launched a lawsuit against FIFA for violations of the labour rights of migrant workers in Qatar.[117] The Swiss court dismissed the case for "formal reasons" on the ground that a part of the suit calling for a new labour law in Qatar was not sufficiently clear and essentially illegal.[118] Albeit unsuccessful, this case illustrates that the Swiss courts may have a role to play in the future. If anything, it sheds some light on their reluctance to hold FIFA accountable for harms not directly related to its activities but rather the consequence of national labour practices. It does not, however, rule out successful litigation should the courts find a sufficient causal link between FIFA's and/or UEFA's activities and imposed measures and their imminent impact on the human rights of individuals.

In the case of the FUR, and the context of Russian athletes more specifically, this link arguably exists since the ban had been imposed by the SINGOs and is

114 See generally DUVAL, Antoine. Lost in translation? The European Convention on Human Rights at the Court of Arbitration for Sport, *The International Sports Law Journal*, 2022, Vol 22, pp. 132–151.

115 AP. *Court of Arbitration for Sport Rejects Russia's Appeal of FIFA, UEFA Bans*. [online]. Available at: <https://www.si.com/soccer/2022/07/15/russia-ban-upheld-cas-fifa-uefa-appeal> Accessed 20.09.2022.

116 DUVAL, Antoine. Lost in translation? The European Convention on Human Rights at the Court of Arbitration for Sport. *The International Sports Law Journal*, 2022, vol. 22, pp. 132–151.

117 Business & Human Rights Resource Centre. *Netherlands Trade Union Confederation sues Fifa over alleged complicity in the mistreatment of migrant workers in Qatar*. [online] Available at: <https://www.business-humanrights.org/en/latest-news/netherlands-trade-union-confederation-sues-fifa-over-alleged-complicity-in-the-mistreatment-of-migrant-workers-in-qatar/> Accessed 13.11.2022.

118 *ibid*.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

not dependent on a third-country activity. Therefore, a potential lawsuit could be distinguished from the Dutch Trade Union Confederation case. It is worth noting, in any case, that demise in hope further resulted from the rejection of the so-called Responsible Business Initiative (RBI), aimed at holding Swiss companies accountable for their actions abroad, in a referendum in Switzerland.[119] Whether there will be other initiatives for facilitating liability claims against corporations seated in Switzerland remains to be seen. Still, given such initiatives' political and economic implications, a high level of resistance may be expected.

Despite this, the Swiss courts could still offer a suitable venue to hold FIFA and/or UEFA accountable for banning Russian football players. If the Swiss courts fell short of scrutinising its domiciled sports organisations' actions, the State responsibility of Switzerland could arguably arise under international law, as discussed above.[120] It can also open the doorway to potential lawsuits against the Swiss government before international human rights bodies, such as a case before the ECtHR, based on lack of access to a court and the absence of a fair hearing.[121] Yet another problem would, however, be the question of extraterritorial jurisdiction.[122] Looking at ECtHR case law, it is unclear whether the Court could assert jurisdiction and hold Switzerland accountable for actions attributable to FIFA occurring outside the territory of the States Parties to the European Convention on Human Rights.[123] A fitting example attesting to reaching such a jurisdictional limit is the documented violation of human rights of migrant workers in Qatar.[124] That being said, banning the FUR nonetheless follows a different factual logic, namely in the absence of a third country's territory, thereby making it more likely for the ECtHR to establish jurisdiction.

---

119 SWI. *Responsible business initiative rejected at the ballot box*. [online]. Available at <https://www.swissinfo.ch/eng/business/swiss-to-vote-on-holding-companies-accountable-for-supply-chain-abuses/46184500> Accessed 15.11.2022; The imitative could facilitate liability claims against corporations seated in Switzerland.

120 This issue has been discussed in section 3 of the article.

121 As noted above, Switzerland is a contracting party to the European Convention of Human Rights, thereby accepting the jurisdiction of the ECtHR. Article 6 of the Convention specifically covers the right to access to court and a right to fair hearing. *See generally* European Court of Human Rights, *Golder v. the United Kingdom* [1975] 1 EHRR No. 4451/70, para 28–36; European Court of Human Rights, *Airey v. Ireland*, [1979] ECtHR No. 6289/73, para 24 and further Article 6 jurisprudence.

122 The issue of extraterritorial jurisdiction applies to all other human rights bodies which have competence to receive cases against Switzerland.

123 Under the ECHR, states have been only exceptionally held accountable for acts or omissions that occurred outside their territories; *see* European Court of Human Rights, *Al-Skeini and Others v. the United Kingdom*, [2011] No. 55721/07, and European Court of Human Rights, *Issa and Others v. Turkey*, [2004] 31821/96 .

124 As noted above, the case alleging the violations of migrant workers rights' in Qatar, filed against Switzerland as a country where FIFA is domiciled, was dismissed by the ECtHR on the grounds of lack of jurisdiction.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

As has been discussed, there are several ways to challenge FIFA and its affiliates' engagement in alleged human rights violations. It remains to be determined whether the current mechanisms provide a sufficient judicial review corresponding to the increased engagement of sports organisations in human rights.

6 Conclusion

Ukraine's unprecedented and highly volatile situation due to the Russian invasion has opened the door to State and non-state actors imposing various deterrent measures to curtail Russia's ravage. The number, scope and authors behind these penalties and restrictions are exceptional, especially regarding the many influential non-state actors who have successfully interrupted Russia's activities. Namely, FIFA's and UEFA's complete bans on the FUR, i.e., on the Russian national and club teams, has underlined the growing agency of non-state actors in international law and perhaps even opened a discussion on the contribution of non-state actors to the enforcement of international law. Indeed, it is clear from factual evidence that influential SINGOs such as FIFA and UEFA wield power to significantly shift the power dynamics on the international level.

Despite this dynamic, it cannot be established that SINGOs have international legal subjectivity. However, their obligation to respect international human rights law can be derived from and discussed within the framework of the due diligence obligation of Switzerland, as supported by FIFA's and UEFA's internal regulations and their declared commitment to the UNGPs. The article identified and questioned the measures applied by FIFA and UEFA, testing them against the principle of non-discrimination through a general proportionality test. It has been argued that the measures of FIFA and UEFA do not meet the requirement of necessity when it is seen in the light of a human rights objective, as there was no attempt to pursue alternative measures that could impact the rights of the players and clubs to a less intrusive extent. Yet, it is concluded that the ban on the FUR and its sports clubs satisfied the requirements of proportionality when the objectives behind the imposed measures were argued along the lines of smooth organisation of matches and ensuring the safety and security of stakeholders.

As to the avenues of redress, Switzerland offers the fora to challenge FIFA and its affiliates' decisions that may constitute human rights violations of athletes. However, due to the CAS' institutional weaknesses in the face of human rights claims, the prospects of meaningful and effective deliberations remain limited. Yet, Swiss courts could still be relied on to bring claims against FIFA and UEFA for alleged human rights violations. If the Swiss courts fell short of scrutinising its domiciled sports organisations' actions, the State responsibility of Switzerland could be brought into question under international law.

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

List of References

ALLISON, Lincoln, TOMLINSON, Alan. *Understanding International Sport Organisations. First Edition*. London: Routledge, 2017, pp. 100–112.

AP. *Court of Arbitration for Sport Rejects Russia's Appeal of FIFA, UEFA Bans*. [online]. Available at: <https://www.si.com/soccer/2022/07/15/russia-ban-upheld-cas-fifa-uefa-appeal>

BANKS, Angela M. 2003. The Growing Impact of Non-State Actors on the International and European Legal Systems. *College of William & Mary Law School Faculty Publications*, 2003.

BBC. *Ukraine invasion: EU shuts airspace to Russian planes*. [online]. Available at: <https://www.bbc.com/news/world-europe-60539303>

BRICKELL, Missye. Filling the Criminal Liability Gap for Private Military Contractors Abroad: U.S. v. Slough and the Civilian Extraterritorial Jurisdiction Act of 2010. *Legislation and Policy Brief*, 2010, vol. 2, no. 2.

Business & Human Rights Resource Centre. *Netherlands Trade Union Confederation sues Fifa over alleged complicity in the mistreatment of migrant workers in Qatar*. [online] Available at: <https://www.business-humanrights.org/en/latest-news/netherlands-trade-union-confederation-sues-fifa-over-alleged-complicity-in-the-mistreatment-of-migrant-workers-in-qatar/>

CAMERON, Lindsey. Private Military Companies: Their Status under International Humanitarian Law and Its Impact on Their Regulation. *International Review of the Red Cross*, 2006, vol. 88, no. 863, pp. 573–611.

CARL ROM, Mark, HIDATA, Masaki, BZOSTEK WALTER, Rachel. *Non-state Actors beyond NGOs.* In: *Introduction to Political Science.* [online]. Available at: <https://openstax.org/books/introduction-political-science/pages/15-6-non-state-actors-beyond-ngos>

CAVANDOLI, Sofia, WILSON, Gary. Distorting Fundamental Norms of International Law to Resurrect the Soviet Union: The International Law Context of Russia's Invasion of Ukraine. *Netherlands International Law Review*, 2022.

CÔTÉ, Charles-Emmanuel. Non-state Actors, Changing Actors and Subjects of International Law. In: N. SCOTT, Karen, CLAUSSEN, Kathleen, KANEHARA, Atsuko, CÔTÉ, Charles-Emmanuel (eds.). *Changing Actors in International Law*. 2020, pp. 1–24.

CLAPHAM, Andrew. Human Rights Obligations of Non-State Actors in Conflict Situations. *International Review of the Red Cross*, 2006, vol. 88, no. 863, pp. 491–523.

CRAWFORD, Emily. *Proportionality*. [online] Max Planck Encyclopedias of International Law. Available at: https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1459?prd=MPIL

CRAWFORD, James. *Human Rights and State Responsibility.* 12th Raymond & Beverly Sackler Distinguished Lecture Series, Thomas Jodd Research Center, University of Connecticut, pp. 4–5.

Court of Arbitration for Sport, *Club Raja Casablanca v. Fédération Internationale de Football Association (FIFA)*, 2019/A/6345, Award of 16 December 2019

Court of Arbitration for Sport, *Football Union of Russia (FUR) v. Fédération Internationale de Football Association (FIFA) et al*., 2022/A/8708

Court of Arbitration for Sport, *Arbitration CAS 99/A/246 W. / International Equestrian Federation (FEI)*, Award of 11 May 2000

Court of Arbitration for Sport. *The Court of Arbitration for Sport Dismisses the Appeals Filed by the Football Union of Russia (FUR), FC Zenir, FC Sochi, PFC CSKA Moscow and*

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

FC Dynamo Moscow [online]. Available at: <https://www.tas-cas.org/fileadmin/user_upload/CAS_Media_Release_8708_8709_8865_8866_8867_8868_Decision.pdf>

D'ASPREMONT, Jean (ed.). *Participants in the international legal system: multiple perspectives on non-state actors in international law*. London; New York: Routledge, 2013.

DROUBI, Sufyan, D'ASPREMONT, Jean (ed.). *International organisations, non-state actors, and the formation of customary international law*. Manchester: Manchester University Press, 2020.

DUVAL, Antoine, HEERDT, Daniela. FIFA and Human Rights – a Research Agenda. *Tilburg Law Review*, 2020, vol. 25, no. 1, pp. 1–11.

DUVAL, Antoine. Lost in translation? The European Convention on Human Rights at the Court of Arbitration for Sport. *The International Sports Law Journal*, 2022, vol. 22, pp. 132–151.

European Court of Human Rights, *Tyrer v the United Kingdom* [1978] ECtHR No. 5856/72

European Court of Human Rights, *Golder v. the United Kingdom* [1975] 1 EHRR No. 4451/70

European Court of Human Rights, *Airey v. Ireland*, [1979] ECtHR No. 6289/73

European Court of Human Rights, *Al-Skeini and Others v. the United Kingdom*, [2011] No. 55721/07

European Court of Human Rights, *Issa and Others v. Turkey*, [2004] 31821/96

European Parliament. *Implementation of the UN Guiding Principles on Business and Human Rights*. [online]. Available at: <https://www.europarl.europa.eu/RegData/etudes/STUD/2017/578031/EXPO_STU(2017)578031_EN.pdf>

FARRIOR, Stephanie, CLAGETT, Brice. State Responsibility for Human Rights Abuses by Non-State Actors. *Proceedings of the Annual Meeting (American Society of International Law) Vol. 92, The Challenge of Non-State Actors*, 1998, pp. 299–306.

FIFA. *FIFA/UEFA suspend Russian clubs and national teams from all competitions.* [online]. Available at <https://www.fifa.com/tournaments/mens/worldcup/qatar2022/media-releases/fifa-uefa-suspend-russian-clubs-and-national-teams-from-all-competitions>

FIFA. *Human Rights Policy May 2017 edition.* [online]. Available at: <https://digitalhub.fifa.com/m/1a876c66a3f0498d/original/kr05dqyhwr1uhqy2lh6r-pdf.pdf>.

FUNAKOSHI, Minami, LAWSON, Hugh, DEKA, Kannaki. *Tracking Sanctions Against Russia*. [online] Available at: <https://graphics.reuters.com/UKRAINE-CRISIS/SANCTIONS/byvrjenzmve/>

Global Centre for the Responsibility to Protect. *The Georgia-Russia Crisis and the Responsibility to Protect: Background Note.* [online]. Available at: <https://www.globalr2p.org/wp-content/uploads/2021/07/the-georgia-russia-crisis-and-the-r2p-background-note.pdf.>

GONZÁLEZ, Carmen Pérez. The effective application of international human rights law standards to the sporting domain: Should UN monitoring bodies take central stage? *The International Sports Law Journal*, 2022, vol. 22, no. 2, pp. 152–164.

HARDING, Luke. *Lokomotiv Moscow manager resigns in protest at Russia's war on Ukraine*. [online] Available at: <https://www.theguardian.com/football/2022/mar/01/lokomotiv-moscow-manager-resigns-protest-russia-war-on-ukraine-markus-gisdol>

Human Rights Watch. *UEFA Fails Test on Human Rights Strategy*. [online]. Available at: <https://www.hrw.org/news/2021/12/17/uefa-fails-test-human-rights-strategy>

Inkazan. *Who owns Russian football: from state corporations to billionaires*. [online] Available at: <https://inkazan.ru/news/2020-06-01/kto-vladeet-rossiyskim-futbolom-ot-goskorporatsiy-do-milliarderov-1462922?fbclid=IwAR16JDpjhLYe3NEP7znO4Iywsr-UNAdIVkgwQ1lSP_P0iLcgAhNyo9a2stE>

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601

Inter-American Court of Human Rights, *Velásquez-Rodríguez v. Honduras*, Judgment of July 29, 1988 (Merits)

Inter-American Court of Human Rights, *Kaliña and Lokono Peoples v. Suriname*, Judgment of January 28, 2015

Inter-American Court of Human Rights, *Spoltore v. Argentina*, Judgment of July 25, 2008

International Olympic Committee. *IOC EB recommends no participation of Russian and Belarusian athletes and officials.* [online]. Available at <https://olympics.com/ioc/news/ioc-eb-recommends-no-participation-of-russian-and-belarusian-athletes-and-officials>

International Olympic Committee, Statement on solidarity with Ukraine, sanctions against Russia and Belarus, and the status of athletes from these countries, 25 Jan 2023. Available at <https://olympics.com/ioc/news/statement-on-solidarity-with-ukraine-sanctions-against-russia-and-belarus-and-the-status-of-athletes>

International Ice Hockey Federation. *IIHF Council takes definitive action over Russia, Belarus*. [online]. Available at <https://www.iihf.com/en/news/32301/iihf_council_announces_decisions_over_russia_belar>

JENTSCH, Valentin. Corporate Social Responsibility between Self-Regulation and Government Intervention: Monitoring, Enforcement and Transparency. *European Business Law Review,* 2020, vol. 31, no. 2.

MANYK, Alona. Participation of the nonclassical subjects of international law in law-making and law-enforcement. *European Journal of Law and Public Administration*, 2018, vol. 5, no. 1, pp. 46–53.

MARES, Radu. Regulating transnational corporations at the United Nations – the negotiations of a treaty on business and human rights. *The International Journal of Human Rights*, 2022, pp. 1–25.

MEIER, Henk Erik, GARCÍA, Borja, 2015. Protecting Private Transnational Authority Against Public Intervention: FIFA's Power Over National Governments. *Public Administration*, 2015, vol. 93, no. 4, pp. 890–906.

Mega-Sporting Events Platform for Human Rights. *Sports Governing Bodies and Human Rights Due Diligence. Sporting Chance White Paper 1.2, Version 1, January 2017.* [online]. Available at <https://www.ihrb.org/uploads/reports/MSE_Platform%2C_Sports_Governing_Bodies_and_Human_Rights_Due_Diligence%2C_Jan_2017.pdf>

MOTAMEDI, Maziar. *Iranian women allowed to watch football match after FIFA pressure.* [online]. Available at: <https://www.aljazeera.com/news/2022/8/25/iranian-women-allowed-to-watch-football-match-after-fifa-pressure>

MUHAMMED, Muhammed Hamid. Transnational Corporations and Human Rights. *Global: Jurnal Politik Internasional*, 2021, vol. 23, no. 2.

MURRAY, Stuart, PIGMAN, Geoffrey Allen. Mapping the relationship between international sport and diplomacy. *Sport in Society*, 2014, vol. 17, no. 9, pp. 1098–1118.

NOORTMANN, Math, REINISCH, August, RYNGAERT Cedric (ed.). *Non-State actors in international law*. Oxford: Hart, 2015.

LINDBLOM, Anna-Karin. *Non-governmental organisations in international law*. Cambridge; New York: Cambridge University Press, 2005, pp. 111–112.

OEGG, Barbara, Elliott, Kimberly. *Russia and the effectiveness of economic sanctions between big players.* [online] Available at: <https://cepr.org/voxeu/columns/russia-and-effectiveness-economic-sanctions-between-big-players>

PANJA, Tariq. *FIFA Suspends Russia, Ejecting It From World Cup Qualifying.* [online] Available at: <https://www.nytimes.com/2022/02/28/sports/soccer/fifa-russia-ban.html>

RIVKIN, David W. Rivkin. *UN Guiding Principles on Business and Human Rights at 10, The*

Impact of the UNGPs on Courts and Judicial Mechanisms. [online]. Available at: <https://www.debevoise.com/insights/publications/2021/07/un-guiding-principles>

RBC. *Without Gazprom and LUKOIL. What do private football clubs in Russia live on?* [online]. Available at: <https://sportrbc.ru/news/5fe4731e9a794762a1e6babe?fbclid=IwAR1KEVHZ27yCBP3bjk6fXUrbZCtQeQaiUH2F7oRoiPUW2PdOzUCFlIlKuJ8>

SALCEDO, Andrea. *Russian soccer player Fedor Smolov publicly opposes Putin's decision to invade Ukraine: 'No to war'.* [online] Available at: <https://www.washingtonpost.com/nation/2022/02/25/fedor-smolov-russian-soccer-player-condemns-ukraine-invasion/>

SHEARER, David. *Private Armies and Military Intervention*. *First Edition.* Routledge, 2020.

SIECKMANN, Jan. Proportionality as a Universal Human Rights Principle. In DUARTE, David, SAMPAIO, Jorge Silva Sampaio (eds.). *Proportionality in Law: An Analytical Perspective*. Springer Verlag, 2018, pp. 3–24.

SWI. *Responsible business initiative rejected at the ballot box*. [online]. Available at <https://www.swissinfo.ch/eng/business/swiss-to-vote-on-holding-companies-accountable-for-supply-chain-abuses/46184500>

UEFA. *Social and Sustainable Development, Human Rights Commitment*. [online]. Available at <https://editorial.uefa.com/resources/0270-13f89d361aaa-640357446989-1000/uefa_human_rights_commitment_2021.pdf>

UEFA. *UEFA ends partnership with Gazprom*. [online] Available at: <https://www.uefa.com/insideuefa/mediaservices/mediareleases/news/0272-148df50f5c71-e40e92534a4b-1000--uefa-ends-partnership-with-gazprom/> Accessed 09.09.2022

UNHCR. *Operational Data Portal: Ukrainian Refugee Situation*. [online]. Available at <https://data.unhcr.org/en/situations/ukraine>

United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, HR/PUB/11/04 (2011)

WESTERBEEK, Hans, SPAAIJ, Ramon. *Boycotts in sport may not advance human rights. But they do harm individual athletes.* [online] Available at: <https://theconversation.com/boycotts-in-sport-may-not-advance-human-rights-but-they-do-harm-individual-athletes-185208>

WIJNINGA, Peter, OOSTERVELD, Willem Theo, GALDIGA, Jan Hendrik, MARTEN, Philipp, CHIVOT, Eline, GEHEM, Maarten, KNOWLES, Emily, MAAS, Matthijs, SCHELLEKENS, Menno, SILVEIRA, João, YANG, Michelle Yuemin, ZELINSKA, Olga, DE JONG, Sijbren, KOGUT, Pavel, VAN LUIT, Esther. *STRATEGIC MONITOR 2014*: *State and Non-State Actors: Beyond the Dichotomy.* [online]. Available at: <https://www.jstor.org/stable/resrep12608.8>

WILLIAMS, Martin, BALDWIN, Leigh. *Revealed: Russian army's football club channelling cash through London*. [online] Open Democracy. Available at: <https://www.opendemocracy.net/en/dark-money-investigations/cska-moscow-russia-army-football-club-channelling-cash-london/>

WOLFSTELLER, René, LI, Yingru. Business and Human Rights Regulation After the UN Guiding Principles: Accountability, Governance, Effectiveness. *Human Rights Review*, 2022, vol. 23, pp.1-17.

ZAREI, Mohammad H., SAFARI, Azar. *The Status of Non-State Actors under the International Rule of Law: A Search for Global Justice. Rethinking International Law and Justice*. Routledge, 2015.

ZHOU, Zheng. *The human rights of athletes amidst the sports boycott on Russia*. [online]. Available at: <https://www.humanrights.unsw.edu.au/students/blogs/human-rights-athletes-sports-boycott-russia>

Published by Palacký University Olomouc, Czech Republic, 2023.
ISSN (print): 1213-8770; ISSN (online): 2464-6601