The adoption of the European Union’s Lisbon Treaty in 2009 included an article on sport that has the potential to modify the traditional structures of sports governance in Europe. The objective of this paper is to explore what institutional status, within EU policy making, would benefit sports governing bodies’ policy preferences most in order to maximise their independence in the governance of sport in Europe. The main research question, therefore relates to a search for the optimal political strategy of governing bodies within the EU policy-making community.

Since the seismic Bosman judgment, sport governing bodies have long lobbied the Member States of the European Union (EU) to take the necessary decisions that could grant them favourable application of EU law to sport in cases adjudicated by the European Commission and the Court of Justice (Garcia 2007). The extent to which EU law is applied to sport is one of the many debates of those involved in sport governance and management in Europe. It is often claimed that there exists a different ‘European Model of Sport’, which is contrasted to the ‘American Model of sport’ (Garcia 2009; Parrish and Miettinen 2008). With the adoption of the Treaty of Lisbon, the European Union has finally inserted into its constitutional charter an article on sport (Article 165 of the Treaty on the Functioning of the European Union, TFEU). This opens a whole new era in the governance of sport in Europe, and questions are starting to arise about the role that these new regulatory powers of the EU might have in the organisation of European sport (Garcia and Weatherill 2011; Parrish et al. 2010). Similarly, it is also becoming clear that sports governing bodies would like to be involved in the policy process. This paper focuses on the latter, to analyse the different institutional possibilities open in the EU policy-making process for sports governing bodies.

This focus on sport bodies has a three-fold justification. First, because Article 165 TFEU itself calls for EU institutions to take account of ‘the specific nature of sport, its structures based on voluntary activity’ and to ‘foster cooperation with third countries and the competent international organisations in the field of education and sport’ when developing EU sports policy. Second, because the three main EU institutions involved in the legislative process (Commission, Council and Parliament) have all expressed their willingness to involve sport organisations in this process. Indeed, the sports ministers meeting in the Council recently adopted a resolution ‘establishing a high-level structured dialogue with sport’ that will be coordinated by the rotating EU presidency (Council of the European Union 2010: 12). Third, because the involvement in the EU sports policy-making community might have consequences for the internal governance structures of sport.

This paper presents an original methodological and theoretical framework. We support our argument by employing the analytical tools of veto player (VP) theory as developed by Tsebelis (1995, 2002). VP theory allows analysing the implications of different institutional rules on decision making outcomes. VP theory provides the analytical tools for explaining policy change and stability under different institutional settings. Thus, VP theory enables us making substantial propositions about possible effects of the role of sport bodies within EU decision making procedures.

The paper will test the theory with evidence from two different case studies, which will then be used to extrapolate conclusions for the future of EU sport governance, the role of EU institutions and the different alternatives for sport bodies. The case studies are the European Commission’s investigation into the collective selling of UEFA Champions League broadcasting rights and the Commission investigation into the FIFA international transfer system. That focus on competition policy issues rests on theoretical and methodological considerations. First, the competition policy venue has been of utmost importance for actors feeling aggrieved by regulations of the sport bodies (Weatherill 2003). Second, the competition policy issues under scrutiny represent a natural laboratory for studying the impact of VP status.

The paper’s main argument is that, for sport organisations, achieving some form of veto power in the policy process would indeed reduce the risk of detrimental policy change induced by EU decisions, but on the other hand veto
power can bring about ambiguous effects since it can result in deadlock, governance instability and venue shifting. Only if the sport bodies would be given the status of a sole legitimate representative of the so-called sporting movement, they could easily prevent detrimental EU induced policy change. The latter, however, is extremely difficult (if not almost impossible) to envisage given the trend towards network and multiple stakeholder governance structures in European sport that has been well documented in the last years (see for example García 2010, Council of the European Union 2010).