Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**Opinion 287 (2014)**[1]
Final version

# Draft Council of Europe convention on the manipulation of sports competitions

Parliamentary Assembly

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 twofold requirement. Nonetheless, it considers that certain improvements could be made as long as these improvements do not compromise 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 Convention 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.

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1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 23 May 2014 (see Doc. 13508, report of the Committee on Culture, Science, Education and Media, rapporteur: Mr Kent Härstedt).

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 Convention 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 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 in Article 31.2 (*b* to *e)* should be included in a new Article 31.3 beginning: "The Convention Follow-up Committee may, in particular:";

12.7. supplement the above-mentioned list of tasks by adding to the terms of reference of the Convention 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 sports event **organised in 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 names 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 the 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.