INTRODUCTION

Until recently sports and law were considered two separate worlds. Sports were an aspect of society in which law, rights and justice could not prosper. The principle of "Laisser faire, laisser passer"\(^1\) was maintained: all those involved in sports, were capable of organizing themselves, thus establishing not only the rules of the game, but also the rules of justice.

The average sportsman/woman had (almost) no rights, and the threshold to Justice was high. Going to the civil courts was — and this is not very long ago — regarded as a major offense and the penalty could be a lifelong ban from the league.

It is a classical principle of law that no one can be excluded, against his will, from going to the civil courts, although on the other hand there is ample space to settle issues voluntarily on a strict internal base, because of the specific character of sports. It is to be preferred to settle specific problems within the internal structures of a league or federation. The judge must not be asked time and again to become the referee. This appeal for some space may, however, not evolve into a hostility of sports towards justice.

Common principles do not stop when entering the stadium and the autonomy of sports and its leaders who would like to maintain this special status, can not result in pushing rules of justice aside. Sports are a part of society, and thus the rules of justice apply.

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\(^{1}\) J.C. GERMAIN, LES SPORTIFS ET LE DROIT.

(Luik: Faculté de droit de Liege, 1975)
The European Treaty on Human Rights ensured the right to take one's case to court. Belgian Law made the Hof van Cassatie decide that "the right of anyone to defend himself in court...is of importance to the public order."²

Even in 1986 Paul Lemmens wrote that "It does not happen very often that a sportsman makes an appeal to the court and this presumably, at least for some part, can be explained by the circumstances that the prohibition to go to court still works, foremost strengthened by the sanctions of trespassing this prohibition."³

This is no longer at stake. The nineties are characterized by the intervention of justice into sports, although no engaging arrangements have yet been established.

The cases of Bayer, De Bie, Farcienes, Beerschot, McCloud, Lozano, Criqueillion, Bottse, and later on Okke te Velde and Cooper ... succeeded one another at a high rate and had ample media coverage.

All aspects of sports came suddenly, in a chronological very short time, into the spotlights: transfers, disciplinary sanctions, financial problems, compensations, liability, discrimination and the declaration of validity of results.⁴

The findings of the Court in cases concerning sports do not leave the world of sports unfractured, although an appeal to the Court has helped many. It is my opinion that judges may not have a final saying in everything, sports may not become juridical liquidated.

Clashes of interests ask for a structural solution, in which options have to be considered and choices have to be made. In this complexity everyone lives within his own reality, so a dialogue is needed. Sportsleaders have waited way to long before responding to the invitation. This was given at an earlier stage and a kind of Estates General of Sports seemed and seem inevitable. A sound juridical framework can surplus the value of sports. Why can a correct juridical intervention, this time, not be regarded as something positive?

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³ P. Lemmes, o.c., 88
⁴ See also Den Bosch