



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

From: Council General Secretariat
to: Working Party on Sport

Subject: Draft 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

In preparation for the Working Party on Sport of 15 April 2013, delegations will find attached a compromise text on the above subject.

Draft

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 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 negotiation process is based on the decision CM/Del/Dec/1145/8.1 of the Committee of Ministers of the Council of Europe dated 13 June 2012, following Resolution No. 1 adopted by the 12th Council of Europe Conference of Ministers responsible for Sport which indicates that the scope of the draft instrument and its provisions should be based on Recommendation CM/Rec(2011)10, and on the feasibility study MSL12 (2012) 4 rev3.

The aim of the negotiating process is to present the Committee of Ministers of the Council of Europe with a draft convention which, depending on the Committee of Ministers' decision, will be finalised as a convention and submitted to the Parliamentary Assembly of the Council of Europe for opinion, or referred to EPAS to be finalised as a non-binding legal instrument.

As the negotiations will cover matters which fall partly within the Union's competence and partly within the Member States competence, the Union should participate in these negotiations together with its Member States.

HAS ADOPTED THIS DECISION:

Article 1

[...]

The Commission is hereby authorised to negotiate, on behalf of the European Union, on the matters falling within the Union's competence [...] an international convention of the Council of Europe to combat the manipulation of sports results as set out in the negotiating directives annexed to this Decision.

Member States may attend negotiations and negotiate on matters falling within their competence.

Article 2

The negotiating directives are set out in the Annex.

Article 3

Persuant to Article 1 the negotiations shall be conducted in consultation with the Council Working Party on Sport, reinforced by experts from other Council Working Parties as appropriate.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President

**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 the 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 provisions of the future Convention may **concern** the following competency areas of the Union:

1. **Promotion of fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen.**
2. Internal Market freedoms (freedom to provide services and right of establishment) insofar as they relate to the relevant provisions on match-fixing and sports betting in the draft Convention.
3. Judicial cooperation in criminal matters and police cooperation in so far as these relate to the manipulation of sports results
4. Data Protection **in relation to the above areas.**

In relation to these four areas, the European Union, represented by the Commission, will participate in the negotiations with the following objectives, while respecting the division of competences:

1. To take into account EU policy in the field of the promotion of fairness and openness in sporting competitions and the protection of the moral integrity of sport or sportspeople through the protection of the integrity of sport against the manipulation of sports results, in particular:
 - a. The Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on a European Union Work Plan for Sport for 2011-2014¹;
 - b. Council conclusions on combating match-fixing²;

2. To ensure that the provisions of the future Convention: [...]
 - Are not incompatible with the EU rules concerning the right of establishment and free movement of services in relation to gambling and betting, with reference to the Treaty on the Functioning of the European Union, and in particular Articles 49 and 56 thereof, and to ensure that the relevant provisions of the future Convention do not hinder the exercise of these freedoms;
 - Address sports betting only insofar as it directly relates to the manipulation of sports results;
 - Do not aim to or do not effectively result in the harmonisation of the regulation of betting services without such rules having first been adopted by the Union.

EU policy as defined in the Council conclusions on the framework for gambling and betting in the EU Member States of 10 December 2010 should [...] be taken into account during the negotiations.³

¹ OJ C 162, 01.06.2011, p. 9.

² OJ C 378, 23.12.2011, p. 1.

³ PL, MT, FR would delete this reference.

3. To ensure that the provisions of the future Convention are not incompatible with the rules adopted by the Union in the field of judicial cooperation in criminal matters and police co-operation, in particular:
- a. The Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector⁴;
 - b. The Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on the European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union⁵
 - c. Council Framework Decision 2006/960/JHA of 18 September 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union.
 - d. Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems⁶.
 - e. Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.
 - f. Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters (taking into consideration the Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European parliament and the of the Council regarding the European investigation Order in criminal matters).

To ensure that the provisions of the future Convention in the area of judicial cooperation in criminal matters and in the area of police cooperation make reference to the application of existing relevant international and regional instruments and arrangements. If, in the course of negotiations, it becomes clear that it is not possible to reach agreement on such a reference, the Commission should consult with **the Council Working Party on Sport**.

⁴ OJ L 192, 31.07.2003, p. 54.

⁵ OJ C 197, 12.07.2000, p.1.

⁶ OJ L 69, 16.3.2005, p. 67.

4. To ensure that the provisions of the future Convention are **not incompatible** with the rules adopted by the Union in the field of Data Protection, in particular:
- a. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁷;
 - b. Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters⁸

The Commission shall consult the Working Party on Sport before each negotiating and/or drafting session at the Council of Europe and to report on proceedings after each negotiating and/or drafting session to the Working Party on Sport.

Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in the context of the negotiations on this convention.

The Commission shall ensure that the future convention allows for the application of higher standards stipulated in EU instruments as regards relations between the EU Member States.

⁷ OJ L 281, 23.11.1995, p. 31

⁸ OJ L 350, 30.12.2008, p.60