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## **WHITE PAPER**

### **WHITE PAPER ON SPORT**

(presented by the Commission)

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## 1. INTRODUCTION

*"Sport is part of every man and woman's heritage and its absence can never be compensated for."* – Pierre de Coubertin<sup>1</sup>

Sport<sup>2</sup> is a growing social and economic phenomenon which makes an important contribution to the European Union's strategic objectives of solidarity and prosperity. The Olympic ideal of developing sport to promote peace and understanding among nations and cultures as well as the education of young people was born in Europe and has been fostered by the International Olympic Committee and the European Olympic Committees.

Sport attracts European citizens, with a majority of people taking part in sporting activities on a regular basis. It generates important values such as team spirit, solidarity, tolerance and fair play, contributing to personal development and fulfilment. It promotes the active contribution of EU citizens to society and thereby helps to foster active citizenship. The Commission acknowledges the essential role of sport in European society, in particular when it needs to bring itself closer to citizens and to tackle issues that matter directly to them.

However, sport is also confronted with new threats and challenges which have emerged in European society, such as commercial pressure, exploitation of young players, doping, racism, violence, corruption and money laundering.

This initiative marks the first time that the Commission is addressing sport-related issues in a comprehensive manner. Its overall objective is 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 sector. The initiative aims to illustrate important issues such as the application of EU law to sport. It also seeks to set out further sports-related action at EU level.

This White Paper is not starting from scratch. Sport is subject to the application of the *acquis communautaire* and European policies in a number of areas already have a considerable and growing impact on sport.

The important role of sport in European society and its specific nature were recognised in December 2000 in the European Council's Declaration on the specific characteristics of sport and its social function in Europe, of which account should be taken in implementing common policies (the "Nice Declaration"). It points out that sporting organisations and Member States have a primary responsibility in the conduct of sporting affairs, with a central role for sports federations. It clarifies that sporting organisations have to exercise their task to organise and promote their particular sports "with due regard to national and Community legislation". At the same time, it recognises that, "even though not having any direct powers in this area, the Community must, in its action under the various Treaty provisions, take account of the social, educational and cultural functions inherent in sport and making it special, in order that the

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<sup>1</sup> Pierre de Coubertin (1863-1937), French pedagogue and historian, founder of the modern Olympic Games.

<sup>2</sup> For the sake of clarity and simplicity, this White Paper will use the definition of "sport" established by the Council of Europe: "all forms of physical activity which, through casual or organised participation, aim at expressing or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels."

code of ethics and the solidarity essential to the preservation of its social role may be respected and nurtured." The European institutions have recognised the specificity of the role sport plays in European society, based on volunteer-driven structures, in terms of health, education, social integration, and culture.

The European Parliament has followed the various challenges facing European sport with keen interest and has regularly dealt with sporting issues in recent years.

In preparing this White Paper, the Commission has held numerous consultations with sport stakeholders on issues of common interest as well as an on-line consultation. They have demonstrated that considerable expectations exist concerning the role of sport in Europe and EU action in this area.

This White Paper focuses on the societal role of sport, its economic dimension and its organisation in Europe, and on the follow-up that will be given to this initiative. Concrete proposals for further EU action are brought together in an Action Plan named after Pierre de Coubertin which contains activities to be implemented or supported by the Commission. A Staff Working Document contains the background and context of the proposals, including annexes on Sport and EU Competition Rules, Sport and Internal Market Freedoms, and on consultations with stakeholders.

## **2. THE SOCIETAL ROLE OF SPORT**

Sport is an area of human activity that greatly interests citizens of the European Union and has enormous potential for bringing them together, reaching out to all, regardless of age or social origin. According to a November 2004 Eurobarometer survey<sup>3</sup>, approximately 60% of European citizens participate in sporting activities on a regular basis within or outside some 700,000 clubs, which are themselves members of a plethora of associations and federations. The vast majority of sporting activity takes place in amateur structures. Professional sport is of growing importance and contributes equally to the societal role of sport. In addition to improving the health of European citizens, sport has an educational dimension and plays a social, cultural and recreational role. The societal role of sport also has the potential to strengthen the Union's external relations.

### **2.1 Enhancing public health through physical activity**

Lack of physical activity reinforces the occurrence of overweight, obesity and a number of chronic conditions such as cardio-vascular diseases and diabetes, which reduce the quality of life, put individuals' lives at risk and are a burden on health budgets and the economy.

The Commission's White Paper "A Strategy for Europe on Nutrition, Overweight and Obesity related health issues"<sup>4</sup> underlines the importance of taking pro-active steps to reverse the decline in physical activity, and actions suggested in the area of physical activity in the two White Papers will complement each other.

As a tool for health-enhancing physical activity, the sport movement has a greater influence than any other social movement. Sport is attractive to people and has a positive image.

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<sup>3</sup> Special Eurobarometer (2004): The Citizens of the European Union and Sport.

<sup>4</sup> COM(2007)279 final of 30.5.2007

However, the recognised potential of the sport movement to foster health-enhancing physical activity often remains under-utilised and needs to be developed.

The World Health Organisation (WHO) recommends a minimum of 30 minutes of moderate physical activity (including but not limited to sport) per day for adults and 60 minutes for children. Public authorities and private organisations in Member States should all contribute to reaching this objective. Recent studies tend to show that sufficient progress is not being made.

(1) The Commission proposes to develop new physical activity guidelines with the Member States before the end of 2008.

The Commission recommends strengthening the cooperation between the health, education and sport sectors to be promoted at ministerial level in the Member States in order to define and implement coherent strategies to reduce overweight, obesity and other health risks. In this context, the Commission encourages Member States to examine how to promote the concept of active living through the national education and training systems, including the training of teachers.

Sport organisations are encouraged to take into account their potential for health-enhancing physical activity and to undertake activities for this purpose. The Commission will facilitate the exchange of information and good practice, in particular in relation to young people, with a focus on the grassroots level.

(2) The Commission will support an EU Health-Enhancing Physical Activity (HEPA) network and, if appropriate, smaller and more focussed networks dealing with specific aspects of the topic.

(3) The Commission will make health-enhancing physical activity a cornerstone of its sport-related activities and will seek to take this priority better into account in relevant financial instruments, including:

- The 7<sup>th</sup> Framework Programme for Research and Technological Development (lifestyle aspects of health);
- The Public Health Programme 2007-2013;
- The Youth and Citizenship programmes (cooperation between sport organisations, schools, civil society, parents and other partners at local level);
- The Lifelong Learning Programme (teacher training and cooperation between schools).

## **2.2 Joining forces in the fight against doping**

Doping poses a threat to sport worldwide, including European sports. It undermines the principle of open and fair competition. It is a demotivating factor for sport in general and puts the professional under unreasonable pressure. It seriously affects the image of sport and poses a serious threat to individual health. At European level, the fight against doping must take into account both a law-enforcement and a health and prevention dimension.

(4) Partnerships could be developed between Member State law enforcement agencies (border

guards, national and local police, customs etc.), laboratories accredited by the World Anti-Doping Agency (WADA) and INTERPOL to exchange information about new doping substances and practices in a timely manner and in a secure environment. The EU could support such efforts through training courses and networking between training centres for law enforcement officers.

The Commission recommends that trade in illicit doping substances be treated in the same manner as trade in illicit drugs throughout the EU.

The Commission calls on all actors with a responsibility for public health to take the health-hazard aspects of doping into account. It calls on sport organisations to develop rules of good practice to ensure that young sportsmen and sportswomen are better informed and educated of doping substances, prescription medicines which may contain them, and their health implications.

The EU would benefit from a more coordinated approach in the fight against doping, in particular by defining common positions in relation to the Council of Europe, WADA and UNESCO, and through the exchange of information and good practice between Governments, national anti-doping organisations and laboratories. Proper implementation of the UNESCO Convention against Doping in Sport by the Member States is particularly important in this context.

(5) The Commission will play a facilitating role, for example by supporting a network of national anti-doping organisations of Member States.

### **2.3 Enhancing the role of sport in education and training**

Through its role in formal and non-formal education, sport reinforces Europe's human capital. The values conveyed through sport help develop knowledge, motivation, skills and readiness for personal effort. Time spent in sport activities at school and at university produces health and education benefits which need to be enhanced.

Based on experience gained during the 2004 European Year of Education through Sport, the Commission encourages support for sport and physical activity through various policy initiatives in the field of education and training, including the development of social and civic competences in accordance with the 2006 Recommendation on key competences for lifelong learning.<sup>5</sup>

(6) Sport and physical activity can be supported through the Lifelong Learning programme. Promoting participation in educational opportunities through sport is thus a priority topic for school partnerships supported by the Comenius programme, for structured actions in the field of vocational education and training through the Leonardo da Vinci programme, for thematic networks and mobility in the field of higher education supported by the Erasmus programme, as well as multilateral projects in the field of adult training supported by the Grundtvig programme.

(7) The sport sector can also apply for support through the individual calls for proposals on the implementation of the European Qualifications Framework (EQF) and the European

<sup>5</sup> Recommendation of the European Parliament and of the Council, of 18 December 2006, on key competences for lifelong learning (Official Journal L 394 of 30.12.2006).

Credit System for Vocational Education and Training (ECVET). The sport sector has been involved in the development of the EQF and has been selected for financial support in 2007/2008. In view of the high professional mobility of sportspeople, and without prejudice to Directive 2005/36/EC on the mutual recognition of professional qualifications, it may also be identified as a pilot sector for the implementation of ECVET to increase the transparency of national competence and qualification systems.

(8) The Commission will introduce the award of a European label to schools actively involved in supporting and promoting physical activities in a school environment.

In order to ensure the reintegration of professional sportspersons into the labour market at the end of their sporting careers, the Commission emphasises the importance of taking into account at an early stage the need to provide "dual career" training for young sportsmen and sportswomen and to provide high quality local training centres to safeguard their moral, educational and professional interests.

The Commission has launched a study on the training of young sportsmen and sportswomen in Europe, the results of which could feed into the abovementioned policies and programmes.

Investment in and promotion of training of young talented sportsmen and sportswomen in proper conditions is crucial for a sustainable development of sport at all levels. The Commission stresses that training systems for talented young sportsmen and sportswomen should be open to all and must not lead to discrimination between EU citizens based on nationality.

(9) Rules requiring that teams include a certain quota of locally trained players could be accepted as being compatible with the Treaty provisions on free movement of persons if they do not lead to any direct discrimination based on nationality and if possible indirect discrimination effects resulting from them can be justified as being proportionate to a legitimate objective pursued, such as to enhance and protect the training and development of talented young players. The ongoing study on the training of young sportsmen and sportswomen in Europe will provide valuable input for this analysis.

## **2.4 Promoting volunteering and active citizenship through sport**

Participation in a team, principles such as fair-play, compliance with the rules of the game, respect for others, solidarity and discipline as well as the organisation of amateur sport based on non-profit clubs and volunteering reinforce active citizenship. Volunteering in sport organisations provides many occasions for non-formal education which need to be recognised and enhanced. Sport also provides attractive possibilities for young people's engagement and involvement in society and may have a beneficial effect in helping people steer away from delinquency.

There are, however, new trends in the way people, particularly the young, practice sport. There is a growing tendency to practise sport individually, rather than collectively and in an organised structure, which is resulting in a declining volunteer base for amateur sport clubs.

(10) Together with the Member States, the Commission will identify key challenges for non-profit sport organisations and the main characteristics of services provided by these organisations.

(11) The Commission will support grassroots sport through the Europe for Citizens programme.

(12) The Commission will furthermore propose to encourage young people's volunteering in sport through the Youth in Action programme in fields such as youth exchanges and voluntary service for sporting events.

(13) The Commission will further develop exchange of information and best practice on volunteering in sport involving Member States, sport organisations and local authorities.

(14) In order to understand better the specific demands and needs of the voluntary sport sector in national and European policy making, the Commission will launch a European study on volunteering in sport.

## **2.5 Using the potential of sport for social inclusion, integration and equal opportunities**

Sport makes an important contribution to economic and social cohesion and more integrated societies. All residents should have access to sport. The specific needs and situation of under-represented groups therefore need to be addressed, and the special role that sport can play for young people, people with disabilities and people from less privileged backgrounds must be taken into account. Sport can also facilitate the integration into society of migrants and persons of foreign origin as well as support inter-cultural dialogue.

Sport promotes a shared sense of belonging and participation and may therefore also be an important tool for the integration of immigrants. It is in this context that making available spaces for sport and supporting sport-related activities is important for allowing immigrants and the host society to interact together in a positive way.

The Commission believes that better use can be made of the potential of sport as an instrument for social inclusion in the policies, actions and programmes of the European Union and of Member States. This includes the contribution of sport to job creation and to economic growth and revitalisation, particularly in disadvantaged areas. Non-profit sport activities contributing to social cohesion and social inclusion of vulnerable groups can be considered as social services of general interest.

The Open Method of Coordination on social protection and social inclusion will continue to include sport as a tool and indicator. Studies, seminars, conferences, policy proposals and action plans will include access to sport and/or belonging to social sport structures as a key element for analysis of social exclusion.

(15) The Commission will suggest to Member States that the PROGRESS programme and the Lifelong Learning, Youth in Action and Europe for Citizens programmes support actions promoting social inclusion through sport and combating discrimination in sport. In the context of cohesion policy, Member States should consider the role of sports in the field of social inclusion, integration and equal opportunities as part of their programming of the European Social Fund and the European Regional Development Fund, and they are encouraged to promote action under the European Integration Fund.

The Commission furthermore encourages Member States and sport organisations to adapt sport infrastructure to take into account the needs of people with disabilities. Member States and local authorities should ensure that sport venues and accommodations are accessible for



people with disabilities. Specific criteria should be adopted for ensuring equal access to sport for all pupils, and specifically for children with disabilities. Training of monitors, volunteers and host staff of clubs and organisations for the purpose of welcoming people with disabilities will be promoted. In its consultations with sport stakeholders, the Commission takes special care to maintain a dialogue with representatives of sportspeople with disabilities.

(16) The Commission, in its Action Plan on the European Union Disability Strategy, will take into account the importance of sport for disabled people and will support Member State actions in this field.

(17) In the framework of its Roadmap for Equality between Women and Men 2006-2010, the Commission will encourage the mainstreaming of gender issues into all its sports-related activities, with a specific focus on access to sport for immigrant women and women from ethnic minorities, women's access to decision-making positions in sport and media coverage of women in sport.

## **2.6 Strengthening the prevention of and fight against racism and violence**

Violence at sport events, especially at football grounds, remains a disturbing problem and can take different forms. It has been shifting from inside stadiums to outside, including urban areas. The Commission is committed to contributing to the prevention of incidents by promoting and facilitating dialogue with Member States, international organisations (e.g. Council of Europe), sport organisations, law enforcement services and other stakeholders (e.g. supporters' organisations and local authorities). Law enforcement authorities cannot deal with the underlying causes of sport violence in isolation.

The Commission also encourages the exchange of best practice and of operational information on risk-supporters among police services and/or sport authorities. Particular importance will be given to police training on crowd management and hooliganism.

Sport involves all citizens regardless of gender, race, age, disability, religion and belief, sexual orientation and social or economic background. The Commission has repeatedly condemned all manifestations of racism and xenophobia, which are incompatible with the values of the EU.

(18) As regards racist and xenophobic attitudes, the Commission will continue to promote dialogue and exchange of best practices in existing cooperation frameworks such as the Football against Racism in Europe network (FARE).

The Commission recommends sport federations to have procedures for dealing with racist abuse during matches, based on existing initiatives. It also recommends strengthening provisions regarding discrimination in licensing systems for clubs (see section 4.7).

The Commission will:

(19) Promote, in accordance with the domestic and EU rules applicable, the exchange of operational information and practical know-how and experience on the prevention of violent and racist incidents between law enforcement services and with sport organisations;

(20) Analyse possibilities for new legal instruments and other EU-wide standards to prevent public disorder at sport events;

(21) Promote a multidisciplinary approach to preventing anti-social behaviour, with a special focus given to socio-educational actions such as fan-coaching (long-term work with supporters to develop a positive and non-violent attitude);

(22) Strengthen regular and structured cooperation among law enforcement services, sport organisations and other stakeholders;

(23) Encourage the use of the following programmes to contribute to the prevention of and fight against violence and racism in sport: Youth in Action, Europe for Citizens, DAPHNE III, Fundamental Rights and Citizenship and Prevention and Fight against Crime;

(24) Organise a high level conference to discuss measures to prevent and fight violence and racism at sport events with stakeholders.

## **2.7 Sharing our values with other parts of the world**

Sport can play a role regarding different aspects of the EU's external relations: as an element of external assistance programmes, as an element of dialogue with partner countries and as part of the EU's public diplomacy.

Through concrete actions, sport has a considerable potential as a tool to promote education, health, inter-cultural dialogue, development and peace.

(25) The Commission will promote the use of sport as a tool in its development policy. In particular, it will:

- Promote sport and physical education as essential elements of quality education and as a means to make schools more attractive and improve attendance;
- Target action at improving access for girls and women to physical education and sport, with the objective to help them build confidence, improve social integration, overcome prejudices and promote healthy lifestyles as well as women's access to education;
- Support health promotion and awareness-raising campaigns through sport.

When addressing sport in its development policies, the EU will make its best effort to create synergies with existing programmes of the United Nations, Member States, local authorities and private bodies. It will implement actions that are complementary or innovative with respect to existing programmes and actions. The memorandum of understanding signed between the Commission and FIFA in 2006 to make football a force for development in African, Caribbean and Pacific countries is an example in this respect.

(26) The EU will include, wherever appropriate, sport-related issues such as international players' transfers, exploitation of underage players, doping, money-laundering through sport, and security during major international sport events in its policy dialogue and cooperation with partner countries.

Rapid visa and immigration procedures for, in particular, elite sportspersons from non-EU countries are an important element to enhance the EU's international attractiveness. In addition to the on-going process of concluding visa facilitation agreements with third countries and the consolidation of the visa regime applicable to members of the Olympic

family during Olympic Games, the EU needs to develop further (temporary) admission mechanisms for sportspersons from third countries.

The Commission will pay particular attention to the sport sector:

(27) When implementing the recently presented Communication on circular migration and mobility partnerships with third countries;

(28) When elaborating harmonised schemes for the admission of various categories of third country nationals for economic purposes on the basis of the 2005 Policy Plan on Legal Migration.

## **2.8 Supporting sustainable development**

The practice of sport, sport facilities and sport events all have a significant impact on the environment. It is important to promote environmentally sound management, fit to address *inter alia* green procurement, greenhouse gas emissions, energy efficiency, waste disposal and the treatment of soil and water. European sport organisations and sport event organisers should adopt environmental objectives in order to make their activities environmentally sustainable. By improving their credibility on environmental matters, responsible organisations could expect specific benefits while bidding to host sport events as well as economic benefits related to a more rationalised use of natural resources.

The Commission will:

(29) Use its structured dialogue with leading international and European sport organisations and other sport stakeholders to encourage them and their members to participate in the Eco Management Audit Scheme (EMAS) and Community Eco-Label Award schemes, and promote these voluntary schemes during major sport events;

(30) Promote green procurement in its political dialogue with Member States and other concerned parties;

(31) Raise awareness, through guidance developed in cooperation with relevant stakeholders (policy makers, SMEs, local communities), about the need to work together in partnership at the regional level to organise sport events in a sustainable way;

(32) Take sport into account as part of the "Information and Communication" component of the new LIFE+ programme.

## **3. THE ECONOMIC DIMENSION OF SPORT**

Sport is a dynamic and fast-growing sector with an underestimated macro-economic impact, and can contribute to the Lisbon objectives of growth and job creation. It can serve as a tool for local and regional development, urban regeneration or rural development. Sport has synergies with tourism and can stimulate the upgrading of infrastructure and the emergence of new partnerships for financing sport and leisure facilities.

Although sound and comparable data on the economic weight of sport are generally lacking, its importance is confirmed by studies and analyses of national accounts, the economics of large-scale sporting events, and physical inactivity costs, including for the ageing population.

A study presented during the Austrian Presidency in 2006 suggested that sport in a broader sense generated value-added of 407 billion euros in 2004, accounting for 3.7% of EU GDP, and employment for 15 million people or 5.4% of the labour force.<sup>6</sup> This contribution of sport should be made more visible and promoted in EU policies.

A growing part of the economic value of sports is linked to intellectual property rights. These rights relate to copyright, commercial communications, trademarks, and image and media rights. In an increasingly globalised and dynamic sector, the effective enforcement of intellectual property rights around the world is becoming an essential part of the health of the sport economy. It is also important that recipients are guaranteed the possibility to have distance access to sport events at cross-border level within the EU.

On the other hand, notwithstanding the overall economic importance of sport, the vast majority of sporting activities takes place in non-profit structures, many of which depend on public support to provide access to sporting activities to all citizens.

### **3.1 Moving towards evidence-based sport policies**

The launch of policy actions and enhanced cooperation on sport at EU level needs to be underpinned by a sound knowledge base. The quality and comparability of data need to be improved to allow for better strategic planning and policy-making in the area of sport.

Governmental and non-governmental stakeholders have repeatedly called upon the Commission to develop a European statistical definition of sport and to coordinate efforts to produce sport and sport-related statistics on that basis.

(33) The Commission, in close cooperation with the Member States, will seek to develop a European statistical method for measuring the economic impact of sport as a basis for national statistical accounts for sport, which could lead in time to a European satellite account for sport.

(34) In addition, specific sport-related information surveys should continue to take place once every few years (e.g. Eurobarometer polls), in particular to provide non-economic information which cannot be provided on the basis of national statistical accounts for sport (e.g. participation rates, data on volunteering, etc.).

(35) The Commission will launch a study to assess the sport sector's direct contribution (in terms of GDP, growth and employment) and indirect contribution (through education, regional development and higher attractiveness of the EU) to the Lisbon Agenda.

(36) The Commission will organise the exchange of best practices among Member States and sports federations concerning the organisation of large sport events, with a view to promoting sustainable economic growth, competitiveness and employment.

### **3.2 Putting public support for sport on a more secure footing**

Sport organisations have many sources of income, including club fees and ticket sales, advertising and sponsorship, media rights, re-distribution of income within the sport

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<sup>6</sup> D. Dimitrov / C. Helmenstein / A. Kleissner / B. Moser / J. Schindler: *Die makroökonomischen Effekte des Sports in Europa*, Studie im Auftrag des Bundeskanzleramts, Sektion Sport, Wien, 2006

federations, merchandising, public support etc. However, some sport organisations have considerably better access to resources from business operators than others, even if in some cases a well-functioning system of redistribution is in place. In grassroots sport, equal opportunities and open access to sporting activities can only be guaranteed through strong public involvement. The Commission understands the importance of public support for grassroots sport and sport for all, and is in favour of such support provided it is granted in accordance with Community law.

In many Member States sport is partly financed through a tax or levy on state-run or state-licensed gambling or lottery services. The Commission invites Member States to reflect upon how best to maintain and develop a sustainable financing model for giving long-term support to sports organisations.

(37) As a contribution to the reflection on the financing of sport, the Commission will carry out an independent study on the financing of grassroots sport and sport for all in the Member States from both public and private sources, and on the impact of on-going changes in this area.

In the field of indirect taxation, the EU's VAT legislation is laid down in Council Directive 2006/112/EC, which aims at ensuring that the application of Member State legislation on VAT does not distort competition or hinder the free movement of goods and services. The Directive provides for both the possibility for Member States to exempt certain sport-related services and, where exemption does not apply, the possibility to apply reduced rates in some cases.

(38) Given the important societal role of sport and its strong local anchoring, the Commission will defend maintaining the existing possibilities of reduced VAT rates for sport.

#### **4. THE ORGANISATION OF SPORT**

The political debate on sport in Europe often attributes considerable importance to the so-called "European Sport Model". The Commission considers that certain values and traditions of European sport should be promoted. In view of the diversity and complexities of European sport structures it considers, however, that it is unrealistic to try to define a unified model of organisation of sport in Europe. Moreover, economic and social developments that are common to the majority of the Member States (increasing commercialisation, challenges to public spending, increasing numbers of participants and stagnation in the number of voluntary workers) have resulted in new challenges for the organisation of sport in Europe. The emergence of new stakeholders (participants outside the organised disciplines, professional sports clubs, etc.) is posing new questions as regards governance, democracy and representation of interests within the sport movement.

The Commission can play a role in encouraging the sharing of best practice in sport governance. It can also help to develop a common set of principles for good governance in sport, such as transparency, democracy, accountability and representation of stakeholders (associations, federations, players, clubs, leagues, supporters, etc.). While doing so the

Commission will draw on previous work<sup>7</sup>. Attention should also be paid to the representation of women in management and leadership positions.

The Commission acknowledges the autonomy of sporting organisations and representative structures (such as leagues). Furthermore, it recognises that governance is mainly the responsibility of sports governing bodies and, to some extent, the Member States and social partners. Nonetheless, dialogue with sports organisations has brought a number of areas to the Commission's attention, which are addressed below. The Commission considers that most challenges can be addressed through self-regulation respectful of good governance principles, provided that EU law is respected, and is ready to play a facilitating role or take action if necessary.

#### **4.1 The specificity of sport**

Sport activity is subject to the application of EU law. This is described in detail in the Staff Working Document and its annexes. Competition law and Internal Market provisions apply to sport in so far as it constitutes an economic activity. Sport is also subject to other important aspects of EU law, such as the prohibition of discrimination on grounds of nationality, provisions regarding citizenship of the Union and equality between men and women in employment.

At the same time, sport has certain specific characteristics, which are often referred to as the "specificity of sport". The specificity of European sport can be approached through two prisms:

- The specificity of sporting activities and of sporting rules, such as separate competitions for men and women, limitations on the number of participants in competitions, or the need to ensure uncertainty concerning outcomes and to preserve a competitive balance between clubs taking part in the same competitions;
- The specificity of the sport structure, including notably the autonomy and diversity of sport organisations, a pyramid structure of competitions from grassroots to elite level and organised solidarity mechanisms between the different levels and operators, the organisation of sport on a national basis, and the principle of a single federation per sport;

The case law of the European courts and decisions of the European Commission show that the specificity of sport has been recognised and taken into account. They also provide guidance on how EU law applies to sport. In line with established case law, the specificity of sport will continue to be recognised, but it cannot be construed so as to justify a general exemption from the application of EU law.

As is explained in detail in the Staff Working Document and its annexes, there are organisational sporting rules that – based on their legitimate objectives – are likely not to breach the anti-trust provisions of the EC Treaty, provided that their anti-competitive effects, if any, are inherent and proportionate to the objectives pursued. Examples of such rules would be "rules of the game" (e.g. rules fixing the length of matches or the number of players on the field), rules concerning selection criteria for sport competitions, "at home and away from

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<sup>7</sup> E.g. the "Rules of the Game" conference organised in 2001 by FIA and the EOC and the Independent European Sport Review carried out in 2006.

home" rules, rules preventing multiple ownership in club competitions, rules concerning the composition of national teams, anti-doping rules and rules concerning transfer periods.

However, in respect of the regulatory aspects of sport, the assessment whether a certain sporting rule is compatible with EU competition law can only be made on a case-by-case basis, as recently confirmed by the European Court of Justice in its *Meca-Medina* ruling.<sup>8</sup> The Court provided a clarification regarding the impact of EU law on sporting rules. It dismissed the notion of "purely sporting rules" as irrelevant for the question of the applicability of EU competition rules to the sport sector.

The Court recognised that the specificity of sport has to be taken into consideration in the sense that restrictive effects on competition that are inherent in the organisation and proper conduct of competitive sport are not in breach of EU competition rules, provided that these effects are proportionate to the legitimate genuine sporting interest pursued. The necessity of a proportionality test implies the need to take into account the individual features of each case. It does not allow for the formulation of general guidelines on the application of competition law to the sport sector.

#### **4.2 Free movement and nationality**

The organisation of sport and of competitions on a national basis is part of the historical and cultural background of the European approach to sport, and corresponds to the wishes of European citizens. In particular, national teams play an essential role not only in terms of identity but also to secure solidarity with grassroots sport, and therefore deserve to be supported.

Discrimination on grounds of nationality is prohibited in the Treaties, which establish the right for any citizen of the Union to move and reside freely in the territory of the Member States. The Treaties also aim to abolish any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment. The same prohibitions apply to discrimination based on nationality in the provision of services. Moreover, membership of sports clubs and participation in competitions are relevant factors to promote the integration of residents into the society of the host country.

Equal treatment also concerns citizens of States which have signed agreements with the EU that contain non-discrimination clauses, and who are legally employed in the territory of the Member States.

(39) The Commission calls on Member States and sport organisations to address discrimination based on nationality in all sports. It will combat discrimination in sport through political dialogue with the Member States, recommendations, structured dialogue with sport stakeholders, and infringement procedures when appropriate.

The Commission reaffirms its acceptance of limited and proportionate restrictions (in line with EU Treaty provisions on free movement and European Court of Justice rulings) to the principle of free movement in particular as regards:

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<sup>8</sup> Case C-519/04P, *Meca Medina v. Commission*, ECR 2006, I-6991. For more details, see the Staff Working Document.

- The right to select national athletes for national team competitions;
- The need to limit the number of participants in a competition;
- The setting of deadlines for transfers of players in team sports.

(40) As regards access to individual competitions for non-nationals, the Commission intends to launch a study to analyse all aspects of this complex issue.

### **4.3 Transfers**

In the absence of transfer rules, the integrity of sport competitions could be challenged by clubs recruiting players during a given season to prevail upon their competitors. At the same time, any rule on the transfer of players must respect EU law (competition provisions and rules on the free movement of workers).

In 2001, in the context of the pursuit of a case concerning alleged infringements of EC competition law and after discussions with the Commission, football authorities undertook to revise FIFA Regulations on international football transfers, based on compensation for training costs incurred by sports clubs, the creation of transfer periods, the protection of school education of underage players, and guaranteed access to national courts.

The Commission considers such a system to constitute an example of good practice that ensures a competitive equilibrium between sport clubs while taking into account the requirements of EU law.

The transfer of players also gives rise to concerns about the legality of the financial flows involved. To increase transparency in money flows related to transfers, an information and verification system for transfers could be an effective solution. The Commission considers that such a system should only have a control function; financial transactions should be conducted directly between the parties involved. Depending on the sport, the system could be run by the relevant European sport organisation, or by national information and verification systems in the Member States.

### **4.4 Players' agents**

The development of a truly European market for players and the rise in the level of players' salaries in some sports has resulted in an increase in the activities of players' agents. In an increasingly complex legal environment, many players (but also sport clubs) ask for the services of agents to negotiate and sign contracts.

There are reports of bad practices in the activities of some agents which have resulted in instances of corruption, money laundering and exploitation of underage players. These practices are damaging for sport in general and raise serious governance questions. The health and security of players, particularly minors, has to be protected and criminal activities fought against.

Moreover, agents are subject to differing regulations in different Member States. Some Member States have introduced specific legislation on players' agents while in others the applicable law is the general law regarding employment agencies, but with references to



players' agents. Moreover, some international federations (FIFA, FIBA) have introduced their own regulations.

For these reasons, repeated calls have been made on the EU to regulate the activity of players' agents through an EU legislative initiative.

(41) The Commission will carry out an impact assessment to provide a clear overview of the activities of players' agents in the EU and an evaluation of whether action at EU level is necessary, which will also analyse the different possible options.

#### **4.5 Protection of minors**

The exploitation of young players is continuing. The most serious problem concerns children who are not selected for competitions and abandoned in a foreign country, often falling in this way in an irregular position which fosters their further exploitation. Although in most cases this phenomenon does not fall into the legal definition of trafficking in human beings, it is unacceptable given the fundamental values recognised by the EU and its Member States. It is also contrary to the values of sport. Protective measures for unaccompanied minors in Member State immigration laws need to be applied rigorously. Sexual abuse and harassment of minors in sport must also be fought against.

(42) The Commission will continue to monitor the implementation of EU legislation, in particular the Directive on the Protection of Young People at Work. The Commission has recently launched a study on child labour as a complement to its monitoring of the implementation of the Directive. The issue of young players falling within the scope of the Directive will be taken into account in the study.

(43) The Commission will propose to Member States and sport organisations to cooperate on the protection of the moral and physical integrity of young people through the dissemination of information on existing legislation, establishment of minimum standards and exchange of best practices.

#### **4.6 Corruption, money laundering and other forms of financial crime**

Corruption, money laundering and other forms of financial crime are affecting sport at local, national and international levels. Given the sector's high degree of internationalisation, corruption in the sport sector often has cross-border aspects. Corruption problems with a European dimension need to be tackled at European level. EU anti-money laundering mechanisms should apply effectively also in the sport sector.

(44) The Commission will support public-private partnerships representative of sports interests and anti-corruption authorities, which would identify vulnerabilities to corruption in the sport sector and assist in the development of effective preventive and repressive strategies to counter such corruption.

(45) The Commission will continue to monitor the implementation of EU anti-money laundering legislation in the Member States with regard to the sport sector.

#### **4.7 Licensing systems for clubs**

The Commission acknowledges the usefulness of robust licensing systems for professional clubs at European and national levels as a tool for promoting good governance in sport. Licensing systems generally aim to ensure that all clubs respect the same basic rules on financial management and transparency, but could also include provisions regarding discrimination, violence, protection of minors and training. Such systems must be compatible with competition and Internal Market provisions and may not go beyond what is necessary for the pursuit of a legitimate objective relating to the proper organisation and conduct of sport.

Efforts need to concentrate on the implementation and gradual reinforcement of licensing systems. In the case of football, where a licensing system will soon be compulsory for clubs entering European competitions, action needs to concentrate on promoting and encouraging the use of licensing systems at national level.

(46) The Commission will promote dialogue with sport organisations in order to address the implementation and strengthening of self-regulatory licensing systems.

(47) Starting with football, the Commission intends to organise a conference with UEFA, EPFL, Fifpro, national associations and national leagues on licensing systems and best practices in this field.

#### **4.8 Media**

Issues concerning the relationship between the sport sector and sport media (television in particular) have become crucial as television rights are the primary source of income for professional sport in Europe. Conversely, sport media rights are a decisive source of content for many media operators.

Sport has been a driving force behind the emergence of new media and interactive television services. The Commission will continue to support the right to information and wide access for citizens to broadcasts of sport events, which are seen as being of high interest or major importance for society.

The application of the competition provisions of the EC Treaty to the selling of media rights of sport events takes into account a number of specific characteristics in this area. Sport media rights are sometimes sold collectively by a sport association on behalf of individual clubs (as opposed to clubs marketing the rights individually). While joint selling of media rights raises competition concerns, the Commission has accepted it under certain conditions. Collective selling can be important for the redistribution of income and can thus be a tool for achieving greater solidarity within sports.

The Commission recognises the importance of an equitable redistribution of income between clubs, including the smallest ones, and between professional and amateur sport.

(48) The Commission recommends to sport organisations to pay due attention to the creation and maintenance of solidarity mechanisms. In the area of sports media rights, such mechanisms can take the form of a system of collective selling of media rights or, alternatively, of a system of individual selling by clubs, in both cases linked to a robust solidarity mechanism.

## 5. FOLLOW-UP

The Commission will follow up on the initiatives presented in this White Paper through the implementation of a structured dialogue with sport stakeholders, cooperation with the Member States, and the promotion of social dialogue in the sport sector.

### 5.1 Structured dialogue

European sport is characterised by a multitude of complex and diverse structures which enjoy different types of legal status and levels of autonomy in Member States. Unlike other sectors and due to the very nature of organised sport, European sport structures are, as a rule, less well developed than sport structures at national and international levels. Moreover, European sport is generally organised according to continental structures, and not at EU level.

Stakeholders agree that the Commission has an important role to play in contributing to the European debate on sport by providing a platform for dialogue with sport stakeholders. Wide consultation with “interested parties” is one of the Commission’s duties according to the Treaties.

In view of the complex and diverse sports culture in Europe, the Commission intends to involve notably the following actors in its structured dialogue:

- European Sport Federations;
- European umbrella organisations for sport, notably the European Olympic Committees (EOC), the European Paralympic Committee (EPC) and European non-governmental sport organisations;
- National umbrella organisations for sport and national Olympic and Paralympic Committees;
- Other actors in the field of sport represented at European level, including social partners;
- Other European and international organisations, in particular the Council of Europe's structures for sport and UN bodies such as UNESCO and the WHO.

(49) The Commission intends to organise the structured dialogue in the following manner:

- EU Sport Forum: an annual gathering of all sport stakeholders;
- Thematic discussions with limited numbers of participants.

(50) The Commission will also seek to promote greater European visibility at sporting events. The Commission supports the further development of the European Capitals of Sport initiative.

### 5.2 Cooperation with Member States

Cooperation among Member States on sport at EU level takes place in informal ministerial meetings, as well as at the administrative level by Sport Directors. A Rolling Agenda for sport was adopted by EU Sport Ministers in 2004 to define priority themes for discussions on sport among the Member States.

(51) In order to address the issues listed in this White Paper, the Commission proposes to strengthen existing cooperation among the Member States and the Commission.

Based on a proposal from the Commission, Member States may wish to reinforce the mechanism of the Rolling Agenda, for example:

- To jointly define priorities for sport policy cooperation;
- To report regularly to EU Sport Ministers on progress.

Closer cooperation will require the regular organisation of Sport Ministers and Sport Directors meetings under each Presidency, which should be taken into account by future 18-month Presidency teams.

(52) The Commission will report on the implementation of the "Pierre de Coubertin" Action Plan through the mechanism of the Rolling Agenda.

### **5.3 Social dialogue**

In the light of a growing number of challenges to sport governance, social dialogue at European level can contribute to addressing common concerns of employers and athletes, including agreements on employment relations and working conditions in the sector in accordance with EC Treaty provisions.

The Commission has been supporting projects for the consolidation of social dialogue in the sport sector in general as well as in the football sector. These projects have created a basis for social dialogue at European level and the consolidation of European-level organisations. A Sectoral Social Dialogue Committee can be established by the Commission on the basis of a joint request by social partners. The Commission considers that a European social dialogue in the sport sector or in its sub-sectors (e.g. football) is an instrument which would allow social partners to contribute to the shaping of employment relations and working conditions in an active and participative way. In this area, such a social dialogue could also lead to the establishment of commonly agreed codes of conduct or charters, which could address issues related to training, working conditions or the protection of young people.

(53) The Commission encourages and welcomes all efforts leading to the establishment of European Social Dialogue Committees in the sport sector. It will continue to give support to both employers and employees and it will pursue its open dialogue with all sport organisations on this issue.

The support that the Member States should make available for capacity building and joint actions of social partners through the European Social Fund in the convergence regions should also be used for capacity building of the social partners in the sport sector.

## **6. CONCLUSION**

The White Paper contains a number of actions to be implemented or supported by the Commission. Together, these actions form the "Pierre de Coubertin" Action Plan which will guide the Commission in its sport-related activities during the coming years.

The White Paper has taken full advantage of the possibilities offered by the current Treaties. A mandate has been given by the European Council of June 2007 for the Intergovernmental Conference, which foresees a Treaty provision on sport. If necessary, the Commission may return to this issue and indicate further steps in the context of a new Treaty provision.

The Commission will organise a conference to present the White Paper to sport stakeholders in the autumn of 2007. Its findings will be presented to EU Sport Ministers by the end of 2007. The White Paper will also be presented to the European Parliament, the Committee of the Regions and the Economic and Social Committee.