

## **COMMON POSITION PAPER**

**of the members of the European Association of Sport Employers  
(EASE) on the implementation of the new Treaty on the Functioning  
of the European Union (TFEU) in the areas of social dialogue and  
sport (Lisbon Treaty)**

***SEPTEMBER 2010***

## **1. Introduction**

The activities of the European Association of Sport Employers (EASE) cover the sport and active leisure sector including the three following sub-sectors:

- not-for-profit sport (“amateur”),
- professional sport,
- active leisure.

EASE incorporates:

- Full Members which are organisations recognised at regional, national or European level as the representative bodies for employers within the sub-sectors identified.
- Associate Members which are:
  - o similar organisations which are in the process of recognition, and
  - o European and International groups and associations which are active in the sub-sectors and do not have the status of employers’ representatives.

EASE and UNI Europa Sport recognised each other as representatives for respectively employers and employees for the social dialogue which they have started since 2003 through three main projects supported by the European Commission.

## **2. Social dialogue – Moving towards a European Sectoral Social Dialogue Committee (ESSDC)**

### **2.1 Provisions on social dialogue in the Treaty on the Functioning of the European Union (TFEU)**

European social dialogue includes discussions, consultations, negotiations and joint actions involving organisations representing the two sides of the industry (employers and workers).

The recognised European social partners are involved in two processes defined in the TFEU:

- the consultation process,
- the negotiation process.

Article 154 of the TFEU (ex Article 138 TEC) provides for the consultation of social partner organisations at European level on a range of issues concerning employment and social affairs.

The dialogue between employees' and employers' organisations at Union level may lead to contractual relations, including agreements (TFEU Article 155 - ex Article 139 TEC)<sup>1</sup>.

EASE welcomes the introduction in the Lisbon Treaty of an article that complements the Articles 154 and 155 of the TFEU. This Article 152, unlike Article 154, states that it is not only the European Commission which has the task of promoting European social dialogue but the European Union as a whole. On top of that, the principle of the social partners' autonomy is clearly mentioned.

Moreover, EASE points out another progress of the Lisbon Treaty that concerns the national level. If agreements signed at European level are to be implemented at national level, a real practice of social dialogue has to exist at the national level in the European countries. The incorporation of the Charter of Fundamental Rights to the Treaty on European Union<sup>2</sup> makes it legally binding. Therefore, the fundamental rights like freedom of assembly and of association, the right of collective bargaining and action are now part of community statute law which will help to bridge the gap between the national practices in terms of social dialogue.

It is important to mention that the European Commission has established – in line with the integrated Lisbon Strategy for Growth and Jobs – an Impact Assessment Board that checks the social and employment impact of any Commission policy initiative. This systematic check is a consequence of the horizontal clause in Article 9 of the TFEU<sup>3</sup> which obliges the European Union to take social and employment requirements into account in defining and implementing its policies and actions.

This social impact assessment will more and more involve the social partners concerned who will be consulted on the policies having an impact on their sector's working conditions. The consultation of the social partners was included in the Commission's impact assessment guidelines in 2009.

## **2.2 The European Sectoral Social Dialogue Committee for the sport and active leisure sector**

EASE welcomes the confirmation of the importance of social dialogue and the reinforcement of the role that social partners are going to play in the decision-making process of the European Union.

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<sup>1</sup> Annex 1: Provisions on social dialogue in the Treaty on the Functioning of the European Union: TFEU Articles 152, 154 and 155

<sup>2</sup> Annex 2: Article 6 of the Treaty on European Union (ex Article 6 TEU)

<sup>3</sup> Annex 3: Article 9 of the Treaty on the Functioning of the European Union

EASE and UNI Europa Sport are working together towards the creation, and therefore recognition, by the European Commission of the European Sectoral Social Dialogue Committee (ESSDC) for the sport and active leisure sector. The establishment of this ESSDC will allow the European social partners to secure the working relation between employers and employees and to define minimum employment standards as required by the high worker mobility in the sector. The entire sector will benefit from an efficient professionalization which will encourage the recognition of its potential in terms of job creation and economic development.

EASE has also noted, through the presentations made at the European Sport Forum held in Madrid on 19<sup>th</sup> and 20<sup>th</sup> April 2010, the growing recognition of the specificity of sport by the European Union and points out that social dialogue is the proper tool to take into account the specific characteristics of sport.

### **2.3 The point 35 of the Action Plan “Pierre de Coubertin” of the White Paper on Sport**

We support the point 35 of the Action Plan “Pierre de Coubertin” (White Paper on Sport, July 2007) calling for a study to assess the sport sector’s contribution to the Lisbon Agenda.

We welcome the initiative of the European Commission to launch a study to assess the sport sector's macroeconomic importance in the EU-27, in particular its growth and employment potential, thereby making a contribution to assess the sector's role in regard to the Europe 2020 strategy.

The data provided by this study will among other things confirm the sector’s potential in terms of job creation and justify our work as social partner.

### **2.4 Social dialogue and structured dialogue**

EASE stresses the difference between social dialogue and structured dialogue as mentioned in the White Paper on Sport: social dialogue involves representatives of the European trade unions and employers’ organisations – the social partners – while structured dialogue is open to all the sport stakeholders including the Olympic and Sports Movement. These two forms of dialogue are complementary.

In the context of the development of sport policy and especially of a European sport programme, EASE would appreciate to be invited to the thematic discussions (with limited numbers of participants) when appropriate, as part of the structured dialogue.

### **3. EASE specific recommendations**

#### **3.1 Education and training**

EASE supports the implementation of the European Qualifications Framework (EQF) as a translation device to relate different countries' national qualifications systems together around a common European reference and, therefore, as a tool to promote the mobility of sport workers within the European Union.

EASE considers that the issue of dual career should be addressed through close cooperation between the European Institutions, the Olympic and Sports Movement and the social partners of the sport and active leisure sector.

#### **3.2 Minimum requirements of employment contracts**

With reference to the Joint Recommendations on minimum requirements of employment contracts in the sport sector signed by EASE and UNI Europa Sport (London, December 2008), we reaffirm that International conventions (ILO), European and national labour legislation standards apply to the sport sector as to any other, and that departures from general regulations must be the subject of negotiations and agreements between the representative partners at the national level and of social dialogue between EASE and UNI Europa Sport at the European level.

EASE reasserts that minimum requirements of employment contracts in the sector include but are not necessarily limited to be:

- Identification of the parties involved, including addresses,
- Type of contract,
- Law, rules, codes of conducts applicable in the country concerned,
- Coverage regardless of status,
- Period covered by the agreement, including rules for and/or date of, if any, termination,
- Place of work,
- Job function,
- Salary/Norms of payment,
- Working time, holidays, scheduling (work on Sunday),
- Social coverage,
- Employer's and employee's signature,

- Date of signing of the contract.

EASE reaffirms that specific minimum requirements of professional players' employment contracts should be:

- Image rights and other forms of direct or indirect remuneration,
- Short term contract for at least one season except for bona fide medical replacements.

EASE has agreed with UNI Europa Sport to encourage that these elements be included in national level bargaining and adopt them as the beginning of social dialogue at the European level once it officially begins. Those minimum requirements are aimed to secure the working relation between employers and employees. It is up to the national social partners to go further by proposing good practices.

### **3.3 Health and safety**

With reference to the Joint Statement on health and safety in the sport sector signed by EASE and UNI Europa Sport (Lisbon, April 2009), we reaffirm the following positions:

- Health and safety are a joint responsibility between employers and employees in terms of rights and duties, risk assessment, work scheduling.
- Safety rules and standards must be set up by the employer with reference to European and/or national common laws, sport codes and sport federations/institutions specific rules and regulations.
- The employer should inform the worker of the rules and safety standards.

These principles should be enforced through:

- Regular medical checks prior and during employment,
- Training either general or specific on health and safety issues,
- Adequate insurance coverage either collective or individual,
- Catalogues of risks and illnesses specific to each activity and studies on risk assessment and prevention,
- Codes of conduct and ethical practices,
- Anti-doping policies.

Regarding the professional sport sub-sector, EASE reasserts the following specific positions:

- The permanent medical staff must include specialists in sport medicine.

- There must be a freedom of choice of practitioner by the employee coupled with proper communication with the employer's medical staff.
- A strong cooperation must be developed with sport bodies (federations/institutions) regarding competition, scheduling, rest, injury statistics to improve safety standards including through amendments to sport rules and regulations

EASE is committed to drug free sport.

EASE calls for a study into health and safety issues in professional sport that should be supported by the future sport programme.

### **3.4 Insurance**

EASE emphasizes the need, given the mobility of sportspeople across Europe, to put in place minimum requirements for employment contracts, health and safety regulations, and proper insurance cover for temporary or permanent disability, unemployment and pension.

### **3.5 The European Commission as a facilitator of European sectoral social dialogue**

EASE welcomes the objective of the European Commission, expressed at the European Sport Forum 2010, to act as a facilitator of the social dialogue in the sport and active leisure sector.

## **4. EASE answer to the common position paper of the members of the European Elite Athletes Association and SPORT PRO-UNI europa on the effects of the Lisbon Treaty in the area of sport**

This paper reflects the position of professional sportspeople and should be construed as such.

EASE also notes with interest the emphasis placed on the social dialogue currently under way which has approved minimum requirements regarding employment contracts and health and safety regulations.

## 5. Conclusions

There is a need for sport to be fully recognised at European level as an important sector that has potential to contribute significantly to employment and job creation, economic development, social cohesion, education and health. We believe that an enhanced involvement by the social partners, alongside the traditional sport movement institutions and government, is a major opportunity to achieve this recognition.

EASE believes that a major step has been taken through European social dialogue which is under way between the social partners and which covers not-for-profit sport (“amateur”), professional sport and active leisure and which should be enforced by the recognition by the European Commission of the European Sectoral Social Dialogue Committee (ESSDC).

EASE also welcomes an enhancement of this social dialogue through the structured dialogue involving all sport stakeholders.

### Presented by:

**EASE**  
**1, Avenue Pierre de Coubertin**  
**75 640 Paris cedex 13 FRANCE**  
**Ph.: +33 (0)1 58 10 06 69**  
**Fax: +33 (0)1 58 10 01 70**  
[ease@easesport.eu](mailto:ease@easesport.eu)  
[www.easesport.eu](http://www.easesport.eu)

## **Annex 1: Provisions on social dialogue in the Treaty on the Functioning of the European Union - TFEU Articles 152, 154 and 155<sup>4</sup>**

### ***TFEU Article 152 - TITLE X - SOCIAL POLICY***

“The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue. “

### ***TFEU Article 154 (ex Article 138 TEC) - TITLE X - SOCIAL POLICY***

1. “The Commission shall have the task of promoting the consultation of management and labour at Union level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.
2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.
3. If, after such consultation, the Commission considers Union action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.
4. On the occasion of the consultation referred to in paragraphs 2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article 155. The duration of this process shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.”

### ***TFEU Article 155 (ex Article 139 TEC) - TITLE X - SOCIAL POLICY***

1. “Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.
2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 153, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. The European Parliament shall be informed.

The Council shall act unanimously where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article 153(2).”

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<sup>4</sup> Consolidated version of the Treaty on the Functioning of the EU – Council of the EU – April 2008 (6655/1/08 REV 1)

## **Annex 2: Article 6 of the Treaty on European Union (ex Article 6 TEU)**

### ***TUE Article 6 (ex Article 6 TEU) - TITLE I - COMMON PROVISIONS***

1. “The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties [...].”

## **Annex 3: Article 9 of the Treaty on the Functioning of the European Union**

### ***TUE Article 9 - TITLE II - PROVISIONS HAVING GENERAL APPLICATION***

“In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.”

## **Annex 4: Provisions on sport in the Treaty on the Functioning of the European Union - TFEU Articles 6 and 165<sup>5</sup>**

### ***TFEU Article 6 - TITLE I - CATEGORIES AND AREAS OF UNION COMPETENCE***

“The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action, at European level, shall be:

- (a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;
- (e) education, vocational training, youth and sport;
- (f) civil protection;
- (g) administrative cooperation.”

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<sup>5</sup> Consolidated version of the Treaty on the Functioning of the EU – Council of the EU – April 2008 (6655/1/08 REV 1)

**TFEU Article 165 (ex Article 149 TEC) - TITLE XII - EDUCATION, VOCATIONAL TRAINING, YOUTH AND SPORT**

1. “The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.

2. Union action shall be aimed at:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States,
- encouraging mobility of students and teachers, by encouraging inter alia, the academic recognition of diplomas and periods of study,
- promoting cooperation between educational establishments,
- developing exchanges of information and experience on issues common to the education systems of the Member States,
- encouraging the development of youth exchanges and of exchanges of socio-educational instructors, and encouraging the participation of young people in democratic life in Europe,
- encouraging the development of distance education,
- developing 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 sportsmen and sportswomen, especially the youngest sportsmen and sportswomen.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education and sport, in particular the Council of Europe.

4. In order to contribute to the achievement of the objectives referred to in this Article:

- the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States,
- the Council, on a proposal from the Commission, shall adopt recommendations.”