

EUROPEAN SPORT POLICY



Overview of sport issues on the EU agenda

8th edition, October 2016



Deutsche Fußball-Bund e.V. (DFB) with just over 6.9 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 25,000 clubs and 160,000 teams take part in sporting activities organised by DFB. Since 1 December 2007, DFB has had its own EU office in Brussels.



DFL Deutsche Fussball Liga e.V. brings together the 36 professional football clubs in the Bundesliga and 2nd Bundesliga. Under its aegis, **DFL Deutsche Fußball-Liga GmbH (DFL)** organises Liga matches and markets Bundesliga and 2nd Bundesliga at home and abroad.

COLOPHON

Publisher:

Deutscher Fußball-Bund • Otto-Fleck-Schneise 6 • 60528 Frankfurt / Main

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Version:

31 October 2016

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Photographs:

Getty Images, DFB • fotolia.com

Layout and production:

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ABBREVIATIONS

Organs of the European Union

EP
COM
ECJ
EGC

European Parliament
European Commission
European Court of Justice
European General Court (previously: Court of First instance)

Sport organisations

IOC
EOC
FIFA
UEFA
EPFL
ECA
SROC
FIFPRO
DOSB
DFB
DFL
DFVV

International Olympic Committee
European Olympic Committees
International Federation of Association Football
Union of European Football Associations
European Professional Football Leagues
European Club Association
Sport Rights Owners Coalition
International Federation of Professional Footballers' Association
German Olympic and Sport Confederation
German Football Association
German Football League
German Association of Football Players' Agents

Other abbreviations

BMI
BMBF
BMWi
BZgA
DQR
IMK
KMK
SMK
TI
VdV
WMK
TEU
TFEU
EU
EEA
MS
ESF
ERDF
EAFRD

Federal Ministry of the Interior (responsible for sport)
Federal Ministry of Education and Research
Federal Ministry for Economic Affairs and Energy
German Federal Institute for Health Education
German qualification framework for lifelong learning
Conference of the Ministers for Interior of the Länder
Conference of the Ministers for Culture of the Länder
Conference of the Ministers for Sport of the Länder
Transparency International
German Association of contracted football players
Conference of the Ministers for Economy of the Länder
Treaty on European Union
Treaty on the Functioning of the European Union
European Union
European Economic Area
Member States
European Social Fund
European Regional Development Fund
European Agricultural Fund for Rural Development

EXPLANATIONS

The European Union

The Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) came into force on 1 December 2009. According to article 1 TEU, the European Union is the legal successor of the European Community and is given its own legal personality (article 47 TEU). In addition, the European Charter of Fundamental Rights has become legally binding in twenty-four EU Member States (MS) and majority decision-making in the legislative procedure has been extended to further policy areas (e.g. justice and home affairs).

The new treaties strengthened the role of the European Council. The Member States' Heads of State and Government set the EU's general policy objectives and its priorities. The position of the European Parliament (EP) has also been upgraded through its greater involvement in legislation by placing it on an equal footing with the Council of Ministers. For the first time, the Treaty gave national parliaments the right to contribute actively to European policy-making (article 12 TEU).

Legislative procedure

Ordinary legislative procedure in accordance with article 294 TFEU: the "ordinary legislative procedure" supersedes the co-decision procedure and will become the standard procedure for European legislation. The EP genuinely has the last word in this legislative 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" or in case of an agreement by Ministers before first reading in the Parliament known as "common approach") 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).

Legislative instruments and other Community measures

Regulations and directives

A **regulation** is a legislative instrument which is generally applicable and 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

A decision 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 EU 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.

Political recommendations

Recommendations are adopted in the first instance by the Council or, more rarely, by the COM. As official announcements of the EU, they have a real effect as instances of "soft law", but are legally non-binding. The MS are not obliged to implement EU recommendations at national level (article 288(5) TFEU). However, courts in the MS must take recommendations into account when interpreting European law.

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 EU 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 political 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

Sport enshrined in EU law – article 165 TFEU

BACKGROUND

The Treaty on the Functioning of the European Union (TFEU) entered into force on 1 December 2009. Thus, for the first time the EU possesses its own competence in sport policy. It can take measures to support, coordinate or complement measures by the Member States (MS) in the field of sport and to contribute to **the promotion of European sporting issues** under the new article 165 TFEU.

In addition, the EU should promote fairness and openness in sporting competitions and protect the physical and moral integrity of sportsmen and sportswomen, especially the youngest, while taking account of the specific nature of sport, its structures based on voluntary activity and 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, and the Council of Ministers can issue political but legally non-binding recommendations for realisation of the stated objectives on proposal of the COM. However, national provisions are not to be harmonised.

DEVELOPMENTS

As a reaction to the new EU competence for sport, on 19 May 2011 the **Council of Ministers** for the first time adopted its own work programme for the period until 2014 and created six expert groups which concluded their work at the end of 2013.

STATUS AND PROSPECTS

On 21 May 2014, the **Council of Ministers** adopted the **“2nd European Union work plan for sport 2014 to 2017”** which set out the thematic priorities of MS sport policy at EU level for the period 2014 to 2017. In this connection, five expert groups have been put in place (see **2nd EU work plan for sport 2014 to 2017**):

- Expert group on combating match fixing
- Expert group on good governance in sport
- Expert group on the economic dimension of sport
- Expert group on health-enhancing physical activity
- Expert group on human resource management in sport.

Most of the five expert groups have already concluded their work in the framework of the 2nd EU work plan for sport 2014 to 2017. The **COM** is currently preparing the **“3rd EU work plan for sport 2017 to 2020”** which is set to be adopted by the Council of Ministers in early 2017 and will set out the priorities for EU sport policy until the end of 2020.

DFB / DFL

DFB and DFL come out in favour of safeguarding the autonomy and the specific characteristics of sport, strengthening the importance of sport in society, maintaining fair and open sport competitions, more legal certainty in the application of competition law, better legal protection of property rights of the organisers of sporting events and more EU funding of sports facilities and amateur sport.

2nd EU Work Plan for sport 2014 to 2017

BACKGROUND

On the basis of the Lisbon treaty, the Council of Ministers transformed the previously informal meetings of Sports Ministers into new, official working procedures and decision-making structures (see **Sport enshrined in EU law**). The first official Council of EU Sports Ministers met on 10-11 May 2010 in Brussels. Since then, EU Sports Ministers generally met twice during each EU Council Presidency. Through the Council Working Party on Sport which has met regularly since 2010 as well as meetings of the Council of EU Sports Ministers, the relevance of national governments vis-à-vis European sport policy has increased.

In order to ensure successful implementation of the 1st work plan 2009-2014, **six expert groups** were put in place, building on the structures of the earlier COM working groups: "anti-doping", "good governance in sport", "education and training in sport", "sport, health and participation", "sport statistics" and "sustainable financing of sport". The MS were represented by the experts they nominated.

The **COM** acted as secretary for the expert groups and provided them with support for logistics and content. The Council of Ministers' six expert groups started work in September 2011, met at least twice a year since and concluded their work in December 2013.

DEVELOPMENTS

On 21 May 2014, the **Council of Ministers** adopted the "**2nd European Union work plan for sport 2014 to 2017**" which sets out the thematic priorities of MS sport policy at EU level for the period 2014 to 2017. In this period EU sport policy addressed three sets of themes: **sport and society, the economic dimension of sport** and **integrity of sport**. In addition, a **new work structure** has been put in place. The number of expert groups was reduced to **five expert groups**. The expert groups brought together MS representatives and representatives of sport organisations (with observer status). The COM continued to act as secretariat. The Expert groups agreed on work objectives for the following themes:

- **Expert group on combating match fixing**
(objective: exchange of best practices)
- **Expert group on good governance in sport**
(objectives: preparation of non-binding recommendations for protection of children and young people; preparation of guiding principles for enhancing respect of democratic values and human rights when major sport events are awarded)
- **Expert group on the economic dimension of sport**
(objectives: preparation of non-binding recommendations for measuring the economic dimension of sport; "practical guidance" for sustainable financing of sport)
- **Expert group on health-enhancing physical activity**
(objectives: preparation of non-binding recommendations for improving physical activity possibilities in schools; coordination of national transposition of the "EU HEPA recommendation")
- **Expert group on human resource management in sport**
(objectives: preparation of non-binding recommendations to encourage volunteering in sport; exchange of information on state of play concerning inclusion of sport-related vocational qualifications in national transposition of the European Qualifications Framework; preparation of a report on the state of play concerning implementation of "EU guidelines on dual careers")

STATUS AND PROSPECTS

Four of the five expert groups of the **Council of Ministers** largely concluded their work in the course of 2016 and submitted their legally non-binding recommendations to the Council. The **COM** is currently preparing a draft "**3rd work plan of EU Sport Ministers 2017 to 2020**" which will be approved by the Council in early 2017.

On 16 September 2016, the **EP** published a legally non-binding own-initiative report "**Integrated approach to sport policy: good governance, accessibility and integrity**" in which it sets out its own ideas for EU sport policy priorities in the years ahead.

DFB / DFL

DFB and DFL welcome the involvement of the most important international and European sport associations in the work of the Council's expert groups and most of the recommendations drawn up in the expert groups. The future "**3rd EU work plan for sport 2017 to 2020**" should be even more strongly oriented on solving concrete problems. In addition, more experts from the MS should take part in the work of the future working groups, organised sport should be better involved and the working structures of the expert groups should be simplified. Moreover, when presenting policy recommendations, the EU should bear in mind the limits of its competence as enshrined in article 165 TFEU as well as the autonomy of sport.

Specificity of sport

BACKGROUND

Before the **ECJ** ruling in the case **“Meca-Medina” C-519-04 P** on 18 July 2006, the “specificity of sport” was understood as an option to constitute a general exemption 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, the ECJ rejected the concept of “purely sporting rules” as irrelevant for the applicability of EU competition provisions in the sport sector.

In its white paper (11 July 2007), 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 COM believes that inter alia 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 of the game (duration of a game, number of players), 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, equality of opportunity between competing clubs, pyramid structure of competitions in amateur sports and professional sports, solidarity mechanisms between professional and amateur sport and introduction of licensing systems.

DEVELOPMENTS

In its non-binding **“Resolution of the European dimension of sport”** adopted on 2 February 2012, the **EP** expressed the view that the specificity of sport should be understood to include all specific and essential characteristics which distinguish sport from every other sector of economic activity. The COM was once more invited to adopt guidelines for the application of EU law to sport and to present a proposal before the end of 2012 which takes better account of the specificity of sport and the requirements of article 165 TFEU.

The **COM's** legal assessment has not changed as a result of the mention of the “specific characteristics of sport” in article 165 TFEU. In order to establish the compatibility of a sport rule with EU law, the COM still wants to carry out a case-by-case approach. In a **“Study on a possible future sport monitoring function in the EU”** (30 July 2012) the COM proposed a monitoring function to help improve the knowledge base and develop concrete ideas to support policy-making in the EU (including its possible scope and activities, as well as working methods linked to a true “EU sport policy” and institutional framework). The study came to the conclusion that the current scientific networks in sport are still insufficient for a comprehensive exchange of information. It found that there is no common scientifically useful data base to serve as a basis for recommending or substantiating further sport policy initiatives by the EU. Hence, it is necessary to build an EU research and monitoring function. Such a function could be put in place by 2020 and could be financed out of EU funds.

In its judgement on the **“Bernard” case C-325/08** (16 March 2010), **ECJ** for the first time addressed the imprecise legal concept of “specific characteristics of sport” and found that, on the basis of the new provision, the specificity of sport must in future be taken into consideration when the proportionality of an EU measure is being assessed, but do not justify a general exemption from the EU’s fundamental freedoms in the Treaty or EU competition law. In its judgment in **“QC Leisure” C-403/08** (4 October 2011), the ECJ pointed out that, in line with the requirements of article 165 TFEU, every MS is free to take further legislative measures to promote sport, e.g. by protecting the property rights of sport organisers.

On 14 October 2014 **UEFA** signed a legally non-binding cooperation agreement with the COM until 2017. This makes provision for regular cooperation on themes of shared interest, in particular the integrity of sport, respect of human rights, non-discrimination and solidarity between professional and amateur sport.

STATUS AND PROSPECTS

In 2015, **France** launched a new initiative in the Council of Ministers’ working group designed to give more concrete form to the concept of the “specific nature of sport” or “specificity” used in article 165 TFEU. This is deemed necessary to counter the trend towards the “deregulation” of professional sport in Europe, e.g. in connection with the third-party ownership of players’ economic rights, foreign investors in football, the lack of transparency in monetary flows linked to player transfers, financial supervision of sport and antitrust procedures of the COM against sport federations.

In June 2016, the **COM** published a short study it had commissioned **“Mapping and Analysis of the Specificity of Sport”**. The objective of the study was to provide an overview of the ECJ jurisprudence in relation to sport since 2007 (COM sport white paper). The relationship between EU competition law as well as the fundamental EU freedoms and the concept of the “specific nature of sport” contained in article 165 TFEU is still broadly unclear. On 27 September 2016, the COM launched an official antitrust procedure against the International Skating Union (ISU). It holds the view that ISU’s eligibility rules providing for sanctions against athletes taking part in sport events not authorised by ISU infringe the anti-competition ban contained in article 101 TFEU. Further competition complaints are pending within the COM which are directed against the football transfer system and the ban on third-party ownership of players.

DFB / DFL

DFB and DFL believe that the EU must in future take greater account of the specificity of sport in line with article 165 TFEU when proposing new political or legislative measures. The mention of “specific characteristics” in article 165 TFEU calls for a new interpretation of the specificity of sport which safeguards the political will of the MS (strengthening the autonomy and legal certainty of sport).

Macroeconomic significance of sport (satellite account for sport)

BACKGROUND

There are currently hardly any statistical data that make it possible to give a substantiated statement on the macroeconomic significance of sport for the EU. The aim of the COM is therefore to develop a methodological framework for collecting comparable macroeconomic data (gross value added and employment data) for the sport sector in the 28 MS. The EU would like to use the new statistical database to establish comparable benchmarks for certain indicators and to deduce policy measures in the area of sport directly. The measures deduced in this way should contribute inter alia to promoting the EU's guiding strategic themes until 2020 or to supporting other EU policy objectives (so-called "knowledge-based policy approach").

The COM has already announced that it will prepare a **"satellite account for sport"** in its **"White paper on sport"** (11 July 2007). In the framework of the working group "Sport and economics" created during the Austrian EU Council Presidency, the COM and MS started their work on an effective EU-wide statistical methodology, taking as their guide the definition of "sports activities" in the **statistical classification of economic activities in the European Union (NACE)**. The **Vilnius definition** of sport agreed between COM and MS in 2007 comprises the following goods and services:

- Statistical definition: this includes the "sporting activities" set out in NACE 92.6, rev. 1.1
- Narrow definition: all activities needed for the exercise of sport (goods and services on upstream markets); as well as all activities included in the "statistical definition"
- Broad definition: all activities needed as a prerequisite for sport, i.e. which have a link to sport without being necessary for the exercise of sport (goods and services on downstream markets); as well as all activities included in the "narrow definition"

The interim results of the **"Study on the contribution of sport to economic growth and employment"** contracted in August 2010 showed that the sport sector accounts for 1.76% (174 billion euros) of total gross value creation in the EU. This means that sport provides a similar share to economic performance as sectors such as agriculture, forestry and fisheries. The economic benefits of voluntary work in sport were not taken into account. In addition, the sport industry makes an important contribution to job creation. Its share in total employment in the EU is around 2.12% (3.13 million employees).

DEVELOPMENTS

The COM called on MS to establish national satellite accounts in line with the **Vilnius definition**. At the time being, there are 7 national satellite accounts on that basis. Two other MS are close to concluding a national account. A further MS is preparing to draw up a national account. On 22 November 2012, the COM published the **"Study on the contribution of sport to economic growth and employment in the EU"**. The purpose of the study was to identify the macroeconomic potential of sport as a stand-alone economic sector in the EU, in particular with regard to sport's contribution to achieving the objectives of the **"EU Strategy 2020"** (growth and jobs). The study came to the conclusion that the sport sector accounts for 1.76% (174 billion euros) of total value added in the EU. The direct employment effect of sport is 2.98% on value added (2.94 billion euros). The economic significance of voluntary work in sport was not taken into consideration in these calculations.

In July 2013, with the report **"The economic dimension of sport in Germany"** and in the framework of the national accounts, **Germany** established a national satellite account for sport based on the "Vilnius definition". It is due to be revised at the end of 2016 on the basis of macroeconomic data for 2012.

STATUS AND PROSPECTS

Mid 2016, the expert group of the Council on "the economic dimension of sport" issued **"Recommendations to measure the economic benefits of sport"**. Among other things, it proposes a revision of the **"Study on the contribution of sport to economic growth and employment"** (2012) and more work on the economic significance of volunteering and amateur sport. In addition, national contact points should be put in place to collect sport-related statistical data and the financing contribution of lotteries to grass-root sport should be examined more closely. In the **"Recommendation on major sporting events"**, sport organisations as well as potential organising regions and/or cities were invited to engage in forward-looking planning targeted on sustainability (social, economic and environmental). It must be ensured that the major sporting event leaves a positive legacy. More transparent tendering procedures also contribute to this. In the **"Practical guidelines for the promotion of long-term investments in sport"**, the expert group called for a new study by the COM looking at the need for investments in sport infrastructure, possibilities for the deployment of EU financial resources and the European Investment Bank's investment programmes as well as additional tax incentives for private investors.

In September 2016, the COM published a **"Study on national satellite accounts in the EU"** whose main objective was to collect sport-related economic data which can be used for the preparation of a statistical sport satellite account of the MS. It emerged that the data situation in the MS which do not yet have their own sport satellite account is very deficient. An absence of political will, problems with electronic data processing, a shortage of specialist knowledge for the area of sport-related consumption and little scientific research work in individual MS contributed to the poor data situation. The study therefore proposed the establishment of an expert group which should prepare regional structures for the economic contribution of sport based on the Vilnius definition in the framework of workshops.

DFB / DFL

In the view of DFB and DFL standardised statistical collection methods and data should not be the only or the most important basis for future EU measures in the area of sport policy. By this, voluntary services in sport can better be taken into account. Furthermore, macroeconomic data on their own do not provide a generally applicable snapshot of the macroeconomic significance and political challenges of sport but they do confirm the great economic significance of sport in many MS such as, for instance, the study "Wachstumsmotor Bundesliga" ("Growth Engine Bundesliga") by McKinsey & Company which in 2015 determined the value creation, employment and tax effects of professional football in Germany. Furthermore, the major European sport leagues and in particular football leagues are also "export hits" beyond Europe. Bundesliga transmission rights are currently marketed in 210 countries worldwide.

INTEGRITY OF SPORT

Good Governance in Sport

BACKGROUND

Accusations and scandals surrounding the management of sport organisations at national, European and international level have been piling up for several years. The sport organisations in question are reproached by the public for a lack of transparency, undemocratic decision-making procedures, corruption, violation of human rights, cronyism, bribery and personal enrichment. Good governance issues have also multiplied in connection with the award and implementation of major European or international sport events (e.g. FIFA football world championship, Olympic Games).

DEVELOPMENTS

The **COM** mentioned the theme of good governance of sport events for the first time in its **“White Paper on Sport”** (2007). Eight projects to promote good governance in sport were financially supported by the EU in 2011 in the framework of the so-called “preparatory measures”.

The **Council of Ministers** also made good governance of sport organisations one of its priorities in the **“1st work plan of EU Sport Ministers 2011 to 2014”** and tasked an expert group with “developing principles for good governance in sport”. The group made 10 fundamental recommendations in its final report and also called for future financial support from the public hand to be tied to the condition of good governance of a sport organisation. The **“2nd work plan of EU Sport Ministers 2014 to 2017”** once more took up the theme. The Council tasked the new expert group with preparing measures to promote good governance in sport and a structuring of sport organisations conducive to the best implementation successes.

STATUS AND PROSPECTS

The expert group on good governance of sport organisations put in place by the **Council of Ministers** adopted its final report in June 2016. It comprises a legally non-binding recommendation to further strengthen the EU’s efforts to promote good governance in sport, in particular by granting additional financial resources for corresponding projects of sport organisations. In its **“Report on promotion of the principles of good governance”** (21 July 2016), the group expressed the view that it is not sufficient for sport organisations to amend their rules and statutes. Rather, what is needed is a new governance and transparency culture in sport organisations with the EU playing a strong role in its implementation.

On 16 September 2016, the **EP** published a legally non-binding own-initiative report **“Integrated approach to sport policy: good governance, accessibility and integrity”** in which it invites sport associations to create a culture of transparency with an obligation to publish the remuneration of leading officials. Good governance is also regarded as a precondition for sport to be allowed to refer to an “autonomy of sport” in certain areas. With regard to corruption in sport, the EP came out in favour of a zero-tolerance policy vis-à-vis sport organisations and called on sport federations to present concrete proposals for a better governance culture by 2018 at the latest.

DFB / DFL

DFB and DFL are committed to the objective of good governance of sport organisations. Through the associative structure and committee membership of DFB and DFL it is ensured that decision-making is based on democratic principles. In addition, the relationship between DFB and DFL is set out in the so-called “basic agreement”. In 2016, DFB introduced a compliance management system. With a resolution of the DFB national council on 4 November 2016, DFB has adopted comprehensive compliance provisions in its articles of association, in particular an ethical code, and set up an ethics committee within the association. DFB’s members, which also include DFL e.V., are required to create their own compliance provisions.

Fight against doping

BACKGROUND

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 individual athletes, especially adolescents, doping can cause serious and permanent damage to health.

The World Anti-Doping Code of the World Anti-Doping Agency (WADA) sought inter alia to harmonise the different anti-doping provisions and sanction possibilities. It contained for example stricter rules on whereabouts and the transmission of personal data to a data base (Anti-Doping Administration System - "ADAMS") in Canada. As a general rule, the prior express consent of the sportsperson is necessary for the transfer, exchange and processing by WADA of an athlete's personal data generated with the Internet-based Anti-Doping Administration System (ADAMS).

DEVELOPMENTS

On 25 January 2012, the **COM** published a proposal for a "**Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data**" (**General Data Protection Regulation**) which is intended to supersede the currently applicable EU data protection directive 96/46/EC. The new General Data Protection Regulation is also significant for sport in the area of the fight against doping and the fight against match-fixing.

At the 4th World Anti-doping Conference on 15 November 2013 in Johannesburg (South Africa), **WADA** adopted the new WADA code which entered into force on 1 January 2015. Among other things, it provides for longer bans following doping violations (e.g. an ineligibility period of four years for intentional violations), more flexible measures for less clear-cut doping incidents, stronger cooperation with athletes, new concepts for planning tests, analyses of doping samples and their storage as well as better protection of minors.

On 20 December 2011, the **Council of Ministers** agreed in a resolution on a common representation of the EU in WADA's Foundation Board and nominated three EU representatives from the group of EU Sport Ministers who defend the EU's common position (27 November 2012), currently being Malta, Belgium and the UK.

STATUS AND PROSPECTS

On 27 April 2016, the new **EU General Data Protection Regulation** (2016/679) was published in the Official Journal of the EU, following long negotiations. The final text does not provide for any derogation from the principle of express consent for transfer of the personal data of athletes, e.g. to combat doping or match-fixing in sport. However, a corresponding "public interest" arguing in favour of a derogation for the exchange of personal data without prior consent for the purpose of combating doping could be derived from recital 112. The MS have the possibility to give more concrete form to the concept of "public interest" in their national transposition laws and hence to allow organised sport expressly to transfer and exchange personal data for the purpose of combating doping or match-fixing. The General Data Protection Regulation enters into force in all **MS** on 25 May 2018.

With a resolution of 25 November 2015, the **Council of Ministers** came out in favour of continuing the joint positioning and representation of the EU vis-à-vis WADA. In future, the COM should take over systematic preparation of representatives of the Council of Ministers. The Council wants once more to review experiences with the joint mandate before 31 December 2018. On 30 July 2016, Sport Ministers from 19 MS issued a joint position in which they called for continuation of the fight against doping.

In **Germany**, a new anti-doping law came into force on 17 December 2015. The law introduces new criminal offences and sets out to strengthen cooperation between sport and state in the prosecution of doping infringements. The law makes self-doping punishable so that competitors who intend to give themselves advantages in organised sport with doping will be covered for the first time. Also now punishable is the acquisition and possession of small quantities of doping agents for self-doping. In addition, data exchange between NADA, courts and public prosecutors is regulated by law.

DFB / DFL

DFB regularly adapted its statutes, its anti-doping guidelines and its other regulations, in coordination with the international football federations (FIFA and UEFA), to the new requirements of the WADA Code and works very closely with the German NADA. DFB and DFL can carry out doping tests in relation to all national matches (championship matches of the Bundesliga and 2nd Bundesliga, 3rd league, national women's league, A and B junior national leagues, matches of the DFB cup and super cup). In addition, training tests can be organised for players of the Bundesliga and 2nd Bundesliga as well as for players from NADA's national test pool (e.g. players in the A national team). In the 2015-2016 season, NADA carried out 457 training tests and 1,252 match tests, with 736 tests for the Bundesliga and 2nd Bundesliga. Since some of these tests were "combined tests" (both blood and urine samples), a total of 1,912 samples were analysed in German football. Training centres for junior players are obliged to implement and document annual courses to educate about and prevent doping in elite sport (U16-U23).

Fight against match-fixing in sport

BACKGROUND

A core characteristic of sport is that the outcome of a sport competition cannot be predicted in advance. Sport competitions in which the outcome is open require continuous regulatory flanking measures by sport organisations in order to preserve the integrity of sport. The influence of external third parties on sport leads to the credibility of a competition, its sporting value and its appeal being damaged. Experience in recent years shows that sport is not immune to manipulation of the outcome, e.g. via doping (see **Fight against doping**) or in connection with sport bets. According to the **Council of Europe**, the expression "manipulation of sport results" covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.

DEVELOPMENTS

On 14 May 2013, the **IOC** decided to put in place a global "**Early-warning system of the Olympic movement**" to monitor betting activities in the framework of international sporting events. On 30 May 2013, **UNESCO World Sport Ministers** adopted the "**Berlin Declaration**" in which they recommended that UNESCO Member States examine the feasibility of putting in place a provision in penal law on sport fraud. National and international sport associations have been invited to take additional preventive measures to combat manipulation of results. **UEFA** nominated national gambling delegates in all 53 member associations and is also advocating the introduction of a crime of sport fraud in all MS of the EU.

In its "**Conclusions on combating match-fixing**" (28-29 November 2012), the **Council of Ministers** called for additional educational programmes and better monitoring systems, in particular for online betting.

The **EP** called on 3 November 2011 in a legally non-binding "**Written declaration on combating corruption in European sport**" and in the non-binding "**Resolution on online gambling in the internal market**" (15 November 2011) and the "**Resolution on the European dimension of sport**" (2 February 2012) for additional measures such as the creation of a property right for sport organisers, a common definition of "sport fraud" and a corresponding penal provision in the MS. On 14 March 2013, the EP adopted a non-binding "Resolution on match-fixing and corruption in sport" in which it invited the COM to develop a coordinated approach to the fight against match-fixing and to better coordinate the efforts of all stakeholders.

A law on strengthening the integrity of sport and of sport rights was adopted in **France** on 18 January 2012. It incorporates a new crime of "sport fraud" in the criminal code. In **Germany**, online games of chance were included in the provisions on combating money-laundering via the "**Law supplementing the money-laundering law**" on 7 November 2012.

STATUS AND PROSPECTS

On 18 September 2014, the **Council of Europe** passed a legally binding "**Convention on the manipulation of sports competitions**", which has been signed by 25 States. The Convention has so far been fully ratified by 2 states. However, it can only enter into force if at least 5 states have concluded ratification. In "**Conclusions on combating match-fixing**", the expert group on "combating match-fixing" of the **Council of Ministers** invited the MS and the COM to ratify and implement the Council of Europe's Convention rapidly. In addition, cooperation between "National Platforms" which are to be put in place should be improved and the work of the expert groups should be continued in the "**3rd work plan of Sport Ministers 2017-2020**", in particular through the exchange of best practice examples.

In recent years, the **COM** has financially supported several European projects of sport organisations to combat match-fixing through EU support programmes (see **EU funding for sport**). On 16 September 2016, the **EP** published a legally non-binding own-initiative report "**Integrated approach to sport policy: good governance, accessibility and integrity**" and invited the MS to introduce concrete criminal offences for match-fixing.

In **Germany**, a draft "**Law on the criminalisation of fraud in sport competitions and manipulation of professional sport competitions**" has been issued placing two new criminal offences (§§ 265c, 265d) in the criminal code. Match-fixing agreements with fraud in sport competitions and match-fixing agreements without fraud in sport competitions where the agreement relates to high-level competitions of a professional character (manipulation of professional sport competitions) will in future be punishable.

DFB / DFL

Since 2005, DFB and DFL have been combating match-fixing in football through various preventive measures (amendment of provisions in sport-related legislation, systematic monitoring of Bundesliga games down to the 5th league, DFB Cup, international matches as well as junior and women's leagues, cooperation with crime detection authorities, international cooperation with UEFA and FIFA). In June 2011, the DFB appointed its own integrity officer and an anti-corruption officer. In July 2012, DFB and DFL pooled their previously separate prevention campaigns in the project "Together against match-fixing". This project is implemented with the support of Transparency International Germany (TI), BZgA, the Centre of Interdisciplinary Addiction Research of the University of Hamburg (ZIS) and VdV. The most important elements of the campaign are first the appointment of an ombudsman as an independent and external discussion partner in doubtful cases and second preparation of wide-ranging educational and information material (including information brochure, flyer and video with key information on the ombudsman, website, poster, e-training programme, educational material and presentation). To ensure the widest possible dissemination of information and instruction vis-à-vis all players, referees, trainers, officials and family members, DFB and DFL decided to develop a so-called multiplier system. This has now been strengthened yet further through a change in the statutes which has entered into force for the 2014-2015 season. As well as appointing a named prevention delegate, elite sports centres for the promotion of young talents are obliged, inter alia, to implement and document annual training sessions to explain and prevent gambling addiction and match-fixing within the facility centre (U16-U23). Since match-fixing and fraud do not stop at borders, DFL jointly with TI and EPFL implemented the COM-supported programme "Staying on Side: How to Stop Match-Fixing" with partner leagues from 6 MS and Norway in the period from January 2013 to June 2014. The aim was to establish the prevention approaches developed by DFB and DFL also in other countries.

Third Party Ownership

BACKGROUND

The question of the involvement of private investors in professional players' economic rights ("third-party ownership" - TPO) has been playing an increasing role in professional football and in other sports. TPO entails agreements between a club and a private third party (investor, sport agency, etc.) whereby the third party receives a share of the player's future marketing or transfer revenues. A number of forms of TPO should be distinguished:

- "Investment TPO" (club and an investment fund share revenues from transfer rights)
- "Financing TPO" (clubs sell players' economic rights to an investment fund)
- "Recruitment TPO" (players' agents offer players to clubs and agree a percentage share of future transfers).

DEVELOPMENTS

With circular no. 1464 of 22 December 2014, **FIFA** banned third-party ownership of players' economic rights from 1 January 2015 in order to protect the integrity of matches and to prevent private third parties from exerting an influence on clubs' sport-related decisions.

According to a 2015 study commissioned by the **European Club Association (ECA)**, TPO agreements within Europe are used by 5 to 8% of professional football clubs. In the Balkan countries, nearly 50% of all clubs used TPO, followed by Portugal (20%) and Spain (5 to 10%). The study came to the conclusion that there is regularly an imbalance between the negotiating power of clubs and financial sponsors. This is said to lead to agreements with one-sided benefits and high returns for the private third party. Accordingly, in order for the financing instrument itself to continue to be useful, strict regulation is therefore needed.

On 26 January 2016, the **EP** held a panel discussion on the theme **"Third-party ownership of football players' economic rights"**. The main question here was whether the complete ban on TPO as a form of finance by FIFA is disproportionate. Most participants and MEPs were in favour of maintaining the ban on TPO.

STATUS AND PROSPECTS

On 2 February 2015, the **Spanish and Portuguese professional football leagues** filed a complaint against the ban on TPO by FIFA with the COM's Competition Directorate General. The complainants claim a violation of article 101 TFEU (ban on anti-competition agreements), article 102 TFEU (abuse of a dominant market position) as well as article 45 TFEU (free movement of workers), article 56 TFEU (freedom to provide services) and article 63 TFEU (free movement of capital). The ban on TPO was said to be not suitable for achieving the objective of "competitive balance in sport competitions" derived from the integrity of sport. Rather, TPO can lead to smaller clubs from smaller leagues being in a position to access additional sources of finance and hence to gain sport competitiveness. The **COM** has not yet decided whether it will launch an official complaint procedure against FIFA or will reject the complaint from the two leagues.

On 1 April 2015, **UEFA** and the European department of FIFPro filed their own complaint with the COM against the practice of TPO in which the admissibility of this financing model in general is questioned. TPO is said to damage the interests of players, clubs and fans, and to undermine the integrity of football through the strong dependence of clubs on individual persons.

On 16 September 2016, the **EP** published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it calls for sports persons to be protected against abusive practices such as ownership of players' economic rights, with a view to the integrity of sport competitions as well as general ethical concerns.

DFB / DFL

FIFA, UEFA, ECA, most European professional football leagues and FIFPro support very strict regulation of third-party ownership of players' economic rights. However, ECA and EPFL have rejected a complete ban. DFB implemented the FIFA provisions with the ban on third-party ownership as stipulated in § 28a of the game rulebook on 1 May 2015. For its part, DFL has incorporated the corresponding FIFA requirements in § 5a of its player licensing rules ("Lizenzordnung Spieler" - LOS). Accordingly, neither clubs nor players may conclude an agreement with a third party whereby a third party has a total or partial claim to compensation on the future transfer of a player from one club to another or is given any right in connection with a future transfer or transfer compensation. All existing agreements must be registered in FIFA's Transfer Matching System (TMS). In the meantime, the DFB ban on an agent having an economic stake in the proceeds of a future transfer in the event of a player's onward sale has been confirmed by the Frankfurt Oberlandesgericht (Court of Appeal) (ruling of 2 February 2016, Az: 11 U 70/15 (Kart)).

VOCATIONAL TRAINING AND QUALIFICATION

Cross-border recognition of sport diplomas

BACKGROUND

The mobility of workers and self-employed persons within the EU continues to increase. Problems often arise when there is a need for the receiving country to recognise the vocational qualification gained in his or her home country of the worker/self-employed person who wants to move into another MS. This relates above all to classical “independent professions” such as pharmacist, architect or doctor. In MS where access to and the exercise of sport professions are regulated, the qualifications acquired in other MS are not automatically recognised. There are currently 4,700 professions that are regulated on the basis of a professional qualification. 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. A comparable case **“Commission vs. France” C-200/08** concerning a snowboard instructor was suspended on the urging of the COM following the conclusions of the Advocate General (16 July 2009) because France adjusted the recognition rules in line with the COM’s proposals.

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.). For instance, the profession of ski instructor requires very different formal and practical qualifications in the MS which can lead to obstacles to cross-border mobility of this professional group within the EU. For this reason, the COM in cooperation with some MS (currently 11) has been supporting pilot projects for the development of a ski instructor certificate that is recognised across Europe in order to increase the mobility of ski instructors. Ski instructors who have the highest ski instructor qualification and have successfully completed two specific tests (“Eurotest” and “Eurosecurity Test”) should be able to acquire the recognised professional designation of all participating MS and to operate in the MS in question.

DEVELOPMENTS

The **COM’s** original plans to integrate sport in the **“European quality charter for mobility (2009/96/EC)”** on the basis of article 165 TFEU (which also contains provisions on general vocational education) and to apply its standards to sport were not taken up in the **“Communication on developing the European dimension in sport”** (18 January 2011). The **report “Evaluation of the professional qualifications directive”** (6 July 2011) came to the conclusion that EU legislation has contributed effectively to facilitating cross-border uptake of employment in the MS, in particular in professions where there is automatic recognition of qualifications. On 19 December 2012, the COM presented a **“Draft revision of the professional qualifications directive”**. Key points of the proposal are the introduction of a European vocational passport, introduction of a common training framework and common training examinations, as well as a mutual review of regulated professions.

The new **“Directive on the recognition of professional qualifications and administrative cooperation through the internal market information system”** (2013/55/EU) entered into force on 20 November 2013. The directive sets out to create a harmonised framework for professions recognised or regulated at national level in order to facilitate taking up employment across borders. The 2005 directive on recognition of professional qualifications has hitherto applied only for professions recognised or regulated in a MS where access and exercise requires the acquisition of special professional qualifications. Accordingly, not all professions have been able to benefit from the simplified recognition rules. Among other things, the amended directive provides for the introduction of a European professional card (“Europass”) which is intended to promote the cross-border mobility of workers in the EU and to facilitate the recognition of diplomas. Furthermore, an EU-wide database for regulated professions will be established which will enable workers to verify whether and how their profession is recognised and regulated in another MS. In sport, several professional profiles fall under the definition of regulated professions, e.g. ski instructor, sport manager as well as sport and gym instructor.

STATUS AND PROSPECTS

In January 2016, the **COM** published a study **“Mapping of professional qualifications and relevant training for the profession of ski instructor”** which offers a comprehensive overview of the different conditions and requirements in relation to ski instructor training in the 28 MS as well as in Iceland, Norway, Liechtenstein and Switzerland. In addition, on 22 July 2016, the COM launched a Treaty infringement procedure against Austria. The procedure targets measures by the federal states of Tirol and Styria which give preference to Austrian ski instructors over those from other MS and/or which prevent professional qualifications acquired outside Austria from being recognised. The COM sees in this an instance of discrimination based on nationality, an infringement of free movement of labour as stipulated in article 45 TFEU as well as a violation of freedom to provide services as stipulated in article 56 TFEU. If Austria does not address the COM’s concerns, the COM can lodge a complaint before ECJ.

DFB / DFL

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 (EQF)** as well as a **European credit point system in vocational education and training (ECVET)**.

EQF 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 transparent through an alignment of the different national qualification systems on the EQF and to increase the quality level of trainers and educators generally. In sport, the qualification requirements of all those with a sport-related vocational training who would like to become professionally active in another MS are at stake. EQF also relates to sport-relevant qualifications, whether formal (e.g. diplomas such as sport management), non-formal (e.g. trainer licences) or informal (e.g. acquired through voluntary activity).

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. To this end, the acquisition of qualifications from voluntary activity (e.g. youth tutors) and sport-specific training and qualification possibilities are also credited (e.g. training to become a club manager, trainers in amateur sports).

DEVELOPMENTS

On 23 April 2008, the **EP** and the **Council of Ministers** issued a **“Recommendation on the establishment of an EQF for lifelong learning”**. The MS were each supposed to develop a national concept for implementation of the EQF by 2010 and to link their national qualifications framework (NQF) to EQF. At the **Council of Sports Ministers** on 18 November 2010, the MS were invited to start developing national procedures for recognition and evaluation of non-formal and informal learning in national education systems by 2015 at the latest, supported by the NQF where appropriate.

The **COM**, together with the MS, would like to promote inclusion of sport-related qualifications in EQF more strongly and take account of both formal national education systems and informal learning or sport organisations' sector-specific qualification and training possibilities (amateur and professional sport). In this context, it has published a draft political **“Recommendation on validation of the results of non-formal and informal learning”** (5 September 2012).

In August 2013, the **“Draft DOSB framework guidelines on classification in DQF”** commissioned by DOSB recommended classification of the qualifications examined in those guidelines under level 4 (“autonomous planning and processing of professional task complexes [...] in a specialised [...] field of activity”) or level 5 (“autonomous planning and processing of professional task complexes [...] in a specialised [...] field of activity”). The highest classified “Coaching licence type A” of the respective sport discipline's elite sport level should be classified under level 5, just below level 6 earmarked for the university bachelor degree. In **Germany**, work continues on developing an NQF (German qualification framework for lifelong learning - DQR) with the German Federal Ministry of Education and Research (BMBF). On 20 November 2013, the **“Joint resolution on the DQR”** was announced by the Conference of Education Ministers, the Conference of Economy Ministers, BMBF and BMWi was announced. They have agreed that a DQR should be introduced which makes it possible to assign qualifications from general education, higher education and vocational education (including training) to the different levels of EQF on the basis of individual learning outcomes. In addition, a permanent DQR working group and a federal-regional coordination point have been put in place.

STATUS AND PROSPECTS

The **Council of Minister's** expert group on “human resource management in sport” conducted an exchange of information on the state of play concerning inclusion of sport-related qualifications in implementation of EQF. The planned final report on progress on incorporation of sport in individual national qualification frameworks (NQF) and practical guidance for better compatibility of national qualifications in the MS with the international qualification standards of international sport organisations have not yet been finalised.

Further, the **COM** calls on the MS to pursue their work on adjusting their NQF in sport to the requirements of the EQF.

DFB / DFL

Existing UEFA rules already ensure the comparability of educational diplomas in both semi-professional and professional football at association level on the territory covered by UEFA. DFB's training rulebook (and hence also all training measures offered) has been recognised by DOSB and its framework guidelines. Thus, the classification of certificates by DOSB in the German NQF for Lifelong Learning is also appropriate for DFB.

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 is increasing sharply. Ever more players (but also clubs) are seeking advice from players' agents when negotiating and concluding contracts. Players' agents are subject to little supervision and are subject to different legal provisions depending on the respective MS.

In football, FIFA rules regulate access to the profession of players' agent which due to several complaints was challenged on grounds of competition law by the **COM** in 1999 (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.

DEVELOPMENTS

In December 2009, the results of the **"Study on the situation of players' agents in the EU"** prepared for the **COM** was published. The study called for introduction of a voluntary licensing system with an entry test that enquires about an applicant's vocational qualifications as well as legal, social and economic knowledge. In this regard, national sport organisations would retain their competences. The study explicitly rejected the idea of a legislative solution for the activity of players' agents at EU level. With its **"Resolution on players' agents in sport"** (16 June 2010) and the non-binding **"Resolution on the European dimension in sport"** (2 February 2012) the **EP** invited the **COM** to draw up and implement in cooperation with sports federations an EU-wide licensing system for players' agents, a registration system and a sanctioning scheme.

On 1 October 2010, **FIFA** introduced a new computer system (Transfer Matching System) which should allow stricter control of international player transfers and protect football better against money laundering and corruption. 5,600 clubs from 200 countries take part in the new system. International transfers can no longer take place without notification in the TMS. Violations are punished with point deductions or even transfer bans. There is a registration obligation for players' agents involved in international transfers. In June 2014, the FIFA Congress adopted the new **"FIFA regulations on working with intermediaries"** which entered into force on 1 April 2015. These new regulations abolish the current licensing system and introduce a registration system for players' agents. National associations have to adopt national rules on intermediaries by 31 March 2015. These rules must at least meet the requirements of the "FIFA regulations on working with intermediaries" but can also bring in stricter rules.

In the period from March 2015 to March 2016, clubs in the Bundesliga paid around EUR 174 million to players' agents. English clubs in the Premier League spent some EUR 184 million on the services of players' agents over the same period. On 6 May 2013, the Belgium-based Italian players' agent Daniel Striani filed an official complaint with the **COM** against the UEFA Financial Fair Play regulations (FFP) due to a possible infringement of EU competition law. He claimed that FFP constitutes an illegal anti-competition agreement which artificially restricts the transfer market and reduces the earning potential of players' agents. Alongside this, a complaint based on the same reasoning was lodged with the Court of First Instance in Brussels in June 2013.

In **France**, the legal provisions governing players' agents in the French sport code have been revised (June 2010). The aim of the new rules is to increase the transparency of financial flows in the activities of players' agents and to take greater account of ethical considerations in the exercise of the profession. For instance, for transfers of minor athletes, players' agents will no longer receive a commission.

STATUS AND PROSPECTS

On 29 May 2015, the Court of First Instance in Brussels decided to submit a preliminary ruling to the **ECJ**. The ruling was rejected as inadmissible in an ECJ decision of 16 July 2015 (case **C-299/15**). The Brussels Court is likely to rule on the complaint in the course of 2017.

On 16 September 2015, the **EP** published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it once more calls for the establishment of a European transparency register for the remuneration of players' agents.

DFB / DFL

DFB and DFL are in favour of better supervision of players' agents. In particular, the transparency of payments between clubs, the intermediary and the player need to be improved as well as measures need to be taken to provide for an effective quality control of players' agents'. Against this background, DFB and DFL endeavour to increase the quality of offered intermediary services. To this end, DFB and DFL have reached agreement with DFV on a Memorandum of Understanding (MoU) in which the parties express the intention of jointly preparing quality standards and rules of conduct which serve transparency, contract stability, the integrity of competition in sport and protection of minors. DFB implemented the new requirements of FIFA's regulations governing players' agents in its national regulation on agents in April 2015. Under § 3 of these DFB regulations, every players' agent who is involved in the conclusion of a professional player agreement must register in an agents' register managed by DFB since 1 April 2015. On 2 February 2016, the Frankfurt Oberlandesgericht (Court of Appeal) confirmed the legality of important parts of the regulations (ban on payments to agents when minors are transferred, disclosure obligation, TPO) in an interim injunction procedure (but rejected a comprehensive declaration of submission).

Dual career in sport

BACKGROUND

In many MS, promotion of elite 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, while many MS already have programmes for training athletes after their sport careers, only a few MS are in a position to ensure a dual career for 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.

DEVELOPMENTS

In 2012 the **Council of Ministers** asked the expert group on "education and training in sport" to draw up a formal proposal for **"EU guidelines on dual careers in sport"**, which should set out common objectives of the MS in the form of a recommendation in accordance with article 165 para. 4 TFEU. In its 17 May 2013 conclusions, it stated that it would adopt a policy recommendation in accordance with article 165 paragraph 4 TFEU by 2014. However, no such recommendation has yet been adopted.

On 23 January 2013, the **COM** presented its proposal for **"EU guidelines on dual careers of athletes"** which draws on the work of the former expert group on "education and training in sport" in the framework of the 1st work plan 2009 to 2014. In its final report the expert group came to the conclusion that the success of career-flanking forms of training in sport still depends on the good will and effort of individual persons in key positions.

STATUS AND PROSPECTS

In early 2016, the **COM** published a **"Study on the minimum quality requirements for dual career services"**. The study concentrates on the compatibility of vocational education and training for elite athletes. The purpose of the study was to develop and categorise quality criteria at EU level which were presented in the form of a quality framework. It comprises 25 country reports with recommendations to the MS for future policy measures and with a view to targeted scientific flanking.

Also in early 2016, the **EP** published a **"Background report on qualifications and dual careers in sport"**. The study gives an overview of projects to support a dual career which received financial assistance from the EU. On the basis of this evidence and analysis, the study makes a few recommendations and proposes a Europe-wide monitoring system to assess the effectiveness of guidelines for the dual career and also to develop quality certification for sport, academic institutions and companies.

The **Council of Ministers** wants the expert group on "human resource management in sport" to prepare a first report on the state of play concerning implementation of the "EU guidelines on dual careers" by June 2017. Furthermore, the expert group plans to draw up recommendations on a better contribution of sport to the eligibility of young people, in particular young professional sports people, for firm work relationships as well as on the creation of jobs in sport and sport-related labour markets.

DFB / DFL

DFB and DFL welcome the EU's efforts to improve the dual career training environment in sport. In Germany, DFB in cooperation with local schools and clubs has since 2006 set up 39 elite football schools which can fall back on a network of schools, elite sports centres and clubs. 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, 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. With the start of the 2009-2010 season, the educational care of junior national players has been optimised with respect to international matches and training camps. Thanks to the appointment of a school coordinator and two teachers, it has been ensured that junior national players receive a systematic, rational and professional school education during each training camp or during a break for international matches. In addition, DFB jointly with DFL and VdV implements numerous "FIT FOR JOB" schooling events in the Bundesliga's elite youth training centres as well as at DFB's scouting tournaments and coach conventions. In the 2014-2015 season statutes have been changed in cooperation with DFL to oblige clubs to appoint full-time pedagogical staff in the elite sports centres. Main objective is an individual career planning and career monitoring for young elite players. In addition, female elite players are given access to the career advice offers of DOSB's Olympic Support Centres. In the 2015-2016 season, DFB and DFL jointly with an independent partner launched a support project in the form of an audit/certification on the "accommodation of junior players" in all training centres. In the framework of quality assurance and process optimisation, the aim here is to define minimum standards for the accommodation and care of players in training centres.

INTERNAL MARKET POLICY

Digital Single Market Strategy

BACKGROUND

In November 2014, building on work to date in the framework of the so-called “Digital Agenda” (2009-2014), the **COM** made the creation of a Digital Single Market one of its main policy objectives in the new period of office to 2019. The new COM-President Juncker has underlined in his work programme **“A new start for Europe: my agenda for jobs, growth, fairness and democratic change”** (15 July 2014) that he intends to reform EU data protection and copyright comprehensively in order to use the technical possibilities of digital technologies and realise the estimated growth effects of around EUR 250 billion, and to “break down existing national silos”. The policy goal is to enhance cross-border access to audiovisual content. This policy objective should be achieved through multi-territorial/pan-European licences and the abolition of geo-localisation measures (e.g. geo-blocking) within the EU.

DEVELOPMENTS

Between 2009 and 2014 the **COM** has conducted several public consultations and under the title **“Licences for Europe”** it organised a structured dialogue with all stakeholders (right holders, collective management organisations, professional and non-professional users of protected content as well as Internet users) with a view to identifying practical solutions. In the informal **“White paper on a copyright policy for creativity and innovation in the EU”** which became known ahead of its official publication early 2014, the COM’s proposals included a review of the definition of making available right, a ban on contractual clauses which enable an absolute territorial restriction on a licence, introduction of a country of origin principle for dissemination channels other than satellite transmission, an extension of the exhaustion principle to digital services as well as a bundling and redefinition of the reproduction right and the right of communication to the public (in particular with regard to browsing and hyperlinks). On 6 June 2015, the COM published the communication **“A Digital Single Market Strategy for Europe”**. It contains a catalogue of concrete measures for realisation of the digital single market which range from studies and impact assessments through to legislation. The aim of the measures is to extend and enhance cross-border access to online content and to explore possibilities for involving access and host providers in the fight against Internet piracy. The COM has proposed the following specific measures in the communication:

- Regulation on cross-border portability of audiovisual content rights
- Amendment of the EU copyright directive (2001/29/EC)
- Amendment of the audiovisual media services directive (2010/13/EU)
- Extension of the satellite and cable directive to include Internet transmissions (93/83/EEC)
- Impact assessment on the preparation of a legislative proposal to abolish “unjustified” geo-blocking

The generally territorial-exclusive licensing of sport transmission rights is affected by the planned measures: (1) regarding the cross-border portability of legally acquired online content, (2) regarding cross-border access to online content (e.g. abolition of geo-blocking or compulsory pan-European licences) and (3) regarding the fight against Internet piracy. Overall, the COM intends to bring about a weakening of right holders with regard to their exclusive rights.

STATUS AND PROSPECTS

Following publication of the communication **“A Digital Single Market Strategy for Europe”** in May 2015, the **COM** carried out a large number of public consultations. Most of the legislative proposals announced in the Single Market Strategy have now been set in train (see **Enforcement of Property Rights in sport and Territorial-exclusive licensing of media rights in sport**).

DFB / DFL

DFB and DFL participate actively in the process surrounding the creation of a new EU copyright framework. When developing concrete policy and legislative measures, the EU should give greater consideration to the legitimate interests of sport as owner of audiovisual rights and other commercial property rights. DFB and DFL call for creation of a sport organiser’s right which covers all operations needed for the organisation of a sport competition and provides the sport organiser with a fair return for any unauthorised commercial use of the respective sport event. In the view of DFB and DFL, legislative measures of the EU must not lead to a general weakening of the position of right holders. There can only be growth effects through promotion of the development of technologies and creative content if it is ensured that right holders can draw economic benefit from the sport events they organise and can require appropriate remuneration for the use of their rights. It is also necessary to provide adequate protection of their legal positions and allow for an effective enforcement.

Territorial-exclusive licensing of media rights in sport

BACKGROUND

The **COM** believes that the largest challenges for newly developing online markets lie in private user access to audiovisual content, access for commercial users of rights and protection of right holders. Hitherto, the practice in most MS is that rights are limited territorially for individual MS through the licensing of exclusive rights. That is necessary, because without a certain territorial exclusivity, the live and other transmission rights have absolutely no value for the broadcasting firms and cannot be marketed. At the level of European jurisprudence, the practice of territorial-exclusive licensing has not been queried, e.g. in **ECJ** judgments (cases **"Coditel I"** C-62/79 and **"Coditel II"** C-262/81) or by the COM (decision COMP IV/33.375 "PMI-DSV"). The Grand Chamber of the ECJ on 4 October 2011 ruled in a preliminary ruling submitted by the English High Court of Justice in the case **"QC Leisure"** C-429/08 (linked to the case **"Murphy"** C-403/08) that EU law allows sport organisers to grant exclusive and territorial licences for the use of media rights. However, sport organisers may not include clauses in licensing contracts which oblige the acquiring broadcasters to restrict absolutely the sale or distribution of decoder cards outside the country where the broadcast has its origin. The geographical limitation of exclusive transmission rights, prevention of cross-border access to licensed online content (e.g. "geo-blocking") and differentiated pricing in the MS continue to be possible.

DEVELOPMENTS

In its **"Resolution on enforcement of intellectual property rights in the internal market"**, the **EP** determined on 22 September 2010 that sport is also affected by infringements of intellectual property law. The EP invited the COM to give thought to methods whereby the industry's access to the digital market without geographical frontiers can be facilitated taking into account the sector's specificities. In an additional non-binding **"Resolution on the European dimension of sport"** (2 February 2012), the MEPs emphasised the fundamental importance of commercialisation of transmission rights for sport on a central, exclusive and territorial basis, and invited the COM and the MS to better protect the intellectual property rights of sport content.

On 24 April 2013, the **COM** published a green paper **"Preparing for a fully converged audiovisual world: growth, creation and values"** and hence opened a public debate on the effects of the current transformation in the media landscape. In this connection, on 13 January 2014 the Directorate-General for Competition initiated a competition procedure against several large American film studios as well as the largest European pay-per-view broadcasters.

STATUS AND PROSPECTS

On 9 December 2015, the **COM** proposed a **"Regulation on the cross-border portability of online content services in the internal market"**. It provides that access to pay television services acquired legally in one MS can also apply cross-border during a temporary stay in another MS and be used on a range of mobile devices via the Internet (portability). On 26 May 2016, the **Council of Ministers** agreed a first "general approach" on an amended text of the regulation which contains a list with verification and monitoring possibilities which make it possible to determine where the subscriber is staying and his place of residence. This is intended to prevent the user from acquiring general cross-border access to audiovisual content on the basis of limited portability. The **EP** is still deliberating on the text of the proposal in first reading. The lead Legal Affairs Committee plans to vote on the COM proposal on 28 November 2016.

In addition, on 25 May 2016, the **COM** published a draft **"Regulation on addressing geo-blocking and other forms of discrimination based on nationality, place of residence or place of establishment"**. Licences for sport transmission rights are not affected due to the exclusion of the issue of audiovisual licences and copyright from the discrimination ban of the services directive (2006/123/EC) in recital 6 of the proposal. On 14 September 2016, the COM presented a proposal for a **"Regulation laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions"** in which it proposes the extension of the country of origin principle applicable for cross-border satellite transmissions to online services as livestreams and other "ancillary" time-deferred service offers of controlled and responsible initial transmissions by broadcasting organisations as well as the extension of the right to retransmit such first transmissions as online service.

DFB / DFL

According to DFB and DFL, the EU should take greater account of the specificities of sport and the needs of consumers for a high-quality product with respect to the existing marketing models when establishing a future legislative framework for media rights. In this regard, the focus should be on the relevant (national) consumer demand. The particular interests of consumers in terms of cultural and linguistic differences and preferences are the fundamental basis for the economic exploitation of sport events. However, a consumer-oriented differentiation of service offers can only be ensured using models involving licences on a territorial basis. The COM's proposals can be expected to put a strong restriction on territorial-exclusive licensing of live sport broadcasting rights. The consequence would be pan-European licences and an oligopoly of broadcasters and big international media groups as licensees. That would be likely to reduce the marketing revenues of sport organisers - with a negative impact also on the promotion of amateur sport and development of the next generation of sports people, which are highly dependent on revenues from the marketing of media rights of professional sport.

Enforcement of property rights in sport

BACKGROUND

At European or national level, there are not yet any provisions which adequately protect the legal position of sport organisers, although ECJ stipulated in case **"QC Leisure" C-429/08** (in conjunction with case **"Murphy" C-403/08**) that sport events deserve protection comparable to copyright. Due to technological development of the Internet and smartphones, the commercial exploitation of media rights linked to professional sport faces new challenges. Organisers of professional sporting events are exposed to new forms of illegal use of rights and content by commercial users (e.g. online sport bets). This practice causes great financial damage to producers and right holders. Individual copyrights and other commercial rights of right holders were partially harmonised at EU level through **Directive 2001/29/EC**. The EU copyright directive is complemented by harmonised provisions for civil enforcement of copyright (**Directive 2004/48/EC**).

DEVELOPMENTS

On 7 March 2013, ECJ decided in case **"TV-Catchup" C-607/11** that live-streaming by an Internet service of broadcasts by another broadcaster is a "communication to the public" and hence constitutes an infringement of the provisions of the EU copyright directive. In the **"C-More Entertainment" case (C-279/13)**, the ECJ found that an MS may put in place national provisions which go further than the rights laid down in the EU copyright directive (2001/29/EC) and which make it possible not only to regard public accessibility of audiovisual content but also linear "broadcasting" of live transmissions in the Internet as copyright-relevant "communication to the public". In its 27 March 2014 ruling in the case **"UCP Telekabel" C-314/12**, the ECJ decided that, in the event of copyright infringements, Internet service providers can be held responsible for the actions of operators of illegal Internet sites who have illegally made available content to the public of another broadcasting company to the public via the network of the Internet service provider as an intermediary. In the case **"Svensson" C-466/12** the ECJ held on 13 February 2014 that placing hyperlinks on an Internet page which redirect to freely available protected works on another Internet page does not constitute a communication to the public of works protected by copyright. In the **"GS Media" case (C-160/15)**, the ECJ clarified that hyperlinks to protected works which are freely accessible on a website, without the permission of the copyright holder, can constitute a copyright-relevant "communication to the public" under certain circumstances and require the permission of the right holder.

For several years, the COM has been planning a revision of the **"EU directive on the enforcement of intellectual property rights 2004/48/EC"**. In this connection, on 1 July 2014 it published an **"Action plan to better protect and enforce intellectual property rights"**. The objective of the catalogue of measures is to improve the dialogue between stakeholders and to reduce the financial revenues of commercially driven illegal activities on the Internet ("Follow the money"). The COM's attempt to propose its own **"Directive on notification and deletion procedures with regard to illegal online content disseminated by Internet service providers"** has so far come to nothing.

STATUS AND PROSPECTS

In September 2015, the COM carried out a **"Public consultation on the regulatory environment for platforms, online intermediaries, data and cloud computing"** whose results fed into the communication **"Online Platforms and the Digital Single Market. Opportunities and Challenges for Europe"** (25 May 2016). It found that right holders have reservations about the liability privileges for intermediaries/Internet service providers. Under the requirements of the "Electronic Commerce Directive" (2000/31/EC), Internet service providers are largely excluded from liability for illegal content offered on their online platform which is uploaded by end users and hence illegally made publicly available. In its proposal for a **"Directive on copyright in the digital single market"** (14 September 2016), the COM has therefore proposed in article 13 that Internet service providers that store and provide access to large amounts of works or other subject-matter uploaded by their users must take measures in cooperation with right holders to ensure the functioning of agreements concluded with right holders (e.g. effective content recognition technologies). Inasmuch, the COM wants to present a proposal to amend the **"EU directive on the enforcement of intellectual property rights 2004/48/EC"**. In addition, the COM continues to work with various interest groups on a way to impeding or blocking financial flows to illegal Internet sites which make audiovisual content publicly available in the Internet without the consent of the right holder. Under the motto "Follow the money", those participating should sign voluntary declarations of intent which should both essentially ban advertising on illegal websites and restrict settlement of such revenues via digital payment systems and channels.

DFB / DFL

In the context of the planned revision of the European legislative framework for copyright, DFB and DFL are campaigning for stronger protection of sport against any unauthorised commercial exploitation of audiovisual content, official live data and counterfeiting of licensed sport wear. Legal underpinning of a property right of sport organisers could better prevent dangers for the commercialisation of sport events through illegal Internet activities. In addition, for effective enforcement of the economic rights of sport organisers, there needs to be a stronger liability of Internet service providers (Access and Host Providers) which goes beyond their current legal obligations. DFB and DFL therefore call for implementation into German law of article 8 paragraph 3 of the EU copyright directive (2001/29/EC) and article 11 of the enforcement directive (2004/48/EC) respectively. In addition, effective notification and action procedures should be obligatory for host and upstream providers in order to allow illegal live streams to be disabled effectively with as little delay as possible. Bearing in mind the very limited timeframe in which illegal livestreams of football matches organised by DFB and DFL are available, an appropriate instrument for rapid notice and take-down of such activities is indispensable.

Free-to-air television transmission of major sporting events

BACKGROUND

Given consistent growth in public interest, the presence of sport broadcasts on television has risen constantly in recent years. As long ago as 1999, a COM report stated that football matches are the favourite television programmes across Europe (a total of 3.2 billion spectators for the FIFA 2014 football world championship in Brazil). 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 the Olympic Games (Beijing 2008, 1.74 billion dollars, London 2012, 2.63 billion dollars), the FIFA Football World Cup (South Africa 2010: 1.46 billion dollars; Brazil 2014: 2.48 billion dollars) or the UEFA European Football Championship (Poland and Ukraine 2012: 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 14 of the amended **"Directive on audiovisual media services" (2010/13/EU)** of 10 March 2010 confirms the right of the MS to determine major sporting events which can be freely broadcast. A majority of MS have already made use of their right to notify to the COM a national list of major sport events which it must be possible to receive. The MS 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 extracts (Article 15). Press publishers currently increasingly want to incorporate audiovisual content of sport events as moving images in their Internet service offer with a reference to news reporting and without acquiring the corresponding licences.

DEVELOPMENTS

Lastly, in its resolution dated 25 June 2007, the **COM** authorised Germany's the national legal implementation (§ 4 Rundfunkstaatsvertrag) 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 competitions (Champions League, UEFA League) in which German clubs are participating

The **"Study on sports organisers' rights in the EU"** published by the COM on 25 April 2014 recommended a clarification of the content of the right to make short reports.

On 17 February 2011, the **European General Court (EGC)** ruled against FIFA and UEFA in two judgments that the MS have wide discretion in drawing up the list of events of major importance to society eligible to be broadcast free-to-air on television (94% of all events of particular importance for society included on national lists are sport events). In accordance with article 14 of the **"Directive on audiovisual media services" (2010/13/EC)** and that both the British and Belgian lists, which specify freely receivable transmission ("free-to-air") of all games in football world and European championships, do not infringe EU law. On 27 April 2011, **FIFA and UEFA** have lodged an appeal (cases **C-204/11 P**, **C-205/11 P** und **C-201/11 P**) for a remedy limited to legal questions (similar to a review with the ECJ). In its definitive ruling of 18 July 2013, **ECJ** confirmed the European Court of First Instance's decisions and rejected the legal defence of FIFA and UEFA. Accordingly, the COM's authorisation of the Belgian and British lists was legal. Hence, MS can determine for themselves that all games in world and European football championships have to be transmitted on free-to-air television.

In its non-binding **"Resolution on the European dimension of sport"** (2 February 2012), the **EP** spoke in favour of major sporting events being accessible to as many citizens as possible and of all necessary measures being taken so that such events are not transmitted exclusively via pay television.

STATUS AND PROSPECTS

On 21 October 2015, **ECJ** decided in its ruling in the **"New Media Online GmbH"** case (**C-374/14**) that moving images which are accessible on the website of a newspaper as a rule constitute transmissions within the meaning of broadcasting law. A newspaper must therefore apply for authorisation as a broadcast organisation for distributing such content and acquire corresponding licences.

On 25 May 2016, the **COM** proposed a **"Directive amending directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities"** in order to regulate the business models of television operators in the Internet and the conditions for new market entrants which offer audiovisual content via the Internet (e.g. providers of video-on-demand services and video platform services), and to improve and harmonise consumer protection at EU level. The draft directive as it currently stands contains no amendment proposals with respect to national lists for events of particular importance for society or the right to make short reports.

DFB / DFL

DFB and DFL provide comprehensive broadcasting on their games. A legal obligation on transmission must not lead to inappropriate disadvantages for organisers of sport events and should be limited to news reporting only (in contrast to reporting for entertainment purposes). Major sport events require a fair return on the organisational and investment effort in the competition. Such events cannot be held without the corresponding financing. Therefore, the legislator should give sport organisers a comprehensive protection of their property rights, e.g. as a neighbouring right sui generis, in order to encourage the necessary investments in major sport events also in the future.

Advertising for alcoholic beverages

BACKGROUND

Producers of alcoholic beverages act as sponsors of amateur and professional sport events. However, in most 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 EU legislation, there are currently no statutory restrictions on television advertising for alcoholic beverages. However, most MS have a national action plan for prevention of alcohol abuse. The **"Directive on audiovisual media services" (2010/13/EU)** proscribes any advertising for alcoholic drinks directly targeting minors.

DEVELOPMENTS

The **COM** intended, inter alia, to draw up a code of conduct for advertising involving alcoholic drinks. In September 2009, it published a **"Progress report on implementation of the EU alcohol strategy"** and invited the MS to intensify their efforts. On 7 May 2012, it presented a **"Report on application of the audiovisual media services directive"** in which it refers to considerable progress through voluntary self-regulation measures by companies advertising alcohol online.

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. The COM does not have to follow the EP vote. In some MS, advertising bans and self-restraints have been extended in recent years.

The **German government** has spoken out against the introduction of advertising bans.

STATUS AND PROSPECTS

The **COM** still rejects a general ban on advertising for alcoholic drinks. Voluntary agreements already in existence provide that there should be no advertising for alcoholic drinks in media with an audience share of more than 30% of minors. The announced **"EU alcohol strategy 2016-2022"** of the COM has not been decided yet. At the current time, a project supported by the COM is under way as a general measure for "Reducing Alcohol Related Harm" (RARHA) which is designed to help the MS in this regard and which runs until the end of 2016.

On 25 May 2016, the COM proposed a **"Directive amending directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities"**. The new article 9 paragraph 3 of the draft directive provides that the MS should encourage the development of self- and co-regulatory codes of conduct in order effectively to restrict the influence of audiovisual commercial communication (advertising) relating to alcoholic drinks on children and young people and to promote responsible marketing of alcoholic drinks. The lead Culture Committee of the **EP** expects to vote on the proposal for a directive on 24 January 2017.

DFB / DFL

DFB and DFL are aware of their social responsibility and support national action programmes to prevent alcohol abuse within the scope of their possibilities. DFB will pursue dialogue with the relevant bodies on the basis of trust. For instance, DFB has for many years worked successfully with the BZgA and runs prevention campaigns with the motto "Giving children strength" with the priority of alcohol prevention. DFB also supports the joint campaign of DOSB and BZgA "Enjoy sport alcohol-free". In line with DFB's statutes, alcohol advertising is banned in the entire youth football area. Nevertheless, a total ban on alcohol sponsorship in sport would have far-reaching negative consequences for the financing of amateur sport. Since 2009 EPFL and DFL are members of the EU Alcohol Forum and work together with the COM and other stakeholders to implement effective concepts for prevention of alcohol abuse.

Free movement of sportsmen and -women from EU member states

BACKGROUND

The **ECJ**-ruling in the **“Bosman” case C-415/93** (15 December 1995) had far-reaching consequences for football. The ruling finds that 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 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.

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”. “Locally trained” covers all players aged between 15 and 21, who were eligible to play in the same club or another club on the territory of the relevant national football federation for three entire seasons.

DEVELOPMENTS

On 28 May 2008, the **COM** declared the UEFA rule to be proportionate and compatible with the rules on free movement. In the **“Bernard” case C-325/08** (16 March 2010), **ECJ** ruled that a national rule infringes free movement of workers by obliging a professional player to conclude his first professional contract with the club that has trained him.

On 18 January 2011, the COM also published the **communication “Developing the European dimension in sport”** and a **working paper on sport and free movement** which was based on the results of the **study on equal treatment of non-nationals in individual sport competitions** (6 January 2011). The working paper offers an overview of the effects of EU free movement rules of professional and amateur sport. According to the COM, any direct discrimination based on nationality in both professional and amateur sport is illegal. Any rules leading to indirect discrimination or which, even if applied without regard to nationality, restrict the freedom of movement for sportspeople who wish to pursue their activity in another MS, may only be considered compatible with EU law if they are necessary and proportionate. The following sport objectives are examples of justification that can be advanced for limiting measures by sport organisations: training of next-generation players, maintenance of a competitive balance and openness of result. On 28 August 2013, the COM published a **“Study on the assessment of UEFA's home-grown players rule”**. The aim of the study was to examine the effects to date and the compatibility of the home-grown rule with free movement of workers within the EU. The authors come to the conclusion that the positive effects of the rule for equality of competition in European matches and for the training of locally based young players have been marginal to date. They therefore recommend that the home-grown rule should continue to be applied for a further three years so that more data can be collected. After that, a new study should ascertain whether the continued application of the rule is acceptable or whether it should be superseded by another rule due to its indirect discriminatory effect.

In its non-binding **“Resolution on the European dimension of sport”** (2 February 2012), the **EP** once more expressed its support for the UEFA rule on home-grown players. It could constitute a model for other professional leagues to emulate since it helps to promote local training of young players and hence to improve equality of opportunity in matches. In its **“Own-initiative report on education, training and Europe 2020”** (11 September 2012), the EU underlined in particular that the training of young players at local level makes an essential contribution to the sustainable development and role of sport in society. Clubs should be encouraged to invest more in educating and training young players internally.

STATUS AND PROSPECTS

Already mid-October 2014, **UEFA** and the COM planned to sign a Memorandum of Understanding which should address the issue of home-grown players. Until now no new agreements or understandings between the COM and UEFA have been reached on this topic.

DFB / DFL

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 non-EU 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 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 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** in its **"Communication on Developing the European dimension in sport"** (18 January 2011) invited sports organisations to voice their interests in upcoming negotiations on renewal of association agreements.

STATUS AND PROSPECTS

The **EP** invited the **COM** in non-binding **"Resolution on the European dimension in sport"** (2 February 2012) to oblige sport clubs to comply with immigration legislation when recruiting young people from third countries in order to ensure that sportsmen and -women are treated well until they return to their home country.

DFB / DFL

DFB and DFL are 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.

EXTERNAL RELATIONS AND DEVELOPMENT POLICY

Sport in foreign policy and development aid

BACKGROUND

Sport plays an important role as an instrument of EU external relations and development policy and makes a contribution to solidarity with less developed countries. This takes place either in the form of concrete sport-related projects, flanking measures in the framework of aid programmes or as a means of dialogue or diplomacy in international relations. 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. According to article 165 (3) TFEU, EU and MS should foster cooperation with third countries and the competent international organisations in the field of education and sport. In a memorandum of understanding issued in July 2006, the **COM** and **FIFA** agreed to make football a development factor through enhanced exchange of information and joint projects in Africa, the Caribbean and the Pacific (ACP countries, see **Non-discrimination of athletes from third countries**). Moreover, the EU intended to 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.

DEVELOPMENTS

Since the "White Paper on Sport" (2007), the **COM** has intended to integrate sport-related aspects progressively in programmes and instruments of the EU's external and development policy (cooperation with EEA countries, accession candidates and in the framework of the EU's neighbourhood policy). In this regard, the priority for the COM has been to strengthen cooperation with European states which are not members of the EU as well as with the Council of Europe. Cooperation with the Council of Europe has been extended in particular with respect to combating match-fixing in sport. Nevertheless, apart from this, there have been no concrete proposals in recent years for a further development of the external and development dimension of sport.

In its non-binding "**Resolution on the European dimension of sport**" (2 February 2012), the **EP** called on the COM and the MS to work together with third countries on issues such as international player transfers, exploitation of minors, match-fixing, piracy and illegal betting, and to strengthen international cooperation to promote sport in developing countries. Furthermore, the COM and the MS should work jointly with third countries worldwide for compliance with the Olympic rules and provisions. The COM and the European External Action Service should also deploy efforts worldwide to ensure that any sport can be played by women and men without restriction.

STATUS AND PROSPECTS

At the end of 2015, **EU Commissioner with competence for sport, Tibor Navracsics**, created two high-level expert groups on the themes of amateur sport and sport diplomacy. In June 2016, the expert group on sport diplomacy submitted to the COM a legally non-binding report with recommendations for strengthening the importance of sport as a "soft power" in the areas of EU external policy, EU human rights policy and promotion of European values. The EU should develop an organisational structure for a common EU sport diplomacy and take sport into account in all areas linked to development of an external policy strategy for the EU.

In November 2016, the **Council of Ministers** under the Slovak EU Council Presidency wants to draft and publish its own conclusions on the theme of sport diplomacy. On 16 September 2016, the **EP** published a legally non-binding own-initiative report "**Integrated approach to sport policy: good governance, accessibility and integrity**" in which it underlines the contribution of sport to strengthening dialogue with third countries and EU external policy.

DFB / DFL

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" Foundation for improving the living conditions of children in Mexico, Sri Lanka and Eastern Europe.

EDUCATION AND HEALTH

European strategy against overweight and obesity

BACKGROUND

Poor diet and lack of physical exercise are among the most important causes of avoidable death in Europe and 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 fat. 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 March 2013, the **COM** published a **“Report on physical education and sport at school in Europe”** which came to the conclusion that there are large differences between the MS regarding the minimum number of sport lessons per week. Specifically in primary schools, there are often no teachers trained to teach sport. Nine MS planned to introduce additional sport lessons in the curriculum. In addition, on 29 April 2013, the COM published the conclusive **“Evaluation report on implementation of the EU strategy on nutrition, overweight and obesity-related health issues”** in which it proposed that health-related aspects should be supported more strongly with resources from other EU funds (e.g. ERDF and ESF, see **EU funding for sport projects**) as well as introducing additional reporting obligations to widen the common data base. On 14 February 2014, the COM presented a new **“EU action plan on childhood obesity 2014-2020”** setting out guidelines for the promotion of best practices to reduce childhood obesity to be implemented by the MS. Broadly, health should be promoted more strongly in kindergartens, in schools and in the framework of physical activity. Further, the MS and the COM should work to ensure that children are less exposed to advertising for high-salt, high-sugar and high-fat foods. In 2017 and 2020 the COM wants to prepare progress reports in order to provide information on how and whether the MS have implemented the proposed measures.

The non-binding **“Own-initiative report on education, training and Europe 2020”** (11 September 2012) of the **EP** once more underlined the educational importance of sport and called on the MS to invest more in sport and in particular to promote sport at school. In addition, on 20 June 2014 the **Council of Ministers** adopted **“Conclusions on nutrition and physical activity”** in which they expressly supported the COM's proposals in the **“EU action plan on childhood obesity 2014-2020”**.

STATUS AND PROSPECTS

On 25 May 2016, the **COM** proposed a **“Directive amending directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities”**. The new article 9 paragraph 2 of the draft directive provides that the MS should encourage the development of self- and co-regulatory codes of conduct in order to effectively restrict the influence of audiovisual commercial communication (advertising) relating to excessively salty, fatty and sugary foods and beverages on children and young people and to promote responsible marketing of alcoholic drinks. The lead Culture Committee of the **EP** expects to vote on the proposal on 24 January 2017.

DFB / DFL

Playing football - like running or cycling - is proven to have a positive effect on health and can reduce cholesterol levels and blood pressure. At the same time, football can be an early opportunity to raise awareness of a healthy lifestyle. DFB makes an important contribution to health enhancement in Germany by organising and sustainably managing competitions for all age classes. To develop high quality and scientifically substantiated service offers, DFB cooperates in this area with project partners from government healthcare bodies such as the BZgA. Examples of projects are the action **“Enjoy alcohol-free sport”**, the information, service and experience offer **“Make children strong”**. DFB's offers are directed towards adult players of both sexes and towards older people. Preventive measures and how to deal with injuries are given equal consideration. In June 2016, a joint brochure by BZgA and DFB was presented. Under the motto **“Kick with us - stay fit”**, tips for age-appropriate forms of healthy football playing. DFB also advocates for the **“11+ warming-up programme”** which has been elaborated by FIFA in cooperation with an international expert group as an individual help for players. DFL and Bundesliga-Foundation flank the 36 professional clubs in the Bundesliga and 2nd Bundesliga by creating service offers designed to pass on general values focusing on a healthy lifestyle and sufficient movement. The initiatives target children who are often brought up in marginal urban districts and who often engage in too little physical activity. In this way, addressed are young people who are disengaged from education, socially weak or otherwise disadvantaged. Projects are centred on motivating sport activity or enabling versatile learning through movement. Examples of projects include **“Football meets culture”**, **“Class in sport”**, **“fit for future”** or the DFL Summer Camp.

EU Physical Activity Guidelines

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 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.

DEVELOPMENTS

The **COM** adopted the final draft of the **"EU Physical Activity Guidelines"** 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 Physical Activity Guidelines"** were confirmed. A **"Study on preparation of new EU initiatives in the area of health-enhancing physical activity"** being prepared for the COM proposes a reduction of the guidelines to 27 individual measures so that the MS are in a better position to ensure even implementation of the measures in their national sport policies.

On 26 November 2013, the **Council of Ministers** adopted official **"Recommendations on promoting health-enhancing physical activity"**, thereby making use of this policy instrument in accordance with article 165 paragraph 4 TFEU for the first time. In addition, it wants the new expert group on "health-enhancing physical activity" to draw up non-binding recommendations for improving movement possibilities in schools and a coordination of national implementation of the "EU guidelines on health-enhancing physical activity".

STATUS AND PROSPECTS

At the end of 2015, **EU Commissioner with competence for sport, Tibor Navracsics**, created two high-level expert groups on the themes of grass-root sport and sport diplomacy. In June 2016, the expert group on grass-root sport presented to the COM a legally non-binding report **"Amateur sport – shaping Europe"** with recommendations for the promotion of grass-root sport. In it, the COM was invited to develop targeted campaigns to promote physical activity (e.g. European Week of Sport) as well as to increase financial support for health-enhancing amateur sport projects. For their part, the MS should do more to exchange examples for projects with the aim of health enhancement through physical activity and to design targeted national policies to promote corresponding campaigns and networks.

In 2015, the expert group on health-enhancing physical exercise drew up legally non-binding "Recommendations to encourage physical education in schools" in a report to the **Council of Ministers**. In the report, it is proposed that physical exercise and sporting activity should be promoted from a very early age. The MS should work towards at least 5 hours a week being allotted to sport instruction. To this end, cooperation between schools, sport clubs and other private organisations should be strengthened.

On 16 September 2016, the **EP** published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it comes out in favour of promotion of physical activity for all Europeans, in particular through further support of the **"European Week of Sport"**.

DFB / DFL

DFB and its member associations already make an important contribution to health enhancement in Germany by organising and sustainably managing football competitions. For DFB, a healthy upbringing through and for sport starts at a very early age. To strengthen sport education, DFB's school department implements various programmes to promote sport at school. Through the DFB-JUNIOR-COACH training course in schools, young people with an interest in football are enabled to organise a football group in the school and/or a junior team in the club. More than 20,000 teachers have received a specific football training in the framework of the measure. Furthermore, DFB supports cooperative ventures between schools and clubs in terms of content and material with the aim of creating additional football offers outside the educational context. In the years ahead, DFB and its member associations will give priority to offering direct assistance for volunteers in clubs in the framework of the "Future Strategy Amateur Football". A further priority is to identify child and youth trainers. Moreover, the "Future Strategy Amateur Football" supports modern and flexible match offers for adults and elderly players of both sexes in order to support lifelong sporting activity. DFB's new "Future Strategy Amateur Football" aims inter alia to use low-threshold qualification offers to enhance the social skills of trainers active in the club in their interactions with children and thus to maintain the latter's enjoyment of physical activity. Alongside this, programmes for child-focused football in the club are implemented, e.g. the Fair Play Liga concept. The Kids Clubs networked by DFL and required to offer cross-disciplinary activities (currently 32 Clubs with around 120,000 children from 3 to 12 years old) hold a shared Kids Clubs Summer Camp on a different priority theme each year. The theme for the 2014-2015 season was "Physical Activity" which will be linked to a wide range of activities in all Kids Clubs. Movement and physical activity are essential components of promotion for Bundesliga-Foundation with regard to performance of its commitment to society. Projects which demonstrate the diversity of sport in particular to children and young people and encourage enjoyment of movement are supported in a targeted manner. As a partner in the project "Class in sport", the foundation of professional football as well as the similar promoted project "fit for future" enable more sport lessons in school.

JUSTICE AND SECURITY ISSUES

Violence and Racism in football

BACKGROUND

Despite anti-discrimination laws, citizens of foreign origin still fall victim to racism, homophobia, intolerance and xenophobia at sporting events. Especially European football has been used as a stage for racism. At the same time the particularly strong integration function of sport is recognised and has been already used in many MS as an instrument for social integration and inclusion of the relevant population groups.

DEVELOPMENTS

Already in its **“Resolution on the white paper on sport”** dated 8 May 2008, the **EP** invited sport organisations and the MS to take the strictest measures to combat racism and discrimination in sport. In its non-binding **“Resolution on the European dimension in sport”** (2 February 2012), the EP called on the MS to create a legal basis for banning violent and discriminating fans from stadiums in a coordinated approach with the sport federations. The MS should also establish a European register of stadium bans.

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. On 9 July 2009, the **UEFA Executive Committee** approved new guidelines to help referees to deal with serious racist incidents in stadiums. If fans of a team in the stadium target racist insults on a player, the referee can act in accordance with a progressive plan which culminates in suspension of a match as the last measure.

In its **“Communication on developing the European dimension of sport”** (18 January 2011), the **COM** spoke in favour of stronger EU funding for cross-border projects on integration and inclusion of migrants and minorities through sport. In the framework of “preparatory actions”, the COM has supported four projects which counter these forms of intolerance and discrimination.

STATUS AND PROSPECTS

On 16 September 2016, the **EP** published a legally non-binding own-initiative report **“Integrated approach to sport policy: good governance, accessibility and integrity”** in which it condemns all forms of discrimination in sport and calls for better prevention measures against discriminatory behaviour of any type. In addition, the importance of sport for the integration of refugees, migrants and asylum seekers is underlined. It is precisely amateur sport that has an important function for preventing and combating radicalisation.

DFB / DFL

DFB has enshrined decisive action against racism, xenophobia and anti-Semitism in its statutes. European initiatives against racism have its full support. Each year, DFB takes part in the network “Football against racism in Europe” (FARE) action weeks, activities surrounding the “Remembrance Day in German football” and the Intercultural Council in Germany’s International Weeks against Racism and as a member of the “Forum against Racism”. In its anti-discrimination working groups “Diversity” and “Fair Play & Violence Prevention”, as well as in its committee “Social responsibility”, DFB is constantly and intensively active on the issue, and develops concepts and implementation strategies for preventing and combating racism in German football. DFB chairs the network “Sport and politics united against right-wing extremism - for respect and human dignity” which was founded in 2010. This network has the task of advising and supporting clubs and federations when implementing recommendations for action against right-wing extremism in sport. A publicly visible signal from football in the fight against racism is the Julius Hirsch prize, established in 2005 and named after the Jewish player for the German national team 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. Starting on 1 January 2014, DFL called a funding programme into existence. The “Pool for innovative football and fan culture” (PFiFF) makes a total of EUR 500,000 available each season to promote in particular activities for tolerance and strengthening the commitment to civil society which are built on the ideas of human rights and protection of minorities, e.g. against exclusion and discrimination. In this connection, DFL supports the Centre for Democratic Culture (ZdK/EXIT-Deutschland), which has made a name for itself among former members of extreme-right organisations and structures. The PFiFF project “fussball-gegen-nazis.de” (football against Nazis), set up by the “Amadeu-Antonio” Foundation, can be mentioned by way of example. In addition, DFL regularly holds specialised “REX” days (strategies against Right-wing extremism and discrimination in football) for fan and security personnel, event managers and fan projects for qualification and awareness-raising.

Security at international football games

BACKGROUND

Violent football fans are not a problem exclusively for individual MS. The list of security-relevant incidents often – though not always – relates to what happens in and around football stadiums. Even if the MS are responsible for prevention and prosecution of violence, racism and xenophobia, a European approach also seems necessary due to many open questions related to cross-border issues at international matches. Following the tragedy in the Heysel stadium during the European Champions' Cup match in 1985 during which 39 people lost their lives, the Council of Europe adopted a "Convention on spectator violence and misbehaviour at sports events and in particular at football matches" with a view to improving international cooperation between police forces, football clubs and associations.

DEVELOPMENTS

The **Council of Ministers** agreed on stronger safety cooperation between the MS for the first time on 25 April 2002 (2002/348/JI). In summer 2006, the **Austrian government** submitted an initiative to the Council of Ministers whose objective was to further improve the exchange of information between police services (automation and extension). On 3-4 June 2010, the Council of Ministers decided on a revision of the **"Handbook for international police cooperation and measures to prevent and control violence and disorder around football matches"**.

In a non-binding **"Resolution on the European dimension in sport"** (2 February 2012) the **EP** asked the MS together with the sport organisations to create a coordinated approach in setting and enforcing sanctions against supporters having displayed violent or discriminatory behaviour.

STATUS AND PROSPECTS

On 3 July 2016, the Council of Europe adopted a revised **"Convention on an integrated safety, security and service approach at football matches and other sports events"**. Under this Convention, authorities of the signatory states, inter alia public and private actors (e.g. municipal authorities, police, football clubs, football associations and fan organisations) are invited to cooperate on the preparation and holding of football matches, and to ensure that stadium infrastructure complies with national and international standards and legal provisions. In addition, measures are envisaged to prevent and punish violence and misbehaviour, e.g. stadium bans, initiation of criminal proceedings in the country of the crime or in the perpetrator's home country as well as freedom to travel to football matches. In addition, the signatory states undertake to strengthen international police work and to put in place National Football Information Points (NFIP) hosted by police authorities. The new Convention supersedes the 1985 Convention and has so far been ratified by 15 states.

On 14 October 2016, the **Council of Ministers** approved an updated **"Handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved"**. On 16 September 2016, the **EP** published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it welcomes the new Council of Europe Convention and calls on the MS to sign and ratify this Convention without delay.

DFB / DFL

Alongside close cooperation with clubs and regional and provincial associations, DFB and DFL are involved in a regular and intensive exchange with all relevant network partners in order to further widen and improve cooperation in the field of prevention and security in German football, including beyond stadiums. DFB appointed a full-time security and fan expert as well as institutional work, inter alia with the federal police, provincial police, the German central information point for sport actions (ZIS), BMI and BKA, and expanded the network of fan projects and independent fan representatives in its consultative bodies. In order to come to grips with major, security-relevant developments, in particular in the case of violent clashes, project groups are tasked with identifying inter-disciplinary solutions in short order. In this connection, DFB and DFL founded the "Task Force on Security" (14 November 2011), to address the new intensity in violent riots with even greater determination. In this regard, developments in the "fan scene" and "ultra scene" (clubs' hardcore fans) as well as more far-reaching developments in society influence the security situation – sometimes substantially – and pose new challenges for all stakeholders as well as security institutions concerned with football. Hence, in 2011 the police adopted a Germany-wide framework concept for football-related deployment on the basis of the initiative "More security at football games in North Rhine-Westphalia" and, as a follow-up, extended the "National concept for sport and security" on 31 August 2012. This sets out to further develop security standards especially in communication on match days, formulate new requirements on law and order services and organisers, and organise fan transport better. In its Committee on Prevention, Security and Football Culture, DFB continuously examines prevention and security issues in different working groups and adjusts measures regularly to reflect the latest developments. For international matches and tournaments abroad, an internal security concept developed by DFB and coordinated with the security authorities is applied. Thus, DFB's own stewards are often used, ticket sales are personalised and communication takes place via standardised channels. DFB's security delegate is available on the spot as a constant contact partner for the security institutions and the national team. Furthermore, the DFB fan delegate is available on the spot as a contact partner for the away fans as well as for representatives of fan projects. In the case of club competitions at European level, security and fan delegates of the respective clubs are deployed in a similar way. In 2013, DFL introduced the compulsory establishment of local fan dialogues in Bundesliga and 2nd Bundesliga clubs. These club fan dialogues are currently being evaluated and further developed. In the framework of regional conferences, prepared communication plans devoted to cooperation between all security officials are increasingly being taken into account in match-day interaction between security services and police forces.

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, and its importance for society is expressly recognised under EU law in article 165 TFEU. The COM believes that membership of a team imparts principles such as fairness, playing by the rules, respect for others, solidarity and discipline. The degree of voluntary activity varies strongly from one MS to the next. Altogether, around 94 million EU citizens have been involved in some form of voluntary activity over 15 years. Most people in the EU engage in sport (35 million) – primarily in football. According to the German sport development report 2009-2010, also 8.8 million Germans engage in sport as volunteers. On average, each volunteer devotes 20.1 hours a month to this activity. This work effort corresponds to an annual value creation of around 6.7 billion euros in Germany alone. Given the stagnating number of volunteers in most MS, amateur sport in the EU faces new challenges. In particular, young people 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. A survey by Eurostat with the title “European Youth” (Flash Eurobarometer 408, April 2015) showed that 40% of all voluntary activity is exercised in sport. Just 7% of all voluntary activity in the EU has a cross-border dimension.

DEVELOPMENTS

On 17 February 2012, the COM also published its **“Study on grassroots sport funding”**, commissioned in March 2009, which found that voluntary activity makes a significant contribution to the financing of amateur sport. Across the EU, volunteers in sport do the work of around 1.4 million full-time employees. This is equivalent to a financial amount of 28.4 billion euros. In its **“Communication on developing the European dimension of sport”** (18 January 2011) and **“Communication on EU policies and volunteering”** (20 September 2011), the COM calls for the skills and knowledge acquired through volunteering to be taken more strongly into account in national implementation of the European Qualification Framework (EQF).

In December 2012, the **Council of Ministers’** former expert group on “sustainable financing of sport” published a **“Study on strengthening financial redistribution in sport”** in which it quantified the value of services provided by voluntary helpers in sport in the EU at a total of 28.3 million euros (data for 2008).

In its non-binding **“Resolution on the European dimension in sport”** (2 February 2012) the EP called upon the MS and the COM to create a legal and tax framework that is suitable for the activities of sport associations and takes better into account the importance of voluntary activity. Like the COM, MEPs have spoken in favour of the skills and knowledge acquired through volunteering being taken more strongly into account in national implementation of the EQF. In a legally non-binding **“Resolution on recognising and promoting cross-border voluntary activities in the EU”** (12 June 2012), the EP proposes the introduction of a **“European skills passport”** which would make it possible to demonstrate the acquisition of additional qualifications. MEPs also call on the COM to draw up a **“Feasibility study for future measures to improve cross-border mobility”** for the area of volunteering.

In **Germany**, tax-free trainer indemnities have been increased by 300 euros and liability rules for voluntary helpers have been relaxed through the **“Law on strengthening voluntary work”** with effect from 1 January 2013.

STATUS AND PROSPECTS

The **Council of Ministers** received non-binding recommendations on promotion of volunteering in sport by the expert group on “human resource management in sport”. In its mid-term report (December 2015), the expert group proposed that knowledge acquired in the framework of a voluntary activity in sport should also be recognised more strongly as a further education measure in the professional context. At the end of 2015, **EU Commissioner with competence for sport, Tibor Navracsics**, created two high-level expert groups on the themes of amateur sport and sport diplomacy. In June 2016, the COM presented a legally non-binding report with recommendations for the promotion of amateur sport. In this regard, in particular the important contribution of voluntary activity in sport should be praised and promoted through financial support from EU resources.

On 16 September 2016, the EP published a legally non-binding own-initiative report **“Integrated approach to sport policy: good governance, accessibility and integrity”**. It underlines the importance of voluntary activity as a fundamental precondition for grass-root sport, supports measures to promote the mobility of volunteers within the EU and recommends that the MS introduce tax incentives for volunteers.

DFB / DFL

In 2013, DFB adopted a new “Future Strategy Amateur Football” which places the current “Action on Voluntary Activity” in a new framework. To secure the future of club football, a package of measures in the areas of communication, game development and club service was started which is addressed above all to voluntary organisers and trainers in clubs and supports their work in a targeted way. The MS and the COM have to make a more concrete contribution to creating secure and sustainable framework conditions for citizens engaged in voluntary activity. The existing EU sport funding programme should give priority to allocating mainstreamed EU funding in the area of voluntary activity. This also includes the financing of suitable sports facilities.

Social inclusion, integration and gender equality

BACKGROUND

In connection with the general anti-discrimination debate at EU level, cases of discrimination in sport have moved into the focus. At the heart of the EU's efforts is development of measures for better ensuring social inclusion through sport of groups at risk of discrimination. In concrete terms this means inter alia access to sport facilities for disabled people, integration of migrants or equality between women and men in the decision-making structures and management positions of sport associations. The value of sport is recognised as a means for facilitating social inclusion of disadvantaged persons. Sport – in particular football – makes an important contribution in this respect, since its specificities mean that it is capable of bringing together highly diverse groups in society irrespective of their social origin. 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 and the under-representation of women in positions within institutionalised sport (associations, clubs).

DEVELOPMENTS

In this connection, the **COM** adopted a **"Communication on the strategy for equality of women and men 2010-2015"** (21 September 2010). In its communication **"Developing the European dimension of sport"** (18 January 2011), the COM clarified that it wants to promote systematic consideration for equality issues in sport-related activities, in line with the **"Strategy for equality between women and men 2010-2015"**. In addition, in July 2012 the Olympic movement called for stronger efforts to encourage better representation of women in sport. In the **"Annual report on equality between women and men 2014"**, the COM has proposed a "gender budgeting" in sport and pointed out that EU programmes for the realisation of gender equality are also available for sport.

The **EP** has invited the COM to take greater account of the educational and integrative function of amateur sport, in particular with respect to underrepresented groups (women, elderly people, disabled) (14 September 2010). In its non-binding **"Resolution on the European dimension of sport"** (2 February 2012), it asked the COM, the MS and sport federations to enable sporting activity by people with a disability, in particular by making free sport facilities available.

STATUS AND PROSPECTS

On 3 December 2015, the **COM** issued a tender call for a **"Study on gender-based violence in sport"**. The results of this study are not yet available.

In February 2016, the expert group on good governance in sport organisations put in place by the **Council of Ministers** presented legally non-binding **"Recommendations for gender equality in sport"** in which it proposed that the MS take concrete measures for the preparation of a national catalogue of measures. This should include concrete policy measures to promote gender equality in sport associations' decision-making bodies with a view to promoting equality in the area of the trainer pool in order to combat gender-based violence and to reduce the spread of gender-based stereotypes in sport reporting by the media.

On 16 September 2016, the EP published a legally non-binding own-initiative report "Integrated approach to sport policy: good governance, accessibility and integrity" in which it underlines that all sport facilities should be open to people with disabilities and welcomes initiatives which promote equality between the sexes in sport's decision-making bodies.

DFB / DFL

DFB supports diversity and works to counter all forms of discrimination. Its fields of action are oriented on the guidelines set out by the Federal Government's anti-discrimination point as well as on the discrimination clusters identified in the long-term study on group-related hostility ("Gruppenbezogene Menschenfeindlichkeit") by Professor Heitmeyer. A priority for work in the years 2015-2016 was support to clubs for the integration of refugees in and through football. Thus, DFB's "Egidius-Braun" Foundation jointly with the Federal Government's representatives for migration, refugees and integration launched the initiative "1:0 for a welcome". In the framework of the Federal Government's national integration plan, DFB has entered into numerous self-commitments and has met them all within the envisaged timeframe. The most successful integration projects are rewarded annually with the "DFB Mercedes-Benz Integration Prize". For the participation of people with a disability in football, the DFB's "Sepp-Herberger" Foundation organises the Blind Football Bundesliga and the German Disability Workshop Football Championship. The aim is that gender equality will be further developed not only through intensive promotion of women's and girls' football but also through measures in the framework of DFB's diversity approach. For instance, DFB has started a Leadership Programme for women in football. The aim of the programme is to strengthen diversity in voluntary activity and to attract women into management positions. With the award of the Julius Hirsch Prize, DFB recognises active and effective engagement against all forms of discrimination in football vis-à-vis the public. Overall, in the years ahead DFB will systematically address and promote not only the above thematic priorities but all areas of society which can be efficiently supported in the interest of football and within the possibilities of football. Bundesliga and its foundation have set up projects including "Learning at the stadium", "Football meets culture", "Midnight sport" or "Welcome in football" (programme for refugees), using enthusiasm for football to pass on social competences, societal values and also language skills in particular to young people, and to enable them to integrate better in society. With the second Integration Match Day 2015 under the motto "Strike a line through prejudice" and a flanking TV campaign with professional players, German football sent a clear signal against discrimination and exclusion. Under the title "Football for diversity and against homophobia", Bundesliga-Foundation has since 2016 been offering all 36 professional clubs educational workshops in order to raise awareness among club employees for a discrimination-free environment. People with a disability are given a barrier-free access to sport. A central component of this work is the Bundesliga travel guide "barrier-free stadium access" which ensures virtually unrestricted mobility around and within the stadiums of the top three professional leagues and continuously developed further. With the perspective of setting up professional football in Germany with a stronger focus on inclusion for the participation of all people, DFL has intensified its networking with BBAG officials (Bundes-Behindertenfan-Arbeitsgemeinschaft e.V. - national organisation working on behalf of disabled fans) and ZSBR (Zentrum für Sehgeschädigten- und Blindenreportage - centre for sight-impaired and reporting for blind people), and ran a summer camp for the Kids-Clubs for the first time in 2016. With further training and qualification measures, workers from all Kids-Clubs were prepared for this project. Numerous individual measures for greater equality were supported with the help of the PFIFF project.

Protection of minors

BACKGROUND

In individual cases, young sports people from third countries outside the EU are exploited. 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 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 labour laws of the MS. However, there are not yet any uniform minimum requirements for employment relationships in the sport sector at EU level. The **"FIFA rules on status and transfer of players"** in the version in force since 1 October 2009 provide that a player can only be part of an international transfer if he is at least 18 years old. A committee put in place by FIFA verifies every international transfer involving a minor player which is authorised on the basis of one of the exceptions specified in the rules (relocation of parents unrelated to football, player's residence is close to a border). This committee also checks each registration of a minor player who is not a citizen of the country in which he first wanted to be registered, and gives its approval if satisfied. In addition, changes have been made to the way training compensation is calculated in cases of international transfers for players who change a club before reaching their majority, inter alia to prevent young talent being taken early.

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: (1) The club provides appropriate football training in line with the highest national standards, (2) the new club also organises school and/or vocational education and/or training and (3) the club ensures that the player is looked after as well as possible (optimal living situation with a host family or in club accommodation).

On 9 March 2009, the **Professional Football Strategy Council** issued a joint statement of UEFA, EPFL, ECA and FIFPro against transfer of under-18s in the EU and EEA. In its 14 September 2010 **"Position paper on article 165 of the Lisbon Treaty"**, UEFA renewed this call. In its 16 March 2010 judgement in the **"Bernard"** case **C-325/08, ECJ** found that a statutory obligation to conclude the first professional contract with the training club infringes free movement of workers in accordance with article 45 TFEU (see **Free movement of sportsmen and -women from EU member states**).

DEVELOPMENTS

The **COM** still shares ECJ's view that a ban on transfers of under-18 players infringes free movement of workers. But, together with the MS, it would like to monitor more strongly the issue of entry visas for minor sportspeople from third countries outside the EU. On 8 February 2013, it published the results of the **"Study on the legal and economic aspects of transfers of players"**. Its authors recommend that the COM introduces fines for non-payment of training indemnities and solidarity contributions and increases the training indemnity to 8% of the transfer sum in order to support young talent and protect minors, as well as an improvement of protection of minors in the framework of the social dialogue.

In **France**, the law on players' agents was revised in June 2010. Among other things, it contains a ban on commission for arranging transfer of minors. The **EP** has also called for a similar rule in its 16 June 2010 non-binding **"Resolution on players' agents"** (see **Players' agents**). In its non-binding **"Resolution on the European dimension of sport"** (2 February 2012), it expressed the view that international transfers for young talent can be dangerous due to early separation from the family and that the protection of minors should therefore be strengthened in international transfer cases.

On 1 October 2010, **FIFA** introduced a new computer system (Transfer Matching System - TMS) (see **Players' agents**). International transfers of minor players and cross-border activity of players' advisers can be monitored using TMS.

STATUS AND PROSPECTS

On 21 July 2016, the expert group on good governance in sport organisations put in place by the **Council of Ministers** presented a legally non-binding report with **"Recommendations to protect young athletes and safeguard children's rights in sport"**. Sport associations were invited to draw up strategies and rules for better protection of minors within the organisation and to prepare appropriate further training and preventive measures for those leading young people. They should also draw up guidelines for how to deal with cases of abuse.

On 16 September 2016, the **EP** published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it calls for human trafficking - in particular trafficking of children - and economic pressure on minors in sport should be combated with greater resolve.

DFB / DFL

DFB and DFL welcome FIFA's new transfer rules for better protection of minors and the COM proposal to review practice for visa grants in the MS. 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 (including the sport article industry and the leisure sector) are active across 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"** in order to identify how to prepare the European social model for the challenges of the 21st century. 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** took 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. It published a **"Working paper on the functioning and potential of a European sector-specific social dialogue"** in which it proposed creating greater synergies between the 40 different social dialogue committees that already exist. The COM's plans to establish a social dialogue also for other sports than football have not yet been realised. The situation has not been helped by the large differences between the different sports and sub-sectors (amateur sport, sports article industry, professional sport) or by the absence of recognised social partners for the entire sport at European level.

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, the player workshop 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). On 19 April 2012, in the framework of a meeting of the **Committee for social dialogue in professional football** in Brussels, an agreement between employers and trade unions on minimum requirements for labour contracts of professional footballers was signed. It is intended that it will be introduced in all 53 UEFA member associations.

In its non-binding **"Resolution on the European dimension of sport"** (2 February 2012), the **EP** reiterated the COM's position and believed that social dialogue in sport should be better supported by the EU.

STATUS AND PROSPECTS

The **COM** wants to continue supporting social partners and sport organisations to establish a social dialogue at EU level which encompasses the entire area of sport and leisure. In this framework, themes such as contract safety, training and education, health, working conditions for minors, the role of players' agents and the fight against doping will be discussed. The expert group on "good governance in sport" plans a recommendation to the Council of Ministers in order to strengthen the role of the social dialogue in sport.

The **Committee for social dialogue in professional football** is still working on implementation of the April 2012 agreement between employers and trade unions. The themes of "contract stability" or "respecting on-going contracts" and "pension funds to provide financial security after a sport career" are currently under discussion. Progress has been made on the draft work contracts with minimum standards. Two working groups have been put in place for implementation of the European Social Dialogue's work programme 2016-2017: one for implementation of the so-called "autonomous agreements" and the other for labour market regulation.

On 17 September 2015, **FIFPro** filed a complaint with the COM's Competition Directorate General against the current FIFA transfer system. FIFPro claims that FIFA is abusing a monopoly position in football for regulation of the transfer system to the detriment of professional footballers (article 102 TFEU). The COM has not yet decided whether to launch an official complaint procedure or to reject the complaint.

On 16 September 2016, the **EP** published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it welcomes the COM's efforts to promote the Social Dialogue in sport.

DFB / DFL

DFB and DFL welcome the establishment of social dialogue in football at EU level under the moderation of UEFA, which it believes can help to ensure balanced consideration of the different interests of employers and employees in football.

TAX POLICY

VAT directive and direct taxation

BACKGROUND

In the area of indirect taxation, the provisions of the **EU VAT directive 2006/112/EC** are intended to ensure that the different VAT rules of individual MS do not distort competition or hinder the free movement of goods and services. Basically all services provided as such against payment by a taxpayer on the territory of a MS are liable for VAT. At the same time, the VAT directive provides that certain services closely linked to sport provided by non-profit institutions (e.g. entry fees) are exempted from VAT or gives the relevant service providers a choice. Furthermore, in certain cases, reduced VAT tax rates can be applied. They are not set by the EU but by the individual MS and allow prior deduction of tax, e.g. entry fees for sporting events and use of sports facilities against payment. According to ECJ in the case **"Kennemer Golf & Country Club" C-174/00** (21 March 2002), e.g. membership fees for sport clubs are liable for VAT. On the contrary, membership fees paid by clubs to their associations can be exempted from VAT when the association has non-profit status (case **"Canterbury Hockey Club" C-253/07**, 16 October 2008). Economic activities which do not meet these criteria (e.g. marketing advice, procurement of sponsors) are liable for VAT.

In the area of direct taxation, the ECJ decided in the legal case **"Stauffer" C-386/04** (14 September 2006) and in the case **"Persche" C-318/07** (27 January 2009) that an exception from corporation tax for institutions serving the common good granted in one MS (domestically) must also be granted to comparable facilities from other MS (abroad). In its judgement, ECJ confirmed that cross-border donations to non-profit organisations located not in the country of the giver but in another MS are eligible for tax exemption. There is currently 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 of the income tax law (EStG). 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. In a letter dated 20 March 2008 (coordinated Länder decree, BStBl. I 2008, page 538), Germany agreed not to tax the revenues of foreign-based players, clubs and associations taking part in European club competitions, subject to reciprocity.

DEVELOPMENTS

On 19 December 2013, **ECJ** ruled in case **"West Dorset Golf" C-495/12** that the tax exemption for sport related activities within the meaning of article 132 paragraph 1 (m) of the VAT directive also encompasses turnovers with services which consist in the grant, by a membership-based, non-profit-making body which operates a sport facility, of the right to use this sport facility (against payment) to visiting non-members of that body.

On 6 December 2011, the **COM** published the **"Communication on the future of VAT"** which sets out the broad lines of a future VAT system. The COM also called on the MS to make use of the existing options for reducing the VAT burden on organisations working on a non-profit status and for the common good. It was established in a **"Study on VAT in the public sector and exemptions in the public interest"** published on 10 January 2013 that there are differences in many MS in the VAT payable on sport services provided by non-profit clubs and private/commercial clubs. On 15 October 2013, the COM published another consultation paper **"Review of existing VAT legislation on public bodies and exemptions in the public interest"** in which the COM put forward a range of options for a re-organisation of existing tax exemptions for activities in the public interest. These ranged from full taxation of all activities through to maintenance of the current provisions. On 25 September 2016, the COM filed a complaint against the Netherlands with ECJ because the Netherlands has not fully complied with the requirements of the VAT directive in the area of VAT exemptions for water sport activities.

STATUS AND PROSPECTS

On 16 September 2016, the **EP** published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it recommends that the MS introduce VAT exemptions in amateur sport.

DFB / DFL

DFB and DFL are in favour of a uniform and Europe-wide exemption of team sports from withholding taxes (deducted at source) and maintenance of a funding of sport through VAT exemptions. Together with DOSB, in March 2014 DFB took part in the consultation on a "Review of existing VAT legislation on public bodies and tax exemptions in the public interest" and argued in favour of maintaining the existing EU VAT rules to the benefit of non-profit sport because in this way the legislator expressly recognises the particular importance to society and the function of sport clubs oriented on the public interest.

FINANCING OF SPORT

EU funding for sport projects

BACKGROUND

Since 1 January 2014, the EU for the first time has its own EU sport funding programme based on article 165 paragraph 4 TFEU through the **“Regulation establishing ‘Erasmus’: the Union programme for education, training, youth and sport”** (EU 1288/2013). In accordance with article 18 paragraph 1 in conjunction with paragraph 2 (e) of regulation (EU) 1288/2013, sport-related projects can be financially supported by a total of EUR 265.94 million between 2014 and 2020. The programme’s financial resources will serve primarily to promote amateur sport. The following EU programmes are essentially eligible for supporting sport-related projects: Education, training, youth and sport (programme “Erasmus+”), Health (“Health and growth” programme 2014-2020), Environment (“LIFE+”), Cohesion Fund, Agricultural policy (“European Agricultural Fund for Rural Development [EAFRD]”), Employment and social affairs (“European Social Fund [ESF]”, programme “employment and social innovation”) and Regional policy (“European Regional Development Fund [ERDF]”).

The **EU sport funding programme** has a duration of 7 years. The aim is that the funds made available by the EU should increase over the years (2017: around EUR 31.8 million). The decision on which projects can be funded is taken by the COM. The projects funded are managed by the **Education, Audiovisual and Culture Executive Agency (EACEA)**. Eligible are all sport-related projects in the form of large cross-border collaborative partnerships, small cross-border collaborative partnerships and not-for-profit European sport events. The exact requirements and conditions for an award are set out in the “Erasmus+ programme guide” which is updated annually by EACEA. The individual funding priorities can be re-defined for the upcoming tendering period in an annual work programme. Funding priorities for the upcoming tendering period from October 2016 are: (1) combating cross-border threats in the area of integrity in sport, in particular anti-doping, the fight against match-fixing and prevention of violence, (2) promotion of good governance in sport as well as support for dual career in sport, (3) promotion of voluntary activity in sport together with social inclusion, equality of opportunity and health enhancement through sport, in particular through equal participation and accessibility for all. The **“European week of sport”** was held for the first time in September 2015 and was financed with around EUR 2 million from the resources of the EU sport funding programme.

DEVELOPMENTS

On 16 March 2009, after the entry into force of the Lisbon Treaty the **COM** proposed **“Preparatory actions in the field of sport”** which were intended to contribute to implementation of article 165 TFEU through promotion of individual projects, conferences and studies. On 23 November 2011, the COM published the proposal for a **“Regulation establishing ‘Erasmus for all’. The Union programme for education, training, youth and sport”** in which it mentions a separate funding chapter for sport for the first time. Yet the proposal for a **“Regulation on specific provisions concerning the European Regional Development Fund”** (6 October 2011) contained no reference to sport.

In its **“Resolution on the European dimension of sport”** (2 December 2012), the **EP** called for the introduction of a **“European week of sport”** with the aim of supporting sport in the EU at all levels and encouraging people to engage in more physical activity.

STATUS AND PROSPECTS

The **COM** and EACEA have opened the prospect of a possible simplification of the selection criteria during the course of the programme, e.g. increased use will be made of flat-rate amounts for staff and travel costs from 2017. On 19 October 2016, the COM published a **“Study on the contribution of sport to regional development through the Structural Funds”** for which 200 project examples and 33 concrete case studies for sport-related funding from the resources of the EU Regional Development Fund were examined. Sport infrastructure has also been supported to a certain extent. There has also often been funding from EU resources in the framework of cross-border cooperation of neighbouring regions in connection with INTERREG (a Community initiative of ERDF to promote cooperation between neighbouring MS). As compared with other MS, Germany has so far made very little use of the funding possibilities offered by the EU structural funds for sport-related projects.

DFB / DFL

DFB and DFL welcome the first EU sport funding programme. In order for the funding to reach amateur sport across the board, the eligibility criteria should be structured in a way that smaller projects with fewer cross-border partners can also benefit from it, in particular with a view to supporting social integration and volunteering in sport. Furthermore, the social potential of sport, especially in football, should also be deployed more strongly by the MS as an element of employment preparation measures and within integration and language courses.

Collective selling of media rights

BACKGROUND

An overwhelming number of large European football leagues (apart from Spain) sell their media rights collectively in order to secure a balanced distribution of revenues among all professional clubs. The COM examined the collective selling of television rights for sporting events in the light of EU 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 101.3 TFEU) 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. 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

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 redistribution and solidarity mechanisms. It holds the view that it should be possible to market sport media rights both collectively and individually. In its **"Communication on developing the European dimension of sport"** (18 January 2011), it endorsed collective selling of media rights as a good example for financial solidarity and redistribution mechanisms in sport. In March 2012, it presented the results of a **"Study on the financing of amateur sport"** which proposed an additional strengthening of solidarity mechanisms between professional and amateur level, between different sports and across borders between clubs in the MS. On 25 April 2014, the COM published a **"Study on sports organisers' rights in the EU"** it had commissioned. The objective of the EU-wide study was to draw up a comparative legal analysis of national provisions relating to intellectual property rights of sport organisers, to competition and copyright aspects of marketing and audiovisual rights (collective selling) and to national legislation on games of chance and online gambling, in particular with regard to the financial participation of sport organisers in the revenues betting operators generate by using the respective sport event for commercial purposes. The study's authors called for the COM to draw up **"Guidelines for harmonised application of competition law in connection with central marketing of television rights"**, in particular regarding the length of the tendering period and the competition-restricting effects of platform-neutral tender procedures.

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. In its non-binding **"Resolution on the European dimension of sport"** (2 February 2012), the EP emphasised the fundamental importance of commercialisation of transmission rights for sport on a central, exclusive and territorial basis, and invited the COM and the MS to protect the intellectual property rights of sport content.

In December 2012, the Council's former expert group on "sustainable financing of sport" published a **"Study on strengthening the solidarity mechanisms within sport"** which found that 5 billion euros is generated in the EU through the sale of sport media rights, of which 500 million euros is redistributed directly to amateur sport (2008 figures). Given the financial importance of these resources and to strengthen solidarity between amateur and professional sport, the study recommended better protection of sport organisers' commercial rights by the EU and the MS. The possibility for self-financing of sport should be better supported by the EU, in particular through maintenance of central marketing of television rights.

STATUS AND PROSPECTS

On 30 April 2015, **Spain**, the last MS with individual marketing of sport transmission rights, issued a decree granting sport organisers an exclusive commercial right to audiovisual content and collective selling of sport transmission rights together with solidarity mechanisms. In **Germany**, the annual report 2016 of the advisory Monopoly Commission critically questioned the collective selling of sport transmission rights for reasons linked to competition policy and competition law. At the same time, it came out in favour of the grant of exclusive rights to sport organisers from the angle of competition policy. In particular it asked for a general clarification on who is the owner of sport transmission rights by the national legislator.

DFB / DFL

DFB and DFL welcome the explicit position of the COM in favour of strengthening collective selling of media rights. 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.

Legal protection for sport event organisers

BACKGROUND

The organisation of sport competitions involves operations which are of considerable economic and intellectual value. Given the increasing importance of the Internet for the use of media contents, preliminary services for sport events are increasingly used free of charge by third parties for their own commercial purposes. For instance, firms offering Internet bets can use match permutations and match timetables freely, but do in return not make any material contribution to the financing of professional and amateur sport through targeted levies, taxes or other financial consideration. Due to the absence of relevant EU provisions, **ECJ** ruled in its judgements of 9 November 2004 in the cases **“Fixtures Marketing Ltd” C-46/02, C-338/02 und C-444/02** with reference to the EU database directive (article 7) that the production of match calendars is not currently protected under EU law. Creation of a property right of sport organisers is essentially a legislative competence of the MS. The Federal Ministry for Justice in **Germany** did not support a property right for sport organisers in the last legislature period.

DEVELOPMENTS

In its non-binding **“Resolution on the European dimension of sport”** (2 February 2012), the **EP** emphasised the fundamental importance of the commercialisation of audiovisual rights of sport competitions. The EP reiterated its opinion that sport bets are a form of commercial use of competitions. For that reason, the EP calls on the COM and the MS to protect the property rights of organisers in their sport competitions against any unauthorised use, illegal providers and the suspicion of result manipulation and match-fixing.

In its judgement in the joint cases **“QC Leisure” C-429/08** and **“Murphy” C-403/08** the **ECJ** ruled that sport organisers do not possess copyright or a neighbouring right for their live-broadcasts according to current EU legislation (4 October 2011). In its judgement in **„Dataco” C-604/10** on 1 March 2012 ECJ stated that a fixture list can be protected by the database directive provided that the selection or arrangement of the data which it contains amounts to an original expression of the creative freedom of its author. In its ruling on case **“Sportradar” C-173/11** (18 October 2012), ECJ decided that making a copyright-protected data base available on a server in and downloading data on a computer in another MS constitutes a reuse operation contrary to copyright law.

On 25 April 2014, the **COM** published a **“Study on sports organisers’ rights in the EU”** it had commissioned. The objective of the EU-wide study was to draw up a comparative legal analysis of national provisions relating to intellectual property rights of sport organisers, to competition and copyright aspects of marketing and transmission rights (collective selling) and to national legislation on games of chance, in particular with regard to the financial participation of sports organisers. The study’s authors call on the COM not to introduce a sport organiser right at EU level in the immediate future. They find that sports organisers are adequately protected by a combination of in-house rules, contractual agreements and neighbouring rights of the broadcasting companies for their recorded material.

In June 2010, **France** opened up its market for sport bets under state control. Alongside maintenance of the state lottery monopoly, the new French law on Internet gambling provides for organisers of sport events to have a right to a fair return (see **Games of chance and sport bets**). Private operators offering Internet sport bets must agree an appropriate remuneration with the organiser of relevant sport competitions. Attempts by betting operators to have French courts declare the legally enshrined property rights of sport organisers unlawful have not been successful. In Germany, the Federal High Court has established that a sport organiser currently has no special legal basis under German law to assert claims against commercial use of his event in the Internet.

STATUS AND PROSPECTS

In a draft **“Directive on copyright in the Digital Single Market”** (14 September 2016), the **COM** proposed that the law should for the first time grant press publishers exclusive rights under article 2 and article 3 paragraph 2 of the EU copyright directive (2001/29/EC) (reproduction right, right of communication to the public) for the digital use of their press publications (protection of press publications concerning digital uses).

Exclusive rights for the use of audiovisual content of sport events has now also been granted by law to sport organisers in 5 MS (France, Italy, Spain, Hungary, Poland).

In **Germany**, the annual report 2016 of the advisory Monopoly Commission has come out in favour of the grant of absolute rights to sport organisers. It asked for a general clarification of the law on property rights from the angle of competition policy.

DFB / DFL

DFB and DFL campaign at national and European level for the creation of a concrete neighbouring right sui generis for sport organisers, which creates framework conditions in line with competition law and which covers the protection of all organisational and financial operations necessary for the organisation of a sport 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. 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

On 24 March 2009, the **UEFA Executive Committee** decided the creation of a club financial control committee 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 was approved to the UEFA Executive Committee at its meeting on 14-15 September 2009. The new **"Rules for club licensing and financial fair play"** (24 June 2010) provide that a more rigorous licensing system will be introduced for UEFA club matches progressively until the 2013-2014 season. From then onwards, clubs which want to take part in UEFA club matches must not spend more than they receive in revenues. Thus, from the 2014-2015 season on, a deficit accumulated over the two previous seasons of maximum 45 million euros can only be paid off by private investors. From the 2017-2018 season, the deficit that can be paid off by private investors may not total more than 30 million euros accumulated over the three previous seasons. This is intended to enable long-term investments in infrastructure and promotion of young talent, among other things. Clubs which infringe the rules run the risk of punishments which can go as far as exclusion from UEFA club competitions. On 11 September 2012, UEFA for the first time imposed sanctions for infringements of the financial fair-play rules. UEFA published settlement agreements with nine clubs following an investigation procedure (16 May 2014). In these agreements, the clubs in question undertake to comply with UEFA requirements on meeting the break-even rule.

In its non-binding **"Resolution on the European dimension of sport"** (2 December 2012), the **EP** supported the UEFA rule and recommended it as a successful example of measures for maintenance of balanced competition in sport for emulation by other sports. It is the task of associations to ensure that clubs pursue a reasonable planning and investment culture. All MS were invited to put in place stricter provisions for financial control of clubs and additional systems for monitoring transparency. The data in the FIFA transfer matching system should be coordinated with other systems for combating corruption.

Together with UEFA, the **COM** issued a "common position" on the financial fair play rules in UEFA club matches stating that the UEFA rules recognised as being non-binding are not in contradiction with the objectives of EU state aid policy (21 March 2012). On 6 May 2013, the Belgian player agent Striani lodged an official complaint with the COM against the UEFA financial fair play rules claiming a possible infringement of EU competition law. The rule that a club may not spend more than it generates in revenues should be regarded as an agreement between companies that breached the ban on cartels in article 101 TFEU because it artificially restricts the transfer market and hence reduces the earning possibilities of players' agents.

STATUS AND PROSPECTS

On 29 May 2015, the Court of First Instance in Brussels submitted a preliminary ruling to ECJ. The ruling was rejected as inadmissible in a decision by **ECJ** of 16 July 2015 (case **C-299/15**). The Brussels Court is likely to decide on the complaint in the course of 2017.

The **Council of Ministers** wants the expert group "Economic dimension of sport" to draw up new **"Guidelines for sustainable financing of sport"** by the end of 2016.

DFB / DFL

DFB and DFL welcome the UEFA club licensing rules and are 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 their competitive balance.

State aid for sport

BACKGROUND

In accordance with article 107 TFEU, the Lisbon Treaty specifies a general ban on state aid. The purpose of this is to ensure that state intervention to the benefit of individual economic sectors does not restrain competition and trade in the EU's internal market. In the sport sector, it is essentially infrastructure or activities of individual sport clubs at local level that are financed through state aid. State aid can be provided in the form of direct grants, preferential loans, tax breaks or training subsidies. If state aid is provided to amateur clubs, this does not usually constitute an infringement of EU state aid rules, since competition and intra-Community trade in the EU's internal market are insufficiently restricted due to the minor local significance of such aid. If training of athletes falls within the competence of the state, the provisions on state aid are not applicable (e.g. vocational training in the army or police). State support for training young athletes is also generally compatible with EU law, if it meets the criteria set out in the **general block exemption regulation (GBE)** or the **"de minimis" block exemption regulation no. 1998/2006** (15 December 2006) (state aid which does not exceed 200,000 euros over a period of three years). Professional sport clubs are often organised as "undertakings" and are engaged in commercial activities.

DEVELOPMENTS

In its **"Communication on developing the European dimension of sport"** (18 January 2011), the **COM** announced that it wanted to monitor application of state aid rules in sport more closely. Together with **UEFA**, the COM issued a "common position" on the financial fair play rules in UEFA club matches stating that the UEFA rules recognised as being non-binding are not in contradiction with the objectives of EU state aid policy (21 March 2012). On 21 May 2014 the **COM** adopted the test of a **new general block exemption regulation (GBER)** in the framework of modernising state aid rules which entered into force on 1 July 2014 and which will be applicable until 31 December 2020. The GBER's scope also covers state aid for sport and multifunctional recreational infrastructures (article 1 k). For the first time, the GBER introduces notification thresholds for such infrastructure measures. Up to the ceiling, state aid for the construction, operation and renovation of sport and multifunctional recreational infrastructures can be awarded by the MS without prior notification to the COM. The notification thresholds for state aid for construction and renovation of sport facilities are EUR 15 million per project and relate to projects with a total volume of up to EUR 50 million. Similarly, state aid for the operation of a sport facility of up to EUR 2 million a year and per project will in future no longer have to be notified. All state aid that exceeds these amounts will continue to require authorisation (article 4). Article 55 GBER regulates in detail the state aid requirements for construction, operation and renovation of "multifunctional sport arenas". State aid for the construction or renovation of such infrastructures will in future no longer have to be notified in advance to the COM if the following conditions are met: state-supported sport facilities must not benefit just one user or professional sport.

STATUS AND PROSPECTS

On 4 July 2016, the **COM** published its decision in the state aid procedure against seven Spanish professional football clubs. The various amounts of state aid granted by the Spanish state to the seven professional football clubs has to be repaid together with interest due to incompatibility with EU state aid rules. On the same day, the COM decided in the ongoing state aid procedure against five Dutch professional football clubs that the state aid granted to the professional clubs by Dutch municipalities in accordance with the requirements of the "Guidelines on state aid for rescuing and restructuring undertakings in difficulty" (2004) was legal.

On 9 June 2016, **ECJ** in its capacity as instance of appeal in the state aid procedure confirmed in the case **"Dt. Alpenverein" T-162/13** that public financial support to the German Alpenverein (DAV) for the erection of climbing halls was compatible with EU state aid rules. The MS may grant state aid to promote sport clubs which are of general interest and non-profit if this aid meets a series of conditions set out in advance.

On 16 September 2016, the EP published a legally non-binding own-initiative report **"Integrated approach to sport policy: good governance, accessibility and integrity"** in which it invites the COM to draw up "Guidelines on the application of state aid rules in sport".

DFB / DFL

DFB and DFL welcome the new provisions for state aid in the area of sport. Stable state support for amateur sport takes into account sport's particular significance for society and guarantees discrimination-free access to sport services for all citizens. Public support for and/or reduced burdens on professional clubs can also be a good idea and in the general interest given the social and societal importance of a particular professional club for people in its region.

Games of chance and online sport bets

BACKGROUND

The implementation, organisation and financing of sport in Germany are essentially a matter for autonomous sport organisations. A large portion of elite sport is dependent on state promotion in the form of taxation (approx. 153 million euros for 2015). Amateur sport is supported primarily with funds from the state gambling monopoly (approx. 370 million euros a year of which approximately 6% derive from sports betting). In addition to Germany, many other MS also promote sport with revenues from their state monopoly in games of chance. The COM's efforts to harmonise and liberalise the rules governing games of chance (including sports betting) 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 recent years, online gambling (sport bets, poker, online casinos, etc.) has shown the highest growth rates. According to the COM, around 6.2 billion euros of the total gambling turnover of 76 billion euros is generated online. The turnover of online gambling continues to grow at a rapid rate and is expected to more than double to a total of 15 billion euros by 2015. Alongside France and Italy, other MS (e.g. Denmark, Netherlands and Poland) have regulated or are regulating their online gambling markets or plan to do so.

In line with ECJ jurisprudence, national state monopolies for games of chance 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". The MS are free to set the objectives of their own national policy in the areas of games of chance. Nevertheless, any limitations they impose must be proportionate (cases "**Gambelli**" case C-243/01 and "**Placanica**" C-338/04). The **German Federal Constitutional Court** (28 March 2006) regards a state monopoly in sports betting to be compatible with the German constitution only if it is consistently aligned on the objective of combating the dangers of addiction. On 8 September 2009, the ECJ decided in the case "**Liga Portuguesa**" C-42/07 that the MS may decide for themselves whether they wish to ban Internet sports betting or transfer this activity exclusively to a state provider, insofar as the ban or the transfer of an exclusive right is proportionate.

DEVELOPMENTS

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. With the "**Green paper on online gambling in the internal market**" (24 March 2011), it initiated a public debate at EU level. The "**Study on sports organisers' rights in the EU**" published on 25 April 2014 called on the COM to draw up "**Guidelines for sports sponsorship by online gambling operators**".

In a non-binding own-initiative report "**Online gambling in the internal market**" (10 September 2013), the EP has once more underlined its opinion that sport bets are a form of the commercial use of sport events and that exclusive exploitation rights should be granted to sport organisers.

On 12 June 2014, the ECJ in case "**Digibet/Westdeutsche Lotterie**" C-156/13 decided that a sub-federal law on games of chance (i.e. the former 'Law on games of chance' in the German federal state of Schleswig-Holstein) in a federal country does not infringe the freedom to provide services as long as the provisions are in line with the relevant jurisprudence of the ECJ.

On 1 July 2012, the amended state treaty on gambling (GlüÄndStV) came into force in **Germany**. It allows a limited opening of the market for sport bets with the grant of 20 concessions for private gambling service providers and a tax of 5 percent on the turnover. On 8 September 2014, the competent Hessian Home Affairs Ministry in Germany issued 20 concessions for online gambling. But the grant of concessions was stopped provisionally by the Administrative Tribunal in Wiesbaden on 18 September 2014 and definitively by the Higher Administrative Court in Kassel on 16 October 2015. In 2014, a few organisers of online sport bets voluntarily paid EUR 225.68 million of taxes to the Federal state, suggesting a turnover of EUR 4.5 billion on the German market for online sport bets.

STATUS AND PROSPECTS

In October 2014, the COM started a review of the current German state treaty on gambling (GlüÄndStV) from the angle of European law but has not yet initiated a Treaty infringement procedure against Germany.

In its ruling in the case "**Ince**" C-336/14 (4 February 2016), ECJ decided that, both under the old state treaty on gambling GlüStV (2008) and also under the new state treaty GlüÄndStV (2012), soliciting bets in Germany from organisers without a German license but with an authorisation from another EU MS to organise games of chance cannot currently be prosecuted under criminal law due to the present unclear legal situation. As long as no concession has been granted in Germany, GlüÄndStV also violates EU freedom to provide services in accordance with article 56 TFEU. According to the ECJ, in Germany de facto a state monopoly in gambling continued to exist which is incompatible with European law, because there has not yet been a grant of a valid concession to private providers. On 28 October 2016, the Prime Minister Conference of the German Länder decided to cancel the limitation of the concessions to 20 and to tender the concessions for potential betting operators according to qualitative minimum standards only.

DFB / DFL

DFB/DFL In the framework of the discussions on the future of the German State Treaty on games of chance, DFB, DFL and DOSB have spoken in favour of maintaining the monopoly for the state lottery and to open the market for sport bets in the Internet under strict regulation and control of the state. The three sport organisations believe that in potential legislative initiatives the EU should protect the integrity and property rights of sport organisers better.



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