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Forum on Sport and Human Rights:
Freedom of expression

Wednesday, 30 November 2022

Hybrid format:
Strasbourg, Palais de l'Europe

Report

Introduction

The topic of human rights in and through sport has been the cornerstone of the last three Council of Europe Conferences of Ministers responsible for Sport, organised by the Enlarged Partial Agreement on Sport (EPAS) in 2018, 2020-2021 and 2022. In particular, the 16th Conference of Ministers responsible for Sport (2021) adopted a Resolution on human rights in sport, inviting EPAS to:

- make the protection of human rights a priority, stimulate and regularly review and report progress in this field;
- hold regular exchanges with relevant Council of Europe intergovernmental and monitoring bodies to share information on human rights in sport.

The 2022 edition of the Forum on Sport and Human Rights focused specifically on issues pertaining to freedom of expression, as set forth in Article 10 of the [European Convention on Human Rights](#). The Forum encompassed four thematic sessions followed by breakout workshops, giving participants an opportunity to explore the issues discussed in further detail. The thematic areas were as follows:

- freedom of expression of athletes;
- freedom of the press;
- gender equality and the media;
- combating hate speech in sport.

The following report aims to provide an overview of the discussions as they were held within the context of the Forum among governmental entities, representatives from NGOs, athletes, academics, journalists and other experts, with almost 120 attendees in total (including virtual), to address recurrent challenges and to share ideas and solutions for moving forward.

Theme 1: Freedom of expression of athletes¹

Freedom of expression is a universal and inalienable human right. As enshrined in Article 10.1 of the [European Convention on Human Rights](#) (ECHR), “*Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.*” However, the right to freedom of expression is not absolute and can be restricted; there are three conditions for its lawful interference: legal basis, legitimate aim, as well as proportionality and necessity in a democratic society. Despite the private nature of sports federations and of the Court of Arbitration for Sport (CAS), Article 10 is applicable to the field of sport within its usual standards and limits, and it unequivocally includes athletes and players.

One example of the lawful restriction of the freedom of expression in sport is the case of [Šimunić v Croatia](#) (no. 20373/17, 22 January 2019), whereupon the athlete convicted by the Croatian authorities of a minor criminal offence for addressing messages expressing or inciting hatred claimed before the European Court of Human Rights (ECtHR) that Article 10 of the ECHR was being violated. Šimunić’s complaint was deemed inadmissible, as the Croatian authorities struck a fair balance between the right to freedom of expression and society’s interest in promoting tolerance and mutual respect at sports events as well as combating discrimination in sport. In addition, it was concluded that as a famous football player and a role model for many, the applicant should have been aware of the possible negative impact of his behaviour and should have abstained from it.

While a particularly high level of protection is granted to political speech and matters of public interest, as one of the general principles elaborated by the ECtHR, it conflicts with the practice of “political neutrality” in the sports movement. Specific conditions limiting athletes’ right to freedom of expression in sport are provided under Rule 50.2 of the [Olympic Charter](#) and the [Rule 50 Guidelines](#) developed by the IOC Athletes Commission: “*No kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas*”, prohibiting the expression of any political messages or gestures during official ceremonies, competitions, on the field of play and in the Olympic Village. **The principle of the political neutrality of the sports movement reveals the tension between the sporting rules and universal rights, further highlighted by the stated values of organised sport, such as respect for human rights, equality and non-discrimination. Thus, guidance from the sports movement, as well as from bodies like the Council of Europe, on what constitutes political neutrality in sport and how it should be interpreted in the current situation is needed.**

From a young age, athletes are confronted with a lot of demands and expectations from clubs, leagues, competition organisers, the public, the media and other stakeholders. They are pressured to maintain a certain image to be appealing to sponsors and national governing bodies in order to secure funding and performance opportunities in an environment where medals and success, often at any cost, are highly prized. In this context, athletes are either expected to keep quiet and focus on sport or asked to be role models when convenient to then face backlash when they speak out on uncomfortable topics. Power imbalance in sport makes it easy to block athletes from opportunities (such as promotion or sponsorship) and justify it by sporting reasons while making it difficult to prove that athletes are facing

¹ For the full titles of each speaker and complete programme see Appendix I.

consequences for exercising their right to freedom of expression. In other cases, athletes may face disciplinary sanctions, based on unclear rules they have not been involved in shaping. While athletes are rarely invited to contribute to executive decisions that concern them, such as participation in the tournament or the location of the event, they are put in a difficult position to speak out on certain topics, potentially facing repercussions. **Therefore, it is also crucial to protect athletes' right not to comment on any issues publicly.**

There are also athletes eager to contribute to the debates on the matters that are close to them, including both the human rights issues connected to the competitions they participate in and broader societal issues such as education, environmental causes and whistleblowing. Athletes globally are already using their right to freedom of expression and demanding change in the sports industry. Athletes are experts through lived experience on a variety of topics, including safety, performance, racism, sponsorships, sexual violence among many others; they should not be deterred from using their platforms to peacefully protest about issues they care for. Athletes could be instrumental in setting up and joining commissions and (youth) advisory boards, using their collective strength to hold sport and national governing bodies to account, addressing public figures, and using the media (including social media) to reveal the injustices and abuses they are facing. **Athletes' rights are human rights, which should not be withdrawn from them in the name of neutrality.**

Access to fair justice is another right associated with freedom of expression. As enshrined in Article 6.1 of the ECHR, "*In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law*". Such procedural guarantees are crucial in the field of sport due to the particular – compulsory – arbitration proceedings, and Article 6.1 has been applied by the ECtHR in several sport-related cases. Beyond that, the right to a fair trial as well as the freedom of expression more generally pertain to the governance of sport, specifically when it comes to rules and regulations affecting individuals not necessarily involved in decision-making on these rules.

To address the challenges pertaining to freedom of expression in sport, it is necessary to take a broader look at the governance of sport. Athletes should have an opportunity to participate in existing governance structures and ultimately in the decisions affecting them directly. In addition, social partner rights and collective bargaining rights should be developed in consultation with athletes and other groups and integrated into the governance system, and the work of unions should be recognised. While restrictions to freedom of expression do exist in the sporting context, they should be collectively agreed upon with athletes, governing bodies and competition organisers. Co-operation among sporting stakeholders is crucial for ensuring that athletes have a safe space to be activists in the framework of human rights.

Following the breakout workshop, a number of suggestions on addressing the exercise of the freedom of expression of athletes by the Council of Europe were put forward:

- Establish real partnerships with athletes or governing bodies, potentially by means of developing recommendations or reviewing policy interventions;
- Encourage athletes to uphold the values attached to sport, for example by adopting a declaration on human rights in sport as well as recognising the importance and the context of the issues associated with athletes' freedom of expression;
- Liaise with commissions for athletes, either independent or sport-specific ones, to promote athletes' rights to contribute to the discussions, if so inclined;
- Promote athletes' freedom to organise and collectively bargain, whether through a specific clause in a contract or a tacit understanding from the national governing bodies;
- Support the set-up of a sports ombudsperson role, or an independent body, dealing with athletes' freedom of expression and reviewing the applicability of the laws related to freedom of expression in sport;
- Offer guidance and further recommendations on the criteria of political neutrality, which is one of the key issues pertaining to freedom of expression in sport;
- Support athletes by offering them a platform to speak out.

Theme 2: Freedom of the press

Freedom of the press is another important dimension of the right to freedom of expression, particularly within the human rights debates in sport. The Council of Europe's revised [European Sports Charter](#) acknowledges the importance of media as a stakeholder and the role of whistleblowing and the free media in maintaining the respect of human rights and sports integrity.

As the news media have a responsibility to follow the debates that occur within society (and the sports sector) and to share information in the public interest, new consumers are placing greater expectations on the news media to stay relevant and deliver news as instantaneously as possible across all available platforms. Whilst having a symbiotic relationship with sport, the news media are regularly confronted with challenges pertaining to access to venues, permissions to record and share material, or to share it in a certain way, restrictions on the forms of news gathering (e.g. video-journalism) to be carried out at press events etc., leading to delays of content production and sharing. Furthermore, in recent years major sporting organisations have sought to define when, how much and on what platforms news could be shared on the news consumption market, affecting news reporting and ultimately freedom of the press in the sports sector. **All stakeholders have a collective responsibility to recognise the roles of sport and the news media in society and to ensure the continued opportunity for debate.**

Contractual freedom granting sporting rights constitutes another aspect of freedom of the press. The relationships between sport and the traditional press are generally well-defined, regulated contractually based on the "house" rights due to the lack of a codified set of sports organisers rights, and the main value of these rights is defined by their enforceability. However, unlike in the past when traditional media used to be the main interface with the consumer, there is now an **abundance of individual channels with multi-million follower bases** that are unregulated and not subjected to the contractual relationship binding the traditional media, leading to the rise of misinformation, hate speech and racial abuse online, which impacts athletes. **This poses the questions of free speech regulation, protection of those at risk from the effects of hate speech online, and drawing the line between free speech and misinformation.**

In addition, **investigative journalism**, which alongside law enforcement plays a crucial role in exposing corruption in the sports industry, significantly contributes to freedom of expression. However, sports journalists do not always fully use their leverage to unveil critical issues in sport (such as corruption, labour rights, gambling etc.). **Obstacles to investigative journalism include the conflicts of interest for sports organisations and advertisers, tensions between journalists and publishers in relation to news selection, and an idea of "sports journalism" that generally does not encompass investigative reporting.** Furthermore, **sports washing presents a major barrier to investigative journalism in sport.** Sports washing involves individuals, groups, corporations or states using sports – e.g. purchasing a sports club or hosting a tournament – to improve their reputation. While heavily relying on positive media coverage, sports washing undermines press freedom by pushing back against critical media and targeting journalists attempting to report on such initiatives. The lack of support and protection of journalists in their investigation process by larger media organisations constitutes another challenge.

Conversely, other factors that may promote investigative journalism in sports need to be brought to attention. These include, for instance, an idea of “sports journalism” that embraces the broader framework of sport-related news, as opposed to simple reporting of current news and results, as well as the need for the public to be made aware of the topics that are not typically presented on TV and social media. Investigative journalism has a forward-looking approach that the day-to-day coverage of news and sports cannot always afford. Solidarity is another major incentive for investigative journalists – the knowledge that they could rely upon the support of civil society and media organisations if something goes wrong could make a difference between them publishing an investigation or not, or corruption being exposed or not. **Supporting independent media and defending media freedom is essential to the preservation of the integrity of sport.**

During the discussions, the experts highlighted the following challenges to the freedom of the press in sport:

- Threats to journalists, both physical and especially legal, leading to self-censorship and to a considerable amount of information not being published, or published in a certain way, for fear of retaliation;
- The imbalance of the media rights holders in the field of sport;
- Limited or no access to first-hand information from athletes and other sportspeople for regular investigative journalists due to the former’s lack of time and the clubs communicating through their own news/media channels. It is indicated to be detrimental to the pluralism of the media and the voices being heard, as well as to the journalists’ means of work.

The suggested means of redress by the Council of Europe include:

- Establishing a forum for discussion and high-level dialogue between different stakeholders concerning fair independent journalism in sport, potentially linked to existing Council of Europe entities (e.g. Platform for the Protection of Journalism and Safety of Journalists) or other standard-setting bodies;
- Facilitating access to athletes and other sources of information by journalists;
- Provision of funding and grants for investigative journalism;
- Addressing strategic lawsuits against public participation (SLAPPs) in sports reporting, potentially in collaboration with the Council of Europe Committee of Experts on Strategic Lawsuits against Public Participation (MSI-SLP).

Theme 3: Gender equality and the media

As evidenced by the research conducted in the framework of the joint European Union/Council of Europe [“All In”](#) project, media representation is one of the means of assessing gender equality in sport. **Currently, the representation of women’s sport in all forms of media is imbalanced compared to men’s sport**, including a lack of coverage, a focus on personal matters and bodily functions rather than the sporting achievements of female athletes, and other negative stereotyping in reporting.

Furthermore, **the media portrayal of women with variations in sex characteristics (intersex) is even more harmful**. Female bodies which do not adhere to the traditional ideas of what it is to be a “biological woman” undergo major scrutiny by the public and the press, regardless of their sport performance. As a result of the resilience shown by some athletes and the relentless decade-long work of advocates, scholars, legal practitioners among others, the media has gradually shifted their critical focus from athletes to the organisations implementing discriminatory policies. However, these efforts do not negate the ongoing sensationalist headlines with insubstantial content and the need for a higher priority and greater coverage of athletes’ well-being in the media.

There are certain tendencies of gender representation in sports media, as illustrated by the case of New Zealand, which over the last several years held a large number of events and opportunities across the sports sector (in commercial funding, sponsorship, coaching, media, academia etc.), facilitating the discussions and the advancement on gender equality in sport. One such model of media portrayal underlines gender differences, tending to privilege men’s sport and depict women’s sport as second-class and less interesting; representation of this nature is characterised by a lower broadcast production and limited coverage in mainstream news media, ambivalent media portrayal, gender marking and comparisons to men’s sport, infantilisation and sexualisation of female athletes, and emphasis on heterosexual and feminine women as well as on non-sport-related aspects of female athletes (e.g. pregnancies or their marital status) over their sporting achievements.

Within the framework highlighting gender similarities, women are presented in a masculine way: they are depicted as legitimate athletes demonstrating the same level of physicality, emotional control and family sporting heritage as men, and they are regarded by the media to be more relevant as national citizens rather than female athletes when they win for the nation, often disregarding women from other countries and expressing the nationalistic concept of “us versus them”. In response to this, **the rise of social media has enabled women in sports to create spaces to use their own voices and discuss their own experiences, building audiences that then attract mainstream media interest**. It also **facilitated the growing understanding that physical strength and femininity are not opposites and can be different aspects of womanhood**.

The positive forms of gender representation emerging in New Zealand that could serve as an example for other countries reflect the changing ideals of sporting femininity: queer relationships are normalised and portrayed in the same way as heterosexual relationships, and pregnancy is treated as a normal and natural aspect of an athletic career, moving away from the notion of athletes as “super-mums”. This model also showcases the increasing visibility of gender equality narratives and the rapid growth of media coverage of women’s sport nationally, following the governments’ efforts in prioritising women’s sport in funding and the annual media coverage survey shared publicly.

In order to advance on the representation in sports media, sports organisations should set gender as an explicit criteria for decision-making and adopt the following measures: optimise the scheduling and locations of events to facilitate media's easy access to both women's and men's matches; equalise the number of teams to raise the visibility of women's sport; ensure broadcast coverage for women's teams by exercising their power (e.g. not sign a broadcast contract unless an equivalent women's competition is also included); review gender representation in one's own media; make it easy to follow female athletes via apps; mobilise athletes to promote events (e.g. offer financial incentives to female players to promote each game); review equity rights across the organisation concerning employment, pay and travel conditions, uniform style, replacement policies, number of coaches, leadership positions, access to medical treatment, changing rooms etc.

Following the breakout workshop, the experts concluded that:

- While the role played by sportswomen is evolving and many positive trends are emerging in the sporting community, there is much work to be done on representation of women in the media, and time is needed for the change to occur and for gender stereotypes to dissipate;
- Despite a strong will to ensure that positive changes in the sports sector are long-lasting and sustainable, there is a purported lack of means, opportunities and tools to do so;
- There are linguistic issues, such as gender marking, in the media coverage across different countries that should be addressed;
- Gender equality in sports media should be promoted at school level to encourage women from a young age to embrace sports journalism as a possible career path;
- Women should gain more presence and responsibilities on news editorial boards;
- Intersectionality in sports media representation is crucial;
- It should be considered and respected that not all female athletes wish to be role models, and cultural aspects should be taken into account;
- The media portrayal of sportswomen is changing slowly: female athletes speaking out about their feelings and experiences could facilitate greater trust in the media and stronger connections with the audience, potentially contributing to the erosion of gender barriers;
- The All In Plus project with its media sensitisation component can be seen as a means to share best practice with media professionals both in terms of on-screen representation and representation in the workplace for sports media professionals.

Theme 4: Combating hate speech in sport

Hate speech in sport constitutes a serious human rights concern. As highlighted in Article 10 of the ECHR, there are limits to and responsibilities in exercising the right to freedom of expression, negating the legitimacy of hate speech. Furthermore, hate speech concerns other articles of the ECHR, including Article 8 on the right to respect for private and family life and Article 14 on the prohibition of discrimination. In this regard, member states must ensure that those who are targeted by hate speech that is not protected by Article 10 have a means of resource and can seek redress, protection and restoration of their rights without discrimination.

Based on the findings of the Council of Europe's European Commission against Racism and Intolerance (ECRI), which reviews member states' national policies on anti-discrimination, hate speech is increasing, particularly in the online environment. Hate speech is often invisible and has a long-lasting detrimental effect on individuals and groups that are targeted, especially those in vulnerable situation (e.g. migrants, national minorities, LGBTQI+ persons etc.) and persons in certain professions, such as female journalists or sportswomen. These groups are facing a three-fold risk: not only are they subjected to more hate speech but also to more severe hate speech, as well as being confronted by greater obstacles in obtaining justice. **Currently, there is little understanding of the magnitude of hate speech in sport at international as well as local levels (e.g. in sports clubs) across all ages, levels of participation and social groups.**

Media, and social networks in particular, constitute a major factor in the propagation of hate speech. However these platforms can also provide an opportunity for athletes, coaches and other sports professionals to use their voices and raise discussions about important social and sporting themes, such as human rights and the fight against hate speech in sport. In this way, media and social media can also have a positive effect on the perspectives and narratives about different groups. However, as many athletes have large platforms with huge numbers of followers, the messages they transmit can have significant negative impact if they are unaware, untrained or ill-advised. This is further exacerbated by the nature of the online dimension, where hate speech spreads much faster and wider than in the offline context and content can be shared across different platforms, stored and revived at any moment in the future. In addition, hate speech against athletes can be perpetuated through their social networks due to the accessibility of such communication channels. In some cases, gambling and sport betting may play a role in athletes being targeted.

In 2022, the Committee of Ministers of the Council of Europe adopted a Recommendation on combating hate speech ([CM/Rec\(2022\)16](#)), a comprehensive document reflecting a multi-stakeholder approach, which provides a definition of hate speech, proposes legal and non-legal measures, and covers administrative and civil legal framework in addition to criminal law, potentially useful to the sports sector as a tool. The most important measures addressing hate speech in sport, based on the provisions of the Recommendation, would be:

- 1) Monitoring of hate speech in sport through systematic data (including disaggregated) collection and analysis to gain insights into the number of incidents, characteristics of perpetrators and those targeted, grounds of hate speech etc. in order to steer action.
- 2) Prevention through education on the rights and the means of reporting and redress of hate speech; awareness-raising on the magnitude of hate speech in sport, the risks it

poses to individuals and groups and the human rights concerns; and development of counter- and alternative narratives that highlight equality and inclusion.

- 3) Self-regulation through the adoption, implementation and promotion of codes of conduct (alongside sanctioning mechanisms) by federations, clubs, supporters and other sporting stakeholders.
- 4) Provision of support to those targeted by hate speech and promotion of a safe and inclusive environment using counter-speech; it is crucial to speak with targeted groups and using the language important to them to avoid re-using stereotypes and re-victimisation.
- 5) Engagement of stakeholders at different levels in the discussion between various groups, in particular those targeted by hate speech (e.g. athletes, referees etc.), and internal network on co-operation in the common fight against hate speech in sport.

Following the discussion with the national co-ordinators of the Council of Europe [“Combating Hate Speech in Sport”](#) project and other experts, it was concluded that:

- A concrete definition of “hate speech” is needed, both in administrative and criminal fields;
- Discussion on the line between freedom of expression and hate speech should be raised;
- In the fight against hate speech, penalising offenders is not enough. Education and sensitisation are crucial and should be given more focus;
- Hate speech online, in particular on social media, should be included in the discussion regarding hate speech in sport;
- There is the potential for leagues and competition organisers to establish tools to moderate online content and report illegal/hateful content to the police;
- Hate speech against referees, especially at recreational/club level and against female referees, should be addressed;
- Hate speech and bullying at school levels should be included in the discussion on hate speech in sport;
- The Council of Europe is carrying out a mapping to identify and address the knowledge gaps pertaining to hate speech in sport, potentially addressed by means of recommendations.

Appendix I – Programme

- 9:00 am – 9:15 am **Opening**
- Jeroen SCHOKKENBROEK
Director, Directorate of Anti-Discrimination, Council of Europe
- Taavo LUMISTE
Chair of the Steering Committee on Media and Information Society (CDMSI), Council of Europe
- 9:15 am – 10:00 am **Session 1: Freedom of expression of athletes**
- Moderator: Irena GUIDIKOVA
Head of the Children’s Rights and Sport Values Department,
Council of Europe
- Alexander BIELEFELD
Director Global Policy & Strategic Relations Men’s Football,
International Federation of Professional Footballers' Associations
(FIFPro)
- Mhairi Carmen MACLENNAN
Athlete, Co-Founder and Director at Kyniska Advocacy
- Daniel RIETIKER
Senior Lawyer, European Court of Human Rights
- Paulina TOMCZYK
General Secretary, European Elite Athletes Association
- 10:00 am – 10:45 am **Session 2: Freedom of the press**
- Moderator: Sophie KWASNY
Head of the Sport Division, EPAS Executive Secretary,
Council of Europe
- Rosarita CUCCOLI
Arènes research unit, University of Rennes 1
Member of Scientific Committee, Sport and Citizenship
- Jordan HIGGINS
Press and policy officer,
European Centre for Press and Media Freedom (ECPMF)
- Mark LICHTENHEIN
Chairman, Sports Rights Owners Coalition (SROC)
- Andrew MOGER
Chief Executive Officer, News Media Coalition

10:45 am – 11:00 am Break

11:00 am – 11:45 am **Session 3: Gender equality and the media**

Moderator: Francine HETHERINGTON RAVENEY
EPAS Deputy Executive Secretary, Council of Europe

Aurélie BRESSON
President, Alice Milliat Foundation

Toni BRUCE
Professor at Faculty of Education and Social Work, University of
Auckland, New Zealand

Payoshni MITRA
Chief Executive Officer
Global Observatory for Gender Equality & Sport

11:45 am – 12:30 pm **Session 4: Combating hate speech in sport**

Moderator: Gabriela MATEI
Senior Project Officer, Combating Hate Speech in Sport project,
Council of Europe

Edouard CHOQUET
Professional basketball player

Menno ETTEMA
Programme Manager, No Hate Speech & Cooperation Unit,
Directorate of Anti-Discrimination, Council of Europe

Nagin RAVAND
Football Coach, Denmark

12:30 pm – 2:00 pm Lunch break

Breakout interactive workshops

2:00 pm – 2:45 pm Workshop 1 – Meeting Room 8
Freedom of expression of athletes

Moderator: Irena GUIDIKOVA
Head of the Children’s Rights and Sport Values Department,
Council of Europe

Workshop 3 – Meeting Room 3

Gender equality and the media

Moderator: Francine HETHERINGTON RAVENEY
EPAS Deputy Executive Secretary, Council of Europe

2:45 pm – 3:00 pm Break

3:00 pm – 3:45 pm Workshop 2 – Meeting Room 8
Freedom of the press

Moderator: Sophie KWASNY
Head of the Sport Division, EPAS Executive Secretary,
Council of Europe

Workshop 4 – Meeting Room 3
Combating hate speech

Moderator: Gabriela MATEI
Senior Project Officer, Combating Hate Speech in Sport project,
Council of Europe

3:45 pm – 4:00 pm Break

4:00 pm – 4:40 pm **Workshop presentations and key findings**

4:40 pm – 5:00 pm **Closing words**

Alexandre HUSTING
Chair of the Governing Board, EPAS

Sophie KWASNY
Head of the Sport Division, EPAS Executive Secretary,
Council of Europe