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Legal Responses to Football "Hooliganism" in Europe

Anastassia Tsoukala
Geoff Pearson
Peter T.M. Coenen *Editors*

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Legal Responses to Football "Hooliganism" in Europe

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In Memoriam

Dr. Peter T.M. Coenen (1981–2015)

Shortly before this book was published, one of its editors and authors, Peter Coenen, passed away aged 34. Peter was assistant professor of Constitutional Law at Maastricht University's Department of Public Law. Prior to that he worked at the School of Law at the University of Lucerne.

Peter was passionate about sport, but above all he was an academic. His specialism, legal responses to public disorder at football matches, demanded measured and calm scholarly investigation. Peter provided exactly that.

This book was conceived of by Peter. In bringing together authors from eight European nations, it stands as an important scholarly contribution to the discipline, as it is the first comparative analysis of legal responses to football crowd violence and disorder. Equally, it stands as a fitting tribute to Peter, but also a tragic reminder that the sports law community has lost an outstanding scholar.

At the time of Peter's passing, he was preparing to defend his Ph.D. thesis at Edge Hill University. In his thesis, Peter explored the legislation on football-related disorder in England and Wales and in the Netherlands. He urged caution on the use of football banning orders and argued that the European Union should acknowledge the deficiencies of the English and Dutch approaches before taking action in this area. As Peter had submitted his thesis, the Graduate School Board of Studies at Edge Hill University agreed to continue with the examination process. As his Director of Studies, I am grateful to Peter's examiners for having agreed to this.

The conferral of a posthumous doctorate award is in recognition of Peter's scholarly excellence. It does, however, once again remind us of the loss we have suffered, both personally and professionally. In some small way, I hope this award brings some comfort to Peter's wife Xiaolu and his children Julian and Emily.

October 2015 Professor Richard Parrish

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Chapter 1
Legal Responses to Football 'Hooliganism' in Europe—Introduction

Peter T.M. Coenen, Geoff Pearson and Anastassia Tsoukala

Abstract In this introduction, the authors explain the subject and the motivations behind this collection. They explain the methodology used, the rationale for the jurisdictions chosen and the value of this contribution to the existing literature on the subject of football crowd regulation and management. They consider the transnational responses to football-related disorder: for example, the European Convention in Spectator Violence and Misbehaviour at Sports Events, and in Particular Football Matches 1985, and the relevant legislative instruments as well as the role of the European Union in the regulation of football-related disorder. The authors explain how the legal regulation of football-related disorder relates to civil rights/liberties and human rights law. Finally, the authors explain the difficulties attached to the use of the term 'football hooliganism'.

Keywords Football hooliganism · Football-related disorder · Crowd management · Transnational regulation · Comparative law · Methodology · Legal regulation · Human rights

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At the time this chapter was written, Peter Coenen (deceased) was Assistant Professor of Law at Maastricht University in the Netherlands. Dr. Geoff Pearson is Senior Lecturer in Criminal Law at the University of Manchester's Law School. Dr. Anastassia Tsoukala is tenured Associate Professor at the University of Paris XI.

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Contents

1.1 Introduction

Every week hundreds of thousands of European football supporters attend matches to watch their teams play, often travelling long distances to away matches both domestically and abroad. However, large numbers of spectators—many of whom are visiting fans—intent on engaging in noisy and colourful support of their team pose crowd management challenges for both the football authorities and the police. Football crowds are generally perceived to pose a higher potential for violence and disorder than other sports crowds, and the phenomenon of football crowd disorder and violence has become popularly known across Europe as 'football hooliganism'. This phenomenon has been much debated across Europe, with instances of widespread disorder at tournaments and European fixtures involving both international and club sides[1] in addition to problems in the domestic competitions of European nations. Usually this disorder is limited in both duration and the numbers of individuals involved, but occasionally it has led to widespread damage, injury and even fatalities,[2] keeping the subject high on the political agenda. The phenomenon of 'football hooliganism' has captured the attention of the media and the state since the late 1960s in the UK, and from the 1970s onwards in continental Europe. Images of 'rioting' at or around football matches have been broadly publicised in popular media and incidents are typically followed by a demand for more stringent legal and policing measures against the 'hooligans'.

As a result, football crowds have been the subject of increased regulation across Europe, and even though in many states the problem of football-crowd violence and disorder appears to be on the wane, restrictions of both a criminal and civil nature are becoming tighter. Largely following the 'English model' of confronting 'hooliganism', lawmakers in different states throughout the continent have increasingly viewed football crowds as a legitimate target for new and creative forms of legislation and judicial ingenuity to attempt to solve what is perceived as

[1]International examples include widespread disorder during WC 1998 in Marseilles, in Charleroi at Euro 2000, and Warsaw at Euro 2012 between Russian and Polish fans. Club level examples include a Champions League match between AS Roma and Manchester United in 2007 and a Europa League match between Slovan Bratislava and Sparta Prague in 2014.

[2]E.g. the deaths of Michalis Filopoulos in Athens (2007), police officer Filippo Raciti in Catania (2007), Dejan D. in Novi Sad (2008), Brice Taton in Belgrade (2009), Yann L. in Paris (2010), a 43 year old fan of Djurgardens in Sweden (2014) and Kostas Katsoulis in Crete (2014).

a serious social problem. English laws and strategies have typically been viewed as 'best practice' and have been replicated in the domestic laws of many individual member states. At a pan-European level, the 'English' influence can be seen at three different levels: first, in bilateral relations between states, secondly in the active participation of the English authorities during the drafting of the 1985 European Convention against football-related violence and the correlated UEFA security instructions, and thirdly in the long-term 'lobbying' within EU circles and the ensuing determinant role of the English delegations during the drafting of all relevant EU regulatory texts. Under the influence of the English model of confronting hooliganism, a multi-level governance network has taken shape with respect to football-related disorder in Europe.

However, in an increasingly risk-oriented security landscape, the imposition of many of these responses and the ensuing introduction and legitimisation of police practices and hybrid civil/criminal legal instruments brings into question the security of the civil and human rights of football fans. A number of commentators on the subject have challenged the legality of certain legal responses under domestic law and the rights provided to citizens under the EU Treaties and the European Convention on Human Rights (ECHR), especially against those merely suspected of involvement or potential involvement in football crowd disorder or violence.[3] Regardless of these concerns, the twenty-first century has seen continued use of preventative measures and 'hybrid' law such as football banning orders, and the cross-border progression of such measures.

This edited collection focuses on the legal regulation of football hooliganism in a number of jurisdictions in Europe, combining a human rights angle with a comparative law approach. The domestic legislation on football hooliganism in these states will be identified and analysed by academics and legal professionals from within those jurisdictions. The authors will compare the different approaches and draw together common themes and problems, identifying both good and bad practice in the management of football crowds and those convicted or suspected of engaging in football-related crime or disorder. We conclude with recommendations for how public and sports authorities can respond generally to the challenge of football crowd management, without risking breaches of human and civil rights protected by the Treaty on the Functioning of the European Union (TFEU) or the ECHR.

Two important issues should be clarified from the outset; first, the labels 'football hooliganism' and 'football hooligan' should be used with extreme care. These are labels that were first created by the British media in the mid-1960s,[4] which then seeped into legal responses to the problem,[5] and were later appropriated by those commenting on the phenomenon in non-English-speaking nations.[6] However, there

[3]Armstrong and Hobbs 1994; Greenfield and Osborn 1996; James and Pearson 2006; Pearson 1999, 2005; Stott and Pearson 2007; Tsoukala 2002, 2009a.

[4]Dunning et al. 1988, p. 165; Stott and Pearson 2007, p. 13.

[5]Pearson 1998.

[6]E.g. Bodin 1999; De Biasi 1998; Pilz 1996; Spaaij 2006.

is neither an accepted popular nor legal definition of the labels in England and the terms have been used to describe different phenomena, and in different contexts to demonise, but also to exonerate the behaviour of football spectators,[7] which can have serious implications upon the individuals implicated by creating a 'master-stigma'[8] that can justify disproportionate legal and policing responses. The use of these labels has been subjected to severe academic criticism, described as a 'historical (and hysterical) mass media construction'[9] and is becoming 'increasingly redundant'[10] as a meaningful and useful label to describe the nature of football violence or explain why it occurs (or, indeed, why it is usually absent). Therefore, the editors use the label not to describe a singular phenomenon but to refer to the wider social and socio-legal construction that has developed around the connected problems of (a) 'spontaneous' disorder and violence at and in connection with football matches, and (b) that of gangs who travel to matches with the intention of engaging in violence with rival gangs. The contributors to this edited collection have been invited to be reflexive about their use of the term, or to clarify their own definition for their use thereof. This issue is developed further below.

Secondly, in this collection we have encouraged contributors to consider the impact that laws and policing practices which have been designed to manage football crowds have had upon both civil rights (or liberties) and human rights. It is important to note the difference between civil rights—i.e. those rights, freedoms or liberties granted by the state to its citizens—and human rights—i.e. those rights that are granted by supra and international conventions and declarations to all citizens. The former by their nature are limited because citizens only possess these rights or liberties insofar as the state grants them; states will retain the ability to change or amend even a written constitution or bill of rights in order to legitimise laws that otherwise would have infringed civil rights. Human rights on the other hand are designed to apply equally to all citizens at a supra or international level, and states themselves can be sued for infringing them, even though under their own domestic constitution they may be perfectly entitled to restrict them. Human rights are particularly pertinent here, because with only one current exception, the European Convention of Human Rights binds all European states, including all the states that this collection focuses on.

1.2 Methodology

This edited collection will use a comparative legal methodology. The essence and goal of comparative law is the comparison of different legal systems.[11] This necessarily implies a transnational component to comparative law; comparative law

[7] Pearson 1998.

[8] Salter 1985.

[9] Redhead 1993, p. 3.

[10] Pearson 2012, p. 186.

[11] Zweigert and Kötz 1998, p. 2.

demands a comparison between at least two (national) legal systems. Comparative legal analysis can be done at different levels. Research which compares the spirit and style of the legal systems, and the methods of thought and procedure of those systems, is called macro-comparison.[12] On the other hand, research into a specific problem or issue is called micro-comparison.[13]

Comparative law in the abstract has only one methodology: namely the comparison of laws, norms, institutions and sometimes even entire legal systems.[14] However, there are numerous techniques to carry out such comparison; historical, functional, statistical, thematic or structural.[15] The dominant technique of comparative law is functionalism.[16] By looking to other nations for solutions to certain legal problems, a far greater range of possible solutions can be found than when one looks only at one single nation.[17] The comparative research method looks outward to gain a better understanding of a domestic legal system. By analysing solutions proposed in other jurisdictions, comparative research contributes to a more complete analysis of the domestic system. Comparative law also alleviates the risk that our own system is taken for granted and seen as the 'natural' state of affairs.[18] Comparative law offers guidance to the legislator, and the comparison of various legal systems has been successfully used in the construction and reform of legal systems around the world, and has been an aid in the (international) unification of the law.[19]

The methodology of comparative law is in constant development,[20] but functionalism is the basic feature underlying comparative research. Functionalism ultimately determines which laws to compare, the overall size of the project, the benefits and possibilities of the project, but also its limitations. Kötz in this respect states that, "[i]ncomparables cannot usefully be compared, and in law the only things which are comparable are those which fulfil the same function."[21]

It is important to note that the basic proposition underlying comparative law is that every legal system faces some of the same problems, and that every legal system solves these problems in different manners, but often with similar results.[22] Therefore, it is important to start a comparative legal research project by wording a question in terms that seek to reach a certain neutrality. The problem that the research sets out to investigate should be looked at in as nation- and language-neutral

[12]Ibid., p. 4.

[13]Ibid., p. 5.

[14]Palmer 2005, p. 263.

[15]Ibid.

[16]Ibid.

[17]Zweigert and Kötz 1998, p. 15.

[18]Heringa and Kiiver 2012, p. 1.

[19]Zweigert and Kötz 1998, p. 24.

[20]Ibid., p. 33.

[21]Ibid., p. 34.

[22]Ibid.

a manner as possible, and not be coloured by the language of a certain legal system. In addition to the language used, it is crucial to keep in mind that different legal systems also have fundamentally different structures. In comparative legal research, it is essential that not only the law is looked at, but also other circumstances that can have an impact upon the research questions. It is important to have a basic understanding of the society and the nature of the other legal system to give complete answers to the research questions posed.

An important consideration in a comparative legal research project is which systems to compare. According to Kötz a necessary degree of restraint should be employed in this respect;[23] in any comparative research project, a thorough and objective analysis should be made of each legal system that is researched.[24] This provides the data which can be used to compare the legal systems and look for answers to the research questions. The comparative analysis of the data is the most important phase in any comparative research project.

Any comparative research must be done to achieve a certain goal. When using comparative law, there needs to be an awareness of why this methodology is used.[25] In a comparative analysis it is not sufficient to merely list the similarities and differences between the legal systems researched.[26] In the analysis, it is crucial that there is sufficient attention to the solutions offered by various legal systems, free from the background and the biases from the legal system from which these solutions emanate.[27] The solutions offered in the legal systems that are the subject of the research need to be analysed in as objective and unbiased a manner as is possible.

Once the analysis has yielded possible answers to the research questions posed in the various legal systems researched, and the answers found in the various legal systems are freed from their national contexts, then these solutions need to be grouped in a systematic manner. It is important in this respect that a common vocabulary is used, which covers all the legal systems researched. Different national legal systems use a different vocabulary and the same words can have different meanings. However, comparative law is only possible with a common vocabulary, which fits all the legal systems researched. Finally, the findings need to be critically evaluated. This step necessarily involves a subjective element. However, since the comparative method revolves around finding a suitable solution for a specific legal problem in a number of legal systems, it is necessary that at the end of the project the researcher will come to a solution s/he considers suitable.

In this edited volume, following this introduction, we will have a more in-depth analysis of a number of countries in Europe. There will be an in-depth analysis of Italy, England and Wales, Germany, France, Greece, the Netherlands, Austria and Ukraine. For these analyses, the editors have worked with contributors to produce

[23]Ibid., p. 41.

[24]Ibid.

[25]Heringa and Kiiver 2012, p. 2.

[26]Zweigert and Kötz 1998, p. 43.

[27]Ibid.

a thorough understanding of the legal, cultural and social landscape of the countries analysed. Furthermore, the contributors' knowledge of the subject of this book has been gained from different standpoints and backgrounds within the legal systems analysed. The diverse exposure of the contributors to the subject matter of this book enables the reader to view the subject of this collection from a variety of angles, which is intended to aid a better and more thorough understanding and is instrumental in an analysis of 'football hooliganism' that goes beyond mere domestic solutions.

The rationale for the selection of the countries analysed in this book was based on a number of factors. The editors felt it was important to include the major footballing powers in Europe (in terms of on-pitch success and popularity as a spectator sport), and also those nations with a historical reputation for football crowd disorder and violence. These factors put pressure on the state to take action to reduce problems of crowd disorder and turn a blind eye to the rights of fans. The editors also wanted to focus on those nations that had hosted major international competitions following the regulatory response to football crowd problems that started to take place across Europe in the mid to late 1980s. All the nations covered in this collection hosted such tournaments.[28] For these states, the organisation of football mega-events led to legislative activism to try and reduce the risk of crowd disorder and an important question this book poses is in how far the rights of football supporters were taken into account when these regulatory changes took place.

However, pragmatic reasons also saw the exclusion of a number of jurisdictions that we would have liked to have included. Of the major footballing powers Spain is notably absent, and in terms of recent hosting of events, contributions from Portugal and Poland would have been welcome. Some interesting developments in policing in Scandinavia are not covered, nor the arguably worsening problems in the Balkan states. Unfortunately securing English-language contributions from these areas of sufficient quality in terms of legal knowledge and independence led to the unwanted exclusion of some important jurisdictions. As a result of this, we do not claim that this collection provides a totally comprehensive review of European responses to football-crowd disorder. Nevertheless, we are aware that in a number of other European states similar developments to those discussed in these pages have taken, or are taking, place, for example in Scotland, Russia and Turkey, as supposed 'best practice' is rolled out across Europe.

Despite these limitations, we believe the analysis of the various jurisdictions in Europe in this collection provides us with an interesting and important picture of how different European states have approached the same problem in a variety of ways. The analysis of these countries also enables us to understand how the solutions of different countries have cross-influenced each other. The countries covered in this edited volume are from all parts of Europe and include some of the countries that have been most instrumental in shaping European and international policy on the subject of crowd management, football-related violence and human rights. Most are members of the European Union. All are signatories of the ECHR. Through the analysis of the different chapters and countries in this edited volume,

[28]Including the football tournament at the Athens Olympic Games 2004.

the editors hope to identify certain best practices regarding crowd management and the prevention of football-related violence. However, the editors also hope that this edited volume will contribute to a more thorough understanding of the phenomenon of 'football hooliganism', that the reader will gain a better understanding of football supporters in general and will understand that football supporters have human rights, which can be respected and protected while still successfully managing large 'risk' football crowds.

1.3 Pan-European Responses to 'Football Hooliganism'

Although this book does not deal explicitly with transnational responses to football-related disorder, it is appropriate at this point to give some background on the international responses to the phenomenon. Football has become a truly transnational sport, with international fixtures on the agenda almost weekly, and football supporters have benefitted from increased mobility, allowing them to visit football matches all over the world. Football-related disorder also transcends national borders. Therefore, any legal approach to understanding and managing football-related disorder must also have a transnational component.

The Council of Europe (CoE) played an important role in the internationalisation process after the Second World War. The main goal of the CoE is, 'to create a common democratic and legal area throughout the whole of the continent, ensuring respect for its fundamental values: human rights, democracy and the rule of law'.[29] As a result of the events at the 1985 European Cup Final in the Heysel Stadium in Brussels, where 39 supporters were killed following terrace disorder, the CoE adopted the European Convention on Spectator Violence and Misbehaviour at Sports Events and in Particular at Football Matches (the Convention). At present, 41 member states of the CoE have signed and ratified the Convention.[30] The goal of the Convention is the prevention and control of spectator violence and to ensure the safety of spectators at sporting events.[31] The Convention concerns sporting events in general and is not limited to football matches. The Convention focuses on three core areas, prevention (Article 3), international cooperation (Article 4) and the identification and treatment of those who misbehave at sporting events (Article 5). Since 1998, the compliance of the member states with the Convention is actively monitored. Under this programme, consultative and evaluative visits are made to members of the Convention. Members of the Convention furthermore submit an annual report to the standing committee, outlining their implementation of the Convention and the

[29]Council of Europe, The Council of Europe in Brief, Our Objectives. http://www.coe.int/aboutCoe/index.asp?page=nosObjectifs&l=en. Accessed 23 October 2014.

[30]Council of Europe, European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches CETS No. 120. http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=120&CM=8&DF=26/03/2013&CL=ENG. Accessed 23 October 2014.

[31]Council of Europe, For a Safe and Tolerant Sport. http://www.coe.int/t/dg4/sport/Source/T-RV/livret_violence_en.pdf. Accessed 23 October 2014.

level of safety and security that has been achieved in the member state since joining the Convention.

The Convention has had a marked impact on domestic and international policies addressing football-related disorder. Tsoukala states that, 'the impact of the European Convention on the shaping of European counter-hooliganism policies is undoubtedly distinguishable beneath the many different domestic penalisations of football-related violent behaviour, and most obvious in the development of domestic and international police cooperation'.[32] A particularly striking feature of the Convention is its wide target population and geographical reach.[33] The Convention applies not only to offenders, but also to potential troublemakers and applies to both inside and outside of football stadia.[34] The result of the Convention's broad level of application, under influence of risk-oriented discourses to the control of deviance, was that '[f]rom then onwards, the domestic surveillance and control mechanisms, ranging from CCTV cameras to undercover policing and intelligence gathering and exchange, expanded exponentially, thus routinising the underlying control of deviance in many different European countries'.[35]

The European Union has also long been involved in discussing and regulating transnational football-related disorder. Driven by some of the major international incidents in the 1970s and 1980s (most notably the Heysel tragedy), there has been a constant stream of regulatory instruments in the EU[36] and the regulation of

[32]Tsoukala 2009b, p. 3.

[33]Ibid.

[34]Ibid.

[35]Ibid.

[36]Resolution of the European Parliament on the tragedy at the Heysel stadium in Brussels, 13 June 1985;.Resolution of the European Parliament on the violence at the football match in Brussels on 29 May 1985, 13 June 1985; Council Recommendation on guidelines for preventing and restraining disorder connected with football matches, 3 May 1996; Resolution of the European Parliament on hooliganism and the free movement of football supporters, 10 June 1996; Joint Action adopted by the Council on the basis of Article K.3 of the Treaty on European Union with regard to cooperation on law and order and security, 26 May 1997; Council Resolution on preventing and restraining football hooliganism through the exchange of experience, exclusion from stadiums and media policy, 9 June 1997; Council Resolution concerning a handbook for international police cooperation and measures to prevent and control violence and disturbances in connection with international football matches, 21 June 1999; Council Resolution concerning a handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved, 6 December 2001; Council Decision concerning security in connection with football matches with an international dimension, 25 April 2002; Council Resolution on the use by Member States of bans on access to venues of football matches with an international dimension, 17 November 2003; Council Resolution concerning an updated handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved, 4 December 2006; Council Resolution concerning an updated handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved, 3 June 2010.

football-related disorder has remained high on the EU agenda. The majority of the Member States exchange information with other Member States on football supporters before international football matches. There is now an intricate system in place whereby law enforcement authorities and other stakeholders in the various Member States exchange information regarding international football matches. For this end, in each Member State there are National Football Information Points, whose task it is to exchange information with their counterparts.[37] There is an extensive EU handbook on football 'hooliganism', dealing with a variety of topics to streamline the organisation of international football matches and tournaments.[38] Organising a football match or tournament is no longer a matter exclusively for the hosting Member State; there is now a multi-level regulatory framework in the organisation of football matches, in which the visiting and other Member States and various other stakeholders (UEFA, FIFA, national Football Associations, etc.) are intrinsically involved.

1.4 Human Rights

In Europe, human rights have evolved from opposition to feudal rulers in the Middle Ages to a sophisticated catalogue of rights with domestic and international enforcement mechanisms attached to them. The atrocities committed during two world wars in the first half of the twentieth century have shown that powerful and inward-looking states form a threat against (inter)national peace and individual and collective rights. As a counterweight to this threat, a process of internationalisation was accelerated in the mid-twentieth century. This resulted in, among others, the founding of the United Nations and the Universal Declaration of Human Rights, the establishment of the European Union (EU) and the Council of Europe (CoE) and the European Convention on Human Rights (ECHR). One of the unique features of the European regional system for the protection of human rights has been the European Court of Human Rights (ECtHR). The ECtHR has proven itself as a true supranational court, whose judgments have garnered a fair amount of respect and influence throughout Europe.[39] The ECtHR now has rendered a great number of judgments, many of which, when taken into account by governments, have had a fundamental impact on the rights of individuals and the way in which European citizens look at their rights and their societies.

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[37]Council Resolution concerning an updated handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved, 3 June 2010.

[38]Ibid.

[39]Although it is fair to say that the influence of the ECtHR's judgments also provoke critique and resistance in the Contracting Parties and that the judgments of the ECtHR are not always observed by the Contracting Parties.

There are a number of ECHR rights that are relevant to analysing legal responses for football-related violence and disorder. The ECtHR plays an important role in promoting the rule of law in the Contracting Parties and protects fair trial guarantees, such as the presumption of innocence. In addition to non-derogable human rights,[40] the ECtHR in her judgments balances a greater number of conditional human rights of applicants against the interests of the state and assesses in individual cases whether the state's actions complained of complied with the principle of proportionality. All states (and by implication, all state police forces and local authorities) have a duty not to disproportionately or arbitrarily infringe the rights of citizens to privacy[41] (relevant due to surveillance techniques and retention/sharing of personal data) and liberty[42] (relevant due to arbitrary preventative detention measures). Furthermore, state organs also have a duty to assist citizens in pursuing positive rights, in this case freedom of expression[43] (in expressing support for a team, nation or locality either verbally through chants or through dress/colours/banners) and freedom of assembly and association[44] (in gathering together with other fans of the same team). While these latter freedoms have traditionally been associated with citizens demonstrating their democratic and political rights, recent European Court of Human Rights cases[45] have started to recognise the rights of groups gathering together for cultural and arguably completely social reasons, thus encompassing dominant forms of European football fandom within the umbrella protection of the ECHR. Finally, for those fans convicted of, or suspected of, involvement in football-related violence or disorder, the right to a fair trial[46] becomes relevant. As we will see, this is particularly pertinent when it comes to preventative civil or administrative orders which have a punitive effect placed on those merely suspected of involvement in violence/disorder.

Human rights do not only protect the majority or those considered popular in our societies; they extend to all the people in our constitutional democracies. Human rights are interrelated, interdependent and indivisible.[47] This means that human rights guarantees also extend to those groups considered different or unpopular in our societies, including football supporters. Football supporters can

[40]Non-derogable human rights under the ECHR are the right to life contained in Article 2, the prohibition of torture, inhuman and degrading treatment contained in Article 3, the prohibition of slavery and forced labour contained in Article 4 and the prohibition of retroactive punishment contained in Article 7. These rights cannot be derogated from even in times emergency (Article 15).

[41]Article 8.

[42]Article 5.

[43]Article 10.

[44]Article 11.

[45]Most notably *Friend v. United Kingdom*, App. Nos. 16072/06 & 27808/08, 24 November 2009, para 50.

[46]Article 6.

[47]See Office of the High Commissioner for Human Rights, What are Human Rights? www.ohchr.org/en/issues/pages/whatarehumanrights.aspx. Accessed 23 October 2014. See also Nickel 2008.