



## UEFA's response to the EC Green Paper on Online Gambling

- The size and scope of the on-line betting market is increasing rapidly and with this development there are also increased risks to the integrity of sport, in particular, as a result of match-fixing linked to betting. As the market for on-line gambling grows, it is necessary to have a regulatory response that protects the integrity of sport and which also recognises the contribution that sport makes to the profits of the on-line gaming industry.
- UEFA has developed and finances a number of concrete initiatives designed to protect the integrity of football in Europe. This is an absolute priority for UEFA, however, the challenges in carrying out this task cannot be over-stated.
- Match-fixing, which is often linked to organised crime, cannot be tackled by sports bodies and/or the betting industry alone. It is necessary to forge a close working relationship between the sports authorities and the state authorities to tackle the problem effectively.
- All Member States in the EU should establish "sporting fraud" as a specific criminal offence in their national law and should devote appropriate resources to the investigation and prosecution of this offence, working in close cooperation with the relevant sporting authorities.
- Police cooperation involving all Member States' competent authorities should be facilitated to prevent, detect and investigate match-fixing. At the same time, judicial cooperation between national investigating and prosecuting authorities should be encouraged. Member States could consider dedicated prosecution services with primary responsibility for investigating sports fraud cases.
- Close cooperation involving information exchange between Member States police, investigating and prosecuting authorities, on the one hand, and sports governing bodies, on the other hand, is essential. This would support sports bodies in the prosecution of disciplinary cases whilst at the same time allowing state authorities to benefit from their specialised knowledge in order to investigate and prosecute crime.
- The EU should promote the common recognition in all EU Member States of sports bodies' right to be compensated by betting operators who use sporting competitions for their own commercial purposes. This is not only to secure a fair financial return to sport, but also as a means to strengthen the fight against match-fixing. It is only fair that the betting industry contributes financially to the funding of measures needed to fight betting manipulation of sports events, particularly when the threat to the integrity of sport increases as a result of the explosion in on-line gambling services.
- UEFA calls on the European Commission to address these points as a concrete follow-up of its Green Paper.

## 1. Introduction

- 1.1. UEFA welcomes the opportunity to contribute to the European Commission Green Paper on online gambling in the Internal Market. We hope that this will provide an opportunity to explain the pressures facing football today from the growth of online sports betting and the resulting threat of match-fixing.
- 1.2. UEFA is the governing body for football in Europe with a membership comprising 53 national football associations. Our mission is to develop European football at all levels in a spirit of peace, understanding and fair play and to deal with all questions relating to European football.
- 1.3. Article 2 of UEFA's statutes states that our objectives include the following:
  - e) prevent all methods or practices which might jeopardise the regularity of matches or competitions or give rise to the abuse of football;
  - g) redistribute revenue generated by football in accordance with the principle of solidarity and to support reinvestment in favour of all levels;
  - k) act as a representative voice for the European football family as a whole
- 1.4. UEFA organises 15 international football competitions, the most prestigious of which being the *UEFA European Football Championship* (played once every four years between European national teams), the *UEFA Champions League* and the *UEFA Europa League* (premier European club competitions played every year).
- 1.5. The exploitation of commercial rights to these competitions is the main source of income for UEFA. By re-distributing revenues generated by these competitions, and by directing a proportion of it to the grassroots, UEFA is able to promote the development of football at all levels.
- 1.6. In Europe, football is the main sport on which bets are offered and collected. As such, the online gambling market (annual revenues in excess of about €6,16bn in 2008<sup>1</sup>) presents an increasing challenge for UEFA. New types and forms of gambling generally lead to increased risks of fraud or corruption (e.g. betting exchange, live or in-play betting, spread betting, etc.). It is also now possible to bet on individual events or actions during a match (e.g. first yellow card, etc.) which can also present a higher risk of fraudulent practice.
- 1.7. UEFA has a clear interest in protecting the integrity of football and also in ensuring that the sport receives a fair return from the on-line gambling sector. Our submission will focus on these two main issues, which are crucial for the future health of European football, as highlighted by Resolutions adopted by the Professional Football Strategy Council in 2010<sup>2</sup> and 2011<sup>3</sup>.

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<sup>1</sup> EC Green Paper on online gambling in the Internal Market, COM(2011) 128 final, p.3

<sup>2</sup> Professional Football Strategy Council, Resolution on match-fixing, 27 August 2010

<sup>3</sup> Professional Football Strategy Council, Resolution on betting, 10 March 2011

## 2. UEFA's initiatives to prevent match-fixing related to gambling

UEFA has developed and finances a number of concrete initiatives designed to protect the integrity of football in Europe, which are described in more detail below. In this context, it is worth noting that betting operators do not participate at all in the financing of the various preventive mechanisms established by UEFA (Education Programmes, Betting Fraud Detection System, Integrity Officers, Integrity Hotline), although these systems have been set up as a direct consequence of the dramatic increase in betting related activities.

### 2.1. Disciplinary Regulations

2.1.1. UEFA has enacted Disciplinary Regulations, applicable to the competitions that it organises, to combat the risk of match-fixing.

2.1.2. Article 6 of UEFA's General Terms and Conditions for Referees requires a referee to report to UEFA any approach, failing which he will risk disciplinary sanctions:

Any Referee who is the target or considered to be the target of attempted bribery shall notify UEFA immediately.

2.1.3. In addition, the assignments of referees are now made only shortly before each round of matches.

2.1.4. Interested parties may not place bets on the competitions they participate in. Thus, Article 5 of the UEFA Disciplinary Regulations reads as follows:

Member associations, clubs, as well as their players, officials and members, shall conduct themselves according to the principles of loyalty, integrity and sportsmanship. For example, a breach of these principles is committed by anyone (...) who participates directly or indirectly in betting or similar activities relating to UEFA competition matches, or who has a direct or indirect financial interest in such activities.

2.1.5. Sanctions (including lifetime bans from football) have been imposed in cases where players, officials or referees were found guilty of breaching these provisions (e.g. *FK Pobeda, Zabrcanec and Zdraveski v UEFA, CAS 2009/A/1920*; *Oriekhov v UEFA, CAS 2010/A/2172*).

2.1.6. The new UEFA Disciplinary Regulations (2011) now require that:

1. All persons bound by UEFA's rules and regulations must refrain from any behaviour that damages or could damage the integrity of matches and competitions organised by UEFA and they must cooperate with UEFA at all times in its efforts to combat such behaviour.

2. A breach of these principles is committed, for example, by anyone:

a) who acts in a way that is likely to exert an influence on the course and/or the result of a match or competition by means of behaviour in breach of the statutory objectives of UEFA with a view to gaining an advantage for himself or a third party.

b) who participates directly or indirectly in betting or similar activities relating to UEFA competitions matches or who has a direct or indirect financial interest in such activities;

c) who uses or provides others with information which is not publicly available, is obtained through his position in football and damages or could damage the integrity of a UEFA match or competition;

d) who does not immediately and voluntarily inform UEFA is approached in connection with activities aimed at influencing the course and/or result of a match or competition;

e) who does not immediately and voluntarily report to UEFA any behaviour he is aware of that falls within the scope of this article.

2.1.7. This illustrates the “zero tolerance” approach that UEFA takes towards match-fixing.

## **2.2. Education Programmes**

2.2.1. UEFA has established education programmes for players, referees and match officials to inform, educate and provide them with general advice on the issues surrounding sports betting, including risks they may encounter and ways in which they can report suspicious approaches. Briefing sessions and workshops are organised all year long alongside UEFA tournaments. Particular attention is given to youth competitions.

2.2.2. It is vital that players, officials and referees are made fully aware of the anti-fraud rules, including their duty to report improper approaches. Where there is a comprehensive knowledge and understanding of the relevant risks, incidents of attempted match-fixing can better be prevented.

## **2.3. Betting Fraud Detection System**

2.3.1. UEFA operates a betting fraud detection system (BFDS), which monitors and analyses betting activities on about 30,000 matches in Europe each year (UEFA competitions and top two domestic divisions and Cup competitions of our member associations). The system is fully operational since season 2008/2009.

2.3.2. The BFDS highlights irregular betting movements both pre-match and in-game (live) in all key betting markets (Asian handicap, Totals and 1X2) from all major European and Asian bookmakers.

2.3.3. This anti-fraud system collects information, investigates suspicious matches and prepares potential disciplinary cases with a view to preventing and combating sports fraud.

## **2.4. Agreements with the betting industry**

2.4.1. UEFA has signed memoranda of understanding with betting associations (e.g. European Lotteries) and major betting companies (e.g. Betclic), under which the betting organisations agree to provide information in order to assist the identification and investigation of suspicious betting patterns.

2.4.2. Although a positive step, it is clear that some of these voluntary arrangements need to be reinforced as they are not providing the expected degree of cooperation (e.g. ESSA).

## **2.5. Integrity officers**

- 2.5.1. Recently, UEFA has established a network of Integrity Officers throughout its 53 national associations.
- 2.5.2. As well as acting as liaison officer for cooperation between the football authorities and state law enforcement agencies in relation to suspected match-fixing, the Integrity Officer will exchange information and experience with the UEFA administration regarding the prosecution of corrupt or criminal practices affecting football, monitor disciplinary proceedings and coordinate action in this sphere, and organise educational programmes for players, referees and coaches as part of an effective preventive strategy to combat match-fixing.
- 2.5.3. UEFA's own Integrity Officer will work alongside his or her national counterpart in a mutually supportive manner. In this connection, the UEFA Integrity Officer will support the operation of the network, as well as oversee intelligence gathering and information and experience exchange, all with the aim of ensuring that European football is best able to tackle the threat of match-fixing in an efficient, coordinated and professional manner.

## **2.6. Integrity Hotline**

- 2.6.1. UEFA has a secure telephone line where players, referees, match officials etc. could report alleged or suspected instances of match-fixing.
- 2.6.2. The intelligence thus gathered can be used as evidence in a disciplinary or criminal investigation and may establish suspicions which could lead to initiating further investigations.

## **3. Links between match-fixing in relation to betting activities and organised crime**

### **3.1. Precedents**

- 3.1.1. The Commission Green Paper identifies a type of sports fraud when it refers to <sup>4</sup>:

Manipulation of the outcome through corruption of persons involved in organising the game or event

- 3.1.2. Further, the European Commission seems to suggest that<sup>5</sup>:

Online gambling could be used for money laundering purposes.

- 3.1.3. However, risks associated with online gambling in sport may go further than simply money laundering: Match-fixing may be linked to wider criminal activity, such as fraud, illegal betting cartels, human or drug trafficking or other serious organised crime.

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<sup>4</sup> EC Green Paper on online gambling in the Internal Market, p. 26

<sup>5</sup> EC Green Paper on online gambling in the Internal Market, p. 27

- 3.1.4. An increasing number of match-fixing incidents (often related to gambling) creates concern over the extent of this phenomenon in Europe. There is a fear that the manipulation of sports results has become a favoured practice among criminal organisations. Because of its popularity and virtually universal visibility, football tops the list of sports that have been targeted. The proliferation of betting opportunities (fuelled by the development of the on-line betting industry) magnifies the problem and the related risks. Some examples include the following:
- 3.1.5. In 2005, the so-called *Hoyzer* case was widely publicised in Germany. A referee acted as an intermediary for criminal networks in order to influence match results in the second division football championship.
- 3.1.6. During the same year, suspicious betting patterns in Belgium enabled local judicial authorities to uncover football matches that had been fixed by an Asian criminal network.
- 3.1.7. Since 2009, investigations into the activities of criminal organisations have revealed fixed football matches in Austria, Belgium, Bosnia & Herzegovina, Croatia, Germany, Hungary, Slovenia, Switzerland and Turkey. Criminal proceedings are pending in Bochum against individuals with connections to criminal organisations in Eastern Europe. Prison terms have been handed down to the three main suspects in this case.
- 3.1.8. In 2009, the Bulgarian authorities discovered close links between local football clubs and criminal organisations which were principally involved in illegal betting and match-fixing.
- 3.1.9. During the same year, Latvian club FK Dinaburg Daugavpils was excluded from its league after the club was convicted of repeated match-fixing in relation to domestic and international matches. Both betting patterns and subsequent disciplinary proceedings demonstrated that some of the matches were manipulated for betting purposes. It is very likely that betting syndicates and crime groups were involved in this case.
- 3.1.10. In 2009 and 2010, matches were fixed in Finland for betting purposes. Criminal trials this year revealed bribes paid to players by an individual who is said to be part of an important betting syndicate involved in match-fixing around the world.
- 3.1.11. After suspicious betting was detected in two UEFA matches between FYR Macedonian FK Pobeda and Armenian FC Pyunik in 2004, investigations strongly suggested that criminal groups had infiltrated the FYR Macedonian side to influence the outcome of the fixture. In an award in 2010, the Court of Arbitration for Sport (CAS) upheld the decision of the UEFA Control and Disciplinary Body to impose a lifetime ban on the President of FK Pobeda, who actively participated in fixing the games. The club itself was banned from taking part in any European competition for a period of 8 years.
- 3.1.12. In February 2011, FIFA opened an investigation into a friendly football tournament between national teams organised in Turkey. This event has been shrouded by serious suspicions of illegal betting and match-fixing.

3.1.13. In Greece, the current match-fixing scandal is likely to involve as many as 90 people. They are to be charged and prosecuted for their involvement in the manipulation of matches mostly in the Greek Cup and Greek Division two.

3.1.1. Italy is the latest country to be affected by match-fixing scandals due to betting operations on domestic league matches, including licensed state betting operators. Again, organised crime may be involved.

## **3.2. Acknowledgement by International and European public authorities**

3.2.1 Many political institutions have acknowledged that organised crime is often the force behind the betting scandals.

3.2.2. In the present Green Paper, the European Commission has put an emphasis on the manipulation of sports competitions linked to betting activities orchestrated by criminal organisations<sup>6</sup>:

Sports events on which sports betting can be organised may, due to criminal activities, be subject to a higher risk of match fixing (...). Criminal organisations based in China or Croatia have been involved in match fixing in Belgium, Germany and Finland.

3.2.3. The Commission made the same observation in its Communication on sport of 18 January 2011<sup>7</sup>:

International criminal networks play a role in match-fixing associated with illicit betting.

3.2.4. In a Resolution on the Integrity of online gambling adopted in 2009 (*Schaldemose* report)<sup>8</sup>, the European Parliament mirrored the same concern:

6. Notes that criminal activities, such as money-laundering, and black economies can be associated with gambling activities and impact on the integrity of sports events;

3.2.5. Recently, Members of the European Parliament highlighted again that crime syndicates may be involved in sports betting activities in a question to the European Commission<sup>9</sup>:

(...) Match fixing is often linked to clandestine betting and corruption and generally involves international criminal networks.

3.2.6. For its part, the Financial Action Task Force (FATF) has come to the same conclusion<sup>10</sup>, whilst highlighting the use of betting activities by criminal organisations in order to launder money:

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<sup>6</sup> EC Green Paper on online gambling in the Internal Market, p. 31

<sup>7</sup> EC Communication, 'Developing the European Dimension in Sport', 18 January 2011, COM(2011) 12 final

<sup>8</sup> European Parliament resolution of 10 March 2009 on the integrity of online gambling (2008/2215(INI))

<sup>9</sup> Question for written answer to the Commission E-001290/2011 submitted on 17 February 2011 by Iva Zanicchi, Salvatore Iacolino, Marco Scurria, Carlo Fidanza, Seán Kelly, Gay Mitchell, Santiago Fisas Aixela, Piotr Borys, Cătălin Sorin Ivan and Marc Tarabella.

<sup>10</sup> Financial Action Task Force report on 'Money Laundering through the Football Sector', July, 2009, § 84, p.25,

The gambling market makes betting an interesting money laundering vehicle for criminals.

- 3.2.7. In summary, match-fixing appears to be increasingly orchestrated by serious criminal organisations, with the resulting profits feeding other criminal networks. It is obvious that sports bodies do not have the necessary investigative powers or competence to deal with such matters and that a strong and structured cooperation with state law enforcement is essential.

#### **4. Specific criminal provisions dealing with match-fixing**

##### **4.1. Need for EU (State) intervention**

- 4.1.1. The Green Paper on online gambling seems to suggest that national legislation is needed to address match-fixing:

All Member States seek to prevent fraud (...). National legislation aims to protect (...) event organisers. Examples include: (...) 'match-fixing' (event-fixing where an individual, a group of persons (typically associated with organised crime) seek to influence the outcome of an event (e.g. a sports event).

- 4.1.2. In recognition of the growing problems associated with match-fixing, some EU Member States have introduced a specific criminal offence dealing with the manipulation of the result of a sporting competition. At present, Italy<sup>11</sup>, Bulgaria, Poland<sup>12</sup>, Portugal<sup>13</sup>, Spain<sup>14</sup> and the UK<sup>15</sup> have adopted such provisions, whilst France<sup>16</sup> and Germany<sup>17</sup> seem inclined to do so as well. Nevertheless, there is no consistent definition of what constitutes "sports fraud" or of the penalties that should be imposed if it occurs. In the opinion of UEFA, "sports fraud" can be generally defined as the deliberate manipulation of the result of a sporting competition (or any phase of play) with the aim of obtaining a profit or advantage and not resulting from genuine and fair sporting conduct.
- 4.1.3. As sports fraud is not uniformly recognised as a distinct criminal offence, differences in national legislation and criminal procedures can give rise to inconsistencies in the investigation and prosecution of cases. In many EU Member States, an inadequate legal framework contributes to the persistence of sports fraud, the cross-border nature of which further complicates the situation.

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<sup>11</sup> Legge 401/1989 del 13 dicembre 1989. Interventi nel settore del giuoco e delle scommesse clandestini e tutela della correttezza nello svolgimento di manifestazioni sportive.

<sup>12</sup> Ustawa z dnia 25 czerwca 2010 r.o sporcie, Rozdział 10, Art. 46, 47 & 48. (Articles 46 to 48 of the Polish Sports Act).

<sup>13</sup> Lei n.º 50/2007 de 31 de Agosto 2007 Estabelece um novo regime de responsabilidade penal por comportamentos susceptíveis de afectar a verdade, a lealdade e a correção da competição e do seu resultado na actividade desportiva (Art. 8 to 12).

<sup>14</sup> Ley organica 15/2010 de 22 de Junio de 2010 (Article 286 of Spanish criminal code).

<sup>15</sup> Section 42 of the Gambling Act (2005)

<sup>16</sup> See proposal No. 8 of the ministerial report 'Préserver l'intégrité et la sincérité des compétitions sportives face au développement des paris sportifs en ligne' presented to the French Minister for Sport on 17 March 2011.

<sup>17</sup> Artikel 6 des Gesetz zur Bekämpfung des Dopings und der Korruption im Sport (Referentenentwurf (Stand 30.11.2009))

- 4.1.4. The EU should encourage Member States to establish sports fraud as a specific criminal offence. By bringing national criminal legislation into line, EU intervention would have a positive impact.
- 4.1.5. Such an initiative would deter those involved from committing crimes on the territory of those Member States with the most lenient laws. Furthermore, the use of standard definitions would facilitate the sharing of information and experience as a means to tackle the problem effectively. This would, in turn, simplify international cooperation in this field.

## **4.2. Consensus in favour of EU intervention**

- 4.2.1. In recent times, the institutions of the EU have frequently expressed concerns about the risk to the integrity of sporting competitions, particularly as a result of the evolution of the betting market. Thus, there is now a consensus in favour of a firm and coordinated policy dealing with this matter.
- 4.2.2. In the Green Paper on online Gambling, the European Commission has underlined that the nature of this economic activity significantly increases the risk of illegal activities<sup>18</sup>:

The lack of direct contact between the consumer and the online gambling operator gives rise to different and more substantial risks of fraud

- 4.2.3. In the so-called Santa Casa case (2009), the European Court of Justice mirrored the same concern<sup>19</sup>:

Games of chance involve a high risk of crime or fraud, given the scale of the earnings and the potential winnings on offer to gamblers.

- 4.2.4. Earlier this year, the Council of the European Union adopted a Resolution which identifies the integrity of sport as a priority:

The following themes should be given priority by Member States (...): Integrity of sport, in particular the fight against (...) match-fixing.

- 4.2.5. In 2009, the European Parliament Resolution on the integrity of online gambling (*Schaldemose* report)<sup>20</sup> called for action to protect the integrity of sports competitions linked to betting:

The European Parliament (...)

7. Is of the opinion that the growth of online gambling provides increased opportunities for corrupt practices such as fraud, match-fixing, illegal betting cartels and money-laundering, as online games can be set up and dismantled very rapidly and as a result of the proliferation of offshore operators; calls on the Commission, Europol and other national and international institutions to closely monitor and report on findings in this area.

- 4.2.6. The Parliament again demonstrated the importance it attaches to this issue with a written question recently put to the European Commission by ten MEPs<sup>21</sup>:

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<sup>18</sup> EC Green Paper on line gambling in the Internal Market, p. 12

<sup>19</sup> ECJ, Case 42/07, *Liga Portuguesa de Futebol Profissional & Bwin*, ECR 2009, 7633, para. 63.

<sup>20</sup> European Parliament resolution of 10 March 2009 on the integrity of online gambling (2008/2215(INI))

Falsifying the results of matches undermines the social and education function of sport and distorts sporting ethics at both professional and amateur levels as it directly threatens the integrity of sporting competitions (...). Does the Commission intend to encourage the Member States to take drastic steps with regard to the crime of sports fraud? Will it call on the Member states to move towards a harmonisation of the penalties applicable to sports fraud crimes?

4.2.7. The Commission came to the same conclusion in its Communication on sport (2011)<sup>22</sup>:

Match-fixing violates the ethics and integrity of sport. Whether related to influencing betting or to sporting objectives, it is a form of corruption (...). Due to the worldwide popularity of sport and the trans-frontier nature of betting activities, the problem often goes beyond the remit of national authorities.

4.2.8. In a Communication on Corruption recently adopted<sup>23</sup>, the Commission reflects the opinion that measures should be taken to establish sports fraud as a specific criminal offence:

The Commission will analyse possible solutions to address match-fixing more effectively by first launching a study on how corruption in sport is being covered in national legislation. This may offer grounds for further policy actions in this area, such as possibly establishing minimum rules concerning the definition of criminal offences in this field.

4.2.9. The Council of Europe, in a Resolution of 22 September 2010<sup>24</sup>, invited Member States to establish the manipulation of sports results as a criminal offence:

11. Every government should ensure that its legal and administrative systems are given the most appropriate and effective national legal means of combating manipulation of sports results. To give an example, legal measures on combating "manipulation of sports results" could be introduced into the existing body of legislation, in, for example, the penal code. Such measures could also be adopted as part of a specific sports law, and/or the law concerning the fight against bribery.

12. Legislation should proscribe as criminal or other offences a number of acts related to "manipulation of sports results", in accordance with the fundamental principles of domestic law. Governments are invited to consider whether their legislation covers intentional manipulation of sports results and, where appropriate, take such legislative and/or other measures as may be necessary.

4.2.10. Thus, it is fair to say that the major political institutions in Europe share the opinion that measures can and should be taken to encourage EU Member States to establish sports fraud as a criminal offence and tackle it effectively in a consistent manner.

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<sup>21</sup> Question for written answer to the Commission E-001290/2011 submitted on 17 February 2011 by Iva Zanicchi, Salvatore Iacolino, Marco Scurria, Carlo Fidanza, Seán Kelly, Gay Mitchell, Santiago Fisas Ayxela, Piotr Borys, Cătălin Sorin Ivan and Marc Tarabella

<sup>22</sup> Communication of the European Commission, 'Developing the European Dimension in Sport', 18 January 2011, COM(2011) 12 final

<sup>23</sup> Communication of the European Commission, 'Fighting corruption in the EU', 6 June 2011, COM(2011) 308 final

<sup>24</sup> Resolution on the promotion of the integrity of sport against the manipulation of results (match-fixing) (IM18 (2010) 7) adopted at the 18th Council of Europe Informal Conference of Ministers responsible for sport on 22 September 2010 in Baku, Azerbaijan.

### 4.3. Legal basis for EU intervention

4.3.1. Since the entry into force of the Lisbon Treaty, Article 83 TFEU allows the EU to pass measures to harmonise the member states' corruption prosecution policies:

1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

4.3.2. This provision could provide a legal basis to define sports fraud at a EU level. Member States could ensure that the fraudulent manipulation of results for financial or other advantage is prohibited by establishing as a criminal offence any threat to the integrity of competitions, including those linked to betting operations. This should result in the adoption of effective and dissuasive sanctions within the national laws of the Member States.

4.3.3. Furthermore, this would help to reduce or eliminate obstacles to investigations and prosecutions encountered in cross-border cases and ensure that sanctions are effective and enforceable in all EU Member States.

4.3.4. To help ensure the effective investigation and prosecution of sports fraud, it would also be necessary to facilitate police and judicial cooperation as well as collaboration with the relevant sports bodies. The EU also has the necessary basis to act here.

4.3.5. For example, Article 87 TFEU provides as follows:

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning:

(a) the collection, storage, processing, analysis and exchange of relevant information;

(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;

(c) common investigative techniques in relation to the detection of serious forms of organised crime.

4.3.6. Thus, close cross-border cooperation, including the sharing of information and best practice, as well as continued open dialogue between the police, judicial

and even financial authorities of the Member States, could and should be established.

- 4.3.7. The coordination of investigations can and should be facilitated by cooperation with Europol, the mission of which is defined by Article 88 TFEU:

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

- 4.3.8. By the same token, the coordination of prosecutions could be encouraged by means of enhanced cooperation with Eurojust, whose role is defined by Article 85 TFEU:

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

- 4.3.9. Finally, it may be possible to set up joint investigation teams and implement EU Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflict of jurisdiction in criminal proceedings<sup>25</sup>.

- 4.3.10. Sports fraud cases warrant special investigatory measures, since it may be necessary to conduct investigations on the basis of suspicions, in some cases even where there is little tangible evidence that an offence has been committed. Those responsible for investigating and prosecuting such offences should have access to the investigative tools generally used against organised crime. This would include interception of communications, seizing of material, covert surveillance, monitoring of bank accounts and other financial investigations.

- 4.3.11. EU Member States could therefore introduce common standards for the collection of evidence, special investigative techniques and protection for "whistleblowers", victims and witnesses of fraud with a view to facilitating the detection, investigation, prosecution and adjudication of corruption cases. Taken together, these elements are solid reasons for the designation of a prosecution service, at national level, with staff specially trained to this end. This service could then be shared with an office at European level, such as the anti-corruption network<sup>26</sup>.

## **5. Need for cooperation between sports bodies and public authorities**

- 5.1. State authorities should work in close cooperation with sports bodies who can share their own specific industry knowledge and expertise to help assist in the detection and prosecution of serious crime. At the same time, disciplinary measures taken by the sporting authorities (often using information made available as a result of a state criminal investigation) can serve as an effective

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<sup>25</sup> OJ L328 of 15.12.2009

<sup>26</sup> Introduced by Council Decision 2008/852/JHA of 24 October 2008 on a contact-point network against corruption of 25.10.2008, OJ L301 of 12.11.08

deterrent for those in the sporting community (for example, via the imposition of life-time bans or other punitive sports disciplinary sanctions).

- 5.2. For example, UEFA has recently created an integrity unit which, in addition to its betting fraud detection system, monitors and analyses betting activities on more than 30,000 matches in Europe each year. This anti-fraud system collects information, investigates suspicious matches and prepares potential disciplinary cases with a view to preventing and combating sports fraud.
- 5.3. Criminal investigations by the state authorities will benefit from having a good insight into the unique features of the sports sector and sports betting markets. It is therefore necessary to establish a means of sharing information between sports disciplinary services and public investigatory and prosecuting authorities.
- 5.4. EU action in this sphere should also facilitate the possibilities for sports bodies to take effective disciplinary measures (such as bans) against those members of the sporting community involved in sports fraud. Indeed, the effective application of sporting sanctions will generally depend on the existence of a close working relationship between sports bodies and state authorities, so information obtained in the context of criminal investigations is made available to sports bodies for the purposes of their own disciplinary procedures.
- 5.5. Such an initiative would facilitate such investigations in a manner fully in line with the European Commission White Paper on Sport (2007)<sup>27</sup>:

The Commission will support public-private partnerships representative of sports interests and anti-corruption authorities, which would identify vulnerabilities to corruption in the sport sector and assist in the development of effective preventive and repressive strategies to counter such corruption.
- 5.6. And finally, it is worth drawing attention to the wording of the new Treaty provision on Sport (Article 165 TFEU) which refers specifically to:

(...) developing the European dimension in sport, by promoting 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, especially the youngest sportsmen and sportswomen
- 5.7. In summary, it is vital that Member States encourage cooperation between their judicial authorities and the sports bodies, by setting up special national networks and contact points to deal with cases of sports fraud, which should be united at EU level. Close cooperation and direct communication between the different parties is essential.

## **6. Recognition of sports bodies' rights to the competitions they organise**

### **6.1. Case for EU intervention**

- 6.1.1. The commercial exploitation of sports competitions provides the main income streams for the funding of European sport. Offering bets on a sporting event

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<sup>27</sup> White Paper on Sport of the European Commission, 11 July 2007, COM(2007) 391 final

is a form of economic exploitation, engaged in by betting companies, for which sports bodies are not properly or fairly remunerated.

- 6.1.2. Sports competitions are the result of intellectual, financial and human efforts on the part of sports bodies and so these same bodies should be entitled to participate fairly in any financial gains generated by third parties as a result of the commercial exploitation of their work.
- 6.1.3. Businesses which profit from the commercial exploitation of sports events, such as broadcasters buying audiovisual rights or sponsors buying advertising opportunities, pay a fair contribution for the benefits they derive from sport. It is only the gambling sector that is presently able to use sporting events for commercial profit with making any payment in return. This is the situation across the EU, with the noteworthy exception of France, which has recently recognised the rights of sports bodies within the context of betting.
- 6.1.4. In most Member States, benefits flow only in the direction of the gambling industry, with the operators giving little if anything back to the sport in an act of economic "free-riding". This is detrimental to the sustainable funding of sport in the EU while, at the same time, creating increased risks and challenges for sport owing to the problem of match-fixing.
- 6.1.5. Recognition of sports bodies' property rights could help contribute to the fight to preserve the integrity of sport. For example, betting companies could be required, as a matter of contract, to report irregular movements in betting patterns, establish integrity mechanisms and exchange information. Such an approach would place greater responsibility on both competitions organisers and betting operators. The legislation that entered into force in France in 2010 may provide a pertinent example in this respect<sup>28</sup>.
- 6.1.6. Protecting sports competitions from any unauthorized commercial exploitation would also enable organisers to determine which aspects of the event may be the legitimate subject of betting and thus reduce the risk of match-fixing and fraud.
- 6.1.7. With the dramatic development of online gambling, the EU needs to consider how to take better account of the importance of sports bodies' property rights in the new context. The EU should, in a measured and coherent fashion, respond to the new situation and help adapt the legal framework to the needs of the modern sports betting environment.

## **6.2. Fair return for sport**

- 6.2.1. Several times over the last few months, both the European Commission and the European Parliament have stated that sports bodies should receive appropriate compensation for the use of their competitions.
- 6.2.2. Indeed, the present Green Paper also appears to acknowledge that sports bodies should receive a fair return for the general commercial exploitation of their events by betting operators<sup>29</sup>:

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<sup>28</sup> Loi n° 2010-476 du 12 mai 2010 relative à l'ouverture à la concurrence et à la régulation du secteur des jeux d'argent et de hasard en ligne

<sup>29</sup> EC Green Paper on online gambling in the Internal Market, p. 31

There is a broad consensus that sport events, on which gambling relies, should receive a fair return from the associated gambling activity.

6.2.3. The Green Paper gives further support to this idea when it states as follows:

When gambling services are offered an organised sport competition, the issue of whether the organisers (sports organisations, teams etc.) should be able to generate an additional revenue stream through such exploitation of their images or events by gambling service providers has been addressed by Member States. Given that without the use of their events the gambling services would not be viable, a fair return for the use of their events is sought. Certain State operators offering sports betting services on professional sports are thus obliged to channel revenues back into grassroots sports and thus help assist the public interest activities of encouraging participation in sporting activities in general.

6.2.4. We have noted, in addition, the following passage of the present Green Paper:

The reliance on gambling revenues to fund public interest activities is organised in various ways. The organisation of company responsible for the public interest activities (...) receives economic compensation for the use of an event it organises and on which bets are placed even if the organisation or company is not involved in the organisation of the gambling activity itself.

6.2.5. In its Communication on sport (2011)<sup>30</sup>, the European Commission recognises that betting activities, run by either private or public operators, should contribute to the financing of sport. For example, it states that:

The contributions can include (...) the exploitation of specific rights (...). Calls to ensure sustainable funding for sport from private and public sources and financial stability of the sport sector should be taken into account when further addressing the provision of gambling services in the Internal Market.

6.2.6. The European Parliament, in its Resolution on the Integrity of online gambling (2009)<sup>31</sup>, endorsed the recognition of sports organisers' right and underlined the need for appropriate mechanisms to ensure fair financial return to sport:

The European Parliament (...) highlights that sports bets are a form of commercial exploitation of sporting competitions, and recommends that Member States protect sporting competitions from any unauthorised commercial use, notably by recognition of a sport organisers right, and put in place arrangements to ensure fair financial returns for the benefit of all levels of professional and amateur sport; calls on the Commission to examine whether it is possible to give competition organisers an intellectual property right (some sort of portrait right) over their competitions.

6.2.7. The European Parliament is also of the opinion that that the recognition of sports bodies' property rights will contribute to preserving the integrity of sport, with a recently adopted written declaration on corruption in sport<sup>32</sup> which:

Calls on the Commission to regulate online betting, in the interests of the integrity and sustainable development of European sport, through (...) ensuring a fair return to grassroots sport through the recognition of a betting right to sports competition organisers

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<sup>30</sup> Communication of the European Commission, 'Developing the European Dimension in Sport', 18 January 2011, COM(2011) 12 final

<sup>31</sup> European Parliament resolution of 10 March 2009 on the integrity of online gambling (2008/2215(INI))

<sup>32</sup> Written Declaration of the European Parliament on 'combating corruption in European Sport', 07/2011

6.2.8. In summary, although there seems to be a broad consensus on the recognition of a fair return for sport, only one Member State (i.e. France) has enshrined such mechanism in its domestic legislation. Therefore, the European Commission should promote the common recognition in all EU Member States of sports bodies' right to be compensated by betting operators who use their competitions to run their own commercial operations, not only as a means to secure a fair financial return to sport, but also as means to strengthen the fight against match fixing. It is only fair that the betting industry should contribute financially to the sports bodies on which they rely and also to the funding of measures needed to fight manipulation of sports events. UEFA hopes that the Commission can address these key issues in the context of the present consultation taking place in connection with the Green Paper on on-line Gambling.

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