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**INTRODUCTORY PAPER ON THEME 2: TOWARDS BETTER GOVERNANCE IN SPORT  
THROUGH ENHANCED CO-OPERATION BETWEEN GOVERNMENTAL BODIES AND STAKEHOLDERS  
IN SPORT**

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### **Synopsis**

At the 13th Council of Europe Conference of Ministers responsible for Sport, the Ministers committed to a zero tolerance policy on corruption in sport. While progress has been made, more systematic efforts are needed, namely at national level and in international federations, to ensure better governance in sport. Governments can play a key role in promoting a culture of good governance, as well as enhanced co-ordination between public authorities and sports organisations through regular dialogue on measures to be implemented and sharing information on compliance with good governance principles.

### **Ensuring good governance in sport to prevent corruption**

The topic of good governance in sport (as defined in Recommendation Rec(2005)8 of the Committee of Ministers to member states on the principles of good governance in sport) has been on the political agenda since the beginning of the nineties. It has been addressed by several international sports organisations, and resulted in a number of sets of principles of good governance and guidelines. The Council of Europe played a pioneering role in this regard; also the International Olympic Committee (IOC), the Association of Summer Olympic International Federations (ASOIF), United Nations Educational, Scientific and Cultural Organization (UNESCO) and the European Union (EU) have developed standards in this regard. In addition, tools such as sets of indicators and means for diagnostics have been developed by academics, the civil society and sports organisations<sup>1</sup>. At national level, national sports organisations have also adopted policies or updated their regulations to implement the principles of good governance throughout sport. The mainstreaming of good governance principles in the management of sports bodies is seen as an appropriate way to prevent and mitigate unethical behaviours including corruption.

The development of governance reforms in sport has mainly been triggered by scandals, to prevent or to react to pressure from stakeholders such as governments, sponsors or umbrella and member organisations. Sports organisations or institutions facing endemic unethical behaviour are not likely to reform themselves, because those leading the governing bodies may have a direct or indirect interest in the lax implementation of good governance principles. External incentives or sanctions are therefore considered important.

The Introductory Note of the 13<sup>th</sup> Conference of Ministers responsible for Sport (September 2014) highlighted a number of recent or alleged cases of corruption in sport<sup>2</sup>. Since then, new cases, notably in the Fédération Internationale de Football Association (FIFA) and International Association of Athletics Federations (IAAF), shocked the sports world triggering an acceleration of further initiatives on the governance in sport. Public reluctance towards major sports events is palpable; it is apparent, for example, when rejecting the hosting of major sports events via a referendum, which due to governance problems, results notably in the damaged reputation of the sports movement's large organisations. It is within this context that the EPAS member states decided to maintain a strong focus on the issue of corruption in sport, and make it the top priority for international co-operation in the field of sports policy. At the request of the Secretary General of the Council of Europe, a task force<sup>3</sup> was set up to involve the relevant Council of Europe entities, namely the Parliamentary Assembly of the Council of Europe (PACE), the Group of States against Corruption

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<sup>1</sup> Document EPAS (2016) INF20 presents an overview of the existing international standards and indicators on good governance in sport.

<sup>2</sup> MSL13(2014)4

(GRECO) and the CDDG (Steering Committee on Democratic Governance), to define the necessary steps to achieve better governance in sport.

The task force reviewed the existing reference frameworks on good governance in sport, most of them originating from reference frameworks of Corporate Governance<sup>3</sup> and Democratic Governance<sup>4</sup>. While there is no unique concept of good governance in sport and it is subject to ongoing review, there is a broad consensus on its key principles, such as democracy, gender balance, stakeholder's involvement, transparency, accountability, solidarity and checks and balances.

The task force concluded that while there was no need for a new set of principles on good governance in sport, the recognition of a common good governance reference by sports organisations and governments, possibly updated in consultation with the relevant stakeholders, is crucial, as well as its effective implementation and monitoring – followed by a possible revision on those areas where shortcomings may be identified.

### **Need for effective implementation**

Despite the fact that good governance in sport is high on the political agenda and that the IOC universal principles of good governance have been enacted in the Olympic Code of Ethics, the implementation of these principles throughout the sports movement is variable. While at national level, some sports umbrella organisations or governments have started to monitor and support a thorough implementation of good governance principles, they are not yet enacted, translated into precise obligations, implemented and monitored to a satisfactory level. Moreover, they have not yet permeated the organisations' cultures. Moreover, better implementation of these principles, *mutatis mutandis*, by specialised organisations playing a key role in sport (WADA and other anti-doping agencies, the Court of Arbitration for Sport, bidding or event organising committees, etc.) is essential.

The 2015 "Sport Governance Observer" (SGO) assessment of the implementation of good governance principles among 35 Olympic International Sports Federations according to four governance dimensions: transparency, democratic process, checks and balances and solidarity, indicates that the SGO index of the 35 federations combined is 45,4% with 26 federations scoring less than 50%. Clearly, the good governance principles are not yet thoroughly implemented at international level.

Such assessments cast light on discrepancies between the sports organisations, help to identify deficiencies and challenge the less advanced organisations to improve their governance. They also advance the debate on the measurement of good governance in sport. For instance, indicators which are largely based on the assessment of structures and processes based on regulations may reflect a distorted picture: organisations may have perfect rules establishing the best possible structures and processes, but these may not be properly implemented in practice (e.g. publication of insufficiently clear financial reports, discrete pressure on independent ethical committees, autocratic functioning within formal democratic processes, etc.). On the other hand, some

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<sup>3</sup> The [G20/OECD Principles of Corporate Governance](#) reflect a consensus on corporate governance.

<sup>4</sup> Democratic Governance principles can be illustrated by the Council of Europe "[12 Principles for good governance at local level, with tools for implementation](#)".

organisations may also have well-established good practices which do not stem from rules (e.g. a regular renewal of their leadership without formal terms limits). Researches on the implementation of good governance principles have revealed that whereby the implementation of good governance principles is certainly a necessary condition to prevent corrupt and fraudulent practices, it is not a sufficient condition. Indeed, FIFA, following a series of recent reforms, got a 67.8% SGO index, second best among the Olympic sports federations. But this has not stopped it from being subject to several scandals. The main causes of corruption in sport are, on the one hand, the phenomenal commercial growth of certain sports organisations which maintain their governance and

#### ASOIF's key governance principles and basic indicators

The International Federations Forum which was held in Lausanne in November 2015, focused on the topic of good governance within international federations. On this occasion, the President of the IOC invited the IFs to work together to develop good governance indicators and an assessment mechanism for them. The report made by ASOIF's "Governance" Task Force proposed a report which was approved by the ASOIF Congress (on behalf of the 28 Summer Olympic Sports Federations) in February 2016. This report recognises five key fields which must be taken into account within the activities, decisions, procedures and rules of international federations:

1. Transparency
2. Integrity
3. Democracy
4. Sport development & solidarity
5. Control mechanisms

These criteria reflect the IOC's Universal Principles of Good Governance.

Around 50 indicators – inspired by the BIGBIS indicators – allow these fields to be rendered operational using assessable measures. The report recommends that IFs implement these measures which are presented as an objective to be reached rather than as a minimum standard. ASOIF has committed to carrying out an initial assessment of the implementation of these indicators between now and the end of 2016 for each of its members, to be undertaken by a group of experts made up of members of the relevant IF, as well as "external" experts appointed by ASOIF.

ASOIF has also asked its IFs to report on the implementation of these indicators by the end of 2016 and to communicate on how often and under what terms the report will be updated.

The key principles of good governance and the basic indicators, as well as the principle of regular assessment, were all welcomed by the seven Olympic Winter Sports Federations (members of AIOWF) even if these federations did not give their backing collectively. The other (non-Olympic) federations have not yet been given the opportunity to take a stand on the proposal drawn up by ASOIF.

It is expected that the principles and indicators may be updated in the light of good practices and with the situation as it develops. These principles, indicators and mechanism are not yet implemented and it is too early to see how effective they can be. However, this initiative by the sports movement is, as far as the IFs are concerned, a first achievement in the commitment towards recommendation 27 of the IOC's Agenda 2020, i.e. for sports organisations to be systematically monitored and evaluated on their good governance.

organisational cultures which were more suited to a not-for-profit association and have not evolved within the new context, and on the other hand, external pressure from governments or other groups, including organised crime syndicates<sup>5</sup>.

The sports movement has not waited for the latest scandals to take measures. In 2009, during the Olympic Congress, it recognised that "The legitimacy and autonomy of the Olympic Movement depends on upholding the highest standards of ethical behaviour and good governance" (recommendation n° 41). In December 2014, the IOC Agenda 2020 identified compliance with the IOC Universal Principles of Good Governance as a priority, foreseeing systematic evaluation of the implementation of good

governance principles in the sports movement (recommendation n° 27). The IOC has paid more attention to the governance of National Olympic Committees, increasing, for instance, its reporting requirements. The somewhat looser ties with International Federations made direct pressure by the IOC more complicated, except in cases where infringements involved persons linked to the IOC. Moreover, ASOIF elaborated a governance framework and made the commitment that its member organisations will be subject to governance (self-) assessment on the implementation of these key governance principles. This initiative from ASOIF may be seen as a starting point to enforce good governance in a systematic way throughout the IFs. It will complement the existing information resources and pressures from governments, sponsors, public opinion and the sports movement itself towards better governance of International Federations. A recent comparative analysis of the IOC

<sup>5</sup> See Geeraert, A. (2016), *The EU in international sports governance. A principal-agent perspective on EU control of FIFA and UEFA*, Basingstoke and New York: Palgrave Macmillan.

universal principles of good governance and the ASOIF Key Governance Principles and Basic indicators<sup>6</sup> pointed out that the compliance with the monitoring process is still unclear and the good governance principles are not yet enshrined in the regulations of the IFs. However, if the ASOIF Key Governance Principles and Basic indicators would be recognised or implemented by all IFs, they may represent a common ground for dialogue on good governance between the international sports movement and the governments.

### **Responsibilities of governments**

Sports organisations which enjoy the right to freedom of association are expected to provide numerous social benefits in an autonomous way, but within the framework of the applicable law. Governments are directly concerned by good governance in sport: for example, they support sports activities and the participation of athletes or teams representing national sports organisations in international competitions; they invest in hosting events or bidding to host events, or public broadcasters buy certain broadcast rights; when they give support, either directly or indirectly, to sport by committing state funding, governments have a duty to ensure that these resources are managed according to their objectives. Generally speaking, investment in sport is supposed to not only return advantages in terms of education, health, joy and inclusive societies, but also to raise their profile on the international stage. While investing in sports, governments bear a responsibility to align their actions with the ethical concerns which they themselves codified, as reflected by the Council of Europe « European Sports Charter » and « Code of Sports Ethics » as well as by the UNESCO « International Charter of Physical Education, Physical Activity and Sport ». Those who are tempted to flout ethical standards in their search for success (sporting achievement or hosting events), are taking a serious risk towards compromising their reputation, but are also seriously undermining trust in sport. When doping incidents or cases of corruption or match-fixing highlight possible complacency on behalf of the public authorities, the impact on sport and its benefits is particularly serious.

Besides their direct interest in sports, governments also bear responsibility, through criminal law, for sanctioning harmful, or otherwise endangering behaviour to property, health, safety, and moral welfare of people. Alleged criminal offences must be treated accordingly when they occur in the context of sport, because they can only be addressed by criminal procedure methods. Following the 13<sup>th</sup> Council of Europe Conference of Ministers responsible for Sport, the Group of States against Corruption (GRECO) agreed to keep the issue of corruption in sport under scrutiny and to co-operate with EPAS. A few countries have enhanced their capacity to deal with corrupt practices in sport. For instance, Switzerland has amended its legal provisions on private corruption and is considering the sports leaders as “politically exposed persons”, requiring increased due diligence in the context of the fight against money laundering<sup>7</sup>. In practice, recent high profile cases have highlighted the capacity of governments to launch criminal investigations on corrupt practices in sport: FIFA cases are investigated by the USA and by Switzerland, an IAAF case is investigated by France, Interpol has launched international investigations on anti-doping cases under the co-ordination of a French

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<sup>6</sup> Document EPAS(2016) INF15.

<sup>7</sup> See factsheet prepared by the Swiss Federal Office of Sport, provided as background document EPAS(2016) INF18, which presents an overview of recent initiatives by the Swiss authorities on corruption in sport.

prosecutor and Germany is investigating a case involving the National Football Federation. During this time, the media also reported the opening of police investigations in Brazil on two separate cases involving the President of the European Olympic Committees and the President of the International Volleyball Federation. The effective prosecution of such cases, including of their cross-border dimensions, and possible judicial decisions will provide more accurate information on the actual capacity of the states to execute a zero tolerance policy regarding corruption in sport. These cases have also shed light on the role of whistleblowers and the need to take into account their testimonies and to strengthen their protection.

### **The way ahead**

In the context of continuous improvement of sports policy, it is proposed to focus on three lines of action for governments to help pull sports governance out of the rut it is currently in.

1) Recognition by governments and the sports movement of a common benchmark on good governance in sport

Both governments and sports organisations should be able to refer to and discuss a common benchmark on good governance in sport, rather than develop standards in parallel. As suggested above, the ASOIF principles and indicators may provide a starting point, on the basis of which more specific requirements may be elaborated as appropriate, according to a continuous assessment of the situation.

Moreover, a common approach to promote good governance in sport would require sustainable mechanisms for dialogue and co-operation, within an appropriate framework that would gather representatives from the sports movement and from the public authorities at international level. Even if today the sports movement and the governments have been able to establish dialogue and co-operation on issues such as anti-doping or the fight against the manipulation of competitions, the question of good governance in sports organisations is still not being discussed in-depth. In fact many stakeholders from the international sports movement tend to think that an independent review of the governance of sports organisations, and even more so a governmental one, is simply not desirable. This point of view is contradictory, given that the sports movement recognises that its autonomy and good governance are two sides of the same coin, but for a long time it was against anyone outside the sports movement assessing its governance. Also, a number of international federations delayed taking effective measures. This position may be starting to change: within the framework of Agenda 2020, but also due to being subject to increasing pressure and confronted with varying initiatives which are sometimes of an intrusive nature, the IOC has taken an initiative worth noting. On the occasion of the international anti-corruption summit hosted by the United Kingdom government on 12 May 2016, the IOC announced the setting up of an “International Sport Integrity Partnership”, gathering governments, international organisations and the sports movement, in order to strengthen efforts to implement high standards of transparency and good governance, and to underpin the wider fight to eliminate corruption from sport. The IOC proposed launching such a partnership in the margins of a meeting of the International Forum for Sport Integrity in Lausanne in early 2017. The Council of Europe, by using the networks and experience within EPAS and GRECO, could provide its expertise in its setting up and facilitating, in the longer

term, the European continental co-ordination of the governments within such a partnership. To this day, the full scope of this partnership is not yet clearly defined. A working party put together by the IOC will reflect further on this question at the end of 2016. The Ministerial Conference could welcome this initiative and set out its expectations regarding the mission and the governance of such a partnership (its composition, frequency of meetings, drafting of agendas, etc.). This partnership could allow for the monitoring and improvement of the international sports movement's efforts when it comes to good governance, particularly when looking at its self-assessment reports and in light of other independent expertise.

## 2) Promotion of good governance in sport at national level

As previously mentioned governments are involved in supporting their national sports movement and have therefore influence on sport at national level. As most decision makers in international sports organisations are coming from national sports organisations, the governance culture and mind-set is shaped at local and national level and governments can contribute to its improvement. EPAS could gather and share good practices, coming from either governments or umbrella sports organisations, on the promotion of good governance in national sports organisations. In addition to the promotion of good practices, the intergovernmental co-ordination of sanctions and incentives could be developed. EPAS could further work on the preparation of a draft Recommendation of the Committee of Ministers to Member states on the role governments can play to support the implementation of good governance in sport, that could cover areas such as monitoring good governance of sport at national level, supporting awareness raising, training and advice to sports organisations, conditioning the awarding of public grants to sports organisations on complying with all good governance criteria, ensuring that the national criminal law is applicable on corruption in sport and enables its prosecution, facilitating exchange of information between the sports movement and public authorities, etc.

## 3) Development and sharing of knowledge

In recent years, many studies and reports have been published on good governance in sport, by international organisations, academics, sports organisations, NGOs and private consultants<sup>8</sup>. Research on good governance includes more fundamental research (e.g. on principles), comparative studies (measurement of good governance indicators for a set of organisations, comparative study on the provisions in force to protect whistleblowers or to avoid conflict of interest) or action-oriented research (situation assessment, review of cases aiming at reforming an organisation). In order to build confidence and to facilitate cross-fertilisation between the concerned stakeholders, such studies should be published.

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<sup>8</sup> Two major reports on good governance in sport have been published since the latest Ministerial conference: In 2015, the Sport Governance Observer, published by Play the Game, highlighted the situation of International Federations with regard to compliance with good governance principles. In 2016, the Global Corruption Report: Sport, published by Transparency International, looked through 60 articles at what has gone wrong in sport and what can be done to fix it. It examined the structures of sport, presented examples of good and bad practices.

Research is instrumental to develop and share knowledge and experience. Studies performed by stakeholders, but also independent research, e.g. performed by anti-corruption NGOs and investigative journalists, should be further supported and promoted. Research and new standards on public and corporate governance should also serve as an inspiration when debating sports governance. Within the framework of the Council of Europe, EPAS could provide a pan-European forum (via its joint meeting between the Governing Board and the Consultative Committee in which it could involve other relevant bodies and the sports movement) to regularly review the studies and reports available as well as the follow-up given to known cases and publish an annual report highlighting trends and presenting the coverage of such research by country and by sport.

***Participants are invited to focus on the following issues:***

- ***Which role should a pan-European forum on good governance involving governmental and sports movement representatives play?***
- ***Which measures should governments take to ensure good governance in sport in their home countries and abroad?***
- ***Under what conditions would governments agree to refer to a good governance standard adopted by the international sports movement as a common minimal standard, in their relations with their national sports movement?***

## **Draft Resolution No. 2**

### **Achieving better governance by enhanced co-operation between governmental organisations, the private sector and the civil society**

The Ministers responsible for Sport, meeting in Budapest, Hungary, for the 14<sup>th</sup> Council of Europe Conference on 29 November 2016:

- Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage, and of facilitating their economic and social progress;
- Recalling the Criminal Law Convention on Corruption (1999, ETS No. 173), the Civil Law Convention on Corruption (1999, ETS No 174) and the Additional Protocol to the Criminal Law Convention on Corruption (2003, CETS No 191);
- Having regard to its Recommendations Rec(92)13-rev on the European Sports Charter; Rec(92)14-rev on the Code of Sports Ethics and Rec(2005)8 on the Principles of Good Governance in Sport;
- Recalling the 11<sup>th</sup> Conference of Ministers responsible for Sport in Athens in 2008, which identified corruption as a new challenge to sport;
- Having noted the work and conclusions of the 13th Council of Europe Conference of Ministers responsible for Sport, held in Macolin/Magglingen on 18 September 2014, in particular on the risk of corruption in sport;
- Considering the Recommendation Rec(2005)8 of the Committee of Ministers to member States on the principles of good governance in sport, which stresses their belief that the consistent application of the principles of good governance in sport would be a significant factor in helping to eradicate corruption and other malpractices in sport;



- Considering the Recommendation CM/Rec(2014)7 on the Protection of Whistleblowers, stressing the importance of their protection and their role in preventing and identifying offences, and in strengthening democratic accountability and transparency;
- Welcoming the international and national initiatives to implement gender mainstreaming in sport, and notably the Erasmus+ funded project “Balance in Sport”, because gender equality is key to promote diversity in and through sport, but also to enhance the governance of sport;
- Considering the Resolution 1875 (2012) of the Parliamentary Assembly on good governance and ethics in sport and the Resolution 2053 (2015) of the Parliamentary Assembly on the reform of football governance;
- Convinced that the successful implementation by sports organisations of effective good governance policies, including codes of ethics and adherence to international standards, would consolidate their autonomous position with respect to public authorities and the general public on the basis of mutual respect and trust;
- Acknowledging that the legitimacy and autonomy of the Olympic Movement depends on upholding the highest standards of ethical behaviour and good governance;
- Having noted that deficiencies in the governance of sports organisations may lead to integrity issues such as corruption, doping and match-fixing and create an unsafe and unfair working environment for athletes.
- Welcome the IOC initiative to set up an International Sport Integrity Partnership, gathering the sports movement, international organisations and governments, in order to strengthen efforts to implement high standards of transparency and good governance in sport, that could, inter alia:
  - allow for recognition by governments and the sports movement of a common benchmark on good governance in sport;
  - allow for the monitoring and improvement of the international sports movement’s efforts when it comes to good governance, on the basis of the sports movement’s own assessments as well as independent sources;
  - promote co-operation between governments and sports movement on the fight against corruption in sport.
- Invite EPAS to prepare a proposal for the Council of Europe Committee of Ministers on the ways in which the European Governments could co-operate with an International Sport Integrity Partnership, including co-ordinated governmental measures towards sports organisations which are clearly not taking steps to comply with applicable standards on the good governance of sport.
- Welcome the adoption of the Association of Summer Olympic International Federations (ASOIF) Key Governance Principles and Basic indicators, as a first step towards improving the governance of all international federations.
- Invite EPAS to use its Joint meeting of the Governing Board and Consultative Committee to discuss on a regular basis:
  - the implementation of good governance principles based on
    - (1) available indicators and research;
    - (2) a review of recent cases and their follow-up by sport and justice authorities;

- recommendations on additional principles and more specific measures to be implemented.
- Invite EPAS to consider offering targeted advisory visits on sport governance issues, involving experts from the international sports movement and intergovernmental experts, to countries and organisations where support is needed or where the assessment of the situation is unclear.
- Invite EPAS, in co-operation with other relevant bodies of the Council of Europe, to identify good governance measures that need to be discussed further at international level, for example:
  - Prevention of conflict of interest (by governments or by sports organisations) in dealing with sports ethical issues, as recently seen in anti-doping cases;
  - Implementation and monitoring of human rights in the context of sports activities;
  - Achieving a better “separation of powers” with effective checks and balances between sports organisations’ bodies, in particular in devising methods to ensure the independence of ethics, compliance and auditing committees;
  - Recommending the appropriate level of transparency on financial accounts and political decision-making processes in order for sports organisations to comply with requirements applicable to same size business companies, e.g. International Financial Reporting Standards;
  - Implementation and monitoring of gender mainstreaming as part of the good governance;
  - Enabling improved representation of all stakeholders, in particular of athletes, within the decision making processes;
  - Defining measures likely to facilitate and protect the role of whistleblowers in sport.
- Invite EPAS to share good practices and give visibility to governmental initiatives aimed at supporting good practices within their sports movement at national level (for example, publication of a handbook).
- Invite EPAS to draft recommendations and measures – which may be eventually submitted to the Committee of Ministers – that enable governments to facilitate the implementation of good governance in sport, for example:
  - Possible use of platforms prescribed in the Council of Europe Convention on the Manipulation of Sports Competitions to address any kind of corruption in sport in the future;
  - Evaluate if their national legislation is appropriate to allow for investigation, prosecution and mutual legal assistance with police and judicial co-operation in cases of corrupt behaviour in sport;
  - Condition the awarding of public grants to sports organisations and for sports events with explicit criteria that are compliant with good governance principles;
  - Encourage the leaders of national sports movements to actively promote good governance while acting within the framework of international sports organisations;
  - Monitor the implementation of good governance principles by their national sports movements (for example, review ASOIF published indicators, carry out independent researches, etc.);
  - Use appropriate provisions on the fight against money laundering and corruption in the field of sport, for example considering some leaders of sports organisations as “politically exposed persons”;

- Eliminate conflicts of interest between bodies in charge of performance enhancement and those in charge of sports integrity, particularly in the fight against doping;
- Commit governments of member States to set an example when it comes to good governance within their own procedures and operations in the field of sport;
- Protect whistleblowers.
- Encourage sports organisations to:
  - urgently develop and implement the IOC universal principles of Good Governance and/or the ASOIF Key Governance Principles within their own regulations and procedures;
  - ensure that athletes' representatives are involved when decisions that affect athletes' working conditions are taken;
  - introduce a level of compliance with good governance standards below which the organisations concerned would not be eligible to participate in international events;
  - co-operate with independent researchers and academics reviewing good governance of the sports organisations;
  - publish the results of their self-assessment on good governance;
  - establish external evaluations and audit policies;
  - share information on corrupt behaviours with law enforcement authorities.