



Sports Law & Taxation

FORMERLY KNOWN AS: GLOBAL SPORTS LAW & TAXATION REPORTS (GSLTR)

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EDITORIAL

It is with much pleasure that we welcome readers to the September 2020 edition (citation: *SLT 2020/3*) of our ground-breaking journal *Sports Law and Taxation* (SLT) and on-line database www.sportsandtaxation.com.

Since our last issue, the coronavirus (COVID-19) pandemic, which has, sadly, continued to claim hundreds of thousands of lives around the world, not least in the United States – the latest global death total, at the time of writing, according to the World Health Organization, is 871,000 – once again has been dominating the sporting headlines around the world. However, there has been some easing of restrictions and the gradual resumption of several sports, including football and cricket, albeit under special conditions and protocols, including play without spectators.

The future of sport post COVID-19, whenever that might be, has been occupying the minds of sports administrators and policy makers, including the European Union Council, which has recently issued a detailed statement on the subject. In view of its importance, we are reproducing it in full in this Editorial. No doubt, this will provide much food for thought for sports administrators in Europe and beyond, given the fact that, globally speaking, Europe punches way above its weight in sporting terms, compared with the rest of the world.

As readers will see, the EU Council Statement is addressed to the member states, the European Commission and to the sport movement, and its text is as follows.

Brussels, 22 June 2020
(OR. en)

8926/20

SPORT 22
SAN 206
PROCIV 39
EMPL 324
SOC 412
FIN 386
SUSTDEV 73

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

To: Delegations

No. prev. doc.: 8697/20

Subject: Conclusions of the Council and the Representatives of the Governments of the Member States meeting

within the Council on the impact of the COVID-19 pandemic and the recovery of the sport sector

Delegations will find in the annex the conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on the impact of the COVID-19 pandemic and the recovery of the sport sector, approved by the Council by written procedure on 22 June 2020, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure and Article 1 of Council Decision 2020/556.

These conclusions will be forwarded for publication in the Official Journal, as decided by the Committee of Permanent Representatives on 17 June 2020.

ANNEX

Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on the impact of the COVID-19 pandemic and the recovery of the sport sector

THE COUNCIL AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL

RECALLING THAT:

- 1 The outbreak of the COVID-19 pandemic is having a huge impact across the world in terms of public health, economic activities, employment and social life.
- 2 In the fight against the COVID-19 pandemic, saving lives and protecting the health of our citizens, remains the first and utmost priority.
- 3 In order to stem the spread of the COVID-19, various measures have been introduced in Member States, depending on the stage of the epidemic and other specific circumstances. In cooperation with public authorities, there have been visible prompt reactions from the sport sector. The sport sector has contributed to the prevention of the spread of the virus in the early phase of the outbreak, through various measures and recommendations aiming at all relevant stakeholders, including sport organisations, clubs, athletes, coaches, sport staff and volunteers, as well as spectators and citizens.

- 4 At the same time, the sport sector has been severely hit by the pandemic, including in economic terms.¹ The COVID-19 pandemic is having devastating consequences on the entire sector at all levels, especially on sport organisations and clubs, leagues, fitness centres, athletes, coaches, sport staff, sport volunteers and sport-related business,² including sport event organisers and sport media.
- 5 Health authorities' sanitary measures and recommendations for social distancing have consequences for anti-doping organizations, hindering them from conducting doping controls. This can have an impact on the possibilities to protect the integrity of sport.
- 6 Growing concerns related to the global spread of the virus have led to official decisions to cancel or postpone sport events and competitions all over the world.³ Sport activities at all levels and regular functioning of sport organisations and clubs are restricted, disrupted or stopped.
- 7 Citizens' daily life had to be adjusted as well. Staying and working from home, social distancing and limited opportunities for regular physical activity can be very detrimental to the overall wellbeing of citizens. The full and partial lockdowns have shown that offering opportunities to practice sport and maintain physical activity in these unprecedented circumstances, while staying or working from home, is important for the physical and mental health.⁴
- 8 Further efforts at local, national, regional and EU levels can be necessary to protect and support the sport sector and maintain sport's contribution to the physical and mental health of our citizens⁵ and the development of our society in the current pandemic situation as well as in the context of exit and post-pandemic resumption strategies.

1 A 2018 Study on the economic impact of sport through Sport Satellite Accounts shows that sport accounts for 2.12% of the EU GDP and sport-related employment is accountable for 5.67 million people (2.72% of EU employment).

2 For the purpose of these Conclusions, "sport-related business" refers to profit activities related to sport goods, services, events, people, facilities, places, or ideas.

3 For example, the Olympic Games Tokyo 2020 and UEFA EURO 2020 are postponed to 2021.

4 World Health Organization, www.who.int/news-room/campaigns/connecting-the-world-to-combat-coronavirus/healthyathome/healthyathome---physical-activity.

5 Council Recommendation on promoting health-enhancing physical activity across sectors 2013/C 354/01.

UNDERLINE THAT:

- 9 In the time of health crisis, solidarity and mutual understanding at all levels – between citizens, the sport movement, the private sector, Member States, the EU and international institutions across sectors – are necessary to preserve active and healthy communities.
- 10 The role of sport in society and its power to contribute to the wellbeing of citizens in the COVID-19 crisis, especially through sport organisations and athlete's engagement in multiple ways as positive role models,⁶ as well as through dedicated work of coaches using innovative tools, platforms and new and flexible coaching methods, should be recognized and promoted.
- 11 Due to social distancing requirements, specific focus should be put on possibilities to be physically active for citizens who are usually participating in indoor, contact and team sports. Since during the COVID-19 pandemic the focus is on practising sport at home or individually, it would be important to assess, in cooperation with the sport movement, the possible effects of the crisis on the physical activity of citizens and on practising sport in sport clubs, as well as on the engagement of volunteers.
- 12 In the area of sport, in light of their national circumstances, and due to the impact of COVID-19 pandemic, the EU Member States have undertaken different measures to support the sport sector and to motivate citizens to maintain physical activity.
- 13 In the uncertain and changing circumstances and faced with similar challenges, the EU Member States have recognized the importance of collaboration and exchange of information on their national situations, including measures taken to mitigate negative consequences of the COVID-19 pandemic, possibilities for athletes' training and physical activity of citizens. Sharing ideas on potential exit and resumption strategies and steps to be taken in order to successfully reactivate the sport sector are examples of how joint work can bring added value.
- 14 In order to further overcome the challenges emerged in the sport sector due to the COVID-19 pandemic, broad cross-sectorial cooperation⁷ is needed. In this regard, collaboration at all levels,

6 For example, "Athletes at the forefront of the COVID-19 response", www.olympic.org/news/athletes-at-the-forefront-of-the-covid-19-response; "Pass the message to kick out Coronavirus", www.who.int/campaigns/connecting-the-world-to-combat-coronavirus/pass-the-message-to-kick-out-coronavirus.

7 Including in the areas of health, employment, education, youth, digitalisation, innovation, mobility and transport, urban planning, tourism and environment.

among all relevant stakeholders, including the sport movement, should be encouraged.

- 15 The activities of the sport sector must resume in safe and secure conditions for all involved parties. The relaxation of the specific measures put in place in the sport sector to stem the spread of COVID-19 should proceed cautiously and gradually, with an assessment of potential risks to avoid premature lifting up of containment measures.
 - 16 Since sport and physical activity are playing an important role during the COVID-19 crisis and will certainly have an even more important role in the post-pandemic society, national and European recovery programmes are relevant for the future of the sport sector.
 - 17 Bearing in mind the capacity of sport to contribute to mutual understanding between Europeans, and subject to the epidemiologic situation in the Member States, free circulation and mobility of our athletes, coaches and fans should be restored in a safe manner and where possible in a coordinated way, while taking into account the specific nature of sport.
 - 18 The relevant Union Institutions, acting within their respective competences, could supplement the national efforts to provide the needed support to mitigate the impact of the COVID-19 pandemic on the sport sector.
- INVITE THE MEMBER STATES TO:**
- 19 Ensure the adequate guidance, support the recovery and encourage further sustainable development of the sport sector.
 - 20 Promote the possibilities to provide support to the sport sector through the available and eligible EU programmes and funds, including the Erasmus+ programme, the European Solidarity Corps, the Cohesion Policy funds, and the European Agricultural Fund for Rural Development.
 - 21 Explore the possibilities under the relevant horizontal measures and initiatives, including the Corona Response Investment Initiative (CRII), the Corona Response Investment Initiative Plus (CRII+), the temporary Support to mitigate Unemployment Risks in an Emergency (SURE) and the State Aid Temporary Framework, as well as other EU recovery initiatives, in line with national priorities and in cooperation with the relevant bodies. Exchange of experiences and best practices on support to the sport sector should be organized through different ways, such as peer learning activities or meetings of interested Members States.
 - 22 Encourage the continuation of the regular sport
- funding programmes and initiatives which are already in place at national and local levels, especially for the grassroots sport organisations.
 - 23 Promote the role and value of sport and physical activity in terms of its contribution to the physical and mental health of citizens, especially in crisis periods such as the COVID-19 pandemic and afterwards
 - 24 In cooperation with the sport movement, strengthen synergies with the economy and entrepreneurship, innovation, education and youth work sectors in order to provide new opportunities for athletes and all citizens to be physically active, including through the use of digital tools.
 - 25 Promote cross-sectoral cooperation and consultations in areas that are relevant to sport at all levels, including with the sport movement, the sport-related business sector and other relevant stakeholders, in order to effectively address the challenges that the sport sector is facing due to the COVID-19 pandemic and strengthen the position of the sport in society.
 - 26 Promote the solidarity among sport federations, clubs, organisations and athletes to contribute to the sustainable recovery and further development of the sport sector and recognize the European Model of Sport⁸ as such example based on a solidarity system.
 - 27 Promote the role of sport and physical activity as a tool for economic and social development towards healthier and more active communities.⁹ In this context, raise awareness on best practices; highlight the full potential of sport and physical activity for territorial development; and make appropriate use of funding streams, such as the Cohesion Policy funds, in order to strengthen the sport sector's resilience in the future.
 - 28 Continue to regularly exchange information, ideas and experiences in order to identify and implement good practices and enable joint work on the COVID-19 exit and post-pandemic resumption strategies, as well as to prevent and prepare for future crises, thus ensuring the sustainable development and resilience of the EU sport sector.

8 Although due to the diversity of European sport structures there is no common definition of European Model of Sport, some key features make it recognizable. Such features include pyramidal structure, open system of promotion and relegation, the grassroots approach and solidarity, role in national identity, structures based on voluntary activity and its social and educational function.

9 For example within the SHARE – SportHub: Alliance for Regional development in Europe – initiative.

INVITE THE EUROPEAN COMMISSION TO:

- 29 Continue to regularly share information on possibilities for flexible arrangements regarding the implementation of Erasmus+: Sport projects in the context of the COVID-19 crisis, taking into account the different national circumstances, and provide possibilities in the future annual programmes and calls for proposals to support the recovery of the sport sector.
- 30 Reflect on the possibility and relevance of introducing more flexibility mechanisms into future funding programmes in the field of sport, thus enabling the EU to respond timely to the consequences of the COVID-19 crisis and possible future challenging situations.
- 31 Present and disseminate further information and regular updates to Member States on the possibilities of supporting the sport sector to mitigate the consequences of the COVID-19 pandemic, including through horizontal measures such as the CRII, the CRII+, as well as other EU recovery initiatives and appropriate funding mechanisms, and facilitate the exchange of experiences on the implementation of mechanisms available to the sport sector.
- 32 Disseminate information on health enhancing physical activity, where appropriate in cooperation with relevant bodies such as the World Health Organisation (WHO), and promote campaigns, such as #BeActive,¹⁰ in order to motivate citizens to remain physically active.
- 33 Carry out research and an analysis of the impacts of the COVID-19 crisis, in cooperation with Member States, and make them available for the preparation of the next EU Work Plan for Sport.
- 34 Support the collection and analysis of data and information on sport participation and the impact of COVID-19, where appropriate through Eurobarometer and Eurostat.
- 35 Support cross-sectoral cooperation between the sport sector and other relevant sectors,¹¹ especially on using innovative and digital tools in order to make sport more resilient to future potential crises.
- 36 Launch a dialogue with the Member States and the sport movement upon future activities linking sport and health within the framework of the European Week of Sport, the follow-up of the Tartu Call for Healthy Lifestyle, and other relevant sport events and activities.

¹⁰ Or under unprecedented and exceptional circumstances, #BeActiveAtHome.

¹¹ Including education, youth, tourism, economy and entrepreneurship.

- 37 Launch a dialogue with European and international sport federations and the Member States, to discuss the possibilities of safe continuation of major international sport events.

INVITE THE SPORT MOVEMENT TO:

- 38 Follow the guidelines from the WHO, the ECDC¹² and the national health authority regarding the prevention and spreading of the COVID-19 virus and regarding the sport resumption protocols.
- 39 Motivate athletes and citizens to practise sport and remain physically active in a safe manner under unprecedented or exceptional circumstances
- 40 Encourage citizens to keep supporting the sport sector by considering possibilities to maintain their membership and hold on to tickets for sport events that might be rescheduled.
- 41 Explore possible solutions for the update of the national sport calendars, while taking into consideration the European and the international sport calendars.

Now we turn our attention to the articles that you will find in this issue.

As you will see from the *Table of contents* of this issue, we include a wide range of sports law and sports tax articles, which will engage our readers attention and provide them with much “food for thought”. Of the sports law articles, we publish two views on the recent landmark CAS decision in the Manchester City and UEFA dispute regarding the Financial Fair Play Regulations and sponsorship income.

One other “breaking news” item on football, which never fails to surprise, is that, at the time of writing, Lionel Messi had announced that, after almost twenty years, he is to leave Barcelona immediately, claiming that he is free to do so on a free transfer basis, but the club is insisting that he is bound by a € 700 million “buy-out” clause in his contract and at the time of writing it looks as if he will stay. An interesting legal issue in these strange and challenging times, to which we will return in due course!

Finally, and as always, we would welcome and value your contributions in the form of articles and topical case notes and commentaries for our journal and also for posting on the *SLT* dedicated website www.sportsandtaxation.com.

So, now read on and enjoy the September 2020 edition of *SLT*.

Dr. Rijkele Betten (*Managing Editor*)
Prof. Dr. Ian S. Blackshaw (*Consulting Editor*)

September 2020

¹² European Centre for Disease, Prevention and Control.