

## **Report from the EU Sport Forum**

**organised by the European Commission in Biarritz on 26-27 November 2008**

### **INTRODUCTION BY THE EUROPEAN COMMISSION**

The Commission welcomed the participants and the Team Presidency to the first EU Sport Forum since the adoption of the White Paper on Sport. It highlighted the new momentum for EU-level discussions on sport since July 2007, initiated by the White Paper, which had led to the launch of a real debate. Concerning the perspective of the possible new EU competence for sport in the Lisbon Treaty, it underlined that sport would remain within the concepts of autonomy, specificity and subsidiarity. The key underlying word for any EU-level approach to sport was "value added". This was a new era also in terms of dialogue, which needed to respect the diversity and richness of the sports landscape, including Olympic organisations, federations, multisport organisations, associations working in the field of sport including sport for all, and different actors within each sport (athletes, leagues, clubs, supporters). In light of this complexity and the many different interests, there was a need to establish an open dialogue and to organise this EU Sport Forum. There were important subjects on the table at the political level (health, doping, economics, education and training, governance and associated questions) which EU Sport Ministers would address at their meeting subsequent to the Forum.

### **FIRST SESSION "IMPLEMENTATION OF THE WHITE PAPER ON SPORT"**

#### **General progress report by the European Commission**

The Commission provided an update on the good progress achieved in implementing the Pierre de Coubertin Action Plan in all areas of the White Paper on Sport (societal role, economic dimension, governance topics, dialogue structures). 38 actions out of 53 had already been, or were in the process of being, implemented. It also stressed the hard work behind the implementation of those actions and the joint efforts and fruitful cooperation with the sport movement and the Member States.

#### **Social Dialogue in Sport**

The representatives of **FIFPro**, **EPFL** and **ECA**, from their respective perspectives (players, leagues, clubs), presented the work of the European Social Dialogue Committee in the field of football.

**FIFPro**, representing 80% of professional football players, including more than 30,000 players in Europe, noted that it took seven years to arrive at a conclusion regarding the establishment of a European Social Dialogue Committee for football. The White Paper on Sport had provided the final push. The first plenary session of the Committee took place on 19

November 2008 under the chairmanship of Michel Platini. FIFPro underlined that it fully supported the Commission's White Paper on Sport, in particular regarding Social Dialogue.

FIFPro would prefer that the social dialogue could lead to Collective Bargaining Agreements; it could also lead to e.g. a code of conduct referring to training conditions, working conditions, and the protection of young players. FIFPro called for more legal security and clarity, which could be achieved within the framework of the social dialogue. For professional players, security meant to get a salary at the end of the month. Concerning clarity, players wanted to know what happened when they were injured.

FIFPro underlined that proper training was needed, but also education to prepare for a second career. However, dual training should not be used to ask for more money when a player would leave a club. In the EU, FIFPro stated, 30% of professional football players did not have a contract, while 38% were not paid on time. Thus, there were serious problems with the application of existing labour legislation. For FIFPro, minimum salaries were a bigger worry than salary caps, e.g. in view of very low salaries in some new Member States.

FIFPro acknowledged that the Commission was granting a certain amount of autonomy to sport organisations, and said that FIFPro could live with that as long as basic legal rules and international conventions were respected.

Regarding doping, FIFPro could not accept disproportionate proposals for out-of-competition controls. There was a need to respect legislation. FIFPro called on Sport Ministers to consider that the social dialogue would give everybody legal security, in full respect of the law.

**EPFL**, representing 932 clubs in 38 leagues, congratulated the Commission for its structured dialogue process. The White Paper on Sport had set out an important strategic vision for the promotion of sport in the EU. The White Paper recognised the specificity of sport, but also of professional sport, and the importance of social dialogue. EPFL underlined the need for transparency, dialogue, democracy and welcomed that the Commission had chosen a broad structured dialogue rather than a restricted group of interlocutors.

As to the "new formal framework for coordination" between the Commission and international sport bodies (IOC, international federations), proposed by the French Presidency, the EPFL stressed that the Commission's dialogue structures should be inclusive, not exclusive. The Sport Forum was the right format for structured dialogue.

The EPFL, FIFPro and ECA had been formally recognised by the Commission as social partners and were doing their work by implementing minimum standards in professional players' contracts and by developing Collective Bargaining Agreements.

EPFL hoped that Sport Ministers would pay attention to these concerns and expectations. There was a need to ensure the involvement of all actors: social dialogue offered a way forward for professional football in Europe and a balance between labour legislation and the specificity of sport. Social dialogue in football was a sound platform to achieve legal stability and marked a new era for better understanding and problem solving.

**ECA** explained that it was a new association at European level (since January 2008). It shared the values of democracy and of sport and had received statutory recognition by FIFA, UEFA and the Commission.

ECA welcomed the Commission's approach in the creation of a platform for dialogue. New dynamics had been created and being brought together under the social dialogue framework had created an area where ECA could bring a direct and fresh input from the side of the clubs. ECA fully endorsed the White Paper on Sport. It stressed that clubs in terms of social responsibility did much more than what was known by the public. New initiatives would be taken in line with the White Paper on Sport.

The two main benefits of the Social Dialogue Committee were said to be more harmonious decisions within football and increasing security as regards the application of laws to professional football.

Concerning social dialogue structures for sport in general, **EASE** explained that sport and active leisure was a growing sector, with 7% mobility of sport professionals (compared to 3% in the general economy). EASE and Uni-Europa had recognised each other formally and launched a project for developing social dialogue in the sport sector. EASE welcomed the encouragement by action 53 of the Pierre de Coubertin Action Plan. EASE was a recent association of national and European employers' organisations. The aim was to obtain one day recognition by the Commission for setting up a European Social Dialogue Committee for the sport sector.

EASE pointed out that the association's most important challenge was its representativity: there were only few employers' organisations in Europe in the sport and leisure sector. On the positive side it noted that it had found an ally in the EOC, which served as a relay in some countries (e.g. FR, NL).

The Commission concluded by sharing the view that social dialogue could indeed be a means for securing more legal security. Professional players should have the same rights as workers in other sectors. The Commission also agreed that specificity must be addressed by assembling all interested stakeholders. The Commission welcomed the progress in setting up social dialogue structures in football and expressed its support for the ongoing work regarding other parts of the sport and leisure sector. It noted that speakers had underlined the need to respect the law and welcomed the positive remarks on the White Paper on Sport.

## **Education and Sport**

**Ineum Consulting and TAJ** presented the independent study financed by the Commission on the training of young sportsmen and sportswomen in Europe (*see attached slides*).

The Commission explained that there were many recommendations, some to the Commission but mainly to the Member States and sport organisations. The study could be found on the Sport Unit's website.

**EOSE** focused its presentation on vocational training and education (VET) in sport and welcomed that the White Paper on Sport had highlighted this as a priority. EOSE explained that in terms of qualifications, sport and active leisure should be considered as a single industry. There was a need to provide the right people with the right skills to develop services to communities. EOSE underlined the importance of dialogue with education and VET providers. Here the European Qualifications Framework (EQF) provided an opportunity for transparency, comparability and transferability of national qualifications. The best progress had so far been achieved in fitness and outdoors. It was excellent that all this work was based on a voluntary system.

**EHFA** explained that the European health and fitness sector was still relatively young and underdeveloped, but nevertheless represented 400,000 employees, 40 million customers and a turnover of € 20 billion per year. It was thus important in global terms, with a higher turnover than the football sector. EHFA welcomed and supported the EU Physical Activity Guidelines which had recently been published by the Commission.

EHFA considered the EQF and ECVET as crucial tools for the development of the sector in Europe. It informed that it had carried out its work with financial support from the Commission in order to promote the quality of staff and recognition of qualifications. A set of pan-European standards had been developed. In July 2008, EHFA had started the creation of EREPS, an independent register of all exercise professionals in Europe, based on an existing UK register with 27,000 professional trainers representing 70% of the sector in that country. EHFA considered that the rollout of the European register, based on independent national registers, was likely to take several years. The most important factor was probably the role of national authorities in terms of recognition of qualifications. EHFA also worked on a code of ethical practice. It had received a grant from DG EAC for a project concerning ECVET.

## **SECOND SESSION: “SUPPORT FOR GRASSROOTS SPORT”**

The **Commission** introduced the panel by stating that the subject of sustainable support for grassroots sport – the backbone of the sport structure – was of crucial importance and had been recognised in the White Paper on Sport.

### **FR Presidency study**

**Amnyos Consulting** presented a study on the public and private financing of sport carried out for the FR Presidency. It was a macro-economic study carried out in all 27 EU Member States over the last year, which addressed the main sources and destinations of sport financing. The main study outcomes were presented, e.g. regarding the structure of the financing of sport in Europe where households contributed approx. 50% of the financing of sport and large private financing (sponsoring and TV rights) accounted for 14%. State financing had remained rather stable compared to a similar 1993 study. Concerning funding streams, a difference was made between high-level sports, the amateur sector, and the leisure and health sector: each sector depended in particular on one source of financing.

The study found that the amateur sector, also because of its dependence on volunteers, was the most fragile and the most dependent on public support. The consultants stressed the great heterogeneity among the Member States, in particular regarding public financing. The study had identified three main areas of convergence: the association and federative nature of sport structures; solidarity mechanisms between amateur and professional sport systems; support by the public sector – all countries had underlined the important role of the State in acting as a stabilising factor.

Concerning the challenges, the study noted that income from lottery systems, which represented in some countries as much as 38% of State support, may be at risk. It concluded that there was a need to identify alternative ways to fund sport. There were also other factors which had led to uncertainty (e.g. the stagnation of sport licences; a decreasing volunteering base for long-term engagement; concentration of funds in some parts of the sport system; fragmentation). It was announced that the report would be published on the French Ministry’s website.

### **European Non-Governmental Sport Organisation**

**ENGSO**, representing 40 national sport confederations and NOCs in and outside the EU, welcomed the EU Sport Forum and pointed out that a structured dialogue on sport at European level was one of the organisation’s main aims. In view of the White Paper implementation and the perspective of the Lisbon Treaty, this dialogue was important for the

future. Regarding its priorities, ENGSO stressed that equal opportunities for participation in sport (access to sport for all) was only possible through sound public funding: involving all age groups in sport club activities required direct public support for voluntary non-profit sport structures. ENGSO welcomed and supported the recently published EU Physical Activity Guidelines.

Fees for sport clubs should be low enough to allow everybody to participate at the local level. There was a need for administrative support and ENGSO had the hope that upcoming EU budget lines would address the needs of the grassroots sport sector. At the same time the mainstreaming of sport should continue, including through the Structural Funds. Voluntary not-for-profit work of members in sport clubs was an essential element of sport structures in Europe. This should be considered e.g. in national tax systems. The EU Working Group on Non-Profit Sport Organisations, where such issues could be addressed, should continue its work. ENGSO expressed support for the European sport pyramid as outlined by the Olympic movement.

Concerning the funding of sport ENGSO had made a survey in 22 countries which confirmed that funding from the State through State-run or State-licensed lotteries remained crucial. Some 33% of the turnover from lotteries went to charitable causes, compared to 3% from private gambling operators. Lotteries were the more reliable partners for sport in order to ensure the integrity of sport. ENGSO agreed with the European Parliament's Report on the White Paper on Sport, which had expressed support for continuing national decision-making in the gambling area.

### **European Paralympic Committee**

The EPC pointed out that while the different dimensions of the "Pierre de Coubertin" Action Plan also applied to disability sport, the focus remained on the social aspects. For instance, it was crucial for public authorities to offer aid so that disabled children have access to sport like all other citizens. In the field of education and training, teachers often did not know how to deal with disabled pupils – such aspects should be addressed in the European approach to qualifications of teachers.

In these and similar areas it was important to raise awareness of the specific needs of disabled people. By way of example, in 2005 EPC developed an Olympic school day supported by the Commission. The programme had reached 6000 young people in six EU countries. Concerning volunteering and non-profit sport organisations, the EPC noted that traditional volunteering could only be effective with a professional structure next to it. The lack of professional structures in management was a key problem for the grassroots sector, along with its limited resources.

In its contribution to the White Paper in December 2006, the EPC had expressed the need for a model to support sport organisations at European level. It welcomed the recent structural grant it had received from the EU Citizenship Programme. Another significant step was the joint Commission-EPC statement signed in Beijing in 2008.

### **International Sport and Culture Association**

ISCA noted that the financing of grassroots sport was under pressure. For the next few years, the two main risks for the financing of grassroots sport were (1) the economic crisis, in combination with the fact that sport is not an "essential" sector and is therefore likely to suffer disproportionately when funding streams have to be reduced, and (2) a renewed focus, after the Beijing Olympic Games, on elite sport, which is in direct competition for public resources with grassroots sport.

ISCA stressed that the link between elite sport and grassroots sport had grown weaker over the years and often corresponded more to rhetoric than reality. Grassroots sport included the vast majority of sportspeople and had a high impact on the public good (in particular, public health and social integration) but was receiving less political, financial and media attention. Elite sport, by contrast, involved relatively few sportspeople and had a low impact on the public good, but was receiving a great deal of political, financial and media attention.

In order to strengthen the financing of grassroots sport, the links between this sector and other sectors, such as notably health, should be strengthened. Ministries of Health pursued similar goals as grassroots sport (e.g. improving individual health, reducing health care costs) and should therefore be involved more systematically in the financing of this sector. Also private insurance companies' support could be sought for health-enhancing physical activity programmes. In this context, ISCA warmly welcomed the EU Physical Activity Guidelines, which embodied excellent advocacy for the importance of the grassroots sport sector for public health.

ISCA concluded by noting that the traditional view of a sport pyramid hardly reflected current realities in terms of public engagement in and financing of sport. European sport structures were very diverse and could not be summarised under a single model. ISCA had a diverse membership structure that illustrated a model with a different focus than medals and competitions. This was in line with the approach taken in the White Paper's chapter on the societal role of sport and, in particular, the EU Physical Activity Guidelines. It was now important to inspire both the private and public sectors to invest in better and healthier societies.

### **European State Lotteries and Toto Association**

EL, the European umbrella organisation of national lotteries, explained that it represented 74 members in 41 European countries. In 2006, the association's EU members contributed € 20.5 billion to society (good causes), of which at least € 2.1 billion went to sport. Only 10% thus went to sport on average, but in some countries this percentage was as high as 30%. These figures did not include sponsoring, but only State income that went directly into sport. Unlike commercial gambling operators, which increasingly targeted consumers across the EU, the members of EL operated games of chance (notably lotteries and sports betting) for the public benefit.

EL welcomed the French study on the financing of sport and offered support for upcoming studies in this area.

EL explained that the link between sport and the lotteries was historical. Many lotteries got a licence after World War II based on their support for sport. Generally speaking, therefore, the longer a lottery had been in operation, the higher was its support for sport. For many decades sports infrastructure and the activities of sport associations had benefited from very substantial and sustainable national lottery funding, money they could count on rather independently of the general economic situation in their country and regardless of achievements in sporting competitions, which may happen in one season but not in the next. Sport thus had a secure and stable basis to develop its structures and to create jobs.

In EL's view, there was no alternative for the stable financing of sport than a State monopoly in full respect of the EU legal framework. The European Court of Justice and the Commission had set the legal framework at EU level, notably with the landmark ruling in the Gambelli case. Studies showed that funding for professional sport out of lottery income was much higher than the part coming from the side of sport betting. Moreover, sports betting activities, especially cross-border betting on the Internet, had developed in an uncontrolled manner and created risks of conflicts of interest.

All in all, State monopolies still made sense as a key source of funding for grassroots sport (though not professional sport, which had other sources of funding).

## **Discussion**

**INAS-FID Europe** called on the EPC to include people with intellectual disabilities in the Paralympic Games, saying that their exclusion was a discrimination and asking the Commission to put pressure on the EPC to remedy the present situation. **EPC** in reply explained that this situation was due to the fact that Paralympic Games were organised under the authority of the International Paralympic Committee (IPC) to have athletes with the same kind of disability compete against each other. During the Sidney Paralympic Games this had not happened, which had then led to problems for the organisers. However, EPC remarked that people with intellectual disabilities should be included in all sport projects aiming at social integration and said that the EPC would consider all kinds of disabilities in its future projects.

**CCPR** stressed the importance of voluntary work in sport (26% of all volunteering in the UK was done in sport) and its contribution in terms of financing sport at grassroots level. The announced Commission studies on volunteering and financing were welcomed and hope was expressed that they would aim at supporting the grassroots sport level in light of current challenges listed in the context paper for this panel. **CCPR** suggested the creation of a Commission inter-service group on volunteering and grassroots sport financing.

The European Gambling and Betting Association (**EGBA**) made reference to a specific study published that day by sports business with a focus on comparing the different types of games of chance. The study showed that the liberal UK sport model was comparatively better financed than those of other European countries.

In its response the **Commission** noted the importance of its upcoming studies on financing of grassroots sport and sport for all, and on volunteering. The two studies were linked to the problems encountered in the non-profit sport sector and were likely to be mutually enriching. The non-profit sport sector with its multifaceted dimensions was linked to various policy areas and thus concerned different Commission policies. In order to enhance communication between the various Directorates-General involved, the suggestion of closer inter-service work was in principle a good idea.

Concerning games of chance and the financing of sport from lottery receipts, the Commission pointed out that the topic had already been on the table during the Luxembourg Presidency. Since then the discussion had been ongoing. Areas such as sport, culture, youth etc. currently partly depended on financing out of lottery receipts. Reflections had to continue with regard to this important financing stream for the sport sector. However, Member States would be well advised to start thinking about further diversifying support structures and to consider that the question of the lottery monopolies went beyond sport.

As to references regarding solidarity mechanism, the Commission stressed that solidarity was a major element of sport in Europe, and a recognised specificity of sport as outlined in the White Paper. It was important in light of ensuring balanced competitions and as a contribution to more equality.

Referring to **ISCA's** statement on the impact of the current economic stagnation, **EPFL** supported solidarity mechanisms at horizontal and vertical levels. However, one had to look at the sources of income of professional and high-level sport. The main source of income was

Intellectual Property Rights (IPR), and IPR protection was therefore of key importance for the long-term viability of European sport. EPFL stressed the need to address on-line digital piracy and the resulting loss of income for sport. EPFL called for a stronger and more robust legal framework at both European and national levels to ensure better discipline in the area of sport betting. On-line betting companies made profits based on sport events, but these profits did not return to the sport sector. The fundamental issue was that sport owners' rights were protected with a view to the integrity of sport competitions and a fair financial return. Discussions held under the FR Presidency with a view to a new framework for betting could be important in this respect. If there was one area where sport was united it was the protection of IPR and the integrity of sporting competitions. EPFL called for the Commission's support.

**EL** generally agreed with the importance of IPR but stressed that major efforts would then be needed from the EU side in order to ensure that the money would be channeled into grassroots sport. EL referred to the ECJ ruling of 2004 on fixture lists (William Hill) and in that respect wondered whether it was possible for responsible actors to actually ensure the sustainability of stable funding for sport. In the long run, and given the difficult general economic circumstances, the big amounts that went into sport could only be produced by a monopoly.

The **Commission** agreed that IPR aspects had not been sufficiently addressed in the White Paper on Sport and promised to look more into this matter in the future, based on existing EU legislation. However, this issue should not be decoupled from the need for stronger solidarity mechanisms in sport.

### **THIRD SESSION: "THE SPECIFICITY OF SPORT"**

#### **The French Presidency programme for sport - Mr Laporte, State Secretary in charge of sport**

**France** welcomed the programme of the Forum and in particular the discussion on specificity, a topic hotly debated in 2008 in accordance with President Sarkozy's priorities. EU institutions had traditionally only taken into account the economic dimension of sport, dealing with it under the competition and internal market perspectives, as confirmed by many ECJ rulings. However, France noted that this approach could not be pursued anymore and that the specificity of sport must be recognised in a wider way. Sport had other dimensions beyond the economy – educational values, solidarity, team spirit. Sport played an essential role in the field of public health (fight against obesity) and in favouring social cohesion in particular for disadvantaged young people.

Professional sport had developed rapidly. Increasing amounts of money were involved especially because of the boom in media rights. This development entailed negative consequences such as imbalances in sport competitions and trafficking in young players from third countries. France welcomed the White Paper on Sport as a positive step from the EU institutions and expressed the wish for a rapid ratification of the Lisbon Treaty which recognised the specificity of sport, even though responsibility for sport policy should remain with the Member States and the sport movement. Issues which should be dealt with at EU level included violence and players' agents.

France announced that sport ministers would examine the draft EU Physical Activity Guidelines – a concrete follow-up to the White Paper. In the field of doping, France called for developing collaboration between Member States and the pharmaceutical industry. France welcomed the Commission study on training of sportspeople and presented the French double

training (dual career) model. France called for continuity in the work launched by the White Paper. Among the priorities, France mentioned the "6+5" rule as a potentially beneficial measure for discussion among Ministers. France called for enhanced dialogue between public authorities and the sport movement and announced that a concrete initiative would be presented to Sport Ministers in the afternoon.

### **Introduction by Mr Figel', European Commissioner in charge of sport**

The **Commission** noted that sport had a special place in society. Its social values were recognised by the European Council in Nice (2000), while the specificity of sport was recognised in the Lisbon Treaty. The Commission welcomed the positions expressed on this topic in the course of 2008 by governments and representatives of the sport movement as a contribution to clarify the debate. It acknowledged the complexity of the issue and said that the White Paper included policy proposals but also clarification of the application of EU law to sport in the areas of internal market and competition.

The specificity of sport had been recognised by the European Commission in its White Paper and by the European Court of Justice. However, the Commission recalled that this did not imply an exemption for sport from fundamental EU provisions. It underlined that sport did not exist outside or beyond EU law and that the specificity of sport could not be described in an abstract way. In the Commission's view, progress was possible only if work was carried out on a theme-per-theme basis. A concrete example was UEFA's home-grown players rule. The Commission pledged to have consultations also with international (world-wide) stakeholders.

The Commission noted that the sport sector was often asking for more autonomy and more involvement from public authorities at the same time – an attitude that could be summarised as "don't touch and please regulate". The European Sport Forum was a good structure for dialogue with stakeholders to help identify those topics where more legal clarity was needed. The Commission welcomed the approach taken by the French Presidency, which had chosen three concrete themes to progress in the debate on specificity.

A future EU sport programme could only materialise once and if the Lisbon Treaty was ratified.

### **Mr Hickey, President, European Olympic Committees (EOC)**

The **EOC** said that the Olympic and sport movement, under the leadership of the IOC, had a unified position on the specificity of sport, based on the Nice Declaration of 2000. Autonomy and specificity must be discussed across all sports. The EOC pointed out the specificity of sporting rules and structures: sport was not economic per se and the role of volunteers was essential.

The EOC explained that specificity concerned first of all the rules intended to protect the integrity of competitions and to ensure the credibility and autonomy of sport. For the EOC the key question was to know which sporting rules were specific. In the EOC's view, internal arbitration mechanisms through the CAS should be recognised. The EOC affirmed being appalled with the ECJ's Meca Medina ruling.

Secondly, the EOC presented the specificity of sport structures, which were universal. Financial redistribution distinguished sport from other industries – it was a duty of sport organisations to ensure good governance and to safeguard their autonomy. The position paper of the sport movement provided guidance to EU decision makers. The EOC noted that the EU needed sport and its values, while at the same time sport needed the EU to tackle challenges such as doping, illegal betting, racism, violence, protection of minors, uncertainty of outcomes, regulation of agents, and free movement.

It was therefore important to strengthen dialogue at EU level ahead of the ratification of the Lisbon Treaty.

**Mr Infantino, Deputy Director-General, Union des Associations Européennes de Football (UEFA)**

UEFA explained that sport could not be treated like any other industry. Although sport was not above the law, the law had to be interpreted in sensible ways when applied to sport. UEFA called on the sport movement, with guidance from the Commission, to elaborate a definition of specificity. Otherwise, UEFA warned, judges would do so, although it was not their responsibility.

UEFA called on the Commission to provide the tools to define specificity. Possible issues for discussion included the open competition model, solidarity and grassroots investments, the link between professional and amateur levels. UEFA gave concrete examples of specificity (recalling the inventory prepared by Minister Krecké and the MoU signed between UEFA and FIFPro in 2007): regularity, integrity and balance of competitions, calendars, openness of competitions, transfer rules, anti-doping rules, rules on illegal betting, licensing systems for clubs, home-grown players, central marketing. Additional topics for discussion included the protection of youth and training, and the issue of players' agents. UEFA argued for a structural change, stating that the case-by-case approach was not efficient. In UEFA's view it was not possible to work under the constant threat of legal challenges. Sport needed security and clarity to carry out its tasks in the interest of society.

**Mr Macedo De Medeiros, CEO, European Professional Football Leagues (EPFL)**

EPFL thanked the Commission and the French Presidency for putting sport high on the political agenda. EPFL found that the specificity of sport was already recognised and reflected in national and international legislation and case law. Sport did not need an exemption from the law but guidelines, with definitions to be developed together with the sport movement. EPFL stated that it was committed to ensure sound financial management of clubs and expressed support for the Commission's intention to organise a conference on licensing systems for professional clubs, saying that it was keen to participate.

EPFL said that it believed that rules on the financial management of clubs had to be developed first of all at national level. A task force on financial governance should be created to identify concerns and best practices, with no unnecessary intervention from public authorities. However, EPFL stressed the need for cooperation with the EU in certain areas, such as protection of intellectual property rights (strict regulation to combat ambush marketing, Internet piracy, protection of integrity against illegal betting). EPFL underlined that it was vital that the EU understood that sport depended on commercialisation of rights to generate revenue streams. For the EPFL there was a need for an appropriate IPR framework, and the EU should legislate in this field.

**Mr Rummenigge, President, European Club Association (ECA)**

ECA stated that since the Bosman ruling, professional football had been in a critical situation because of the rise in salaries and transfer fees. ECA noted that football seemed irrational as many investments were made without financial resources. For ECA, football must be brought back to a rational basis, notably through lower players' salaries. It called for cost control and financial fair play but was opposed to a "super-agency" at European level.

For ECA, football needed guidelines, as gentlemen's agreements did not work. ECA presented UEFA's Strategic Council as a good example of self-governance in football. ECA affirmed its role as representative of employers in the social dialogue at EU level, underlining that clubs must be part of the decision making process and that consultation was not enough. ECA announced that it would like to organise a beneficial game at EU level, with one team with EU players against one team from the "rest of the world".

### **Mr Portela, President, Union of European Leagues of Basketball (ULEB)**

**ULEB** recalled the importance of professional sport, underlining that sport had to respond to new challenges. ULEB was founded in 1991 with the aim of modernising basketball. It said that the specificity of sport consisted in having competing rivals, not enemies, and in the uncertainty of results. ULEB noted that specificity should refer mainly to amateur sport. It stated that the general framework for sport must be set by the law and that sport had to respect the law. Different sports had different needs. For example, in basketball problems related with the free movement of sportspersons were reversed compared to those in football, as the best basketball players often leave Europe to go to the USA.

Against this background of diversity, the pyramid structure, while valuable, must be interpreted in a flexible way in order to accommodate different needs and business requirements of different parts of the sport sector. As regards free movement, for ULEB it was not acceptable to set limitations to the circulation of players – professional sport must be able to count on the best players without discrimination based on nationality or origin.

ULEB called on the Commission to recognise professional leagues as interlocutors. Leagues were responsible for the economic and sporting aspects of competitions and must have a proper legal standing.

### **Mr Mavrommatis, Vice-Chairman, CULT Committee, European Parliament**

Mr **Mavrommatis** thanked the Commission for adopting the White Paper and organising the Forum. He informed that the CULT Committee had studied the White Paper in great detail in cooperation with other relevant EP Committees. More than 600 amendments had been presented to his report, confirming the big interest that the White Paper had raised in the EP. The EP was mainly concerned with the place of EU citizens in sport, in particular the social aspects of sport. The EP identified serious issues to be addressed in that respect: doping, which must be addressed through a series of specific measures, and violence, racism and xenophobia, areas where cooperation between football and police forces had been successful and where EU funding was available for targeted actions. The EP report had also underlined the economic dimension of sport: sport contributed to achieve the Lisbon targets and was a driver for tourism and local development. The EP report had also singled out IPR, broadcasting rights, sponsoring and merchandising as the major sources of financing for sport, noting that liberalisation of lotteries would create difficulties. The EP had invited the Commission to examine carefully the impact of such liberalisation on sport. The EP report had pointed out that the media play a major role in financing sport, at the same time noting that sport represented premium content for broadcasters. It had called for redistribution of income generated by media rights. In the EP's view, the Bosman ruling had changed the sport market. The free movement principle had to be guaranteed, the EU could not accept FIFA's 6+5 rule but it could accept something more proportionate, such as UEFA's home-grown players rule. The EP had noted that with the entry into force of the Lisbon Treaty, the EU would be able to conduct a real policy in the field of sport.

## **Mr Krecké, Luxembourg Minister in charge of sport**

**Luxembourg** stated that sport was not going to avoid EU rules and that the EU was not going to avoid sport. The Lisbon Treaty alone would not work miracles for sport – it would need substance and interpretation. Luxembourg noted that 95% of sport activities in the EU were not concerned by the debate on the specificity of sport. The main problems in this context came from professional team sports, especially football.

In Luxembourg's view the problems were well-known, and now solutions were needed. Part of the problem was the fact that EU rules tended to have a spill-over effect on the rest of the world. For Luxembourg, a case-by-case approach was not a good solution. It called on political authorities to act if they wanted to avoid that judges took the lead in regulating sport. Many steps could be taken under the existing legal framework, such as conclusions of the European Council or a statement from EU Sport Ministers. Luxembourg called on fellow ministers to ask for Commission guidelines on specificity: even though such a document had no legal value, it could influence the way the ECJ would deal with sport in its rulings, thus avoiding a new Meca Medina-type of ruling.

In this context, Luxembourg regretted that the sport movement was often not united and called on the sport movement and Sport Ministers to present common positions at EU level. If Sport Ministers and the sport movement did not have the same objectives, there could be no further development.

**ENGSO** underlined the importance of broad discussions with all stakeholders to find common views. In ENGSO's opinion, the French Presidency had started an interesting process, supported by ENGSO, on dual training, financial control and sport agents. The element of solidarity must be underlined. ENGSO supported the Commission's theme-per-theme approach. It called for the specific features of volunteering to be recognised and indicated that it counted on the Commission's study on volunteering and on the Czech Presidency.

The **European Association for Sociology of Sport** recognised the importance of sport with regard to education, the economy and health but pointed to evidence that participation in sport was decreasing. It mentioned a study project on a sport index (similar to the PISA index) which could be used to compare participation rates in different societies. Sport participation could serve as an indicator of well-being.

**MEP Ms Bozkurt** said that the fight against racism and discrimination should receive more attention in the framework of the discussions on the specificity of sport. She underlined the need for clear commitments to combat racism and discrimination. She also pointed out that the rights of workers had to be protected. Social dialogue was of big importance in this context. The specificity of sport should not turn into a disadvantage for employees.

The **EPC** pointed out that in the specificity debate there seemed to be a gap between powerful sport organisations which defended major commercial interests and other, much more numerous but less vocal, organisations which had other interests and which often felt to be mere spectators in the discussions. The specificity debate should not be limited to the former. One part of the sport movement was asking the Commission to be more involved, while another asked for more specificity and autonomy. The EPC considered the documents presented by the IOC to be real and valid, but considered that it could not be said that they reflected the opinions of the whole sport movement.

**Commissioner Figel'** indicated that the Commission would continue its reflections and propose further steps. He recalled that after the failed French and Dutch referenda on the Constitutional Treaty in 2004, he had proposed a white paper on sport to keep political momentum. Consultations had been launched in 2006. The momentum continued, e.g. with the newly developed EU Physical Activity Guidelines.

Mr Figel' took note of the points raised regarding intellectual property rights and signalled that he would talk with the Commissioner responsible for the Internal Market.

Mr Figel' pointed out that the Bosman case had given rise to both negative and positive interpretations. Some thought that the Bosman ruling was a disaster, while others saw it as the beginning of freedom. European football appeared to be the best in the world today, which might well be connected with the fact that it is free and diverse. Mr Figel' noted the need to address the negative sides of sport, such as the involvement of money in competition results, but in a balanced way.

Mr Figel' said that while the specificity of sport was very important, the diversity of sport might be just as important. Hence, public authorities needed to follow a cautious and diversified approach to sport.

Mr Figel' reminded the Forum that the Commission intended to respect all commitments including possible conclusions of the European Council, but that it could not go beyond the provisions of the Treaties. For example, he noted the difference between the home-grown players' rules and the proposed "6+5" rule, with possible indirect and proportionate discrimination effects on the one hand and direct discrimination on the other hand. Mr Figel' also pointed out that nobody had proposed changes in articles 12 and 39 of the current EC Treaty.

Mr Figel' considered the theme-per-theme approach to be broader than a case-by-case approach. Specificity could be further elaborated in a continuing process, from "terra incognita" to "terra cognita" (or "terra confirmanda").

With the ratification of the Lisbon Treaty a more legally secure position might become possible, including an EU sport policy, an EU sport programme and a Sports Council.

**FIFPro** regretted that all representatives of the "football family" except players' representatives were included in the panel. Specificity was meant to give more autonomy and clarity to federations, leagues and clubs. However, FIFPro insisted that players' fundamental rights were not always respected: dispute resolution chambers had not been established in all countries, some decisions in favour of players had not been implemented and the anti-doping system was sometimes too intrusive.

Consensus among all stakeholders was needed concerning the specificity of sport in order to propose concrete elements to the Commission. In this context, the social dialogue was useful. FIFPro considered that the ECJ should not be criticised since it very logically distinguished between the specificity of sport and the control of sanctions. The Bosman case had strengthened the rights of players and the abolition of quotas based on nationality had also had wider positive effects (e.g. 300 French players were currently playing in countries other than France), thus improving the competitiveness of European sport.

On the other hand, the home grown players' rules had adverse side effects such as inciting transfers of minors and problems with labour law since some players could be prevented from working.

**Mr Drut** (CNOSF) noted that football was only one among 28 Olympic summer sports. He underlined the French Presidency's and the IOC's wish to develop a permanent, regular and structured dialogue between EU institutions and Olympic and sport stakeholders. He considered that the sport movement's unity had been achieved and that oppositions should be

transformed into complementarities to ensure that the European Council took them into account.

**FESI** welcomed the organisation of the Forum but called on the Commission to reserve more time for more concrete discussions at future Forums, e.g. by organising workshops that would allow for a more efficient use of the expertise assembled during the Forum.

In his conclusion **Commissioner Figel'** thanked the participants for their open-minded approach. The next EU Sport Forum would be organised approximately in a year's time, should be longer to allow for more time for discussion, and could combine plenary meetings with smaller working sessions.