



## Informal Meeting of EU Sport Ministers 6-7 July 2015, Luxembourg

### Discussion paper on the relations between national/European public authorities and the sports movement

The principles of subsidiarity, proportionality and conferral of competences described in Article 5 of the Treaty on the Functioning of the European Union (TFUE) provide the framework for any action of the European Union (EU). It is only since the entry into force of the Lisbon Treaty<sup>1</sup> and the inclusion of sport in Articles 6 and 165 TFUE that sport has explicitly become a Community competence for which the EU has limited powers to support, coordinate or supplement the actions of the Member States “*excluding any harmonisation of the laws and regulations of the Member States*” (165 § 4)<sup>2</sup>. Consequently, the EU is unable to take binding legal actions, incentives and recommendations being not binding on Member States and, a fortiori, sport organisations. Article 165 TFUE includes provisions for supporting sport, mainly amateur, and promoting the exchange of good practices while conferring to the EU a competency in the fight against doping and in its European coordination (165 § 2). The reference to the “*specific nature of sport*” (165 § 1), as in the whole Article 165 TFUE, however, does not constitute a basis allowing professional sport to derogate from the basic principles (mainly free movement and healthy competition) remaining unchanged in the Treaties.

The creation of a formal Council of Sports Ministers<sup>3</sup> has been one of the major changes introduced by the entry into force of the Lisbon Treaty<sup>4</sup>. This Council is competent to adopt

---

<sup>1</sup> The Lisbon Treaty has been signed on the 13 December 2007 and has entered into force on the 1<sup>st</sup> December 2009.

<sup>2</sup> The inclusion of sport in a treaty follows a European sports policy which has accelerated since the 1990s, notably with the rulings by the European Court of Justice (ECJ), the decisions, communications and White Paper of the European Commission, the European Parliament's reports and resolutions and the statements of the Heads of State and governments annexed to the Amsterdam Treaty (1997) and Nice Treaty (2000).

<sup>3</sup> The Council of Sports Ministers met previously in a very episodic and informal way, sometimes taking the simplified form of meetings of Sports Ministers of the Troika. The meetings of the Sports Ministers of the Council have multiplied from 1999.

<sup>4</sup> Since September 2010, sport has become an integral component of the “Education, Culture, Youth and Sport” section which meets twice a year with the ministers and the representatives in charge of sport of the 28 EU governments. The ministers also meet on other occasions in an informal setting at the discretion of the rotating presidencies of the EU Council.



recommendations, resolutions, conclusions and incentives such as funding programs, in agreement with the European Parliament. Although not binding, these acts have however a significant political scope. The Permanent Representatives Committee (Coreper) prepares the work of the EU Council. In order to fulfil this mission, it may establish sub-committees and working groups, as it is the case with the sport working group. In an area of a competence such as sport, so-called “soft”, agendas and documents for the working group and the Council are prepared at the initiative of the Presidency. Agenda and documents for the Council of Ministers are prepared by the sport working group.

The ministers in charge of sport have adopted two EU triennial Work Plans for sport “*defining the action of Member States and the Commission*” in order to “*develop the European dimension of sport*”. The first Work Plan covers the period from 2011 to 2014; the second one, the period from 2014 to 2017. The second document lays down three priorities<sup>5</sup> while leaving each Presidency free to complement it according to the opportunity. Five expert groups (composed of experts designated by the Member States and observers)<sup>6</sup> have been set up to assist the Council. They are mandated to propose recommendations, guidelines, exchanges of good practice and practical advices by the first half of 2017. These documents are then forwarded to the Council which, at the initiative of the Presidency, may decide to draft a political statement on the submitted documents. A Member State can also decide to propose a political statement on these documents and on their follow-up.

### **The Council priorities and conclusions**

Since the first formal meeting of sports ministers in November 2010, several conclusions (12), resolutions (4) and a recommendation (HEPA) have been adopted (see annex) on the basis of the work of the expert groups and the Council working group. The two Work Plans for sport are included amongst these documents. Each conclusion contains a paragraph that the Council, “*within the limits of its powers*”, specifically addresses to the sports movement and “*invites it to consider (...)*”, detailing a series of measures that the sports movement is asked to follow and implement.

---

<sup>5</sup> The promotion of the integrity of sport, the economic dimension of sport and the issue of sport and society.

<sup>6</sup> The Secretariat is provided by the European Commission.



The discussion at the Informal Meeting of Sports Ministers will initially aim to understand how the sports movement (national and supranational), which is addressed by the conclusions adopted by the Council, is involved in the drafting and monitoring of these documents. Then, in the presence of the sports movement, the discussion will focus on the follow-up given to the various EU documents and on whether these documents meet the sports movement's concerns. The issue of existing forms (formal or not) of dialogue between the EU/MS and the sports movement (international and national) and the possible need to improve it will also be addressed transversally.

### **The dialogue between the EU and the sports movement**

Among the policy instruments adopted by the Council of Ministers, it is interesting to mention the resolution of 18 November 2010 on the EU structured dialogue on sport<sup>7</sup>, which sets up a structured dialogue on sport in the Council<sup>89</sup>. The objective of this dialogue is to exchange informally at regular intervals, generally in the margins of a Council session, between *“the key representatives of EU public authorities (Council, Commission and Parliament) and the sports movement”*.

This formal meeting takes place during the lunch prior to the Council meeting. The Council Presidency draws up the agenda and chooses the sports movement's guests (between 5 and 7 participants). The Trio of EU Presidencies, the Commission and the General Secretariat of the Council (+/- 10 participants) also attend the meeting. The meetings of the Council expert group provide an opportunity for dialoguing with the sports movement. Structured dialogue between the European Commission and the sports movement has also been established for the last ten years, mainly taking the form of the Annual European Sports Forum as well as various public consultations, conferences, bilateral meetings and a cooperation agreement signed with the Union of European Football Associations (UEFA)<sup>10</sup>.

---

<sup>7</sup> Resolution of 18 November 2010 on the EU structured dialogue on sport, OJ C 322, 27.11.2010.

<sup>8</sup> The first high-level meeting has been held in December 2010 under the Belgian Presidency.

<sup>9</sup> The dialogue between the EU and "the sport movement and relevant organizations" is also promoted by the 2014-2017 Work Plan (item 13 on page 5).

<sup>10</sup> Commission Decision of 14 October 2014 adopting the cooperation arrangement between the European Commission and the UEFA, C(2014)7378 final.



### **Issues to be discussed during the exchange between Member States:**

1. How are the Member States associating their national sports movement in the preparation of the various EU initiatives and which follow-up (especially on conclusions) is given?
2. How does the EU (Commission and Presidencies) inform/should inform the international sports organisations about initiatives and discussions taking place in the Council?
3. How do the Member States assess the dialogue with the sports movement in general and the structured dialogue in particular? If necessary, how could it be improved?
4. What kind of cooperation should be promoted with the sports movement in areas where States and sports movement are unable to act individually (for example, doping, manipulation of results, corruption)?
5. Article 165 TFEU states that the EU should take into account the specific nature of sport, its structures based on voluntary activity and its social and educational function. How are the Member States and the EU taking this specific nature in account? Has this to be improved?

### **Issues to be discussed during the exchange between the Member States and the sports movement:**

Sport movement representatives are asked to express their views on the following issues:

1. Are the priorities defined in the Work Plan for Sport for 2014-2017<sup>11</sup> reflecting the priorities and expectations of the sports movement?
2. Which follow-up is given by sports movement representatives to non-binding initiatives adopted by the EU?
3. How does the sports movement assess the current dialogue with the Member States and the European Commission?
4. How does the sports movement assess the difficulty of working with several Council working groups and Commission's departments due to the multifaceted nature of sport (education, health, data protection...)?
5. Regarding the professional sport, how could the legal certainty of sporting rules be ensured while adopting a "case by case"<sup>12</sup> approach?

---

<sup>11</sup> For the period 2014-2017, the priorities of the Commission and the Council provided by the Work Plan for sport (II. 11) are: 1) The integrity of sport, including fight against doping, fight against match-fixing, protection of minors, good governance and equality between women and men; 2) The economic dimension of sport, including sustainable financing of sport, legacy of major sporting events, economic benefits of sport and innovation; 3) Sport and society, including health-enhancing physical activity, volunteering, employment in sport and education and training in sport.



## ANNEXES

Since November 2010, several conclusions (12), resolutions (4) and a recommendation (HEPA) have been adopted.

### CONCLUSIONS

Role of the EU in the international fight against doping	EYCS 18-19 November 2010
Sport as a source of and a driver for active social inclusion	EYCS 18-19 November 2010
Role of Voluntary Activities in Sport in Promoting Active Citizenship	EYCS 28-29 November 2011
Combating match-fixing	EYCS 28-29 November 2011
Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on combating doping in recreational sport	EYCS 10-11 May 2012
Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on strengthening the evidence base for sport policy making	EYCS 26-27 November 2012
Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on establishing a strategy to combat the manipulation of sport results	EYCS 26-27 November 2012
Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on dual careers for athletes	EYCS 16-17 May 2013
Council conclusions on the contribution of sport to the EU economy, and in particular to addressing youth unemployment and social inclusion	EYCS 25-26 November 2013
Council conclusions on Gender Equality in Sport	EYCS 20-21 May 2014
Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on sport as a driver of innovation and economic growth	EYCS 25 November 2014
Council conclusions on maximising the role of grassroots sport in developing transversal skills, especially among young people	EYCS 18-19 May 2015

<sup>12</sup> Aff. C-519/04P, Meca Medina/Commission and Commission White paper on sport 11.7.2007 COM(2007) 391 final pg. 15.



## RESOLUTIONS

EU structured dialogue on sport	EYCS 18-19 November 2010
Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on a European Union Work Plan for Sport	EYCS 19-20 May 2011
Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council, on the representation of the EU Member States in the Foundation Board of WADA and the coordination of the EU and its Member States positions prior to WADA meetings	EYCS 28-29 November 2011
Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the European Union Work Plan for Sport (2014-2017)	EYCS 20-21 May 2014

## RECOMMENDATION

Council recommendation on promoting health-enhancing physical activity across sectors	EYCS 26-27 November 2013
---	--------------------------