

Professional Sport and EU Regulation

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Introduction

Are the rules for the transfers of professional players in European football clubs in line with the principles of free movement of persons in the EU? Does the obligatory participation of clubs in national football competitions not go against the rules on the non-existence of internal borders and barriers within the framework of the EU uniform market? Do the richest teams in European football not have an unhealthily dominant standing at variance with the union rules for the protection of economic competition? These and other questions appear from time to time not only in the media and among interested parties. They can be summed up in a single sentence. **Is there any sense in the European Union issuing special standards for the clear regulation of the football or general sport environment?** If so, what should their form be and what should they emphasise? Or is it better to keep the existing system, where individual cases are settled by the European Court of Justice or by the Commission separately? We deal with these problems in this special report, which is based to a considerable extent on the **Independent European Sport Review**.

There is clearly not the slightest doubt that sport – especially football – is becoming **increasingly more of a business**. This trend has been emphasised in the past two decades. The background for this is in particular:

- **The growth of the popularity of the sport** – from the viewpoint of the growing numbers of television viewers,
- **The internationalisation of the sport** – the increasing number of international sport events,
- **increasing prices** of television rights for the transmission of sport events.

The UN estimates that sport accounts for **3% of the world's economic activity**. According to the European Commission sport creates **1% of the GDP of the European Union**. In recent years the economic significance of sport has been further underlined by the development of new media such as mobile telecommunications and the internet.

But sport **does not only have a business aspect**. According to Eurobarometer public opinion researches up to 60% of EU citizens (271 million persons) devoted themselves to sport in 2004 and in addition, 70 million are registered members of sport clubs. A further 10 million volunteers work for these clubs.

In this connection there are fears that the commercial character of sport will prevail over its **social, cultural and educational function** and destroy the important values of sport.

The growth of the importance of the commercial aspect in sport also increases the **risk of legal conflicts in its operation**, as we have seen for ourselves in the last few years. The business opportunities linked with sport, in combination with the unclear legislative base, undoubtedly lead to an increased number of legal disputes. The situation is worsened by a number of current problems, such as the poor financial situation of certain clubs, the power struggle among the richest clubs and football associations and the uncovered corruption scandals linked with bribery and betting.

In this connection voices are heard calling increasingly frequently for the legal regulation of European sport – starting with football – at the Community level. This is also why, in the course of British chairmanship of the EU bodies, Minister of Sport Richard Caborn called a meeting with departmental colleagues from France, Germany, Italy and Spain, together with representatives of the European Commission and relevant football associations, to discuss the present problems of football. At the meeting it was agreed to create a special Independent Report on European Sport, which should suggest how the governing bodies of sport, the European Union and member states should best cooperate in the implementation of the Declaration of Nice (see Box) and how to resolve the key themes of European sport and especially football. The preparation of the report was entrusted to a team led by Portuguese politician **José Luis Arnault**.

Declaration of Nice – Declaration on the specific characteristics of sport and its social function in Europe

It was approved at the meeting of the European Council in 2000. The idea is to become a guideline for how certain problems concerning sport should be tackled from the point of view of European legislation. It is not a binding legal document.

Main points of the Declaration:

Sport organisations and member countries have primary responsibility for sport matters. Nevertheless, the European Union must take into consideration the social, educational and cultural functions connected with European sport.

Sport activities should be accessible to everyone according to ability and effort through a wide range of organised or individual recreational and competitive sport.

The European Council emphasises support for the independence of sport organisations and their right to associate through suitable structures. It is the task of sport organisations to organise and support their sport and in particular to create and apply specific sport rules.

Sport federations play the main part in ensuring the essential financial solidarity among the most varied levels of sport – from amateur sport up to the highest level. The training of young talents is of vital importance for sport and should be supported.

The European Council expresses fear of the commercial handling of young sportsmen, including those from third countries. It therefore appeals to sport associations and member states to monitor and investigate practices that are at variance with labour law or threaten the health of young people and eventually to adopt appropriate measures.

According to the European Council the ownership or financial control of two or more subjects acting in the same competition may cast doubt on the fairness of the sport. Where this is essential the sport unions should introduce measures for supervision of the management of clubs.

The income from the sale of television broadcasting rights is one of the most significant financial resources in sport. The European Council feels that in accordance with the solidarity principle a commensurate part of this should be redistributed among all sport levels and fields.

The European Council supports dialogue on the system of transfer of sportsmen with the sport union (especially football bodies), organisations representing professional sportsmen, the European Union and member states.

Key rules of sport

Sport has a specific nature, which differentiates it from other activities – especially business. As the Declaration of Nice states, sport has social, educational and cultural functions and these must be taken into account in the application of Community law. A further important element is the **self-regulation and self-organisation** of the sphere, where only independent sport unions have the right to direct and organise sport organisation in their countries and in international competition. This **independence should be preserved and protected**.

The independence of sport associations does, however, have its limits because they too **move in a legislative environment**. This is linked with a number of legal cases concerning sport that were resolved by the European Commission or the European Court of Justice. Both institutions, however, decided case by case, which did not contribute to the creation of legal certainty in sport.

The Independent European Sport Review classifies the key sport rules in three main chapters, which have sub-chapters:

1. Uniformity and the Correct Functioning of Competition

It is obvious that there must be sport rules to ensure the basic conditions of the fairness of competition, which apply to everyone. The rules have several forms:

a) Rules of Play, Structure of Championships and Time Schedules

One of the main tasks of the sport/football bodies is to determine the **rules by which a competition takes place**. If these rules can be cast in doubt by a court or other public authority, the competition would basically be blocked. It is therefore clear that the stipulation of these rules must be purely in the competence of sport bodies.

b) Composition of National Teams

In past cases it has been confirmed in court that the determination of the rules for the **composition of representative teams or the criteria for the participation of individual sportsmen in international championships** are also purely the competence of the sport unions and are not in conflict with the law of the European Community.

c) National Organisation of Sport in Europe

The European Commission has confirmed in the past that the **national geographical organisation of sport** in the EU is outside the competence of European law and cannot be looked at from the viewpoint of the uniform internal market or rules of economic competition. This applies even when it has considerable economic impact.

d) Organisation of Pan-European Sport Competitions

Top European **football is based on a twin-pillared organisation**. The most successful teams of national competitions have the right to participate in pan-European competitions (the Champions' League). As shown from the rulings of the European Court of Justice, it is the right of football bodies to demand that their members participate in the "national pillar" for qualification in the "European pillar". Recently, suggestions appeared for the creation of a special competition for the best and richest teams outside the structure of the national football leagues or the Champions' League. European law would probably **not be the instrument for the prevention of such a project**, but the participating clubs would have to bear all the consequences, including the fact that they could no longer participate in existing competitions. Nevertheless the rules of football bodies for participation in the Champions' League, etc., which are set by UEFA, are not at variance with European law.

e) Time Limits for the Transfer of Players

It is clear that the transfer of a player at any time in the course of a competition changes the strength of the sport clubs and thus casts doubt on the fair functioning of the competition. For this reason the Court of Justice acknowledged that the established **restrictions on the transfers of players are not at variance with the freedom of movement** in the EU. At the same time the use of adequate sanctions for the infringement of players' contracts in the course of the sport season, which would also disrupt the regularity of the competition, is not considered to be a disruption of Community law.

f) General Rules for the Transfer of Players

Of key importance in this sphere was the ruling of the European Court of Justice in the Bosman case in December 1995. In connection with this case the system of transfers was regulated after agreement between the European Commission and FIFA in 2001 with the following main aspects:

- **Protection of young players** (until they reach legal maturity),
- **Appropriate compensation** for the payment of the training of young players on transfer,
- **Stability and the observance of contracts**, including sanctions for clubs and players for interrupting them without reason,
- Transfers of players only in the **restricted transfer period**,
- A quick and effective **system for the settlement of conflicts** based on arbitration proceedings.

As the European Commission has acknowledged, none of these points **is at odds with EU law**. The rules for the transfer of players cannot, however, be based on national principles (restriction of number of players from another member country), which concerns not only players from other member countries, but also from countries with which the Union has concluded an Agreement on Partnership and Cooperation.

The Simutenkov case

In May 2003 the Spanish Court submitted a request for a preliminary question with the European Court of Justice in the framework of the conflict between Igor Simutenkov on the one side and the Spanish Ministry of Education and Culture and the Spanish Football Union on the other side in the matter of sport regulations limiting the number of players from third countries who can be nominated for a match in a national football contest in Spain.

Igor Simutenkov is a Russian citizen who at the decisive time was living in Spain, where he had acquired a residence permit and a work permit. With regard to the fact that he was employed as a professional footballer on the basis of a work contract concluded with Club Deportivo Tenerife he had a federal licence for execution of the activity of a player not originating in the Community.

In the course of January 2001 Simutenkov submitted an application to the Spanish Football Union for awarding a licence identical to that given to players of the Community. In support of this application he referred to the partnership agreement between the Community and Russia. In Article 23 (1) this states: "With the exception of laws, conditions and procedures valid in every member state, the Community and its member states shall ensure that Russian citizens legally employed in the territory of a member state are not a subject of discrimination based on nationality as concerns the working conditions, remunerations or dismissal in comparison with nationals of the member state concerned."

The Spanish Football Union rejected his application with reference to its regulations, which for the awarding of this licence require that the footballer be a citizen of the EU or of the European Economic Area (EU + Norway, Iceland and Liechtenstein).

Simutenkov was of the opinion that the differentiation between nationals of a member state of the EU or the EEA and nationals of third states according to this legal regulation was, as far as Russian players were concerned, incompatible with the partnership agreement of the European Community with Russia and that it restricts the execution of his vocation. The number of players from third countries is restricted to a maximum of three in one match of the Spanish League.

He therefore filed a complaint against the decision of the Spanish Football Union to the court, with which the Spanish Ministry of Education and Culture also agreed. This complaint was rejected and Mr Simutenkov appealed to a court of higher instance, which addressed the European Court of Justice with a preliminary question. The supreme court authority of the EU in the end ruled that the Russian footballer was in the right, stating that "Article 23, Section 1 of the Agreement on Partnership and Cooperation between Russia and the EC must be interpreted in the sense that it prevents application to professional sportsmen of Russian nationality, properly employed by a club with headquarters in a member state, any rule issued by a sport federation of the same state according to which clubs may nominate for matches in competitions organised at national level only a limited number of players originating from third countries that are not a contracting party of the European Economic Area."

g) Rules for Attracting Onlookers to Sport Events

Football is not only a television event, but in particular a "live" performance. Football without onlookers in the stands would lose its meaning and become unattractive for football broadcasts too. For this reason the European Commission also considers the **steps of sport bodies taken to attract onlookers to the stadium**, including for instance the controversial rules limiting the television broadcasting of football matches, to be in line with European law.

h) Release of Club Players for International Matches

The obligation of clubs to release their players for representative purposes is essential to ensure that the **national teams are truly made up of the best players**. It also ensures that the nominated players are available to the national representative teams for the full duration of the sport event and cannot be recalled by their clubs. According to the authors of the Independent Review this rule is not in conflict with the law of the European Community and at the same time it should also be considered as a purely sporting measure, out of reach of the *acquis communautaire*.

The case of Royal Sporting Charleroi F.C.

Recently doubt has been cast on the rule for the obligatory release of footballers by clubs for international matches. The Belgian club of Royal Sporting Charleroi F.C and the G-14 group, associating the 18 richest European football clubs, filed a complaint against FIFA in March this year in a commercial court in Charleroi, Belgium. They accused the international football association of "illegal use of players in national teams". The Belgium football club decided on this step when a player, Abdelmajid Oulmers of Morocco, was injured during an international match. Now, together with the clubs of the G-14 groups, it demands that the court acknowledge the above-mentioned FIFA rule to be illegal and force the association, after consultations with clubs, to revise this. In addition the clubs of the G-14 are demanding EUR 860 million from FIFA as compensation for the application of the rule to their players who were injured during international matches over the past ten years.

The Charleroi court rejected the demand for almost EUR 1 billion in compensation for the richest European clubs. In the matter of the legality of the FIFA rule on the obligatory release of players it addressed the European Court of Justice (ECJ) with a preliminary question in order to decide whether this is in keeping with the free movement of persons (Article 39 of the Rome Treaty) and services in the EU (Article 49 of the Rome Treaty) and whether there is any abuse of dominant position on the part of the international football association (Articles 81 and 82 of the Rome Treaty).

i) Anti-doping Rules

All sport management bodies have a natural and legitimate interest in keeping sport clean. Anti-doping measures have already been handled by the Court of Justice, which ruled that for the purpose of fairness in sport the setting of the rules for the control of doping is in the competence of the sport unions. Matters concerning doping should not be subjects of community law.

2. Integrity

For the correct functioning of sport contests it is essential to ensure that they take place **in the spirit of fair play** and are free of unsuitable influences that might **cast doubt on the authenticity of the results**. Sport unions have a fundamental interest in the integrity of sport competition and therefore adopt rules to ensure this.

a) System of Club Licences

The idea of the introduction of a system of awarding licences to football clubs is to protect the interests not only of the organisers of a competition, but also of the players and onlookers. The club requires this licence to participate in club contests (leagues) and one of its purposes is to ensure that the club remains **financially stable throughout the contest**. And that it does not leave the contest during its course or finish playing with a completely different team because it was unable to pay the players. The system has already been investigated in the EU by the Anti-monopoly Office in Belgium and was declared to be in keeping with the rules of economic competition, provided its demands are reasonable and appropriate. The setting of the system of licensing clubs should continue to be in the competence of sport management bodies.

b) Multiple Ownership/control of Clubs

The trend of recent years, where financial investors own or otherwise control more than one football club, means that the organisers of competitions must be cautious in ensuring their integrity and fairness. The UEFA football association has therefore already taken measures according to which the same person **cannot own or control more than one club in one contest**. According to the European Court of Justice and the European Commission this rule does not infringe the European law of economic competition, though it might seem so at first glance.

c) Activities of Players' Agents

The growing economic importance of the sport, the dramatic growth of salaries for the best players and the liberalisation of the markets for player transfers have led to a significant development of the business of players' agents.

The authors of the Independent Review feel that sport bodies should adopt stricter **measures to regulate the activity of players' agents** and resolve questions concerning their non-transparent negotiations with several parties or the risk of money laundering during transfers. This should nevertheless remain in the competency of sport bodies. These existing and possible future rules are considered to be in accordance with the law of the Community.

3. The Evenness of Competition

It is natural that the legitimate policy of sport unions is to **contribute to the evenness of sport competitions**. More even matches offer more sport enjoyment and are more attractive to onlookers, which is beneficial to the economic side of sport. In recent years, however, there has been a decline in the evenness in a number of European football competitions, whether in the framework of a league (the same group of a few teams has a chance at a title each year) or among the leagues (only teams from a few countries can be successful in the Champions' League). The growing concentration of wealth and success may thus damage European football in the long term.

There are a number of measures to promote the requirement of the evenness of sport competitions:

a) The Rule of Players Trained at Home

In sport too in recent years we have seen increasing outsourcing in the training of talents. Instead of investing in the training of young hopefuls the large clubs prefer to expend large sums on the purchase of "complete footballers" from other clubs. The evenness of competition would be enhanced if there were a weaker link between the budget of the team and sporting successes. In this connection UEFA recently established a new **system for the support of the "home-training of players"** in combination with a limit on the number of members in a team. It is based on the minimum number of home-grown players in the team (4 from the 2006/07 season to 8 from the 2008/09 season) and a maximum number of 25 players in the team. The rule also defines the concept of "home-grown players".

b) Central Marketing of Commercial Rights

Clearly the most visible example of where the specific nature of sport must be taken into consideration in the application of the economic competition law is the collective **sale of television rights and the re-distribution of the revenues achieved from this**. Football clubs cannot, in fact, be considered as horizontal competition. They have to rely on one another – the existence of a single club in a monopoly position does not make sense in sport. For this reason the European Court of Justice has admitted in the past that certain restrictions on economic competition may be essential to ensure the correct functioning of the sport branch.

The central marketing of commercial rights is the **basis of the financial solidarity of European football**, compared with the individual sale of rights, from which only the strongest clubs earn and which leads to a reduction in the evenness of

competition. For this reason it is considered admissible that the football union should impose on a club the obligation to participate in the system of collective sale of commercial rights. In the past European institutions have so decided in individual cases, but for the future it is a good idea in the interest of greater clarity to consider a regulation on a block exception for the whole branch.

c) Wage Ceilings

With the absence of any regulatory elements it is probable that the richest clubs will over-pay and buy up the greatest sport talents. In classical business this is the natural path of competitive struggle, but the specific nature of sport calls for a different viewpoint. In the long term a **sport is more successful the more even, and therefore the more attractive, the competition.**

The greater evenness might also be helped by **salary ceilings**, which would not allow the richer clubs to overpay and win over players from smaller teams. In a number of sport contests in the USA this system has been functioning effectively for several years now (since last season, also in the NHL) and in Europe wage ceilings are used, for instance, in English rugby. Although the authors of the Independent Review feel that the introduction of salary ceilings would benefit European football, the decision is purely **in the competence of sport management bodies.**

Draft Legislative Instruments for the Regulation of Sport in the EU

The key element of the primary law of the European Community – Roman law – **does not contain any explicit mention of sport in the EU.** This situation should change with the Treaty on the Constitution for Europe, which devoted an entire Article to sport (Article III-282). Its future is, however, uncertain and with the greatest probability it is a dead document in its present form.

Sport is also the subject of the law of the EU in some of its areas, but it is **not expressly regulated by any legislative norm.** This contributes to the unclear legal status of sport and the uncertainty arising from this. For this reason it is necessary to find a stable and predictable legal framework within which sport could function, argue the authors of the Independent Review. The existing method of settling disputes "case by case" by the European Court of Justice or the Commission **has not brought legal security to the sport.**

In the adoption of any legislative standards regulating sport it is important to realise the following specifics of sport:

- a) **Acceptable forms of discrimination in sport** – these concern discrimination on the basis of, for instance, gender, weight, age, national quotas, etc. The aim here is not to restrict anyone, but to organise the fairness and meaningfulness of sport competitions.
- b) **Sport and economic competition differ palpably** – this logical conclusion emerges from the fact that
 - Players and clubs are mutually economically dependent of one another, their aim is not to monopolise a competition and totally liquidate the other competitors,
 - League competitions in individual countries de facto form natural monopolies,
 - Onlookers prefer a uniform sport organisation structure from which it clearly emerges who is the champion in the given branch of sport,
 - The fans are not ordinary consumers of a service; they remain loyal to their team and do not choose daily according to the play (service) of the competing teams.

The team of authors of the Independent Review analyses the possible legislative instruments of the EU that would enable the elimination of the uncertainty of European sport while being aware of its specific traits and the differences compared to the business environment.

1. Block Exemptions from EU Competition Law

One of the possibilities for introducing greater certainty into the settlement of sport conflicts is the adoption of a special **regulation of the European Community, which would award sport a block exemption from the competition law of the Union.**

The conditions for the provision of block exemptions are regulated by the Treaty of Rome in Article 81 (3). According to this standard the following prerequisites must be fulfilled for awarding an exemption from agreements between competing subjects:

- They contribute to the improvement of the production or sale of products or to the support of technical or economic progress,
- They reserve for consumers an appropriate share in the benefits arising from this,
- They do not impose on the competitors concerned restrictions that are unnecessary for the achievement of these aims,
- They do not enable these competitors to exclude competition in relation to the main part of the products concerned.

At present a number of block exemptions are legislatively enabled in the EU for various reasons:

- **Vertical agreements** – Regulation 2790/1999/EC,
- **Horizontal agreements** – Regulation 2658/2000/EC,
- **Agreements on the transfer of technology** – Regulation 772/2004/EC,
- **Agreements in insurance** – Regulation 358/2003/EC,
- **Agreements in the automobile sector** – Regulation 1400/2002/EC,
- **Agreements in transport** – Regulation 823/2000/EC.

If a special regulation were adopted, which would implement block exemption from competition law in the EU in the field of sport, this would give sport subjects the legal certainty that they are acting in keeping with the law.

Possible examples of clauses that could be incorporated in the **block exemption regulating, for instance, the collective sale of media rights**: (i) maximum duration of agreements, (ii) suitable "packaging" of television rights to simplify competition, (iii) agreements on the association of means from the sale of rights as a condition for allowing participation in the competition, (iv) use of the rights in new media (internet, mobiles), (v) balance between free and paid television services, etc.

2. Guidelines for the Application of EU Competition Law in Sport

An alternative to the adoption of a special regulation on a block exemption might be a "softer instrument" in the form of **guidelines of the European Commission on the application of EU competition law in sport**. Their aim should be to interpret existing rules in a uniform manner and at the same time, indicate how decisions will be made on similar cases in the future. The idea is to ensure the **correct and consistent application of community law**. On the basis of studying the guidelines every sport subject should assess whether the appropriate agreement is in accordance with EU competition law or not. The guidelines would also be a useful instrument for national courts, which could use them in the case of sport disputes.

According to the authors of the Independent Review such guidelines should deal in particular with the following spheres:

- a) **Measures outside the range of Articles 81 and 82 of the Rome Treaty** (they regulate the ban on cartels and the abuse of a dominant standing on the market) **and outside the rule of four freedoms in the EU** – here there should be included rules of a purely sport nature, even though they may have economic consequences, of the type: (i) rules of play (length of match, number of players on the field), (ii) nationality clause for matches of national teams, (iii) rules of selection for international competitions, (iv) ban on and recourse regarding doping, (v) release of players for representative matches, (iv) ban on the multiple ownership of clubs,....
- b) **Measures warranting exemption from the ban on agreements among competitors** (Article 81, Section 3 of the Rome Treaty) – these emerge from the fact that among sport clubs there is no direct economic competition and therefore the agreements of clubs arising from the membership of a single sport association should be considered as meeting the conditions for the allocation of an exemption from the ban on agreements. Exemption should also be given to agreements between sport clubs and players' associations in a framework similar to the "social dialogue" from the business environment.
- c) **Sport as a general economic interest** – Article 86 (2) of the Rome Treaty enables, under certain conditions exemption from the ban on agreements among competitors. The authors of the Independent Review feel that it is sport unions carrying out services of general economic interest for the widest public and their activities that should be considered in connection with the given exception. For greater legal certainty this interpretation should also be incorporated in the appropriate guidelines.
- d) **State aid for sport** – sport is a typical example of a branch where aid from public means is frequently provided. Examples are direct financial subsidies; provision of guarantees for loans; construction, cheap sale or advantageous

hiring of sport equipment, etc. Although state aid to sport may lead to "market deformations" the problem is far more complicated because sport has a number of functions outside of economics – social, cultural, health, educational, ...

According to the authors of the Independent Review it should be clearly stated in the guidelines that the support of sport is compatible with the internal market in the EU on the basis of Article 87, Section 3, Letter d) of the Rome Treaty because it is intended to assist culture and the preservation of the cultural heritage, provided it does not influence the conditions of trade and competition in the Community to an extent at odds with joint interest.

- e) **Other relevant spheres in sport** – their regulation in the form of inclusion in the guidelines is possible, unless it should be more suitable or easier to include them in the regulation on block exemption in sport. These concern in particular the following areas:
- **Central sale of marketing rights** – this supports the principle of solidarity among clubs and is made possible by the difference between sport and economic competition,
 - **Rules for training young players** – this includes, for instance, the rule on the minimum number of home-grown players in the team,
 - **Control of expenditure on the salaries of players** – infringes economic freedoms for the purpose of encouraging the evenness of competition and preserving attractiveness for onlookers, for which reason it should be permitted,
 - **System of licences for clubs** – the requirements for the financial health of clubs and others are indeed restrictive in nature, but their advantages should prevail in guaranteeing the stability, credibility and transparency of sport competition.

3. Guidelines for the Application of Freedom of Movement of Persons in Sport

In sport cases it is a frequent phenomenon that they must be judged not only according to competition law, but also **according to the regulation of the freedom of movement of persons in the European Union**. It is therefore essential to adopt measures clarifying the relationship of sport to the right to move and work freely in the EU. As opposed to economic competition it is impossible in this sphere to adopt a regulation on block exemption and so the authors of the Independent Review propose creating guidelines for the application of Community law enabling the free movement of persons in the Union for the field of sport.

In sport there are a number of measures that block the free movement of persons (regardless of nationality). According to the authors of the Independent Review the guidelines should incorporate that sport rules will not be considered as infringement of the free movement of persons in the EU, **provided they meet the following conditions**:

- They are applied in a **non-discriminatory manner**,
- They are **justified by unavoidable requirements of general interest**,
- They are **adequate for achievement of the aim pursued** and must not be stricter.

For instance the UEFA Rules calling for a certain number of "home-grown" players and a maximum number of players in a team do indeed restrict freedom of movement, but they meet the given conditions and thus should not be considered to infringe EU law. For greater legal certainty it is, however, essential to promote this regulation in the form of these guidelines for instance.

4. Other Legal Instruments of the EU

Not all problems in sport, however, concern competition law or the free mobility of persons. For greater certainty it is necessary to adopt a clear legal base in other areas of sport. The authors of the Independent Review on European football propose the following measures:

a) Directive on Youth in Sport

In the sport sector young people often appear in commercial relationships (e.g. work and sponsorship contracts). These arrangements are then sometimes not in keeping with **Directive 94/33/EC on the protection of young people at work**. The European Commission should therefore demand of member states that they apply the measures contained in this directive. Young people in sport, however, are also affected by a number of non-work themes not handled by this directive. Intensive training may influence the physical, psychological, moral and educational characteristics of the young

person. For this reason, the authors of the Independent Review feel that it would be useful to adopt a special directive on young people in sport.

b) The European Collective Agreement

As in other sectors, social dialogue is also implemented in sport. In spite of the international or pan-European structure of sport, however, there is no European Collective Agreement. The authors of the Independent Review feel that its legislation would be of benefit to sport because it would contribute to the **harmonisation of national work standards in sport and thus also to fairer competition in sport**. The European collective agreement would contain in particular the following points: (i) the legal nature of contracts with players, (ii) the minimum and maximum duration of a contract, (iii) the conditions of employment of players from third countries, (iv) the system of social security for players, (v) conditions for the cancellation of contracts, etc.

c) Directive on Players' Agents

The activities of agents in the business sector are already regulated by Directive 86/653/EC on the coordination of the legal regulation of member states concerning independent trade representatives; **a similar instrument would also be useful in sport and especially in football**. Any directive should regulate (i) the conditions of contracts with agents with certain minimum obligations for both agents and players, (ii) the method of remuneration, (iii) the duration of contracts, (iv) the clause of forbidding work for competitors, (v) the licensing of agents, etc.

d) Directive on Betting on Sport

After the recent betting affairs in Italy **the need to regulate sport betting in the EU** has increased. The directive could regulate the exchange of information between state and sport bodies. It would define the range of persons (e.g. players, agents, owners of clubs, their relatives,) who cannot bet on matches, the results of which they can influence directly. The subject of its regulation would also be the activities of offshore betting companies, which are becoming stronger on the internet, or the prevention of money laundering in this sphere.

e) Other Legal Instruments

Apart from the above-mentioned directives, regulations or special guidelines the individual conflict aspects of sport might also be covered by further instruments of softer legal strength in the line of recommendations, gentlemen's agreements, white and green EU books, action plans, informative notifications, ethical codes, opinions, etc.

5. European Sport Agency

The authors of the Independent Review incline towards the idea of creating a European Sport Agency, which would act as a European monitoring and sport centre and provide the Community and the member states with trustworthy and comparable information on sport. This Agency would also be responsible for the management of the initiatives and programmes of the EU for the field of sport (e.g. the European Year of Education through Sport, etc.). The Agency should not, however, threaten the position of UEFA, which should continue to be the main management body for European football and in addition strengthen cooperation with European institutions.