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Recommendation for a

COUNCIL DECISION

Authorising the European Commission to participate, on behalf of the EU, in the negotiations for an international convention of the Council of Europe to combat the manipulation of sports results

EXPLANATORY MEMORANDUM

1. BACKGROUND AND POLITICAL CONTEXT

Match-fixing is unanimously considered to be one of the major threats facing contemporary sport. Match-fixing undermines the values of sport such as integrity, fair play and respect for others. It risks alienating fans and supporters from organised sport, a sector that represents almost 2% of EU Gross Value Added. Moreover, match-fixing often involves organised criminal networks active on a global scale. It is a problem that has now become a priority for public authorities, the sport movement and law enforcement agencies worldwide.

The 2011 Commission Communication on Developing the European Dimension in Sport explicitly recognises match-fixing as a threat which violates the ethics and integrity of sport. The issue of match-fixing was further addressed in 2011 in the Commission's Green Paper on Online Gambling, in the Commission Communication on Fighting Corruption in the EU and in the Commission Communication Towards a comprehensive European framework for online gambling.

The European Parliament adopted in June 2011 a Written Declaration on combating corruption in European sport and, in February 2012, a Resolution on Developing the European Dimension in Sport calling for increased international cooperation to tackle match-fixing. On 29 November 2011, the EU Council adopted Conclusions on combating match-fixing which invite the Commission, Member States and non-governmental stakeholders to cooperate and take action at different levels to improve the way match-fixing is addressed in the EU.

The International Olympic Committee (IOC) launched in March 2011 a Working Group composed of high-level representatives of the sport movement, public authorities, international organisations and betting operators to propose ways of fighting against irregular and illegal sports betting, with a roadmap for follow-up action adopted in Lausanne on 2 February 2012.

On 28 September 2011, the Council of Europe's Committee of Ministers adopted a Recommendation on the promotion of integrity of sport against manipulation of results notably match-fixing. The Recommendation invites the Enlarged Partial Agreement on Sport (EPAS) to carry out a feasibility study on a possible international legal instrument for the prevention and repression of match-fixing. On 15 March 2012, the Council of Europe's Conference of Ministers Responsible for Sport, meeting in Belgrade, took note of the study's conclusions and invited EPAS to launch the negotiations, in coordination with the EU, on a possible international legal instrument (Convention) against the manipulation of sports results, notably match-fixing. On 13 June 2012, the Council of Europe's Committee of Ministers endorsed this invitation. In the course of the summer of 2012, EPAS sent invitations to the countries that are parties to the European Cultural Convention to invite them to express their interest in participating in the negotiations for a draft Convention of the Council of Europe against the manipulation of sports results.

2. A POSSIBLE COUNCIL OF EUROPE CONVENTION AGAINST MATCH-FIXING: POSSIBLE CONTENT AND TIMETABLE

On the basis of the feasibility study carried out by EPAS, the possible content of the future Council of Europe (CoE) Convention may be structured as follows:

1. Prevention

   (a) Domestic co-ordination

   (b) Promotion and support of measures to be taken by the sports movement

   (c) Setting up a framework for the betting market

   (d) Promotion of measures to be taken by betting operators

2. International co-operation

   (e) Public authorities – sport

   (f) Public authorities (betting regulators) – betting operators

   (g) International co-operation between judicial or law enforcement authorities

   (h) Tripartite consultations

3. Sanctions

   (i) Combination of disciplinary, administrative and criminal sanctions

   (j) Disciplinary

   (k) Administrative

   (l) Criminal law

   (m) Jurisdiction

4. Law enforcement

   (n) Investigation

   (o) Cybercrime

5. Follow-up

   (p) Monitoring

   (q) Convention committee

One of the major issues in the fight against match-fixing at EU or international level is the need to ensure coordination of the different stakeholders involved in the field, in particular public authorities, law enforcement agencies, gambling regulators, the sport movement in all its components, and betting operators (lotteries and private operators). The main added value

of a CoE Convention against match-fixing would consist in setting up a platform for cross-border and cross-sector cooperation involving all the relevant actors. A significant advantage of a CoE Convention would consist in its monitoring and follow-up structures, based on the model of existing standing committees for CoE Conventions in the field of sport (anti-doping, spectator violence). These structures should be open to all relevant stakeholders and they should become the forum where discussions are held on the implementation of the Convention and on progress in the fight against match-fixing in Europe.

Another important advantage of the future Convention would consist in its openness to non-European countries: all countries will be able to sign and ratify the Convention (by way of example, Canada and Australia are currently parties to the CoE Anti-Doping Convention). This aspect is crucial since world-wide cooperation, notably with countries where sports betting is widespread such as South-East Asian countries, is considered an essential element in effectively fighting trans-national organised crime networks involved in match-fixing and operating in different continents.

The proposed Convention would not be an instrument to achieve harmonisation of the national legislations of the signatory parties. Although the issue of establishing an agreed definition of match-fixing and of adopting a set of effective, dissuasive and proportionate sanctions would be mentioned in the Convention, the wording of the relevant provisions would be phrased in such a way as to leave a degree of flexibility for the signatory parties to implement these provisions.

The precise content, structure and scope of the text of the Convention are at present rather theoretical as they will be the subject of the forthcoming negotiations.

A drafting group, composed of representatives of the member states involved in the negotiations, will be in charge of preparing the text of the Convention. Documents circulated by the Council of Europe explicitly foresee that it will be open to a representative of the EU. The drafting group met for the first time for exploratory talks in Strasbourg on 9-11 October 2012. The Commission attended this first exploratory meeting as an ad-hoc observer. EPAS will perform the role of a secretariat. EPAS foresees a series of seven three-day meetings of the drafting group between October 2012 and December 2013, with the objective of presenting the Convention to the Council of Europe's Committee of Ministers for signature in 2014.

3. THE ROLE OF THE EU IN THE FIGHT AGAINST MATCH-FIXING

The topic of match-fixing is relatively new on the EU agenda for sport; the initiatives related to it are therefore very recent. At the level of the Commission, the involvement in the fight against match-fixing can be examined under three different angles, corresponding to the three main aspects of this problem:

Sporting aspect: As laid down in Article 165 of the Treaty, one of the objectives of EU action in the field of sport is to develop the European dimension in sport by promoting fairness in sporting competitions and by protecting the moral integrity of sportspeople. The Commission has taken a first concrete initiative in this field by including in the Call for Proposals implementing the 2012 Preparatory Action 'European Partnership on Sports' a priority line for projects focusing on the prevention of match-fixing episodes through the education and information of relevant stakeholders, notably athletes, referees, match officials and sports administrators. The objective of the financial support to be given through this call is to

strengthen the preventive side of the fight against match-fixing by exchanging good practices. Combating match-fixing is also mentioned as one of the objectives of the Sport Chapter of the proposed 'Erasmus for All' programme, which should allow supporting similar actions in a structured way after 2014. In addition to providing financial assistance, the Commission is cooperating closely with external stakeholders (notably the IOC and the Council of Europe) in identifying ways to tackle match-fixing at European and international level. The Commission also acts as secretariat to the EU Expert Group on Good Governance in Sport, established on the basis of the Council Resolution on an EU Work Plan for Sport of May 2011. The Expert Group produced recommendations for further consideration by the Council Working Party on Sport in June 2012.

Gambling and betting aspect: Match-fixing is not necessarily linked to sports betting. Nonetheless, the combination of unregulated sports betting and match-fixing is an existing threat to sport events, largely due to individuals or criminal networks that use sports betting to generate revenue and/or for money laundering purposes. Issues related to the integrity of sport were part of the Green Paper on Online Gambling, a public consultation that the Commission carried out in 2011. Around 250 responses were received from various stakeholders including sport bodies. The consultation was complemented by five thematic work-shops in the course of 2011, one of which, held on 10 May 2011, focused particularly on on-line gambling and sport integrity (with a focus on match-fixing). As a follow-up to the Green Paper, the Commission adopted the 23 October 2012 the Communication “Towards a comprehensive European framework for online gambling” (COM(2012) 596 final). The protection of the integrity of sport against match-fixing is one of the priorities presented in the Communication with a proposed Action Plan, which includes the participation of the Commission in the work of the Council of Europe on a possible Convention against manipulation of sports results,.

Corruption aspect: match-fixing is a form of corruption and as such is sanctioned by national criminal laws. The Commission is implementing the anti-corruption package adopted in 2011 which is centred on improving monitoring and evaluation of anti-corruption efforts, notably by establishing an EU Anti-Corruption Report through which the Commission will assess on a regular basis various outstanding aspects related to corruption and capacity to control corruption in the EU Member States. The Report could potentially cover any outstanding issues related to corruption, including match-fixing in sport. The EU Anti-Corruption Report, accompanied by country analyses for each Member State, including tailor-made recommendations, will be published by the Commission every two years starting in 2013. In parallel, the Commission is currently considering the modalities of possible participation of the EU in the Council of Europe's Group of States against Corruption (GRECO), which is supposed to bring added value to the EU fight against corruption.

The European Parliament touched upon the issue of match-fixing, especially betting related match-fixing, in its 2009 report on the integrity of online gambling (A6-0064/2009). The Parliament also dealt in more detail with the issue in its 2011 report on online gambling in the Internal Market (A7-0342/2011), in which it mentioned issues related to cross-border police and judicial cooperation, cooperation between organisers of sports competitions and gambling operators, establishment of national networks and contact points to deal with cases of match-fixing and the creation of a definition of match-fixing at EU level. Finally, the issue of match-fixing was also addressed in the European Parliament’s 2012 report on the European Dimension in Sport (A7-0385/2011), in which the Parliament calls on sport federations to work closely with Member States in order to protect the integrity of sport.

The Council dealt for the first time with the fight against match-fixing in the EU Work Plan for Sport 2011-2014, adopted in May 2011, in which the integrity of sport, in particular the

fight against match-fixing, was set out as a priority theme for the period 2011-2014. In addition, Council adopted in November 2011 conclusions on combating match-fixing, in which Member States and stakeholders were invited to encourage the development of educational programmes and ensure close cooperation between all interested parties. The Council Working Party on Sport is currently discussing the text of draft conclusions on establishing a strategy to combat the manipulation of sports results, to be adopted in November 2012.

The two EU agencies in charge of cross-border judicial and police cooperation, EUROPOL and EUROJUST, are also actively involved in the fight against match-fixing. Whereas cooperation of law enforcement agencies at EU level in the field of sport was traditionally focused on the issue of spectator violence, match-fixing has emerged as a new area for cross-border cooperation in the last two years. At present, two cases are open; a Joint Investigation Team (JIT) involving four EU countries (HU, DE, FI, AT) is in place to deal with these cases. The reason given by EUROPOL and EUROJUST for their involvement in cases of match-fixing is that match-fixing often implies serious organised crime.

All these elements point in a single direction: the fight against match-fixing has acquired the status of a priority in different policy areas (sport policy, supervision of gambling markets, fight against corruption) at EU level, and public attention is likely to increase following the recent episodes of corruption at various levels in the world of sport.

Since the envisaged Convention does not aim at harmonising criminal law provisions in the signatory countries nor at achieving harmonisation in other fields such as gambling and betting laws, and since, based on article 6 TFEU, the EU only has a competence to carry out action to support, coordinate or supplement actions of the Member States in the field of sport, it is proposed that the EU participates in the forthcoming negotiations alongside its Member States. The proposed participation in the negotiations has no impact on the EU budget.

The Commission therefore recommends to the Council:

– To adopt the attached decision authorising the participation of the European Commission, on behalf of the EU, in the negotiations for an international convention of the Council of Europe to combat the manipulation of sports results;

– To issue the negotiating directives attached to that decision;

– To designate a special committee in consultation with which the negotiations will be conducted.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

Negotiations should be opened on the preparation of an international convention of the Council of Europe to combat the manipulation of sports results,

The Union should participate in these negotiations.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the European Union, an international convention of the Council of Europe to combat the manipulation of sports results.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with [name of the special committee to be inserted by the Council].

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

ANNEX

DIRECTIVES FOR THE NEGOTIATION

of an international convention of the Council of Europe to combat the manipulation of sports results

The future convention will aim at creating an international legal framework for the prevention of and fight against manipulation of sports results, notably match-fixing; the objective of the convention should be to enhance international cooperation in this context and to set up a monitoring mechanism to ensure that the provisions laid down in the convention are followed-up in an effective way.

The European Union will participate in these meetings with a view to ensuring the consistency of the proposed convention with the EU *acquis*, notably in terms of Internal Market freedoms (freedom to provide services and freedom of establishment) and judicial cooperation in criminal matters.

The European Union will also participate in the negotiations with the objective of ensuring that the provisions of the future Convention are aligned with EU policies in the areas of sport, online gambling and fight against corruption. The reference documents for these policies are, inter alia, as follows:

- The Commission Communication on Developing the European Dimension in Sport (COM(2011)12 final);
- The Green Paper on Online Gambling (COM(2011)128 final);
- The Commission Communication on Fighting Corruption in the EU (COM(2011)308 final);
- The Commission Communication Towards a comprehensive European framework for online gambling (COM(2012) 596 final)
- The Council conclusions on combating match-fixing (16819/11).