



Groupe d'Etats contre la corruption
Group of States against corruption



DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS
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CORRUPTION IN SPORT

Presentations and summary record

TOUR DE TABLE
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CORRUPTION DANS LE SPORT

Présentations et compte rendu de synthèse

I. INTRODUCTION

During its 44th Plenary Meeting (Strasbourg, 6 – 8 October 2009) GRECO held a tour de table on Corruption in Sport with the participation of Mr Wolfgang MAENNIG, Professor, Chair of Economic Policy, Hamburg University as keynote speaker and of Mr Stanislas FROSSARD, Executive Secretary of the Enlarged Partial Agreement on Sport (EPAS) of the Council of Europe.

II. Professor MAENNIG – Keynote Speaker

In addition to the presentation in **Appendix I**, Professor Maennig provided the plenary with the following information:

The earliest documented case of corruption in sport dated back to the ancient Olympic Games of 388 BC. At the site of the Olympic stadium in Olympia (Greece) one could still see stone and marble bases for statues, “zanes”, which bore inscriptions permanently documenting cases of cheating and for which the athletes involved - or their cities - had to pay a high price. A few high-profile cases in modern times had marred the image of Olympic sport, but in other sports there had been more frequent cases. In the last five years, football in almost every country in Europe had been heavily affected by corruption (cf Appendix I, Tab 0-1). Not only football, and not only the competition itself were affected, the whole production chain in almost every sport was vulnerable to corruption (cf Appendix I; Tab. 0-2a).

How does one define corruption in sport? Prior to the selection of Germany as host of the 2006 World Cup, a German football club had travelled around the world playing friendly matches with a number of national teams of countries that had representatives on the FIFA Commission responsible for selecting the venue of the World Cup. When the President of the club concerned was asked whether corruption had been involved, he answered that such matches were an internationally acceptable gesture of friendship. Sport-specific differences existed also, for example in cycling, where it is perfectly acceptable to race a leg of the Tour de France for the captain of the team (i.e. agreeing not to perform at one's best in order to favour your captain's position in the race). In Formula One racing, the situation was different. In the Austrian Grand Prix in 2002, one driver who was in the lead, actually stopped his car before the finish line to allow another driver to win the race – that incident led to a change in the rules forbidding team orders. Views as to what constitutes corruption were continually evolving.

What is the scale of corruption in the field of sport? Surveys tended to show that corruption in sport was not considered to be widespread. For example, one study in Germany showed that 52% of the general public thought that corruption was a big problem in business; 27% thought it was a problem in politics and only 7% thought it was a problem in sports (cf Appendix I, Fig. 1-1).

An economic model helps to understand corruption in a very systematic way (cf Appendix I, 2. Delinquent behaviour and corruption as a rational choice), by systematically gathering all the motifs or the elements of motivation for an individual to decide to engage or not to engage in corrupt activities. Economists believed that people always have a choice and that they make choices rationally, adopting the alternative that brings them the highest benefit. When applying this model it was to be understood that an athlete or an official would calculate the net benefit of becoming corrupt. This net benefit was the difference between the benefit if not caught calculated as a probability minus the probability of being caught. If one was not caught, the net utility in that case would first be financial gain, the costs of preparing the corrupt act and the pecuniary opportunity costs (i.e. financial benefit one might receive if one adopts a clean strategy without resorting to corruption) were then deducted – e.g. if you bid for the Olympic Games and had a very strong dossier, you may win the bid without resorting to corruption. The non-pecuniary benefit (honour of victory) could also be an important factor, from

which one then also had to deduct the non-pecuniary opportunity costs as it was also possible to have the honour of victory by implementing a clean strategy.

One calculated the net benefits of the corrupt act and then, even more importantly, assessed whether those net benefits were larger than the disutility or non-pecuniary cost of illicit behaviour. The non-pecuniary cost of illicit behaviour might depend on one's moral values, ethics, etc. For example, Mother Teresa would be considered to have a very high NPC (disutility or non pecuniary cost from illicit behaviour), so she would be very unlikely to opt to use corruption, whatever other parameters were involved in the equation. Thus, the perceived values as opposed to the objective values could vary considerably and it was these perceived values that were the determining factor in each individual equation. Hence the words of the Nobel Prize winning economist, specialist in the economics of crime, Becker: "Some persons become 'criminals', therefore, not because their basic motivation differs from that of other persons, but because their (perceived) benefits and costs differ".

As this equation systematically gave an idea of what influenced a decision to act in a corrupt way, it could be helpful to give some structure to designing effective measures against corruption. Fighting corruption led to costs: more police, prosecutors, etc were needed. The more one fought corruption, the higher the cost. To reach zero corruption, the costs would be very high. So economists today might well consider that the optimal extent of corruption – as is true for crime in general – might not be zero.

Economists would also say that one should always take the most efficient measure against corruption – which might not necessarily be the one that had the most impact as the impact of each measure was to be weighed against its cost. Klitgaard's formula (1987) could be applied: corruption is equal to monopoly, plus discretionary powers, minus accountability. Examples of applying the economists' way of thinking in order to **achieve an efficiency-oriented fight against corruption in sport** (cf Appendix I, 3, 3.1, 3.2, 3.3, 3.4), would be:

- measures to **reduce economic rents** including the auctioning off of the Olympic Games (the highest bidder would get the Games – no opportunity for IOC members to be influenced on their votes). This might seem surprising as there were big disadvantages to such a system (developing countries would not be in a position to win the Games), but such a system was already used in sports, for example, in some cases, TV rights were no longer distributed via agencies which then negotiated with different TV stations; sports federations themselves now sometimes used a system of auction (sealed envelope bids) of TV rights;
- **reducing discretionary powers**, in particular stronger rule binding (see example below of measures taken by the Amateur International Boxing Association);
- **increasing accountability**: one of the best measures was to have in place a clear code of conduct (not expensive and very effective guide to individuals); monetary penalties could also be very effective;
- **other measures**: particular reference was made to restrictions imposed on telecommunications before and during competitions; for example in Great Britain, jockeys were not allowed to use mobile phones one hour before a race to reduce the risk of a race being influenced according to betting. Short term nomination of referees, job rotation and limitation of terms of office were also interesting measures (see Appendix I, Figs 3-1 and 3-2).

A number of **case studies show how international sport fights corruption**. In response to warnings by the IOC to the Amateur International Boxing Federation that the sport could lose its Olympic status if serious efforts were not made to combat corruption, the Federation decided to use an obligatory electronic assessment system for scoring (described in detail in Appendix I, 4.1 and Figs 4-1, 4-2 and 4-3). The system ensured

coherence in scoring, allowed for the score to be available directly at the end of a fight and also carried out an evaluation of the credibility of each referee's scoring during a fight by automatically comparing the scores given by each. A further example was provided concerning effective measures taken by the German Football Association (DFB) to prevent game manipulation/match fixing (described in 4.3 and Tab 4-1); in addition, payments made to referees and other officials were increased in order to reduce temptation.

Professor Maennig concluded by saying that he believed that the optimal level of corruption in sport was zero as measures to fight corruption (as shown by the case of the DFB) did not need to be particularly costly and could reduce the occurrence of corruption to zero. If one compared those minimal costs to the high cost of any case of corruption in sport which reflected badly on sport in general and undermined credibility, it was soon apparent that the right balance had been struck.

III. ITALY

The Representative of Italy provided details of the legal framework in place which criminalises corruption in sport in Italy, the definitions provided and scope of the law (see **Appendix II**). The definition of match fixing as established by the German Football Association was very different to the concept of 'unfair competition' as defined by the *mens rea* under Italian Law : "with a view to achieving an outcome different from the fair and correct course of the competition which poses quite serious evidentiary difficulties". Sanctions imposed were also outlined and particular mention was made of aggravating circumstances that could be applied whenever the outcome of a competition was linked to legal betting (i.e. economic interests were involved).

IV. GERMANY

The Representative of Germany informed the plenary that no legislation dealt specifically with corruption in sport; however, the legal framework on corruption in the private or the public sector was applicable to cases of corruption in sport. That framework did not cover bribing a referee but an example was provided of such a case which had triggered a conviction for fraud, more specifically betting fraud. Another case discussed in Germany in recent years was how far representation and hospitality in sport could go before it was considered to constitute bribery. The German Federal Court of Justice dealt with a case involving the 2006 World Cup where the CEO of a German energy company (lead sponsor of the 2006 World Cup) had sent Christmas cards to representatives of the economic, scientific and political sectors of importance to his company (including *inter alia* the Ministry of the Environment), thanking them for their excellent cooperation. The CEO knew that staff responsible for sending out the cards would add complimentary tickets for the world cup to some of the Christmas cards but did not know to which. This led to a debate as to whether offering a ticket to a public official in this way could be considered as constituting a normal part of the company representative's job or an unlawful agreement which had a bearing on the duties exercised by the public official. Finally, the Germany Federal Court of Justice ruled that it was not necessary for the giver of an advantage to have already had a clear idea of the action or omission he/she hoped to obtain when granting a benefit. In this case, moreover, the Federal Court ruled that it must be left to the courts to decide in each individual case, but that all the circumstances, in particular the position of the public official with reference to his official duties, the *modus operandi* and the value of the benefit were to be considered.

V. NETHERLANDS

Le représentant des Pays-Bas a fourni des informations sur quelques initiatives de la Fédération de Football au Pays-Bas. Dans un avenir proche la Fédération de Football néerlandaise établirait une équipe de recherche sur les abus et les situations inadmissibles dans le contexte de transferts. L'équipe de recherche serait assisté par un

secrétariat dédié. L'équipe fonctionnerait indépendamment de la Fédération de Football. Elle ne devait pas être confondue avec le 'clearing house' dont l'objectif était de rendre plus transparente la régulation des mouvements de joueurs de football. La Fédération de Football avait l'intention de mettre en œuvre le 'clearing house' en début 2010.

VI. CYPRUS

The representative of Cyprus believed it could be taken for granted that corruption was present at almost every level in sport and that the topic might one day be the theme of a GRECO evaluation. He pointed out that one should always be aware of lacunae in legislation, for example, Professor Maennig had referred to legal provisions prohibiting football players from placing bets, however it was not possible to prevent their families from placing bets.

VII. RUSSIAN FEDERATION

The representative of the Russian Federation informed the plenary that Russia had developed the basics of a **legal and institutional framework for fighting corruption in sport**.

First, the federal law On physical culture and sport, adopted on 4 December 2007, defined the notions of sport and professional sport and established important regulations to prevent corruption in sport.

Article 184 of the Russian Criminal Code (CC) established criminal liability for the bribery of participants and organisers of professional sports events (championships etc.) as well as of commercial contests – such as beauty contests. It included both active and passive bribery of the athletes, players, sports arbiters, referees, coaches, managers of the teams and all other categories of people involved in sports events and commercial contests aimed at influencing results.

In order to prevent corruption and other unlawful action in football, the Russian Football Union (RFU) had established two specialised bodies, the Committee on Ethics and the Control and Disciplinary Committee, which were entitled to impose sporting penalties.

The Committee on ethics guided by its Statute (adopted 16/07/2009) decided whether there had (or had not) been fair competition in a given match and the Control and Disciplinary Committee was authorised to impose sanctions for direct or indirect influence.

To prevent unfair competitions or match fixing the RFU and National bookmakers association in 2008 concluded an Agreement according to which the members of the Association should immediately report large, suspicious (extraordinary) bets on the all-Russian championships matches, which might indicate a lack of fair competition.

A major **obstacle to effectively combat corruption in sport** was difficulty in gathering evidence. Cases were hard to detect because of the highly concealed (latent) nature of the relationship between the bribe giver and bribe receiver. It was quite typical of any corruption case that both sides were unwilling to testify against each other. Special means of investigation were usually not used in such cases.

A criminal case investigated in Russia concerning corruption during one of the Euro championships in football provided an **example which illustrates a weak point** of the whole system of protection against corruption developed so far internationally.

A person referred to as 'A' - former goalkeeper of the national team from country 1 - using his connections with the team attempted to bribe the acting goalkeeper asking him to influence the results of two matches against teams from countries 2 and 3. For the

first match A promised 10 000 USD to the goalkeeper if team 1 lost by 2 goals, and for the other match – 20 000 USD for losing irrespective of the score.

According to the investigation materials available, the goalkeeper refused to accept the money. However the first match was lost by his team to the team from country 2. The score was 0:2, the exact result that had been sought by the bribe giver.

Several days after the match took place A's accomplice visited the goalkeeper in his hotel and, thanking him for the result, tried to assure the goalkeeper that their agreement was still in force and that the promised money would be handed over if his team also lost the second match.

According to the investigation materials, the goalkeeper pushed the man out of his hotel room, refusing to cooperate. Still, his team did lose the match against the team from country 3. The score was 1:2. Once again the result was the 'requisite' one.

Both A and his accomplice were apprehended by law enforcement bodies in country 1, but A - being at that time a Russian citizen - was extradited to Russia for criminal prosecution and afterwards was held responsible in accordance with the abovementioned Article 184 CC. They were indicted for attempting bribery of the players of the national team from country 1 because it was not possible to prove conspiracy with the goalkeeper who claimed not to have cooperated with the bribe givers.

The representative of the Russian Federation concluded by highlighting the need to bear in mind the very complex nature of the human factor involved in corruption cases.

VIII. FRANCE

Le représentant de la France a informé la plénière qu'en France l'Assemblée Nationale était en train d'examiner un projet de loi ayant trait à des questions liées à la corruption dans le sport. Il souhaitait souligner également le coût social de la corruption, y compris le problème de l'addiction (surtout à travers le jeu) et a fait référence, dans ce contexte, à une étude commandée à l'Institut national de la santé et de la recherche médicale (l'INSERM). Le coût en termes de recettes fiscales était également non négligeable.

IX. SLOVAKIA

The representative of Slovakia indicated that the control of financing of sport was of particular concern in Slovakia. It seemed clear that bribers were not using money from their own pockets and the sources of such financing needed to be disclosed. Large sports clubs which were mostly registered companies could be submitted to financial controls, however corruption was also present at lower levels within clubs with NGO status which protected them from such controls.

X. SWITZERLAND

The representative of Switzerland wondered whether the various forms of corruption in sport were covered by the Council of Europe instruments, namely the Criminal Law Convention on Corruption (ETS 173). It seemed obvious that the provisions on official bribery (articles 2 and 3 of the Convention) would hardly ever apply in case of corruption in sport as the bribe taker was normally not a public official and corruption in sport associations (an important part of the problem, namely major international associations such as the International Olympic Committee) did not fall within the framework of bribery of officials of international organisations (article 9). Other criminal provisions which could possibly apply were those on private corruption (articles 7 and 8) but here two main obstacles could be identified : could sport qualify as a business activity and were bribe takers working for private sector bodies as provided for in those provisions? He was of the opinion that those conditions would be fulfilled only in a very few cases. Employees of international sports associations would not be covered as such associations

were in general non-profit making bodies and hardly private sector entities in the legal sense of the relevant articles of the Criminal Law Convention. Moreover, opinions still diverged greatly as to whether the State should intervene with specific criminal measures or whether it was first and foremost for the sports organisations to regulate this matter. The latter's sanctions (disqualification, ban, etc) could be considered more punitive and effective than criminal sanctions available for corruption. If it was decided that the State should be more active, including at international level, new specific instruments might need to be considered.

XI. AUSTRIA

The representative of Austria raised the issue of sponsoring, referring to the case described by the representative of Germany. Similar problems had been faced in Austria more in relation to cultural festivals. Criminal law had been revised to narrow the scope of the relevant provision which now only criminalised the offering of complimentary tickets to a public official with the aim of inciting him/her to act or to not act in a way that would violate the public official's duties.

XII. ROMANIA

The Representative of Romania informed the plenary that as no specific provision incriminated corruption in sport under Romanian law, offences would be regarded as corruption in the private sector. General categories of bribery offences were applied. One of the most important cases in Romania was known as the "suitcase" file in which the financier and main shareholder of a professional football club offered in 2006 amounts of money to each player of a premier football league team, team A, in order to incite them to do their best to win a match against team B which was about to win the national championship. The case was called the "suitcase" file because in 2008 in a similar case a bribe of 1.7 million Euros was carried in a suitcase. In both cases, offering such incentives to the players was defined as being of an occult nature since a sponsorship contract was not involved and both the financier and those who supported him were tried for bribe giving and complicity to bribe giving and offences of forgery of documents under private signature.

One of the legal issues which arose during investigation of these cases involved deciding whether the professional football player was a "functionary" in the meaning of criminal law. In the Romanian Criminal Code a "functionary" includes a person who performs a task in the service of a legal person other than a legal person of public law and a professional football player can be employed under a labour contract or under a civil contract by football clubs that are members of the Romanian Football Federation. In the interpretation by the High Court of Cassation and Justice, a professional football player, whether employed under a labour contract, or under a civil contract, was considered to be a "functionary" in criminal law. Another legal issue which arose was whether the football player had the obligation to play in a fair manner and whether such an obligation existed in the regulations of the Romanian Football Federation. It was worth noting that the persons with attributions within the Romanian Football Federation and within the Professional Football League showed a passivity and lack of response regarding enforcement of sanctions that could have applied.

Another case worth mentioning was the "bribe for referees" file in which a financier and main shareholder of a football club paid approximately 75 000 Euros to the President of the Central Commission of Referees within the Romanian Football Federation to appoint certain referees and to promote the placing within the A division group of referees a referee approved by the financier. The same financier paid different amounts to some referees appointed by the President of the Central Commission of Referees and to some

observers from the Romanian Football Federation in order to favour a team (Club Y) and to overlook some negative aspects of the matches that would have triggered sanctions on the club in accordance with the sports regulations. The defendants were sent to trial for giving and taking bribes, for trading in and buying influence. It was to be noted that after the Anti-corruption Prosecutor's Office issued criminal charges, the Federation took action and decided to demote the Club Y team to a lower league and suspended the indicted referees and the Federation official.

One of the legal issues raised by this case, was whether the President of the Central Commission of Referees, the professional football referee and the observer from the Romanian Football Federation could be considered as being "functionaries" according to criminal law. According to its statute, the Romanian Football Federation is an autonomous, non-governmental, non profit-making legal entity of private law of public utility and according to the Criminal Code and the interpretation provided by the High Court of Cassation and Justice, both referees and observers from the Romanian Football Federation were considered to be "functionaries".

A final case involved international transfers of football players. It did not concern classic corruption offences but was investigated by the specialised prosecutor's office because it dealt with offences considered to be closely connected to those of corruption. Over a 6 year period, four Romanian football clubs transferred 12 players to clubs abroad. According to FIFA regulations and to those of the Romanian Football Federation, the transfer contracts are concluded exclusively between the assignor club and the assignee club and, subsequently, the assignor club pays, if necessary, the commissions. In the case of these transfers, only 10-30% of the amounts representing the real value of the contracts were deposited and registered in the accounts of the assignor clubs. The rest of the money was fraudulently credited to accounts belonging to some presidents/executive directors of the assignor clubs, to other officials of the clubs or agents. The modus operandi was as follows: the indicted club officials concluded, on behalf of the club they represented, transfer contracts with a foreign football club but the contract was never registered in the club accounts. In exchange, the respective contract was counterfeited so that it contained a smaller amount for the transfer. At the same time, they instructed the representatives of the assignee club to transfer the larger part of the fee into the personal accounts of the assignor club officials involved in the transaction, to those of the agents or of their relatives. The money was often recycled by successive transfers to offshore accounts and then it came back into the possession of the respective officials and managers. In the case of one such transfer, the amount registered was 100 000 USD and the amount contracted and paid was 2 750 000 USD. Five club presidents/executive directors and three agents were sent to trial in this case for fraud, tax evasion and money laundering.

Due to the need to define players or referees as "functionaries" under the Criminal Code, the new Criminal Code adopted in July 2009 established that the provisions of articles related to public functionaries apply to the deeds committed by or in relation with the persons who exercise temporarily or permanently, with or without remuneration, a task of any nature within any legal person.

Another problem faced in the field of corruption in sport was that the regulations of sports bodies were not always applied and that the organisational and functional framework of those private sector bodies were not subject to the same standards as those applied to public sector bodies concerning transparency, conflicts of interest and incompatibilities.

XIII. BELGIQUE

Le texte suivant a été soumis par le représentant de la Belgique :

La Belgique n'a vraiment connaissance de corruption dans le sport que dans le milieu du football. La raison en semble simple : le football est de loin l'activité sportive dans laquelle circule les plus d'argent en Belgique, et qui en rapporte le plus, directement (billets, produits dérivés) ou indirectement (paris).

Par ailleurs, il convient de préciser qu'une seule pré-étude sur le sujet a été entreprise à l'Office central de répression de la corruption (OCRC), portant sur le football en particulier. Une bonne partie des conclusions établies plus bas sont tirées de ce travail. Enfin, il est également bon de garder à l'esprit que depuis 1982, toujours selon cette étude, il n'y a guère que huit affaires de corruption dans le sport dans lesquelles des clubs belges ai été mis en cause, ce qui s'explique en partie par le fait que pendant longtemps la corruption publique (la corruption dans les sport relevant de la corruption privée, introduit dans le Code pénal en 1999). Il est arrivé que d'autres sports soient mêlés à des activités douteuses, mais pas de la corruption, du moins dans notre pays. A partir de cette expérience, nous allons tenter de dégager quelques aspects plus généraux de la corruption dans le sport.

Le cadre juridique

La corruption d'un sportif ou d'un arbitre tombe en Belgique sous le coup des articles 504*bis* et 504*ter* du Code pénal, punissant la corruption privée :

- **Art.504*bis*.**

§ 1er. Est constitutif de corruption privée passive le fait pour une personne qui a la qualité d'administrateur ou de gérant d'une personne morale, de mandataire ou de préposé d'une personne morale ou physique, de solliciter ou d'accepter, directement ou par interposition de personnes, une offre, une promesse ou un avantage de toute nature, pour elle – même ou pour un tiers, pour faire ou s'abstenir de faire un acte de sa fonction ou facilité par sa fonction, à l'insu et sans l'autorisation, selon le cas, du Conseil d'administration ou de l'Assemblée générale, du mandant ou de l'employeur.

§ 2. Est constitutif de corruption privée active le fait de proposer, directement ou par interposition de personnes, à une personne qui a la qualité d'administrateur ou de gérant d'une personne morale, de mandataire ou de préposé d'une personne morale ou physique, une offre, une promesse ou un avantage de toute nature, pour elle-même ou pour un tiers, pour faire ou s'abstenir de faire un acte de sa fonction ou facilité par sa fonction, à l'insu et sans l'autorisation, selon le cas du Conseil d'administration ou de l'Assemblée générale, du mandat ou de l'employeur.

- **Art.504*ter*.**

§ 1er. En cas de corruption privé, la peine sera un emprisonnement de six mois à deux ans et une amende de 100 euros à 10 000 euros ou une de ces peines.

§ 2. Dans le cas ou la sollicitation visé à l'article 504*bis*, § 1er, est suivie d'une proposition visé à l'article 504*bis* § 2, de même que dans le cas où la proposition visée à l'article 504*bis*, § 2, est acceptée, la peine sera un emprisonnement de six mois à trois ans et une amende de 100 euros à 50 000 euros ou une de ces peines.

Les obstacles possibles :

- **Les difficultés inhérentes à la corruption en général**

Par définition, la corruption est une activité discrète, dont peu de gens sont au courant et dont aucun n'a intérêt à voir révéler l'accord illégal qui a été établi, ce qui rend la détection de la corruption difficile quelle qu'elle soit.

- **Les Fédérations, trop facilement juges et parties**

Une fédération, qui dispose en principe de moyens complémentaires parfois important pour détecter et châtier la corruption dans le sport qu'elle représente, peut être tentée de fermer les yeux pour maintenir la popularité (et donc les rentrées financières) de l'activité ludique dont elle défend les intérêts et d'elle-même et ses employés.

- **La réglementation interne des Fédérations**

Dans le cas du football par exemple, cas de figure le mieux connu en Belgique, la réglementation interne est tellement touffue et complexe qu'un certain nombre de manœuvres douteuses peuvent avoir lieu. Le principe de rétribution des agents de joueurs par exemple, peut dissimuler de la corruption : payé de sommes parfois astronomiques, l'agent peut relativement aisément négocier une augmentation de sa prime en échange d'un « arrangement » avec le joueur, lequel pourra toucher un cadeau (une voiture, un séjour dans un spa) de la part de son agent, au titre de leurs bonnes relations. Il ne serait pas aisé de démontrer que ce cadeau fait à une personne assez proche est un paiement pour une corruption.

- **La dimension internationale du sport**

Pour avoir un impact réel sur la corruption dans le sport, il faut se mettre au diapason de l'activité que l'on cherche à contrôler : l'heure est à l'internationalisation. Il faut donc des réglementations communes, appliquées de la même manière partout, et une communication de l'information judiciaire optimal entre les différents pays.

Bonnes pratiques à envisager :

- **Faciliter la dénonciation**

A plusieurs reprises, il s'est avéré que les propositions de corruption n'étaient pas systématiquement (ou tout au moins pas directement) rapportées à l'autorité, même lorsqu'elle est refusée par la personne approchée. Les raisons de cela pourraient être les mêmes que lors des actes de corruption en général (par exemple commis dans l'administration) : peur de représailles, peur pour sa carrière, pas d'intérêt à dénoncer, etc. Notamment, le dénonciateur pourrait faire l'objet d'un certain harcèlement de la part de ces équipiers corrompus. Le développement d'une procédure afin de protéger les dénonciateurs (« whistleblowers ») pourrait apporter une partie de la solution à ce problème. Une autre solution pourrait venir d'éventuels dédommagements pécuniaires envers ceux qui dénoncent des faits de matches truqués, tout au moins à partir du moment où la preuve des faits peut être établie.

- **Assister les personnes visées**

Par ailleurs, afin d'assister les acteurs du monde du sport face à cette problématique, la mise en place de « personnes de confiance » extérieures au milieu sportif pourrait être envisagé. Celles-ci auraient pour charge de les écouter, de les conseiller et de servir éventuellement d'intermédiaire à la justice.

- **Prévoir des (in)formations**

Comme cela avait également été constaté dans le cadre des fraudes aux marchés publics concernant le personnel des administrations, il serait opportun de prévoir des formations ou séances de sensibilisation à destination des personnes susceptibles d'être approchées (joueurs et arbitres), afin de les aider à percevoir les comportements et techniques les plus souvent utilisés pour les approcher et les amener à commettre des actes de corruption. Pour dispenser de telles formations, des joueurs ou arbitres ayant déjà été approchés paraissent disposer de l'expérience requise.

- **Améliorer les possibilités d'arbitrage**

Afin de réduire les opportunités se trouvant à la disposition des arbitres pour manipuler l'un ou l'autre match, il conviendrait de les aider à réduire au mieux le risque d'erreurs, par exemple en ayant recours à des assistants supplémentaires ou bien en faisant usage (limité) de la vidéo pour enregistrer les erreurs flagrantes. Enfin, on pourrait aussi envisager la professionnalisation des arbitres, comme c'est déjà le cas en Angleterre et en Italie. Un autre progrès important est l'augmentation (récente) substantielle des indemnités d'arbitrage pour les arbitres de niveau supérieur et/ou international qui leur permet :

- d'être moins sujet à la « tentation ».
- d'être moins obligé de travailler à temps plein.

- **Améliorer la communication**

La corruption dans le monde du football étant, tout au moins en partie, liée au système de paris, il importe de mieux réguler et surveiller ce secteur afin de lutter efficacement contre la problématique. Dans ce but, des instruments relativement intéressants ont été développés afin de mieux détecter les paris suspects (par exemple le « système de surveillance » de la FIFA). Il serait dès lors judicieux de promouvoir le développement de tels instruments ainsi que d'étendre les accords de collaboration avec toutes les agences de paris légales. Pour ce faire, une cellule de contact, accessible en permanence et spécialement dévolue à cet effet devrait idéalement être mise en place.

- **Sanctions plus strictes**

Suspension à vie des corrompus : joueurs, arbitres, dirigeants, managers,...

Tout arbitre de haut niveau devrait être systématiquement visionné et à sa 1^{er} grosse erreur, avertissement, ensuite rétrogradation et retour aux cours et formation. La corruption se limiterait à des « one-shot ».

- **Mieux réguler les paris**

Concernant les systèmes visant à observer les incohérences au niveau des paris effectués, tenant compte du fait que les paris en Belgique doivent être effectués avant le début de la rencontre, d'éventuelles suspicions devraient idéalement entraîner l'annulation de l'ensemble des paris des matchs concernés et ce, avant le début de la rencontre. Dès lors, quelques règles pourraient être envisagées à l'attention des agences de paris, telles instaurer un gain potentiel maximal ou bien limiter la possibilité de parier à une période d'au moins 2 heures avant le match, ce qui laisserait une certaine marge de manœuvre pour prendre la décision d'annuler ou non les paris.

- **Sensibiliser les autres Etats et les instances internationales**

Comme cela a été précisé, problème est bien plus inquiétant concernant les paris clandestins, lesquels échappent à la surveillance citée ci-dessus. Ainsi, la lutte contre la corruption passe nécessairement par la lutte contre les paris clandestins, en particulier en Asie où il serait fortement développé (selon diverses sources, le chiffre d'affaire du jeu en Asie s'élèverait à plusieurs centaines de milliards de dollars par an). Il serait dès lors opportun de sensibiliser les autorités des Etats concernés et, au besoin, de solliciter l'assistance des instances internationales.

- **Renforcer le partenariat avec les Fédérations sportives**

Ces fédérations peuvent jouer un rôle prépondérant de par leur position centrale et régulatrice. Elles disposent naturellement de maintes informations provenant des différentes parties concernées. De par leur connaissance du monde de leur sport respectif, elles peuvent aussi plus facilement identifier des situations suspectes. Si l'on veut renforcer la collaboration entre ces fédérations et les instances judiciaires et policières, il faudra prendre des engagements réciproques de discrétion pour assurer l'efficacité des mesures opérationnelles.

- **Collaboration avec les sociétés de paris**

Ces sociétés qui organisent les paris disposent directement des informations et des analyses qui peuvent nous intéresser pour identifier les mises suspectes. Nombreuses sont les sociétés de paris localisées à l'étranger. Ne faudra-t-il dès lors pas impliquer Europol ou Interpol étant donné que d'autres pays sont certainement concernés par les mêmes manipulations frauduleuses ? L'autre question étant de savoir qui fera l'analyse de risque ? Les sociétés de paris ? L'Union ? La police ? Europol ou Interpol ?

XIV. Stanislas FROSSARD

In addition to the presentation in **Appendix III**, Mr Frossard, Executive Secretary of the Enlarged Partial Agreement on Sport (EPAS) of the Council of Europe provided the plenary with the following information on EPAS which had been set up in 2007.

EPAS was responsible for international cooperation in the field of sport policies, including developing new standards, monitoring the standards and providing assistance. The core values defended by EPAS were sport for all and ethics in sport. During the thirty years that the Council of Europe had been active in the field of sport, it had played a role in providing member States with guidelines on sport policies which promote public and social benefit, integration, values, health, etc. It had also been strongly involved in the promotion of ethics in sport, leading to the two fundamental texts for EPAS' work which are both Recommendations by the Committee of Ministers to member States : The European Sports Charter and the Code of Sports Ethics.

EPAS was also responsible for organising the Conference of Ministers responsible for Sport of the Council of Europe. The most recent conference which took place in Athens (Greece) in December 2008 discussed, among other things, new challenges to sports ethics. In this framework, mention had been made of corruption in sport and the Ministers expressed very clearly their wish that EPAS continue work on that issue.

As regards the different forms of corruption in sport, he distinguished between (a) **corruption of sports organisations** (covering internal corruption aimed at influencing decisions/policies/elections/bids/tenders within sports federations or the Olympic movement) and another field not yet addressed to any significant degree in the framework of intergovernmental sports cooperation : (b) **corruption of the game** (influencing the results of sports competitions).

Corruption of sports organisations was partly covered by a recommendation adopted by the Committee of Ministers of the Council of Europe in 2005 on the principles of good governance in sport (Recommendation Rec(2005)8). It did not provide a sufficiently detailed basis for monitoring - so work had to be done in order to further develop the concepts contained in it. Nevertheless it did provide the basis for EPAS to develop dialogue and cooperation between representatives of the sports movement and public authorities through a consultative committee in which representatives of already 7 sport organisations participated.

Expert opinion was that sport itself was not corrupt but that it could be a target for criminals and was vulnerable to corruption for a number of reasons. It was a domain that attracted organised crime as it had a good public image and expressed positive values, was not covered by the governance standards applied to business or public authorities and generated a lot of money. It was difficult to prosecute offences in sport because it was often unclear on which legal basis prosecutions should be brought. The sports movement had a strong history and culture of autonomy and self-regulation and even though in some countries there has been a strong political will to address the issue of corruption in sport by establishing legislation, there was still very strong resistance to the idea of legislating in the field. Opinion was currently changing as regards cooperation with and the role of public authorities in sport and the sports movement had clearly expressed an expectation that States should do more to fight doping and corruption. But it remained difficult in some countries to promote harmonisation via international treaties. Another aspect of the problem was corruption in amateur sport (cronyism and lack of transparency). Sport could also be considered as suffering from a lack of democracy; bodies were often self-elected and did not meet recognised democratic standards.

Regarding existing international standards, opinion diverged as to whether the Criminal and Civil Law Conventions on Corruption (ETS 173 and ETS 174) covered sport activities.

Other international standards in the fields of transnational organised crime, on-line betting, cybercrime could provide some useful legal background.

As regards the second area of action, i.e. corruption of the game there were no international standards at all. It was a very complex area to address with an aim to developing new norms as it overlapped with other areas that were already amply addressed by other bodies and institutions and it would be necessary to define very clearly what EPAS intended to do if a new recommendation or convention was considered. Corruption of the game was strongly related to the betting market and gambling activities. There was currently debate in Europe on the topic. The European Commission put an end to the monopoly of national sports lotteries and a regulated free market was developing. This had been an issue for a number of countries who were not ready for such developments. Moreover, it was also of concern to the sports movement as sports lotteries had been a major source of funding. The issue of the betting market was linked to illegal betting, in particular now as the market had developed significantly with on-line betting. The approaches of individual states diverged significantly, some believed it impossible to try to regulate in this field and others were more determined to do so.

Links between betting and organised crime and money laundering were also evoked. As regards prosecution and sanctions, mostly administrative disciplinary sanctions were applied by sports organisations themselves, sometimes public criminal law sanctions were applicable though approaches in individual countries differed as did prosecution and investigation practices, so a significant amount of work needed to be done in order to promote harmonisation. EPAS wished to focus on preserving ethics in sport and to try to identify connections with other areas. Discrepancies with regard to the development of public policies relating to corruption in sport were recognised. Similar discrepancies existed between the different sports federations – some, including the International Olympic Committee, had taken very strong measures but others still tended to deny the existence of problems. This was an area where strong cooperation between the sports movement and public authorities was needed.

EPAS considered that today it faced a similar situation as that faced 25 years ago with doping when some countries had made progress in the fight against doping, some international federations had strong regulations and disciplinary sanctions but there was no harmonisation. A similar challenge was faced today with regard to corruption in sport.

EPAS would hold a first meeting with experts from various relevant fields (sports organisations, sport lotteries, Ministries of Sport, ...) and it would be highly appreciated if GRECO could delegate a representative to take part in the exchange of views that would take place during which attempts would be made to identify measures that could be taken in a Recommendation to members States which could then in the future be monitored. At that stage EPAS would again turn to GRECO for support due to its outstanding experience in monitoring public policies against corruption. In the longer term one could possibly envisage that such a recommendation may serve as background for a future convention.

And finally, **Mr Frossard** reiterated his invitation to GRECO to delegate a representative to take part in the EPAS working group responsible for developing a recommendation to member States and he would in any case report to GRECO on any progress made in their work with an aim to considering possible forms of cooperation between both bodies.

XV. CONCLUDING REMARKS

Professor MAENNIG reacted to preceding comments and questions, agreeing that he had not stressed social costs in his presentation, they were however a very important element of economic theory on corruption. If there were no social costs, the State would not have any interest in fighting corruption. What the formula he referred to showed was only what was considered by economists to be the supply side of corruption (at least two persons who agree to be corrupt). On the other side was the State, which - because social costs were involved - wanted to fight it.

As regards the market being a good regulatory force, this was only the case when there was an effective overall policy in place.

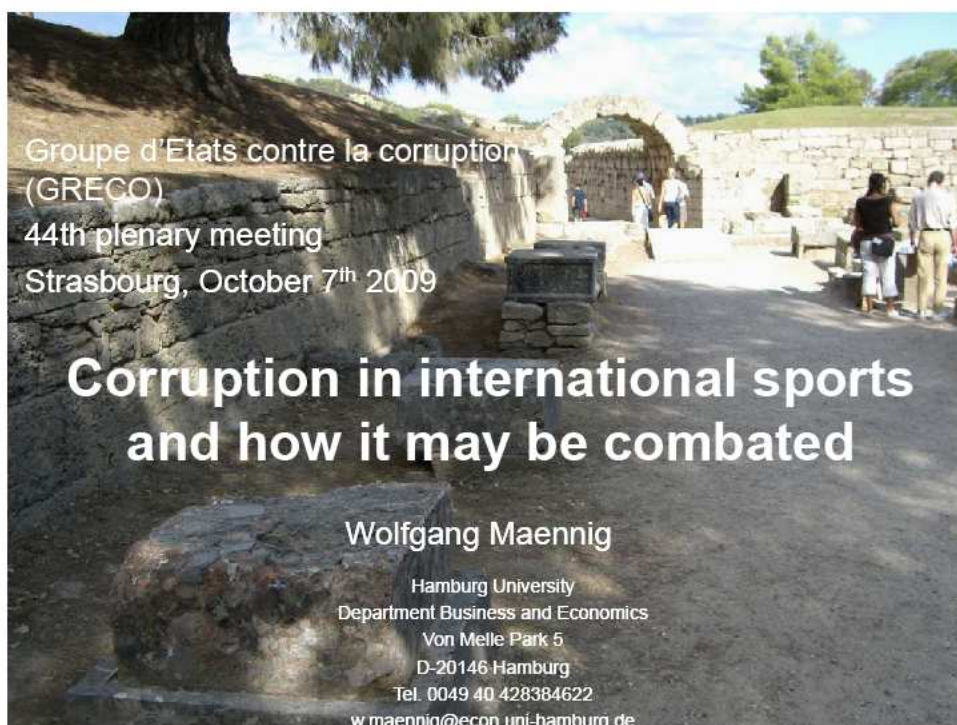
Referring to the uncertainty that remained following the Federal Court decision referred to by the representative of Germany, he said that, internationally, practices and cultures were very different. He had been told by a British colleague that hospitality was a very important and usual part of the business culture. Regarding guest gifts, interesting questions could also be raised as practices and legal standards varied enormously from country to country. German football clubs were in a difficult position now as - no longer able to sell business seats - they were at a disadvantage in international competitions as their earnings had decreased leaving them with fewer resources available to compete on the international market for players.

Professor Maennig felt that perceptions as regards behaviour that would constitute corruption in sports were constantly evolving - therefore, it was clear that for the moment perfect legal instruments were not yet in place. The biggest corruption scandal in sports - the Salt Lake City scandal, where ten IOC members had been bribed, was also prosecuted by the State Attorney of Utah (USA) and the final judgement stated that there had been no offence under Utah's - quite strict - business and bribery laws. In his opinion, that had been an astonishing conclusion as ten IOC members had had to step down and 6 or 7 others received a severe warning. Currently, Munich was one of the cities bidding for the Winter Olympic Games of 2018; he was involved in the Munich bid and had no reason to doubt that the strategy pursued by the bidding committee was clean. However, if one were to assume that they did bribe IOC officials, he wondered whether German legislation would allow for prosecution because the bid was privately financed and any sum used to bribe IOC officials - who were not German public officials - would be private money. In any case, it was a reality that for all of the cities bidding, half of their budget would be allocated to what was termed marketing and PR, i.e. trying to find ways to influence the opinion of the IOC members as regards the quality of the Olympic bid. Was this what could be termed "positive networking" or was it in fact a practice near to corruption? Networking was still for the moment regarded as a positive concept even though the way in which support was offered to members of a given network was often similar to what would be considered corruption. In the political field, similar problems arose concerning lobbying.

To close, Professor Maennig urged GRECO to think about the issues raised, bearing mind that the social cost of corruption in sport was high. Some of the most effective advocates for fighting corruption in sport were the athletes themselves. The parallels with corruption in business were clear but the non-pecuniary benefits and costs were also of significant importance.

The Vice-President closed the *tour de table* by warmly thanking both speakers for their highly interesting presentations. The discussions and examples provided by delegations of cases of corruption in sport and of difficulties in applying existing legal frameworks to such cases certainly provided EPAS with sufficient grounds for advocating not only a recommendation but maybe even a convention in the field of corruption in sport.

APPENDIX I



**Tab. 0-1: Corruption (suspicious) facts/
Soccer matches since 2004**

until today?	China:	„no non-manipulated soccer league match“
2008	Poland	28 clubs suspicious to be involved in corruption. Minister of Sport successfully demands retirement of board of directors of Polish football fed. Second division coach Dariusz Wondolczyk and fed. controllers arrested
2008	Africa-Cup	30.000\$ offer for match manipulation received by Namibian national team players
2007	Great Brit.	Team manager and CEO of FC Portsmouth (1st division) arrested
2007	Europe	UEFA investigates on 15 cases of manipulated matches
until 2007?	Great Brit.	bribes from player's agents to coaches
until 2006	Italy	Manipulations at 8 out of 20 clubs in first division
until 2006	Serbia-M.	Approx. half of all "Superliga"-matches suspicious to have been manipulated
until 2006	Great Brit.	3 Premier League clubs suspicious to have manipulated matches
until 2005/6	Germany	New allegations in German second division and against Sturm Austria Graz
2005	Belg., Finn.	Chinese Zheyun Ye systematically manipulates clubs to maximise betting income
2005	France	players of FC Metz receive offer for manipulation
until 2005	Brasilien	FIFA-referee Pereira de Carvalho receives up to 5550 € per manipulated match
until 2005	Germany	3 Croatian wagerer bribe referees, players and functionaries
2004/05	Poland	Manipulations of several matches.
2004/05	Turkey	National team player Karadeniz manipulates several matches
2004	Russ./ Let.	Allegations against Russ. Soccer federation
until 2004	Italy	FC Genua buys victory against AC Venedig
until 2004	Portugal	150 Persons from 10 Clubs of 1., 2. and 3. League manipulate
until 2004	South Africa	34 of the 40 best qualified referees manipulate first division
until 2004	Tch. Rep.	Referees manipulate in charge of 14 out of 16 first division clubs

Tab. 0-2a: Corruption (suspicious) facts/ with exception of soccer matches since 2004

- **Official positions:**
Until 2006: WTF-officer Yoo sells „international referee certificates“
Former Korean NOC president Kim sells honorary NOC-memberships
 - **(National) Team membership**
Equestrian sport, Germany
Football, Great Britain
 - **Agencies**
2008: New Soccer players' agency in Germany to fight corruption
 - **Location of federations:**
2006: Chungwon Choue, President WTF rents his mother's estate as WTF domicile for 700.000 \$ p.a
 - **Location of competitions:**
2004: succesful orchestration of bribery for London 2012 against IOC-member Slawkow
2005: Blair's talks with some 40 IOC-Officials re London 2012?
 - **Construction of sport facilities:**
Hockenheim-Ring
Düsseldorf Stadium
-

Tab. 0-2b: Corruption (suspicious) facts/ Non-Soccer match cases since 2004

- **TV-transmission**
2008: Swiss attorney asks for imprisonment for up to 4 ½ years for ISSM officials who bribed international sport officials
2003-5: MDR / Techem + Dt. Sporthilfe
Until 2004: HR / several German federations
 - **Promotional rights** Until 2004: Formula One/ Infineon/ BF Consulting
 - **Competition manipulations/ non-soccer**
Cycling. 100.000 € for etappe victory at Tour de France
2007: Bet scandal in NBA
until 2004: Horse races in GB
Cheque sports, Germany/ Russia 2004
Tennis, worldwide . 2008: 5 Italian tennis-profis banned and punished because of betting
On permanent basis: National Chinese Games: Judo, Taekwon-do, Boxing, Rhythmic Gymnastics
Boxing, Olympic Games 2004: Thailand
Badminton, Olympic Champion 2004 Zhang Ning owes her medal to a team internal arrangement. Similar practices in table-tennis
 - **Other** 2008: Did WTF Vize President Indrapana receive envelope with money?
-

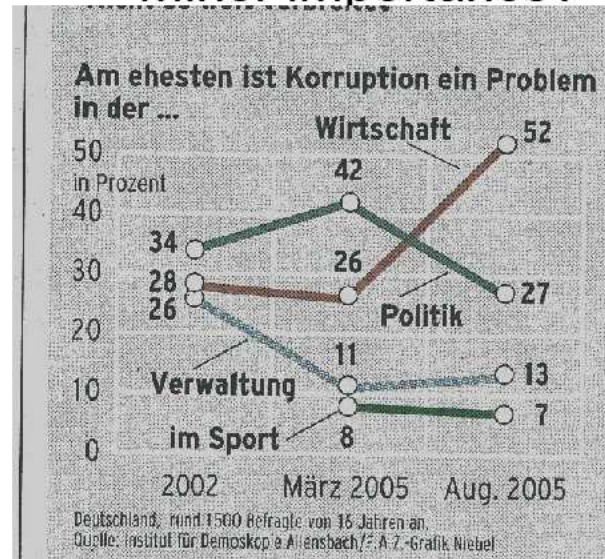
Structure

1. On the problem of defining corruption in sports
 2. Delinquent behaviour and corruption as a rational choice
 3. Economic insights on an efficiency-oriented fight against corruption in sport
 4. Anti-corruption measures in modern sport :
 - 4.1 Amateur International Boxing Federation
 - 4.2 German Football Federation
 5. Conclusion
-

1. On the problem of defining corruption in sports

- „internationally acceptable gestures of friendship“ (Beckenbauer)
 - Sport specific differences
(Cycling vs. Formula One vs. profess. boxing)
 - Time-inconsistencies, the case of Germany
 - TV sport chiefs and moderators
 - VIP- and Business-Seats
-

Fig. 1-1: Corruption in sports of minor importance?



From: FAS, may 21st, 2006, p. 32

2. Delinquent behaviour and corruption as a rational choice

- (1) $E(U^i) =$
 $(1-p_i)[U_i(p_i Y_i - DC_i - POC_i) + p_i NPB_i - NOC_i]$
 $+ p_i[U_i(-F_i - DC_i - POC_i) - LR_i - NOC_i]$
- where
- $E(U^i)$ expected net utility of an illicit behaviour of an individual
- p_i probability of conviction with $0 \leq p_i \leq 1$.
- p_j probability of "success" of the illicit behaviour with $0 \leq p_j \leq 1$.
- U_i utility function of the individual
- Y_i gross pecuniary income from "successful" cheating
- DC_i direct cost for the preparation and realisation of the illicit behaviour, including the costs of self-protection to escape detection, conviction and punishment
- POC_i individual's pecuniary opportunity costs
- NOC_i non pecuniary opportunity cost.
- NPB_i non pecuniary utility from the illicit behaviour
- F_i financial penalty or the financial loss arising in the case of competition bans
- LR_i loss of utility in the form of reputation in the case of conviction.
- (2) $E(U^i) > NPC_i$,
 NPC_i disutility or non pecuniary cost from illicit behaviour

Becker (1968): "Some persons become 'criminals', therefore, not because their basic motivation differs from that of other persons, but because their (perceived) benefits and costs differ."

3. Economic insights on an efficiency-oriented fight against corruption in sport

- „Optimal“ extent of corruption = 0?(!)
- Insights from theory of the firm („Minimal cost combination“)
- Possibility to structure the anti-corruption instruments according to Klitgaard's (1987) „formula“:

$$\text{Corruption} = \text{Monopoly} + \text{Discretionary powers} - \text{Accountability}$$

3.1 Measures to reduce economic rents

- Abolishing the monopolies of IOC and other federations
- Auctioning off the Games etc.
- Increasing the income shares of the Olympic/ sport family
- Re-Amateurisation

→ Y_i gross pecuniary income from
“successful” cheating ↓

3.2 Reducing discretionary powers

- Simplifying the rules (of competition)
 - Stronger rule binding
→ p_j probability of “success” of corruption ↓
 - Transparency →
 DC_i direct costs of preparation ↑
 p_i probability of detection ↑
-

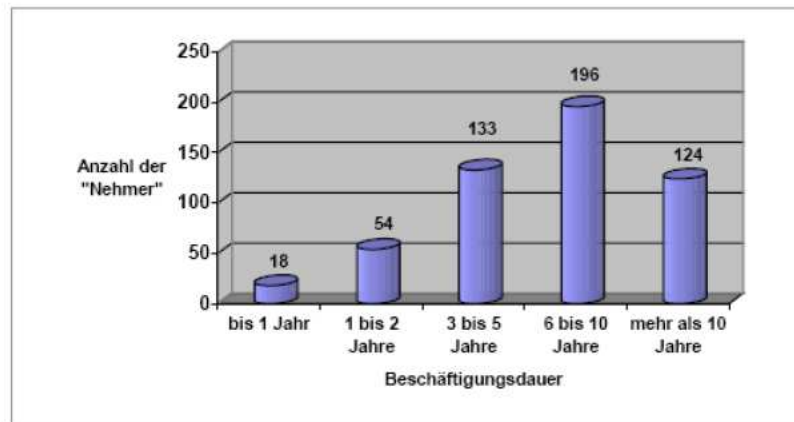
3.3 Increasing accountability

- creation of clear codes of conduct
→ NPC_i non pecuniary costs from hurting moral values, health risks... ↑
 - Increasing controls
→ p_j probability of detection, conviction and punishment ↑
 - tougher (monetary) penalties →
 F_i financial loss from detection ↑
 LR_i Loss of reputation ↑
-

3.4 Other measures

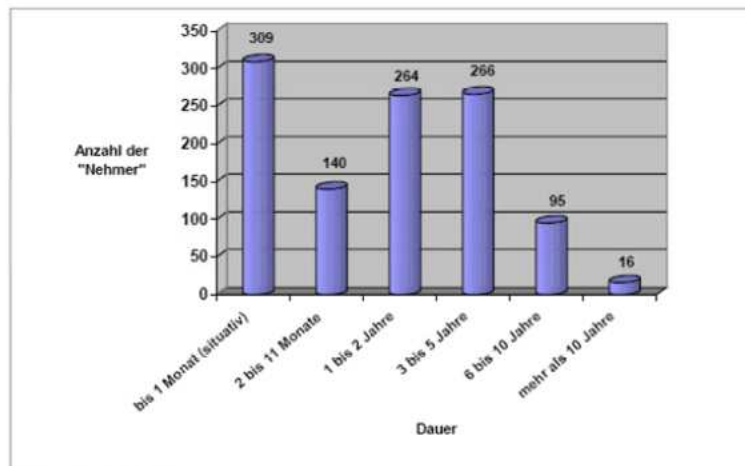
- Good Governance/ destroying (historical) corruptive milieus
→
 LR_i *Loss of reputation* ↑
 NPC_i *non pecuniary cost* ↑
 p_i *probabiltiy of (timely) punishment* ↑
 p_i *probabiltiy of sucessful corruption* ↓
 DC_i *direct cost of preparation* ↑
- Short-term nomination of referees, job rotation, limitation of terms of office
 DC_i *direct costs of preparation* ↑

Fig. 3-1: Duration of employment of bribe takers in the relevant job in Germany



Source: BKA (2005), S. 37.

Fig. 3-2: Duration of corruptive relationships



Source BKA (2005), p. 42.

4.1 Anti-corruption measures in modern sport Monitoring referees/ Amateur International Boxing Association (AIBA)

- Obligatory electronic assessment system (boxing points machine) for all top-level international competitions since 1989
- 5 referees placed around the boxing ring. A hit only counts if registered by at least 3 of the 5 referees within a second.
- video control system; synchronous recording of competition boxing points machine
- result immediately and unalterably available after the end of the contest
- All activities of referees subjected to statistical analysis and evaluation. Criteria: difference between the individual score and the accepted score, difference to total score, percentage deviation of individual score from the mean of the scores of the five referees. "Real time" "cautions" and "warnings"

Source: Bastian (2005)

4. CAN Coupler

3. CAN Coupler

4. Keypad

3. Keypad

5. CAN Coupler

5. Keypad

2. CAN Coupler

2. Keypad

1. CAN Coupler

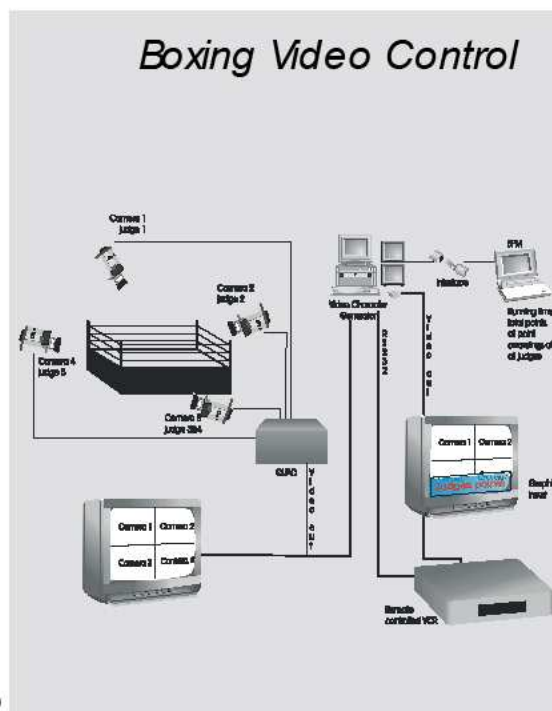
1. Keypad

CAN/232 interface

BSS2004 PC software / WIN98PM 1.1

Keypad 1-5 : Box Scoring Keypad 2004

Fig. 4-2:



Source: Bastian (2005)

Fig. 4-3: Screen shot of a result of an evaluation of referees: AIBA

Source: Bastian (2005)

4.3 Anti corruption concept of German Football Association (DFB)

- Defining game manipulation/ match-fixing (“influencing of the course or the result of a match through deliberately wrong decisions in order to obtain advantages for oneself or others”)
- match-fixing established as criminal offence
- direct and indirect ban on betting for players, trainers, and officials for games in which they were involved
- for referees, a ban on betting for all games in leagues in which they are active
- Cooperation with international bookmakers; assembly of a new early warning and reaction system; agreement to exchange data, and founding of association of parties involved.

Source : www.dfb.de of october 1st, 2005

Tab. 4-1: Financial compensation of referees of DFB, in € per match, until 2005/6

	Bundes- liga	2. Bundes- liga	Cup matches		
			if home team in Bundesliga	if home team in 2. Bundes- liga	if home team in Amateur league
Referee	3068	1534	3068	1534	767
Assistants of referees	1534	767	1534	767	383,5
Fourth Official	750		750	375	187,5

Source: DFB, mail from Justiziar Goetz Eilers, october 10th, 2005.

5 Conclusions

- No proof for growth or comparatively large extent of corruption in sports
- Optimum amount of corruption in sports = zero
- Efficient (additional) measures:
 - definition of clear and common standards of good governance / codes of conduct
 - strengthening of Ethical Committees:
 - mechanisms for exchange of information on best practice
 - Reducing surpluses accrued by host cities
 - Freedom of information acts in sports
 - Job rotation und short-term nomination of referees
 - Creating financial incentive mechanisms for athletes and officials
 - Introducing tougher (pecuniary) penalties

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-

Thanks to

M. Bastian, Honary President, Boxing Association of Saxony

R. Koch, Vice-President, German Football Association

Hamburg University

APPENDIX II



Corruption in sport activities in Italy

An overview

By Fabrizio Gandini
Judge attached to the Italian MoJ

THE LEGAL FRAMEWORK

- **Law of 13 th december 1989, no.401 : “Interventions in the field of games, illegal betting and protection of the fair course of competitive sports”;**
 - **Corruption in the private sector**
-

Art.1§ 1 of law 401/1989

CONDUCT

Whoever

Offering or promising/ accepting the offer or the promise

Monies, other utilities or advantages

To/ from those who take part to a sport competition

Organized by a sport federation recognized by the National Olympic Committee or by other sport bodies recognized by the State [official competition]

MENS REA

With a view to achieving an outcome different from that stemming from the fair and correct course of the competition

PUNISHMENT

- Imprisonment from 1 month to 1 year and fine from € 258,22 to € 1.032, 91
 - Aggravating circumstance: outcome of the competition linked to legal betting;
 - Imprisonment from 3 months to 2 years and fine from € 2.582,28 to € 25.822,80.
-

RELATIONSHIP WITH THE SPORT JUSTICE SYSTEM

- Art.2 of law no.401/89;
 - Double track system;
 - The criminal proceedings doesn't affect the validation of the outcome of the competition as well as the measures to be taken by the competent sport authorities
-

CASE LAW

- Juventus F.C. (are there any fans?)
 - Court of Cassation, 29th march 2007, Giraudo;
 - Final judgement: Director of Juventus F.C. found guilty
-

APPENDIX III

Corruption in sport

Stanislas FROSSARD
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Conseil de l'Europe

Corruption in sport

- Introduction on EPAS
- Corruption in sport
- Why is sport not immune to corruption ?
- Existing standards
- Corruption of the game

Conseil de l'Europe

1. Introduction to EPAS

European Agency for Sport
epas
European Agency for Sport

- Pan-European Cooperation on Sport policies
- Since May 2007 : 32 Member States
- Mission : Standard setting / Monitoring / Assistance
- Dialogue and Co-operation with Sports movement (7 partner organisations)
- Organisation of Council of Europe Ministerial Meetings (next one : 18th Informal meeting, in Baku, in October 2010)

Conseil de l'Europe



2. Corruption in Sport

- ❑ Is sport corrupted ?
- ❑ according to experts, sport is not corrupted itself,
 - ❑ but it is a target for criminal people
 - ❑ and it is vulnerable to corruption

3. Why is sport not immune to corruption ?

- ❑ attracting organised crime
- ❑ difficult to prosecute
- ❑ possible corruption background in amateur sport
- ❑ self-regulation autonomy
- ❑ lack of democracy

4. Existing standards

- Criminal Law Convention on Corruption (ETS173)
- Civil Law Convention on Corruption (ETS 174)
- UN Convention against Transnational Organised Crime
- Code of sports ethics
- Recommendation Rec(2005)8 of the Committee of Ministers to member states on the principles of good governance in sport



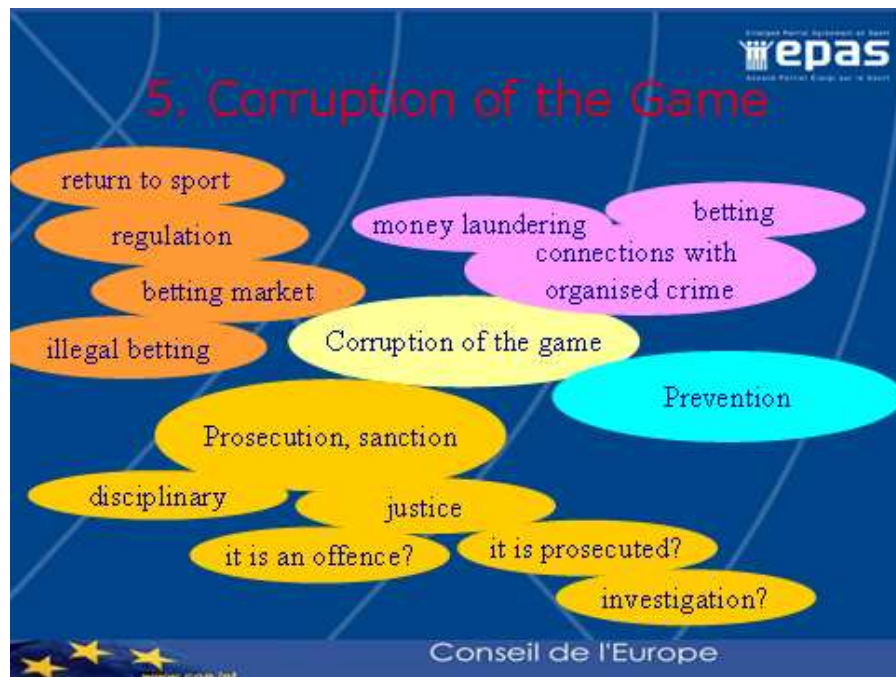
Conseil de l'Europe

4. Existing standards

- **Recommendation Rec(2005)8 of the Committee of Ministers to member states on the principles of good governance in sport**
 - possible soft monitoring (case discussion between the EPAS CC and GB)
 - mostly corruption in Sports organisations
 - for the time being, no intention to further develop



Conseil de l'Europe



- European Agency for Sport Security
epas
European Agency for Sport Security
- ## 5. Corruption of the Game
- ❏ Preserve ethics in sport
 - ❏ Connection with numerous other issues
 - ❏ Different stages of development
 - ❏ Need harmonisation
 - ❏ Need co-operation between Sport and public authorities
- Conseil de l'Europe

5. Corruption of the Game

- Preparation of a recommendation
 - 1st meeting, on 2nd December 2009 in Paris
 - Focus : defense of ethics
 - Possible monitoring (support from GRECO)
 - Possible development (conventions?)



Conseil de l'Europe



Thank you for your attention.

For more information on EPAS:

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Conseil de l'Europe