

The Europeanization of College Sports: A Solution to the New NCAA Landscape

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The traditional comparison between American and European professional sports has usually emphasized their differences, especially between the closed, collectively bargained major leagues and the merit-based, solidarity-driven European model. This contrast has hindered meaningful comparative analysis. However, the recent professionalization of NCAA competitions offers a new lens: they share structural and regulatory similarities with European sports, such as a pyramidal system and rules set by sport governing bodies without collective bargaining exemptions from antitrust law. In 2024, both systems faced nearly identical legal disputes over transfer regulations, underscoring shared challenges. These parallels open the door for comparative legal approaches. This article aims to propose solutions to NCAA issues inspired by representative features of the European sports model.

Keywords: professional sport, sports model, NCAA, comparative analysis, European sports model

Introduction

Sport is a unique global phenomenon that unites communities worldwide, filling stadiums and dominating television audiences, while also representing a major market opportunity with strong revenue potential through ticket sales, broadcasting rights, and merchandising. The sporting events with the greatest financial capacity are classified as professional sport, where the economic dimension is central and supports a high-turnover global industry. Within this industry, the European Union and the United States stand out as the two most prominent markets, traditionally viewed as fundamentally contrasting systems.

Sport is a unique global phenomenon.¹ Across the world, it brings entire communities together around sporting events, filling stadiums and dominating television ratings. This power to attract huge audiences represents a significant market

¹ L. Casini, *Il diritto globale dello sport* (Giuffrè Editore 2010), 1-8.



opportunity with considerable potential for revenue generation through various sources such as ticket sales, broadcasting rights, and merchandising.²

Sporting events with the greatest financial capacity have been classified as professional sport.³ In these cases, the economic dimension plays a central role, with an entire high-turnover industry structured around sport.⁴ Within this global industry, the two most prominent markets are the European Union and the United States.⁵ These systems have historically been seen as fundamentally contrasting.⁶

The European model is characterised by a pyramidal structure, composed of international federations, national federations, and clubs.⁷ A defining feature of this model is the central role of sporting merit.⁸ Clubs that perform better are rewarded with promotion to higher-level competitions, whether through a league promotion or a qualification for continental tournaments, while those with poorer sporting results are penalized with relegation. Moreover, this model reflects an interconnection between the economic and social dimensions of sport, expressed through the principle of solidarity.⁹ The most prominent example of this system can be found in European professional football (soccer) competitions.¹⁰

The U.S model, by contrast, has been distinguished by its horizontal structure,¹¹ in which teams are grouped around a single organization of which they are permanent members.¹² As a result, sporting merit plays a less significant role, since there

² This phenomenon has been called the commercialization of sport. See: T. Slack, *The Commercialisation of Sport* (Edward Elgar 2004).

³ In contrast to amateur sports, where the economic aspect is not as relevant. On the difference between professional and amateur sports, see: M. Cronin, *Sport: A Very Short Introduction* (Oxford Univ. Press 2014), 47-62.

⁴ In 2024, the professional sports industry generated around \$170 billion. See: J. Sim, Global Sports Industry Generated US\$170bn Revenue in 2024, *SportsPro* (May 6, 2025), <https://www.sportspro.com/news/sports-global-industry-revenues-2024-two-circles-may-2025>.

⁵ I. S. Blackshaw, *International Sports Law: An Introductory Guide* (T.M.C. Asser Press 2017), 5-8.

⁶ However, some authors have noted that despite these big differences, also some similarities between the two models can be established. See: J.A.R. Nafziger, A Comparison of the European and North American Models of Sports Organization, in *EU, Sport, Law and Policy*, 35 (S. Gardiner, R. Parrish & R.C.R. Siekmann eds., T.M.C. Asser Press 2009).

⁷ European Commission, The Helsinki Report on Sport, COM(1999) 644 final, p. 9.

⁸ Ibid., 10

⁹ Ibid., 9.

¹⁰ European Commission: Directorate-General for Education, Youth, Sport and Culture, Cottrill, R. et al, *Study on the European sport model – A report to the European Commission, Publications Office of the European Union*, 2022, 30.

¹¹ I. S. Blackshaw, *supra* note 5, 7.

¹² For an overview of this model taking the National Basketball Association as an example, see: N. Grossmann, What Is the NBA, *Marquette Sports L. Rev.* 101-128 (2014).



is no system of promotion and relegation. Another defining feature of this model is the key importance of collective bargaining agreements. Through a negotiation process between the league and the players' union, both parties agree upon detailed rules governing the competition in all matters concerning the players.¹³ Finally, given that these competitions are primarily profit-driven, there is little or no connection with the community and the social values traditionally associated with sport.¹⁴ The paradigm of this model can be found in the so-called Major Leagues.¹⁵

These two models have been the subject of comparative analysis when examining professional sports from both sides of the Atlantic.¹⁶ As the brief overview demonstrates, the similarities are minimal. Comparative studies have focused in particular on the so-called 'Americanisation' of European sport,¹⁷ especially through the introduction of breakaway leagues replicating the structure of the Major Leagues within European football.¹⁸ These developments have become particularly topical in recent years due to the emergence of the so-called European Super League case.¹⁹ The European Super League is a proposal by the most prominent European football clubs for creating a new continental clubs competition that will try to compete with

¹³ Regarding the role of collective bargaining agreements in the Major Leagues, see: G. Feldman, *Collective Bargaining in Professional Sports: The Duel Between Players and Owners and Labor Law and Antitrust Law*, in *The Oxford Handbook of American Sports Law* (M. McCann ed., Oxford Univ. Press 2018), 209–224.

¹⁴ In this sense, due to the profit driven nature of U.S Professional model, fans are treated like consumers and not stakeholders. This can be appreciated in the fact that some decisions are taken without considering the consequences on the community. The clearest example of it can be found in some relocations that franchises have conducted. See: J.A.R. Nafziger, *EU and North American Models of Organization*, in *Handbook on International Sports Law* (R. Gauthier & J.A.R. Nafziger eds., Edward Elgar 2022), 97.

¹⁵ Which are the National Football League (NFL), the Major League Baseball (MLB), the National Basketball Association (NBA) and the National Hockey League (NHL).

¹⁶ See: I. S. Blackshaw, *supra* note 5; W. Andreff, *Some Comparative Economics of the Organization of Sports: Competition and Regulation in North American vs. European Professional Team Sports Leagues*, *Eur. J. Comp. Econ.*, 3–27 (2011). L. Farzin, *On the Antitrust Exemption for Professional Sports in the United States and Europe*, *Jeffrey S. Moorad Sports Law Journal*, 75–108 (2015).

¹⁷ S. Weatherhill, *Resisting Pressures of "Americanization": The Influence of European Community Law on the European Sports Model*, in S. Greenfield & G. Osborn, *Law and Sport in Contemporary Society* 155–81 (Frank Cass Publ'g 2000).

¹⁸ K. Pijetlovic, *EU Sports Law and Breakaway Leagues in Football* (T.M.C. Asser Press 2015).

¹⁹ The European Super League has been a project by the most powerful clubs in European soccer to create a new continental competition outside the UEFA ecosystem, inspired by the American Major Leagues. See: G. Íñiguez, *European SuperLeague Company and the (New) Law of European Football*, *Insight*, 1–15 (2024).



the UEFA Champions League.²⁰ When the competition was announced, it mirrored the American close league system, as 15 of the 20 clubs that would take part would be permanent members of the competition.²¹ After some clubs retired their support for the project, the promoters have redesigned the competition, rebranding the proposal as Unify League, which would consist on a four-tiers competition with 96 participants.²² In December 2024 the promoters initiated the process for achieving the official recognition by UEFA and FIFA, without any further news on the matter since then.²³

In parallel with the development of the aforementioned process, a highly relevant development has taken place in the United States. Collegiate sports competitions organized under the governance of the National Collegiate Athletics Association (NCAA), which have traditionally been categorized as amateur competitions,²⁴ have experienced a transition into the professional sports sector.²⁵ Since 2021, the year in which the European Super League process began, student-athletes have been

²⁰ Ibid.

²¹ K. Pijetlovic, Legality of UEFA's Prior Authorisation System in C-333/21 European Super League, *GCLS Working Papers* (2024).

²² G. Marcotti, Unify League Explainer: Is This a Champions League Threat?, *ESPN UK* (Dec. 17, 2024), https://www.espn.co.uk/football/story/_/id/43025678/unify-league-super-league-uefa-champions-league-explainer.

²³ We do not have news regarding the decision take by UEFA regarding the authorisation of the competition. However, we know that the Spanish National Competition Authority (CNMC) after a complaint filed by the Superleague promoters initiated an investigation regarding possible breaches by UEFA of EU competition law. *See*: CNMC, La CNMC investiga a la UEFA por restringir la competencia en la organización de competiciones europeas de fútbol, CNMC.es, June 6, 2025. <https://www.cnmc.es/prensa/incoacion-uefa-20250606>.

²⁴ Traditionally, NCAA athletes have been prohibited from receiving financial compensation beyond scholarships for their participation in NCAA competitions. Through a strict and severe disciplinary regime, the NCAA has maintained this prohibition for more than 100 years. *See*: R.A. Smith, *Sports and Freedom: The Rise of Big-Time College Athletics* 165–74 (Oxford Univ. Press 1988).

²⁵ M. McCann, 2024: The Year College Sports Turned Pro, *Sportico* (Dec. 23, 2024), <https://www.sportico.com/law/analysis/2024/year-college-sports-turned-pro-1234821389>.



permitted to sign endorsement contracts,²⁶ and as of 2025, they may now receive direct remuneration from the universities they play for.²⁷

This new actor within the American professional sports landscape bears far greater resemblance to the European model than do the Major Leagues. These similarities have, in turn, given rise to comparable issues and disputes across both systems—something already observable in areas such as player transfer regulations, where litigation on both sides of the Atlantic has involved nearly identical facts, arguments, and outcomes.²⁸ Considering this context, a comparative study is deemed appropriate, with the aim of outlining the regulatory frameworks of both systems and identifying potential shared solutions to similar challenges.

This is the objective of the present work. The first section will be dedicated to outlining the similarities between NCAA competitions and the European professional sports model, with a particular focus on football. Subsequently, transfer-related legal disputes arising within both systems will be analyzed in order to illustrate the existence of common patterns. Finally, current NCAA challenges will be explored with a view to proposing solutions found in the European Model for professional sport.

The Similarities Between NCAA Competitions and the European Professional Model

Unlike the Major Leagues, NCAA competitions bear significant similarities to the European professional sports model. These similarities can be seen in important aspects such as their structure, operation, and relationship with antitrust law. Establishing and understanding these analogies is necessary in order to assess the implementation of possible comparative solutions.

²⁶ In June 2021, the NCAA approved a change to its regulations allowing its athletes to sign sponsorship contracts with third parties, known as Name Image and Likeness Deals (NIL Deals). The eruption NIL has completely transformed the NCAA. *See*: M. Edelman, Name, Image and Likeness Rights in College Sports: Evaluating Year One of Much Overdue Reforms, 75 *Okla. L. Rev.* 1–14 (2023)

²⁷ In June 2025, with the approval of the so-called House Settlement, Division I universities will be able to compensate their athletes, while also setting a kind of salary cap, as universities will be able to allocate a maximum of \$20.5 million during the 2025-2026 season for this purpose. *See*: M. McCann, Everything You Need to Know About the NCAA House Settlement, *Sportico* (June 15, 2025), <https://www.sportico.com/law/analysis/2025/ncaa-house-settlement-key-is-sues-1234855863/>.

²⁸ *See*: Judgment of the Court of Justice 4 October 2024, Case C-650/22, Fédération internationale de football association (FIFA) v BZ, ECLI:EU:C:2024:824; State of Tennessee v. National Collegiate Athletic Association, 3:24-cv-00033, (E.D. Tenn.) and State of Ohio et al. v. National Collegiate Athletic Association (NCAA), No. 1:23-cv-00100 (N.D. W.V.).



The Pyramidal Structure

The first notable similarity between the two competition models lies in their pyramidal organization.²⁹ The European football institutional structure is defined by the existence of a governing body at the apex, which acts as the supreme authority of the system and establishes the fundamental rules common to all competitions. Beneath this top tier is a second level of governance, comprised of entities that adopt shared regulations applicable only to a specific subset of competitions. The third level consists of entities responsible for regulating the particular features of each individual competition. Finally, at the base of the pyramid are the clubs that participate in the competitions.³⁰

In American collegiate sports, this pyramidal model is clearly reflected. At the top sits the NCAA,³¹ which sets out the overarching rules applicable to all competitions in which its member institutions take part.³² Within the NCAA, we find the second tier, formed by its Divisions. NCAA competitions are structured into Division I, II, and III, with competitions grouped according to the economic model adopted by the respective universities.³³ Within each division, the third level comprises the conferences,³⁴ which are the entities responsible for organizing specific

²⁹ This definition refers to the chain-like relationship that exists from the bottom to the top, such that members of the lower levels of the pyramid form part of the upper level by associating themselves with the entities that make up that level. See: J.A.R. Nafziger, EU and North American Models of Organization, in R. Gauthier & J.A.R. Nafziger, *Handbook on International Sports Law* 91–95 (Edward Elgar 2022).

³⁰ For an overview of the pyramidal structure see: S. Weatherhill, *European Sports Law: Collected Papers* 295–310 (T.M.C. Asser Press 2014).

³¹ The National College Athletics Association (NCAA) is a private association established in 1905 to regulate university sports competitions. For a summary of its founding process and purposes, see: J. Wolohan, College and University Athletics, in R. Gauthier & J.A.R. Nafziger, *Handbook on International Sports Law* 143–48 (Edward Elgar 2022).

³² W. K. Zola, College Athletics: The Growing Tension Between Amateurism and Commercialism, in M. McCann, *The Oxford Handbook of American Sports Law* 369 (Oxford Univ. Press 2018).

³³ This division was adopted in 1973 in order to group the different members according to the financial support that universities wished to give to their sports teams. See: J. Wolohan, *supra* note 31, 145.

³⁴ Conference is defined by the NCAA Bylaws as: “a group of colleges and/or universities, created and operated in a manner governed by the policies of its division, that conducts competition among its members, determines a conference champion in one or more sports in which the NCAA conducts a championship, and meets the conference membership requirements established by its division.”



competitions.³⁵ At the base of the pyramid are the universities themselves, which participate in these competitions through their teams.³⁶

As for European professional football, the top of the pyramid is occupied by UEFA,³⁷ which regulates the fundamental aspects of European football through its statutes and regulations.³⁸ The second tier consists of national football associations, which oversee the governance of football within their respective territories.³⁹ Within these associations, at the third level, are the professional leagues, responsible for implementing regulations and organizing the professional championships.⁴⁰ Finally, at the base of the structure are the football clubs, which compete in the tournaments governed by the higher tiers of the pyramid.⁴¹

Furthermore, within the structure itself, we find alliances between the most powerful members of the lower levels in both systems. Thus, in the European professional football ecosystem, we find the European Clubs Association (ECA), a group formed by the most powerful clubs in order to lobby on their behalf.⁴² Its counterpart

³⁵ Conferences have historically been organised based on the geographical proximity of universities. However, with the commercialisation of university sports, a process known as conference realignment has taken place, whereby different universities have changed conferences to create more competitive championships. About conference realignment *see*: S.A. Greyser & V. Kogan, Conflicts of College Conference Realignment: Pursuing Revenue, Preserving Tradition, and Assessing the Future, *Harvard Bus. Sch. Working Paper* No. 14-073 (2014).

³⁶ The NCAA currently consists of 1,073 universities. 355 are part of Division I, 293 are part of Division II, and 425 are part of Division III. *See*: NCAA, 2024-25 NCAA Membership Breakdown (as of August 08, 2024), https://ncaaorg.s3.amazonaws.com/research/sportpart/2024-25RES_NCAAMembershipBreakdown.pdf

³⁷ As this paper deals with European professional football model, in which UEFA acts as the regulator, we consider that for that it should sit at the top of the pyramid. However, it has to be noted that regarding some aspects, such as transfer the regulations are adopted by FIFA, the global football governing body, that regarding the issues regulated shares the highest position of the pyramid with UEFA. For an analysis of the pyramid under stakeholder theory *see*: R. Parrish, Organisation of European Professional Football: A Stakeholder Theory Analysis, in R. Houben, *Research Handbook on the Law of Professional Football Clubs* 29–47 (Edward Elgar 2023).

³⁸ *Ibid.*

³⁹ *Ibid.* 35.

⁴⁰ *Ibid.* 36

⁴¹ *Ibid.* 37

⁴² The European Clubs Association (ECA) was created in 2008 to replace the so-called G-14, an alliance created by the 14 most powerful clubs in Europe. Its objective is to represent the will of the clubs in the decision-making process. However, it is criticised for representing only the will of the most powerful clubs, those that previously formed the influential G-14 group. *See*: K. Pijetlovic, The European Football Competition Model (Under Stress), in R. Houben, *Research Handbook on the Law of Professional Football Clubs* 67–70 (Edward Elgar 2023).



in American college competitions can be found in the so-called Power 4 Conferences, an informal association formed by the four conferences with the greatest economic capacity, which also exerts pressure to ensure that general regulations are adapted to their needs.⁴³ Both groups play an important role in the decision-making process conducted by UEFA and the NCAA, as the recent process of adopting important changes conducted by the sport governing bodies show.⁴⁴

Regulatory Framework and Competitions System

With regard to the regulatory framework that governs the operation of competitions within each model, both NCAA and European football competitions share a common pattern: fundamental elements of the system are adopted unilaterally by the respective associations. This stands in contrast to the model used in the Major Leagues, where such regulations are established through a process of collective bargaining involving player representation.⁴⁵

An analysis of the regulatory frameworks adopted by both the NCAA and UEFA reveals that these governing bodies set out key provisions for the competitions held under their jurisdiction.⁴⁶ Furthermore, lower-level entities within the pyramid, such as Divisions and national federations, as well as conferences and professional leagues, possess regulatory authority to legislate on matters either expressly delegated to them by higher bodies or left unregulated at the upper levels.⁴⁷

⁴³ They are the Atlantic Coast Conference (the ACC), the Big Ten Conference, the Big 12 Conference, and the Southeastern Conference, (the SEC).

⁴⁴ ECA plays an important role in the regulation of European football, as the Memorandum of Understanding signed between it and UEFA in 2019 shows. On that regard see: K. Pijetlovic, *supra* note 42, 55-58. In the NCAA model the same can be said about the Power 4 Conferences. See: J. Wolohan, What Does Autonomy for the “Power 5” Mean for the NCAA?, *LawinSport* (Feb. 11, 2015), <https://www.lawinsport.com/topics/item/what-does-autonomy-for-the-power-5-mean-for-the-ncaa>.

⁴⁵ It has to be noted that the technical rules of the sport are adopted without this bargaining process by the Board of Governors of the League. See: Article 39 of the NBA Constitution and Bylaws: “Playing rule changes may only be made by two-thirds (2/3) vote of all the Governors at a meeting called for this purpose”.

⁴⁶ For a detailed analysis of the NCAA’s regulatory framework see: D. Shannon, The Revised NCAA Division I Governance After Three Years: A Scorecard, 5 *Tex. A&M L. Rev.* 65–103 (2018). Regarding the UEFA one, see: M. Holt, UEFA, UEFA Governance, and the Control of Club Competition in European Football, Birkbeck Sport Bus. Ctr. Working Paper (2009).

⁴⁷ For example, in 2014, the NCAA delegated the regulation of certain aspects, such as scholarship grants, to the conferences. See: D. Shannon, *supra* note 46, 74-77.



Both the NCAA⁴⁸ and European competitions⁴⁹ are structured around divisions. Promotion and relegation mechanisms are present in both systems, though their basis differs: in European football, changes in category are primarily determined on sporting merit,⁵⁰ whereas in NCAA competitions, they depend on whether a university commits to meeting specific financial obligations within its athletic department.⁵¹ In other words, promotion or relegation in European football is effectively mandatory, while in the NCAA system it is voluntary.

In this regard, the NCAA's conferences can be seen as the equivalent of the European professional leagues, in the sense that their member teams compete against one another to determine a champion. Subsequently, the top teams from the various conferences face off in inter-conference tournaments, such as the so-called March Madness (NCAA basketball tournament) or the College Football Playoff, which may be viewed as the counterparts to the UEFA Champions League, the main continental competition in European football. In these tournaments the best teams from the leagues/conferences compete among themselves annually, in a knockout format, for determining which team sits at the top of the pyramid.

It is worth noting that in both the NCAA and the UEFA Champions League, there has been ongoing debate concerning access to these high-level tournaments.⁵² Specifically, whether sporting performance alone should determine qualification, or whether other factors, such as the potential to generate significant commercial revenue, should also be taken into account, for instance through the allocation of fixed

⁴⁸ For an explanation of how NCAA competitions work see: College Sports Divisions Explained, *TheWireSports*, <https://thewire.signingdaysports.com/articles/college-sports-divisions-explained/>.

⁴⁹ Regarding European football competitions see: H. Beck et al., The League System, Competitive Balance, and the Future of European Football, *Managing Sport & Leisure*, 1–24 (2022).

⁵⁰ On that issue see: S. Szymanski, The Promotion and Relegation System, in W. Andreff & S. Szymanski, *Handbook on the Economics of Sport* 685–89 (Edward Elgar 2009).

⁵¹ A prime example of this situation can be found in 1948, when the Ivy League universities decided to leave the top NCAA division because they did not want to devote so many resources to their university sports programmes. See: Wolohan, *supra* note 31, 144.

⁵² For an analysis of the issue taking into account UEFA Champions League qualifying criteria impact on the different European leagues, see: L. Czsato, UEFA Against the Champions? An Evaluation of the Recent Reform of the Champions League Qualification, *J. Sports Econ.*, 1–26 (2022).



places to certain teams.⁵³ This issue once again highlights the existence of shared challenges across both systems, reinforcing the validity of drawing comparisons between the two models.

Economic and Social Impact

An analysis of the economic and social dimensions of both models also reveals several points for comparison. The first of these is the existence of significant disparities in the capacity to generate revenue across different competitions. Among both models, competitions whose economic impact varies considerably are held.

For instance, in the NCAA, the most commercially successful conference, the Big Ten, generated revenues amounting to \$928 million in 2024,⁵⁴ whereas another, such as the Mountain West, generated just \$92.8 million.⁵⁵ A similar situation exists in Europe, where a huge disparity among revenues generated by the leagues can be found.⁵⁶ These differences are not limited to comparisons between leagues or conferences; they are also evident within individual competitions, where the budgets of participating teams can differ markedly. In the 2024 edition of March Madness, for example, the University of Kentucky operated with a budget of \$24 million, while Troy University had a budget of only \$1.8 million.⁵⁷ Similarly, in Spain's La Liga, Real Madrid had a squad cost limit of 754 million euros, compared to 34 million euros for Club Deportivo Leganés.⁵⁸ These disparities have a common impact in

⁵³ Regarding this discussion in the UEFA Ecosystem see: K. Pijetlovic, *supra* note 42, 51-58. For the same discussion, but in NCAA's competitions, see: K. Garcia, *The NCAA Selection Committee's 2025 Controversy: Bias, Financial Incentives, and Questionable Seeding Decisions*, MK Hustle Sports and Entertainment, <https://www.mkhustle.com/blog/the-blueprint-for-ncaa-basketball-success-veteran-leadership-over-5-star-hype-ytnjs-za6yx-475wl>.

⁵⁴ P. Kasaibian, Big Ten Led All Conferences With \$928M Revenue in 2024, \$1.2B+ Expected in 2025, *Bleacher Report* (May 7, 2025), <https://bleacherreport.com/articles/25193615-big-ten-led-all-conferences-928m-revenue-2024-12b-expected-2025>.

⁵⁵ D. Libit, Mountain West Reached Revenue High Ahead of Pac-12 Showdown, *Sportico* (June 13, 2025), <https://www.sportico.com/leagues/college-sports/2025/mountain-west-revenue-fy24-1234856472/>.

⁵⁶ For a detailed analysis of this issue, see: European Leagues, *The Financial Landscape of European Football*. Available at: <https://europeanleagues.com/wp-content/uploads/REPORT-THE-FINANCIAL-LANDSCAPE-OF-EUROPEAN-FOOTBALL.pdf>.

⁵⁷ L. Abakas, Financial Favorites: March Madness Money-Based Brackets, *Sportico* (Mar. 19, 2025), <https://www.sportico.com/leagues/college-sports/2025/march-madness-2025-bracket-finances-budgets-1234843842>.

⁵⁸ La Liga, Squad Cost Limit, <https://www.laliga.com/en-ES/transparency/economic-management/squad-cost-limit>.



both models, the reduction of competitive balance, meaning that the outcome of the tournament, and also its participants become more and more predictable.⁵⁹ Also, the possibility of having Cinderella stories, such as Leicester City in the 2016 Premier League⁶⁰ or Saint's Peter University in the 2022 March Madness⁶¹ decrease.⁶²

These disparities become even more pronounced if we observe them from the pyramid perspective. Regarding lower-tier competitions, such as the lower divisions of European football or NCAA Division II and III tournaments, the capacity to generate income is substantially more limited. Nevertheless, all such competitions operate under the regulatory framework set by either the NCAA or UEFA, meaning that in both systems, professional and amateur competitions are interconnected. This structure underscores the social function fulfilled by these sporting models, as revenues generated by the most economically powerful competitions are redistributed to support lower-tier competitions with more limited financial resources.⁶³ Furthermore, the social role of sport extends beyond economics; both models contribute

⁵⁹ Regarding European football see: V. M. Maimone & T. Yasseri, Football Is Becoming More Predictable: Network Analysis of 88 Thousand Matches in 11 Major Leagues, *R. Soc. Open Sci.* 1, 1–11 (2021).

⁶⁰ Leicester City, which have finished the 2015 season as 14th, surprised everyone winning the title in the 2016 season. See: S. James, Leicester City Win the Premier League Title After a Fairytale Season, *The Guardian* (May 3, 2016), <https://www.theguardian.com/football/2016/may/02/leicester-city-win-the-premier-league-title-after-fairytale-season>.

⁶¹ University of Saint Peter's became the first 15th seed to reach the Elite Eight of the March Madness, beating seed No. 2 Kentucky, No. 7 Murray State and No. 3 Purdue. See: P. Thamel, Saint Peter's Peacocks Stun Purdue, Become First 15-Seed Ever to Make Elite Eight of NCAA Tournament, *ESPN* (Mar. 25, 2022), https://www.espn.com/mens-college-basketball/story/_/id/33596827/saint-peter-peacocks-stun-purdue-become-first-15-seed-ever-make-elite-eight-ncaa-tournament.

⁶² J. Gay, Farewell, Cinderella: March Madness Surrenders to the Powerhouses, *The Wall Street Journal*, (March 25, 2025), <https://www.wsj.com/sports/basketball/farewell-cinderella-march-madness-36d16282>.

⁶³ Of the total revenue generated by the NCAA in 2016, 53.3 million was redistributed among Division II institutions, while 35.2 million went to Division III institutions. NCAA, Where the Money Goes?, NCAA.com (May 13, 2016), <https://www.ncaa.org/sports/2016/5/13/where-does-the-money-go.aspx>. Regarding UEFA, in 2024 it allocated €134 million in solidarity payments to clubs that did not take in continental competitions. See: UEFA, Distribution to clubs from the 2023/24 UEFA Champions League, UEFA Europa League and UEFA Europa Conference League and the 2023 UEFA Super Cup. Payments for the qualifying phases. Solidarity payments for non-participating clubs., *Circular No. 35/2023*, https://editorial.uefa.com/resources/0283-1874e21d8957-30a439a30e08-1000/20230707_circular_2023_35_en.pdf.



to community building, with teams serving as effective tools for fostering social cohesion within the communities in which they operate.⁶⁴

Antitrust Scrutiny

Finally, one of the most significant commonalities between both models lies in the fact that the regulations adopted by the respective sport governing bodies may be scrutinized under antitrust law, something that does not apply to the U.S. Major Leagues.⁶⁵ These competitions are protected from antitrust scrutiny due to the non-statutory labor exemption. As its regulations are codified in a collective bargaining agreement, this precludes the parties that have signed it to challenge its terms on antitrust grounds.⁶⁶ Backed by several judgements of appellate courts,⁶⁷ and unlike UEFA and the NCAA, Major Leagues and players unions, through a bargaining process, adopt rules that govern their relations that otherwise may violate antitrust law.⁶⁸

With regard to the NCAA, the Supreme Court of the United States⁶⁹ has held that its regulations are subject to the Section 1 of the Sherman Act.⁷⁰ These regulations, which are agreements among NCAA members, regulate how the organization and its members engage in economic activity.⁷¹ Therefore this satisfies Section 1's concerted action requirement.⁷² Similarly, the Court of Justice of the European Union (CJEU) has ruled that UEFA and national leagues may be subject to antitrust scrutiny.⁷³ The CJEU has determined that as they engage in economic activity, in aspects such as the

⁶⁴ Regarding the social dimension of both models, reflecting how both models can act as a social anchor, fostering community integration see: A. W. Clopton, One for the Team: Exploring the Relationship Between College Sport, Campus Community, and Academic Social Integration, *J. Issues Intercollegiate Ath.* 42, 42–61 (2009) and J. Biel et al., No Longer Sidelined? Football Fandom, Belonging, and the Boundaries of Europe, *J. Contemp. Eur. Stud.* 1343–65 (2024).

⁶⁵ L. Farzin, On the Antitrust Exemption for Professional Sports in the United States and Europe, *Jeffrey S. Moorad Sports Law Journal*, 2015, 78–92.

⁶⁶ M. J. Mitten, Why and How the Supreme Court Should Have Decided O'Bannon v. NCAA, *Antitrust Bull.* 70, (2017).

⁶⁷ See: *Wood v. NBA*, 809 F.2d 954 (2d Cir. 1987), *Clarett v. NFL*, 369 F.3d 124 (2d Cir. 2004).

⁶⁸ M. J. Mitten, *supra* note 66.

⁶⁹ *NCAA v Board of Regents*, 468 U.S. 85 (1984).

⁷⁰ On the issue see: M. J. Mitten, Applying Antitrust Law to NCAA Regulation of "Big Time" College Athletics: The Need to Shift from Nostalgic 19th and 20th Century Ideals of Amateurism to the Economic Realities of the 21st Century, 10 *Marquette Sports L. Rev.* 1, 1–7 (2000).

⁷¹ These rules regulate multiple aspects with economic impact, such as recruiting, output of games, broadcasting and other aspects of economic competition. See: *Ibid.*

⁷² M. J. Mitten, *supra* note 66, 71.

⁷³ Judgement of the Court of Justice, 23rd December 2023, Case C-333/21 European Superleague Company, SL v Fédération internationale de football association (FIFA) and Union of European Football Associations (UEFA), ECLI:EU:C:2023:1011, para. 87.



selling of broadcasting rights or ticketing, they can be qualified as undertakings.⁷⁴ Regarding the exercise of their regulatory function,⁷⁵ CJEU has qualified UEFA and national leagues as association of undertakings.⁷⁶ This category applies to situations in which economic operators act through a collective structure or common body, such as UEFA and national leagues.⁷⁷ Therefore, as undertakings and associations of undertakings, Article 101 of TFUE can be applied to UEFA's and national leagues' regulations.

It is important to note, however, that both UEFA and the NCAA have been acknowledged by the EU and U.S. courts as entities recognized with a special application of antitrust provisions due to the unique characteristics that sport embodies.⁷⁸ As such, the application of competition law must consider the particular characteristics of the sporting sector.

In the European Union, the CJEU has stated that due to the specific characteristics of sport, it is legitimate to subject the organization and conduct of European professional football competitions to common rules, such as the ones adopted by UEFA.⁷⁹ This means that these regulations cannot be considered generally as contrary to EU competition law.⁸⁰ Also, the CJEU has recognized the maintenance of the specific characteristics of sport as a legitimate objective, which opens the door to the use of the Wouters test.⁸¹ This test balances the positive and restrictive effects of

⁷⁴ B. Van Rompuy, *Antitrust Challenges to Sports Governance: EU and US Perspectives*, in R. Gauthier & J. A. R. Nafziger, *Handbook on International Sports Law* 430 (Edward Elgar 2022).

⁷⁵ *Ibid.*

⁷⁶ Judgement of the Court of Justice, 23rd December 2023, Case C-333/21 European Superleague Company, SL v Fédération internationale de football association (FIFA) and Union of European Football Associations (UEFA), ECLI:EU:C:2023:1011, para. 87.

⁷⁷ Van Rompuy, B, *supra* note 74, 431.

⁷⁸ *NCAA v Board of Regents*, 468 U.S. 85 (1984) at 120. Judgement of the Court of Justice, 23rd December 2023, Case C-333/21 European Superleague Company, SL v Fédération internationale de football association (FIFA) and Union of European Football Associations (UEFA), ECLI:EU:C:2023:1011, para. 144. However, it has to be noted that this special consideration of the sport sector has been greatly whittled away in recent years, with several judicial defeats by both UEFA and NCAA that depart from this privilege antitrust test that used to be the rule.

⁷⁹ Judgement of the Court of Justice, 23rd December 2023, Case C-333/21 European Superleague Company, SL v Fédération internationale de football association (FIFA) and Union of European Football Associations (UEFA), ECLI:EU:C:2023:1011, paras. 143-144.

⁸⁰ Judgement of the Court of Justice, 23rd December 2023, Case C-333/21 European Superleague Company, SL v Fédération internationale de football association (FIFA) and Union of European Football Associations (UEFA), ECLI:EU:C:2023:1011, para. 145.

⁸¹ Judgement of the Court of Justice, 18th July 2006, Case C-519/04 P David Meca-Medina and Igor Majcen v Commission of the European Communities. ECLI:EU:C:2006:492.



the conduct to determine if Article 101.1 TFUE has been infringed.⁸² This offers to UEFA an analytical framework that provides sufficient flexibility to fully consider the specific characteristics of sport in order to prove the legality of its regulations.⁸³

In the US, the Supreme Court⁸⁴ rejected the application of the *per se rule*⁸⁵ to the antitrust examination of NCAA regulations because some horizontal restraints are in place in order for college sports to be available.⁸⁶ Therefore, the test will be conducted using the rule of reason or the quick look.⁸⁷ In both scenarios the NCAA will have the possibility of arguing that the procompetitive effects of its regulations allows the test to be passed in its favor.⁸⁸

This means that both systems recognized the specificity of sport in the antitrust exam of the regulations adopted both by the actors inside the UEFA pyramid and the NCAA pyramid. Due to that, certain restrictions that might ordinarily be considered unlawful under antitrust law in other sectors may be deemed valid when enacted and applied by UEFA or the NCAA, provided that they are intended to preserve the specific features of the competitions they govern.⁸⁹

Transfer Regulations Litigation: Mirroring Both Models

During 2024, both the European football model and NCAA competitions were shaken by rulings that determined fundamental aspects of their regulations relating to player transfers contrary to competition law. The similarity in the facts, the reasoning of the courts, and the possible consequences highlight the possibility of conducting comparative analyses between these two models.

⁸² B. Van Rompuy, B, *supra* note 71, 434.

⁸³ *Ibid.*, 435.

⁸⁴ NCAA v Board of Regents, 468 U.S. 85 (1984).

⁸⁵ The *per se* rule is applied to some kinds of restrains which can be presumed unreasonable and contrary to Section 1 of the Sherman Act without and inquiry of its context and effects. *See*: N. Boninger, Antitrust and the NCAA: Sexual Equality in Collegiate Athletics as a Procompetitive Justification for NCAA Compensation Restrictions, *UCLA L. Rev.* 768, (2019).

⁸⁶ *Ibid.*

⁸⁷ The rule of reason follows a four steps test in order to balance the overall competitive impact of the conduct. The quick look is a shortened version of it in which the Court relies on presumptions as evidentiary shortcuts. On that regard *see*: B. Van Rompuy, *supra* note 71, 452-454.

⁸⁸ M. J. Mitten, *supra* note 66, 82.

⁸⁹ B. Van Rampuy, *supra* note 71, cit., 423.



The Facts

As we have just indicated, both lawsuits dealt with transfer regulations. These regulations, imposed unilaterally by the entity at the top of the pyramid, enforce a series of requirements on players who wish to change teams.

Regarding the European football model, the transfer conditions are set in the FIFA Regulations on the Status and Transfer of Players (RSTP). The RSTP prohibits transfers outside of designated transfer windows,⁹⁰ and likewise prohibits players and clubs from unilaterally terminating their contracts during the competition period.⁹¹ In cases of unilateral termination by a player, the regulations impose financial sanctions.⁹² This damages compensation may also extend to the new club that signs the player.⁹³ In some scenarios, the new club and the player may be subject not only to economic penalties but also to sporting sanctions.⁹⁴ Furthermore, in relation to international transfers the regulations require the processing of a specific document, the International Transfer Certificate (ITC).⁹⁵ In case the player is involved in a dispute

⁹⁰ See Article 6 of the RSTP which establishes that: “Players may only be registered during one of the two annual registration periods fixed by the relevant association. As an exception to this rule, a professional whose contract has expired prior to the end of a registration period may be registered outside that registration period”.

⁹¹ See Article 16 of the RSTP which reads: “A contract cannot be unilaterally terminated during the course of a season.”

⁹² See: Article 17.1 RSTP: “In all cases, the party in breach shall pay compensation. Subject to the provisions of article 20 and Annexe 4 in relation to training compensation, and unless otherwise provided for in the contract, compensation for the breach shall be calculated with due consideration for the law of the country concerned, the specificity of sport, and any other objective criteria. These criteria shall include, in particular, the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period.”

⁹³ See Article 17.2 RTSP: “If a professional is required to pay compensation, the professional and his new club shall be jointly and severally liable for its payment(...).”

⁹⁴ See Article 17.3 and 17.4 RSTP. Regarding player they could have a duration from four months up to six: “This sanction shall be a four-month restriction on playing in official matches. In the case of aggravating circumstances, the restriction shall last six months.”. For clubs it will consist of the ban of registering players for two consecutive transfer windows: “. The club shall be banned from registering any new players, either nationally or internationally, for two entire and consecutive registration periods”.

⁹⁵ See Article 9 of RSTP which states: “Players registered at one association may only be registered at a new association once the latter has received an International Transfer Certificate (hereinafter: ITC) from the former association”.



with their former club regarding the termination of the contract the regulations allow the national association of this club to refuse the ITC.⁹⁶

As for the NCAA competitions, the NCAA transfer system had been structured under a rule that required athletes who transferred to another institution to sit out for one academic year before being eligible to compete for their new school.⁹⁷ This rule has been commonly known as the *one-year rule*. In 2021 the NCAA Division I adopted a waiver to the one-year rule to athletes transferring for the first time.⁹⁸ However, for subsequent transfers, athletes were still required to sit out for one year before being able to compete again. Alongside these reforms, the NCAA prohibited institutions and athletes to negotiate name, image, and likeness (NIL) deals with the aim of recruiting.⁹⁹

Players who breached these bylaws could be found ineligible for competition, which consists in forbidding them to take part in any NCAA competition. The NCAA Bylaws also contain the Rule of Restitution,¹⁰⁰ which allowed the NCAA to sanction universities, both financially and in terms of sports eligibility, if they lined up an athlete whose recruitment is later found to have violated NCAA regulations regarding player eligibility, such as those that have been explained.¹⁰¹

The Courts' Reasonings

When assessing the legality of transfer regulations under competition law, the courts in both jurisdictions carry out a very similar examination. They assess their restrictive effects and the possible reasons that may justify their compatibility with antitrust regulations.

In its *Diarra* Judgement¹⁰² the EU Court of Justice determined that the contested rules significantly deter players from moving from their current club to a new one,

⁹⁶ See Annexe 3 Art 8.3 of the RSTP: "The former association shall not deliver an ITC if a contractual dispute on grounds of the circumstances stipulated in Annexe 3, article 8.2 paragraph 4 b) has arisen between the former club and the professional player".

⁹⁷ For an antitrust analysis of these reforms conducted recently by the NCAA regarding its transfer policy see: M. Carrier & M. Edelman, *An Antitrust Analysis of the NCAA Transfer Policy*, 11 *Tex. A&M L. Rev.* 999–1018 (2024).

⁹⁸ NCAA Media Center, *DI Council Adopts New Transfer Legislation*, NCAA.org (Apr. 15, 2021), <https://www.ncaa.org/news/2021/4/15/di-council-adopts-new-transfer-legislation.aspx>.

⁹⁹ For an analysis of this prohibition with the Antitrust regulations see: A. Yen, *Finding Another Way: The NCAA's Regulation of NIL and Recruiting*, 76 *Okla. L. Rev.* 176–202 (2022).

¹⁰⁰ Bylaw 12.11.4.2 "Restitution" of the NCAA Bylaws.

¹⁰¹ An explanation of the Rule of Restitution can be found in: J. S. Kim, *The Justiciability of Challenging the NCAA Rule of Restitution*, 8 *Miss. Sports L. Rev.* 49–68 (2019).

¹⁰² Judgment of the Court of Justice 4 October 2024, Case C-650/22, *Fédération internationale de football association (FIFA) v BZ*, ECLI:EU:C:2024:824.



restricting competition among football clubs in the recruitment of players under contract, being then contrary to Article 101.1 TFEU.¹⁰³ The economic and sporting penalties together with the joint liability regime creates a situation in which the signing of contracted players and their movement between clubs lose any practical appeal, limiting transfers to cases in which the player has terminated their contract or a transfer fee agreement is reached between the three parties.¹⁰⁴ As this practice is found to be inherently harmful to competition, it is considered as a restriction by object.¹⁰⁵ The procompetitive arguments relating to the creation of equal opportunities and maintenance of the sporting merit were rejected by the Court.¹⁰⁶ Therefore, the contested provisions would only be compatible with EU competition law if the four criteria of Article 101.3 TFEU are met, a situation in which the Court considered highly unlikely.¹⁰⁷

Regarding the NCAA, in *Tennessee v. NCAA* and *Ohio v. NCAA* the U.S. courts assessed the NCAA Bylaws under the rule of reason test. Both courts conducted an antitrust examination following the path marked by the Supreme Court in *NCAA v. Alston*.¹⁰⁸ In that judgement, after conducting a rule of reason test, the Supreme Court found that certain restraints imposed by the NCAA to athletes infringed upon Section 1 of the Sherman Act.¹⁰⁹ Therefore, the courts first considered the possible anticompetitive effects of NCAA contested regulations, which were found in the way they hinder the movement of athletes between institutions participating in NCAA

¹⁰³ For an analysis of the case, see: S. Bastianon & M. Colucci, The Evolution of FIFA Transfer Football Regulation in the Wake of the Diarra Judgment, *Riv. Dir. Econ. Sport* 1, 1–42 (2024).

¹⁰⁴ Judgment of the Court of Justice 4 October 2024, Case C-650/22, Fédération internationale de football association (FIFA) v BZ, ECLI:EU:C:2024:824; paras. 138–148.

¹⁰⁵ The by object restrictions are conducts that infringe by its very nature article 101.1 TFEU. This is because looking at its content, context and objective its only logic explanation is the restriction of competition. Due to that, as they object is the restriction of competition, the Wouters justification, which applies to agreements that pursue legitimate objectives, cannot be used to justify its compatibility with art 101 TFEU. This can only come when the conduct fulfils the four criteria of the exemption provided by article 101.3 TFEU. For a complete analysis of the concept, see: P. Ibañez Colomo, Restrictions by Object under Article 101(1) TFEU: From Dark Art to Administrable Framework, *Yearb. Eur. L.* 224–60 (2024).

¹⁰⁶ Judgment of the Court of Justice 4 October 2024, Case C-650/22, Fédération internationale de football association (FIFA) v BZ, ECLI:EU:C:2024:824, paras. 143–146.

¹⁰⁷ Judgment of the Court of Justice 4 October 2024, Case C-650/22, Fédération internationale de football association (FIFA) v BZ, ECLI:EU:C:2024:824; paras. 154–157.

¹⁰⁸ National Collegiate Athletic Association. v. Alston, 594 U.S. (2021).

¹⁰⁹ For a complete analysis of the decision, see: H. Hovenkamp, A Miser's Rule of Reason: The Supreme Court and Antitrust Limits on Student Athlete Compensation, 78 *N.Y.U. Ann. Surv. Am. L.* 1–37 (2022).



competitions,¹¹⁰ both from the supply side (athletes) and the demand side (universities). In doing so, it restricts competition among institutions in the relevant market for the acquisition of athletes to participate in NCAA competitions.¹¹¹ Then the courts moved to analyze the existence of possible procompetitive effects that counterbalance the restriction. The arguments related to the increase of competitive balance and the distinction of NCAA with U.S. professional sports through the NCAA transfer system were rejected by both courts.¹¹² The courts noted that the contested regulations limit the ability of institutions to recruit players for their teams and prevent them from fielding such players in competitions for a period of one year.¹¹³ This, in turn, favors the concentration of top athletes in a limited number of universities.¹¹⁴ Another pro-competitive argument put forward by the NCAA was that the rules allowed to create a differentiation from professional sports.¹¹⁵ This was also rejected by the courts, which noted that allowing athletes to transfer multiple times and to receive NIL recruiting offers would not eliminate the distinctive features of the NCAA.¹¹⁶ Athletes must still maintain their amateur eligibility to participate in NCAA competitions, being enrolled in a university and meeting the academic requirements set forth in the NCAA regulations.¹¹⁷ Due to that, the contested provisions do not serve to uphold this distinction.¹¹⁸ Therefore, the absence of legitimate pro-competitive justifications renders the regulations in question potentially contrary to Section 1 of the Sherman Act.¹¹⁹

The Consequences for the Models

Both cases have a significant impact on the transfer systems of the competitions to which these regulations applied. Although the rulings do not threaten the existence of the transfer systems as a whole, they affect key aspects of their structure.

¹¹⁰ Order Granting Temporary Restriction, *Tennessee v. NCAA*, p. 9. Order Granting Temporary Restriction, *Ohio v. NCAA*, 6-7.

¹¹¹ *Ibid.*

¹¹² Order Granting Temporary Restriction, *Ohio v. NCAA*, 17-19. Order Granting Temporary Restriction, *Tennessee v. NCAA*, p. 8.

¹¹³ Order Granting Temporary Restriction, *Tennessee v. NCAA*, p. 8.

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*, 7.

¹¹⁶ Order Granting Temporary Restriction, *Ohio v. NCAA*, p. 19.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ Both lawsuits were settled before summary judgement. The NCAA agreed to eliminate those provisions and not implement future ones with similar to the contested ones.



Regarding the NCAA, the consequences can already be appreciated. The NCAA removed the contested provisions, so athletes can now sign NIL recruiting deals¹²⁰ and transfer several times without having to sit out.¹²¹ With fewer barriers to player movement and recruitment, the NCAA has experienced a record number of transfers with record-breaking NIL recruitment deals.¹²² The second-time transfer Darian Mensah, who went to Duke, had NIL valued at \$8 million, which perfectly exemplifies this new reality.¹²³ Also, players are extending their NCAA career instead of entering the NFL or NBA Draft, even in cases with strong draft prospects.¹²⁴ The NCAA is seeking solutions to this. The record numbers of transfers supposes a threat to the roster stability needed for the development of the competition. Taking into account that most of the transfers are conducted during the first four weeks of the portal, the NCAA has decided to reduce the duration of it to 30 days¹²⁵ in order to provide greater stability to student-athletes and programs.¹²⁶ It has to be noted that this is the second reduction of the duration of the transfer portal adopted by the NCAA,¹²⁷ which in 2023 reduced the duration from the original 60-day window to 45 days.¹²⁸

In the European football model, things are moving slower. The post-Diarra situation theoretically will bring more power to the players, specially to the most skilled,

¹²⁰ Associated Press, NCAA Agrees to Lift Name, Image and Likeness Recruitment Ban, *Associated Press* (Mar. 17, 2025), <https://apnews.com/article/ncaa-college-athletes-6374733a663e-ba0d4d5564b47fdb39fc>.

¹²¹ NCAA Media Center, Division I Council Approves Changes to Transfer Rules, NCAA.org (Apr. 17, 2024), <https://www.ncaa.org/news/2024/4/17/media-center-division-i-council-approves-changes-to-transfer-rules.aspx>

¹²² C. Salao, NCAA Transfer Portal Hits Record Numbers—Again, *Front Off. Sports* (Apr. 21, 2025), <https://frontofficesports.com/ncaa-transfer-portal-hits-record-numbers-again/>.

¹²³ C. Salao, Darian Mensah's Record \$8M Duke Transfer Shows Rapid Growth of NIL Deals, *Front Off. Sports* (Dec. 26, 2024), <https://frontofficesports.com/darian-mensahs-record-8m-duke-transfer-shows-rapid-growth-of-nil-deals/>.

¹²⁴ The quarterback Carson Beck retired his name from the 2025 NFL Draft and decided to sign with Miami University. See: M. Zenitz, Carson Beck Chooses Transfer Portal Over 2025 NFL Draft: Scouts Say the Move Is a 'No-Brainer', *CBS Sports* (Jan. 10, 2025), <https://www.cbssports.com/college-football/news/carson-beck-chooses-transfer-portal-over-2025-nfl-draft-scouts-say-the-move-is-a-no-brainer/>.

¹²⁵ NCAA, DI Council Approves Changes to Notification-of-Transfer Windows, NCAA.com (Oct. 4, 2023), <https://www.ncaa.org/news/2023/10/4/media-center-di-council-approves-changes-to-notification-of-transfer-windows.aspx>.

¹²⁶ *Ibid.*

¹²⁷ For an antitrust analysis of this measure, see: M. Carrier & M. Edelman, An Antitrust Analysis of the NCAA Transfer Policy, 11 *Tex. A&M L. Rev.* 999–1018 (2024).

¹²⁸ NCAA, DI Council Approves Changes to Notification-of-Transfer Windows, NCAA.com (Oct. 4, 2023), <https://www.ncaa.org/news/2023/10/4/media-center-di-council-approves-changes-to-notification-of-transfer-windows.aspx>.



as they will face fewer barriers for changing clubs and seeking higher salaries.¹²⁹ Also, the importance of transfers as a recruitment tool could decrease. As the CJEU noted, transfers fees were, under the contested provisions, the only way possible for recruiting players already under contract.¹³⁰ Having found the current system contrary to EU competition law, it opens the door to a future scenario in which the recruiting of players under contract could be conducted without these payments, reducing the number of fees paid by the clubs in the recruiting process.¹³¹ This could have important consequences, as transfers are a useful solidarity tool for redistributing resources from the richest clubs to clubs not financially powerful.¹³²

These facts show the need for the implementation of some reform in the model. A consultation process with all the affected parties has been initiated with the aim of reforming Article 17 of the RSTP,¹³³ which could lead to an implementation of a bargained provision, instead of a unilateral one as the former Article 17 RSTP was. It must be said that in December 2024, FIFA adopted a new interim regulatory framework regarding RSTP, in which a new redaction has been given to the contested provisions in the Diarra case. The implementation of this interim framework does not stop the consultation process initiated with all the stakeholders, which is still ongoing, and from which long-term bargained amendments to the RSTP could be reached.

In summary, these judgements regarding transfer regulation show that the similarities between the NCAA and European football models are real and appreciable. Both cases dealt with similar facts: a regulation adopted unilaterally by a sport governing body that created barriers to player movement. The courts' reasonings had also strong similarities, as they stated that these regulations were contrary to the competition law provisions as they reduced the possibilities of teams in recruiting players, and the chances of players regarding the possibility of changing teams. Also, the argument for justification of the provisions related to the creation of competitive balance and equal opportunities and sporting merit was rejected in both cases. This

¹²⁹ T. Horton et al., Diarra: Tout ou Rien?, *FootballLaw* (Nov. 17, 2024), <https://www.footballlaw.co.uk/articles/diarra-tout-ou-rien-rstp-competition-cjeu>.

¹³⁰ Judgment of the Court of Justice 4 October 2024, Case C-650/22, Fédération internationale de football association (FIFA) v BZ, ECLI:EU:C:2024:824, para. 147.

¹³¹ N. Hertel & J. Wauters, ECJ Decision in the Diarra Case: Some of FIFA's Players Transfer Rules Are Incompatible With EU Law, *White & Case* (Oct. 10, 2024), <https://www.whitecase.com/insight-alert/ecj-decision-diarra-case-some-fifas-players-transfer-rules-are-incompatible-eu-law>.

¹³² On that regard see: A. Duval, Football at a Crossroads: Why the Diarra Ruling Marks a Crucial Turning Point for Football, *Verfassungsblog* (Oct. 25, 2024), <https://verfassungsblog.de/football-at-a-crossroads/>.

¹³³ FIFA, FIFA to Open Global Dialogue on Article 17 of the Regulations on the Status and Transfer of Players Following Diarra Ruling, *FIFA* (Oct. 14, 2024), <https://inside.fifa.com/news/fifa-to-open-global-dialogue-on-article-17-of-the-regulations-on-the-status-and-transfer-of-players>



parallelism opens the door for the study of implementing comparative solutions as a way to solve the challenges that the models face.

The Europeanization of NCAA Competitions

As we have shown in the previous sections, NCAA competitions and professional European football competitions share important features in the model structure. These similarities are not only theoretical, but also transcend to the practical level, as evidenced by the similar position taken by the courts in relation to transfer regulations that we have commented on. Given this similarity, we will now address the Europeanization of NCAA competitions, in which a proposal of solutions to various problems presented by the latter competitions, inspired by features of the European model, will be made.

Eligibility Rules Lawsuit Mess: Meca-Medina Test for Legal Certainty

Another issue currently posing significant challenges to the NCAA is the antitrust scrutiny of its eligibility rules—that is, the regulations that determine the conditions athletes must meet in order to participate in NCAA competitions.¹³⁴ One of the distinctive features of the NCAA's eligibility framework is its time-limited nature. Generally, an athlete may take part in NCAA competitions in a given sport for a maximum of four seasons within a five-year period from the date of their initial university enrolment.¹³⁵ This general regime is accompanied by a number of exceptions, which must be approved by an internal NCAA committee.¹³⁶

As this rule effectively limits the length of athletes' NCAA careers and the profits they can obtain through them, 2025 has seen a proliferation of legal actions in which athletes challenge the legality of such practices on the grounds that they hinder access to the economic opportunities associated with participation in NCAA competitions. Judicial responses to these claims have varied significantly, giving rise to considerable legal uncertainty surrounding the issue.

¹³⁴ Regarding NCAA eligibility system, see: T. Davies & M. J. Mitten, Athlete Eligibility, in R. Gauthier & J.A.R. Nafziger, *Handbook on International Sports Law* 298–305 (Edward Elgar 2022).

¹³⁵ NCAA ByLaw 12.8.1 Five-Year Rule. “A student-athlete shall complete the student-athlete's seasons of participation within five calendar years from the beginning of the semester or quarter in which the student-athlete first registered for a minimum full-time program of studies in a collegiate institution, (...)”.

¹³⁶ NCAA ByLaw 12.8.1.7 Five-Year Rule Waiver. The Committee on Student-Athlete Reinstatement, or its designated committee, by a two-thirds majority of its members present and voting, may approve waivers of the five-year rule as it deems appropriate.



For instance, in the case of *Pavia v. NCAA*,¹³⁷ the District Court for the Middle District of Tennessee granted a preliminary injunction in favor of the athlete, allowing him to compete for an additional year. The court found that the athlete had demonstrated a substantial anticompetitive effect on college football. Other cases, such as *Elad v. NCAA*,¹³⁸ have reached similar conclusions, holding that the current eligibility limits enshrined in NCAA regulations raise serious concerns regarding their compatibility with Section 1 of the Sherman Act.¹³⁹

On the other hand, other courts have declined to subject NCAA eligibility regulations to antitrust scrutiny. For instance, in *Goldstein v. NCAA*,¹⁴⁰ the District Court for the Middle District of Georgia dismissed the athlete's claim, reasoning that the NCAA's eligibility rules do not constitute commercial activity and therefore fall outside the scope of the Sherman Act. Similarly, in *Kai Johnson v. NCAA*,¹⁴¹ the District Court for the District of Montana held that these regulations lack an economic nature and are thus not subject to the provisions of the Sherman Act.¹⁴²

This divergence in judicial interpretation by different federal courts regarding the nature of eligibility rules mirrors the debate that has taken place in European professional sport concerning whether certain regulations governing athletes' participation in competitions should be assessed or exempted for compatibility with European Union law. According to the case law established in *Walrave*,¹⁴³ rules that are purely sporting in nature fall outside the scope of EU law.¹⁴⁴ However, determining whether a rule qualifies as purely sporting has proven to be a complex, case-specific exercise, often resulting in legal uncertainty.¹⁴⁵

¹³⁷ *Pavia v. National Collegiate Athletic Association* No. 24-cv-01336, M.D. Tenn. The decision has been upheld by the Sixth Circuit. See: *Pavia v. NCAA*, No. 24-6153 (6th Cir. 2025).

¹³⁸ *Elad v. National Collegiate Athletic Association* No. 25-cv-01981, D. New Jersey.

¹³⁹ See also: *Fouqueran v. National Collegiate Athletic Association* No. 25-cv-00068, W.D. and No. 25-cv-00226, E.D. Tennessee. However, the Seventh Circuit in a 2-1 verdict reversed the injunction. See: *Fourqurean v. National Collegiate Athletic Association*, No. 25-1187 (7th Cir. 2025).

¹⁴⁰ *Goldstein v. National Collegiate Athletic Association* No. 25-cv-00027, M.D. Georgia.

¹⁴¹ *Johnson v. National College Athletic Association* No. 25-cv-00060, D. Montana.

¹⁴² See also: *Brzovic v. National College Athletic Association* No. 25-cv-02885, D. South Carolina and *Coley v. National College Athletic Association* No. 25-cv-00098, E.D. North Carolina.

¹⁴³ Judgement of the Court of Justice, 12th December 1974, Case 36/74 B.N.O. *Walrave*, I. J. M. Koch c. Association Union Cycliste Internationale, Koninklijke Nederlandsche Wierlen Unie e Federacion Espanola Ciclismo, ECLI:EU:C:1974:140.

¹⁴⁴ Judgement of the Court of Justice, 12th December 1974, Case 36/74 B.N.O. *Walrave*, I. J. M. Koch c. Association Union Cycliste Internationale, Koninklijke Nederlandsche Wierlen Unie e Federacion Espanola Ciclismo, ECLI:EU:C:1974:140, para. 8.

¹⁴⁵ On the difficulty of making this distinction, see: S. Wetherhill, On Overlapping legal orders: what is the pure Sporting rule? in B. Bogusz, A. Cygan, E. Szyszak (a cura di) *The Regulation of Sport in the European Union*, Edward Elgar, Cheltenham, 2007, 49-52.



This legal uncertainty was resolved in 2006 by the *Meca-Medina*¹⁴⁶ judgment, which redefined the antitrust review of sporting regulations in the European Union.¹⁴⁷ In that decision, the Court of Justice of the European Union held that the mere fact that a rule is sporting in nature does not, in itself, exempt it from the application of EU (competition) law.¹⁴⁸ Upon making this clarification, the court proceeded to assess the compatibility of the measures in question with EU law, in which its context regarding the sporting nature of the rule plays a significant economic impact.¹⁴⁹ The court concluded that the protection of the specific characteristics of sport constitutes a legitimate objective capable of justifying certain restrictions on competition, provided such restrictions are appropriate and do not go beyond what is necessary to achieve the legitimate aim pursued.¹⁵⁰

The full application of this doctrine by United States courts when examining NCAA regulations compatibility with antitrust law would bring much-needed legal certainty to the issue. The current rule, which limits athletes to four seasons of competition, deprives those affected of important economic opportunities, as they lose access to the unique platform that these competitions represent—particularly for securing NIL agreements or receiving direct remuneration from their universities.¹⁵¹ This clearly highlights the economic dimension of such regulations, thereby supporting their eligibility for analysis under the Sherman Act, just as the sanctions imposed in *Meca-Medina* fell within the scope of EU competition law for preventing athletes from taking part in sport competitions.¹⁵² This analysis path has been conducted by the Seventh Circuit in its decision in the *Fourquran vs NCAA* case, the first decision by a U.S. Court of Appeals in this eligibility rules lawsuit mess.¹⁵³

¹⁴⁶ Judgement of the Court of Justice, 18th July 2006, Case C-519/04 P David Meca-Medina and Igor Majcen v Commission of the European Communities. ECLI:EU:C:2006:492.

¹⁴⁷ For an analysis of the judgement see: S. Weatherhill, Case C-519/04P *Meca-Medina* (2006), in J. Anderson, *Leading Cases in Sports Law* 137–51 (T.M.C. Asser Press 2013).

¹⁴⁸ Judgement of the Court of Justice, 18th July 2006, Case C-519/04 P David Meca-Medina and Igor Majcen v Commission of the European Communities. ECLI:EU:C:2006:492, para. 27.

¹⁴⁹ S. Weatherhill, *supra* note 147, 142.

¹⁵⁰ *Ibid.*, 151.

¹⁵¹ This is the argument that plaintiffs questioning the legality of the current NCAA regulations, such as Diego Pavia, have used in their lawsuits. See: M. McCann, *Diego Pavia Defeats NCAA as Court Issues Injunction to Let Him Play*, *Sportico* (Dec. 18, 2024), <https://www.sportico.com/law/analysis/2024/diego-pavia-ncaa-eligibility-injunction-1234821169/>

¹⁵² See: J. Exner, *Sporting Nationality in the Context of European Union Law: Seeking a Balance Between Sporting Bodies' Interests and Athletes' Rights* (Springer 2019).

¹⁵³ The Seventh Circuit noted that the eligibility rules fall inside the scope of the Sherman Act and that the antitrust exam should be conducted under the rule of reason test. See: *Fourquran v. National Collegiate Athletic Association*, No. 25-1187 (7th Cir. 2025).



However, as established in *Meca-Medina*, the fact that such rules fall under antitrust scrutiny does not imply their automatic illegality. Rather, they must be assessed under the *rule of reason* test—that is, by determining whether they produce procompetitive effects and whether there exists less restrictive means of achieving these effects.¹⁵⁴

In this case, the pro-competitive effect achieved by the regulation is a distinction from traditional professional sport. In the latter, an athlete's career can be extended indefinitely. However, in collegiate sport, it seems logical to link it to the average period of time a student spends at university.¹⁵⁵ Given the pro-competitive effect, the existence of less restrictive means should be analyzed.

Under the current NCAA regulations, student-athletes are permitted to compete for four seasons within a five-year eligibility window.¹⁵⁶ Athletes who wish to extend their collegiate careers—due to injury or other exceptional circumstances—must apply to the NCAA for a waiver, which effectively pauses the five-year clock.¹⁵⁷ The decision on whether to grant such a waiver is made by an internal NCAA committee based on an assessment of specific criteria. This process creates uncertainty¹⁵⁸ for

¹⁵⁴ T. Davis, M. J. Mitten, *Athlete Eligibility*, cit, 302.

¹⁵⁵ An analogy can be drawn between the pro-competitive effect of the NCAA's eligibility restrictions and those imposed on athletes' nationality for participation in international-national team based competitions. Without rules preventing the same athlete from representing multiple countries, such competitions would lose their character, purpose and magic, and therefore these restrictions are justified. Similarly, if participation in NCAA competitions is not limited to a specific period of time, which is related to the athlete's temporary stay at the university, there is a risk that the distinguishing feature of these competitions will disappear. See: J. Exner, *supra* note 152.

¹⁵⁶ NCAA ByLaw 12.8.1 Five-Year Rule. "A student-athlete shall complete the student-athlete's seasons of participation within five calendar years from the beginning of the semester or quarter in which the student-athlete first registered for a minimum full-time program of studies in a collegiate institution, (...)"

¹⁵⁷ NCAA ByLaw 12.8.1.7 Five-Year Rule Waiver. The Committee on Student-Athlete Reinstatement, or its designated committee, by a two-thirds majority of its members present and voting, may approve waivers of the five-year rule as it deems appropriate. For the Criteria that should be taken into account see NCAA ByLaw 12.8.1.7.1-12.8.1.7. 4.

¹⁵⁸ This uncertainty can be appreciated in the fact that even after the first decision on the matter by a Court of Appeal, the disparity between decisions can still be observed, with judgments that with similar facts, reach different conclusions, allowing in some cases the athlete to extend its eligibility and in other cases to find the NCAA restrictions valid. See: M. McCann, Nevada WR Catches Court Win as NCAA Eligibility Cases Split, *Sportico* (July 21, 2025), <https://www.sportico.com/law/analysis/2025/nevada-wide-receiver-defeats-ncaa-1234863499/>.



athletes regarding their future participation,¹⁵⁹ that with the current NIL landscape also could deprive them of opportunities to generate important income.¹⁶⁰

In the current landscape, marked by NIL rights and direct payments from universities, such uncertainty can have increasingly detrimental effects on athletes' economic opportunities.¹⁶¹ A current inconsistency exists as athletes in the same circumstances receive different responses regarding the possibility of extending their careers in the NCAA.¹⁶² Therefore, it appears appropriate to introduce a regulatory change that replaces the current '4-in-5' model with a '5-in-5' structure, effectively eliminating the need for waivers by granting all athletes an additional year of eligibility as a general rule.¹⁶³ Athletes have already filed a class action in order to implement this solution.¹⁶⁴ It could be argued this '5-in-5' would represent a more proportionate way of preserving the distinction between collegiate and professional sport, ensuring that eligibility rules remain consistent with antitrust regulation.

¹⁵⁹ C. R. Tate, Reporting as Eligible: Two Recent Rulings Cast Doubt on NCAA Eligibility Rules, *FloraPetit* (Jan. 30, 2025), <https://www.fplegal.com/news/reporting-as-eligible-two-recent-rulings-cast-doubt-on-ncaa-eligibility-rules>.

¹⁶⁰ For example, Diego Pavia who won an injunction preventing the NCAA to apply to him the five year rule, claimed that if this rule was applied to him, he would have been prevented of earning a NIL compensation over \$1 million. See: M. McCann, Pavia Injunction Could Lead to Seven-Year College Careers, *Sportico* (Dec. 22, 2024), <https://www.sportico.com/law/analysis/2024/pavia-injunction-seven-year-college-careers-1234821486/>.

¹⁶¹ Due to that there will be an increase in litigation by athletes whose eligibility has expired, in order to extend their careers. See: M. McCann, Eligibility Lawsuits More Likely to Increase With NCAA Revenue Shares, *Sportico* (June 8, 2025), <https://www.sportico.com/law/analysis/2025/house-settlement-revenue-sharing-pavia-lawsuits-1234855570/>.

¹⁶² This harms not only the players who are deprived of opportunities, but also the teams that cannot reliably plan their squads for the following season. See: N. Rome, Some Athletes Get a Lifeline, Others Denied Amid the NCAA's Eligibility Chaos, *Saturday Blitz* (June 6, 2025), <https://saturdayblitz.com/some-athletes-get-a-lifeline-others-denied-amid-the-ncaa-s-eligibility-chaos-diego-pavia-corey-coley>.

¹⁶³ Some voices within the NCAA are calling for this solution to be adopted in order to put an end to the current situation characterised by legal uncertainty. See: R. Dellanger, College Sports Leaders Mulling '5-in-5' Rule to Eliminate Redshirts, Waivers and Other Exemptions, *Yahoo Sports* (Jan. 16, 2025), <https://sports.yahoo.com/college-sports-leaders-mulling-5-in-5-rule-to-eliminate-redshirts-waivers-and-other-exemptions-211750014.html>.

¹⁶⁴ D. Murphy, College Athletes Suing NCAA to Extend Eligibility to 5 Seasons, *ESPN* (Sept. 2, 2025), https://www.espn.com/college-football/story/_/id/46141528/two-vanderbilt-players-suing-ncaa-extend-eligibility. The full text of the complaint can be accessed at: <https://casefiling-alert.com/wp-content/uploads/2025/09/NCAA-Lawsuit.pdf>.



Promotion and Relegation for Maintaining Competitive Balance

As previously noted, NCAA competitions allow for promotion, relegation, or reclassification of teams. In the division/conference promotion and reclassification of teams there is a big difference between the two models. Unlike its European counterpart where such movements are primarily based on sporting merit, in the NCAA these movements are determined by financial considerations.¹⁶⁵ However, in relation to interconference/leagues championships these differences are reduced. The best teams from the different European leagues compete among themselves in the UEFA Champions League,¹⁶⁶ while the best teams from the different Division I conferences also take part in interconference tournaments, such as March Madness or the College Football Playoff. Regarding the qualifying bids for these tournaments, both models share the feature of awarding different numbers of bids to the different leagues/conferences whose teams take part in the tournament. The most powerful leagues/conferences obtain more bids than the less powerful leagues.¹⁶⁷ This has the consequence that the teams of the most powerful leagues will then collect a bigger part of the revenue generated by the interconference tournament, strengthening its dominant position with respect to the lower-tier teams.¹⁶⁸

In the NCAA landscape, this dynamic poses the risk of increasing the current differences among conferences, creating an insurmountable divide between the various

¹⁶⁵ For example, College teams may change divisions depending on the level of expenditure they are willing to commit to, or may switch conferences as part of a strategic decision. On that regard see: C. Dennie, *Conference Realignment: From Backyard Brawls to Cash Cows*, *Miss. Sports L. Rev.* 249–279 (2012).

¹⁶⁶ UEFA Champions League represents the top tier of the interleague football competitions. UEFA also organises the UEFA Europa League and the UEFA Conference League, that are the second and third tier of this kind of competitions. See: K. Pijetlovic, *supra* note 42, 49–51.

¹⁶⁷ Regarding UEFA, the four teams that finish at the top of the Spanish league have automatic bids to the Champions League, while in the Scottish league only two teams got a Champions League bid that it is not automatic. See: Annex A of the UEFA Champions League Regulations, <https://documents.uefa.com/r/Regulations-of-the-UEFA-Champions-League-2025/26-Online>. Regarding the NCAA in the 2024 March Madness, the Power 4 Conferences averaged 6 bids, while other conferences had only one representative. See: M. Medcalf, *March Madness 2024 Bracket: Here Are All 68 NCAA Men's Teams*, *ESPN* (Mar. 18, 2024), https://www.espn.com.au/mens-college-basketball/story/_/page/FirstLookField/march-madness-2024-every-team-mens-ncaa-tournament-bracket-explained.

¹⁶⁸ In UEFA, clubs from the English, Italian, Spanish, German and French top divisions have amassed two thirds out of the total UEFA shared revenues. See: K. Pijetlovic, *supra* note 42, 52–58. A similar situation presents the NCAA. In the March Madness the Power 4 teams obtained more than 80% of the revenue shared. See: L. Abakas, *SEC to Net NCAA Record \$70 Million From March Madness Units*, *Sportico* (Mar. 30, 2025), <https://www.sportico.com/leagues/college-sports/2025/ncaa-tournament-units-sec-payment-march-madness-1234845447/>.



Division I conferences and the Power 4, thereby weakening the competitive balance within the competition. Institutions affiliated with the most powerful conferences are likely to continue distancing themselves from the remainder of Division I.¹⁶⁹

In light of this, it is essential to consider measures that ensure non-Power 4 teams remain competitive relative to their counterparts. Preserving competitive balance among conferences is crucial for the NCAA. It ensures the uncertainty of the outcome of the competition, which guarantees fan interest.¹⁷⁰ It also ensures the possibility of “Cinderella” stories, in which a team beats the odds of winning against a higher-ranked team, which are a distinguishing feature of the NCAA competitions.¹⁷¹

One potential approach would be to expand the number of available spots in postseason tournaments,¹⁷² thereby increasing the likelihood of participation for teams from smaller conferences.¹⁷³ However, the current selection process, conducted by a committee in which subjective criteria play a significant role, risks undermining this intention and may inadvertently produce the opposite effect.¹⁷⁴ To mitigate this concern, a viable solution would be to replace the selection committee that determines the participants in the tournament with a set of objective and transparent

¹⁶⁹ Regarding college basketball see: J. Leon, Is NIL Ruining March Madness? Examining the Impact of Financial Disparities on College Basketball, *SSN Sports* (Mar. 4, 2025), <https://www.ssn-sports.com/post/is-nil-ruining-march-madness-examining-the-impact-of-financial-disparities-on-college-basketball>. For an analysis in the American football competitions, see: C. Baker & D. J. Smith, The Impact of the Bowl Championship Series on Competitive Balance in Major College Football, *SSRN* (2024).

¹⁷⁰ Regarding the importance of competitive balance to ensure fan interest in NCAA football, see: E. Woodrow ECKARD, The Uncertainty of Outcome Hypothesis and the Industrial Organization of Sports Leagues: Evidence from U.S. College Football, *J. Sports Econ.* 298–317 (2018).

¹⁷¹ Cinderella stories boost the interest of the competition, contributing to increase the TV ratings of NCAA competitions. On that sense, see: S. D. Grimshaw, Analysis of the NCAA Men’s Final Four TV Audience, *J. Quant. Analysis Sports* 115–26 (2013).

¹⁷² This has been the policy adopted by UEFA regarding its competition. For example, since its last edition Champions League has expanded from a 32 teams tournament, to a 36 one. See: UEFA, New format for Champions League post-2024: Everything you need to know, UEFA.com, (June 12, 2024), <https://www.uefa.com/uefachampionsleague/news/0268-12157d69ce2d-9f011c70f6fa-1000--new-format-for-champions-league-post-2024-everything-you-ne/>.

¹⁷³ This option has been considered in the College Football Playoff, which has debated about expanding the number of participants to 14. The debate has moved to basketball, where the NCAA is considering increasing the number of teams participating in March Madness to 76. See: B. Fischer, Amid CFP Debate, NCAA Tournament Expansion Hovers in Background, *Sports Illustrated* (May 28, 2025), <https://www.si.com/college-basketball/ncaa-tournament-expansion-big-12-discussions-march-madness>.

¹⁷⁴ On this issue see: B. J. Coleman et al., Evidence of Bias in NCAA Tournament Selection and Seeding, *Managerial & Decision Econ.* 431–52 (2010).



qualification criteria, in which sporting merit plays a predominant role, mirroring the qualification system used in UEFA's Champions League.¹⁷⁵

Another option to explore would be the implementation of a promotion and relegation system between conferences. This way, the lowest-ranked teams at the end of each season in the Power 4 conferences would compete in the second-tier conferences the following season, while the highest-ranked teams in the lower-tier conferences would compete in a promotion phase to move up to the higher tier. It is true that the idea involves a complete transformation of the status quo, but there are already relevant voices such as Stanford University men's basketball coach Kyle Smith, who has advocated for implementing changes in this direction.¹⁷⁶ As this article has indicated, adopting changes in this direction would involve a complete restructuring of the current NCAA conference landscape. Although the current cultural barriers make this a more theoretical proposal, the existence of detailed proposals on the implementation of these changes for basketball¹⁷⁷ and football¹⁷⁸ can serve as a guide for the NCAA to adopt measures in this direction.

Vertical Solidarity: A Distinguishing Feature That Must be Preserved

Solidarity among the various tiers of the sporting pyramid is a common feature shared by both the European professional football model and NCAA competitions. In both systems, the revenue generated by the upper echelons of the pyramid is used to finance the lower tiers, particularly to support those entities with limited capacity to generate income. This redistributive effect is achieved through different ways in both models.

In European football, this redistributive function is primarily channeled through mechanisms such as training compensation and the solidarity contribution.¹⁷⁹ The former applies when a player under the age of 23 transfers to a new club; in such cases, the clubs responsible for the player's development receive financial compensation

¹⁷⁵ Champions League qualifying criteria are set at the Article 3 and Annex A of the UEFA Champions League Regulations.; <https://documents.uefa.com/r/Regulations-of-the-UEFA-Champions-League-2025/26-Online>.

¹⁷⁶ J. Dougherty, A Coach's Pitch to Lift ACC Men's Basketball: A Relegation System, *Washington Post* (Apr. 18, 2025), <https://www.washingtonpost.com/sports/2025/04/18/acc-mens-basketball-relegation>.

¹⁷⁷ T. M. Brown et al., Losing Matters: A European Association Football Model for NCAA Men's Basketball, *Sports Journal*, 1–21 (2025).

¹⁷⁸ D. Thornley, College Football: Proposals for Structural Reform and Antitrust Implications, *Marquette Sports L. Rev.* 471–528 (2022).

¹⁷⁹ For a detailed analysis of the issue see: J. Laskowski, Solidarity Compensation Framework in Football Revisited, *Int'l Sports L.J.*, 150–84 (2019).



for the training provided.¹⁸⁰ The amount is calculated based on the training costs that the new club would have incurred according to its category, multiplied by the number of years the player spent training at each club.¹⁸¹ These payments are due irrespective of whether the transfer takes place during the term of the player's contract or upon its termination.¹⁸² This redistributive mechanism is complemented by the solidarity contribution, which is triggered only when a player transfers while still under contract.¹⁸³ The beneficiaries of this contribution are again the clubs involved in the player's training. The amount is calculated as a percentage of the transfer fee, which is then distributed among the clubs that contributed to the player's development.¹⁸⁴

Following the implementation in 2018 of the transfer portal and its expansion in the following years, the NCAA model has witnessed a significant increase in the number of athletes transferring between institutions during their NCAA careers.¹⁸⁵ The current system, however, does not provide for any form of training compensation or solidarity payments. As a result, universities often see athletes, for whom they have invested substantial resources, leave without receiving any form of financial compensation.¹⁸⁶

In order to ensure that universities remain incentivized to invest in the training and development of athletes, it appears necessary to introduce a training compensation mechanism. The European football model, based on fixed amounts linked to the category of the receiving club, seems easily adaptable to the NCAA context. Under such a system, when an athlete transfers to another university, the institutions that

¹⁸⁰ The clubs where the player has been trained are those where the player has played from the age of 12 to 21, except in cases where it can be considered that the player's training has been completed before he reaches the age of 21. See: FIFA, RSTP Edition January 2025, Article 1.1 Annex 4 RSTP.

¹⁸¹ Depending on the club's category, the amount to be paid will be higher or lower. See: F. M. Deweger & D. J. Luckson, Player Transfers, in *Research Handbook on the Law of Professional Football Clubs* 297 (R. Houben ed., Edward Elgar 2023).

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ For an analysis of how these types of payments are calculated, see: Ibid.

¹⁸⁵ Established in 2018, the Transfer Portal is structured similarly to the transfer window from European football, being a period of time enabled for players to change universities. Activity in the portal has increased significantly in recent years, with record numbers of players changing universities in 2025. See: C. Salao, NCAA Transfer Portal Hits Record Numbers—Again, *Front Office Sports* (Apr. 21, 2021), <https://frontofficesports.com/ncaa-transfer-portal-hits-record-numbers-again/>.

¹⁸⁶ A perfect example of this situation can be found at the University of Tennessee, which has lost 22 players through the Transfer Portal, most notably its star player Nico Iamaleava, who had been part of the team for the last two seasons. See: A. Christovich, Inside Nico Iamaleava's Ugly Break-up With Tennessee, *Front Office Sports* (Apr. 16, 2025), <https://frontofficesports.com/nico-iamaleava-tennessee-nil-transfer-portal/>.



contributed to their development would receive compensation proportional to their involvement. Moreover, the recent emergence of direct contractual relationships between universities and athletes creates an appropriate framework for the introduction of solidarity payments. Where an athlete transfers to a new institution while under an active contract, the receiving university could be required to make a solidarity payment to the previous institution(s) in recognition of their prior investment.¹⁸⁷

A further distinguishing feature of European football's solidarity mechanisms is its importance in safeguarding the pyramid ecosystem. In that sense, UEFA allocates part of the revenue generated by top-tier competitions to non-participating clubs,¹⁸⁸ thus providing financial support to clubs at the lower levels of the system. Also, it should be highlighted that the redistributive function is not confined to professional clubs. A portion of the revenues generated is earmarked for the support of amateur football and other sports with more limited financial capacity.¹⁸⁹ The significance of this redistributive function is underlined by its legal protection: in countries such as Spain¹⁹⁰ and Italy,¹⁹¹ professional football competitions are legally obliged to allocate a fixed percentage of their income to the funding of amateur sport and other disciplines.

¹⁸⁷ The establishment of this type of mechanism could also resolve potential conflicts arising from tampering when players change universities. An example of this situation is the conflict between the University of Wisconsin and the University of Miami, which sued the latter when, after reaching an agreement with player Xavier Lucas, he decided not to play for the University of Wisconsin and signed a new contract to represent the University of Miami. See: M. Navarro, Wisconsin Files Lawsuit Against Miami, Alleging Tampering Led to Xavier Lucas' Transfer, *The Athletic* (June 20, 2025), <https://www.nytimes.com/athletic/6440987/2025/06/20/wisconsin-miami-football-lawsuit-xavier-lucas-transfer/>.

¹⁸⁸ In that sense, UEFA allocated 7% of the revenue generated by the top tier competitions to non-participating clubs, ensuring financial resources for the lower levels of the pyramid. See: UEFA, Distribution to Clubs from the UEFA Champions League, UEFA Europa League, UEFA Conference League and the UEFA Super Cup for the 2024–27 Cycle (2024/25 Season): Payments for the Qualifying Phases; Solidarity Payments for Non-Participating Clubs (2024), https://edito-rial.uefa.com/resources/028b-1a7880138a24-7a993e2e33d1-1000/20240322_circular_2024_13_en.pdf.

¹⁸⁹ For an analysis of the redistributive function carried out in the European professional football model, see: European Commission, Directorate-General for Education, Youth, Sport and Culture, R. Cottrill et al., *Study on the European Sport Model: A Report to the European Commission* 34–36 (Publications Office of the European Union 2022).

¹⁹⁰ 5% of the income generated by the commercialisation of the broadcasting rights of La Liga must be allocated to the promotion and development of amateur football and other sports, as established in Article 6.1 of the Real Decreto -ley 5/2015, de 30 de abril, de medidas urgentes en relación con la comercialización de los derechos de explotación de contenidos audiovisuales de las competiciones de fútbol profesional.

¹⁹¹ 10% of the revenue generated from the sale of Serie A broadcasting rights must be allocated to a foundation managed by the FIGC to provide financial support to the amateur and youth divisions of Italian football, as established by article 22 of the Decreto Legislativo 9/2008, Disciplina della titolarità e della commercializzazione dei diritti audiovisivi sportivi e relativa ripartizione delle risorse.



A similar redistributive logic has historically been present in the NCAA. The NCAA redistributes income generated in the highest level of the pyramid to the lower levels.¹⁹² Also, colleges contribute to this function allocating funds obtained from higher-revenue sports such as football or basketball, to sports with less economic capacities.¹⁹³ However, recent structural transformations within the NCAA have placed so-called ‘non-revenue sports’ in a precarious position,¹⁹⁴ with many facing the threat of budget cuts and potential elimination.¹⁹⁵ In response to this challenge, the NCAA would be well advised to implement a new set of solidarity policies. These could take inspiration from the Spanish and Italian frameworks, by imposing a mandatory requirement on conferences and universities to allocate a fixed share of their revenues to support underfunded sports, thereby safeguarding their long-term viability.

Conclusion

The ongoing professionalization of NCAA competitions opens a new avenue for comparative analysis between this American sport governing body and the professional football model. The NCAA shares significant similarities with the European football framework. Both systems adopt a pyramidal institutional structure and follow quite comparable regulatory models. They also allow for promotion and relegation mechanisms though otherwise justified, and their economically regulatory frameworks are subject to scrutiny under competition law. Furthermore, the social function of sport is a central feature of both models, expressed through the redistribution of resources from the economically dominant tiers of the pyramid to those with lesser means, as well as through sport’s role in fostering community cohesion.

These similarities are not merely theoretical. The litigation surrounding transfer regulations that unfolded throughout 2024 highlights the substantial parallels between both models. Legal proceedings on both sides of the Atlantic have followed strikingly similar patterns, both in the arguments advanced by athletes and sport governing bodies concerned, and in the reasoning adopted by the courts. This

¹⁹² For example, in 2021 NCAA redistributed the revenue generated mainly through Division I to the lower levels of the pyramid. In that sense, it allocated 4,37% of its total revenue generated to Division II and 3,17% to Division III. See: NCAA, Finances. <https://www.ncaa.org/sports/2021/5/4/finances.aspx>.

¹⁹³ C. Garthwaite, J. Keener, M. J. Notowidigdo & N. F. Ozminkowski, Who Profits From Amateurism? Rent-Sharing in Modern College Sports, *NBER Working Paper* No. 27734 (2020).

¹⁹⁴ C. Mull, College Coaches Associations Lobby For Minimum Spending For Olympic Sports After House vs. NCAA Settlement, *Forbes*, (June 27, 2025), <https://www.forbes.com/sites/corymull/2025/06/27/college-coaches-associations-lobby-for-minimum-spending-for-olympic-sports-after-house-vs-ncaa-settlement/>.

¹⁹⁵ M. Carey, Athletes Express Concern Over NCAA Settlement’s Impact on Non-Revenue Sports, *Associated Press* (June 11, 2025), <https://apnews.com/article/ncaa-settlement-7aab7a3f3ee-0a045b1cf1ce69e029b45>.



convergence underscores the potential of comparative legal analysis to offer viable solutions to challenges emerging within each system.

Ultimately, the NCAA might draw on regulatory solutions implemented within the European professional sports model to address the challenges posed by its shift toward professionalization. These mechanisms, designed to safeguard key elements of the European model—such as solidarity across pyramid levels and the principle of sporting merit—may likewise preserve the defining features of the NCAA framework as it enters into a new professional era.

