



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

**FEASIBILITY STUDY ON CRIMINAL LAW ON PROMOTION OF
THE INTEGRITY OF SPORT AGAINST MANIPULATION OF RESULTS,
NOTABLY MATCH-FIXING**

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

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Introduction

1. On 28 September 2011, the Committee of Ministers of the Council of Europe (hereinafter the CoE) adopted Recommendation CM/Rec(2011)10 on “Promotion of the integrity of sport against manipulation of results, notably match-fixing”. Following this recommendation, the Secretariat of the Enlarged Partial Agreement on Sport (EPAS) of the CoE was invited to prepare a feasibility study on the possible elaboration of a binding instrument on match-fixing.¹ In this context, the European Committee on Crime Problems (CDPC), is called upon to contribute to this feasibility study as regards the part related to criminal law issues.
2. As stressed in the recommendation, the problem of match-fixing is, *inter alia*, a serious threat to “*confidence among the public if it perceives sport as a place where manipulation gives substantial financial benefits to certain individuals, rather than as an activity where the glorious uncertainty of sport predominates.*”² Thus, in order to preserve the nature of sport itself based on fair-play and equal competition, ethical practices and behaviour in sport have to be forcefully and effectively applied.
3. The above recommendation was adopted in response to this need. In particular, it specifies that the expression “*manipulation of sports results*” covers: “*the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.*”³
4. The recommendation stresses that member states should take the following measures in order to combat manipulation of sports results. Firstly, all member states should make sure that their legal and administrative systems are provided with “*appropriate and effective legal means*” to combat this practice.⁴ Secondly, where member states already have existing legislation in this respect, this legislation should be reviewed to ensure that “*manipulation of sports results - especially in cases of manipulation of competitions open to bets - including acts or omissions to conceal or disguise such conduct (...) can be sanctioned in accordance with the seriousness of the conduct.*”⁵

¹ According to Recommendation CM/Rec(2011)10, adopted by the Council of Europe on 28 September 2011, the Committee of Ministers:

“Invites EPAS, where appropriate, in co-operation with other relevant national and international bodies: ... to carry out a feasibility study, in co-operation with the other concerned bodies, on the basis of this recommendation, on a possible international legal instrument that covers all aspects of prevention and the combat against the manipulation of sports results.”

² Recommendation CM/Rec(2011)10, adopted by the Council of Europe on 28 September 2011, p.2

³ Appendix to the Recommendation CM/Rec(2011)10, Guidelines, Sect. A, para. 1.

⁴ Appendix to the Recommendation CM/Rec(2011)10, Guidelines, Sect. C, para.12.

⁵ Appendix to the Recommendation CM/Rec(2011)10, Guidelines, Sect. C, para.13.1

5. The CDPC Secretariat circulated a brief questionnaire to CDPC delegations to solicit information on criminal law provisions applicable to the manipulation of sports results as well as any legislative plans CoE member states may have in this respect. Also, CDPC delegations were invited to provide information on practical experience in the investigation and prosecution of such conduct.

CoE member states' criminal law applicable in cases of manipulation of sports results

6. The responses to the questionnaire show that only nine of the 29 member states, who responded to the questionnaire, have introduced – in some cases recently – specific criminal law provisions to address certain types of manipulation of sports results (Bulgaria, Cyprus, Georgia, Greece, Poland, Portugal, Russian Federation, Turkey and United Kingdom). All other countries responding to the questionnaire indicated that such conduct – or at least certain forms thereof – would fall under their general criminal law provisions. While the responses from member states varied in this respect, the relevant criminal law provisions most often mentioned were those on fraud and different forms of corruption.
7. Most states, which do not have any specific criminal law provisions on the manipulation of sports results, also indicated that they do not have any plans to develop specific legislation in this respect. Only in Sweden is specific legislation currently being prepared, whereas in Switzerland the advisability of legislative measures is currently being studied.
8. Ten member states indicated in their responses that in their country investigations/prosecutions and perhaps convictions in cases of manipulation of sports results have taken place. This applies equally, to member states which have specific legislation (Cyprus, Greece, Portugal, Turkey, United Kingdom) as well as member states, where general criminal law provisions have been applied (Belgium, Czech Republic, Finland, France and Germany). There may be more member states with relevant experience as several respondents had indicated that they simply have no information on such investigations or convictions⁶.

Specific criminal law provisions in CoE member states

9. Of the 29 CoE member states, which responded to the questionnaire, only nine⁷ have made a specific provision on the manipulation of sports results. Research conducted by the CoE Secretariat shows that – in addition to the states which replied – Italy and Spain have also introduced this type of specific provisions. In these 11 countries, the criminal definition of manipulation of sports results is

⁶ At least if a Member States has no specific legislation but applies general provisions on fraud or corruption relevant statistical data on the question whether such an investigation or conviction was for an offence of fraud or corruption related to manipulation of sports results may simply not be available.

⁷ Bulgaria, Cyprus, Georgia, Greece, Poland, Portugal, Russian Federation, Turkey, United Kingdom.

based on general definitions of active and/or passive corruption and/or fraud. However, the criminal law provisions introduce specific elements and/or a specific range of sanctions for such conduct. For example these criminal law provisions apply to conduct :

- intended “to influence the development or outcome of a sports competition” (Bulgaria), or “influencing results of the competition and contest” (Georgia), or “exerting influence on the results” (Russian Federation), or “to influence a specific sports competition” (Turkey),
- having the purpose of “the alteration of the result of any team or individual sport” (Cyprus), or “to alter the result in favour or against sports clubs, groups of paid athletes or athletic public limited companies” (Greece), or “to alter or distort the result of a sporting event” (Portugal),
- undertaken “in order to get a different result from the one which would have been reached by a regular competition”(Italy),
- intended to induce “unfair behaviour that might influence the result of the competition” (Poland).

10. In some cases, such provisions also refer to specific actors, whose behaviour such conduct must intend to influence for these provisions to be applicable, such as athletes, managers or members of sports clubs (Cyprus), a participant, a referee, a coach, a leader of a team, or an organisation of professional sports competition, as well as an organiser or a member of a jury of a commercial entertainment contest (Georgia, Russian Federation).

11. Criminalisation on the grounds of these provisions does not appear to be dependent on whether or not the manipulation of sports results is actually successful, i.e. the intended (manipulated) result of the sporting match is achieved. However, in Cyprus and in Greece, for instance, such a case would be considered as an aggravating circumstance by definition. The offence of the manipulation of sports results which is related to the participation in betting schemes is considered to be an aggravating circumstance under Bulgarian and Italian law whereas Polish criminal law specifically punishes a person, who participates in betting schemes – or advocates such participation – knowing that the offence of manipulation of sports results has taken place.

General criminal law provisions in CoE member states

12. The majority of member states that responded to the questionnaire indicated that one or more “general” criminal law provisions could be applicable to cases of manipulation of sports results. For some of these countries, this analysis is based on successful convictions on such grounds. For the other countries the CDPC delegations’ replies indicated that some of its criminal law provisions would or should be applicable in such cases.

13. Several of these member states have indicated that their criminal law provisions on fraud and corruption would cover most or at least some of the types of conduct that may be involved in the manipulation of sports results (Denmark, Estonia, Finland, France, Germany, Ireland, Latvia, Lithuania, Montenegro, Serbia, Slovenia and Switzerland). Several member states referred in their response to provisions on different types of corruption (Azerbaijan, Belgium, Czech Republic, Finland, France, Iceland, Latvia, Monaco, Norway and Sweden). Some member states also consider cases where their criminal law provisions on extortion (Belgium, Latvia), on money laundering (Belgium, Denmark, France) or illegal gambling (Slovenia) could become applicable. It would obviously depend on the specifics of a particular case whether or not one or the other criminal law provision could apply. Although the replies to the questionnaire show that a specific offence may be treated differently from one member state to another, this does not necessarily mean that the offence will only be dealt with in this way in the member state in question.
14. Most of these member states suggest that these general provisions would appear to be sufficient to address the phenomenon of manipulation of sports results and therefore they do not see a need to introduce new, specific offences in order to be able to combat such crimes.

Jurisdiction of CoE member states' courts and conflicts of jurisdiction

15. Manipulation of sports results and the exploitation of legal or illegal betting schemes that may be linked to such conduct often take place in a multi-country-setting. Thus for example players of a fixed match may come from one country, the match may take place in another country, the person(s) behind the fixing may come from a third country and the illegal profits stemming from such an operation may be collected in yet another country. This may raise difficult issues of jurisdiction, either because the prosecutor or court may not feel competent to address the case in its full complexity, or, because investigators and prosecutors in different countries may be attempting to bring the same persons to court for the same offences.
16. CoE conventions in the criminal law field normally require member states to introduce jurisdiction on the basis of the territoriality principle, i.e., on the basis of where the offence has taken place (which may, however, sometimes be difficult to determine or there may be more than one country to which this criterion applies in a specific case). In order to avoid impunity, CoE conventions in the criminal law field normally also require member states to exercise jurisdiction on the basis of the active and passive nationality principles (nationalities of the offender(s) and the victim/s). In most cases, however, CoE conventions allow states parties to enter reservations in respect of the latter.
17. When CoE member states are not bound by a convention in this respect, they are free to determine the extent to which they want to introduce and to which

they want to exercise jurisdiction. Even when member states have become party to a CoE criminal law convention, the provisions on jurisdiction are merely setting “minimum rules”, which do not prevent member states from also extending their jurisdiction to other cases beyond those with territorial links or links based on the nationality or residence of the offender or victim. In many cases, CoE conventions contain as specific “safeguard clause” which clarifies, that the convention in question does not exclude any criminal jurisdiction exercised by a Party under its national law.

18. Some, but not all, conventions contain a provision on positive jurisdiction conflicts, i.e. situations where more than one Party asserts jurisdiction and where Parties are thus required to consult each other to establish which Party should be in charge of prosecution.

Conclusion

19. Based on the findings of Recommendation CM/Rec(2011)10, it appears that tackling the phenomenon of the manipulation of sports results requires a concerted and better co-ordinated international response. In this context, practical steps have already been taken internationally and domestically.
20. However, these measures do not seem to have been effective enough. In fact, the phenomenon of the manipulation of sports results continues to spread throughout the sporting world. Therefore it may be advisable to reinforce these efforts by way of a new legal instrument to be drafted under the auspices of the CoE.
21. Furthermore, as the phenomenon of the manipulation of sports results is in itself mostly transnational, a wide political forum may be required and the CoE is conceivably a legitimate “*agora*” in which it is possible to involve not only its member states but also of other states, international sports federations and specialised NGOs. The CoE, by adopting its recommendation on “Promotion of the integrity of sport against manipulation of results, notably match-fixing”, has certainly started this process of co-ordinated efforts.
22. However, the CDPC, based on the responses received from member states, is of the opinion, that any future CoE convention should focus on other measures to address this phenomenon rather than on criminal law aspects. It appears that irrespective of whether or not CoE member states have chosen to introduce specific criminal law provisions on the manipulation of sports results, member states’ authorities feel confident that by-and-large the majority of cases of such conduct can be addressed under existing criminal law provisions, be they specific provisions or general criminal law on fraud, corruption or other types of offences. In particular, most CDPC delegations representing member states that have not introduced any such specific criminal law provisions currently do not see a need to develop such specific legislation.

23. In light of this, and considering the large variety of possible types of conduct that may be linked to the manipulation of sports results as well as the variety of ways found in the member states to address such cases, it does not appear to be advisable for the CoE to attempt drafting specific criminal law provisions for any possible new convention in this field. If so required, the future convention in this field, could be complemented by a general provision appealing to states parties to ensure effective criminalisation and investigation of such crimes based on applicable national law e.g. along the lines of sect. 13 of the Recommendation CM/Rec(2011)10.
24. In respect of jurisdiction, it may be useful to specify that parties to such a convention shall exercise jurisdiction on the basis of the territoriality and the active nationality principles as well as foresee that in cases where more than one state asserts jurisdiction, authorities should consult each other to establish which Party should be in charge of prosecution.

APPENDIX I



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

QUESTIONNAIRE REGARDING THE WORK OF THE COUNCIL OF EUROPE ON THE ISSUE OF “MANIPULATION OF SPORTS RESULTS, NOTABLY MATCH-FIXING”

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

Introductory comment

At its 1122nd meeting, the Committee of Ministers (CM) adopted the CoE Recommendation on “Promotion of the integrity of sport against manipulation of results, notably match-fixing” (appended to this document). In this regard, the Recommendation invited the Enlarged Partial Agreement on Sport (EPAS), where appropriate, in co-operation with other relevant national and international bodies:

- “– to study specific measures taken by European states and develop good practices on the issue of combating the manipulation of sports results;
- to examine the existent measures and practices in member states undertaken by sports organisations and other concerned bodies and to make an inventory of existing legislation to prevent and combat the manipulation of sports results;
- to carry out a feasibility study, in co-operation with the other concerned bodies, on the basis of this recommendation, on a possible international legal instrument that covers all aspects of prevention and the combat against the manipulation of sports results; ...”⁸

In this context, the Secretariat of Criminal Law Division of the CoE has been called upon to contribute to aforementioned feasibility study with the part related criminal law aspects with the exception of corruption and money-laundering issues.

For this purpose, the Secretariat has prepared a very short questionnaire concerning criminal law issues related to the manipulation of sports results. Please do take into account that your answers are crucial to have a more comprehensive view on this issue and should be as far as possible, clear, objective and reasoned.

Please send your replies to the Secretariat (Marjaliisa.JAASKELAINEN@coe.int) by **09 December 2011** at the latest.

⁸ Recommendation CM/Rec(2011)10, of the Committee of Ministers to member states on promotion of the integrity of sport against manipulation of results, notably match-fixing, (Adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies), available at Appendix I.

Questionnaire:

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results⁹?
 - 1.1. If yes:
 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)
 - 1.2. If not:
 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?
 2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?
2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

* * *

⁹ You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

APPENDIX I



**Recommendation CM/Rec(2011)10
of the Committee of Ministers to member states
on promotion of the integrity of sport against manipulation of results, notably match-fixing**

*(Adopted by the Committee of Ministers on 28 September 2011
at the 1122nd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage, and of facilitating their economic and social progress;

Bearing in mind the Committee of Ministers' Declaration on compliance with the commitments made by member states of the Council of Europe (Strasbourg, 10 November 2004);

In accordance with the Final Declaration of the Second Summit of Heads of State and Government of the Council of Europe (Strasbourg, 10-11 October 1997), which emphasises the standard-setting role of the Council of Europe, in particular to seek common responses to the challenges posed by the spread of corruption;

Considering the conclusions of the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), which recommended the continuation of Council of Europe activities which serve as references in the field of sport;

Reiterating that Resolution CM/Res(2007)8 establishing the Enlarged Partial Agreement on Sport (EPAS) assigned to this one the task of developing standards to deal with topical issues in international sport;

Having regard to its Recommendations Rec(92)13 rev on the revised European Sports Charter, CM/Rec(2010)9 on the revised Code of Sports Ethics and Rec(2005)8 on the principles of good governance in sport;

In the light of the work and conclusions of the 11th Council of Europe Conference of Ministers responsible for Sport (Athens, 11-12 December 2008), in particular in the areas of match-fixing, corruption and illegal betting;

In the light of Resolution No. 1 of the 18th Council of Europe Informal Conference of Ministers responsible for Sport (Baku, 22 September 2010) on the promotion of the integrity of sport against the manipulation of sports results (match-fixing);

In the light of existing international efforts with regard to the fight against cybercrime;

Acknowledging that, as a general rule, the sports movement is responsible for sport, but that public authorities can, where appropriate, develop co-operation with the sports movement, in order to promote the values and benefits of sport;

Convinced that the implementation by private companies and sports organisations of effective good governance policies, including codes of ethics, would help to strengthen their self-governance in matters relating to sport and would further consolidate their position with respect to states on the basis of mutual respect and trust;

Considering that it is necessary to further develop a common European framework for the development of sport in Europe, based on the notions of pluralist democracy, the rule of law, human rights and ethical principles;

Reaffirming that the nature of sport itself, based on fair-play and equal competition, requires that unethical practices and behaviours in sport be forcefully and effectively countered;

Aware of the pressures which modern society, marked among other things by the race for success and economic profits, brings to bear on sport;

Stressing their belief that the consistent application of the principles of good governance and ethics in sport would be a significant factor in helping to eradicate corruption, manipulation of sports results (match-fixing) and other malpractices in sport;

Acknowledging that attempts to manipulate sports results constitute an important threat to the integrity of sport;

Concerned by the involvement of organised crime in the manipulation of sports results, especially at international level;

Convinced that match-fixing may erode confidence among the public if it perceives sport as a place where manipulation gives substantial financial benefits to certain individuals, rather than as an activity where the glorious uncertainty of sport predominates;

Convinced that dialogue and co-operation between public authorities, betting operators and sports organisations based on mutual respect and trust are essential in seeking effective common responses to challenges posed by the problem of manipulation of sports results;

Recalling that proceeds from lotteries and gambling are a significant source of income for sport in most European countries;

Stressing the right of governments to decide national lottery and gambling policies, in particular to achieve a fair return to sport for grassroots funding as regards betting (for example allocation of sports lotteries and betting proceeds to sport, sponsoring contracts, tax revenues allocated to sports policies in the framework of the budget of the state),

Recommends that the governments of member states of the Council of Europe which have not already done so adopt policies and measures aiming at preventing and combating the manipulation of results in all sports, in the light of the guidelines in the appendix to this recommendation;

Invites the Enlarged Partial Agreement on Sport (EPAS), where appropriate building on the experience, expertise and activities of the Group of States against Corruption (GRECO), the European Committee on Crime Problems (CDPC), Moneyval, the Conference of the Parties of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198), to respond to requests for assistance by the member states' governments to facilitate the implementation of this recommendation;

Invites EPAS, where appropriate, in co-operation with the competent units of the Secretariat General, to consider monitoring and/or follow-up activities of the present recommendation;

Invites EPAS, where appropriate, in co-operation with other relevant national and international bodies:

- to study specific measures taken by European states and develop good practices on the issue of combating the manipulation of sports results;
- to examine the existent measures and practices in member states undertaken by sports organisations and other concerned bodies and to make an inventory of existing legislation to prevent and combat the manipulation of sports results;
- to carry out a feasibility study, in co-operation with the other concerned bodies, on the basis of this recommendation, on a possible international legal instrument that covers all aspects of prevention and the combat against the manipulation of sports results;
- to provide a platform of exchange and co-operation for governments, sports movement and betting operators, on the issue of integrity of sport, to explore the feasibility of establishing a working structure and to report to the next ministerial conference;
- to explore possibilities to use the Council of Europe initiatives as a starting point towards a global response to the issue;

Calls upon EPAS, in co-operation with the European Union and the sports movement, to promote co-operation between the organisers of sports events and betting operators within the framework of national and European Union law;

Invites governments to consider, as a separate issue, the introduction of a duty on betting operators to provide an economic fair return from their sports bets for the general development of sport;

Asks the Secretary General of the Council of Europe to bring this recommendation to the attention of those states which are parties to the European Cultural Convention but are not members of the Council of Europe.

Appendix to the Recommendation CM/Rec(2011)10

Guidelines

A. Definition

1. In this document, the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.
2. In this document, the term “athletes” should be understood as sportsmen and sportswomen participating in organised sports activities, their support personnel and sports officials as well as anyone taking part in the activities of sports organisations in any role, including the owners of sports organisations.
3. In this document, the term “insider information” should be understood as any information relating to any competition or event that a person possesses by virtue of his or her position within sports. Such information includes, but is not limited to, factual information regarding the competitors, the conditions, tactical considerations or any other aspect of the competition or event, but does not include such

information that is already published or a matter of public record, readily acquired by an interested member of the public, or disclosed according to the rules and regulations governing the relevant competition or event.

4. In this document, “sports betting” covers all sports betting-based games that involve wagering a stake with a monetary value in games in which participants may win, in full or in part, a monetary prize based, totally or partially, on chance or uncertainty of an outcome (namely, fixed and running odds, totalisator games, live betting, betting exchange, spread betting and other games offered by sports betting operators), in particular:

4.1. legal betting refers to all types of betting that are allowed in a specific territory or jurisdiction (such as by licence given by a regulator or recognition of licences given by the regulator of a third country);

4.2. illegal betting refers to all types of betting which are not allowed in a specific territory or jurisdiction;

4.3. irregular betting refers to betting when irregularities and abnormalities in the bets placed or the event upon which the bets are placed can be identified.

B. Sharing responsibilities and co-ordination

5. Responsibility for preventing and combating manipulation of sports results usually falls to nongovernmental organisations (sports movements, including professional and amateur national or international sports organisations, clubs, local sports associations, athletes' organisations and event organisers; legal organisations managing lotteries; legal betting operators; supporters' clubs; umbrella organisations of lotteries and/or betting operators; or non-governmental organisations involved in the fight against corruption), as well as to the relevant law enforcement agencies and other public authorities (including government bodies responsible for sports and the regulatory authority of the betting market). Public authorities should, where appropriate, act as co-ordinators.

6. In designing a policy and action to combat effectively manipulation of sports results, an overall approach should be adopted on the basis of clear responsibilities of all those involved, as well as on the definition of means of consultation, exchange of information and co-ordination between the parties concerned, through a framework agreement, for example.

7. In general, each stakeholder should encourage and develop measures to address risks associated with the manipulation of sports results, particularly in the context of the development of betting, and study the setting-up of a viable, equitable and sustainable regulatory framework to protect the integrity of sport.

8. Governments should also support non-governmental organisations, particularly national sports organisations, clubs, athletes' organisations and organisations fighting corruption, which have the primary responsibility for implementing awareness-raising, educational and information programmes on the manipulation of sports results. Where appropriate, the payment of grants to sports organisations and clubs could be made conditional on a firm commitment and effective action by them to combat the manipulation of sports results and to educate their athletes and officials.

9. Regarding the sports movement at the international level, particular leadership and disciplinary responsibilities lie with sports governing bodies and their affiliated national organisations.

10. Regarding the betting industry at the international level, particular leadership and self-regulatory responsibilities lie with the umbrella organisations of lotteries and/or betting operators, in the framework of the rules set up by their respective national regulators.

11. All measures to combat manipulation of sports results must comply with the relevant European data protection standards, particularly in exchanges of information between stakeholders.

C. Legislative and other measures

12. Member states should ensure that their legal and administrative systems are provided with appropriate and effective legal means for combating manipulation of sports results.

13. Member states should review their existing legislation to ensure that:

13.1. manipulation of sports results – especially in cases of manipulation of competitions open to bets – including acts or omissions to conceal or disguise such conduct, falls within the remit of the national law and can be sanctioned in accordance with the seriousness of the conduct;

13.2. legal persons can be held liable for conduct as referred to in paragraph 13.1.

14. Member states should consider, in accordance with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198), that where the conduct referred to in paragraph 13.1 is a crime which generates proceeds, it could be deemed to be a predicate offence of money laundering.

15. Member states should consider how to make the best use of the existing legislative and/or other measures enabling the preservation of computer data and other records, as well as the application of mechanisms for whistle-blowing and the protection of whistle-blowers, in the area of manipulation of sports results.

D. Law enforcement and preventive activities of member states

16. Member states should review their national law to ensure that law enforcement and prosecuting authorities have appropriate investigative means, such as monitoring of communications, seizing of material, covert surveillance, control of bank accounts and other financial investigations in the fight against manipulation of sports results, especially in cases of manipulation of competitions offered for bets.

17. In accordance with the national law and on the basis of applicable bilateral and multilateral treaties, member states should make use of effective channels for the exchange of intelligence and information related to the investigation and/or prosecution of manipulation of sports results at national and international levels.

18. Member states should evaluate the possible positive impact of a focal point to advise and support the sports movement seeking co-operation with law enforcement and prosecuting authorities with regard to the exchange of intelligence or possible prosecution, taking into account the existing national structures, and, where appropriate, to designate such a focal point.

19. Member states should consider whether customer identification and sports-bets transactions could be monitored in the framework of the prevention of money laundering.

20. With a view to combating manipulation of sports results, member states are invited to consider the possibility of ensuring that no betting is allowed on a sports event unless the organiser of the event has been informed and has given prior approval, in accordance with the fundamental principles of international and national law.

21. Member states may establish the effective fight against manipulation of sports results as a criterion for the granting of public financial support to sports organisations.

22. Member states may help sports organisations to fund mechanisms for combating the manipulation of sports results either through direct subsidies or grants, or by taking the cost of such mechanisms into account when determining the overall subsidies or grants to be awarded to those organisations.

23. Member states should, where appropriate, take steps to ensure that no public financial support is granted to individual sports organisations, athletes or sports officials sanctioned for manipulation of sports results, for the duration of the sanction.

24. With a view to combating manipulation of sports results, member states are invited to explore the possibility of fighting against illegal sports betting by considering the effectiveness and the efficiency of measures such as:

24.1 restricting access to illegal websites (Domain Name System filtering and/or Internet Protocol blocking), while respecting the requirements of Article 10 of the European Convention on Human Rights on the protection of freedom of expression and access to information;

24.2 blocking financial flows between illegal operators and gamblers;

24.3 prohibiting advertisement for illegal betting.

25. Member states should recognise sports organisations' regulations as referred to in paragraph 26 of chapter E of these guidelines and, where appropriate, support their enforcement by a designated governmental sports authority or by an umbrella sports organisation.

E. Preventive activities of sports organisations

26. The sports movement should achieve an appropriate level of self-regulation in order to combat the manipulation of sports results. Self-regulation by the sports movement should be encouraged by governments, and possibly backed by public standards or policies.

27. Sports organisations, at national and international levels, should consider the adoption of appropriate measures to ensure good conditions for their professional athletes, notably through schemes aimed at safeguarding their salaries and through bans on participation at different levels of competition for sports organisations failing to fulfil regularly their financial obligations towards their athletes and sports officials.

28. National and international sports organisations faced with cases of manipulation of sports results should clarify and discuss their respective rights, obligations, duties and best practices, in particular:

28.1. rules against manipulation of sports results, in line with the standards adopted by the relevant international sports organisations. These rules should include:

a. rules on the prevention of conflicts of interest of athletes, in particular by:

– introducing bans on betting on their own events and/or competitions;

– restricting the using or passing on of insider information;

– prohibiting provision or receipt of any gift or other benefit in circumstances that might reasonably be expected to bring them into disrepute;

b. rules on the prevention and punishment of any offence established in accordance with these guidelines and related breaches of codes of conduct;

- c. systems for possible cancellation of sports events or disqualification of competitors where a risk of fraud has been established/identified;
 - d. obligations for athletes, sports officials and assessors to:
 - report full details of any approaches, any invitation to engage in suspicious conduct or any incident that would amount to a breach of the international or national federation’s rules related to the manipulation of sports results;
 - co-operate with any reasonable investigation carried out by the international federation concerned;
 - e. effective, proportionate and dissuasive sanctions for athletes and accessories found to be in breach of these rules, such as temporary or permanent bans on further sports activities, reimbursement of pecuniary damage caused and so forth;
 - f. mechanisms for the temporary prohibition from any participation in sports activities of athletes and sport officials under prosecution;
- 28.2. supervisory procedures in the area of manipulation of sports results, especially the assessment of risks of match-fixing related to competitions or events, for example in the framework of appropriate betting monitoring systems;
- 28.3. disciplinary procedures in line with agreed international general principles of law and ensuring respect for the fundamental rights of suspected athletes and sports officials. These principles include:
- a. ensuring that investigating bodies and disciplinary bodies are distinct from one another;
 - b. the right of such persons to a fair hearing and to be assisted or represented;
 - c. clear and enforceable provisions for appealing against any judgment given;
- 28.4. procedures for the mutual recognition of suspensions and other sanctions imposed by other sports organisations, notably in other countries;
- 28.5. an invitation to athletes and sports officials to participate actively in the fight against manipulation of sports results;
- 28.6. mechanisms for swift and effective assistance and exchange of information, including spontaneous exchanges, between relevant authorities on all aspects of concrete cases of manipulation of sport results.
29. Sports organisations are encouraged to select sports officials, especially referees and judges, at the latest possible stage before the competition or event.
30. Sports organisations are invited to consider introducing random financial audits for referees and judges and to ensure regular scrutiny of their field decisions.
31. Sports organisations are encouraged to introduce arrangements for recording and monitoring competitions or events by sports experts where there is risk of fraud, in order to complement the supervision based on betting monitoring systems.

32. Sports organisations are called upon to raise awareness and knowledge among their athletes of the issue of manipulation of sports results and its consequences, through education, training and publicity.

33. Sports organisations should ensure transparency in the financing of sports. It would therefore be appropriate to ensure that ownership structures of clubs are best suited to protect stability and safeguard sporting principles.

34. Sponsorship contracts should state that the sponsor plays no role in, and will exercise no influence on, the sporting decisions taken by the sponsored team or individual. This should not exclude holding discussions on the timings of events with sponsors. Sports organisations should not accept betting operators as sponsors unless they have an official licence, which is recognised in accordance with national and international legal provisions.

F. Preventive activities of betting operators

35. Betting operators should achieve an appropriate level of self-regulation in order to combat manipulation of sports results. Self-regulation by betting operators' organisations should be encouraged by member states, especially their regulatory authorities, and possibly strengthened by public standards or policies.

36. The organisation of bets should be restricted to official and significant sports events (unless minors compete in a competition for adults), possibly above a certain level of competition.

37. In the framework of betting monitoring systems, betting operators should ensure transparency of all financial transactions related to betting in order to monitor suspicious bets (for example, the amount of the stakes on any one bet, discrepancies between the distribution of the bets and the expected logical behaviour following the odds, very high amounts placed, or the geographical distribution of suspicious bets) with the relevant member states or sports organisations. The procedure for public disclosure of information should be regulated by a non-disclosure agreement, established in compliance with the relevant national and international legal provisions. The agreement may set up confidential systems to determine whether there is a case to answer before making any public statements, and give consideration to developing and monitoring strict protocols to prevent any leaks.

38. Betting operators should report suspicious bets swiftly to the competent governmental authorities, as well as to their betting monitoring systems.

39. Member states should adopt legislative measures to ensure that betting operators and sports organisations which do not voluntarily co-operate in submitting data in their possession or under their control are obliged to do so, in the framework of betting monitoring systems, in compliance with the relevant data protection standards. Betting operators and sports organisations should be subject to effective, proportionate and dissuasive sanctions or measures, including pecuniary sanctions, in the event that they do not co-operate with government authorities or if they hinder the collection of electronic evidence in the field of sporting bets.

40. Betting operators should immediately stop the validation of bets placed on matches for which a high probability of manipulation of sports results has been determined by the betting monitoring systems.

41. Betting operators and regulators of the betting market should adopt adequate regulations to prevent conflicts of interest and misuse of insider information by their owners and employees. In particular, they should prevent them from:

41.1. betting on their own products;

41.2. influencing any sporting decision taken by any athletes or teams in competitions open to bets;

41.3. taking part or acting as referees in events and/or competitions for which they have been involved in compiling the odds (applies also to players, managers, coaches, etc.).

42. If abuse of position by a betting operator which is also a sponsor, owner or part-owner of a sports organisation takes place, leading to the manipulation of results, regulators should take action against the operator which might involve withdrawal of the operator's licence.

43. Betting operators should also take measures to prevent sports organisations from having a controlling interest in their companies.

44. Teams or individual competitors under investigation or subject to sanctions for manipulation of sports results based on betting should be excluded from the betting offer.

45. Betting operators are invited to adopt self-regulatory rules, to comply with legislation and with the agreements concluded with sports organisations in accordance with paragraph 20, among others, on:

45.1. the prevention of conflicts of interest for themselves, their owners and employees;

45.2. the prohibition of high-risk bets;

45.3. the limitation of the amounts of certain bets that are more risky (for example "fun bets");

45.4. the systematic use of credit cards or bank transfers for financial transactions above a certain amount;

45.5. the introduction of additional preventive measures for certain types of bets (for example for live betting);

45.6. the establishment of betting monitoring systems and the establishment of co-operation with the sport or governmental monitoring systems in order to identify of suspicious bets;

45.7. mechanisms for sharing collected information with relevant public authorities, sports organisations and betting monitoring systems;

45.8. the development of channels for regular reporting of their findings on manipulation of sports results to the public.

46. Betting operators should increase awareness among their employees on the issue of manipulation of sports results and its consequences, through education, training and publicity.

G. Co-operation of relevant stakeholders in the fight against manipulation of sports results

47. Co-operation should be developed between sports organisations and betting operators in the fight against manipulation of sports results in order to:

47.1. clarify the respective commitments of both partners to combat manipulation of sports results;

47.2. ensure that the exchange of information is sufficient to ensure that the betting monitoring systems referred to in paragraphs 28.2, 31, 37, 38, 39, 40, 45.6 and 45.7 of these guidelines allow sports organisations to apply sanctions and other measures from paragraph 28.1 of chapter E of these guidelines.

48. Member states and sports organisations should work together to establish close co-operation involving exchange of information between law enforcement or prosecuting authorities and sports organisations.

49. The relevant stakeholders are invited to consider establishing a permanent international body for the fight against manipulation of sports results.

APPENDIX II

REPLIES TO THE QUESTIONNAIRE REGARDING THE WORK OF THE COUNCIL OF EUROPE ON THE ISSUE OF “MANIPULATION OF SPORTS RESULTS, NOTABLY MATCH-FIXING”

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Azerbaijan / Azerbaïdjan

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results?

1.1. If yes: 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?

There are no specific provisions in the national legislation and there are no domestic case-law concerning the manipulation of sports results.

2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

1.2. If not: 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

The conduct of manipulating sport results may fall - depending on the particular circumstances of a case – under other offences, such as corruption-related offences or other offences against the public service interests set in Chapter 33 of the Criminal Code of the Republic of Azerbaijan, in particular, accepting bribes (passive bribery), giving bribes (active bribery), exertion of illegal influence on the decision-making by an official (trading in influence), as well as under other corruption-related offences, including administrative, civil law and disciplinary offences. For instance, according to the Law of the Republic of Azerbaijan on making amendments to the Criminal Code of the Republic of Azerbaijan (dated 24 June 2011), inclusion of heads and other personnel of state and municipal enterprises, entities and organizations, and other commercial and non-commercial organizations, as well as persons dealing with entrepreneurial activities without setting up a legal entity, into of the range of government officials regarded as subjects of corruption-related offences and other offences against public service interests increased the possibility of qualifying the manipulation of the sports results as corruption-related offences.

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

No draft law introducing a special norm concerning the manipulation of sports results has been submitted for the consideration by the Milli Majlis (Parlament).

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

No criminal cases or other investigative materials related to manipulation of sports results have been examined by the prosecuting authorities or the courts yet.

Belgium / Belgique

1. Existe-t-il, dans votre législation nationale, dans vos règlements et dans votre jurisprudence, une ou plusieurs disposition(s) spécifique(s) quant à la manipulation des résultats sportifs¹⁰ ? Non
 - 1.1. Si oui:
 1. Est-ce que ce comportement est soumis à une sanction pénale ou administrative, ou à toute autre sanction juridique ?
 2. Pouvez-vous, s'il vous plaît, joindre le texte de(s) la disposition(s) traite(nt) de ce comportement (si disponible, joignez un texte en anglais ou en français s'il vous plaît).
 - 1.2. Si non:
 1. Est-ce que selon votre législation, la manipulation de résultats sportifs (ou certaines formes de ce comportement) relève d'une ou plusieurs infractions (pénales, administratives ou autres) ?

Le droit belge ne prévoit pas de dispositions qui visent spécifiquement la manipulation des résultats sportifs. Cependant, diverses dispositions de droit commun sont susceptibles de s'appliquer en la matière :

- Droit civil : Le Code civil belge n'accorde pas d'action en ce qui concerne les dettes de jeu ou le paiement d'un pari (Art. 1965 C. civ.). Toutefois, l'article 1966 du même code dispose que « *Les jeux propres à exercer au fait des armes, les courses à pied ou à cheval, les courses de chariots, le jeu de paume et autres jeux de même nature qui tiennent à l'adresse et à l'exercice du corps, ainsi que les jeux de hasard autorisés par la loi du 7 mai 1999 sur les jeux de hasard, les paris, les établissements de jeux de hasard et la protection des joueurs, sont exceptés de la disposition précédente. Néanmoins, le tribunal peut rejeter la demande, quand la somme lui paraît excessive.* »
- Droit pénal : Le droit pénal traditionnel s'applique aux infractions liées à la manipulation des résultats sportifs. Les dispositions relatives à la corruption, l'abus de biens sociaux, le chantage et les menaces, l'extorsion, le blanchiment, etc sont susceptibles de s'appliquer selon le cas.

Les articles 504bis et 504ter du Code pénal relatifs à la corruption sont, en général, à la base d'une condamnation pénale en cas de fraude liée au sport. Mais, des difficultés peuvent survenir quant à leur application :

- Ces articles visent soit l'administrateur d'une personne morale, soit le préposé d'une personne morale ou physique. Il est donc possible de poursuivre un gérant, entraîneur ou footballeur d'un club de football. En revanche, avec cette

¹⁰ Vous pourriez envisager la définition de «manipulation de résultats sportifs» figurant dans l'annexe à la Recommandation CM// Rec (2011) 10 adoptée par le Comité des Ministres le 28 septembre 2011, lors de la 1122^e réunion des Délégués des Ministres. Plus précisément, il a été déclaré que : «l'expression "manipulation des résultats sportifs" désigne un arrangement sur une modification irrégulière du déroulement ou du résultat d'une compétition sportive ou d'un de ses événements en particulier (par exemple match, course...), afin d'obtenir un avantage pour soi-même ou pour d'autres et de supprimer tout ou partie de l'incertitude normalement liée aux résultats d'une compétition. »

définition, il n'est pas possible de poursuivre une personne qui ne fait pas partie d'une personne morale et qui agit de son propre chef.

- La définition prévoit aussi que la corruption doit avoir lieu à l'insu et sans l'autorisation des autres membres.
- Dispositions particulières : A noter qu'il existe en droit belge la loi du 7 mai 1999 sur les jeux de hasard, les paris, les établissements de jeux de hasard et la protection des joueurs, modifiée par deux lois du 10 janvier 2010 ainsi qu'une série d'arrêtés royaux relatives aux paris.

Plus particulièrement, dans le domaine du football, le Règlement Fédéral Football définit les faits de falsification de la compétition et prévoit entre autres, des instances spécifiques compétentes, une procédure particulière et des sanctions contre les joueurs.

2. En raison de l'absence d'une législation spécifique dans votre système, envisagez-vous d'adopter une loi spécifique sur ce comportement à l'avenir ?

Le système belge tel qu'il est prévu actuellement en ce qui concerne la manipulation des résultats sportifs fonctionne de façon satisfaisante. Aucune initiative législative n'est envisagée à l'heure actuelle. En outre, des événements non sportifs et liés à des paris peuvent être confrontés à de telles manipulations de résultat, une disposition spécifique serait alors également nécessaire pour ces événements.

2. S'il y a déjà eu dans votre pays des enquêtes sur des cas de manipulation de résultats sportifs, pourriez-vous s'il vous plaît fournir toute information pertinente sur la façon dont les organes d'application de la loi (police, procureurs et tribunaux) se sont occupés de tels cas (les enquêtes ont-elles été couronnées de succès, les suspects ont-ils été identifiés et poursuivis, les sanctions pénales et administratives ont-elles été appliquées)?

Tout comme certains autres pays, la Belgique a été secouée ces dernières années par quelques scandales de corruption et de paris illégaux dans le monde du sport et du football en particulier. Le sport brasse beaucoup d'argent et il paraît évident de considérer que le sport non plus ne peut échapper à différentes formes de criminalité telles que la corruption, le blanchiment ou la fraude fiscale.¹¹

Le parquet fédéral, qui centralise les dossiers en matière de fraude dans le football, examine actuellement deux affaires qui l'une et l'autre sont liées à la manipulation de paris.¹²

Dans 'l'affaire Yé', 16 personnes devront rendre des comptes devant le tribunal correctionnel.¹³ Dans le cadre de cette affaire, des joueurs et des entraîneurs sont accusés d'avoir reçu en

¹¹ Voyez à cet égard notamment une étude sur la corruption dans le sport réalisée en 2008 par Transparency International. Transparency International, Working Paper, édition 3-2009, http://www.transparency.org/publications/publications/working_papers/wp_03_2009_sport_and_corruption_9_september_2009.

¹² Voyez le mail que le parquet fédéral a adressé le 6 décembre 2011 au service de la politique criminelle du SPF Justice.

¹³ Voyez par exemple: <http://www.hbvl.be/nieuws/binnenland/aid950358/onderzoek-zaak-ye-na-vijf-jaar-klaar.aspx>

2005 de l'argent de la mafia chinoise du jeu. L'objectif de ces versements était d'influencer les résultats de matchs de manière à ce que des bénéficiaires importants puissent être engrangés en pariant sur ces résultats. La chambre du conseil de Bruxelles examine cette affaire le 13 décembre en vue du renvoi de celle-ci devant le tribunal correctionnel. Dans la mesure où cette affaire n'a pas encore été examinée sur le fond par le juge du fond et étant donné le caractère secret de l'instruction préparatoire en Belgique, il n'est pas possible de procéder à une analyse de la manière dont la police et la justice ont procédé dans cette affaire.

La seconde affaire, dite 'l'affaire Namur', illustre que des enquêtes menées à l'étranger peuvent parfois avoir des ramifications en Belgique. Une enquête initiée par le parquet dans la ville allemande de Bochum a révélé que le résultat final de 17 matchs de football de la deuxième division belge disputés en 2009 avait été falsifié.¹⁴ Cette affaire se trouve au stade de l'information et il n'est dès lors pas encore possible de préciser l'action de la police et de la justice dans ce dossier.

Ces affaires ont engendré en Belgique une attention accrue de la part des autorités politiques¹⁵, en particulier des ministres de la Justice et de l'Intérieur, pour ce phénomène.

Ainsi, un point de contact (formulaire) 'fraude football' a été¹⁶ créé auprès de la police fédérale. Ce point de contact en matière de fraude dans le football a pour missions :

- de permettre à des personnes disposant d'informations concernant une fraude présumée dans le milieu du football de les communiquer à un guichet central, même de façon anonyme ;
- de 'visualiser' le phénomène de la fraude dans le football à l'intention des autorités et organisations qui prennent en charge l'organisation de matchs de football ;
- d'en arriver à un contrôle plus effectif et plus efficace de la corruption et des paris engagés sur des matchs de football grâce à un meilleur fonctionnement des différents acteurs concernés et à une meilleure collaboration entre ceux-ci ;
- d'offrir la possibilité d'une meilleure lutte (à la fois préventive et répressive) contre cette fraude, en mettant son savoir-faire à disposition.

Ce point de contact a mis en branle une dynamique de collaboration entre la justice, la police et l'Union belge de football. C'est un *assist* idéal pour tâter le terrain, établir une 'cartographie' du milieu des paris, développer une expertise, se concerter et dessiner ensemble les contours d'une approche préventive et réactive mûrement réfléchie.¹⁷

Cette dynamique se concrétise également par la mise en place d'un point de contact national et international auprès du ministère public belge (au sein du parquet fédéral¹⁸), où un magistrat est chargé de rassembler et traiter les plaintes.¹⁹

¹⁴ Voyez par exemple: <http://www.demorgen.be/dm/nl/998/Voetbal/article/detail/1059093/2010/01/26/Federaal-parket-moeit-zich-met-gokfraude-bij-Namen.dhtml>

¹⁵ Voir également : Proposition de loi visant à organiser un meilleur contrôle de la corruption et des paris sur les matchs de football, déposée par 6 sénateurs belges en février 2009, Sénat de Belgique, session 2008-2009, 20 février 2009, doc. n°4-1191/1.

¹⁶ Joignable via le numéro de téléphone 0800/44.442 ou www.fraudefootball.be. Voir également : le mail que le parquet fédéral a adressé le 6 décembre 2011 au service de la politique criminelle du SPF Justice.

¹⁷ Inforevue Police intégrée, 04/2010, p. 28.

¹⁸ La fraude dans le cadre des paris sur les matchs de football revêt une dimension internationale et dépasse les frontières d'un arrondissement judiciaire. Le caractère transfrontalier du phénomène justifie une approche au niveau fédéral

¹⁹ Inforevue Police intégrée, 04/2010, p. 27.

Auprès de la police également (au sein de la Direction de la lutte contre la criminalité économique et financière, office central de répression de la corruption), un officier a été désigné pour coordonner la lutte contre la fraude dans le football.²⁰

Il importe de signaler que le parquet fédéral de l'Union belge de football est également habilité à prendre certaines mesures sportives ou disciplinaires à l'encontre de clubs ou de joueurs. Cela répond à l'exigence de pouvoir bondir rapidement sur la balle en matière sportive, tandis qu'une enquête pénale et l'épuisement des procédures légales sont souvent un travail de longue haleine.

Informations additionnelles :

1. En Belgique il y a une disposition spécifique en particulier l'article 4, §3 de la loi sur les jeux de hasard : « § 3. Il est interdit à quiconque de participer à tout jeu de hasard si l'intéressé peut avoir une influence directe sur son résultat. »
2. Le problème de la fraude dans le sport ne peut pas être résolu par des initiatives privées, mais doit être traité par les autorités publiques. « Self regulation » n'est pas un outil efficace dans le combat contre la fraude. La Cour de Cassation confirme ce point de vue dans son arrêt du 30 mai 2011 (ch. Réun) : « Une a.s.b.l. qui, comme le Vlaams Doping Tribunaal, n'exerce un pouvoir disciplinaire qu'à l'égard des sportifs d'élites affiliés à une fédération qui lui a confié la tâche de les sanctionner disciplinairement, ne dispose pas de la compétence de prendre des décisions obligatoires à l'égard des tiers en ne peut donc être considérée comme une autorité administrative au sens de l'article 14 des lois coordonnées sur le Conseil d'Etat. » (Cass., 30 mai 2011, J.T., 2012, n°464, 71.)
3. Finalement la Commission des jeux de hasard est demanderesse pour la création d'une infraction de fraude dans le sport.

²⁰ Inforevue Police intégrée, 04/2010, p. 28.

Bosnia and Herzegovina / Bosnie-Herzégovine

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²¹?

- 1.1. If yes:
1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

- 1.2. If not:
1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?
 2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

Manipulating sports results has not been covered by criminal legislation in Bosnia and Herzegovina.

However, there are rulebooks on disciplinary liability in force which provide basis for sanctions to collaborators of such conduct.

There are no available data on practical cases.

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

²¹ You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

Bulgaria / Bulgarie

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²²?

1.1. If yes: 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?

Following the amendments to the Bulgarian Criminal Code adopted by the National Assembly on 21 July 2011, the conduct of manipulating sport results is subject to criminal sanctions. The amendments were published in State Gazette N 60 of 5 August 2011.

2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

The English text of the above amendments to the Criminal Code is attached below.

1.2. If not: 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

Following the entry into force of the above amendments, there is no information about any investigations in cases of manipulating sport results (i.e. in the period 09.08.2011 – 20.01.2012).

²² You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

Attachment

Extracts of the Bulgarian Criminal Code as amended in July 2011

Bulgarian Criminal Code

Chapter Eight "A"

(New, SG No. 60/2011)

CRIMES AGAINST SPORTS

Article 307b. (New, SG No. 60/2011) Anyone who-through the use of force, fraud, threat, or in another unlawful way-persuades another person to influence the development or outcome of a sports competition administered by a sports organisation shall be punished with imprisonment from one to six years and a fine ranging from BGN 1,000 to 10,000, unless the act constitutes a more severe crime.

Article 307c. (New, SG No. 60/2011) (1) Anyone who promises, offers, or grants any undue advantage to another in order to influence or for having influenced the development or outcome of a sports competition administered by a sports organisation shall be punished with imprisonment from one to six years and a fine ranging from BGN 5,000 to 15,000.

(2) The punishment under Paragraph 1 shall also be imposed on anyone who requests or accepts any undue advantage, or accepts offer or promise of an advantage, in order to influence or for having influenced the development or outcome of a sports competition or when, with the consent of that person, the advantaged is offered, promised, or given to another.

(3) Anyone who acts as an intermediary for the commitment of an act under Paragraphs 1 and 2 shall be punished with imprisonment for up to three years and a fine of maximum BGN 5,000.

(4) The punishment under Paragraph 1 shall also be imposed on anyone who provides for or organises the advantage offering or granting.

(5) Offenders shall be punished pursuant to the conditions of Article 55 (*mitigating circumstances*) if they voluntarily inform the competent authority about any crime committed under Paragraphs 1-4.

Article 307d. (New, SG No. 60/2011) The punishment shall be imprisonment from two to eight years and a fine ranging from BGN 10,000 to 20,000 when the act under Article 307b or Article 307c is committed:

1. in respect of a sports competition participant who is under 18 years of age;
2. in respect of two (or more) sports competition participants;
3. in respect of, or by a member of a sports organisation's managing or control body, a referee, a delegate or anyone acting while discharging his duties or function;
4. repeatedly.

(2) The punishment shall be imprisonment from two to ten years and a fine ranging from BGN 15,000 to 30,000 when the act under Article 307b or Article 307c:

1. is committed by a person acting upon an order or decision of an organised crime group.
2. is committed in the context of dangerous recidivism;
3. is a particularly grave offence;
4. concerns a competition included in a game of chance that involves betting on the development or outcome of sports events.

Article 307e. (New, SG No. 60/2011) (1) In the cases under Article 307b, Article 307c and Article 307d, the competent court may order deprivation of rights under Article 37(1)(6) and (7).

(2) In the cases under Article 307d, the court may also order that half of the assets, or less, of the guilty person be confiscated.

Article 307f. (New, SG No. 60/2011) The object of any crime falling within the scope of this chapter shall be forfeited in favour of the state, and when this object is not available or is expropriated, it is the relevant monetary equivalent that shall be forfeited.

Cyprus / Chypre

Answer 1

1.1.1. Yes, under Law 41 of 1969 which provides the Purposes, Objectives, Organisation and Operation of the Cyprus Athletes Association, anyone who attempts to manipulate sports results is guilty of an offence.

1.1.2. Under Article 24 of the above mentioned Law:

(1) Anyone who

(a) Demands or accepts a gift, provision or benefit of any kind or a promise for these, with the purpose or under the promise of alteration of the result of any team or individual sport, against or in favour of any sports club,

(b) Provides, gives or promises a gift, provision or benefit of any kind (i) to any athlete or to any congenial person or relative for the purpose or for the receipt of a promise as mentioned in paragraph (a), (ii) to any club or its board of directors or to any of its members or to any member of the club or to any person exercising in a club in order to achieve a result in favour of this club or at the expense of a rival or rivals of this club, is guilty of an offence and may be convicted to imprisonment not exceeding 2 years or to a fine not exceeding €1.708 or both.

(2) In the case that due to the above actions the intended result is achieved, the responsible person is subject to imprisonment not exceeding 3 years or to a fine not exceeding €2.562 or both.

(3) No criminal action for any criminal offence under article 24 may be taken without the consent of the Attorney General.

Answer 2

Currently there are some investigations in progress regarding such cases. The investigations are so far successful, although the cases have not yet been presented before the Court.

Czech Republic / République tchèque

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²³?

No.

- 1.1. If yes:
 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

- 1.2. If not:
 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

Yes, conduct of manipulating sport results falls under general bribery provisions. There is already a substantial case law on corruption in sports.

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

There were cases of manipulating sport results by bribing the referee of several football matches. These referees and those paying bribes have been prosecuted for corruption offences and criminal sanctions were applied.

²³ You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

Denmark / Danmark

The Questionnaire

Part 1 – GENERAL LAW

I- Which legal provisions in your country could be used to combat manipulation of sports results?

1. General law

Civil law

Criminal law (Corruption, money laundering, financial fraud, etc)

Intellectual property law

Other (please specify)

Criminal law

- The Danish Criminal Code section 279, 285, 286, 290. See <https://www.retsinformation.dk/Forms/R0710.aspx?id=133530> for full Danish text, see below (section II) for relevant excerpts in English.

Civil law

- The Act on Gaming (which has been passed by the Danish Parliament and is expected to enter into force on January 1, 2012), section 11(4). See <http://www.skat.dk/SKAT.aspx?old=1905223&vld=0> for full English text. Please note that the Danish version of the document is the only applicable and authentic version.
- Draft executive order on land based betting (has *not* yet entered into force), section 7. See <http://ec.europa.eu/enterprise/tris/pisa/app/search/index.cfm?fuseaction=getdraft&inum=1693591> for Danish draft text.
- Draft executive order on online betting (has *not* yet entered into force), section 22. See <http://ec.europa.eu/enterprise/tris/pisa/app/search/index.cfm?fuseaction=getdraft&inum=1693657> for Danish draft text.

2. Specific law (with specific provisions on the manipulation of sports results)

Civil law

Criminal law

Other (please specify)

II- Under this framework, please list the texts and references of national provisions that cover manipulation of sports results (in case legislation is in preparation, please refer to the preparatory texts, drafts debates, etc.)

Criminal law

Danish legislation does not entail a specific offence for manipulation of sports results.

Manipulation of sports results may, however, be covered by Section 279 of the Danish Criminal Code.

It reads as follows:

“279. Any person who, for the purpose of obtaining for himself or for others an unlawful gain, by unlawfully bringing about, corroborating or exploiting a mistake, induces any person to do or omit to do an act which involves the loss of property for the deceived person or for others affected by the act or omission, shall be guilty of fraud.”

In order for match fixing to be covered by Section 279 it is required – inter alia – that the act involves the loss of property.

Fraud is punishable by imprisonment for any term not exceeding one year and six months (Section 285). Where the offences are of a particularly aggravated nature, especially due to the manner in which they were committed, or because they were committed by several persons in association, or due to the magnitude of the obtained or intended gain, or where a large number of offences have been committed, the penalty may be raised to imprisonment for any term not exceeding eight years (Section 286 (2)).

Money laundering is covered by Section 290 of the Criminal Code, which reads as follows:

“290. (1) A person who unlawfully accepts or acquires for himself or for others a share in proceeds which have been obtained by a violation of the law, or unlawfully assists, by subsequently concealing, keeping, transporting, helping with the disposal of or taking part in a similar manner, in securing for another the proceeds of a criminal offence, shall be guilty of receiving stolen goods and liable to a fine or imprisonment for any term not exceeding one year and six months.

(2) When a person has received stolen goods acting in a particularly aggravated way, especially due to the commercial nature of the offence, or due to the extent of the obtained or intended gain, or where a large number of offences have been committed, the penalty may be increased to imprisonment for any term not exceeding six years.

(3) Punishment under this provision shall not be imposed on a person, who accepts proceeds for ordinary subsistence from family members or a cohabitant, or a person who accepts proceeds as normal payment for ordinary consumer goods, articles for everyday use, or services.”

All types of property are covered by Section 290 (profits which are obtained by a punishable violation of the law). The only requirement is that the proceeds can be identified as such, being the direct profits from the crime or surrogates that can be identified or income from such assets.

As money laundering is a separate crime, it is not required that there is a conviction for the predicate offence or that the predicate offence has been identified.

The money laundering of profits which are obtained from an (unlawful) act of match fixing may thereby be punishable by section 290 if the proceeds have been obtained from an act of fraud covered by Section 279.

Civil law

The above mentioned Act on Gaming, section 11(4), states that:

“The Minister of Taxation may lay down rules to the effect that betting on certain categories of events shall not be permitted.”

In the explanatory notes to the Act (see <http://www.skat.dk/SKAT.aspx?old=1905230>), it is stated that:

“The proposed subsection (4) authorises the Minister of Taxation to lay down rules to prohibit betting on certain categories of events. Such rules are intended to limit the risk of so-called match fixing, i.e. sporting events where the result has been agreed in advance.

The categories of events where the risk of match fixing is the greatest are e.g.:

- *Betting where one single sportsman or sportswoman has total control of the outcome of the bet and where the bets placed by the players are only of little or no importance in so far as the sport is concerned;*
- *Events where a few sportsmen or the referee may decide the outcome of the bet without it having any noticeable effect on the match as a sporting match;*
- *Betting on matches in low-ranking leagues;*
- *Betting provided on youth sport.*

In so far as possible the rules in this regard must be laid down before the first licences to provide betting are issued so that the holders of the licences are restricted in the categories of events on which bets may be placed. Once the Act has come into force, the provision must be administered respecting the activities of the holders of the licences and must not go beyond what is necessary to attain the object of the provision.”

The provision in section 11(4) is intended to be implemented through the executive orders on land based betting and online betting referred to above.

Chapter 4 of the draft executive order on land based betting deals with “Match-fixing and employees’ participation in gambling”. Section 7, 8 and 9 read as follows (NOTE: unofficial translation):

“7. The license holder [according to the Act on Gaming betting companies must hold a license to legally operate in Denmark] must take action to ensure the reduction of the risk of match-fixing in bets and must refuse to receive money on bets for which there is a reasonable suspicion of match-fixing.

8. The license holder must ensure that employees of the license holder, suppliers of the license holder, and other persons related to the development of the bets offered by the license holder, do not have access to participate in the bets offered by the licence holder.

9. The license holder is not allowed to offer bets on sporting events reserved for persons under the age of 18.”

In the same way, chapter 9 of the draft executive order on online betting deals with “Match-fixing and employees’ participation in gambling”. Section 22 and 23 read as follows (NOTE: unofficial translation):

“22. The license holder must take action to ensure the reduction of the risk of match-fixing in bets and must refuse to receive money on bets for which there is a reasonable suspicion of match-fixing.

23. The license holder is not allowed to offer bets on sporting events reserved for persons under the age of 18.”

III- In relation to these provisions, what are the infringing acts?

Please see the answer to section II

IV- What are the sanctions?

Please see the answer to section II

Part 2 – CASE LAW

V- Please list the cases (already solved or under investigation) related to manipulation of sports results

Neither the Danish Public Prosecutor for Serious Economic Crime, the Danish Gambling Authority nor The National Olympic Committee and Sports Confederation of Denmark have knowledge of any case law in regards to match fixing.

VI- Please list the general court decisions or decisions of sports organisations related to manipulation of sports results

Please see the answer to section V. In addition, it can be noted that The National Olympic Committee and Sports Confederation of Denmark (DIF) has stated that no disciplinary sanctions related to match-fixing have been carried out within the realm of DIF. In 2010 DIF investigated a suspected case of match-fixing in one of the lower football leagues, but the investigations did not bring DIF to sanction neither players nor clubs.

Part 3– THE EFFECTIVENESS OF LEGAL FRAMEWORK

VII- What are the obstacles to prosecute illegal activities related to manipulation of sports results?

Since there have been no known attempts in Denmark to prosecute illegal activities related to manipulation of sports results, there has been no experience with obstacles to such prosecutions.

VIII- In your opinion, the introduction of specific offence for manipulation of sports results in your national legislation is appropriate to combat manipulation of sports results?

Yes No

Why?

At this point in time, there is no plausible ground to deem the existing and planned legislation inadequate in the fight against match-fixing. It has not at this point in time been documented that the introduction of specific legislation targeted at match-fixing will enhance the opportunities of combating match-fixing in Denmark.

IX- Are any actions at European level necessary in this field and if yes, which actions do you think are necessary?

The first focus of EU activities in this field should be to ensure that knowledge of best practices is shared between Member States and other stakeholders. This goes for both the design and implementation of national legal frameworks applicable to match-fixing, for cooperation between relevant stakeholders at national and international level and for the design of preventive measures.

Since match-fixing is by nature an international problem, another relevant focus for EU-level action would be for the Commission and Members States to include, when relevant, issues relating to match-fixing in bilateral contacts and relations with relevant third countries, that is, countries outside of the EU.

Estonia / Estonie

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results^[1]?

No, we don't have any specific regulation providing punishment of the manipulation of sport results.

- If Not - Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

In certain specific cases it is theoretically possible to prosecute the manipulation of sport results as fraud under the Penal Code.

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

- **There have not been any investigations in cases of manipulating sport results in Estonia. Therefore we don't have any experience or best practices to share regarding investigation or prosecution of cases of manipulating sport results.**

Finland / Finlande

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results?

No.

- 1.2. If not: 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

Yes.

In Finland match-fixing and manipulation of sports results come under general criminal law. One of the principal types of crime in this context is fraud (Criminal Code, Chapter 36 Sections 1-2), under which betting and winning money on manipulated results can constitute a crime. Deceiving another person for monetary gain and causing economic loss constitute a fraud. An attempt is also punishable. If the fraud involves the seeking of considerable financial benefit, as may be the case in match-fixing, the act may constitute an aggravated fraud (Criminal Code, 36:2).

Another applicable type of crime is bribery in business (Criminal Code, 30:7). For example, an offer of monetary reward to a player for action designed to lose a match may constitute bribery in business. If an offer of money with this intent is accepted, it may constitute acceptance of a bribe in business (Criminal Code, 30:8).

Quite recently (1 Oct. 2011), amendments regarding an aggravated form of these crimes came into force (Criminal Code, 30:7a and 8a).

Bribery in the private sector has been to the fore in the international community in recent years, which has also influenced the contents of Finnish statutes and regulation.

The provisions on corporate criminal liability apply to bribery in business and acceptance of a bribe in business (Criminal Code, 30:13).

The sanctions for fraud and bribery and acceptance of a bribe in business range from a fine to two years' imprisonment and for an aggravated fraud, bribery and acceptance of a bribe up to four years' imprisonment. In a case of several aggravated frauds, the maximum punishment may be as severe as seven years' imprisonment.

Match-fixing and manipulation of results may also lead to a claim for substantial compensation or forfeiture of illegal benefits.

Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

No. The statutes referred to above have been applied to sports-related fraud and bribery in judicial practice and offenders have been punished. In the Finnish legal practice there have not been loopholes in the legislation in regard of sports-related offences that would warrant legislative measures. Similarly, the scales of sanctions allow an appropriate and robust response to criminal acts.

Therefore, we see no substantive reasons for adopting a specific criminal provision on manipulating sports results. The Finnish criminal law system is not based on many specific criminal provisions in different spheres of life but we believe on more general criminal provisions which cover different spheres of life.

It is clear that match-fixing and result manipulation may often involve difficult problems with evidence. These are not, however, generally helped by means of new provisions on sanctions.

Measures are being taken at both the European and international levels to step up legal aid. Similarly, regulation on money laundering and organised crime, among others, has been developed.

In Finland, recent amendments to the lotteries legislation were accompanied by statutory definitions of betting and gambling crimes (Criminal Code, 17:16a).

Even though sports-related crime is not separately criminalised in Finland, we see that our national legislation has so far fit the purpose. Most recently the matter was looked into by the Ministry of Justice in 2006.

The Ministry of Education and Culture aims to conduct a review of the national legislation and its adequacy for purpose in terms of sports-related offences by the end of 2012. We also actively participate both in the process launched by the Council of Europe and in the cooperation to fight match-fixing initiated by the European Union.

Legislation cannot be the main means of combating sports-related fraud and result manipulation. At best, a criminalisation of sports-related fraudulent activity will only influence part of the causes behind fraudulent betting and gambling.

If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

The statutes referred to under 1.II have been applied to sports-related fraud and bribery in judicial practice and offenders have been punished. Even sentences of imprisonment have been imposed.

France

1. Existe-t-il, dans votre législation nationale, dans vos règlements et dans votre jurisprudence, une ou plusieurs disposition(s) spécifique(s) quant à la manipulation des résultats sportifs²⁴ ?

Non, il n'existe pas dans la législation pénale française de disposition spécifique quant à la manipulation des résultats sportifs.

- 1.1. Si oui:
 1. Est-ce que ce comportement est soumis à une sanction pénale ou administrative, ou à toute autre sanction juridique ?
 2. Pouvez-vous, s'il vous plaît, joindre le texte de(s) la disposition(s) qui traite(nt) de ce comportement (si disponible, joignez un texte en anglais ou en français s'il vous plaît).
- 1.2. Si non:
 1. Est-ce que selon votre législation, la manipulation de résultats sportifs (ou certaines formes de ce comportement) relève d'une ou plusieurs infractions (pénales, administratives ou autres) ?

La manipulation de résultats sportifs peut relever de différentes infractions pénales.

Le droit pénal en vigueur permet d'appréhender et de sanctionner les comportements frauduleux les plus graves, relevant du sport professionnel, par le biais de qualifications telles que la corruption, l'escroquerie ou le blanchiment.

Plusieurs textes sont susceptibles de s'appliquer aux hypothèses de corruption commises au cours de manifestations sportives et au premier chef, le délit de l'article 445-1 du Code pénal réprimant la corruption active de personnes privées (et 445-2 pour la corruption passive).

L'article 445-1 vise de manière générale toute « personne qui, sans être dépositaire de l'autorité publique, ni chargée d'une mission de service public (...) exerce, dans le cadre d'une activité professionnelle ou sociale, une fonction de direction ou un travail, pour une personne physique ou morale ou pour un organisme quelconque ».

²⁴ Vous pourriez envisager la définition de « manipulation de résultats sportifs » figurant dans l'annexe à la Recommandation CM/ Rec (2011) 10 adoptée par le Comité des Ministres le 28 septembre 2011, lors de la 1122^e réunion des Délégués des Ministres. Plus précisément, il a été déclaré que : « l'expression "manipulation des résultats sportifs" désigne un arrangement sur une modification irrégulière du déroulement ou du résultat d'une compétition sportive ou d'un de ses événements en particulier (par exemple match, course...), afin d'obtenir un avantage pour soi-même ou pour d'autres et de supprimer tout ou partie de l'incertitude normalement liée aux résultats d'une compétition. »

Cette définition, si on la cantonne au sport professionnel, peut recouvrir l'essentiel des acteurs des manifestations sportives, c'est à dire les organisateurs, les sélectionneurs, les agents sportifs, les arbitres, les dirigeants des fédérations sportives et les sportifs liés juridiquement aux organisateurs.

2. En raison de l'absence d'une législation spécifique dans votre système, envisagez-vous d'adopter une loi spécifique sur ce comportement à l'avenir ?

Une réflexion interministérielle est toujours en cours sur l'opportunité de la création d'un délit spécifique en matière de corruption sportive.

2. S'il y a déjà eu dans votre pays des enquêtes sur des cas de manipulation de résultats sportifs, pourriez-vous s'il vous plaît fournir toute information pertinente sur la façon dont les organes d'application de la loi (police, procureurs et tribunaux) se sont occupé de tels cas (les enquêtes ont-elles été couronnées de succès, les suspects ont-ils été identifiés et poursuivis, les sanctions pénales et administratives ont-elles été appliquées)?

Dans l'affaire dite OM-VA (Olympique de Marseille – Valenciennes), deux joueurs avaient accepté de faciliter la victoire de Marseille en échange d'une somme d'argent (pendant le match de championnat remporté 1 à 0 le 20 mai 1993 par l'Olympique de Marseille sur le terrain de l'US Valenciennes-Anzi).

Cette affaire s'est conclue par la condamnation définitive du président de l'OM sur le fondement du délit de corruption active de salarié au titre de l'ancien article 152-6 du code du travail, effectivement abrogé par la loi du 4 juillet 2005, mais désormais appréhendé de manière plus large encore par l'article 445-1 du code pénal (puisqu'il n'est plus indispensable de se trouver dans une entreprise et d'agir à l'insu de son employeur).

Le dossier a été jugé par le tribunal correctionnel de Valenciennes courant mars 1995.

Suivant jugement en date du 15 mai 1995, le tribunal a notamment condamné Bernard Tapie, président du club de l'OM au moment des faits, à la peine de deux ans d'emprisonnement, dont un ferme.

Bernard Tapie a fait appel.

Suivant arrêt de la cour d'appel de Douai rendu courant novembre 1995, M TAPIE a été condamné à deux ans de prison dont 16 mois avec sursis, 20 000 francs d'amende et trois ans d'inéligibilité.

Georgia / Géorgie

1. **Question:** Existe-t-il, dans votre législation nationale, dans vos règlements et dans votre jurisprudence, une ou plusieurs disposition(s) spécifique(s) quant à la manipulation des résultats sportifs?

Réponse: **Oui**

- 1.1. Si oui: 1. Est-ce que ce comportement est soumis à une sanction pénale ou administrative, ou à toute autre sanction juridique ?

Réponse: **L'article 203 du code pénal de la Géorgie prévoit les sanctions pénales pour la corruption d'un participant ou d'une organisation de compétition sportive professionnelle ou de concours d'amusement commercial.**

2. Pouvez-vous, s'il vous plaît, joindre le texte de(s) la disposition(s) qui traite(nt) de ce comportement (si disponible, joignez un texte en anglais ou en français s'il vous plaît).

Extract from the Criminal Code of Georgia

Article 203. Bribing of a Participant or Organisation of Professional Sports Competition or Commercial-entertainment Contest

1. Bribing a participant, a referee, a coach, a leader of a team or an organisation of professional sports competition, as well as an organiser or a member of jury of a commercial-entertainment contest for the purpose of influencing results of the competition and contest,
 - shall be punished by a fine or socially useful labour for a term from one hundred and twenty to one hundred and eighty hours or correctional labour for a term from six months to one year or imprisonment for a term of up to one year.
2. The same offence committed repeatedly,
 - shall be punished by restriction of liberty for a term of up to three years or imprisonment for a term from two to five years.
3. The offence referred to in the first and second paragraphs of this article committed by an organised group,
 - shall be punished by imprisonment for a term from four to six years.
4. Illegal receipt of money, stock or other property or using property services by a participant of a professional sports competition for the purpose of influencing the results of the competition or contest,
 - shall be punished by imprisonment for a term of up to two years, with deprivation of the right to hold office or pursue an activity for a term of up to three years.

5. Illegal receipt of money, stock or other property or using property services by a referee, a coach, a leader of a team or organisation of professional sports competition, as well as by an organiser or a member of jury of a commercial-entertainment contest for the purpose of influencing results of the competition or contest,
- shall be punished by a fine, with deprivation of the right to hold office or pursue an activity for a term of up to three years or imprisonment for a term of up to one year.

Note: A person who voluntarily declares to authorities of having transferred money, stock or any other property or rendered property services to any of the persons referred to in the first paragraph of this article, shall be discharged from criminal liability.

- 1.2. Si non:
1. Est-ce que selon votre législation, la manipulation de résultats sportifs (ou certaines formes de ce comportement) relève d'une ou plusieurs infractions (pénales, administratives ou autres) ?

Réponse: -----

2. En raison de l'absence d'une législation spécifique dans votre système, envisagez-vous d'adopter une loi spécifique sur ce comportement à l'avenir ?

Réponse: -----

2. S'il y a déjà eu dans votre pays des enquêtes sur des cas de manipulation de résultats sportifs, pourriez-vous s'il vous plaît fournir toute information pertinente sur la façon dont les organes d'application de la loi (police, procureurs et tribunaux) se sont occupé de tels cas (les enquêtes ont-elles été couronnées de succès, les suspects ont-ils été identifiés et poursuivis, les sanctions pénales et administratives ont-elles été appliquées)?

Réponse: L'information non disponible

Germany / Allemagne

Question 1:

No, within the German legislation, regulations and case law, there is no specific provision on the conduct of manipulating sport results.

Question 1.2.1.:

The punishable constellations of fixing the results of sporting fixtures are already largely covered by the elements of the offence of fraud under section 263 of the Criminal Code [Strafgesetzbuch]. This offence incurs the penalty of a criminal fine or of imprisonment for up to five years. If the perpetrator is acting commercially or as a member of a gang, the offence incurs the penalty of imprisonment of six months to ten years.

Question 1.2.2.:

The national criminal prosecution authorities thus have an adequate set of instruments available to them that make it possible to prosecute and punish any such illegal acts. Therefore, no special regulation is necessary in this area and is also not envisaged.

Question 2:

Please refer to document attached.

In 2008, Bochum public prosecution office instituted investigation proceedings in a case which was later reported in the German national press and the European press as the “largest European betting scandal”. The investigation proceedings concerned pacts between sportspersons and the accused persons to influence the results of contests so that they concurred with intention of individuals who desired to place bets on the predictable outcome.

An office of the Bochum police, which was responsible for combating organised crime and, in particular, for investigating an individual from the red light milieu in the Ruhr area, came to the conclusion in the course of telecommunications interception measures that the money obtained by the perpetrators was to be laundered and maximised by means of football betting. This line of inquiry was intensively pursued further and, in spring 2009, it was clear that they were not dealing with an individual acting alone but that he was part of a group that was systematically exercising influence on athletes to manipulate them in order to obtain the desired outcome for betting purposes. The most powerful member of this group in economic terms was discovered to be Ante S. from Berlin, who was later convicted and had already been found guilty of fraud to the detriment of betting operators in 2005 by Berlin Regional Court and had been sentenced to imprisonment for two years and nine months. Back when the offence occurred, Ante S. had exerted influence on the premier league referee Robert Hoyzer and induced him *inter alia* to skew the game between the third league club *SC Paderborn* and the premier league club *Hamburger SV* in the competition for the federal German football cup such that the underdog won the game.

In Germany, it is not the manipulation of football matches that is a punishable act, but the placing of a bet on the outcome based on the fixing of the game, which is deemed to constitute fraud to the detriment of the bookmaker. The Federal Court of Justice has, in this context, deemed the actions of the perpetrator to constitute active deception of the person or entity accepting the bet, because the perpetrator is, in contravention of his duty, concealing the fact that the sporting event to which the bet relates has been manipulated. The bookmaker gives odds based on the deception but which are no longer equal to the amount of the bet placed and he already suffered impairment as a result of this. Accordingly, it could not be proven that a game was directly influenced by a perpetrator, i.e. that the goalkeeper intentionally “missed” reaching

for the ball but had in fact given a serious undertaking to influence the course of the match. As a result, it is considerably easier to prove commission of the offence.

Since those involved were organised as a group, it was necessary to establish whether this constituted a gang or a criminal organisation. This leads to different consequences in that offences committed by a gang incur a minimum penalty of imprisonment for one year and are thus categorised as serious criminal offences (*Vergehen*), whilst offences committed by a criminal organisation, that fall into the category of less-serious criminal offence (*Vergehen*), do not incur this minimum penalty. Ultimately it was possible to prove that the accused persons had established a Europe-wide network and worked together, dividing up their activities among them, and as a result Bochum Regional Court did indeed find them guilty of fraud committed acting as a gang.

In addition, bets were placed with bookmakers both in Germany and abroad, with private individuals and on betting machines. In this regard Bochum Regional Court ruled for the first time in one of these sets of proceedings that an act can constitute fraud not only when it is committed vis-à-vis a bookmaker as a natural person, but also when it is committed through the medium of betting machines or via the Internet.

The legal question also arose in connection with certain factual constellations as to what should happen if a bet is unsuccessful and the stake placed is lost in spite of a successful fixing agreement having been made. This could be, for example, a situation where a referee has been paid EUR 40,000 before the match commences for awarding at least two penalty kicks, but the course of the game had not allowed for such actions to be carried out. The bets placed thereon would thus all be lost. In such a scenario the Federal Court of Justice supposes that there has been a completed act of fraud and assumes the damage caused to be “impairment in terms of odds”. This means that the bookmaker wrongly gave too favourable odds, which he would not have done had he had known about the manipulation. This alone already caused him measurable damage through fraud, which is reflected in the potential profit.

Bochum Public Prosecution Office is currently pursuing investigations regarding 323 affected football matches and 347 participants in offences across the whole of Germany as well as in other European countries. Those involved in the offences are, and/or have been, resident in Turkey, Switzerland, Croatia, Austria, Belgium, Slovenia, Bosnia, Hungary, England, Holland, Ukraine, Slovakia, Montenegro, the Czech Republic and Germany. Those who come into consideration as participants in the offences include athletes as well as those who placed bets or represent bookmakers' representatives.

There were also numerous transfers of funds made by participants in the offences, and these also had to be looked into. All in all, in the period 2008 to 2009, bets totalling EUR 13.9 million and net winnings amounting to EUR 8.1 million have been established, and payments to the perpetrators amounting to a total of EUR 15.6 million have been uncovered. In addition, it was established that payments totalling EUR 1.7 million had been made to athletes.

A detective squad responsible for combating organised crime in Bochum and comprising up to 20 members of staff was commissioned with the investigations. The members of the squad called the investigative commission the "cross ball god". The police officers' tasks included covering 70 telephone interceptions in the period from December 2008 to November 2009. There were also three further public prosecutors involved who were responsible for dealing with the areas of mutual legal assistance and the confiscation of profits. The investigation files currently encompass more than 15,000 sheets of paper. The transcription of the telephone interception alone comprises a further 88 binders.

Within the framework of the telephone interception, the calls that had to be evaluated included not only German calls but also those of the Dutch and Swiss authorities. The majority of the calls were conducted in Turkish or Croatian and were translated virtually simultaneously. For the duration of the covert investigations conducted over one year, efforts were made to avoid any "official" contact being made with other German police authorities. The investigating officers did, however, obtain the advice of an expert in betting matters in order to be in a position to understand the rules for Asian betting and evaluate the telephone interception appropriately. In

addition, Bochum public prosecution office contacted UEFA in spring 2009 in order to gain their support.

Furthermore, the perpetrators used German national banks extremely rarely for their financial transactions; instead, they approached foreign banks or made extensive use of cash transactions. This resulted from the fact that two of those persons who are now again accused had, in 2005, already been found guilty by Berlin Regional Court of fraud to the detriment of bookmakers and received terms of imprisonment, and had, as it were, "learned" from these proceedings. Thus it was possible to establish that betting gains from Asia were transferred to so-called "straw men" who held accounts in Austria and Croatia, so that they could then have the funds withdrawn in cash. Transfers of several hundred thousand Euro were not unusual. In fact, EUR 200,000 in cash was found on the convicted person Ivan P. and "frozen" when he was arrested on 19 November 2009. In the case of the convicted person Ante S the amount was EUR 1,200,000.

The investigations were then extended in spring 2009 from perpetrators in the Ruhr Region to persons in south Germany and in Berlin. The sporting events affected included football matches in Germany, Austria, Switzerland, Hungary, Slovenia, Croatia, Denmark, Albania, the Netherlands, Belgium and Bosnia, as well as international matches between national Under 21 teams and adult national teams, for example the World Cup 2010 qualifier between Liechtenstein and Finland, which took place on 9 September 2009, as well as Champions League matches and Europa League games. Games in the top European leagues such as the Austrian Bundesliga, the second German Bundesliga, the first Croatian league, the second Belgian league, the first Turkish league and the first Hungarian league were bought. In addition, a large number of matches in lower European leagues were affected. There was even one case of manipulation of a Canadian football game. In one of the teams involved, the manipulators were Croatian sportsmen. In this case, the bribe was deposited with relatives of the co-perpetrators in Croatia.

One thing that transpired to be problematic right from the beginning was keeping track of the bets placed by the members of the group of perpetrators, since they not only used the Internet but

also had involved contact persons in London and Graz and placed bets in Asia via these individuals, primarily in the Philippines and in China.

On 19 November 2011, the day of operations, there were a total of 18 arrests, 3 of which were made in Switzerland, the remaining 15 being made in Germany. In addition, approximately 50 apartments were searched for betting slips, data carriers and financial resources, and illegally procured gains were seized.

In the course of in some cases more than 50 interviews per perpetrator, the ringleaders of the group admitted their guilt. In addition, it was possible to obtain the individual betting slips from bookmakers by means of searches and voluntary surrender – as a result, precise evidence of commission of the acts could be obtained.

Ultimately there have already been 9 convictions handed down for fraud, with the maximum aggregate prison sentence in two cases constituting 5 years and 6 months on the charge of 24 counts of fraud committed on a commercial basis. The public prosecution office has filed appeals on points of law against three of the judgments; defence counsel has done so in every case.

There is still a long way to go before the investigations can be concluded. Bochum public prosecution office has submitted 50 individual requests for mutual legal assistance to other countries, and, due to reporting in various press publications, we have been contacted by third countries regarding mutual legal assistance in more than 20 cases. In some cases the requested states had difficulty subsuming the elements of fraud in respect of sporting bets under their own national law. After all, mutual legal assistance can only be granted where the circumstances described also fulfil the elements of a criminal offence in the requested state. The circumstances of fraud committed through sports betting are currently subject to prosecution in a number of countries as money laundering; in Hungary, Finland and Croatia this comes under bribery offences; in Turkey and Italy it comes under the offence of supporting a criminal organisation, and in Slovenia under the offence of “prohibited acceptance of gifts”.

Greece / Grèce

Question 1

Article 132 of Law 2725/1999

1. Any person requiring or accepting bribes or other advantages or any other providing or promise thereof, in order to alter the result in favour or against sports club, groups of paid athletes or athletic public limited companies, in any team or individual sport that is going to be conducted, shall be punished with at least three months imprisonment and at least one million drachmas fine.(about 3000 euro).

2. The same penalty shall be imposed on every person that, under paragraph 1, offers, gives or promises gifts, advantages or any other providing to athletes, referees or administrative factor or any other person connected in any way with the athletes, the referee, the union, the groups of paid athletes or athletic public limited companies.

3. If the result intended by the offender actually occurred through the aforementioned criminal act, the offender is punished with at least six months imprisonment and at least two million drachmas fine. (about 6000 euro).

4. Apart from these sanctions, the persons committing offences of the aforementioned paragraphs are also punished with a disciplinary proceeding, according to the provisions of article 130, for breach of sportsmanship.

5. If the prosecuted for the criminal offence of paragraphs 1,2 and 3 of this article are athletes, coaches, trainers, administrative factors or members of sports clubs, members of groups of paid athletes or athletic public limited companies, a disciplinary proceeding is imposed by the competent disciplinary body of the relevant sports federation or by the relevant professional association to the team of association, to the groups of paid athletes or to the athletic public limited companies, in which the above persons belong.

This disciplinary proceeding is imposed either with points deduction in the grading table of the championship in progress or the forthcoming championship, in which they will participate, or by their downgrading to the next lower category. The disciplinary proceeding, under the aforementioned paragraphs, the prosecution and imposition of penalties is self-contained and independent from the criminal trial to which the offenders for the execution of the above offences are indicted.

The aforementioned paragraph 5, was added by paragraph 6, article 78 of Law 3057/2002 "Amendment and supplementation of Law 2725/ 1999, settlement of matters of the Ministry of Culture and other provisions".

Furthermore and with the same law, a new article (article 128) to the law 2725/1999 was added as follows:

The Head of Public Prosecutor's Office of Magistrate's Court of Athens, Piraeus and Thessaloniki appoints a public prosecutor responsible for sports. He attends to conduct a criminal prosecution for criminal offences, committed on the occasion of sports events or during these,

and offences committed by persons who are involved in the administration of sports bodies in the performance of their competence or duties.

Question 2

In the Hellenic Republic there is currently a very significant case of manipulating sport results. Four former administrative factors of the 1st category of the football champion are in prison for manipulating sport results and for frauds. Four football teams have already been downgraded four categories and other 15 stakeholders are temporarily out of prison having paid huge amounts as a guarantee. The regular investigation is in progress and disciplinary sanctions have already been imposed to many teams and persons (exclusions, downgrading, fines etc).

Iceland / Islande

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results?

No there are no specific provisions on the conduct of manipulating sport results within Icelandic legislation.

1.2. If not: 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

The conduct of manipulating sports results could, depending on circumstances, fall within enrichment offences according to Ch. XXVI. of the General Penal Code (GPC), for example Section 264 a. which describes active and passive bribery in the private sector (please find the GPC updated until 2004 here: <http://eng.innanrikisraduneyti.is/laws-and-regulations/nr/1145>).

The sports movement regulates itself, for example by setting codes of ethics and other rules and enforcing them within the sports movement with administrative fines and other disciplinary sanctions.

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

No, there are no plans for a specific legislative framework on this conduct in the near future in the Icelandic system.

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

N/A

Ireland / Irlande

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²⁵?
 - 1.1. If yes:
 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)
 - 1.2. If not:
 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

Although Section 36 of the Gaming and Lotteries Act 1956 prohibits legal action to recover monies in respect of wagers, fraud (also termed ‘deceit’) is a common law tort in Ireland and as such a civil action could be taken in respect of the any fraudulent element of a gaming transaction. Deceit occurs when a person makes a factual misrepresentation, knowing that it is false (or having no belief in its truth and being reckless as to whether it is true) and intending it to be relied on by the recipient, and the recipient acts to his or her detriment in reliance on it.

An award of money is made in respect of civil wrongs. Section 6 of the Criminal Justice (Theft and Fraud Offences) Act 2001 makes it a criminal offence to engage in deception with the intent of making a gain – the offence carries a maximum of 5 years imprisonment on conviction and is categorised as an indictable offence. Section 9 of the same Act provides for imprisonment for up to 10 years for the dishonest use of a computer to make a gain. Unlimited fines may also be imposed under this legislation.

²⁵ You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future? **No**

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)? **N/A**

Latvia / Lettonie

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results?

Neither the Latvian Criminal Law nor Administrative Violations code provides specific provisions on the conduct of manipulating sport results.

1.2. If not: 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

Taking into consideration that the term „conduct of manipulating sport results” includes wide range of different possible offences with diverse seriousness, some applicable offences fall under criminal, some – under administrative offences.

Criminal liability is provided in cases, when offences are most serious and dangerous to the public, i.e.:

1) Fraud (Section 177 of the Criminal Law), inter alia, Fraud in an Automated Data Processing System (Section 177¹ of the Criminal Law) and Theft, Fraud, Misappropriation on a Small Scale Section (Section 18 of the Criminal Law):

Section 177. Fraud

(1) For a person who commits acquiring property of another, or of rights to such property, by the use, in bad faith, of trust, or by deceit (fraud),

the applicable punishment is deprivation of liberty for a term not exceeding three years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage.

(2) For a person who commits fraud, if commission thereof is repeated, or by a group of persons pursuant to prior agreement,

the applicable punishment is deprivation of liberty for a term not exceeding six years, or with confiscation of property, or a fine not exceeding one hundred times the minimum monthly wage.

(3) For a person who commits fraud, if it has been committed on a large scale, or has been committed in an organised group, or it has been committed, acquiring narcotic, psychotropic, powerfully acting, poisonous or radioactive substances or explosive substances, firearms or ammunition,

the applicable punishment is deprivation of liberty for a term of not less than five years and not exceeding thirteen years, or a fine not exceeding one hundred and fifty times the minimum monthly wage, with or without confiscation of property, and with or without police supervision for a term not exceeding three years.

Section 177.¹ Fraud in an Automated Data Processing System

(1) For a person who commits the knowingly entering of false data into an automated data processing system for the acquisition of the property of another person or the rights to such property, or the acquisition of other material benefits, in order to influence the operation of the resources thereof (computer fraud),

the applicable punishment is deprivation of liberty for a term not exceeding five years or custodial arrest, or community service, or a fine not exceeding eighty times the minimum monthly wage.

(2) For a person who commits computer fraud, if commission thereof is repeated, or by a group of persons pursuant to prior agreement,

the applicable punishment is deprivation of liberty for a term not exceeding eight years or with confiscation of property, or a fine not exceeding one hundred and fifty times the minimum monthly wage.

(3) For a person who commits computer fraud, if it has been committed on a large scale or if it has been committed in an organised group,

the applicable punishment is deprivation of liberty for a term of not less than five years and not exceeding fifteen years, or a fine not exceeding two hundred times the minimum monthly wage, with or without confiscation of property, and with or without police supervision for a term not exceeding three years.

Section 180. Theft, Fraud, Misappropriation on a Small Scale

(1) For a person who commits theft, fraud, or misappropriation on a small scale, except for the crimes provided for in the Section 175, Paragraphs three and four; Section 177, Paragraph three and Section 179, Paragraph three of this Law,

the applicable punishment is deprivation of liberty for a term not exceeding two years, or custodial arrest, or community service, or a fine not exceeding fifty times the minimum monthly wage.

(2) For a person who commits the same acts, if the commission thereof is repeated,

the applicable punishment is deprivation of liberty for a term not exceeding three years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage.

2) Extortion (Section 183 of the Criminal Law), inter alia Extortion by an Organized Group (Section 184 of the Criminal Law):

Section 183. Extortion

(1) For a person who commits demanding without legal basis therefore the surrender of property or rights to property, or the performing of any acts of a financial nature, therewith threatening violence against, or disclosure of defamatory information concerning, the victim or relatives of the victim, or to destroy their property or cause them other substantial harm (extortion),

the applicable punishment is deprivation of liberty for a term not exceeding eight years, with or without confiscation of property.

(2) For a person who commits extortion, if commission thereof is repeated, or by a group of persons pursuant to prior agreement, or using violence, firearms or explosives,

the applicable punishment is deprivation of liberty for a term of not less than five years and not exceeding twelve years, with confiscation of property, and police supervision for a term not exceeding three years.

Section 184. Extortion by an Organised Group

(1) For a person who commits establishing an organised group or participating in such for purposes of extortion, the applicable punishment is deprivation of liberty for a term of not less than six years and not exceeding ten years, with or without confiscation of property, and police supervision for a term not exceeding three years.

(2) For a person who commits extortion as a member of an organised group, if the extortion is committed using violence, threats, firearms or explosives,

the applicable punishment is deprivation of liberty for a term of not less than eight years and not exceeding twelve years, confiscation of property and police supervision for a term not exceeding three years.

(3) For a person who commits any acts provided for by Paragraph two of this Section if they have resulted in serious consequences,

the applicable punishment is deprivation of liberty for a term of not less than ten years and not exceeding fifteen years, confiscation of property and police supervision for a term not exceeding three years.

3) Unauthorized Receipt of Benefits (Section 198 of the Criminal Law) un Commercial Bribery (Section 199 of the Criminal Law):

Section 198. Unauthorised Receipt of Benefits

(1) For a person who unlawfully accepts material values, property or benefits of other nature, or offers thereof, where accepted by an employee of an undertaking (company) or organisation, or a person who, on the basis of the law or a lawful transaction, is authorised to conduct the matters of another person, him or herself or through an intermediary, for performing or failing to perform some act, in the interests of the giver of the benefit or any other person, using his or her authority, regardless of whether the material values, property or benefits of other nature accepted are intended for this person or any other person,

the applicable punishment is deprivation of liberty for a term not exceeding three years, or community service, or a fine not exceeding eighty times the minimum monthly wage.

(2) For a person who commits the acts provided for in Paragraph one of this Section, if commission thereof is repeated, or on a large scale, or they have been committed by a group of persons pursuant to prior agreement, or where material values, property or benefits of other nature have been requested,

the applicable punishment is deprivation of liberty for a term not exceeding five years, with confiscation of property, or community service, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right to engage in specific forms of entrepreneurial activity or employment for a term not exceeding two years.

(3) For a person who unlawfully accepts material values, property or benefits of other nature, or offers thereof, where accepted by a responsible employee of an undertaking (company) or organisation himself or herself or through an intermediary, or a person similarly authorised by an undertaking (company) or organisation, or a person who, on the basis of the law or a lawful transaction, is authorised to resolve disputes or take binding decisions but who is not a State official, for performing or failing to perform some act, in the interests of the giver of the benefit or the offerer, or any other person, using his or her authority, regardless of whether the accepted material values, property or benefits of other nature are intended for this person or any other person,

the applicable punishment is deprivation of liberty for a term not exceeding six years or with confiscation of property, or community service, or a fine not exceeding one hundred and twenty times the minimum monthly wage, with or without deprivation of the right to engage in specific forms of entrepreneurial activity or employment for a term not exceeding three years.

(4) For a person who commits the acts provided for in Paragraph three of this Section, if commission thereof is repeated, or on a large scale, or they have been committed by a group of persons pursuant to prior agreement, or they are associated with a demand for material values, property or benefits of other nature,

the applicable punishment is deprivation of liberty for a term not exceeding eight years, or a fine not exceeding one hundred and fifty times the minimum monthly wage, with or without confiscation of property, with or without deprivation of the right to engage in specific forms of entrepreneurial activity or employment for a term not exceeding five years.

Section 199. Commercial Bribery

(1) For a person who commits the offering or giving of material values, property or benefits of other nature, if the offer is accepted, in person or through intermediaries to an employee of an undertaking (company) or organisation, or a person who, on the basis of the law or a lawful transaction, is authorised to conduct affairs of another person, or a responsible employee of an undertaking (company) or organisation, or a person similarly authorised by an undertaking (company) or organisation, or a person who, on the basis of the law or lawful transaction, is authorised to settle disputes so that he or she, using his or her authority, performs or fails to perform some act in the interests of the giver of the benefit or the offerer, or any other person regardless of whether the material values, property or benefits of other nature are intended for this person or any other person,

the applicable punishment is deprivation of liberty for a term not exceeding three years, or custodial arrest, or community service, or a fine not exceeding fifty times the minimum monthly wage.

(2) For a person who commits the same acts, if commission thereof is repeated or on a large scale, the applicable punishment is deprivation of liberty for a term not exceeding five years, or community service, or a fine not exceeding one hundred times the minimum monthly wage.

4) Interference in the Operation of Automated Data Processing Systems and Illegal Actions with the Information included in Such Systems (Section 243 of the Criminal Law):

Section 243. Interference in the Operation of Automated Data Processing Systems and Illegal Actions with the Information included in Such Systems

(1) For a person who commits without authorisation modifying, damaging, destroying, impairing or hiding of information stored in an automated data processing system, or knowingly entering false information into an automated data processing system, if the protective systems are damaged or destroyed thereby or substantial harm is caused thereby,

the applicable punishment is deprivation of liberty for a term not exceeding five years or community service, or a fine not exceeding one hundred and fifty times the minimum monthly wage.

(2) For a person who commits knowingly interference in the operation of an automated data processing system by entering, transferring, damaging, extinguishing, impairing, changing or hiding information, if the protective systems are damaged or destroyed thereby or losses caused on large scale,

the applicable punishment is deprivation of liberty for a term not exceeding five years or community service, or a fine not exceeding one hundred and fifty times the minimum monthly wage.

(3) For a person who commits acts provided for in Paragraph one or two of this Section, if commission thereof is in an organised group or for purposes of acquiring property, or if serious consequences are caused thereby,

the applicable punishment is deprivation of liberty for a term not exceeding eight years or a fine not exceeding two hundred times the minimum monthly wage, with or without confiscation of property, and with or without police supervision for a term not exceeding three years.

(4) For a person who commits acts provided for in Paragraph one or two of this Section, if they are directed against the State information system,

the applicable punishment is deprivation of liberty for a term not exceeding eight years or a fine not exceeding two hundred times the minimum monthly wage.

5) Forgery of a Document, Seal and Stamp and Use and Sale of a Forged Document, Seal and Stamp (Section 275 of the Criminal Law):

Section 275. Forgery of a Document, Seal and Stamp and Use and Sale of a Forged Document, Seal and Stamp

(1) For a person who commits forgery of a document conferring rights or a release from obligations, of a seal or a stamp, as well as commits using or selling a forged document, seal or stamp,

the applicable punishment is deprivation of liberty for a term not exceeding two years, or custodial arrest, or by community service, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits the same acts, if commission thereof is repeated, or for the purpose of acquiring property, or by a group of persons pursuant to prior arrangement, or substantial harm is caused thereby to the State power or administrative order or to rights and interests protected by law of a person,

the applicable punishment is deprivation of liberty for a term not exceeding four years or community service, or a fine not exceeding sixty times the minimum monthly wage.

Conduct of manipulating sport results can be qualified under the before mentioned Sections of the Criminal Law. Same, Conduct of manipulating sport results can be committed in many other ways and can be related with other criminal offences as Giving of Bribes (Section 323), Using Official Position in Bad Faith (Section 318) etc.

Administrative liability is provided in less serious or dangerous to the public cases, i.e.:

1) Violation of the Doping Control Procedures (Section 201⁵⁶ of the Administrative violations code)

Section 201⁵⁶ Violation of the Doping Control Procedures

In the case of violation of the specified procedures for the doping control – a fine shall be imposed on a official in an amount from LVL 50 up to LVL 250.

2) Evasion of Doping Control (Section 201⁵⁷ of the Administrative violations code)

Section 201⁵⁷ Evasion of Doping Control

In the case of evasion of doping control to be performed according to the specified procedures – a fine in an amount from LVL 50 up to LVL 250 shall be imposed.

3) Failure to Provide Information regarding the Use of Doping Substances or the Utilisation of Doping Methods (Section 201⁵⁸ of the Administrative violations code)

Section 201⁵⁸ Failure to Provide Information regarding the Use of Doping Substances or the Utilisation of Doping Methods

In the case of failure to provide information related to the use of doping substances or the utilisation of doping methods, or in the case of provision of false information – a fine shall be imposed on a natural person in an amount from LVL 50 up to LVL 250, but for a State official – from LVL 100 up to LVL 250.

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

Specific legislative framework in order to separate conduct related to manipulating sport results is not planned to be adopted. Besides, manipulating sport results can be realized in framework of other criminal and administrative offences. Therefore proportionate sanctions and different types of legal liability are provided.

Lithuania / Lituanie

QUESTIONNAIRE REGARDING THE WORK OF THE COUNCIL OF EUROPE ON THE ISSUE OF "MANIPULATION OF SPORTS RESULTS, NOTABLY MATCH-FIXING"

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results?

General answer is **no**, yet this answer is ambiguous as manipulation of sports results might fall under civil violation, criminal or administrative offence. Manipulations of sports results (or match-fixing, or illegal influence) are covered as a disciplinary offence in some sport disciplinary codes, for instance Lithuanian Football Federation disciplinary code.¹

Further analysis is provided below.²

Match fixing and criminal offences

In Lithuania the concept of match-fixing is not provided either in scientific doctrine, or in court practice. In the context of Lithuania's regulation match-fixing is closer to fraud than to bribery, the reasons are as follows:

1) Arguments concerning subject

Fraud is described as obtaining a property by cheating where obtainer could be any physical or natural person. The subject of bribery shall be state person or person who is equated to state person. The subject of bribery could also be a private person, however, this person must have the power of public administration or the right to provide public services. Athletes who fix matches do not execute administrative powers – they do not have subordinates, do not distribute financial resources, do not rule staff – therefore *stricto sensu* they cannot be a subject of bribery.

2) Arguments concerning *modus operandi*.

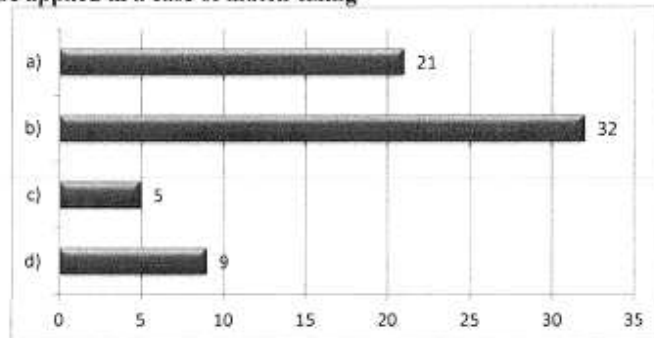
Bribery does not convey *modus operandi* of match fixing, because tacit agreements do not represent functions of public administration. A prize does not belong to athletes (in bribery the corrupt person usually illegally disposes his own or trust property), it usually belongs to the state or sponsors. Thus when athletes fix matches, they aim to get a prize that belongs to others by cheating, *id est* their acts are closer to fraud than bribery. However, problems arise in that case when prizes are unexpected. Match-fixing does not guarantee obtaining of property – many coincidences exist in sport and it is impossible to foresee all results. Therefore *corpus delicti* of fraud *sensu stricto* goes only if certain property is obtained. From the other point of view, if property is not obtained, then match-fixing could be qualified as an attempt to fraud. Another possibility is to qualify in consonance with already emerged consequences – for example if a reached prize is lesser than one minimum living standard, then administrative, not criminal, responsibility should arise.

¹ Article 44 of Lithuanian Football Federation Disciplinary code. *Illegal Influence*. Direct or indirect taking of, asking, request, suggestion, supply, agreeing to supply or agreeing to take any type of a reward, which could be perceived as a tool to influence the result or the course of the Match, or any such attempt with a prohibited way infringing the sport ethics to influence the results or the course of the Match is considered to be a highly serious illegal conduct that breaches the Disciplinary Code and the integrity of football (however, official promotional and encouraging actions of Club's players and Officials is not deemed as illegal conduct). The Participant who has committed such illegal action may be sanctioned with disqualification and/or a fine and/ or a ban to participate in a certain or any football-related activity or other sanctions indicated in the Disciplinary Code might be applied. 2. In the case when the infringement specified under Clause 1 of this Article is committed or is attempted to be committed by a player or any other Official, the Club/ Team to which the player of the Official belongs to may be sanctioned with elimination from the Competition and/or demotion to a lower division, and/or point deduction, and/or return of awards (prizes, ranks, premiums, etc.), and any other sanctions indicated in the Disciplinary Code. The whole code (also in English) is available at: http://www.lff.lt/lt/Drausminiu_organu_dokumentai

² Prepared according to: Zaksaitė S. *Cheating in sport: Lithuanian case for legal regulation*. US-China Law Review. Volume 7, Number 2, February 2010. ISSN 1548-6605, p. 56-64. <http://www.cqvip.com/qk/88588X/201002/>

Lithuanian officers in law enforcement institutions were asked if the *corpus delicti* of bribery can be applied to match-fixing.³

Table No. 1. The opinion of Lithuanian law enforcement institutions officers if bribery can be applied in a case of match-fixing



a) Bribery cannot be applied as sportsmen are not public officers and they do not provide public services.

b) Bribery can be applied to match-fixing only if referees or officers from sports associations (people who have the powers of public administration) participate in match fixing.

c) It depends on how we understand match-fixing: as violation of sports rules or (also) as abuse of a sportsman's status;

d) Other.

Majority of officers (79 % or 53 respondents in absolute numbers), said that sportsmen (alone) cannot exercise bribery (a and b answers) as they do not execute public powers.

Match fixing and administrative offences

In Lithuania criminal responsibility for fraud arises when the harm is not bigger than minimum living standard (130 LTL). Therefore the main criterion separating administrative and criminal law is harm. Problems arise when the amount of prize is unclear. In that case it would be rational to qualify the violation according to consequences. In other words, if athletes shared a prize which is less than 130 LTL, then criminal liability would not occur. Another problematic aspect is related with immaterial prizes (medals, norms, ticket to Olympics, etc.). In that case material benefit could be understood wider – it should be ascertained what monetary value in sport market a certain prize has. It should be noted that immaterial prizes raise doubts whether cheating in sport should be generally attributed to violations against property.

Match fixing and civil torts

As stated above, the main difference between fraud and a civil tort is intentional cheating. It is considered that careless tacit agreement is impossible – athletes or coaches intentionally aim to direct results in such a way that the results would bring maximal benefit. Therefore serious doubts about separation do not occur – in other words, intentional deception *per se* means criminal offence rather than a civil tort. However, criminal responsibility does not eliminate civil responsibility –

³ Author of the article (Zaksaitė S.) in 2010 carried out a quantitative survey (of Lithuanian law enforcement institutions officers) which was designed to ascertain how the officers relate cheating in sport with certain crimes – fraud, bribery and others. The officers were prosecutors, judges of first instance court, High Court and Constitutional Court of the Republic of Lithuania. The number of officers (who agreed to answer to certain questions) was 66.

therefore if match-fixing was criminalized, the cheater would have to compensate harm as well as suffer criminal sanction.

To sum up Lithuanian legal framework on match-fixing, it should be pointed out that theoretically a wide range of law (disciplinary, administrative, civil and criminal) can be applicable. The main difficulties are connected with delimitation of criminal fraud and bribery, to be precise, it should be decided if the athlete executes the powers of public administration (primary analysis has shown that the actions of an ordinary athlete can hardly be described as public administration, though the actions of a top athlete are very "near" to public administration); another problem is related to difficulties in qualifying actions in case of immaterial prizes. One way out could be approximate evaluation (most probably with a help of experts), how much in the sport "market" certain medals, norms, titles, etc. are worth.

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

There was one case (Panevėžys county court, criminal case No. 1-62-349/2011) in which two persons were convicted for having demanded money from a Lithuanian basketball player who had allegedly benefited, when betting, from information received from football players in Estonia regarding the outcome of an international football match in which the latter football players were involved. The two persons were convicted for self-willed conduct (acting wilfully by using physical or mental coercion against the victim). Two further persons were convicted for influence on the victim (the basketball player). The case is regarded as providing a precedent for convicting persons related to illegal betting on sports. However, the aspect of possibly illegal betting was not elaborated on in the judgment and the court limited itself to noting that the statements of the basketball player regarding possible agreements with the defendants were not entirely consistent.

In another recent case in which Lithuanian basketball players participated in a bet regarding the match in which they were involved their conduct was assessed as intolerable by the director general of the Lithuanian Basketball League and the players were fined based on the regulations of Lithuanian Basketball Championship. The Prosecutor General's Office decided not to initiate investigation into this incident based on the insufficiency of information regarding any possible prior knowledge of the outcome of the match, fairness of play, indications of intentional losing, etc.

Montenegro / Monténégro

Questionnaire:

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²?

No. The Criminal Code does not prescribe specific criminal offense on the issue of manipulation of sports results, notably match-fixing.

- 1.1. If yes:
 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)
- 1.2. If not:
 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?
 2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

Fraud

Article 244

(1) Anyone who, intending to obtain unlawful material benefit for him/herself or to someone else, falsely presenting or concealing facts misleads someone or keeps him/her mislead and thereby instigates him/her to do or fail to do something to the detriment of his/her property or other person's property, shall be punished by a fine or an imprisonment sentence not exceeding three years.

2) Anyone who commits an offence referred to in paragraph 1 of this Article only intending to make detriment to another, shall be punished by a fine or imprisonment sentence not exceeding six months.

(3) Where through an offence referred to in paras. 1 and 2 of this Article material benefit is acquired or damage inflicted exceeding the amount of three

² You could consider the definition of "manipulation of sports results" as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers' Deputies. Specifically, it stated that "the expression "manipulation of sports results" covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition."

thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(4) Where through an offence referred to in paras. 1 and 2 of this Article material benefit is acquired or damage exceeding thirty thousand euro inflicted, the offender shall be punished by an imprisonment sentence of two to ten years.

Fraud in the Conduct of an Official Duty

Article 419

(1) An official who in the performance of his/her office and with the intention of acquiring for himself or another an illicit material benefit by submitting false statements of account or who in some other manner misleads an authorized person to make an unlawful payment, shall be punished by an imprisonment sentence of six months to five years.

(2) If material benefit acquired as a result of an offence referred to in paragraph 1 of this Article exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If an illicit material benefit acquired through an offence referred to in paragraph 1 of this Article exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Embezzlement

Article 420

(1) A person who, with the intention of acquiring illicit material benefit for himself/herself or another, appropriates money, securities or other movable articles entrusted to him/her by virtue of his/her office or work in a state body, institution or other entity not involved in economic activity, shall be punished by an imprisonment sentence of six months to five years.

(2) If material benefit acquired through an offence referred to in paragraph 1 of this Article exceeds the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.

(3) If material benefit acquired through an offence referred to in paragraph 1 of this Article exceeds the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.

Petty Fraud in the Conduct of an Official Duty, Embezzlement and Unauthorized Use

Article 421a

(1) Anyone who commits a petty fraud in the conduct of an official duty, embezzlement or unauthorized use, shall be punished by a fine or an imprisonment sentence not exceeding one year.

(2) Fraud in the conduct of an official duty, embezzlement and unauthorized use shall be considered petty if the amount of unlawful payment, the value of acquired unlawful material benefit or the value of embezzled things or of the thing the offender used without authorization does not exceed the amount of one hundred and fifty euro, with the intention to obtain small material benefit.

Passive Bribery

Article 423

(1) A person in official capacity who directly or indirectly requests or receives a gift or any other benefit, or who accepts a promise of gift or any benefit for himself/herself or another person for agreeing to perform an official or other act s/he should not perform, or not to perform an official or other act which s/he must perform, shall be punished by an imprisonment sentence of two to twelve years.

(2) A person in official capacity who directly or indirectly requests or receives a gift or any other benefit, or who accepts a promise of gift or any benefit for himself/herself or another person for agreeing to perform an official or other act s/he must perform, or not to perform an official or other act which s/he should not perform, shall be punished by an imprisonment sentence of two to eight years.

(3) A person in official capacity who commits the offence referred to in paragraphs 1 or 2 of this Article in relation to detection of a criminal offence, initiating or conducting a criminal proceedings, imposing or enforcement of a criminal sanction, shall be punished by an imprisonment sentence of three to fifteen years.

(4) An person in official capacity who requests or receives a gift or other benefit after having performed or omitted to perform an official or other act referred to in paragraph 1, 2 and 3 of this Article, or in conjunction with it, shall be punished by an imprisonment sentence of three months to three years.

(5) A foreign person in official capacity who commits an offence referred to in paragraphs 1, 2, 3 and 4 of this Article, shall be punished by a sentence laid down for such an offence.

(6) A responsible or other person in a non-commercial institution or other entity who commits an offence referred to in paragraphs 1, 2 and 4 of this Article, shall be punished by a sentence laid down for such an offence.

(7) Received gift or other benefit shall be seized.

Active Bribery

Article 424

(1) Anyone who gives, offers or promises a gift or other benefit to a person in official capacity or other person who agrees to perform an official or other act s/he should not perform or not to perform an official or other act s/he must perform, or a

person who mediates in such bribery of a person in official capacity, shall be punished by an imprisonment sentence of six months to five years.

(2) Anyone who gives, offers or promises a gift or other benefit to a person in official capacity or other person who agrees to perform an official or other act s/he should perform or not to perform an official or other act s/he must not perform, or a person who mediates in such a bribery of a person in official capacity, shall be punished by an imprisonment sentence not exceeding three years.

(3) Provisions of paragraphs 1 and 2 of this Article shall also be applied when a gift or other benefit was given, offered or promised to a foreign person in official capacity.

(4) Perpetrator of the offence referred to in paragraphs 1, 2 and 3 of this Article who had reported the criminal offence before s/he found out that the crime was detected, may be remitted of penalty.

(5) Provisions of paragraphs 1, 2 and 4 of this Article shall also be applied when a gift or other benefit was given, offered or promised to a responsible or other person of a non-commercial institution or other entity.

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

At this moment we do not have information about investigations in cases of manipulating sport results in Montenegro.

* * *

Monaco

1. Existe-t-il, dans votre législation nationale, dans vos règlements et dans votre jurisprudence, une ou plusieurs disposition(s) spécifique(s) quant à la manipulation des résultats sportifs²⁶ ?

Non, il n'existe pas de disposition spécifiques sur la manipulation de résultats sportifs.

- 1.1. Si oui:
 1. Est-ce que ce comportement est soumis à une sanction pénale ou administrative, ou à toute autre sanction juridique ?
 2. Pouvez-vous, s'il vous plaît, joindre le texte de(s) la disposition(s) qui traite(nt) de ce comportement (si disponible, joignez un texte en anglais ou en français s'il vous plaît).
- 1.2. Si non:
 1. Est-ce que selon votre législation, la manipulation de résultats sportifs (ou certaines formes de ce comportement) relève d'une ou plusieurs infractions (pénales, administratives ou autres) ?

De tels comportements pourraient être poursuivis sur le fondement de dispositions relatives à la corruption qui font l'objet de dispositions du code pénal suivantes :

« Article 113 .- Tout fonctionnaire public de l'ordre administratif ou judiciaire, tout agent ou préposé d'une administration publique qui aura agréé des offres ou promesses ou reçu des dons ou présents, pour faire un acte de sa fonction ou de son emploi, même juste, mais non sujet à rémunération, sera puni d'un emprisonnement de un à cinq ans et de l'amende prévue au chiffre 4 de l'article 26.

Il sera, en outre, déclaré incapable d'exercer aucune fonction publique.

La présente disposition est applicable à tout fonctionnaire, agent ou préposé de la qualité ci-dessus exprimée, qui, par offres ou promesses agréées, dons ou présents reçus, se sera abstenu de faire un acte qui entrerait dans l'ordre de ses devoirs.

Article 114 .- Sera puni de la peine prévue à l'article précédent, tout arbitre ou expert, désigné, soit par autorité de justice, soit par les parties, qui aura agréé des offres ou promesses, ou reçu des dons ou présents, pour prendre une décision ou donner une opinion favorable à l'une des parties.

Article 115 .- Sera puni d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 3 de l'article 26, tout commis, employé ou préposé, salarié ou rémunéré sous une forme quelconque, qui aura, soit directement, soit par personne interposée, à l'insu et sans le consentement de son employeur, soit sollicité ou agréé des offres ou promesses, soit sollicité ou

²⁶ Vous pourriez envisager la définition de « manipulation de résultats sportifs » figurant dans l'annexe à la Recommandation CM/ Rec (2011) 10 adoptée par le Comité des Ministres le 28 septembre 2011, lors de la 1122^e réunion des Délégués des Ministres. Plus précisément, il a été déclaré que : « l'expression "manipulation des résultats sportifs" désigne un arrangement sur une modification irrégulière du déroulement ou du résultat d'une compétition sportive ou d'un de ses événements en particulier (par exemple match, course...), afin d'obtenir un avantage pour soi-même ou pour d'autres et de supprimer tout ou partie de l'incertitude normalement liée aux résultats d'une compétition. »

reçu des dons, présents, commissions, escomptes ou primes pour faire un acte de son emploi ou s'abstenir de faire un acte que son devoir lui commandait de faire.

Article 118 .- *Quiconque aura contraint ou tenté de contraindre par voies de fait ou menaces, corrompu ou tenté de corrompre par promesses, offres, dons ou présents, un fonctionnaire, agent ou préposé de la qualité exprimée en l'article 113, pour obtenir, soit une opinion favorable, soit des procès-verbaux, états, certificats ou estimations contraires à la vérité, soit des places, emplois, adjudications, entreprises ou autres bénéfiques, soit tout autre acte du ministère du fonctionnaire, agent ou préposé, soit l'abstention d'un acte qui rentrait dans l'exercice de ses devoirs, sera puni des mêmes peines que le fonctionnaire, agent ou préposé corrompu.*

Article 119 .- *Quiconque aura corrompu ou tenté de corrompre, par promesses, offres, dons, présents, commissions, escomptes ou primes, tout commis, employé, préposé, rémunéré ou salarié sous une forme quelconque, pour obtenir qu'il accomplisse un acte de son emploi ou qu'ils s'abstienne d'un acte qui entrerait dans l'exercice de ses devoirs, sera puni d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 3 de l'article 26. »*

L'article 350 du code pénal pourrait également selon le cas être utilisé :

« **Article 350 .-** *Ceux qui, sans l'autorisation préalable du Gouvernement, auront établi ou tenu des maisons de jeux de hasard, ou organisé toutes loteries ou toutes ventes effectuées par la voie du sort, et, d'une façon générale, toutes opérations offertes au public, sous quelque dénomination que ce soit, pour faire naître l'espérance d'un gain qui serait acquis par la voie du sort, seront punis d'un emprisonnement de un à six mois et de l'amende prévue au chiffre 2 de l'article 26, ou de l'une de ces deux peines seulement.*

Les coupables pourront, de plus, être interdits des droits mentionnés à l'article 27 du présent code pendant cinq ans au moins et dix ans au plus, à compter du jour où ils auront subi leur peine. »

2. En raison de l'absence d'une législation spécifique dans votre système, envisagez-vous d'adopter une loi spécifique sur ce comportement à l'avenir ?

Cela ne semble pas être le cas à ce jour.

2. S'il y a déjà eu dans votre pays des enquêtes sur des cas de manipulation de résultats sportifs, pourriez-vous s'il vous plaît fournir toute information pertinente sur la façon dont les organes d'application de la loi (police, procureurs et tribunaux) se sont occupés de tels cas (les enquêtes ont-elles été couronnées de succès, les suspects ont-ils été identifiés et poursuivis, les sanctions pénales et administratives ont-elles été appliquées)?

Une seule procédure relative à la manipulation de résultats de matches de football, encore en cours, a été enregistrée à Monaco. Les autorités monégasques ont été saisies par des autorités étrangères dans le cadre de demandes d'entraide judiciaire en matière pénale dans lesquelles le blocage de comptes bancaires appartenant à un des principaux suspects a été sollicité.

Il lui est reproché d'avoir notamment influencé des le résultats de matches par des violences et/ ou encaissement d'argent et d'avoir parié d'importantes sommes d'argent sur les matches dont il connaissait à l'avance le résultat.

A la suite de cette demande, une information pour blanchiment de fonds a été ouverte à Monaco.

Norway / Norvège

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results? **NO**

1.1. If yes:

1. Is that conduct subject to criminal, or administrative, or any other legal sanction?

2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

1.2. If not:

1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

Yes, certain actions may fall within the scope of e.g. bribery, corruption etc.

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future? **NO**

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)? **NO known investigations (reference: the Norwegian Football Association)**

Poland / Pologne

Question 1

In Polish law, manipulating sports results, in particular match-fixing is considered a criminal offence. The relevant provisions are contained in articles 46 - 49 of the Act of 25 June 2010 on Sport (Journal of Laws of 15 July 2010, No 127, item 857). They are as follows (working English translation contained below):

Art. 46. 1. Kto, w związku z zawodami sportowymi organizowanymi przez polski związek sportowy lub podmiot działający na podstawie umowy zawartej z tym związkiem lub podmiot działający z jego upoważnienia, przyjmuje korzyść majątkową lub osobistą albo jej obietnicę lub takiej korzyści albo jej obietnicy żąda w zamian za nieuczciwe zachowanie, mogące mieć wpływ na wynik tych zawodów,

podlega karze pozbawienia wolności od 6 miesięcy do lat 8.

2. Tej samej karze podlega, kto w wypadkach określonych w ust. 1 udziela albo obiecuje udzielić korzyści majątkowej lub osobistej.

3. W wypadku mniejszej wagi, sprawca czynu określonego w ust. 1 lub 2 podlega grzywnie, karze ograniczenia wolności albo pozbawienia wolności do lat 2.

4. Jeżeli sprawca czynu określonego w ust. 1 lub 2 przyjmuje korzyść majątkową znacznej wartości albo jej obietnicę lub udziela takiej korzyści albo jej obietnicy lub takiej korzyści albo jej obietnicy żąda,

podlega karze pozbawienia wolności od roku do lat 10.

Art. 47. Kto, mając wiadomość o popełnieniu czynu zabronionego określonego w art. 46, bierze udział w zakładach wzajemnych dotyczących zawodów sportowych, do których odnosi się ta wiadomość, lub ujawnia tę wiedzę w celu wzięcia udziału przez inną osobę w takich zakładach, podlega karze pozbawienia wolności od 3 miesięcy do lat 5

Art. 48. 1. Kto, powołując się na wpływy w polskim związku sportowym lub podmiocie działającym na podstawie umowy zawartej z tym związkiem lub podmiocie działającym z jego upoważnienia albo wywołując przekonanie innej osoby lub utwierdzając ją w przekonaniu o istnieniu takich wpływów, podejmuje się pośrednictwa w ustaleniu określonego wyniku zawodów sportowych w zamian za korzyść majątkową lub osobistą albo jej obietnicę, podlega karze pozbawienia wolności od 6 miesięcy do lat 8.

2. Tej samej karze podlega, kto udziela albo obiecuje udzielić korzyści majątkowej lub osobistej w zamian za pośrednictwo w ustaleniu określonego wyniku zawodów sportowych polegające na bezprawnym wywarciu wpływu na zachowanie osoby pełniącej funkcję w polskim związku sportowym lub podmiocie działającym na podstawie umowy zawartej z tym związkiem lub podmiocie działającym z jego upoważnienia, w związku z pełnieniem tej funkcji.

3. W wypadku mniejszej wagi, sprawca czynu określonego w ust. 1 lub 2 podlega grzywnie, karze ograniczenia wolności albo pozbawienia wolności do lat 2.

Art. 49. Nie podlega karze sprawca przestępstwa określonego w art. 46 ust. 2, art. 46 ust. 3 lub 4, w związku z ust. 2, lub w art. 48 ust. 2 lub 3, w związku z ust. 2, jeżeli korzyść majątkowa lub osobista albo ich obietnica zostały przyjęte, a sprawca zawiadomił o tym fakcie organ powołany do ścigania przestępstw i ujawnił wszystkie istotne okoliczności przestępstwa, zanim organ ten o nim się dowiedział.

English translation:

Art. 46. 1. Who, acting in relation with a sports competition organised by a Polish sports association or a body acting pursuant to an agreement executed with such association or a body acting upon such association's authorisation, accepts a financial or personal benefit, or a promise of such a benefit, or demands the promise of such a benefit in exchange for any unfair behaviour that might influence the result of the competition, is subject to deprivation of liberty for the term of between 6 months and 8 years.

2. A person, who, in circumstances set out in s.1, provides a financial or personal benefit or promises to provide such a benefit, is subject to the same penalty.

3. In cases of lesser significance, the perpetrator of an act set out in s. 1 or 2 is subject to a fine, limitation of liberty or deprivation of liberty for the term of up to 2 years.

4. If the perpetrator of an act set out in s. 1 or 2 accepts a financial benefit of significant value, or a promise of such benefit, or provides such benefit or promise, or demands such benefit or promise, he is subject to deprivation of liberty for the term of between 1 and 10 years

Art. 47 Who, being in possession of information that a prohibited act mentioned in art. 46 above has been committed, takes part in a bet relating to a sports competition, to which such information pertains, or makes such information public with the intention that another person takes part in such a bet, is subject to deprivation of liberty for the term of between 3 months and 5 years

Art. 48 1. Who, claiming to have an influence on a Polish sports association or a body acting pursuant to an agreement executed with such association or a body acting upon such association's authorisation, or implies such influence, or reassures another person of such influence, undertakes to intermedieate to fix a determined result of a sports competition in exchange for a financial or personal benefit, or its promise, is subject to deprivation of liberty for the term of between 6 months and 8 years.

2. A person, who provides or promises to provide a financial or personal benefit in exchange for intermediation to fix a determined result of a sports competition, which amounts to an unlawful influence on a person holding an office in a Polish sports association or a body acting pursuant to an agreement executed with such association or a body acting upon such association's authorisation, in relation to the holding of that office, is subject to the same penalty.

3. In cases of lesser significance, the perpetrator of an act set out in s. 1 or 2

is subject to a fine, limitation of liberty or deprivation of liberty for the term of up to 2 years.

Art. 49 The perpetrator of a crime set out in Art. 46 s. 2, art. 46 s. 3 or 4 in conjunction with s. 2, or art. 48 s. 2 or 3 in conjunction with s. 2, in cases a financial or personal benefit has been accepted and the perpetrator notified of that an authority dedicated to fighting crime and revealed all important circumstances of the crime, before such authority became aware of that, shall not be subject to a penalty.

Question 2

We are unfortunately unable to provide detailed information on how crimes relating to the manipulation of sports results have been handled so far. There are no separate statistics for this type of offences and obtaining any detailed data would require a comprehensive survey in all the courts and prosecutor's offices in Poland, which was impossible in the time frame presented.

Portugal

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²⁷?

- 1.1. If yes:
1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

YES

1. The manipulating of sport results is foreseen in Law n. ° 50/2007, of 31st August, that establishes the criminal responsibility for conducts affecting the truth, loyalty and fairness of matches and its results. This legislation entered into force in 15th September 2007. The conduct is criminalized as corruption and subject to criminal sanctions.

2. The main provisions of such instrument read as follows:

(Non-official translation)

Law n. ° 50/2007, of 31 August

Article 1

Object

This law establishes the criminal liability for unsporting behavior, contrary to the values of truth, loyalty and fairness, which may fraudulently alter the results of a sports competition.

²⁷ You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

Article 3

Criminal liability of legal persons and similar entities

1 - Legal persons and similar entities, including sports legal persons, are liable for the crimes foreseen by the present law.

2 - The status of public usefulness sports does not exclude the criminal liability of such sports legal persons.

Article 4

Additional penalties

Agents of the crimes set forth in the present law may be subject to the following additional penalties:

- a) Suspension of participation in competitive sport for a period of six months to three years;
- b) Ineligibility to subsidies, grants or incentives granted by the State, Autonomous Regions, local authorities and other public bodies for a period of one to five years;
- c) Prohibition of practice of profession, function or activity, public or private, for a period of one to five years, in the case of sports director, sports coach, sports official, sports entrepreneur or legal person or similar entity.

Article 6

Mandatory Reporting

Holders of bodies and officials of sports federations or professional leagues, associations and groups of clubs affiliated to them should report to the Public

Prosecution Service any crimes foreseen under this law that came to its acknowledgment during the exercise of their duties or due to these.

Article 8 Passive Corruption

A sports agent who by himself, or through another person, with his consent or ratification, demands or accepts for himself or a third party, any undue advantage whether of economic nature or not or its promise for any act or omission aiming to alter or distort the result of a sporting event is punished with imprisonment from 1 to 5 years.

Article 9 Active Corruption

1 – Whoever by himself, or through another person, with his consent or ratification, offers or promises a sports agent or to a third party, to the knowledge of the first, any undue advantage whether of economic nature or not, for the purpose stated in article 8, is punished with imprisonment up to three years or a fine.

2 - The attempt is punishable.

Article 10 Trade in influence

1 – Whoever by himself, or through another person, with his consent or ratification, demands or accept for himself or for a third party, any advantage whether of economic nature or not, or its promise, for the purpose of exercising a real or perceived influence on any sports agent, with the purpose of obtaining a decision to change or falsify the result of a sporting event shall be punished with imprisonment up to three years or a fine, if a more severe penalty is not applicable by virtue of another legal provision.

2 - Whoever by himself, or through another person, with his consent or ratification, offers or promises to offer any advantage whether of economic nature or not for the purpose referred to in the preceding paragraph shall be punished with imprisonment of up to 2 years or a fine of up to 240 days, where a severe penalty is not applicable by virtue of other legal provision.

Article 11 Conspiracy

1 – Whoever promotes, establishes, participates or supports a group, organization or association whose purpose or activity is directed to the practice of one or more crimes herein provided shall be punished with imprisonment from 1 to 5 years.

2 - Whoever leads or directs the above mentioned groups, organizations or associations shall be punished with the penalty therein provided increased by one third in its minimum and maximum limits.

3 - For the purposes of this article, it is considered that there is a group, organization or association where a set of at least three persons acts in concert over a period of time.

Article 12 Aggravation

1 - The penalties foreseen in Article 8 and in paragraph 1 of Article 10 shall be increased by one third in its minimum and maximum limits if the agent is a sports director, sports referee, sports entrepreneur or sports legal person.

2 - If the crimes mentioned in Article 9 and in paragraph 2 of Article 10 are committed upon the person mentioned in the preceding paragraph, the agent is punished with a penalty that would fit the case, increased by one third in its minimum and maximum limits.

- 1.2. If not:
1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?
 2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?
2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

The most noteworthy and famous criminal case regarding the manipulation of sport results is the so called “Apito Dourado” (Golden Whistle) affair, a sports corruption scandal in Portuguese football that arose in 2004, prior to the law mentioned above.

In this case, the Portuguese Judiciary Police investigators named 16 football personalities as suspects of corrupting or attempting to corrupt referees. These suspects included the chairman of Futebol Clube do Porto and the former Boavista Futebol Clube chairman and Portuguese League for Professional Football President.

In March 2008, Oporto's Tribunal de Instrução Criminal decided that one of these cases, concerning a match between FC Oporto and Beira-Mar, would proceed to trial. The other one, concerning a match between FC Oporto and Estrela da Amadora, was dismissed for the second time in June 2008 and the main accusation witness accused of perjury.

In July 2008, the Chairman of Boavista FC was found guilty of abuse of power but not guilty of corruption. He was sentenced to three years, two months of suspended jail time.

On 3 April 2009, the chairman of FC Oporto was acquitted on all charges related to the Beira-Mar-FC Porto match of the 2003-04 season by the Portuguese court on grounds that under the Portuguese legal framework, the phone recordings presented in trial should not be admitted as a means of evidence, due to the fact that they have not previously been authorized by the Instruction Judge.

Russian Federation / Fédération de Russie

Unofficial translation

Reply by the Russian Federation to Questionnaire Regarding the Work of the Council of Europe on the Issue of “Manipulation of Sports Results, Notably Match-Fixing”

The Russian legislation provides for responsibility for bribery of participants and organizers of professional sports and entertainment profit-making competitions in Article 184 of the Criminal Code of the Russian Federation.

“Criminal Code of the Russian Federation of June 13, 1996, No. 63-FZ

Article 184. Bribery of Participants and Organizers of Professional Sports and Entertainment Profit-making Competitions

1. Bribery of athletes, referees, coaches, team leaders, and other participants or organizers of professional sport competitions, and also organizers or jurymen of profit-making entertainment competitions, with the purpose of exerting influence on the results of these competitions or contests,

shall be punishable by a fine in the amount of up to 200 thousand roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of up to 18 months, or by compulsory works for a term of 120 to 180 hours, or by corrective labour for a term of up to twelve months, or by arrest for a term of up to three months.

2. The same deed committed by an organized group,

shall be punishable by a fine in the amount of 100 thousand to 300 thousand roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of one to two years, or by deprivation of liberty for a term of up to five years.

3. Illegal receipt by athletes of money, securities, or any other property transferred to them for the purpose of exerting influence on the results of said competitions, and also the illegal use by athletes of property-related services granted to them for the same purposes,

shall be punishable by a fine in the amount of up to 300 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period up to two years, or by disqualification to hold specified offices or to engage in specified activities for a term up to three years, or by arrest for a term of up to six months.

4. Illegal receipt of money, securities, or any other property, illegal use of property-related services by referees, coaches, team leaders, and other participants or organizers of professional sports competitions, and also by organizers or jurymen of profit-making entertainment competitions for the purposes referred to in the third paragraph of this Article,

shall be punishable by a fine in the amount of 100 thousand to 300 thousand roubles or in the amount of the wage or salary or other income of the convicted person for a period of one year to two years, or by deprivation of liberty for a term of up to two years, with disqualification to hold specified offices or to engage in specified activities for a term of up to three years.

Note. A person having committed an offence provided for by paragraphs one or two of this Article shall be exempt from criminal liability if he or she was subject to blackmail or voluntarily informed the body authorized to initiate criminal proceedings of the bribery.”

Serbia / Serbie

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²⁸?

No.

- 1.1. If yes:
 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

- 1.2. If not:
 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

In Article 208. of Criminal Code of the Republic of Serbia is proscribed Fraud as general criminal offence and the conduct of manipulating sport results fall under that offence.

Fraud

Article 208

(1) Whoever with intent to acquire unlawful material gain for himself or another by false presentation or concealment of facts deceives another or maintains such deception and thus induces such person to act or not to act, all to the detriment of his or another's property, shall be punished with imprisonment of six months to five years and a fine.

(2) Whoever commits the offence referred to in paragraph 1 of this Article only with intent to cause damage to another, shall be punished with imprisonment from six months, and a fine.

(3) If by the offence referred to in paragraph 1 and 2 of this Article material gain is acquired or damages caused exceeding four hundred and fifty thousand dinars in

²⁸ You could consider the definition of "manipulation of sports results" as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers' Deputies. Specifically, it stated that "the expression "manipulation of sports results" covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition."

value, the offender shall be punished with imprisonment of one to eight years, and a fine.

(4) If by the offence referred to in paragraph 1 and 2 of this Article material gain is acquired or damages caused exceeding million five hundred thousand dinars in value, the offender shall be punished with imprisonment of two to ten years, and a fine.

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

In the next year, the Republic of Serbia are not planning to adopt specific legislation on this conduct.

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

We don't have information about the investigations in cases of manipulating sport results in the Republic of Serbia.

Slovenia / Slovenie

Slovenian answers to the questionnaire on the conduct of manipulating sport results

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results¹?

Please note that there are no specific provisions on the conduct of manipulating sport results in Slovenian Criminal Code (KZ-1 OJ of RS, nr. 55/08, 66/08-popr., 39/09, 91/11). However, such conduct could maybe (depending on the specific circumstances of the case) fall within the scope of a criminal offence of fraud (Article 211 of Criminal Code) or organising Money Chains and Illegal Gambling (Article 212, second paragraph, Criminal Code). Below please find unofficial text of the both Articles. Amendments (KZ-1B) to KZ-1 were adopted in November 2011 and will enter into force six month after KZ-1B was published in the Official Gazette of the Republic of Slovenia (namely 15. 5. 2012). Inter alia, with KZ-1B certain amendments were adopted also with regards to criminal offence of organising Money Chains and Illegal Gambling. Below please find marked amendments (track changes) to this offence in Article 212 of Criminal Code.

Fraud Article 211

(1) Whoever, with the intention of acquiring unlawful property benefit for himself or a third person by false representation, or by the suppression of facts leads another person into error or keeps him in error, thereby inducing him to perform an act or to omit to perform an act to the detriment of his or another's property, shall be sentenced to imprisonment for not more than three years.

(2) Whoever, with the intention as referred to in the preceding paragraph of this Article, concludes an insurance contract by stating false information, or suppresses any important information, concludes a prohibited double insurance, or concludes an insurance contract after the insurance or loss event have already taken place, or misrepresents a harmful event, shall be sentenced to imprisonment for not more than one year.

(3) If the fraud was committed by at least two persons who colluded with the intention of fraud, or if the perpetrator committing the offence referred to in paragraph 1 of this Article caused large property damage, the perpetrator shall be sentenced to imprisonment for not less than one, and not more than eight years.

(4) If the offence referred to in paragraphs 1 or 3 of this Article was committed within a criminal association, the perpetrator shall be sentenced to imprisonment for not less than one, and not more than ten years

¹ You could consider the definition of "manipulation of sports results" as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers' Deputies. Specifically, it stated that "the expression "manipulation of sports results" covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition."

(5) If small property damage has been incurred by the committing of the offence under paragraph 1 of this Article and if the perpetrator's intention was to acquire a small property benefit, he shall be punished by a fine or sentenced to imprisonment for not more than one year.

(6) Whoever, with the intention of causing damage to another person by false representation or the suppression of facts, leads a person into error or keeps him in error, thereby inducing him to perform an act or to omit to perform an act to the detriment of his or another's property shall be punished by a fine or sentenced to imprisonment for not more than one year.

(7) The prosecution for the offences under paragraphs 5 and 6 of this Article shall be initiated upon a complaint.

Organising Money Chains and Illegal Gambling Article 212

(1) Whoever organizes, participates in, or helps organizing or performing money chains where participants pay certain amounts of money to organizers or other participants who are already included in the game or activity, and expect certain amounts of money to be paid by the participants who are to join such a game or activity after them, shall be sentenced to imprisonment for not more than three years.

Deleted: with a view to procuring an unlawful property benefit for himself or for a third person.

(2) Whoever, with the intention of acquiring an unlawful property benefit for himself or a third person organises, participates or helps in organising gambling, which was not issued an authorisation or concession by a competent authority, shall be punished to the same extent.

Deleted: , contrary to regulations.

Deleted: classic or special

Deleted: network gambling, or other gambling via electronic means of communication

Deleted: large

Deleted: large

Deleted: less than one, and not more than eight years

(3) If a substantial property benefit has been gained by himself or by a third person by committing the offences under the above paragraphs, or substantial property damage has been caused to a third person, the perpetrator shall be sentenced to imprisonment for not more than five years.

(4) If a large property benefit has been gained by himself or by a third person by committing the offences under the first or second paragraph, or large property damage has been caused to a third person, the perpetrator shall be sentenced to imprisonment for not less than one, and not more than eight years.

- 1.1. If yes:
1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

Sweden / Suède

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results²⁹?

No

- 1.1. If yes: 1. Is that conduct subject to criminal, or administrative, or any other legal sanction?

n/a

2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

n/a

- 1.2. If not: 1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?

Presently, acts of passive and active bribery in the context of sports could be prosecuted only if the athlete is considered to be an employee of the club.

Chapter 20, Section 2 of the Penal Code:

An employee who receives, accepts a promise of or demands a bribe or other improper reward for the performance of his duties, shall be sentenced for taking a bribe to a fine or imprisonment for at most two years. The same shall apply if the employee committed the act before obtaining the post or after leaving it. If the crime is gross, imprisonment for at most six years shall be imposed.

The provisions of the first paragraph in respect of an employee shall also apply to:

- 1. a member of a directorate, administration, board, committee*

²⁹ You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

or other such agency belonging to the State, a municipality, county council, association of local authorities, parish, religious society, or social insurance office,

2. a person who exercises a assignment regulated by statute,

3. a member of the armed forces under the Act on Disciplinary Offences by Members of the Armed Forces, etc. (1986:644), or other person performing an official duty prescribed by Law,

4. a person who, without holding an appointment or assignment as aforesaid, exercises public authority, and

5. a person who, in a case other than stated in points 1-4, by reason of a position of trust has been given the task of managing another's legal or financial affairs or independently handling an assignment requiring qualified technical knowledge or exercising supervision over the management of such affairs or assignment.

2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

Yes, new legislation is under preparation. A Government Bill will be presented early 2012, introducing i.a. a provision dealing with passive and active bribery in connection with all contests (not only sports) that are open to organised and legitimate betting.

The proposed provision has been devised by a Commission of inquiry. The Commission's report was published in June 2010 (SOU 2010:38).

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

There are no such investigations or decisions known to the ministry.

Switzerland / Suisse

1. Existe-t-il, dans votre législation nationale, dans vos règlements et dans votre jurisprudence, une ou plusieurs disposition(s) spécifique(s) quant à la manipulation des résultats sportifs ?

Réponse :

Non, il n'existe actuellement ni dispositions spécifiques sur la manipulation des résultats sportifs, ni un énoncé de fait légal général pour la fraude sportive.

- 1.1 Si oui:

Réponse :

Néant

- 1.2 Si non:

- 1.2.1 Est-ce que selon votre législation, la manipulation de résultats sportifs (ou certaines formes de ce comportement) relève d'une ou plusieurs infractions (pénales, administratives ou autres) ?

Réponse :

L'art. 146 du Code pénal définit les éléments constitutifs de l'escroquerie. Cet article est applicable aux cas de manipulation de résultats sportifs lorsque tous les éléments constitutifs de l'infraction sont réunis.

- 1.2.2 En raison de l'absence d'une législation spécifique dans votre système, envisagez-vous d'adopter une loi spécifique sur ce comportement à l'avenir ?

Réponse :

Cette question est à l'étude. Le Parlement a en effet chargé le Conseil fédéral (le gouvernement) de lui présenter un rapport à ce sujet d'ici à la fin de 2012. Le Conseil fédéral est chargé de vérifier :

- *quelles sont les dispositions actuellement applicables, aux niveaux national et international, dans le domaine du sport en ce qui concerne la lutte contre la corruption et les matchs truqués et quels sont les efforts entrepris pour remédier à la situation;*
- *si les instruments existants suffisent pour affronter la complexité croissante des problèmes liés à la corruption et aux matchs truqués dans le domaine du sport, que ce soit au niveau national ou international;*
- *s'il y a lieu de prendre des mesures législatives visant, d'une part, à améliorer les moyens actuellement mis en œuvre sur les plans national et international pour lutter*

contre la corruption et les matchs truqués et, d'autre part, à assurer une prévention active de la corruption.

2. S'il y a déjà eu dans votre pays des enquêtes sur des cas de manipulation de résultats sportifs, pourriez-vous s'il vous plaît fournir toute information pertinente sur la façon dont les organes d'application de la loi (police, procureurs et tribunaux) se sont occupés de tels cas (les enquêtes ont-elles été couronnées de succès, les suspects ont-ils été identifiés et poursuivis, les sanctions pénales et administratives ont-elles été appliquées)?

Réponse :

Nous n'avons pas connaissance actuellement de cas ayant nécessité l'intervention d'autorités d'instruction suisses. Par contre, certains matchs de football ont déjà fait l'objet de manipulations étrangères. Neufs joueurs de football ont notamment été suspendus en Suisse suite à l'affaire des matchs truqués mise au jour par le Ministère public de Bochum en Allemagne. La décision a été prise par la Commission pénale et de contrôle de l'Association suisse de football.

Turkey / Turquie

QUESTION 1-Are there any special provision(s) in your internal law, arrangements and precedents regarding manipulation of sports results?

If yes:

a) Is this act subject to criminal, administrative or other legal sanctions?

b) Can you send the texts of these provisions regarding this act as enclosures?

(if available, add the ones in English or French in these languages)

If no:

a) Does manipulation of sports results (or its specific forms), in accordance with your law, fall into the scope of more than one applicable offence (of criminal, administrative nature or other natures)?

b) Will there be created a legal framework regarding this act in the near future since there are no specific provisions in your system?

ANSWER 1- There are special arrangements in Turkish law regarding manipulation of sports results.

a) Law No. 6222 on the Prevention of Sports Violence and the Irregularity entered into force following the publication of it in the Official Gazette dated 14/4/2011 and numbered 27905.

- In article 11 of the Law No. 6222, it has been stipulated that those persons who provide financial profit or other advantages or who are provided advantage or who contribute to the finalization of sports competitions in line with agreement by knowing the presence of match-fixing shall be sentenced to a penalty of imprisonment for a term of five years to twelve years and a judicial monetary fine up to twenty thousand days.

In the same article, if the offence is committed in favour of sports clubs or other legal persons, it has been stipulated that they shall also be penalized with an administrative monetary fine up to the amount of match-fixing or incentive pay; however, the administrative monetary fine to be imposed shall not be less than a hundred Turkish Liras.

In the afore-mentioned article, it has been provided that if the offence of match-fixing is committed in order to influence the results of odds betting, the penalty to be imposed shall be increased by half. (Enclosure: 1)

However, the penalty of imprisonment for a term of “five years to twelve years” stipulated for match-fixing in article 11 of the Law No.6222 has been amended as penalty of imprisonment for a term of “one year to three years” with the amendment to the law ratified at the session held on 24/11/2011 by the General Council of Turkish National Grand Assembly.

- There was not a legal arrangement stipulating a special criminal sanction on the manipulation of sports results (match-fixing and incentive pay) in Turkish law until the date of 14/4/2011. Until this date, general arrangements in Turkish law were applied to the people manipulating sports results.

- General Directorate of Sports Amateur Sports Branches Criminal Regulations prepared for the purposes of organising Boards of Criminal Department to help training of disciplined healthy generations, to ensure discipline in amateur sport activities, determining acts constituting disciplinary actions and their sanctions in accordance with international basis and practises entered into force following the publication in the Official Gazette dated 7/1/1993 and numbered 21458. In accordance with the articles 47 and 49 of the afore-mentioned Regulations, it has been stipulated that those making or doing fraudulent and staged competition and mediators shall be sentenced to a penalty of disqualification from competition for a term of at least one year or a deprivation of right for the same term and organisations shall be penalized with relegation; those competing by obtaining material advantage from organisations and persons likely to benefit from the results of the competitions, those offering, providing or giving material advantage to the ones competing in this way shall be penalized with disqualification from competition for a term of six months to two years or a deprivation of right for the same term. (Enclosure: 2)
- Administrative sanctions in parallel with the above-mentioned provisions of Regulations have also been stipulated about the people manipulating sports results in criminal and discipline instructions of Independent (Autonomous) Sports Federations outside football.
- In article 58 of Autonomous Turkey Football Federation Football Discipline Instruction, it has been stipulated that it shall be forbidden to manipulate or attempt to manipulate the results of competitions in compatible with law or sports ethics or furnishing incentive pay to a football player or club shall fall into the same scope, those violating this provision shall be penalized with disqualification from competitions or deprivation of right for a term of one year to three years; clubs shall be penalized with relegation, as per the severity of violation , penalty of downpoint may be imposed in addition to the penalty of relegation, people or clubs having responsibility in the violation shall also be penalized with monetary fine. (Enclosure: 3)
- In article 59 of Autonomous Turkey Football Federation Football Discipline Instruction, it has been stipulated that the administrators of the clubs which are in the professional league, match officials and other officials and football players shall be forbidden to participate in the odds betting or similar gambling games organised relating to football matches, those acting otherwise shall be penalized with disqualification from competitions or with deprivation of right for a term of three months to one year. (Enclosure 3)
- In article 5 of the Law no. 7258 regarding Provision of Betting and Luck Games in Football and Other Sportive Competitions, the following arrangements have been made:

Those organising fixed odds betting or mutual betting in respect of sports competitions, or providing a place or opportunity for them to be played without the authorisation of the Law shall be sentenced to a penalty of imprisonment for a term of one year to three years and they shall be penalized with monetary fine up to ten thousand days,

Those providing opportunity for having every kind of betting or gambling games abroad played in Turkey by internet or other means shall be sentenced to a penalty of imprisonment for a term of two years to five years,

Those mediating money transfers related to any kind of odds betting or gambling games shall be sentenced to a penalty of imprisonment for a term of one year to three years and shall be penalized with judicial monetary fine up to five thousand days. (Enclosure: 4)

QUESTION 2- If there are investigations conducted in your country regarding manipulation of the sports results, can you give us any related kind of information (as to how law enforcement agencies (the police, prosecutor's office and courts) handle these cases (for example, has the investigation become successful, have the suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

ANSWER 2- In our country, there is a large scale investigation initiated by the police and prosecutor's office relating to the manipulation of the sports results (match-fixing) in professional football leagues. In this context, vacation courts have issued arrest warrants from July 2011 until today about nearly 30 people notably club administrators, coaches, managers and football players; the related people are still in prison. Besides, legal procedure about many people continues. Since confidentiality decision has been taken in the investigations, and a bill of indictment has not been prepared, it is has not been possible to provide and send information and documents at this stage legally.

Moreover, there are cases filed for the offence of aggravated fraud due to match-fixing and illegal odds betting with Basis no 2010/523 in Diyarbakir 5th Aggravated Felony Court and with Basis no 2010/197 in Beyoglu 3rd Aggravated Felony Court. (Enclosure: 5) (Enclosure: 6)

People and the related clubs about whom judicial investigation has been initiated or who are prosecuted have been sent to the board of discipline within the context of discipline instructions of sports federations stated in the first article above and sportive corrections stipulated in the legislation have been applied about them. Disciplinary investigations still continue about some people and clubs deliberatively sent to the boards of discipline.

Annex 1

6222

Law on the Prevention of Sports Violence and the Irregularity

**THIRD SECTION
Illegal Acts and Criminal Provisions**

Article 0011: Match-fixing and incentive pay

(1) Those persons who provide financial profit or other advantages to another person in order to influence a specific sports competition shall be sentenced to a penalty of imprisonment for a term of five years to twelve years and shall be penalized with a judicial monetary fine up to twenty thousand days. The person to whom an advantage is provided shall also be penalized as accomplice for this offence. Even when agreed on providing financial profit or other advantages, the penalty shall be imposed as if the offence is completed.

(2) Those people contributing to the finalization of sports matches in line with the agreement by knowing the presence of match-fixing agreement shall also be penalized in accordance with the first provision.

(3) Penalty shall be imposed if there is a promise or proposal for financial profit or other advantages, if not agreed, as the offence is at the attempt stage.

(4) The penalty to be imposed shall be increased by half if the offence is committed:

- a. By misusing the trust or influence provided by public officer,
- b. By the head of administrative board or its members of the sports club,
- c. Within the activity of an organisation established for committing offence,
- d. For influencing the results of odds betting.

(5) If the offence is committed by furnishing or promising incentive pay for the team to be successful in a competition, the penalty to be imposed as per the provisions of this article shall be decreased by half.

(6) The provisions of this article shall not apply if incentive is given or promised for the following purposes:

- a. Ensuring the national teams or national football players to become successful,
- b. Ensuring their team players or technical committee to become successful in a match by the sports clubs.

(7) If the offence is committed in favour of the sports clubs or other legal people, they shall also be penalized with an administrative monetary fine up to the amount of match-fixing or incentive pay. However, the amount of the administrative monetary fine to be imposed cannot be less than ten thousand Turkish Liras.

(8) Penalty shall not be imposed on the person helping the discovery of the offence before the competition.

Annex 2

General Directorate of Youth and Sports Amateur Sport Branches Criminal Regulations From the General Directorate of Youth and Sports		R.T. The Official Gazette 07.01.1993 21458
Legal Basis	21.05.1986-3289	

FOURTH SECTION
Youth and Sports Offences

FIRST PART
Offences Committed Against the Organisation

Article 0047: Fraudulent and Staged Competition

Those doing fraudulent and staged competitions, or organising them and mediators shall be sentenced to a penalty of disqualification from competitions for a term of at least one year or deprivation of right for the same period.

Organisations shall be penalized with relegation.

General Directorate of Youth and Sports Amateur Sport Branches Criminal Regulations From the General Directorate of Youth and Sports		R. T. The Official Gazette
Legal Basis	21.05.1986-3289	07.01.1993 21458

FOURTH SECTION
Youth and Sports Offences

FIRST PART
Offences committed against the Organisation

Article 0049: Advantage in Other Circumstances

Those competing by obtaining material advantage from organisations and people likely to benefit from the results of the competitions, those offering, providing or giving material advantage to the ones competing in this way shall be penalized with disqualification from competitions for a term of six months to two years or a deprivation of right for the same term.

Annex 3

FOOTBALL DISCIPLINE INSTRUCTION

INFLUENCING THE RESULTS OF COMPETITIONS

ARTICLE 58- (1) It shall be forbidden to influence or attempt to influence the results of competitions contrary to law or sports ethics. Giving incentive pay to a football player or a club shall fall into this scope.

(2) Those violating this provision shall be penalized with disqualification from competitions or deprivation of right for a term of one year to three years; clubs shall be penalized with relegation. As per the severity of violation, penalty of downpoint may be imposed in addition to the penalty of relegation.

(3) Persons or clubs having responsibility in the violation shall also be penalized with monetary fine.

(4) In case of violation of this forbidden act by referees, penalty of continuous deprivation of right shall be imposed.

BETTING

ARTICLE 59-(1) It shall be forbidden for the administrators of the clubs which are in the professional league, match officials and other officials and football players to participate in the odds betting or similar gambling games directly or indirectly.

(2) Those acting otherwise shall be penalized with disqualification from competitions or with deprivation of right for a term of three months to one year.

Annex 4

7258

Law on Provision of Betting and Luck Games in Football and Other Sportive Competitions

Article 0005:

(amended version with article 256 of the Law No. 5728 published in the Official Gazette dated 08.02.2008 and numbered 26781)

Those organising fixed odds betting or mutual betting in respect of sports competitions, providing a place or possibility for them to be played without the authorisation of the Law shall be sentenced to a penalty of imprisonment for a term of one year to three years and they shall be penalized with monetary fine up to ten thousand days.

Those providing opportunity for having every kind of betting or gambling games abroad played in Turkey by internet or other means shall be sentenced to a penalty of imprisonment for a term of two years to five years.

Those mediating money transfers related to any kind of odds betting or gambling games shall be sentenced to a penalty of imprisonment for a term of one year to three years and shall be penalized with judicial monetary fine up to five thousand days.

Those inducing any kind of odds betting and gambling games by advertising or by other means shall be sentenced to a penalty of imprisonment for a term of six months to two years and shall be penalized with judicial monetary fine up to three thousand days.

In connection with the offences defined in this article, any property allocated for playing any kind of betting or gambling games or any property used in these games or forming the subject to the offence and the amount of any kind of asset value presented for playing these games or obtained by playing them shall be confiscated as per the provisions regarding the confiscation of properties and gains of Turkish Criminal Law dated 26.09.2004 and numbered 5237.

Security precautions shall be imposed special to legal people due to the offences defined in this article.

The provisions regarding The Law no: 5651 dated 04.05.2007 on the “Regulation of Broadcasts via Internet and Prevention of Crimes Committed Through such Broadcasts” shall apply with respect to the offences defined in this article.

United Kingdom / Royaume-Uni

1. Within your national legislation, regulations and case law is there any specific provision(s) on the conduct of manipulating sport results³⁰?

- 1.1. If yes:
1. Is that conduct subject to criminal, or administrative, or any other legal sanction?
 2. Could you please attach the text of the provision(s) which provides for such a conduct (where available please attach an English or French text)

- 1.2. If not:
1. Does – in accordance with your law – fall the conduct of manipulating sport results (or certain forms thereof) under one or more other applicable offences (criminal, or administrative, or of any other nature)?
 2. Due to the lack of a specific provision in your system, is a specific legislative framework on this conduct going to be adopted in the near future?

Answer:

In the Gambling Act 2005 there is the provision for the offence of cheating.

Cheating

(1) A person commits an offence if he—

(a) cheats at gambling, or

(b) does anything for the purpose of enabling or assisting another person to cheat at gambling.

(2) For the purposes of subsection (1) it is immaterial whether a person who cheats—

³⁰ You could consider the definition of “manipulation of sports results” as contained in the Appendix to the Recommendation CM/Rec(2011)10 adopted by the Committee of Ministers on 28 September 2011 at the 1122nd meeting of the Ministers’ Deputies. Specifically, it stated that “the expression “manipulation of sports results” covers the arrangement of an irregular alteration of the course or the result of a sporting competition or any of its particular events (such as matches, races) in order to obtain an advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition.”

(a)improves his chances of winning anything, or

(b)wins anything.

(3)Without prejudice to the generality of subsection (1) cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with—

(a)the process by which gambling is conducted, or

(b)a real or virtual game, race or other event or process to which gambling relates.

(4)A person guilty of an offence under this section shall be liable—

(a)on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or

(b)on summary conviction, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding the statutory maximum or to both.

2. If there have already been investigations in cases of manipulating sport results in your country, could you please provide any relevant information on how the law enforcement agencies (police, prosecution and courts) have dealt with those cases (i. e. have investigations been successful, suspects been identified and prosecuted, have criminal or administrative sanctions been applied)?

Answer :

The most high profile court case that resulted in a successful prosecution was the recent cricket spot fixing case. As reported in the media, Pakistani cricketers Butt, Amir and Asif were convicted under the Prevention of Corruption Act 1906 and for 'conspiring to cheat' under section 42 of the Gambling Act 2005. All three were given jail sentences.

All the involvement in the investigation of cases is by the Gambling Commission (the Commission). The Department for Culture, Media and Sport (DCMS) does not have any direct involvement in them.

Another investigation that resulted in a criminal caution followed a joint investigation into cheating at gambling at Coventry Greyhound Stadium by the Commission with support from the Greyhound Board of Great Britain (GBGB).

A man was cautioned by the Commission under section 42 of the Gambling Act 2005, following an operation which arose from a suspicious betting report. The criminal investigation found no evidence of a link between those operating the track and the individual placing the bets.

There are several ongoing police investigations that could lead to criminal sanctions, including one in snooker and one in football (but due to the nature of these investigations, we can't give any further details).

Another case investigated by Strathclyde police regarding snooker players Stephen Maguire and Jamie Burnett, which was supported by the Gambling Commission, was found to have insufficient evidence to pursue a criminal prosecution by the Scottish Crown Counsel.

The case against cricketer Mervyn Westfield is due to go to court (and possible prosecution) following Essex police investigation in January 2012.

A number of cases have been passed to Sports Governing Bodies (SGBs) in the UK and these figures are included in our most recent document on 'Industry Statistics 2009/2010'. The link to the page is here : [Integrity in Betting](#) (see page 15).

One of these SGB cases included the Coventry Greyhound Stadium investigation mentioned above. This resulted in the GBGB bringing charges against someone for being in breach of certain rules relating to the advertised start time of races, the control of licensed personnel on a racecourse and acting in a manner prejudicial to the integrity, proper conduct and good reputation of greyhound racing.