

## **Bachelor Thesis**

# **Why does the general taxpayer bear the external costs of sports events? An examination of the case of German football**

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## List of Acronyms

ACPO	Association of Chief Police Officers
ARD	Working pool of the broadcasting corporations of the Federal Republic of Germany
Art.	Article
BBC	British Broadcast Corporation
DFB	Deutscher Fußball-Bund [German Football Association]
DFL	Deutsche Fußball-Liga [German Football League]
DPoIG	Deutsche Polizei-Gewerkschaft [German Police Union]
et al.	et alii [and others]
f. / ff.	and the following page/s
FAZ	Frankfurter Allgemeine Zeitung [Frankfurter General Newspaper]
GdP	Gewerkschaft der Polizei [Union of the Police]
GG	Grundgesetz [Basic Law]
ib.	ibidem [in the same place]
LZPD	Landesamt für Zentrale Polizeiliche Dienste [State Office of Central Police Services]
NRW	Nordrhein-Westfalen [North-Rhine Westphalia]
PolG	Polizeigesetz [Police Law]
RP	Rheinische Post [Rhenish Mail]
SCB	Schlittschuh-Club Bern [ice hockey team from Bern]
UCL	University College London
WAZ	Westdeutsche Allgemeine Zeitung [West German General Newspaper]
YB	Young Boys Bern [football club from Bern]
ZIS	Zentrale Informationsstelle Polizeieinsätze [Central Information Agency Sports Operations]

## **Abstract**

In many industries, external costs incur that are not borne by the actual perpetrators but by the society as a whole. In the area of sports, external costs can incur as well. In the beginning of each football season and just before the so called “high-security matches”, the discussion about violence in and around football stadiums and the associated huge costs incurred by police operations and borne by the taxpayers is starting again and again. In this study, the argumentation of the defenders of the status quo that do not want the status quo to be changed with the consequence that the clubs would have to bear the costs incurred by organising their football matches will be presented and evaluated in terms of convincement and with regard to whether the status quo is still justified. Apart from controversial data about the amount of expenses being incurred by policing football matches, the proponents of the status quo urge many arguments that shall both prove football’s huge social importance and illustrate legal reservations referring to cost sharing. The discussion as a whole is gridlocked so that a definite solution made by the legislator would be desirable. The thesis will not only present the argumentations about, among others, social benefits and costs of football and give an assessment referring the current legal regulations but it will also recommend elements that a potential future cost sharing rule as a consensus model should contain and consider in the case of politicians deciding to oblige the professional clubs to share the policing costs.

## **1. Introduction: The problem**

Daumann (2012) has made the discussion about whether the German professional football clubs should share the policing costs associated to their football matches to the subject of an article. This discussion is starting again and again punctually, at the beginning of each football season in Germany for many years. The costs incurred by police operations in and around the German football stadiums are, according to the Chief of the German Police Union (DPolG), Wendt, at about €115 million every season (“Neue Westfälische”, 19.09.2011), and in the season 2012 / 2013, the German polices of the “Länder” have had “1.756.190 working hours” (LZPD NRW 2013: 3; 19 f.) directly associated with police operations in the context of matches of Germany’s professional football leagues. The criticised injustice is that German taxpayers actually bear the costs of policing football matches. Because due to the so called “Steuerstaatsprinzip” of Art. 105 ff. GG that means that taxes have a huge importance for the state and that it mainly finances itself with taxes, policemen who are civil servants are paid by the state with taxes. Consequently, many taxpayers, above all those who are not interested in football, are wondering why this status quo at the expense of the taxpayers is still existent and why they have to pay the policing costs in the context of professional football matches with which the clubs generate millions of revenues. Another fact is that, due to the unbalanced federal budgets of many Länder, the policemen’s extra hours cannot be paid adequately (SPD-Fraktion Bremen 2013; Wendt in “Neue

Westfälische”, 19.09.2011) and that these Länder want to save as much money as possible. As a consequence, Daumann has examined the debate about forcing football clubs to share the policing costs from an economical perspective. Among others, he has applied the theory of market failure and examined whether (negative) external effects occur in the context of watching a football match in the stadium. Elvik (1994: 719) defines the term of external effects as follows: “external effects are defined as any adverse effects of production or consumption that are not included in the utility function of the producer or consumer.” In the case of “consuming” a football match by watching it in the stadium, negative external effects can occur: firstly, after the matches there is always a lot of garbage of the supporters in and around the football stadium. However, the worse negative external effect that can potentially occur in and around football matches is the effect of violent riots among violence-seeking or drunken supporters as it often occurs around prestigious football matches like derbies or the like. Van der Burg (2000: 247) as well as Barget and Gouguet (2007: 168) have already mentioned the appearance of such negative external effects for innocent bystanders and sports events as a whole. Thereby, external costs incur and “the producer or consumer whose activity generates an external cost in this sense, has no obligation to pay this cost”. The term of “external costs” means “costs to society and – without policy intervention – they are not taken into account” (CE Delft 2007: 11) by the perpetrator and these costs lead to welfare losses. Moreover, external costs “distort the market by encouraging activities that are costly to society even if the private benefits are substantial.” (Pretty et al. 2000: 114) Transferring these definitions on the case of German football, the costs incurred by policing that is necessary due to the negative external effect of riots or the like are the external costs that are not borne by the actual perpetrators (either the football clubs or the interferers itself) but by the society (the taxpayers) as a whole. The private benefits that Pretty et al. (2000: 114) describe are the huge incomes of the professional football clubs by, among others, organising such professional football matches.

Daumann (2012) concludes after applying the theory of market failure and examining the case of German football that the organisers – in this case the professional football clubs in Germany – have a large interest in having a non-violent image. Thereby, the many people are still willing to come to their football matches and the clubs receive revenues from ticket sales. Another good reason for having a non-violent image is the money being earned by the football clubs’ cooperation with sponsors. Moreover and according to Daumann, the solvent professional football clubs are capable of either preventing violence with private security services or (co-)financing the police operations in and around their football stadiums. All in all, caring for the security of the supporters is in the interest of the football clubs, so that the willingness to pay for security *could* be big enough to bear the costs incurred by police operations and to re-finance them with higher ticket prices. Consequently, from an economist’s point of view, professional football clubs *would* generally bear the policing costs in the context of securing their football matches if the legislator decides that policing costs will not be borne

by the state and taxpayers anymore. Otherwise and without any appropriate security, the supporters will not go into the stadium anymore so that professional football clubs' turnovers would take a hit.

Another fact that makes the status quo a problem for society and the general taxpayer is that the question about who should actually bear the policing costs as external costs of professional football matches is not only limited to the country of Germany: other European countries have already obliged their professional football clubs to share or even absorb the costs incurred by policing. Since a decision of the Bundesgericht in Switzerland in 2009 and after having proved that this decision does not contravene essential democratic principles, the public authorities are allowed to invoice 60 to 80 % of the policing costs. The Bundesgericht has supported this decision with the reasons that it is justified to establish such a specific legal regulation if it concerns an event in sports with high danger potential and hooligans of two different clubs face each other (Tagesanzeiger, 18.03.2009). Thus, principally, only the operation of a couple of policemen is at no charge and ever since, the supporters of some Swiss football clubs have to pay a "safety fee" per match. Moreover, a cap on expenses has been introduced in order to make the policing costs to be paid foreseeable for the professional sport clubs (Berner Zeitung, 14.03.2014).

Another European country in which the professional football clubs have to share the policing costs is the United Kingdom (UK) with the probably most successful or at least, financially strongest football league, the FA Premier League: the police only attends matches at the invitation of the host club and "under the UK law the professional football clubs have to pay for the costs of police officers deployed inside the stadium or on club property under a special services agreement." (FA 2012) In a publication of the Committee for Home Affairs of the House of Commons (2009), special (police) services are defined as the following: "In effect special police services are extra police officers provided for the purposes of security at commercial events. The event organiser must pay for this service at a price determined by the chief constable; if the cost is not met then the organiser can be denied a safety certificate and cannot hold the event" so that organisers of *all* commercial events, thus concerts and festivals, have to pay a certain due or fee for the safety provided and guaranteed by the police. However, not only these two countries have obliged their professional football clubs to share the policing costs: in France, the football clubs have to share costs of up to € 80.000 per match for years and in Spain, the Catalonian government has decided to oblige the FC Barcelona to pay € 30 per policeman per hour if the match is categorised as a "risk match" ("plusminus", 29.01.2014). Thus, some questions arise that support the critics of the status quo in Germany: firstly, why do other European countries with internationally successful football leagues oblige their football clubs to share the policing costs and Germany does not do so? And secondly, why does the association of all German professional football clubs, the DFL, with its annual turnover of more than € 2.5 billion per year and its record profit of € 383 million (ib.) not agree to, at least, share a certain percentage of the costs being incurred by police operations?

As a consequence of these differing financing situations in other European countries, the German police union, economists like Daumann and some politicians from financially stricken federal states urge to follow these countries' examples by internalising the negative external effects with forcing the professional football clubs to share the policing costs. Apart from violence in and around stadiums as negative effects of football, the reasons for taking this view are that one could think of football as being a public bad for society in this regard because huge costs incur for taxpayers just because of the private interests of some violence-seeking "supporters" and professional football clubs as "new" enterprises that want to minimise expenses and maximise profits. Therefore, the (main research) question to be answered in this study is why the external costs being incurred around professional football matches are not borne by the actual perpetrators (either the violent supporters or the "football industry" as a whole) but by society and why the claims of the general taxpayer, unions and politicians have not led to a change of the status quo. Moreover, the argumentation of researchers who say a reform is economically reasonable, and which seems to be convincing at first sight at least, seems not to be considered seriously by the legislator. This reform of the status quo that is urged by some politicians of financially stricken federal states, researchers like Daumann and police unions could be the implementation of a cost sharing rule as a consensus model that must fulfill some essential legal elements and that forces the football clubs to share a certain percentage of the policing costs incurred by organising their football matches.

However and since the status quo has not been reformed for years even though other European countries have already done so, the argumentations of football clubs and associations as enterprises and defenders of the status quo that are, certainly and completely rational (see Mitchell / Munger 1991 for rational and economic interests of interest groups), interested in still maximising their profits and minimising their costs will be presented in this study in order to illustrate the large interests of powerful interest groups that spare no effort to prevent a reform of the current financing system in Germany. The argumentations of these stakeholders will be evaluated with regard to convincement and whether they justify that the status quo is still existent.

Hence, the study proceeds as follows: firstly, it will be explained how the research will be approached and which kind of research methods will be used. In the main part of the thesis, the arguments of the key stakeholders involved in the discussion who are in favour of the maintenance of the status quo will be presented and as already mentioned, evaluated regarding convincement (the main aim of this study). In the last part, a conclusion will be drawn by evaluating the argumentation of the defenders of the status quo and a model of a potential cost sharing rule will be created with regard to the necessary legal conditions that must be fulfilled. The thesis does not aim at giving a finalising answer on the question about who should actually bear the policing costs as external costs of sports events but to check whether the arguments being brought forward by the defenders of the status quo are convincing insofar that it would be justified to maintain the current financing situation. Moreover, this study

targets at developing some policy recommendations referring further future approaches if professional football will be obliged to bear (a part of) the external costs.

## **2. Methodological Remarks**

As already mentioned above, in the following, the main research question “*Why does the general taxpayer bear the external costs of sports events?*” will be answered by presenting and evaluating the defenders’ argumentations being brought forward in the case of the discussion about forcing the professional football clubs of Germany to share the policing costs in terms of convincement. The evaluation of some arguments will be based on examinations that have already been conducted in the research.

### **2.1. Research approach**

In the present bachelor thesis which is a politico-economic analysis, a case study will be conducted. The case of German professional football is the case that will be examined in order to generalise the findings and conclusions of this case on, at least, some other commercial and sports events because the problem of external costs of policing or the like to be borne by taxpayers is also existent in other sports like ice hockey or events like concerts and festivals. So, the case of German football is only an element of the huge mass of events that occasion external costs for society and that should, due to welfare losses, be internalised by forcing the perpetrators to share or even absorb these costs. All in all, this politico-economic analysis will not prescribe the relevant stakeholders what *should* be done but it will be evaluated whether the argumentation of the defenders of the status quo is convincing. Moreover, the thesis also aims at showing that interest groups can be as powerful as they are able to prevent (potentially) necessary and economically reasonable reforms of a certain status quo. According to the Public Choice approach, one can “single out the different (groups of) actors which are engaged [in this discussion about eventually forcing the professional football clubs to share the policing costs] and to ask for their interests” (Kirchgässner / Schneider 2003: 373). Following Frey (1972: 134 ff.), there are typically four groups of actors and interest groups to be considered: the (1) voters or in this case the general taxpayer whose most relevant question is either who will pay the external costs (see also Kirchgässner / Schneider 2003: 373) caused by sports events or in this case by organising professional football matches or, if they are supporters of a football club, how the costs of a consensus model will be offset against the ticket prices. Another actor in this discussion are (2) the politicians as the legislator that is able to change the status quo and that will be subject of a section below and (3) the public bureaucrats or in this case legal experts who have legal reservations referring any cost sharing considerations as well as representatives of the German police union (DPolG) who are in favour of a reform. Another group of actors are (4) the football clubs and associations as the “economy” that do not want to share any policing costs in order to continue their economically



rational behaviour of minimising expenses and maximising profits. These actors and their individual argumentations and positions in this discussion will be subject of this study.

Therefore, the arguments that have been brought forward in the discussion by the defenders of the status quo will be presented and evaluated regarding whether they are convincing and justify the status quo as well as the failure of initial reform proposals. The arguments of the opponents of the status quo will be used as counter arguments in order to check whether the proponents' argumentation is convincing.

Among others, it will be also examined why the recommendations made by Daumann (2012) and others have not led to any rethinking of the policy makers: according to the approach of Daumann (2012), the existence of external effects is often the justification for political [and state's] intervention in the marketplace (see also Bator 1958: Section V; Blume / Durlauf 2008: 301). And due to the fact that negative external effects occur and the associated policing costs as external costs must be borne by taxpayers even though the professional football clubs as economic enterprises have enough money to be able to share the costs, economists and other researchers do not understand why the relevant policy makers do not follow their logical argumentation and why the professional football clubs that cause the external costs do not have to bear these costs but the general taxpayer does have to.

The political attempts of the federal city states, above all of Bremen, to change the status quo and the presentation of its argumentations shall illustrate the tense budgetary situation of some Länder that cannot pay the extra working hours of their civil servants appropriately and that this situation can lead to a rethinking of the status quo.

The European countries chosen as examples for countries which have already obliged their football clubs to share policing costs are Switzerland and the UK [and less detailed the countries of France and Spain], because most data found for a comparison refers to these countries and moreover, some of these countries' football leagues are equally financially strong as well as successful as the German football league. The short presentation of the differing financing situations in other European countries may serve, firstly, as a consensus model among the parties involved in this discussion, and secondly, as examples for rules with either ideal or controversial elements that have to be considered if a cost sharing rule will be implemented in Germany. Furthermore, this short comparison is supposed to show the reader that it *is* possible to implement mandatory cost sharing rules and that is despite an additional economic strain nevertheless possible to still be successful. This research approach and design is appropriate insofar that depth of studying these cases and case comparability is given precedence (Gerring 2004: 352).

As already mentioned above, this discussion has not been subject to many scientific articles or books yet so that a large part of the literature being used in the thesis are online resources and newspaper articles. Moreover, secondary data that have already been calculated and measured by the ZIS (2013), Mc Kinsey (2010), Moser (2009), and others like supporter blogs will be mainly used and examined

with regard to convincement and its evaluation in research and the public view. These data will be used in order to, among others, give an overview of the financial impact of the “Product Football” on the government budget and its importance as an employer. However, it is important to point out that most of the reports are actually produced by interest groups involved in this discussion or that these reports have, at least, been commissioned by these groups so that it is essential to consider potentially interest-driven information given in these reports carefully. The basis for assessing whether the data is complete and / or correct will be provided by examinations and analyses of authors like Anthonj et al. (2013) but also of Buschmann et al. (2012) who have, for instance, criticised the manner in which the data in the ZIS report has been calculated.

### **3. Defending the status quo: Arguments in Use**

In the following, the individual arguments being used by the proponents of the status quo will be presented and evaluated in terms of convincement, among others, by weighing against the arguments brought forward by the reformers and comparing with the current financing situation in other European countries.

#### ***3.1. The external costs are difficult to quantify and exaggerated***

As already mentioned in the introduction, the Chief of the German police union (DPolG), Rainer Wendt, has put the number of the costs being incurred by professional football matches every year at about € 115 million and this huge number is based on the data that has been calculated within the frame of ZIS annual report. The LZPD NRW that is responsible for compiling this statistic has made up a balance referring violence in and around football stadium and the associated police operations. On the basis of this balance, the German police union has calculated the external costs incurred by police operations which are directly associated to the professional football matches in the first, second and third Bundesliga and which have usually not taken into account by the professional football clubs. However, defenders of the status quo and critics of this report see the data and the balance as a whole as highly controversial: according to Anthonj et al. (2013), the data referring injuries of supporters, policemen and others is neither complete nor specified. They conclude that a consistent development cannot be identified, so that the statement “violent riots of football supporters [are] at an (...) increasingly higher level for years” in the ZIS report of 2011/2012 cannot be verified (ib.: 13). Moreover and by comparing with other Mega events, such as the German “Oktoberfest” in Munich, the data referring the number of casualties in the context of professional football matches is a success message (ib.: 14 f.; n-tv, 19.11.2012). Even the employees of different fan projects criticise the ZIS report harshly in interviews with Anthonj et al. (2013: 20 f.) and Buschmann et al. are of the same mind and have found „many mistakes“ in the figures (Buschmann et al. at Spiegel Online, 21.11.2012). From the point of view of Hirsch, a member of the project group “supporter attorneys”, “every empiricist would throw up their hands in horror” about the way the data in the ZIS report has

been calculated. Moreover, researchers like the sociologist Friederici (1998: 110) have already criticised earlier the costs incurred by the operation of a huge amount of policemen because “people who are prepared to use violence could be provoked by the massive presence of police” in and around the football stadiums, so that “the motivation for violences could be even intensified”.

Furthermore, Moser (2009: 99 ff.) elucidates that it is almost impossible to calculate the exact amount of expenses, because the allocation of policemen according to their grade, the adoption of working hours due to injuries and the operation and fuel consumption of police cars have never been exactly recorded. And in comparison to the huge number mentioned by Wendt in the interview with Hänel (2011), Moser (2009) has tried to calculate the costs incurred by police operations in the context of football matches of 1. FC Bavaria Munich, 1. FC Nuremberg and TSV 1860 Munich. In contrast to Wendt and the German police union, he concluded that, for instance, the costs incurred by police operations in the context of football matches of the 1.FC Bavaria Munich are at an average of about € 2 million per year. Moreover, a representative of the Landtag of Baden-Wuerttemberg has posed a minor interpellation at the Interior Minister of Baden-Wuerttemberg in 2009 referring the costs incurred by policing football matches. After calculating the approximate costs, the Interior Minister has put the policing costs of the matches of the *four* clubs from Baden-Wuerttemberg in the 1<sup>st</sup> and 2<sup>nd</sup> Bundesliga at about € 3.7 million per year (Landtag of Baden-Wuerttemberg 2009, printed matter 14/4168).

As one can gather from these different amounts of expenses that have been calculated, one has to treat these numbers with caution. Moreover, it is important to consider that the calculation of the approximate policing costs has been made by the police as an important actor in this discussion itself so that one can assume a certain level of self-interest in this calculation. As a consequence, it is necessary to commission an independent actor to calculate the “real” policing costs in future more exactly than it has been done yet. Therefore, for instance, the fuel consumption of police cars, the costs being incurred by the use of police horses and the police forces that are more often in action than at “normal” days have to be considered exactly (according to policemen’s individual rank) so that the calculation of the costs incurred by policing in the context of professional football matches will be more serious, reliable and appropriate than any “policing prices” that have been offered by politicians or the German police union yet and that cannot be seen as suitable. Only then, legal steps to be taken against any bill of the states and the police by the professional football clubs can be prevented and a suitable basis for any cost sharing considerations is provided. However, if these conditions of a reliable study will be fulfilled, the mistakes done in the calculation of the data named by Anthonj et al. (2013), Buschmann et al. (2012) and others and there will be such a reliable and exact calculation of the policing costs, then it would be generally *imaginable* to send the clubs a bill with the costs to be shared as it is already done in other European countries like the UK.

### 3.2. Critics neglect the social benefits of football

Proponents of the status quo often refer to the social benefits that are associated with professional football matches and the “Product Football” as a whole. In contrast to negative external effects that have already been defined above, positive externalities impose a positive effect on third parties that are often not taken into account by the producer or the consumer “which, if ignored, will result in suboptimally small levels” (Frank 2006: 630) of both the producer and the consumer of a certain good. In the case of German football or sports as a whole, the positive externalities, that can be called “social benefits” as well, are sports bodies’ contribution as employers, its impact on other industries and the social importance for society like building up a social environment, health promotion etc. (see also Pawlowski / Breuer 2012).

Therefore, the DFL has commissioned a Mc Kinsey study in 2010 referring the value chain of the professional football leagues and among others, its contribution as an employer. Examining the value chain of the professional football (in this case the 1<sup>st</sup> and 2<sup>nd</sup> Bundesliga) in Germany, Mc Kinsey concludes that it is even more complex than initially thought:

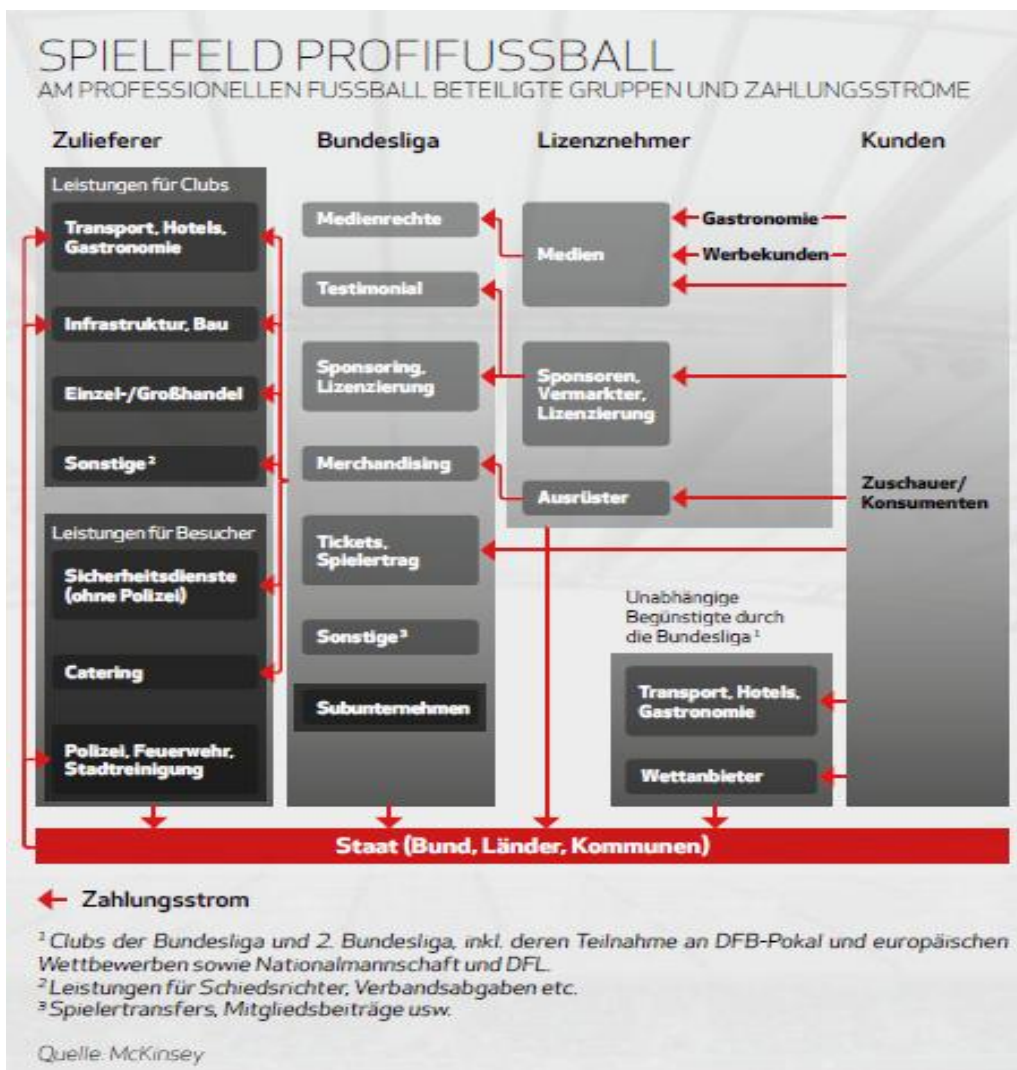


Figure 1: Groups and cash flows involved in German professional football (own illustration based on Mc Kinsey 2010: 7)

Hence, not only the football clubs and their players do benefit from the media rights, merchandising and ticket sales, but also, among others, the media itself, the gastronomy, transport and hotel industry, sponsors, catering, betting offices and the equipment suppliers like the Global Players Adidas and Nike (see Pawlowski / Breuer 2012: 347-351 for stakeholders that benefit from sports as a whole). Moreover, and as a discussion in Switzerland shows (Basler Zeitung, 18.04.2009), federation, Länder and municipalities benefit from the regional, national and maybe also international importance of the professional football clubs as tourist magnets and marketing opportunities. Therefore, Mc Kinsey has taken direct, indirect and induced effects for granted: whilst direct effects emerge directly at the suppliers of professional football (football clubs, DFL etc.), indirect effects emerge in the scope of professional football, thus at the licensees (media, sponsors, equipment suppliers etc.), subcontractors (infrastructure, wholesale and retail industry, transport and hotel industry, gastronomy etc.) and independent beneficiaries (gastronomy, betting offices etc.) (Mc Kinsey: 2010: 7). By contrast, induced effects are more difficult to calculate and refer to the consumption of employees of the system (for instance, car purchase or going for a dinner). As a consequence, the value chain of German professional football is about €5.1 billion per year, whereas only €800 million account for induced effects that can be neglected (ib.: 11). Moreover, according to this study, the professional football clubs and the groups involved in this € billion business employ more than 110.000 people that represent 70.000 full-time employees (ib.: 13) so that the German professional football acts as a guarantor for work and reliable salaries.

Thus, due to the data that shows that the German professional football clubs does highly contribute to the government budget and due to the fact that many other industries, companies and employees benefit from “Product Football” (see also Pawlowski / Breuer 2012 for fiscal impact of sports as a whole in Germany), the President of the DFL, Dr. Reinhard Rauball, has already announced that the DFL will legally oppose any cost sharing – or even absorption – considerations and decisions (RP Online, 28.04.2011).

Consequently, examining this study shows that the football clubs do not only have a huge importance for municipalities and regions because they benefit from all the supporters and spectators who consume (public) services, local transport as well as food, drinks etc. The football clubs also contribute to the huge turnovers of Global Players, industries and stores and offer work for a lot of people. However, these data is also to be treated with caution because analysing such a complex value chain with the associated demarcation problems and the contribution of the whole “Product Football” as an employer and contributor to public everyday life can never be calculated exactly. Furthermore, this study has been commissioned by the DFL that is one of the most relevant actors in this debate as well, so that the DFL as the principal of this remunerative study has probably had the interest that the study’s result shows football’s huge importance for Germany and many industries exaggeratedly. Nevertheless, one must consider and show respect that professional football clubs and the football

industry itself highly contribute to the government budget and a good employment situation in the regions. However, other industries like the chemistry industry or the like highly contribute to Germany's economic welfare as well and these industries, notwithstanding, have to pay fees for environmental pollution as their external costs. Thus, even an industry's huge importance cannot prevent from bearing its external costs so that the DFL's argumentation referring to the social benefits of professional football is, indeed, substantial, however, it is not convincing in terms of opposing any cost sharing considerations.

### ***3.3. Critics neglect the taxes paid by football clubs***

Moreover, one must not forget that the municipalities, regions and the federal state itself already receive huge tax receipts that account for € 1.7 billion gross per annum if one considers Mc Kinsey's demarcation already mentioned above (Mc Kinsey 2010: 14). If one only considers the professional football clubs themselves, they pay about €800 million per annum with about €414 million individual-related taxes like wage taxes (Mia san rot.de). As a consequence, the officials of professional football clubs indicate that firstly, the state and the Länder do already receive enough money from the football industry and secondly, that a more targeted and more reasonable investment of these taxes in equipment of the police and in a more appropriate payment of the policemen's extra working hours could make any other cost sharing considerations redundant.

The argument of taxes is, furthermore, often used in the context of the "Steuerstaatsprinzip" that has already been defined in a section above. Thus, the (federal) state mainly offsets its finance requirements with taxes. The football clubs criticise that they would have to pay twice for police operations in the case of introducing a policing fee. Firstly, via taxes that are used for activities by the police and secondly, via the fee. However, even the proponents' own argument of already paying high taxes and in the case of cost sharing of paying twice for policing counteracts the rule of law and the "Steuerstaatsprinzip" because paying more taxes than other institutions and corporate forms does not mean that the football clubs have an entitlement of utilisation of public authorities in a more intense manner than others (ib.: 185 f.; see also Deutsche Polizei 4/2010: 31). Moreover, state's application of taxes is not ring-fenced. Legislature can decide which public activities will be completely financed by means of taxes and which task and activities will only be financed pro rata. Consequently, charging a fee for police costs is not in violation with the "Steuerstaatsprinzip" (ib.: 180 ff.). Another point that makes the football clubs' argumentation invalid is that other industries highly contribute to the government budget and the employment situation that has been mentioned in the section above as well and some of them like the chemistry industries that puts a strain on the environment must notwithstanding pay fees in order to compensate the external costs so that football's contribution as a substantial taxpayer does not disqualify them from paying an additional fee. Thus, the defenders' argument of indicating the social benefits of football and the huge amount of taxes that is already been paid would imply that an industry does not have to bear its external costs is not convincing even though the data referring to football's value chain and its tax yield is impressive.

Moreover, the football clubs in the other European countries that have been shortly presented in the introduction, also have to pay taxes *and* an additional security fee so that the argumentation of the proponents of the status quo about paying twice for policing is not applicable even if the claim of investing the taxes received by the professional football clubs more targeted is logical and accurate. Thus, the reference to the huge amount of taxes that have already been paid does neither have any consequences for nor would it preserve against any cost sharing considerations. Consequently, considering all the data and millions and billions in the context of being a contributor as a taxpayer and the annual turnover of more than € 2.5 billion of the DFL (“plusminus”, 29.01.2014), it is imaginable and economically unthreatening, if professional football clubs will have to pay a certain individually adjusted fee for police operations in and around their football stadiums.

### ***3.4. The Polluter-Pays-Principle is not applicable***

However, if the assessment of the arguments above leads so far to the conclusion that forcing professional football clubs to share the policing costs and if the parties being involved in this discussion howsoever conclude that the status quo should be changed and a consensus model should be created, the question must be posed whether such an implementation would be actually possible as well as compatible with established German law. Consequently, Moser (2009) has examined this perspective on the discussion in depth by proving whether such a model that forces the professional football clubs to share the policing costs would offend against established German police law.

First of all and according to the polluter pays principle, the reimbursement of costs is to be addressed to the interferer of the public safety and order (Moser 2009: 125 f.). so that it must be analysed whether the professional football clubs as the organisers of the matches may be held liable for this interference. Interference is existent if a certain interferer threatens or even violates an individual legally protected right, like health or property so that the police measure is to be addressed to the person who has been ascribed the interference. As a consequence of this legal principle, the interference of the public safety and order must be actually ascribed to the professional football clubs in order to be able to commit them to share the police costs. However, there is not any general legal rule that indicates that “the interferer must be responsible for the consequences of his/her interference and pay for the damages” so that the liability of the organiser for the police costs is generally independent from ascribing the interference (ib.: 126 f.; Nirschl 1993: 56; Götz 1984: 17). The question to be posed is: who actually is the interferer who could generally be obliged to share or even absorb the costs incurred by the police operations?

The professional football club that organises the football match is not the immediate interferer that is defined in § 4 f. PolG NRW, because the club itself does not cause the riots (Moser 2009: 129 f.; Stopper et al. 2013: 50) but rather their “supporters”. Thus, sending the bill of a police operation to the “real” interferers is often neither possible because it is highly difficult to identify and “catch” these

interferers amongst the crowd of thousands of supporters. Furthermore, supporters often stick together and coincide if the police which are hated by many supporters wants to identify the “real” interferers. Moreover, the clubs are not mediate interferers, because organising football matches in accordance with the current valid safety standards does neither aim at an imminent danger nor make and approve third parties to interfere the public safety and order. Actually, the football clubs become a “troubled party” that must be protected by the police within its legally protected freedoms. Another point that makes the football clubs not being mediate interferers is the fact that they are neither latent interferers because a football match per se does not contain the risk of violent riots in itself (Moser 2009: 131 ff.; Stopper et al. 2013: 50 f.; Deutsche Polizei 4/2010: 33). Even if the attendance of the police within the stadiums is necessary in order to prevent a legal vacuum (ib.: 137) and a legal regulation referring the obligation of organisers of commercial events to share the policing costs has already been existent in Baden-Wuerttemberg until it has been cancelled in 1991 because of geographical disadvantages (ib.: 138 f.), Moser concludes that the implementation of cost sharing rules by means of the German police laws is not possible according to the law as it currently exists (ib.: 139; Böhm 2012; Stopper et al. 2013: 51 f.). Furthermore, even the German Interior Minister, de Maizière, takes the view that “the problems in the context of football matches cannot (...) be attributed to the organiser but (...) to the violent hooligans.” (sport1, 06.07.2014)

As a consequence of this legal analysis, the professional football clubs cannot be held liable for the interference of the public safety and order, because they neither immediately nor mediately interfere the public safety and order. Thus, this argument referring to the *current* German police law is convincing because it cannot provide the legal basis for any sharing rule of the policing costs (see also Deutsche Polizei 04/2010, Böhm 2012) *unless* the legislator will be willing to amend the law and establish a specified and highly detailed section referring a commitment of German professional football clubs sharing the costs of policing. And since the “police is responsibility of the federal states”, the individual federal states are able to govern financing police operations individually and implement an additional special legal regulation in the police law. Consequently, only then, if the German police law will be adjusted, a bill could be sent to the individual football clubs which have to share the policing costs and which would, then, have to deliberate in which way they could finance “their” external costs. Perhaps, it is possible that the football clubs’ search for the “real” interferers – the hooligans or ultras in this case – is more successful because the clubs could threaten their supporters with an increase of the tickets prices, an abolishment of the standing areas within the stadium, a calling-in of the ultras’ season tickets for away matches and other “painful” punishments.

### ***3.5. Critics neglect clubs’ costs for private security services***

An argument that is often used by both sides of this discussion, the proponents as well as the opponents of the status quo, is the reference to private security services.

The proponents of the status quo, the professional football clubs, indicate that they already invest more than “€25 million in the spectators’ security”: added together, about €21 million for private security



services, about €3 million for safety officers and fans' representatives and about €1.3 million for socio-pedagogical fan projects (RP Online, 28.04.2011). However, the journalists of the German TV magazine "plusminus" (29.01.2014) illustrate how much money the football clubs actually invest in the security *within* the football stadiums with drawing a comparison to other expenses: Werder Bremen works up an annual turnover of € 89 million per year which corresponds to an approximate average of the German Bundesliga. About the half of this turnover will be transferred as salaries to the club's football players and only € 1.3 million, which corresponds to about 1.5 per cent of the annual turnover, will be spent for private security services *and* fan projects. Thus, clubs could definitely invest more money in private security services and socio-pedagogical fan projects and re-finance these additional costs with savings in other sections. So, the investments in private security services that are already made by the football clubs have to be considered, however, they do not justify that society has to bear the external costs incurred by professional football matches. Consequently, additional investments are necessary and a first step in order to reduce the external costs for society.

### ***3.6. The (fully) private provision of security is not possible***

Hence, the reformers conclude that the professional football clubs could actually invest more money in private security services with the consequence of discharging the police forces. Indeed, guaranteeing public safety is prerequisite of any constitutional democracy and laid down in Art. 20 (3) GG and since this is mainly the feeless task of the police, it is to be examined in each case whether charging a fee for the individual operation would be generally and objectively justified. It must not occur an overloading of state subsidies so that – as already been mentioned above – the police laws consider the necessity of charging fees under certain legal prerequisites. Moreover, a privatisation of the actual police duty of guaranteeing the public safety and order would be generally possible if sovereign rights are not necessary for performing the individual duty and this effort can be principally performed by private services. Duties by the police that could be privatised are, for instance, basic ordinal tasks so that the number of policemen being in operation can be slightly reduced. However, passing the costs incurred by police operations outside the stadiums, for instance for the police task of directing the traffic volume that is directly associated with organising a professional football match, along on the football clubs is not possible, because the clubs are not legally authorised to undertake these sovereign functions (Moser 2009: 134) and the Federal Ministry of the Interior takes the view that the maintenance of the public safety is one of the state's "original tasks" and that a transfer of this task would be "constitutionally doubtful" (sport1, 06.07.2014). Thus, only the transfer of the most ordinal and "easiest" tasks that are not essential parts of the work of the police is generally possible.

Consequently, one cannot deduce any prohibition of privatising some *non-essential* police duties unless the private security services would have to exercise essential police tasks and official duties that are only constitutionally allowed to be addressed by the police and that are legally not allowed to be privatised. This is, for instance, the reason for police presence within the stadium if two rivalling football clubs with its supporters play against each other or if there is an aggressive atmosphere in the

stadium because only the police is allowed to as well as capable of preventing riots by implementing the counter measures required which may also include, among others, measures by (“counter”) violence. These measures could not be implemented by private security services because they are constitutionally not allowed to and not capable of preventing riots violently.

However, the question that is supposed to be answered in this study is why the general taxpayer has to bear the external costs of professional football matches as an element of sports events. Thus, it could be possible to deploy private security services inside the stadium and, in the case of sovereign police tasks being touched; the police which is in attendance could be called for accomplishing these sovereign tasks. Thereby, the external costs to be borne by the taxpayers and the state could be reduced and the professional football clubs would share a part of these costs. Albeit, one has to consider that it will be always a challenge to detain violent or violence-seeking supporters within the stadium because other supporters who sympathise with them will try to help and pressurise the private security services so that it is potentially possible that the non-attendance of policemen could lead to riots and disrespectful behaviour towards the security services. So again, one has to conclude that the arguments being brought forward by the defenders of the status quo are, indeed, correct, however, it would be possible to change this status quo with “simple” solutions and / or revisions in the stadiums regulations and stadium security plans. Otherwise, it would be still possible that football clubs invite policemen to attend matches inside the stadium and that the football clubs “only” have to share the policing costs of these policemen inside the stadium.

### ***3.7. (Legal) difficulties of existent cost sharing rules***

Moreover, the defenders of the status quo could indicate problems or legal difficulties of cost sharing rules that are already existent in other European countries if the discussion in Germany will come to the conclusion that cost sharing is necessary and a reliable and fair rule has to be found for implementation. In Switzerland, two professional football clubs have sued against the implementation of a cost sharing rule because cost sharing would threaten their economical survival and that a cost sharing rule that is only limited to the case of certain sports events would counteract the principle of equality. However, even if the Swiss Bundesgericht has decided that these points of criticism are not justified and that a cost sharing rule that is limited to sports events (ice hockey, football etc.) on which violent or violence-seeking supporters face each other is legally justified (Tagesanzeiger, 18.03.2009), these points of criticism would have to be considered carefully by the German legislator and other responsible stakeholders for implementing a cost sharing rule. In the UK, on the other hand, the organisers of *all* commercial Mega events have to share the policing costs. Moser (2009: 183 f.) takes the view that – referring the principle of equality and “considering the many different Mega events aiming at commercial success, the question to be posed is whether it would be possible to establish a proportionate equality between all organisers liable to charges for the purpose of Art. 3 (1) GG, [so that] a differentiation between the individual types of events is urgently required.” Thus, regarding the commercial interests in organising Mega events and the fact that violent riots also occur at concerts or

festivals, one can conclude that special legal regulations to be established for obliging the football clubs to share the police costs must also apply on other Mega events that aim at commercial success (see also Böhm 2012) because otherwise, professional football clubs that indeed admittedly benefit the most would be obviously and economically disadvantaged from a legal point of view. Any other regulation that only aims at professional football clubs sharing or even absorbing the police costs could counteract the principle of equality and would definitely lead to further legal disputes that should be prevented a priori. Furthermore, the example of the existent legal regulations in the UK shows that such a scope of a cost sharing rule does not lead to any geographical disadvantages referring the organisation of concerts of celebrities or the like. Albeit, another problem that currently arises in the UK is that, due to the financially gigantic media rights deal with “sky” (€3.7 billion for the Seasons 2013/2014 to 2015/2016; see FAZ, 14.06.2012), the House of Commons, the police and the Association of Chief Police Officers (ACPO) urge that the clubs should pay raising dues for the police operations (“full-cost policing”) because case studies that have been conducted by University College London (UCL) researchers have resulted in that “in four of the [five] grounds, there is a statistically significant hike in crimes within 3 kilometres of the ground before and after matches” and thereby, the results support the claim of ACPO from 2008 (Channel 4, 10.04.2012; see also House of Commons 2009; BBC, 10.04.2012; The Telegraph, 10.04.2012; The Mirror, 11.04.2012). Thus, the German football clubs could criticise that in the case of implementing a certain cost sharing rule with highly detailed legal regulations referring a certain percentage of policing costs to be shared, new claims with regard to a higher percentage to be shared will be raised if the professional football clubs will bring off a more profitable media rights deal with “sky” or the like for the coming seasons as it can now be observed in the UK.

However and summarising the information given about foreign cost sharing rules earlier in this thesis, the consensus model that is existent in the UK can serve as an orientation for internalising the external costs of sports events in Germany because despite of a cost sharing rule, the English Premier League is still economically as well as sportingly successful. Albeit, one has to consider the legal boundaries and difficulties mentioned above carefully in order to prevent lengthy lawsuits or the like.

### ***3.8. Political unwillingness on national level***

After analysing and critically evaluating the arguments that have been brought forward by the proponents of the status quo with regard to convincement, one can conclude that some of these arguments seem, indeed, plausible, however, it would be actually possible to oblige the professional football clubs Germany to share the external costs of their football matches if the German law would be amended. Albeit, the status quo is still existent even though many taxpayers would support a reform (see Statista 2014) and this is due to the political unwillingness in Germany to not change the status quo: apart from the fact that Wendt believes that the political resistance in Hamburg and Mecklenburg-Western Pomerania is slightly breaking (“Neue Westfälische”, 19.09.2011) and that the tense budgetary situation leads to federal city states rethinking the current financing situation (sport1,

06.07.2014; DPoIG Berlin; Badische Zeitung, 23.08.2012; bild.de 2010; Focus Online, 13.08.2008), the most far-reaching decision has been made in the federal state of Bremen.

### **3.8.1. Political re-thinking: Bremen as a pioneer**

After having filed an application of urgency (SPD-Fraktion Bremen, 10.12.2014) and having published a press release (SPD-Fraktion Bremen, 11.12.2013) referring to cost sharing of policing costs, a decision has been made in July: the federal state government has decided to force the organisers of commercial Mega events with more than 3.000 spectators to share the policing costs. In the case of German football, the bill of the policing costs of Werder Bremen's "risk matches" should be addressed to the DFL from the next season on (see among others, sport1, 06.07.2014; Weser-Kurier, 22.07.2014; see also n-tv, 22.07.2014; RP Online, 22.07.2014; bild.de, 23.07.2014). The reactions on this solo-action has been two-minded: on the one hand, the decision has also led to harsh criticism: the German Interior Minister, de Maizière, who is also responsible for sports has already said months before Bremen's decision that implementing a cost sharing rule is unrealistic and "not easy to be implemented" (Weser-Kurier, 05.02.2014) and also the GdP's federal chairmann says that an organisers' liability for costs is "not target-aimed and distracts from the actual problem" (sport1, 06.07.2014; n-tv, 22.07.2014). The President of the DFL has criticised in several interviews (see among others, bild.de, 04.08.2014) that "Bremen's solo action is not to be stipulated with [Germany's] constitutional principles" and the DFB, the DFL and the German Olympic Sports Confederation (DOSB) have vehemently opposed Bremen's attempt in a joint declaration (n-tv, 22.07.2014). As a reaction on Bremen's decision, the DFB has decided to not organise the qualification match against Gibraltar in Bremen but in another German city (FAZ, 23.07.2014; bild.de, 24.07.2014). Wendt (DPoIG) and Tschöpe, the parliamentary group leader of Bremen's SPD, assess this decision as blackmailing a democratically elected state parliament (bild.de, 25.07.2014; sport1, 25.07.2014). However, the Interior Ministers of most of the German Länder explicitly refuse implementing a cost sharing rule or simply do not reply to enquiries of journalists of the TV magazine "plusminus" (29.01.2014) why they are not willing to change the status quo. Furthermore, they are critical of Bremen's decision (FAZ, 23.07.2014) and exclude "Bremen's pattern for their federal states (Südwest-Presse, 28.07.2014). On the other hand, there are many people who defend and support Bremen's decision in expositions and reader's letters in newspaper, journals and telecasts (see among others RTL.de, 25.07.2014; FAZ, 25.07.2014; SPD-Fraktion 27.07.2014; General-Anzeiger Bonn, 01.08.2014; Spiegel Online, 05.08.2014). Another pilot scheme leads, meanwhile, to anxiety in North-Rhine Westphalia: the Ministry of the Interior plans to withdraw police forces from four "rather harmless matches" in stadiums of NRW's football clubs in order to reduce the number of policemen in action and the associated policing costs. This plan has also led to controversial and populist reactions (among others, bild.de, 04.08.2014 and bild.de, 05.08.2014).

However and due to the political resistance on the national level, an implementation of a nation-wide solution of the discussion rule is currently unapparent and political initiatives on *national* level are not

to be expected for near future *unless* the legal disputes to be expected in the context of Bremen's solo action (Weser-Kurier, 22.07.2014, Radio Bremen, 22.07.2014; RP Online, 22.07.2014; bild.de, 23.07.2014) will end with a legal approval of Bremen's decision. Then, the implementation of cost sharing rules as a consensus model that is limited to (some) federal states are actually imaginable if appropriate legal regulations referring policing costs will be amended or implemented in the individual police laws of the federal states ("plusminus", 29.01.2014) even if cost sharing rules limited to only some federal states would probably lead to competitive disadvantages.

Summarising, the political unwillingness and inaction on the *national* level prevents an internalisation of the external costs of sports events like professional football matches by forcing the clubs to share these costs. However and considering the sections above, even if the political unwillingness in Germany regarding an implementation of a cost sharing rule will be overcome, many legal requirements and hindrances have to be considered carefully in order to prevent a bulk of suits against forcing professional football clubs to share the policing costs as it is to be expected for the case of Bremen now (see Moser 2009 for an extensive analysis of German law as it exists and potential legal steps to be taken in order to implement a legally compliant cost sharing rule). All in all, it remains to be seen how German law courts will decide on Bremen's solo action and whether other financially stricken federal states will follow this example in the case of a legal approval of forcing German professional football clubs to share the policing costs.

#### **4. Conclusion**

After having presented and evaluated the arguments that have been brought forward by the relevant actors as the defenders of the status quo with regard to convincement, it becomes clear how complex and gridlocked the discussion about sharing the policing costs as external costs of football matches as an element of sports events in Germany is.

Indeed, the football clubs that, certainly, do not want to share the policing costs due to their economical interests in minimising expenses and maximising profits refer to the huge social benefits of the football industry as an employer and guarantor for social cohesion. And apart from sports' and football's social benefits for society, the professional football clubs already pay a huge amount of taxes. Above all, by using these arguments the defenders of the status quo believe that they are in the right to not share the policing costs. However, other industries highly contribute to good employment situations in Germany, foster social cohesion and pay huge amounts of taxes as well. Nevertheless, industries like the chemistry industry have to bear the (approximate) external costs of the environmental pollution it incurs so that the argumentation of the DFL is invalid. The reference that the "real" external (policing) costs can neither adequately nor exactly be calculated so that the football clubs would sue against any policing bill they will receive is neither valid because the external costs incurred by environmental pollution cannot be calculated exactly as well. One of the only serious arguments that has been brought forward by the defenders of the status quo is the one that refers to the

*current* legal situation in the German police law and the polluter-pays-principle. However, it would nevertheless be possible to oblige the professional football clubs to share the policing costs if the legislator will amend the police law insofar that a highly detailed special legal regulation that considers the many legal hindrances in the field of fees legislation, costs law and fundamental rights Moser (2009) has examined and analysed. Only then, a cost sharing rule would be legally compliant and legally difficult to be litigated. Furthermore, the arguments about private security services that have been brought forward by the defenders of the status are not convincing even if the police is, in contrast to private security services, still necessary to perform sovereign tasks like arresting violent or violence-seeking supporters. However, in the case of sovereign rights to be touched it would be still possible to either call the police that could, then, accomplish its sovereign tasks of arresting or the like or invite a certain amount of policemen to attend the football matches in the stadium a priori. Albeit, the status quo at the expense of the taxpayers is still existent and this fact is due to the political unwillingness and inaction to change this status quo. Even if other European countries have already forced their professional football clubs (and in some cases the organisers of commercial Mega events as well) to share the policing costs or the external costs of their matches / events as a whole, most German politicians and the Interior Minister in the lead are not willing to amend the law. They show resistance, among others, because they either fear hard negotiations, lengthy lawsuits and aggressive reactions of supporters who accept higher tickets prices no longer (see [schwartzgelb.de](http://schwartzgelb.de) for the development of the ticket prices for matches of Borussia Dortmund from the season 1998/1999 until now) or they are involved in this discussion themselves because some politicians hold important offices in professional football clubs like in the supervisory board (Edmund Stoiber at Bavaria Munich; Peer Steinbrück at Borussia Dortmund). However, society does not need to live with this status quo: if Bremen's decision will be approved by German law courts, it is possible that this political attempt leads to further political rethinking of the current financing situation in the whole federal territory. Albeit, it is also imaginable that a tragic occurrence is "necessary" in order to lead to a political rethinking at the national level as it has led in Italy in the last months: after riots and shootings in the context of the "Coppa Italia" with one human died and many people hurt, politicians want to oblige the professional football clubs to share policing costs from the next season on (see, among others, Spiegel Online, 06.05.2014). However and hopefully, such an incident will not be the reason for a political rethinking in Germany. Albeit, a rethinking on the political level may occur in the next season, anyway: it must remain to be seen whether the next season in the 3<sup>rd</sup> league of Germany when many football clubs with potentially violence-seeking supporters like Hansa Rostock and Dynamo Dresden will play against each other. There will be more derbies than ever before and potential riots with associated more policemen in action seem to be inevitable and this could change politicians' mind about policing costs to be borne by the general taxpayer. Thus and taken together, the implementation of a certain cost sharing rule as a consensus model among the parties involved depends from politicians' willingness to change the status quo.

So all in all, the result of this case study is that the arguments that have been brought forward by the defenders of the status quo are, in most of the cases, plausible but they are not convincing, above all, if one compares the football industry and its external costs with other industries that already have to bear the external costs they incur. Summarising and weighing the arguments of the defenders of the status quo, one concludes that forcing the professional football clubs to share the policing costs as their external costs would be justified. Transferring the case of German football on sports events as a whole, the conclusion of this case study is that the external costs of sports events should not be borne by the general taxpayer anymore even if the cost sharing rule to be implemented needs to consider many elements like the different attendance figures as well as the financial powers of the individual sports events. Hence, the thought-provoking impulse of Daumann (2012) leads to the same conclusion as this study does, however, the presentation of the (counter) argumentations of the defenders of the status quo shows that Daumann's analysis from an economical point of view is rather one-dimensional and does not consider the arguments and the power of interest groups involved in this discussion. Following Frey's (1972) divisions of relevant actors in a discussion in four groups shows that the group of voters (or taxpayers) as a relatively weak interest group that is in favour of a reform of a status quo (see Statista 2014 and Weser-Kurier, 26.07.2014) is *currently* either not willing or not organised enough to offer a powerful resistance against the well organised interest group of the financially strong football clubs and associations as parts of the "economy". Thus, the mainly inactive (interest) group of politicians will turn the scale of this discussion and will get (legal) input from the the group of public bureaucrats (legal experts) when the organisers of sports and other commercial events will be obliged to bear their events' external costs. Due to the fact that many sports bodies and officials harshly criticise Bremen's plan to force the DFL to share the policing costs, these interest group is already seen as a "state within the state" with "monopolistic claim to power" (SPD-Fraktion, 27.07.2014).

However and as already mentioned above, a cost sharing rule that serves as a consensus model to solve this seemingly endless discussion should, all in all, fulfil the following preconditions in order to prevent extensive lawsuits and references to a lack of fairness and the existence of disadvantages:

- The rule that is in accordance with the rule of law in Art. 20 (3) GG and legally binding for each and every professional club of the three professional football leagues must be implemented at the *national* level so that clubs from individual federal states that are, in contrast to other federal states, willing to implement a cost sharing rule will not be handicapped.
- The rule must be applicable on *all* commercial Mega events from a certain financial turnover and number of spectators on, thus also on concerts, festivals etc. as it is already practiced in the UK so that lawsuits with regard to a potential infringement of the principle of equality can be prevented more carefully. Including these events would, additionally, not lead to a geographical disadvantage, because other European countries, like the UK, have already done

so in their laws and it has not led to any disadvantages in terms of mounting a smaller number of concerts or the like.

- The policing costs must be foreseeable for the football clubs in order that they do not have to pay a huge policing fee in the end of a season that they have not expected in the beginning of the season. Therefore, the amount of the policing costs to be shared should be capped as it is done in Switzerland. Moreover, the costs should not completely be allocated on the ticket prices so that the football clubs have to have savings in the area of either players' salaries, training grounds or the like.
- Comparatively with the cost sharing rule in the UK, the clubs should only share the policing costs incurred *within* the stadium because the policing costs incurred *outside* the stadium are much more difficult to be calculated exactly and moreover, it must be legally and clearly established *which* police actions *within* the stadium are subject to the charge. The cost sharing rule that is currently existent in the UK can serve as an orientation and example for Germany.
- Due to the principle of foreseeability, the seasonal fees being charged in the beginning of a season for an individual football club must not increase, even if there will be violent riots in a first leg game so that the second leg game would be declared a "risk game" with the consequence of an increase in the number of policemen necessary in order to maintain safety (see Deutsche Polizei 04/2010: 33 for legal reservations).
- Due to the policing fee to be charged and to be paid by the clubs, the football clubs have the right to a say and negotiations referring to the number of policemen that will be in action for the individual matches.
- Concluding, the regulation must consider the differing financial capabilities of the football clubs, above all, after relegations when the number of spectators decreases and the football clubs' budget has to be reduced.

Considering the latter point, one could, for instance, launch a fund in which a certain amount of money generated by the media rights deal and a certain share paid by the football clubs according to their individual financial capabilities and number of spectators will flow. Moreover, the DFB, the world's largest sports body, and the DFL that also benefit from German professional football could subsidise this fund so that the money of the fund can be used for *sharing* the policing costs.

All in all, the coming weeks and months with a definite decision in the federal state of Bremen and decision in potential lawsuits will be thrilling and it remains to be seen whether other federal states will follow Bremen's example if a German court will legally approve Bremen's plan to amend its scale of fees in order to force the DFL to share the policing costs.

However, and citing Moser's (2009) conclusive words, a definite as well as contemporary solution of the problem and a decree referring the discussion by the legislator would be desirable.



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## 6. Declaration of Academic Honesty

Herewith I declare that the attached paper is wholly my own work, without the help of others and that all referenced work from other people have been properly cited and documented on the reference list. The same or related material has not been previously submitted for another course.

Münster / Enschede, 15.09.2014

A handwritten signature in black ink, appearing to be 'Dennis Höfer', written in a cursive style. The signature is contained within a light gray rectangular box.

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Dennis Höfer