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Italian Competition Law Newsletter

Highlights

— The TAR Lazio annuls an ICA decision imposing on the Italian Football Federation a €4 million fine for abuse of dominant position

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On February 17, 2025, the Regional Administrative Court for Latium (the “**TAR Lazio**”) granted the application for annulment filed by the Italian Football Federation (*Federazione Italiana Giuoco Calcio*, the “**FIGC**”) against a 2024 decision of the Italian Competition Authority (“**ICA**”) that fined the FIGC over €4 million for implementing a complex exclusionary strategy to strengthen its dominant position in the organization of competitive youth football competitions and to extend it to the amateur football market, in violation of Article 102 TFEU (the “**Decision**”).¹

The Decision

On April 6, 2023, an Italian sport promotion entity (*ente di promozione sportiva*,² “**EPS**”) complained to the ICA that the FIGC was hindering or

preventing the clubs affiliated to the EPS from participating in non-competitive youth football competitions organized by EPSs.

The ICA opened an investigation to verify whether the FIGC had infringed Article 102 TFEU.

In its assessment, the ICA acknowledged that the FIGC was dominant in the market for the organization of competitive youth football events and had significant market power in the market for the organization of non-competitive youth football events. In the former market, the FIGC is the sole statutory body controlling and coordinating the organization of all events in Italy, including those that may be organized by EPSs. In the latter market, the vast majority of young athletes in Italy are registered with the FIGC.

¹ See TAR Lazio, Judgment No. 3409 of February 17, 2025 and ICA, Decision No. 31263 of June 18, 2024, A562 - FIGC-Regolamento organizzazione tornei ludico amatoriali (discussed in the June 2024 issue of this Newsletter: <https://client.clearygottlieb.com/72/3261/uploads/italian-competition-law-newsletter-june-2024.pdf>).

² An *ente di promozione sportiva* is an association whose statutory purpose is the promotion and organization of non-professional sport activities for recreational, leisure and training purposes.

The ICA held that the FIGC, by virtue of its special and exclusive powers in the organization of football events, put in place a complex strategy to strengthen its dominant position in the market for the organization of *competitive* youth football events and to exclude EPSs from the market for *non-competitive* youth football events. In particular, the ICA found that FIGC:

- (i) hindered the entry of EPSs into the market for the organization of competitive events by engaging in delaying tactics and by failing to sign the agreement which the Italian National Olympic Committee (the “**CONI**”) required as a necessary condition for EPSs to organize competitive events (the “**Agreement**”); and
- (ii) excluded EPSs from the market for the organization of non-competitive events, by abusing its regulatory powers. According to the ICA, the FIGC unlawfully classified all activities carried out by athletes over the age of 12 as competitive, irrespective of their amateur nature, and consequently obliged its affiliated clubs to sign the agreement required by the CONI for competitive activities in order to take part in tournaments organized by EPSs for athletes between 12 and 17 years of age, regardless of their actual non-competitive nature. Furthermore, the FIGC imposed the same obligations on its affiliated clubs willing to take part in tournaments organized by EPSs for athletes under the age of 12.

The Decision concluded that the FIGC’s conduct was aimed at protecting its monopoly in the organization of competitive events and its position in the organization of non-competitive events, in violation of Article 102 TFEU.

The judgment of the TAR Lazio

The TAR Lazio fully accepted the pleas raised by the FIGC in its application.

First, the Court held that the ICA had failed to establish that the FIGC had intentionally engaged in delaying or obstructive conduct during the negotiations with the EPSs to conclude the Agreement, considering that the EPSs’ own inaction contributed to the delays. This was even more so given the complexity of the applicable regulatory framework and the resulting difficulties in finalizing a specific implementing Agreement.

Secondly, the TAR Lazio rejected the ICA’s finding that the FIGC unlawfully adopted an age-based (rather than performance-based) definition of competitive activities with the aim of restricting the EPSs’ access to the market for the organization of non-competitive events. On the contrary, the TAR Lazio found that the FIGC had lawfully exercised its regulatory powers since a performance-based definition of competitive activities would not have been allowed under the applicable rules. In support of this conclusion, the TAR Lazio referred to the CJUE’s Superleague judgment, according to which the FIFA/UEFA’s pre-authorization rules that prevent clubs and athletes from participating in unauthorized third-party sports events infringe EU competition rules because those rules are not based on transparent, objective, non-discriminatory, proportionate, and reviewable criteria.³ The TAR Lazio took the view that, on the contrary, the FIGC’s legal framework governing the pre-authorization rules is based on transparent, objective, non-discriminatory, proportionate, and reviewable criteria and thus, is legitimate.

Thirdly, the TAR Lazio found that the available econometric evidence did not support the existence of any actual exclusionary effects in the relevant markets, contrary to the ICA’s conclusions.

In view of these findings, the TAR Lazio annulled the Decision in its entirety.

³ See CJEU, C-333/21, *European Superleague Company*, EU:C:2023:1011 (discussed in the Cleary Antitrust Watch blog of 13 December 2024: <https://www.clearyantitrustwatch.com/2023/12/revolution-for-sport-gatekeepers-the-grand-chamber-of-the-court-of-justice-rules-on-the-european-super-league-and-international-skating-union-cases/>).

AUTHORS

Laura Tresoldi
+39 02 7260 8216
ltresoldi@cgsh.com



Pietro Cutaia
+39 06 6952 2590
pcutaia@cgsh.com



Neri Conti
+39 02 7260 8682
nconti@cgsh.com

EDITORS

Giulio Cesare Rizza
+39 06 6952 2237
crizza@cgsh.com

Gianluca Faella
+39 06 6952 2690
gfaella@cgsh.com

SENIOR COUNSEL, PARTNERS, COUNSEL AND SENIOR ATTORNEYS, ITALY

Mario Siragusa
msiragusa@cgsh.com

Matteo Beretta
mberetta@cgsh.com

Giulio Cesare Rizza
crizza@cgsh.com

Gianluca Faella
gfaella@cgsh.com

Fausto Caronna
fcaronna@cgsh.com

Marco Zotta
mzotta@cgsh.com

Alice Setari
asetari@cgsh.com

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