

EOC

Liaison Office at the European Union



**Report on the impact of the activities
of the European Union
on sports**

August / September 2003



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General policy

1st Referenda in Estonia and Latvia on joining the EU

In the referenda in Estonia and Latvia, a clear majority declared itself in favour, in each case, of joining the EU from 1st May 2004.

On 14th September 2003, Estonia took a vote on membership of the EU. With a turnout of 63 % of citizens entitled to vote, 66% came out in favour of joining, with 33% against. The positive outcome of the referendum is not legally binding on the Estonian Parliament, although no other vote is expected.

In Latvia on 20th September, 67% voted in favour of and 32 % against joining. The turnout was 72 %. This vote is binding on the Latvian Parliament.

This concludes all the referenda of the accession countries. Only Cyprus did not provide for a plebiscite.

2nd New agreement on freedom of movement

The European Competition Council came to an understanding on 22nd September regarding a widening of EU residency regulations for EU citizens and the following measures:

- eliminating bureaucracy with regard to residence permits
- introduction of a permanent right of residence



- a better integration in the national insurance system for people who have been resident for many years, and
- better cover for family members (irrespective of possible third country nationality).

As previously, it should remain possible to stay in another EU State for three months without any need to register. Only in the case of a longer stay is registration to be compulsory. For this, however, in addition to proof of existing health insurance, the requirement of the ability of the applicant to support him/herself as well as the family still applies.

A reform lies in the planned right to permanent residence. This states that, provided he/she has lived in another Member State for five years, every citizen of the Union can now be deported on “compelling grounds” only (such as crimes with a terrorist background). This right of permanent residence also encompasses claims to employers’ contributions.

The agreement arrived at now requires only the approval of the European Parliament.



Sport

News from the institutions

3rd Government conference Meeting of the Sports Ministers in Florence

From 4th October 2003, the Government conference with Heads of Government (3 appointments) and Foreign Ministers (4 meetings) and two representatives of the European Parliament will discuss the result of the Assembly and conclude the constitutional treaty. It remains to be seen, whether the draft presented by the Assembly will be accepted in its entirety or the package will be undone again in order to renegotiate individual issues. Sport found its way into the draft treaty and is dealt with in Articles I-16 and III-182. (See MR June 2003)

The role of sport in the draft constitution was also one of the subjects of the meeting of EU Sports Ministers and of the 10 candidates for membership held on 2nd and 3rd October in Artimino near Florence. Alongside the Italian Minister for Culture Giuliano Urbani, who acted as host on behalf of the Council Presidency, and Italian Secretary for Sports Mario Pescante, the responsible Commissioner Viviane Reding also took part in the meeting. In addition to the draft constitution, the agenda also included the following subjects:



- the ethics and values of sport,
- the fight against doping in all spheres (i.e. including among youth and amateur athletes),
- cooperation with developing countries in the field of sport
- and issues relating to EU expansion.

Legal questions

4th Russia Agreement – consequences for professional footballers

A Spanish Administrative Court has asked the European Court of Justice for a preliminary ruling on the compatibility of the EC and Russian Federation agreement on partnership and cooperation with a regulation of the Spanish football association. The provision states that, in matches at national level, clubs can use only a limited number of players from third countries which are not part of the European Economic Area.

Art. 23 of the Russia Agreement assures Russian workers employed legally in the Community treatment equal to that of Community citizens with respect to working conditions, pay and notice. Previously the Court of Justice had, in the case of the Slovak Kolpak, extended its Bosman precedents, which applied only



to Community citizens, to citizens of States associated with the Community. The Kolpak verdict involved a requirement similar to Art. 23 in terms of content. The CoJEC saw any restriction on the use of citizens of associated States as discrimination and therefore inadmissible. The difference with the Kolpak case consists of the fact that the agreement with the Slovak Republic is geared towards accession to the Community. The CoJEC had also referred to this circumstance in arguing the case in its verdict. The Russia Agreement, on the other hand, is not geared towards accession but is intended only to establish a partnership.

The verdict is eagerly anticipated as the situation is comparable to the one that occurred because of a dispute about the interpretation of Art. 13 III of the Cotonou Agreement, which came into force on 1st April 2003. The Cotonou Agreement was concluded by the Community with 77 States of Africa, the Caribbean and the Pacific (ACP) and, like the Russian Agreement, provides for equal treatment with regard to the aforementioned working conditions.

The pending lawsuit is founded on a complaint by the Russian footballer Igor Simutenkov, who, from 2000 to 2002, played for the Spanish Club CD Tenerife and subsequently transferred to the Kansas City Wizards.



5th Portuguese legislation on gambling

On September 11th , 2003 the Court has decided that Portuguese legislation concerning gambling is compatible with Community law. A preliminary ruling gave the Court the occasion to rule about the Portuguese law that reserves the exploitation and operation of games of chance or gambling to the State and authorises such exploitation and operation only in areas provided by the law, that is to say in casinos which hold a public licence.

A Portuguese association of gaming machine operators (Anomar) brought an action against these norms.

First, the Court rules that Games of chance and gambling constitute economic activities within the meaning of “services” in terms of the EC Treaty. Next, it describes that the Portuguese legislation impedes the freedom to provide services. But that limitation is justified by overriding public-interest reasons. The Court uses an overall view of the overriding public-interest reasons such as the protection of consumers, prevention of fraud and crime, protection of public morality and the financing of public-interest activities (and thus also for sport).

Due to the lack of legal harmonisation the Court reconfirms the administrative



discretion on the level of protection regarding games of chance. Therefore, the judgement gives a free choice of methods for organising and controlling the operation and playing of games of chance or gambling to the Member States.

6th Tobacco advertising ban: Nürburgring-GmbH and Federal Government sue

Both Nürburgring-GmbH and the Federal Government are taking recourse to the CoJEC against the planned EU-wide tobacco advertising ban. Against German and British resistance, it had been decided in December 2002 to ban cigarette advertising, as from August 2005, in newspapers and magazines, and on radio and the Internet. This ban also then applies to sports events. The International Automobile Federation FIA had, beforehand, argued for not introducing a uniform tobacco advertising ban until the end of 2006.

Nürburgring-GmbH cites, in particular, economic reasons. It fears that, in the long term, no more Grand Prix races will be held on the track in the Eifel.

As the Federal Government sees it, the Community has exceeded its area of competence. Moreover, the Community's basic rights of freedom of the press and of speech were violated. Not quite three years ago, Germany had been successful with proceedings before the CoJEC against an initial draft regarding the ban on tobacco advertising.



7th Competition–distorting State aid for Italian football

The decree–law passed in Italy in February 2003, according to which indebted football clubs can write off their debts incurred by expensive player purchases over a period of 10 years, is soon to be the subject of formal Commission proceedings. (See also MR 02/2003).

EU Commissioner for Competition Mario Monti had ordered these proceedings as there is a strong suspicion that the tax relief achieved in this way should be classed as competition–distorting State aid. What is more, the decree contravenes the 4th Directive on Public Accounting. In accordance with Article 88 EC Reg., the Italian authorities have, for the present, been set a deadline for comment. If the suspicion is confirmed, the Italian Government will have to repeal the decree. This would put several licences of first division clubs at risk as the clubs would have to relinquish a tax saving of more than 1 thousand million EUR in the next ten years.

8th New Bathing Water Directive in 1st reading in Parliament

The amendments to the Commission proposal for a new directive on the quality of bathing water are currently under discussion in the Environmental Com–



mittee of the European Parliament.

In addition to better health standards, a more efficient management, with public involvement and more flexibility in the implementation of the directive, a widening of the directive to water sports is also under discussion.

According to the proposal, inshore waters exclusively used for water sports would then also have to be of the same quality as bathing water. Appropriate checks to ensure water quality would be necessary.

Many water sports associations take an extremely critical view of this part of the proposed directive.

The French and the German Water Sports Commissions have provided a position statement on this subject, in which they set out their arguments against the inclusion of water sports. On the side of the associations, it is argued that checks of that kind are hardly feasible given the multitude of inshore waters and waterways to be supervised. Furthermore, water quality in the EU Member States has continually risen in the last few years so that a high level of protection for people practising water sports is already ensured. A widening of the directive would run counter to the endeavours of the Member States to promote water sports tourism, as it is to be feared that it could lead to the prevention of water sports in some areas.

The water sports associations expressly back the Commission proposal for



better public information about inshore waters under threat to make it easier for those practising water sports to choose a suitable area.

In the 1st reading on 21st October 2003, the European Parliament will take a vote on the proposed amendments to the Bathing Water Directive. Then, within the framework of the joint decision-making procedure, the Council adopts the joint standpoint. The final version of the Directive is to be adopted this year still. The EU Office will report on the further course of the procedure.

9th EuC- repayment of financial assistance



On September 17th, 2003 the Court of First Instance has confirmed a Commission's decision ordering repayment of 31.911,11 DM (= 16.315,89 €). The Commission granted the Stadtsportverband (a group of sporting associations from the municipality of Neuss) a financial assistance of ECU 20.000 to finance an international sporting event that took place in Neuss in May 1994. The decision to grant underlined that the use of Community funds was to be dedicated only to carry out the project. In addition to that the Stadtsportverband agreed to the condition that the financial aid could not in any event result in a profit. Due to some confusion after the event, like financial operations between



the Stadtsportverband, some sponsors, the municipality of Neuss and the Kreis Neuss (the district of Neuss), the Commission concluded that the financial aid has not been used in conformity with the conditions of the decision to grant. Therefore, on April 9th, 2001, the Commission ordered the repayment of 31.911,11 DM (= 16.315,89 €). The Stadtsportverband, however, brought an action against the Commission's decision in order to annul the contested decision.

The Court of First Instance dismissed the application and pointed out some general statements which should be attended by every recipient of subsidy:

A public interest association cannot escape his obligation to avoid a profit simply by relying on the inconsistency between its status as a public interest association and the making of profits. The term profit means surplus, that is to say, the fact that income is higher than expenditure.

Where Community financial assistance has not been used in conformity with the conditions laid down in the approving decision, the Commission may suspend, reduce or withdraw that assistance. When implementing such an action, the Commission enjoys a considerable measure of latitude.

Since community law does not expressly provide for a limitation period for re-



payment of subsidies, the Commission determinates the duration of a reasonable administrative proceeding in relation to the particular circumstances of each case. An application of German legislation on limitation periods vis-à-vis a Community administrative procedure is not possible.

Support programmes

10th Call for town twinning projects postponed

This year's call to submit proposals for town twinning projects has been postponed for a few weeks and is now to be published some time during autumn. The Commission has approved a proposal for a Community action programme to promote active citizenship, which is currently under discussion in the Council and Parliament. The programme for the promotion of town twinning projects is to be incorporated into the new action programme. Because of the late publication of the call for projects, the deadlines for applications are being deferred and the programme begins on 1st April 2004. Accordingly, in the first quarter of 2004, no town twinning projects can be supported.



Miscellaneous

11th European Youth Week “Youth in Action”

From 29th September to 5th October, the first “European Youth Week” took place in Brussels around the Community action programme “YOUTH”. In addition, information events, discussion rounds, workshops, exhibitions and prize-giving ceremonies were organised in more than 30 European countries with the help of the national agencies. Since the beginning of the YOUTH Programme, it has been possible to carry out approximately 40,000 projects with over 400,000 participating young people. In the course of European Youth Week, the Commission awarded the best projects from the spheres of youth exchange, voluntary service, youth initiatives, young people with disabilities and Euro-Med.

12th European Sports Forum

On 21st and 22nd November 2003, the 12th European Sports Forum will be held. At the invitation of the European Commission, representatives of the National Olympic Committees, the umbrella sports associations and the competent national ministries will gather to discuss current issues affecting sports.



The central topics of the forum this year, which is traditionally held in the country occupying the Council Presidency, will be “Sports and Intercultural Dialogue” and the “European Year of Education through Sports 2004”. In Verona, an award will also be presented to the winner of the logo competition for the European year.

13th Report on the social situation in Europe

In its report this year on the social situation in Europe, the European Commission placed emphasis on the health of European citizens. The report examines quality of life in Europe and provides an overview of social trends.

According to the report, average life expectancy in the EU has risen by eight years since 1960. In 2000, it was 75 years of age for men and 81 years of age for women. This increase can probably be explained by the improved conditions of health and living conditions in the EU. Apart from high-quality medical care in prevention and treatment, factors such as living and working conditions and socio-economic status are also very significant to health.

With 2 million new jobs created between 1995 and 2001, the health sector is the most dynamic sphere of the European economy.



Summary of the report:

http://europa.eu.int/comm/employment_social/publications/index_en.html



14th EYES logo competition

The deadline for the submission of contributions to the logo competition of the European Year of Education through Sports was 15th September 2002.

With the motto of “Move Your Body, Stretch Your Mind”, students from the subject areas of graphic and communication design, visual communication, media design and similar spheres were invited to devise a logo for the European year. More than 400 participants took up the challenge and submitted their suggestions.

The official presentation of the selected logo will take place on 30th October as part of a press conference. The winner of the competition will be honoured on 22nd November on the occasion of the European Sports Forum in Verona.



Glossary

Court of First Instance (EuC)

The Court of First Instance is a court that works in coordination with the Court of Justice of the European Communities (CoJEC). In addition to actions brought by Community public employees, its jurisdiction relates to actions by individuals against the organs of the Community. In so far as the EuC has jurisdiction, a means of legal redress exists to the CoJEC, limited to legal issues, which is comparable with the appeal according to German law. Accordingly, for actions brought by individuals there is a two-tier appeal process.