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**ETUDE DE FAISIBILITE SUR UN INSTRUMENT DE DROIT PENAL RELATIF A LA
PROMOTION DE L'INTEGRITE DU SPORT POUR LUTTER CONTRE LA
MANIPULATION DES RESULTATS, NOTAMMENT LES MATCHS ARRANGES**

Contribution du CDPC

Document établi par le Secrétariat du CDPC
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Introduction

1. Le 28 septembre 2011, le Comité des Ministres du Conseil de l'Europe (ci-après, le CdE) a adopté la Recommandation CM/Rec(2011)10 sur la « Promotion de l'intégrité du sport pour lutter contre la manipulation des résultats, notamment les matchs arrangés », dans laquelle le Secrétariat de l'Accord partiel élargi sur le sport (APES) du CdE est invité à préparer une étude de faisabilité sur l'éventuelle élaboration d'un instrument juridiquement contraignant sur la manipulation des résultats sportifs.¹ Le Comité européen pour les problèmes criminels (CDPC) est appelé à contribuer à cette étude pour ce qui concerne les questions liées à la dimension pénale.
2. Comme souligné dans la Recommandation, les matchs arrangés risquent fortement, *entre autres*, « d'effriter la confiance du public si ce dernier perçoit le sport comme un terrain de manipulation procurant de substantiels avantages financiers à certains individus, plutôt qu'une activité où règne la glorieuse incertitude du sport ».² Par conséquent, pour préserver la nature même du sport, fondée sur l'esprit sportif et la compétition équitable, il convient de veiller, par des mesures contraignantes, à la mise en œuvre effective de pratiques et comportements éthiques dans ce domaine.
3. La recommandation susmentionnée a été adoptée pour répondre à ce besoin. Elle précise notamment 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 ».³
4. Elle dispose en outre que les Etats membres devraient prendre un certain nombre de mesures pour lutter contre la manipulation des résultats sportifs. Ainsi, premièrement, ils devraient veiller à se doter, dans le cadre de leurs systèmes juridique et administratif, *des moyens juridiques appropriés et efficaces pour lutter contre la manipulation des résultats sportifs* » afin de combattre cette pratique.⁴ Deuxièmement, les Etats

¹ Dans la Recommandation CM/Rec(2011)10, adoptée par le Conseil de l'Europe le 28 septembre 2011, le Comité des Ministres :

« Invite l'APES, si besoin est, en coopération avec les autres organes nationaux et internationaux compétents : ... à effectuer, en coopération avec les autres organes concernés et sur la base de cette recommandation, une étude de faisabilité sur un éventuel instrument juridique international, qui couvre tous les aspects de la prévention et de la lutte contre la manipulation des résultats sportifs ».

² Recommandation CM/Rec(2011)10, adoptée par le Conseil de l'Europe le 28 septembre 2011, p.2

³ Annexe à la Recommandation CM/Rec(2011)10, Lignes directrices, Sect. A, para.1.

⁴ Annexe à la Recommandation CM/Rec(2011)10, Lignes directrices C, para.12.

membres déjà dotés d'une telle législation dans ce domaine devraient procéder à un réexamen de celle-ci afin de garantir que « *la manipulation de résultats sportifs – en particulier dans les cas de manipulations de compétitions ouvertes à des paris – de même que les actes ou les omissions visant à dissimuler ou déguiser ces conduites (...) [puissent] être réprimés conformément à la gravité de la conduite* ». ⁵

5. Le secrétariat du CDPC a transmis un bref questionnaire aux délégations du CDPC en vue de recueillir des informations sur les dispositions de droit pénal applicables en cas de manipulation des résultats sportifs, ainsi que sur tout projet de législation que les Etats membres pourraient avoir à cet égard. Les délégations ont également été invitées à fournir des informations sur l'expérience pratique de leur pays concernant les enquêtes et les poursuites engagées en cas de telle conduite.

Droit pénal applicable dans les Etats membres du CdE en cas de manipulation des résultats sportifs

6. Sur les vingt-neuf Etats membres ayant répondu au questionnaire, seuls neuf ont déclaré avoir adopté, parfois récemment, des dispositions pénales spécifiques pour traiter certains types de manipulation de résultats sportifs (la Bulgarie, Chypre, la Fédération de Russie, la Géorgie, la Grèce, la Pologne, le Portugal, le Royaume-Uni et la Turquie). Dans les autres pays répondants, une telle pratique, du moins sous certaines formes, relèverait de la législation pénale générale. Les dispositions applicables varient selon les pays, mais les plus fréquemment citées sont celles qui ont trait à la fraude et aux différentes formes de corruption.
7. La majorité des Etats répondants qui ne sont pas dotés de dispositions de droit pénal spécifiques sur la manipulation des résultats sportifs ont également déclaré qu'ils ne prévoyaient pas de concevoir une législation spécifique à cet égard. Seule la Suède prépare actuellement une telle législation, et, en Suisse, l'opportunité de telles mesures législatives est à l'étude.
8. Dix Etats membres ont indiqué que des enquêtes/poursuites avaient été lancées ou que des condamnations avaient été prononcées sur leur territoire dans des affaires de manipulation de résultats sportifs. Il s'agit aussi bien d'Etats dotés d'une législation spécifique (Chypre, la Grèce, le Portugal, le Royaume-Uni et la Turquie) que d'Etats qui n'en sont pas dotés, et qui ont par conséquent appliqué des dispositions générales de droit pénal (Allemagne, Belgique, Finlande, France et République tchèque). Il se peut que d'autres Etats membres possèdent une expérience pertinente à cet égard étant donné que plusieurs répondants

⁵ Annexe à la Recommandation CM/Rec(2011)10, Lignes directrices, Sect. C, para.13.1

ont déclaré qu'ils n'avaient tout simplement pas d'informations sur de telles enquêtes ou condamnations⁶.

Dispositions pénales spécifiques dans les Etats membres du CdE

9. Sur les vingt-neuf répondants, seuls neuf⁷ ont conçu une législation spécifique sur la manipulation des résultats sportifs. D'après une étude conduite par le secrétariat du CdE, l'Italie et l'Espagne se sont elles aussi dotées d'une législation spécifique. Dans ces onze Etats, la définition pénale de la manipulation des résultats sportifs repose sur des définitions générales relatives à la corruption active et/ou passive et/ou à la fraude. Toutefois, la législation pénale définit des éléments spécifiques et/ou un éventail spécifique de sanctions applicables à une telle conduite. Ces mesures pénales spécifiques s'appliquent par exemple aux comportements :

- visant à « influencer le déroulement ou le résultat d'une compétition sportive » (Bulgarie), à « influencer les résultats d'une compétition ou d'un concours » (Géorgie), à « exercer une influence sur les résultats » (Fédération de Russie), ou à « influencer une compétition sportive spécifique » (Turquie) ;
- ayant pour but « l'altération du résultat de toute équipe sportive ou de tout athlète pratiquant un sport individuel » (Chypre), ou « l'altération du résultat en faveur ou en défaveur de clubs ou de groupes sportifs, d'athlètes rémunérés ou de sociétés anonymes sportives » (Grèce), ou l'« altération ou la déformation du résultat d'une manifestation sportive » (Portugal) ;
- tenus « afin d'obtenir un résultat différent de celui qui aurait été obtenu dans le cadre d'une compétition régulière » (Italie) ;
- cherchant à induire « un comportement déloyal susceptible d'influencer le résultat d'une compétition » (Pologne).

10. Dans certains cas, pour que ces dispositions soient applicables, il faut également que les comportements décrits ci-dessus cherchent à influencer la conduite de certains acteurs spécifiquement mentionnés dans la législation, tels que les athlètes, agents sportifs ou membres de clubs de sports (Chypre), un participant, un juge/arbitre, un entraîneur, un capitaine d'équipe, ou une organisation sportive professionnelle, ou encore un organisateur ou un membre du jury d'une compétition sportive de loisir (Fédération de Russie, Géorgie).

⁶ Dans ce cas, dans les Etats membres qui ne sont pas dotés d'une législation spécifique mais appliquent des dispositions générales relatives à la fraude ou à la corruption, il se peut que des données statistiques pertinentes sur la question de savoir si de telles enquêtes ou condamnations concernaient des affaires de fraude ou de corruption liées à la manipulation de résultats sportifs ne soient tout simplement pas disponibles.

⁷ Bulgarie, Chypre, Fédération de Russie, Géorgie, Grèce, Pologne, Portugal, Royaume-Uni et Turquie.

11. Il semblerait que la criminalisation en vertu de ces dispositions ne dépende pas de la « réussite » de la manipulation des résultats sportifs, c'est-à-dire du fait que les résultats sportifs (truqués) visés aient été atteints ou non. Toutefois, à Chypre et en Grèce, par exemple, l'éventuelle « réussite » d'une manipulation serait considérée comme une circonstance aggravante par définition. Par ailleurs, l'infraction de manipulation de résultats sportifs, lorsqu'elle est liée à la participation à des activités de paris, est considérée comme une circonstance aggravante aux termes de la loi bulgare et italienne, tandis que la législation pénale polonaise prévoit des sanctions spécifiques s'appliquant à toute personne qui prend part à des activités de paris, ou encourage une telle participation, sachant que les résultats sportifs ont été manipulés.

Dispositions générales de droit pénal dans les Etats membres du CdE

12. La majorité des Etats membres ont déclaré qu'une ou plusieurs disposition(s) « générale(s) » de droit pénal peuvent s'appliquer en cas de manipulation de résultats sportifs. Les réponses de certains pays reposent sur des condamnations réelles pour de tels faits. Les autres pays ont indiqué que certaines de leurs dispositions de droit pénal s'appliqueraient ou devraient s'appliquer dans de tels cas.

13. Dans plusieurs de ces Etats (Allemagne, Danemark, Estonie, Finlande, France, Irlande, Lettonie, Lituanie, Monténégro, Serbie, Slovénie et Suisse) la plupart, ou du moins une partie, des types de comportements pouvant relever de la manipulation de résultats sportifs seraient couverts par la législation pénale en matière de fraude et de corruption. Dans d'autres (Azerbaïdjan, Belgique, Finlande, France, Islande, Lettonie, Monaco, Norvège, République tchèque et Suède), ils le seraient par des dispositions couvrant différents types de corruption. Certains pays membres estiment également que dans certains cas, leurs dispositions pénales sur l'extorsion (Belgique, Lettonie), le blanchiment d'argent (Belgique, Danemark, France) ou les paris illégaux (Slovénie) pourraient s'appliquer. Naturellement, l'applicabilité de telle ou telle disposition de droit pénal dépendrait des circonstances spécifiques de chaque affaire. Si les réponses au questionnaire montrent qu'un type d'infraction précis peut être traité différemment selon les pays, il peut également être traité de diverses manières au sein d'un même pays.

14. La majorité des ces Etats membres semblent penser que ces dispositions générales sont ou seraient suffisantes pour traiter du phénomène de la manipulation des résultats sportifs, et, par conséquent, ne voient pas la nécessité de se doter de dispositions spécifiques pour lutter contre de tels agissements.

Compétence des Etats membres du CdE et conflits de compétence

15. La manipulation des résultats sportifs et l'exploitation de systèmes légaux ou illégaux de paris pouvant être liée à un tel acte se déroulent souvent dans des contextes multinationaux. Ainsi, il se peut que, dans le cadre d'un match arrangé, les joueurs soient originaires d'un pays donné, que le match se déroule dans un deuxième pays, que la ou les instigateur(s) du trucage du match provienne(nt) d'un troisième pays et que les profits illégaux issus d'une telle opération soient collectés dans un quatrième pays. Cette situation peut soulever d'épineuses questions en termes de compétence, soit parce que le procureur ou le tribunal estime qu'il n'est pas compétent pour traiter l'affaire dans toute sa complexité, soit parce que, dans différents pays, les enquêteurs et les procureurs essaient de traduire les mêmes personnes en justice, pour les mêmes faits.
16. En général, les conventions du CdE en matière pénale prévoient que la détermination de la compétence des Etats parties repose sur le principe de la territorialité, c'est-à-dire qu'elle est déterminée en fonction du lieu où a été commise l'infraction (qui peut néanmoins être difficile à définir ; en outre, dans le cadre d'une même affaire, ce critère peut s'appliquer à plusieurs pays). Pour éviter l'impunité, ces conventions prévoient également que la détermination de la compétence des Etats parties repose sur les principes de la nationalité active et passive (nationalités de(s) auteur(s) de l'infraction et de la/des victime(s)). Toutefois, la plupart du temps, les conventions du Conseil de l'Europe permettent aux Etats parties d'émettre des réserves sur ce point.
17. Les Etats membres du CdE qui ne sont pas liés par une convention à cet égard sont libres de définir la mesure dans laquelle ils souhaitent prévoir et exercer leur compétence. Quant aux Etats qui sont déjà parties à une convention du CdE en matière pénale, dans la mesure où les dispositions se rapportant aux compétences ne fixent que des « règles minimum », ils peuvent toujours étendre leur compétence à des cas autres que ceux qui impliquent des liens territoriaux ou des liens fondés la nationalité ou la résidence de l'auteur de l'infraction ou de la victime. Souvent, les conventions de l'Organisation contiennent une clause spécifique de « sauvegarde » qui précise qu'elles n'excluent aucune compétence pénale exercée par une Partie conformément à son droit interne.
18. Certaines conventions du CdE contiennent une disposition sur les conflits de compétence, c'est-à-dire sur les situations dans lesquelles plusieurs parties revendiquent leur compétence à l'égard d'une infraction et sont donc obligées de se concerter pour déterminer la mieux à même d'exercer les poursuites.

Conclusion

19. Au vu des dispositions de la Recommandation CM/Rec(2011)10, la lutte contre la manipulation des résultats sportifs demande une réponse internationale concertée et mieux coordonnée. Dans ce contexte, des mesures pratiques ont déjà été prises au niveau national et international.
20. Toutefois, il semblerait que ces mesures n'aient pas été suffisamment efficaces. En fait, le phénomène continue de s'étendre dans le monde sportif. Aussi peut-il être souhaitable d'élaborer, sous l'égide du Conseil de l'Europe, un nouvel instrument juridique afin de renforcer ces initiatives.
21. En outre, étant donné que la manipulation des résultats sportifs est presque toujours un phénomène international, il pourrait être nécessaire d'avoir recours à un large forum politique international. A cet égard, le CdE est a priori une « agora » légitime à laquelle peuvent participer non seulement les Etats membres de l'Organisation, mais aussi d'autres Etats, des fédérations sportives internationales et des ONG spécialisées. En adoptant sa recommandation sur la « Promotion de l'intégrité du sport pour lutter contre la manipulation des résultats, notamment les matchs arrangés », le Conseil de l'Europe a sans aucun doute lancé ce processus de coordination des efforts.
22. Toutefois, au vu des réponses reçues, le CDPC est d'avis que toute future convention du CdE ne devrait pas être axée sur des mesures liées aux aspects pénaux de la question, mais plutôt sur d'autres types de mesures. Il semblerait qu'indépendamment du fait que les Etats membres de l'Organisation soient dotés ou non de dispositions de droit pénal spécifiques sur la manipulation des résultats sportifs, leurs autorités pensent que la plupart des affaires ayant trait à de tels comportements peuvent être globalement couvertes par la législation pénale existante, que ce soit par le biais de dispositions spécifiques ou de la législation pénale générale sur la fraude, la corruption ou d'autres types d'infractions. Plus précisément, la plupart des délégations du CDPC représentant des Etats membres qui n'ont pas adopté de dispositions spécifiques estiment qu'il n'est pas nécessaire, pour le moment, de mettre au point une telle législation.
23. A la lumière de ce qui précède, et au vu, d'une part, de la grande diversité des types de comportements pouvant être liés à la manipulation de résultats sportifs, et, d'autre part, des très nombreuses manières différentes dont ces actes peuvent être traités dans les Etats membres, l'élaboration, par le Conseil de l'Europe, de dispositions spécifiques de droit pénal en vue d'une éventuelle nouvelle convention dans ce domaine ne semble pas souhaitable. Au besoin, cette convention pourrait être

complétée par une disposition générale chargeant les Etats parties de veiller à ce que de telles infractions soient bien incriminées et qu'elles donnent effectivement lieu à des poursuites conformément aux dispositions de droit interne applicables, comme mentionné au paragraphe 13 de la Recommandation CM/Rec(2011)10.

24. S'agissant de la question des compétences, il pourrait être utile de préciser que les parties à une telle convention exercent leur compétence sur la base des principes de la territorialité et de la nationalité active. Il conviendrait également de prévoir que dans les cas où plusieurs parties revendiqueraient leur compétence à l'égard d'une infraction, celles-ci se concertent afin de déterminer la mieux à même d'exercer les poursuites.

ANNEXE I



**Recommandation CM/Rec(2011)10
du Comité des Ministres aux Etats membres
sur la promotion de l'intégrité du sport pour lutter contre la manipulation des résultats,
notamment les matchs arrangés**

*(adoptée par le Comité des Ministres le 28 septembre 2011,
lors de la 1122e réunion des Délégués des Ministres)*

Le Comité des Ministres, en vertu de l'article 15.b du Statut du Conseil de l'Europe,

Considérant que le but du Conseil de l'Europe est de réaliser une union plus étroite entre ses membres afin de sauvegarder et de réaliser les idéaux et les principes qui sont leur patrimoine commun, et de favoriser leur progrès économique et social ;

Ayant à l'esprit la Déclaration du Comité des Ministres sur le respect des engagements pris par les Etats membres du Conseil de l'Europe (Strasbourg, 10 novembre 2004) ;

Conformément à la Déclaration finale du Deuxième Sommet des Chefs d'Etat et de Gouvernement du Conseil de l'Europe (Strasbourg, 10-11 octobre 1997), qui met en avant le rôle normatif du Conseil de l'Europe, afin, notamment, de rechercher des réponses communes aux défis posés par l'extension de la corruption ;

Considérant les conclusions du Troisième Sommet des Chefs d'Etat et de Gouvernement du Conseil de l'Europe (Varsovie, 16-17 mai 2005), qui recommandaient la poursuite des activités du Conseil de l'Europe servant de références dans le domaine du sport ;

Rappelant que la Résolution CM/Res(2007)8 instituant l'Accord partiel élargi sur le sport (APES) confie à celui-ci la tâche d'élaborer des normes pour répondre aux questions d'actualité qui se posent dans le sport au niveau international ;

Compte tenu de ses Recommandations Rec(92)13 rev sur la Charte européenne du sport révisée, CM/Rec(2010)9 sur le Code d'éthique sportive révisé et Rec(2005)8 relative aux principes de bonne gouvernance dans le sport ;

Compte tenu des travaux et des conclusions de la 11e Conférence du Conseil de l'Europe des ministres responsables du sport (Athènes, 11-12 décembre 2008), en particulier sur les questions des matchs arrangés, de la corruption et des paris illégaux ;

Compte tenu de la Résolution n° 1 de la 18e Conférence informelle du Conseil de l'Europe des ministres responsables du sport (Bakou, 22 septembre 2010) sur la promotion de l'intégrité du sport contre les manipulations des résultats sportifs (matchs arrangés) ;

Compte tenu des efforts internationaux existants en matière de lutte contre la cybercriminalité ;

Reconnaissant qu'en principe le mouvement sportif est responsable du sport, mais que les pouvoirs publics peuvent développer, si besoin est, une coopération avec le mouvement sportif, afin de promouvoir les valeurs et les bienfaits du sport ;

Convaincu que l'application, par les sociétés privées et les organisations sportives, de politiques efficaces de bonne gouvernance, y compris de codes d'éthique, contribuerait à renforcer leur autonomie dans les domaines liés au sport et affermirait leur position vis-à-vis des Etats sur la base du respect et de la confiance réciproques ;

Considérant qu'il est nécessaire de poursuivre l'élaboration d'un cadre européen commun pour le développement du sport en Europe, fondé sur les notions de démocratie pluraliste, de prééminence du droit, de droits de l'homme et de principes éthiques ;

Réaffirmant que la nature même du sport, reposant sur l'esprit sportif et l'équité dans la compétition, exige de lutter avec fermeté et efficacité contre toutes les pratiques et attitudes contraires à l'éthique ;

Conscient des pressions que la société moderne, caractérisée notamment par la course à la réussite et au profit économique, fait peser sur le sport ;

Convaincu que l'application systématique des principes de bonne gouvernance et d'éthique dans le sport contribuerait de manière significative à éliminer la corruption, la manipulation des résultats sportifs (matches arrangés) et d'autres pratiques répréhensibles dans ce secteur ;

Reconnaissant que les tentatives de manipulation des résultats sportifs constituent une menace importante pour l'intégrité du sport ;

Préoccupé par l'implication du crime organisé dans la manipulation des résultats sportifs, notamment au niveau international ;

Convaincu que des matchs arrangés risquent d'effriter la confiance du public si ce dernier perçoit le sport comme un terrain de manipulation procurant de substantiels avantages financiers à certains individus, plutôt qu'une activité où règne la glorieuse incertitude du sport ;

Convaincu qu'un dialogue et une coopération entre les pouvoirs publics, les opérateurs de paris et les organisations sportives, fondés sur le respect et la confiance mutuels, sont essentiels pour la recherche de réponses communes aux défis posés par le problème de la manipulation des résultats sportifs ;

Rappelant que les recettes de la loterie et des paris constituent une source importante de revenus pour le sport dans la plupart des pays européens ;

Soulignant le droit pour les gouvernements de définir les politiques nationales en matière de loteries et de paris, et en particulier, en ce qui concerne les paris, de rapporter un bénéfice raisonnable en faveur du financement du sport de masse (par exemple par l'allocation des revenus des loteries sportives et des paris au sport, des contrats de sponsoring ou des prélèvements fiscaux réalloués aux politiques du sport dans le cadre du budget de l'Etat),

Recommande aux gouvernements des Etats membres du Conseil de l'Europe qui ne l'ont pas encore fait d'adopter une politique et des mesures destinées à prévenir et à combattre la manipulation des résultats sportifs dans tous les sports, à la lumière des lignes directrices figurant en annexe à la présente recommandation ;

Invite l'Accord partiel élargi sur le sport (APES), si besoin est en s'appuyant sur l'expérience, l'expertise et les activités du Groupe d'Etats contre la corruption (GRECO), du Comité européen pour les problèmes criminels (CDPC), de Moneyval, de la Conférence des Parties à la

Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime et au financement du terrorisme (STCE n° 198), à répondre aux demandes d'assistance des gouvernements des Etats membres, pour faciliter la mise en œuvre de la présente recommandation ;

Invite l'APES, si besoin est, en coopération avec les unités compétentes du Secrétariat Général, à envisager des activités de monitoring et/ou de suivi de la présente recommandation ;

Invite l'APES, si besoin est, en coopération avec les autres organes nationaux et internationaux compétents :

- à étudier les mesures spécifiques prises par les Etats européens et à œuvrer au développement de bonnes pratiques en matière de lutte contre la manipulation des résultats sportifs ;
- à examiner les pratiques en vigueur et les mesures prises dans les Etats membres par les organisations sportives et autres organes concernés et effectuer un inventaire des législations existantes visant à prévenir et à lutter contre la manipulation des résultats sportifs ;
- effectuer, en coopération avec les autres organes concernés et sur la base de cette recommandation, une étude de faisabilité sur un éventuel instrument juridique international, qui couvre tous les aspects de la prévention et de la lutte contre la manipulation des résultats sportifs ;
- à offrir une plate-forme d'échange et de coopération pour les gouvernements, le mouvement sportif et les opérateurs de paris sur la question de l'intégrité du sport, à explorer la faisabilité de l'établissement d'une structure de travail et à en faire rapport à la prochaine conférence ministérielle ;
- à examiner les possibilités d'utiliser les initiatives du Conseil de l'Europe comme point de départ d'une réponse globale à cette question ;

Invite l'APES, en coopération avec l'Union européenne et le mouvement sportif, à promouvoir la coopération entre les organisateurs d'événements sportifs et les opérateurs de paris, dans le respect des législations nationales et le droit de l'Union européenne ;

Invite les gouvernements à envisager, comme une question distincte, l'idée d'imposer aux opérateurs de paris un retour économique équitable de leurs paris sportifs au bénéfice du développement du sport sur un plan général ;

Demande au Secrétaire Général du Conseil de l'Europe de porter cette recommandation à la connaissance des Etats parties à la Convention culturelle européenne qui ne sont pas membres du Conseil de l'Europe.

Annexe à la Recommandation CM/Rec(2011)10

Lignes directrices

A. Définitions

1. Dans ce document, 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.

2. Dans ce document, le terme « sportifs » désigne les personnes participant à des activités sportives organisées, leur personnel de soutien et les officiels, ainsi que toute personne, quel que soit son rôle, prenant part aux activités d'organisations sportives, y compris les propriétaires d'organisations sportives.

3. Dans ce document, le terme « information d'initié » désigne toute information relative à une compétition ou à un événement détenue par une personne en vertu de sa position au sein du sport. Ce type d'information inclut, sans s'y limiter, des renseignements factuels concernant les concurrents, les conditions, les stratégies ou tout autre aspect de la compétition ou de l'événement, à défaut de tout renseignement déjà publié ou de notoriété publique, aisément accessible à un public intéressé ou encore divulgué en conformité avec les directives et réglementations présidant à la compétition ou à l'événement en question.

4. Dans ce document, le terme « paris sportifs » désigne tous les jeux impliquant une mise d'argent placée sur un enjeu sportif et permettant aux participants de gagner, totalement ou en partie, une somme basée entièrement ou partiellement sur le hasard ou l'incertitude de l'issue d'un événement sportif (à savoir, cotes fixes ou variables, paris mutuels/Totos, paris en direct (*live betting*), *betting exchange*, *spread betting* et autres jeux proposés par les opérateurs de paris sportifs), en particulier :

4.1. paris légaux : tous types de paris autorisés sur un territoire ou dans une juridiction spécifique (par exemple licence accordée par une autorité de régulation ou reconnaissance des licences accordées par l'autorité de régulation d'un Etat tiers) ;

4.2. paris illégaux : tous types de paris qui ne sont pas autorisés sur un territoire particulier ou dans une juridiction spécifique ;

4.3. paris irréguliers : types de paris révélant des irrégularités et des anomalies dans les mises ou dans l'événement sur lequel ils portent.

B. Partage des responsabilités et coordination

5. Des responsabilités en matière de prévention et de lutte contre la manipulation des résultats sportifs incombent normalement aux organisations non gouvernementales (les mouvements sportifs – notamment les organisations sportives nationales ou internationales, professionnelles ou amateurs, les clubs, les associations sportives locales, les organisations de sportifs et les organisateurs d'événements –, les organismes légaux de loteries, les opérateurs légaux de paris, les clubs de supporters, les organisations fédératrices des loteries et/ou des opérateurs de paris, ou les organisations non gouvernementales impliquées dans la lutte contre la corruption), ainsi qu'aux services répressifs pertinents et à d'autres autorités publiques (y compris les organes gouvernementaux responsables du sport et l'autorité de régulation du marché des paris). Les autorités publiques devraient, au besoin, jouer un rôle de coordination.

6. La conception d'une politique et d'une action efficaces contre la manipulation des résultats sportifs implique l'adoption, au moyen d'un accord-cadre par exemple, d'une approche globale, basée sur des responsabilités claires de chaque organisme et sur une définition de moyens de consultation, d'échange d'informations et de coordination entre les parties prenantes concernées.

7. D'une manière générale, chaque partie prenante devrait encourager et élaborer des mesures visant à faire face aux risques liés à la manipulation des résultats sportifs, en particulier dans le contexte du développement des paris, et étudier la mise en place d'un cadre réglementaire viable, équitable et durable visant à protéger l'intégrité du sport.

8. Les gouvernements devraient également apporter un soutien aux organisations non gouvernementales, notamment aux organisations sportives nationales, aux clubs, aux organisations de sportifs et aux organisations luttant contre la corruption, à qui incombe la responsabilité principale de mise en œuvre des programmes de sensibilisation, d'éducation et d'information en matière de manipulation des résultats sportifs. Le versement d'aides financières aux organisations sportives et aux clubs pourrait être, le cas échéant, conditionné à un engagement ferme et à une action effective de leur part pour lutter contre la manipulation des résultats sportifs et pour éduquer leurs sportifs et officiels.

9. Au niveau du mouvement sportif international, une responsabilité particulière en matière de leadership et de sanctions incombe aux instances dirigeantes sportives et à leurs organisations nationales affiliées.

10. Au niveau international du secteur des paris, les organisations fédératrices des loteries et/ou des opérateurs de paris portent des responsabilités particulières en matière d'exemplarité et d'autorégulation, dans le cadre des règles édictées par leurs régulateurs nationaux respectifs.

11. Toutes les dispositions pour lutter contre la manipulation des résultats sportifs doivent respecter les normes européennes pertinentes de protection des données, notamment dans les échanges d'informations avec les parties prenantes.

C. Mesures législatives et autres

12. Les Etats membres devraient veiller à se doter, dans le cadre de leurs systèmes juridiques et administratifs, des moyens juridiques appropriés et efficaces pour lutter contre la manipulation des résultats sportifs.

13. Les Etats membres devraient passer en revue leur législation actuelle afin de s'assurer que :

13.1. la manipulation de résultats sportifs – en particulier dans les cas de manipulations de compétitions ouvertes à des paris – de même que les actes ou les omissions visant à dissimuler ou déguiser ces conduites relèvent de la législation nationale et peuvent être réprimés conformément à la gravité de la conduite ;

13.2. des personnes morales peuvent être tenues responsables des conduites mentionnées au paragraphe 13.1.

14. Les Etats membres devraient envisager, conformément à la Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime (STE n° 141) et à la Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime et au financement du terrorisme (STCE n° 198) que, lorsque les conduites mentionnées au paragraphe 13.1 sont criminelles et génèrent un profit, elles puissent être considérées comme l'infraction principale de l'infraction de blanchiment d'argent.

15. Les Etats membres devraient étudier le moyen de faire le meilleur usage des législations existantes et/ou d'autres mesures permettant la conservation de données informatiques stockées et d'autres documents, ainsi que de l'application des mécanismes de signalement et de protection des lanceurs d'alerte dans le domaine des manipulations de résultats sportifs.

D. Actions des Etats membres en matière de prévention et d'application de la loi

16. Les Etats membres devraient passer en revue leur législation nationale afin de s'assurer que les forces de l'ordre et les autorités en charge des poursuites ont les moyens d'investigation appropriés, tels que le suivi des communications, la saisie de matériel, la surveillance

secrète, le contrôle des comptes bancaires et d'autres enquêtes financières dans le cadre de la lutte contre la manipulation des résultats sportifs, en particulier dans les cas de manipulation de compétitions ouvertes à des paris.

17. Conformément au droit national et dans le cadre des traités bilatéraux et multilatéraux applicables, les Etats membres devraient utiliser des moyens efficaces pour l'échange de renseignements et d'informations liés aux enquêtes et/ou aux poursuites pour manipulation de résultats sportifs aux niveaux national et international.
18. Les Etats membres devraient évaluer le possible effet bénéfique d'un point centralisé pour conseiller et soutenir le mouvement sportif, désireux de coopérer avec les forces de l'ordre et les autorités en charge des poursuites, en matière d'échange de renseignements ou de poursuites éventuelles, en prenant en considération les structures nationales existantes, et, le cas échéant, désigner un tel point centralisé.
19. Les Etats membres devraient déterminer si l'identification des parieurs et les transactions de paris sportifs pourraient être contrôlées dans le cadre de la prévention du blanchiment d'argent.
20. Afin de combattre la manipulation des résultats sportifs, les Etats membres sont invités à considérer la possibilité de veiller à ce que des paris sportifs ne puissent être organisés sur un événement sportif sans l'information et l'accord préalable de l'organisateur de l'événement – dans le respect des principes fondamentaux du droit international et national.
21. Les Etats membres peuvent instaurer une lutte efficace contre la manipulation des résultats sportifs comme critère d'octroi d'aides publiques aux organisations sportives.
22. Les Etats membres peuvent soutenir les organisations sportives dans le financement des mécanismes de lutte contre la manipulation des résultats sportifs, soit par des subventions ou des aides directes, soit par la prise en considération du coût d'un tel mécanisme dans le calcul des subventions ou aides globales à octroyer à ces organisations.
23. Les Etats membres devraient, si besoin est, prendre des dispositions pour ne pas accorder d'aides publiques aux organisations sportives, aux sportifs ou aux officiels sanctionnés pour manipulation de résultats sportifs, ce pendant toute la durée de la sanction.
24. Afin de combattre la manipulation des résultats sportifs, les Etats membres sont invités à explorer la possibilité de lutter contre les paris sportifs illégaux, en examinant l'efficacité et l'efficacité des mesures suivantes :
 - 24.1. restriction de l'accès à certains sites internet illégaux (filtrage par Domain Name System et/ou blocage par Internet Protocol), tout en respectant les exigences de l'article 10 de la Convention européenne des droits de l'homme sur la protection de la liberté d'expression et l'accès à l'information ;
 - 24.2. blocage des flux financiers entre les opérateurs illégaux et les parieurs ;
 - 24.3. interdiction de la publicité pour des paris illégaux.
25. Les Etats membres devraient reconnaître les règlements des organisations sportives mentionnés au paragraphe 26 du chapitre E des présentes lignes directrices et, le cas échéant, soutenir leur application en confiant la mise en œuvre de leurs dispositions à une autorité sportive gouvernementale ou à une organisation sportive faîtière.

E. Activités préventives des organisations sportives

26. Le mouvement sportif devrait se doter d'un niveau d'autorégulation adéquat pour lutter contre la manipulation des résultats sportifs. L'autorégulation du mouvement sportif devrait être encouragée par les gouvernements, et éventuellement renforcée par des normes ou des politiques publiques.

27. Les organisations sportives, aux niveaux national et international, devraient envisager l'adoption de mesures appropriées pour garantir de bonnes conditions d'activité à leurs sportifs professionnels, notamment par des mécanismes de garantie des salaires et des mesures excluant de certains niveaux de compétition les organisations sportives qui ne s'acquittent pas régulièrement de leurs obligations financières à l'égard de leurs sportifs et de leurs officiels.

28. Les organisations sportives nationales et internationales confrontées à des cas de manipulation des résultats sportifs devraient clarifier et débattre de leurs droits, obligations, devoirs et meilleures pratiques respectifs, en particulier :

28.1. de leurs règles en matière de lutte contre la manipulation des résultats sportifs, en conformité avec les normes adoptées par les organisations sportives internationales compétentes. Ces règles devraient inclure :

a. des règles pour la prévention des conflits d'intérêts chez les sportifs, en particulier :

- en instaurant des interdictions de parier sur leurs propres événements et/ou compétitions ;
- en restreignant l'usage ou la diffusion d'informations d'initiés ;
- en interdisant l'octroi ou l'acceptation de tout cadeau ou autre avantage dans des circonstances qui peuvent raisonnablement être considérées comme jetant le discrédit ;

b. des règles sur la prévention et la répression de toute infraction établie en vertu des présentes lignes directrices et des infractions connexes aux codes de bonne conduite ;

c. des systèmes de possibilité d'annulation d'événements sportifs ou de disqualification des compétiteurs lorsqu'un risque de fraude a été établi/identifié ;

d. des obligations pour les sportifs, les officiels et les juges :

- de signaler de manière détaillée toute approche, incitation à adopter un comportement suspect ou tout incident qui constituerait une infraction aux règles de la fédération internationale ou nationale en matière de manipulation des résultats sportifs ;
- de coopérer à toute enquête fondée menée par la fédération internationale concernée ;

e. des sanctions effectives, proportionnées et dissuasives pour les sportifs et leurs complices, lorsqu'il est avéré qu'ils ont violé ces règles, une exclusion temporaire ou permanente de leurs activités sportives, la réparation du dommage matériel causé, etc ;

f. des mécanismes d'interdiction temporaire de toute participation à des activités sportives pour les sportifs et les officiels faisant l'objet de poursuites ;

28.2. des procédures de supervision dans le domaine de la manipulation des résultats sportifs, notamment l'évaluation des risques des matchs arrangés liés à des compétitions ou à des événements, dans le cadre des systèmes adéquats de suivi des paris, par exemple ;

28.3. des procédures disciplinaires conformes aux principes généraux du droit adoptés au niveau international et garantissant le respect des droits fondamentaux des sportifs et officiels suspectés ; parmi ces principes figurent les suivants :

- a. l'organe d'investigation doit être distinct de l'organe disciplinaire ;
 - b. ces personnes ont droit à un procès équitable et d'être assistées ou représentées ;
 - c. il doit exister des dispositions claires et applicables permettant d'interjeter appel contre tout jugement rendu ;
- 28.4. des procédures de reconnaissance mutuelle des suspensions et autres sanctions imposées par d'autres organisations sportives, notamment à l'étranger ;
- 28.5. l'invitation de sportifs et d'officiels à participer activement à la lutte contre la manipulation des résultats sportifs ;
- 28.6. des mécanismes d'assistance rapide et effective et d'échange d'informations, y compris spontanés, entre les autorités pertinentes, à propos de tous les aspects des cas concrets de manipulation de résultats sportifs.
29. Les organisations sportives sont encouragées à désigner les officiels, en particulier les arbitres et les juges, le plus tardivement possible avant une compétition ou un événement.
30. Les organisations sportives sont invitées à envisager de soumettre les arbitres et les juges à des contrôles financiers inopinés et à assurer un examen régulier de leurs décisions sur le terrain.
31. Les organisations sportives sont encouragées à mettre en place des mécanismes d'enregistrement et de surveillance, par des experts du sport, des compétitions ou événements, lorsqu'il existe un risque de fraude, afin de compléter la supervision fondée sur les systèmes de suivi des paris sportifs.
32. Les organisations sportives sont invitées à sensibiliser et former leurs sportifs à la question de la manipulation des résultats sportifs et de ses conséquences, par l'éducation, la formation et la diffusion d'informations.
33. Les organisations sportives devraient assurer la transparence du financement du sport. Il conviendrait, en conséquence, de veiller à ce que les structures propriétaires des clubs soient les mieux adaptées pour protéger la stabilité et garantir les principes de sécurité dans le sport.
34. Les contrats de sponsoring devraient spécifier que le sponsor ne joue aucun rôle et n'exercera pas d'influence sur les décisions sportives prises par l'équipe ou la personne sponsorisée. Cela n'exclut pas que l'horaire des événements fasse l'objet de discussions avec les sponsors. Les organisations sportives ne devraient pas accepter comme sponsors des opérateurs de paris, à moins qu'ils n'aient une licence officielle, reconnue en vertu du droit national ou international.

F. Activités préventives des opérateurs de paris

35. Les opérateurs de paris devraient se doter d'un niveau d'autorégulation adéquat pour lutter contre la manipulation des résultats sportifs. L'autorégulation dans le cadre des organisations d'opérateurs de paris devrait être encouragée par les Etats membres, en particulier les autorités de régulation, et éventuellement renforcée par des normes ou des politiques publiques.
36. L'organisation des paris devrait être limitée aux événements sportifs officiels et significatifs destinés à des adultes (sauf si des mineurs participent à une compétition pour adultes), éventuellement à partir d'un certain niveau de compétition.

37. Dans le cadre des systèmes de suivi des paris, les opérateurs de paris devraient assurer la transparence de toutes les transactions financières liées aux paris, de manière à surveiller les paris suspects (par exemple les montants misés, les incohérences entre la répartition des paris et le comportement logiquement attendu selon les cotes, les paris de montant très élevé ou la répartition géographique des paris suspects) avec les Etats membres ou les organisations sportives concernés. La procédure de divulgation de renseignements devrait être régie par un accord de non-divulgation, établi conformément aux dispositions légales pertinentes nationales et internationales. L'accord peut établir des systèmes de traitement confidentiel des informations pour déterminer s'il s'agit d'un cas requérant une réaction, avant de faire des déclarations publiques et envisager le développement et le suivi de protocoles stricts visant à prévenir des fuites.
38. Les opérateurs de paris devraient signaler rapidement les paris suspects aux autorités gouvernementales compétentes, ainsi qu'à leurs systèmes de suivi des paris.
39. Les Etats membres devraient adopter des mesures législatives permettant de contraindre les opérateurs de paris et les organisations sportives qui ne coopèrent pas volontairement en soumettant les données en leur possession ou sous leur contrôle à leur faire, dans le cadre d'un système de suivi des paris, conformément aux normes pertinentes de protection des données. Les opérateurs de paris et les organisations sportives devraient faire l'objet de sanctions ou de mesures effectives, proportionnées et dissuasives, comprenant des sanctions pécuniaires s'ils ne collaborent pas avec les autorités gouvernementales ou s'ils entravent la collecte de preuves électroniques dans le domaine des paris sportifs.
40. Les opérateurs de paris devraient bloquer immédiatement la validation des paris sur les matchs pour lesquels les systèmes de suivi des paris ont déterminé qu'il existe une probabilité élevée de manipulation des résultats.
41. Les opérateurs de paris et les régulateurs du marché des paris devraient adopter des réglementations adéquates, afin de prévenir les conflits d'intérêts et les abus d'informations d'initiés par leurs propriétaires et leurs employés. Ils devraient notamment les empêcher :
 - 41.1. de parier sur leurs propres produits ;
 - 41.2. d'influencer toute décision sportive prise par tous les sportifs ou équipes dans les compétitions ouvertes aux paris ;
 - 41.3. de prendre part aux compétitions ou d'agir comme arbitres dans des événements et/ou compétitions pour lesquels ils ont participé à la détermination des cotes (concerne également les joueurs, managers ou entraîneurs, etc).
42. Si un opérateur de paris abuse de sa position de sponsor, de propriétaire ou de détenteur de parts dans une structure sportive, conduisant à une manipulation de résultats, l'organisme de contrôle devrait prendre des mesures contre cet opérateur, pouvant impliquer le retrait de sa licence.
43. Les opérateurs de paris devraient prendre également des dispositions pour empêcher que les organisations sportives aient un intérêt majoritaire dans leurs sociétés.
44. Les équipes ou les compétiteurs individuels faisant l'objet d'enquêtes ou de sanctions pour manipulation des résultats sportifs sur la base des paris devraient être exclus de l'offre de paris.

45. Les opérateurs de paris sont invités à adopter des règles d'autorégulation, afin de respecter la législation et les accords conclus avec les organisations sportives, conformément au paragraphe 20, entre autres en ce qui concerne :

45.1. la prévention des conflits d'intérêts pour eux-mêmes, leurs propriétaires et leurs employés ;

45.2. l'interdiction des paris à haut risque ;

45.3. la limitation du montant de certains paris plus risqués (par exemple les « fun bets ») ;

45.4. l'utilisation systématique de cartes de crédit ou de transferts bancaires pour les transactions financières dépassant un certain seuil ;

45.5. l'adoption de mesures préventives supplémentaires pour certains types de paris (par exemple les paris en direct) ;

45.6. l'établissement de systèmes de suivi des paris et l'instauration d'une coopération avec les systèmes de suivi du mouvement sportif ou du gouvernement afin d'identifier les paris suspects ;

45.7. les mécanismes de communication des informations collectées aux autorités publiques compétentes, organisations sportives et systèmes de suivi des paris ;

45.8. le développement de dispositifs pour la présentation régulière au public de leurs conclusions sur la manipulation des résultats sportifs.

46. Les opérateurs de paris devraient sensibiliser leurs employés à la question de la manipulation des résultats sportifs et de ses conséquences, par la formation et la diffusion d'informations.

G. Coopération des acteurs concernés dans la lutte contre la manipulation des résultats sportifs

47. La coopération devrait être développée entre les organisations sportives et les opérateurs de paris dans la lutte contre la manipulation des résultats sportifs, afin :

47.1. de clarifier les engagements respectifs de ces deux partenaires dans la lutte contre la manipulation des résultats sportifs ;

47.2. de veiller à ce que l'échange d'informations soit suffisant pour que les systèmes de suivi des paris cités aux paragraphes 28.2, 31, 37, 38, 39, 40, 45.6 et 45.7 des présentes lignes directrices permettent aux organisations sportives d'appliquer des sanctions et d'autres mesures prévues au paragraphe 28.1 du chapitre E des présentes lignes directrices.

48. Les Etats membres et les organisations sportives devraient œuvrer conjointement à l'établissement d'une coopération étroite incluant l'échange d'informations entre les forces de l'ordre ou les autorités en charge des poursuites et les organisations sportives.

49. Les acteurs concernés sont invités à réfléchir à la création d'un organe international permanent de lutte contre la manipulation des résultats sportifs.

ANNEXE II

REPONSES AU QUESTIONNAIRE CONCERNANT LE TRAVAIL DU CONSEIL DE L'EUROPE SUR LA QUESTION DE « LA MANIPULATION DES RESULTATS, NOTAMMENT LES MATCHS ARRANGES »

Azerbaijan / Azerbaïdjan	20
Belgium / Belgique	22
Bosnia and Herzegovina / Bosnie-Herzégovine	26
Bulgaria / Bulgarie	27
Cyprus / Chypre	30
Czech Republic / République tchèque	31
Denmark / Danemark	32
Estonia / Estonie	37
Finland / Finlande	38
France	41
Georgia / Géorgie	44
Germany / Allemagne	46
Greece / Grèce	53
Iceland / Islande	55
Ireland / Irlande	56
Latvia / Lettonie	58
Lithuania / Lituanie	63
Montenegro / Monténégro	66
Monaco	70
Norway / Norvège	73
Poland / Pologne	74
Portugal	77
Russian Federation / Fédération de Russie	83
Serbia / Serbie	85
Slovenia / Slovénie	87
Sweden / Suède	89
Switzerland / Suisse	91
Turkey / Turquie	93
United Kingdom / Royaume-Uni	100

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 sportifs⁸ ? 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) 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) ?

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

⁸ 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. »

poursuivre un gérant, entraîneur ou footballeur d'un club de football. En revanche, avec cette définition, il n'est pas possible de poursuivre une personne qui ne fait pas partie d'une personne morale et qui a agi 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.⁹

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.¹⁰

⁹ 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.

¹⁰ Voyez le mail que le parquet fédéral a adressé le 6 décembre 2011 au service de la politique criminelle du SPF Justice.

Dans 'l'affaire Yé', 16 personnes devront rendre des comptes devant le tribunal correctionnel.¹¹ Dans le cadre de cette affaire, des joueurs et des entraîneurs sont accusés d'avoir reçu en 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.¹² 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 politiques¹³, en particulier des ministres de la Justice et de l'Intérieur, pour ce phénomène.

Ainsi, un point de contact (formulaire) 'fraude football' a été¹⁴ 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 eux-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.¹⁵

¹¹ Voyez par exemple: <http://www.hbvl.be/nieuws/binnenland/aid950358/onderzoek-zaak-ye-na-vijf-jaar-klaar.aspx>

¹² 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>

¹³ 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.

¹⁴ 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.

¹⁵ Inforevue Police intégrée, 04/2010, p. 28.

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 fédéral¹⁶), où un magistrat est chargé de rassembler et traiter les plaintes.¹⁷

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.¹⁸

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°6464, 71.)
3. Finalement la Commission des jeux de hasard est demanderesse pour la création d'une infraction de fraude dans le sport.

¹⁶ 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

¹⁷ Inforevue Police intégrée, 04/2010, p. 27.

¹⁸ 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 results¹⁹?

- 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)?

¹⁹ 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 results²⁰?

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).

²⁰ 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 results²¹?

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.

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.”

Denmark / Danemark

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&vId=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 sportifs²² ?

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,

²² 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. »

une fonction de direction ou un travail, pour une personne physique ou morale ou pour un organisme quelconque ».

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 (puisque'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 measureable 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

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 results²³?
 - 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.

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.”

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 201.⁵⁷ 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 201.⁵⁸ 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*.

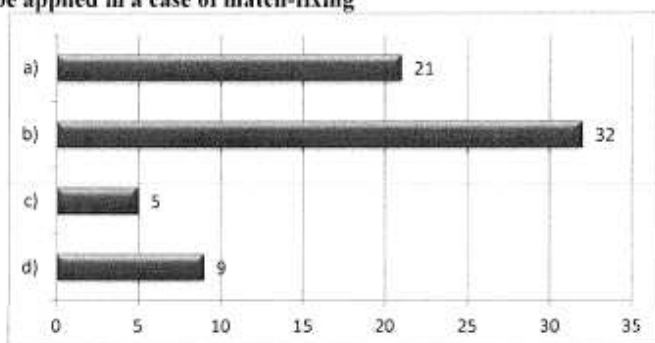
Bribery does not convey *modus operandi* of match fixing, because tacit agreements do not represent functions of public administration. A prize does not belong to athletes (in bribery the corrupt person usually illegally disposes his own or trust property), it usually belongs to the state or sponsors. 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/t/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 (Žaksaitė 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 sportifs²⁴ ?

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.

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. »

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 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 wywarceniu 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 intermediate 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 agreements 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 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)

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.

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."

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 been previously 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 results²⁶?

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

²⁶ 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."

dinars in 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

(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.~~

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Deleted: large

Deleted: less than one, and not more than eight 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 results²⁷?

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*

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.”

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 deliberately 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 results²⁸?

- 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.

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.”

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

(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.

