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**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**DRAFT**

**Criminal law provisions  
on the  
Draft Convention against the manipulation of sports competitions<sup>1</sup>**

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

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<sup>1</sup> This Draft Convention is being drafted by Enlarged Partial Agreement on Sport (EPAS) of the Council of Europe

**It is suggested that the criminal law provisions  
of the draft Convention  
against the manipulation of sports competitions be phrased as follows :**

### **Substantive Criminal Law<sup>2</sup>**

#### **Article 1 – Manipulation of sports competitions**

Each Party shall take the necessary legislative or other measures to ensure that its legal and administrative systems are provided with appropriate and effective means for combating manipulation of sports competitions and that any illicit activity in respect of manipulation of sports competitions as prescribed in Articles ..... of this Convention<sup>3</sup> [, in particular when the relevant acts are committed with corrupt, fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for a third party,] is subject to criminal or other legal sanction./sanctions, including, where appropriate, criminal sanctions.<sup>4</sup>

### **Criminal Procedural Law**

#### **Article 2 – Initiation and continuation of proceedings**

Each Party shall take the necessary legislative and other measures to ensure that investigations or prosecution of offences established in accordance with this Convention should not be subordinate to a complaint and that initiated proceedings may continue even if the complaint is withdrawn.

#### **Article 3 – Criminal investigations**

Each Party shall take the necessary legislative and other measures, in conformity with the principles of its domestic law, to ensure effective criminal investigation and prosecution of offences established in accordance with this Convention.

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<sup>2</sup> Other general provisions on substantive criminal law that are usually included in the most recent Council of Europe “criminal law” conventions : 1) Aiding or abetting and attempt; 2) Jurisdiction; 3) Corporate liability; 4) Sanctions and measures; 5) Aggravating circumstances; 6) Previous convictions, have not been incorporated in this draft proposal as the whole section on criminal law would have appeared to be unbalanced with regard to the only provision describing (defining) the criminal acts (Article 1). Moreover, member states would probably already have in place sufficient general provisions on aiding and abetting, jurisdiction etc covering also the crimes of fraud, corruption, money-laundering etc.

<sup>3</sup> Referring to provisions in other parts of the convention that spell out which kind of activities/conducts are supposed to be prohibited will only be possible depending on what the convention states about prohibiting certain acts/conducts.

<sup>4</sup> These two solutions are alternative depending whether it is more appropriate to give more emphasis to the criminal sanctions or to other kind of sanctions.

#### **Article 4 – International co-operation**

- 1 The Parties shall co-operate with each other, in accordance with the provisions of this Convention and in pursuance of relevant applicable international and regional instruments and arrangements agreed on the basis of uniform or reciprocal legislation and their domestic law, to the widest extent possible, for the purpose of investigations or proceedings concerning the offences established in accordance with this Convention, including seizure and confiscation.
- 2 The Parties shall co-operate to the widest extent possible in pursuance of the relevant applicable international, regional and bilateral treaties on extradition and mutual legal assistance in criminal matters concerning the offences established in accordance with this Convention.

#### **Article 5 – Protection of witnesses**

- 1 Each Party shall, within its means and in accordance with the conditions provided for by its domestic law, provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings, who give testimony concerning offences covered by this Convention and, where appropriate, for their relatives and other persons close to them.
- 2 Paragraph 1 of this article shall also apply to victims insofar as they are witnesses.