

4TH MEETING OF THE EU WORKING GROUP "NON-PROFIT SPORT ORGANISATIONS"

Summary Report

Date:	2 April 2009
Place:	Brussels
Participants:	Member States representatives from CZ, DE, FI, FR, HU, IR, MT, NL, SI, UK, European Commission (EAC, COMP); Observers: EOC EU Office, ENGSO
Chaired by:	Sport Unit, European Commission

1. Introduction by the Commission

The Commission (hereinafter: COM) briefly presented the outcome of relevant past meetings. Point 6.2 in the Presidency's Conclusions from the informal meeting of EU Sport Ministers (Biarritz, 27-28 November 2008) noted the German suggestion for a review of the relationship between sport and antitrust law, and stated that the Working Group on Non-Profit Sport Organisations should discuss the matter. The item therefore was put on the agenda for the afternoon in the presence of DG Competition. COM also pointed out the calls for strengthening the structured dialogue with international organisations, especially with the IOC, as presented in the Declarations of the European Council (December 2008) and EU Sport Ministers (November 2008).

Concerning the operational follow-up of the 3rd meeting of the Working Group, the chairman referred to the discussions on the COM study on volunteering, which would be presented later during the meeting by the contractor, and on the COM study on the financing of grassroots sports.

2. Cooperation between the Working Group and sport stakeholders

COM welcomed the Head of the EOC EU Office, who presented the work and background of the EOC EU Office in Brussels. COM and the EOC EU Office met regularly at working level, which was seen as mutually beneficial. The Head of Office also explained that the meetings with the Sport Unit covered the whole range of ongoing issues, notably topics included in the White Paper on Sport.

COM also welcomed a representative of ENGSO, who presented the new ENGSO manifesto, which discussed the changes facing the EU this year in relation to different areas of sport.

3. Volunteering in sport

COM presented recent developments in the field of volunteering. The significance of voluntary activities in the organisation of sport had been a persistent theme on the EU's Rolling Agenda for Sport, with strong political support. It was also one of the Czech Presidency priorities. The White Paper on Sport acknowledged the need to further identify key challenges for sport structures based on voluntary activities, and encouraged support for grassroots sport and the exchange of best practices on volunteering in sport.

COM also announced that preparations for a European Year of Volunteering in 2011 had been launched. COM had maintained a regular dialogue with an alliance of major stakeholders, who had been campaigning for the year to be declared. ENGSO and ENGSO Youth represented the sports movement in that alliance. The initiative of the Year was also strongly supported by the European Parliament and the European Economic and Social Committee.

Action 14 of the Action Plan "Pierre de Coubertin" announced a study on volunteering in sport. The study was launched in March 2009 and results could be expected in early 2010. Sport was included as a sector study that should provide information and data on the volunteering landscape in the 27 EU Member States, outline the challenges and trends in the sector and give EU-level recommendations.

The contractor for the study on volunteering in the EU, GHK Consulting, explained that the study would aim at providing information on volunteering in the sport sector, including the legal, organisational, economic and funding framework, pointing out the number of volunteers, the main fields for volunteering and its benefits, as well as the economic and employment impact. It would also aim at assessing the current impact of EU level action on volunteers, voluntary organisations and services provided by them. The specific methodology of the sector study on sport would include: a desk-based review of national and international studies, reports and websites; interviews with international sport organisations and national sport departments and sport organisations; and an online survey in four languages among sport organisations in two sport disciplines. The methodology of the study was still being developed, as well as the right balance between different issues that still needed to be determined. GHK encouraged the participants to give their support in finding relevant background information such as studies and reports, and in reaching the right stakeholders.

COM added that it was the Citizenship Unit which was coordinating the whole study, the budget of which was 300,000 EUR. COM stressed the importance of recycling existing information in order to leave enough time for the analytical parts of the study. COM encouraged Member States to provide GHK with existing material. COM also pointed out that in order to look at the impacts, legal and administrative matters affecting volunteering should be an important theme in the study. It stressed the importance of a pragmatic approach.

Member States mentioned, as important themes for the study, volunteering leading towards employment, the qualifications that volunteers should have and possible related diplomas or licences, as well as measuring the work of volunteers through GDP. They also pointed out that GDP was not a sufficient indicator for measuring the economic impact of volunteering, due to the fact that the roles of volunteers in sport and thus their economic impact varied greatly, from very little time consuming tasks, where hardly any skills were required, to nearly professional activities. They also pointed out the differences between team and individual sports and suggested that it would be useful to identify who the volunteers were (e.g. parents, former athletes), what kind of training they had and if there were differences between different sports, and to look into the relationship between professionals and volunteers, where it should be the professional's task to support the volunteer.

GHK mentioned that the question of measuring the value of volunteering in relation to the different competencies of the volunteers was already covered and agreed that various indicators needed to be used in any such estimation, as well as previous studies. GHK also pointed out that background information such as age and position in the labour market would be collected, but that within this framework it would hardly be possible to cover differences between team and individual sports. Regarding the relationship between professionalism and volunteering, the initial focus of the study was job substitution, if anything.

COM added that it would be interesting to know why the volunteer sector was bigger in some Member States than in others and that the link with the legal structures, such as the ease of establishing and running associations, seemed to be relevant in that respect. COM explained that the results of the study should be linked to the European Year of Volunteering, and that through that they could lead to further positive changes in the field of volunteering. GHK also pointed out that the framework for the study would cover a wide range of areas, e.g. cultural aspects were also included.

ENGSO asked why only two sports disciplines were included in the study and questioned the lack of consultation points in the presented work programme of the study, suggesting that not only the stakeholders of the Working Group should be consulted but also volunteer associations on a broader basis, in order to make sure the questions asked were the pertinent ones. GHK replied that there would be prior consultations with European stakeholders, then possibly national stakeholders, and welcomed the input also from the experts in this Working Group. GHK would look into the feasibility of including more sports in the sector study, but pointed out that the decision to have a limited number of disciplines had been made in the terms of reference of the study.

COM asked whether the definition used in the study excluded activities done solely for one's family, and GHK replied that only voluntary activities taking place in an organised structure should be included. ENGSO presented their project EU:SPORT:FUTURE with citizenship panels, one of the themes being volunteering, and invited GHK to the corresponding panel.

The Member States were reminded about the questionnaire on volunteering issued by the Czech Presidency, the results of which would be discussed at the Sport Directors' meeting. It was confirmed that the information would be shared with GHK after that meeting, which GHK would attend.

COM informed that the upcoming Eurobarometer on sport and physical activity would include a question on volunteering. COM concluded that Member States were encouraged to communicate the contact details of the key actors to GHK and to send relevant studies and other material (studies, surveys) to GHK in any EU language. COM also called on Member States to provide the necessary input for the Czech questionnaire.

4. Impact of the economic crisis on the financing of sport

COM mentioned that there were first indications for an impact of the economic downturn on sport. Discussions in the Working Group should especially concentrate on the non-profit sector, and Member States were asked to share an update of their respective national situations.

Member States reported that the impact of the economic crisis could in general be seen in most countries, though its scope and content varied in different Member States. It was reported that the effects of the crisis were still quite modest. Observed impacts included slight decreases in memberships and diminishing sponsorships of non-profit sport organisations, whereas the commercial sector seemed to be increasingly affected. Reduced ticket sales were likely to occur. In some Member States the crisis had also affected the State budget, causing cuts and delays in public support to NGOs, whereas in other Member States the impact was more visible at the local level and municipal support to local sport organisations rather than at national level. Furthermore, information on the impacts of the economic crisis varied considerably between different sport disciplines.

In order to get information on the scope of the crisis, some Member States had collected data, e.g. by way of questionnaires to sport organisations about the consequences of the economic downturn, or through a "hotline" collecting the impressions of sport organisations. In some Member States, sports organisations were also encouraged to come up with innovative ways of dealing with the new situation.

In conclusion, it seemed that in most Member States signs of an impact of the economic crisis were already confirmed, but that the non-profit sector had been affected less than the commercial sector. It was agreed to have a follow-up discussion on the impact of the crisis on sport at the next meeting.

5. German paper on "Sport and antitrust"

Germany presented its Non-Paper on Sport and Antitrust Law, which was delegated to this Working Group by Sport Ministers in Biarritz in November 2008. It was stressed that the topic concerned other Member States as well. The paper described the importance of certain social policy tasks that clubs were undertaking, but for which reason they occasionally had to engage in economic activity in order to ensure the economic base for their activities. Germany underlined being in agreement with the approach taken by the Commission in the White Paper as regards the application of EU law to sports when it constituted an economic activity, but pointed out that more clarity and legal certainty was needed about what kind of activities non-profit sport organisations could pursue in this field. It was also emphasised that a general exemption for sport from EC Treaty regulations was not being sought, but rather COM guidelines or specific regulations.

Specific challenges reported by German sport organisations included the central marketing of media rights, league sponsorships and group marketing. COM was asked to take action so that the legislation was equally applied to different national systems, which faced similar challenges. So far there were different assessments of different market models. COM was called upon to bring the matter up in the Sport Directors meeting after the Working Group would have concluded its discussion. It was also suggested that COM could do a survey to find out about the situation in Member States in the framework of the European Network of Cartel Authorities (ECN) and send questionnaires to stakeholders to get further details about the problems they were facing.

COM in its reaction recognised the principle of self-regulation in sport, the specific characteristics of sport and solidarity in sport as well as sport's cultural and social importance, and confirmed that EU law applied to sport in so far as it constituted an economic activity. Concerning the joint selling of media rights, in the COM's view a

clear legal framework already existed, with consistent decisions by the COM and the Member States, notably with regard to decisions concerning the Champions League, Bundesliga and the Premier League. COM explained that the White Paper on Sport (Annex on Sport and EU Competition Rules) already summarised the existing case law, and going beyond it in the form of e.g. guidelines might not bring any added value. The White Paper already provided sufficient guidance. Regarding State aid, as of 2008 new block exemption rules already applied. There was no mandate from the Member States to make general block exemptions for sport, which would be difficult in any case because of different sports and different structures in the Member States. Therefore, given the variety of sport in the Member States, a wider framework or a general rule was not possible, but a case-by-case approach should be applied and the COM would be ready to discuss concrete examples. COM also recalled that horizontal guidelines were constantly being reviewed and that stakeholders were invited to contribute to this process, and then suggested seeking progress in the revision of horizontal guidelines, not sectoral ones. COM would continue to improve legal certainty on a case-by-case approach and would welcome involvement of national competition authorities where the issues at stake were mainly national in scope. COM finished by assuring that it remained open for further reflections and that the mentioned points would be taken into consideration.

COM then asked the Member States to name specific challenges and problems encountered at national level, which were not covered by the White Paper analysis.

Member States in general supported having better legal certainty. However, some Member States did not see new guidelines as a tool to increase legal certainty, and in some Member States the issue was not seen as a priority, whereas some of the others supported the German initiative. Certain Member States also expressed their support for the idea of getting concrete information from the sport sector, approaching them case-by-case.

COM concluded that the discussion could continue at the Sport Directors' meeting if necessary, building on the exchange of views in the Working Group. COM also encouraged the participants to think of concrete examples of problems, which could then also be discussed at the Sport Directors' meeting.

6. Sport betting and gambling markets in Europe

COM presented some of the current topics related to the financing of grassroots sport, notably the study of the financing of grassroots sport announced in the White Paper. The study, led by DG Internal Market, was entitled "Study on internal market barriers to sport funding". The tendering process started in mid-March, and the study was expected to be launched in the autumn of 2009, in which case results of the study could be available toward the end of 2010. The study would inter alia look into how Internal Market policies (e.g. free movement of services), when applied e.g. to cross border sponsorship or gambling services, might dominate, undermine or crowd out financing to sport, in particular grassroots sport including those disciplines that rely most on public support. The study would look across the whole spectrum of sources of funding including solidarity mechanisms and analyse the different national regulatory aspects. Governmental and non-governmental sport stakeholders would be consulted, including a conference within eight months after the launch of the study.

COM then gave an update on recent EU-level developments in the field of sport betting and gambling. New initiatives and processes were taking place in the EU institutional context and at national level due to the developments in the gambling market and new challenges that were emerging, such as online gambling and sport betting, and private operators challenging Member States' control over the market. COM had launched infringement proceedings in the field of gambling and sport betting against several Member States, mainly in relation to national legislation hindering the cross-border provision of sport betting services, but there had been little development in the procedures during the past months.

COM also informed about developments in the European Parliament and the Council aimed at bringing the topic of gambling back to the EU's political agenda. The European Parliament had adopted an own-initiative report on the integrity of online gambling focusing on the problem of gambling addiction and integrity, and in the Council ("Working Party on Establishment and Services") the French Presidency had initiated discussions related to Member States' online gambling and betting policies. The French Presidency had also issued a Position Paper feeding into a report to the Competitiveness Council, which was based on replies to a questionnaire on the legal framework for gambling and betting in the Member States. While the major focus in

these discussions had been on consumer protection, public order and problems linked to gambling and betting, the results of the questionnaire also addressed the financing of activities of general interest and possible solutions in the field of taxation. The work in the Council suggested that Member States continued in general to favour national regulation in the area of gambling.

Regarding developments at national level, COM noted a new draft law in France relating to "the opening to competition and the regulation of the games of chance sector" which proposed a partial opening of the gaming markets notably in online sports betting and foresaw a specific betting right for sport right holders. The draft law had been notified to the Commission.

COM concluded by stating that the wider aspects of gambling and sport betting might be put again on the EU political agenda in the future in order not to leave decisions only to the European Court of Justice. Discussions of such a wider agenda would most likely focus on effectively tackling crime and improving the protection of consumers, but also contain aspects related to integrity and the links with the financing of sport.