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EUROPEISKA UNIONENS DOMSTOL
CVRIA
LUXEMBOURG

JUDGMENT OF THE COURT (Fifth Chamber)

9 July 2026 *

(Reference for a preliminary ruling – Internal market – Competition – Professional football – Article 101(1) TFEU – Prohibition of agreements, decisions and concerted practices – Regulations of a national football federation – Purchase of services from third parties outside that federation – Activity of the players' agents – Restriction of competition by object or by effect – Exception to the prohibition in Article 101(1) TFEU – Scope – Objectives pursued by those regulations – Whether justified – Conditions – Pursuit of legitimate objectives in the public interest – Necessity – Proportionality)

In Case C-428/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany), made by decision of 13 June 2023, received at the Court on 11 July 2023, in the proceedings

ROGON GmbH & Co. KG,

MVI Management GmbH,

DC

v

Deutscher Fußball-Bund eV (DFB),

THE COURT (Fifth Chamber),

composed of M.L. Arastey Sahún, President of the Chamber, J. Passer, E. Regan (Rapporteur), D. Gratsias and B. Smulders, Judges,

Advocate General: N. Emiliou,

* Language of the case: German.

Registrar: D. Dittert, Head of Unit,

having regard to the written procedure and further to the hearing on 12 February 2025,

after considering the observations submitted on behalf of:

– ROGON GmbH & Co. KG, MVI Management GmbH and DC, by T. Bernhard, A. Fritzsche, S. Kirchgeßner and C. von Köckritz, Rechtsanwälte,

– Deutscher Fußball-Bund eV (DFB), by D. Bischoff and M. Stopper, Rechtsanwälte,

– the German Government, by J. Möller and R. Kanitz, acting as Agents,

– the French Government, by R. Bénard and T. Lechevallier, acting as Agents,

– the European Commission, by S. Baches Opi, B. Cullen and G. Meeßen, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 15 May 2025,

makes the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 101(1) TFEU.

2 The request has been made in proceedings between, on the one hand, ROGON GmbH & Co. KG, MVI Management GmbH and DC, and, on the other, Deutscher Fußball-Bund eV (DFB), which is the German football federation (‘the DFB’), concerning the lawfulness of the DFB’s regulations concerning the activity of players’ agents.

Legal framework

3 Article 101(1) TFEU provides:

‘The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;

(b) limit or control production, markets, technical development, or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

4 The DFB is an umbrella organisation which brings together 27 German football associations, including, in particular, Deutsche Fußball Liga eV (DFL), the German football league ('the DFL'). It comprises more than 25 000 clubs and more than 7 million members.

5 ROGON is a consultancy firm for professional footballers and young talent in Germany, which was founded by DC. MVI Management is a legal person governed by Austrian law whose activity also consists in the placement of players.

6 In accordance with Article 16bis of the statutes of the DFB, the organisation of sporting competitions in the two highest-level professional leagues is carried out by the DFL, which is an association bringing together the clubs participating in both those professional leagues.

7 Clubs participating in the Bundesliga or second German league are required, as ordinary members of the DFL, to comply with the statutes of the DFB and the mandatory regulations adopted by it. In order to be able to progress in the Bundesliga or in the second German league, players must conclude a licence agreement with the DFL, which requires them to comply with the rules laid down by the DFB. As a member of the Fédération internationale de football association (FIFA), the DFB is subject to FIFA's rules and is required to apply its decisions.

8 The DFB adopted the Reglement für Spielervermittlung (regulations governing the activities of players' agents; 'the RfSV'), which entered into force on 1 April 2015. Those regulations are addressed to clubs and players, who are obliged to comply with them. The RfSV govern the use by players and clubs of the services of an agent for the conclusion of professional player contracts and transfer agreements. Among other things, the RfSV:

– impose a registration obligation on agents (Paragraph 2(3) and Paragraph 3(2) and (3));

– require the production of an agent's declaration, which stipulates that the agent is to be subject to various statutes, regulations and rules of FIFA, the DFB and the DFL, including to the DFB's jurisdiction (Paragraph 2(2), Paragraph 3(2) and (3), and Annexes 1 and 2);

– impose the additional obligation to register a natural person if registering a legal person (Annex 2);

– prohibit the agent, in the case of an inward transfer, from taking a share in the club's future transfer proceeds (Paragraph 7(3));

– prohibit commissions for the agent's services in the case of a transfer of a minor (Paragraph 7(7));

– impose an obligation to disclose fees paid and payments made to players' agents (Paragraph 6(1)); and

– make provision for penalties in the event of infringements of the obligations laid down (Paragraph 9).

9 On 12 January 2018, Deutsche Fußball Liga GmbH (DFL GmbH), a wholly owned subsidiary of the DFL, forwarded Circular No 62 to the managers of clubs and capital companies in the Bundesliga and in the second German league informing them, inter alia, of the provisions applicable to players' agents authorised by clubs in the case of an outward transfer agreement. In particular, that circular stated that the remuneration of agents could be agreed either in the form of a single flat-rate payment or in the form of progressive remuneration, linked to the transfer fee obtained on the basis of the provision of outward transfer services, to the exclusion of any remuneration calculated on the basis of a percentage of that fee.

10 The applicants in the main proceedings each brought an action before the Landgericht Frankfurt am Main (Regional Court, Frankfurt am Main, Germany) for injunctive relief against certain obligations laid down in the RfSV, relying, inter alia, on the prohibition of unlawful restrictive practices.

11 That court upheld that action only in part, and the applicants in the main proceedings then lodged an appeal against that judgment before the Oberlandesgericht Frankfurt am Main (Higher Regional Court, Frankfurt am Main, Germany) which, first, ordered the DFB to cease the practice whereby players' agents could be registered only on condition that they are subject to the provisions of FIFA, the DFB and the DFL governing the exercise of the activity of players' agents and, second, prohibited the DFB, or any organiser of matches within a football league, from restricting the option for clubs to agree on the arrangements for calculating the commissions paid to players' agents based on a percentage of the fees from subsequent transfers. It dismissed the appeal as to the remainder and the cross-appeal lodged by the DFB.

12 The applicants in the main proceedings and the DFB brought appeals on points of law before the Bundesgerichtshof (Federal Court of Justice, Germany), which is the referring court, against the judgment of the Oberlandesgericht Frankfurt am Main (Higher Regional Court, Frankfurt am Main) seeking, in the case of the former, the termination of their obligations and, in the case of the latter, the dismissal of the action.

13 The referring court is inclined to take the view that the rules laid down by the RfSV entail a restriction capable of affecting competition between undertakings established in different Member States. It is true that those rules do not directly refer to players' agents, but are addressed to the clubs and the players. However, since the clubs are among those requesting the services provided by the agents, such rules have the effect of restricting their freedom of economic action.

14 However, the question arises as to whether those rules satisfy the conditions for falling outside the application of Article 101 TFEU, pursuant to the interpretation of that provision given by the Court in the judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492), and whether they are thus covered by an exception.

15 That being said, that exception has been applied only in cases with particular characteristics relating exclusively, first, to regulations adopted by professional federations on a legal basis and by an entity to which regulatory competence has been expressly conferred, and, second, as regards the International Olympic Committee and sports federations, to rules relating to the organisation of sporting activities or the conduct of competitions, all of which fell within the federations' own competence to govern their internal relations.

16 Moreover, according to one part of that doctrine, that exception does not apply where the regulations at issue govern markets that do not directly concern the sporting competition as such and cover the activity of undertakings that are not members of the sports federation concerned. However, according to another part of that doctrine, that exception is intended to apply as long as any material link can be established between the regulations at issue and the organisation and proper conduct of a sporting competition.

17 In the present case, although the RfSV are addressed to clubs and players, they also cover players' agents, who are not members of the DFB. Those regulations thus produce effects on a market that is upstream of the sporting activity, with the result that the restrictions on competition which they entail cannot be justified solely by the autonomy of the sports federations.

18 It is not possible to infer unequivocally from the case-law of the Court whether, in such a situation, regulations that appreciably restrict the freedom of action of market operators not affiliated to a federation may escape the prohibition laid down in Article 101(1) TFEU in accordance with the case-law arising from the

judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492).

19 In those circumstances, the Bundesgerichtshof (Federal Court of Justice) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Do the principles developed by the Court … in the judgments [of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492),] according to which, when applying the rule prohibiting cartels,

– account must be taken of the overall context in which the decision in question was taken or produces its effects and, more specifically, of its objectives,

– and according to which it has then to be considered whether the decision’s consequential effects restrictive of competition are inherent in the pursuit of those objectives,

– and whether they are proportionate to those objectives …, apply to the regulations of a sports [federation], which are addressed to members of the [federation] and [govern] the use of services of [third-party] undertakings [not belonging to] the [federation] on a market upstream of the association’s activities?

(2) If the answer to Question 1 is in the affirmative …, must [those principles] be applied to all the provisions of those regulations, or does [that] application depend on substantive criteria, such as the proximity or remoteness of the individual rule to the sporting activity of the association?’

The questions referred for a preliminary ruling

The first question

20 By its first question, the referring court asks, in essence, whether Article 101(1) TFEU must be interpreted as meaning that the exception to the application of that provision to restrictions of competition pursuing a legitimate objective in the public interest, as identified by the Court in the judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492), is capable of applying to regulations adopted by a sports federation which, while addressing its members, also govern the use of the services of third-party undertakings not belonging to that federation.

21 As a preliminary point, it must be borne in mind that, in so far as it constitutes an economic activity, the practice of sport is subject to the provisions of EU law applicable to such activity (judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 83 and the case-law cited, and of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 29).

22 Only certain specific rules which were adopted solely on non-economic grounds and which relate to questions of interest solely to sport per se must be regarded as being extraneous to any economic activity. That is the case, in particular, of those rules on the exclusion of foreign players from the composition of teams participating in competitions between teams representing their country or the determination of ranking criteria used to select the athletes participating individually in competitions (judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 84 and the case-law cited, and of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 30).

23 Apart from those specific rules, the rules adopted by sporting associations and, more broadly, the conduct of those associations may come within the scope of the FEU Treaty provisions on competition law where the conditions of application of those provisions are met (see, to that effect, judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 87 and the case-law cited, and of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 31).

24 In that respect, the regulations at issue in the main proceedings do not form part of the rules to which the exception referred to in paragraph 22 above might be applied, which exception the Court has stated repeatedly must be limited to its proper objective and may not be relied upon to exclude the whole of a sporting activity from the scope of the FEU Treaty provisions on EU economic law (see, by analogy, judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 89 and the case-law cited, and of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 32).

25 As is apparent from the information provided by the referring court, those regulations are not only addressed directly to the clubs and players, by regulating the conditions under which they may use the services of players' agents, but they also indirectly concern those agents by imposing on them certain obligations with which they must comply in order to represent those clubs and players in certain transactions. Since that activity constitutes a supply of services, provided for consideration and relating to the placement of sportspersons, it must be classified as an economic activity.

26 More specifically, as regards the applicability of Article 101 TFEU, it should be borne in mind that that provision applies only in respect of 'agreements between

undertakings', 'decisions by associations of undertakings' or 'concerted practices'.

27 According to settled case-law, any entity engaged in an economic activity consisting of offering goods or services on a given market, regardless of its legal status or the profit-making nature of the goal it pursues, constitutes an undertaking for the purposes of the application of the provisions of EU competition law (see, to that effect, judgments of 24 March 2022, *GVN* v *Commission*, C-666/20 P, not published, EU:C:2022:225, paragraph 69, and of 13 October 2022, *Baltijas Starptautiskā Akadēmija and Stockholm School of Economics in Riga*, C-164/21 and C-318/21, EU:C:2022:785, paragraph 68).

28 Thus, Article 101(1) TFEU is applicable to any entity where it carries out an economic activity and which, for that purpose, must be classified as an 'undertaking', including any entity that is created in the form of an association which, according to its statutes, has as its associative purpose the organisation and control of a given sport, provided that it carries out an economic activity in relation to that sport. Moreover, that provision is also applicable to any entity which, although not necessarily constituting an undertaking, may be classified as an 'association of undertakings' because it brings together operators active on that market (see, to that effect, judgment of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraphs 112 to 114).

29 It is true that regulations emanating from a professional organisation or a federation must be regarded as having been adopted by a private association or body acting not as an association of undertakings but as a public authority where it acts in the exercise of prerogatives typical of a public authority (see, to that effect, judgment of 18 January 2024, *Lietuvos notarų rūmai and Others*, C-128/21, EU:C:2024:49, paragraphs 61 and 71) or, at the very least, in the exercise of a regulatory power expressly conferred on it by the Member State concerned, provided that there is evidence that that professional organisation or federation is required to act for that purpose in the general public interest and under the effective control of the Member State concerned (see, to that effect, judgments of 5 December 2006, *Cipolla and Others*, C-94/04 and C-202/04, EU:C:2006:758, paragraph 49; of 4 September 2014, *API and Others*, C-184/13 to C-187/13, C-194/13, C-195/13 and C-208/13, EU:C:2014:2147, paragraphs 30 and 31; and of 18 January 2024, *Lietuvos notarų rūmai and Others*, C-128/21, EU:C:2024:49, paragraphs 72 to 75 and 81).

30 Even in such cases, the Member States are required to ensure that such an association or professional organisation does not adopt regulations depriving the competition rules applicable to undertakings of practical effect by inducing them to engage voluntarily in anticompetitive behaviour. However, the fact remains that the binding provisions thus adopted fall, as such, outside the scope of competition law, since they do not result from a decision taken by an entity acting as an undertaking or as an association of undertakings.

31 Consequently, although, as the referring court points out in its request for a preliminary ruling, certain regulations adopted by a professional federation on a legal basis may fall outside the scope of competition law, it should be pointed out that that is because, given the existence of a delegation of powers available to the author of those regulations, they may be regarded as having been adopted by a federation which, although it must be classified as an undertaking or an association of undertakings in respect of some of its activities, cannot be regarded as such where, in adopting those regulations, it exercised a regulatory power that had been expressly conferred on it by the Member State concerned or powers typical of a public authority.

32 In the present case, it is apparent from the information provided by the referring court that the DFB comprises 27 German football associations whose members include clubs engaged in economic activities consisting of offering goods or services on various markets, such as sports ticketing, sponsorship or merchandising markets. Therefore, the DFB may be regarded as having the status of an association of undertakings both on those markets and on those that are upstream of those markets, such as the recruitment of players or trainers, or the services of agents with a view to the transfer of professional players or trainers from one club to another.

33 Furthermore, it is not apparent from the documents before the Court that the regulations at issue in the main proceedings were formally adopted in the exercise of prerogatives typical of a public authority, or at the very least, of a regulatory power conferred by the Member State concerned on the DFB. On the contrary, when questioned on that subject at the hearing, the German Government stated, in essence, that the DFB had not received any express authorisation from the German legislature to that effect.

34 Accordingly, those regulations are capable of falling within the scope of Article 101 TFEU.

35 Under Article 101(1) TFEU, all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market are incompatible with the internal market and are prohibited.

36 In that regard, it is apparent from the settled case-law of the Court that not every agreement between undertakings, every decision by an association of undertakings or every concerted practice which restricts the freedom of action of the undertakings party to that agreement or subject to compliance with that decision or participating in that practice necessarily falls within the prohibition laid down in Article 101(1) TFEU. Indeed, the examination of the economic and legal context of which some of those agreements, decisions and practices form a part may lead to a finding, first, that they are justified by the pursuit of one or more legitimate objectives in the public interest which are not per se anticompetitive in

nature; second, that the specific means used to pursue those objectives are genuinely necessary for that purpose; and, third, that, even if those means prove to have an inherent effect of, at the very least potentially, restricting or distorting competition, that inherent effect does not go beyond what is necessary, in particular by eliminating all competition (see, to that effect, judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 183 and the case-law cited, and of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 91).

37 However, that case-law does not apply in situations involving conduct which, far from merely having the inherent 'effect' of restricting competition, at least potentially, by limiting the freedom of action of certain undertakings, reveals a degree of harm in relation to that competition that justifies a finding that it has as its very 'object' the prevention, restriction or distortion of competition (judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 186 and the case-law cited, and of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 92).

38 Furthermore, in view of the requirement that the conduct at issue must, strictly speaking, be necessary and proportionate, it should be noted that the examination of that requirement involves, as is apparent from the case-law referred to in paragraph 36 above, first of all, determining whether the specific means used in a given case to pursue a legitimate objective in the public interest are appropriate for ensuring the attainment of that objective, next, assessing whether recourse to those means is necessary in order to attain that objective, which implies that there are no other measures that would be as effective for that purpose whilst being less restrictive of competition, and, finally, verifying that the restrictive effects of the measures adopted are not disproportionate to such an objective, in particular by eliminating all competition on the relevant market (judgment of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 98).

39 That being said, in so far as the case-law referred to in paragraph 36 above allows an agreement between undertakings, a decision by an association of undertakings or a concerted practice to escape the prohibition laid down in Article 101(1) TFEU, its application to regulations adopted by a sports federation, such as those at issue in the main proceedings, which govern its members' use of the services of third-party undertakings not belonging to that federation, involves, first of all, ascertaining whether the conditions laid down by that provision are satisfied with regard to such regulations.

40 For that to be the case, as is apparent from paragraph 35 above, regulations must, first, constitute an agreement or a concerted practice between a number of undertakings or a decision by an association of undertakings, second, be liable to affect trade between Member States and, third, have as its object or effect the prevention, restriction or distortion of competition within the internal market.

41 As regards the first of those conditions, it should be noted that the conduct liable to be concerned may be of various kinds and may take different forms.

42 In particular, the Court has already held that a decision by an association of undertakings consisting in adopting or implementing regulations having a direct impact on the conditions in which the economic activity is exercised by undertakings which are directly or indirectly members of that association may constitute such a '[decision by an association] of undertakings' within the meaning of Article 101(1) TFEU (see, to that effect, judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 118 and the case-law cited, and of 4 October 2024, *FIFA*, C-650/22, EU:C:2024:824, paragraph 119).

43 It is precisely with regard to a decision of that nature that the referring court asks the Court of Justice to rule on the interpretation of that provision, that is to say, a decision by which a national sports federation has adopted and implemented a set of rules which, admittedly, is intended to define a legal regime applicable to players' agents, but which is not, however, irrelevant to the economic activity carried out by the members of that federation, namely the football clubs.

44 First, the supply of services provided by agents constitutes inputs for the undertakings, consisting of the professional football clubs, with the result that the cost of that supply is likely to influence the profitability of those clubs. Second, the reciprocal competitive position of those clubs on the various markets in which they are present, such as sports ticketing, sponsorship or merchandising markets, depends primarily on their performances when participating in sporting competitions, which are closely linked to the composition of the teams over which the agents exercise a certain influence.

45 As regards the second condition referred to in paragraph 40 above, which requires that the agreement between undertakings, the decision by an association of undertakings or the practice in question must be capable of affecting trade between Member States, it should be noted that regulations of private origin which extend over the whole of the territory of a single Member State may be capable of fulfilling that condition, provided that they have the effect of reinforcing the partitioning of markets on a national basis, thereby holding up the economic interpenetration which the FEU Treaty is designed to bring about (see, to that effect, judgments of 19 February 2002, *Wouters and Others*, C-309/99, EU:C:2002:98, paragraph 95, and of 18 July 2013, *Consiglio Nazionale dei Geologi*, C-136/12, EU:C:2013:489, paragraph 50).

46 In the present case, although the regulations at issue are primarily liable to have an effect on the national market for the recruitment of players since the international market for the recruitment of players is regulated by FIFA, the fact remains that those regulations affect above all the market for agency services in connection with the first of those two markets. In the latter market, providers established in other Member States may be involved and, because of the regulations at issue in

the main proceedings, they may be deterred from offering their services on the national market. Consequently, regulations such as those at issue in the main proceedings, which are intended to regulate the activities of agents, must be regarded as being capable of affecting trade between Member States.

47 With regard to the third condition recalled in paragraph 40 above, it should be recalled that in order to find, in a given case, that an agreement, a decision by an association of undertakings or a concerted practice is caught by the prohibition laid down in Article 101(1) TFEU, it is necessary to demonstrate, in accordance with the actual wording of that provision, either that such an agreement, decision or practice has as its object the prevention, restriction or distortion of competition, or that that conduct has such an effect (judgments of 21 December 2023, *European Superleague Company*, C-333/21, EU:C:2023:1011, paragraph 158 and the case-law cited, and of 30 April 2026, *CD Tondela and Others*, C-133/24, EU:C:2026:361, paragraph 36).

48 In that regard, although the fact that regulations adopted by a sports federation are addressed to its members, whilst also regulating the use of the services of third-party undertakings not belonging to that federation, does not appear, in itself, to be such as to preclude those regulations from having as their object or effect the prevention, restriction or distortion of competition, it is for the referring court to determine whether the regulations at issue in the main proceedings have as their object or effect the creation of such a restriction on competition.

49 Furthermore, in order for the case-law referred to in paragraph 36 above to apply, the conditions for its application set out in paragraphs 36 to 38 above must also be satisfied.

50 That being said, none of those conditions can be interpreted as having the effect, expressly or implicitly, of excluding from the benefit of the case-law referred to in paragraph 36 above any regulations adopted by a sports federation which, whilst being addressed to the members of that federation, govern the use of the services of third-party undertakings not belonging to that federation.

51 First of all, the mere fact that regulations adopted by a sports federation are addressed to its members, whilst also regulating the use of the services of third-party undertakings not belonging to that federation, cannot, in itself, constitute a characteristic from which it may be concluded that those regulations must be linked to a form of coordination between undertakings which must be regarded, by its very nature, in the economic and legal context at issue in the main proceedings, as being particularly harmful to the proper functioning of normal competition.

52 It must be borne in mind that the concept of ‘restriction by object’ refers to any agreement between undertakings, any decision by an association of undertakings or any concerted practice having characteristics enabling them to be linked to a form of coordination between undertakings which, by their very nature, must be

regarded as being harmful to the proper functioning of normal competition in the economic and legal context at issue in the main proceedings (see, to that effect, judgment of 29 July 2024, *Banco BPN/BIC Português and Others*, C-298/22, EU:C:2024:638, paragraphs 43, 45 and 46 and the case-law cited).

53 Next, such a characteristic cannot be regarded as being capable of precluding those regulations from pursuing one or more legitimate objectives in the public interest which are not, in themselves, anticompetitive, or as precluding the possibility that they are capable of attaining such an objective.

54 Moreover, that characteristic cannot, as such, preclude a finding that there are no other means of attaining the objectives in question as effectively.

55 Lastly, as regards the assessment of the proportionality, in the strict sense, of the restrictive effects created in the light of the objective or objectives in the public interest pursued, it should be noted that that characteristic cannot, as such, be regarded as being such as to preclude that condition from being satisfied, given that, first, compliance with that condition depends on the nature of the objective or objectives pursued and, second, such a characteristic is not, by itself, such as to eliminate all competition on the market in which the third-party undertakings concerned operate.

56 Moreover, it does not follow from the case-law referred to in paragraph 36 above that, in order to be able to be justified on the basis of that case-law, regulations must be capable of producing effects only with regard to the members of the association or federation which adopted them.

57 The fact that regulations adopted by an association such as the DFB produce some of their effects, not only with regard to the members of that federation or association, but also with regard to undertakings which, although third parties, maintain relations with those members, may prove to be necessary in order to pursue one or more legitimate objectives in the public interest which are not, in themselves, anticompetitive.

58 In particular, that may be the case where, in order to achieve such objectives, a sports federation is required to adopt regulations capable of having implications for the ecosystem which they regulate and control.

59 As the Advocate General stated, in essence, in point 65 of his Opinion, in the professional and semi-professional football sector, different categories of economic operators, such as clubs, national federations, players and agents, must interact and, to a certain extent, cooperate in order to ensure the viability of the sector and its attractiveness to supporters and spectators. If the end services, consisting of matches and tournaments, were not sufficiently attractive or adequately broadcast, all of those different categories of economic operators would be negatively impacted.

60 In those circumstances, regulations such as those at issue in the main proceedings cannot be regarded as unrelated to the objective in the public interest relating to the integrity of sporting competitions solely because they also produce effects on the activity of players' agents.

61 Moreover, it may be observed that, in other sectors of activity, the Court has already accepted that the case-law referred to in paragraph 36 above may apply in respect of regulations adopted by an organisation bringing together members of a profession and relating to the minimum fees payable by their clients, provided that the conditions for the application of that case-law are satisfied (see, to that effect and by analogy, judgments of 18 July 2013, *Consiglio Nazionale dei Geologi*, C-136/12, EU:C:2013:489, paragraphs 53 and 54, and of 23 November 2017, *CHEZ Elektro Bulgaria and FrontEx International*, C-427/16 and C-428/16, EU:C:2017:890, paragraphs 53 to 55). Although such regulations were intended for the members of the organisation concerned, they nonetheless affected their clients, who were third parties to that organisation.

62 Accordingly, regulations adopted by a sports federation cannot be excluded from the benefit of the case-law referred to in paragraph 36 above on the sole ground that, whilst addressing the members of that federation, those regulations govern the use of the services of third-party undertakings not belonging to that federation. On the other hand, it is essential to ensure in concrete terms that regulations such as those at issue in the main proceedings, first, cannot be classified as an agreement between undertakings or a decision by an association of undertakings having the object of restricting competition and, second, are justified by the pursuit of a legitimate objective in the public interest in the light of which they appear, strictly speaking, appropriate, necessary and proportionate.

63 In the present case, it is for the referring court to determine whether the regulations at issue satisfy all the conditions for the application of that case-law, as recalled in paragraphs 36 to 38 above.

64 In the light of the foregoing, the answer to the first question is that Article 101(1) TFEU must be interpreted as meaning that the exception to the application of that provision to restrictions of competition pursuing a legitimate objective in the public interest, as identified by the Court in the judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492), is capable of applying to regulations adopted by a sports federation which, while addressing its members, also govern the use of the services of third-party undertakings not belonging to that federation, provided that those regulations:

– were adopted by that federation acting for that purpose as an undertaking or an association of undertakings and are capable of affecting trade between Member States;

– cannot be classified as an agreement between undertakings or a decision by an association of undertakings the object of which is the prevention, restriction or distortion of competition; and

– pursue one or more legitimate objectives in the public interest which are not, in themselves, anticompetitive and are proportionate to the pursuit of that objective or those objectives, which means, first, that those regulations are appropriate for securing their attainment, second, that they do not go beyond what is necessary, in the sense that no less restrictive measure would make it possible to attain that objective or those objectives as effectively and, third, that they do not produce effects on competition that are disproportionate having regard to the public interest in attaining that objective or those objectives, in particular by eliminating all competition.

The second question

65 By its second question, the referring court asks whether Article 101(1) TFEU must be interpreted as meaning that, in order to determine whether the exception identified in the judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492), applies, the conditions relating thereto must be assessed with regard to each of the provisions of the regulations at issue, or whether it is necessary to take into account criteria relating to the degree of connection between those various provisions and the organisation and pursuit of the federation's sporting activity.

66 In that regard, it must be borne in mind that, as is apparent from paragraph 38 above, in order to be applicable, the case-law referred to in paragraph 36 above implies the existence of one or more legitimate objectives in the public interest and a relationship of proportionality between, on the one hand, the measures laid down in the regulations at issue and, on the other, those objectives.

67 Given that the provisions of those regulations are liable to pursue different objectives or produce distinct effects, it is necessary, in such a case, to carry out an independent examination of the proportionality of those various provisions, or even of a set of provisions pursuing a distinct objective or producing a distinct effect.

68 Conversely, as the Advocate General stated, in essence, in point 79 of his Opinion, there may be situations in which it would be artificial to split up a set of provisions, either because they are indissociable or because some of them are ancillary to others.

69 As regards the degree of connection between the various provisions of those regulations and the organisation and pursuit of the activity in question or the corporate purpose of the federation which adopted them, that is not decisive when determining whether the conditions for the application of the case-law referred to

in paragraph 36 above must be examined having regard to each of the provisions of those regulations or to a set of provisions, or even the regulations as a whole laying down those provisions.

70 In the light of all the foregoing, the answer to the second question is that Article 101(1) TFEU must be interpreted as meaning that, in order to determine whether the exception identified in the judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492), applies, the conditions relating thereto do not necessarily have to be assessed with regard to each of the provisions of the regulations at issue, but with regard to a set of provisions pursuing a distinct objective or producing a distinct effect.

Costs

71 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

1. Article 101(1) TFEU must be interpreted as meaning that the exception to the application of that provision to restrictions of competition pursuing a legitimate objective in the public interest, as identified by the Court in the judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492), is capable of applying to regulations adopted by a sports federation which, while addressing its members, also govern the use of the services of third-party undertakings not belonging to that federation, provided that those regulations:

– **were adopted by that federation acting for that purpose as an undertaking or an association of undertakings and are capable of affecting trade between Member States;**

– **cannot be classified as an agreement between undertakings or a decision by an association of undertakings the object of which is the prevention, restriction or distortion of competition; and**

– **pursue one or more legitimate objectives in the public interest which are not, in themselves, anticompetitive and are proportionate to the pursuit of that objective or those objectives, which means, first, that those regulations are appropriate for securing their attainment, second, that they do not go beyond what**

is necessary, in the sense that no less restrictive measure would make it possible to attain that objective or those objectives as effectively and, third, that they do not produce effects on competition that are disproportionate having regard to the public interest in attaining that objective or those objectives, in particular by eliminating all competition.

2. **Article 101(1) TFEU must be interpreted as meaning that, in order to determine whether the exception identified in the judgments of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), and of 18 July 2006, *Meca-Medina and Majcen* v *Commission* (C-519/04 P, EU:C:2006:492), applies, the conditions relating thereto do not necessarily have to be assessed with regard to each of the provisions of the regulations at issue, but with regard to a set of provisions pursuing a distinct objective or producing a distinct effect.**

[Signatures]