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EPAS (2016) INF18

Enlarged Partial Agreement on Sport (EPAS)

Corruption in Sport

Federal Office of Sport (Switzerland)



Background

Risks for sports competitions

The growing commercialisation of sport carries certain risks, the foremost being:

- corruption in (international) sports federations
- tampering with sports results

The current debate comes in the wake of the corruption scandals that rocked FIFA and UEFA. But other international sports federations have also been affected by similar cases.

In recent years, a number of European countries have taken steps to remedy the problem.

Federal Council report

In response to postulate 11.3754, filed by the CSEC-CE, the Federal Council commissioned a report on combating corruption and match-fixing in sport, which it approved on 7 November 2012.

On the subject of corruption in (international) sports federations, the Federal Council states in this report that combating corruption in sport is first and foremost the responsibility of the sports movement, which must adopt appropriate corporate governance measures to this effect. The public authorities, however, should have a supervisory and regulatory role where self-regulatory mechanisms are lacking or inadequate.

On page 43 of the report, the Council states: *The Confederation does not give direct subsidies to international sports federations. Because of the special place that sport holds and the valuable contribution that it makes to society, Switzerland offers international sports federations favourable conditions for the pursuit of their activities. Should it transpire that these federations are not willing to take reasonable steps to combat corruption and in so doing protect the positive values of sport, which are important for society and Switzerland's image, the privileges which they currently enjoy might no longer be justified. The same applies to the tax treatment afforded the federations at federal and cantonal level.*

- The Council concluded its report by instructing the authorities to consider the following measures:
- Closer international co-operation
- Tightening of Swiss anti-corruption legislation
- Making fraud in sport a criminal offence
- Introducing new criminal provisions at corporate level
- Adapting existing criminal procedures to enable criminal offences to be prosecuted more effectively
- Regulating the possibility of offering sports bets



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Follow-up

Closer international co-operation

On 9 July 2014, the Committee of Ministers of the Council of Europe adopted a European convention on the manipulation of sports competitions. This convention was prepared by EPAS, with the active involvement of Switzerland. It was signed by 15 countries, including Switzerland, at the Conference of Ministers responsible for Sport in Macolin on 18 September 2014. The ratification message will be submitted to the Federal Council once the statutory framework required in order to implement the convention in Switzerland (provisions in the new Gaming Act) has been approved by Parliament.

Tightening of Swiss anti-corruption legislation

Further to the recommendations made by GRECO (Group of States against Corruption), Parliament decided on 29 September 2015 to tighten the criminal legislation on private corruption. This revision (known as "Lex FIFA") provides the statutory framework needed to step up the fight against corruption in sports federations.

Specifically, the provisions on private corruption have been moved from the Unfair Competition Act to the Criminal Code. That means corruption offences committed in the private sector in the course of professional or commercial activities are now punishable, irrespective of whether they influence competition. In addition, private corruption can now be prosecuted ex officio, except in "minor" cases, where a complaint has to be filed. The legislation will enter into force on 1 July 2016.

Action against money laundering

Further to the recommendations made by the FATF (Financial Action Task Force), Parliament decided on 12 December 2014 to treat people who hold or have held senior positions in international sports federations as "politically exposed persons" within the meaning of the law on money laundering. Financial institutions will have to be doubly cautious when performing certain transactions with such persons, therefore.

Measures to combat match-fixing

As part of the revision of the federal law on lotteries and the federal law on games of chance and casinos (which have now been replaced by a single Federal Gaming Act), the following measures must be considered:

- Classify the manipulation of sports results as a criminal offence (and incorporate it in the Federal Act on the Promotion of Sport)
- Enable corporations to be charged with the offence of manipulating sports results within the meaning of Art. 102 of the Criminal Code (corporate liability)
- Introduce surveillance measures in the context of criminal proceedings in order to combat the offence
- Impose requirements on sports betting operators to combat the manipulation of sports results
- Ensure the exchange of information between authorities, sports organisations and betting operators
- Grant the supervisory authority the power to prohibit certain sports bets in cases where there are suspicions of match-fixing

The Legal Affairs Commission of the Council of States (as the upper house) has been considering the draft since February 2016.



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Prevention and cooperation between official authorities and sports organizations

Private - public
cooperation

The Confederation works together closely with Swiss Olympic in terms of the integrity of sport. Swiss Olympic is the umbrella organization for all national sports associations. This cooperation is set out in the Charter for Ethics in Sport (<http://www.swissolympic.ch/fr/Ethique>), which both parties support. The Charter for Ethics in Sport is the basis for the conduct of all actors in the field of sports. Compliance with the principles of the Charter is a prerequisite for payment of state subsidies and a guiding principle for organized sport at all levels.

As part of the service level agreement between the Swiss Confederation and Swiss Olympic, the Charter for Ethics in Sport takes on a particular importance as Swiss Olympic is obliged to monitor the associations' compliance with the Charter's principles.

Within its own structures Swiss Olympic adheres to the requirements of the Code of Conduct, which is based on the Olympic values of "Excellence – Friendship – Respect" and the Charter for Ethics in Sport (cf. <http://www.swissolympic.ch/fr/Ethique/Transparence-dans-le-sport-structure/L-CODE-de-Conduite/L-CODE-de-Conduite>).

Moreover, tools to preserve the integrity of sport in various other fields are provided (<http://www.swissolympic.ch/fr/Ethique/Transparence-dans-le-sport-structure/tabid-5229/Outils-d-aide>):

- Guide on transparency in organized sport
- Quick corruption test
- Draft code of conduct for associations
- Code of conduct for trainers incl. explanations
- Code of conduct for athletes