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**COMMISSION STAFF WORKING DOCUMENT**

**SPORT AND FREE MOVEMENT**

*Accompanying document to the*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Developing the European Dimension in Sport**

{COM(2011) 12}

In recent years the impact on sport, and in particular on football, of the EU rules on free movement has been a highly topical issue, particularly as sport is increasingly taking on a European dimension. With the entry into force of the Lisbon Treaty, sport has now become a field in which the EU can contribute to the promotion of European sporting issues and encourage cooperation between the Member States (Article 165 TFEU).

Article 165 TFEU provides the EU with a ‘soft-law’ competence (encouraging cooperation between the Member States and supporting and supplementing their action) in the areas of sport, education and youth. As far as sport is concerned, Article 165 calls on the Union to:

- promote European sporting issues, taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function;
- develop the European dimension in sport by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportspeople and sportswomen;
- foster cooperation with third countries and international organisations.

At the same time, the Treaty forbids any discrimination on grounds of nationality (Article 18 TFEU) and grants every citizen of the Union the right to move and reside freely within the territory of the Member States, subject to those limitations and conditions that are laid down in the Treaties themselves and in the measures adopted to give them effect (Article 21 TFEU). As regards workers, the Treaty states that freedom of movement of workers should be secured within the Union, and that such freedom entails the abolition of any discrimination based on nationality as regards employment, remuneration and other conditions of work and employment (Article 45 TFEU).

A combined reading of fundamental provisions in the Treaty on non-discrimination on the grounds of nationality and on free movement and of Article 165 TFEU – with its obligation for the EU to develop the European dimension in sport and to promote the openness of competitions – entails that the general rule of non-discrimination applies to both professional and amateur sport: in the first case, players are protected principally as workers; in the second as European citizens who have the right to move freely around Europe.

The objective of this Staff Working Document is to provide an overview of the impact of EU law on the free movement of professional sportspeople<sup>1</sup> and to outline the Commission's position on the impact of the new Treaty provisions in the field of sport on the free movement of amateur sportspeople.

## **1. IMPACT OF EU LAW ON FREE MOVEMENT OF PROFESSIONAL SPORTSPEOPLE**

Sport is subject to the Treaty provisions and the secondary law on free movement of workers in so far as it constitutes an economic activity within the meaning of the Treaty. The Court of Justice of the European Union (ECJ) has confirmed on several occasions that professional and semi-professional sportsmen are workers by virtue of the fact that their activities involve

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<sup>1</sup> This overview remains of a general nature since sufficient details on this topic are provided in Annex II of the Staff Working Document accompanying the White Paper on Sport - SEC(2007) 935. Issues which were not (or only marginally) addressed in the White Paper and its accompanying Staff Working Document, such as UEFA's home-grown players rules and the ECJ ruling on the *Olympique Lyonnais* case, are discussed in more detail.

gainful employment<sup>2</sup>. The Communication from the Commission on "Reaffirming the free movement of workers: rights and major developments", adopted on 13 July 2010<sup>3</sup>, offers an overall picture of the rights of EU migrant workers and updates the previous 2002 Communication<sup>4</sup> taking into account legislative and case law developments.

Rules governing sport are often issued by sports associations, which are not governed by public law. This circumstance cannot provide a justification for not applying the rules on free movement. The ECJ has clearly stated that Article 45 TFEU not only applies to the action of public authorities, but also to rules of any other nature aimed at regulating gainful employment in a collective manner<sup>5</sup>. Rules laid down by sports associations which determine the terms on which professional sportsmen can engage in gainful employment fall within this category.

The fact that professional sportspeople fall within the scope of Article 45 TFEU implies that any direct discrimination on grounds of nationality is prohibited, and that any indirect discrimination and obstacles impeding the exercise of the right to free movement which are not justified, necessary and proportionate to the legitimate aim pursued must be abolished.

Although there had been previous judgements of the Court regarding the application of rules on the free movement of workers to professional and semi-professional sportspeople, the effects and implications of EU law on sporting activities were fully revealed in the judgment of 15 December 1995 in the *Bosman* case<sup>6</sup>. This judgement provided indications not only as regards the scope of free movement provisions, but also as regards direct discrimination (nationality quotas) and obstacles to free movement (transfer rules) in the field of sport.

The Commission Staff Working Document accompanying the White Paper on sport<sup>7</sup> already presented a comprehensive picture of the case law concerning the limited and proportionate restrictions to the principle of free movement that can be accepted. The following guidance can be derived from that case-law.

#### *Direct discrimination*

Rules leading to direct discrimination on grounds of nationality are not compatible with EU law. Direct discrimination may, for instance, take the form of a complete ban on the participation in sporting competitions of EU citizens from other Member States<sup>8</sup>. It may also stem from the introduction of quotas based on nationality. The ECJ has held that the fact that such rules or quotas may not concern the employment as such of EU players but rather the extent to which their club may field them for an official match is of no relevance in order to determine the discriminatory nature of the rules. In so far as participation in official matches constitutes the essential activity of professional players, any rule limiting such participation also restricts the employment opportunities of the players concerned<sup>9</sup>. The only grounds for

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<sup>2</sup> Cases 36/74 *Walrave*, 13/76 *Donà*, C-415/93 *Bosman*, C-176/96 *Lehtonen*, C-519/04 *Meca-Medina* and C-325/08 *Olympique Lyonnais*.

<sup>3</sup> COM(2010) 373.

<sup>4</sup> COM(2002) 694.

<sup>5</sup> Cases 36/74 *Walrave* and C-415/93 *Bosman*, joined cases C-51/96 and C-191/97 *Deliège* and case C-325/08 *Olympique Lyonnais*.

<sup>6</sup> C-415/93, *Bosman*.

<sup>7</sup> SEC(2007) 935, 11.7.2007.

<sup>8</sup> Case 13/76 *Donà*. In this case, only football players affiliated to the Italian federation could take part in matches, whilst affiliation was only open to players having Italian nationality.

<sup>9</sup> Cases C-415/93 *Bosman* and C-176/96 *Lehtonen*.

exceptions in cases of direct discrimination are those listed in Article 45 TFEU (public policy, public security or public health).

Nonetheless, the ECJ established an exception to the general principle of non-discrimination as regards rules or practices excluding foreign players from certain matches for reasons which are not of an economic nature and relate to the particular nature and context of such matches, and which are therefore of sporting interest only, such as, for example, matches between the national teams of different countries. However, this exception must remain limited to its own subject matter and it cannot be invoked to claim the exclusion of the whole of a sporting activity from the scope of the Treaty<sup>10</sup>.

### *Indirect discrimination*

Indirect discrimination occurs when rules apply criteria of differentiation other than nationality but lead, in fact, to the same results as direct discrimination.

In this case, only rules that are necessary, proportionate to the achievement of legitimate objectives, and do not discriminate directly on the basis of nationality, may be compatible with Article 45 TFEU. For instance, rules such as UEFA's 'home-grown players' which aim to encourage the recruitment and training of young players and ensure the balance of competitions, can be compatible with EU free movement provisions (i) in so far as they are able to achieve efficiently those legitimate objectives, (ii) if there are no other measures available which can be less discriminating and (iii) if the rules in question do not go beyond what is necessary to the attainment of their objectives. The Commission will nevertheless monitor the application of these rules closely on a case by case basis in order to verify that the criteria are met.

### **Home-grown players rules and quotas of players in club competitions**

On 28 May 2008 the Commission published an independent study carried out on its behalf to examine the effects of UEFA's rules setting a minimum number of "home-grown players" for clubs participating in its football competitions. On the basis of the results of the study, the Commissioners responsible for free movement of workers and for sport considered that the approach followed by UEFA in adopting these rules complied *prima facie* with the principle of free movement of workers while promoting the training of young European athletes.

'Home-grown players' are defined by UEFA as players who, regardless of their nationality or age, have been trained by their club or by another club in the same national association for at least three years between the age of 15 and 21. The UEFA rule does not contain any conditions based on nationality. It applies in the same way to all players and all clubs participating in competitions organised by UEFA. Its aim is to encourage clubs to establish efficient training centres with a view to ensuring the creation and maintenance of high-level talent pools of future professional players.

The objectives underlying UEFA's home-grown players rules, namely promoting the recruitment and training of young players and ensuring the balance of competitions, can be considered legitimate objectives of general interest. The provisions of the rules appear to be inherent in and proportionate to the achievement of such objectives. However, since the rules

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<sup>10</sup> Cases 13/76 *Donà*, C-415/93 *Bosman* and C-176/96 *Lehtonen*.

risk having indirect discriminatory effects and since their implementation has been gradual over several years, the Commission will carry out further analysis on the rules in 2012.

It should be noted that UEFA's home-grown players rules have not been examined from the angle of EU competition law. Similar schemes aimed at establishing quotas of locally trained players for clubs participating in team sports competitions have been brought to the attention of the Commission since the adoption of UEFA's rules. Each scheme needs to be examined taking into account the specific provisions of the scheme itself, the characteristic of the sport discipline concerned and the general context in which the scheme is proposed.

Rules leading to direct discrimination on grounds of nationality are not compatible with EU law. The same is true for rules based on criteria directly linked to nationality. For example, rules establishing quotas of players in clubs based on eligibility to play for the national team of the country where the club is located, when the main criterion for such eligibility is nationality, are not compatible with EU law.

### *Obstacles to free movement – transfer rules*

Provisions such as transfer rules which, even if applied without regard to nationality, restrict the freedom of movement of sportspeople who wish to pursue their activity in another Member State constitute obstacles to free movement<sup>11</sup>. Restrictive transfer rules may also run the risk of infringing EU competition law. They can be deemed compatible with EU law only in so far as they pursue a legitimate aim compatible with the Treaty and are justified by reasons of public interest. Such measures must also be inherent and proportionate to the aim pursued<sup>12</sup>. By way of example, the ECJ in the Lehtonen case implied that limited and proportionate restrictions on labour mobility may be justified in order to ensure certain important characteristics of sporting competition such as transfer windows. It should be reminded that EU free movement rules apply to workers regardless of their age, also including sportspeople who are engaged in professional activities before the age of 18, in conformity with relevant EU labour law provisions, in particular the Directive on the Protection of Young People at Work<sup>13</sup>.

### **The ECJ's *Olympique Lyonnais* ruling**

The judgement of the Court in the case *Olympique Lyonnais* (case C-325/08), delivered on 16 March 2010, is of particular interest as it is the first ruling covering a sport-related case adopted after the entry into force of the Treaty on the Functioning of the European Union (TFEU). The ruling provides further insight into the Court's interpretation of the issue of free movement of professional sportspeople. The focus of the ruling concerns limitations to the rules on free movement of workers laid down in Article 45 TFEU, arising from training compensation schemes. The *Olympique Lyonnais* ruling confirms most of the elements and the legal reasoning developed by the Court in the Bosman ruling, at a distance of 15 years.

According to the Court, Article 45 TFEU does not rule out schemes which, in order to attain the objective of encouraging the recruitment and training of young players, guarantees

<sup>11</sup> Cases C-415/93 *Bosman* and C-176/96 *Lehtonen*.

<sup>12</sup> Case C-415/93 *Bosman*.

<sup>13</sup> Council Directive 94/33/EC of 22 June 1994 on the Protection of Young People at Work.

compensation to the club which provided the training if, at the end of the training period, a young player signs a professional contract with a club in another Member State, on condition that the scheme is suitable to ensure the attainment of that objective and does not go beyond what is necessary to attain it.

In the *Olympique Lyonnais* ruling, the Court confirmed an important point raised in the *Bosman* ruling, namely that the recruitment and training of young players is to be considered a legitimate objective of general interest. The Court also provided additional guidance for assessing whether training compensation schemes can be considered as suitable to attain this objective: according to the Court, such schemes must be related to the actual cost of training. This was not the case of the scheme discussed in the main proceedings, since it linked the payment to potential damages suffered by the clubs and was thus unrelated to the actual training costs.

The Court offered another important element in order to assess whether training compensation schemes are inherent and proportionate to their legitimate objective: when carrying out this assessment, account should be taken of the costs borne by the clubs in training both future professional players and those who will never play professionally. The Court affirmed hereby the principle that training costs may be calculated on the basis of the so-called "player factor", i.e. the number of players that need to be trained in order to produce a professional player.

In the *Olympique Lyonnais* ruling, the Court also made reference for the first time to the provisions on sport laid down in Article 165 TFEU. In particular, the Court mentioned two elements included in the Treaty as being constitutive of the EU's action in the field of sport: the social and educational function of sport as well as its specific nature. These two aspects are interlinked, the social and educational values of sport being among the characteristics which make sport special and set it apart from other sectors of the economy.

#### *Equal treatment clauses in agreements with third countries*

The ECJ has also ruled on the application to sporting activities of the non-discrimination principle set out in certain Agreements between the European Union and third countries. The case-law of the ECJ<sup>14</sup> shows that, as long as such Agreements include equal treatment clauses prohibiting discrimination on grounds of nationality with regard to the working conditions and the remuneration of workers who are legally employed in a Member State, professional sportsmen from those third countries cannot be subjected to discrimination on grounds of their nationality when they play in a Member State. Rules that limit the opportunities of professional sportsmen from such third countries to take part in certain matches (as part of their professional activity), in comparison with sportsmen who are EU citizens, involve discrimination and run counter to the equal treatment clauses in the Agreements. This means that players who are nationals of a country which has concluded such an Agreement with the EU cannot be excluded on the basis of their nationality from a team sent out on the field. Such clauses do not, however, amount to the conferral of a right of free movement within the EU.

#### **EU Internal Market rules concerning freedom to provide services and freedom of establishment**

<sup>14</sup> Cases C-438/00 *Kolpak*, C-265/03 *Simutenkov* and C-152/08 *Real Sociedad de Fútbol SAD and Nihat Kahveci*.

Besides the provisions concerning free movement of workers, the EU Internal Market *acquis* includes rules on the free provision of services and on freedom of establishment which are equally of relevance for the sport sector. Articles 49 to 62 TFEU cover the right of establishment and provision of services. The two relevant pieces of EU legislation applicable in these fields are Directive 2005/36/EC of 7 September 2005 on the Recognition of Professional Qualifications<sup>15</sup> and Directive 2006/123/EC of 12 December 2006 on Services in the Internal Market<sup>16</sup>.

EU rules on establishment and provision of services apply to sport-related professions such as coaches, trainers and instructors. These professions are characterised by a high level of international mobility and by the fact that their regulation varies greatly across Member States: professions in sport are sometimes regulated in some Member States and not in others. Besides the issue of public regulation, international sport federations often have their own system of qualifications and diplomas. This complex situation can be confusing for sport professionals. In order to increase legal clarity and improve the framework facilitating the mobility of sport professionals, it could be envisaged to improve the transparency of some of the professions included in the list of sport-related regulated professions established by Directive 2005/36/EC. More transparency in this field could also be achieved on the basis of developing a professional card or a passport for professionals in the context of temporary mobility and faster recognition of qualifications and work experience, as proposed in the Single Market Act.

Another sport-related profession which is subject to EU rules on free provision of services and freedom of establishment is that of sport agent. According to the result of an independent study carried out on behalf of the Commission in 2009<sup>17</sup>, no major obstacles exist for the free provision of sport agents' services across the Internal Market. However, the complexity of the legal framework may require that additional guidance be provided to the relevant stakeholders (agents, players and clubs).

### *Specificity of sport and free movement of professional sportspeople*

Free movement of workers is a fundamental principle of EU law and a provision with direct effect. Any exception from a fundamental principle can only be justified within the limits set by the Treaty itself. In the realm of sport, this entails taking into account the specific nature of sport, which is now recognised by Article 165 TFEU. However, the specificity of sport<sup>18</sup> cannot be used as an excuse for making a general exception to the application of free movement rules to sports activities. Exceptions from the EU's fundamental principles must be limited and based on specific circumstances.

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<sup>15</sup> OJ L 255, 30.9.2005, p. 22.

<sup>16</sup> OJ L 376, 27.12.2006, p. 36.

<sup>17</sup> The study is available on the Commission's website:

[http://ec.europa.eu/sport/library/doc/f\\_studies/study\\_on\\_sports\\_agents\\_in\\_the\\_eu.pdf](http://ec.europa.eu/sport/library/doc/f_studies/study_on_sports_agents_in_the_eu.pdf)

<sup>18</sup> The concept of specificity of sport is defined by the Commission in section 4.1 of the White Paper on Sport - COM(2007) 391 - and in section 4.2 of the Communication which is accompanied by this Staff Working Document.

## 2. THE PROVISIONS OF THE LISBON TREATY ON SPORT AND THEIR IMPACT ON FREE MOVEMENT OF AMATEUR SPORTSPEOPLE

### *The right to free movement and non-discrimination on grounds of nationality*

The principle of non-discrimination on grounds of nationality is enshrined in Article 18(1) of the Treaty and applies in all situations which fall within the scope *ratione materiae* of EU law. This includes the exercise of the right to move and reside freely in another Member State, as conferred by Article 21(1) of the Treaty<sup>19</sup>.

This principle has been further specified in Article 24(1) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States<sup>20</sup>. All Union citizens residing on the basis of this Directive in the territory of the host Member State must enjoy equal treatment with the nationals of that Member State within the scope of application of the Treaty.

### *Free movement and amateur sport*

A combined reading of Articles 18 and 21 TFEU with Article 165 TFEU leads to the conclusion that the general EU principle of prohibition of any discrimination on grounds of nationality can be applied to sport for all EU citizens who have used their right to free movement. This means that this principle is applicable to amateur as well as professional sport. National legislation must not establish additional obstacles and place certain nationals of a Member State at a disadvantage simply because they have exercised their freedom to move and reside in another Member State, thereby restricting the freedom conferred by Article 21 TFEU on every citizen of the Union<sup>21</sup>.

### *Discrimination in amateur sport*

While membership in sport clubs is generally open to all irrespective of their nationality, there is evidence that in many Member States participation in competitions can be restricted on grounds of nationality. Instances of direct discrimination can be found at all levels in both individual and team sports, when for example "quota systems" are imposed on the participation of "foreigners", irrespective of their eventual status of EU citizens, or when only nationals are allowed to participate in an event, or more often, a series of sporting events. Requiring a certain number of years of residence in the host country as a condition for participating in sporting events on the same footing as nationals is also a restriction that EU citizens are often confronted with when practising sport in another Member State.

Obstacles to the free movement of citizens can also stem from practices in the country of origin. It is often the case that amateur athletes, when they move to another Member State, need the express agreement of the club or federation in their Member State of origin in order to be able to continue their practice in the host country. The refusal by a national federation to agree on the transfer of athletes or to do so within a reasonable period of time – or the imposition of fees to grant the agreement – will usually not be in accordance with the right to free movement.

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<sup>19</sup> Case 184/99 *Grzelczyk*, paragraphs 31 to 33.

<sup>20</sup> OJ L 158, 30.4.2004, p. 77.

<sup>21</sup> Cf. case *Grunkin Paul*, C-353/06 (paragraph 21).

### *Equal treatment of all citizens*

The exercise of the right to move and reside freely in another Member State is safeguarded if the citizens of the Union are able to practice sport as amateurs irrespective of their nationality. This means that, in exercising that right in another Member State, EU citizens are in principle entitled, pursuant to Articles 18 and 21 of the Treaty, to treatment no less favourable than that accorded to nationals of the host State. Any hindrance to the mobility of amateur sportspeople constitutes therefore, in principle, an obstacle to the free movement of EU citizens which may violate Union law. In accordance with Article 24(1) of Directive 2004/38/EC, subject to such provisions as are expressly provided for in the Treaty and secondary law, all Union citizens residing on the basis of the Directive in the territory of the host Member State shall enjoy equal treatment with the nationals of that Member State within the scope of the Treaty. Family members who are not nationals of a Member State and who have the right of residence or permanent residence also benefit from this right.

In addition, amateur sportspeople may be protected from discrimination on the grounds of nationality also under Regulation 1612/68/EEC on freedom of movement for workers, since access to the practice of sport constitutes a social advantage in the sense of Article 7(2) of Reg. 1612/68 as interpreted by the ECJ in a series of rulings<sup>22</sup>: the Court has looked in particular into whether the granting of an advantage to a worker and his/her family members would facilitate their integration into the host state and has concluded that the notion of social advantage covers all advantages, financial as well as non-financial<sup>23</sup>. Migrant workers and members of their families are therefore covered by the provisions of this Regulation when practising sport at amateur level.

### *Specificity of sport and free movement*

Free movement is a fundamental principle of EU law. Any derogation from this fundamental principle can only be justified within the limits set by the Treaty itself. In the realm of sport, this entails taking into account the specific nature of sport – which is now recognised by Article 165 TFEU. Exceptions from the EU's fundamental principles must be limited and based on specific circumstances. The specific nature of sport cannot be assessed in an abstract manner and should be addressed through a theme-by-theme approach.

The criteria already identified in the field of professional sport apply to amateur sport as well. Those sports rules that can constitute discrimination on grounds of nationality or hindrance to free movement must take the following criteria into account in order to comply with EU law on free movement:

- the legitimate objectives pursued by the rules;
- the need for such rules to achieve those objectives;
- their proportionality.

The White Paper on sport already presented a comprehensive picture of the case law on the limited and proportionate restrictions to the principle of free movement that can be accepted on the basis of the above-mentioned criteria.

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<sup>22</sup> (C- 249/83 *Hoeckx*, C-85-96 *Martinez Sala* on the income of the migrant worker, as well as non financial advantages (C-59/85 *Reed*, C-137/84 *Mutsch*).

<sup>23</sup> The Commission has considered that the practice of amateur sport constitutes a social advantage in the sense of Article 7(2) of Regulation (EEC) No 1612/68 in its reply to written question from the European Parliament no. E2254/08.

As concerns more directly amateur sport, and in analogy with what has been already established in the realm of professional sport, it can be concluded that quota systems constitute direct discrimination on grounds of nationality and are generally in breach of EU law. The refusal to agree to the transfer of an amateur athlete to the federation of another Member State is also to be considered a violation of EU law.

Some exceptions can, however, be envisaged regarding the composition of national teams for international competitions and the designation of national champions in individual sports. As stated above, on the basis of the ECJ's case law, rules that exclude non-national sportspeople from national teams can be considered as rules that do not infringe the Treaty's free movement provisions.

However, these exceptions must, as always, be interpreted restrictively: any provision that prevents an EU citizen from enjoying to the full his/her right to move and reside freely in another Member State must not exceed what is strictly necessary to the achievement of its specific aim, even when that aim is a legitimate one.

The same legal reasoning applies to the organisation of individual national championships aimed at selecting national champions and at granting titles, medals and records exclusively to sportspeople who are nationals of the Member State where such championships are organised. The objective of awarding the title of national champion in each individual discipline could be considered as legitimate and proper to the organisation of sport on a national basis; the granting of medals and national records could be considered as being of a purely sporting nature. On the other hand, the participation in such competitions of EU citizens who have exercised their freedom of movement to another Member State should in principle be guaranteed.

In practice, due account should be taken of the specific characteristics of each discipline. In fact, there are competitions in individual sports meant to designate a national champion and which are organised in knock-out tournaments with multiple and successive rounds of single-elimination matches. In this case the competition could be distorted by the premature elimination of national athletes at the hands of EU citizens who might not qualify for the title of national champion. In such cases, limited restrictions to the general principle of guaranteeing the general openness of competitions can be justified, but only in so far as they are necessary and proportionate to the legitimate objective of designating a national champion.

It is up to national federations to design rules that take account both of the fundamental rights of EU citizens and of the legitimate objectives of specific sport competitions. The guiding principle must always be that of ensuring wide access of all EU citizens to competitions. By way of example, in a recent case concerning a combat sport and following a dialogue with the Commission, the competent authorities decided to allow unrestricted access of EU citizens to all the competitions they organised. Other ways to achieve the same objective that were discussed included the adoption of second-chance formats or 'repechage' rounds, or a shift to a round-robin or a ranking system.

In a case concerning another individual sport, a national federation argued that it organised each year a large number of individual tournaments as well as individual and team championships. Access to individual tournaments and team championships was opened to foreigners without any restriction in the vast majority of competitions organised each year. Only individual championships aimed at determining the national champion and select the

players who would join the national team for the world championships were restricted to national citizens. Taking into account the specific characteristics of the organisation of the relevant discipline in the country in question, and given the large possibilities to have access to the relevant activities and competitions, the Commission deemed that the restrictions to participate in individual competitions pursued a legitimate aim and that the concerned measures were necessary and proportionate to achieve it.

In 2010, the Commission launched a study to analyse all aspects of access to individual competitions. The final results of the study were made available in January 2011.<sup>24</sup> On the basis of the results of the study, the Commission intends to provide further guidance to Member States and sport stakeholders in order to help them maintain the specific features of the organisation of sporting competitions while fully respecting the EU's fundamental freedoms.

### 3. DIALOGUE AND MONITORING

As guardian of the Treaties, the Commission will continue to monitor closely the activities of the national and international governing bodies for sport and is already engaged in a constructive dialogue with them with a view to striking the right balance between the specificity of sport and full compliance with EU law as interpreted by the ECJ in the area of free movement. The Commission will also provide guidance and better explain the existing rules to Member States and sport stakeholders so as to help them address possible legal difficulties stemming from actions or rules in the field of sport<sup>25</sup>.

As regards the application of EU law, the Commission works in close partnership with the Member States who have primary responsibility for its application. In a spirit of cooperation, a series of tools operating at the point closest to the citizen have been developed together with the Member States. The SOLVIT problem-solving network allows Member States to work together to find solutions to cross-border problems in the functioning of the Internal Market that arise for citizens or organisations due to bad application of EU law.

In cases where there is incompatibility between national law and EU law, the EU Pilot project<sup>26</sup> allows more rapid answers to citizens' complaints by starting a dialogue between the Commission and the concerned Member State. The citizen at the origin of the complaint is kept duly informed of the stages of the procedure as well as of its outcome, which can be, depending on the specifics of the case and the subject matter, a solution to the problem, the correction of an infringement, if appropriate through the opening of an infringement procedure for non-compliance with EU law, or the advice to have recourse to the national tribunals, which can in many cases offer a more direct route to the solution of the problems encountered by citizens.

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<sup>24</sup> [http://ec.europa.eu/sport/news/news982\\_en.htm](http://ec.europa.eu/sport/news/news982_en.htm)

<sup>25</sup> In particular, following the modernisation of EU competition law, the Commission does not issue any individual exemptions or provide further guidance on competition law issues except for specific circumstances provided for in Regulation (EC) No 1/2003.

<sup>26</sup> The EU Pilot project has been operating since April 2008 with the aim of providing quicker and fuller answers to questions, and solutions to problems arising in the application of EU laws – particularly those raised by citizens or businesses – requiring confirmation of the factual or legal position in a Member State. It is designed with a view to improved communication and cooperation between Commission services and Member State authorities on issues concerning the application of EU law. EU Pilot has meanwhile been extended to cover 23 Member States.