

Beyond Sporting Autonomy: Private Regulatory Power and the Limits of Countermeasures in International Sport

I. Introduction

Russia's invasion of Ukraine in February, 2022 [produced an unprecedented wave of coercive measures](#) across international sport. International sporting bodies adopted a [fragmented range of measures affecting Russian and Belarusian athletes](#), national federations and officials, with some maintaining restrictions while others have subsequently moved towards conditional or complete reinstatement. This evolving practice raises a question extending beyond the ordinary regulation of international sport, since [these bodies increasingly exercise transnational authority capable of affecting individuals and national sporting institutions](#) across jurisdictions. The response to Russia's actions is particularly significant because the restrictions did not originate from conduct within sport, but followed events occurring at the international level which sporting organisations considered capable of justifying consequences within their own regulatory systems. World Athletics provides a particularly clear illustration, [having expressly connected the restrictions imposed upon Russian and Belarusian participation with the invasion of Ukraine](#). The exercise of sporting authority in this manner therefore brings an external international event within a regulatory framework originally constituted for the governance of sport.

Such measures bear a functional resemblance to countermeasures under international law ("IL"), although that resemblance has clear doctrinal limits. Countermeasures form part of the law of State responsibility and regulate the circumstances in which States may respond to internationally wrongful conduct, [whereas international sporting bodies derive their authority from their own constitutive and regulatory frameworks](#). Sporting autonomy consequently explains the legal source of these measures, but becomes less complete as an account of their exercise where that authority is expressly deployed in response to conduct outside sport and produces consequences across a transnational sporting order. The difficulty lies in accounting for this enforcement-like use of private regulatory authority without extending the State-centric doctrine of countermeasures to institutions for which it was never designed.

Against this background, **Part II** examines the State-centric framework governing countermeasures and the limits of its application beyond States, before **Part III** considers World Athletics as the principal illustration and places its response alongside the divergent approaches adopted by other sporting bodies. **Part IV** develops the accountability problem arising where privately constituted sporting authority responds to internationally significant State conduct, while **Part V** uses a TWAIL perspective to examine the distribution of this authority, including the capacity to determine which forms of international conduct warrant consequences within sport and upon whom those consequences fall. **Part VI** concludes by drawing these concerns together and arguing that proportionality, necessity, individualisation, consistency and procedural review provide a basis for greater accountability while preserving the doctrinal boundaries of countermeasures under IL.

II. Countermeasures as a State-Centric Doctrine

As per the United Nations IL [Commission's Articles on the Responsibility of States for Internationally Wrongful Acts \("ARSIWA"\)](#), an internationally wrongful act arises whenever there is a breach of international obligations by a State. Countermeasures form part of the limited framework through which an injured State may respond to such a breach, permitting the temporary non-performance of certain international obligations owed to the responsible State for the purpose of inducing compliance. While [Article 49](#) expressly recognises this entitlement in relation to an injured State, the position concerning measures taken by States other than an injured State remains less settled, with [Article 54](#) preserving the possibility of "lawful measures" by States entitled to invoke responsibility under Article 48 without conclusively recognising a general entitlement to collective countermeasures. The entire formulation behind countermeasures was also affirmed by the [ICJ in *Gabčíkovo-Nagymaros Project*](#), which addressed Slovakia's unilateral diversion of the Danube.

The architecture of countermeasures therefore remains fundamentally inter-State, operating within legal relationships between States and regulating the circumstances in which the performance of international obligations may temporarily be withheld in response to internationally wrongful conduct. Even the unresolved debate surrounding measures taken in response to breaches of obligations owed to the international community under Article 54 proceeds on the basis that the relevant actors are States. This becomes particularly important when considering international sporting organisations, since their measures neither derive authority from ARSIWA nor ordinarily involve the temporary non-performance of international obligations owed to Russia. The relevance of countermeasures to the present inquiry must consequently remain functional rather than doctrinal, allowing the constraints developed around responsive coercive power to illuminate the accountability problem without extending the legal entitlement itself to private sporting bodies.

III. World Athletics as an Illustrative Phenomenon

The response of international sporting bodies to Russia's invasion of Ukraine demonstrates that the phenomenon examined in this paper is not confined to a single federation but has produced divergent institutional responses. In [March 2023](#), World Athletics excluded Russian and Belarusian athletes, officials and support personnel from international competition, describing the measure as one that would remain in place "for the foreseeable future" and expressly linked it to the invasion of Ukraine.

World Athletics' characterisation of these measures is significant because despite the authority exercised remained grounded in its own institutional framework, the justification stated for the use of the same extended beyond concerns arising exclusively within sport. These restrictions, which were imposed upon Russia and Belarus, were explicitly termed by World Athletics to be considered alongside the [broader sanctions](#). They described these measures as [peaceful means](#) of disrupting Russia's intentions and restoring peace, while also referring to the damage inflicted upon Ukrainian athletes and sporting infrastructure. The measures therefore present more than the mere coincidence of a private regulatory decision with an international crisis, since the organisation itself connected the exercise of its sporting authority with the broader response to Russia's conduct. This creates a functional resemblance to enforcement undertaken in response to internationally wrongful conduct, even though World Athletics neither possesses

an entitlement to countermeasures under ARSIWA nor derives its authority from the law of State responsibility.

The same position was reaffirmed in its [July 2026](#) Council meeting, citing “no tangible movement towards peace negotiations”, while acknowledging that a conditional pathway back into international competition had been considered. The broader sporting response, nevertheless has not followed a uniform trajectory, as already stated. The [ITTF, by contrast, reinstated Russian and Belarusian athletes from July 2026](#), expressly emphasising equal treatment and requiring such sporting restrictions to remain necessary, proportionate and objectively justified. [World Gymnastics](#) likewise lifted restrictions, with [European Gymnastics](#) following that approach.

These divergent and evolving practices showcase that sporting bodies have not adopted a uniform response to the underlying conflict. The relevant phenomenon extends beyond sporting sanctions to encompass varied forms of restrictive, conditional and permissive responses by non-State sporting bodies to the same underlying conflict. The adoption, continuation and withdrawal depend substantially on the rules, assessments and institutional choices of individual sporting bodies.

IV. A Grey Area: Private Authority and Enforcement-Like Function

The measures adopted by international sporting bodies in response to Russia’s invasion raise a difficulty that extends beyond their formal legal characterisation. Their authority continues to arise from the [constitutive rules and regulatory structures of the organisations imposing them](#), even where the circumstances prompting their exercise concern conduct attributed to a State. The uncertainty instead emerges from the use of this private authority to attach transnational consequences to conduct occurring outside the sporting sphere. Examining this issue requires attention both to the limits of the countermeasures analogy and to the manner in which existing sporting regulation addresses an exercise of authority whose justification reaches beyond the ordinary administration of sport.

A. Countermeasures and Private Regulatory Authority

The restrictions imposed by sporting bodies cannot be treated as countermeasures under ARSIWA merely because they respond to conduct attributable to a State. Countermeasures operate within the law of State responsibility and principally permit an injured State to suspend temporarily the performance of certain international obligations owed to the responsible State in order to induce compliance. [Article 54](#) allows for “lawful measures” in certain situations by other states except the injured one, but the law on collective countermeasures is underdeveloped in IL. In any event, neither provisions extends this doctrine to private entities. Sporting authorities also do not ordinarily involve the temporary non-performance by sporting bodies of international obligations of the State taking the measures towards the responsible state. The competence of sporting authorities is based on their internal regulatory framework and not on the secondary rules of state responsibility. Consequently, the analogy remains functional and cannot be used as a basis for these measures.

Therefore, the approach taken for the characterisation of sanctions through sporting autonomy provides a more adequate tool for determining their legal grounds since the competence of

international federations with regard to access, eligibility, and membership is wide and is set forth in their constitutive legal instruments. They are [subject to the procedure of *lex sportiva* and where jurisdiction exists](#), reviewed by the [Court of Arbitration for Sport](#) (“CAS”). This approach sets up considerable constraints on the authority of international federations. As can be seen in a [recent decision of the CAS](#) on restrictions on Russian athletes, the principle of proportionality and alternative means may have an influence on the legality of these actions.

Nevertheless, the case of World Athletics proves that the formal sources for authority do not resolve all issues. Restrictions imposed by it were made [in response to the invasion of Ukraine](#), while it tried to coordinate the reaction of the body with measures taken by States and industries in order to restore peace. The organisation had the sporting authority, but the justification of its conduct was beyond internal administration of the competition and took the form of enforcement as seen with respect to the broader response towards Russia’s actions.

In this respect, the source, the cause, and the functions of these restrictions should be carefully separated. The source of the regulations is a private one, but the trigger for the same arises from internationally significant State conduct. In this respect, their function depends upon the purposes for which the regulatory conduct is exercised. Restrictions implemented in order to guarantee the security of competition may raise different concerns than those related to the wider attempt to react to the behaviour of States. Separating these elements preserves the doctrinal boundary of countermeasures, while recognising that private sporting bodies may in certain situation perform a function beyond conventional sporting administration.

B. The Resulting Accountability Problem

The grey area is caused by the fact that the standards of international and private order regulate the transition from an international event to the consequences within the private transnational regulatory system. In this respect, IL regulates countermeasures with regards to the purpose, proportionality, temporariness, and procedural standards, while sports law provides legal basis for and procedure of reviewing the decisions made by the federations. In this way, the interface between the two legal frameworks therefore remains unclear, particularly where the conduct of the States occurring outside the sporting sphere becomes the cause for imposing the restriction on athletes, officials, or national sporting organisations.

The difference in reactions of different sporting bodies to the Russian aggression demonstrates the mentioned ambiguity, however, it does not mean that it poses a problem for IL. [World Athletics continues to exclude Russian and Belarusian athletes](#), etc., while periodically assessing the opportunity of removing the restriction depending on certain conditions. While, different federations have taken a different approach regarding the participation of Russian and Belarusian athletes. However, it is clear that there is no clear standard regarding the moment when the State conduct is relevant to international sports, what kind of connection is needed, and when it becomes unjustifiable to impose the exclusion.

The mentioned ambiguity becomes even clearer when the restrictions are imposed in regard to the State conduct concerning individual athletes, who were not a part of the conduct in question. Nationality or institutional affiliation may provide the connection through which a sporting measure operates, although the [distance between the conduct relied upon and the individual](#)

[bearing its consequences](#) places greater importance upon proportionality, individualisation and periodic review. The development of less restrictive alternatives, including forms of neutral participation, further demonstrates that the justification for a measure may require reconsideration as circumstances and available regulatory options change.

A more coherent response can therefore develop from principles already visible within sporting regulation, supplemented where necessary by broader standards of accountable transnational regulation, rather than through an extension of ARSIWA to private organisations. Proportionality, necessity, individualisation, consistency, transparency and procedural review provide standards through which the exercise and continuation of these measures may be assessed while respecting their private regulatory source. The resulting grey area therefore concerns the accountability accompanying the translation of internationally significant State conduct into private transnational consequences, an issue that becomes increasingly important as sporting organisations exercise authority capable of giving international events practical effect across the sporting order.

V. A TWAIL Critique of Transnational Regulatory Power and Accountability

The above mentioned legal ambiguity does not only consist in the question of classification of such a rule. It refers to the question of distribution of regulatory authority in the transnational governance system. TWAIL directs attention beyond the formal validity of transnational norms, institutions, processes and distribution of power through which the international legal order operates. [Mutua](#) places the TWAIL critique of the transnational norms, institutions and processes in the context of their fairness, while [Chimni](#), criticising the State-centric notion of international law, emphasises the impact of transnational actors beyond the State system.

Such consideration is especially important in relation to international sports. [Ugochukwu](#) in his study of FIFA shows that despite the formal nature of a sporting body as a private entity, a sporting body is able to become an important actor in global governance, having the authority to regulate transnationally, to affect sovereign interests and whose powers cannot be properly understood without regard to the public-private distinction. His analysis consequently raises concerns about inclusivity, non-discrimination, minimal intrusion into sovereign authority and accountable governance arise in regard to such sporting bodies. The similar approach can be observed in the studies of international sports governance, treating sporting autonomy as the form of transnational regulatory authority.

Thus, the important question to ask is not only if the sporting bodies have the authority to regulate the participation in sport, but if there are any institutions that decide if some behaviour outside sport is subject to any sanctions in the sporting sphere and according to what criteria and how accountable those decisions are. Different institutional responses to the same conflict reveal the absence of a uniform standard within international sporting governance as to the threshold for exclusion, the persons upon whom restrictions should operate, and the circumstances in which they should be withdrawn. The problem here is not in the fact of selective application, but in the fact of fragmented criteria of selective behaviour that makes it difficult to predict ex ante.

The problem is related to the issue of institutional and epistemic power. Indeed, sporting organisations do more than enforce certain rules. Through the course of their actions, statements, and decisions, they help shape those questions which get recognition and framing, and the ways and justifications of such recognition. Thus, the authority of sporting organisations exceeds the scope of their activities. It consists not only in the identification of the consequences of particular events, but also in the identification of how and why a certain conduct occurred and what could justify it. Thus, the standards used for defining an internationally significant event which requires intervention can be shaped by particular [institutional and geopolitical perspective](#). From the point of view of TWAIL approach, the problem of representation and perspective becomes evident in cases when the standards applied in particular situation appear to be generally accepted although developed under uneven participation structures or certain geopolitical conditions.

The distributive element of such authority becomes even more important in cases when the adopted measures, as a response to State behaviour involve individual athletes. The behaviour of the state, indeed, becomes the [reason for the consequences which are suffered by certain individuals who did not commit any act of the kind](#). They become excluded from some competitions, cannot participate in others, or lose career opportunities because of the chain of decisions made by institutional actors. While the reasons like security, integrity of competition, or institutional relation between sporting organisation and its member states justify such measures, it still leaves the difference between the State responsible for the initiating conduct and the individual suffering the consequences. Thus, the issues of proportionality and individualisation become important for evaluating the process of the exercise of the transnational regulatory power. Consequently, accountability should address not only the justification of the measures as a response to State behaviour, but also the reason why this or that individual suffers certain consequences of such measures.

In other words, the TWAIL approach is structural rather than accusatory. The migration of the powers of enforcement beyond the State was not accompanied by the migration of accountability. Private sporting organisations can define the moment when certain internationally significant conduct gets transnational consequences. At the same time, the standards of the decision-making process remain institutionally fragmented. It does not mean, however, that such organisations are the substitutes of the States or that the measures they adopt are motivated in a selective way. Instead, it means that the power to transform certain international conduct into practical consequences for States, organisations, and individuals becomes the characteristic of transnational regulatory power.

Thus, the real question here is about whose judgment can produce international consequences, what standards shape it, and how it can be subject to accountability. The relevance of the issues of proportionality, necessity, individualisation, consistency, and procedural review becomes evident in such context not as a matter related to the legality of certain sporting measures, but as the question of the general exercise of transnational regulatory power. The TWAIL approach makes the grey area revealed in Part IV a matter concerning the distribution of enforcement-like power in global governance and the individuals who suffer its consequences.

VI. Conclusion

The private regulatory response to the aggression of Russia is an example of the situation where the authority of a private organisation gains enforcement-like quality due to translating the international conduct into consequences for athletes and sporting associations. Sports law is characterised by necessary limitations, however, the criteria regulating the process remain fragmented. From the TWAIL perspective, it becomes possible to trace the distribution of the authority and develop the concept of accountability based on proportionality, necessity, individualisation, consistency, and procedural review, as we look forward towards a greater influence of such non-State organisations.