The Ludic Background of Constitutive Rules in Bernard Suits

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Abstract

The main purpose of the paper is to present and discuss Bernard Suits' account of constitutive rules presented in his *opus magnum—The Grasshopper. Games, Life and Utopia*—and in several minor contributions, which supplement or modify his original position. This account will be regarded as a crucial part of Suits' theory of ludic activities, mainly game-playing. The stress will be put on peculiarities of constitutive rules—their relation to ends in games, players' attitudes and their limitative nature. The analysis of the consequences of breaking a rule in different types of actions shows the essential difference between constitutive rules in games, and rules governing both technical activities, and non-game types of ludic activities. Because Suits' theory has been presented as an attack on Wittgenstein's claim concerning indefinability of games, this issue will be discussed as well.

Keywords: Bernard Suits, Ludwig Wittgenstein, Game-playing, Definition, Constitutive rules, Chess.

1. Introduction: Bernard Suits' Philosophy of Games

Bernard Suits is known mainly for his contribution to philosophical game theory. His legacy in this field consists of the seminal book *The Grasshopper. Game, Life and Utopia* (Suits 2014a) and several articles, being, among others, responses to criticisms, explanations and continuations of the 'grasshopperian' investigations.[1] The meaning of this legacy has been recognized in the circles of philosophers of sport. Outside this community, however, it is still awaiting wider recognition. It can be expected that this state of affairs will change due to the publication of the third, supplemented edition of *The Grasshopper* (2014a), and recent translations of this book (into Chinese, Japanese and Polish, 2016).

The main philosophical achievement of Suits is the formulation of an original and insightful definition of game-playing. The constitutive rules are one of

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[1] List of Suits' articles on games and sport as well as articles on Suits might be found on the webpage of The International Association for the Philosophy of Sport: http://iaps. net/resources/suits/.

the four elements of this definition, and play a crucial role in his theory of games. Ludic activities—mainly games, but also play and sport (the three considered in their mutual relationships constitute—to use Suits' idiom—"the tricky triad" (Suits 1988)) create the background of Suits' account of constitutive rules. The contrast: work-playing games, is the main conceptual vehicle for Suits' analysis, and his protagonist—Grasshopper from the ancient Aesop's fable—represents the ludic point of view and formulates a classical-type definition of game-playing. This characterizes the contemporary polemical context of the book—a discussion concerning the very possibility of the Grasshopper's endeavour—the definability of games.

2. The Discussion over the Definability of Games: Challenging Wittgenstein

In *Logical Investigations*, after introducing the term "language games" (*Sprachspiel*), Wittgenstein discusses the problem of the essence of a language-game, and hence of language in general. Instead of formulating a definition of language (which, according to Wittgenstein, should indicate something common to all that we call language) he emphasizes relationships which make us call all these phenomena "language". To illustrate this strategy Wittgenstein sketches an analysis designed to show that there is nothing in common to all proceedings that we call "games" (§66 and following). Instead of the classical notion of "essence", he offered the notion of "family resemblance" (*Familienähnlichkeit*) to indicate a network of overlapping and criss-crossing similarities among games:

> What is common to them all?—Don't say: "There *must* be something common, or they would not be called 'games'"—but *look and see* whether there is anything common to all.—For if you look at them you will not see something that is common to *all,* but similarities, relationships, and a whole series of them at that (Wittgenstein 1967: 31).

The "look and see" method consists in a review of series of activities called "games" (board-games, card-games, ball-games, noughts and crosses, patience, chess, tennis, ring-a-ring-a-roses) and noting retention and disappearance of certain characteristic features (amusement, wins and losses, competition, luck and skill).The purpose of the review is to show that there is nothing common to all the things called "games", but because of the network of resemblances among them, "'games' form a family" (Wittgenstein 1967: 32).

The analogy between *language games* and *games* discussed in §66 (which we may call here "ludic games") is designed to illustrate indefinability (in the classical sense) of language games, and the thesis concerning indefinability (in the classical sense) of ludic games, although clearly stated, is not a paramount consideration here. However, it is an interesting point in itself, and this very aspect of Wittgenstein's investigations draws attention of Bernard Suits.

Suits accused Wittgenstein of failing to follow his own advice "to look and see", and of deciding beforehand that games are indefinable (Suits 2014a: 1). Challenging Wittgenstein's claim Suits presented his own analysis that ends with the construction of a classical-type definition: there is a set of four necessary and sufficient conditions for being a game. If Suits is right in claiming that

games are definable, then efforts of defining other notions might be seen as more promising than shown in the light of Wittgenstein's anti-essentialism. The comparison between Wittgenstein's and Suits' accounts of games is thus also important beyond the philosophy of games.

3. The Means-end "Deduction" of Category of Game-playing

In the search for the definition of game-playing Suits engages the contrast between ant-type activities ("technical activity" or working) and grasshopper-type activities (playing games). Assuming that playing games is different from working, Suits is trying to find an aspect which differentiates working from playing games. He characterizes work as an "activity in which an agent seeks to employ the most efficient available means for reaching a desired goal". This in turn allows for formulating a very basic feature of games:

> Since games, too, evidently have goals, and since means are evidently employed for their attainment, the possibility suggests itself that games differ from technical activities in that the means employed in games are not the most efficient. Let us say, then, that games are goal-directed activities in which inefficient means are intentionally chosen (Suits 2014a: 24).

The crucial (and perhaps surprising) idea in the entertained possibility is that games are different from work not because they have different ends, but because the means that are used to achieve these ends are different, and more precisely—less efficient. This is sufficient to formulate short and simplified version of the definition: playing a game is "the voluntary attempt to overcome *unnecessary obstacles*" (Suits 2014a: 43).

Guided by the abovementioned idea, Suits offered a detailed analysis (that can be only roughly sketched here) of game-playing, which reveals four elements of the definition. The first element of this analysis is the *goal*, and the analysis shows the ambiguity of the term. A long distance runner might, for example, say that his goal is to:

1) win the foot race
2) cross the finish line ahead of the other contestants.

1 and 2 are not two different formulations of one goal, since it is possible to achieve 2 without achieving 1, but not vice versa. According to Suits, 1 presupposes 2, but 2 does not presuppose 1 and thus constitutes an elementary component of the foot race. In contrast, 1 is more complex, since it requires obeying the rules of a foot race (which, for example, forbids taking an underground during a marathon race, like in the famous case of Rosie Ruiz (Amdur 1980)). The kind of goal which is illustrated by 2 might be described generally as *a specific achievable state of affairs*.

> I suggest that this kind of goal be called the *prelusory* goal of a game, because it can be described before, or independently of, any game of which it may be, or come to be, a part. In contrast, winning can be described only in terms of the

game in which it figures, and winning may accordingly be called the *lusory* goal of a game (Suits 2014a: 38-39).[2]

In a subsequent explanation of the game-independence of the prelusory goal, Suits claims that the term "identified" is more appropriate than the term "described", because in some cases (e.g. chess) the goal might be more conveniently displayed rather than described (Suits 2014a: 38-39).

It might seem that the prelusory goal is a brute fact (in Searle's sense), whereas the lusory goal is a social or institutional fact, however—what is clearly visible in case of chess—the prelusory goal might also be an institutional fact. The crucial difference between 1 and 2 lies in the fact that the prelusory goal is "distilled"[3] not from any institutional aspects, but from any reference to the way of achieving it: "By omitting to say *how* the state of affairs in question is to be brought about, it avoids confusion between this goal and the goal of winning" (Suits 2014a: 38). Suits illustrates this distinction by many examples, apart from the abovementioned foot races, he discusses, for example, mountain climbing: its prelusory goal is to be on the top of the mountain, which can be achieved by means of using a helicopter, whereas its lusory goal is *to climb* the mountain (Suits 2014a: 90-92).

Since games are goal-directed activities, some means must be used in efforts undertaken to achieve a (pre)lusory goal, hence there is the second element of game-playing—the means. Like goals, means are divided into prelusory and lusory ones, and because the lusory means are means which are permitted by the constitutive rules, the third element of Suits' analysis emerges—the constitutive rules.

The rules in games (like goals and means) are also of two kinds. Rules responsible for defining permitted (legal) means in achieving the prelusory goal Suits calls "constitutive rules". They are associated with the prelusory goal, and with it become sufficient for characterizing the nature of a given game. The mechanism of dividing the possible means into legal and illegal is based on the fact that constitutive rules are proscriptions of certain means useful in achieving prelusory goals:

> think of any game at random. Now identify its prelusory goal: breasting a tape, felling an opponent, or whatever. I think you will agree that the simplest, easiest, and most direct approach to achieving such a goal is always ruled out in favour of a more complex, more difficult, and more indirect approach (Suits 2014a: 40).

Thus the nature of constitutive rules in games lies in the restrictions imposed on the means: "We may therefore define constitutive rules as rules which prohibit use of the most efficient means for reaching a prelusory goal" (Suits 2014a: 40). The other kind of rules in games—associated with lusory goals—is called the

[2] Suits entertains also but finally rejects a different terminology: "It is tempting to call what I have called the pre-lusory goal the goal in a game and the lusory goal the goal of a game, but the practice of philosophers like J.L. Austin has, I believe, sufficiently illustrated the hazards of trying to make propositions to carry a load of meaning which can much better be borne by adjectives and nouns" (Suits 2014b: 21). Part of this article was later used in *The Grasshopper*, however this remark has been removed by Suits.
[3] Suits (2006: 5) in the context of prelusory goal uses the term "isolating" (elements of playing games for examination).

rules of skill. In contrast to the proscriptive nature of constitutive rules, the rules of skill are instructions suggesting the most efficient way of achieving a prelusory goal. There is an interesting balance between these two types of rules: whilst constitutive rules proscribe the use of the most efficient means, rules of skills prescribe the most efficient means, however only within the frame defined by the constitutive rules. Games appear to be paradoxical activities, since they are governed by both, the principle of inefficiency: (its constitutive rules prohibit using the most efficient means of achieving the prelusory goal, making this type of activities different from technical activities), and by the principle of efficiency (rules of skill prompt using the most efficient—inside the legal area—means of achieving the lusory goal).

Finally, the last element of the analysis (and the definition of game-playing) deals with the reason for acceptance of the constitutive rules. In contrast to the extra-lusory activities, in which acceptance of rules limiting the most efficient ways of achieving the desired goal is imposed by some external force, in games—as they are voluntary activities—this acceptance flows from players' free decisions based on understanding that the acceptance of the rules is a necessary condition for the game to exist.[4] Suits calls this attitude *lusory attitude* and defines it as the "acceptance of constitutive rules just so the activity made possible by such acceptance can occur" (Suits 2014a: 43).[5] In other words, in games "the sole reason for accepting the limiting rule is to make possible such activity" (Suits 2014a: 72).

Suits' analysis culminates in the famous formula:

> To play a game is to attempt to achieve a specific state of affairs [prelusory goal], using only means permitted by rules [lusory means], where the rules prohibit use of more efficient in favour of less efficient means [constitutive rules], and where the rules are accepted just because they make possible such activity [lusory attitude] (Suits 2014a: 43).[6]

The formula presents a set of necessary and sufficient conditions of being a certain activity: *game playing,* and as such does not provide a definition of a *game* (as the product of this activity). The following definition paraphrases Suits' original definition into explicit definition whose definiendum contains only the term *games*:

[4] The acceptance of the rules as a necessary condition of there being a game has been recognized by Caillois (2001: 7) "The game is ruined by the nihilist who denounces the rules as absurd and conventional, who refuses to play because the game is meaningless".

[5] This formulation is not far away from Caillois' (2001: 29) psychological observation: "the pleasure experienced in solving a problem arbitrarily designed for this purpose also intervenes, so that reaching a solution has no other goal than personal satisfaction for its own sake".

[6] The definition of game playing was first presented in Suits 1967. Suits offers also an auto-ironic caricature of his own definition:"a game is when, although you can avoid doing something disagreeable without suffering any loss or inconvenience, you go ahead and do it anyway" (Suits 2014a: 56). This is one of many examples of sense of humour presented in *The Grasshopper*. The definition of game playing was first presented in Suits 1967.

> To put matters a little more precisely […] games are rule-governed activities in which (a) a participant pursues a prelusory goal, (b) using only those means permitted by the rules, (c) where those rules exclude more efficient in favor of less efficient means of realizing the prelusory goal, and (d) in which the participant accepts the limitations to make the activity possible (Berman 2013: 1).[7]

Constitutive rules appear in Suits' analysis together with the hypothesis of the means' inefficiency in games. From that point onwards, constitutive rules become one of the most important topics of Suits' investigations, and his account of constitutive rules in games seen as the limitations of permitted means to achieve an end is the most characteristic aspect of his theory.

4. Definition of Game-playing: Objections and Defences

The definition [mentioned above] seems plausible but also thought provoking, or rather objection-provoking, and has not gone unchallenged by Suits' critics.[8] However, the most interesting discussions have been presented by Suits himself. After presenting the above sketched construction of a definition (in Chapter III of *The Grasshopper*), Suits presented a series of attacks on the definition (launched by the aptly named ant Scepticus) and defences formulated by Suits' protagonist—Grasshopper. The main task of this discussion is to deepen the understanding of the definition by entertaining several objections of two kinds: 1) the definition is too narrow (error of exclusion) and 2) the definition is too broad (error of inclusion).[9]

Appendix one to Suits' book contains a different kind of objection, which deserves special attention: some activities (e.g. foot races) that satisfy Suits' definition of games are not even *called* games. From the viewpoint of analytical philosophy of language, Suits' response to this objection is one of the most important parts of this polemics. His analysis might be classified as a contribution to the philosophy of constructing definitions. Suits starts with the observation that Wittgenstein's question, whether all things *called* games have something in common, is very different from the question whether all things that *are* games have something in common. This leads to a distinction between things that are *called* games, and things that *are* games, and in consequence, to discussion of relationship between properties of *being called* a "game" from *being* a game.

Suits claims that Wittgenstein erroneously presumes that according to essentialists all things called by the same name have the same definition. According to Suits, the pattern of linguistic phenomena (naming) does not necessarily fit the pattern of definitions (being). This is because resemblance between things is based on the directly observable behavioural properties. To find a real differ-

[7] About some complication of such manipulation with the definition see Berman 2015: 1, 2.
[8] Perhaps the most surprising feature of the definition is that it does not mention competition, and this issue has been raised by King 2015. However, this objection might be rebutted by indicating how elements of the definition involve competition (cf. Vossen 2004). For defence of Wittgenstein see Ellis 2011.
[9] One objection (put forward by McBride 1979) uses Wittgenstein's own invention: game (or rather alleged game) "Sun Earth and Moon" (SEM) described in N. Malcolm's memoirs. Suits' response to this objection has been added to the second edition of *The Grasshopper* as "Appendix Two: Wittgenstein in the meadow" (Suits 2014a: 211-16).

ence between classes of things (to formulate a proper definition) one should take account not just of superficial properties, but also of some more fundamental features.[10] Suits' definition is an example of capturing such a hidden mechanism (in which constitutive rules play a crucial role) that lies behind the directly observable behavioural properties. On that ground Suits claims that a proper criterion for being a game is not being called a game (which might be misleading, as in the case of ring-ring-a-roses) but meeting the definition of game playing. Some activities, such as foot races, meet the definition, but are not called games. Our linguistic habits might be sometimes irregular, and thus the theory based on definitions should have the priority in taxonomy over the ordinary language.

5. Pre-lusory Goal in Chess, Double Function of Constitutive Rules and Lusory Institution

Suits belongs to the group of philosophers who pay special attention to chess as representing the functioning of constitutive rules. *The Grasshopper* introduces a chess-related analysis as a response to an objection against the notion of the pre-lusory goal. The objection states that the offered definition is too narrow, since it cannot capture games like chess. The objection might be structured as follows:

1: "the *prelusory* goal of a game […] can be described before, or independently of, any game of which it may be, or come to be, a part" (Suits' definition of prelusory goal);
2: "the end in chess is […] to place your pieces on the board in such an arrangement that the opponent's king is, in terms of the rules of chess, immobilized"[11] (Suits' definition of "prelusory" checkmate);
3: "alleged prelusory goal of chess is already saturated with rules and is therefore not a prelusory goal as defined" (consequence of 2);
Conclusion: since chess is undoubtedly a game and it does not satisfy the definition in question (because of the absence of the prelusory goal in chess), *the definition is too narrow*.

Suits' answer to this apparently convincing objection consists in indicating two different ways of functioning of constitutive rules in games. In the first way—called descriptive—the constitutive rules "are used to *describe* a state of affairs"—for example "it is necessary to refer to the rules of chess in describing checkmate" (Suits 2014a: 48). The descriptive use of constitutive rules creates "an *institution* of chess which can be distinguished from any individual game of chess". In the second way—called prescriptive—the constitutive rules are used to *prescribe* a procedure. It is thus possible to achieve a descriptive checkmate in chess without playing a *game* of chess. Now, the objection follows form the confusion of these two ways. Suits is arguing that in chess there is an end analytically dis-

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[10] To use the paradigmatic example: consider the expression *sunrise*. According to the modern astronomy, this phenomenon should be rather called 'earth-dip'. As this case clearly shows, wrong names often occur due to cultural lag (Suits 2014a: 202-203).
[11] Suits formulation is equivalent to the official FIDE definition: "The objective of each player is to place the opponent's king 'under attack' in such a way that the opponent has no legal move", *Laws of chess*, article 1.2.

tinct from winning, and that this end might be achieved without following the rules of chess.[12]

> Now, without going outside chess we may say that the means for bringing about this state of affairs consist in moving the chess pieces. The rules of chess, of course, state how the pieces may be moved; they distinguish between legal and illegal moves. Since the knight, for example, is permitted to move in only a highly restricted manner, it is clear that the permitted means for moving the knight are of less scope than the possible means for moving him. It should not be objected at this point that other means for moving the knight—e.g., along the diagonals—are not really possible on the grounds that such use of the knight would break a rule and thus not be a means to winning. For the present point is not that such use of the knight would be a means to winning, but that it would be a possible (though not permissible) way in which to move the knight so that he would, for example, come to occupy a square so that, according to the rules of chess, the king would be immobilized (Suits 2014a: 35).

The example shows the possibility of achieving the prelusory goal of chess without achieving its lusory goal. Of course a player who made such a move would not be, in a strict sense, playing chess, but would rather be cheating at chess. But the same situation occurs in all games and chess are games "because of an 'arbitrary' restriction of means permitted in pursuit of an end" (Suits 2014a: 36).

In the context of different ways of using constitutive rules pre-lusory goal of a game might be thus called "descriptive goal", whereas lusory goal of a game might be called "prescriptive goal". After these considerations we are in a position to supplement the original definition of prelusory goal in a way which will prevent it from this type of objection: a prelusory goal of a game can be described before, or independently of, any individual game *(understood as a prescriptive use of rules)* of which it may be, or come to be, a part, *but not necessarily independently of an institution of a game, defined by the descriptive use of the rules of the game.*

The status of chess and its goal is a recurring topic in Suits-related literature,[13] and in a defence of his position Suits took the opportunity to expand his definition of the institution of game (or the lusory institution):

> The institution of game *x* is a body of diverse meanings and practices that have in common the fact that all derive their being (that is, they are what they are) by being related, in one way or another, to game *x* (Suits 2006: 4).

The distinction between individual games and the institution of game is, according to Suits, presupposed by the identification of certain types of behaviour associated with playing games. A model attitude is a (genuine) player, who is trying to achieve a prelusory goal of the game obeying its constitutive rules. The

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[12] This distinction has been recognized by Żełaniec (2013: 148), who observed that official (FIDE) chess definition of winning is "neither extensionally nor intensionally the same as 'winning'. Had FIDE not expressly defined chess as a game, the 'placing the opponent's king' etc. could have been practiced in a non-game-like fashion, for instance, as a religious rite".

[13] Butcher, Schneider 1997 contains an attack on Suits' notion of prelusory goal in which chess is discussed; Vossen 2008, also, raises this issue.

remaining attitudes characterize rather *quasi*-players than genuine players. A cheat (who plays a special role in the problem of the so-called formalism—see below) wants to achieve a condition which is, descriptively, a condition of a goal, but he violates the rules of the game in his efforts to do so. A cheat operates within the institution of the game, because

> he violates the rules in their prescriptive application only because of his expectation that they will be observed in their descriptive application [...]. In terms of their dependence upon institutions, cheaters at games are precisely like liars in everyday life (Suits 2014a: 50).[14]

While cheating is a relatively frequent attitude towards the rules and goals in games, the opposite attitude—that of a trifler—is less known. Unlike the cheat (and a genuine player), the trifler is a player whose actions, although all legal, are not directed to achieving the goal of the game. He is not "playing to win", although he is not necessarily "playing to lose". The trifler only recognizes the rules (he is only using lusory means), but not the goal, and whilst he is operating within the institution of game, he is in fact not playing a game (Suits 2014a: 49-51).[15]

The case of the trifler is interesting because his behaviour proves that merely acting in accordance with the rules is not sufficient for playing a game (cf. Lorini 2012: 141-42). The trifler "lacks zeal in seeking to achieve the prelusory goal" (Suits 2014a: 50) of the game, but because he is not breaking any rule of the game, his behaviour might be properly characterized only on the meta-level. "Play to win" does not belong to the set of rules of the game, but perhaps might be characterized as a meta-rule.

6. Formalism and Logical Incompatibility Thesis

It is relatively common practise to break a rule during playing games. However, a question arises if a person breaking the rules (a "cheater") could really win the game, since winning is a part of playing, and playing presupposes obeying the rules. One might then ask, for example, if the goal scored illegally by Maradona and known as "the *hand* of God" was *really* a part of the game, whose rules forbid attackers to use *hands*? Suits' theory of game playing belongs to the family of theories called "formalism";[16] its roots might be find as early as in Huizinga: "The rules of a game are absolutely binding and allow no doubt [...] as soon as the rules are transgressed the whole play-world collapses" (Huizinga 1949: 11). According to Suits, "Rules in games thus seem to be in some sense inseparable from ends, for to break a game rule is to render impossible the attainment of an end" (Suits 2014a: 26). In technical actions is possible to break a rule without destroying the original end of the action (e.g. get to an appointment without obeying the traffic lights), but in games "If the rules are broken the original end becomes impossible of attainment, since one cannot (really) win the game unless

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[14] A similar example is used by Żełaniec 2013: 101 "when we move a bishop non-diagonally we offend against a rule of chess in quite a similar way as when we offend against a rule of human communication when we lie".

[15] The last type of quasi-players is spoilsport, who acknowledges neither rules nor goal.

[16] However, some philosophers argue that the concept of lusory attitude admits a different interpretation of Suits (cf. Frias 2016: 58).

one plays it, and one cannot (really) play the game unless one obeys the rules of the game (Suits 2014a: 26). The argument—central for formalism—is known as "logical incompatibility thesis" (Morgan 1987) since it is logically impossible at the same time to obey the rules (by the definition of game-playing) and not to obey the rules (by the definition of cheating).

Formalism emphasizes the problem of breaking a rule. The following remark by Suits compares consequences of breaking different kinds of rules in games: "To break a rule of skill is usually to fail, at least to that extent, to play the game well, but to break a constitutive rule is to fail (at least in that respect) to play the game at all" (Suits 2014a: 40). Because the rules of skills are instances of regulative rules, the remark allows the following formulation of a criterion to distinguish between a constitutive and non-constitutive (regulative) rule:

> *A given rule is a constitutive one (for a given activity) if and only if breaking this rule makes logically impossible attaining the end of this activity.*

On this ground the new rules introduced to games (or modifications of old rules) should be understood not as regulative, but rather constitutive rules. One might say that a rule modifying an already existing game (like, for example, the prohibition of catching the ball by the goalkeeper if the ball is passed by the player of his own team) satisfies Searle's definition of a regulative rule (it regulates an antecedently existing form of behaviour, activity whose existence is independent of the rule) (Searle 1964: 55). However, on the ground of the rule-breaking criterion, the rule is a constitutive one, and its violation is not just a mistake in the art, but it results (in a properly refereed game) in an immediate stopping of the game and imposing punishment. This criterion leads us to the question of game-status of some sport disciplines.

7. Games, Performative Sports and Constitutive Rules

The restrictive aspect of Suits' understanding of constitutive rules is clearly visible in the context of comparison between the two different types of sport activities distinguished by Suits. Originally Suits classified all sports as games (in his meaning of the term); *The Grasshopper* is full of examples of games that are at the same time sports: foot-races, boxing, high-jump, golf, badminton, hockey, baseball, football, car racing etc. However, later, Suits revised this view by claiming that some sports (like diving and gymnastics competitions) are not games in his meaning of the term, and calls this secondary group of sports "performances", "performative sports" or "judged events",[17] whereas the main group of sports being games (in his meaning of the term) called "refereed events" or simply "games". Suits does not deny the fact that sports which are not games are rule-governed, although the nature and way of functioning of the rules in the games and performative sports are very different. Reformulating the short version of his definition of games from *The Grasshopper*, Suits claims that the essence of games (and, obviously, all sports that are games) lies in "erecting artificial constraints just so those constraints can be overcome". In this type of activities constitutive rules are crucial, because they define which actions are legal, and breaking such a rule results in penalties imposed by referees. The nature of performative sports is quite different:

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[17] In the contemporary literature this group is called "judged sports" (see Hurka 2015).

> Now it may be objected that, contrary to what I have said, there clearly *are* rules that must be followed while actually engaged in performative sports. For example, the gymnast must not falter or stumble after dismounting from the parallel bars. It is perfectly permissible to call such a requirement a rule, but it is quite clear, I should think, that such rules are entirely different from, say, the offside rules in football and hockey offside rule is what has come to be called, by me and many others, a constitutive rule, while the standard of a clean dismount from the parallel bars is a rule of skill, or a tactical rule, or a rule of practice. […] Now, with the exception of what I have called pre-event rules (the steroid example), the rules to which the judges of performances address themselves are, I submit, rules of skill rather than constitutive rules (Suits 1988: 5-6).

The essence of performative sports lies in postulating ideals to be approximated, and the jury's task is to evaluate the proximity of a given performance to this ideal. In the course of the performative sport there are no constitutive rules (!) the breaking of which might be punished. The rules that define ideals evaluated by the jury (and which, also, create skills specific for a given performative sport) are, according to Suits, not constitutive rules, since they do not prescribe any behaviour. Obviously, every case of breaking such rules results in deducing the points by the jury, but it should be understood not as a failure at playing a sport at all (due to the logical incompatibility thesis), but only as a failure at playing good.

The distinction between games and performative sports clearly shows that Suits' account of constitutive rules is narrow: because the essence of these rules consists in imposing limitation, restriction or prohibition, they should rather be called constitutive-restrictive rules, constitutive-limitative rules, or constitutive-prohibitory rules.

8. Conclusion

Suits claims that Wittgenstein exhibits "idolatrous insensitivity to definitions" and classifies the idea responsible for this induced insensitivity using Bacon's idiom: the idol of family resemblance. Since a standard user of an ordinary language is a working essentialist, this idol cannot be classified as an idol of the Market Place, and thus it is called an Idol of Academy (Suits 2014a: 209). In contraposition to Wittgenstein Suits claims that games are definable, and that constitutive rules (in constitutive-restrictive sense) are a part of their definition. Even defenders of the Wittgenstein's "family" account of games must admit that his "look and see" method ignores highly probable candidates for essential features of all games, like being *goal directed*, *voluntary* (point emphasized by both Huizinga and Caillois), and—most importantly—*rule-constituted*, institution-based activities. The latter omission is especially surprising since Wittgenstein himself devoted a lot of considerations to the problem of relation between rules and games,[18] and his analogy between language games and "ludic" games seems to be based on the crucial function of rules in both elements of the analogy. Although Suits' account of games and constitutive rules might be not the "last word" in the field, it deserves a serious debate since it offers some important insights into the constitution of the ludic aspects of a social being. I believe that

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[18] Wittgenstein even used the term "constitute" in this context (cf. Conte 1998: 252).

Suits' definition of game playing does not only effectively challenge Wittgenstein's position on games, but also encourages a search for definitions in general, hence its significance goes beyond the boundaries of the philosophy of games.

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