



DEUTSCHER
FUSSBALL-BUND

European sport policy

Overview of sport issues
on the EU agenda

2nd edition

Deutscher Fußball-Bund e.V. (DFB) with almost 6.7 million registered members – including more than one million women and girls – is one of the largest specialist sport federations in the world. Just short of 26,000 clubs and 178,000 teams take part in sporting activities organised by DFB. Since 1 December 2007, DFB has had its own EU office in Brussels.

Colophon

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Responsible Editor: Wolfgang Niersbach (DFB Secretary General)

Contributors and drafting team: Stefan Hans (DFB Director Law and Finance Department), Helmut Sandrock (DFB Director Juniors, Talent Promotion, Games management/coordination), Willi Hink (DFB Director Women, Qualification, Voluntary Activity), Harald Stenger (DFB Director Communication and Public Relations Department), Denni Strich (DFB Director Marketing), Stefan Brost (DFB EU Office, Brussels)

Coordinators: Dr. Friedrich Curtius (Secretary General's Head of Office), Wolfgang Tobien (DFB Communication and Public Relations Department)

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Abbreviations and explanations

Organs of the European Union

EP
COM
ECJ

European Parliament
European Commission
European Court of Justice

Sport organisations

IOC
FIFA
UEFA
EPFL
ECA
FIFPro
DOSB
DFB

International Olympic Committee
International Federation of Association Football
Union of European Football Associations
European Professional Football Leagues
European Club Association
International Federation of Professional Footballers' Association
German Olympic and Sport Confederation
German Football Association

Other abbreviations

TFEU
CFI
EU
MS
ESF
ERDF

Treaty on the functioning of the European Union ("Lisbon-Treaty")
Court of First instance
European Union
Member States
European Social Fund
European Regional Development Fund

The European Union

The 1992 Maastricht treaty transformed the European Communities into the European Union (EU). Creation of the EU was seen as one more step towards realisation of an ever closer union between the peoples of Europe. The EU does not have its own legal personality but brings together the three pillars of European integration in organisational terms: (1) the European Communities (EC) [formerly European Economic Community (EEC)], (2) the Common External Security Policy also created in 1992 and (3) cooperation in the field of home affairs and justice policy.

Changes resulting from the Lisbon treaty

Through the Lisbon treaty, the current structure with “three pillars” is revoked. Under article 4 of the Treaty on European Union (TEU), the EU is given a legal personality (article 47 TEU) and under article 1 TEU it becomes the legal successor to the EC.

Legislative procedure

Co-decision procedure in accordance with article 251 EC treaty (TEC)¹

The European Parliament (EP) genuinely has the last word in this procedure. Without the EP's assent, a legislative instrument proposed by the COM fails even if it has achieved the necessary majorities in the Council of Ministers.

If the EP proposes amendments to the COM's proposal in first reading and the Council of Ministers does not agree, the latter adopts a **“common position”**. This common position is the formal endorsement of the agreement previously reached (but which is not yet binding) by Ministers (known as **“political agreement”**) and which is the starting point for the second reading in the EP. If Council and EP still cannot reach agreement in second reading, a conciliation procedure follows (third reading).

¹With entry into force of the Lisbon treaty, the former “EC treaty” is renamed and henceforth is called **“Treaty on the functioning of the European Union (TFEU)”**. The same provision is now found in article 294 TFEU.

Legislative instruments and other Community measures

Regulations and directives

A regulation is a legislative instrument which is generally applicable all of whose provisions are binding directly in every MS. Regulations are comparable with national laws. A directive is a legislative instrument addressed to the MS and which is binding on every MS in terms of the objective to be achieved. However, it gives national agencies discretion to choose the form and means for reaching this objective. EU directives are comparable with national framework laws.

Decisions of the COM and the Council of Ministers

This is a legislative instrument which is binding in all its parts on the parties to which it is addressed. Decisions are always a response to an individual case. They can be addressed to EC bodies, to the MS or to natural or legal persons. Depending on which body takes the decision, a distinction is made between decisions of the Council and decisions of the COM. Decisions of the Council are adopted on the proposal of the COM with involvement of the EP. Decisions of the COM are elaborated in the comitology procedure.

Recommendations and positions

Non-binding legislative instruments which are adopted in the first instance by the Council or the COM. As official announcements of the Community, they have a real effect as instances of "soft law". This is because the duty of loyalty means that the MS take them into account.

Communications, green papers and white papers

Green papers seek to stimulate a debate at European level on fundamental policy goals. The consultations and hearings prompted by a green paper may lead to publication of a white paper.

White papers are prepared on the basis of the consultations carried out in the framework of an earlier green paper. A white paper proposes concrete measures for a future Community procedure. They are usually the last step prior to a legislative proposal.

Communications of the COM have no regulatory character. They set out the COM's preliminary positions which often flow into subsequent legislative proposals. Consultations and hearings initiated by a green paper can be followed up by a white paper.

Legislative proposal of the COM

Following on from a white paper, the COM can present a legislative proposal. This proposal for an EU law takes the form either of a directive which the MS still have to transpose into national law, or of a regulation which the MS must apply directly.

Non-binding positions of the EP

An own-initiative report is a non-binding report by a committee of the EP on an issue which falls within its competence. The EP draws up these reports without a consultation or a request for a position. The committee then submits a draft resolution on the report for consideration by the plenary.

With a resolution, the EP can invite the COM to take certain measures when implementing the law. Since a resolution is non-binding, the COM is not obliged to respond to this invitation.

Legal basis and fundamental issues

New sport article in the Lisbon treaty

Background

On 18 – 19 October 2007 Heads of State and Government in Lisbon reached agreement on a revision of the European treaties (“reform treaty” or “Lisbon treaty”). From now onwards, in the area of sport, the EU is responsible for implementing measures to support, coordinate or complement measures by the Member States and is expected to contribute to **developing the European dimension in sport** under the new article 165 TFEU.

With inclusion of sport in the Lisbon treaty, the EU is pursuing the goal of developing a European sport policy. It will seek to promote fairness and openness in sporting competitions and protection of the physical and moral integrity of sportsmen and sportswomen, especially the youngest, and take particular account of the specific nature of sport with its structures based on voluntary activity as well as its social and educational function.

The European Parliament (EP) and the Council of Ministers can adopt incentive measures in accordance with the ordinary legislative procedure. However, national provisions are not to be harmonised. In addition, the Council of Ministers can issue recommendations for realisation of the stated goals on the proposal of the COM.

Developments

On 13 December 2007 Heads of State and Government officially signed the EU reform treaty. At the present time, twenty-five MS have approved the Lisbon treaty. Two others have already adopted the treaty in parliamentary procedures but have not yet completed the ratification process (Czech Republic and Poland).

Status and prospects

The approval of the Lisbon Treaty by the Irish referendum is likely to have a direct influence on ratification in the Czech Republic and Poland. Both Presidents still have to conclude ratification by appending their signatures. The Lisbon treaty could then come into force on 1 January 2010. In April 2010, the first official meeting of EU sport ministers is scheduled to take place in Madrid. In the framework of the Council of Ministers, and once the treaty enters into force, a permanent working group will be set up at the level of officials which will address sport-related issues in the EU.

DFB

In past years, DFB has expressly advocated inclusion of sport in the European treaties, jointly with DOSB (German Olympic and Sport Confederation). The new article 165 of the Lisbon treaty invites the EU to take greater account of the specific nature of sport. This could lead to more sport-friendly application of EU law in some areas and safeguard the autonomy of sport federations. In DFB’s view, the objective of promoting fairness and openness in sporting competitions obliges the EU to support measures which restore the sporting balance between clubs. In this respect, fairness should be understood to mean the same starting situation and competition conditions (see **Competitive balance and financial stability**).

White paper on sport

Background

In the **“White paper on sport”** presented on 11 July 2007, the COM formulated its essential strategic initiatives in the area of sport for the years ahead on the basis of the provisions of the Nice treaty. The COM has already presented a comprehensive package of measures in the **“White paper on sport”** with fifty-three individual measures. The **action plan “Pierre de Coubertin”** covering the period 2008 to 2012 seeks to address the following areas:

- Enhancing public health and physical activity
- Intensifying the fight against doping
- Quotas for home-grown players
- Extending the role of sport in education (sport at school)
- Promoting amateur sport and voluntary activity
- Clarifying and measuring the economic dimensions and impact of sport (including issues linked to securing financing)
- Taking account of the specific nature of sport for application of EU law (competition and internal market provisions)
- Protecting minors in sport (minimum labour law standards)
- Players’ transfers, players’ agents and licensing systems
- Solidarity mechanisms and the award of media rights.

In its **“Resolution on the white paper on sport”**, on 8 May 2008 the **EP** called for more account to be taken of the specific nature of sport and invited the COM to draw up clear guidelines on the application of EU law.

Developments

Since 2005, the **COM** has put in place various working groups at the request of the Council of Ministers. Their task includes flanking and helping to shape the process for implementation of the white paper on sport:

- “Sport and health” working group (2005)
- “Sport and economics” working group (2006)
- “Non-profit sport organisations” working group (2007)
- “Anti-doping” working group (2008)
- “Education and training” working group (2009)

From 26 to 28 November 2008, the first **European Sport Forum** was held in Biarritz. It will henceforth serve as a platform for dialogue between the COM and sport representatives and is expected to meet every two years.

Status and prospects

The **COM** has strengthened the so-called structured dialogue with sport organisations on the basis of the white paper on sport. As a result, there are regular summits between the European Commissioner with responsibility for sport and IOC President Rogge (most recently in June 2009). According to the COM, 38 of the 53 measures from the action plan “Pierre de Coubertin” have been initiated or implemented (e.g. preparation of EU health guidelines for physical activity). Work on a European sport programme has been put on hold and postponed until early 2010. Despite urgings from the EP and Council of Ministers, the COM does not want to prepare guidelines for application of EC competition law. Once the Lisbon treaty comes into force, the COM intends to present a new **communication on sport** which will address the implications of the new article 165 TFEU for the future of sport policy in the EU. As part of a consultation in early 2010, sport organisations will be invited to take part in the debate. The next European Sport Forum will take place in Madrid in April 2010.

DFB

DFB regrets that the COM still refuses to draw up guidelines on application of EU competition law to sport, despite the progress made with implementation of the white paper. The envisaged new COM communication on sport should help to eliminate legal uncertainty in the area of sport.

Specificity of sport

Background

Before the **ECJ** ruling in the **“Meca-Medina”** case (C-519-04 P) handed down on 18 July 2006, the “specificity of sport” was understood to be a general exception of sporting rules from EU law. However, the ECJ made it clear that, although it continues to recognise the “specific characteristics” of sport, these can only be taken into account and interpreted in the framework of a proportionality test on a case-by-case basis. With this ruling, it rejected the concept of “purely sporting rules” as irrelevant for the applicability of EU competition provisions in the sport sector. In its 11 July 2007 white paper, the **COM** accepted this legal interpretation. Under this interpretation, all sporting rules can be examined from the angle of competition law. On the basis of individual cases to date, the following areas can be subsumed in the “specificity of sport”:

- Right to self-regulation and self-administration
- Separate competitions for women and men
- Rules governing selection criteria for sport competitions
- “Home and away” rule
- No multiple ownership in the case of club competitions
- Provisions for the composition of national teams
- Provisions on transfer periods
- Need to ensure competitions where the result is not known in advance
- Equality of opportunity between competing clubs
- Pyramid structure of competitions in amateur sports and professional sports
- Solidarity mechanisms between professional and amateur sport
- Licensing systems

Developments

In its 8 May 2008 **“Resolution on the white paper on sport”**, the **EP** spoke in favour of taking greater account of the specific characteristics of sport and invited the COM to draw up clear guidelines for application of EU law. On the basis of the statements of the six largest European team sport federations (11 July 2008) and of the IOC (11 September 2008), **EU sport ministers** called on the COM to give clearer shape to the legal requirements for application of EU law to sport organisations with regard to the important problems faced by these organisations when taking account of the specific characteristics of sport. **Heads of state and government** also issued a **“European declaration on sport”** in the conclusions to the European Council in Brussels (12 December 2008) in which they call for the specific characteristics of sport to be taken into account by the EU, over and above its economic dimension.

Status and prospects

The Lisbon treaty, calling for the specific characteristics of sport to be taken into account, could enter into force on 1 January 2010. In the view of the **COM**, this does nothing to change the existing legal situation. It says that taking account of the specific characteristics of sport cannot lead to sporting rules with consequences for the EU internal market or competition policy being excluded from the scope of EU law. The new article 165 TFEU would not allow any exceptions from EU law to the benefit of sport. Some **MS** have set up an informal working group which would like to strengthen the legal certainty of sport. This theme has also been discussed at the last meeting of sport directors in Stockholm on 1 October 2009. **Belgium** has announced that it will take a new initiative on taking better account of the specific characteristics of sport and the application of EU law during its upcoming EU presidency (second half of 2010).

DFB

DFB believes that the new article 165 TFEU allows a new interpretation of the specificity of sport which takes greater account of the political will of member states (strengthening the legal certainty of sport).

Fight against doping

Background

The further increase in the use of unauthorised drugs worldwide constitutes a major threat for sport. Doping runs counter to the principle of open and fair competition and damages the image of sport. For individuals, especially adolescents, doping can cause serious and permanent damage to health.

Sport organisations in the MS have joined state institutions in their commitment to the fight against doping. Members of the World Anti-Doping Agency (WADA) have to implement the **World Anti-Doping Code** (WADA Code), in force since 1 January 2009, which seeks inter alia to harmonise the different anti-doping provisions and sanction possibilities in member countries.

Hitherto the COM has not had any express competences for the fight against doping, except in the area of cross-border traffic in doping substances and in the area of data protection. Nor does the Lisbon treaty make any provision for giving the COM additional competences in this fight against doping.

Developments

In its **“White paper on sport”** (11 July 2007), the COM recommends that trade in banned doping substances should be pursued just as vigorously as trade in illegal drugs. In 2008, the COM set up an “anti-doping working group” which examines issues such as data protection and air transport of doping samples.

As long ago as 2005 the **EP** called on the COM in a non-binding **“Resolution on combating doping in sport”** to carry out more effective checks at the EU’s external borders in order to combat the trade in banned substances. In its **“Resolution on the white paper on sport”** (8 May 2008) the EP called on the MS to reach agreement on a common legislative approach in order to ensure the same legal treatment in all MS, and to draw up and defend common positions at international level (WADA, Unesco, Council of Europe). The EP also asked the MS to punish trade in illegal doping substances.

The new WADA Code provides among other things for a tightening of notification obligations and submission of personal data on leading athletes to a database (“ADAMS”) in Canada. On 6 April 2009, the **EU data protection working party** clarified in a report its view that parts of the WADA Code infringe EU law and called on WADA to improve the text in some areas. WADA complied partially with this request on 9 May 2009 and adjusted rules in the “International Standards for the Protection of Privacy and Personal Information” to reflect the EU’s data protection requirements.

At the first **EU Anti-Doping Conference** in Athens from 13 to 15 May 2009, the COM reiterated some of its reservations about the WADA Code. Participants in the conference invited the COM, WADA and the Council of Europe to enter into permanent dialogue and to intensify their cooperation.

Status and prospects

Sixty-five sportsmen and sportswomen have lodged a complaint against transposition of the WADA Code into Belgian law with a Belgian court. They regard the new notification and data transfer obligations as an infringement of their fundamental right to privacy (April 2009). On 17 June 2009 there was an informal meeting between an informal working group of COM representatives and WADA which discussed the remaining points which attract criticism from the angle of European law (data transfer from Canada to third countries). This group’s next meeting is likely to be held in November 2009.

DFB

DFB has adapted its statutes, its anti-doping guidelines and its instructions to federations to the new requirements of the WADA Code and is working very closely and on the basis of trust with the German NADA.

EU funding for sports projects

Background

To date there is **no legal basis in Community law** which expressly gives a green light to EU promotion of sport. However, due to its special societal significance, sport is already indirectly eligible for EU support in the framework of other promotion programmes. Individual sport-related projects receive financial support from promotion programmes in the following areas, among others:

- Education and culture (lifelong learning programme, youth in action programme, cultural programme, Europe programme for citizens, European year of volunteering 2011)
- Health (“Together for health” programme 2008–2013)
- Social affairs (European Social Fund [ESF]: PROGRESS, social dialogue)
- Regional policy (European Regional Development Fund [ERDF])

Developments

In its **“White paper on sport”** (11 July 2007) the COM pointed out that in future national and European funding programmes should be used even more intensively for sport. For example, the COM wants to propose that the MS should give better support to various measures in the areas Social integration through sport, Strengthening voluntary activity and Combating discrimination in sport through EU funding programmes. Also in the framework of cohesion policy (redistribution of financial resources to the benefit of less developed regions in the EU), the MS should also take account of the importance of sport (especially in the area of social inclusion/integration) in their plans for the use of resources from the European Social Fund (ESF) and the European Regional Development Fund (ERDF).

The **EP** also recognised the important societal and social role of sport in its **“Resolution on the white paper on sport”** published on 8 May 2008. Within the existing budget envelopes and programmes, the COM and the MS should approve and provide financial resources for proposals which have as their priority social inclusion through sport. The COM should incorporate the “sport aspect” in all existing Community policies and EU financing programmes as a horizontal task. The COM should report on progress several times a year.

Status and prospects

The EU would like to start preparing for implementation of the Lisbon treaty in the area of sport before the end of the year. For these **“Preparatory measures in the area of sport”**, four million euros in promotion money for sport projects were earmarked for the first time in the 2009 budget. By 31 August 2009, EU funds for implementation of projects had been requested in the following areas:

- Promoting health enhancing physical activity
- Promotion education and training in sport
- Promoting fundamental values by encouraging sport for persons with disabilities
- Promoting gender equality in sport

For 2010, the **COM** has requested a further 1.5 million euros of promotion funds, which the **EP’s** Culture Committee wants to increase to 3 million euros. The EP plenary will vote on this in first reading on 20 or 21 October 2009. After ratification of the Lisbon treaty, the **COM** plans to draw up a **European sport programme** which would come into force in 2012. Future financial promotion of sport by the EU is likely to be an important part of this programme. All in all, annual EU funds of up to 30 million euros could be made available for promotion of sport.

DFB

DFB is in favour of additional EU funding being made available for sport in the framework of a European sport programme, in particular for extension and maintenance of sports facilities as a necessary condition for the offer of sport activities as well as the promotion of social integration and voluntary activity. The social potential of sport, and in particular of football, should be deployed more strongly by MS as an element of measures to prepare young people for the world of work, and within integration and language courses.

External relations

Development policy

Background

Sport can play an important role as an **instrument of EU development policy** and makes a contribution to solidarity with less developed countries. This takes place either in the form of (1) concrete sport-related projects, (2) flanking measures in the framework of aid programmes or (3) as a means of dialogue or diplomacy in relations between states. Through concrete measures, sport has a great potential for promoting education and training, improving health, establishing an intercultural dialogue as well as passing on values and promoting peaceful behaviour.

Developments

The memorandum of understanding signed by the **COM and FIFA** in July 2006 whereby football should become a development factor in Africa, the Caribbean and Pacific (ACP countries, see **non-discrimination of athletes from third countries**) is an example of this. In it, FIFA and the COM agree to intensify the exchange of information and to implement joint programmes and projects. Where appropriate, the EU will also address sport-related issues such as international player transfers, exploitation of minor sports persons, anti-doping, money laundering in sport as well as security at major international sporting events in its political dialogue and cooperation with partner countries.

In its **"White paper on sport"** (11 July 2007) the **COM** made it clear that it wants to promote sport more strongly as an instrument of its development policy and to expand existing programmes or set new priorities with its measures. In particular in the area of schools, more room should be found for sport in order to make schools in developing countries more attractive and to improve regular school attendance. In addition, sport could be used to allow girls and women better access to physical activity, education and sport. Furthermore, health and awareness-raising campaigns could be communicated better through sport. In international negotiations and when advising on agreements between the EU and third countries, the COM will in future strive to realise synergies with existing programmes of the United Nations, the MS, local authorities and private institutions. In its **"Resolution on the white paper on sport"** (8 May 2008) the **EP** supports the measures envisaged by the COM.

Status and prospects

The **COM** intends to integrate sport in the EU assistance programme for the FIFA World Cup 2010 in South Africa. A separate article on sport has been included in the EU's association agreements with Ukraine and Moldova. Sport will also be one of the thematic areas for this year European development days in Stockholm from 22 to 24 October 2009.

DFB

DFB has been intensively and successfully involved in development cooperation and international sport promotion for many years. At the present time, twelve development projects in Latin America, Africa and Asia led by German experts are in progress – most in liaison with the German Foreign Ministry and the German Olympic Sport Confederation (DOSB). The sport educationalists sent abroad under the aegis of the German Foreign Ministry train local trainers and advise on building and extending the infrastructure for amateur sport in the host country, among other things. Since 1986 DFB has also been involved in the framework of the "Egidius-Braun-Stiftung" for improving the living conditions of children in Mexico, Sri Lanka and Eastern Europe.

Vocational training and qualification

Recognition of diplomas

Background

The mobility of workers and self-employed persons within the EU continues to increase. Obstacles to the provision of services and freedom of establishment of EU citizens often arise when there is a need for the receiving country to recognise the vocational qualification of the worker/self-employed person who wants to move gained in his or her home country. This relates above all to classical “independent professions” such as pharmacist, architect or doctor. For sport, the issue of cross-border recognition of vocational qualifications arises, for instance, in connection with players’ agents and trainers.

In its 16 May 2002 ruling in case “**COM vs. Italy**” C-142/01 the ECJ decided in the case of a qualified ski instructor that a MS could not make recognition of vocational certificates of qualifications dependent on the principle of mutual recognition, whereby the authorisation to exercise a profession depends on recognition by a national committee of the equivalence of diplomas and mutual recognition.

The 5 September 2005 “**Directive on the mutual recognition of vocational qualifications**” (2005/36/EC) sets out the criteria that MS must apply if they want to link access to a regulated profession or its exercise on its sovereign territory to the possession of particular vocational qualifications, including sport-related services (sports grounds, organisation of sporting events, etc.).

Under the provisions of this directive, any EU citizen may temporarily and occasionally provide services in other EU countries, under the job title of his or her home country, without any special need to apply recognition of qualifications. For regulated professions and activities of longer duration, additional requirements apply. Recognition must be requested from the relevant authority in the MS of destination. This authority takes account of the length and nature of vocational experience gained in the area in question, which must be supported by testimonials. With the directive, a total of 18 EU directives were merged into a single legislative act in order to help make labour markets more flexible and bring about further liberalisation in the provision of services.

The provisions of the EU directive are transposed into German law in the Law on the EU vocational recognition directive adopted on 2 December 2007.

Developments

The directive takes account only of services and not of professions in the sport sector. An extension of the directive to cover sport is not expected at the present time. In MS where access to and exercise of professions in sport is regulated qualifications acquired in another MS are not automatically recognised.

Status and prospects

On 1 July 2009 the COM discussed the links between the vocational recognition directive and the European qualifications framework (EQF) (see **Comparability of educational diplomas**) and the EU services directive. It believes that additional information is needed in this area. In October 2012 the COM will prepare an implementation report on the status of implementation of mutual recognition of vocational qualifications in the MS.

DFB

Under the DFB training regulation, the state-recognised football coach licence is applicable across the country. This means that its holders are guaranteed recognition everywhere in Germany. At the same time, the holder of the German football coach licence acquires the UEFA professional licence which gives him the right to exercise this profession in all UEFA member federations. The DFB training regulation also provides that an EU citizen wishing to acquire a German licence must take a test whose content is specifically related to football.

Comparability of diplomas

Background

In order to increase the cross-border mobility of working and learning EU citizens, in May 2005 the **COM** published a working paper with priorities for the development of a **European qualifications framework for lifelong learning (EQR)** as well as a **European credit point system in vocational education and training (ECVET)**.

EQR encompasses all qualification levels in general, vocational and academic education and training and identifies eight uniform reference levels geared to learning outcomes. Quality and performance requirements of vocational training courses in the MS are intended to become more comparable through the introduction of an EQR because the different national qualification systems will be tailored to fit in with the European reference framework. In sport, at stake are the qualification requirements of all those with a sport-related vocational training who would like to become professionally active in another MS.

ECVET is one of several European initiatives for recognition of learning experience acquired in different countries and in different types of learning institutions. The system is a voluntary framework which describes qualifications in terms of units of learning outcome. Each of these units is assigned a given number of ECVET credit points on the basis of common European standards.

In its **"White paper on sport"** (11 July 2007), the COM opened up the prospect of selecting sport as a pilot area for implementation of ECVET, in order to increase the transparency of national skills and qualifications systems.

Developments

On 23 April 2008 EP and Council of Ministers issued a **"Recommendation on the establishment of an EQR for lifelong learning"**. The MS are each supposed to develop a national concept for implementation of EQR by 2010 and to link their national qualifications framework (NQR) to EQR. By 2012 at the latest, they should introduce a uniform system for crediting, recognising and acquiring learning outcomes. In addition, an EQR working group has been set up in which the COM, national authorities and the social partners work together on implementation of EQR. At a conference in Brussels on 3–4 June 2008, experts examined possible routes for implementation of EQR at national level.

In the framework of the "Sport and Economics" Working Group, the **COM** has carried out a statistical classification of sport and sport-related professions ("Vilnius definition", 2007) and created a satellite account approximating to the statistical system for economic sectors in the EU (NACE) which uses scientific parameters to identify the share of sport in gross domestic product and the number of people employed in sport. On 23 December 2008 the **European observatory for sport and employment (EOSE)** presented a new classification of European sport professions and other economic activities related to sport (NEARS) at the closing conference of the EU project Implementation of EQR in the sport sector. At the last meeting of the COM's "sport and economics" working group on 2–3 February 2009, it was agreed that the data available in the MS will be merged with those from EOSE.

Status and prospects

The **MS** have until 2012 to implement EQR in the framework of their national qualification framework. At EU level, two EU-funded projects are currently under way on implementation of EQR for outdoor activities as well as on elaboration of an ECVET for the fitness industry. The MS are currently working to adapt their NQR to the requirements of EQR. In Germany, the Federal Institute for Vocational Education (Bundesinstitut für Berufsbildung/BiBB) is responsible. In April 2013 the **COM** will present an implementation report on experience gained and submit conclusions for future measures.

DFB

Existing UEFA rules already ensure the comparability of educational diplomas in semi-professional and professional football alike.

Players' agents

Background

Due to the development of a single European player market and the marked increase in players' remuneration in a number of sports, the activity of players' agents has increased sharply in recent years. Ever more players (but also clubs) are seeking advice from players' agents when negotiating and concluding contracts. Players' agents are subject to very little supervision and to different legal provisions depending on the respective MS. In football, FIFA rules regulate access to the profession of players' agent. At EU level, the conditions for access have already been scrutinised from the angle of competition law. In 1999 and in response to several complaints, the COM opened a legal investigation into FIFA's rules for players' agents (see also ECJ ruling in the legal case "**Piau**" T-193/02 of 26 January 2005). FIFA then modified its provisions, which had been accepted by the COM in March 2002. Under the current FIFA rules (2008), a licence to act as a players' agent is issued after a successful theoretical test by the relevant national federation.

Developments

Even after the rules had been recognised by the COM, there was still further criticism of the activities of players' agents. In 2005 a UEFA working group on players' agents was set up in order to achieve better control over agents and their business practices and to discuss the problems encountered in this area. The **Arnaut report** ("Independent study on European sport" 2006) identified problems in the area of players' agents regarding ethical standards and integrity in sport and pointed to the need to adopt an EU directive that addresses the following themes:

- strict test criteria
- greater transparency
- minimum standards for agents' contracts
- supervision and disciplinary punishments by central European sport federations
- introduction of an "agent licensing procedure"
- ban on double representation and other conflicts of interest
- system based on payment of agents by the players

In its 29 March 2007 "**Resolution on the future of professional football**" the EP expressed the view that an EU directive on the role of players' agents constituted an appropriate instrument for eliminating existing deficiencies. However, the "**Resolution on the white paper on sport**" (8 May 2008) waters down this position. The EP considers an EU directive to be the last resort. For the time being, sport organisations should improve the existing provisions in liaison with the COM. The COM has been invited by the EP to prepare a European Certificate for sporting agents.

Status and prospects

On 26 July 2008 the COM commissioned a study which is intended to provide a snapshot of the current legal and economic situation of players' agents. On the basis of the results, expected in late 2009, the COM will carry out an impact assessment and take further measures if appropriate. In addition, a complaint has been lodged with a court in Liège (Belgium) by players' agents who regard the FIFA rules as an infringement of EU law. FIFA is currently considering a change to its rules on players' agents.

DFB

DFB, DFL and the Association of Player Consultants in Germany (Deutsche Spielervermittler-Vereinigung/DFVV) have agreed to prepare their own national players' agent rules and adopt them in their respective committees by 31 December 2009. Coordination also involving FIFA is currently under way. DFB is generally in favour of better supervision of players' agents. For instance, transparency in payments between clubs, the agent and the player should be increased. There are also discussions in progress on a binding price list. The involvement of lawyers (who do not need a players' agent licence) by non-licensed players' agents should be banned. DFB also encourages the creation of a European database accessible for specialist federations in the framework of what is permissible under data protection law with the names of players' agents and the players they represent.

Dual Career

Background

In many MS, promotion of top sport is assigned great importance. In this regard, the compatibility of sport and school education/vocational training is increasingly an obstacle to the development of young sportsmen and sportswomen. In particular, top performers and promising talents in the next generation have to combine a heavy educational and vocational work load with intensive training and competition phases.

A study by the COM on **“Training of young sportswomen and sportsmen in Europe”** (June 2008) came to the conclusion that only a few MS are in a position to ensure a parallel training of leading young sportsmen and sportswomen. It finds that school education and the requirements of top sport can be successful in the MS, for instance through the creation of special school offers for talents in the next generation. Difficulties arise in the educational offer for athletes in the period after school. In particular in the case of a university education, the models available in the MS are often insufficiently flexible in order to come to terms with the time constraints on top sportsmen and sportswomen. Many MS already have programmes for training athletes after their sport careers.

Developments

In Stuttgart on 5–6 May 2007, during the **German EU Council presidency**, there was a workshop on **“Dual careers – compatibility of sport, education and profession”**. Workshop participants underscored the individual responsibility of athletes for the period after their sport careers. For their part, specialist sport federations and sport organisations should put in place or expand counselling offers in order to flank athletes during and after professional sport. The theme of dual careers should also be integrated more intensively in the training of trainers.

In the conclusions of the European Council in Brussels on 12 December 2008, **heads of state and government** called for a strengthening of dialogue with the IOC and sport representatives, in particular concerning the combination of sport and educational training for young people. The **informal Council of sports ministers** on 28 November 2008 in Biarritz also stressed the importance of a dual sport and vocational education for young professional sportsmen and sportswomen. The ministers recommended that national clubs and federations, jointly with public agencies and representatives of athletes and clubs, define the quality criteria necessary for a dual education and applicable for the relevant educational institutions.

Status and prospects

At the first meeting of the **COM’s** “education and training” working group on 1 July 2009, the role of the COM in promoting the dual careers of sportsmen and sportswomen in the EU was discussed. The COM wants to start by gaining an overview of existing practices in the MS with a view to identifying possible measures, and by designing criteria for the different target groups. It is not the intention to develop a harmonised EU approach. The working group’s next meeting will take place on 7 December 2009. In the framework of promoting education and training in sports, dual careers is also one of the priority areas in which projects can be supported with preparatory measures in the area of sport (see **EU funding**).

DFB

In cooperation with local schools and clubs, since 2006 DFB has now set up 28 elite football schools which can fall back on a network of school, sports centre and club. All talents receive comprehensive assistance with the goal of promoting a parallel career in sport and at school. For instance, through additional sport training units or help with homework, out-of-class tutoring and flexible exam dates. A wide-ranging certification system ensures the quality of education and training in the elite schools.

Internal market policy

Free movement sportsmen and -women from EU member states

Background

The **Bosman ruling** in 1995 had far-reaching consequences for football. The ruling finds that (1) professional football players in the EU should be able to move to another club when their contracts come to an end without payment of a transfer fee, and that (2) player quotas for EU citizens based on nationality infringe the free movement of workers guaranteed by the EC treaty. According to the ECJ, professional footballers are regarded as employed workers and can have recourse to free movement of workers. In this regard, the freedom of free movement enshrined in the treaty covers not only administrative (i.e. national) measures but also extends to provisions of a different nature which relate to collective organisation of work and govern a particular area conclusively and comparably with a national law.

In order to train and promote talented young players and to strengthen national football teams, **FIFA** would like to introduce a national player quota for club games. The new **"6+5" FIFA rule** is intended to oblige club teams to start every game with at least six players who are eligible to play in the national team of the country in which the club is established. European football clubs would have to field at least four national players in the 2010–2011 season, five the following year and six national players starting in 2012–2013.

Elsewhere, **UEFA** introduced the **"home-grown players" rule** with the 2006–2007 season. This quota is independent of the nationality of the player but is based on how long a player has spent training in a MS. Teams which take part in UEFA club competitions are obliged during a season to field at least six players among the twenty-five named players in the squad who have been "locally trained". This means that the list must include at least eight players who, when aged between 15 and 21, were trained in the same club or another club on the territory of the relevant national football federation – either for three entire seasons in succession or over a period of thirty-six months.

Developments

In the view of the **COM**, the FIFA "6+5" rule infringes EU law. On 28 May 2008 the COM published a study in which it finds that the UEFA regulation is proportionate in terms of rules governing free movement of workers and compatible with EU law. It wants to observe implementation of the regulation and take another look at it before 2012. The UEFA regulation is also likely to point the way for other sports facing the same problem.

In its 29 March 2007 **"Resolution on the future of professional football"** and the 8 May 2008 **"Resolution on the white paper on sport"** the **EP** supported the UEFA regulation. The MS and sport organisations were invited to refrain from introducing rules which discriminate directly on the basis of nationality (such as "6+5"). At their informal meeting in Biarritz (28 November 2008), **EU sports ministers** urged that further discussions between the responsible international sport organisations and the COM have to be held to encourage the teams of professional clubs in each country to develop the presence of athletes capable of qualifying for national teams. A way must be found for strengthening the regional and national identity of professional clubs.

Status and prospects

According to the 26 February 2009 legal study commissioned by **FIFA** (INEA study), the "6+5 rule" does not violate EU law. At the FIFA congress in Nassau on 2–3 June 2009, FIFA president Blatter announced that FIFA only wants to introduce the "6+5 rule" after the Lisbon treaty comes into force.

At a meeting with the COM on 17 March 2009, the six largest **team sport federations** spoke out in favour of the introduction of national player quotas. The **EP's legal affairs committee** (30 April 2009) has announced that it will commission a legal study on the compatibility of the "6+5 rule" in the new legislature.

DFB

DFB introduced the "home-grown players"-rule in all of its regulations in the 2006/2007 season. It supports rules which give legal certainty and make it possible to take greater account of players trained nationally in club teams.

Non-discrimination of athletes from third countries

Background

Under ECJ jurisprudence, professional and amateur athletes from non-EU countries (third countries) should be treated as EU citizens under certain conditions (see legal cases **“Kolpak” C-438/00**, **“Simutenkov” C-265/03** and **“Kahveci” C-162/08**). This means that existing player quotas may not be applied for these athletes (non-EU foreign athletes).

The following criteria must be met: (1) the athletes must have a valid residence and work permit for the MS in question and (2) the home country of the athlete must have concluded an association agreement with the EU comprising an article which confirms the equal treatment of citizens from third countries with a valid work permit. The individual MS are responsible for issuing residence and work permits.

Depending on the athlete's home country, the following distinctions are made:

- the home country has **no** association or partnership agreement with the EU (e.g. Argentina, Brazil, other Latin American countries)
- the home country **does** have an association or partnership agreement with the EU which comprises a non-discrimination article on working conditions (e.g. Russia, Turkey, Africa-Caribbean-Pacific (ACP) countries)
- the home country has an association or partnership agreement with the EU which does **not** comprise a non-discrimination article on working conditions (a few Asian countries).

Players in the first or third category are subject to quotas for non-EU athletes, which are issued by federations. Limited quotas for these countries do not infringe EU law.

Players from the second category with a valid work and residence permit should not be discriminated against as compared with nationals of the host MS. Player quotas are not applicable for these athletes.

Developments

The **COM** has invited sports organisations to input their interests in upcoming negotiations on renewal of association agreements.

Status and prospects

The **COM** is examining several complaints on issues linked to discrimination against athletes in the EU. It also commissioned a **“Study on the equal treatment of non-nationals in individual sports competitions”** on 15 July 2009. The results will be presented in autumn 2010.

DFB

DFB is in favour of a reformulation of the non-discrimination article in the upcoming negotiations on the various association agreements in order to take account of sport interests.

Free television transmission of major sporting events

Background

Given consistent growth in public interest, the presence of sport broadcasts on television has grown constantly in recent years. According to a 1999 COM report, football games are the favourite television programmes across Europe. For that reason, the sale of television rights has overtaken the sale of tickets as the main source of income in professional sport. Major sporting events such as Olympic Games (Beijing, 1.74 billion dollars), world football championships (2006: 1.36 billion dollars) or European football championships (2008: 1.3 billion euros) are no longer conceivable without revenues from television money. In this regard, the increasing interest of pay television companies in securing exclusive broadcasting rights for particular sporting events runs counter to the interest of the general public in having free access to transmissions of major sporting events.

Article 3j of the amended **“Television without frontiers” directive (2007/65/EG)** of 11 December 2007 confirms the right of the MS to determine major sporting events which can be freely broadcast. They must also ensure that every broadcaster in the EU has fair, reasonable and non-discriminatory access to results which are of great public interest and which are being broadcast exclusively by another broadcaster for the purpose of short news reports (Article 3k).

Developments

In its **White paper on sport** (11 July 2007), the COM defended the view that cross-border television access to sporting events must be guaranteed. The EP also expressed a similar view in its **Resolution on the white paper on sport** (8 May 2008).

Lastly, in its resolution dated 25 June 2007, the **COM** authorised Germany’s practice of allowing the following major sporting events to be freely broadcast, by way of exception:

- Summer and winter Olympic Games
- In the case of European and world football championships, all games with German participation as well as the opening game, semi-finals and final regardless of whether or not Germany is participating
- Semi-finals and final of the German Football Association’s club cup
- Home and away games of the German national football team
- Finals of European football club championships (Champions League, UEFA League) in which German clubs are participating

For the FIFA world championship 2010 in South Africa, in Germany a private broadcaster will broadcast up to 18 games and the public broadcaster up to 46 games.

Status and prospects

On 4 October 2007 **FIFA** lodged a complaint against the COM with the CFI. In 2007 the COM also accepted the Belgian list which makes provision for every game in the final round of the world football championship to be freely receivable. FIFA takes the view that such a wide exception infringes the freedom to provide services. On 5 February 2008 **UEFA** lodged a similar complaint against the COM with the CFI following acceptance of the British list. The British list provided that every game in the final round of the European football championship should be freely receivable. A CFI ruling is not expected before early 2010.

DFB

DFB is in favour of major football events – in particular games involving the national football team – being made accessible live via free-to-air television. However, the condition for this is that football should not suffer sport-related or financial competition disadvantages as a result of such a national rule.

Alcohol advertising bans

Background

In many MS there are restrictions on television advertising for alcoholic beverages. In some MS, television advertising for alcohol is banned by law at certain times of the day, in other countries state bodies and alcohol manufacturers have agreed voluntary self-restraints. For example, in France commercials for alcoholic beverages are banned completely. This ban has also been confirmed by the ECJ. Following the ECJ rulings in cases **“France vs. Commission” C-262/02** and **“Bacardi” C-429/02** issued on 13 July 2004, MS can under certain conditions place restrictions on advertising for alcohol during television broadcasts. While an advertising ban breached the principle of freedom to provide services enshrined in the EC treaty, it was necessary due to compelling public interest reasons (“protection of public health”).

In a non-binding **“Resolution on an EU strategy for children’s rights”** passed on 16 January 2008, the EP called for introduction of more stringent advertising rules for alcoholic beverages and sponsorship of sporting events in the form of advertising bans. According to the EP, alcohol advertising should be banned between 06.00 and 21.00 hours. Furthermore, an advertising ban for alcoholic products with contents geared to children (computer games, comics) should help to prevent children gaining a positive image of alcohol. The COM does not have to follow the EP vote.

Developments

In EU legislation there are currently no statutory restrictions on television advertising for alcoholic beverages. Most MS have a national action plan for prevention of alcohol abuse. In some MS, advertising bans and self-restraints are being extended.

The **German government** has come out against the introduction of advertising bans. In the **“Media and communication report 2008”** dated 17 December 2008, the German government’s representative for culture and media rejected the introduction of further advertising bans at European and national level.

Status and prospects

The **COM** currently plans no concrete initiatives entailing EU-wide limitations on television advertising. From the angle of preventive health protection, the theme was discussed in the framework of the **EU alcohol and health forum** (30 April 2009). The forum’s next meeting is planned for early 2010. The **Swedish EU Council presidency** has announced that further development of an **“EU alcohol strategy”**, in particular to protect young people and children, will be a priority of its work. At a conference on “Alcohol and health” in Solna (Sweden) on 21–22 September 2009, the **COM** spoke in favour of legislative measures after 2012. The **Swedish EU Council Presidency** would like to include a roadmap for future EU legislation in the European Council’s December 2009 conclusions.

DFB

DFB is aware of its social responsibility and will support national action programmes to prevent alcohol abuse within the scope of its possibilities and will pursue dialogue with the relevant bodies on the basis of trust. For instance, DFB has for many years worked successfully with the central federal agency for health education (Bundeszentrale für gesundheitliche Aufklärung/BZGA) and runs prevention campaigns with the motto “Giving children strength” with the priority of alcohol prevention. In line with DFB’s rules for young people, alcohol advertising is banned in the entire youth football area. A total ban on alcohol sponsorship in sport would have far-reaching negative consequences for the financing of amateur sport.

Education and health

European strategy against overweight and obesity

Background

Poor diet and lack of physical exercise are responsible in Europe for six of the seven most important risk factors for many serious illnesses, for instance heart disease, type-2 diabetes, high blood pressure, stroke and some cancers. Insufficient physical exercise combined with an unbalanced diet has made obesity a serious problem for the health of the population. In most MS more than half of the adult population is overweight or obese (Eurostat 2008). In addition, it is estimated that 22 million children in the EU are overweight, and that this figure is increasing by 400,000 each year. In Germany 37 million adults and 2 million children and young people are obese. Poor diet and lack of physical exercise are among the most important causes of avoidable death in Europe. According to estimates, illnesses associated with obesity account for around seven per cent of total health costs.

Developments

In its **“White paper on a strategy for nutrition, overweight and obesity-related health issues”** (30 May 2007), the **COM** called on the MS and the EU to take active steps to reverse the decline in physical movement. Young people in particular have to be encouraged to take more exercise through advertising and media campaigns. Sport clubs would have an important part to play in implementation of this strategy. Greater account of health-related objectives should also be taken in the planning of buildings and urban areas as well as local transport systems.

In its non-binding **“Resolution on the white paper on nutrition, overweight and health-related health issues”** (25 September 2008), the EP criticised the fact that the number of sports lessons has fallen over the last decade in both primary and secondary schools, and that there are large differences between the MS in the area of facilities and equipment in schools. The MS with their regional and local authorities are invited to work more actively for the development of “movement-friendly” municipalities and to create publicly accessible sports installations. Furthermore, the MS should ensure that at least three school lessons a week are devoted to sporting activity. Sport federations and sport teams should set a good example in terms of sporting activity and healthy nutrition. Concerning the food industry, MEPs called for commercial-free broadcasting periods and limitations on advertising spots for unhealthy foods targeting children.

Status and prospects

The COM has drawn up non-binding **EU guidelines on physical activity** (see **EU guidelines on physical activity**). It will check the obesity situation in the EU in a progress report in 2010. It also intends to take greater account of the aspect of health protection through sporting activities in existing EU support programmes (Youth in action, Public health) (see **EU funding**).

DFB

DFB works for well functioning cooperation between the institutions of “school” and “club”. The aim is to improve the quantity and quality of the sport offer on both sides and hence to contribute to a healthy upbringing for children and adolescents. National projects and measures (e.g. distribution of starter packs to all 21,000 primary and special schools as well as 26,000 clubs, creation of 1,000 mini-pitches, comprehensive qualification measures for primary school teachers) have been brought together under the umbrella of the DFB schools and clubs campaign and are being implemented in a targeted way. This provides schools not only with material but also with moral support.

EU guidelines on physical activity

Background

In November 2006, during the Finnish EU Council presidency, EU sports ministers invited the COM to draw up EU guidelines on physical activity. To that end, the COM nominated an expert group with 22 independent specialists from 14 different MS to provide substantive support for the COM's "sport and health" working group in preparing the EU guidelines. The COM has also worked closely with the World Health Organisation (WHO) and the European network for the promotion of health-enhancing physical activity (HEPA Europe) in Rome.

The purpose of the **EU guidelines on physical activity** is to identify and develop new, cross-disciplinary political projects (sport, health, education, transport and urban planning, work environment and services for older citizens) to encourage the population to move more, to address the worrying increase in obesity (see **European strategy against overweight and obesity**) and to speak directly to political decision-makers in the MS. The EU guidelines propose 41 action measures for how to proactively counter, at different levels, the increasing lack of physical activity in society and the associated negative health consequences. Above all, amateur sport at local and national level should be promoted more strongly.

The EU guidelines see in **organised sport** a competent partner for implementation of the objectives. They offer sporting organisations the opportunity to provide policy input for shaping the EU guidelines at national and regional level in the framework of an integrated policy concept (e.g. health, environment, traffic planning, urban development, etc.).

Developments

The **COM** adopted the final draft of the **EU guidelines for physical activity** in September 2008 in its working group on this issue. At the informal meeting of EU sports ministers in Biarritz (28 November 2008) the **EU guidelines on physical activity** were confirmed.

Status and prospects

The **COM** is trying to promote implementation of the EU guidelines in the MS and to make them universally known. Health promotion through physical activity is also one of the priorities which are supported by EU funding through **preparatory measures in the area of sport** as part of implementation of the Lisbon treaty (see **EU funding**). In this connection, the COM would like to carry out a Eurobarometer survey on the theme of sport and movement at the end of 2009. The results will contribute to further development of EU sport policy. Provided that the Lisbon treaty has come into force, a further Eurobarometer survey is planned for 2012.

The **Swedish EU Council presidency** has announced that it wants to pursue the issue further in the framework of the Council of Ministers.

DFB

For DFB, a healthy upbringing through and for sport starts at a very early age. In conjunction with the FIFA world championship 2006, a schools department was created within DFB. The basis for successful implementation of a wide range of measures to increasing time spent on physical activity in this area is cooperation rooted in partnership and a regular exchange with relevant people in the corresponding political institutions. Joint declarations by DFB, Conference of German Ministers for Culture (Kultusminister-Konferenz/KMK) and Conference of German Sports Ministers (Sportminister-Konferenz/SMK) confirm a relationship based on trust and mutual respect.

Justice and security issues

Racism in football

Background

Despite anti-discrimination laws, citizens of foreign origin still fall victim to racism, prejudice, intolerance and xenophobia at sporting events. In recent years European football has proved to be particularly susceptible in racism issues.

For that reason, a strengthening of intercultural dialogue and mutual understanding is an urgent matter for the EU. The COM supports projects aimed at using the attention enjoyed by sporting stars in the media for this purpose. The particularly strong integration function of sport is recognised and is already used in many MS as an instrument for social integration and inclusion of the relevant population groups.

Developments

According to the **“White paper on sport”** (11 July 2007) the COM is determined to support dialogue and exchange of proven practices in the existing cooperation framework. It encourages sport federations to establish procedures for dealing with racist incidents during sporting events and to strengthen discrimination provisions in licensing systems for clubs. On 28-29 November 2007 the **COM** jointly with UEFA held a conference **“Towards a European strategy against violence in sport”** in Brussels which agreed to upgrade cooperation between state agencies and sport organisations/fan projects in the framework of a future **“structured dialogue”**. In a written declaration on **“Tackling racism in football”** (14 March 2006) with UEFA and all other competition organisers in the EU, the **EP** called for an examination of the possibility to impose sport sanctions on national football federations and clubs whose fans or players are found guilty of serious racist misconduct. In its **“Resolution on the white paper on sport”** dated 8 May 2008 the EP once again urged sport organisations and the MS to take the strictest measures to combat racism and discrimination in sport. MEPs also called for licensing systems for clubs to be drawn up at national and European level which include provisions to prevent racism, xenophobia and violence. On 28 November 2008 the **Council of Ministers** adopted a **framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law** in order to approximate MS legislation in this area more closely and to ensure that serious forms of racism and xenophobia can be prosecuted as a crime in all MS.

Status and prospects

At the end of 2008, the **COM**, in liaison with the **European Human Rights Agency** in Vienna and the **Council of Europe**, ordered a major study which will examine the phenomenon of racism and violence in sport before, during and after sporting events and will collect examples of successful anti-racism projects in EU MS. The results of the study and a wide-ranging report are expected for early 2010. Racist and discriminatory clauses in players' contracts were also the subject of discussion in the **committee for social dialogue in football** (see **Social dialogue in football**). On 2 July 2009 the **UEFA Executive Committee** adopted new guidelines on how referees should react to serious racist incidents in stadiums. In the event of a racist insult aimed at a player by a supporter of a team in the stadium, the referee can stop the game on the basis of predetermined series of steps.

Racism in football

DFB

DFB has enshrined “decisive action against racism, xenophobia and anti-Semitism” in its statutes. European initiatives against racism have its full support. For instance, each year DFB takes part in the network “Football against racism in Europe” (FARE) action weeks and is a member of the “forum against racism”. With national and international institutions as well as with federations, DFB has regular exchanges and works closely with them on combating racism and discrimination in football. In the “working group for tolerance and recognition against racism and discrimination”, DFB is constantly and intensively active on the issue, and develops concepts and implementation strategies for combating racism in German football. A publicly visible signal from football in the fight against racism is the Julius Hirsch prize, established in 2005 and named after the Jewish national player for Germany murdered in Auschwitz in 1943. Each year the prize is awarded to initiatives and individuals in the sphere of football in recognition of exemplary efforts against xenophobia, racism and anti-Semitism.

Security at international football games

Background

Violent football fans are not a problem exclusively for individual MS, although it is the MS which are responsible for prevention and prosecution of violence, racism and xenophobia. The list of violent incidents is long. It often – though not always – relates to what happens in and around football stadiums.

Developments

Given the increasing internationalisation of football, on 25 April 2002 (2002/348/JHA) the **Council of Ministers** decided to institute stronger cooperation on security between the MS. The focus of the agreement is an improvement in exchange of information between police forces involved in international football games and football authorities in order to allow adequate preparations and measured reactions. A permanent national football information point has been put in place by the police in every MS. Their task is to observe the fans in stadiums and collecting information on how actions by fans are organised. In summer 2006 the **Austrian government** submitted an initiative to the **Council of Ministers** which was designed to improve the **exchange of information** between police forces (automation and expansion). This should bring about better prevention by making it possible to identify more accurately in advance which groups travelling to matches constitute a risk. In this respect, Austria referred to the experience already gained with football information points (especially during the 2006 world championship). On 5 March 2007 the EP (rapporteur: Giusto Catania [Greens, Italy]) adopted a resolution on the Austrian proposal calling for greater consideration to be given to protection of personal data. In its **“Resolution on the white paper on sport”** (8 May 2008) the EP called for licensing systems for clubs to be drawn up at national and European level which also contain provisions on prevention of racism, xenophobia, protection of young persons and observance of fundamental rights. On 28–29 November 2007 the **COM** organised a conference “Towards a European strategy against violence in sport” in Brussels in cooperation with UEFA which agreed to upgrade cooperation between state agencies and sport organisations/fan projects in the framework of a future structured dialogue.

Status and prospects

In the framework of implementation of the **“White paper on sport”**, the COM is examining possibilities for new legislative instruments and establishment of EU-wide standards for prevention of riots at sporting events. To this end, the COM regularly takes part in meetings of experts on security at sporting events. However, so far there are no new initiatives at EU level in this area. Prevention measures and projects to bolster cooperation are supported financially by the **EU programme Preventing and combating crime**. On 26–27 October 2009 the **Swedish EU Council presidency** is to hold an **EU conference on urban security** in Solna (Sweden) which will also look at security at large sporting events. Furthermore, the Council of Ministers has set up an informal expert group which will meet in Stockholm on 30 September 2009. The purpose of this think tank is to elaborate proposals for improving the manual on international exchange of information.

DFB

Following the FIFA world championship 2006 DFB appointed a full-time security expert and created the task force against violence, xenophobia and racism. In recent years it has modified the guidelines for improving security at national games and the guidelines on uniform treatment of stadium bans, and has installed an information and notification system across all leagues for incidents with security relevance. Alongside close cooperation with clubs, regional and provincial federations, DFB is involved in regular and intensive exchanges with the German central information point for sport actions (Zentrale Informationsstelle für Sporteinsätze/ZIS), federal police, provincial police, the German coordination point for fan projects (Koordinationsstelle Fanprojekte/KOS), fan projects and German railways (Deutsche Bahn AG) in order to further build and improve cooperation in the area of prevention and security in German football; inside and outside stadia.

Social and societal policy

Voluntary activity

Background

Around 60 per cent of all EU citizens engage regularly in a sport. A majority of sport is enjoyed in the form of amateur sport and characterised by voluntary structures. The European institutions have recognised the particular function of sport for health, education, social inclusion and culture in European society. The COM believes that membership of a team imparts principles such as fairness, playing by the rules, respect for others, solidarity and discipline while strengthening active citizenship through the organisation of amateur sports on the basis of non-profit clubs and voluntary activity.

Given the stagnating number of volunteers in most MS, amateur sport in the EU faces new challenges. Recent developments show that young people in particular are turning their backs on traditional team and club sports and are opting increasingly for individual sports. This has resulted in the decline in the volunteer base in amateur sport clubs.

Developments

In its **“White paper on sport”** (11 July 2007) the COM pointed to the critical situation of voluntary activity in the EU. In its **“Resolution on the white paper on sport”** (8 May 2008) the EP also highlighted the special role of sport based in volunteer-driven organisations. The EP rejected inclusion of the theme of voluntary activity as a priority in the **preparatory measures in the area of sport**, which means that no EU funding is available for projects in this area in 2009–2010.

On 28 April 2009 the **Czech EU Council presidency** published a **“Prague memorandum on volunteering in sport”** and pointed out that most EU citizens engage in sport on a voluntary basis. On 3 June 2009 the COM officially announced that 2011 will be the **European year of volunteering**. A corresponding proposal for a decision by the EU Council of Ministers was submitted to the EP for a resolution and then forwarded to the Council of Ministers. A total of 6 million euros of EU funding is available for 2011.

Status and prospects

In March 2009 the COM ordered a **“Study on volunteering in the EU”**. It seeks to take a snapshot of the current situation in the 27 EU MS and collect additional data. On the COM’s website an online survey aimed at sport organisations can be completed until 15 October 2009. Results are expected for early 2010. In addition, the COM wants to do more to promote amateur sport in the framework of the programmes Citizens for Europe and Youth in action. In its resolution **Societal significance of sport** (2 July 2009), the **German parliament** invited the German government to develop the framework conditions for voluntary involvement on an ongoing basis. In the Bundestag’s resolution **“Sport promotes integration”** (2 July 2009), it also spoke in favour of extending public support measures for sport and improving recognition of voluntary social commitment. With the **“Law on limiting the liability of club management committees working voluntarily”** (2 July 2009), the liability of voluntary management committees in clubs has been restricted to intent and gross negligence.

DFB

With its “Voluntary activity action”, DFB has set itself the task of sustainably strengthening voluntary activity in football. It expressly welcomes the COM’s and the German parliament’s political support for voluntary activity. Policy-makers must also make a concrete contribution to creating secure framework conditions for citizens engaged in voluntary activity. DFB hopes that the “European year of volunteering 2011” will help to raise awareness of voluntary activity in sport among broad swathes of EU citizens. A future EU sport programme should give priority to allocating EU funding in the area of voluntary activity. This also includes the financing of suitable sports facilities.

Gender equality in sport

Background

In recent years there have been calls for additional measures to ensure equal treatment of women and men in sport also at European level, in the context of the general debate on anti-discrimination. In the area of equal treatment, the EU is pursuing a two-pronged approach based on both specific measures and on continuous consideration of the equality issue in all policy areas (gender mainstreaming).

On the issue of equality for women in sport, what is particularly needed is an improvement in the access of women – e.g. migrants – to sporting activity. In addition, for the economic element of sport, the fact that women are often under-represented among professional sports people and in official competitions as well as being less present in the media plays a role. Even though women's sport, and in particular women's football, is increasingly gaining in attractiveness. Top sportswomen are not treated the same as their male counterparts in terms of remuneration or other financial support (scholarships, grants, sponsors), and find it more difficult to move back into a non-sports career. Women are also under-represented in the structures of institutionalised sport (federations, clubs).

Developments

The **COM** is committed to the goal of equality between women and men in employment in sport and announced in the **"White paper on sport"** (11 July 2007) that this equality will be promoted in the framework of a **"Roadmap for equality between women and men 2006 – 2010"**. Gender-specific aspects should be given closer consideration in all sport-related activities, in particular with respect to women immigrants and women from ethnic minorities. However, sport is not taken explicitly into account. The **EP** had already referred to the different situations of women and men in its 5 June 2003 **"Resolution on women and sport"**. In its **"Resolution on the white paper on sport"** (8 May 2008) the EP notes that while some progress has been made at European level regarding equality of treatment between the sexes, inequalities between men and women persist in the field of sport.

Status and prospects

On 27 February 2009 the **COM** published a **"Report on equality between women and men 2009"** which argues for more resolute promotion of equal representation of women and men in decision-making processes and management positions. In 2010 it wants to carry out an evaluation of the equality roadmap (see above) and propose follow-up measures.

On 20 March 2009 the EP adopted the **"Proposal for a directive on implementing the principle of equal treatment"** in first reading. In its 28 May 2009 conclusions, the **Council of Ministers** called on the MS to meet their obligation to achieve a female employment rate of at least 60 % by 2010. The COM and the MS should also strengthen the incorporation of continuous consideration for the equality issue in all policy areas. At the express wish of the EP, promotion of equal treatment of women and men has been included in the list of priorities eligible for funding for **preparatory measures in the area of sport**. Furthermore, the COM would like to incorporate this theme more closely in existing support programmes such as PROGRESS (2007–2013) for improvement of access to sport, Lifelong learning (2008-2010) for promotion of participation in sport-related projects or school partnerships and Youth in action for preventive health protection. Further support programmes with a focus on social integration should take greater account of sport (Citizens for Europe) (see **EU funding**).

Gender equality in sport

DFB

Promotion of women's and girls' football is a particularly important matter of concern for DFB. More than one million women and girls now play organised football under the umbrella of DFB. Football is the sport which can demonstrate the greatest successes in integration of female migrants, in particular in facilitating access to sport. The EU should in future facilitate financial promotion of projects for integration of female migrants through football.

Protection of minors

Background

In individual cases young sports people from non-EU countries are exploited in the EU. Those exploited are primarily young persons who are unable to earn a living from sport as intended and who therefore often slide into illegality. There are also reports of abusive practices by a few players' agents which have led to exploitation of minors. Under the provisions of the **"Directive on the protection of young people at work" (1994/33/EC)** the MS can provide in their legislation that children who are at least 13 years old may be employed with respect to their involvement in sporting activities only under the conditions laid down by the MS. However, there are not yet any uniform minimum requirements for employment relationships in the sport sector at EU level.

Developments

In its **White paper on sport** (11 July 2007), the **COM** made it clear that the phenomenon of exploitation of young players is unacceptable and is incompatible with the values of sport. Accordingly, the safeguards for unaccompanied minors comprised in the immigration provisions of the MS must be rigorously applied. In its **"Resolution on the white paper on sport"** (5 May 2008), the EP called on the COM to support measures by sport federations to protect minors, making allowance for the specificity of sport, by speaking out in favour of stricter application of the FIFA rules. The COM was also asked to commit to the principle that a player's first professional contract must be signed with the club that has trained him.

On 2 June 2009 **FIFA** decided to revise its rules on transfer of young players. The new FIFA rules apply since 1 October 2009. The rules provide that a player can only be part of an international transfer if he is at least 18 years old. Within the EU and the European economic area (EEA), a player can be transferred from the age of 16 years if the following conditions are met, inter alia, which the club must substantiate:

- The club provides appropriate football training in line with the highest national standards
- The new club also organises school and/or vocational education and/or training
- The club ensures that the player is looked after as well as possible (optimal living situation with a host family or in club accommodation)
- Relocation of the parents takes place without a reference to football
- Player lives close to the border

A committee put in place by FIFA checks every international transfer of a minor which is allowed on the basis of one of the exceptions set out in the rules. It also verifies each registration of a minor who is not a citizen of the country in which he first wanted to be registered, and also gives its consent. In addition, the calculation of the training loss in relation to players who change clubs before they reach majority has been changed, in part to prevent young talent from being lured away. On 9 March 2009 the **Professional Football Strategy Council** issued a joint statement of UEFA, EPFL, ECA and FIFPro against transfers of under-18s in the EU and EEA.

Status and prospects

The **COM** believes that a ban on transfers of players under 18 years of age infringes the free movement of workers. However, more recently, voices have also been heard from the COM that such a ban constitutes only indirect discrimination which can be justified on grounds of general interest. On 16 July 2009, an ECJ Advocate-General, in her conclusions in the legal case **"Bernard" C-235/08**, judged the obligation to conclude a first contract with the club where the player has been trained to be disproportionate and assessed it to be an infringement of free movement of workers. However, the demand for compensation from the club providing the training could exceptionally be justified on grounds of general interest, e.g. due to the particular importance of the training. A final decision from ECJ is expected in early 2010.

Protection of minors

DFB

DFB welcomes FIFA's new transfer rules for better protection of minors. In addition, in light of the specificity of sport, the Strategy Council's proposals for professional football should be discussed thoroughly.

Social dialogue in football

Background

Given the increasing commercialisation and professionalisation, the challenges on social partners in the sport sector are also growing. In the meantime, more than 800,000 people in the EU are active in the sport sector as their main employment.

“Social dialogue” is understood to be all types of negotiations, consultations or exchange of information between or among government representatives, employer representatives and worker representatives on issues of shared interest in the area of economic and social policy. On 12 August 2004 the COM published a **“Communication on enhancing the contribution of European social dialogue”**. Against the background of the Lisbon strategy instituted in 2000, which is supposed to make the EU the most competitive region in the world by 2010, the COM wanted to use the communication to identify how to prepare the European social model for the challenges of the 21st century through a “social dialogue”.

In football, the professional football leagues and the players’ union FIFPro recognise each other as social partners.

Developments

In its **“White paper on sport”** (11 July 2007) the **COM** takes the view that social dialogue at European level can make a contribution to meeting the shared concerns of employers and athletes, including negotiation of agreements on employment and working conditions in the sport sector, in line with the provisions of the EC treaty.

In its **“Resolution on the white paper on sport”** (8 May 2008) the **EP** supported efforts to put in place European committees for social dialogue in the sport sector. MEPs believe that players’ agents should also play a role in the framework of social dialogue, in order to prevent inappropriate behaviour by players’ agents (see **Players’ agents**).

The **Committee for Social Dialogue in Professional Football** met for the first time in Paris on 1 July 2008 with UEFA president Michel Platini in the chair. As well as **UEFA**, it brings together representatives of the player trade union FIFPro, the association of European professional football leagues (EPFL), the European club association (ECA) and the **COM**. On 19 November 2008, the Committee’s plenary founded two permanent working groups to prepare strategic objectives and concrete measures (e. g. minimum standards for players’ contracts).

In addition, on 27 May 2009, there was the closing conference of one of the EU-funded projects for social dialogue in sport. The project was coordinated and led by the European Association of Sport Employers (EASE) which represents employers from France, Great Britain and the Netherlands in the sectors professional sport, amateur sport, fitness and outdoor.

Status and prospects

The **COM** wants to use experience from the area of football to improve social dialogue in other sports. In cooperation with EASE, it would like to establish a dialogue between social partners in all sports at EU level.

DFB

DFB welcomes the establishment of a social dialogue in football, which it believes can help to ensure balanced consideration of the different interests of employers and employees in football.

Tax policy

VAT directive

Background

In the area of indirect taxation the provisions of the **EU VAT directive 2006/112/EC** are intended to ensure that the VAT rules of individual countries do not distort competition or hinder the free movement of goods and services. The directive offers the MS the possibility of exempting certain sport-related services from the scope of the directive (entry fees for sporting events and use of sports facilities) and – where this exemption does not apply – the possibility to apply reduced VAT rates in certain cases. MS continue to be responsible for setting the tax rate. According to article 132, the MS can exempt certain activities which serve the common good from VAT. These include sport-related services and making facilities available to persons playing a sport with no intention of making a profit. In Germany, club structures are strongly oriented on the concept of the common good. VAT-related issues linked to the **taxation of amateur sport clubs** have already been addressed in an ECJ ruling. In the case **“Kennemer Golf & Country Club” C-174/00** (21 March 2002) the ECJ was asked to decide whether or not a Dutch golf club had to pay VAT on services provided in the context of the sport of golfing. The ECJ clarified that facilities must be classified as being “without the intention of making a profit”, even if they systematically seek to achieve surpluses which they then use to provide their services. In the area of direct taxation, the ECJ decided in the legal case **“Stauffer” C-386/04** (14 September 2006) that an exception from corporation tax for institutions serving the common good granted in one MS (Ireland) must also be granted to comparable facilities from other MS (abroad). In the area of direct taxation, there is also an absence of clear rules concerning withholding taxes (deducted at source). Withholding tax – like income tax – is collected internationally on the remuneration of paid sportsmen or sportswomen and clubs if they play abroad. In Germany, this tax is regulated through § 50 a of the income tax law. If a foreign team plays in Germany, the players’ pay for that game should essentially be subject to German withholding tax. The reverse also applies for German players’ pay when they play games abroad.

Developments

In its **“White paper on sport”** (11 July 2007) the **COM** explained that it intends to work to ensure that the current possibilities for reduced VAT rates in the sport sector are maintained given the important societal function of sport and its strong local roots. In its **“Resolution on the white paper on sport”** (8 May 2008) the **EP** said that it was in favour of reduced VAT rates for sport. MEPs criticised the fact that different tax treatment in the MS can distort competition.

In its ruling in the legal case **“Persche” C-318/07** (27 January 2009), the ECJ confirmed that cross-border donations are tax-deductible. The request for a preliminary decision from the German Bundesfinanzhof had addressed the deductibility of cross-border donations to foreign institutions serving the common good. The German national Persche wanted a tax deduction because of a donation to an institution in Portugal and recognised there as serving the common good, which represented a restriction on free movement of capital according to the ECJ. In a letter dated 20 March 2008 (coordinated Länder decree, Federal Taxation Gazette I 2008, page 538), Germany waived taxation of revenues earned in Germany by players, clubs and associations during European club matches on condition of reciprocity.

Status and prospects

On 24 February 2009 the **COM** published the results of a survey on reduced VAT rates. This finds that, for sport and leisure, there are distortions of competition between some MS due to different VAT rates on corporate bodies serving the common good and private service providers. In its 2 July 2009 resolution, the German parliament clarified that it clearly rejects efforts to restrict promotion of sport through the tax system.

VAT directive

DFB

DFB is in favour of uniform and Europe-wide exemption of team sports from withholding taxes (deducted at source).

Financing of sport

Collective selling of media rights

Background

The COM examined the collective selling of television rights for sporting events in the light of EC competition rules for the first time in 2000. In its eight decisions since, it has come to the conclusion that collective selling essentially constitutes an infringement of antitrust provisions but can be excluded from the ban on non-competitive behaviour (article 81.3 EC treaty) on an exceptional basis.

The COM allows collective selling of football media rights if appropriate adjustments are made regarding the award procedure and the extent of the rights (e.g. Premier League, Champions League, Bundesliga, UEFA Cup). Collective selling of media rights is regarded as compatible with competition law if the following conditions are met, inter alia:

- Previous discrimination-free and transparent award of media rights
- Sharing-out in different rights packages for individual types of use
- No exclusive rights for live transmissions for a single bidder
- Possibilities for clubs to market particular rights individually if rights cannot be used
- Time limit on the award period (e.g. 3 years).

The list of possible restrictions on collective selling is not exhaustive and can be adjusted on a case-by-case basis.

Developments

In its **“White paper on sport”** (11 July 2007) the **COM** advises sport organisations to take account of the introduction and maintenance of solidarity mechanisms. It holds the view that it should be possible to market sport media rights both collectively and individually. However, the COM accepts collective selling only under certain conditions. In its **“Resolution on the future of professional football”** (29 March 2007) the EP called for an action plan to replace different national rules with collective selling systems. The EP believes that the collective selling of television rights is of fundamental significance for preservation of the model of financial solidarity in European football. In its **“Resolution on the white paper on sport”** (8 May 2008) the EP spoke in favour of a general exemption for collective selling of media rights from EC competition law and recommended that the MS should introduce and maintain collective selling systems with appropriate solidarity mechanisms. **EU sports ministers** discussed a German initiative “Sport and competition” during their informal meeting in Biarritz (28 November 2008) with the aim of giving sports federations more legal certainty when fulfilling their mission.

Status and prospects

Discussions on the German initiative “Sport and competition” continue in the framework of the **COM working group on “non-profit sport organisations”** (last meeting: 2 April 2009) and in meetings of the Council working group. The **Swedish EU Council presidency** wants to circulate a questionnaire to the MS to collect additional examples for the involvement of sport federations in the MS. The **COM’s DG Competition** refuses to accept modifications to the benefit of sport in EC competition law. It believes that there are no concrete problems for sport in the application of competition law. On 2 July 2009, in its resolution on the **so-cietal importance of sport**, the German parliament invited the German government to work at both European and national level for a clear legal framework for inclusion of sport in economic life taking account of the specificity of sport, in particular in antitrust law.

DFB

DFB calls for a COM declaration stating that collective selling is compatible with EU law – be it in the form of a block exemption regulation or a formal COM decision. Sport’s revenues from media rights form the financial basis for promotion of amateur sport. Application of competition law must not remove the basis for solidarity in the financing of sport. Sport needs legal certainty.

Protection of intellectual property rights/exploitation rights

Background

A growing portion of the economic significance of sport is linked to implementation of intellectual property rights. Protection of copyright, of commercial communication (especially in the Internet), of commercial brands and of image and media rights is a pre-condition for collection of sport revenues which support its activities in the field of amateur sport. There is currently an increase in Internet offers which allow illegal streaming of live transmissions of all sporting events. Legal prosecution of this practice is proving extremely difficult due to the absence or inadequate interpretation of provisions in the different MS. Enforcement of rights is becoming ever more important, especially in an increasingly globalised and dynamic sector. In its 9 November 2004 ruling in the legal cases **"Fixtures Marketing Ltd" C-46/02, C-338/02 and C-444/02** the ECJ found that fixture lists are not protected by EU directive on the legal protection of databases.

Developments

In its **"White paper on sport"** (11 July 2008) the **COM** pointed out that implementation of intellectual property rights is an essential component of a healthy commercial sport sector. Implementation of individual rights is gaining importance by the day in an increasingly globalised and dynamic sector. In its **"Resolution on the white paper on sport"** (8 May 2008) the **EP** called on the COM and the MS to adopt regulatory measures which ensure that the intellectual property rights of games organisers are respected. The hollowing-out of intellectual property rights through the increase in Internet piracy and the scope for illegal behaviour in the Internet (in particular illegal live broadcasts and highlights of sporting events) need to be reduced. For MEPs, there is a direct connection between implementation of intellectual property rights and the necessary investments in promotion of talent and amateur sport. In its non-binding **"Resolution on the integrity of online gambling"** (10 March 2009), the EP stressed that sport bets are a form of commercial use of sporting competitions. It urged the MS to protect sporting competitions from any unauthorised commercial use, in particular through recognition of the rights of sport organisers. The MS should take measures to safeguard appropriate financial rewards to the benefit of all levels of professional and amateur sport. The COM should examine the possibility of awarding organisers an exploitation rights on their competitions. At the **European sport** forum (Biarritz, November 2008), many representatives of sport organisations called for the creation of protected rights for organisers. Since then, the **COM's sport unit** has several times publicly spoken in favour of the principle that organisers of sport competitions should be able to receive appropriate financial returns.

Status and prospects

The **COM** does not currently plan any concrete legislative initiatives in the area of intellectual property at EU level but is examining existing possibilities. The creation of protected rights for events/organisers falls within the remit of the MS. The **German justice ministry** did not support a protected right for sporting events in the last legislature. On 15 April 2009, **France** presented a draft law for regulated market opening on Internet sport bets which makes provision for creation of a protected right for organisers of sporting events/competitions (see **Games of chance and sport bets**). However, the COM wants to assess the consequences in 2012. At the **ECJ**, on 29 September 2008 a request for a preliminary ruling was lodged by the High Court of justice – legal case **"QC Leisure" C-429/08**. The complaint is based on an earlier English case which examined the legality of territorially restricted access to pay television services. Publication of the ECJ Advocate-General's draft conclusions is expected in early 2010.

DFB

DFB is working at national and European level for a protected right for organisers of sporting events which covers all services necessary for organisation of a sporting competition and in order to contribute to fair competition.

Competitive balance and financial stability

Background

In recent years the competitive and financial balance in national and European professional leagues has shifted perceptibly in favour of rich clubs. Distortions of competition between the large professional football leagues are also increasing.

The following factors have an influence on the competitive conditions of clubs in the various professional leagues:

- Ownership of clubs
- Comparable salary control systems
- Solidarity mechanisms for revenues from media rights
- Licensing and control systems for the financial administration of clubs
- Different tax and social security systems in the MS
- Greater use of national players

Players' wages in the five largest European leagues have increased very rapidly in recent years as compared with turnover. The debt levels of clubs and expenditure on players' wages vary widely from country to country. Professional leagues in some countries have a better chance to appoint well paid professionals than other leagues thanks to lower tax rates and social security contributions. For the first time with the 2005–06 season, UEFA introduced a licensing system with financial, sport, legal, personnel/organisational and infrastructure rules for UEFA club games. These rules were modified in the 2008–09 season.

Developments

In its **White paper on sport** (11 July 2007), the **COM** announced the opening of a dialogue on self-regulated licensing systems for team sports with the relevant sport federations and leagues. In its **"Resolution on the white paper on sport"** (8 May 2008), the **EP** supported the COM's call for introduction and strengthening of self-regulated licensing systems at national and European level and for identical starting situations with regard to financial transparency and stability among European competitors in the sport sector. European sport organisations would have to ensure that the requirements for transparency and licensing are complied with and that infringements are punished. In the EP's view, licensing systems should also comprise provisions on preventing racism, xenophobia and violence as well as protection of minors and compliance with fundamental rights.

On 24 March 2009 the UEFA Executive Committee decided the creation of a club financial control panel at UEFA level, in order to ensure uniform application of the existing licensing system. At the meeting of the **Professional Football Strategy Council** on 28 August 2009, representatives of UEFA, EPFL, ECA and FIFPro unanimously agreed on a new concept for financial fair play which will be submitted to the UEFA Executive Committee for approval at its next meeting on 14–15 September 2009. On 17–18 September 2009, **UEFA** and the **COM** held a joint **"EU conference on licensing systems for club competitions"** in Brussels, where best practice examples from different MS have been exchanged and policy recommendations, also for other team sports, have been developed.

Status and prospects

UEFA, ECA, EPFL and FIFPro will elaborate the details of the new "Concept for financial fair play" in the coming months. The new licensing rules are likely to come into force from the 2012–13 season.

DFB

DFB is in favour of the introduction of licensing systems with a correspondingly high standard also in the national professional leagues of the MS. Uniform financial control contributes to the financial stability and attractiveness of football competitions and increases comparability.

Games of chance and sport bets

Background

The implementation, organisation and financing of sport in Germany is essentially a matter for autonomous sport organisations. A large portion of performance sport is dependent on funding by the Federal Government (approx. 219 million euros a year for 2009). Amateur sport is supported primarily with funds from the state gambling monopoly (485 million euros a year of which approximately 6 per cent derive from sports betting). As Germany, many other EU MS also promote sport with revenues from their state monopoly in games of chance and sport bets. The COM's efforts to harmonise and liberalise the rules governing games of chance (including sport bets) in the framework of its proposal for a services directive (January 2004) foundered in the face of resistance from EP and the Council of Ministers.

In line with **ECJ** jurisprudence, restrictions on competition have to be justified by the need to preserve public order, inasmuch as they must serve to limit betting activities in a "consistent and systematic manner" ("**Gambelli**" case, November 2003). The MS are free to set the objectives of their policy in the areas of games of chance. Nevertheless, any limitations they impose must be proportionate ("**Placanica**" case, March 2007). The **German Federal Constitutional Court** (March 2006) regards a state monopoly in sport bets to be compatible with the German constitution only if it is consistently aligned on the objective of combating the dangers of addiction.

Developments

On 31 January 2008 the **COM** started a treaty infringement procedure against the implementing provisions put in place by North Rhine-Westphalia, claiming limitations on the offer of games of chance. It is currently involved in fifteen treaty infringement procedures. Eight procedures against the German monopoly on games of chance and gambling are pending as submissions for the **ECJ**. In its "**White paper on sport**" (11 July 2007), the **COM** called on the MS to develop a sustainable financing model for the support of sport organisations.

In its "**Resolution on the white paper on sport**" (8 May 2008) the **EP** expressed its reservations about an EU directive regulating the sports betting market and called for maintenance of the current systems. In a further, non-binding "**Resolution on the integrity of online gambling**" (10 March 2009), the **EP** emphasised that the MS still have the right to regulate their gaming markets themselves. In July 2008 the **Council of Ministers** set up a working group on gambling whose purpose is to protect the state monopoly in some MS through EU rules. On 1 December 2008 the ministers responsible discussed the legal framework of the MS in the area of gambling, their cross-border dimension and the direction of travel and/or instruments in the various MS.

Status and prospects

On 24 August 2009, the **COM** ordered a "**Study on internal market barriers to sport funding**". This will seek to examine the different financing systems for promoting amateur sport in the MS more closely. Results are expected for mid-2010. During the **Swedish EU Council presidency**, four further meetings of the Council working group are scheduled. On 15 April 2009 **France** presented a draft law on regulated market opening for Internet betting which will be debated in the French parliament in October and will not enter into force before early 2010 at the earliest. Five other MS are looking at comparable initiatives. The **COM** has taken a stance on the French draft law and gave its preliminary approval on 27 August 2009. On 8 September 2009 the **ECJ** decided in the legal case "**Liga Portuguesa C-42/07**" that the MS may decide for themselves whether they wish to ban Internet sport bets or transfer this activity exclusively to a state provider, insofar as the ban or the transfer of an exclusive right is proportionate.

DFB

As long ago as 2006 DFB proposed the introduction of a concession model for sport bets in Germany. Revenues for sport could be safeguarded in the long term by state-regulated market opening for online sport bets.

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