

MODERN FORMS OF BUSINESS IN PROFESSIONAL FOOTBALL

Zoltán Imre Nagy¹

Abstract

This study is a continuation of my previous article (Nagy, 2012). You will find an analysis of legal forms eligible for football clubs, as well as the method of management by the owner determined primarily by such forms there. We primarily keep in mind how these forms influence the possibilities of financing and acquisition of capital. In the case of a professional football club, fundamental sports objectives can conflict with the investor intent, which might be, in many cases, to primarily take care of the increase of profits instead of serving the aims of football and the most important designation of a football club. Entrepreneurship and management, which takes into account the possibilities of a football club, allows the implementation of the most important objectives of sports, even if it is necessary to involve a considerable amount of capital. Through transportation into an incorporated firm, the appropriate shaping and operation of a group of companies, the aims of capitalisation will also be pursued, while the sports objectives remain the primary ones. (Such forms are limited liability companies, limited partnerships, share companies, registered associations, etc.). On the basis of foreign experience, our study intends to make findings and proposals in order to serve the establishing and operating of such forms of enterprises, which will also create – in addition to the priority of sports objectives – broad possibilities for capitalisation in professional football.

Keywords

Football Capital-Company, Legal Form of Undertakings, Ltd, Registered Association, Share Company

I. Introduction

A significant number of professional football clubs may be characterised by a permanent process of structural and management transformation, which expresses itself in variations in the legal forms of undertakings in professional football, and, moreover, in the phenomena of up-to-date controlling, planning, risk management and financial management. With the help of such modern elements, football clubs start building up a specialised branch, up-to-date and complex from economic viewpoint, in which the most important requirement will be to secure the requisites of the licence until the end of the championship. Here, liquidity reserves have a high priority, while the analysis of indebtedness is relegated to the background even in the course of judging licence requirements. In

¹Óbuda University, Népszínház u. 8, H-1081 Budapest, Hungary. E-mail: nagy.imre@kgk.uni-obuda.hu.

accordance with the regulations of UEFA, any possible insolvency had to be prevented, for many years, in each country, through the making of very high requirements during the season and championship. These strict regulations pose a challenge even for the most highly-developed football countries; thus, for example, such regulations are not entirely asserted even in Germany. Thus, the equality of financial opportunities highlighted by UEFA is realised only to a restricted extent with respect to all European football clubs. Based on the always expanding business activity of various football clubs, the permanent constraint of adapting themselves to the requirements of the global economy generates more and more significant financial and economic restrictions for football clubs. Thus it has to be stressed that the Basel II Directive considerably influences the funding of football clubs on the side of credit institutions, although professional football is impacted by this process only indirectly. At the same time, the evaluation and examination of credit standing and the credit rating have become of high importance for those business enterprises operating in professional football. Of course these are only football clubs functioning with permanently positive results, which can meet such an acute challenge, since they are capable of improving their credit rating on a regular basis. Those football clubs with an unfavourable credit rating might find themselves in considerably deteriorating circumstances as a consequence of such a credit rating. This may have as the result that they will not be granted any credit at all. For example, strict regulations did not cause any problem for football clubs with licence; in their case, the improvement of their credit rating can be seen on a continuous basis, which is a true index of economic consolidation.

II. Role, importance and selection of the legal form of undertakings

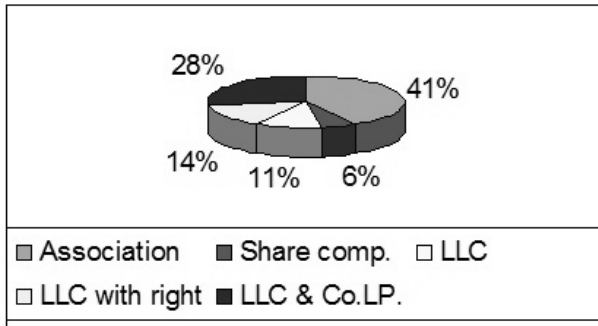
In line with the international outlook, I wish to rely primarily on the peculiarities of German professional football, since it perhaps represents most of all the mainstream of the development of football. Let us summarise the forms of undertaking in the German League football, and the trend of change.

On the basis of the 1998 Resolution of the German Federal Parliament, it is possible to operate football undertakings also in the form of an incorporated firm [Kapitalgesellschaft, which means that the members are not responsible for the liabilities of the company; these are share companies, limited liability companies, limited share partnership], besides the classical form of association.² The main point here is that such part of the association participating in League football can be outsourced into the form of an incorporated firm. It is interesting that in Germany, 21 teams from League I and League II counting 36 teams are currently operating in the form of an incorporated firm. The change in legal forms, i.e. transformation from the traditional form of association into an incorporated firm, was accelerated and has become determining in the past years. Nevertheless, registered associations continue to play an important part in the Leagues, since this form functions directly in the Leagues, but it also remains in the foreground as the parent company of incorporated firms.

²DFL (2011).

Figure 1 Distribution of legal status in Germany (I. and II. League clubs)

Legal Form	Frequency	Legal Form	Frequency
Association	15	LLC with right	5
Share comp.	2	LLC & Co.LP.	10
LLC	4	I-II Liga , Total	36



Source: Dworak (2010)

III. Advantages, disadvantages, structure and operation of the form of Registered Association

The determining element of this legal form is the public purpose (non-profit) in Germany. The associations have a public target even in the field of football, thus they are subject to the effects of the law of associations. The management and the supervisory board are elected by the members of the association at the members’ meeting. In Germany, 90,000 associations, with a membership of 24 million, operate mainly in the fields of mass (recreational) sports/amateur sports. Revenues in the annual budget consist mainly of the payments of membership dues, state subsidies and donations, but business activity may be pursued as ancillary activity, in the interest of increasing the revenues, provided this serves the public purpose. In Germany, associations were able to manage their finances in the average of EUR 49,000, in the past years, at the annual level, however, half of the sports associations were operating with a budget of EUR 14,000, on average. The more important clubs dispose of a significantly higher budget, and this results, in the case of small clubs, in a considerably negative deviation from the average and in the high frequency of such deviation.

Funding, registering and operating an association is relatively simple and the rules are transparent. All strata of society like to make use of the advantages of this form of non-profit company having a legal status which provides even tax benefits.³ The registered associations fill such an important social role in Germany that they are exempted, in

³Erdős (2010).

respect of the public purpose activity, from corporate income tax, industrial tax, real estate and ground tax, and, in addition, they are only charged a 7% general tax (VAT). Otherwise, the general rate of VAT is 19%. However, these tax benefits affect professional football undertakings only to a minor extent, as these professional associations may obtain only a small amount of revenues exempt from taxation. The tax relief mostly helps amateur and mass sports.⁴

It is a disadvantage that the members of the association may exercise rights of control only to a limited extent, since the management is only obliged to satisfy the members' need for information at the members' meetings. Also the depth of information and orientation is insufficient. Apart from this, members have practically no opportunity for obtaining information. The associations' supply of business information may not be compared even sporadically with the requirements of publicity governing incorporated firms. In the event of a poor impression obtained by a member of the association at the members' meeting in connection with business management he will have first of all the possibility of withdrawal, and, if the dissatisfaction of members becomes overwhelming, the issue of winding up the association may be raised. However, the member of an association will never reacquire, in any of the cases above, his or her paid-in contributions, thus the only possibility remaining for him or her is having blind trust in the work of the association's management.

It is a further deficiency in the operation of the form of association that there are no regulations for the application of profits. Consequently, the earned profits are spent on increasing the value of the roster of players in most of the football clubs, and they pay much less attention to forming financial reserves, although this could be very useful later on from the aspect of long-term operations.

The rules relating to associations do not provide satisfactory protection even for lenders. Associations are answerable with their own assets for their liabilities, but there are no detailed legal prescriptions in the relevant law of associations in Germany. Of course, in principle regulations may be set up relating to publicity, application of profits and collateralising loans in the statutes of associations, which is, however, scarcely feasible. We can hardly suppose that the elected management of an association should set up restrictions for itself. Logically, all this has a negative impact on opportunities for financing with outside capital.

It follows from all this that a registered association may only make use of any potential possibilities of financing to a restricted extent. Increase of equity is allowed primarily through the retention of profits, but we have to add that the profits may only be increased up to a certain limit per year, in order to maintain the non-profit status of the company. The hosting of shares and involvement of contributed capital may only be secured after transformation into an incorporated firm. Therefore, in the case of associations, funding by banks or private individuals who are committed to the given association will be possible along with own revenues and subsidies. The first of these resources may cover current expenditures to a minor extent but mostly play a part in the financing of long-term projects. Due to the aforementioned lack of publicity and mechanisms of control and protection,

⁴Bundesligareport (2011).

the issuance of bonds or of so-called participation certificates poses difficulties for the associations.

Altogether we can state that the registered association will continue to function as one of the most significant legal forms of professional football in Germany, in spite of the fact that the law regarding associations is far from providing satisfactory conditions for operations in the event of football clubs carrying out modern business activity. Thus it is no wonder that in Germany there is a strong tendency in the direction of transformation from the form of association into the form of incorporated firm. This does not mean that clubs (mainly amateur and mass sports clubs) would turn away from the form of association. Here we should mention the trend that in those fields, where up-to-date conditions of business management make this necessary, must be subject to the process of transformation (through becoming an incorporated firm via outsourcing from the association). Professional football is such a field.

In Hungary, there is a need to find the appropriate form of activity in order to ensure that vision and practice of entrepreneurship should gain ground in spite of the fact that sports leaders, audiences and authorities were developed in an environment ruled by the form of association. A very interesting situation is for entrepreneurship in Hungary, which further complicates the situation in football as well.⁵

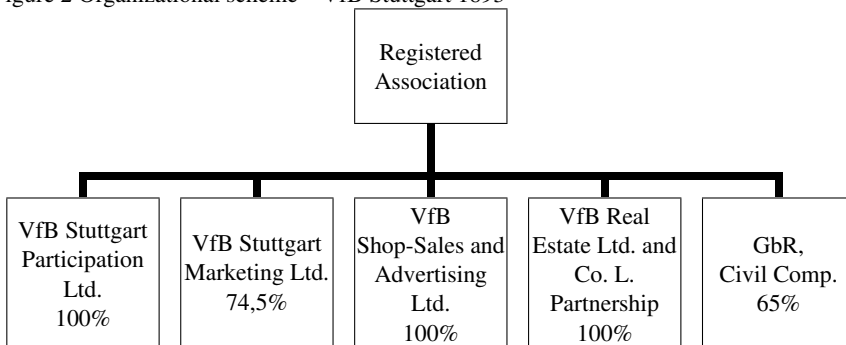
IV. A successful Registered Association: VfB Stuttgart e. V.

The famous club founded in 1893 is one of the founders of the German Professional League. In 1975, huge financial tensions were generated in consequence of the then president's exaggerated concept of investment and purchase of players. As a result, the club dropped out of the First League, but came back in 1976, and even reached the fourth place. In parallel with successful participation in the championship, they succeeded in also enlarging the infrastructure, with a new club centre being built by the middle of the 1980s.

The club gained the championship four times, for the last time in the 2006/07 season, when the team also won the German Football Cup. In contrast to many professional football clubs, Stuttgart did not become an incorporated firm, but preserved the form of registered association. Although several business fields were outsourced in past years, these remained profit centres operating under the direction of the association. The licencing rights remained with the association.

⁵Szerb, Aidis, Ács (2012).

Figure 2 Organizational scheme – VfB Stuttgart 1893



Source: Zieschang, Klimmer (2004)

Proprietary association: VfB Stuttgart Registered Association; tasks of VfB Stuttgart Holding LLC: development of alternative solutions for financing, e.g. involvement of investors functioning as dormant partners; tasks of VfB Stuttgart Marketing LLC: operating the professional football division, and as compensation it receives agent’s commission from the association, substantially in a manner similar to an external agent selling external rights; tasks of VfB Shop Sales and Advertisement LLC: organisation and arrangement of merchandising; tasks of VfB Property GmbH & Co. KG [limited partnership with an LLC as general partner]: management of leaseholds and real estate for the association; GbR (civil law association): a simple form of undertaking widespread in Germany, based on a specific contract of agency.

The traditional form of association, as a fundamental model of management, may also be successful in professional football, but it is true that this is also realised thanks to Stuttgart’s main sponsor, exclusive partners and team partners. The list is deserving of attention.

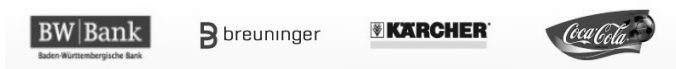
Figure 3 List of VfB Stuttgart’s main sponsors

Main sponsor: 

Exclusive partners:



Partners:



and 12 other partners!

The corporate philosophy of the association is conservative and successful, considering the achievement of sports results to be the main objective. This also creates the foundation for success in the economic field, i.e. a safe economic background must be underpinned

by successful sports results. This philosophy raises the question of sports, economic and intangible results.

At first glance it might seem that season after season football enterprises are interested in nothing but sports results, namely in reaching the best possible position in the national league and to remain standing in domestic and international cup series for as long as possible. However, the number of players called to play for the national teams and their performance is also considered a sports result and this often clashes with the interests of the club. Moreover, football enterprises – by maintaining their economic position – must also ensure their right to participate in the next championship. At first reading, this means that the aggregate result of football enterprises is supplemented by meeting economic requirements.

If we take a closer look, however, we can see that this rather simplified objective cannot be a strategic guideline in this new dimension of modern football, which in recent years has shown extraordinary development and today confronts football enterprises with global challenges.⁶ Naturally, the main objective of football enterprises is also complex, made up of specific systems of sub-goals. The thorough examination and analysis of subordinated goals contributes to determining the ultimate objective itself and provides particular help in achieving this. The aggregate system of objectives in the case of a football enterprise is made up of three components: sports result, economic result and intangible result (value). These three components can substitute for each other only to a limited extent and strongly correlate with each other. By breaking down the objectives that form the basis of enterprises into components, they can be determined and optimised more precisely, as separate calculations can be prepared for each and every result component and each element therein.

Sports results, which might mean winning international and national titles, qualifying for various international tournaments, avoiding relegation or being promoted to a higher division, are undoubtedly the most important components of the aggregate result, as these are what various factors of both economic and intangible results depend on. When the team of a given football enterprise achieves a great sports result, it is usually accompanied by better economic and intangible results. This is the reason why achieving the best possible sports result and maintaining them is the highest priority for each football enterprise. In accordance with this, football enterprises make great efforts to acquire and keep the best possible squad, which in turn might lead to exaggerated investments. This in itself could be enough to upset the financial equilibrium of an otherwise financially stable football enterprise. This phenomenon highlights not only the contradiction between economic and sports results, but also points out that a long-term economic investment might cause economic tension in the short and medium term, which could impede the desired sports result itself. If a given investment decision is based on a rational foundation, then its extent is pre-determined by economic results and circumstances.

We can say that, in terms of sports results, football enterprises follow a strategy aimed at maximising squad strength. Sports results and sports successes, however, cannot be

⁶Bott (2007).

planned ahead. By investing into the squad, we can only increase the probability that the team will achieve better results. However, regardless of the strength of the squad, there is great uncertainty with respect to winning upcoming matches.

It is clear that an unforeseen wave of injuries could foil plans to get sports results, just as much as any other unexpected factors. In other words, by maximising one factor we will not necessarily get closer to our goal, as reaching this goal is influenced by a whole series of factors. This means that other short- and long-term economic result factors must also be taken into account.

Economic results also depend on economic processes in the case of football enterprises. In this particular field, football enterprises must act and behave similarly to any other enterprise. Economic results ensure the basic financial opportunity that forms the basis of the operation of a football enterprise. The most important factors for the economic result for a football enterprise are: increasing yield; decreasing expenditure; decreasing debt burdens; generating and accumulating financial reserves; ensuring adequate liquidity; obtaining and holding on to licenses.

Since the improvement of the financial situation usually has a positive effect on the aggregate result, we can assume that the management of any given football enterprise (particularly its financial management) wishes to maximise this and will consider the maximisation of profit the focus of entrepreneurial activity.⁷ The economic result is closely connected to other result factors. Radical changes of the various result factors could cause undesired effects that might in turn lead to an unforeseeable financial crisis.⁸ As a result, players' wages might have to be significantly reduced or assets might have to be sold. In the end, these will have a negative effect on sports results as well. In the case of relegation to a lower division (which is a significant change), the given football enterprise is forced to face serious economic consequences, which can be alleviated through prize indemnity insurance. Even a remarkable sports result, such as winning a championship, could become a negative influencing factor if the club pays extraordinarily high bonuses to players for the title, which could overload the enterprise's budget. Naturally, insurance can be taken out for such cases (which of course costs money).

Result factors are interrelated and interdependent, with their sum giving us the aggregate result. Naturally, the exploitation of opportunities arising due to the operation of incorporated companies emphasises a result maximising orientation within operation. (It would be expedient to discuss legal forms separately as their significance within football makes this necessary). The economic result of a football enterprise should never be identified as the profit achieved in the fiscal year, as the latter is no more than a snapshot of long-term economic performance. A more interesting issue is what economic activity was used to generate the economic profit of the given year; whether it is the result of the previous championship season, and whether, taking into account the given sports result risks, these economic conditions will be repeated or not in the next season.

The *intangible result*, or success, of a football enterprise entails value factors that are very difficult to quantify using financial-economic or sports result aspects. This includes the

⁷Zieschang, Klimmer (2004), Bogáth (2012).

⁸Stiblar (2011).

image of the football enterprise, the improvement of which usually results in an increased media presence or the improvement of financial positions or the growth of the market value of the enterprise. Of course this also impacts economic results as an improved image could lead to increased sponsor involvement. There is no doubt that the country's economic growth is also an important factor, which can be strongly influenced e.g. by tax system.⁹ When speaking of intangible results, we should also mention the supporters' strong identification with the club. This strong relationship has a positive impact not only on the economic result, but could also boost the achievement of better sports results. (Many have experienced the legendary 'Fradi-heart', and probably even more have heard of it). The personal goals of competent club executives could also strongly influence the intangible results of football enterprises. In this case, professional decision making considerations play a subordinated role only, and in most cases this particular factor is enforced through sympathy or dislike shown towards club executives or owners or their acceptance and ability to enforce their interests.

A football enterprise naturally strives to maximise the intangible result, i.e. value, however, this can only be achieved at the expense of other result factors. Primarily, this would clash with the economic result. If the club's management and owner decide to sign valuable star players and managers regardless of the size of the expenditure, this will obviously have a positive effect on intangible results and naturally sports results as well. It is very likely that, in the long term, the enterprise's revenues will also increase. In the medium term, however, such decisions impose significant financial burdens, which in turn could lead to a serious financial crisis for the club. In professional football – as opposed to other economic fields – it is not customary to prepare a separate plan with respect to image impact, for example. Today, a change of image is still an indirect effect of investment. The way of the future is that football enterprises shall directly plan to increase intangible results through certain targeted promotions, e.g. by planning and managing member recruitment, loyalty promotions, etc.

The three main components of the aggregate result and their factors are closely interrelated. For example, the improvement of sports results has a positive impact on the economic result, which in turn leads to an increase in television and ticket revenues and the sale of promotional products, but member contributions and revenues from sponsorship deals could also grow. Improving sports results also affect intangible results: the club becomes more respected, supporter ties become stronger and media interest increases. A good economic result has a favourable effect on sports results, as the sufficient liquidity provided through profit and appropriate management allows the club to fulfil incentive wage and premium payments without any problems. We should also emphasise that a good economic result has a positive effect on intangible results as well. Opportunities open up to finance supporter projects and clubs as well as significant advertising activity. Star players and managers can be signed to the extent of expanding financial opportunities. The intangible result also has an effect on the factors of the other two result components: sports results improve through the impact on public opinion, but the economic result also

⁹Kotlán, Machová, Janíčková (2011).

improves, since television revenues and the sales of endorsed products increase. In the case of sufficient interest, live broadcasts can be set up, member contributions as well as sponsorship revenues rise. Understandably, sponsors highly appreciate the significance of image. A football enterprise acts correctly if it strives to achieve the maximum of the composite result made up of the aforementioned three components

V. Up-to-date legal forms of football undertakings

In Germany, the relationship of associations with incorporated firms may be deemed to already be customary in professional football, promoting the arrangement of business activity. These so-called marketing limited liability companies are essentially similar to business undertakings and they are in general the subsidiaries of associations. However, the real concept of an incorporated firm of football refers more to the outsourcing of football undertakings and of the fields surrounding football into incorporated firms, or, respectively, by the transformation thereof into incorporated firms. The surviving association operates as a so-called parent association, and it usually has the majority of votes in the incorporated firm.

In the event of transformation into or the foundation of an incorporated firm, obtaining an operating licence also requires compliance with the requirements made by the League Association, in addition to any other statutory provisions in force. In this respect, first of all the rule of 50%+1 votes must be highlighted in Germany, which must be asserted of course both in the case of the original undertaking and the outsourced marketing company being in a special situation. It is a further important prescription that employees of the business undertaking may not be representatives in the bodies of any other football undertaking. The parent company must dispose over majority representation in the organ of control of the incorporated firm. The right of delegation is within the competence of the parent company. In addition, the statutes of the League Association require also minimum capital amounting to EUR 2.5 million from the football companies.

However, the election of the legal form of a football association contemplating outsourcing and transformation not only has legal but also economic consequences. Here, in particular, the possibilities of financing should be stressed, which will be enlarged for the football undertakings after the transformation.

In Germany, the most frequent incorporated firms of football are in the following forms: Share Company, Limited Liability Company or Limited Partnership, with restricted liability of shareholders.

VI. Share Company in professional football

This is a company having an independent legal personality, in which the company is answerable for its liabilities with the assets (capital wealth) of the company, and which must function in accordance with the Act on Share Companies also in the field of professional football. Its bodies consist of the board of directors, the supervisory board and the general meeting. Any other regulations are asserted, *mutatis mutandis*, also in the case of football companies, thus the rules relating to accounting, publicity and the utilisation of profits.

The shareholder's equity may be increased, among other things, through the surrender and exchange of shares, and, respectively, through the issuance of shares and the increase of capital at the stock exchange or over the counter.

Share companies are advantageous if there is a great need for capital and it is possible to involve further financiers into joint financing. However, in the course of the acquisition of capital the majority of votes is in each case an indispensable requirement for the parent association, which can be secured through the issuance of registered shares and/or preference shares with restricted transferability. In the first case, the permission of the management of a share company is also required for the acquisition of shares, while the latter ones do not secure any votes for the shareholders, and their issuance may not exceed the sum of the shares already issued (ordinary shares and shares with restricted transferability). In this way, the formation of an undesirable majority may be prevented, but obviously also the involvement of capital will be narrowed down due to the restrictions, since in the event of contribution of further capital required due to the increase of capital or losses the parent association may incur obligations of payment in order to secure the majority, because the licence rights are possessed in this case by the parent association. The League Association is strictly controlling compliance with each regulation.

VII. A successful football undertaking in the form of Share Company: Bayern München AG

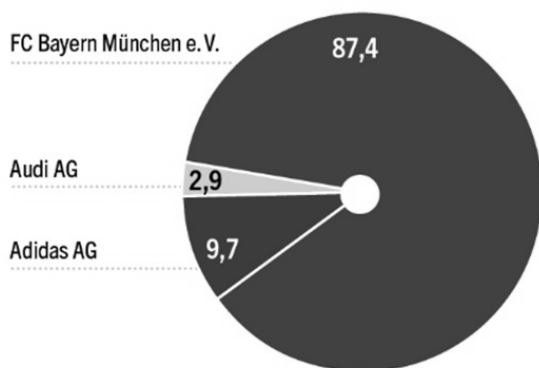
In the field of professional football in Germany, FC Bayern München is, among others, an association which has opted for the form of Share Company, as a type of incorporated firm. In 2002, the team with the licence play rights the amateur team No. 1, as well as junior teams A and B and the women's team were outsourced from the main association and they were integrated into the marketing subsidiary founded previously, and this was then transformed into FC Bayern München AG. Thereby, all fields important from the economic viewpoint were integrated into the incorporated firm. The non-economic fields and several participations remained with the current company. After that, 10% of shares were surrendered to a so-called strategic partner (Adidas AG) via share exchange.

The association of FC Bayern München, being the most successful football club of Germany and belonging to the first 5 teams of Europe, can be deemed a model regarding both the transformation of professional football undertakings into market-oriented servicing undertakings, and its significant and salient business and sports results. The club exceeded turnover of EUR 300 million in the championship 2009/10 for the first time. From among the teams of the German Premier League it was Bayern München which realised the business opportunities hidden in targeted "merchandising", and it created the required infrastructure. Those leaders who were considered professional managers in the '70s had already decided to search for new sources of revenues, e.g. via opening VIP-boxes. In the '80s, they increased the revenues, under the leadership of Hoeneß, in the fields of merchandising and advertisement, as well as through sharing in the revenues of German federal television, they modernised the functioning of the club and set up a new organisational structure. The club was a pioneer in the application of merchandising in Germany, but later on this business activity was outsourced into the Sportwerbe LLC, established

for this purpose. For the supervisory board an institutionalised system of control was established. In the board of directors, the competencies for trade and sports were strictly separated.

In 2002, with the purpose of establishing an appropriate professional organisation and, last but not least, in order to construct a new stadium they outsourced the professional football division into FC Bayern München AG [Share Company] existing already. At that time, the shares were not floated on the stock exchange, but this idea is coming into the spotlight more and more (Borussia Dortmund is the single stock exchange company active in the field of football in Germany.) Figure 4 illustrates the ownership structure.

Figure 4 Bayern München AG ownership structure (%)



Source: FCBM (2012)

In accordance with the plans agreed on in advance, Audi AG increased its shareholding in three phases to 9.09%, by July 2011, thus having taken over the shareholding of Adidas AG. 81.2% of the shares continued to be held by the association and the registered capital increased to EUR 27.5 million. The share company is the sole owner of Allianz Arena München Stadion LLC, which has constructed and is operating a stadium. TSV 1860 München had been the 50% owner of this LLC until 2006, but it sold its share to FC Bayern München Share Company for EUR 11 million, due to financial problems.

VIII. Limited Liability Company in professional football

The LLC [GmbH] is a preferred form of incorporated firm having a legal personality, in the field of professional football in Germany, whose regulations are set out in the LLC Act and in commercial law. The registered capital of an LLC is composed of business quotas and this must reach at least EUR 25,000. Any other rules are asserted in the same manner as in case of other LLC's. (In accordance with the prescription of the League Association, the minimum capital amounts to EUR 2.5 million in football!) The equity may be raised through the utilisation of annual profits (in keeping with the restriction of profits linked to a non-profit company, as well as through the increase of the primary stakes and the involvement of new quota holders. The LLC is much preferred in other

sports, and is thus widespread in the fields of handball and ice hockey. In spite of the fact that the LLC is applied in two main forms, it has a less important role in football. One of the forms is a football LLC, which covers all undertakings linked to football, and is operated as a subsidiary of a parent company with no connection to business. The other form is the LLC, having the right of participation in the championship, in which case the direction by the parent company is also asserted, but in this case the full right of play (licence) has been assigned to the subsidiary. However, all other fields (marketing, merchandising, etc.) remained with the parent company, or potentially they are outsourced into other companies. The advantage of the second form of LLC is that the permission to play (licence) will be applied for just by the company to use the right to play in the future, and thus the whole parent company will not be forced to comply with the strict licence regulations, in which case such a company may be, in total, in a much worse situation than the LLC outsourced for professional football. Let us mention as example Bayer 04 Leverkusen Fußball – GmbH and VfL Wolfsburg-Fußball – GmbH. In the case of the first club Bayer AG is the 100% shareholder, while in the other club Volkswagen AG has a 90% share. The transformation served in both cases the connection of the football clubs to the parent companies, since in the case of both clubs a long-term linkage to the aforementioned reputable concerns can be experienced. Substantially, these football clubs were developing and functioning in parallel with the aforementioned undertakings, and they emerged from their respective corporate sports clubs into League Clubs. This special link between a football club and an undertaking is expressly recognised also by the statutes of the League Association. Accordingly, the presidency of a League Association may resolve outsourcing with 50%+1 votes, if the business undertaking (in our case the aforementioned concerns) had been supporting their branch of football for more than 20 years prior to 1 January 1999 without interruption and to a considerable extent. This support existed in both cases, and, in the case of Bayer Leverkusen had prevailed since 1904 (!).

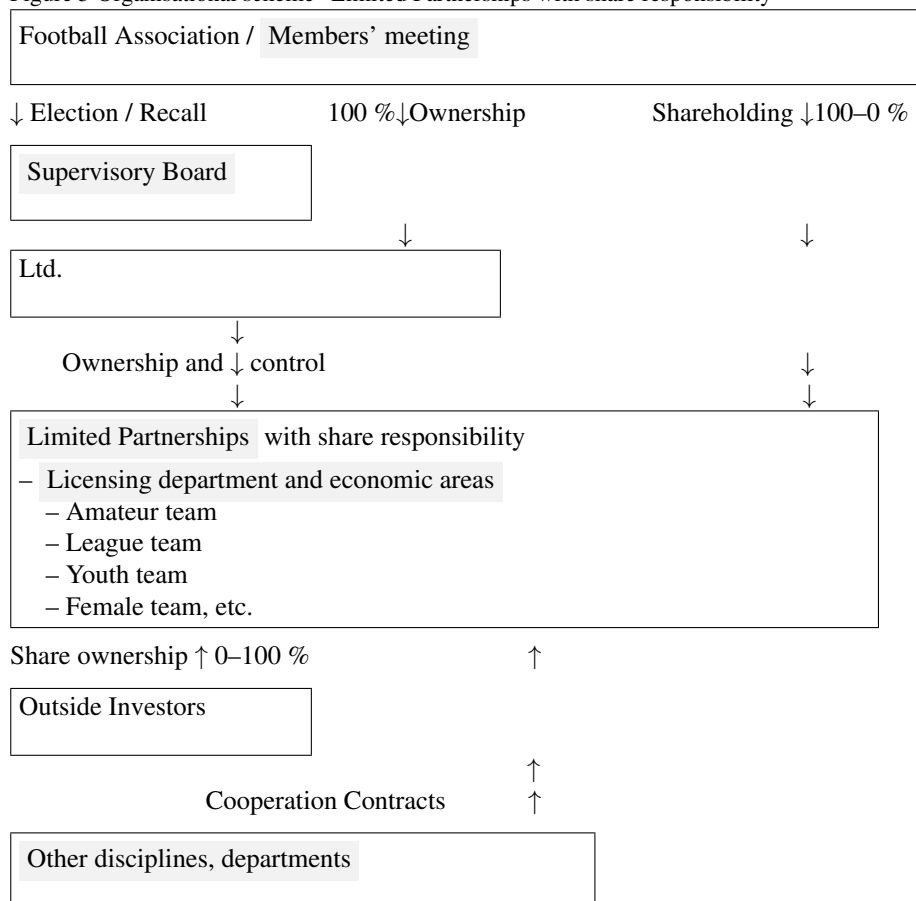
Notwithstanding the aforementioned special cases there is also a more commercialised and frequent form of football LLCs, which can be resolved by a parent association as majority owner. This solution means essentially the establishment of a subsidiary LLC. An example of this is Borussia Mönchengladbach. This solution may be contemplated if the football undertaking waives the solution of procurement of capital through the stock exchange. Here the number of potential capital owners may be restricted to a predetermined scope of owners and this way it is possible to comply with the prescription relating to 50%+1 votes.

IX. Conclusion

So the best solution is a Limited Partnership with the Restricted Liability of Partners. This is a company having legal personality, in which, as is well-known, at least one of the partners (the general partner) must bear unlimited and joint and several liability vis-à-vis the creditors. The other owners, who have otherwise interest in the registered capital embodied by the share capital, need not be held accountable for the liabilities of the company (dormant partners). This is an intermediate legal form, which shows the signs of a share

company and the personal liability existing in the case of limited partnerships, where the general partner provides for the management of the undertaking. The supervisory board elected by the general meeting of the dormant partners supervises the work of the general partner acting with personal liability, on the one hand, and executes the resolutions of the general meeting, on the other hand, which includes by the way the dormant partner’s declaration of acceptance and agreement in the case of more important decisions. Within the scope of legal forms such solutions are interesting for football clubs, since they are vested with the marks of restricted liability covering the general partner of a limited partnership, at the same time they open a lot of alternative opportunities for providing for equity. This limited partnership with restricted shareholders’ liability also exists in the case of the forms of GmbH & Co. KG

Figure 5 Organisational scheme “Limited Partnerships with share responsibility”



Source: Dworak (2010)

In the case of the legal form operating with the limited liability of a limited partnership, the parent company as general partner may not restrict its personal liability. Thus the association should act simultaneously as general partner and dormant partner, if it wishes to retain the aforementioned limited partnership directly as its own property, which is not at all permitted from the legal aspect. Therefore, it is required to insert a limited liability company between the existing association and the limited partnership. This subsidiary LLC is a personally answerable general partner, and functions as managing director at the same time. The shareholders, as dormant partners, may consist of the parent company itself and of external investors. This has the advantage, on the one hand, that the parent company is secured by an LLC of limited liability, and, on the other hand, the possibility is given of increasing the dormant partners' share in the limited partnership up to almost 100%, without violating the rules of the League Association relating to majority share. In German professional football, 10 GmbH & Co. KG companies were operating in 2009 in the Licence Leagues (League 1 and 2). See Figure 1. This legal form is a reasonable solution for football clubs for outsourcing the respective fields of licence and business from the form of association into incorporated firms.

Should a football GmbH & Co. KG be floated to the stock exchange, it must tolerate a significant handicap as opposed to those companies operating in the form of a share company, if it has also issued preference shares without voting right. It is a further problem that the possibility of efficiently controlling the leading bodies of an incorporated firm is missing also in the form of GmbH & Co. KG of football for the potential investors, they must satisfy themselves with the role of dormant partner, if they are not members of the parent association. Unfortunately, this may repel potential investors or, at least, it may be taken into account as a significant negative factor upon the valuation of the participation. It is very important in this solution that the separation between the rights of general partners and dormant partners should be strictly complied with in practice. It can occur that potential investors frequently link their possible commitments to being involved into the direction and operation of the undertaking, which will of course appear understandable from the aspect of taking care for the safety of investment. In the event of a football GmbH & Co. KG, any influence by investors may only be implemented within certain limits. By the way, this is shown by the objection made by the League Association against an investor agreement entered into by TSV 1860 München in the 2009 spring season. The investor agreement contained decisions in respect of persons as conditions for contract, which would have for consequence an illicit influence on the side of dormant partner, and/or would have secured the right of veto in respect of the decisions of the associations.

We can finally state that the outsourcing of significant branches of a football undertaking into the form of an incorporated firm should be deemed as a considerable step forward in comparison with the deficient regulations of the operations of associations, regarding the economic professionalism of football clubs, partially from the side of commercial law and partially from the side of shareholding law. Via the introduction of organisational and legal structures to be considered professional further positive effects are generated for football undertakings, in the course of transformation, such as, for example, that

a football undertaking has to reevaluate its assets due to the transformation, which usually has a benevolent effect on the proportion of equity. This is still complemented by the fact that, in the case of incorporated firms, the equity will increase through the accumulation of profits based on the compulsory regulations of the application of profits. Incorporated firms involve external investors into football undertakings, which may be implemented through investment into the respective business quotas of an LLC or a share company or a limited partnership. Here we must stress above all the obligation of publicity and information which makes the incorporated firms transparent for the potential investors of debt capital, and allows reliable credit rating and risk assessments. Furthermore, it is also advantageous that incorporated firms of football operate similarly to incorporated firms functioning in other fields, from the aspect of the protection of creditors. Finally, a large palette of alternative financing is available for incorporated firms, which would not have been counted with in the event of the original legal form and organisational structure of associations. Nevertheless, it has to be underlined that, in the event of the use of the form of incorporated firm, it is about the transformation and change of the organisational unit of execution and not about a total abandonment of the form of association. The form of association will continue to be the main form of football undertakings and a fundamental solution for the procurement of capital. Due to the causes above, professional football is partially an exemption in this respect. The BVB Borussia Dortmund is a Successful Limited Partnership with Shareholder's Liability. The club was founded by a junior group of 18 of the Catholic Holy Trinity Congregation in 1909. Ball Society, Borussia (BVB) slowly became a modern, professionally managed football club from an amateur football society of peasants and workers.

Nowadays it is one of the most successful clubs in Germany. It has six times won the German Championship, was the winner of the German Cup two times. In 1968, it won the Cup of Cup Winners, and in 1997 it was the winner of the Champions League. After that, the club decided to transform most parts of the association participating in League I into an incorporated firm also quoted on the stock exchange. As a first step they outsourced, in 1999, the business fields, and they founded Borussia Dortmund GmbH & Co. KG incorporated firm operating through the issuance of shares. Borussia Dortmund Management LLC became the general partner, which was the fully-owned subsidiary of the association. They secured their position in the League Association through the GmbH & Co. KG in such a manner that the association continued to exercise control over the licence division. In 2002, launching on the stock exchange was implemented under the leadership of Deutsche Bank AG. Thus Borussia Dortmund is the only German club admitted to the stock exchange. The price of issuance of the shares was around EUR 11, the issuance covered 13.5 million shares, which generated revenues amounting to EUR 131 million, after the deduction of direct costs amounting to EUR 7.5 million. In addition, other ancillary costs have also been incurred, which are difficult to be quantified.

At the beginning, Borussia played successfully in the championship started in the year of transformation (1999/2000), but later on it almost dropped out for the second time from League I. In order to avoid dropping out they made a decision regarding the football profession, entailing changes in the staff, which meant the employment of the coach

having achieved successes earlier, as well as further old and committed players. By the end of the championship the team reached 11th place. After that, the club started intensely purchasing players. They acquired star players through transfer for amounts of two-digit millions in each case. As a result the team won the championship for the 6th time in 2002. A decline occurred both in financial stability and the sports results, primarily due to exaggerate purchase of players. The League division operated with a loss of more than EUR 65 million in Season 2003/4. The overall debts amounted to EUR 118 million. At that time, GmbH & Co. KG tried to improve its financial situation through the sale of key players (resulting in significant criticism from the management of the Association), and it sold Westfalenstadion to Commerzbank AG, 75% of which it still owned upon introduction to the stock exchange. The shares fell deeply below the price of issuance and the experts did not see any hope for the increase of the price even on the long term. Based on the demand of investors, new management was elected both to the top of the Association and that of the GmbH & Co. KG. This latter office was vested in the treasurer of the Association. Debts amounted to EUR 98 million in total, seriously threatening the mere existence of Borussia. The restoration was successful. Increases of capital were made several times, the stadium sold was repurchased, all this with strong support from Morgan Stanley, an American investment bank. The net amount of liabilities was reduced to EUR 27 million, and, simultaneously, the proportion of equity increased from 20.7% to 34.5% (percentage of equity / balance sheet total).

Under the influence of the experience obtained during the most recent crisis the management of the association – having learnt the consequences of earlier faults – reduced the budget of the League team, contributing thereby to the stability of the financial situation. They replaced the old star players transferred abroad in the meanwhile by young players grown up in Borussia's own association. After that, the team played in the medium field of the championship, up to the season 2008/09, when a new coach was engaged. The club rose to 6th place in the First League, and, in the following championship, was the 5th best team, and, as a surprise, the team won the German Championship of 2010/11 and 2011/12.¹⁰

References

- Bogáth, Á. (2012). The Entrepreneurial Attitude to the Role of Business Development. In Nagy, I. Z. (ed.). *Business Development in the XXI. Century*, 201–217. Budapest: Óbuda University.
- Bott, S. (2007). *Internationalisierungsstrategien von nationalen Fußballligen*. Norderstedt: Books on Demand.
- Bundesligareport (2011). Retrieved from: http://www.bundesliga.de/media/native/autosync/df_l_report_2011_fin_150dpi_deutsch.pdf.
- DFL (2011). *Bundesliga Offizielle WEB-Seite*. Retrieved from: www.bundesliga.de.
- DFL (2012). *Bundesliga Offizielle WEB-Seite*. Retrieved from: www.bundesliga.de.
- Dworak, A. (2010). *Finanzierung für Fußballunternehmen*. Berlin: Erich Schmidt Verlag.

¹⁰Stöhr (2010), DFL (2012).

- Erdős, É. (2010). Tax Optimization, Tax Avoidance or Tax Evasion? Contributions to the Offshore Companies' Legal Background. *The Juridical Current*, 42, 54–67.
- FC Bayern München AG (FCBM) (2012). *Offizielle Website des FC Bayern München*. Retrieved from: <http://www.fcbayern.telekom.de/de/aktuell/start/index.php>.
- Kotlán I., Machová Z., Janíčková, L. (2011). Taxation Influence on the Economic Growth. *Politická ekonomie*, 59(5), 638–658.
- Nagy, Z. I. (2012). Finances of the Professional Football Enterprises. *DANUBE: Law and Economics Review*, (1), 53–69.
- Stiblar, F. (2011). The Global Crisis and the Western Balkans. *DANUBE: Law and Economics Review*, (3), 1–23.
- Stöhr, M. (2010). Unternehmensführung im deutschen Profifußball. Seminararbeit bei Nagy, I. Z. Budapest: Obudai Egyetem.
- Szerb, L., Aidis, R., Ács, Z. J. (2012). Entrepreneurship in Hungary in the 2006–2010 Time Period. In *MEB Conference 2012 Proceedings*, 53–78. Budapest.
- Zieschang, K., Klimmer, Ch. (2004). *Unternehmensführung im Profifußball*. Berlin: Erich Schmidt Verlag.