



European Union and Sport

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State aids reform on block exemptions: sport included as a new sector

The new European Regulation approved by the EU Council on July 22, 2013, introduced new categories of aid which may be exempted by the European Commission from the obligation of prior notification ("exemptions").

In concrete terms, it will ease the sectors identified with less paperwork and administrative burdens and will allow the European Commission to focus on the most relevant competition cases.

Among these categories, in addition to sport, the EU has identified aid for innovation, culture, natural disasters, certain broadband infrastructure, other infrastructure, social aid for transport to remote regions and aid for certain issues related to agriculture, forestry and fisheries.

According to the European Commission (see press release), these categories only target those areas where the Commission has acquired a solid case experience and which have a limited potential of distorting competition. The European Commission will now be able to adopt regulations defining the criteria according to which aid emanating from these categories can be exempted from notification.

Nevertheless the reform will not exempt sport from the general scope of the EU rules on state aid!

With regard to sport, the new Regulation No 733/2013 of 22/07/2013 recalls that: (*recital 11*) "*In the sports sector, in particular in the*

field of amateur sport, a number of measures taken by Member States might not constitute aid because they do not fulfil all the criteria of Article 107(1) of the TFEU, for example because the beneficiary does not carry out an economic activity, or because there is no effect on trade between Member States. However, to the extent that measures in the field of sports do constitute State aid, within the meaning of Article 107(1) of the TFEU, Member States are currently required to notify them to the Commission. State aid measures for sport, in particular those in the field of amateur sport or those that are small-scale, often have limited effects on trade between Member States and do not create serious distortions of competition. The amounts granted are typically also limited".

This new regulation therefore is a significant recognition of the specificity of sport, considering that sport is not an economic activity like any other - a decision in line with Article 165 of the Treaty on the Functioning of the EU. This exemption will certainly be appreciated by sports players and local authorities across Europe; many aids in the sport sector could match in theory the new procedures that will be implemented by the services of the Directorate General for Competition from now on.

Further information:

[Press release of the European Commission IP/13/728 from 23 July 2013](#)
[New EU Regulation n°733/2013 from 22 July 2013](#)



Agreement on the European Regional Development Fund (ERDF) draws nearer

Although a final agreement on the European Regional Development Fund has yet to be reached, important steps have been taken over the past months. With the start of the next multi-annual financial framework 2014-2020 drawing closer, a single reading seems necessary. The final adoption of the Regulation could therefore be within sight.

Decisions over recent months

After an extensive period of Trilogue discussions between the Commission, the Parliament and the Council, an inter-institutional agreement has finally been reached in the beginning of June 2013. Consequently, the responsible Committee of the European Parliament (Committee on Regional Development (REGI)) has voted the outcome of the Trilogue negotiations during its session on July 10, 2013. The text of the Trilogue, including a limited number of amendments, has been approved by 42 votes in favour, 4 abstentions and no votes against.

Situation for eligibility sport project

Although the Trilogue text, as approved by the REGI Committee on July 10, 2013 is still subject to changes, the situation for the eligibility of sport project seems rather clear and in many ways comparable to the situation under the current financial framework 2007-2013.

To be more precise, it seems that sport has not explicitly been mentioned in the

Regulation, but that small-scale infrastructure in **recreational services** has been accepted. Following the explanation of the European Commission (DG Regional Policy (DG REGIO)), no clear definition of this term exists **but sport projects could definitely fall within this scope.**

However, potential funding will depend on the willingness of the implementing managing authorities and on the share of available resources. The situation between Member States (MS) will differ largely since a considerable number of MS will have to cope with substantial cuts, where others like Croatia (nearly 9 Billion EUR) will have full access to the funding programmes for the first time compared to the previous financial period. In addition to that, in some Member States, a certain share of investments is mandatory (in field of research, support for small and medium enterprises, energy saving ...), thereby limiting the flexibility of regions to invest in other policy fields.

Further procedure

The report, adopted by the REGI Committee, will now most likely be voted during the plenary session of the European Parliament in October 2013. Meanwhile, the negotiating team of the Parliament remains in contact with the Council (the mandate for the negotiating team has been updated on July 10, 2013) and will enter into discussion should it be necessary in the run-up of the plenary session.

Council Expert Group on Doping

Two topics have been discussed at the meeting of the Council Working Group on

Doping that took place on July 1, 2013.

1. A discussion on the 4th EU contribution

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to the revision of the World Anti-Doping Code and to the International Standards

2. Preparation of a draft proposal regarding EU recommendations in the field of combating doping in recreational sport

After the introduction of Yves le Losteque as new Head of the Sport Unit, Rune Anderson (Director WADA) provided a comprehensive overview on the major changes to the Code and referred to the positive legal note of Judge Jean Paul Costa, former President of the European Court of Human Rights in Strasbourg on the compatibility of the Code with existing human rights provisions. Among others, Andersen highlighted the introduction of a four years ban, the better use of intelligence leading to a new name: "International Standard for testing and investigation" and more smart and specific testing."

Representing the IOC Athletes Commission, Claudia Bokel gave full support for the introduction of the four years ban. From the perspective of clean athletes she backed the WADA proposal on public disclosure in order

to benefit from its deterrent effect. She would even be in favour of night testing if this would be the last piece of a long chain of investigations.

The bulk of Member States acknowledged the progress being made on the revision of the Code. In the field of public disclosure, the Member States are now asked to come up with concrete proposals on best practice in order to overcome the challenges due to their different legal provisions.

On July 22, 2013, the EU Council approved the text of a fourth EU contribution to the revision of the World Anti-Doping Code and authorised the Lithuanian Presidency to submit it to the World Anti-Doping Agency.

Furthermore the Expert Group discussed the progress made by the ad-hoc Group of Experts on "Recommendations in the field of combating Doping in Recreational Sport". The draft proposal will be discussed and adopted in autumn in the next meeting of the Council Expert Group.

Further information:

[Fourth EU contribution on the revision of the WADA Code](#)

Council Expert Group discusses principles of Good Governance in sport

On July 17 and 18, 2013, the Council Expert Group on Good Governance (XG GG) met for the sixth time in Brussels. The topics on the agenda were:

1. Principles of Good Governance in sport (July 17)
2. Supervision of sports agents and transfers of players (July 18)

Principles of Good Governance in sport

The meeting on July 17, chaired by Darren Bailey, was attended by the Representatives of 17 Member States and a number of sport organisations who acted as observers. The

EU projects on Good Governance, financed under the Preparatory Actions in the field of sport 2011, were also invited to attend the meeting. The Sport 4 Good Governance (S4GG) project, managed by the EOC EU Office, was among the participating projects.

At the start of the meeting, the projects of Good Governance were asked to present the main outcomes and findings of their activities. The S4GG Project was presented by Matthias Van Baelen. Additionally, the Commission had asked the different projects to contribute to the annex of the second deliverable "Principles of Good Governance

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in sport” by listing facts, data and good practice examples.

Subsequently, the main text of this second deliverable was at the core of the discussion between Member States and observers. In general, the different principles of the deliverable are in line with the Basic Universal Principles of Good Governance of the International Olympic Committee (IOC). However, it was agreed that the application of a flexible, pragmatic and proportionate approach is crucial when implementing these EU principles.

One point where clarification is essential is the follow-up of the principles and the related role of the European Union. Although it was clearly mentioned that: “*autonomous self-regulation by the sport movement remains the best option*”, the document explains that the role of the EU should consist in encouraging compliance with these principles. A wide range of possible steps are

listed, from providing European funding for additional Good Governance projects (e.g. under the Erasmus+ programme) over monitoring and benchmarking activities to more severe measures such as making EU and/or national funding conditional to the compliance with the Good Governance principles.

Further procedure

During the afternoon session, the Member States discussed the document without the observers. Once adopted, the second deliverable will be submitted to the Council Working Party on Sport. Although they are free to choose what to do with it, it is likely that the document will result in Council conclusions. The Lithuanian Presidency also announced that Good Governance will be the subject of a policy debate at the formal Sports Council meeting in November 2013.

Court of Justice dismisses appeal by FIFA and UEFA concerning television broadcast World Cup and EURO

On July 18, 2013, the Court of Justice of the European Union (CJEU) dismissed the appeal brought by FIFA and UEFA against the judgments of the General Court on television broadcasts of the football tournaments: FIFA World Cup and the European football championship (EURO).

Background of the appeal

Following the Directive concerning the pursuit of television broadcasting activities, Member States are authorised to draw up a list of events of major importance for the general public. Events on this list would then be prohibited from exclusive broadcasting within that Member State. In this regard, a Member State can prevent a situation where a substantial part of the public would be

deprived of the possibility to follow certain events on free television. Consequently, this list has to be approved by the Commission, who decides on the compatibility with European Union law.

In this particular case, Belgium (BE) and the United Kingdom (UK) decided to include the final stage of the FIFA World Cup (both BE and UK) and the UEFA EURO (only UK) in their respective lists. The Commission, in deciding that the lists were in line with European Union law, approved these decisions.

FIFA and UEFA decided to challenge this decision of the Commission before the General Court. The football associations were of the opinion that not all the matches



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could be considered events of major importance for the general public, but this opinion was dismissed by the General Court. This decision by the General Court resulted in appeals by FIFA and UEFA before the CJEU. It is with regard to these appeals that the Court of Justice had to take a decision.

Reasoning of the Court of Justice

The CJEU clarified the role of the Member States and of the Commission by noting that it was up to the Member States alone to determine the events which are of major importance and that the role of the Commission is limited to examining the effects on the freedoms and rights recognised under European Union law. Moreover, the CJEU stated that obstacles to the freedom of providing services, the freedom of establishment, the freedom of competition and the right of property are justified by the objective of protecting the right to information and ensuring wide public access to television coverage of those events.

Secondly, the CJEU noted that not all matches of the final stage of the tournaments are of equal importance to the general public and that it is up to the Member States to communicate the reasons justifying the inclusion of the final stage in its entirety as a single event of major importance.

And finally, the CJEU noted that “*where the effects of such a designation on the freedom to provide services, the freedom of competition and the right to property do not go beyond those which are intrinsically linked to the classification of the event concerned as being of major importance, it is not necessary to provide specific grounds for concluding that it is compatible with European Union law*”.

Decision of the Court of Justice

In this particular case, the General Court had already concluded that all matches of both tournaments received sufficient attention from the public in both Member States to consider it part of an event of major importance. Moreover, the CJEU noted that errors (related to the communication of reasons for designating events as events of major importance) did not have any impact in this case. Combined with the fact that it has not been shown that the effects of the designation of the final stage of the World Cup and the EURO by BE and UK on the freedoms and rights recognised by European Union law were excessive, the Court dismissed the appeals brought by FIFA and UEFA in their entirety.

Further information:

[Press release CJEU 18/07/2013](#)

The European Court of Justice rejects the appeal by the former tennis player Guillermo Canas

The Court of Justice of the EU (CJEU) published on June 20, 2013, a judgment in a case involving the former Argentinean tennis player Guillermo Canas, against the European Commission, the World Anti-Doping Agency (WADA) and ATP Tour (Case C-269/12).

This judgment, pronounced by the 4th Chamber of the CJEU, does not bring new jurisprudence concerning the application of EU law to sport and the fight against doping in particular: in fact, the CJEU did not have the opportunity to further analyze the compatibility of the sanctions taken against Mr Canas (suspension for doping in 2005),

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considering his appeal from a judgment from the Court of Instance of the EU (March 26, 2012), in part inadmissible and unfounded.

This judgment seems to end a long and tortuous legal path which lasted more than eight years, during which the player and his advisers tried everything: as a starting point, Mr Canas tested positive in a doping control carried out during the tournament of Acapulco, Mexico, on February 21, 2005. Suspended for two years by the ATP in August 2005, the player has seen the sanction reduced by the Court of Arbitration of Sport to 15 months. He retired from the professional circuit in 2010. In June 2007, after having challenged the CAS decision before the Swiss jurisdictions, the player brought a new complaint to the European Commission (DG Competition), which was based on a breach of European competition

law. The European Commission rejected the complaint on July 16, 2008, considering that this case did not have sufficient "Community interest", in terms of competition law. On December 22, 2009, the player lodged an appeal of that decision to the Court of First Instance of the EU. The latter rejected on March 26, 2012 the arguments of the complainant, which appealed again before the CJEU and was once again rejected.

The most resounding judgment of the CJEU on the fight against doping was published in 2006, known as the "Meca-Medina case" (David Meca-Medina and Igor Majcen against European Commission, Case C-519/04, judgment of 18/07/2006).

Further information:

[European Court of Justice website](#)

Funding programmes, studies and projects

European Commission publishes call for tender for study on doping prevention

In August 2013, the European Commission, Directorate-General for Education and Culture, Youth and Sport Directorate, published a call for tenders for a study on doping prevention. **Deadline is 27 September 2013.**

The study has the following objectives:

- **to map, describe and analyse** existing approaches to doping prevention in recreational sports, the extent that theory and practice can be ascertained from literature and to show how findings differ from one EU Member State to another;
- **to map, describe and analyse** the differences between Member States' legal, administrative and political arrangements governing the fight against doping (including the status, role and autonomy of sports organisations and the presence or absence of anti-doping laws) and efforts currently undertaken to
- **to map, describe and analyse** the extent to which national anti-doping organisations (NADOs) are involved in doping prevention in recreational sports, highlighting the links (or absence of links) between NADOs and other organisations involved in prevention work;

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promote doping prevention in recreational sports;

- **to put forward proposals and recommendations** regarding doping prevention in recreational sports, how these could usefully be promoted via initiatives taken at EU level, bearing in mind the distribution of powers, roles and resources between the EU,

Member States, the sport movement and other potentially relevant actors.

Further information:

The official invitation for tender can be found [here](#). More information is available on the [website of the Sport Unit](#) of the European Commission.

European Commission publishes study on a possible sport monitoring function in the EU

The European Commission has recently published the final report of a study on a possible sport monitoring function in the EU. The study was launched in 2011 and conducted by a consortium composed of the W.J.H. Mulier Institute, the Sheffield Hallam University, the K.U. Leuven and TNO.

The goal of the study is to increase knowledge on main existing data collection processes and networks in the areas of sport and health, societal aspects of sport and the economic dimension of sport. The aim is to be able to analyze trends, collect data, interpret statistics, facilitate research, launch surveys and studies, and promote exchange of information. The final study results were first presented to the EU Council Expert Group on Sport Statistics and feed into the Group's report to the Council Working Party on Sport.

The report shows a lack of exchange between EU Member States on national trends and good practices in the three

mentioned fields (health, societal aspects and economic dimension), despite much data being collected. The overall recommendation of the consortium was that an EU sport monitoring function would give a better overview of developments in the field and use the data more effectively to influence sport policy. The researchers recommend that the EU could be very helpful in coordinating and in ensuring the exchange between different countries. The consortium agreed and stressed that national governments should understand more about their own data when they compared it with other countries. It was important to find common ground as well as to exchange best practices.

Further information:

The study on possible sport monitoring function in the EU is available on the website of the Sport Unit of the European Commission: http://ec.europa.eu/sport/news/20130730-study-sport-monitoring_en.htm



Internal and visits

Commissioner Vassiliou meets with CNOSF President Masseglia

On July 16, 2013, Denis Masseglia, French NOC president, met Androulla Vassiliou, Member of the European Commission responsible for Education, Culture, Multilingualism, Youth and Sport in Brussels.

At the heart of the exchanges were the future of sport in the European Union and the connection between health and sport - which will be a prominent part of the weekly event "Sentez-vous sport" - coordinated this year by the CNOSF and will take place across the territory between September 14 and 22.

Commissioner Vassiliou will be present in Paris on September 19, 2013, in order to participate in the event, along with its services, as she also confirmed on social networks shortly after meeting with Denis Masseglia: *"Interesting ideas regarding our proposed European Week of Sport from the French 'Sentez-vous sport'. I'll try to experience this in Sept"*.



Campaign « Sentez-vous Sport » 2013



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Brussels, July 16, 2013.
Denis Masseglia, president of the French NOC (CNOSF), and Androulla Vassiliou, European Commissioner

The EU pays particular attention to this French event in view of the future launch of a European week of sport as of 2015.

Further information:

[French NOC website \(CNOSF\)](#)
[Website « Sentez-vous Sport »](#)



Dates in September

5-6	ENGSO ExCom, Stockholm, Sweden
7-10	IOC General Assembly, Buenos Aires, Argentina
17	EOC Commission Youth and Sport for all, London, UK
14-22	« Sentez-vous sport » week, Paris, France
21	EOC ExCom, Nicosia, Cyprus
22	Olympic Sunday BOIC, Brussels
27	DOSB Women in Sport Congress, Düsseldorf, Germany
30/09-01/10	EU Sport Forum, Vilnius, Lithuania

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