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To Govern or to Dispute? Remarks on the Social Nature of Dispute Resolutions in Czech and Danish Sports Associations[i]

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ABSTRACT

This paper focuses on the dispute resolution mechanisms in sport, with particular attention paid to non-professional sport and its governance. Providing a brief summary of the literature on the topic, we argue that mainly two aspects of dispute resolution mechanisms have been highlighted in academic discussion: their ethical and moral character and their legal nature. Yet, except for these two relevant approaches, a more sociological approach of understanding the nature of these processes in the context of informal networks, unwritten rules and struggles over power is largely missing. To grasp this missing piece, we identify the mechanisms used by sport associations and their members to anticipate the disputes and we distinguish between three different types of dispute resolution mechanisms: proto-disputes, formal disputes, and meta-disputes. The paper draws on rich empirical evidence gathered during a multi-sited ethnographic study focused on both sport practice and governance, carried out in the Czech Republic and Denmark.

KEYWORDS

Czech Republic – Denmark - Dispute Resolution – Mechanisms - Sport Governance

INTRODUCTION

A cursory glance at the main webpage of the Football Association of the Czech Republic 1 (ČMFS) on 1 April 2008 might have evoked an idea of an April fool's joke. Reading a few articles related to current sporting events, which included two news items dedicated to the security measures against violence at the stadiums (ČMFS, 2008a, 2008b), one notice announcing a new direction regulating the activities of the players' transfer agents (Petrásek, 2008), and three articles at the bottom of the webpage informing the reader about football games and players (ČMFS, 2008c, 2008d, 2008e), one fact is striking: a large space of the webpage was dedicated to the internal disputes among the elected officials at the national level of the federation. In particular, four news items situated in the central column of the webpage, were focused on the circumstances of the withdrawal of the Head of the Appeal and Revision Committee and to the related actions taken by the association based on the decision of the District Civil Court (ČMFS, 2008f, 2008g; Mokrý and Petrásek, 2008a, 2008b). These articles did not include only legal explanations of these measures, but they were also accompanied by personal judgments and opinions. This excessive attention to the internal disputes was far from being an April fool's joke. It was a reality that might have led common members to ask themselves, 'have we elected our officials to govern or to dispute?'

This question was often raised by the ČMFS membership base, local officials, and clubs 2 representatives, and reflected the constant 'struggle over positions' that was the common denominator behind the majority of many similar disputes. These disputes undermined effective functioning of the federation by consuming energy, which forced them away from governing for 'the good of the game'. This is well demonstrated in an open letter written by a local club representative to the Head of the Legislative Council of the ČMFS:

> Dear Sir, for a long period of time we have been witnessing a continuous struggle among different groups in the national governing body, which is perceived by the sport public as prioritizing personal interests over the interests of football. ("Dokeská

reakce," 27 March 2008)

Both examples, the withdrawal of the Head of the Appeal and Revision Committee and the extract from the open letter, foreshadow the main focus of this paper: the increasing volume of disputes and the mechanisms of their resolution, which have always been an inherent part of sport governance. Despite the long history of dispute resolutions in the sport field and their recent increase, little systematic reflection in the academic literature anchored in social theory has accompanied these trends. 3

This paper intends to answer the following questions: Which mechanisms and measures taken by the sport associations and their members contribute to the anticipation of disputes? What is the role of organisational arrangements while coping with the disputes? Understanding dispute resolution mechanisms as a communicative action and as a negotiation process, which approaches towards disputes might we identify? In order to answer these questions the paper draws on a multi-faceted ethnographic study which was carried out in 2007 in Denmark and the Czech Republic and was part of a multi-sited ethnographic study entitled 'Sport and Social Capital in the European Union.' The study focused on sport governance and its social impact in Denmark, France, Italy and the Czech Republic; the empirical evidence was collected by means of three different techniques: semi-structured interviews, observations and secondary analysis of documents. 4

In the following sections, the paper will first introduce the role of dispute resolution mechanisms in sport and the attention this topic has raised within the field of social sciences of sport. Second, a discussion of sport governance and its approach to dispute resolutions will follow. Third, the article addresses mechanisms of anticipation and preventing disputes. Finally, different ways of coping with disputes are presented. 5

DISPUTE RESOLUTION MECHANISMS IN SPORT AND THEIR ACADEMIC REFLECTION

The topic of dispute resolutions in sport has mainly attracted academic attention arriving from two different theoretical streams. On the one hand, the study of sports law (e.g. Findlay, 2006; Klijn and Skelcher, 2007) has focused on the very nature of formal rules and procedures. On the other hand, the study of the philosophy of sport has primarily explored the moral and ethical tenets of dispute resolutions (Simon, 2002; 2007). From the point of view of both the juristic nature of dispute resolutions and their moral and ethical character, it has been argued that sport represents a field of legal and moral pluralism (Carlsson and Lindfelt, forthcoming; Macaulay, 1987). However, little attention has been given to the phenomenon of dispute resolutions based in social theory, except for those framed in the sociology of law, which still tend focus their attention on legislative regulation tools. In the main introductory books to sociological studies of sport, dispute resolution only appears as a sub-topic and a serious discussion on dispute resolution mechanisms is almost conspicuous by its absence (see Coakley, 2007; Coakley and Dunning, 2003;). 6

The lack of understanding of dispute resolution from the point of view of social theory fits within the Weberian meta-narratives of modern sport, which has been prevalently understood as having gone through processes of secularisation, specialisation, rationalisation, standardisation, bureaucratisation, and a quantification in the quest for records (Cantelon and Ingham, 2004; Guttmann, 2004; Huizinga, 1971; Porro, 2002). These notions grasp modern sport as a system of formal rules and procedures that makes the game predictable and calculable and makes the organisation of the federations effective and manageable. Under these conditions the *ludic* character of the game is weakened and social action is, in a Durkheimian sense, predefined by its social structure (Elias, 1986). We argue that this image of sport is too rigid and static and it does not offer any tools to grasp the dynamic and plastic nature of dispute resolution mechanisms (Macaulay, 1963). 7

Thus, the paper takes into consideration that social actors are able to appropriate the rules of the game, interpret them, actively reflect upon them, and bring into play other systems of rules that are un-written, based on their beliefs, values, and personal or collective interests. That is, '[s]ports [and the rules that govern them] are social constructions because people create them as they interact with one another within the constraints of culture and society' (Coakley, 2007, p. 473). This is why any rigid system of rules cannot be taken for granted. 8

On the contrary, following the anthropology of law approaches (Roberts, 1979), we understand the system of rules as constantly questioned, negotiated, redefined, and re-interpreted. In fact, as pointed out by McFee (2000, p. 180). 'One cannot, for instance, resolve *all* difficulties in a particular sport by making new rules for that sport (or new codes of professional ethics, for that matter), rules which deal with every situation unequivocally'. This should be seen in the crisis of legitimacy of contemporary dispute resolution mechanisms, which are contested due to the commercialisation and professionalisation of sport (Cashmore, 2005), in the search for new, alternative mechanisms of dispute resolutions (Jodouin, 2005) and increasing discussions of the autonomy of the sport system and its links to civil courts (Bogusz et al., 2007; Caiger and Gardiner, 2001).

The latter mentioned discussions highlight either the role of the *law of sport* or the *juridical law*. On the one hand, the support for the importance of the *law of sport* sustains the autonomy of sport governance and its constitutive rules and procedures. By this token, the internal relations between sport federations and their stakeholders are regulated by '[q]uasi-legal, mediation and arbitration mechanisms' that 'prioritize the dynamics of sport over those of law', such as described by Parpworth (2000). On the other hand, the advocates of *juridical law* reflect on the colonisation of sport in the process of juridification. This means that relations and conflicts are increasingly interpreted through judicial terms with the risk of traditional patterns of communication being distorted or losing their natural role (Carlsson, 2004). This has, of course, not taken place in a vacuum, but rather in the context of a more litigious society in which people are more willing to take their disputes to the courts (McCutcheon, 2000). 9

Yet, neither the emphasis on *sports law*, nor the emphasis on *juridical law* could contribute to an in-depth understanding of the contemporary nature of dispute resolution mechanisms. Hence, we introduce the metaphoric term the *law of social action* in order to reflect the fact that '[i]t is crucial to appreciate that when we talk of regulation, regulation embraces a number of forms and it is not merely the law which regulates "play"'. (Readhead 2000, p. 52) Therefore, dispute resolution mechanisms cannot be viewed as a social action framed in the system of instrumental and respected tools, but rather as a system of negotiations or a communicative action (see Habermas, 1987) that takes place under social control emerging from interactions amongst peers within an informal social order (Eitzen, 2006). 10

The *law of social action* must be analysed through the social structures that pre-define its nature. In addition to the macro-processes of commercialisation and professionalization, or even juridification and expertisation, the meso-level of the context must be taken into account. In particular, this means a consideration of the nature of sport governance in which dispute resolution mechanisms take place, in difference to divorcing the handling and organising of conflicts of interest from the juridical processes and their legal consequences. 11

DISPUTE RESOLUTIONS IN THE CONTEXT OF SPORT GOVERNANCE

The analysis of the dispute resolution mechanisms must be situated in the context of sport governance and its particular logics. This helps to explain why the *sports law* cannot always work as an efficient regulatory mechanism. The prevalent conceptualisations of sport governance from the field of social sciences explore sport federations as spaces where social capital is created and reproduced. In this perspective, the sport associations are understood as realms of cooperation, mutual recognition and trust in which civic engagement and participatory democracy are taught (Dyreson, 2001; Jarvie, 2003; Putnam, 2000; Seippel, 2006; Uslaner, 1999). This paper does not refute such a potential, which, undoubtedly is inherent in the associational life of sport governing bodies. In fact, sometimes this organisational skeleton works well and is sufficient for coping with dispute resolutions processes. 12

Yet, we argue that the civic engagement in sport governance also has its dark sides and that the democratic procedures and rules anchored in official charters, codified norms and firmly structured organisational arrangements are not always sufficient to cope with disputes. A sport association is always a complex system of formal and informal relationships in which social networks play an important role (Numerato, 2008; Quatman and Chelladurai, 2007), although, not *per se* for the greater good of democracy (Bourdieu, 2006 [1999]; Roche, 13

1993).

By a similar token, Crozier and Friedberg (1977), in their study of organisation, argued that notwithstanding the bureaucratic nature of the system, the actors still act with a certain autonomy that they use in social interactions. In other words, the rationality of the social system in which the social actor operates is limited by the autonomy of individuals and by their aims and strategic interests. Therefore, social actors are not understood as individuals who passively reply to the pressures and demands of organisational arrangements, which is particularly relevant for the processes of creating disputes and their resolutions. On the contrary, their informal, unsystematic, and spontaneous social praxis might sometimes aim at reinforcing power of either personal or social ties which might block the formal interest of the organisation. 14

Such a notion of conflict between the informal behaviour and the organisational skeleton is relevant for the following explorations of dispute resolution mechanisms. On the one hand, there is a clearly defined *law of sport* consisting of formal rules and procedures on how to cope with the disputes. On the other, new emerging issues and struggles over power and personal interests might jeopardise contemporary sport governance; therefore, these rules are not sufficient and can become an object of distrust, re-interpretations, or even corrections by the *juridical law*. Furthermore, even the value-driven disputes, which constitute an inherent part of the decision-making process and democratic participation in sport associations, are often translated into legal-driven disputes. To understand the subtle tenets of dispute resolutions in sport and the nature of communication of the dispute processes, the study draws on an ethnographic research. 15

METHODOLOGY

The data were collected by three different techniques used as part of a multi-sited ethnographic study: semi-structured interviews were accompanied by observations and secondary analysis of documents. Ethnographic fieldwork was undertaken from January to November 2007 in two different socio-cultural and historical realities, in the Czech Republic (data collected by Numerato) and Denmark (data collected by Persson). It was accompanied by a review of secondary documents that commenced in the middle of 2006 and continued into in the first months of 2008. The semi-structured interviews were carried out at the national, regional and local levels of sport federations and clubs regarding three sport disciplines: football, handball, and sailing. Three different sports were selected in order to cover the variety of different sporting cultures and different styles of governance under the frame of the wider project.[3]Moreover, the research field also touched upon the role of umbrella, multi-sport associations as well as the role of public support of sport. In total, more than 200 interviews, equally distributed between the two countries, were conducted. 16

To better understand certain sensitive issues, observations and informal conversations were very useful (especially off-record parts of interviews and meetings). Additionally, newspaper articles, internet discussion forums and sports associations' documents such as meeting minutes, charters, norms and resolutions were analysed. Both participants' and non–participants' observations carried out during different sports events and sport governing bodies' activities, such as general assemblies, executive committee meetings, and annual conferences, contributed to the creation of a more coherent picture of the topic under study. 17

The collected data were thematically analysed both manually and with the Atlas.ti software package. Even though the study took place in two different countries, the objective of the research was not comparative. Drawing on the conditions of both a stable and continuously developing system of sport governance (in Denmark) and a rather crystallising system of sport governance in post-socialist conditions after the fall of the Communist regime in 1989, the aim of the research was to explore and analyse a variety of examples that could contribute to substantiate the academic reflection of sport. It is worth noting, considering the ethnographic nature of the research, that we did not intend to generalise these partial examples specific for each of the countries or for each of the sporting cultures, but to identify ideal-types of dispute resolutions processes. 18

Throughout the data presentation, the identity of the majority of the respondents is 19

anonymized, as this was guaranteed during the data collection process. This approach adheres to the ethnographic nature of the research and sensitivity of some of the reported cases. Information and data used throughout this article are consequently either information already publicly available or information which the respondents have explicitly given consent to. The quotations from interviews are far from exhaustive and are presented as emblematic examples in order to provide better understanding of the analyzed phenomenon.

ANTICIPATING DISPUTES

Before any discussion on dispute resolution mechanisms begins, specific focus will be paid to deliberate attempts or to spontaneous strategies contributing to their anticipation. In efforts to prevent disputes, sport governing bodies and their members attempt to anticipate them. The Danish sport community is said to shy away from conflicts (Molin, 1996). As such, although no official rule exists, there is a general acceptance that one should not socially mix with your fellow board members (because conflict of interest may arise). This attitude, to separate leisure and professional activities, was emphasised on several occasions while discussing the topic of social relations within governing sport bodies. To have non-work related relationships with fellow board members, was, in other words seen as politically dangerous and something that might bias an expert or professional decision and, therefore, simply should be avoided. However, this did not mean that social relationships were unthinkable. They were, instead, somehow described as postponed until one of the parties stepped down from their position (interview with a representative of the Danish Sailing Association, 24 January 2007). 20

The Danish assertion of having as little social contact as possible is in reality hard to live up to. Officials are both socialising amongst themselves and with local club representatives through their club affiliations. As a result, whilst local club representatives, on the one hand, might complain about decisions made 'over their heads' by the national sport governing body, they may simultaneously have their boats side by side in their local marina or their sons playing on the same team (Author B field notes, interview with representative of sailing club, 12 March 2007; interview with representatives of sailing club and observation at sailing club, 24 October 2007). 21

The Danish discourse suggests that to anticipate disputes, it is important to limit informal contacts and to behave in a purely professional manner. In sharp contrast, the Czech example provides an antithesis, exemplified by a president of a regional football association who argued that the current disputes within the ČMFS could have been solved through an appropriate style of ' human resource' management of its former president (Author A field notes, personal communication with the president of a regional football association, 16 November 2007): 22

> Before the president was elected, he should have gone to Moravia, yeah, he should have gone there, he should have sat with them [Moravian officials] somewhere in one of those wine-cellars, they should have all got drunk together [...] explaining and clarifying everything, and it would have ended in a completely different way.

Another way of anticipating disputes may be seen as tolerance related to some requests arriving from the lower levels of sport federations. For example, in Czech handball, it sometimes happens that when demands from the regions or local clubs arrive at the national level, they do not correspond to the official rules or follow the procedural standards. Hypothetically, they do not need to be formally accepted. Yet, some of the officials at the national level tolerate these shortcomings and they either accept them as they are or they send them back to the clubs in order to change their formal attributes or to communicate about them in a correct manner (e.g. personal communication with an official of the Czech handball association, 19 October 2007; observations of an Executive Committee meeting of a Czech local football association, 7 March 2007). 23

This is also common practice in Denmark, where regional football associations are turning a blind eye to double representation in the lower leagues. That is, it is a common praxis to play for more than one club in the lower league system. The opinions differ, but the majority of the representatives of the different regional football associations reason that it is more 24

important to have as many teams as possible (making it possible for as many as possible to play football) than to follow the official rules and regulations and penalise or even suspend individual players, and thereby, risk closing down entire teams due to the lack of players (observation at meeting of administrative directors of the regional Football Associations, 25 October 2007; Persson, forthcoming).

A much more formalised way of pre-empting future disputes is the establishment of a Code of Conduct (alternatively Code of Ethics, see FIFA, 2004). Established in 2007, the Danish FA (DBU) Ethics Committee is in charge of encouraging the Danish football clubs to establish their own Code of Conduct and to oversee how they live up to that and the Code of the Danish FA. The establishment of an ethics committee and the notion to live up to a Code of Conduct was rationalised by the privilege of being involved in football, occupied by an activity close to one's heart and something that attracts large interest from the surrounding society. 25

In the view of the Danish Ethics Committee, it is the surrounding society's expectations and demands at an abstract level that puts pressure on the football community to live up to a Code of Conduct (DBU, 2008). Here, the Danish FA refers to a common value-system or set of ethical norms. This means that the existing rules and regulations were not seen as sufficient to tackle potential disputes and there was a need for a supplementary Code of Conduct that would apply to everyone who represents the Danish FA. In a similar fashion, the Danish FA also recommends that all clubs implement a Code of Conduct for themselves and for their stakeholders. The idea is that stakeholders occupy a role as interpreters of the local norms and value system central to any dispute resolution. In defining their stakeholders, the Danish FA is stretching an otherwise restricted definition of players, coaches, trainers, leaders, volunteers, members, fans, and sponsors by also including the state, municipalities, potential sponsors and partners, media, and *the population*. The entire Danish population is, in other words, given the right of interpretation of the norms and values system of the Danish FA (conversation with representative of Danish Football Association, 21 December 2008; Persson, 2008). 26

The reference to stakeholders is specifically interesting in relation to our discussion of dispute resolution and to Eitzen's (2006) discussion of sport as an agent of ideological social control. As such, it should be read in the context of the relation of normative attitudes to social interaction. Sport is commonly seen as conservative and fostering a status quo of societal values, traditional gender roles, and a 'compulsory heterosexuality' (Eitzen, 2006). The rationale of the Danish FA could accordingly be interpreted either as an attempt to break new grounds or as confirming the conservative values of the Danish society. 27

In addition, with references to FIFA and UEFA, based on the argument that the burgeoning gambling industry risks increasing match-fixing, the Danish FA has in collaboration with Danskespil (member of the World Lottery Association) and the security company SAG, in an attempt to pre-empt such foul play, set up a 24-hour hotline(conversation with representative of the Danish FA's Ethics Committee, 21 December 2008). Anyone who has knowledge of or who has heard rumours of potential match-fixing can report anonymously. This stands, however, in sharp contrast to the Danish FA's Ethical Code and the document 'Ethical Problems and Standards', which emphasises that stakeholders of football should avoid casting suspicion on fellow colleagues, specifically when not documented (DBU, 2006). In a similar way, in an attempt to anticipate complaints about the performance of the referees and accusations of corruption (common to the highest divisions played at the regional level of Czech football as well as higher national divisions), a duty to video record the games has been introduced and a participation of delegates controlling the performance of referees has been reinforced (interviews with Czech regional football associations' officials, 7 and 26 September, 31 October 2007). 28

The previous examples showed that anticipation of disputes does not only encompass a manifest and rules-governed ways of behaviour. Summarising, in addition to the deliberate and codified mechanisms, the way of anticipation is also implicit, spontaneous, less evident, unwritten, and based on habits and routines that help to prevent the volunteers from entering into situations with a higher probability of disputes. Regarding the former mentioned codified and explicit mechanism, we might talk about surveillance or quasi-surveillance tools as video recording or phone hotline as tools against corruption. More codified mechanisms might also be seen in codes of conduct or even in the alerting *per se* existence of the Ethics Committee. 29

As regards the latter rather informal and implicit ways of anticipating the disputes, we referred to silent tolerance of inaccuracies and imperfect following of rules and to specific configurations of social relations. On the one hand, the Czech case provides evidence of the importance of informal relations that permit the establishment of specific networks of trust. The Danish ethical approach, on the other hand, represents an example of the traditional understanding of fair play. From this point of view, the sport federation might be understood as an ideal-typical form of civic engagement. However, this example has, up to this point, been rather atypical in the context of sport federations as will be shown in the next paragraphs. 30

PROTO-DISPUTES, FORMAL DISPUTES, META-DISPUTES

The mechanisms of anticipation of disputes do not always prevent the sport associations and their membership base from entering into disputes. Hence, this section captures a variety of types of mechanisms for coping with disputes. To do so, we distinguish between three different types of disputes identified through inductive qualitative analysis of ethnographically gathered evidence: proto-disputes, formal disputes, and meta-disputes. 31

The notion of proto-disputes refers to the form of disputes that are resolved through negotiation, consensus, and bracketing the actual formal system of dispute resolution mechanisms. This kind of dispute is not present in official statistics since they are based at a level of spontaneous everyday experience in which rules are un-codified and unwritten, evolving from a specific socio-cultural context. Metaphorically said, they are driven by the law of social action. In general, this type of dispute resolution mechanism happens with no help of official institutes or committees. One may say that the term proto-disputes describes 'sport' before "processes of ' sportification'" in which the framework of rules became more explicit, more differentiated, and stricter (Elias, 1986). Nevertheless, in this article, proto-disputes will label all of those situations in which the disputes are resolved without any use of officially formal and codified rules and procedures. 32

These include all of the informal comments of referees appearing during the football or handball games, asking the captains to calm down players if increased aggression appears, or even using verbal admonishment instead of yellow or red cards on the pitch. This way of coping with disputes might also be present in governance. For example, in the Czech Sailing Association, where governance is based on strong informal networks of friendship with a communitarian nature (Numerato, 2009), disputes are sometimes resolved through negotiation and direct communication. Statements expressed by different members of the sailing association as 'If there is some problem, I just pick-up the phone and I call the president, 'are not rare and closely related to another statement frequently appearing in sailing: 'We can say this very openly with a keg of beer' (interviews with sailing clubs officials, 14 March, 12 September 2007). 33

These solutions are also used in order to avoid complexity and the long protracted procedures prescribed by the sport federations. This was well illustrated during an executive committee meeting of a Czech local football federation, which dealt with an unauthorised start of a non-registered player in a local youth football game. The executive committee agreed that the match could be replayed, even though there was no sufficiently transparent evidence to base such a decision upon. What made the executive committee follow such a path was its trust in the local gossip and information obtained by means of informal ties. In order to avoid other conflicts or potential appeals, a member of the committee proposed, most likely aware of the inability of the accused club to proceed with any further appeals (observations of an Executive Committee of a Czech local football association, 20 April 2007): 34

> Don't step into the conflicts, guys! Do not create problems for all of us. Let's resolve it in this manner, with an informal arrangement. Nobody will investigate it later and both sides will remain happy.

To summarise, the proto-disputes remain closed in the sport field; they are linked to lived experience or to the so-called practical sense (Bourdieu, 1977). From the Bourdieuan perspective, they might be understood as an ability to play the ' game' according to implicit rules that are not codified, to a certain degree intrinsic to the *doxa* inherent of the field of 35

sport (Bourdieu and Wacquant, 1992; Giulianotti, 2005).

The annual conferences or general assemblies that we have witnessed (observations of the 36 General Assembly of a Czech local sailing club, 28 March 2007; Annual Conferences of Czech regional handball associations, 24 and 26 March 2007; observations of the General Assembly of the Danish Football Association, 21 February 2007; meeting of administrative directors of the regional Football Associations, 25 October 2007; General Assembly of the Danish Sailing Association, 24 March 2007) can be seen as large arenas for proto-disputes, sometimes verbalised, resulting in conflicting exchange of opinions, and sometimes *expressed* by silence about the existing conflicting opinions between boards and membership. Throughout the fieldwork, it became clear that conflicts are expressed in different ways depending on the local culture. As an example of the latter, the unhappiness with the lack of consultation and insufficient long-term planning behind decisions made by the Danish Sailing Association was made clear in several conversations with a larger Danish sailing club's representative, but no similar dissatisfaction was articulated at the annual General Assembly at the national level (Author B field notes, General Assembly of the Danish Sailing Association, 24 March 2007).

However, the aim to resolve these conflicts in a rather communicative manner and through 37 informal negotiations is part of a wider system of formal procedures. In a sense, they are getting closer to what we might call formal disputes: disputes whereby resolutions presuppose uncritical respect, acceptance and recognition of the governance bureaucratic structure with its constitutive rules.

Climbing in our narrative from an imaginary pitch to the imaginary sport governance offices 38 and roundtables, we can identify referees judging strictly according to the rules and delegates following their performance nominated by their expert committees, such as disciplinary committees, or committees of referees, control or revision committees or even ethics committees and dispute resolution chambers. What is important is that these decisions remain closed in the sport system, defined by various charters, resolutions, directives or regulations. Metaphorically, this kind of dispute resolutions is driven by *the sports law*.

The description of such formal dealings with disputes in a proto-typical sport federation in 39 Denmark is split between national and regional levels. The formal way of handling dispute cases for the involved party is to turn to one of the regional Disciplinary Committees (for clubs or club representatives on a regional level) and to the national Disciplinary Committee (for those clubs or club representatives on the national level). If the club, team, or club representative is dissatisfied with the Disciplinary Committee's verdict and/or sentence, formally taken on the level of administration or the board, the right to contest the verdict before the national Appeal Committee of their sport federation exists for a period of four weeks (DBU, n.d.).

In those cases in which agreement has not been reached, the option remains to turn to the 40 Danish Sport Confederation's (DIF) Appeal Committee. Although it is common praxis to reach agreement within the system of the sport federations, the Sport Confederation's Appeal Committee also admits cases in which a decision has been made by a sport federation, its Disciplinary Committee, or an equivalent committee or department: the Doping Committee, the Danish Sport Confederation's Board, and the Danish Sport Confederation's Representative Assembly. In addition, the Danish Sport Confederation also offers mediation in conflicts between sport federations, clubs, and athletes (DIF, 2009 [1992]).

Neither the proto-dispute resolution nor the formal dispute resolution mechanisms always 41 work. That it is why we identify the notion of the so-called meta-dispute resolution mechanisms. The meta-disputes represent situations in which the decisions made by means of commonly accepted codified mechanisms were not accepted, pointing towards substantial weakness of some of the rules or to specific procedural mistakes. For various reasons, but most often related to power and economic reasons, the boundaries of *the sports law* are not respected and the dealing with disputes starts with an interpretation of rules that should regulate the resolution of the disputes. In other words, these meta-disputes challenge the officially established ways of coping with disputes and regulating governance. The attempts to challenge the consistence of *the sports law* rests in *juridical law* and in the *law of social action*. In order to defend, support, or assert someone's viewpoint, the officials become interpreters of the constitutive *sports law*. In general, the object of the disputes is not represented by a problem in itself, but by a system of law that pre-defines the ways in which

such disputes should be resolved.

The notion of meta-disputes is structurally similar to the notion of meta-governance, used to understand 'governance of governance' as 'organisation of the conditions for governance in its broadest sense' (Jessop, 2003, p. 152). Similarly, in the context of sport, the term was used to analyse the mode of governance of the International Olympic Committee, which is affected, on the one hand, by the Swiss national law, and on the other hand, by universal ethical principles (Kübler and Chappelet, 2007). In this sense, the notion of meta-disputes means disputes of disputes or disputes of governance. Furthermore, its origin is not anchored only in juridical law and in ethical principles, but also in the motivated social action. 42

The past struggles in the Football Association of the Czech Republic provide a great empirical example of the meta-process of dispute resolution mechanisms. The disputes mentioned at the beginning of the paper represent just the tip of the iceberg, based on a single decision of the Civil Court in Prague which declared the withdrawal of the Head of the Appeal and Revision Committee together with another member of the Committee. The decision was made by the *juridical law* interpreting *the sports law* due to prosaic *social*, power related motives. The decision by the District Civil Court, as a reply to an appeal made by a publicly unknown local football club (FJ Sokol Záblatí), asserted that the Head of the Appeal and Revision Committee was elected contrary to the law and the charter of the federation (e.g. ČTK, 2008; Mokrý & Petrásek, 2008). This decision cannot be understood as a purely juristic issue. In a sense, the withdrawal was the culmination of long-lasting struggles between members of the Executive Board and the Head of the Appeal and Revision Committee (Akrman 2007). 43

Another situation in which disputes are based on meta-struggles over procedures could refer to the ČMFS and, in particular, the Prague Regional Football Association. One of the General Assemblies in the middle of 2008 ended after one hour because the delegates did not even approve a proposed programme of the meeting (Šidliák, 2008). Similarly, the results of the elections of the Regional Football Association in Zlín in the Czech Republic were revoked by the national Executive Committee because they did not adhere to the ČMFS Charter and the electoral regulations of the respective regional association (Fojtík, 2007, 2008). As the previous cases of the Appeal and Revision Committee, the *sports law* decisions related to the regional level of football governance must be understood within the wider context of the dynamics of power of the national football association; the revoked decisions could have lead to the anticipated elections and threat the position of the Executive Committee of the ČMFS. 44

These examples of meta-disputes might at first sight seem to be conflicts of interests and in their substance, there are some of this nature. However, it is worth noting that the nature of these conflicts is commonly radically shifted and an initial conflict is transposed at a level of judicial disputes. 45

These three different types of dispute resolution mechanisms do not work independent from each other and must be understood in their interconnectedness. This is best understood by looking at an example from the Czech sailing environment. During a local sailing competition, an older sailor returned back to a dock, and being angry, he addressed his rival (more than 30 years younger), who broke the rules by running into his rivals' dinghy at the start: 'I have never done this, but today, I will really do it, I will protest'. The younger sailor who was used to the formalities around sailing and well-acquainted with the precise way of protesting replied, albeit acknowledging his fault, that the protest could not be accepted stating 'You should have raised your flag, this is not my concern'. At the end, the dispute was resolved in an informal and friendly manner (observations of a local regatta in the Czech Republic, 19 May 2007). The protest, which was *de facto* a kind of formal dispute, but *de jure*—not respecting the precise procedures—< span>a proto-dispute, was then disputed by the younger sailor and at that point, represents a kind of meta-dispute resolution mechanism. This brings the problem back to the lowest proto-dispute resolution mechanism level. 46

The interconnection between different levels could also be seen in the light of historical development and institutionalisation of rules and crystallised from spontaneously built organisation structures. One of many examples of the rudimentary forms of the current formal rules is present in the detailed description of a dispute resolution that appears in the Czech novel *Kožené slunce*. The following extract deals with a spontaneously evolving football tournament, played by teams representing different streets in an industrial town in Central 47

Bohemia at the beginning of the last century:

> The committee has for example probably discovered that on the team from the Fifth Street a player with one shoe appeared on the pitch! Inadmissible, the rules are not obeyed. It is impossible to wear shoes! The commission takes away two points from the winners and investigates other cases. One protest has been rejected: the commission has discovered that the player did not wear shoes, as the complaint stated, but only a rag turned round his foot because his nail broke off. The members of the committee examined the injured foot and they recommend him not to play for fourteen day, until it is healed. But for the next time, no one use shoes or rags! (Mašek, 1958, p. 34)

The text shows that the tournament was organised according to the rules that were 48 appropriate to former indigenous conditions. In the light of contemporary sport reality and its strong commercialisation, the question would have been significantly different today. Today, the question would not have been whether to wear or not to wear shoes, but which logo must or must not appear on the shoes.

However, the structure of the decision making process including committee decisions, 49 protests, and appeals remains the same. There is one difference: as the rules and the system of procedures was institutionalised and became more sophisticated, so did the reflections of the actors who are affected by the system and who aim at impeaching or disputing the rules. Nevertheless, the proto-dispute resolution mechanisms remain and have not yet been transformed into officially codified dispute resolution mechanisms.

CONCLUSION

The previous sections have shown that dispute resolution mechanisms cannot simply be 50 understood as the processes that follow rules and procedures outlined by the sport system, by *the sports law*. At the same time, they are affected by the civil *juridical law*. We argued that these disputes are situated in a certain social and cultural context with particular moral values and ethical beliefs. They also potentially derive from power mechanisms and are linked to a particular social network configuration. This means that it is not sufficient to only take the sports law and the juridical law into account while analysing the dispute resolution mechanisms, but that *the law of social action* must also be considered.

Drawing on the ethnographic evidence from sport federations (handball, sailing, football) in 51 the Czech Republic and Denmark, we argued that dispute resolution mechanisms must be understood as an inherent part of sport governance.

The authors first identified both the codified and non-codified ways of anticipation of disputes 52 Then, we identified three different types of dispute resolution mechanisms: proto-disputes, formal disputes, and meta-disputes. The notion of the proto-disputes refers to the disputes that are resolved without any use of officially formal and codified rules and procedures. They are anchored in spontaneous everyday experience whereby rules are un-codified and unwritten. The formal disputes are strictly pre-defined by various charters, constitutive rules, resolutions, directives, or regulations. They take place in the firmly structured institutional arrangements of sport associations and they presume absolute respect for institutes as well as relevant committees as referees and, in particular, Appeal, Revision, and Control Committees. The meta-disputes represent situations in which the decisions taken during established procedures have not been accepted, pointing to substantial weakness of some of the rules or to specific procedural mistakes. The resolution of these disputes is mostly explicitly framed in the legal discourse, in spite of the fact that its basis often lies in struggles over power, personal interests, or moral beliefs.

To conclude, dispute resolution mechanisms have always been an inherent part of sport 53 governance and their occurrence have been intensified together with the processes of professionalisation and commercialisation. Moreover, the increasing expertise, and, in particular, judicial knowledge of sports volunteers and officials contributes to the rising appearance of meta-disputes. The increasing number of disputes also increased the sophistication of arguments used by different sides to support a particular standpoint. In the

most extreme cases, disputing has become a natural part of governing and in some cases, it significantly affects the democratic decision-making process.

As a consequence, an enlarged portion of the membership repeats the refrain 'to govern or to 54 dispute?'However, a short post scriptum note must be made in regards to the Football Association of the Czech Republic, which has provided this analysis with numerous examples: The frequency of disputes, which undermined the process of governance, has radically diminished since the extraordinary General Assembly on the 27 June 2009 when a new president and executive board were elected. (" ON-LINE: 12. Valná hromada ČMFS," 2009). Only time will tell whether this is more than a mere hiatus.

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