



Expert Group "Good Governance"

Deliverable 1

Input on the EU's role in fighting match-fixing



## 1. INTRODUCTION

The EU Work Plan for Sport identifies integrity of sport, in particular the fight against match fixing, as one of the priority themes for EU level cooperation in sport. Annex I specifies the actions based on the priorities and includes the following: **"Develop a European dimension of the integrity of sport with the initial focus on the fight against match-fixing"**. According to the Work Schedule agreed at the first meeting of the Expert Group 'Good Governance' (XG GG), the Group is expected to produce its first deliverable, namely to provide input on the EU's role in fighting match-fixing, by June 2012. The following recommendations were discussed by the XG GG at its third meeting on 5-6 June 2012 and will be submitted to the Council Working Party on Sport.

## 2. THE EU AND THE FIGHT AGAINST MATCH-FIXING

The fight against match-fixing in sport is a topic that has come to the attention of policy makers at EU level relatively recently. Concerning the work carried out by the Commission, while the 2007 White Paper on Sport only generically mentioned corruption, money laundering and other forms of financial crime as affecting sport at local and international level, the 2011 Commission Communication on Developing the European Dimension in Sport explicitly recognised match fixing as a threat which violates the ethics and integrity of sport. The issue of match fixing was further addressed in 2011 in the Commission's Green Paper on Online Gambling and in the Commission Communication on Fighting Corruption in the EU. In the meantime, the European Parliament touched upon the issue of match-fixing, notably betting-motivated match-fixing, in its 2009 resolution on the integrity of online gambling (the 'Schaldemose Report'), in its 2011 resolution on online gambling in the Internal Market (the 'Creutzmann Report'), as well as in the 2012 resolution on the European Dimension in Sport (the 'Fisas Report'). The Council dealt for the first time with the fight against match-fixing in the EU Work Plan for Sport and in November 2011 adopted conclusions on combating match-fixing, inviting Member States, the Commission and relevant stakeholders to forge close cooperation in order to better protect the integrity of sport. The two EU agencies in charge of cross-border judicial and police cooperation, EUROPOL and EUROJUST, are also actively involved in the fight against match-fixing through the establishment of Joint Investigation Teams (JIT) involving several countries.

On 28 September 2011, the Committee of Ministers of the Council of Europe adopted the Recommendation on the promotion of integrity of sport against manipulation of results notably match-fixing. On 15 March 2012, the Council of Europe's Conference of Ministers Responsible for Sport meeting in Belgrade invited the Enlarged Partial Agreement on Sport (EPAS) to launch the negotiations, in coordination with the EU, on a possible international legal instrument (Convention) against the manipulation of sports results, notably match fixing.

Besides the EU and the Council of Europe, the IOC launched in March 2011 a Working Group composed of high-level representatives of the sport movement, public authorities, international organisations and betting operators to propose ways to fight against irregular and illegal sports betting, with a roadmap for follow-up action adopted in Lausanne on 2 February 2012.



Coordination and cooperation among these different processes, which are likely to remain in place underpinned by a suitable structural framework, is essential to avoid duplication and to ensure that the fight against match-fixing remains effective.

All these elements point in one direction: the fight against match-fixing has acquired the status of a priority in different policy areas (sport policy, supervision of gambling markets, fight against corruption) at EU level, and public attention is likely to increase following recent match-fixing cases. As has been underlined by Europol, match-fixing is about serious organised crime, and it is by no means a victimless crime.

### **3. THE WORK OF THE XG GG**

At the meeting of the XG GG held in Brussels on 13 March 2012, the three ongoing processes initiated at European and international level to tackle match fixing were presented, namely the IOC process on the fight against irregular and illegal betting in sport, the Council of Europe's process towards the possible adoption of a Convention against the manipulation of sports results, and the EU's involvement in the topic through the work carried out by the EU Council, the XG GG as well as work on related issues such as the follow-up to the Green Paper on online gambling.

After having discussed the scope, nature and complexity of match fixing, the XG agreed that the discussion should be structured around the question "what should be tackled at which level?" In practice, the problem of match fixing needs to be broken down into smaller sub-problems and the analysis should be carried out at that level, with the aim of providing prompt, pragmatic and concrete solutions to a complex problem.

The following recommendations, addressed to the Council Working Party on Sport, set out, for each of the identified problems, a series of possible actions, to be carried out at EU or wider (Council of Europe, international) level. The actors that should be involved in the process are also indicated; due to the complexity of the issues linked to match-fixing, several categories of actors are listed, namely: public authorities at national and European level, law enforcement agencies, the sport movement, gambling operators and gambling regulators.

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## RECOMMENDATIONS ADDRESSED TO THE COUNCIL WORKING PARTY ON SPORT

The Council Working Party on Sport is invited to examine the following recommendations and to ensure appropriate follow-up by inviting the indicated stakeholders to take the necessary steps and implement the actions suggested hereafter. It should be noted that the recommendations are addressed to Member States, the Commission and the sport movement as the most relevant stakeholders to take action in the field of fighting against match-fixing. Betting operators are also indirectly targeted by recommendations addressed to national gambling regulators and other relevant national authorities.

### MEMBER STATES

#### Definition of match-fixing

There are various interpretations of the concept of match-fixing, also described as sporting fraud or spot-fixing. An agreed definition would facilitate a common understanding of the problem and would ensure that an appropriate legal arsenal is in place to fight against this phenomenon. The definition provided in the appendix to the Recommendation on the promotion of integrity of sport against manipulation of results notably match fixing, adopted by the Council of Europe's Committee of Ministers on 28 September 2011, provides a good working basis for this purpose:

*The manipulation of sports results covers the arrangement on an irregular alteration of the course or the result of a sporting competition or any of its particular events (e.g. matches, races...) in order to obtain financial advantage, for oneself or for other, and remove all or part of the uncertainty normally associated with the results of a competition.*

Besides the definition of match-fixing, it is important to identify what acts deserve to be punishable under criminal law, particularly taking into account those forms of match-fixing that have a significant economic impact (e.g. betting-related match fixing or sporting match fixing in professional sports) and are connected to or involve betting, abuse of insider information, corrupt practices, trafficking or extortion.

- A. Member States are invited to consider establishing a common and sufficiently comprehensive definition of match-fixing in the framework of a possible international legal instrument aimed at combating this phenomenon, such as the proposed European Convention against manipulation of sports results to be negotiated under the auspices of the Council of Europe. The agreed definition should in particular be aimed at describing what match-fixing is and at identifying which cases of match-fixing should be punishable under relevant criminal law provisions. This would also help to reduce obstacles to investigation and prosecution encountered in cross-border cases and ensure that criminal sanctions are effective and enforceable in all Member States.



## Legislation

Even though some differences in the legal framework applicable to episodes of match-fixing exist at national level, harmonisation through an EU-defined crime of sporting fraud based on article 83(1) TFEU does not seem necessary at this stage, as demonstrated in the recent EU Study on Match-fixing in Sport. On the other hand, approximating the way EU Member States interpret match-fixing according to their existing legislation may be helpful in order to ensure that possible legislative loopholes are closed and that an appropriate legal framework is available at international level. An inadequate legal framework is likely to contribute to the persistence of match-fixing.

- B. Member States are invited to consider the adoption of a possible international legal instrument against match-fixing, such as the proposed European Convention, aimed at ensuring that national legal and administrative systems are provided with the necessary legal tools, expertise and resources to combat this phenomenon.

## Prevention

Match-fixing often involves serious organised crime networks operating at national and international level. As is the case in other areas affected by organised crime, prevention (and alternative interventions such as disruption) plays a key role on a par with repression. Prevention in the field of match-fixing should target sports participants (notably athletes and their entourage at all levels – amateur and professional -, referees, match officials and sport organisations' staff) but also other categories of interested stakeholders (law enforcement agencies, public authorities, gambling regulators, betting operators and their customers) as well as the general public.

- C. Member States are invited to support initiatives at national level aimed at raising awareness and educating relevant stakeholders as well as the general public about the risks involved in match-fixing.

## Sanctions

The issue of sanctions is linked to that of legislation (see above). Without a harmonisation instrument in place, criminal and administrative sanctions cannot be laid down at EU level. The only EU instrument in place in this field is Framework Decision 2003/568/JHA on private corruption which, however, leaves Member States free to set levels of sanctions and penalties. More detailed provisions may be needed, focusing on different levels of sanctions for different types of sporting fraud. However, this may be achieved through legal instruments that do not involve harmonisation and that would identify which existing provisions at national level should be applicable or updated, rather than define a new offence and establish



relevant criminal and administrative sanctions. The existence of sporting sanctions, particularly those enforced by international or continental sports organisations, should be taken into account (see recommendation V below).

- D. Member States are invited to ensure that dissuasive, effective and proportionate criminal and administrative sanctions are in place for the most serious cases of match-fixing. In particular, aggravating factors could be taken into consideration when laying down the levels of sanctions. Member States are invited to introduce levels of fines which are such that they may act as an effective deterrent against match-fixing. They may consider introducing fines the level of which is determined in function of the value of the benefit or advantage obtained by the perpetrators of match fixing.

#### Detection measures

Detection and monitoring mechanisms, often known as 'Early Warning Systems' (EWS), are used by stakeholders such as sports governing bodies, betting operators and gambling regulators. Their effectiveness is limited to bets placed through licensed operators. In order for the various detection and monitoring mechanisms to complement each other, a higher level of cooperation seems necessary including alignment of relevant bodies data exchange practices. However, data protection issues may be considered further and the cost of setting up and maintaining detection and monitoring mechanisms should also be considered. The way cooperation among relevant stakeholders may be structured could involve gambling regulators as key actors at national level, acting both as regulators of the national gambling markets and as intermediaries between private bodies implementing detection and monitoring mechanisms.

- E. Member States are invited to ensure that national gambling regulators and/or relevant competent public bodies have the necessary expertise, resources and tools to deal with issues such as match-fixing and protection of the integrity of sport, and that they act as intermediaries between sports organisations and betting operators in collecting and sharing data about suspicious bets. In particular, gambling regulators should identify sport-specific risks as opposed to general gambling risks.
- F. Member States are invited to ensure that gambling regulators only license those betting operators which provide information about suspicious betting activities or patterns and that licensed betting operators provide regulators with relevant betting data, in conformity with the applicable national regulatory framework. Betting operators should include in their terms and conditions the ability to disclose information to relevant regulators and sport bodies in accordance with relevant data protection rules.
- G. Member States are invited to adopt the necessary measures to ensure that existing codes of conduct and rules on betting bans for certain categories of



individuals (participants in a sport event, sport officials, executives and employees of betting companies) are adequately enforced, for example by voiding bets placed by those individuals in breach of their obligations.

It is argued that certain types of bets increase risks to the integrity of sporting competitions and that certain sporting competitions may be more vulnerable in this respect. There are calls for a system whereby sport stakeholders remain in control of the events or parts of events on which bets are allowed. Whilst at this stage it may be difficult to determine by law for all sports which types of bets are or are not allowed and which competitions are more vulnerable with regard to betting, the risk to the integrity of sport should be a factor in determining which bets may be offered. Gambling regulators could play a role in this context.

- H. Member States are invited to ensure that national gambling regulators or the relevant competent public bodies act as arbitrators and/or facilitators between the organisers of sport events and betting operators in determining which types of bets present a higher risk for the integrity of sport and which competitions are more vulnerable in this respect, based on existing evidence and data and should therefore not be offered and/or be restricted. The degree of risk of different types of bets may be determined on the basis of agreed criteria and parameters such as the nature of the competition and of its organiser. Betting on sport competitions involving only athletes below the age of 18 may be restricted. Another aspect that should be considered by gambling regulators or by competent authorities is the need to ensure an appropriate flow of information between organisers of sport events and betting operators, in respect of relevant data protection rules. In particular, organisers of sport events should be informed about bets placed on these events. As an alternative, Member States may consider the adoption of appropriate measures establishing legally binding agreements between sports competition organisers (or their early warning systems) and betting operators. Such an approach would enable them to agree which aspects of the game can be subject to betting and it would contribute as well to the transparency, monitoring and control mechanisms that are required to enhance the fight against match-fixing.

#### Law enforcement – prevention, investigation and prosecution

According to the EU Study on Match-fixing in Sport, the obstacles that may exist in the investigation and prosecution of cross-border match fixing cases seem of an operational rather than legal nature. Harmonisation of legislation does not seem necessary. On the other hand, cooperation of relevant ministries, police and judicial authorities across borders is essential in view of the transnational nature of match fixing, in particular when it is betting-related. EU-wide coordination is currently implemented through Europol and Eurojust. Cooperation at international level between Europol and Interpol is also in place (no international equivalent of Eurojust exists). Cooperation with the sport movement in this context is also essential.



- I. Member States are invited to step up cooperation among police forces in the context of Joint Investigation Teams (JIT) dealing with cases of match-fixing as well as among prosecution services, and to involve the sports organisations concerned.
- J. Member States are invited to ensure that the next orientation document to be adopted by the Council with a view to providing guidance on the action of Europol includes a reference to the fight against match-fixing as a type of serious cross-border crime.
- K. Member States are invited to ensure that adequate measures are put in place to fight against illegal betting operators. Those measures could include website-blocking and wireless-enabled mobile technology. Cooperation of national gambling regulators and law enforcement agencies with Internet Service Providers and financial institutions may be needed for this purpose. Member States are invited to make the necessary efforts to ensure that bets and customers of betting companies can be properly monitored and identified.

#### Monitoring and follow-up

One of the major issues in the fight against match fixing at national, EU or international level is the need to ensure coordination of the different stakeholders involved, in particular public authorities, law enforcement agencies, gambling regulators, the sport movement in all its components, and betting operators (lotteries and private operators). No permanent forum for this type of cooperation exists at national or EU level.

- L. Member States are invited to establish as one of the first concrete steps a national contact point where all the relevant actors involved in fighting match-fixing can meet, exchange information and coordinate their actions.
- M. Member States are invited to ensure that coordination at international level in the fight against match-fixing is carried out through a permanent forum and that monitoring of different actions undertaken by the various players is in place. In this context, Member States are invited to consider joining the negotiations for a possible European Convention against the manipulation of sports results, to be launched under the auspices of the Council of Europe, and to ensure that the future Convention or any other international instrument is equipped with appropriate and effective monitoring mechanisms.
- N. Member States are invited to consider extending the mandate of the XG GG with a view to following up on developments at European and international level and to ensuring that a forum for discussion at EU level of the issues linked to the fight against match-fixing remains in place until a stable platform at European and/or international level is established.



## EUROPEAN COMMISSION

### Prevention

- O. The Commission is invited to pursue the support of exchanges of good practices and networking in the area of prevention of match-fixing, initiated with the 2012 Preparatory Action 'European Partnerships on Sport', by facilitating the sharing of experiences carried out at national and European level and providing EU added value in this area. This may be done in the framework of the Sport Chapter of the proposed 'Erasmus for All' Programme.

### Detection measures

- P. The Commission is invited to establish at EU level a network of gambling regulators with a view to facilitate the exchange of information and data in the fight against match-fixing, in coordination with other ongoing processes such as the one launched by the Council of Europe. This network should also include relevant stakeholders such as law enforcement agencies, sport organisations and betting operators.

### Law enforcement – investigation and prosecution

- Q. The Commission is invited to ensure that the protection of integrity of sport and the fight against match-fixing are included as topics for political discussion with third countries and the competent international organisations in the field of sport, notably international federations. The Commission, with the assistance of relevant stakeholders and Member States, should identify which countries raise specific issues in terms of gambling-related match-fixing episodes affecting sport events taking place within the EU and consider the most appropriate action, including through international agreements.
- R. The Commission is invited to consider establishing more effective judicial cooperation mechanisms with third countries, notably with countries that raise specific issues in terms of gambling-related match-fixing episodes affecting sport events taking place within the EU.

### Monitoring and follow-up

- S. The Commission is invited to consider asking Member States for negotiating directives to join on behalf of the EU, alongside Member States, the negotiations on a future European Convention against the manipulation of sport results, to be launched under the auspices of the Council of Europe.



- T. The Commission is invited to consider launching further studies to explore issues of relevance for the fight against match-fixing. Relevant topics that could be covered by such studies include a detailed examination of data protection rules in the context of possible sharing of information among stakeholders (sport movement, betting operators, gambling regulators, law enforcement agencies) at EU level.

## **SPORT MOVEMENT**

The following recommendations are addressed to the sport movement in full respect of its autonomy and recognising that a specific approach should be followed by different disciplines having different characteristics and requirements. The sport movement has an essential responsibility in preventing and combating episodes of match-fixing. Actions in the fight against match-fixing should be taken by relevant sport bodies as a matter of urgency. The sport movement has a primary role to play, notably as recipient of public subsidies, but cannot act alone. A close cooperation between sport stakeholders and other relevant actors (public authorities, betting operators, gambling regulators) is needed in order to effectively protect the integrity of sport against match-fixing. Some observers have contended that lack of respect for good governance principles may contribute to conditions that facilitate instances of match-fixing. Therefore, sound financial management, transparency, risk management plans and strategies at association and federation level are crucial to prevent fraud in sport, notably match fixing, and to safeguard the integrity of sport. Although multiple initiatives have been taken and are currently on-going in the field of prevention and sanctions, the sport movement needs the full support of the other relevant stakeholders in order to improve the protection of the integrity of its competitions.

### Prevention

- U. Sport stakeholders (federations, leagues, clubs, athletes, referees) at both professional and grassroots level are invited to implement wide-ranging preventive measures to alert all relevant actors about the danger that match-fixing represents for the integrity of sport. Preventive measures which can be implemented by the sport movement involve the following:
- a. Drawing up Codes of Conduct targeting the relevant actors (athletes and their entourage, coaches, referees, managers, match officials, staff of sport organisations, etc.) and including provisions about reporting suspicious cases;
  - b. Including clauses laying down provisions against involvement in episodes of match-fixing in the contracts of professional players;



- c. Drafting manuals explaining the basics of match-fixing, how to avoid it and what to do to report suspicious cases, for the attention of different sport stakeholders as well as setting up binding rules at the level of national and regional sport associations regarding the treatment/investigation of suspicious cases which are capable of being applied and enforced;
- d. Putting in place a mechanism and a procedure allowing for whistle blowers to confidentially report cases of match-fixing (e.g. by designating an independent spokesperson/trusted person who is respected by the relevant target groups); such reporting should be taken into consideration by the relevant sporting judicial authority in the context of sanctions related to the reported cases;
- e. Organising information and education campaigns for athletes and their entourage, match officials, staff of sport organisations, coaches, supporters and the general sporting public about the threats that match-fixing represents for the integrity of sport e.g. through incorporation of educational modules into basic and advanced training for coaches and instructors.
- f. Liaising with relevant national bodies, including gambling regulators, on exchange of information to assist collaborative work and investigations to promote effective prevention, disruption and deterrents.

### Sanctions

- V. Sport organisations are invited to ensure that sporting sanctions are in place to deter episodes of match-fixing. Sporting sanctions should be dissuasive and effective and, at the same time, remain proportionate and in line with relevant national and EU law provisions.

### Other measures

- W. Sport organisations are invited to take such other measures as they see fit at all relevant levels of the sporting chain in order to assist in preventing episodes of sporting fraud, notably match-fixing, including exchange of best practices (e.g. measures to be taken by sport associations to ensure sound financial management by associations/clubs and prevent individual actors including sponsors or investors from having too much influence on associations/clubs; strengthening of democratic structures and transparency at the level of federations, associations and clubs).