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Draft Council of Europe Convention on the Manipulation of Sports Competitions

Report[1]
Committee on Culture, Science, Education and Media
Rapporteur: Mr Kent HÄRSTEDT, Sweden, Socialist Group

Summary

As the Parliamentary Assembly has already signalled, illegal betting and "match-fixing" are alarming, widespread practices which jeopardise not only sporting ethics but also the rule of law, as they are closely interconnected with money laundering and international organised crime. No State is immune from this scourge or can remedy it alone, and defeating it will require a global response. There is therefore a compelling need for a Council of Europe Convention on the Manipulation of Sports Competitions, open to all States.

The Committee on Culture, Science, Education and Media fully agrees with the future convention's approach of progressively harmonising national laws and encouraging co-operation between European and non-European States, as well as between national authorities and all other stakeholders, to ensure the effective prevention, detection and punishment of all the various forms of manipulation of sports competitions.

The committee warmly supports the rapid completion, adoption and ratification of the convention, while calling for the removal of a "loophole" which would allow States not to prosecute foreign people living on their territory. It also seeks a more specific commitment to combat illegal betting, and recommends the drawing up of "model provisions" in order to harmonise the offence of manipulation of sports competitions across different countries. Finally, it calls for sufficient resources to be allocated to the new convention's monitoring body in order that it may do its job effectively.

1. Reference to committee: Doc. 13464, Reference 4037 of 7 April 2014.

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A. Draft opinion[2]

1. The Parliamentary Assembly welcomes the draft Council of Europe Convention on the Manipulation of Sports Competitions. It points out that it unreservedly supported the initiative taken under the Enlarged Partial Agreement on Sport (EPAS) to draft such a convention and refers in this context to Assembly Recommendation 1997 (2012) on the need to combat match-fixing, unanimously adopted on 25 April 2012. The Assembly was subsequently involved in the work of the Drafting Group responsible for drawing up the draft convention.

2. The international dimension of the manipulation of sports competitions requires a global approach to tackling the problem. The Assembly therefore welcomes the fact that it will be possible for non-member States of the Council of Europe to become Parties to the future convention.

3. The Assembly is convinced that the future convention must have a broad scope in order to cover all the various forms and aspects of the manipulation of sports competitions. Accordingly, it approves of the definition of such manipulation given in Article 3 of the draft convention, which will make it possible to prosecute all practices intentionally aimed at improperly influencing the uncertainty inherent in a sports competition with a view to obtaining an undue advantage for oneself or for others.

4. The Assembly called for a legal instrument aimed at harmonising national legislation and strengthening co-operation among States and with all other stakeholders in order to ensure effective prevention, detection and punishment of the manipulation of sports competitions.

5. The Assembly is therefore satisfied with the emphasis placed by the draft convention on co-operation at both national and international level and welcomes the provisions requiring Parties to improve their criminal law legislation, where necessary, to combat effectively the manipulation of sports competitions. The Assembly notes, however, that no time frame is laid down for adapting national legislation and wishes to stress that this adaptation process should take place swiftly.

6. It was essential, at this stage, to put forward balanced solutions, calling on Parties to put in place a common framework of action, while leaving them a margin for manoeuvre, so as to take account of specific national situations. The Assembly notes that the draft convention satisfies this two-fold requirement. Nonetheless, it considers that certain improvements could be made without compromising this balance.

7. The Assembly understands the difficulty inherent in requiring Parties to incorporate into their legal systems a special harmonised offence concerning the manipulation of sports competitions. Nevertheless, the existence of such an offence would facilitate collaboration between States, and between the public authorities and the other stakeholders. Consequently, the Follow-up Committee should be tasked with drawing up model provisions relating to such a harmonised offence; States could draw on these, without, however, being obliged to amend their criminal law.

8. The Assembly believes it is essential to link the fight against the manipulation of sports competitions and the fight against illegal betting. It unreservedly concurs with the choice made by the Drafting Group to include this matter in the future convention and asks not only that this choice be confirmed, but also that the wording of Article 11 of the draft convention be improved to make the Parties' commitment in this regard more specific.

9. The Assembly notes that by virtue of Article 19.2 (combined with Article 19.1.*e*) a Party may reserve the right not to establish jurisdiction (or to do so only in specific cases or conditions) where an offence falling within the scope of Articles 15 to 17 is committed by "a person who has his or her habitual residence on its territory". Availing oneself of such a possibility would constitute a loophole in the system, hampering the possibility to deal effectively with cases involving top-level athletes who typically may have their residence outside their countries of origin, and enabling those with ill intentions, or indeed criminal organisations, to settle – and in particular set up shell companies – on the territory of a State which had not established its jurisdiction in respect of them with regard to offences relating to the manipulation of sports competitions committed in another country. This would, in addition, weaken the rule of "*aut dedere, aut judicare"* (either extradite or prosecute) provided for in Article 19.3 of the draft convention. Accordingly, the Assembly believes that this possibility should be removed.

10. The Assembly appreciates the fact that the draft convention provides for a Follow-up Committee with terms of reference enabling it to promote the practical implementation of the convention, including by formulating recommendations to Parties – in particular on the criteria referred to in other provisions – and

2. Draft opinion unanimously adopted by the committee on 10 April 2014.

facilitating the exchange of information and best practice. It is anticipated that this Committee will be assisted by the Secretariat of the Council of Europe. However, it is essential to ensure that the effectiveness of this mechanism is not undermined by having insufficient resources allocated to it, whether in financial or staffing terms.

11. In the light of the foregoing, the Assembly recommends that the Committee of Ministers rapidly finalise the text of the new convention and open it for signature and ratification, if possible before the end of 2014. In the context of the final revision of the draft convention, the Assembly calls for the rejection of all proposals that would reduce the scope of the convention or dilute the commitments provided for in the draft and for only those proposals which would strengthen the effectiveness of the proposed system to be accepted.

12. Accordingly, the Assembly recommends that the Committee of Ministers:

12.1. amend the second sentence of paragraph 72 of the explanatory report as follows "This provision also covers training of groups such as **young sportspeople**, civil servants, judges or awareness-raising of the general public";

12.2. amend Article 7.2.*d* of the draft convention as follows: "awareness among competition stakeholders **and young sportspeople** of the risk of manipulation …";

12.3. amend Article 9.1 of the draft convention, replacing the words "such as", at the end of the first sentence (before the list of measures from *a* to *f*) with the words "including in particular";

12.4. amend Article 11.1 of the draft convention as follows: "... each Party shall explore the most appropriate means to fight operators of illegal sports betting and shall **adopt effective measures** ..." (such as those listed subsequently in that article);

12.5. delete Article 19.2 of the draft convention;

12.6. amend Article 31.2 of the draft convention as follows: "The Convention Follow-up Committee **shall** adopt and modify the list of sports organisations referred to in article 3.2, while ensuring that it is published in an appropriate manner"; the list of other tasks listed in Article 31.2 (*b* to *e)* should be included in a new Article 31.3 beginning: "The Follow-up Committee may, in particular:";

12.7. supplement the above-mentioned list of tasks by adding to the terms of reference of the Follow-up Committee that it may "draft model provisions relating to the harmonised offence of manipulation of sports competitions", the introduction of which in national legal systems would nonetheless be optional;

13. Furthermore, the Assembly recommends that the Committee of Ministers adopt the following amendments of a technical nature:

13.1. amend the beginning of Article 3.1 as follows: "'Sports competition' means any sport event **organisedin accordance with** the rules set by a sports organisation …" [no change required in the French text];

13.2. amend the first sentence of Article 3.6.*c* as follows: "'official' means any person who is the owner of, a shareholder in, an executive or a staff member of the entities which organise and promote sports competition, as **well as** referees, jury members **and** any other accredited persons";

13.3. amend Article 9.2 as follows: "Each Party shall**, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by means of a declaration addressed to the Secretary General of the Council of Europe,** communicate the name and addresses of the authority or authorities identified in pursuance of paragraph 1 of this article. **They subsequently may, at any time and in the same manner, change the terms of their declaration**";

13.4. amend Article 13.2 as follows: "Each Party shall**, at the time of signature or when depositing its instrument of ratification, acceptance or approval, by means of a declaration addressed to the Secretary General of the Council of Europe,** communicate the name and addresses of the national platform. **They subsequently may, at any time and in the same manner, change the terms of their declaration**".

14. The Assembly recommends that the Committee of Ministers ensure that sufficient resources be allocated to the convention Follow-up Committee. Moreover, since Parties will be invited to incorporate the prevention of and the fight against the manipulation of sports competitions into assistance programmes for the benefit of third States, the Assembly recommends that the Council of Europe draw up targeted co-operation programmes to support those Parties that wish to take advantage of the expertise of its bodies to reform their systems and to facilitate, where necessary, co-ordination of the assistance provided by other Parties.

15. The Assembly calls on the governments of the Council of Europe member States and of the other countries which took part in the drafting of the convention to ensure that the necessary adaptation of their national legislation and the ratification of the convention take place swiftly. It also invites them and the European Union to actively seek the collaboration of other countries, such as United States and China, whose participation would considerably strengthen the impact of the convention, and encourage the ratification of the convention by these countries.

16. Finally, the Assembly welcomes the positive role that the International Olympic Committee (IOC), the Union of European Football Associations (UEFA) and Interpol had in the negotiation process of the draft convention and expects co-operation with these key partners to continue and be reinforced in the implementation phase.

B. Explanatory memorandum by Mr Härstedt, rapporteur

1. Introduction

1. At their 1194th meeting (12-14 March 2014), the Ministers' Deputies decided to transmit to the Parliamentary Assembly, for opinion, the draft Council of Europe Convention on the Manipulation of Sports Competitions (hereafter "the draft convention").

2. At its meeting on 11 March 2014, the Committee on Culture, Science, Education and Media appointed me as rapporteur, anticipating the expected reference to the committee. On 7 April 2014, the Assembly referred the Committee of Ministers' request for opinion to our committee for report.

3. The Assembly was involved in the work on the draft convention via its current President, Ms Anne Brasseur, who, until December 2013, was rapporteur on "The need to combat match-fixing".

4. This report is based on the position expressed by the Assembly in Recommendation 1997 (2012) and Resolution 1876 (2012) on the need to combat match-fixing, and takes account of the explanatory memorandum of the corresponding report (Doc. 12891).

2. General assessment of the draft convention

5. In its Recommendation 1997 (2012), the Assembly called on the Committee of Ministers to "support the work being done by the members of the Enlarged Partial Agreement on Sport (EPAS) on the drafting of a European convention on match-fixing, based on Recommendation CM/Rec(2011)10", and emphasised the urgency of such a convention.

6. The Drafting Group carried out a difficult task in a relatively short time frame, while allowing itself time to listen to the various partners in order to take account of their respective, and occasionally divergent, requirements.

7. In order to assess whether the future convention is an appropriate response to the need for an international instrument making it possible to combat effectively the manipulation of sports competitions, there are three parameters which are of particular importance: the scope of the convention, the co-operation it seeks to develop between States and the other stakeholders, and the harmonisation of national legislation and practices that it calls for. These aspects are analysed in greater detail below.

2.1. The scope: the concept of "manipulation of sports competitions"

8. In dealing with such a complex subject, the first hurdle was to find agreement on the scope of the future convention. A narrow definition of the "manipulation of sports competitions" could have weakened both the scope and the effectiveness of the convention. This did not happen. The preamble of the draft convention states that "the manipulation of sports competitions may be related or unrelated to sports betting, and related or unrelated to criminal offences, and … should be dealt with in all cases".

9. In line with this statement of principle, according to Article 3.4: "'Manipulation of sports competitions' means an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a sports competition in order to remove all or part of the unpredictable nature of the aforementioned sports competition with a view to obtaining an undue advantage for oneself or for others."

10. This definition covers all practices – individual, collective, positive or negative – intentionally aimed at improperly influencing the uncertainty inherent in sport, with a view to obtaining an undue advantage for oneself or others. This is the outcome we were anticipating. Moreover, Article 3 provides a clear definition of other key terms which could be open to debate, such as sports competition, sports betting (detailing the concepts of illegal sports betting, irregular sports betting and suspicious sports betting) and inside information.

2.2. Strengthening co-operation between stakeholders

11. In the report on "The need to combat match-fixing", the rapporteur, Ms Brasseur, had emphasised the need for broader and closer co-operation between all stakeholders. Co-operation is the keyword of the draft convention.

12. It refers, first of all, to co-operation between States, which is essential to combat the criminal organisations which operate at transnational level, including via the Internet. The manipulation of sports competitions, the Preamble asserts, constitutes a global threat, and as such "needs a global response which must also be supported by States which are not members of the Council of Europe".

13. I unreservedly concur with this analysis and welcome the fact that the future convention will be open for signature and ratification by the European Union and the non-member States which took part in its drafting[3] or enjoy observer status with the Council of Europe, and that other States will be able to accede on the invitation of the Committee of Ministers. In this respect, I believe that we should encourage our governments to actively seek the involvement of countries such as the United States and China. Indeed their participation in the convention mechanisms would considerably strengthen the latters' effectiveness.

14. The draft convention also refers to co-operation, both at international and State level, between the public authorities and other stakeholders: sports organisations, competition organisers and sports betting operators.

15. Co-operation with sports organisations should be based on the principle of the autonomy of sport, the responsibility of sports organisations and the obligation incumbent on States to protect the integrity of sport.

16. In this regard, the Preamble of the draft convention acknowledges that "in accordance with the principle of the autonomy of sport, sports organisations are responsible for sport and have self-regulatory and disciplinary responsibilities in the fight against manipulation of sports competitions, but that public authorities protect the integrity of sport, where appropriate". It adds that "sports organisations bear the responsibility to detect and sanction the manipulation of sports competitions committed by persons under their authority".

17. Article 1.1 of the draft convention states that: "The purpose of this Convention is to combat the manipulation of sports competitions in order to protect the integrity of sport and sports ethics in accordance with the principle of the autonomy of sport."

18. This approach reflects the position expressed by the Assembly in Resolution 1875 (2012) on good governance and ethics in sport: "Intervention by States … must allow for the need to preserve the autonomy of the sports movement, but also for the need to ensure that this autonomy does not become an excuse for failure to react to the abuses eroding sports ethics and to acts covered, or which should be covered, by criminal law."

19. The Preamble also underlines the essential link between co-operation and the effective combating of the problem: "[A]n effective fight against the manipulation of sports competitions requires increased, rapid, sustainable and properly functioning national and international co-operation"; and "dialogue and co-operation among public authorities, sports organisations, competition organisers and sports betting operators … are essential in the search for effective common responses to the challenges posed by the problem of the manipulation of sports competitions."

20. Accordingly, in order to achieve its objective, the convention seeks "to promote national and international co-operation against manipulation of sports competitions between the public authorities concerned, as well as with organisations involved in sports and in sports betting" (Article 1.2.*b*).

21. This statement of principle is then expanded upon in several specific provisions on the substance and mechanisms of co-operation. Co-operation is a central theme of Chapters II, IV and VII of the draft convention, relating respectively to "Prevention, co-operation and other measures", "Substantive criminal law and co-operation with regard to enforcement", and "International co-operation in judicial and other matters". In addition, Chapter III deals with "Exchange of information", which underlies all collaboration.

22. There are two provisions relating to co-operation to which I would like to draw attention:

– With regard to the offences relating to manipulation of sports competitions covered by the convention, Article 26 provides that: "The Parties shall co-operate with each other … to the widest extent possible for the purposes of investigations, prosecutions and judicial proceedings …, including seizure and confiscation" (Article 26.1) and "extradition and mutual assistance in criminal matters" (Article 26.2);

– Article 28 stipulates that: "Each Party, in accordance with its domestic law, shall co-operate with international sports organisations in the fight against the manipulation of sports competitions".

3. Australia, Belarus, Canada, Israel, Japan, Morocco, New Zealand.

23. Accordingly, the draft convention provides a satisfactory response to the requirement to promote co-operation, while at the same time allowing Parties room for manoeuvre, making it possible to take account of national specific features and complying with the principle of the autonomy of sport.

2.3. Harmonisation of legislation and national practices

24. Co-operation in combating the manipulation of sports competitions could be weakened by an excessive disparity between the Parties' legislation and the practical arrangements concerning its enforcement. In this regard, the draft convention contains a series of provisions which, by calling for the adoption of legislative or other measures to achieve certain specific results, should encourage closer alignment of the Parties' national legislation and practices, without however demanding total uniformity.

25. The most important provisions are doubtless those contained in Chapters V (Jurisdiction, criminal procedure and enforcement measures) and VI (sanctions and measures). I shall return later to some of these provisions. Nonetheless, I should at this stage underline the fact that despite having some reservations, resulting from the cautious wording of certain provisions, I believe the draft convention comprises a number of significant advances.

26. In particular, it requires Parties to establish as criminal offences:

– the manipulation of sports competitions when it involves either coercive, corrupt or fraudulent practices (Article 15);

– the laundering of the proceeds of the manipulation of sports competitions (Article 16);

– the aiding and abetting of the manipulation of sports competitions (Article 17).

27. Other key provisions deal with:

– establishing the jurisdiction of Parties (Article 19);

– corporate liability (Article 18);

– the provision of dissuasive sanctions (Articles 22 to 25);

– the protection of personal data (Article 14);

– measures to secure electronic evidence (Article 20).

28. It should also be pointed out that, indirectly, the convention seeks to define the minimum obligations for partners, or the obligations which the Parties should impose on them. For example, Article 16.3 provides that: "Each Party shall consider including the manipulation of sports competitions in its money laundering prevention framework by requiring sports betting operators to apply customer due diligence, record keeping and reporting requirements."

29. Future Parties to the convention shall adapt, if necessary, their legislation before the convention enters into force in their respect. Of course, it is not possible to set a time frame, but I propose urging our governments to proceed swiftly with the adaptation process – and the ratification.

30. Lastly, the draft convention calls on Parties to "integrate … the prevention of and the fight against the manipulation of sports competitions into assistance programmes for the benefit of third States" (see Article 27). It seems to me that the Council of Europe has a key role to play here and there should be targeted co-operation programmes to support Parties wishing to benefit from the Council of Europe's expertise in order to reform their systems. I therefore propose that a recommendation in this regard be drafted.

3. Specific recommendations contained in Resolution 1876 (2012)

31. In its Resolution 1876 (2012), the Assembly addressed specific recommendations to member States regarding prevention, detection and sanction mechanisms. It is important to verify the extent to which these are taken into account by the provisions in the draft convention.

3.1. Prevention measures

32. With regard to prevention, Resolution 1876 (2012) contains two specific recommendations:

– ensure the introduction of training and awareness-raising programmes for young amateur and professional sportspeople (paragraph 6.4);

– prohibit betting on those competitions most vulnerable to attempted corruption, and in particular youth competitions (for sportspeople aged under 18), amateur competitions and, for some sports such as football, lower-division professional competitions (paragraph 6.5).

33. The draft convention contains several provisions dealing with prevention, two of which relate directly to the above recommendations.

34. Article 6.1 provides that: "Each Party shall encourage awareness-raising, education, training and research to strengthen the fight against manipulation of sports competitions." The verb "encourage" implies a "weak commitment". Cautious wording may be justified since awareness raising, education, training and research have to be developed in co-operation with the other partners and require a financial effort. It is worth noting that this provision is supplemented by others, including Article 7.2.*d*. However, training and awareness-raising programmes for young sportspeople are not explicitly mentioned. Therefore, I propose to strengthen in this direction paragraph 72 of the explanatory report (which relates to Article 6) and Article 7.2.*d* of the draft convention.

35. Article 9 provides that each Party shall identify one or more authorities "entrusted with the implementation of sports betting regulation and with the application of all relevant measures to combat the manipulation of sports competitions in relation to sports betting". Among these measures, the draft convention refers to "the limitation, where appropriate, of the supply of sports betting, following consultation with the national sports organisations and sports betting operators, particularly excluding sports competitions:

– designed for those under the age of 18; or

– where the organisational conditions and/or stakes in sporting terms are inadequate".

36. This provision is perhaps not as ambitious as the Assembly's recommendation, but it is clearly along the same lines and covers its main thrust. The Convention Follow-up Committee (see section 4 below) will have an important role in clarifying the criteria restricting the supply of sports betting. However, the list of measures in Article 9.1 is introduced by "such as". This could lead to the interpretation that the Parties can consider relevant only some, or none, of the measures listed. Such an interpretation should be avoided. Therefore, I propose recommending that the words "such as" be replaced with "including in particular".

37. The need to improve prevention is taken into account by other provisions, particularly with regard to preventing conflicts of interest.

38. For example, Article 7 of the draft convention provides that each Party shall encourage sports organisations and competition organisers to adopt rules and principles of good governance in order, amongst other things, to:

– prevent conflicts of interest (prohibiting competition stakeholders from betting on sports competitions in which they are involved; prohibiting the misuse or dissemination of inside information);

– raise awareness among competition stakeholders of the risk of manipulation of sports competitions and the efforts to combat it, through education, training and the dissemination of information;

– ensure the appointment of relevant officials for a sports competition, in particular judges and referees, at the latest possible stage.

39. In addition, Article 10.1 provides that "Each Party shall adopt such legislative or other measures as may be necessary to prevent conflicts of interest and misuse of inside information by natural or legal persons involved in providing sports betting products" and makes specific reference to certain situations of conflict of interest on which particular attention must be focused.

40. Lastly, surveillance measures and sanctions, which I will discuss in the following sections, also have a key dissuasive role.

3.2. Surveillance and detection

41. With regard to surveillance and detection mechanisms, in Resolution 1876 (2012), the Assembly recommended that member States:

– establish a national betting-regulatory authority in every country and consider setting up in each country an "integrity of sport" monitoring centre and a "sports betting" working group, with a view to Europe-wide networking of information (paragraph 6.6);

– work with national and international betting operators to introduce effective procedures for detecting suspicious betting (paragraph 6.10).

42. The draft convention satisfies if not exceeds expectations. In particular, not only does Article 9 of the draft convention require each Party to appoint one or more sports betting regulatory authorities, but, in addition, Article 13.1 provides that "Each Party shall identify a national platform addressing manipulation of sports competitions".

43. This platform should serve as an information hub and carry out key tasks, in particular with regard to managing the flow of information between partners, sounding the alert, co-ordinating the fight against the manipulation of sports competitions and ensuring co-operation at national and international level.

44. It should also be noted that under Article 10.3 "Each Party shall adopt such legislative or other measures as may be necessary to oblige sports betting operators to report irregular or suspicious betting without delay to the betting regulatory authority, the other responsible authority or authorities, or the national platform".

3.3. Prosecution and sanctions

45. With regard to the prosecution procedures and sanctions applicable in the manipulation of sports competitions, Resolution 1876 (2012) called on member States to:

– develop, in co-operation with sports institutions, appropriate rules and mechanisms to ensure that any disciplinary penalties imposed by federations' committees and any criminal law penalties for corruption are a sufficient deterrent and are effectively applied (paragraph 6.7);

– promote mutual recognition of criminal, administrative, disciplinary and sports penalties by States and sports federations (paragraph 6.8);

– ensure co-operation between judicial authorities and national and international police to enhance the effectiveness of investigations into and the prosecution of match-fixing cases (paragraph 6.9).

46. Here the draft convention directly impacts on the competences of States in criminal law matters. When analysing the question of harmonising national legislation, I already mentioned a number of central provisions, but it would be helpful to look at them in greater detail.

47. As the explanatory report makes clear, the draft convention does not place an obligation on Parties to introduce into their respective legal systems a harmonised special criminal offence relating to the manipulation of sports competitions. Nonetheless, Parties must ensure that practices falling within the concept of the manipulation of sports competitions are covered appropriately in their criminal law and must therefore identify the acts which will be prosecuted in this connection; this is a precondition for the effectiveness of judicial and police co-operation between Parties.

48. In this regard, the draft convention refers specifically to instances of manipulation which involve either coercive, corrupt or fraudulent practices (Article 15), the intentional aiding and abetting of such practices (Article 17) and the laundering of the proceeds of these offences (Article 16).

49. Parties are also asked to establish the corporate liability of legal persons where the offences in question are "committed for their benefit by any natural person, acting either individually or as a member of an organ of the legal person, who has a leading position within the legal person" (Article 18). This provision is of major importance since if corporate liability were not established, and bearing in mind the separation of their assets, organised crime would continue to prosper behind the screen of these entities.

50. The system that is envisaged seeks to reconcile the need for a common framework and States' room for manoeuvre. In my view, the Drafting Group has achieved an acceptable balance. Nonetheless, in paragraph 5.3.4 of Recommendation 1997 (2012), we called on the Committee of Ministers to define "a minimum framework in order to establish sports fraud as a criminal offence in different countries". The provision in the Parties' legal systems of a special harmonised offence would facilitate collaboration between States and between the public authorities and the other stakeholders. I would therefore suggest that the Convention Follow-up Committee (see section 4 below) be explicitly tasked with drawing up model provisions, whose introduction into the national legal systems would nonetheless remain optional.

51. The draft convention anticipates a range of criminal, administrative and disciplinary sanctions which satisfy our expectations. In particular:

– Article 22 calls for criminal sanctions against natural persons to be "effective, proportionate and dissuasive", and they should include monetary sanctions and penalties involving deprivation of liberty that may give rise to extradition;

– Article 23 has a similar wording relating to sanctions against legal persons;

– Article 25 calls for Parties to provide for the seizure and confiscation of both the goods, documents and other instruments used, or intended to be used, to commit the manipulation, and the proceeds of the offence or property of a value corresponding to those proceeds.

52. I feel it is important to express an opinion on the Drafting Group's decision to include in the draft the question of combating illegal sports betting. Some quarters were somewhat reluctant and others made a point, including before the Committee of Ministers, of expressing their strong reservations with regard to the provisions of the draft convention in this respect. Personally, I believe that the Drafting Group's decision was not only perfectly justified but also indispensable. There would be no sense in addressing legal sports betting and ignoring illegal betting, or in seeking the co-operation of betting operators working in full transparency and in compliance with the law, and leaving the others to act with impunity.

53. In contrast, I believe that in attempting to overcome the reluctance shown by some members, the Drafting Group ended up with a provision that accomplishes little. Here, I refer to Article 11.1 of the draft convention which stipulates that "each Party shall explore the most appropriate means to fight operators of illegal sports betting and shall consider adopting measures, in accordance with the applicable law of the relevant jurisdiction".

54. With regard to the fight against illegal betting, it is difficult to understand why the Parties should not accept a firmer commitment than agreeing to "explore", a vague term which ultimately places no obligation of result. We would like to see Parties adopt and implement appropriate measures. One should therefore propose a different wording stipulating that each Party "shall adopt effective measures" such as those listed subsequently in the same article.

55. Lastly, there is a loophole in the system: the fact that a Party may declare that it reserves the right not to establish its jurisdiction (or to do so only in specific cases or conditions) where an offence covered by Articles 15 to 17 is committed "by a person who has his or her habitual residence on its territory" (see Article 19.2 in conjunction with Article 19.1.*e*).

56. The explanatory report states that this therefore covers "the case of foreign athletes having their habitual residence in one country who commit criminal acts during competitions taking place in other countries". I note that such cases often concern top-level sportspeople.

57. I cannot see any reason to provide a sort of impunity for sportspeople who cheat, by foregoing the jurisdiction to prosecute them and I find it quite simply absurd that one should allow people to slip through the net by making it possible for not only unscrupulous sportspeople but also any other person with ill intentions to settle – and in particular set up shell companies – on the territory of a State which had not established jurisdiction in respect of them for offences relating to the manipulation of sports competitions committed in another country. This absence of jurisdiction would, in addition, weaken the effectiveness of the rule "*aut dedere, aut judicare"* (extradite or prosecute) provided for in Article 19.3. I therefore propose that Article 19.2 be deleted.

4. Monitoring mechanism

58. To ensure the effective implementation of the convention, the draft provides for the setting up of a "Follow-up Committee" composed of representatives of the Parties.

59. Article 30.3 provides that "The Parliamentary Assembly of the Council of Europe, as well as other relevant Council of Europe intergovernmental or scientific committees, shall each appoint a representative to the Convention Follow-up Committee in order to contribute to a multisectoral and multidisciplinary approach", without the right to vote. This allows for the regular participation of bodies such as the Group of States against Corruption (GRECO) and the European Committee on Crime Problems (CDPC).

60. Furthermore, it is foreseen that the Follow-up Committee may invite, by unanimous decision, any State which is not a Party to the convention, or any international organisation or body to be represented at its meetings as an observer. In this way it could benefit from the expertise and experience of organisations already involved in the fight against the manipulation of sports competitions or other relevant activities.

61. The terms of reference of the Follow-up Committee are listed in Article 31 of the draft convention. It will be able, amongst other things, to "make recommendations to the Parties concerning measures to be taken for the purposes of this Convention, in particular with respect to international co-operation" (Article 31.2.*b*) and also to make recommendations on highly technical matters, such as on the criteria relating to the restriction of the supply of sports betting and the criteria for defining irregular and suspicious sports betting (Article 31.2.*c*). The text suggests that tasks are not compulsory: the Follow-up Committee "may" perform them. This is acceptable, except for the one mentioned in Article 31.2.*a*. The adoption and updating of the lists of sports organisations is clearly a pre-condition for the effective implementation of the convention. Therefore we should recommend redrafting Article 31.2 so that it provides that the Follow-up Committee "shall" adopt and modify this list.

62. The Follow-up Committee will also be responsible for keeping "relevant international organisations and the public informed about the activities undertaken within the framework of this Convention" (Article 31.2.*d*). Lastly, it should be pointed out that this Committee will be able to carry out visits to the States Parties, subject to their agreement (Article 31.4).

63. Article 30.6 provides that: "The Convention Follow-up Committee shall be assisted by the Secretariat of the Council of Europe in carrying out its functions." It will therefore be essential to see to it that sufficient resources are allocated for this purpose and ensure that the effectiveness of the mechanism is not undermined by a lack of resources.

64. Finally, Article 29 states that: "Each Party shall forward to the Secretary General of the Council of Europe, in one of the official languages of the Council of Europe, all relevant information concerning legislative and other measures taken by it for the purpose of complying with the terms of this Convention." The draft does not stipulate the frequency of these reports, but the explanatory report states that the Follow-up Committee may specify the type of information, frequency and methods of gathering information.

5. Concluding remarks

65. The Drafting Group has produced excellent work. We should congratulate it and ask for the speedy conclusion of its work and the opening for signature and ratification of the convention, if possible before the end of 2014.

66. Accordingly, we must ensure that our proposals do not provide a pretext to slow down the process. Nonetheless, I feel it is important to draw the attention of the Committee of Ministers to a number of provisions which warrant reconsideration in order to strengthen the anticipated system. I have included my proposals in this connection in the draft opinion. I have also added some proposals for some amendments of a technical nature which I would consider useful.

67. Above all, it is essential to ensure that the Committee of Ministers, under the pressure of certain recalcitrant States, does not give in to the temptation to go back on certain solutions. We must therefore underline the importance we attach to the anticipated commitments and recommend that they are reviewed only insofar as this will strengthen them and under no circumstances dilute them, as this would be detrimental to the effectiveness of the system.