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## **Chapter 4 Germany: between modest adjustment and system transformation**

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### **Introduction**

In this chapter we analyse the transformation of German football by taking Europeanisation as a point of departure. We argue that the most important changes in German (professional) football can be related to (different sorts of) Europeanisation processes. Two broad types of Europeanisation pressures are relevant for, and have impacted on, the transformation of German football: top-down Europeanisation (downloading) and transnational (cross-loading) pressures.

Our study is divided into five (sub-)cases, of which the first three are cases of downloading, while the last two can be categorised as cross-loading. More particularly we will look at the nationality issue related to the Bosman ruling (*case 1*), the new transfer regime resulting from the *Bosman* ruling (*case 2*), and the issue of broadcasting rights (*case 3*). Important transnational factors that are less clearly related to the European integration process constitute the development of the UEFA Champions League (*case 4*), and the emergence of transnational groupings such as the G-14 (*case 5*). Taken together, these processes add up to the ongoing Europeanisation of German football.

For our analysis we have drawn on the systematising factors (source of Europeanisation, strength of dynamics, reaction to pressures, degree of change, etc.) specified in the introductory chapter of this volume. Our empirical analysis is based on process tracing (Keown and George 1985), which has been put into practice through triangulation across different data sources (official documentation, semi-structured interviews, secondary literature and major media). As for the interviews, we conducted ten background/in-depth expert interviews with leading officials of German football associations and clubs as well as sport journalists.

## Case 1 – The Bosman Ruling I: The Nationality Issue

Important trends in German football during the last decade can be interpreted as symptoms of an ongoing Europeanisation. This is because a whole complex of such trends – the increased influx of foreign-born players, attempts to restrict their numbers as well as to promote young German talents, and the search for a new ‘transfer regime’ – has its roots in the seminal *Bosman* ruling of the European Court of Justice (ECJ) in 1995. The ruling in its essence consisted of two general findings: first, the traditional transfer system with transfer fees to be paid for out-of-contract players infringed upon the right of every European (worker) to move freely under Article 48 of the Treaty establishing the European Community (TEC) and thus had to be abolished; and second, ‘nationality restrictions’ as a means to limit the number of foreign players in a football club were ruled illegal in so far as they discriminated against players from countries within the European Union (Foster 2000: 42).

Football in Germany has been affected by both aspects, although one could claim that the latter one has had a more ‘visible’ effect for the whole football community. To abolish general nationality restrictions<sup>1</sup> and to open up the market for players from all other countries within the EU already had an in-built tendency to increase the number of foreign-born players. The German Football Association (DFB), however, liberalised even further and expanded the right to play professional football in Germany without being considered a foreigner not only to EU residents (so-called *EU-Ausländer*) but to all players of the 52 other member associations of the European Football Association (UEFA). Thus in German football, after *Bosman* the status of *EU-Ausländer* really meant *UEFA-Ausländer* and EU resident meant UEFA resident, at least concerning the two professional leagues.<sup>2</sup>

How to account for this extension, which has been exceptional in Europe? One line of argumentation refers to the special socio-political situation in Germany after reunification: the DFB and its leading actors were still influenced and impressed by the dramatic political changes in Europe and the ‘unification’ of the continent that had taken place a few years before. They simply ‘did not want to erect new walls or barriers’, especially towards national associations in Central and Eastern Europe, which had strong ties to the DFB.<sup>3</sup> In a similar vein, some actors were convinced that the ongoing process of European integration would render any differentiation between

certain types of Europeans meaningless sooner or later.<sup>4</sup> Although the extension may show that ‘football sometimes is more political than people think’<sup>5</sup>, there was also an element of pragmatic (and even visionary) thinking to it, because the decision taken by the DFB in the end prevented non-EU European footballers in Germany from taking legal action against this discrimination.<sup>6</sup> Another explanatory factor is that this extension created a bigger market for German football clubs to sign players, especially players from Central and Eastern Europe.<sup>7</sup> After *Bosman* a central source of financing for clubs – transfer fees for out-of-contract players – ceased to exist. In addition, German clubs are subject to a relatively strict licensing procedure, which means they have to pursue fairly sound<sup>8</sup> economic policies. Hence, opening up the market especially towards Eastern Europe also had a compensatory effect for German football clubs, as signing players from Poland or the Balkans was in general less expensive. Both explanations – the socio-political climate as well as an interest of the clubs to improve their position among European competitors – can be seen as complimentary rather than mutually exclusive.

It is hardly surprising that this decision led to a surge of players coming to Germany from all over Europe; a claim that can be substantiated by looking at the developments of the First Bundesliga. At the beginning of the 1990s – before *Bosman* – the shares of the respective players’ groups of the overall number of players exhibit a fairly stable pattern: approximately 80 per cent German-born players, 12-14 per cent UEFA residents (without Germans), 5-7 per cent non-UEFA residents. After *Bosman* and the decision of the DFB to count all players from UEFA member-states as EU residents, we can easily detect some important changes in the composition of the players. Firstly, the share of German-born players has steadily decreased (accounting for 50 per cent in 2005). Secondly, the share of UEFA residents as well as the share of players from other continents has substantially increased, although the share of non-UEFA residents remains relatively small (between 12 and 14 per cent in 2003 and 2004) compared to that of UEFA residents (up to 38 per cent in 2005).

Although the decision to open the market for all Europeans has been rather liberal, the DFB did not fully liberalise until 2006/07, when it decided to abolish any limit on foreign players in professional clubs, while a certain amount of players eligible for a German national team and/or stemming from the youth system of a German club have to be signed. According to the homegrown player rule of UEFA, at the present, at least

8 professional players matching these criteria have to be under contract (García 2007).

[Insert Table 4.1 near here]

The shortage of young and talented German football players, which became obvious at the end of the 1990s, was at least to some part attributed to *Bosman* and its implementation in Germany. The carefully directed promotion of young and talented players eligible for German national teams has become a real concern of the DFB in the wake of *Bosman*. The DFB – in accordance with the German Football League (DFL) – has also tried to steer the development by establishing certain rules for professional and amateur clubs, which aim at developing and protecting young German players as far as possible within the limits of domestic and European law. Every club in the *Bundesliga* has to maintain a training centre for young players (*Nachwuchsleistungszentrum*) in order to comply with the licensing rules. Amateur clubs of professional teams have become full U23-teams since 2005 (which means that only three players aged 23 or older can be fielded). Parallel to these measures, the number of non-EU players in German amateur teams has been cut back from up to six (2002) to three (2004). This kind of ‘steering policy’ within the association is complemented by the policies of the German Ministry of the Interior, which in 2002 issued a directive that in effect ruled that non-EU players will not get a work permit in Germany unless they are signed by a team in the (first and second) *Bundesliga*. In 2003, the follow-up to this directive specified that non-EU players must be signed to play in the first team and must not play in the amateur teams of the professional clubs (*Kicker* 27 January 2003).

In sum, drawing on the systematising factors specified in chapter 1 of this volume, the nationality-related part of *Bosman* generated strong pressure for change on the German FA. It led to a mixed reaction of the DFB: there have been counter-reactions of course, but no strong, full-fledged counter-pressure to European institutions. Transposition has been varied: progressive (the decision to extend the definition of ‘EU resident’) and more conservative (measures to promote German talents). Overall, the nationality issue of the *Bosman* ruling (along with the ‘progressive’ elements of its implementation) changed the structures and the landscape of German football. The make-up of the *Bundesliga* has become above all less German, more international, and more European in a wider sense. This degree of change is thus most aptly captured by the notion of ‘system transformation’.

## Case 2 – Bosman II: The new ‘transfer regime’

As mentioned above, the *Bosman* ruling also stated that the traditional transfer system had to be completely revised, since the core of this system – the payment of transfer fees for out-of-contract players – had been found to infringe upon the right of free movement within the EU. Since the transfer system was internationally agreed upon and laid down through FIFA, it became clear during the second half of the 1990s that this part of *Bosman* was not just (EU- or UEFA-) European business, but could and had to lead to a revision of the whole international transfer system. First and foremost the European Commission pushed this view and suggested that football constituted a normal business activity to be regulated according to competition law. By contrast, the national and regional associations as well as FIFA tried to promote their view that football and sport fulfil special social functions and therefore had to be treated differently. These actors as well as others – clubs, leagues, media, and lawyers – have formed ‘advocacy coalitions’ to promote their views in the negotiation process (Parrish 2003). The overhaul of the international transfer system has been a long process, in which the national associations and FIFA/UEFA, to some extent, managed to assert themselves. Although the Commission finally pushed them to the table by threatening another ruling through the ECJ in 2000 (Crocì 2001: 7), the new transfer regime agreed upon in 2001 suggested that the Commission in some parts had loosened its initial demands and abandoned its purism. This is especially true with regard to contract stability (vs. ‘normal’ periods of notice), which still has to be guaranteed except for narrowly defined situations, and the introduction of a new system of training compensations (as a ‘quasi’-transfer fee) for players aged under 23 to encourage and reward training efforts of clubs (Weatherill 2003: 68). This change in attitude of the Commission merits attention and needs to be explained. How was it possible that ‘[a]fter reaching the compromise agreement with the European Commission [in 2001], FIFA President Blatter, ..., publicly thanked Competition Commissioner Mario Monti with words that gave the impression that the Commission had simply acted as a consultant to FIFA to improve its transfer rules’ (Crocì/Forster 2004: 16)?

One could reason that the Commission has been persuaded by the arguments concerning the peculiarities of organising football and the presumed consequences of a fully liberalised transfer regime put forth through FIFA (and the DFB as well). Indeed, some leading German football officials interpret the negotiation process with the

Commission to some degree as a successful act of lobbying in the sense of creating more awareness within the Commission for possible disastrous consequences of strict liberalisation; for example, the inoperability of leagues because of highly volatile player markets.<sup>9</sup> There are indeed some indicators that underscore this reasoning, since the Commission gradually reformulated its position throughout the 1990s, as can be seen in the so-called Helsinki Report on Sport from 1999 (Brown 2000: 139). Secondly, several national football associations, not least the German DFB, have lobbied and convinced their respective governments and especially their heads of government in order to exert some political pressure on the institutions of the Community, although mainly in form of public statements. In this regard, the joint statement of Gerhard Schröder and Tony Blair in the run-up to the Nice Summit 2000 – which expressed their concerns regarding a radical restructuring without enough consideration given to the peculiarities of football (Meier 2004: 14) – has been brought about also by several meetings of the DFB, representatives of leading German clubs and the then-German Chancellor, in which the football community successfully specified possible adverse implications of a fully liberalised transfer regime for the most popular sport in Germany.<sup>10</sup> Access to policy-makers has therefore been a crucial resource for the DFB and other national football associations. Undoubtedly, the common stance of national governments exerted indirect political pressure on the Commission, which can act with some degree of autonomy in competition policy but certainly does not take its decisions in a political vacuum. Thus, one can detect both engagement (attempts to modify the pressure of the ECJ's ruling and the Commission's claims) and more confrontational elements (attempts to resist and oppose pressures through organising political counter pressure) among the reactions of the DFB and FIFA.

Two of the most important aspects of the new transfer system agreed upon by FIFA and the Commission, besides the rules concerning contract stability, are the fixing of training compensations for players aged under 23 and the principle that clubs involved in training and education of young players should be rewarded. The payment of training compensation is in some ways a continuation of the old transfer fee payments for out-of-contract players, albeit at a lower level and only with regard to young and amateur players. This adds to the judgement that the 'new transfer regime' agreed upon by FIFA and the Commission resembles not a complete overhaul of the old system but rather a case of 'heavy adjustment'. As White Paper on Sport stated in 2007, the Commission thus considers the new transfer regime 'an example of good practice

that ensures a competitive equilibrium between sports clubs while taking into account the requirements of EU law' (European Commission 2007: 16).

However, the introduction of compensation payments – crucial for smaller clubs – by the DFB, has been ruled illegal in 2004 by the Regional Superior Court Oldenburg, which argued that they infringed on the freedom to choose a profession (Article 12, German Basic Law). In essence, this ruling constitutes a 'national Bosman ruling' for the realm of amateur football. Since the Court underscored that the DFB may have complied with FIFA rules, but that the rules of private organisations like FIFA in any case have to abide by national as well as European law, one can foresee that this ruling (confirmed by the Regional Court of Appeal in 2005), will not end the debate, which have as their seminal reference the 'Bosman ruling' of the ECJ.<sup>11</sup>

In sum, while the '*Bosman* nationality regime' has led to a 'system transformation' in German (and other domestic) football, the '*Bosman* transfer regime' has had less far-reaching implications, especially given the fact that contract stability is still maintained under the revised transfer rules. Here, the impact of change resulting from European integration might thus better be described as 'heavy adjustment'. The less significant degree of change in this case can be attributed to both somewhat less forceful top-down Europeanisation pressures (with the Commission relaxing its purism) and more considerable counter-pressures (associations and, to a lesser degree, clubs pursuing substantial lobbying efforts).<sup>12</sup> The latter aspect indicates that 'Europeanisation' through European jurisdiction and institutions is far from being a one-way street.

### **Case 3 – Broadcasting rights: the Bundesliga marketing system**

Over the past decade, the transformation of the broadcasting sector has had a significant impact on professional football in most European countries, including Germany. The sharp growth in the number of actors on the demand-side of the market with the advent of private television in Germany in the mid-1980s combined with the difficulty of increasing the supply of truly attractive football events led to very considerable increases in the prices charged for *Bundesliga* broadcasting rights (at least until the 'Kirch-crash'<sup>13</sup>). Overall, broadcasting is a key element in the larger scale commercialisation of sports (and above all football) in Europe, which has decisively



fostered the intervention of EU institutions and Community law in the sector. The Commission's preoccupation with football has been driven by its need to monitor the broadcasting sector, in which it seeks to preclude practices that facilitate incumbents' to impede new entrants to the market (Weatherill 2003: 74).

One of the most contentious issues is concerned with the marketing system of broadcasting rights. An established commercial practice in European football, and in the European sports sector more generally, is the central marketing and joint sale of broadcasting rights on behalf of individual participants. This system offers prospective buyers only the opportunity to compete for one package which comprises a league's entire output. Purchasers are unable to conclude deals with individual clubs. Such collective selling is an equalising arrangement through which revenues are distributed more evenly than in a decentralised model. In the latter system the allegedly more attractive clubs would take significantly more of the pie than smaller clubs. The main argument in favour of the collective system is that it helps sustain vibrant (inter-club) competition, a crucial element of any sporting activity. For instance, broadcasting rights for the Bundesliga, the English Premier League and the UEFA Champions League are (essentially) marketed centrally by the DFB/DFL, the Premier League and UEFA, respectively.

From the perspective of EU law two issues were important here: firstly, whether the prevention of clubs from entering into individual agreements with broadcasters amounts to a restriction of competition and thus falls within the scope of Article 81 (1) TEC; secondly, whether the collective selling of broadcasting rights is necessary to ensure the survival of the financially weaker participants in the league. If the above mentioned solidarity argument is accepted, an exemption under Article 81 (3) from the application of Article 81 (1) TEC may be granted (Parrish 2002: 9). Although the Commission generally has very significant competencies in competition policy (McGowan 2000), it had already insisted that it did not aspire to become a general sports competition policy regulator. The Commission also more and more deviated from an orthodox articulation of Articles 81-82 in its communications and became increasingly eager to show respect for the social and cultural benefits of sports in recent years (Weatherill 2003). Hence, overall the level of top-down pressures (exerted by the Commission here) was less significant than in the previous two sub-cases.

The DFB requested an exemption from the application of Article 81 with regard to the central marketing of television and radio broadcasting rights for professional

football matches in Germany in 1999. This was an issue of crucial importance to the DFB. The latter was not only concerned about the balance of inter-club competition. If the Commission was to rule in favour of a decentralised model, the DFB and DFL were to lose substantial property rights over broadcasting. Aided by UEFA as well as German policy-makers and backed by a large majority of clubs, the DFB sought to reduce EU-level adaptational pressures. Its reaction can thus be described as intervention/engagement. Such response is rational in view of the preferences on the part of the DFB/DFL, UEFA and most *Bundesliga* clubs and given the substantial misfit between the existing regime and that suggested by the Commission.

Under the German collective selling system the DFB leases the broadcasting rights to the DFL, which markets the rights and redistributes the revenues gained from the broadcasting contracts to the clubs. The DFB application for derogation from Article 81 was substantiated with reference to the abovementioned solidarity function, which the central marketing system supposedly fulfils. This stance is accepted by most officials from the DFB and DFL as well as the vast majority of clubs. Among the 36 professional German football clubs only Bayern München, Borussia Dortmund and Bayer Leverkusen favoured a decentralised marketing model, in view of their capacity to raise considerably greater revenues. Although these clubs sporadically threatened with exit options, such as a European breakaway league, during the course of discussions all clubs eventually accepted the collective selling system. Later, however it was revealed that Bayern München mainly came on board because of a 'secret' marketing agreement with the Kirch-Group, which had secured the rights for the period 2000-2004. In this contract Bayern München was compensated for lost revenues by foregoing individual marketing arrangements. As a result, the club *de jure* agreed to the central marketing model, while *de facto* securing the financial status of a decentralised system. This can be regarded as the introduction of elements of decentralised marketing through the back door (Kruse and Quitzau 2003: 13-14).

In the DFB request for an exemption from EU antitrust rules, the DFB and the DFL made a considerable effort to influence matters. They mainly sought to assert their preferences via UEFA. Former DFB President Mayer-Vorfelder was well placed in that respect as a member of the UEFA Executive Committee and the Executive Committee Working Group on matters related to the European Union. Within the UEFA framework DFB officials also participated directly in talks with representatives from the European Commission, members of the European Parliament and national ministers responsible

for sport. In addition, top DFB officials cultivated direct relations with the Commissioners Reading (Education and Culture) and Monti (Competition). The DFB mainly used UEFA as a channel also because the latter was – simultaneously to the DFB case – involved in talks with the Commission as it had applied for an exemption from Article 81 concerning the collective marketing of commercial rights to the UEFA Champions League. Lobbying (via UEFA) has retrospectively been viewed as an effective method.<sup>14</sup> Rather than applying direct (political) pressure, it was important in the discussions with the Commission and other EU circles to bridge certain knowledge gaps and to specify the implications of a vigorous application of Community antitrust rules to professional football in Germany. In addition, a certain amount of political pressure spilling over from the *Bosman* case and the subsequent talks concerning transfer rules<sup>15</sup> provided an additional rationale for the Commission decision to exempt the new system for marketing *Bundesliga* broadcasting rights. These logics also have to be seen against the background of growing anxieties on the part of the Commission in recent years to show respect for the social and cultural benefits of sport and its decreasing desire to get involved in sport policy (Weatherill 2003).

In January 2005 the Commission closed the case in view of certain commitments made by the DFL. Most significantly, media rights are offered in several packages in a transparent and non-discriminatory procedure. However, the new marketing system for *Bundesliga* broadcasting rights contains core demands of the DFB/DFL. The new model has been described as ‘essentially a centralised system of marketing broadcasting rights with some decentralised elements on the fringes’<sup>16</sup>. Even though this interpretation may be slightly optimistic, collective marketing of TV rights will broadly continue in one important aspect: clubs have only limited scope for selling their games.<sup>17</sup> Overall these changes, spurred by EU-level pressures, can be described as ‘partial/modest adjustments’, since only moderate alterations were made and important policy cores remained (largely) untouched.

#### **Case 4 – The Champions League**

So far we have predominantly looked at the adaptational pressures stemming from the European Union and the transnational and specifically German responses toward these pressures. In contrast, this section deals more with transnationally and domestically

induced changes which have a significant bearing on the policies, structures and attitudes governing German football. The most important factor in that respect is the UEFA Champions League. Since the early 1990s there had been increasingly strong pressures on UEFA from the big European clubs and media groups to expand European club-level football competition in order to exploit its commercial potential. UEFA welcomed such ideas given the possibility of (further) raising its profile and status. As a result, UEFA enlarged the European Champion Clubs' Cup in 1992/1993 to include a league format, which became the 'Champions League'. Again at the initiative of media companies and the largest European clubs, which at times mildly threatened with the exit option (a European breakaway league), the league format was expanded in 1997, a step that was acquiesced by UEFA. This allowed for more participants and increased the number of matches played, thus raising revenues.

Once established, the Champions League has itself become a source of Europeanisation, thus setting off a 'second round' of Europeanisation (Bugdahn 2005: 183). It has turned into a real focal point for the more competitive *Bundesliga* clubs, a development paralleled across other European football leagues. The rationale is two-fold. First, the participation in the Champions League is financially very lucrative. For example, in the season 2002/2003 Borussia Dortmund earned € 33.7 million (27.1 per cent of its total revenue) by merely reaching the second group stage in the Champions League. And in the season 2000/2001 Bayern München earned € 41.25 million— almost twice as much as through total national TV revenues – by winning the Champions League. It can be argued that, due to the less lucrative different domestic TV-marketing conditions, participation in the Champions League is even more important for the top German clubs than for their English, Spanish or Italian rivals in order to stay competitive on the European level. English clubs can draw on huge earnings through their massive national broadcasting contracts. Top Italian clubs can raise very considerable revenue because the pay-TV sector is decentralised. And in Spain both free- and pay-TV is marketed on an individual basis, which benefits the most attractive teams disproportionately.

Secondly, the Champions League has also become a focal point for the bigger German (and other European) clubs because it has developed into a top brand. Part of the success story is that it contracts over eighty TV partners in about 230 countries and territories and has continuously increased its world-wide audience/broadcasting quota. In addition, Champions League matches have generated a higher average attendance

than games in the biggest domestic leagues.<sup>18</sup> Another indicator for the development of the Champions League brand is the continuity and fidelity of its sponsors: Ford, Mastercard and Amstel/Heineken have all sponsored the Champions League from the outset or joined shortly after. Sony is also developing into a long-term partner. These companies all seem to regard their substantial contributions as profitable investments. A different sign of successful brand-building is the receipt by the Champions League of the TV industry's 'Oscar' awarded through the Broadcast Design Association for the best European appearance in the sports business in 2004.<sup>19</sup> These 'soft' factors again have substantial positive financial implications for clubs taking part in the Champions League, for example in terms of sponsoring and merchandising, even though the impact of Champions League participation on these areas is difficult to measure. Overall, our interviewing of officials at the bigger Bundesliga clubs has revealed that – due to the above developments – the Champions League brand and its monetary implications have generated substantial appeal to them. Clubs like Borussia Dortmund and Bayer Leverkusen are aware that their performances in the Champions League have considerably raised their images nationally and internationally and that their membership in the G-14 forum (the self-selected grouping of European top teams that existed until 2008) was primarily owing to that. Overall the Champions League has altered the economic structure of European club football. Given domestic (broadcasting) background conditions, it is of particular appeal to Bundesliga clubs.

There is another aspect which is fostered by the Champions League (and by the increase of foreign-born players following from *Bosman*): the potential development of a 'European public space' (Brown 2000: 142). It has been noted that in contrast to processes on the level of elites, the general public is still for the most part inward-looking. As noted by Kohler-Koch (2002: 6), language barriers, strong national or local identities and traditions hold back the development of such transnational public space. The argument here is that football plays an important role in forming allegiances and identities at the national, local and supranational level, as it draws on an emotional investment by the supporter. If football is indeed an important expression of supporters' (collective) identities, cultural diversities could be given a more positive expression through football, and more 'European' allegiances could be reinforced. If fans' teams are increasingly composed of foreign-born players, as is the case across the Bundesliga, and as their favourite players are gradually more EU-foreigner – such as the popular

Frenchman Frank Ribéry or the Dutch Arjen Robben – this is likely to challenge existing identity patterns. As noted by the *Economist*, 'over the past decade European football teams have turned into a living, breathing embodiment of European integration'.<sup>20</sup> Such tendencies are arguably reinforced by high audience quotas of Champions League games and the positive imagery and brand as well as high status attached to European-level competitions more generally. As for the German case, no data or studies examining this argument more closely are known to the authors<sup>21</sup>, and the level of change is difficult to measure. Judging from media coverage and preliminary interviewing, it can be suggested that the impact of the Champions League in that respect may be quite substantial.

### **Case 5 – Transnational Club Associations (G-14/ECA)**

Our last case – the evolution of new forms of European transnational sports lobbying groups and the involvement of German football clubs – again necessitates to transcend a rather narrow view of Europeanisation as 'EU-Europeanisation' alone. We claim that an additional layer of Europeanisation dynamics is inherent in such transnational activities, not least with regard to the workings of the so-called G-14 (2000-08) and its successor, the European Club Association (ECA, since 2008).

The G-14, as a self-selected and self-recruiting group of (finally 18) big European football clubs which existed until 2008, merits particular attention in this regard. Exhibiting the legal structure of a European Economic Interest Group (EEIG) it was in a technical sense embedded in the instruments of the Community for facilitating and encouraging transnational cooperation between firms. That consequently made it a lobby group on behalf of the mainly commercial (common) interests of leading European clubs. Encouraged by the proposal of the Italian media organisation Media Partners to establish a European break-away league in 1998, several clubs decided to form the G-14 as a lobbying venue despite the fact that UEFA successfully appeased them with a (revenue increasing) change of format of the Champions League (Kruse and Quitzau 2003: 15). In 2000, the G-14 officially constituted itself with Thomas Kurtz as General Manager. Paradoxically, Kurtz had been a key figure in the logistical organisation of UEFA Champions League before (Ducrey *et al.* 2003: 61).

Three German clubs have been members of the G-14: Bayern München from its start, while Borussia Dortmund and Bayer Leverkusen were invited to join in 1999 and 2002, respectively. At the Management Committee, the *de facto* leading organ of the G-14, the ‘German voice’ had been for some time Vice Chairman Karl-Heinz Rummenigge, who through holding important positions at Bayern München and being involved with the DFL, FIFA and the G-14 simultaneously got the nickname ‘ambassador of the G-14’. This underscores that from its very inception, leading German clubs have been deeply involved with this lobbying effort. Throughout its existence, the G-14 in turn generated dynamics at three different levels – *vis-à-vis* the European Commission, *vis-à-vis* UEFA/FIFA and ‘inward-looking’ among its members. Arguably, all three dimensions constitute specific and hitherto only rarely noticed aspects of Europeanisation processes in the realm of football.

The G-14’s early decision to open an office in Brussels already in 2001 on the one hand reflected the growing awareness in football circles that the EU had become a force to be reckoned with in sport policy. On the other hand, it arguably triggered some further activism (not least on the part of UEFA which followed two years later) to become involved with politics at the European level. This has been due mainly to the fact that the G-14 regarded the Commission by then as a potential ally (*vis-à-vis* the various associations) in reforming football according to the ‘business perspective’ (Ducrey *et al.* 2003: 34), leading to some measure of mutual acceptance as relevant players. Thus, while the G-14 had not been recognised by either UEFA or FIFA as an official organisation, the Commission allowed the G-14 to explain its position as employer of footballers in the talks between FIFA and the Commission about a new transfer regime in 2001. UEFA, not surprisingly, exhibited a somewhat distanced relationship to the G-14 throughout all the years. Attempts to strengthen ties with European football clubs not assembled in the G-14 already gave a hint at its aim to weaken this grouping of elite clubs.<sup>22</sup> Although the G-14 itself tended to describe the process of its abolition and the following creation of the ECA as a ‘evolution of the G-14’<sup>23</sup>, the background of these developments as well as the obvious cracks even within the relatively small/coherent G-14 grouping (see below) may indicate that the ECA might not be able to generate the same amount of political pressure.

Looking at G-14’s dissolution in 2008, three issues capture our attention which might, on the one hand, illuminate the specific German interests and ‘quarrels’ with this grouping that have evolved throughout its existence. On the other hand, these issues put

our concluding thesis into a necessary context. First, the internal coherence of the G-14 was obviously far more precarious than all talk about largely overlapping interests of big European clubs might have suggested at the beginning. This seems to be especially true given the situation of intensified competition and rivalry against the background of a ‘crisis of football in Europe’<sup>24</sup>, i.e. the pressure to generate (more) revenue, to compete for players, the struggle to finance their salaries (as well as the debate concerning a salary cap) and the whole issue of different licensing procedures in the face of mounting debts on behalf of some European top-tier clubs. As long as the G-14 could be used as a tool to influence UEFA (regarding the selling of broadcasting rights of the Champions League, for instance), it seemed to be a promising venue. When specific demands (for instance, the German demand for a salary cap as a means to establish a fair level of competition) were introduced, the G-14’s consensus crumbled, finally leading to the situation that Bayern München criticised the other clubs involved for their egoism and moved towards engaging UEFA as a potential ally.<sup>25</sup>

Second, the morphing of the G-14 into the ECA indicated that the former lobby group had been at least partially successful in mounting pressure towards UEFA/FIFA, especially regarding the *Oulmers* case and the issue of compensation payments to clubs for the release of their players to international tournaments (Geey and Lima 2008). While UEFA/FIFA agreed to pay compensations (although not in cases of injury), the compromise also included that the G-14 dropped all its running legal disputes against UEFA/FIFA. The deal, negotiated behind closed doors<sup>26</sup>, finally ushered in the official abandonment of the G-14 and the establishment of the ECA, respectively. Karl-Heinz Rummenigge, appointed Chairman of the ECA and thus at the forefront again, consequently said that the dropping of the legal cases indicated that ‘we are all moving along the right road’ (Geey/Lima 2008: 7), a statement that only underscores the *deal*-structure behind these developments. Thus, successful pressure for financial compensation (G-14’s success) was met by a successful solution of legal quarrels as well as the dissolution of one of UEFA’s chief rivals (UEFA/FIFA’s success).<sup>27</sup>

Third, the ECA is, at best, more inclusive (144 member clubs from 53 European national associations) and hardly resembles the elitist format of the former G-14. Through this feature it cannot be dismissed by UEFA on such grounds anymore (Ennis 2007). Quite to the contrary, unlike the unrecognised G-14, the ECA – from the perspective of UEFA – forms the a legitimate body representing the interests of clubs at the European level. The question however is not, whether the ECA will develop into a



second G-14 (neither intended, nor wished for by UEFA/FIFA, nor probable given its format), but whether the ECA will produce a set of coherent interests, policy proposals and, by this, generate (political) pressure *at all*. In this regard, it remains to be seen what the new era of cooperation between clubs and associations really means for any common articulation of (top-tier and middle-class) European clubs' interests.<sup>28</sup>

Nevertheless, important from our point of view is that a more and more complex web of transnational networks and relationships has been established throughout the realm of European football, mainly through and with reference to the G-14 grouping. The G-14 itself thereby represented a qualitatively different type of transnationalism from those of UEFA or FIFA, since the latter are, above all, constituted through national associations (Lehmkuhl 2004: 182). The *transnational* character of the G-14, on the other hand, was based more on personal relationships between top executives, which had frequent contact with each other and acted on the basis of interests, which had been assumed to overlap for a good part. Moreover, strictly 'national' regards tended to dissolve at least partially<sup>29</sup>, in contrast to UEFA where national interests seem to be more important. The G-14, in sum, not only successfully levelled some pressure on UEFA/FIFA by promoting the interests of its member clubs *vis-à-vis* European institutions and the football associations themselves, thus contributing to the aforementioned processes of Europeanisation of (German) football. Throughout its existence, the G-14 added to the growing Europeanisation of football in Europe more generally, because it generated an 'Europeanising', inward-directed dynamic. Through providing a *trans*-national platform for the debate and eventual articulation of common interests, it partially altered the perspectives taken by its members which were more inclined then to look to the supranational level. It thus, in some sense, contributed to the creation of a transnational (as against a primarily national), *European* 'lifeworld' of exposed football actors. Given the cracks within and G-14's final dissolution in 2008, one should however refrain from exaggerated assessments. With regard to the open future development of the ECA, it seems reasonable though to describe such dynamics at least as a form of *proto*-socialisation towards more Europeanised identities among its protagonists (in that case: executives of leading European football clubs).

[Insert Table 4.2 near here]

## Conclusions

The above analysis indicates that our five sub-cases represent rather different Europeanisation processes (see Table 4.2). *Bosman I* is characterised by strong top-down EU pressures on the DFB (and German clubs) to change nationality restrictions, which were mediated through a mixture of progressive and conservative transposition, while domestic and transnational actors did hardly intervene in the policy formulation period. As a result, we have a high degree of change, adequately described as ‘system transformation’, which is indicated not least in the large share of UEFA residents playing in the Bundesliga. The second case, *Bosman II*, can be described as medium to strong European level/EU pressure on FIFA and national associations to alter the transfer regime. Domestic and transnational agents already became involved in the policy formulation phase and built up considerable opposition against the line pursued by the Commission. Hence, it was possible to prevent a complete overhaul of the transfer system, but (heavy) adjustments had to be made. Thirdly, as for the *broadcasting* case, we witnessed medium pressure from the Commission on the German Football Association and the German Football League to change the centralised marketing model. The DFB and DFL effectively engaged and opposed the Commission on this issue and thus managed to reduce Europeanisation pressures, as a result of which the current broadcasting system merely had to be (moderately) adjusted.

Cases four and five are characterised by rather different sources of Europeanisation, emanating from domestic and above all transnational spheres. The *Champions League* case represents a more complex process in which big football clubs and media companies exerted considerable pressure on an acquiescing and somewhat supportive UEFA for an extension and upgrading of European club competitions. The resulting Champions League, especially due to its very significant financial implications, has to some extent altered the economic structure of European club football, acting as a pull factor particularly to German clubs, given domestic (broadcasting) background conditions. However, the impact of the Champions League (together with the increase of foreign-born players following from *Bosman*) is more profound than that; it may also contribute to the development of a European public space, in terms of forming allegiances and identities on the level of ordinary citizens. Finally, the *G-14* case has been driven by transnational pressures from the biggest European football clubs with rather different reactions on the EU level, on the level of

European/international football associations (UEFA and FIFA) and within the G-14 itself. While the Commission has been rather supportive, the UEFA tended to see the G-14 as a rival institution that needed to be somewhat held in check. Internally, the G-14 witnessed certain socialisation processes (and the development of common perspectives up to some degree). G-14-Europeanisation processes have proceeded rather unevenly, but nevertheless had a moderate impact on the German (and European) football regime.

All in all, the main trends and transformations that German football has undergone in the past 15 years can meaningfully be related to processes of Europeanisation. In addition, the systematisation of Europeanisation into different stages and categories, as specified in the introductory chapter of this volume, has proven useful for an analysis of different Europeanisation processes in the area of German football. The last two sub-cases, which were characterised by considerable complexity, have indicated the boundaries of utility of such typology, as the variety of dynamics became increasingly difficult to capture. Categorisation (and thus implicitly conceptual parsimony) is always, to some extent, a trade-off with the complexity of empirical 'reality'.

Our analysis also adds to one of the most widely discussed issues in the Europeanisation debate, namely the causal relevance of the EU concerning domestic developments. If we look at the first three sub-cases in isolation, we have some scope for a comparative analysis, as these units are adequately homogenous. Values on the explanatory variable (the level of EU pressures) vary across these sub-cases between high (*Bosman I*) and medium (*broadcasting*). The three sub-cases indicate that the level of EU pressure indeed seems to have causal relevance. High EU pressures in *Bosman I* (accompanied with only medium intervening counter-reactions) have led to a transformation of the nationality regime. By contrast, only medium pressures, in the case of *broadcasting* (albeit accompanied by stronger counter-reactions), has only led to (modest) adjustments of the existing broadcasting model. The *Bosman II* case also fits into this sequence: medium to high EU pressures met by strong intervening counter-reactions lead to heavy adjustment of the transfer regime. While this comparison suggests that the EU matters, it also indicates that control/intervening variables, such as domestic and transnational/societal responses, are also important factors to be reckoned with.

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· This chapter is based on Brand and Niemann (2007).

<sup>1</sup> Before the transposition of *Bosman*, the so-called '3+2 rule' applied. It allowed European teams to field three foreign players and two 'assimilated players', i.e. who had played in the respective country for at least five consecutive years.

<sup>2</sup> This extension has not become effective for junior or amateur teams, where EU national only refers to citizens from EU Member States.

<sup>3</sup> Interview with Dr. Theo Zwanziger, then-Managing President of the DFB, by telephone, January 2005.

<sup>4</sup> Interview with Gerhard Mayer-Vorfelder, then-President of the DFB, by telephone, January 2005.

<sup>5</sup> Interview with Theo Zwanziger, Managing President of the DFB, January 2005.

<sup>6</sup> As has been the case later on in other countries (the Kolpak (2003) and the Simutenkow (2005) cases). For further discussion, see the chapters on Europe and Spain in this book.

<sup>7</sup> In general, *Bosman* of course led to increased commercialisation and competitive pressure on behalf of the clubs.

<sup>8</sup> Compared to their European competitors, German professional clubs arguably have less leeway to cover their expenditures themselves (in part due to the requirements of the DFL) via debts and external financing. Each year, the DFL monitors the projected budgetary plans of all professional clubs in order to assess their economic capabilities. Besides, the licensing procedure entails a review of other criteria, e.g. ownership structures and external funding. In case of amassed/non-sustainable debt or massive violation of other criteria, the respective club will not obtain a license to play in the *Bundesliga*.

<sup>9</sup> Interview with Gerhard Mayer-Vorfelder, then-President of the DFB, 2005.

<sup>10</sup> Ibid.

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<sup>11</sup> Ruling of the Regional Superior Court Oldenburg, Az.: 13 O 1195/04, 29 October 2004. See also the confirmatory ruling of the Regional Appeal Court Oldenburg, Az.: 9 U 94/04.

<sup>12</sup> These counter-pressures to some degree resemble what has been termed a ‘policy upload’ in the Europeanisation debate (Börzel 2002). While policy uploads are usually framed as being ‘national’, i.e. made by EU member states, here the upload was mostly conducted by societal actors.

<sup>13</sup> The Kirch Media Group, which acquired the *Bundesliga* broadcasting rights for the period 2000-2004, went into liquidation in April 2002. Recently, media tycoon Leo Kirch (through his company ‘Sirius’) acquired the *Bundesliga* broadcasting rights for 2009-2015. The new deal guarantees revenues of 3 billion Euro for the 36 *Bundesliga* clubs over that period, hence about 500 million Euro annually, a reasonable increase from the previous 420 million Euro per season.

<sup>14</sup> Interview with Gerhard Mayer-Vorfelder, then-President of the DFB, 2005.

<sup>15</sup> Statements by Gerhard Schröder and Tony Blair as well as provisions in the Amsterdam Declaration emphasised the need for EU institutions to listen to sports associations when important questions affecting sports are at issue.

<sup>16</sup> Interview with Dr. Christian Hockenjos, Managing Director at Borussia Dortmund, by telephone, January 2005.

<sup>17</sup> Clubs can sell their games for various media only after the match. Time frames for selling these rights differ across the different media. For full details see European Commission (2005). However, the central marketing model has not been unchallenged. In 2008, the domestic federal antitrust agency opened an investigation, mainly provoked by Bayern München’s questioning of the deal reached between the DFL and the Kirch subsidiary KF 15 (*Kicker*, 10 March 2008).

<sup>18</sup> Between 1992-93 and 2003-4 the Champions League has generated an average attendance of 37,073, more than any national football league during that period. Unofficial estimates since 2004 also put the average attendance within the last five years between approx. 40,000 and 46,000 (see the figures at [www.worldfootball.net/](http://www.worldfootball.net/)).

<sup>19</sup> On the branding/marketing side of the Champions League, see King (2004).

<sup>20</sup> *Economist*, 29 May 2003, 55.

<sup>21</sup> For the English context, see Brown (2000), King (2000), Millward (2006), Levermore/Millward (2007). For a more critical view of the ‘competition’ between a European and a national/regional level of football and its effects on the attitudes of supporters/spectators, see Giulianotti (2005).

<sup>22</sup> In 2002, UEFA established the Club Forum as an expert panel/advisory body with representatives from 102 European clubs as members. Similarly, the European Professional Football Leagues (EPFL), an association of 15 professional leagues founded in 1998, temporarily became more vocal. These developments also indicated that German football officials supported counter trends to the G-14 as well, since the strengthening of the EPFL had been partially brought about by leading actors of the DFL whose clubs did not belong to the G-14. See ‘Straub fordert direkte Mitsprache bei UEFA’, in: *ZDF.de*, 30 November 2004.

<sup>23</sup> This initial assessment was given by Thomas Kurth, general manager of the G-14, see Ennis (2007).

<sup>24</sup> See the special issue of *The Journal of Sport Economics* 7, 1, 2006.

<sup>25</sup> See *Kicker Online*, 17 November 2006.

<sup>26</sup> See *Neue Zürcher Zeitung*, 16 January 2008. The details of the deal remain hidden, but it seems safe to assume that the ‘evolution’ of the G-14 into the ECA may have facilitated the deal, not least since it had been discussed within the G-14 for quite a time before (Ennis 2007).

<sup>27</sup> Pursuing strategic interests might constitute a primary motive of leading German actors again, this time regarding their involvement with ECA, not least in order to increase the coherence of clubs’ actions against the players’ union FIFPro (*Münchener Merkur*, 15 July 2009). However, such formation processes of a transnational advocacy network may only contribute to the described Europeanising mechanism.

<sup>28</sup> At the moment 6 German clubs belong to the ECA: The three German members of the former G-14 (Bayern München, Borussia Dortmund, Bayer Leverkusen), VfB Stuttgart, Schalke 04 and Werder Bremen).

<sup>29</sup> Interview Christian Hockenjos, Managing Director at Borussia Dortmund, 2005, see also the Ducrey *et al.* (2003: 60) as well as Levermore/Millward (2007: 150-1).