

Management, Organisation und
ökonomische Analyse, Band 14
Hrsg.: Peter-J. Jost

Cedric Duvinage

Referees in Sports Contests

Their Economic Role
and the Problem of Corruption
in Professional German Sports Leagues



RESEARCH

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With a Foreword by Prof. Dr. Peter-J. Jost



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Bibliographic information published by the Deutsche Nationalbibliothek
The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie;
detailed bibliographic data are available in the Internet at <http://dnb.d-nb.de>.

Dissertation WHU – Otto-Beisheim School of Management, 2011

1st Edition 2012

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Editorial Office: Marta Grabowski | Stefanie Loyal

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Coverdesign: KünkelLopka Medienentwicklung, Heidelberg

Printed on acid-free paper

Printed in Germany

ISBN 978-3-8349-3526-7

To my brother and my parents

Foreword

Over the past few years, the role of the referee has been criticized considerably in professional German sports leagues: Mistaken calls that substantially influence the outcome of games are daily fare, and even deliberate game manipulations in favor of one of the competing teams or individual competitors have increasingly become the basis of public discussions. The scandal involving the former soccer referee Robert Hoyzer, who received considerable kickbacks for purposely manipulating the outcomes of professional soccer games in 2005, leading to a permanent ban from supervising games by the DFB, is only one of many examples that could be mentioned here.

If we consider the criticism of the role of the referee in a more differentiated way, two contextual interrogations arise: On the one side, mistaken calls in sports are based on an inherent misjudgment of game situations - either because of distortions of the human intake and processing of information or because of a deficient technical or personal support of the referee. The fundamental question here concerns the meaning of the referee with respect to the quality of the game: To what extent does the contribution of the referee foster a team's legitimate actions in a game on the one hand, and to what extent does it contain a team's irregular activities on the other hand? On the other side, corrupt delinquencies are based on a conscious

error of judgment of game situations by the referee. In the course of this, the question of an efficient incentivization mechanism by sports associations is of prior interest: To what extent can changes in the rules of the game or monetary and immaterial incentives reduce or prevent a referee's propensity for corruption?

Cedric Duvinage's work addresses exactly these two questions: His objective is to provide answers to these questions in a game theoretical framework and to derive recommendations therefrom. From a scientific perspective, this intention is downright ambitious and takes up an academic void: The few existing studies that address the role of referees in sports are all of empirical or experimental nature; a theoretical elaboration of this topic is still missing.

Mr. Duvinage's work at hand excels to do exactly that in an outstanding way. However, not only theoretically interested readers but also those who are interested in sports and in the inferences for the improvement of the quality of referees as well as for a successful corruption prevention benefit from his work. I wish this work a respectively wide reception.

Peter-J. Jost

Acknowledgements

No matter whether at the professional or at the amateur level, all enthusiastic athletes and sports fans sooner or later make their own experiences with referees; certainly some good, but probably also some bad. Loving the game as a small forward on the basketball court over the course of many years, I have surely made mine.

However, while the high degree of sports commercialization has immensely increased the economic importance of sports referees, professional German sports leagues seem to have developed an evermore appearing corruption problem taking the occasional irritation about seemingly incompetent referees to a whole new level. For this reason, the study of sports referees deserves the attention of academic and economic research.

My particular personal relation to this topic as well as my interest in the well-being of the sports society surely boosted my motivation for intrinsic research in this area. But the completion of this project would not have been possible without the support of a special group of individuals.

Foremost, I would like to thank my academic advisor and dissertation supervisor, Prof. Dr. Peter-J. Jost, who showed tremendous interest in my research through countless discussions to a cup of tea, providing me with many helpful impulses and ideas. Furthermore, I would like to thank Prof.

Dr. Jürgen Weigand for his insightful and helpful comments as well as for taking on the task of the second supervisor.

I am also very thankful for the great support of all doctorate colleagues and friends without whom my time as a doctorate student by far would not have been as much fun and as enjoyable as it was. I especially thank all of those who took their time to share their own experiences with and as referees with me. The development of this dissertation irrefutably benefitted from these insightful chats and discussions.

Finally and most importantly, I would like to show my grand appreciation for the unconditional support of my family. I especially thank my greatest supporters and sponsors, my brother Christopher as well as my parents Peter and Angela, who I dedicate this thesis to.

Cedric Duvinage

List of Abbreviations

ad	to
Art.	Article
BC	Before Christ
BGB	Bürgerliches Gesetzbuch (German Civil Code)
BGH	Bundesgerichtshof (Supreme Court)
cf.	confer (compare)
DBB	Deutscher Basketball Bund (German Basketball Federation)
DBL	Deutsche Basketball Liga (German Basketball League)
DFB	Deutscher Fussball Bund (German Soccer Federation)
DFL	Deutsche Fussball Liga (German Soccer League)
DHB	Deutscher Handball Bund (German Handball Federation)
DHL	Deutsche Handball Liga (German Handball League)
DPA	Deutsche Presse Agentur (German Press Agency)
etc.	et cetera (and other things)
et al.	et alii/aliae (and others)
e.g.	exempli gratia (for example)
et seq.	et sequentes (and the following)

FA	Football Association
FIFA	Fédération Internationale de Football Association (International Football Federation)
FIVB	Fédération Internationale de Volleyball (International Volleyball Federation)
GG	Grundgesetz (Basic Constitutional Law)
i.e.	id est (that is)
IHF	International Handball Federation
LHS	Left Hand Side
Marg. No.	Marginal Note
NBA	National Basketball Association
p.	Page
para.	Paragraph
pp.	Pages
R&D	Research and Development
RHS	Right Hand Side
RuVO	Rechts- und Verfahrensordnung (Rules of Law and Procedure)
StGB	Strafgesetzbuch (Criminal Code)
StPO	Strafprozessordnung (Code of Criminal Procedure)
UEFA	Union of European Football Associations
WADA	World Anti-Doping Agency
ZPO	Zivilprozessordnung (Code of Civil Procedure)

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Chapter 1

Introduction

Heaven and Hell decide to fight their differences by organizing a soccer match. Before the game, God proudly brags: "We've got all the star players!" Yet, the Devil counters: "So what? We've got the referees!"¹

1.1 Motivation

With the increasing commercialization of professional sports and the rising public enthusiasm about various national and international sports events, professional sports referees are increasingly becoming the target of public scrutiny and criticism. Not long ago, during the round of sixteen match of the 2010 FIFA World Cup, England versus Germany, the Uruguayan referee Jorge Larrionda disgruntled many English soccer fans by disallowing an irrefutable goal for England. At the same time, many German soccer fans celebrated Larrionda's mistake as the revenge for the legendary "Wembley

¹ Freely translated from Steinke, Bodmer and Tophoven (2010, p. 64).

Goal" during the World Cup Final in 1966.²

The historic soccer rivalry between England and Germany vividly exemplifies that referees are undeniably a critical part of the game, and that it is not unusual for their judgments to ultimately determine its outcome. Given the immense commerce involved in some types of sports, incompetencies by referees, independent of whether they are deliberate or not, can cause a serious economic damage to competitors. This poses the question of why sports associations started availing themselves of the institution of referees in the design of professional sports contests in the first place.

At first sight, the introduction of referees might simply be explained by the contention that there has to be an objective supervisor responsible for the enforcement of the rules to ensure that competitors righteously attain the occasionally large benefits from winning a contest. However, the economic reasoning behind the role of referees goes far beyond this point.

As any competitive athlete can probably approve, a referee can significantly influence the nature of a game. The reason being that competitors typically adjust their playing strategies to the performance of the referee in the pursuit of maximizing their probabilities of success. From this follows that sports associations can use the referee in connection with the pre-specified rules of the game as an intrinsic instrument of design, so as to maximize the demand for its sports events.

Yet, blatantly wrong decisions such as that of Larrionda often tend to make enthusiastic spectators question the impartiality of a supervising referee. Indeed, recent corruption scandals in the professional German Soccer League (DFL, hereinafter also referred to as the "Fussball Bundesliga") and the professional German Handball League (DHL, hereinafter also referred to as the "Handball Bundesliga") provided ample reasons for developing

² For more information, see Gödecke (2010), Reschke and Knaack (2010) and Volkery (2010).

such mistrust. The most recent ones in Germany involve the soccer referee Robert Hoyzer and the handball referees Frank Lemme and Bernd Ullrich.³ The assertion of handball functionaries that even the president of the International Handball Federation (IHF), Hassan Moustafa, is up to corrupt mischief also does not promise any comfort in this regard;⁴ neither do the recent suspicions about 200 possibly manipulated European soccer games, where apparently more than 30 of them took place in Germany.⁵

Even more striking are the testimonies of retired referees, who experienced gross bribery at first hand, warning sports fans that the corruption of referees seems to be much more widespread than previously expected. Many referees can tell stories about dubious bribery attempts. Sometimes, already long before the game referees get phone calls and are asked to prepare wish lists for their hosts. Alcohol, food, women and, of course, money make the most popular means of bribery.⁶ However, although the recent media coverage focused its eyes on the revelation of sports corruption in the German Soccer Federation (DFB) and the German Handball Federation (DHB), Willy Bestgen, a retired German basketball referee, asserts: "*Bribery occurs in all sports.*"⁷

The term "*sports corruption*" is a colloquial expression and can be interpreted in many ways.⁸ However, because the focus of this dissertation is the study of the sports referee, the term "*sports corruption*" shall, in the context

³ For more details on the scandal involving Robert Hoyzer, see Ahrens (2005). For more information on the scandal involving Frank Lemme and Bernd Ullrich, see DPA (2009a).

⁴ For more information, see Hellmuth and Ewers (2009) and Weinreich (2009).

⁵ DPA (2009b); see also Peer (2009).

⁶ Stern (2009)

⁷ Tuneke (2009)

⁸ Maennig (2005, p. 189), for example, distinguishes between "*competition corruption*", relating to delinquent activities to influence competition results, and "*management corruption*", relating to illicit activities regarding non-competition decisions, such as those concerning host venues for large sports events, allocation of rights (e.g. television rights), or the constructions of sports arenas, for instance.