

Renata Kopczyk, *Zakaz dyskryminacji w sporcie w prawie Unii Europejskiej [Non-discrimination in Sport in EU law]*, Wolters Kluwer, Warszawa 2013, pp. 175

In recent years, there has been a growing interest in sporting matters in global legal literature, which is confirmed by the increasing number of publications on this subject. Works exist which focus both on the freedom of movement in sport and on sports law in general.¹ Nevertheless, this tendency has thus far not been explored fully in Polish legal writings.² Therefore, the reviewed book by Renata Kopczyk must be welcomed with utmost satisfaction.

The book under review is entitled “Non-discrimination within sport in EU law” and is based on the author’s Ph.D. thesis at the Faculty of Law, Administration and Economy of Wrocław University. It consists of an introduction, four chapters, which will be summarized in turn, and a conclusion. The aim of the reviewed book is, according to the author, to characterize the European Union’s legal provisions based on the principle of non-discrimination in sport and to answer whether it is feasible to apply this general principle to this special kind of human activity (p. 20).

¹ E.g. L. Allison (ed.), *The Global Politics for Sport*, London–New York 2005; J. Anderson, *Modern Sports Law*, Hart Publishing 2010; R. Blanpain (ed.), *The Future of Sports Law in the European Union: beyond the EU Reform Treaty and the White Paper*, Kluwer Law International 2008; L. Donnellan, *Sport and the Law*, Blackhall Publishing 2010; M. James, *Sports Law*, Palgrave Macmillan 2010; R.B. Martins, *Freedom of movement in relation to sport*, ‘The International Sports Law Journal’ 2007, no 1–2; R. Parrish, *The Birth of European Union Sports Law*, ‘Entertainment Law’ 2003, vol. 2, no 2, pp. 20–39.

² There are some publications but no other comprehensive monograph in that field.

In order to do so, the author deals in chapter one with the definitions of sport and the European sports model.

First of all, she introduces the reader to the idea of the Olympic movement and then refers to various international documents searching for a modern sports explanation. The author reminds us that, since the revival of the Olympic Games by baron Pierre de Coubertin in 1896, sport itself has undergone sweeping changes and actually appears to be a complicated and multivariate phenomenon that entails specific legal problems. The Olympic Charter constitutes the basic constitutional legal act which enacts the activity of the International Olympic Committee (IOC) and affiliates with it the National Olympic Committees (NOC). This document is approved by the International Olympic Committee and constitutes a set of fundamental principles of Olympism. It regulates the organization and the activities and functioning of the Olympic Movement. It also establishes the rights and responsibilities of its members. Moreover, this chapter also discusses the status of various participants in sporting activities. In particular, the role of players, agents, coaches and instructors is described, with emphasis being placed on players. The author concludes by saying that sport occupies “a unique sphere and therefore requires special legal treatment”. The principle of non-discrimination, according to the author, well illustrates the above thesis (p. 72).

The second chapter concentrates on the European Union’s competences to act within the field of sport. The author presents the issue of the division of powers between the Union and its member states. She describes the various types of competences and compares sport to the various internal market freedoms. The final part of this chapter examines the relationship between sport and politics, such as public health. This allows the author to conclude that sport remains under the strong influence of both law and other politics (p. 107 and 108).

In Chapter III, which is entitled “The scope of non-discrimination principle in EU sport”, the author specifies the role and place of this principle in the field of sport. In order to do so, first the general principle of equal treatment, the principle of proportionality and different types of discrimination, such as direct and indirect discrimination, are presented. Subsequently, the author proceeds to examine acceptable restrictions on the freedoms within the internal market and the possible justifications to exemptions on the ground of the specific nature of sport activities. This

chapter is summarized by a conclusion that the only acceptable limitations to the treaty freedoms are those “appropriate, essential and proportionate for achieving the aims of the sport organization” (p. 141).

Finally, chapter IV deals with the case-law of the Court of Justice of the EU and various EU documents which tackle the problem of non-discrimination in sport. The author returns to the problematic question of agreeing a definition of sport and its characteristics. To support her thesis, the author conducts an analysis of certain, both national and international, sport associations’ regulations, in the context of the judgments of the Court of Justice in given cases. Particular attention is paid to the principle of non-discrimination on the basis of nationality. The conclusion to this chapter seems to be that “the special features of sport require special treatment” (p. 171).

In her final conclusion, the author takes the position that, given the very nature of sport, the non-discrimination rules cannot be applied to it directly. Nevertheless, the autonomy of sporting organizations must not lead to them falling entirely outside the scope of EU control of the individual rights guaranteed by the Treaties (p. 175).

The reviewed book undoubtedly constitutes a valuable and novel publication, not only on the Polish publishing market. Despite a generally positive appraisal, it is nonetheless possible to articulate a few critical and some polemical remarks.

First of all, there is no legal definition of “sport” in EU law and its explanation and interpretation leads to a high degree of confusion. The author undertakes this effort in the first chapter of the book (pp. 27–53) before returning to a discussion of the specificity of sport and the European sporting model (p. 145). Whilst the author’s reference to international law, namely the European Sport Charter, is admittedly correct (p. 29), her proposal to divide sport into categories (p. 32) does not lead, in this author’s opinion, to convincing conclusions. In particular, the division between *sport for all* and *amateur sport* remains unclear (p. 46 and 49).

Secondly, the author’s thesis that “the principles of free movement apply only to workers” (p. 54) is highly controversial in light of the most recent case-law of the Court of Justice regarding European citizenship. Whilst the most important judgments regarding sport law are well chosen

and presented³, there remains a certain methodological chaos throughout the book. The same cases are referred to in several places in the book as if they were being mentioned for the first time (e.g. *Walrave* p. 31, 39, 41, 55) and the same applies to amendments of the Lisbon Treaty in the area of the EU's competences, which are likewise repeated on several occasions.

More controversial, however, is the idea to return to the idea of the "specificity" of sport in the book's final chapter. The author decided to create a separate fourth chapter of her book to present the principle of non-discrimination in the jurisprudence of the Court of Justice to prove this unique status of sport, whereas this had actually already been done on the basis of the same cases in previous chapters.

Finally, the part of the second chapter which deals with EU competences seems to me to be too broad as regards general aspects surrounding the division of powers.

Nonetheless, the reviewed book deserves a high recommendation. Renata Kopczyk chose a practical objective and pursued it with appropriate method. Her dogmatic method was correctly applied and the presumed results achieved. Academic writings and cases are well used, which alone will ensure that the work becomes an indispensable source for references. The reviewed book is a useful and substantial contribution to the debate on sport law and should be highly recommended not only to the specialists in that field but to law students and academics as well. In summary, it is not surprising that the Ph.D. thesis upon which this work is based was one which was passed with Distinction.

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³ E.g. cases: *Walrave and Koch*, *Dona*, *Bosman*, *Bernard*, *Deliege*, *Lethonen*, *Simutenkov*, *Piau*.