

**CALL FOR EVIDENCE ON THE GOVERNMENT’S REVIEW OF THE BALANCE OF COMPETENCES BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION**

**CULTURE, TOURISM AND SPORT**

**Open date**: 16 May 2013

**Closing date**: 7 August 2013

**Introduction**

The Foreign Secretary launched the Balance of Competences Review in Parliament on 12 July 2012, taking forward the Coalition commitment to examine the balance of competences between the UK and the European Union. This Government wide review will provide an analysis of what the UK’s membership of the EU means for the UK national interest. It aims to deepen public and Parliamentary understanding of the nature of our EU membership and provide a constructive and serious contribution to the national and wider European debate about modernising, reforming and improving the EU in the face of collective challenges. It will not be tasked with producing specific recommendations or looking at alternative models for Britain’s overall relationship with the EU.

The review is broken down into a series of reports on specific areas of EU competence, spread over four semesters between autumn 2012 and autumn 2014. It is led by Government, but will also involve non-governmental experts, organisations and other individuals who wish to feed in their views. Foreign governments, including our EU partners and the EU Institutions, are also being invited to contribute. The process will be comprehensive, evidence-based and analytical. The progress of the review will be transparent, including in respect of the evidence submitted to it.

The Department for Culture, Media and Sport is leading the review on the EU’s competence in relation to Culture, Tourism and Sport. Culture, Tourism and Sport are key drivers for social development and economic growth in the UK. The review is your chance to inform the Government’s thinking on the EU issues that matter to you. As this is a UK wide review, we encourage contributions from across the UK, including Northern Ireland, Scotland, and Wales.

[More information on the whole Review process](https://www.gov.uk/review-of-the-balance-of-competences).

**What do we mean by competence?**

For the purposes of this review, we are using a broad definition of competence. Put simply, competence in this context is about everything deriving from EU law that affects what happens in the UK. That means examining all the areas where the Treaties give the EU competence to act, including the provisions in the Treaties giving the EU institutions the power to legislate, to adopt non-legislative acts, or to take any other sort of action. But it also means examining areas where the Treaties apply directly to the member states without needing any further action by the EU institutions.

The EU’s competences are set out in the EU Treaties, which provide the basis for any actions the EU institutions take. The EU can only act within the limits of the competences conferred on it by the Treaties, and where the Treaties do not confer competences on the EU they remain with the member states.

There are different types of competence:

1. **Exclusive**.

Only the EU can act in areas where it has exclusive competence, such as the customs union and common commercial policy.

2. **Shared.**

In areas of shared competence, such as the single market, environment and energy, either the EU or the Member States may act, but the Member States may be prevented from acting once the EU has done so.

3. **Supporting.**

In areas of supporting competence, both the EU and the Member States may act, but action by the EU does not prevent the Member States from taking action of their own.

In all three cases the EU must act in accordance with fundamental rights as set out in the Charter of Fundamental Rights (such as freedom of expression and non-discrimination) and with the principles of subsidiarity and proportionality. Under the principle of subsidiarity, where the EU does not have exclusive competence, it can only act if it is better placed than the Member States to do so because of the scale or effects of the proposed action. Under the principle of proportionality, the content and form of EU action must not exceed what is necessary to achieve the objectives of the EU treaties.

**EU competence in relation to Tourism, Culture and Sport is Supporting.**

**How to Respond to this Call for Evidence**

This public Call for Evidence sets out the scope of the review of the balance of competences in the areas of Tourism, Culture, and Sport. We welcome input from anyone with relevant knowledge, expertise or experience. This is your opportunity to express your views.

Sector specific questions follow each of the Tourism, Culture and Sport sections below, as well as some general questions for all sectors to consider. These general questions are repeated after each set of sector questions for ease of reference. **Please do not feel the need to limit your evidence to these issues, we are interested to receive any views you have about how the balance of competences between the EU and UK impact on Culture, Media and Sport.** Likewise, we expect that many responses will focus on one particular sector so please do not feel under an obligation to answer all the questions. We are also interested in your views on how the EU’s competence in the areas of Culture, Tourism and Sport impact upon each other (for example, EU funding for Culture and Sport might support heritage sites or activities which provide a draw for Tourism into the UK).

We ask that your evidence provides objective, factual information about the impact or effect of the competence in your area of expertise. We intend to publish your submission and the name of your organisation unless you ask us not to.[[1]](#footnote-1) Please also draw our attention to any published material or research that you believe are relevant to the Review.

**Please send your evidence by 7 August 2013 to** [**balanceofcompetences@culture.gsi.gov.uk**](mailto:balanceofcompetences@culture.gsi.gov.uk) **.** This address should also be used for any related enquiries.

**Devolution**

UK activity in relation to Culture, Tourism and Sport is devolved. This is a UK wide review and we encourage contributions from the devolved administrations, who will be contacted directly, and stakeholders in Scotland, Wales and Northern Ireland.

**Scope of this Call for Evidence**

This Call for Evidence relates specifically to the EU’s competence in Tourism, Culture and Sport. The Department for Culture, Media and Sport is co-ordinating evidence specifically in relation to these competences and will publish a report setting out the findings of this evidence before the end of 2013.

There are, of course, a number of other areas where the EU exercises competence that impact on the Culture, Tourism and Sport sectors, some of which have greater impact on those sectors because they are Exclusive or Shared, than the specific competences that are the subject of this Call for Evidence. For example all three sectors are subject to EU rules on State aid, which form part of EU competence in relation to Competition and Cohesion.

Each of these areas of EU competence will be covered by a Call for Evidence before Autumn 2014, and subsequent report. This document sets out briefly how these wider competences impact on Culture, Tourism and Sport and you are welcome to submit views on these issues in your response to this Call, but is not intended to be comprehensive on areas of EU competence what will be subject to separate or future Reviews. This document also signposts those upcoming Calls for Evidence on other competences affecting Culture, Tourism and Sport. We are committed to ensuring our sectors views are represented across the Balance of Competences Review and will work with you do so.

Reviews being carried out now by other Government Departments which are relevant to Culture, Tourism and Sport stakeholders are:

* Internal Market: Free movement of Persons
* Transport
* Trade and Investment

A full list of all Calls for Evidence, and links to them individually, is available on the [Balance of Competences website](https://www.gov.uk/review-of-the-balance-of-competences). Next semester (Autumn 2013) the Department for Business Innovation and Skills (BIS) is leading Reviews on the EU’s competence on Social and Employment, which includes the Working Time Directive, Internal Market: Services, and Competition and Cohesion, which will include State aid. We anticipate these Reviews will be of significant interest and will work closely with BIS to ensure our sectors’ views are represented in these Reports.

**Telecommunications, Media and Creative Industries**

This Call for Evidence also explicitly does not cover EU competences which affect other DCMS sectors, including Telecommunications, Media and Creative Industries. This is because the EU does not exercise specific competence for these sectors. It does however act under a wide range of shared and exclusive competences which have very significant impacts on our sectors, including the regulation of telecommunications and audio-visual content. Reviews in of these wider competences will take place before the end of 2014. **It will be vital to the success of those Reviews that the views of the Telecommunications, Media and Creative Industry sectors are strongly represented.** In addition to the Reviews happening now, listed above, the majority of the other Reviews of interest to DCMS sectors will fall in the next semester, starting Autumn 2013, including:

* Internal Market: Services
* Cohesion (including State aid)
* Social and Employment
* Competition
* Fundamental Rights

In each case DCMS will be working closely with lead departments to set out the issues for our sectors. We will also provide links to those Calls for Evidence on our own website, publicise stakeholder engagement events through DCMS channels, and make direct contact with organisations we know will have an interest.

**If you would like to register your interest now for any of these future Reviews please do not hesitate to email** [**balanceofcompetences@culture.gsi.gov.uk**](mailto:balanceofcompetences@culture.gsi.gov.uk)**.**

**Culture, Tourism and Sport in the UK**

Culture, Tourism and Sport in the UK support and reinforce each other as drivers for enriching society and boosting economic growth. Our unique culture and heritage draw tourists from across the EU and the globe, boosting our economy, as does our reputation for world class sport, and for hosting major sporting events. This was demonstrated by the enormous success of the 2012 Olympic and Paralympic Games. Our culture is hugely important in defining what it means to be British, it is a core part of our national identity and underpins how we see ourselves. It also defines how the world sees us. Our culture is our hallmark, and makes the UK distinctive in a globalised world. The world was watching the UK during our Olympic year and British confidence, creativity and flair is more in demand than ever.

The UK’s arts sector is a key driver for economic growth –with a turnover of £12.8 billion and a gross value added (GVA) of £5.9 billion in 2011. Arts and culture industry employed, on average, 110,600 full‐time equivalent employees in the UK [[2]](#footnote-2)

The Creative Industries contribute £36.3 billion in GVA, accounting for 2.89% of GVA in the UK in 2009 [[3]](#footnote-3)

The UK’s world class theatres, artists, galleries and heritage sites are a huge part of our draw for tourists, with 40% of leisure visitors citing our culture and heritage as the major draw.

The heritage tourism sector is worth £12.4 billion a year to the UK. [[4]](#footnote-4)

Almost 40 million people took part in the Cultural Olympiad accompanying the Olympic and Paralympic Games [[5]](#footnote-5) and over 1 billion across the world watched the Opening ceremonies of the Games. [[6]](#footnote-6)

As well as the success of Team GB and Paralympic GB, the Games demonstrated to a global audience the richness of British sport and culture. We expect the benefits of hosting the Olympic Games to boost our economy by £13 billion [[7]](#footnote-7). The Games were the best possible advert for the UK, a platform to sell Britain around the world as a fantastic place to visit, study, and do business. On the back of London 2012 the number of overseas tourist visitors is expected to grow by 3% this year with an extra one million tourists spending £19 billion [[8]](#footnote-8).

The GREAT campaign – the first ever integrated Government campaign – is promoting Britain in key markets around the world and has already helped boost the economy by £1 billion.



UK Tourism is worth £115 billion a year[[9]](#footnote-9), delivering 31 million visits to the UK annually (approximately 20.5 million from within Europe). The industry is a key part of our economic growth strategy and hugely important to our economic recovery. Visitors to the UK spend money, and support local jobs and businesses – in many parts of the UK it is the leading economic sector.

Taking advantage of our cultural and sporting assets is a key part of securing the tourism sector’s continuing success. The Government is committed to supporting our culture and sport sectors so that we can continue to deliver world class arts, heritage and culture, and we will work with sports bodies to host a succession of world class sports events in coming years, building on the success of London 2012.



**History and Scope of EU Competence on Tourism, Culture and Sport**

The EU’s competences in relation to Tourism, Culture and Sport are Supporting only. This means that both the EU and the Member State may act, but action by the EU does not prevent the Member State from taking action of their own. However, in all three areas the EU has acted under other competences (some of which are shared or exclusive), in ways that impact on these sectors.

**Culture**

Culture was the first of these specific EU competences to be introduced with the signing of the Maastricht Treaty in 1992, which provided a limited competence in Culture. The Treaty also gave the EC external competence – a competence to act externally by co-operating with third countries and international organisations - in relation to Culture. Importantly Maastricht also provided a new specific route for approval of State aid in relation to culture and heritage preservation.

This new role was nevertheless limited to promoting co-operation between the cultural operators of the different Member States, or to complementing their activities in respect of promoting both national and regional diversity, as well as highlighting a shared European cultural heritage.

**European Capitals of Culture**

Perhaps one of the best known EU Culture Programmes, the European Capitals of Culture programme began as the European Cities of Culture in 1985, following an initiative of the then Greek Minister of Culture, Melina Mercouri, and based on a Resolution of the Culture Ministers of the EU Member States. The Resolution was adopted on an inter-Governmental basis outside the scope of the EEC Treaty. The programme was subsequently put on a formal legal footing in 1999 as the European Capitals of Culture programme, under the culture competence. In its current format two cities from two different EU Member States are designated each year as European Capitals of Culture, and host year-long cultural programmes.

In the UK, Glasgow was selected as a European City of Culture in 1990, and Liverpool as a European Capital of Culture in 2008. Both cities were widely regarded as successfully demonstrating how culture can be used to address a range of economic and social objectives as well as promoting community development and participation. This is ably demonstrated by Liverpool, which attracted almost 10 million extra visitors during the year it was European Capital of Culture. This led to over £750 million of extra spending in the local area.

The success of Liverpool in 2008 led to the establishment of the UK City of Culture programme, which was modelled on the European Capitals of Culture programme. In 2010, Derry-Londonderry was selected as the first UK City of Culture, and holds the title in 2013. The government is currently running a competition to select a UK City of Culture for 2017.

A further step was taken in 1999, when the Treaty of Amsterdam extended the cultural competence, and required the European Community to take cultural aspects into account in its actions under other provisions of the Treaty on European Union: in particular in terms of respecting and promoting cultural diversity.

One of the main mechanisms the EU uses to attempt to promote Europe’s diverse culture is through funding programmes. For example, over the last 20 years a Media Programme has supported some highly acclaimed British films including This is England (Shane Meadows, 2006), The King’s Speech (Tom Hooper, 2010) and The Iron Lady (Phyllida Lloyd, 2011). In 2010 UK companies received €8.7 million to support the production, distribution and screening of films in the UK, and over €6.7 million was invested to boost the European cinema releases of over 40 British films. The programme has also provided funding to support a pan-European network of cinemas including Chapter in Cardiff, Eden Court in Inverness, Watershed in Bristol and Showroom in Sheffield. The programme supported the 2012 Bristol Encounters International Film Festival and Edinburgh Napier University’s ENGAGE training course. MEDIA distributes roughly €100 million a year.

Between 2007 and 2011 over 200 UK participants in 176 transnational projects received funding from the EU’s Culture Programme. In 2011, 43 UK cultural organisations participating in transnational projects and 5 UK-based European cultural organisations received an estimated €5.7 million in grants from the Cultural Programme. UK organisations benefiting from grants include Acta Community Theatre, Bristol; Belfast Queen’s Festival; Battersea Arts Centre, London; Norfolk Music Services; and Spearfish, Manchester.

In 2013 the EU rolled the Media and Culture funding programmes into a new ‘Creative Europe’ programme dedicated to funding SME projects in the cultural and creative sectors, on the grounds that they contribute to economic growth, employment, innovation and social cohesion. €1.3 billion has been allocated for this programme across Europe for the period 2014 -20.

In 2009, the Treaty of Lisbon made clear that in the area of Culture, the EU did not have any powers of harmonisation of national laws and regulations of the Member States.

**European Heritage Label**

Launched in 2006, the European Heritage Label is an EU scheme to highlight, by means of a plaque, sites that are significant to European integration. To date the UK has not chosen to participate in this voluntary scheme.

In recent years there has also been growing attention to the potential for digitisation and electronic communications to facilitate both the preservation of cultural heritage, and raising awareness amongst EU citizens.

In January 2011 a high-level reflection group delivered a report[[10]](#footnote-10) on the digitisation of Europe’s cultural heritage. It urged EU Member States to step up their efforts to put online the collections held in all their libraries, archives, and museums: stressing the benefits of making such material more easily accessible, and pointing to the benefits for such sectors as education, research, and tourism.

The report’s recommendations fed into the EU’s broader strategy under the ‘Digital Agenda for Europe’, and proposed that the *Europeana[[11]](#footnote-11)* portal should become the central reference point for Europe’s online cultural heritage. The EU Commission subsequently adopted a Recommendation on Digitisation and Digital Preservation in October 2011 which sets targets for minimum content contribution by 2015 – with a view to receiving a balanced set of contributions from across the EU.

**Other areas of EU Competence affecting Culture:**

In addition to actions under the specific Culture competence, the EU has adopted important measures under other competences which impact on the culture sector. For example, the Cultural Objects Directive[[12]](#footnote-12) provides for a cooperation mechanism and a procedure for returning national treasures which have been unlawfully removed from a Member State and the Cultural Exports Regulation[[13]](#footnote-13) establishes a harmonised system for export of cultural goods outside the EU. Both of these measures were adopted under the Free Movement of Goods provisions of the Internal Market, and are an exclusive competence under the customs union of the EU. There are currently proposals for the Cultural Objects Directive to be amended, notably in respect of the categories of goods which it covers.

The **Call for Evidence in relation to the Free Movement of Goods** is currently open: click here [add link] to access it.

Post the Lisbon Treaty, the European Council has adopted a set of Conclusions on preventing and combating crime against cultural goods. There are also proposals to bring together law enforcement officials with expertise in cultural goods.

There are also EU rules on copyright which are of relevance to the library sector. The Rental and Public Lending Directive[[14]](#footnote-14) enables libraries to lend out books to the public, subject to certain safeguards and payments for authors.

The **Call for Evidence in relation to Trade and Investment** will be open shortly.

**Culture Questions**

* *How important is EU funding to the UK Cultural sector? And how beneficial to the UK is the EU’s focus on a shared cultural heritage?*
* *Are EU cultural programmes effective and how can they be improved?*

**General Questions**

* *What evidence is there that EU action in the areas of Culture, Tourism and/or Sport benefits or disadvantages the UK?*
* *Do you think the EU should do more, or less in relation to Culture, Tourism and Sport, and why?*
* *What are the benefits or disadvantages of directing funding through the EU rather than national arrangements?*
* *Have you noticed any change in EU activity or emphasis since the 2009 Treaty of Lisbon and is this welcome?*
* *What other areas of EU competence or activity impact on your sector and how?*
* *What international bodies or arrangements are important to your sector beyond the EU?*
* *How could the EU co-ordinate its activity in these areas of competence to greater effect?*

**Please do not feel the need to limit your evidence to these issues, we are interested to receive any views you have about how the balance of competences between the EU and UK impact on Culture, Media and Sport.**

**Tourism**

It was not until 2009 that the Treaty of Lisbon also conferred on the EU a specific supporting competence on Tourism. As with Culture, harmonisation in this sector is excluded, and whilst both the EU and national governments can act, action by the EU does not prevent national governments from acting as well. In Tourism the EU has not yet adopted any regulatory or legislative measures under this specific competence. However, it has launched a number of policy proposals.

The EU’s 2010 Communication on Tourism can be found [here](http://ec.europa.eu/enterprise/sectors/tourism/files/communications/communication2010_en.pdf). It identified four priorities for action:

* Stimulating competitiveness.
* Promoting sustainable, responsible and high-quality tourism.
* Consolidating Europe’s image as a collection of sustainable, high-quality destinations.
* Maximising the potential of EU financial policies for developing tourism.

In 2012 the EU has published an implementation plan for these priorities, and to capitalise on Europe’s common heritage. It can be found [here](http://ec.europa.eu/enterprise/newsroom/cf/_getdocument.cfm?doc_id=7043). Plans include an ICT and tourism platform to support the tourism sector in using new information technology, and the development of a ‘Consumer Markets Scoreboard’ to measure consumer satisfaction with services such as transport, accommodation, travel and package tours.

The EU is also keen to encourage an extension to the tourist season, improve professional skills and provide up to date, comparable data on Tourism across the EU.

**Virtual Tourism Observatory (VTO)**

In 2010 the Commission announced the implementation of a Virtual Tourism Observatory to provide socio-economic data on Tourism across Europe. The VTO is intended to become the central data reference point for European policy-makers. The UK’s Office of National Statistics won the VTO contract to manage this project.

In July 2012 the Commission consulted on the development of a European Tourism Label for Quality scheme and plans to publish a Regulation later this year.

In the international field the EU cooperates with international organisations, including the European Travel Commission, the World Tourism Organisation and the OECD, and with non-EU countries to promote European Tourism under implied exclusive competence powers. The EU is currently working on a draft joint statement with the Chinese National Tourism Administration.

**Other areas of EU competence affecting Tourism**

While the EU’s new specific competence on Tourism is of relatively short standing, the EU has acted in the field of Tourism for a number of years. For example, in 1986 a Council decision established a *consultation and co-operation procedure in the field of tourism[[15]](#footnote-15)* under which Member States exchange information and co-operate in the provision of services to tourists. A further decision in 1992[[16]](#footnote-16) set out the *Community action plan to assist Tourism* (with a budget of €15 million). Further initiatives, such as permitting UK citizens to claim health care while travelling in other Member States (formally the E111 form, now the European Health Insurance Card) have also been adopted.

There are also a wide range of EU competences, outside the specific Tourism competence, that have a significant impact on the Tourism sector, including free movement, immigration, the internal market and transport. For example, European Court of Justice case law has long recognised the right of EU citizens to travel to other EU countries as tourists. This has now been enshrined in the Free Movement Directive[[17]](#footnote-17) as an unrestricted right for all EU citizens to enter and stay in another EU Member State for up to 3 months.

In relation to non-EU visitors, the UK has adopted a special position under the EU Treaties, meaning it can chose whether or not to participate in EU and international measures relating to justice and home affairs, including visas and immigration. Most EU countries have signed up to the Schengen agreement, which includes arrangements whereby a non-EU visitor issued a visa by one EU country can travel to other EU countries on that visa. However, the UK only partially participates in Schengen, meaning that non-EU visitors must apply for a separate visa if they wish to visit the UK.

The **Call for Evidence in relation to Asylum and Immigration** will be open shortly.

The EU has a shared competence in relation to Transport and harmonised laws affecting, for example air travel, which will impact the Tourism sector. For example the Denied Boarding Regulation[[18]](#footnote-18) protects air travellers in the event of delays. There is similar legislation for rail, bus, coach and ferry travel.

The **Call for Evidence in relation to Transport in the EU** [is currently open](https://www.gov.uk/government/consultations/eu-balance-of-competences-review-transport-call-for-evidence).

Other EU policies and measures acknowledge the importance of tourism in other contexts. For example regional policies consider tourism as one of the key sectors for the development of poorer and isolated regions of the Community. The European Development Regional fund (ERDF) encourages investment in such things as infrastructure, transport systems, and environmental and cultural heritage protection, all of which can contribute to the development of the tourist sector.

Some measures under the Freedom to Provide Services provisions of the Internal Market apply directly to the sector, and include e.g. the 1990 Package Travel Directive, which protects consumers booking pre-arranged package holidays: so that for example they will always be able to return home even if a tour operator goes into liquidation. Over the years, the development of the internet and the emergence of low-cost air carriers have revolutionised the way in which people organise their holidays. A growing number of people now arrange their holidays themselves. These changes in the travel market mean that less people are booking traditional package holidays, and so the numbers protected by the Directive have fallen. The EU is currently reviewing its legislation on package holidays.

Other Internal Market provisions, while not intended specifically for the tourist sector will also have an impact. For example, tour operators and travel agents can rely on their EU rights to challenge discriminatory rules, or rules which are liable to prohibit or impede their business (such as licence or qualification requirements for tour guides).

The **Call for Evidence in relation to the Freedom to Provide Services** will be published in semester 3 of the Balance of Competences Review, this Autumn.

Also not intended specifically for the Tourism sector, but impacting on Tourism workers, are a number of Social and Employment provisions including the Working Time Directive.

The **Call for Evidence in relation to Social and Employment** provisions in the EU will be published in semester 3 of the Balance of Competences Review, this Autumn

**Tourism Questions**

* *Is there added value to UK tourism in EU activity to co-operate with non-EU countries’ tourism sectors?*
* *How does competition for tourists across Member States impact on the effectiveness of EU action in this area?*

**General Questions**

* *What evidence is there that EU action in the areas of Culture, Tourism and/or Sport benefits or disadvantages the UK?*
* *Do you think the EU should do more, or less in relation to Culture, Tourism and Sport, and why?*
* *What are the benefits or disadvantages of directing funding through the EU rather than national arrangements?*
* *Have you noticed any change in EU activity or emphasis since the 2009 Treaty of Lisbon and is this welcome?*
* *What other areas of EU competence or activity impact on your sector and how?*
* *What international bodies or arrangements are important to your sector beyond the EU?*
* *How could the EU co-ordinate its activity in these areas of competence to greater effect?*

**Please do not feel the need to limit your evidence to these issues, we are interested to receive any views you have about how the balance of competences between the EU and UK impact on Culture, Media and Sport.**

**Sport**

As with Tourism, it was not until the 2009 Treaty of Lisbon that a specific supporting competence in relation to Sport was conferred on the EU. Like Culture and Tourism, harmonisation in this sector is excluded, and whilst both the EU and national governments can act, action by the EU does not prevent national governments from acting as well. In Sport the EU has not yet adopted any regulatory or legislative measures under this specific competence, but has developed a series of priority actions in this area.

In 2011 the EU issued a *Communication on developing the European Dimension in Sport* [[19]](#footnote-19) and since 2009 has made funding available to support studies, conferences, seminars, networks and best practice on the basis of the priorities set out in the EU Commission’s 2007 White Paper on Sport[[20]](#footnote-20).

**UK Chaired Expert Groups**

Of the six EU Expert Groups on sport, the UK Chairs three: *Good Governance in Sport; Sustainable Financing of Sport;* and *Education and Training in Sport.* These Groups aim to produce recommendations that will guide the action of sports organisations across the EU taking into account the evidence and good practice derived from projects funded through the 2011 Preparatory Actions.

The 2011 *Communication* established the EU’s interest in developing activity in the following areas:

* **The Societal Role of Sport**, including anti-doping, training and qualifications, enhancing health and social inclusion.
* **The Economic Dimension of Sport**, including sustainable financing, the application of EU State aid rules to Sport and regional development and employment.
* **The Organisation of Sport**, including the promotion of good governance, the specific nature of sport, the free movement and nationality of sports people, transfer rules and activities of sports agents, co-operation with third countries and the Council of Europe.

In the Treaty of Lisbon the EU was expressly given External Competence in relation to Sport. For example, the EU has requested a mandate to negotiate alongside Member States on a Convention of the Council of Europe’s Enlarged Partial Agreement on Sport (EPAS) to combat match-fixing.

**Other areas of EU Competence affecting Sport**

Long before the development of the new specific competence on Sport the EU was active in this area and there are a wide range of other EU competences that impact on the sector. The Declaration on Sport annexed to the 1997 Amsterdam Treaty emphasised the social significance of sport, and in particular its role in forging identity, and bringing people together.

Realising these particular benefits of sports across the EU requires the free movement of people and services, which is guaranteed under the Treaties. Various cases at the European Court of Justice (ECJ) have considered the interaction between these free movement rights and sport and have emphasised the distinctive characteristics of sport which may provide a justification for specific rules to apply.

**Bosman Case**

One of the more important of these ECJs is the Bosman case[[21]](#footnote-21). In December 1995 the European Court of Justice ruled that transfer fees for out-of-contract players, directly affecting a footballer’s access to the employment market in another EU country, were an obstacle to the free movement of workers, and thus unlawful. Footballers are therefore free to move on to other clubs once their contracts have expired. The Court also ruled against limits on fielding EU footballers from other Member States in club teams meaning that football clubs in the EU can sign any number of European players.

The ECJ has also recognised that nationality requirements can be legitimate in some circumstances, meaning that Member States can restrict membership of their national teams to citizens of their country.

EU competition laws have also been applied to national sports associations and international bodies in respect of their economic activities (such as selling tickets or broadcasting rights). The ECJ has taken into account the social significance of sport in the need to ensure fair sport competitions and the need to ensure reasonable access to tickets for everybody. The Court has considered, and found compatible, International Olympic Committee rules on doping with EU free movement and competition laws[[22]](#footnote-22).

Another example of the application of EU law relates to young sportspeople, some of whom may be brought into the EU from non-EU countries for training. These young people are subject to a range of EU legislation aimed at their protection (for example, rules on working time, employment, and human trafficking).

The sports sector is also subject to EU rules on broadcasting, under the Freedom to Provide Services provisions of the Internal Market. In particular, the Audio Visual Media Services Directive contains specific provisions enabling Member States to ensure that specified events of national importance are free to air, meaning anyone can watch them on terrestrial TV. In the UK the listed events are all sporting related

|  |  |
| --- | --- |
| **Listed Events**  **Group A (Full Live Coverage Protected)** | **Group B (Secondary Coverage Protected)** |
| * The Olympic Games | * Cricket Test Matches played in England |
| * The FIFA World Cup Finals Tournament | * Non-Finals play in the Wimbledon |
| * The European Football Championship Finals Tournament | * All Other Matches in the Rugby World Cup Finals Tournament |
| * The FA Cup Final |  |
| * The Scottish FA Cup Final (in Scotland) | * The Commonwealth Games |
| * The Grand National | * The World Athletics Championship |
| * The Wimbledon Tennis Finals |  |
| * The Rugby World Cup Final | * The Ryder Cup |
| * The Derby | * The Open Golf Championship |
| * The Rugby League Challenge Cup Final | * 6 Nations Rugby Matches (Home Countries) * The Cricket World Cup - the Final, Semi-finals and Matches Involving Home Nations’ Teams |
|  |  |

The **Call for Evidence in relation to the Freedom to Provide Services** will be published in semester 3 of the Balance of Competences Review, this Autumn.

**Sport Questions**

* *To what extent should the EU be exercising its supporting competence for sport to add value at a European level?*
* *What value have you seen from the 2011-14 EU Work Plan on Sport, and what should be the EU priorities for sport in the future?*

**General Questions**

* *What evidence is there that EU action in the areas of Culture, Tourism and/or Sport benefits or disadvantages the UK?*
* *Do you think the EU should do more, or less in relation to Culture, Tourism and Sport, and why?*
* *What are the benefits or disadvantages of directing funding through the EU rather than national arrangements?*
* *Have you noticed any change in EU activity or emphasis since the 2009 Treaty of Lisbon and is this welcome?*
* *What other areas of EU competence or activity impact on your sector and how?*
* *What international bodies or arrangements are important to your sector beyond the EU?*
* *How could the EU co-ordinate its activity in these areas of competence to greater effect?*

**Please do not feel the need to limit your evidence to these issues, we are interested to receive any views you have about how the balance of competences between the EU and UK impact on Culture, Media and Sport.**

**Culture, Tourism and Sport and EU Competition Law and State aid**

Culture, Tourism and Sport are each affected by EU competition law. The Treaty for the Functioning of the European Union states that where competition law is necessary for the functioning of the Internal Market it is the exclusive competence of the EU meaning that even if the EU does not act, Member States may not. Perhaps the most relevant element of competition law for Culture, Tourism and Sport is State aid, i.e. the intervention of the State to aid a particular sector, including tax reliefs, lottery funding or local authority funding.

All State aid measures by Member States must be approved by the European Commission who will reassure themselves that the aid will not lead to a distortion in the Internal Market. If the Commission does not approve the aid it is illegal for the Member State to provide it. The UK cannot over-ride these decisions, but they are subject to reviews by the EU courts.

There are specific provisions for some State aid measures in relation to culture. This still requires approval by the Commission, but if a Member State can successfully argue that the aid is necessary to protect cultural diversity then aid is permissible. The UK has introduced tax reliefs for British films, animation and high-end TV, all of which were approved by the Commission on these grounds.

There are no specific provisions in the Treaty in relation to Tourism or Sport. However, the EU is considering amending regulations to permit block exemptions in the areas of culture, heritage conservation and amateur sports.

The **Calls for Evidence in relation to Competition and Cohesion** will be published in semester 3 of the Balance of Competences Review, this Autumn.

**A more detailed legal analysis of the EU Competences and European case law affecting the Culture, Tourism and Sport sectors can be found at annex A.**

**Annex A**

Legal Analysis: DEVELOPMENT OF THE EU COMPETENCE FOR CULTURE, SPORT AND TOURISM

1. The EU **competence[[23]](#footnote-23)** for culture was conferred by the Treaty on European Union (**Maastricht Treaty**, **“TEU”**), which amended the Treaty establishing the European Economic Community (**Treaty of Rome**) to introduce a competence for culture. The Maastricht Treaty enabled the EEC, which was historically geared towards the economy and trade, to take action in the field of culture in order to safeguard, disseminate and develop culture in Europe. However, the EEC's role was limited to promoting cooperation between the cultural operators of the different EU countries or to complementing their activities in order to contribute to the flowering of the cultures of EU countries, while respecting their national and regional diversity, with a view to highlighting the shared cultural heritage. It also required cultural aspects to be taken into account in its action under other provisions of the EEC Treaty.
2. The Treaty of Amsterdam (in force 1 May 1999) amended the TEC, extending the cultural competence, requiring the European Community to take cultural aspects into account in its action under other provisions of the TEU, in particular in order to respect and to promote the diversity of its cultures.
3. The Treaty of Lisbon (in force 1 December 2009) amended the TEU and the Treaty establishing the European Economic Community, reorganising them and renaming the latter the Treaty on the Functioning of the European Union (**“TFEU”**). The TEU and TFEU are now the two key **EU Treaties**.
4. The TFEU more clearly delineated types of competence, between **exclusive**, **shared**, **parallel**, and **supporting**. The TFEU makes it clear that in the area of culture the EU continues to have a **supporting competence** only (more specifically a competence to “carry out actions to support, coordinate or supplement the actions of the Member States”). Any **harmonisation** of the laws and regulations of the Member States continues to be excluded, meaning both the EU and the Member States may act, but EU action does not prevent the Member States from taking action of their own.
5. However, the important change resulting from the Treaty of Lisbon was to state that the **Council** should take decisions on culture under **qualified majority voting** (**“QMV”**)rather than by **unanimity**, thus removing the national veto. The **ordinary legislative procedure** applies.
6. Prior to Lisbon there was no specific EU competence for sport. The Lisbon Treaty created a supporting competence in sport. Harmonisation is not permitted. The ordinary legislative procedure and QMV in the Council apply.
7. As with sport, there was no specific EU competence for tourism prior to the Lisbon Treaty. The Lisbon Treaty created a supporting competence in tourism, precluding harmonisation. The ordinary legislative procedure and QMV apply.
8. The UK does not enjoy any special status under the Treaties in respect of the culture, sport and tourism competences (unlike in the area of justice and home affairs, for example, where the UK has an “opt-in” explained below).

DEVELOPMENT OF OTHER COMPETENCES AFFECTING CULTURE, SPORT AND TOURISM

1. Culture, tourism and sport involve activities that engage other general areas of competence of the EU, which will be covered in other reports in the Balance of Competence review, but also need mention in this Annex. For example, in the sphere of culture, the free movement of artists, or the movement of cultural property, are aspects of the **internal market**. Actions in the culture sphere could also engage EU competition law; for example State subsidies to cultural projects will need to comply with EU rules on **State aid**. At the same time trade restrictions relating to cultural property are aspects of the EU common commercial policy. In addition, external action of the EU could cover relations with **third countries** or international organisations in aspects of culture, sport or tourism.
2. Where the EU has competence under these *general* areas to act in relation to an aspect of culture, sport or tourism it is not limited by the fact that its *specific* competence is supporting only. These general competences have existed for longer than the specific competences, and so EU action in the areas of culture, sport and tourism took place before those specific competences were introduced in the EU Treaties.

**Current state of competence**

CULTURE, SPORT AND TOURISM TREATY ARTICLES AND LEGISLATION

1. Article 6 TFEU provides that the EU has supporting competence in the areas of culture, sport and tourism. Articles 165 (sport), 167 (culture), and 195 (tourism) then describe in more detail the possible EU action.
2. The EU is expressly given **external competence** - i.e. the power to act externally and enter into negotiations and commitments with third countries and international organisations to conclude an international agreement - in the areas of sport and culture by Articles 165 and 167 TFEU. While there is no express external competence for tourism, the implied external competence which can arise would be implied by Article 216, where conclusion of the agreement is necessary in order to achieve any of the objectives of the **EU Treaties**: where provided by in EU legislation or where an agreement is likely to affect EU rules or alter their scope.
3. Article 2(5) TFEU, together with corresponding provisions in each of the specific articles mentioned specifically prohibit any **harmonisation** by the EU in the areas of culture, sport and tourism.
4. What this means in terms of UK action in the areas of culture, tourism and sport is that the UK is free to make its own laws regardless of any action the EU takes, assuming it is not precluded by EU action in other areas, such as the internal market. It also means that externally, the UK is free to enter bilateral and multilateral international agreements, again provided this is not precluded by overriding EU external competence arising out of EU competence under other areas.
5. Legislation and actions in the area of culture has brought about funding and other culture initiatives, for example:
   1. Annual action designating Member State cities as "European Capital of Culture”[[24]](#footnote-24)
   2. Funding programme encouraging citizens’ organisations.[[25]](#footnote-25)
   3. Work plan for culture at national and EU levels for 2011-14.[[26]](#footnote-26)
   4. Establishment of a European Heritage Label.[[27]](#footnote-27)
   5. Establishment of the Education, Audiovisual and Culture Executive Agency in Brussels, responsible for managing EU cultural programmes.[[28]](#footnote-28)
   6. Council Conclusions in relation to preventing and combating crime against cultural goods[[29]](#footnote-29)
6. The EU has not legislated under the sports competence. EU action has included promulgating sports policy papers, and anti-doping declarations and resolutions.
7. Similarly, the EU has not legislated under the tourism competence, but has published regular policy documents and initiatives supporting EU tourism.

CROSS-CUTTING TREATY ARTICLES RELEVANT TO INTERNAL EU ACTION IN THE AREAS OF CULTURE, TOURISM AND SPORT

1. Generally the EU and the Member States **share competence** in **the internal market**, under Article 4(2)(a) TFEU.

Free movement of goods

1. The EU shares internal market competence, but in the customs union, an aspect of the common commercial policy, the EU has **exclusive competence** under Article 3(1)(a) TFEU.
2. The EU has made legislation in this area with relevance to culture:
   1. A **directive** providing for cooperation mechanisms and a procedure for returning national treasures when these have left the territory of a Member State unlawfully.[[30]](#footnote-30)
   2. A **regulation** to ensure that exports of cultural goods are subject to uniform checks, by making presentation of an export licence compulsory for their export outside the customs union.[[31]](#footnote-31)

Common agricultural policy

1. The EU has a **shared competence** for agriculture and fisheries under Article 4(2)(d) TFEU, specifically to define and implement the common agricultural policy.
2. The EU has made a number of laws under the area affecting trade in and movement of equidae (the horse family) into and within the EU.[[32]](#footnote-32) These may affect equestrian sport.

Free movement of persons[[33]](#footnote-33)

1. In sport, EU Treaty provisions apply to professional and semi-professional sportspeople (as workers), and other sports professionals such as instructors, coaches or trainers (as service providers). The Commission has also stated that free movement rules apply to amateur sport as the EU principle of prohibition of discrimination on nationality grounds applies to all EU citizens using their right to free movement.[[34]](#footnote-34) In the culture context, these provisions apply to the movement of EU cultural professionals or other EU citizens engaged in cultural sectors. In the tourism context, these provisions assist with the movement of EU tourists and tourism professionals between Member States. This has now been enshrined in the Free Movement Directive[[35]](#footnote-35) as an unrestricted right for all EU citizens to enter and reside in another EU Member State for up to 3 months.
2. EU case law on the free movement of persons has had impact in sport. The Court has:
   1. Precluded bans on transfers of EU footballers from their Member States to others without a fee and limits on fielding EU footballers from other Member States.[[36]](#footnote-36)
   2. Precluded rules prohibiting clubs fielding players from other Member States in national championship matches based on an early cut-off date, unless based on objective reasons justifying such different treatment.[[37]](#footnote-37)

Free movement of services and freedom of establishment

1. The EU has passed major legislation that can affect the areas of culture, sport and tourism:
   1. The Services Directive[[38]](#footnote-38) applies to services including tourism services (e.g. travel agents) and leisure services (e.g. sports centres and amusement parks). There is an obligation for Member States to simplify procedures and formalities for establishing a business, and to set up “points of single contact”, to do so.
   2. The directive establishing a system for the recognition of professional qualifications may have relevance to the sectors in this report, including for example national training rules and qualifications for sports professions.[[39]](#footnote-39)
   3. The Package Travel Directive, which requires travel providers to comply with certain requirements when providing travel packages to consumers.[[40]](#footnote-40)
   4. The Audio Visual Media Services Directive[[41]](#footnote-41), which contains specific provisions enabling Member States to ensure that specified events of national importance are free to air. The UK has listed various sports events as events which must be free to watch.
   5. Social Security co-ordination rules[[42]](#footnote-42), which provide the basis for the European Health Insurance Card
   6. The Directive on Rental and Lending Rights[[43]](#footnote-43), which harmonises provisions relating to rental and lending rights as well as on certain rights related to copyright. It provides for exclusive rights to authorise or prohibit the rental with various exemptions (for instance, in relation to public lending).
   7. Council Decisions relating to tourist information exchange[[44]](#footnote-44) and action plan to assist tourism[[45]](#footnote-45)
2. EU case law has had impacts in the areas of culture and sport in particular. The Court has:
   1. Precluded economic objectives, in particular cultural policy protecting a national film industry, being used to justify restrictions on the freedom of establishment.[[46]](#footnote-46)
   2. Allowed rules requiring athletes to be authorised by their federation to participate in high level international competitions not involving national sides.[[47]](#footnote-47)
   3. Found that database copyright protection does not extend to football fixture lists if they are produced in a way leaving no room for authors’ creative freedom.[[48]](#footnote-48)
   4. Found that "re-utilisation" of a database occurs in Member State in which a targeted user receives such data. This is relevant to sports statistics compilers.[[49]](#footnote-49)

Justice and home affairs, including immigration and visas

1. The UK has an opt-in in the areas of justice and home affairs (Title V TFEU) meaning it chooses whether or not EU laws and international agreements should bind the UK. It also only partially participates in the *Schengen* acquis, meaning that its visa and immigration policy differs from that of most other Member States.
2. Council Decision [2002/348/JHA](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002D0348:EN:NOT) of 25 April 2002 (and its amendments) facilitates the exchange of information among Member States’ police forces and responses to public order threats in connection with football matches with an international dimension. The UK Government must inform the **Council** by 31 May 2014 whether or not the UK accepts the **ECJ’s** jurisdiction over this and other justice and home affairs measures adopted prior to 1 December 2009, or whether it decides to opt out of these measures.
3. Immigration rules affect culture, sport and tourism interests. As a result of the UK’s opt-in, the UK has a different immigration regime to that that exists in the rest of the EU, and is not included in many international agreements the EU enters relating to visas.
4. The EU has also adopted the Human Trafficking Directive[[50]](#footnote-50), to which the UK has opted in, which includes enhanced protection for minors, such as young sportspeople.

Transport

1. Under Article 4(2)(g) and Title VI TFEU, the EU has shared competence for transport, and it has harmonised laws, affecting tourism in particular, for example in air transport[[51]](#footnote-51).

Competition law

1. Article 3(1)(b) TFEU provides that competition law necessary for the functioning of the internal market falls within the **exclusive competence** of the EU. For these purposes the most relevant element of competition law is the prohibition on **State aid**.
2. The **Commission** has sole competence to decide whether a State aid measure is compatible with the TFEU. All State aid measures must be approved by the Commission in advance of implementation. The UK cannot override these decisions.
3. The **Council** may determine categories of State aid exempted from the requirements to notify and obtain the approval of the Commission, and the conditions for such exemptions, and may make regulations applying the State aid provisions of the TFEU. The Commission may adopt regulations relating to exempted categories of State aid.
4. State aid can arise in culture, sport and tourism as in any other area. The fact that an undertaking is not for profit is not one of the considerations; what is relevant is engaging in a competitive market. State resources include lottery and local authority funds.
5. Article 107(3)(d) says State aid for culture and heritage conservation may be compatible with the internal market. It still requires notification and approval. As a result there is a large body of Commission decisions relating to culture, relying on Article 107(3)(d) TFEU, covering aid to museums[[52]](#footnote-52), performing arts[[53]](#footnote-53), promotion of languages[[54]](#footnote-54), film[[55]](#footnote-55), preservation of cultural monuments, video games and a wide variety of other matters.
6. Sport and tourism have no special TFEU State aid provision. Applications must satisfy the Commission that one of the elements of State aid is not present[[56]](#footnote-56) or come within an exemption, e.g. the *de minimis* Regulation[[57]](#footnote-57) or General Block Exemption Regulation.[[58]](#footnote-58)
7. Alternatively, even if a State aid satisfies all the elements of Article 107(1) TFEU and no exemption applies the Commission can open an investigation under Article 108(2) TFEU and decide that it is nevertheless compatible with the internal market. The relevant project however needs to stand still under Article 108(3) pending Commission approval.[[59]](#footnote-59)
8. Broader EU competition case law can also affect interests in culture, sport and tourism:
   1. Sport rules (here, International Olympic Committee anti-doping rules) could be subject to EU competition law, including collusion and abuse of a dominant position).[[60]](#footnote-60)
   2. Broadcasting rights holders (in this case the Premier League) were precluded from dividing the internal market by entering into territorially exclusive licence agreements, because these restricted competition in the internal market.[[61]](#footnote-61)
   3. Precluded membership and exclusivity clauses in the reciprocal representation agreements of music rights collecting societies and a practice concerning the territorial delineation of mandates for internet, cable and satellite licensing.[[62]](#footnote-62)

Approximation of laws for the functioning of the internal market

1. Article 114 TFEU, provides a general legal base for harmonising Member States’ laws, and thus is often the base for internal market measures. Under this provision the EU has made Directive [91/477/EEC](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31991L0477:EN:NOT) of 18 June 1991 on the control of the acquisition and possession of weapons, which may affect sports weapons.

Social policy

1. The TFEU contains an extensive list of provisions on social policy (Title X, TFEU). The Treaty grants the EU **supporting competence** regarding among other things health and safety at work, working conditions and equal pay without discrimination. These issues cut across all areas, including sport, culture and tourism.
2. In particular, the Working Time Directive (2003/88/EC) lays down minimum safety and health requirements for the organisation of working time. The Directive is implemented in the UK by the Working Time Regulations 1998 (S.I. 1998/1833).

Health

1. Article 9 and Article 168(1) TFEU requires the EU to ensure a high level of protection of human health in defining and implementing its policies and activities. Under article 6(a) TFEU the EU has supporting competence. Article 168 further provides that Union action shall complement Member States’ action and national policies. This competence has relevance to anti-doping efforts in sport, however the EU has not legislated in the area.

Consumer protection

1. Under Articles 4(2)(f) and 169 TFEU, the EU shares consumer protection competence with the Member States, and it has legislated extensively, affecting tourism in particular.

NEGOTIATING AND CONCLUDING INTERNATIONAL AGREEMENTS

1. Under Article 3(1) TFEU, the customs union, competition law necessary for the functioning of the internal market, and common commercial policy are all areas in which the EU has exclusive competence. This exclusive competence applies externally as well.
2. Article 3(2) TFEU provides that in addition the EU shall have exclusive competence for the conclusion of an international agreement when among other things its conclusion may affect common rules or alter their scope. Where the EU has exclusive external competence the EU Member States cannot act unless allowed to by the EU.
3. Decisions of the Council relating to international agreements are by QMV, unless (as relevant) the subject matter is an association agreement[[63]](#footnote-63), or is in the field of trade in cultural and audiovisual services and the agreement risks prejudicing the Union's cultural and linguistic diversity.[[64]](#footnote-64)

MAJOR PROPOSED PIECES OF EU LEGISLATION

1. The EU is considering amending the regulation enabling the Commission to make State aid block exemptions to allow the Commission to make block exemptions in the areas of culture and heritage conservation and amateur sports.[[65]](#footnote-65)
2. The EU is pursuing a Europe for Citizens funding programme for 2014-2020, to “strengthen remembrance and enhance capacity for civic participation at the Union level”. It is also pursuing proposed “Creative Europe” and “Erasmus for All” programmes.[[66]](#footnote-66)
3. The EU wishes to negotiate alongside the Member States a Convention of the Council of Europe to combat match-fixing. The Convention may incorporate elements of gambling regulation.
4. The EU is proposing a new General Data Protection Regulation, which will have an impact on the sharing of information, potentially affecting anti-doping efforts.

1. You are welcome to request that we keep your contribution confidential, but please understand we may be obliged to release it in response to a request under the Freedom of Information Act. [↑](#footnote-ref-1)
2. <http://www.artscouncil.org.uk/advice-and-guidance/browse-advice-and-guidance/contribution-arts-and-culture-national-economy> [↑](#footnote-ref-2)
3. <https://www.gov.uk/government/publications/creative-industries-economic-estimates> [↑](#footnote-ref-3)
4. <http://www.hlf.org.uk/news/Pages/InvestinginSuccess.aspx> [↑](#footnote-ref-4)
5. <http://www.artscouncil.org.uk/news/arts-council-news/London-2012-Cultural-Olympiad-evaluation/> [↑](#footnote-ref-5)
6. <https://www.gov.uk/government/news/opening-ceremony-is-greatest-show-on-earth> [↑](#footnote-ref-6)
7. <http://www.ukti.gov.uk/uktihome/home/item/354560.html> [↑](#footnote-ref-7)
8. <http://www.visitbritain.org/bounce.aspx?PG=/Images/VB%20Corporate%20Doc_LoRes_tcm29-35694.pdf> [↑](#footnote-ref-8)
9. Deloitte, 2010 [↑](#footnote-ref-9)
10. Comite Des Sages: ‘A New Renaissance’, January 2011 [↑](#footnote-ref-10)
11. <http://ec.europa.eu/information_society/activities/digital_libraries/europeana/index_en.htm> [↑](#footnote-ref-11)
12. Directive 93/7/EEC [↑](#footnote-ref-12)
13. Regulation 3911/92 [↑](#footnote-ref-13)
14. Directive 2006/115/EC [↑](#footnote-ref-14)
15. Council Decision 86/664/EEC of 22 December 1986 establishing a consultation and cooperation procedure in the field of tourism [↑](#footnote-ref-15)
16. Council Decision 92/421/EEC of 13 July 1992 on a Community action plan to assist tourism [↑](#footnote-ref-16)
17. Directive 2004/38/EC [↑](#footnote-ref-17)
18. Regulation 261/2004 [↑](#footnote-ref-18)
19. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0012:FIN:EN:PDF> [↑](#footnote-ref-19)
20. <http://ec.europa.eu/sport/white-paper/the-2007-white-paper-on-sport_en.htm#wp> [↑](#footnote-ref-20)
21. Judgement of the Court of Justice in Case C-415/93 Bosman, 15 December 1995 [↑](#footnote-ref-21)
22. C-519/04 *Meca-Medina v Commission* [2006] EC I-6991. [↑](#footnote-ref-22)
23. Please note, this and other terms used in bold are defined in the document “EU law and the balance of competences: A short guide and glossary” at <https://www.gov.uk/eu-law-and-the-balance-of-competences-a-short-guide-and-glossary> [↑](#footnote-ref-23)
24. Decision No 1622/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community action for the European Capital of Culture event for the years 2007 to 2019 [↑](#footnote-ref-24)
25. Decision No 1904/2006/EC of the European Parliament and of the Council of 12 December 2006 establishing for the period 2007 to 2013 the programme ‘Europe for Citizens’ to promote active European citizenship [↑](#footnote-ref-25)
26. Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the Work Plan for Culture 2011-2014 [Official Journal C 325 of 2.12.2010] [↑](#footnote-ref-26)
27. Decision No 1194/2011/EU of the European Parliament and of the Council of 16 November 2011 establishing a European Union for the European Heritage Label. [↑](#footnote-ref-27)
28. Commission Decision 2009/336/EC of 20 April 2009 setting up the Education, Audiovisual and Culture Executive Agency for the management of Community action in the fields of education, audiovisual and culture in application of Council Regulation (EC) No 58/2003. [↑](#footnote-ref-28)
29. [www.consilium.europa.eu/uedocs/cms\_data/docs/.../en/.../126866.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/.../en/.../126866.pdf) of 14 December 2011 [↑](#footnote-ref-29)
30. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State. [↑](#footnote-ref-30)
31. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods. [↑](#footnote-ref-31)
32. Council Directive 90/428/EEC of 26 June 1990; Commission Decision 92/260/EEC of 10 April 1992; Commission Decision 93/195/EEC of 2 February 1993; Commission Decision 93/197/EEC of 5 February 1993; Commission Decision 2004/211/EC of 6 January 2004; Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importations from third countries of equidae. [↑](#footnote-ref-32)
33. Freedom of movement is one of the fundamental freedoms guaranteed by the EU to its citizens. It overlaps with the freedom of establishment and freedom to provide services, so this section includes reference to those freedoms where they relate to people moving between Member States. [↑](#footnote-ref-33)
34. European Commission Communication: "Developing the European Dimension in Sport", 18 January 2011. <http://ec.europa.eu/sport/communication/communication-on-sport_en.htm> [↑](#footnote-ref-34)
35. Directive 2004/38/EC of 29 April 2004 the Parliament and of the Council on the right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States [↑](#footnote-ref-35)
36. Bosman (1995), Case C-415/93. [↑](#footnote-ref-36)
37. Lehtonen (2000), Case C-176/96. [↑](#footnote-ref-37)
38. Directive 2006/123/EC of 12 December 2006 on services in the internal market. [↑](#footnote-ref-38)
39. Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications [↑](#footnote-ref-39)
40. Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours. [↑](#footnote-ref-40)
41. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services [↑](#footnote-ref-41)
42. Regulation 883/2004/EC of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, and implementing measures adopted under that Regulation. [↑](#footnote-ref-42)
43. Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property. [↑](#footnote-ref-43)
44. Council Decision 86/664/EEC of 22 December 1986 establishing a consultation and cooperation procedure in the field of tourism [↑](#footnote-ref-44)
45. Council Decision 92/421/EECof 13 July 1992 on a Community action plan to assist tourism. [↑](#footnote-ref-45)
46. Distribuidores Cinematográficos v Spanish State (1993), ECR I–2239. [↑](#footnote-ref-46)
47. Deliège (2000), Joined Cases C-51/96 and C-191/97. [↑](#footnote-ref-47)
48. Dataco (2012), Case C-604/10. [↑](#footnote-ref-48)
49. Dataco (2012), Case C-173/11. [↑](#footnote-ref-49)
50. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims. [↑](#footnote-ref-50)
51. For instance Regulation 261/2004 of the Parliament and of the Council Regulation establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights. [↑](#footnote-ref-51)
52. See SA. 32643 (2011/N) – Spain – State aid to Basque museums in 2011 [↑](#footnote-ref-52)
53. See SA.32119 (2011/N) – Spain – State aid to activities in the theatre and circus sectors [↑](#footnote-ref-53)
54. See SA. 32266 (N 2011) – Spain – Aid for the promotion of the Basque language at the workplace [↑](#footnote-ref-54)
55. See SA.32465 (2011/N) – United Kingdom, Wales Screen Fund [↑](#footnote-ref-55)
56. For example in SA.32737 (2011/N) – Greece – Aid to Parnassos Ski Center the Commission found that the undertaking was a local enough enterprise that trade between Member States was not distorted [↑](#footnote-ref-56)
57. Commission Regulation (EC) No 1998/2006 [↑](#footnote-ref-57)
58. Commission Regulation (EC) No 800/2008 [↑](#footnote-ref-58)
59. For a good example of this, see SA.33728 (2011/N) – Netherlands – Financing of a new Multiarena in Copenhagen <http://ec.europa.eu/competition/state_aid/cases/244149/244149_1320462_40_5.pdf> [↑](#footnote-ref-59)
60. Meca-Medina (2006), Case C-519/04. [↑](#footnote-ref-60)
61. Football Association Premier League v QC Leisure (aka “Murphy”) (2011). [↑](#footnote-ref-61)
62. International Confederation of Societies of Authors and Composers (“CISAC”) (2008), Case COMP/C2/38.698. [↑](#footnote-ref-62)
63. Art 218(8) TFEU [↑](#footnote-ref-63)
64. Art 207(4) TFEU [↑](#footnote-ref-64)
65. Proposal for Council Regulation, COM(2012) 730 final, 2012/0344 (NLE) [↑](#footnote-ref-65)
66. Proposal for a Regulation of the European Parliament and of the Council establishing the Creative Europe Programme COM(2011) 785/2; Proposal for a Regulation of the European Parliament and of the Council establishing "Erasmus For All" COM(2011) 788 final, 2011/0371 (COD); Proposal for a Council Regulation establishing for the period 2014-2020 the programme "Europe for Citizens" COM(2011) 884 final, 2011/0436 (APP) [↑](#footnote-ref-66)