



# The governance of tennis clubs: Relevant issues

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## ABSTRACT

Sports clubs are an expression of the universally recognised fundamental right of free association without any limitation other than the pursuit of lawful purposes. These organisations play a prominent role in the environment in which tennis takes place. This article shares some relevant aspects concerning the governance of tennis clubs. These include the legal nature of sports clubs, the management of tennis clubs in their sporting and economic aspects, the integration and management of training, competition and education programmes, certain cross-cutting aspects, and the internal organisation and liability regime of the volunteers and managers of tennis clubs. Finally, a brief note on the management of sports service companies is included.

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## LEGAL NATURE OF SPORTS CLUBS

Among the growing number of contexts in which the practice of tennis takes place in its different variations (recreational activity, elementary education, agonistic training, competitive events of different levels, mainly), tennis clubs continue to play a prominent role, as they are an expression of the fundamental right of free association that is universally recognised with no other limitation than the pursuit of lawful purposes<sup>1</sup>. Due to their connection with the game, tennis clubs are subject to a certain degree of regulation in the sport regimes of all levels as well as in their territorial scope of application<sup>2</sup>. Thus, their character as private entities is emphasised, whether profit or non-profit<sup>3</sup>, formed by a minimum number of people, with full legal capacity to act differentiated from that of their members, and with the power to self-regulate their interests for the fulfilment of their aims in their Statutes and Internal Regulations, which specify, among other things, the functions and system of election and action of their representative and governing bodies (VALIÑO, 2019, 40-44).

Apart from the legal considerations mentioned above, it is a fact that no two tennis clubs are the same. Many factors contribute to this differentiation: their location, the weight of tradition, the socio-economic profile of their members, the multiplicity of facilities and services they offer really make the difference between the different types of clubs. This influences the management and administration tasks of tennis clubs, making them simpler or more complex (VALIÑO, 2009, 19). But not everything involves looking 'inwards'. Social life is changing at breakneck speed in most countries<sup>4</sup>. The large number of leisure alternatives offered to citizens, including many of a sedentary nature highly linked to the compulsive use of new (no longer so much) technologies (CASTRO-SÁNCHEZ e.a., 2017, 250), makes it difficult or, at least, attenuates their links with sports clubs, in contrast to those times in the past when they were perceived as a comfortable and safe space for families to meet and for children to develop their personalities, with a predominant role for sports practice that monopolised the available leisure time and combined perfectly with the rhythms imposed by school life.

<sup>1</sup> Art. 20 of the Universal Declaration of Human Rights (1948); Art. 22 of the American Declaration of the Rights and Duties of Man (1948); Art. 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950); Art. 22 of the International Covenant on Civil and Political Rights (1966); Art. 16 of the American Convention on Human Rights (1969); Art. 10 of the African Charter on Human and Peoples' Rights; and Art. 12 of the Charter of Fundamental Rights of the European Union (2007). This right is naturally echoed in all Constitutions. In Spain, for example, in art. 22.1, being the object of normative development through Organic Law 1/2002, of 22 March, regulating the Right of Association. It is also proclaimed in the Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the key characteristics of the European model of sport (No. 7, 2021/C 501/01).

<sup>2</sup> In Spain, by virtue of Art. 148.1.19<sup>3</sup>, which gives the Autonomous Communities powers for the "promotion of sport" and the "appropriate use of leisure", sports clubs are the object of special attention in the autonomous sports regulations, and in some Autonomous Communities (for example, in the Valencian Community following its Decree 2/2018, of 12 January, of the Consell, which regulates the sports entities of the Valencian Community) there is growing intervention by the public authorities in their regime of constitution and ordinary operation, especially if they seek to obtain public subsidies.

<sup>3</sup> In Spain, at the state level, with the Law 10/1990 of 15 October 1990 on Sport still in force, the legal definition of Art. 12.1 dispenses with the exclusion of profit motive due to the presence in certain sports of clubs that pursue it, while in the autonomous sphere, the classic scenario of amateur sport, the absence of profit motive entails an unavoidable presupposition, which, in essence, is specified in the impossibility of giving the possible profits derived from its activity a different application to that of the execution of its social aims, which are the practice and promotion of sporting activity.

<sup>4</sup> This is implicitly pointed out in the European Sports Charter as revised by Recommendation CM/Rec (2021)5 of the Committee of Ministers of the Council of Europe adopted on 13 October 2021 when it states that "political, economic and social changes and their impact on sport have occurred in Europe at an accelerated pace since the last revision of the European Sports Charter in 2001, making a new European Sports Charter necessary to reflect these changes and to meet future challenges".

The combination of all these internal and external factors challenges the sports managers today in the delivery of their professional duties, and it will be the success and timeliness of the decisions and initiatives they adopt, both in terms of their qualifications and knowledge, as well as their analytical perspective and adaptation to the environment, and by their aptitude to form and lead a solvent work team that supports them, which will allow, in the light of the results achieved, an appropriate assessment of their competence and professional standing with a view to giving impetus to and ensuring the sustainability of the tennis club they oversee.

## THE MANAGEMENT OF TENNIS CLUBS FROM A SPORTING AND ECONOMIC POINT OF VIEW

### Integration into a sports club

The sporting life of tennis clubs is their “raison d'être” and the fundamental aspect that explains their existence and continuity over time, even though other aspects of social life may be given support and prominence, which, in a complementary way, are of concern or loyalty to their members. In this context, which ranges from the free practice of tennis to the planning and execution of all types of coaching and training programmes, there are many questions of interest from the point of view of sports management.

The free practice of tennis can be implemented differently in each tennis club. It is usually linked to the prior acquisition of membership through a title, whatever the legal nature of the entity (commercial company or civil association). For instance, the requirement for sports clubs to be non-profit-making, which is present in the sports laws of the Autonomous Communities in Spain, can be circumvented through the constitution of an underlying civil association, whose members may or may not fully coincide with those of the parent commercial company, which is the one that, in fact, holds the ownership of the facility in which its members interact and of which the civil association habitually makes use on a leasing basis. The full and differentiated legal capacity and capacity to act of both entities favours the emergence of this type of legal relationship, with differentiated accounts and budgets in their respective balance sheets and, related to this, makes the management and administration tasks of the tennis club more complex.

The approach just described raises quite a few questions of legal implications. Thus, without being exhaustive, the regime of acquisition and transfer of these securities or titles that integrate the individual into the entity, is monopolised in sports clubs that adopt the form of a civil association by their representative and governing bodies. On the other hand, in those in which a commercial company pre-exists, the transfer of the securities that make the subsequent integration into the underlying sports club possible is subject to the rules of the market, with the degree of intervention that the entity itself may have in such transactions being variable, with the possible costs that the acquirer may incur because of this intermediation. In this context, it is not uncommon for the articles of the association to provide for a right of first refusal, either in favour of the company itself to build up its own reserve fund, or in favour of existing shareholders wishing to increase their investment. Whatever the nature (civil or commercial) of the entity, the fact that it is a place for leisure through sport and social gatherings, as well as the



limited nature of its facilities and services, justifies a certain degree of control of the membership regime by its governing bodies, which often restrict or prevent access to possible new interested parties or limit it to those closest to them.

In this respect, the management analysis of the entity, which is the responsibility of the management staff, can drive changes in the access policy set by a certain club if this is advisable for reasons of economic viability to attract the resources that will allow improvements to be undertaken that are indispensable for reasons of necessity or opportunity. And it is in this aspect that the leadership of the sports manager can be most evident, whose preparatory work (identification of needs and convenience) can drive the club's governing bodies to make the regulatory changes that the sports manager will subsequently have to implement.

In any case, having acquired membership status, free tennis practice is linked to other aspects of management that those responsible for this area in the club must take into consideration. Thus, testing the occupancy rate of the courts during the time the facility remains open is essential to promote actions to stimulate and improve to make the most of the available facilities at times of low occupancy. A policy of lower prices in certain time slots in those clubs where members must contribute, in addition to their regular membership fees, to the running costs, could encourage the use of the courts in certain time slots that are perceived as less attractive. Likewise, this occasional underuse of the courts can be used to implement new initiatives that complement other initiatives to promote tennis. Thus, for example, the scheduling of weekend competitions in the afternoon for the players enrolled in the club's programme, which could act as a stimulus and assessment of their progress in the acquisition of technical, tactical (decision-making), physical, and psychological (emotional management) skills.

In the same way, defining the degree of court use can prevent certain clashes of interests within the club, since it is necessary to convey the preferences of many members for the free practice of tennis with the programmes and activities that the club wishes to promote to fulfil its aims and balance its budget: coaching and training programmes, and competitive activities. Certainly, the use by clubs of digital tools for monitoring the use of facilities makes it easy to gather precise data on which to base the sports policy to be implemented and thus rationally and objectively guide the actions to be undertaken.

### The management of coaching and training programmes in sports clubs

Any sports club, depending on the variables considered (number of members, available facilities, results of the court use study), will be able to undertake a more or less ambitious sports training strategy for its users. Some clubs will limit themselves to offering recreational programmes focused on coaching beginner players, as a starting step to access to the free practice of tennis, with the result that their best talents will be forced to continue their tennis development outside the club's facilities. Others, on the other hand, will be able to ensure a certain sporting growth for the most talented players at least up to certain levels of their game and tennis development, as it is common that at the dawn of professionalism or for access to American universities it is essential to join the programmes of some high-performance tennis academies.

The aspects of sports management that arise in this respect are unquestionable and in them, technical-sport considerations should be combined with those of an organisational, social and economic nature (cfr. CRESPO CELDA, 5-6). It is possible for them to be combined in a single person, surrounded by the indispensable team for the execution of the programmes to be undertaken, if the sports manager, in addition to their managerial skills, has the necessary tennis knowledge. In large clubs, on the other hand, the separation of roles is not uncommon, so that with the Manager or General Director, involved in the organisational and economic management aspects, a Sports Director collaborates closely, who, depending on the trust that the entity has placed in him, defines the sports policy and, consequently, the coaching and training programmes to be implemented, always considering the valuable information that the management can provide him with to avoid social challenges in the club.

Apart from this frequent organisational dualism, which is justified by the specialisation of the respective tasks, the implementation of coaching programmes involves a number of associated sport management issues: the recruitment of a sufficient number of coaches and the negotiation of their salaries according to their certification and experience; the assignment of coaches to the various programmes according to their qualifications, the rational distribution of the workload and the attribution to some of them of special responsibilities in certain programmes for more advanced players (e.g. travelling with them to tournaments); the constant monitoring of the delivery of the various programmes to detect aspects that can be corrected in the least traumatic way possible, are some of the essential issues to ensure the success of the initiatives undertaken.

Naturally, apart from the personal impression that the Manager and the Sports Director may have of the functioning of the different programmes, efforts must be made to obtain objective data which, if necessary, can be used to redirect the club's sports policy with a view to improving it. Thus, for example, the tennis progress of the players that can be objectively measured (improvements in the ranking, matches and tournaments won, promotions in team competitions) can be a good starting point, but, apart from the results, always so present in tennis, there are other 'numbers' more linked to participation that should not be overlooked. Think, for example, of the increase or decrease in the number of players

interested in joining the programmes offered by the club; the rate of drop-outs that may have occurred; the social response to complementary activities to promote the competitive spirit (i.e., weekend competitions); and the interest generated by social events of sporting involvement, such as opening and closing ceremonies of sports programmes, clinics and promotional exhibitions, or commemorations, recognitions and tributes to club members or teams.

These data, analysed with prudence and moderation, are undoubtedly precious for focusing the decision-making process, not only of those responsible for the sporting and economic management of the club, but also of the representative and governing bodies which, articulated for operational reasons in different working commissions, will have to undertake the appropriate regulatory initiatives to ensure its sustainability. And these data must not only be examined from a sporting perspective, but also from an economic one, since, more so in some clubs than in others, they are a determining factor in the club's budgetary balance.

### The management of competitive activities in tennis clubs.

The sports policy of a tennis club would not be complete without the provision of a rational calendar of competitions that fosters cohesion among members and contributes to the fulfilment of social goals. Some of these competitions are a consequence of the membership of the tennis club to a sports federation, so that the associated management aspects must be limited to decision-making, in essence to take or not part in the events depending on what it implies for the club's sporting image, the degree of commitment of the players to the schedule of matches, the foreseeable economic cost of travel and the coincidence with other internal competition activities. Others, on the other hand, define the programme that a sports club has decided to carry out in a season, using as a starting point the foreseeable concerns of its members and always considering the available resources.

Again, in this respect, the use of the data that the club handles is indispensable for the adoption of the most appropriate management decisions. They will show the age range and the effective use of courts by members, as well as the participation history of each of them in previous seasons or the preference of members to compete at certain times of the year, which can be used as a criterion to include or not certain competitions from the calendar. This does not prevent that, additionally, sports policy decisions may involve the use of new competition formats (senior tournaments, fathers and sons, 12-hour tournaments) in order to find out the degree of acceptance that they reach among the members.

Management tasks should not be limited to the rational scheduling of competitions, avoiding at all costs the saturation of the availability of courts. It is essential to appoint people to supervise the development of the competition until it reaches a successful conclusion. The flexibility in the scheduling of matches that so often is used in social competitions should not be an obstacle to demanding a certain degree of commitment from all participants to avoid undue delays that discourage continuity in the competition or participation in the future, so that the person in charge of running the competition must combine the skills that will ensure the success of the enterprise.

### Cross-cutting aspects of sports club management

There are infinite details that make the difference between one club and another, which contribute to the member's perception of the club as an extension of their own home. And, of course, considering them to generate an increasing satisfaction of the club's users should be an unavoidable aspiration for its managers (TENNANT & PROBERT, 2014, 21-22). From the tidiness and orderliness of all club facilities (changing rooms, fitness rooms, social rooms, cafeteria and restaurant, pool area) to the maintenance of the facility and its furnishings and equipment in accordance with the highest safety and quality standards. Likewise, the image, appearance and willingness of the staff in all areas of the club is essential to create the atmosphere that a demanding member expects from their club. Also, the general access to digital information imposes on the most reluctant clubs an investment effort to show proximity to their members. It is not surprising that large clubs have already implemented personalised mobile apps through which members can book spaces, receive information, offer availability to play with other users, or access data processing and management, a system that does not prevent the use of other means of communication preferred by certain age segments.

### The internal organisation and liability regime of the directors and managers of tennis clubs.

The management aspects of a tennis club involve both the representative and governing bodies of the entity, as well as the staff who, due to their training and experience, are responsible for decision-making. The sport sector regulations require sports clubs (at least in Spain), for the sole purpose of publicity and the acquisition of their personality in the strictly sporting sphere, to be registered in a public directory, which requires the provision by the club and the approval by the Administration of the Statutes that must include the club's governing and representative bodies, which, as a minimum, must be the Presidency, the Board of Directors and the Assembly of members.

There is nothing to prevent, therefore, that, due to the size of the social mass and, consequently, the consequent greater complexity of the management tasks of a certain club, a greater or lesser number of working Commissions or Committees, usually chaired by a member of the Board of Directors, can be foreseen in its Statutes, with a specific area of action within the life of the club. Consider, for example, the frequent existence of a Sports Commission, which can be chaired by the President and directed by the manager, and to which the club's technical and management staff are often

invited (with voice, but without vote) to formulate proposals and report on their actions.

The specific roles and competences of these bodies and commissions are set out in their Statutes with full autonomy and with no limitations other than those imposed by law, good customs and public order, although it is true that in some countries there is a growing public interventionism, which is particularly prevalent in those sports entities interested in competing for public subsidies and which, for this reason, must be non-profit-making<sup>5</sup>.

To this end, the adoption of a 'code of good governance' is usually a requirement for admission to such meetings, the broad outline of which is as follows: A duty of reserve with respect to the data and information to which the directors may have access by reason of their position, and which they may not use for their own benefit or that of third parties; prohibition of unduly disposing of the assets of the club they manage or of using their position to obtain a financial advantage; a duty of transparency towards members with respect to the entity's budgets, balance sheets and accounting exercises; the adoption of internal control mechanisms which, depending on the amount of the operations to be undertaken, require the participation of a number of directors with their authorised signature; and responsible declarations regarding the existence of contractual or commercial relations, by themselves or through an intermediary, with suppliers of the club. Thus, the adoption of codes of good practice is not, at least for the time being, mandatory for sports clubs, although it limits the possibilities of obtaining public funding.

Rather, public intervention in these entities tends to be reduced to requiring them to become members of a federation and to verify a certain degree of control over the content of their statutes and internal regulations and the state of their accounts. Thus, for example, the duty to adapt their organisation and functioning to democratic principles, which entails the statutory provision of a series of rules to which internal electoral processes must conform. As a matter of example, in recent years, the recommendations from different European Union acts have introduced novel criteria in these clubs to develop a European dimension in sport, such as the balanced presence of genders in the governing bodies or the adoption of internal measures for energy efficiency and commitment to the environment<sup>6</sup>. Likewise, to the extent that they promote sporting events, it is also a concern of the public administrations that supervise them that the organising private entities are sufficiently solvent and take out civil liability policies that guarantee coverage of the risks involved for competitors and spectators.

<sup>5</sup> As stated in No. 18 of the Council Conclusions (2019/C 416/03) of 11 December and, prior to that, in those of the Opinion of the European Economic and Social Committee on 'Sport and European values' (2015/C 383/03), and in the European Parliament Resolution of 2 February 2017 on an integrated approach to sport policy: good governance, accessibility and integrity (2018/C 252/01).

<sup>6</sup> Mention can be made of the European Parliament Resolution of 2 February 2012 on the European dimension in sport (2011/2087(INI)) and the European Parliament Resolution of 2 February 2017 on an integrated approach to sport policy: good governance, accessibility and integrity (2018/C 252/01). More recently, the Resolution of the Council and of the Representatives of the Governments of the Member States on the EU Roadmap for Sport (1 January 2021 - 30 June 2024) (2020/C 419/01), which identifies "the protection of integrity and values in sport; the socio-economic and environmental dimensions of sport; and the promotion of participation in sport and health-enhancing physical activity" as priority areas for EU sport policy, should be highlighted. Aspects related to the proper governance of sport entities are covered, in particular requiring the qualification of sport professionals (key issue, 'sport and education'); increasing the proportion of women in leadership positions in sport organisations and clubs; and promoting equality in working conditions (key issue, 'gender equality'); identifying obstacles related to governance in sport (key issue, 'developing and promoting good governance in sport'); and the evolution of sport and its practice in the light of climate change and the need to respect the environment in sport events and facilities (key issue, 'green sport'). Finally, the conclusions of the Council and the representatives of the governments of the Member States on 'Sport and physical activity as a promising resource for behavioural change in favour of sustainable development' (2022/C 170/01) cannot be overlooked, emphasising the impact of environmental threats on the practice of sport and the conditions under which the organisation of sporting events should be tackled without harming the environment.

The concept of 'good government' or 'good governance' thus appears, identified with transparency, accountability and democracy<sup>7</sup>, which, as a precondition for their autonomy and self-regulation, is lately predicated on the management of all kinds of sports entities<sup>8</sup>, although, in contrast to sports federations, is approached in relation to sports clubs more in terms of the adoption of principles than in the imposition of generalised coercive mandates and prohibitions (GARCÍA-CABA, 2021, 193-203 GIVES AN account of its reflection in the sports regulations and PÉREZ-TRIVIÑO, 2022, in the Draft Law on Sport approved in December 2021).

Undoubtedly, the interest in the issue is not based in the tennis clubs, but in the large professional football clubs and organisations in which astronomical amounts of money are handled<sup>9</sup>, largely due to the growing importance of the income from the sale of television and digital broadcasting rights<sup>10</sup>. In some countries such as Spain, the new extension of criminal liability to legal entities that engage in criminal conduct for their own benefit or in the exercise of corporate activities through their managers, requires, in order to avoid it, the adoption and effective implementation of prevention programmes (PALOMAR, 2019, 1-3), popularly known as 'compliance', consisting of the implementation of internal self-regulation procedures and effective detection, investigation and sanction mechanisms for management acts that can be classified as inappropriate. This can be achieved by limiting the terms of office of directors, controlling and publicly disclosing the amount of their allowances and remuneration and, in short, submitting their accounts and budgets to independent auditing mechanisms provided for in their bylaws or imposed by the public authorities.

The derived effect is, therefore, the concern of national and transnational authorities that all kinds of sport entities should conform, in their organisation and functioning, to the standard of 'sport integrity', which is a concept that expands semantically to reach not only the ethical performance of the competitors, but also the organisational<sup>11</sup>. Hence, the management of a sports entity, whatever its nature, has to conform to "the principles of transparency, integrity, democracy, development and solidarity, which must be guaranteed by checks and balances and control mechanisms"<sup>12</sup> in order to banish all forms of corruption<sup>13</sup>, in the guise of bribery, influence peddling, abuse of power and conflict of interest, which can be prevented by recommendations of the Council of Europe<sup>14</sup>, such as the provision of regular electoral processes in sports entities; the establishment of professional standards in organisation and management reinforced by codes of ethics and procedures to combat conflicts of interest; and accountability and transparency in decision-making and financial operations<sup>15</sup>.

Within this regulatory framework, and regardless of the self-regulatory autonomy of each sports club, a standard framework of functions and competences can be established. Thus, the Members' Assembly is the highest governing and representative body to which the most important functions are reserved, such as the approval and modification of internal rules, sometimes requiring qualified majorities; the periodic election of the Presidency and the Board of Directors through regulated procedures; the approval of the annual report, budget and membership fees; the regulation of the conditions of access to the sports club; the creation of new areas or services for users; and the ratification of acts of disposal of social assets.

<sup>7</sup> The White Paper on Sport (COM(2007) 391 final of 11 July), in the section on the organisation of sport, in which the Commission called for the exchange of best practices in sport governance, including the presence of women in management and leadership areas; the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on developing the European dimension in sport (COM(2011) 12 final of 18 January), which highlights as principles of good governance in sport "autonomy within legal limits, democracy, transparency and accountability in decision-making and inclusiveness in stakeholder representation"; the European Parliament Resolution of 14 March 2013 (2013/2567(RSP)) on match-fixing and corruption in sport, which is effectively combated through the implementation of good governance practices; the European Parliament Resolution of 11 June 2015 (2015/2730(RSP)) on high-level corruption at FIFA, in particular as regards the establishment of a transparent procedure for awarding the organisation of major football events; and the Conclusions of the Council and the Representatives of the Governments of the Member States on enhancing integrity, transparency and good governance in sport events (2016/C 212/07), where the high financial and economic risks associated with major sport events are seen as a threat to the integrity of sport as they may compromise, inter alia, sustainable development, and the rights of workers, children and women.

<sup>8</sup> It is defined in the Recommendation (Rec/2005/8) of the Council of Ministers of the Council of Europe on the principles of good governance in sport adopted on 20 April 2005 as a complex set of control measures and private regulations used to promote integrity in the management of sport, in order to make sport activities democratic, ethical, efficient and accountable.

<sup>9</sup> Expression of this concern in the EU context are the Conclusions of the Council and the representatives of the Member States meeting within the Council (/2019/C 416/03) on corruption in sport, stressing that "an increasing number of cases have come to light over the last twenty years due to significant changes in the sports industry, mainly related to the growing commercialisation and media coverage of sport, resulting in increased revenues and financial flows".

<sup>10</sup> Indeed, the European Parliament resolution of 29 March 2007 on the future of professional football in Europe (2006/2130(INI)) already underlined the threat to the integrity of competitions posed by the concentration of wealth and economic power resulting from the exploitation of broadcasting rights according to the size of national broadcasting markets.

<sup>11</sup> It is not for nothing that good governance is considered in the Conclusions of the Council of the European Union (2011/C 378/01) as "an essential component of the fight against match-fixing. Problems such as match-fixing seem to occur less frequently where good governance guidelines are observed, such as, for example, prohibition of betting within the sporting discipline itself, timely payment of players' salaries, financial stability and transparency".

<sup>12</sup> Art. 8 of the Appendix to Recommendation CM/Rec(2021)5: Revised European Sports Charter. The Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council, on the key characteristics of the European model of sport (No. 15, 2021/C 501/01) expresses itself in similar terms: "good governance in sport is a prerequisite for the autonomy and self-regulation of sport organisations and federations, respecting the principles of democracy, transparency, integrity, solidarity, gender equality, openness, accountability and social responsibility".

<sup>13</sup> Harsh criticism was voiced in the European Parliament Resolution of 11 June 2015 (2015/2730(RSP)) against FIFA, which was denounced for having long functioned as "an unaccountable, opaque and notoriously corrupt organisation", meaning that "fraud and corruption in FIFA are systemic, widespread and persistent".

<sup>14</sup> Recommendation (Rec/2005/8) of the Council of Ministers of the Council of Europe on the principles of good governance in sport adopted on 20 April 2005 and Recommendation (CM/Rec(2018)12) of the Council of Ministers of the Council of Europe on promoting good governance in sport. Likewise, art. 7 of the Council of Europe Convention on the Manipulation of Sports Competitions of 18 September 2014 conceives the principles of good governance as a budget to combat the manipulation of sports competitions, emphasising as an effective measure the prevention of conflicts of interest, generally prohibiting the misuse of inside information and betting on competitions in which one has a certain degree of participation.

<sup>15</sup> In this respect, the European Parliament Resolution of 29 March 2007 on the future of professional football in Europe (2006/2130(INI)) underlined the need to combine the freedom of self-regulation of professional clubs with the eradication of conflicts of interest of their managers through the tight control of their economic and financial activities.

On the other hand, the Presidency and the Board of Directors are responsible for drawing up the proposals that require the approval of the Assembly and the execution of the agreements adopted therein, as well as the ordinary management of the club (maintaining order, promoting its different sections, exercising disciplinary authority), by himself or through the contracting of a solvent professional team, whose obligations and commitments will be defined in the collective agreements regulating the sector or the company, without prejudice to their specific adaptation to the characteristics of the post and reflected as an annex in the employment contract signed by the parties.

The outsourcing of certain services (i.e., training and coaching programmes) could be possible, which could represent a significant relief for the club's management area. The sports club, as the recipient of the service, could demand certain quality standards from the provider, with the service provider taking the appropriate organisational decisions (i.e., the recruitment of coaches) to achieve the satisfaction of the sports club and its users. Hence, apart from the normative impositions and recommendations from which legal liability of any kind can be derived, obviously there is another kind of 'liability' related to the satisfaction of members and users and, ultimately, linked to the success of the management of the sports entity in its social and economic dimension.

This other kind of 'responsibility' can be borne both by its directors and by its managers and administrators, whose functions and competencies are not usually covered in the regulations, not even by statute, but are defined at the time when the professional joins the club or are revised at the will of the directors. And if we said that no two tennis clubs are the same, neither is there an identity of functions in the staff in whose hands the management of a club is placed (TALAVERA MOLINA e.a. , 2018, 3). The degree of trust they can instil in the entity for which they work will undoubtedly entail a greater assumption of responsibilities, which may even extend to the delimitation of the club's management policies. However, it is often the Board of Directors, with or without the endorsement, when required by law, of the General Assembly of members, which sets the guidelines for the club. In this case, the role of the Manager is limited to proposing or suggesting new initiatives, which, if they are approved, must be carried out. Only with time, his consolidation in the entity can lead to an increase in his area of action, thus acquiring a status not very different from that of a director.

In any case, and as is natural, from this peculiar modality of 'responsibility', consisting of the analysis and evaluation of the results of the execution of these policies, putting them in relation to what has been programmed and with the satisfaction aroused in the users, certain consequences may be derived (not responsibility in the strict sense) for the continuity or replacement, either of the components of the governing and representative bodies of the entity, or of the professional management team of the entity.

#### A BRIEF NOTE ON THE MANAGEMENT OF SPORTS SERVICE COMPANIES.

In addition to the restricted meaning of the concept of 'sports club' which appears in the sectoral regulations on sport, it can also informally be taken to include entities devoted mainly to the provision of sporting services, especially coaching and training, complemented by related aspects such as the organisation of sporting events. Some of them, as they are

able to generate a large pool of players, constitute "sports clubs" in the strict sense of the term, which are those that can, by means of a licence, become affiliated to a sports federation and, consequently, participate in official competitions at any territorial level, apart from being able to become involved in the federation management through their governing and representative bodies arising from electoral processes strongly overseen by the public authorities in view of the public administrative functions they have, as collaborating agents, by legal delegation.

These tennis service companies usually take a commercial form, which entails the creation of a legal entity separate and distinct from the partners that constitute it, with its own assets, a minimum share capital and under an administrative body responsible for the management of the company to the partners, whose active participation in the decision-making or in the adoption of resolutions is conditional upon the nominal value attributed to the securities (shares or holdings) they hold. There are also those which, without constituting a legal person as such, are the result of the agreement reached by their constituent members, who wish to pool (hence the classic name of 'community of goods') money, goods and industry for the purpose of offering sports services on the market, with the participation in the profits and the contribution to expenses being proportional to the economic estimate of such contributions, and the work that any of the members contributes in the interest of the community can also have such a character.

In this type of entity, the profit motive is not only present, but also constitutes the essence that gives it its nature. The main purpose is to deliver sports services of the highest quality to the market at the most competitive price possible, which means taking extreme care of all the details to make a difference in the sector.

The big difference with traditional clubs is that, in the latter, the users, as members, are constituted, by themselves or by proxy, in an Assembly to periodically elect the governing and representative bodies (Presidency and Board of Directors) and to approve or censure the management of which these bodies are accountable, whereas in sports services companies, users have no corporate relationship with the entity, being consumers of the services that the provider offers (usually in its own facilities or in those of the sports club under outsourcing), which it can certainly do without if, in its opinion, they do not meet the quality standards that a demanding market in constant evolution imposes.

In any case, in order not to incur in idle reiterations regarding the areas of action, like those of a club, in which the provision of these sports services takes shape, the aim of a club or of a company of these characteristics is its successful continuity in its segment, of which the satisfaction of the recipients, be they members or simply clients, is an inevitable prerequisite. In a sports club, poor management will lead the social masses to look for a replacement for the management team, censuring their performance in advance or waiting patiently for the end of their mandate. In a sports services company that is not very attentive to the interests of consumers, the customer has no choice but to look for a supplier that is more considerate of their concerns and demands.

Another differential aspect is the destination of the profits obtained from exemplary management, which is conditioned by the nature of the entity, since they can be distributed among the members when the profit motive is present in it

(another thing is its convenience or opportunity, when, for example, the facilities present a maintenance deficit), while they must be applied imperatively to the achievement of the social purposes in those that lack it.

## CONCLUSIONS

The management of clubs and sports service companies includes a wide variety of areas of legal, economic and, of course, sporting involvement, which is shared, in the exercise of the autonomy of each one of them, between the management staff and the sports professionals. The growing public interventionism faced by tennis clubs, largely driven for instance by the institutions of the European Union, requires strengthening the professionalisation of the area of sports management, which must lead, from the analysis of the available data and the examination of the operating results, to the adoption of new approaches for improvement that ensure their viability, as in many cases they are inoperative in the face of the radical transformations that, at a dizzying pace, are imposed by the thrust of modernity. The management of teaching and training programmes or their outsourcing to sports service companies is a sports policy decision that has a direct impact on the management of a tennis club.

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