

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY
GERMANY**

***PROMOTING GOOD GOVERNANCE IN SPORT AND MITIGATING THE
RISK OF CORRUPTION***

GERMANY(SEVENTH MEETING)

II. Information requested from States parties and signatories in relation to promoting good governance in sport and mitigating the risk of corruption that sport faces globally

1. In the context of prevention, please describe (cite and summarize) the measures/steps your country has taken (or is planning to take, together with the related appropriate time frame) to promote good governance and mitigate the risk of corruption in sport.
 - a. Information sought may, in particular, include the following:

- i. Legislation and policy**

- ii. Good governance and/or anti-corruption legislation or policies (strategies, codes or other policies) that have been developed by the State party;

On 6 April 2016, the Federal Cabinet adopted the draft of an "Act to Amend the Criminal Code – Criminal Liability for Sports Betting Fraud and the Manipulation of Professional Sports Competitions." It will now be introduced into the legislative process and will be forwarded to the Bundesrat and the Bundestag for consultations.

The Federal Government's draft bill provides for the introduction of two new criminal offences. The criminal offence of sports betting fraud will cover agreements to manipulate results of sports competitions upon which a sports bet is to be placed; the offence of manipulation of professional sports competitions is designed to criminalise agreements to manipulate high-level professional sporting events. Further, the draft legislative initiative for both new offences includes the introduction of presumptive examples for particularly serious cases. The legislative initiative with regard to the new offences also provides for authorisation to intercept telecommunications if special conditions have been met.

Sports betting fraud (section 265c Criminal Code – Strafgesetzbuch, StGB) criminalises agreements to manipulate in connection with a sports bet. It includes all competitions in organised sports without limitation, because according to experience, sports betting occurs especially in the case of (manipulated or fixed) matches in the lower leagues and/or amateur sports.

Manipulation of professional sports competitions (section 265d StGB) includes agreements to manipulate even without a connection to sports betting if the agreement relates to high-level professional sporting events and may therefore have a palpable

financial impact especially on sportsmen/women and clubs/associations.

For both offences, it is sufficient that the manipulation and, in the case of section 265c StGB, the sports bet as well are the subject of an illicit agreement. Proof of an actual bet or actual manipulation of a game/match need not be shown. In terms of passive bribery, the new criminal offences cover athletes, trainers and persons of a similar status, such as sports directors and association managers. They also cover referees, umpires and adjudicators. In terms of active bribery, the offences cover everyone. The draft bills provide for imprisonment of up to three years or a fine.

- iii. Training of relevant officials and stakeholders in good governance and/or anti-corruption policies relevant to sport;
- iv. Risk assessments of areas or sectors related to good governance and corruption in sports; •
- v. Establishment of policy implementation, institutional or coordination mechanisms (allocated budget, designated responsible institutions, establishment of coordination structures, etc.).

An important objective of the Federal Government's sport policy is the efficient fight against corruption and manipulation of sports competitions at national and international level. For this reason the Federal Government has contributed vigorously to the Council of Europe and UNESCO bodies dealing with the fight against manipulation of sports competitions. Germany was among the first states, which signed the Council of Europe Convention on the Manipulation of Sports Competitions on 18th September 2014. The Convention also contains measures in the context of prevention. The Federal Government intends to implement and ratify the Council of Europe Convention. Therefore the Government cooperates with all relevant stakeholders (e.g. public authorities, sport organizations and sport betting operators). In September 2015 the Federal Ministry of the Interior organized a national expert meeting to discuss inter alia measures in the field of prevention. It turned out that the German Football League (DFL), the German Football Association (DFB) had initiated a project entitled "Gemeinsam gegen Spielmanipulation" (joining forces against match-fixing). In addition to offering comprehensive education and information programs, the DFB and the DFL have also appointed an ombudsman as a neutral point of contact for all those who encounter match-fixing. Thus, players, coaches and referees can obtain advice even in cases where there is only an initial suspicion, and can help fight manipulation in football.

- vi. **Partnerships and inter-institutional coordination**
- vii. Description of how the participation of relevant stakeholders is promoted, including whether they are consulted and involved in the development, implementation, coordination and monitoring of policies;

- viii. Measures to promote cooperation, coordination and exchange of information between law enforcement authorities, sports governing bodies and/or the private sector in relation to integrity in sport;
- ix. Description of partnerships with relevant stakeholders (e.g. educational institutions, local communities and the private sector) to use sport to promote core values, in particular accountability, transparency and integrity.

With regard to the partnerships and inter-institutional coordination mentioned in the guidelines, we refer to the Match-Fixing Contact Office established at the Bundeskriminalamt in 2013, even though this office operates primarily in a punitive rather than a preventive capacity. The Match-Fixing Contact Office is intended to intensify cooperation between the law enforcement authorities and sports federations. In the context of this contact office, strategic partnerships have been formed with selected high-performance sport federations (DFB, the German Olympic Sports Confederation, the German Handball League and the German Basketball League). These partnerships include expert police advising and initial assessment of suspicious incidents; the office also establishes contact with the responsible law enforcement authority in the relevant federal state.

2. In the context of enforcement, please describe (cite and summarize) the measures/steps your country has taken (or is planning to take, together with the related appropriate time frame) to ensure the detection, investigation and prosecution of criminal offences linked to sport integrity.

- a. Information sought may, in particular, include the following:
- b. Examples of criminal cases involving offences linked to integrity in sport (corruption, money- laundering, organized crime, match-fixing, etc.);
- c. Criminalization of sport-specific offences such as match-fixing, competition manipulation, illegal betting and betting manipulation;
- d. Activities and training to develop the capacity of investigators, prosecutors and other relevant officials in relation to criminal offences linked to integrity in sport;
- e. Establishment of specialized law enforcement or prosecutorial units responsible for dealing with offences relating to integrity in sport;

- i. As part of addressing corruption in sport, in Germany criminal investigations may also be opened. The main aspects of the FLANKENGOTT investigation are described in the following:

The Flankengott investigation is an extremely complex and far-reaching investigation which the Bochum criminal investigations division has been conducting since 2009. In question are conspiracies to fix football matches for the purpose of committing betting fraud. So far, the Bochum regional court has convicted 17 persons of fraud committed on a commercial or gang basis and sentenced them to a total of roughly 45 years in prison.

Simply stated, the group relied almost entirely on a team with professionals paid by the network losing by as wide a margin as possible, or on many goals being scored in a previously agreed match. Large bets were placed on the Asian market using the Internet or by phone through an intermediary. Betting offices in Germany and abroad were used to make smaller and medium-sized bets. The leaders of the group, which was made up of five persons, used a functional level consisting of intermediaries for match-fixing in many different European countries. The aim was to use this structure to combine and expand the possibilities for manipulation in order to increase profits and the chances of winning. One leading member of the network even posed as a player's agent and manager in order to operate undetected in football circles, looking for frustrated or poorly paid players who might be open to participating in match-fixing. Posing as a business, the network was also able to buy shares in football clubs and place in these and other clubs players willing to help fix matches. Investigators found that payments totaling €1.75 million had been made to fix matches, with individual payments ranging from €250 (A-level youth) to €100,000 per match.

The criminal network was found to have made net profits of €5.1 million. More than €2 million of that was seized and declared forfeited as part of asset recovery measures. For the Flankengott investigation, led by the Bochum public prosecutor's office, the Bochum criminal investigations division set up a special investigating team. Various criminal procedural measures, including searches, arrests and telecommunications surveillance, were used in the investigation.

Investigators conducted extensive international correspondence. The case involved a number of different countries and led to the founding of the Interpol Match Fixing Task Force and Europol's Focal Point Sports Corruption. The Bochum public prosecutor also initiated two Joint Investigation Teams with the participation of several countries as well as Eurojust and Europol to investigate the case quickly and in a coordinated way.

Measures in the field of Good Governance were also discussed in the above mentioned national expert meeting (see number II. 1.), inter alia:

- prohibiting competition stakeholders from betting on sports competitions in which they are involved,
- prohibiting the misuse or dissemination of inside information,
- the requirement for competition stakeholders to report immediately any suspicious activity, incident, incentive or approach which could be considered an infringement of the rules against the manipulation of sports competitions.

The Federal Ministry of the Interior is considering to make the financial support of sports organization conditional on whether the respective sport organization will implement corresponding rules in its internal statutes.

f. Development of cooperation and coordination mechanisms to promote interaction between law enforcement authorities and relevant stakeholders, such as sport organizations or private- sector entities, in relation to criminal offences relating to sport.

i. In 2014 and 2015 the Federal Ministry of the Interior participated in the working group on good governance of the German Olympic Sports Confederation (DOSB), the umbrella organization of German sport, in an advisory capacity. This working group, in which Transparency International Deutschland e.V. was also represented, drew up some basic documents (cf. enclosures) which will be used not only by the DOSB, but also by its member organizations. Furthermore, the DOSB recently set up an external ombudsperson's office (lawyers bound to observe secrecy), to which, among others, confidential reports of cases of suspected corruption and violations against the integrity guidelines in clubs and associations can be addressed.

https://www.dosb.de/fileadmin/fm-dosb/downloads/dosb/exemplary_Code_of_Conduct_EN.pdf

https://www.dosb.de/fileadmin/fm-dosb/downloads/dosb/GGinGermanSports_EN.pdf

Sports associations receiving financial assistance by the Federal Ministry of the Interior are required, among others, to implement “sound management standards” and observe “codes of conduct for corruption prevention” (cf. enclosures). The competent authority (The Federal Office of Administration) conducts random checks to control compliance with these rules.

http://www.bva.bund.de/SharedDocs/Downloads/DE/Beratung/Orgportal/20131018_Broschuer_e_Ordnungsgemaesse_Geschaeftsfuehrung.html

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