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Subject:	Presidency Conclusions on establishing a strategy to combat the manipulation of sport results

Delegations will find attached in Annex I the text of the abovementioned Presidency conclusions resulting from the Education, Youth, Culture and Sport Council on 27 November 2012.

The statement from the Maltese delegation can be found in Annex II.

ANNEX I

PRESIDENCY CONCLUSIONS ON ESTABLISHING A STRATEGY TO COMBAT THE MANIPULATION OF SPORT RESULTS

1. RECALLING: THE POLITICAL BACKGROUND TO THIS ISSUE AS SET OUT IN THE ANNEX, AND IN PARTICULAR THAT

   1. the Council established a European Union Work Plan for Sport for 2011-2014[1] which highlighted match-fixing and promotion of good governance as a priority theme, and set up the Member States and the Commission Expert Group "Good Governance in Sport" to develop a European dimension of the integrity of sport with the initial focus on the fight against match-fixing;

   2. the Council adopted conclusions on combating match-fixing[2] which recognised match-fixing as one of the most significant threats to sport and called for joint actions to be carried out by the sport movement, public authorities and betting operators;

   3. various initiatives in the field of the fight against match-fixing have been taken by the European Union, and within different international forums, notably the International Olympic Committee and the Council of Europe.

[1] OJ C 162, 1.6.2011, p. 1.
[2] OJ C 378, 23.12.2011, p. 1.

2. TAKING NOTE OF

1. The fact that the Expert Group "Good Governance in Sport" has identified a series of recommendations on the fight against match-fixing in June 2012 in accordance with the schedule laid down in the Work Plan for Sport and that it could readdress this issue where appropriate.

2. The “Nicosia Declaration on the fight against match-fixing” of the 20th September 2012 endorsed by Presidency of the Council of the EU, the European Commissioner responsible for Sport and the participants in the EU Sport Forum.

3. CONSIDERING THAT

1. Various interpretations exist of the concept of manipulation of sport results, notably match-fixing, also described as sporting fraud or spot-fixing. An agreed definition would facilitate a common understanding of the problem. Besides the definition of match-fixing, it is important to identify what acts could be punishable under relevant law, particularly taking into account those forms of match-fixing that have a significant economic and social impact and are connected to or involve betting, abuse of insider information, corrupt practices, trafficking or extortion.

2. While recognising the differences in the legal framework applicable to match-fixing between Member States, all Member States already have legal tools to fight against match-fixing. It should be evaluated if there is a need for approximating the way Member States interpret match-fixing according to their existing legislation in order to ensure that possible legislative loopholes are closed and that an appropriate legal framework is available at international level (e.g. possible Council of Europe Convention).

3. According to the EU Study on Match-Fixing in Sport[3], the obstacles that may exist in the investigation and prosecution of cross-border match-fixing cases seem of an operational rather than legal nature. Cooperation of relevant ministries, police and judicial authorities across borders is essential in view of the transnational nature of match-fixing, in particular when it is betting-related. EU-wide coordination is currently implemented through Europol and Eurojust. Cooperation at international level between Europol and Interpol is also in place. Cooperation with the sport movement in this context is also essential.

4. Match-fixing often involves serious organised crime networks operating at national and international level. Therefore, as is the case in other areas affected by organised crime, prevention (and alternative interventions such as disruption) in combination with repression plays a key role.

5. One of the major issues in the fight against match-fixing at national, EU or international level is the need to ensure the coordination of the different stakeholders involved, in particular public authorities, law enforcement agencies, gambling regulators, the sport movement in all its components, and betting operators[4].

6. The sport movement has a key responsibility in preventing and combating episodes of match-fixing. Actions in the fight against match-fixing should be taken by relevant sport bodies as a matter of urgency. Even though the sport movement has a primary role to play it cannot act alone. Consequently, close cooperation between sport stakeholders and other relevant actors (public authorities, betting operators, gambling regulators[5]) is needed in order to effectively protect the integrity of sport against match-fixing.

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3 Available at: http://ec.europa.eu/sport/news/20120410-study-on-match-fixing_en.htm

4 Each time the term " betting operators" is used, it implies "both private and public operators including monopoly operators".

5 Each time the term “gambling regulators” is used, it implies “and/or other relevant competent public bodies”.

7. Good governance principles such as sound financial management, transparency, risk management plans and strategies at club, association and federation level are crucial to prevent fraud in sport, notably match-fixing, and to safeguard the integrity of sport. Although multiple initiatives have been taken and are currently on-going in the field of prevention and sanctions, the sport movement needs the full support of the other relevant stakeholders, in order to improve the protection of the integrity of its competitions.

8. As regards betting related match-fixing, detection and monitoring mechanisms, often known as early warning **s**ystems, are used by stakeholders such as sports bodies, betting operators and gambling regulators. Their effectiveness is mainly limited to bets placed through operators. In order for the various detection and monitoring mechanisms to complement each other, a higher level of cooperation is necessary. However, data protection issues and the cost of setting up and maintaining detection and monitoring mechanisms should be considered further. The way cooperation among relevant stakeholders may be structured could involve gambling regulators as key actors at national level, acting both as regulators of the national gambling markets and as intermediaries between betting operators and sports organisations implementing detection and monitoring mechanisms.

9. Certain types of bets might increase the risks to the integrity of sporting competitions and certain sporting competitions may be more vulnerable in this respect. While at this stage it might not be appropriate to determine by law for all sports which types of bets are or are not allowed and which competitions are more vulnerable with regard to betting, the risk to the integrity of sport should be a factor for gambling regulators to consider in determining which bets may be offered**,** in accordance with applicable legislation. Sport competitions involving only athletes below the age of 18 deserve special treatment in this respect.

4. INVITES THE MEMBER STATES, WITHIN THEIR RESPECTIVE SPHERES OF COMPETENCE AND WITH DUE REGARD FOR PRINCIPLE OF SUBSIDIARITY TO:

1. Consider joining the negotiations for a possible Council of Europe Convention against manipulation of sport results. In this context, consider establishing a common and sufficiently comprehensive definition of match-fixing.

2. Consider the introduction of criminal, civil or administrative sanctions which are dissuasive, effective and proportionate. These sanctions would act as an effective deterrent against match fixing and could be determined in relation to the value of the benefit or knowledge obtained by the perpetrators of match fixing.

3. Promote adequate operational capacity to fight match-fixing in law enforcement and judicial authorities, within the framework of the available resources, including through training of law enforcement and judicial authorities in order to improve skills and strengthen capacity in the fight against match-fixing at national, EU and international level, where appropriate by having recourse to specialised training agencies such as the European Police College (CEPOL) and the European Judicial Training Network.

4. Promote cooperation among police forces and prosecution services, in appropriate cases also in the context of Joint Investigation Teams (JIT) dealing with cross-border cases of match-fixing.

5. Ensure that the next orientation document providing guidance on the action of Europol includes a reference to the fight against match-fixing as often being related to areas of serious cross-border crime such as fraud, money laundering, corruption or organised crime.

6. As regards betting related match-fixing, ensure that national gambling regulators have the necessary expertise, resources and tools to deal with it and consider giving them a role as intermediaries between sports organisations and betting operators, e.g. in the collection of data about suspicious betting activities or patterns. In particular, ensure that gambling regulators, in cooperation with the sport movement identify sport-specific risks with regard to gambling.

7. Propose that the betting operators provide information about suspicious betting activities or patterns such as the relevant betting data (e.g. through early warning systems) to the gambling regulators and/or the sport organisations and –if appropriate – to the law enforcement and juridical authorities, in conformity with the applicable national and international regulatory framework.

8. Propose the necessary measures to ensure that existing codes of conduct and rules on betting bans for certain categories of individuals (athletes and their entourage; sport agents; coaches; referees; executives, managers and employees of sport associations/clubs, federations and betting companies, etc) are adequately enforced, for example by voiding bets placed by those individuals in breach of their obligations.

9. Consider that national gambling regulators determine which types of bets and/or competitions present a higher risk for the integrity of sport, and which competitions are more vulnerable in this respect**,** based on existing evidence and data in accordance with applicable legislation.

10. Ensure that betting on sport competitions involving only athletes below the age of 18 may be restricted.

11. Promote an appropriate dialogue and flow of relevant information between organisers of sport events and betting operators prior to the sporting events on which bets are placed, taking into account relevant data protection rules.

12. Encourage that adequate measures - such as limiting access to illegal gambling offers through technological means in accordance with national legislation - are put in place to fight against illegal gambling offers, notably those from third countries (including non-European countries**)**. Cooperation of national gambling regulators and law enforcement agencies with Internet Service Providers and financial institutions may be useful for this purpose.

13. Make the necessary efforts to ensure that bets and customers of betting companies can be properly monitored and identified.

14. Support initiatives at national level aimed at raising awareness and educating sports participants (notably athletes and their entourage at all levels amateur and professional, sport agents, coaches, referees, executives, managers and employees of sport associations/clubs and federations, supporters, etc.) but also other categories of interested stakeholders (law enforcement agencies, public authorities, gambling regulators, betting operators and their customers) as well as the general public about the risks involved in match-fixing.

15. Consider the establishment of a national contact point where all the relevant actors involved in fighting match-fixing can meet, exchange information and coordinate their actions taking into account the relevant legal framework.

16. Propose that in the context of the national framework to fight against match-fixing, adequate protection of witnesses and whistle blowers is considered.

17. Ensure that coordination at international level in the fight against match-fixing is carried out through a suitable forum, e.g. in the context of a possible Council of Europe Convention, and that monitoring of different actions undertaken by the various stakeholders is in place.

18. Consider including the protection of integrity of sport and the fight against match-fixing as items in relevant bilateral agreements and contacts with third countries (including non-European countries).

5. INVITES THE EUROPEAN COMMISSION TO:

1. Pursue the support of exchanges of good practices and networking in the area of prevention of match-fixing, initiated with the 2012 Preparatory Action 'European Partnerships on Sport', by facilitating the sharing of experiences carried out at national and European level and providing EU added value in this area. This may be done in the framework of the Sport Chapter of the proposed 'Erasmus for All' Programme.

2. Establish a group of gambling regulators with a view to exchanging expertise with regard to, inter alia, prevention of betting related match fixing including the international dimension of the problem. Relevant stakeholders such as public authorities, law enforcement agencies, sport organisations and betting operators could be invited to the meeting of the group.

3. As regards betting related match-fixing, ensure that it is included as a topic for political discussion with third countries (including non-European countries) and the competent international organisations in the field of sport, notably international federations. The Commission, with the assistance of relevant stakeholders and Member States, should identify which countries raise specific issues in terms of betting-related match-fixing affecting sport events taking place within the EU and consider the most appropriate action, including through international agreements.

4. Consider strengthening judicial cooperation mechanisms with third countries, notably with countries that raise specific issues in terms of betting-related match-fixing affecting sport events taking place within the EU if challenges in cooperation with third countries could not be met efficiently by Member States.

5. Consider asking Member States for negotiating directives to join on behalf of the EU, alongside Member States, the negotiations on a possible European Convention against the manipulation of sport results, to be launched under the auspices of the Council of Europe.

6. Consider launching further studies to explore issues of relevance for the fight against match-fixing. Relevant topics that could be covered by such studies include a detailed examination of data protection rules in the context of possible sharing of information among stakeholders (sport movement, betting operators, gambling regulators, law enforcement agencies) at EU level as well as the ethical aspects of match-fixing.

7. Consider making, at the appropriate time, and as requested by Council in November 2011, a proposal in the light of the results of various studies, and the work of the Expert Group 'Good Governance in Sport' as well as activities carried out within different international forums, for a Council Recommendation on combating match-fixing.

6. INVITES THE SPORT MOVEMENT, HAVING REGARD TO THE AUTONOMY OF SPORT ORGANISATIONS, TO:

1. Implement at both professional and grassroots level wide-ranging preventive measures to alert all relevant actors about the danger that match-fixing represents for the integrity of sport. Preventive measures which can be implemented by the sport movement involve the following:

   a. Drawing up Codes of Conduct targeting the relevant actors (athletes and their entourage at all levels, both amateur and professional**;** sport agents, coaches, referees, executives, managers and employees of sport associations/clubs and federations, supporters, etc.) and including provisions about reporting suspicious cases;

b. Including clauses laying down provisions against involvement in episodes of match-fixing in the contracts of professional players;

c. Drafting manuals explaining the basics of match-fixing, how to avoid it and what to do to report suspicious cases, for the attention of different sport stakeholders;

d. Setting up at the level of international and national sport federations binding rules regarding the treatment/investigation of suspicious cases. These rules should be capable of being applied and enforced and should contain clear responsibilities;

e. Putting in place a mechanism and a procedure allowing for whistle blowers to confidentially report cases **(**or attempts**)** of match-fixing (e.g. by designating an independent spokesperson/trusted person who is respected by the relevant target groups); such reporting should be taken into consideration by the relevant sporting judicial authority in the context of sanctions related to the reported cases;

f. Organising awareness raising and educational activities for athletes and their entourage at all levels, amateur and professional; sport agents, coaches, referees, executives, managers and employees of sport associations/clubs and federations etc. (e.g. face-to-face training; incorporation of educational modules into basic and advanced training for coaches and instructors) about the threats that match-fixing represents for their personal careers, for the integrity of sport and for the financing of sport.

g. Liaising with relevant national authorities, including gambling regulators, on exchange of information, e.g. collected with the help of early warning systems, to assist collaborative work and investigations to promote effective prevention, disruption and deterrents.

2. Ensure that sporting sanctions are in place to deter episodes of match-fixing. Sporting sanctions should be dissuasive and effective and, at the same time, remain proportionate and in line with relevant national and EU law provisions.

3. Take such other measures as it sees fit at all relevant levels of the sporting chain in order to assist in preventing episodes of sporting fraud, notably match-fixing, including exchange of best practices (e.g. measures to ensure sound financial management by associations, clubs and federations, including the payment of players in conformity with their contracts, measures to prevent individual actors including sponsors or investors from having too much influence on associations/clubs notably by establishing rules to avoid conflict of interest situations, and measures to strengthen democratic structures and transparency at the level of federations, associations and clubs).

ANNEX TO ANNEX I

1. The Commission Communication on developing the European Dimension in Sport[6]
2. The Commission's Green Paper on On-line Gambling in the Internal Market[7]
3. The Commission Communication on fighting corruption in the EU[8]
4. The Commission Communication 'Towards a comprehensive European framework for online gambling'[9]

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[6] Doc. 5597/11 - COM(2011) 12 final.
[7] Doc. 8313/11 - COM(2011) 128 final.
[8] Doc. 11237/11 - COM(2011) 208 final.
[9] Doc. 15737/12 - COM(2012) 596 final.

ANNEX II

STATEMENT BY MALTA

Item 18: Presidency conclusions on establishing a strategy to combat the manipulation of sport results

Malta has strong reservations on section 4 paragraph 12 since the use of the enforcement measures mentioned are not limited to addressing illegal online gambling offers coming from non-EEA countries. Malta primarily considers that there is no evidence to show that manipulated events also result from regulated online gambling sites from within the EEA.. Secondly, Malta considers that since gambling is a service, any measures which restrict the freedom to provide services must be in compliance with the Treaties. Therefore any national regulatory framework and measures used to enforce it which restrict the freedom to provide services, must be justified, necessary and proportionate, in accordance with the case of law of the Court of Justice of the EU.

Therefore Malta cannot accept a blanket statement which accepts the use of enforcement measures against operators from the EEA unless the national regime and the enforcement measures used are determined to be compliant with EU law. Furthermore the adequacy of such technological measures also needs to be analysed in the light of the need to respect fundamental rights.

Malta considers that these issues should be analysed within the Regulatory Expert Group referred to by the European Commission in its Communication entitled 'Towards a comprehensive European Framework for online Gambling.