

**EFFECTIVE JUDICIAL PROTECTION UNDER  
EU LAW AND SPORTING AUTONOMY:  
A COMMENTARY ON AG SPIELMANN'S OPINION  
IN JOINT CASES C-424/24 AND C-425/24 FIGC & CONI**

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*ABSTRACT: This article provides a critical commentary on Advocate General Spielmann's Opinion in joint cases C-424/24 and C-425/24 (FIGC & CONI), focusing on the relationship between sporting autonomy and the principle of effective judicial protection under EU law. In particular, it examines the compatibility of the Italian system of sports justice with Articles 19(1) TEU and 47 of the Charter of Fundamental Rights of the European Union, insofar as it excludes the power of ordinary courts to annul disciplinary sanctions imposed by sports bodies, limiting judicial review to claims for damages.*

*The analysis situates the Opinion within the evolving case-law of the Court of Justice, highlighting the shift from a predominantly competition- and free-movement-oriented approach to a more "quasi-constitutional" scrutiny centred on fundamental rights, judicial independence, and access to an effective remedy. The article also critically assesses the Advocate General's reasoning on competition law and free movement, identifying unresolved tensions and open questions that may prove decisive in the forthcoming judgment. More broadly, it argues that the Opinion confirms a progressive recalibration of sporting autonomy in light of EU constitutional standards.*

*Il contributo offre un commento critico alle Conclusioni dell'Avvocato Generale Spielmann nelle cause riunite C-424/24 e C-425/24 (FIGC & CONI), con particolare riguardo al rapporto tra autonomia sportiva e principio di tutela giurisdizionale effettiva nel diritto dell'Unione europea. L'analisi si concentra, in particolare, sulla compatibilità del sistema italiano di giustizia sportiva con gli articoli 19, par. 1, TUE e 47 della Carta dei diritti fondamentali dell'Unione europea, nella misura in cui esso esclude il potere dei giudici ordinari di annullare le sanzioni disciplinari irrogate dagli organi sportivi, limitando il sindacato giurisdizionale al solo risarcimento del danno.*

*Il commento inquadra le Conclusioni nel solco della più recente giurisprudenza della Corte di giustizia, evidenziando lo spostamento dell'interazione tra diritto dell'Unione*

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*e diritto sportivo da una dimensione prevalentemente privatistica, focalizzata sui profili della tutela della concorrenza e della libertà di circolazione a una prospettiva di tipo “quasi-costituzionale”, incentrata sui diritti fondamentali, sull’indipendenza degli organi giudicanti e sull’accesso a un rimedio giurisdizionale effettivo. Il contributo esamina inoltre criticamente le posizioni dell’Avvocato Generale in materia di concorrenza e libera circolazione, mettendo in luce le questioni ancora aperte che potrebbero assumere rilievo decisivo nella futura sentenza della Corte. Nel complesso, l’articolo sostiene che le Conclusioni confermano una progressiva ridefinizione dell’autonomia sportiva alla luce dei parametri costituzionali dell’ordinamento dell’Unione.*

**Keywords:** *Sports Justice – Sporting Autonomy – Independence – EU Fundamental Rights.*

*Giustizia Sportiva – Autonomia sportiva – Indipendenza – Diritti Fondamentali UE.*

**SUMMARY:** 1. Introduction – 2. The Case and the Questions Referred – 3. What Did the Advocate General Say? – 3.1 The questions referred are admissible – 3.2 Effective judicial protection cannot be limited to damages – 3.3 The 24-month inhibition does not breach competition rules (but with a caveat) – 3.4 The sanction restricts free movement but may be justified – 4. What Did the Advocate General Not Say? – 4.1 He did not conclude that the sanction at issue must be annulled – 4.2 He did not assess whether the disciplinary clause is too vague – 5. Conclusion

## 1. Introduction

On 18 December 2025, the Advocate General (“AG”) Spielmann delivered his opinion in joint cases C-424/24 & C-425/24 *FIGC & CONI*.<sup>1</sup> Out of the three preliminary questions referred to the Court of Justice of the European Union (“CJEU”) by the Italian administrative judge, the matter concerning the limits of judicial review by ordinary courts over disciplinary sanctions imposed within the system of sports justice, and the compatibility of such limits with the principle

<sup>1</sup> Opinion of the Advocate General Spielmann delivered on 18 December 2025 in joined cases C-424/24 & C-425/24, *ZD v. FIGC, CONI et al. and MI v. FIGC, CONI et al.*, available at <https://curia.europa.eu/juris/document/document.jsf?text=&docid=307269&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=7554534#Footnote11>. See. D. MAVROMATI, *Opinion of Advocate General Spielmann of 18 December 2025 – Effective Judicial Review & Annulment of Unlawful Sporting Sanctions*, 19 December 2024, available at <https://www.sportlegis.com/2025/12/19/opinion-of-advocate-general-spielmann-of-18-december-2025-effective-judicial-review-annulment-of-unlawful-sporting-sanctions>.

of effective judicial protection as enshrined in Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of EU (“Charter”), undoubtedly constitutes the most salient issue and the one most likely to reshape the relationship between the system of sports adjudication and the ordinary judicial system in Italy.

From a systematic standpoint, it is further noteworthy that Article 19(1) TEU is cited 13 times, whereas Article 47 of the Charter is cited 6 times, for a total of 19 references – practically equivalent to the combined number of references to Articles 45 (6 times), 101 (8 times), and 102 (7 times) TFEU. This provides additional confirmation that, following the *ISU*<sup>2</sup> judgment and, above all, the *Seraing*<sup>3</sup> ruling, the focus of the interaction between EU law and sports law appears to be gradually shifting from the private-law dimension – namely, the compatibility of sporting rules with the principles of free competition and free movement – to a more “quasi-constitutional” sphere, centred on compliance with the principles of effective judicial protection and the right to a fair trial.

## 2. *The Case and the Questions Referred*

ZD and MI are former senior officials of Juventus F.C. SpA (“Juventus”), an Italian professional football club. The case concerns disciplinary proceedings initiated by the Italian Football Federation (FIGC), a private-law association responsible for regulating football in Italy and affiliated with FIFA and UEFA. The Italian National Olympic Committee (“CONI”), a public-law body, oversees and coordinates Italian sports federations.

On 1 April 2022, the FIGC Federal Prosecutor’s Office brought disciplinary proceedings before the National Federal Court against Juventus and several of its directors, including ZD and MI. They were accused of breaching principles of “honesty and integrity”, enshrined in the FIGC code of Justice, by participating in a system of artificial capital gains exceeding EUR 60 million, allegedly created through player transfer transactions presented as independent sales but in reality, constituting swap transactions. The aim was allegedly to circumvent applicable accounting standards and inflate reported profits and assets for the 2020 and 2021 financial years.

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<sup>2</sup> Court of justice, Judgment of 21 December 2023, *International Skating Union v Commission*, Case C-124/21 P, ECLI:EU:C:2023:1012.

<sup>3</sup> Court of Justice, judgment of 1 August 2025, *Royal Football Club Seraing*, case C-600/23, ECLI:EU:C:2025:617. See S. BASTIANON, *From Lausanne to Luxembourg: the CJEU’s Seraing Judgment and the Boundaries of Sports Arbitration Under EU Law*, *Football Legal*, 5 August 2025, available at <https://www.football-legal.com/content/from-lausanne-to-luxembourg-the-cjeu-seraing-judgment-and-the-boundaries-of-sports-arbitration-under-eu-law>; D. MAVROMATI, *The Seraing v. FIFA Judgment of the CJEU: Essential Takeaways*, available at <https://www.sportlegis.com/2025/08/12/the-seraing-v-fifa-judgment-of-the-cjeu-essential-takeaways>; S. BASTIANON, M. COLUCCI, *Sports Arbitration and Effective Judicial Protection Under Eu Law: The Rfc Seraing Case*, RDES, Vol. XXI, 2025.

On 22 April 2022, the FIGC National Federal Court acquitted all defendants. This decision was upheld on 27 May 2022 by the FIGC Federal Court of Appeal.

In November 2022, the Federal Prosecutor's Office obtained new documents from parallel criminal proceedings conducted by the Turin public prosecutor. Relying on this new evidence, it sought a partial revision of the earlier decisions. In January 2023, the Federal Court of Appeal granted the revision and imposed disciplinary sanctions on ZD and MI, banning them from all football-related activities within the FIGC for 24 months, with a request to extend the ban to UEFA and FIFA. The ban was later extended worldwide by FIFA.

ZD and MI challenged the decision before the CONI Sports Guarantee Board (Collegio di Garanzia), the highest body of sports justice in Italy. By a decision of 8 May 2023, the Board dismissed their appeals but upheld those of other individuals, referring those cases back to the Federal Court of Appeal to determine the final sanctions to Juventus.

On 30 May 2023, by Decision No. 0110/CFA-2022-2023, the Federal Court of Appeal imposed on Juventus a sanction consisting of a deduction of ten (10) points in the league standings, to be applied in the then-current sporting season (i.e. the 2022/2023 season).

Therefore, ZD and MI have decided to bring an action before the Italian administrative judge challenging the disciplinary decisions adopted by the FIGC Federal Court of Appeal and the CONI Sports Guarantee Board, seeking the suspension and annulment of the disciplinary sanctions imposed on them and, only in the alternative, financial compensation for the damage allegedly suffered.

However, under Italian law, the administrative court would be required to declare the actions inadmissible for lack of jurisdiction insofar as they seek annulment of the sanctions.

In fact, according to the Italian Constitutional Court, (a) Law No 280/2003 confers exclusive jurisdiction on sports judicial bodies (including the Federal Court, the Federal Court of Appeal and the Sports Guarantee Board) to deal with complaints seeking the suspension or annulment of disciplinary sanctions imposed within the sports system, and (b) by contrast, administrative courts have jurisdiction only over disputes not reserved to sports justice and, (c) after exhaustion of sports remedies, may provide indirect judicial review solely in the form of financial compensation.

According to the Italian Constitutional Court, this jurisdictional framework reflects a "legislative balance" between the constitutional principle of effective judicial protection and the need to preserve the autonomy of sports law. Disciplinary sanctions are considered to fall within a sector-specific legal order ("sports law"), where protection is ensured by sports justice, while protection relating to the general legal order remains within the competence of administrative courts.

This structural constraint prompted the Italian administrative judge to stay the proceedings and to refer the following questions to the CJEU for a preliminary ruling:

(1) Does EU law – especially Articles 6 and 19 TEU, read with Article 47 of the Charter and Article 6 of the European Convention on Human Right (“ECHR”) – prevent a national rule that, after exhausting sports-justice remedies, bars individuals from going to a national court to seek annulment or suspension of sports disciplinary sanctions, allowing only compensation even when the sanction may be unlawful?

(2) Does EU law – particularly Articles 6 and 19 TEU, Article 47 - 49 of the Charter, and Articles 6 and 7 ECHR – prevent a national rule that, based on the autonomy of sports law, allows sports bodies to impose disciplinary bans on managers for violating a vague general clause (honesty, fairness, integrity), potentially conflicting with the principles of legality, legal certainty, and due process?

(3) Must EU law – especially Articles 45, 49, 56, 101, 102 TFEU and Article 47 of the Charter – be interpreted as prohibiting a national rule that allows sports bodies to impose a 24-month ban on a manager of a club operating internationally, preventing him or her from performing professional activities at both national and EU levels?

### 3. *What Did the Advocate General Say?*

The AG was instructed by the CJEU to address the first and third issues only.

#### 3.1 *The questions referred are admissible*

According to the Commission, the questions referred by the TAR Lazio were inadmissible because the dispute lacked a cross-border dimension: all elements were confined to Italy, concerned Italian directors, an Italian club, and disciplinary sanctions imposed by the FIGC, with any obstacle to free movement arising only if UEFA or FIFA extended those sanctions internationally. The Italian Government also claimed inadmissibility on the ground that the 24-month prohibition imposed in January 2023 would expire before the Court delivered its ruling, thus depriving the applicants of any practical interest.

The AG rejects these objections. Relying on settled case-law, he recalls that the CJEU may rule where national measures are capable of producing cross-border effects, which is the case here given the possibility of extension of sanctions at UEFA and FIFA level. As regards the alleged loss of interest, the AG accepts that the applicants retained a legitimate non-material interest, since annulment could protect their reputation by erasing or mitigating the effects of the disciplinary sanctions.

The AG’s approach is consistent with the CJEU’s long-standing, generous stance on admissibility in sports-related cases, dating back to *Bosman*<sup>4</sup> and

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<sup>4</sup> Court of Justice, judgment of 15 December 1995, *Bosman*, case C-415/93, ECLI:EU:C:1995:463, paragraphs 55 -67.

reaffirmed also in the 2023 “Christmas Trilogy” (*ISU, Superleague and Royal Antwerp*).

### 3.2 *Effective judicial protection cannot be limited to damages*

As regards the Italian model, which restricts national judges to awarding damages while reserving the power to annul disciplinary sanctions exclusively to sports bodies, the Advocate General notes that it is not compatible with Article 19(1) TEU and Article 47 of the Charter. Relying mainly on the *ISU* and *Seraing*<sup>5</sup> case law the AG stated that, under EU law, for judicial review of sports decisions entrusted to national courts to be effective, those courts must:

(a) be able to verify whether such decisions comply with the principles and rules that form part of EU public policy, such as the free movement of workers and the freedom to provide services under Articles 45 and 56 TFEU as well as the freedom of competition; and

(b) be able to draw all appropriate legal consequences where non-compliance is found, including not only awarding damages for the harm suffered by the individuals concerned, but also annulling the decision affected by the infringement and granting interim measures to ensure the full effectiveness of the final judgment.

Therefore, a judicial review of sports decisions precluding the administrative judge to annul disciplinary sanctions imposed by the sports justice in breach of EU public policy, cannot be considered “effective” under EU law. Put it simply: if a sports sanction violates EU public policy, a national court must be able to set it aside.

That said, two aspects of the AG’s Opinion deserve attention.

Firstly, during the proceedings the Italian government argued that in the *Cairo Network*<sup>6</sup> case the CJEU held that, while the effectiveness of the judicial review generally presupposes that the national court has the power to annul all the adverse consequences of an act or of conduct adopted in breach of EU law, the grant of mere financial compensation may be justified where such annulment could undermine a public interest.

In the case at hand, the disciplinary sanctions imposed on ZD and MI (i.e. two natural persons) are linked to the imposition of penalty points to the standing of the football club which employed those persons, in the context of the first-division Italian national football championship (Serie A). Therefore, “*if it had been possible to ask the national court to annul or vary those sanctions, or even simply to suspend them temporarily, uncertainty as to the final standings in that championship would have persisted for a period of time incompatible with the requirement to determine the national teams which qualified for*

<sup>5</sup> Court of Justice, judgment of 1 August 2025, *Royal Football Club Seraing*, case C-600/23, ECLI:EU:C:2025:617.

<sup>6</sup> Court of Justice, judgment of 11 September 2025, *Cairo Network*, case C-764/23 (joined cases C-764/23, C-765/23, C-766/23), ECLI:EU:C:2025:691.

*European competitions. Such a situation would be manifestly prejudicial to the continuity of the Italian football championship*".<sup>7</sup>

However, according to the AG such argument is not determinant since in the *Cairo Network* ruling the public interest at issue was the proper functioning of 5G in the European Union. Accordingly, the AG concludes that "*providing simply for the possibility of awarding financial compensation, to the exclusion of the possibility of annulling the act vitiated by illegality, is justified where such annulment would risk undermining one of the objectives of the relevant EU legislation, which is not the case here*".<sup>8</sup>

Secondly, the AG conclusion is based on the assumption that the only review of the legality of sports disciplinary sanctions carried out by a "court or tribunal" within the meaning of EU law is the review conducted by the Italian administrative courts. However, if any of the judicial bodies established under Italian sports law were to meet all the criteria required to qualify as a "court or tribunal",<sup>9</sup> then a breach of Article 19(1) TEU could not be established.

While leaving to the referring court the duty to assess whether any of the judicial bodies established under Italian sports law satisfies the requirements of a "court or tribunal" within the meaning of EU law, the AG expresses serious doubts that this is the case. After recalling that a body qualifies as a "court or tribunal" under EU law only if it satisfies specific criteria, including independence and impartiality and that according to the European Court of Human Rights (ECtHR) where judicial bodies are closely linked to sports governing authorities that are themselves involved in disciplinary proceedings, such links may expose those bodies to external influence and undermine their impartiality,<sup>10</sup> the AG observes that:

(a) in the Italian system, disciplinary sanctions are adopted by intra-federal bodies (the Federal Court and the Federal Court of Appeal) and an extra-federal body (the CONI Sports Guarantee Board);

(b) the members of these bodies are appointed by organs composed of representatives of football leagues and federations, whose clubs and officials may be parties to the proceedings;

(c) the terms of their mandate coincide with those of the appointing bodies, and removal powers are exercised by entities appointed by the same authorities, potentially heightening the risk of influence.

Viewed through the lens of Article 47 of the Charter, the AG's observations underscore the importance of ensuring that individuals and undertakings subject to sports disciplinary proceedings enjoy access to

<sup>7</sup> Opinion of the Advocate General Spielmann, *ibid.*, paragraph 95.

<sup>8</sup> *Ibid.*, paragraph 98.

<sup>9</sup> These criteria are as follows: the legal origin of the body, its permanence, the compulsory nature of its jurisdiction, the adversarial nature of its procedure, the application by that body of the rules of law and its independence. See, Court of Justice, judgment of 1 August 2025, *Daka and Others*, joint cases C 422/23, C 455/23, C 459/23, C 486/23 and C 493/23, EU:C:2025:592, paragraph 3.

<sup>10</sup> ECtHR, 28 January 2020, *Ali Rıza and Others v. Türkiye*, CE:ECHR:2020:0128JUD003022610.

an independent and impartial tribunal where questions of EU public policy are liable to arise.

In policy terms, this may invite reflection on whether the current institutional design of the Italian sports justice system provides sufficient structural guarantees to meet the requirements of effective judicial protection. Without undermining the autonomy of sporting organisations or the legitimacy of internal disciplinary enforcement, future reforms could therefore focus on strengthening safeguards relating to the independence of adjudicatory bodies, in particular as regards appointment procedures, guarantees relating to the length and stability of the mandate, and protection against external influence from federations or leagues whose members may be parties to the proceedings.

More generally, the increasing interaction between sports regulation and EU law suggests the need for a governance model capable of reconciling regulatory autonomy with compliance with Article 47 of the Charter, thereby ensuring that sports justice mechanisms remain both credible within the sporting system and compatible with the constitutional standards of the EU legal order.

### 3.3 *The 24-month inhibition does not breach competition rules (but with a caveat)*

Turning to competition law, according to the AG the imposition of disciplinary sanctions against natural persons such as the directors of football clubs in no way may represent a restriction, by object or by effect, of competition since “*there is nothing in the documents in the case to suggest that the imposition of such sanctions can decide, as a knock-on effect, the relegation of the football club at which the sanctioned directors carried on their occupational activities. In view of that fact, it cannot be concluded that the legislation may distort competition between undertakings*”.<sup>11</sup>

However, this finding appears difficult to reconcile with the factual and legal context of the case. In particular, the judgment of the FIGC Federal Court of Appeal which imposed a 24-month suspension on ZD and MI simultaneously (re)determined the sanction imposed on Juventus Football Club, fixing a deduction of 10 points in the league standings. As a direct consequence of this decision, during the 2022/2023 Serie A season Juventus fell from second place (69 points) to seventh place (59 points), a position it ultimately retained at the end of the championship (62 points). The competitive impact of this sanction is therefore not hypothetical or speculative, but concrete and measurable.

Significantly, this causal link is expressly acknowledged in paragraph 95 of the AG’s Opinion itself, where it is recalled that the Italian Government stated during the proceedings that “*the disciplinary sanctions at issue, imposed on natural persons, are linked to the imposition of penalty points to the standing*

<sup>11</sup> Opinion of the Advocate General Spielmann, *ibid.*, paragraph 55.

of the football club which employed those persons, in the context of the first-division Italian national football championship (Serie A)". This admission substantially weakens the premise that sanctions against individuals operate in isolation from their employing undertakings.

If, as is indeed the case, disciplinary sanctions imposed on natural persons are structurally and legally connected to the sanctions imposed on the football club – specifically in the form of point deductions affecting league standings – the conclusion that the legislation at issue cannot distort competition between undertakings becomes highly questionable. This is all the more so given that sporting competitions such as Serie A constitute economic markets in which clubs compete directly for sporting success, qualification for European competitions, broadcasting revenues, sponsorship, and related commercial advantages.

This effect is appreciable within the meaning of Article 101(1) TFEU. It is neither hypothetical nor *de minimis*, but rather concrete, significant, and capable of reshaping competitive dynamics in the relevant market. The sanction altered not only Juventus's competitive position but also that of its direct rivals, which benefited from improved standings and access to associated revenues. In this sense, the distortion of competition is both absolute (loss of opportunities for Juventus) and relative (corresponding gains for other clubs).

As confirmed by the FIGC Federal Court of Appeal, the point deduction imposed on Juventus was calculated by aggregating the sanctions imposed on individual directors, on the basis of their respective roles and degrees of responsibility.<sup>12</sup> The sanction on the undertaking is therefore not a remote or unintended consequence of individual discipline, but the direct legal effect of those measures. The causal link between individual sanctions and the distortion of competition is thus immediate and foreseeable.

Under the *Meca-Medina* doctrine, sporting rules fall outside Article 101(1) TFEU only if (i) they pursue a legitimate objective, and (ii) the resulting restrictive effects are inherent in and proportionate to the pursuit of that objective.

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<sup>12</sup> The direct link between individual and collective sanctions is further confirmed by the reasoning of the FIGC Federal Court of Appeal in quantifying the penalty imposed on Juventus. The court explicitly stated that, in determining the severity of the sanction to be imposed on F.C. Juventus S.p.A., it was necessary, "*in a comparative perspective, to take account of the causal contribution of each individual, in light of the role played in the events under examination, and of the sanctions imposed on the four operational directors, including the President of the club, Andrea Agnelli*". On this basis, the court established a precise correspondence between the personal sanctions imposed on individual directors and the number of penalty points attributed to the club, *i.e.*: Mr. X (30-month suspension): 4 penalty points; Mr. Y (24-month suspension): 3 penalty points, reflecting his role as President and legal representative of the club; Mr. Y (24-month suspension): 2 penalty points; Mr. K (16-month suspension): 1 penalty point. The court concluded that a total deduction of 10 points was appropriate and proportionate, explicitly grounding this assessment in the aggregation of individual responsibilities. See FIGC Federal Court of Appeal, Decision/0110/CFA-2022-2023, 30 May 2023, available at <https://api.figc.atexcloud.io/file-delivery-service/version/c:MjQwZDkyNGMtZDUxNS00:NDhhOWNkYWMtMjc3NC00/sez-unite-decisione-n-0110-cfa-del-30-maggio-2023.pdf>.

Even assuming that the disciplinary regime pursues a legitimate objective, such as ensuring financial transparency or safeguarding the integrity of competition, the proportionality analysis cannot ignore the economic effects of the measures adopted. Where sanctions against individuals are designed and applied in such a way that they mechanically generate severe competitive disadvantages for the employing club – up to and including exclusion from economically decisive competitions – the restrictive effects on competition must be fully assessed.

In this respect, the AG’s reasoning does not appear to address all the relevant aspects of the disciplinary framework at issue. In particular, it may be observed that the analysis focuses on the fact that the sanctions are formally imposed on natural persons, without examining in detail whether, and to what extent, those sanctions are, under the applicable rules, liable to result in sporting penalties imposed on the club employing those persons. Where such penalties directly affect league standings and, consequently, access to competitions of economic significance, it cannot be excluded that they are capable of producing effects on competition between undertakings. In those circumstances, a more detailed examination of whether the resulting effects are inherent in and proportionate to the legitimate objectives pursued would appear necessary.

### 3.4 *The sanction restricts free movement but may be justified*

According to the AG a 24-month ban that applies across FIGC, UEFA and FIFA territory is a severe restriction on a professional’s ability to work. Therefore, the AG admits that “*there appears to be no question that there is a barrier to the free movement of the sanctioned directors within the meaning of Articles 45 and 56*”.<sup>13</sup> However, according to the settled case law of the CJEU what matters is not the barriers as such, but rather whether (a) the adoption of the measure concerned is justified by a legitimate objective in the public interest and, (b), that it complies with the principle of proportionality.

As regards the first prong, the AG recalls that the CJEU has already held that the objective consisting in ensuring the regularity of sporting competitions is a legitimate objective in the public interest that may be pursued by a sporting association.<sup>14</sup> In this respect, Article 4 of the FIGC Sports Justice Code sets out the obligation to observe the principles of “loyalty, fairness and probity” in any relationship connected with sporting activities, failing which sanctions laid down, inter alia, in Article 9 of that code may be imposed. Therefore, since the conduct for which MD and ZI were sanctioned may allow the club to which they belong to obtain an unlawful economic advantage as compared with the other clubs participating in the same competitions, the sanction mechanism laid down in the Italian national legislation seeks to ensure the regularity of sporting competitions.

<sup>13</sup> Opinion of the Advocate General Spielmann, *ibid.*, paragraph 61.

<sup>14</sup> Court of justice, judgment of 4 October 2024, *FIFA*, case C 650/22, EU:C:2024:824.

As regards the second prong, the AG relies on the *Superleague* case and confirms that, to avoid the discretion enjoyed by the bodies empowered to impose sanctions being exercised arbitrarily, those sanctions must be “*determined within a framework of criteria that are transparent, objective, non-discriminatory and proportionate*” and that “*the particular circumstances of the case are taken into account when the amount and the duration of the sanctions are fixed*”.<sup>15</sup>

Crucially, the AG leaves to the referring court the duty to establish whether the FIGC system meets these standards, merely observing that “*Articles 12 to 18 of the FIGC Sports Justice Code, which appear in Section II of that code entitled ‘Application of sanctions’, could be regarded as establishing the framework for the power to impose sanctions at issue in a manner consistent with the requirements laid down in the abovementioned case-law*”.<sup>16</sup>

#### 4. *What Did the Advocate General Not Say?*

##### 4.1 *He did not conclude that the sanction at issue must be annulled*

The AG did not say that the sanction must be annulled. More simply, he clarified that national courts must have the power to annul a disciplinary sanction imposed by a sports body where such a sanction infringes EU public policy. In this respect, if the Court follows him, the referring court will have the authority to annul the sanction, but the decision to do so remains fully within the national court’s discretion.

##### 4.2 *He did not assess whether the disciplinary clause is too vague*

The most significant silence concerns Article 4 of FIGC Sports Justice Code and the duty to respect “loyalty, fairness and probity.” The referring court explicitly asked whether such a broadly framed clause complies with the principle of the legality of criminal offences and penalties, in the light of EU law and the case-law of the Court of Justice.

In that regard, the referring court relied, on the one hand, on Article 6 TEU, Article 7 ECHR and Article 49 of the Charter and, on the other hand, on the case-law of the European Court of Human Rights (“ECtHR”), according to which sanctions of a punitive nature, although not formally classified as criminal under

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<sup>15</sup> Court of justice, judgment of 21 December 2023, *European Superleague Company*, Case C 333/21, EU:C:2023:1011.

<sup>16</sup> Opinion of the Advocate General Spielmann, *id.*, paragraph 70. In particular, Article 12 of the FIGC Sport Justice Code concerns Disciplinary powers, Article 13 with Mitigating circumstances, Article 14 with Aggravating circumstances, Article 15 with Combination of circumstances, Article 16 with Assessment of circumstances, Article 17 with Association for the purpose of committing offences, and Article 18 with Recidivism.

the law of the ECHR Member States, must fall within the scope of the guarantees provided by the ECHR for criminal law sanctions. According to the ECtHR, the criminal nature of a provision relating to penalties must be assessed according to the nature of the offence provided for therein and the severity of the sanction imposed.<sup>17</sup>

As instructed by the CJEU, the AG did not address this question.

Yet this may be the decisive issue. If EU law requires sports disciplinary offences to be defined with sufficient clarity – a principle well established in criminal, administrative and disciplinary settings – then a sanction imposed under an indeterminate clause may be incompatible with Article 47 of the Charter. If the rule is too vague and the referring court must be able to annul the sanction, the sanction must fall.

## 5. *Conclusion*

The AG's Opinion follows the path of the most recent and well-established case-law of the CJEU, which is based on the principle that sporting autonomy is safeguarded but can never amount to immunity from judicial review under EU law. Consequently, the jurisdictional autonomy enjoyed by the sports sector must be integrated with a system of safeguards compatible with Article 19(1) TEU and Article 47 of the Charter. Moreover, through the AG's explicit reference to the relationship between Article 4(2) TEU and Article 19(1) TEU, it is made clear that sporting autonomy cannot be dissociated from respect for the European rule of law. Moreover, if the CJEU follows the AG, the forthcoming judgment will further confirm a broader trend: whenever sports disputes reach the CJEU, the autonomy of sport – traditionally understood by governing bodies as largely self-referential – is progressively narrowed and recalibrated in light of EU law requirements.

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<sup>17</sup> ECtHR, judgment of 8 June 1976, *Engel and Others v. The Netherlands*, available at <https://hudoc.echr.coe.int/eng?i=001-57479>.

*Bibliography*

- BASTIANON S., COLUCCI M., *Sports Arbitration and Effective Judicial Protection Under Eu Law: The Rfc Seraing Case*, in *RDES*, Vol. XXI, 2025, 1-22.
- BASTIANON S., *From Lausanne to Luxembourg: the CJEU's Seraing Judgment and the Boundaries of Sports Arbitration Under EU Law*, *Football Legal*, 5 August 2025, available at <https://www.football-legal.com/content/from-lausanne-to-luxembourg-thecjeusseraingjudgment-and-the-boundaries-of-sports-arbitration-under-eu-law>.
- MAVROMATI D., *Opinion of Advocate General Spielmann of 18 December 2025 – Effective Judicial Review & Annulment of Unlawful Sporting Sanctions*, 19 December 2024, available at <https://www.sportlegis.com/2025/12/19/opinion-of-advocate-general-spielmann-of-18december-2025-effective-judicial-review-annulment-of-unlawful-sporting-sanctions>.
- MAVROMATI D., *The Seraing v. FIFA Judgment of the CJEU: Essential Takeaways*, available at <https://www.sportlegis.com/2025/08/12/the-seraing-v-fifa-judgment-of-the-cjeu-essentialsakeaways>.