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EU Athletes opinion on proposed exclusion of professional athletes from the labour relations legislation in Slovenia

EU Athletes is the European federation of independent player unions with thirty-five member unions representing over 25,000 top elite athletes in Europe. Our membership covers 16 EU countries and a wide range of different sports including basketball, volleyball, handball, football, rugby, cricket, ice-hockey and Gaelic sports. We are a member of UNI Global Union and UNI Europa, the recognized social partner and stakeholder at the European level.

We were recently informed by Sindikat Sportnikov Slovenije (SSS), one of our affiliated member, about the proposed legislation regarding the employment of professional athletes in Slovenia.

We are deeply concerned that the adoption of such a legislation would undermine the fundamental rights of Slovenian athletes and create an inequality before law when it comes to employment.

The sport career is generally short, high-risk, demanding strong sacrifices and discipline under the constant supervision of an employer, such as clubs and federations. That is why athletes need a proper protection in line with the labour law. Since there is no justification or legal basis to exempt athletes from general labour law, it would create unequal treatment of professional athletes in comparison to other categories of employees.

The situation where parties would be able to determine, via unequal “negotiations” and despite the national and European norms, several essential elements of the employment contract is, in our opinion, unacceptable, and would put athletes in a subordinate position. Taking into account that the alternative solution would be for professional athletes to be engaged as independent contractors, it is clear that the proposed legislation would interfere with basic labour standards.

As stated in the White Paper on Sport: “Sport is subject to the application of the *acquis communautaire* and European policies”. Without any doubt, due to the economic nature of the sport activity of the professional athletes, they are considered as workers before the law and any exemption trying to deprave them from this status or diminish it would be against EU’s position.

Finally, the proposed law undermines the athletes’ effective right to collective bargaining, since it imposes an individual contract as a condition for an athlete to be recognized as employee. Social dialogue is identified in the White Paper in Sport as an important element of governance and a way to address common concerns of employers and employees, including working conditions. Omitting this process goes against basics principles of good governance in sport and would put athletes in a difficult position, negotiating individually against favored employers.

According to art. 15 and 28 of the Charter of the Fundamental Rights of the European Union *Freedom to choose an occupation and right to engage in work* and *Right of collective bargaining and action*, must be guaranteed for every European citizen and worker. What is more, as a member of the European Union Slovenia must respect the legal framework related to working conditions, which includes:

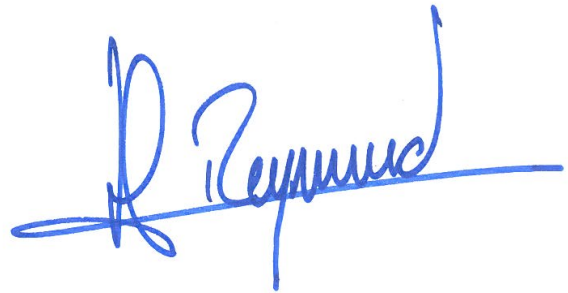
- Working Time Directive (2003/88/EC)
- Directive 2003/88/EC concerning certain aspects of the organisation of Working Time
- Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship
- Directive 1999/70/EC on the Framework Agreement on fixed-term work concluded by ETUC, UNICE and CEEP
- Directive 97/81/EC concerning the Framework Agreement on Part-Time work concluded by UNICE, European Centre of Employers and Enterprises providing Public Services (CEEP) and the European Trade Union Confederation (ETUC)
- Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship
- Directive 94/33/EC on the Protection of Young People at Work
- Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (Codified version)
- Directive (2001/23/EC) on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

As a European social partner in the sport sector, we monitor carefully the legislation of the EU Member States concerning the labour relations in the sport sector, and are especially attentive when it comes to attempts to deprive athletes from their rightful employee status and the fundamental rights related.

In case of any deviation from the labour standards to the detriment of the athletes' rights, we would immediately alert the European Commission in order to take appropriate steps towards Slovenia.

Yours sincerely,

Jean-François REYMOND
GENERAL SECRETARY of EU ATHLETES

A handwritten signature in blue ink, appearing to read 'J. Reymond', with a long horizontal stroke extending to the right.