

歐盟與運動發展

——達到共識的歷程

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中文導讀

本文為德國科隆體育大學校長 Walter Tokarsk 教授在以色列 The 2010 WINGATE CONGRESS OF EXERCISE & SPORTSCIENCE 國際研討會所發表的內容。主編也參加此一研討會，發現值得作為東亞國家運動發展借鏡，因此特別邀請專文刊出，以提供學術研究者及體育運動從業者參考。歐盟自 1958 年正式成立歐洲經濟共同體 (EEC) 至 2010 年會員國的債務危機，此一組織運作已逾四十年。2009 年歐盟國家的運動發展，首次列入歐盟的正式法令規範條文中。Tokarsk 教授提出五個階段，加以檢視歐盟發展過程中，運動發展的角色。歐盟 1950 年代發展成立，直到 1980 年代中期 “Adoninno-Report” 公布之後才開始討論歐盟的運動發展議題。原本應該是以歐盟委員會、歐盟議會所公布之文件與報告，及歐盟法庭之決議為基礎，然而歐盟對此常常無法達成共識。2007 年歐盟委員會公布歐盟運動白皮書，規畫了歐盟未來幾年預計達成的目標，同時也明文規範了運動發展在歐盟的限制。2009 年「里斯本條約」(Lisbon Treaty) 的簽定及 Herman VanRompuuy 當選歐盟常任主席，一來降低了歐盟近十年權力空洞化，二來明訂了歐盟設置運動部長的結構及運動推廣工作小組的成立。本文最後，Tokarsk 教授提出呼籲，目前歐盟國家的發展主導權掌握在會員國的個別運動組織及各會員國政策中，歐盟的運動部門應專注於職業與商業主導的運動發展規範的一致與通用性，其次歐盟應挹注財源使得運動能充分發揮整合歐盟國家社會的功能。

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The European Union and Sport: A Long Journey Towards Common Ground

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1. Introduction

About 25 years ago, the European Union identified sport as an instrument to support its efforts to achieve unity and peace in Europe. In 1985, the so-called Adonnino Report (i.e. the official report from the so-called “Ad Hoc Committee on People’s Europe”, named after the chairman Pietro Adonnino) was published. It said, in essence, that sport is “an important area of communication between people” (European Commission, 1985). The report articulated one of the two fundamental connections between the European Union and sport: the promotion of sport and the protection of its integrity.

Efforts were made by promoting the specific goal of achieving more contact with the sports sector, so as to take advantage of the popularity of sport and its “positive” power for the benefit of Europe through a “direct sport policy” (Tokarski et al., 2000), as it could be called. In 1974 - almost ten years before the European Union first addressed sport-related issues, the European Court of Justice had to deal with a sport-related case: A lawsuit filed by Walrave and Koch - both Dutch by nationality - against the International Cycling Union triggered an involuntary “indirect sport policy” (Tokarski et al., 2000) in the European Union. The most popular case related to this kind of indirect policy ended with the so-called Bosman ruling. But already the first case in 1974 – Walrave/Koch - suggested that sport is subject to the legal framework of the European Union - and this was made even clearer in 1995 when the Bosman case arose.

To make clear what we mean by using the terms “direct” and “indirect”

sport policy: The term “direct sport policy” refers to the European Union’s interest in having a direct governmental impact on sport through political measures and programmes. The term indirect sport policy, on the other hand, refers to the impact of the European Union’s legal framework on sport as a professional area and economic subject.

The European Union is currently facing a dilemma related to the above mentioned connections with sport. On one hand, sport is believed to be a positive factor by promoting integration and good health and being popular pastime activities. In this sense the European Union is always trying to take advantage of these positive aspects of sport for its own purposes, but it does not have any direct competencies or capacities related to planning or organizing sport-related activities and events. Sport has never been mentioned so far in any European agreements, with the exception of protocols. Due to their cultural importance, sport-related competencies have never been transferred from the national level to the European level. Also, most member states have granted sport organizations a great deal of autonomy within their national borders thanks to the guarantee of freedom sport associations have.

On the other hand, sport has some kind of a negative aspect as well: Following commercialization and professionalization, sport has become more and more an economic object. In this sense, the relevance of sport to the European Union has been reduced to legal issues connected with the single market for a long time – issues related to employers and employees, free competition, and discrimination against European citizens. These are all undoubtedly important questions that deserve fair answers. While this duty of the European Union cannot be used to achieve understanding among nations, it nevertheless needs to be addressed – preferably while taking into account

the specificity of sport.

2. The long path to integration and cooperation

In order to understand the current situation and the European Union's position on sport, it is important to consider the key historical events, positions, and measures.

The phases into which the history of the “direct sport policy” of the European Union can be divided according to recent research (Tokarski et al., 2009) are:

- (1)The Phase of Disregard (before 1984)
- (2)The Phase of Coexistence (1984 to 1995)
- (3)The Phase of Cooperation (1995 to 2003)
- (4)The Phase of Pre-Constitutionalization (2003 to 2009)
- (5)The Phase of Constiitutionalization (2009 and ongoing)

2.1 The Phase of Disregard (before 1984)

During the first phase the relationship between the sport sector and the European Union was characterized by a mutual lack of interest. It was mostly the Council of Europe that was active in the area of sport. An example is the development of the European Sport for All Charter in 1975. During this time the integrative power of sport was not yet recognized by the European Union.

2.2 The Phase of Coexistence (1984 to 1995)

When the so-called Adonnino Report was published - following the

Fontainebleau Summit in June 1984 - the sport sector and the European Union entered a phase of coexistence. The report contained an entire section devoted to sport in which the committee stated that “[s]ince ancient times sport has been an important forum for communication among peoples”; it went on to suggest that the role of sport associations as the basic organizational structure of sport should be addressed in order to incorporate a European dimension of sport-related dealings. Other suggestions included organizing sport competitions in the European Community and creating community teams. Integrative events such as sailing regattas and cycling tours were organized under the auspices of the European Union. But they met with a great deal of resistance by sport associations: They felt that their autonomy was at risk and criticized that only popular team sports were promoted while recreational sport activities were neglected. The efforts made by the European Commission during this time - and the measures it took - show that the sport sector and the European Union only “coexisted” in parallel worlds and that there was a great need for alignment (cf. Tokarski et al., 2009). Sport policy at that times was not coordinated, the use of sport as an instrument for European integration was not controlled.

In late 1988, the European Parliament joined the efforts of the European Union towards an EU sport policy. In the so-called Larive Report - named after Jessica Larive, the representative who was responsible for it - the European Parliament asked for the implementation of a coherent and coordinated sport policy for the European Union and expressed an interest in addressing the following tasks for the future:

- (1) Developing an international strategy in order to address the social aspect of sports

- (2)Evaluating the influence of the European single market on sport
- (3)Promoting the community dimension of sport
- (4)Developing an action plan for sport.

The idea of promoting integration through sport by establishing a community dimension is also addressed in the Larive Report. However, the recommendations of the European Parliament were not put into practice because member states and sports associations continued to express concerns that this would lead to an excessive increase of the European Union's competencies in the area of sport.

After a period of stagnation sport policy efforts were revived in the mids of the 1990s.

2.3 The Phase of Cooperation (1995 to 2003)

In 1995, a wake-up call came from the “indirect” side of sport policy, placing sport once again on the European agenda. The Bosman ruling, already mentioned earlier, caused massive disruptions to professional team sports in Europe: Jean-Marc Bosman was a Belgian football player. He filed a lawsuit at the European Court of Justice against the constraints of his free movement of labor within the EU. The Court decided that the method of transfer payments practiced in European professional football at that time was not compatible with EU law. Professional football which enjoyed a highly lucrative transfer business was particularly affected by the ruling. Although the ruling was part of the European Union's *indirect* sports policy, it marked the turning point between coexistence and cooperation between the European Union and the sport sector.

In 1997, two years after the Bosman ruling, the European Parliament

published the so-called Pack Report - named after German representative Doris Pack - which reflected a shift to a cooperative sport policy between the European Union and sport organizers. Unlike the Adonnino Report, the Pack Report did not contain suggestions for concrete measures. The Pack Report picked up what the Larive Report had left, namely the goal of achieving cooperation and respect between the sport sector and the European Union. Particularly in the light of the Bosman case the report emphasized the idea that the European Union needed to accept the importance of sport, its many forms and its specificity. It rejected the purely economic approach that the European Court of Justice was taking towards sport at that time.

Furthermore the report requested the incorporation of sport into EU agreements, so as to provide the sport sector greater legal security and financial support. It also suggested that a Green paper with a corresponding action plan be drafted. [Green Papers are documents published by the European Commission to stimulate discussion on given topics at European level. They invite the relevant parties (bodies or individuals) to participate in a consultation process and debate on the basis of the proposals they put forward. Green Papers may give rise to legislative developments that are then outlined in White Papers].

Actually the Pack Report did not lead to the incorporation of sport into European agreements, it was attached to the Treaty of Amsterdam in 1997 as a protocol referred to as a “Declaration on Sport.” Although it was not legally binding it was the first mentioning of sport in an official European agreement. Reference was made to the role of sport in achieving understanding among nations through a concise formulation about emphasizing the role of sport “in human encounters.” Nevertheless, no concrete measures were taken in this

context.

In 1998, the European Commission published a draft of a European Model of Sport, a document that described the common characteristics of sports organizations in Europe. The pyramid-shaped hierarchical structure of sport clubs and organizations, as well as the possibility of moving up and down between the lowest league and the highest, were both described as special characteristics of sport in Europe. The draft tried to distinguish the European sport model from the highly commercialized American one with its professional leagues, and to present the common European dimension of sport in Europe. However, there was probably no conscious integrative intention behind this draft, because the Commission was more driven by an interest in demonstrating the specificity of sport and the mutual relationship between high-performance sport and recreational sport.

In Helsinki in December 1999, the European Council once again addressed sport-related matters and published the so-called Helsinki Report which presented the concept of a European sport model. The report demanded for the preservation and safeguard of existing sport cultures and the social function of sport.

2.4 The Phase of Pre-Constitutionalization (2003 to 2009)

The institutions of the European Union continued to address sport-related matters by making efforts to incorporate sport into the treaty establishing a Constitution for Europe. Under the British presidency in the second half of 2005, the Council required an external study called the “Independent European Sport Review” be conducted. It was carried out under the leadership of the former Portuguese Minister of Sport, José Luís Arnaut. The study

mostly focused on the problems of professional football and is not particularly relevant in this context.

Sport was also addressed in the Report on the Future of Professional Soccer which has been published by the European Parliament in February 2007. The report which was named after Belgian representative Ivo Belet, also focused primarily on professional football in Europe from an economic perspective.

When the European Constitution was drafted in 2003 sport-related matters appeared to have found a place within the legal framework of the European Union for the first time. The treaty contained remarks about the specificity of sport – which were already mentioned in the protocol of the Treaty of Amsterdam – as well as references to the European aspects of sport and their European dimension. These remarks referred especially to “developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sport ...”(Art. III-282 (1) g).

However, the treaty did not go through because it was rejected by France and the Netherlands in the referendums held there.

In the so-called Lisbon Treaty which followed the European Constitution efforts and which was drafted under the German presidency in 2007, the remarks on sport were included without any modifications. With the adoption of the treaty on November 1, 2009, sport-related matters were put in a European agreement for the first time.

In this context the European Commission addressed organized sports more intensively. Expecting legitimization through incorporation into the Lisbon Treaty, the European Commission began to work out a possible

framework for action. Its preliminary efforts led to the publication of the so-called White Paper on Sport in 2007. In this document the European Commission referred to concrete activities and measures to be carried out in cooperation with sports organizers and the member states. According to a statement by the European Commission, this initiative marks the first time that the Commission is addressing sport-related issues in a comprehensive manner. Its overall objective is to give strategic orientation on the role of sport in Europe, to encourage debate on specific problems, to enhance the visibility of sport in EU policy-making and to raise public awareness of the needs and specificities of the sector. The White Paper is a product of all previous experiences and additional consultations. It addresses the social role of sport, their economic dimensions, and their organizational structure.

2.5 The Phase of Constitutionalization (2009 and ongoing)

With the adoption of the Treaty of Lisbon in 2009 the relation of the European Union and sport has entered the Phase of Constitutionalization. Through the inclusion of sport into the Lisbon Treaty structural changes appeared – so establishing a formal council of sport ministers and a council working group for sport.

Article 165 of the Lisbon Treaty gives the European Union some soft competencies that extend their scope of actions towards sport, e.g. coordinating, supporting and organizing complementary actions. Neglecting the attempt of harmonization the European Union will foster the promotion and the development of a European dimension of sport. Besides a particular budget for an sport program, the consideration of sport and its specificity in other politics and programs of the European Union is going to be improved.

The implementation of the new “Pierre de Coubertin” action plan, set out in the White Paper on sport, will be facilitated on the basis of the increased budget in this area. From 2014 on a broad EU sport programme will be budgeted that is part of the financial framework 2014 to 2020.

But: These new opportunities should not deceive the fact that the decision competencies for and within sport are still with the national governments or the organized sport. The relevance of the European dimension of sport – now part of the European treaties – should not be overestimated (Jeck & Langner 2010, p.39).

3. Summary and Conclusion

What is the result of all these European actions?

Over the past 25 years the European Union has shown that it would like to play a stronger role in matters related to sport and to take advantage of sport for its own purposes. The concept of a European dimension of sport and the idea of promoting European integration through sport are addressed in the various documents on sport and on varying levels of intensity. The fact of not being successful with its efforts has had a lot to do with the member states’ interest in organizing sport independently and their opposition to interventions. All this was, and still is, supported by national declarations on sport autonomy. So far, the member states of the European Union have not shown much interest in having the European Union play a significant role in sport-related matters.

So what does the sport sector want from the European Union? It has two

primary goals:

(1) Legal Security

Particularly for highly professionalized and widely commercialized sport such as football, there is no desire or need for creative support from the European Union. The only thing that is truly sought after – although it is of course not discussed in public – is legal security when it comes to the organization and practice of professional football – with the goal of preventing another Bosman incident. Basically, those involved in professional football yearn for pre-Bosman times when the Brussels watchdog was blithely asleep and they could do whatever they wanted. This is clearly reflected by certain statements made by UEFA and FIFA representatives.

(2) Financial Support

Sports that have not enjoyed much success, whether in terms of media coverage or otherwise, are seeking financial support from the EU, something that is far from being provided under current legislation.

Issues and problems that affect Europe as a whole and that the sport sector and member states cannot (or do not want to) address on their own – for example, sport for all, i.e. sport as a basic right, doping, violence at sport events – have been addressed by the European Council since the 1960s. With the White Paper on Sport and the Pierre de Coubertin Plan of Action, the European Union has managed to assume some of the preparatory responsibilities of the Council which has been gradually stepped down in this area.

What does this mean for the process of European integration?

As referred to earlier, since the Second World War, sport have played a significant role in promoting understanding among European nations as well as the nations of the world. However, the European Union has thus far not managed to actively take advantage of sport in order to intensify European integration without meeting with resistance from sport organizers. Over time, a cooperative relationship has developed. For the most part, sport organizers have the freedom to plan and organize sport activities and events, and the European Union has recognized that sport can be useful to it without the need for strong regulations, provided the principles of free competition and non-discrimination are upheld. The integrative power of sport can obviously not be controlled by any national or supranational authorities. The European Union has agreed to exercise “cooperative restraint” by limiting itself to protecting and promoting sport and to taking into account the specificity of sport, which has yet to be concretely defined, in the process of setting and interpreting legal norms.

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