

Strasbourg, 12 May 2011

EPAS (2011) 32rev1

Enlarged Partial Agreement on Sport (EPAS)

Draft Recommendation of the Committee of Ministers to member states on promotion of the integrity of sport against manipulation of results notably match-fixing

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

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 adopted by the Heads of State and Government of the Council of Europe at their Second Summit, held in Strasbourg on 10 and 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 growth in 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 the Resolution CM/Res(2007) 8 establishing the Enlarged Partial Agreement on Sport (EPAS) assigned the task of developing standards to deal with topical issues in international sport to the EPAS;
- Having regard to its Recommendations (92) 13Rev on the European Sports Charter; (92)14Rev on the Code of Sports Ethics and (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, held in Athens on 11 and 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, held in Baku on 22 September 2010, on the Promotion of integrity of sports against the manipulation of sports results (match-fixing);

- In the light of the Budapest Convention on Cyber crime of 23 November 2001, especially the articles related to data interchange;
 - Acknowledging that, as a general rule, the sports movement is responsible for sport but that public authorities are invited, where appropriate, to develop mutual cooperation with the sports movements, in order to promote the values and benefits of sport;
 - Convinced that the successful 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 public authorities 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 for the integrity of sport;
 - Expressing concerns on 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 cooperation among public authorities, betting operators and sports organisations based on mutual respect and trust is essential in seeking effective common responses to challenges posed by the problem of manipulation of sports results;
 - Reminding that proceeds from lottery and gambling are a significant source of income for sport in most European countries;
-
- Recommends that the public authorities of states parties to the European Cultural Convention which have not already done so to adopt effective policies and measures aimed at preventing and combating the manipulation of sports results in all sports, in line with the Guidelines in the appendix to this resolution;
 - Calls upon all sport organisations as well as betting operators, to assist in these aims with all the means available to them. Invite the Enlarged Partial Agreement on Sport (EPAS), where appropriate, in co-operation with the Group of States against Corruption (GRECO), the European Committee on Crime Problems (CDPC), Moneyval, the Conference of parties of the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism and the Economic Crime Division (Cyber crime), to facilitate the implementation of this recommendation;
 - Invites the Enlarged Partial Agreement on Sport (EPAS), where appropriate, in co-operation with the Group of States against Corruption (GRECO) and the Sports Convention Division, to consider monitoring activities of the present Recommendation;

- Invites the Enlarged Partial Agreement on Sport (EPAS), where appropriate, in co-operation with other relevant national and international bodies,
 - to refine and elaborate good practices on the issue of the manipulation of sports results and to study specific measures taken by European states;
 - to make a feasibility study, on the basis of the future Recommendation, on a possible international convention;
 - to provide a platform of exchange and co-operation for governments, sports movement and the 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 the Council of Europe Enlarged Partial Agreement on Sport (EPAS), in cooperation with the European Union and the Sports Movement, to promote co-operation between the organisers of the sports events and the betting operators within the framework of national and EU law;
- [Stresses 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 (e.g. allocation of sports lotteries and betting proceeds to sport, sponsoring contract, tax revenues allocated to sports policies in the framework of the budget of the state, etc...);
- Invites governments to consider, as a separate issue, the idea of the introduction of a duty of betting operators for an economic fair return from their sports bets for the general development of sport.]

Appendix to the Recommendation

Guidelines

A. Definition

1. In this document, the expression “manipulation of sports results” covers the arrangement on an irregular alteration of course or the result of a sporting competition or any of its particular events (e.g. matches, races...) in order to obtain advantage for oneself or for others and 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 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/her position within the sport. 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. (i.e. fixed and running odds, totalisator games, live betting, betting exchange, spread betting and other games offered by sports betting operators, etc):
 - 4.1 Legal betting: means all types of betting that are allowed on a specific territory or jurisdiction by a regulator or government (e.g. by licence given by a regulator or recognition of licences given by the regulator of a third country);
 - 4.2 Illegal betting means all types of betting which are not legal in the country as well as betting activities proposed by unlicensed companies or persons;
 - 4.3 Irregular 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. The responsibility for combating manipulation of sports results falls to public authorities (the legislative and governmental authorities, the courts, the law enforcement authorities, and government bodies responsible for sport) and non-governmental organisations (professional and amateur national sports associations, clubs, local sports associations, legal organisations managing lotteries, legal betting operators, supporters' clubs, players' organisations, umbrella organisations

of lotteries and/or betting operators, non-governmental organisations involved in the fight against corruption and so on), in a spirit of subsidiary and partnership.

6. In designing a policy and action to effectively combat manipulation of sports results, an overall approach involving all the partners should be adopted. At national level, the tasks and responsibilities of all those involved should be set out in a framework agreement.
7. In general, each party should encourage, by any means, the development of measures to address risks associated with the manipulation of sports results, particularly in the context of the development of betting, and study the establishment of a viable, equitable and sustainable regulatory framework to protect the integrity of sport.
8. If a framework agreement is concluded, it should include means of consultation and co-ordination between the parties concerned. In addition to their basic prerogatives public authorities should also, where appropriate, act as co-ordinators.
9. 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 manipulation of sports results. The payment of grants to sports organisations and clubs could be made conditional on a firm commitment and effective action by them to combat manipulation of sports results and to educate their athletes and officials.
10. Regarding the sports movement, at the international level particular leadership and disciplinary responsibilities lie with sports governing bodies and their affiliated national organisations.
11. 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.
12. 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

13. Public authorities should ensure that its legal and administrative systems are given the most appropriate and effective legal means of combating manipulation of sports results.
14. Legislation should proscribe as criminal or other offences a number of acts related to manipulation of sports results, in accordance with the fundamental principles of domestic law. Public authorities are invited to consider whether their existing legislation covers manipulation of sports results and, where appropriate, take such legislative and/or other measures as may be necessary:

- 14.1. to establish as a criminal or other offence any manipulation of sports results;
 - 14.2. to establish manipulation of sports results as a predicate offence for the criminal offence of money laundering;
 - 14.3. to introduce liability of legal persons for any criminal or other offence established in accordance with the present draft resolution;
 - 14.4. to establish as offences liable to criminal or other sanctions the following acts or omissions, when committed intentionally, in order to commit, conceal or disguise any criminal or other offence established in accordance with these Guidelines:
 - a) creating or using an invoice or any other accounting document or record containing false or incomplete information;
 - b) unlawfully omitting to make a record of a payment;
 - 14.5. to establish as a criminal or other offence aiding or abetting the commission of any criminal or other offence established in accordance with the present draft resolution;
 - 14.6. to provide for effective, proportionate and dissuasive sanctions and measures in respect of any offence established in accordance with these Guidelines;
 - 14.7. to apply the provisions of the Convention on Cybercrime to criminal or other illegal acts, committed using computer systems, involving manipulation of results or the conduct of illegal or irregular bets.
15. Public authorities should introduce mechanisms for whistle-blowing in the area of manipulation of sports results and consider incorporating into their domestic legal systems appropriate mechanisms to provide protection for any person who reports in good faith and on reasonable grounds to the competent authorities any fact concerning offences established in accordance with these Guidelines.
16. Public authorities should adopt legislative and/or other measures enabling the preservation of computer data and other records relating to sporting bets. To that end, public authorities should designate a point of contact available on a twenty-four hour, seven-day-a-week basis in order to ensure the provision of immediate assistance for the purpose of investigations concerning infringements of the laws mentioned in the present draft resolution. This point of contact can be the body identified under Article 35 of the Budapest Convention on Cybercrime of 23 November 2001 (ETS No 185).
17. Public authorities 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 compliance with the relevant data protection standards. Betting operators and sports organisations should be subject to effective, proportionate and dissuasive penal or other sanctions and 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.

D. Law enforcement and preventative activities of Governments

18. In the fight against manipulation of sports results, governments should adopt such measures as may be necessary to ensure that law enforcement officers or agencies have appropriate powers to combat the manipulation of sports results, including the right to share information with sports organisations and betting operators. Since it may be necessary to conduct investigations on the basis of suspicion, public authorities should ensure that law enforcement authorities can, where appropriate, have access to the investigative tools generally used against organised crime, such as monitoring of communications, seizing of material, covert surveillance, monitoring of bank accounts and other financial investigations.
19. Public authorities should establish and, where appropriate, 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 level, on the understanding that information and intelligence should be transmitted rapidly and be detailed enough to be of practical use.
20. Public authorities should designate a focal point to advise and support the sports movement seeking co-operation with law enforcement authorities on exchange of intelligence or possible prosecution.
21. Public authorities should assist each other to the fullest possible extent and ensure spontaneous exchange of intelligence and information on manipulation of sports results between national, foreign and international authorities, where there are reasonable grounds to believe that any offence established in accordance with these Guidelines has been committed, and provide, upon request, all necessary information to the national, foreign or international authority requesting them.
22. Public authorities should consider ensuring that customer identity and sports bets transactions can be monitored in the framework of the prevention and prosecution of money laundering.
23. Public authorities must ensure protection of privacy and personal data in investigations into the manipulation of sports results, in the light of European standards and, in particular, human rights.
24. With a view to combating manipulation of sports results, public authorities are invited to explore 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.
25. Public authorities may establish the effective fight against manipulation of sports results as a criterion for the granting of public financial support to sports organisations.
26. Public authorities 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.

27. Public authorities should, where appropriate, take steps to ensure that no public financial support is granted to individual sports organisations, athletes and sports officials sanctioned for manipulation of sports results, for the duration of the sanction.
28. With a view to combating manipulation of sports results public authorities are invited to explore the possibility of fighting against illegal sports betting, by considering the effectiveness and the efficiency of measures such as :
 - 28.1. Restricting the access to illegal websites (Domain Name System filtering and/or Internet Protocol blocking);
 - 28.2. Blocking financial flows between illegal operators and players;
 - 28.3. Prohibiting advertisement for illegal betting.
29. Public authorities must recognise sports organisations' regulations as referred to in paragraph 30 of Chapter E of these Guidelines and, where appropriate, support their enforcement by a designated governmental or non-governmental sports authority or to a sports organisation.

E. Preventive activities of sports organisations

30. The sports movement should achieve an appropriate level of relevant self-regulation in order to combat manipulation of sports results. Self-regulation by the sports movement should be encouraged by governments, and possibly backed by public standards or policies.
31. Sports organisations at national and international level should consider the adoption of appropriate measures to ensure good conditions for their professional athletes and sports officials, including through schemes aimed at safeguarding their salaries and through bans on participation at different levels of competition for sports organisations failing to regularly fulfil their financial obligations towards their athletes and sports officials.
32. 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:
 - 32.1. 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 and sports officials, 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 have been 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 accessories:
 - to report full details of any approaches, invitation to engage in conduct, or incident that would amount to a breach of the International Federation's Rules related to betting;
 - to co-operate with any reasonable investigation carried out by the International Federation;
 - e) effective, proportionate and dissuasive sanctions for athletes, sports officials 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, etc;
 - f) mechanisms for temporary prohibition of participation in sports activities of athletes and sport officials under prosecution;
- 32.2. supervisory procedures in the area of manipulation of sports results, especially the assessment of risks of match-fixing related to competitions or events, e.g. in the framework of betting monitoring systems;
- 32.3. 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) investigating and disciplinary bodies to be 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;
- 32.4. procedures for the mutual recognition of suspensions and other sanctions imposed by other sports organisations, including in other countries;
- 32.5. invitation to athletes and sports officials to participate actively in the fight against manipulation of sports results;
- 32.6. mechanisms for swift and effective assistance and exchange of information, including spontaneous one, among relevant authorities on all aspects of concrete cases of manipulation of sport results.
33. Sports organisations are encouraged to select sports officials, especially referees and judges, at the latest possible stage before the competition or the event.
34. Sports organisations are invited to consider introducing random financial audits for referees and judges and to ensure regular scrutiny of their field decisions.
35. Sports organisations are encouraged to introduce arrangements for recording and monitoring by sports experts competitions or events where there is risk of fraud.
36. Sports organisations are called upon to increase awareness and knowledge among their athletes and sports officials on the issue of manipulation of sports results and its consequences through education, training and publicity.

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

F. Preventive activities of betting operators

38. 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 public authorities, especially the regulatory authorities and possibly strengthened by public standards or policies.
39. The organisation of bets should be restricted to the results of official and significant sports events for adults (unless minors compete in a competition for adults), possibly above a certain level.
40. 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 (e.g. amount of the stakes on this bet, discrepancies between the distribution of the bets and the expected logical behaviour following the odds, very high amounts placed, geographical distribution of suspicious bets) with the relevant public authorities or sports organisations. The procedure for public disclosure of information should be regulated by agreement.
41. Suspicious bets should be reported swiftly to competent national and international governmental or non-governmental authorities.
42. 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.
43. Betting operators 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:
- 43.1 betting on their own betting products;
 - 43.2 influencing any decision taken by any athletes or teams in competitions offered for bets;
 - 43.3 taking part (e.g. as players, managers, coaches, etc) or acting as referees in events and/or competitions offered for bets.
44. In situations where betting operators own, fund or sponsor teams or individual competitors and also manage bets placed on event in which they are participating, the operators will adopt adequate regulations to prevent any abuse of their position leading to manipulation of results. If such abuse of position takes place, regulators should withdraw the operator's licence.
45. Betting operators will also take measures to prevent sports organisations having a controlling interest in their companies.

46. Teams or individual competitors under investigation or subject to sanctions for manipulation of sports results based on betting should be banned or excluded from the betting offer.
47. Betting operators are invited to adopt self-regulatory rules, to comply with legislations and with the agreements concluded with sports organisations in accordance with paragraph 24, among others on:
 - 47.1. the prevention of conflicts of interest for themselves, their owners and employees;
 - 47.2. the prohibition of high-risk bets;
 - 47.3. the limitation of the amounts of certain bets that are more risky (e.g. “fun bets”);
 - 47.4. the systematic use of credit cards or bank transfers for financial transactions above a certain amount;
 - 47.5. the introduction of additional preventive measures for certain types of bets (e.g. for on-line betting);
 - 47.6. the establishment of betting monitoring systems and the co-operation with the sport or governmental monitoring systems for identification of suspicious bets;
 - 47.7. mechanisms for sharing collected information with other relevant governmental and non-governmental players;
 - 47.8. development of channels for regular reporting of their findings on manipulation of sports results to the public.
48. 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. Cooperation of relevant stakeholders in the fight against manipulation of sports results

49. Cooperation should be developed between sports organisations and betting operators in the fight against manipulation of sports results in order to:
 - 49.1. clarify the respective commitments of both partners to combat manipulation of sports results;
 - 49.2. ensure that the exchange of information is sufficient to ensure that the betting monitoring systems referred to in paragraphs 32.2, 40, 42 and 47.6 of these Guidelines allow sports organisations to apply sanctions and other measures from paragraph 32.1 of Chapter E of these Guidelines.
50. Public authorities and sports organisations should work together to establish close cooperation involving exchange of information between law-enforcement authorities and sports organisations.
51. The relevant stakeholders are invited to consider establishing a permanent international body for the fight against manipulation of sports results.