

# Challenges of sports events organisers in the face of online piracy

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# The European Audiovisual Observatory Mapping Report



<https://bit.ly/3E1vcpE>

<https://www.obs.coe.int/>



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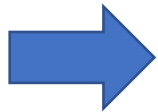


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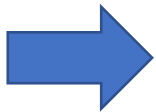


# Main purposes

- **Project launched upon request of the European Commission**



To track national remedies against online piracy of sports content



Special focus on availability and functioning of blocking and take-down injunctions, including dynamic injunctions in relation to live sports audiovisual content

# EU policy background



# Methodology

1.



## National experts

an expert for each of the EU-27 + UK

2.



## A questionnaire

filled in by national experts

3.



## National country reports

cross-checked by competent national institutions

4.



## Comparative analysis

with the collaboration of an international expert selected by the EAO

# Structure and content

- **Comparative legal analysis**
  - in 28 national legal frameworks and related case law
- **5 case studies by thematic fields**
  - Dynamic blocking injunctions
  - Live blocking injunctions
  - Role of police forces
  - Administrative and voluntary cooperation enforcement schemes
  - Technology-based enforcement systems
- **28 comprehensive country reports**
  - based on information collected from national experts

# Key findings



@Alison Hindhaugh

# Main questions raised..

Who is entitled to  
take action?

Which remedies  
are available?

Which procedure  
apply?

Notice and Take  
Down procedures?

Special  
enforcement  
authority?

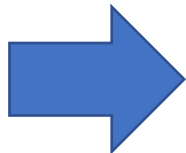
Codes of conduct  
and MoU...?



**Who is entitled to take legal action  
against online piracy of sports content?**

# Sports events and IP rights

- **Sports events as such ARE NOT subject to copyright protection**  
*[...] cannot be regarded as intellectual creations classifiable as works [...] because they lack originality (CJEU, Football Association Premier League (FAPL) v. QC Leisure (C-403/08))*
- **... but audiovisual recordings and broadcasts ARE protected:**
  - **Neighbouring rights (always):** producer (first fixation of original and copies) / broadcaster (signals)
  - **Copyright (sometimes):** upon creativity criteria



**Producers and broadcasters (or licensees) are entitled to take legal action under Copyright Law**

# Absence of definition of key concepts

- **‘Sports events organisers’:**
  - Statutory definition only in a few countries (Italy)
  - Conditions of exercise regulated in some countries (Bulgaria, France, Czech Republic..) or specific persons authorised (Croatia, Hungary..)
- **‘Sports events’ :**
  - No statutory definition in most countries (except in Italy or Latvia)
  - Only mentioned in a few countries (Czech Republic, France, Spain)

# Legal protection of sports event organisers



**'House' (domiciliary) rights**

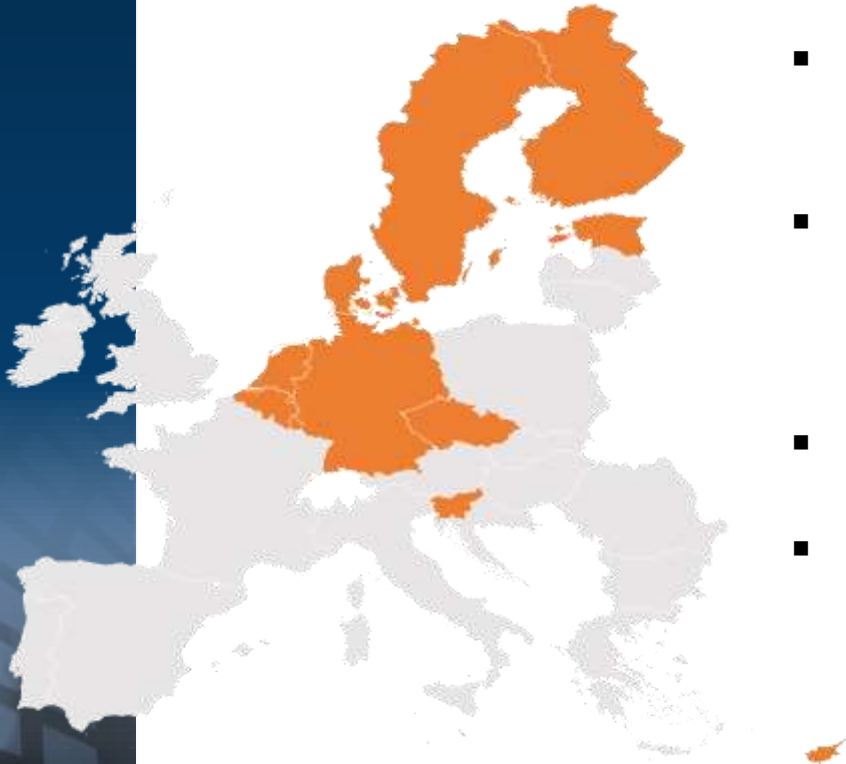


**Contractual practices**



**Specific forms of protection**

# 'House' (domiciliary) rights



- **Protection based on contractual relationship** linked to the premise
- **Control of access to the venue** (e.g. prohibit illegal recording, authorise recording by broadcasters...)
- **Contractual right**, i.e. NOT copyright
- **Not opposable to third parties**

# Specific forms of protection

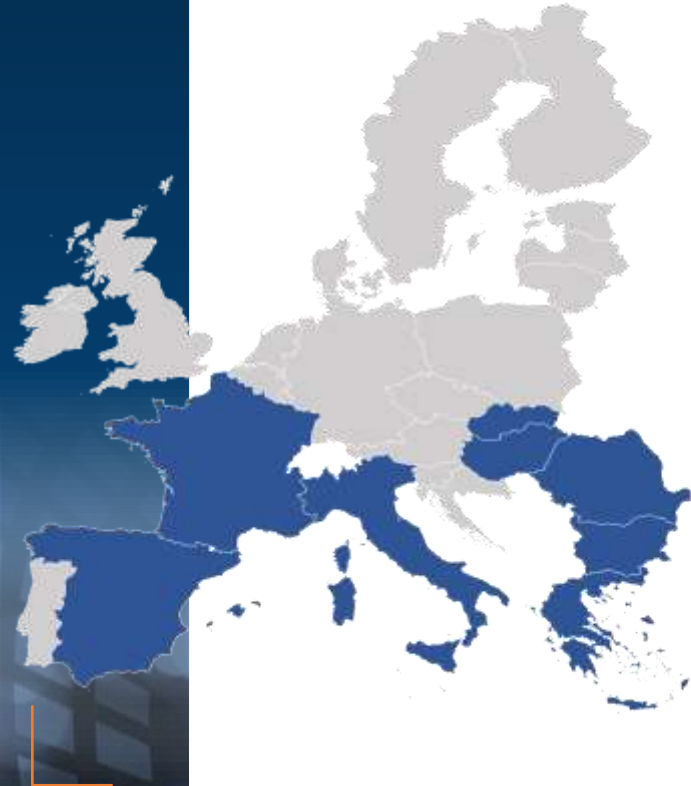
## CJEU, *Football Association Premier League (FAPL) v. QC Leisure* (C-403/08), October 2011

*“[S]porting events, as such, have a unique and, to that extent, original character which can transform them into subject-matter that is **worthy of protection comparable to the protection of works**, and that protection can be granted, where appropriate, by the various domestic legal orders.”*

and therefore..

*“[...] **it is permissible for Member State to protect sporting events where appropriate by virtue of protection of intellectual property rights**, by putting in place **specific national legislation**, or by recognizing, in compliance with European law, **protection conferred upon those events by agreements concluded between the persons having the right to make the audiovisual content of the events available to the public and the persons who wish to broadcast that content to the public of their choice.**”*

# Statutory rights and other legal protection



## Specific statutory rights:

- **France:** Exploitation rights re. broadcasting of event
- **Italy:** Joint ownership of AV rights to competition + event organisers (clubs) + neighbouring right to federation
- **Spain:** Mandatory assignment of AV rights to competition organiser in football competitions
- **Greece:** Exclusive right to sports event organiser / can be assigned by licence

## Other specific forms of protection

**Bulgaria, Hungary, Romania, Slovakia**

# France



## **Exploitation rights to sports federations and event's organiser**

- in the event/competition that they organise
- covering exclusively the broadcasting of sports events
- may be assigned to sports federations/clubs participating in the event or competition
- commercial conditions of assignment of exploitation rights defined by decree

*Art. L 333.1 French Code of Sport*



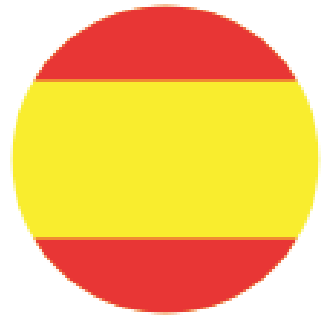
# Italy



- **Joint ownership of AV rights by competition and event's organisers** (i.e. federation or league)
  - the exercise of AV rights in individual events of the competition are owned by the competition's organizer
  - the AV production of the event is managed by the event's organiser or by a broadcaster through the assignment of the AV rights
- **New and specific related right to the organiser of the competition** (in addition to related right of producer)

*Art. 3 Legislative Decree No. 9*

# Spain



- **Rights of exploitation of AV content of football competition owned by the competition organizer**

*(Art. 2 Royal Decree No. 5/2015 on professional soccer competitions)*

- only First and Second Divisions of the football league and some specific tournaments
  - includes right to commercialise the AV rights to broadcasters on a collective basis
- 
- **Mandatory assignment of the AV rights**
    - to the joint marketing of AV rights to the organiser of the competition in case of official professional competition

# Greece



- **Exclusive economic rights on sports events to sports event organiser**
  - Right to authorise through remuneration broadcasting or retransmission of the event they host; recording and reproduction of sports events or their snapshots by any means; public distribution of said reproduction material
- **Sports organisers can licence these related rights through an exclusive or non-exclusive licence**

*Law No. 2725/1999 on Amateur and Professional Sport,  
as amended in 2020*

# Other forms of protection

- **Bulgaria:** Broadcasting rights to clubs and sports federation + centralized negotiation with broadcaster by federation
- **Hungary:** Recording and broadcasting rights to sports federation
- **Romania:** Exclusive rights in advertising and radio and TV transmission of the competition
- **Slovakia:** Right to consent to the use of audiovisual transmission and recording of competition



# Next steps?



**Combating online piracy of sports content:**

**Creating new rights or better enforcing existing ones?**

# More information in:



<https://bit.ly/3E1vcpE>

***Thank you for your attention***

**For any queries:  
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