

## Towards a European sport policy?

*"Sport is a growing social and economic phenomenon which makes an important contribution to the European Union's strategic objectives of solidarity and prosperity."* The first sentence of the European Commission's White Paper on Sport, published on 11 July 2007, can be said to encapsulate the importance and complexity of the role of sport in Europe. While, clearly, sport has a social dimension, it is often also an economic activity subject to Community Law – which governs, for example, the sale of media rights to sporting events. Reconciling the social and economic aspects of sport can be a difficult task, particularly in view of the fact that the European Treaties do not currently provide a legal basis for developing a European sports policy. However, the proposed new European Treaty includes sport among the policy areas where the EU has competence to undertake actions to support, coordinate or supplement the policies of Member States. The White Paper on Sport thus represents a significant stepping stone towards the development of a Europe-wide sport policy. The need for such a policy stems from the key role played by sport in society not only as an integral part of education, healthy living, cultural life and entertainment but also in terms of promoting social cohesion and integration. While today the impact of European legislation on the sport sector is largely limited to economic interests inasmuch as they fall within the scope of competition law and internal market regulations, a European sport policy would – and should – be able to take into account the whole range of socially valuable functions fulfilled by sport. Through the implementation of the White Paper and the preparation of a future legal basis for the sector, 2008 will mark a turning point in the development of a fully-fledged European sport policy.

### Increasing interaction between sport and EU policies and competencies

Many EU policies and competencies have an impact on the practice and organisation of sport in Europe, particularly in its economic dimension. As repeatedly stated by the European Court of Justice since the *Walrave* judgment in 1974, EU competition law and internal market rules apply to sport to the extent that it constitutes an economic activity. The effects and implications of this case law have become increasingly apparent since the *Bosman* judgment.

A wide range of issues that are essential to the organisation of sport – including the composition of national teams, the regulations for the status and transfer of players, doping, broadcasting rights of sport events, government subsidies to sport and the financing of sport through gambling – are increasingly governed by Community law. The organisation of sport in Europe, therefore, depends

to a considerable extent on the decisions of the European Commission and the judgments of the Court of Justice. This introduces a significant element of uncertainty in the process. A case in point was the *Meca-Medina* judgment in July 2006 whereby what was seemingly a purely sportive rule of main concern to sport regulators (anti-doping) was subordinated by the ECJ to the implementation of EU competition law.

However, because of the essential social functions it fulfils, sport is in many ways different from other sectors. Recognising this specificity, in December 2000 the EU Heads of State and Government adopted the Nice Declaration (Declaration on the specific characteristics of sport and its social function in Europe, of which account should be taken in implementing common policies).

The organisation, in 2004, of the European Year of Education through Sport reflected the determination of the EU and the Member States to highlight and promote the social dimension of sport by providing financial assistance for sport-related projects. Sport-related projects can also benefit from EU grants and subsidies under many other programmes and schemes, for example in the areas of youth, citizenship, education, vocational training and regional policy.

### The White Paper on Sport: a significant step forward in a period of transition

The White Paper on Sport is the first policy document ever adopted by the European Commission on sport. It aims to define the role of sport in European society, outline its interactions with EU policies and provide strategic guidelines for the future.

The White Paper is not a panacea that resolves all the issues associated with the organisation of sport in Europe and the relationship between sport and other EU policy areas. It does not meet all the expectations of the sport sector, particularly as regards the establishment of a regulatory framework for sport in Europe. However, it is a major step in the right direction and contains many positive aspects. To mention only a few examples:

- By recommending that sport-related projects be eligible for support under a wide range of Community programmes, it opens up new funding opportunities for the sector in general and for sport associations in particular.
- It paves the way for a greater involvement of the sport movement in EU policymaking by encouraging or strengthening dialogue between representative of the sector and the public authorities through a variety of platforms and networks.



- By emphasising the specificity of sport as well as its positive underlying values and its beneficial influence on health, education, social inclusion, volunteering, etc., the White Paper goes a long way towards recognising the social aspects of sport.

## Beyond the White Paper: the Lisbon Treaty

At the Intergovernmental Conference held in Lisbon on 18 October 2007, the Heads of State and Government approved a reform Treaty which provides sport with a legal basis. Signed on 13 December 2007, the new Treaty is expected to come into force on 1 January 2009, following ratification by each of the Member States. The EU will then be competent to undertake actions to support, coordinate or supplement the policies of individual Member States in the area of sport.

The inclusion of sport in the new European Treaty means that a specific budgetary line will be made available for the sport sector as it has already been done for the education and culture sectors (cf. the Lifelong Learning Programme and the Culture Programme). A "Sport Programme" would provide financial support for organisations active in the sporting world (e.g. to help them organise at European level and/or exchange information and good practices) as well as for sport-related projects aimed – in line with the objectives of the White Paper – at promoting volunteering and citizenship, fighting racism and doping, improving public health, and enhancing the role of sport in education and training, social inclusion, etc.

Article 149 of the Lisbon Treaty states that *"the Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function."* The existence of a legal basis will make it possible to develop a fully-fledged sport policy, rather than only viewing sport through the reductive lens of the rules governing the internal market and competition.

Sport will therefore be brought within the competence of the EU, alongside public health, education, industry or culture.

## European cultural policy as a precedent for a European sport policy?

The sport and culture sectors have many points in common:

- They are both recognised as being different from other sectors. In fact, a parallel can be drawn between the central notions that characterise them, i.e. the notion of "cultural exception" and the notion of the "specificity of sport".
- They both have considerable economic importance: a study undertaken by KEA for the European Commission (in November 2006) established that the cultural sector accounts for 2.6% of the EU's GDP; for its part – according to the White Paper – sport represents 3.7% of the EU's GDP, but the actual contribution of sport to the European economy is still to be measured.
- The culture and sport sectors face common issues concerning intellectual property rights, including the effective

exercise and protection of these rights and the fight against piracy.

- Culture and sport are part and parcel of people's everyday lives: many people are actively engaged in both kinds of activities and virtually everybody is involved or has an interest in both. Both culture and sport are ideal instruments for promoting dialogue and integration and can thus play an instrumental role in building a European identity and bringing the EU and its institutions closer to citizens.

The new European Treaty places both sectors on a par in terms of the scope for European policymaking. However, while this is the first time that sport is provided for in a European Treaty, culture has formed part of the EU's competencies since the Maastricht Treaty. The world of sport is asking for the specificity of sport to be more widely acknowledged. To this end, it can take example from cultural actors, who have – with some success – fought a long battle for recognition of their sector's special status. The specific nature of culture has been recognised by an international treaty – concluded under the auspices of UNESCO – which prevents culture from being exclusively determined by market rules. The European cultural policy is also backed financially by specific programmes: the MEDIA Programme supports the European audiovisual industry (e.g. by promoting the distribution of European works) while the Culture Programme promotes the establishment of a European cultural area (e.g. by encouraging the development of networks). Close to 1 billion euros have been earmarked to support "cultural activities with a European dimension" in the 2007-2013 period.

Given the basic similarities between the two sectors and the experience already acquired in the field of culture, sport stakeholders can use some aspects of European cultural policy as a model to develop a European sport policy.

## A key period for the definition of a European sport policy

Interaction between the world of sport and the EU has steadily intensified over the past few years, as apparent from the increasing number of ECJ judgments and European Commission decisions that have an impact on sport. There is a growing interest in sport issues on the part of the European institutions and, at the same time, the sport movement is placing greater demands and expectations on the EU.

Recent and expected developments point in the direction of a strengthening of European policies in the sport sector. It is in the interest of the sport movement to prepare for the time when sport will fall within the competence of the EU and to participate in the implementation of the Pierre de Coubertin Action Plan proposed by the White Paper. The future course of the organisation of sport in Europe is being charted today.

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