

# Bengt Sevelius - The 8<sup>th</sup> ENGSO Forum in Funchal, Madeira was a Success!

The 8<sup>th</sup> ENGSO Forum was held 27-29 October 2005 in Funchal, Madeira. We were heartily welcomed by the President of the Sports Confederation of Portugal, Professor Carlos Cardoso, whose team, together with the sports authorities of Madeira had taken on board the preparation of our Forum and done it an excellent way.

The programme of the Forum, planned by the ENGSO ExCom, was focused on current and crucial questions for sports movement in Europe, and was divided in four sessions.

After having welcomed all participants on behalf of the Madeira's sports authorities, the State Secretary for Education and Sport for the Regional Government of Madeira, Mr. Francisco Fernandes, introduced **the First session "Specificity of Sport of European Islands"**, from the Madeira's point of view. He underlined the need of governmental support for the expensive traveling between Madeira and the mainland of Portugal, the great stimulation European Island Games mean for the athletes of Madeira even though the popularity and the level of football on Madeira is very high.

In a panel debate led by the ENGSO President, Ellert Schram, Iceland; Julian Pace-Bonello, Malta; Louis Kilcoyne, Ireland and Soelvi Hansen, Faeroe Islands, actively followed up the contribution of Francisco Fernandes. All of them underlined that the transportation costs are enormous, but that the international exchange is of major importance for the development and stimulation. They also stated that sports played an important role in their societies, which is why special financial support or reduction of travel expenses is wellcomed. Typical for many islands are their traditional games, which are supported and kept alive as a full partner of sport organisation.

**The second session "Promoting Healthy Lifestyle"** was given by Professor Jorge Mota, representing the President of the National Institute of Sport, Portugal. He focused on today's level of physical activity among the population and the rapidly increasing obesity already at early age. His speech was followed by an overview of European facts concerning health at large and national examples given by very engaged and competent members of the ENGSO Youth Committee.

I do hope that the speeches, reports and workshops that followed challenged the participants. The sports movement should not only talk about its opportunities, but introduce its different sports, adapted to a broader public, thus promoting the health of people at large.

**The third session** was dealing with the crucial question for the European sports movement **"Lottery and Sport in Europe"**, and **"How can Sport Cooperate with Lottery Companies"**. The first theme was presented by the former Vice-President of the European Lottery Association, now member of the Board of Deutsche Klassenlotterie Berlin, Mr. Hans-Juergen Reissiger. The second theme was given by Mr. Ales Husak, General Director of SAZKA a lottery company owned by the Czech Sports, and also member of the Board of the European Lottery Association.

We really got important information and knowledge and many new and useful arguments for our further actions both at national and European level!

In the ENGSO statement approved during our General Assembly in Riga 2005, ENGSO calls upon the European institutions to exclude gambling and lotteries from the scope of the EU-services directive. Moreover, the national regulations must be safeguarded!

The lecturers stressed the importance of every national umbrella organisation of sport to go on arguing and acting politically in favour of such a decision by the EU authorities.

The speech of Hans-Juergen Reissiger could for that purpose be of great use. Please read the article "Lotteries and Sport in Europe" for further information.

During the last session, workshops on following themes were held:

- "NGO cooperation with the national GO bodies" – How is the situation and what kind of support from ENGSO is needed?
- How can ENGSO improve the integration of ALL ENGSO members in EU matters, as many EU decisions affect the rules and regulations of sport even in non-EU member countries?



- How can ENGSO members of EU member countries increase their opportunities to get subsidies from existing regional EU funds for different sport projects?
- How can ENGSO improve its services to member organisations from Eastern Europe?

All these questions were intensively discussed and taken care of both by the ENGSO Executive Committee and the newly created ENGSO Development Group

Dear Friends, in my closing words, I took the liberty of expressing that I do hope ENGSO in future will be known as

- a strong NGO voice in sport political matters

- an organisation which stimulates the improvement, broadening and quality development of sport activities
- an organisation which actively develops the NGO-GO partnership – perhaps taking on board to organise joint NGO-GO meetings on European level!

Finally, thanks to the perfect preparations and organisation of our hosts and ENGSO Secretariat, the excellent lecturers, panellists and workshop leaders, as well as to the very active and creative participants, the 8th ENGSO Forum was a great success!

**Thank you all!**  
**Bengt Sevelius**

## TO ALL ENGSO MEMBERS

Thank you for your co-operation during 2005

Since the EGSO General Assembly 2005 in Riga, the ENGSO Executive Committee and the new ENGSO Secretariat focused on:

- Improving relations with EU institutions, mainly the new leadership of the Directorate responsible for sport and its Sport Unit
- Fighting for safeguarding the future of the CDDS of the Council of Europe, as one of the main GO partners of European Sports and the only well functioning meeting place where GO and NGO representatives from whole Europe can meet yearly
- Repeatedly arguing both on national and European (EU) level for the exclusion of games of chance from the Draft Services Directive on the internal market
- Organising ENGSO Forum in Madeira where current and crucial questions for ENGSO and the whole sports movement of Europe were highlighted
- Setting up an ENGSO Development Group (EDG) with the task to analyze the ENGSO's position of today and outline a strategic plan and priorities for the future

The ENGSO Executive Committee and the ENGSO Secretariat wish all our members "GOOD LUCK" in the Winter Olympics in Torino 2006, as well as with the broadening sports for still more people in your country!

And

**Merry Christmas and  
Happy New Year 2006!**



# Lotteries and Sport in Europe

## - Crucial Political and Financial Questions -

At the 8th ENGSO FORUM in Funchal/Madeira, one of the topical issues on the agenda was related to future developments at EU level regarding the games of chance and their impact on sport. For this purpose two prominent lecturers, Hans-Juergen Reissiger (Germany) and Ales Husak (Czech Republic), both representing the European State Lotteries and Toto Association (EL) as Honorary President and Board Member, respectively, shared their profound international know-how of gambling and lottery activities with the Forum participants as well as their national expertise related to games of chance and lotteries in their own respective country.

In the following, the essence of Mr Reissiger's key note speech will be summarized by highlighting the most relevant information and lines of argumentation in view of his message that without maintaining the lottery licensing monopoly of national states in Europe, non-profit sport would lose one of its major financing sources.

### Legal situation in the European countries

In the European countries, lotteries and sports bets are permitted only with a state license. In this way, by means of state control, correct and proper gambling shall be guaranteed and an excessive push of demand and the heating-up of people's inborn playing instinct be prevented. In view of these goals, every country issues lottery law regulations of its own, which reflect its political will.

In the course of the growing internationalisation, efforts were made to invalidate these regulations. In the nineties, private operators were increasingly interested in making profit from the inborn playing instinct and to deal openly on the markets.

### European jurisdiction

The fact that single operators offered products of their own beyond the borders of the licensed territory resulted in the "Schindler I" case brought before the European Court of Justice (ECJ) in 1994. In its ruling the ECJ placed lotteries, sports bets and other games of chance under the scope of application of the Rome Treaties by considering

them as "services" which were thus subject to the regulations of art. 49 of the EU Treaties. However, at the same time the ECJ also acknowledged that games of chance represented a danger to the social order of countries if they made an impact on the national markets at full force and without control.

Recognizing that lotteries, in view of the amounts and prizes they may offer to the gamblers, increased the risk of fraud and other criminal acts and seduced gamblers to incur expenses that might have harmful personal and social consequences, the ECJ granted to the states the competence to establish national regulations on their national markets to protect the gamblers, to protect the socio-cultural characteristics and to protect the states' social orders, provided that such regulations were non-discriminatory.

Despite these very clear statements by the ECJ, private operators used this judgment to put the national rules and limits within EU-wide regulations to the test. The number of cross-border products increased. This development was further intensified by the new media such as internet and mobile technology. The services were now addressed directly to the customers outside of their licensed territories. The number of such operators is rising constantly. On the one hand, they act as organisers; on the other hand they tender to arrange bets offered by foreign licensees via domestic points of sale.

With the "Gambelli judgment" (named after the Italian betting agency concerned) the ECJ confirmed its rulings made in 1994, defining in more concrete terms the discretionary margin for national regulations issued for limiting the offer of products and services:

Restrictions must be justified by reasons of public interest, they must really serve to reduce the opportunities to gamble and contribute systematically to a limitation of the betting activities, not go beyond what's necessary to reach this objective, while the financing of social activities by means of a levy on the income from licensed games may only be a useful side effect.



## Recent developments

It seems, however, that this ECJ judgment is misused to achieve a liberalisation of the gambling market by means of a large-scale campaign. Private operators who strive to place their services all across Europe have filed a number of law suits in those countries where this activity was prohibited based on national legislation. The first step in this direction is the liberalisation of the sports betting market. Since these services increasingly include lotteries/lottery-like products, it must be feared that as a second step the liberalisation of the entire gambling market is envisaged.

It is also interesting in the Gambelli case that foreign operators only assert claims for the enforcement of the freedom of services. They only want to offer their services from their country of origin, using the tax advantages of their country of residence for business operations in another country. They also try to avoid opening business establishments or applying for licences of their own in the countries of destination because then they would have to pay the same levies in the country of residence as the licensed domestic operators. The need to present a domestic licence would offer sufficient possibilities to oblige foreign operators to pay levies. One essential demand could be that the organiser must have a business establishment where the transactions are made. This point is especially important to hinder betting operators who run their business from abroad via internet and are targeting the domestic sphere.

## Conclusions

It is in the interest of private operators to welcome the original draft service directive of the EU commission, which aims at the implementation of such a liberalisation up until 2010. Liberalisation would enable the private providers to put the entrepreneurial interest of profit maximization in the sports betting and lottery business in the foreground.

State companies in turn, lacking the zeal to make profit, manage to gain earmarked funds and surpluses for good causes.

If sport now intends to run bets of its own, it creates a clearly competitive situation and works into the hands of the (mainly British) liberalisation

lobbyists. Every expansion into a broader range of providers first of all leads to a re-division and weakens the sales figures of the parties on the market. Several licences on one market lead to competition and the danger that the country-of-origin principle is applied. The participation in, or organisation of sports bets by sports associations (own licences) contributes to liberalisation. The ensuing linkage with professional and mass sports could lead to a shift of surpluses to the disadvantage of mass sports.

Sport, together with the state lotteries and sports betting organisations, has so far argued that lotteries and sports bets must be canalised in proper state channels also to protect the gambler from compulsive gambling. Responsible, state-regulated and controlled lotteries and sports bets permit to collect revenues for projects which are of importance for society as a whole and from which sport also profits. For the future, this is only ensured if public-order law is given priority in case of conflict between private-law market mechanisms and - also - ethical functions of public-order law.

State lotteries in Europe and their group of interest, the European State Lotteries and Toto Association (EL), have actively promoted the aim of exempting lotteries, sports bets and other games of chance against a stake from the scope of application of the services directive.

**Call for Action:** National sport umbrella organisations must not only show solidarity with state lottery and betting companies in their attempt to achieve an exemption from the EU-services directive, they must act themselves – e.g. in alliance with other national social benefit organisations - to convince their governments and MEPs (before 17 Jan 2006) of the need to defend the right to regulate the lottery market under the law-of-order, to apply appropriate regulation mechanisms, such as the demand for compulsory licence and/or seat in the country of operation and a linkage to “social funding” of good causes, in particular non-profit sport.

**Marlis Rydzy-Götz**

