



The European Union and sport



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The European Union and sport

Declaration by EU Sports Ministers: Public hearing with Commissioner Figel' on follow-up activities in the European Parliament

At a public hearing of the European Parliament on 26 March 2009, Ján Figel', the Commissioner competent for sport, fielded questions from MEPs. They focused on the following main areas:

- autonomy of sports federations
- marketing television rights,
- international transfer of minors under 18 years of age
- the WADA Anti-Doping Code
- the new study on FIFA's 6+5 rule
- licensing procedures in football
- effects of the Treaty of Lisbon on sport.



Ján Figel',
Commissioner
for Education, Training,
Culture and Youth

Concerning particular questions, such as federation licensing, antidoping or global player transfers, Figel' pointed to the competences of the international or European federations, which are already occupying themselves intensively with the different subject areas. Figel said that the Commission is interested in setting up licensing procedures based on principles such as self-regulation, sustainability and transparency. Assistance is required in the field of the global fight against doping, i.e. reinforced cooperation between EU Member States. He spoke out clearly against introducing a European anti-doping authority. With regard to the 6+5 rule and the study published by FIFA on this subject, Figel' mentioned the contradiction with applicable EU law, but at the same time indicated that the European Commission was involved in discussions of this point with

FIFA. Commissioner Figel' underlined the importance of structured dialogue with sports federations, Member States and other responsible decision-makers in sport. In view of the fact that there is no specific competence for sport, Figel' believes that the

Commission can take a mainly supportive role. Specific targeted initiatives, such as the physical activity guidelines referred to in the White Paper on Sport, are possible if the Treaty provides for the relevant competences (as it does in the field of health). Promoting "sport and health", said Figel', is one of the Commission's primary concerns. According to Figel', adopting the Treaty of Lisbon and thus accepting its Art. 165 on sport would not bring about any fundamental change in European sports policy, but it would at least be helpful in establishing an EU sports funding programme.

However, not only the Commission, but also the international sports movement is working on improving dialogue structures, said Figel'. "I was at the opening event of the EOC EU Office in Brussels and can assure you that an open and constructive dialogue is not only in our interest but is equally desired by sport." According to Figel', the office location near Rond Point Schuman, in the direct vicinity of the European institutions, underlines the importance international sport attaches to them.



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European Parliament adopts the Schaldemose Report on online gambling

At its meeting on 10 March 2009, the European Parliament adopted the report on the integrity of online gambling, thus calling on both the European Commission and the Member States to take further-reaching measures in this field. The report, compiled by the Danish Social Democratic MEP Christel Schaldemose, contains an explicit reference to sports issues, addressing in particular the protection of sports events from illegal gambling operators and the complex financing structure relating to sport resulting from the further development of the online sports gambling market.



Subjects given particular mention here are first and

Responsible for the report on online gambling: Christel Schaldemose, deputy from Denmark

foremost the intellectual property right and solidarity mechanisms between gambling operators and not-for-profit facilities such as those laid down in the inter-state agreement on gambling currently in place in Germany.

Above all, the European Parliament recalls in its statement that *"the protection of the integrity of sports events and competitions requires cooperation between sports rights owners, online betting operators and public authorities at national as well as EU and international level"* and further calls on *"Member States to ensure that sports competition organisers, betting operators and regulators cooperate on measures to tackle the risks related to illegal betting behaviour and match-fixing in sport"*. In

addition, the Member States are called upon by the European Parliament to create sustainable regulatory regimes to guarantee the integrity of sports events. In its report, the European Parliament also emphasises the fact that sports gambling is equivalent to the "commercial exploitation" of sports events and it recommends that the Member States for their part protect sports events from any unauthorised commercial interests and in particular that they guarantee the rights of the sports event organisers. At the same time, the Member States are called upon to uphold existing financial solidarity mechanisms between the gambling market and the different levels of national sport in order to guarantee the latter's continuing existence. In addition, the Commission is requested to evaluate the legal possibilities for giving sports organisers intellectual property rights to events.

Following the adoption of this report, the European Parliament does not plan any further initiatives relating to the subject of gambling in the coming months for the time being. However, at a conference held at the European Parliament on 3 March 2009, Italian MEP Mario Mauro proposed setting up a working group on gambling. It is likely that its composition could only be planned next autumn after the parliamentary elections in June. The report on the integrity of online gambling may be seen by clicking the following link:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2009-0064+0+DOC+XML+V0//EN#title3>



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European parliament: Public hearing on legal questions in sport

Provisions that fall in the field of responsibility of international sports federations often hold considerable potential for conflict with the European institutions, from the Bosman judgement and national quotas to questions of player transfer. The European Parliament addressed these questions in a public hearing held on 30 March 2009 entitled "Dispute resolution in the field of Sport".

The conflict lines were clear here from the start. On the one hand, since the Bosman judgement of 1995, professional footballers/sportsmen have been regarded as employees to whom the relevant freedom of employment rules of the European Single Market apply. On the other hand, the international sports federations point to their right deriving from the autonomy of sport to determine the rules for deploying players and for transfers.

Currently, FIFA's 6+5 rule is the subject of particular debate. It obliges a club team to begin every game with at least 6 domestic players who are eligible to play for the national team of the country in which the club is based.

While a recent study commissioned by FIFA confirms the rule's compatibility with applicable EU law, the European Commission points to applicable EU law and does not see any possibility to permit deviations from Article 39 TEU on account of the specificity of sport. Allow it to be remarked at this point that this question is not limited to football.

Other team sports, such as handball, basketball, volleyball and ice hockey are also considering limiting the proportion of "foreigners" to enable young local players to gain sufficient game practice.

FIFA received support for the 6+5 rule from MEP Toine Manders, who not only expressed his sympathy for the proposal,

but also called for a political solution as long as all interest groups, such as clubs, players, leagues and federations support this proposal.



Alessandro Costacurta (AC Milan) at the European Parliament



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EU policy matters

Europe's handball clubs take legal action for more rights

On 1 April 2009, the top handball clubs in the Group Club Handball (GCH) lodged a legal complaint with the European Commission in order to achieve more co-determination rights in planning, organising and marketing handball.

The 42-page legal complaint submitted by the well-known Liège sports lawyer Jean-Louis Dupont is targeted directly against the European Handball Federation (EHF) and the International Handball Federation (IHF). We recall that Dupont was also involved in the decisive legal actions in the Bosman and Meca-Medina cases.



Foto: CNO SF

With reference to Articles 81 and 82 TEU on European competition and cartel law, the clubs accuse the federations of "abusing a dominant position", which would be incompatible with European law.

There are three specific demands:

- compensation payments for the release of club players for national team duty
- co-determination in deciding the international calendar of events
- organisation of European/international club competitions with the clubs' central coordination

In addition, the right of clubs to lay down their own laws and possibilities for sanction is called into question.

Although the clubs' proceedings is quite reminiscent of the Charleroi case, when the

top European football clubs recovered what were in the end out-of-court compensation payments from UEFA, the handball clubs' complaint goes further, as they aim to sue for co-determination in the entire organisation of the sport including in the distribution of the profits and the independent organisation of competitions.

Ultimately, the autonomy of the sports federations, i.e. the pyramid structure of sport, is on the line. If Competition Commissioner Neelie Kroes agrees with the clubs' concern, that would have massive repercussions on the relation of powers between the clubs and the federations and would certainly also have an influence on the organisational structure of other sports.

The possible proceedings:

1. First, it should be determined that this is not a lawsuit, but a complaint. In 99 per cent of complaints, the Commission does not even enter into a material examination of the case but states that there is a lack of Community interest, which may be substantiated in a number of ways:



Commissioner for Competition:
Neelie Kroes



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- trade between Member States is not impeded
 - the cost of the examination is disproportionate to the likely result
 - national authorities are more suitable for carrying out the examination
2. In this case, too, much suggests that the Commission will take this path. According to statements from the DG Competition, an examination could drag on for a number of years, considerably raising the pressure to reach and out-of-court settlement. If the Commission finds that there is a "lack of Community
- interest", an appeal may be lodged directly with the Court of First Instance in Luxembourg.
3. In the Commission's application of the competition law, it is not Member States that are the exclusive addressees of the decisions, but the defendants themselves (generally undertakings) – an exception to usual practice. The defendant's headquarters may quite possibly be located outside the Union as the significant place is the place where the competition rules were violated.

European Commission publishes sports financing study

The European Commission (EC) published an invitation to tender for a "Study on Internal Market Barriers to Sport Funding" on 14 March 2009.

This study is to analyse a number of internal market policies that have a direct influence on the way in which sport is financed throughout the EU, whereby there is a special focus on grass-roots sports, which are most heavily dependent on public support.

The main question of interest in this connection is how the free movement of services, for example when applied to cross-border sponsorship, might be undermined or even eliminated by free media services or Europe-wide gambling services, which dominate public sports financing.

In addition, the study is intended to look across the whole spectrum of sources of funding, including direct and indirect financial flows between professional and grass-roots sport through the solidarity mechanisms. It will then analyse the different national regulatory aspects that could give rise to internal market barriers.

The maximum value of the contract is EUR 400,000 and the duration of the contract may not exceed 14 months.

The deadline for receipt of tenders is 30 April 2009.

Notes:



EU Commission: Call for a Study on Internal Market Barriers on Sport Funding



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The implementation of this study is based on item 37 of the Pierre de Coubertin Action Plan annexed to the EU White Paper on Sport:

(37) "As a contribution to the reflection on the financing of sport, the Commission will carry out an independent study on the financing of grassroots sport and sport for all in the Member States from both public and private sources, and on the

impact of ongoing changes in that area."

Further informationen:

http://ec.europa.eu/sport/news/news722_en.htm

Study: Reduced value added tax rate for sports clubs

Should sports clubs throughout Europe benefit from a reduced VAT rate as they do currently under the German turnover tax law? In an online poll conducted by the European Commission between March and May 2008, interested European citizens were able to express their views on these and similar questions regarding a future European provision for the reduced VAT rate.

Thanks to the many participants from 21 European countries, it was possible to establish that there is a wish throughout Europe to maintain a provision enabling not-for-profit clubs to have tax breaks.

Further information:

http://ec.europa.eu/taxation_customs/comm/consultations/tax/article_4850_en.htm

European Commission: Easier access to project funding

The international finance crisis is also occupying the European Commission. In response to the global recession, Danuta Hübner, Commissioner for Regional Policy, published a list of activities at the end of 2008 aimed at simplifying access to European project funds.



This plan provides for increasing the total amount of investment by € 6.25 billion for the Member States from 2007 to 2013, extending the application period for EU projects until 30 June 2009 and reforming project administration structures. This is

intended to enable as many regional applicants as possible to benefit from the planned measures and to have a direct positive effect on the development of the regional economy. Sports projects may benefit in combination with other areas, such as tourism, possibly also from Structural Fund grants. The Commission's reform proposals are currently under review by the European Parliament and are likely to be



Danuta Hübner:
Commissioner for
Regional policy



EU Office

Monthly report



March 2009

adopted at the plenary session taking place
on 1 April 2009

Further information:

http://ec.europa.eu/regional_policy/funds/recovery/index_en.htm





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Funding programmes

All About EVE – New online platform on EU projects

Ján Figel', Commissioner for Youth, Education, Culture and Sport, launched the first online information portal for EU-financed projects on 2 March 2009. In future, interested citizens will



be able to use EVE (Espace virtuell d'Echange) free of charge to find out everything they ever wanted to know about

EU projects in the fields of education, culture, youth and civic involvement. The publication of project websites, learning material, participants' reports and information on new European partnerships is to give those responsible the possibility to learn from existing successful concepts. The objective here is not only to help EU projects to gain new transparency, but first and foremost to motivate the organisers to form new, virtual networks with participants from all EU countries.

Further information:
EVE-Platform: <http://ec.europa.eu/eve>

Youth in Action: New call for project proposals

On 2 April 2009, the European Commission published the Youth in Action programme, a new call for project cooperation with third countries, i.e. primarily with partner countries from Latin America, Africa and Asia.

Not-for-profit organisations working in the field of youth, such as sports clubs, may apply as the project's executing agency. These should be based in European Union states. The condition for project funding, however, is that the project has a multinational approach, i.e. that partners from at least **four** different countries, including at least **two** EU countries and **two** partner countries have to be involved.

The aim of the Youth in Action programme, which runs from 2007 to 2013 is "to inspire a sense of active European citizenship, solidarity and tolerance among young Europeans and to involve them in shaping the Union's future". The programme therefore promotes the mobility of young people within the EU and beyond its borders, as does this project.



The following deadlines apply to the above Ausschreibung:

- **Application deadline:** 1 June 2009 (data of postmark applies)



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- **Period:** The projects must begin between 1 November 2009 and 31 December 2009.
- **Project duration:** a minimum of 6 months and a maximum of 12 months.

Contact:

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Further information:

http://eacea.ec.europa.eu/youth/funding/2009/call_action_3_2_en.php

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