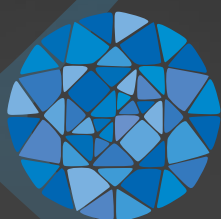


GUIDE TO EU SPORT POLICY



EUROPEAN
OLYMPIC
COMMITTEES



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Office



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Dear friends,

Eight years have passed since the Lisbon Treaty entered into force. With this Treaty, the EU was given an official competence in the field of sport. Throughout these eight years, the EOC EU Office has seen the EU sport policy taking shape with the European Commission's Communication on Developing a European Dimension in 2011 and the three EU Work Plans for Sport of the Council of Ministers.



It has been roughly six years since the EOC EU Office published its previous "Guide to EU Sport Policy" and it is needless to say that a lot of things have changed. In many policy areas, the EU has started activities to develop the European dimension of sport. You will be able to find more information on the various policy fields in the fourth chapter of this brochure. Nowadays, the EU sport policy covers a variety of topics that are not only exclusively linked to sport. This brings me back to the idea of the mainstreaming of sport, which was already included in the Communication of 2011. The EOC EU Office has always advocated for a better implementation of mainstreaming sport in relevant EU policy areas. Today, we can see some positive examples such as the block exemption regulation in the field of State Aid or the inclusion of sport within the funding Programme for Education, Training and Youth called Erasmus+. Nevertheless, mainstreaming sport remains a recurring challenge for topics such as taxation, visa policy or the Structural Funds.

Another remaining challenging is the recognition of the European Sports Model and the specificities of the organised sport. The first chapter of this brochure provides some background to the historical evolution and explains the current legal situation in relation to concepts such as the specificity and the autonomy of sport. Indeed, we see today that the inclusion of sport in the Lisbon Treaty has not provided the legal certainty that sport organisations were hoping for.

Throughout the different activities of the EU institutions, the EOC EU Office has always looked for ways how it could get involved to the benefit of organised sport in Europe. The aim of the EOC EU Office is to give sport a voice in Europe by engaging in a dialogue with the European institutions to establish a framework that allows the organised sport to achieve its goals in the challenging times of today and tomorrow. With this brochure, we want to give you an overview of some of these challenges, but also of the opportunities for sport organisations in EU sport policy.

Enjoy your read!

A handwritten signature in black ink that reads "Folker Hellmund". The signature is written in a cursive style.

Folker Hellmund, Director EOC EU Office

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Chapter 1

THE LEGAL AND SPORT POLICY FRAMEWORK



Introduction: the Evolution of EU Sport Policy

Until the adoption of the Lisbon Treaty in 2009, the European Union did not have an explicit competence for sport and therefore an official EU sport policy did not exist. However, many other EU policies already had an impact on sport – particularly following the introduction of the Single Market in 1993. The EU’s influence on sport had been shaped to a great extent by the case-law of the European Court of Justice (ECJ), stretching from Walrave (1974) to Bosman (1995) and the Meca-Medina (2006) ruling. Throughout this period, the ECJ firmly established the rule that sport must comply with EU law whenever it constitutes an economic activity.

In 2007, the European Commission published the White Paper on Sport, which provided the basis for a more comprehensive EU sport policy. This was followed in 2009 by the entry into force of the Lisbon Treaty, which gave the EU an explicit competence for sport. Following this, EU sport policy has rapidly developed over the last decade, with the adoption of three EU Work Plans for Sport by the Council of Ministers (2011-2014, 2014-2017 and 2017-2020).



1.1 Milestones of EU Sport Policy

2007

The White Paper on Sport

[The White Paper on Sport](#) was the first document in which the European Commission addressed sport-related issues in a general way, applying a holistic approach to sport. The main objectives of the White Paper were to give strategic orientation on the role of sport in Europe, to encourage debate on specific problems, to enhance the visibility of sport in EU policy-making and to raise public awareness of the needs and specificities of the sport sector. In the accompanying [“Action Plan Pierre de Coubertin”](#), the Commission made concrete proposals for further EU activities in a number of fields – ranging from health-enhancing physical activity to volunteering, players’ agents and media rights. Many of these topics are still relevant a decade later.

2009

The Lisbon Treaty

With the entry into force of the Lisbon Treaty on 1 December 2009, sport became anchored in the EU Treaties for the first time. In Article 6 and Article 165 of the [Treaty on the Functioning of the European Union](#), the importance of sport is legally acknowledged and the promotion of sport as an EU objective is emphasised. Article 165 calls on the EU to *“contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function”*. For more information on the legal and institutional implications, see part 1.2 of Article 165.

2009-
2013

Preparatory Actions in the Field of Sport

Since there was no legal basis for a sports funding programme prior to the Lisbon Treaty, the Commission created a budget line called “Preparatory Actions in the Field of Sport” in 2009 to prepare future EU actions in the field of sport from 2014 onwards. Between 2009 and 2013, a total of 77 projects were funded through this budget line, for a total of 15.6 million EUR. This included the EOC EU Office’s “Athletes2Business” (A2B) and “Sport 4 Good Governance” (S4GG) projects.



The European Commission's Communication on Sport

In January 2011, the European Commission published the Communication [“Developing the European Dimension in Sport”](#), a legally non-binding initiative. The Communication complemented the White Paper on Sport by setting out the Commission's view on how the provisions of Article 165 of the Lisbon Treaty should be put into practice. The Communication proposed concrete actions for the Commission and/or Member States within three chapters: the societal role of sport, the economic dimension of sport and the organisation of sport. It was accompanied by a [Staff Working Document on the free movement of professional and amateur sportspeople in the EU](#). Following the Commission's Communication, the Council adopted its first Work Plan for Sport in 2011.



The First Council Work Plan for Sport

On 20 May 2011, EU Sport Ministers adopted the first [Work Plan for Sport](#). The Council's Work Plan set out priorities in the field of sport for the next three years (2011-2014) and created new working structures. The Work Plan created six “Expert Groups” (XGs) in line with the priorities outlined in the plan. In these Expert Groups, Member States were represented by national experts. The Expert Groups replaced the informal working groups that previously existed and worked according to a timetable for implementation and actions outlined in the Work Plan. More information on the Expert Groups can be found in 2.1 Institutional Structures.

The Council defined priorities along the lines of three key themes, which could be “complemented by each Presidency” in the light of new developments:

- › integrity of sport, in particular the fight against doping, match-fixing and the promotion of good governance
- › social values of sport, in particular health, social inclusion, education and volunteering
- › economic aspects of sport, in particular sustainable financing of grassroots sports and evidence-based policy making.

Furthermore, the Council emphasized that “there is also a need for the EU to work closely with the sport movement and relevant competent organisations at national, European and international levels such as the Council of Europe, in particular through structured dialogue”. For the Expert Groups, these organisations were able to apply for observer status allowing them to contribute to certain parts of the meeting without having formal voting rights. More information on the Expert Groups can be found in chapter 2.1.



Erasmus+ Sport

2014 also saw the launch of **Erasmus+**, the EU Programme for education, training, youth, and for the first time sport. The [sports chapter of Erasmus+](#) aims to support European partnerships on grassroots sport in accordance with the themes and topics established in the EU Work Plan. Further information on Erasmus+ can be found later in this brochure in the EU Funding for Sport section and in the EOC EU Office's brochure "Funding for sports in the European Union 2014-2020".



The Second Council Work Plan for Sport

In January 2014, the Commission presented a [report](#) on the implementation of the first Work Plan for Sport. This report served as a basis for the [Second EU Work Plan for Sport](#) for the period 2014-2017. While some specific topics were changed in order to adapt to developments in the field of sport, the second plan showed a strong continuity from the first Work Plan, and its three key themes largely resembled those previously established:

- › integrity of sport, in particular anti-doping, the fight against match-fixing, protection of minors, good governance and gender equality
- › the economic dimension of sport, in particular sustainable financing of sport, the legacy of major sport events, economic benefits of sport and innovation
- › sport and society, in particular Health-Enhancing Physical Activity (HEPA), volunteering and employment in sport, as well as education and training in sport.

Five Expert Groups were established, covering match-fixing, good governance, economic dimension, HEPA and human resources development in sport. The system of observers, that allowed approved sport organisations to take part in these Expert Groups, remained largely unchanged.

In addition to these groups, Presidency conferences, meetings of Sport Ministers and Directors, Commission studies and conferences, as well as pledge boards were mentioned as potential working methods. A more detailed description of the outcomes and results of the Second EU Work Plan can be found in the [Commission's evaluation report](#).

2015

High Level Groups on Sport

In 2015, two High Level Groups were set up (on Sport Diplomacy and Grassroots Sport) on the initiative of [Commissioner for Education, Culture, Youth and Sport Tibor Navracsics](#). These High Level Groups were composed of various experts from different backgrounds (academics, former athletes, representatives of major sport organisations). Both High Level Groups held several meetings over one year and produced a final report; the HLG Sport Diplomacy prepared 15 recommendations, whereas the HLG Grassroots Sport made suggestions to the Commission on ways to better promote grassroots sports through policy initiatives or programme priorities.

September
2015

The First European Week of Sport

In September 2015, the European Commission organised the first European Week of Sport (EWOs). This event, originating from an idea launched in the Fisas Report in 2012, aims to raise awareness on the benefits of physical activity and to encourage as many as European citizens as possible to be active. As a result, the EU uses the hashtag #BeActive in its communicational activities when referring to the European Week of Sport. From 2015, it became an annual event, taking place between 23 and 30 September.



The Third Council Work Plan for Sport 2017-2020

In May 2017, the EU Sports Ministers adopted a new [Work Plan for Sport](#), which will run for three and a half years, until the end of 2020, in line with the EU's Multi-annual Financial Framework. The new Work Plan has been drafted according to three main priorities:

- ▶ the integrity of sport; in particular promoting good governance including the safeguarding of minors, the specificity of sport, combatting corruption and match fixing, as well as fighting doping
- ▶ the economic dimension of sport; in particular innovation in sport, and sport and the digital single market
- ▶ sport and society; in particular social inclusion, the role of coaches, education in and through sport, sport and health, sport and environment and sport and media, as well as sport diplomacy.

To implement these actions, the Work Plan contains a variety of working methods. One of these methods is through Expert Groups, although only two Expert Groups were created. One Expert Group will focus on "integrity", while another Expert Group will work on "skills and human resources development in sport". Furthermore, these groups will not work under the control of the Council; instead responsibility will be given to the Commission. This means that different rules might apply to their implementation, regarding both Member State representatives and sport organisations. The Sport Unit of the European Commission plans to define the selection criteria for

experts by the end of 2018.

The new Work Plan also includes two new working methods. The first of these are cluster meetings, with the objective of bringing decision-makers together with successful Erasmus+ Sport projects and other funding Programmes covering a certain topic in order to discuss policy-relevant outcomes. An example foreseen in the Work Plan is a meeting to promote health-enhancing physical activity. The second new working method is "groups of interested Member States". This working method is aiming at facilitating peer learning activities among participating Member States. These groups may be organised at the initiative of one or several Member States on subjects of common interest. These working methods also provide more flexibility to the new Work Plan.

Flexibility has indeed been a key concern for the third EU Work Plan as a lack of flexibility in terms of topics, agenda and working structures was one of the general criticisms levelled at the previous Work Plans. This is in line with the EOC EU Office's assessment of the first two Work Plans and the position paper with recommendations for the third EU Work Plan. Another way in which flexibility in the Work Plan was increased was with the introduction of the possibility of covering additional topics during its implementation. Future Presidencies also already included their priorities and proposed events, but are free to add new topics in the light of any possible new developments or their own priorities.

1.2 Most Important EU Cases Related to Sport

The European Court of Justice (ECJ) has been active in the field of sport for a longer period of time than the European Commission. The general principle that sport falls under EU law when it constitutes an economic activity has been established in case-law, but other areas of EU law can also influence the world of sports (e.g. environment). The cases that are highlighted here are cases that established general principles on how the ECJ treats sport. A short overview of recent ECJ cases related to sport is also given, but those cases will be discussed in more detail within the sections on the policy fields influenced by their outcomes.

► 1974: Walrave and Koch Case

This case addressed nationality rules in sport set by the Union Cycliste Internationale (UCI). These rules were challenged by two Dutch pacemakers who wished to work for non-Dutch teams at the World Championships. With its decision, the European Court of Justice (ECJ) underlined for the first time that the prohibition of discrimination on grounds of nationality also applies to the rules of sports federations and stressed that **sport falls within the scope of EU law in so far as it constitutes an economic activity**. This verdict provided the basis for the Bosman ruling in 1995.

► 1995: Bosman Case

With its decision on the Bosman Case, the ECJ rendered an **important judgment on the freedom of movement for sportspeople** while simultaneously exerting a profound effect on the transfer rules of football leagues within the EU. The verdict also banned restrictions against non-nationals within national leagues and allowed professional football players in the European Union to move to another club without a transfer fee at the end of their term of contract with their current team.

► 2000: Deliège Case

In this ruling, the ECJ confirmed that the selection of athletes for international sporting events lies within the responsibility of national sport federations since such a limitation is inherent to the organisation of sport. Stating that selection rules for international tournaments are not contrary to EU law, this case **supports the specificity of sport structures and strengthens the autonomy of sport** with regard to the setting up of sporting rules.

► 2006: Meca-Medina Case

In this case, the ECJ addressed the compatibility of International Sport Federations' anti-doping rules with EU competition rules. In its verdict, the ECJ approved the anti-doping jurisdiction but held that the assessment whether a **sporting rule is compatible with EU law** can only be made **on a case-by-case basis**. The Meca-Medina ruling has shown that even a regulation that is inherent to the organisation of sport competitions can be required the ECJ to undergo the proportionality test. In this, the Court checks if the restrictions are inherent to the objectives pursued by the contested regulation and whether they are "proportionate" and "limited to what is necessary to ensure the proper conduct of competitive sport".