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Sports Betting as a Threat to Sport

Ladislav Mravec

Department of Kinanthropology and Humanities, Faculty of Physical Education and Sport, Charles University, Prague, Czech Republic

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Abstract

This article aims to apply an ethical and a legal perspective to sports betting as a threat to sport and to analyse it on the international level. To achieve this, the article first explains the values of sport, gambling, and sports betting, and shows how gambling and sports betting can ending er sport. Next, the article discusses international legal norms and measures of the betting market, for example the Council of Europe Convention on the Manipulation of Sports Competitions. Finally, recommendations will be presented regarding the betting market, and conclusions will be drawn, with a critical appreciation of findings.

Key words: sports betting, gambling, integrity, threats to sport, values of sport

Abstract

Este artículo tiene como objetivo aplicar una perspectiva ética y legal a las apuestas deportivas como una amenaza para el deporte y analizarla a nivel internacional. Para lograr esto, el artículo explica primero los valores del deporte, los juegos de azar y las apuestas deportivas, y muestra cómo los juegos de azar y las apuestas deportivas pueden terminar . A continuación, el artículo analiza las normas y medidas legales internacionales del mercado de apuestas, por ejemplo, el Convenio del Consejo de Europa sobre la manipulación de las competiciones deportivas. Por último, se presentarán recomendaciones sobre el mercado de apuestas y se sacarán conclusiones, con una apreciación crítica de los hallazgos.

Palabras clave: Apuestas deportivas, juegos de azar, integridad, amenazas al deporte, valores del deporte

1. Introduction

Sports is a major international industry. In 2022, the industry's revenue amounted to \$486.61m and it is expected to be worth over \$623m by 2027 (Gough, 2023). The economic potential of sport within the sports betting market has brought with it the risk that illegal machinations could influence the practice of sport and the results of sports matches (Council of Europe, 2014a, p. 6.). The risk is that the betting market and organized crime might have a strong impact on the integrity of sport, for example by match manipulation through match-fixing cases connected to betting.

Organized criminal groups are attracted to match-fixing because of the low risk and high rewards of this activity, and the prospect of potentially huge profits from betting markets

Department of Kinanthropology and Humanities, Faculty of Physical Education and Sport, Charles University, Prague, Czech Republic
Correspondence: Ladislav Mravec, UK FTVS, José Martího 31, 162 52, Praha 6-Veleslavín; Czech Republic, email: ladislavmravec@gmail.com

(Boeri/Severgnini, p. 107). However, I will explore how the betting market and organized crime have a strong impact on the integrity of sport showing how one of the major dangers to the integrity of sport are match-fixing cases connected to betting.

This is because the state can only regulate the sports betting market and prosecute criminal activity on its own territory. Even in the U.S. the legalisation of sports betting is in the jurisdiction of particular states, so that there are states where sports betting is still an illegal activity. Now, over 34 states and Washington D.C. have legalized some form of sports betting and others are planning to launch their legal sports betting sites before the end of 2023 (Bengel, McCarriston, 2023). But still, match-fixing cases connected to betting occur on an international level. To effectively fight against match-fixing related to sports betting, there is a need for international cooperation and a globally viable approach for combating match manipulation in sport.

On the international state level, the Council of Europe exhibits best practice - the Macolin Convention (Council of Europe, 2014b) being the first international agreement dealing with the problem of match-fixing with such a scope. It is, until now, along with the Group of Copenhagen, the best platform where state authorities, betting authorities, and sports organizations can meet to discuss and adopt effective measures against match-fixing. Other decisive stakeholders when it comes to best practices and different policies in the field of sport include UNESCO and the European Parliament; and the Court of Justice of the European Union (CJEU) also sets case law in the field of sport, in relation to EU law.

The Court of Arbitration for Sport (CAS), with its case law regarding match-fixing, also plays a vital role in harmonization all norms regarding sports issues. CAS recognizes testimony from protected witnesses and reports from the Betting Fraud Detection Systems as a tool of evidence, which help to disclose criminality and to sentence actors involved in sports crimes (Giulio, Williams, 2018, p. 21). Also, as Serby (2017) notes, CAS has set a lower level of burden of proof in *lex sportiva*. In its first match-fixing case, the 2009 FK Pobeda Case (CAS 2009, Leuba 2012) *lex sportiva* provides a new standard of burden of proof as comfortable satisfaction, which is lower than the burden of proof in criminal cases (which goes beyond reasonable doubt).

Whilst we understand that sports betting has a negative impact on sport, such that sports betting has negative side-effects on the community, nevertheless the taxes collected from sports betting are in many countries used to finance sports associations and clubs. One of the most common funding systems (of sports) in Europe includes resources redirected from gambling industry profits – taxed by the government - although this is implemented differently in various countries. (Rogic et al, 2018, p. 87).

On the one hand, since sport is a common good, it gives to the sport movement a massive financial support and channels the interest of the masses; however, on the other hand, it could infringe upon the autonomy of the sport movement in taking its own decisions without duress. It is a twofold relationship. Sport without support from the betting industry would be forced to search for alternative means of financial support, which could be a problem for the sports associations/federations. On the other hand, the betting industry benefits economically from sport and bettors, actively uses information from the world of sport, takes its profit from sporting results, and is dependent on a basic feature of sports competitions: unpredictability of the result.

2. Internal and External Values of sport

Sport has some basic principles that derive from the practice of sport itself. Parry (2020) outlines and justifies a 6-criteria conceptual analysis, which defines sport. Sport is ‘human’, ‘physical’, involves ‘skill’, ‘contest’, is ‘rule-governed’ and ‘institutionalized’. If we take just two of them, ‘rule-governed’ and ‘contest’, it is obvious that these criteria require adherence to certain internal values of sport, such as equality, fairness, and justice. Without agreement on rule-adherence and the central shared values of the activity, there is no contest and there could be no sport. (Parry, 2020, p.140). These internal values are to be distinguished from the external values of sport, such as income generation, brand development or public health.

Trunz (2016) identifies match-fixing as a threat to the external values of sport and divides these threats into six spheres. First is the increasing internationalization and commercialization of sport; second, the offshore states and non-transparent sports betting market; third, the large unregulated betting market in Asia; fourth, organized crime in the sports betting market; fifth, the addictive potential of bettors; and sixth, the particular danger in amateur and junior games. (Trunz, 2016, 8-18). Four of these threats to sport are based on

sports betting, which shows that sports betting and gambling has a significant effect on the course of international organised sport.

The first threat is the increasing internationalization and commercialization of sport. The sports betting market has also been developed for an international business community, with more than 8000 sports betting operators in the world. Importantly, around 80% of these operators are established in low tax rate territories or tax havens such as Gibraltar, Isle of Man, Malta, etc. (ICSS, 2014, 12) The internationalization of sports and the sports betting market makes it clear that match-fixing is not a national but an international problem.

The second threat to sports values is the offshore states and the non-transparent sports betting market. The taxes collected from the sports betting business are in many countries used to finance sports associations and clubs. On the other hand, if bettors use online-based betting providers or those operating from offshore states, sport is losing these taxes and must search for replacement of these incomes. The income from the gaming industry creates a significant share of GDP in some countries. In Malta, at the end of December 2019, there were 294 companies licensed by the Malta Gaming Authority, including both online and land-based entities, which together generated €1.6 billion in terms of GVA in 2019, increasing the gaming industry's share of economic activity to 13.3%. (Yogonet Gaming News, 2020)

The third threat to sports values is the large unregulated betting market in Asia. The main difference between betting markets in Europe and Asia lies in the regulations. The markets are more regulated in Europe than Asia, where the betting markets are mostly unregulated and untransparent black markets.

The fourth threat to sports values is that organized crime is highly active in the sports betting market. Criminal organizations operating in the betting market have hundreds of agents or so-called 'runners' around the world, and this number of people involved makes it difficult to uncover cases. Betting activities in the context of match-fixing allows criminal organizations to launder their money in the black market. It is estimated that organized crime launders more than 10% of its worldwide revenue through sports bets. (ICSS, 2014, 29) Organized criminals are engaged in match-fixing because of the low risk and high-reward activity with a view of potentially huge profits from betting markets. The working methods of these groups are mostly bribery, coercion, and blackmail. (Boeri & Battista, 2013, 107) The

standard of proof in criminal cases is ‘beyond a reasonable doubt’, and the evidence from the investigation of match-fixing cases is mostly insufficient to reach this level of proof. For example, consider the case of two Brazilian football referees, Edilson Pereira de Carvalho and Paulo Jose Danelon, who faced criminal charges as being part of the match-fixing mafia, but later their criminal action was suspended due to insufficient evidence (Godinho & Barbosa, 2013, 229). 3.

3. Gambling

Gambling is one of the most controversial leisure activities in contemporary society. Despite its far-reaching popularity, many negative cultural and social implications have been attributed to gambling. In contrast, numerous destinations look to legalization and expansion of gambling businesses to rejuvenate their declining economies, particularly in times of escalating competition between tourism destinations (Shani et al, 2014, 453).

Gambling is an important source of jobs and revenues for governments at a time when many are looking for new ways to fund their activities. Regulation will always face the threat of unlicensed offshore sites, which gain a financial advantage by avoiding the costs of complying with the various regulatory regimes.

Black and Ramsay (2003, 202) refer to the five main reasons for gambling collected by the Australian Productivity Commission. According to their Report into Australia’s Gambling Industry Inquiry (1999), they are as follows: hoping and dreaming, making money, social interaction, recreation, and charity; and they offer three key conclusions. First, there are clear, intrinsic and humanly fulfilling reasons to gamble: socializing, recreation and the opportunity to hope. Second, there are important instrumental reasons for gambling, notably winning to make money and give to charity. [...] Third, some reasons for gambling lay the foundation for unreasonable and potentially harmful gambling, gambling with no or little thought for the wellbeing of the gambler, his dependents, or others.

3.1 Sports betting

Sports betting creates opportunities for match-fixing. According to the United Nations, the primary offense in match-fixing is bribery, involving money or another form of pecuniary benefit paid by the perpetrator. Funds are often transferred through a third party to individuals

directly involved in a match, such as players or referees, in order to manipulate the outcome of a specific sporting event. (United Nations Office on Drugs and Crime, 2016, 77).

Council of Europe in the Convention on the Manipulation of Sports Competitions in Art. 3 para. 4 defines match-fixing or the “Manipulation of sports competitions” as "an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a sports competition in order to remove all or part of the unpredictable nature of the aforementioned sports competition with a view to obtaining an undue advantage for oneself or for others."

The words “aimed at” stands for arrangements, acts, or omissions which improperly alter the result or course of a competition, as well as the intention to do so, even the unsuccessful ones. The goal of such an arrangement is to obtain an undue advantage for oneself or another person. The term “undue advantage” is not only a manipulation related to criminal offenses such as fraud or corruption; it could represent the form of financial gain, but also another advantage, such as promotion to a higher level in the competition. Council of Europe. (2014a, 9-10)

Match-fixing has taken two major forms. The first involves the manipulation of the outcome of a sporting contest for the personal material gain of one or more parties. Many instances of match-fixing are related to betting, manipulated to maximize profits on the gambling market, often by gamblers, organized crime, or even players themselves. (Huggins, 2018, 124).

A second form of match-fixing is sport-motivated, for reasons unrelated to betting and less likely to involve criminal activity, although there may be indirect financial gain from the fixing. This type of match-fixing usually occurs in team contests. Motives for this form of match-fixing often include the financial survival of a club or gaining a sporting advantage such as avoiding relegation or achieving promotion in a league. This is typically achieved through the bribery of match officials, club officials, or opposing players. Such match-fixing incidents often occur later in the season (Huggins, 2018, 124). For the purposes of this article, the term "match-fixing" refers to the first form, which is betting-related.

3.2 The betting market and organized crime

Sport and the sports betting market have a symbiotic relationship, and because of its tremendous financial potential, organized crime becomes interested. The very large betting market in Asia is less regulated in comparison to Europe (Ben Van Rompuy, p. 2), which gives the opportunity to different organised crime groups to use the regulation gap. The sports betting market has a great economic potential and at the same time a low risk of detection of impropriety. Manipulation of the results of sporting competitions and the use of sports betting for financial gain is simply a new avenue of investment – and one that is very hard to prosecute, because most fixed matches and betting frauds occur on the international level. In line with the principle of territoriality, states simply cannot regulate and control the sports the betting market outside of their own borders, and have to rely on international cooperation.

Betting on sports results per se is not the real threat to sport. Betting companies have a massive impact on sports financing and are essential partners for sport. The real threat to sport is the involvement of organized crime in the sports betting market, especially when the sports betting market became international and moved to the online world. Organised crime noticed that, in the unregulated international sports betting market, it is possible to place a bet online in anonymous spaces, and to place multiple online bets on any random lower league match. In unregulated or black sports betting markets, bets can be placed in cash and without any check of where this money comes from, and this makes it an attractive potential for money laundering. Again, there can be a huge gains for lower risks (Europol, 4-5).

As we have seen, the betting market has a transnational dimension. People from one country can place a bet on the internet on sports competitions in another country through a betting operator in a third country. Betting online platforms are accessible globally but their seats are mostly in unregulated or less regulated countries. Corrupt activities can occur through intermediaries sitting in different countries. Law enforcement authorities can be confronted with a type of corruption that occurred under their jurisdiction, whilst the bets are placed in another country under another jurisdiction, and persons involved in corrupt activities are in yet another country. Such ‘transnationality’ presents a real problem in terms of policing. This is exacerbated by the fact that there could be a problem with different legal standards in the involved countries, when a particular behavior is prohibited in one country, whilst not forbidden in a country where the betting platform has its seat.

Finally, sports federations do not have the same investigatory power as a state. Sports federations have their sports autonomy, but they cannot investigate crimes themselves, and must rely on the cooperation and support of government and state authorities. If the state authorities are not capable of solving problems of sports corrupt activities in some countries, then the integrity of sport and sports autonomy are endangered.

4. Legislation on sports betting on the international level

On the international state level, there are three important bodies dealing with legislation regarding sports betting. They are the Council of Europe, the United Nations and the European Parliament. The regulations adopted by the European Parliament can have a significant impact on the regulations adopted by the Council of Europe and the United Nations, particularly in areas where there is overlap and vice versa. This is because the European Parliament is a powerful and directly elected legislative body with the authority to adopt regulations that are binding on all its member states. The Council of Europe and the United Nations, on the other hand, are intergovernmental organizations that adopt non-binding regulations in the European the global contexts, respectively. They adopt conventions, agreements, and recommendations that are not legally binding on its members, but are considered to be authoritative statements of of international law and international standards. The regulation of all these three bodies is co-influenced and overlapping, but the only binding regulation is from the European Parliament, and it can be adopted only on its member states.

4.1 United Nations, Declaration of Berlin

The United Nations (UN), as an international body, has in its portfolio various agendas. The agenda of sport belongs under the United Nations Educational, Scientific and Cultural Organization (UNESCO), which is a specialized agency of the UN. UNESCO aims at promoting world peace and security through international cooperation in education, the sciences, and culture. Among the general conventions of the UN which regulate sports issues are the United Nations Convention against Corruption (2003) and the United Nations Convention against Transnational Organized Crime (2000). In May 2013 there was a Conference of Ministers responsible for sport (MINEPS V), which adopted the so-called Declaration of Berlin (2013).

In this declaration (2013, 3.4-3.7.), the ministers recognized that the sport movement alone could not successfully fight the manipulation of sports competitions when corruption and transnational organized crime are involved. The integrity of sport is threatened at all levels, from local, through national and regional to international levels, and it could be only protected if the efforts will be shared by the whole sport movement, governments, law enforcement authorities, betting industries, media, athletes, and society. These threats affect many countries and all levels of the sport and have a cross-border nature, and therefore the problem requires a coordinated global response. Ministers of Sport are aware that the manipulation of sports competitions combined with betting offers opportunities for transnational organized crime. Many countries have different betting models, and there is a rapid growth of the unregulated betting market. Measures to fight transnational organized crime in conjunction with the manipulation of sports competitions must include a fight against money laundering and corruption.

The Declaration of Berlin calls for the examination of suspicious cases by using appropriate technology, such as betting monitoring systems. There are also some radical suggestions, such as the creation of a public prosecutor's office in sports-related matters. A functioning equivalent on the EU level is the European Public Prosecutor's Office (EPPO), established by the Council Regulation (EU) 2017/1939 of 12 October 2017 (Official Journal of the European Union, 2017, L 283/1). The EPPO is an independent EU body competent to fight crimes against the Union budget, and it launched its operations on 1st June 2021. Before the EPPO became operational, only national authorities could investigate and prosecute fraud against the EU budget, which also includes sport subsidies from EU member states, but their powers stopped at national borders. Existing EU bodies such as Eurojust, Europol and the EU's anti-fraud office (OLAF) lack the necessary powers to carry out criminal investigations and prosecutions. At this stage, there are 22 participating EU countries in EPPO, but countries such as Denmark, Ireland, Hungary, Poland and Sweden do not yet participate (European Commission, 2023).

4.2 Council of Europe, Macolin Convention

In September 2011, the Committee of Ministers of the Council of Europe (2011) adopted a recommendation on the promotion of the integrity of sport against results manipulation, notably match-fixing. The recommendation invited The Enlarged Partial

Agreement on Sport (EPAS) to examine the existent measures and practices in member states on match-fixing and to carry out a feasibility study on a possible international legal instrument on match-fixing. EPAS was also invited to provide a platform of exchange and cooperation for governments, the sports movement, and betting operators on the issue of integrity of sport and to examine whether these initiatives of the Council of Europe could represent a starting point towards a global response to the issue of match-fixing.

There were also some first definitions, such as “manipulation of sports results,” “athletes,” “insider information,” “sports betting,” and subdefinitions of legal betting, illegal betting, and irregular betting, which later in a slightly similar form occurred in the Macolin Convention. The study was presented at the 12th Council of Europe Conference of Ministers responsible for Sport in March 2012 (2012). The Ministers of Sport agreed on the elaboration of an international convention as the best way to act against match and competition manipulation. The Convention on the Manipulation of Sports Competitions, the so-called Macolin Convention, was opened for signature in September 2014 on the 13th Council of Europe Conference of Ministers responsible for Sport in Magglingen in Switzerland (Council of Europe, 2014c).

Art. 9 of the Macolin Convention deals with measures regarding the betting regulatory authority. A signing party should identify and authorize a responsible betting authority to implement measures to combat match-fixing concerning sports betting. These measures could be an exchange of information among relevant stakeholders, especially with national platforms; a limitation of the supply of sports betting, for example excluding U-18 matches or friendly matches; and providing further suspicious information to sports organizations and competition organizers and sports betting operators. Finally, betting supervisory authorities, in cooperation with sports betting operators, could withdraw the suspected match from betting offers.

In Art. 10 are discussed regulated sports betting operators. States should adopt measures to prevent conflicts of interest and misuse of inside information by sports betting operators. States can restrict sports betting operators to bet on their products or to restrict them to be a sponsor of a sports organization or a sports competition to prevent the improper exercise of the position as a sponsor.

Article 11 deals with the fight against illegal sports betting. According to this article, states could restrict access to remote sports betting operators who cannot operate in the state and block financial flows between these sports betting operators and consumers.

Articles 12-14 in the Chapter III deals with the exchange of information between the relevant public authorities, sports organizations, competition organizers, sports betting operators, and national platforms. Art. 13 is proposed the role of national platforms, which suppose to be an information hub and should collect and disseminate information to the relevant stakeholders regarding match-fixing. They should further receive, centralize, and analyze information on suspicious bets and issue alerts, as well as cooperate with organizations at national and international levels, including other national platforms. According to Art. 14 states should ensure that collection, processing, and exchange of personal data comply with relevant national and international personal data protection laws and standards and follow principles of lawfulness, adequacy, relevance, and accuracy and that the exchange of data does not go beyond the necessary minimum of the purpose.

The definition of the legality of sports betting in Europe, as it is stated in the Convention and the regulated betting market in Europe, is not the real problem of the fight against match-fixing. It is a fact that most cases of match-fixing take place on the unregulated or black market, mostly in Asia, whose countries would probably not be interested in signing and ratifying the Macolin Convention. The real problem in the fight against match-fixing is the investigation of particular cases solely by national authorities; and the real impact on the fight against match-fixing is made by the joint investigation of cases and sharing of information between states, where match-fixing has a cross-border element.

The Convention aims to ensure that the provisions can be applied to all regulatory models of the sports betting market. But illegal sports betting operators would decline to cooperate with the state authorities and with the sports associations. They would prefer to operate without any control and thus represent a threat in the area of match-fixing (Explanatory Report, 18, Rn. 110.).

The Convention defines important terms in Art. 3 para. 5:

5 *“Sports betting” means any wagering of a stake of monetary value in the expectation of a prize of monetary value, subject to a future and uncertain occurrence related to a sports competition. In particular:*

a) *“illegal sports betting” means any sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located;*

b) *“irregular sports betting” shall mean any sports betting activity inconsistent with usual or anticipated patterns of the market in question or related to betting on a sports competition whose course has unusual characteristics;*

c) *“suspicious sports betting” shall mean any sports betting activity which, according to reliable and consistent evidence, appears to be linked to a manipulation of the sports competition on which it is offered.*

These definitions are controversial because they prescribe that illegal sports betting should be understood according to the principle of territoriality, where the law of the state is decisive in which the bettor is located at the time the bet is placed. Firstly, the bet can be placed in another place than where the bettor is located. Secondly, in the EU, the Union law is simultaneously applied. In this definition, the explanation of the applicable law could have two solutions: the law of the country in which the consumer is located, or, simultaneously, the Union law. This definition seems in favour of the national law and not the Union law, where the European single market is taken into account, and also the Treaty on the Functioning of the European Union (TFEU), in particular Art. 49 of the TFEU - the freedom of establishment, and Art. 56 of the TFEU - the freedom to provide services on the European single market.

Art. 49 of the TFEU says that [...] *“restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited.”* Art. 56 of the TFEU states that *“restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of the Member States who are established in a Member State other than that of the person for whom the services are intended.”* Malta is blocking this, as the only EU country the signing of the Macolin Convention by the EU as a one signing party and thus for the Council of Europe (CoE) gaining of all signatory member states of the EU, because they don't agree with the CoE definition of illegal sports betting. It

is also because of the conflict of the valid law. As mentioned before, the Gaming and Betting market contributes more than 13 percent of the whole GDP of the economy of Malta (Yogonet Gaming News, 2020), and the Macolin Convention can endanger its national market.

Malta criticized the Convention's definition of illegal sports betting, and that is why there is institutional deadlock (Büchel, 2020). The definition of illegal sports betting according to the CoE says: "*illegal sports betting means any sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located.*" Does this endanger sport?

If we take the example of Malta, it is not clear which jurisdiction should be preferred. The primacy of EU law is not explicitly laid down in a TFEU but refers to the case-law of the Court of Justice (CJEU) that is relevant to the question of primacy. Generally speaking, the primacy of Union law ensures that Union law may not be revoked or amended by national law, and it takes precedence over national law if the two conflict. Malta states that the definition of illegal sports betting is beyond the scope of the Macolin Convention and, therefore, does not contribute to the fight against match-fixing. If betting operators with a seat in Malta offer their services for customers from other EU member states, it is in line with Union law, and therefore, the aforementioned definition of illegal sports betting is incorrectly worded and against the interests of Malta.

However, on the other hand, Büchel (2020) states, that there is an international consensus on the fact that betting companies that want to operate legally cannot disregard the legislation of the jurisdiction where their customers are located and Malta challenged this principle at all stages of the preparation of the Convention.

Büchel (2020) thinks that Malta should stop seeking new legal nuances and sincerely aim at joining the Convention to defend its positions as a fully-fledged member from within the Follow-up Committee.

The definition of illegal sports betting was probably written also as a solution to the problem of how states can retain the flow of capital and ensure the flow of taxes into the budgets of states. The real difference lies in the state budgets, because in some countries betting and gambling bring a significant income to the state budget.

Nevertheless, the Macolin Convention is the first document of an international character of the Council of Europe, where non-member states can also be signatories of the Convention. So far, only Australia, Morocco and Russia² have signed. It is a question for the future whether countries in Asia (where the most unregulated betting operators operate) will also sign the convention and join the countries that consider match-fixing a threat. However, to prevent match-fixing, it would be helpful to define a minimum standard that would apply to all sports betting operators.

4.3 European Parliament

In 2013 the European Parliament has adopted a resolution on online gambling in the internal market (2013).

Following this resolution, *Gambling is not an ordinary economic activity given its potentially negative health and social impacts, which include: compulsive gambling, the consequences and costs of which are difficult to estimate; organised crime; money laundering; and match-fixing; whereas online gambling may involve a greater risk of addiction than traditional offline gambling, owing, inter alia, to the increased ease of access and the absence of social control, but additional research and data is needed in this regard; notes that, on these grounds, certain internal market rules – including the freedom of establishment, the freedom to provide services and the principle of mutual recognition – do not preclude Member States from determining their own additional measures for the protection of players.*

In other words, member states are in charge of their own approaches and can regulate gambling and sports betting at the national level, which means that they could apply their own regulation, in the name of national interests, which might go beyond the scope of the European Union Law.

In the resolution (Art. 26), a legal gambling operator in the EU was defined. In order to be a legal gambling operator in the EU internal market, the operator must fulfill at least these two requirements:

(a) the operator must have a license which gives it a right to operate in the Member State of the player;

²In February 2022, 42 out of 47 member states voted for Russia to be suspended from membership in reaction to the 2022 Russian invasion of Ukraine and is among the non-member states.

(b) the operator is not considered to be illegal under the law applicable in any other Member State.

This definition is inconsistent with the definition of the CoE regarding illegal sports betting, because once again, according to the CoE, *“illegal sports betting” means any sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located.*

In June 2014 Malta requested the European Court of Justice’s opinion on the definition of illegal sports betting and whether the Council of Europe Convention on the Manipulation of Sports Competitions is compatible with EU Treaties. However, one year later it withdrew its request.

In 2019, following the entry into force of the “Prevention of Corruption in Sport Act” in the previous year, the Maltese Parliamentary Secretariat for Sport decided to unify the approach to integrity in sport by creating a single agency as of 2021 to deal with anti-doping, anti-match-fixing, legislation and investigation and policy and education and this new body will also represent Malta in the Group of Copenhagen (Büchel, 2020).

5. Recommendations regarding the betting market

5.1 A common approach of all stakeholders

In the states where is a state monopoly of the betting market, there is good cooperation between betting operators and bookmakers. On the other hand, if the state also allows private providers of gambling to operate on the betting market, there is a need to cooperate better to tackle match-fixing cases and other kinds of corruption. States can enforce cooperation and exchange of information, which are essential to tackle match-fixing through the granting or suspension of licenses, which allow private providers to operate on the internal betting market.

The real challenges come when we consider the granting or suspension of licenses of betting operators in the countries of the internal EU market. States and public authorities responsible for regulation should set a minimum standard for all betting operators that will be applied to all operators on a national or even an international level. Betting operators who meet the minimum standard regarding match-fixing could obtain a license from the national

gaming authorities. The betting operators must be regulated, and there should be a strict betting ban on amateur competitions and all types of youth matches.

5.2 Establishment of national and international platforms

The most valuable and efficient way to tackle the match-fixing – besides introducing legislative changes in order to punish the perpetrators of match-fixing as criminals – is the establishment of "national platforms" for the fight against manipulation of sports competitions (Gábriš, 22). Serby (2015) also noticed that, in many countries, establishing a national platform is not seen as a priority in combating the risk of match-fixing. Notably exceptions are France, Italy and Australia and Serby further emphasises that establishing a national platform can potentially have a major impact in the global fight against match-fixing.

The most inspirational national platform is the French one, being established by an Agreement between the Minister for Sports and the National Gaming Authority, which until 2020 was named ARJEL (L'Autorité de Régulation des Jeux En Ligne), after 2020 ANJ (Autorité Nationale des Jeux). It was under the chairmanship of the Minister for Sports (Gábriš, 21). ANJ additionally monitors the French online sports betting market through an administrative partnership with Global Lottery Monitoring System (FDJ), which enables real time exchanges to obtain an overview of the situation on the national sports betting market, both online and offline, and has also developed its own odds analysis software tool (Gábriš, 21-22). This tool monitors, identifies and indicates attempts at betting related manipulation. ANJ also ensures that no conflicts of interest exist between the licensed sports betting operators and the sports competitions' organizers. Also, as a gambling regulatory authority, ANJ can prevent bets being placed on competitions that entail higher match-fixing risks. Last, but not least, the reasonably suspicious cases of manipulation are forwarded to the prosecution office (Gábriš, 22).

Other examples are the UK and Norway, who recommend linking the national platform with the gambling regulator. This allows them to impose on the betting providers a duty to cooperate and provide the required data to the national platform, which helps in effectively monitoring potential cases of match-fixing (Gábriš, 21).

The most efficient solution might be to establish a national platform by joining it under the activities of antidoping agencies. The best example so far has been that of Denmark,

whose National Platform secretariat was operated by the Danish National Anti-Doping Organization (NADO). However, from April 2023 the secretariat was moved to the Danish Gambling Authority (2023). This shows that merging with a NADO could be the first step and merging with a National Gambling Authority could be a further step in the fight against match-fixing.

5.3 Early warning systems

Another very effective preventive measure are early warning systems (EWS). These EWSs mostly examine professional sporting competitions, on which it is possible to bet. They cannot be applied at the amateur level. EWS in the match-fixing cases with the element of betting could provide very useful evidence in the form of reports, which can be applied as evidence in front of the Court of Arbitration for Sport (CAS) Panel.

The betting fraud detection system used by the Union of European Football Associations (UEFA) as a betting fraud detection tool was established in 2009 and uses algorithms and mathematical models to compare calculated odds with actual bookmakers' odds to determine whether the odds in a specific minute or time period are irregular. Its objective is to identify irregular betting movements, both pre-match and in-game (live), in the core betting markets, and covers all major European and Asian bookmakers (Nicholson, 2016).

5.4 Creation of Integrity units

The main responsibility of preserving integrity in sport lies in the sport movement and the sports associations themselves. Some associations have created integrity units that deal with in-house intelligence and work against corruption, and hire former law enforcement officers. Some examples are, for instance, the UEFA Integrity Officer network, the Tennis Integrity Unit, the British Horseracing Authority integrity unit, and the International Cricket Council Anti-Corruption and Security Unit (UN Resource Guide on Good Practices in the Investigation of Match-Fixing, p. 65.).

6. Conclusion

The sports betting market is a huge sponsor of the modern world of sport, and this brings with it both opportunities and threats. I have tried to apply an ethical and a legal perspective to sports betting as a threat to sport and to analyse it on the international level.

The ethical perspective of sports betting was explained through the internal values of sport on the 6-criteria conceptual analysis by Parry; and through the external values of sport on 6-spheres by Trunz. This showed that sports betting and gambling has significant consequences for the values of international organised sport.

I then described the practices of gambling and sports betting from the social and economic standpoint, since many scholars describe them as leisure activities, one function of which has been to rejuvenate declining economies and be an important source of creating jobs and revenues for governments. However, since the sports betting market has both a great economic potential and a low risk of detection, it has attracted the interest of organised crime, partly because, whereas the betting market has a transnational dimension, it is mostly regulated nationally.

Further, the legal perspective of sports betting was described by introducing international legal norms. Some of them, as with the Macolin Convention of the Council of Europe and the United Nations conventions, are non-binding regulations whilst being very important sources of international law and international standards. On the other hand, the resolution on online gambling in the internal market of the European Parliament is a binding regulation, but only for EU member states.

Finally, the essential recommendations regarding the betting market are the following. Despite the fact that there is national regulation of the betting market with a connecting element of European Parliament legislation, it is clearly of the most importance that a common approach of all stakeholders on the national and international level is developed. This could be effected by the establishment of national and international platforms, which would be fed by data from early warning systems and betting fraud detection systems to indicate suspicious betting patterns. These platforms should share privately confidential information to all affected stakeholders on a case-by-case basis. This information database could be used as evidence in criminal-legal matters before national courts and, perhaps later, on the European and other transnational courts. It should be supported at the level of the sports movement by the creation of integrity units in organised sports.

It is crucial to recognize that sports betting itself is not the root problem; rather, it is match-fixing, a global cross-border crime that proves challenging to investigate. Match-fixing is often seen as a sports integrity issue, but it is also a gambling integrity issue. The solution

lies in implementing minimum standards by countries committed to combating match-fixing and financial corruption - standards that can be adopted and prosecuted nationally, but investigated internationally.

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References

- Ashelm, M. (2014). Sportwetten sind ein Eldorado für Kriminelle. FAZ-online, 5 May. Retrieved from <http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/studie-sportwetten-sind-eldorado-fuer-kriminelle-12941238.html>.
- Bengel, C., & McCarriston, S. (2023). U.S. sports betting: Here's where all 50 states currently stand on legalizing online sports gambling sites. Retrieved from <https://www.cbssports.com/general/news/u-s-sports-betting-heres-where-all-50-states-currently-stand-on-legalizing-online-sports-gambling-sites/>.
- Black, R., & Ramsay, H. (2003). The ethics of gambling: Guidelines for players and commercial providers. *International Gambling Studies*, 3(2), 199-215. <https://doi.org/10.1080/1356347032000142298>.
- Boeri, T., & Severgnini, B. (2013). Match Rigging in Italian Professional Soccer: The Economic Determinants of Corruption. In M. R. Haberfeld & D. Sheehan (Eds.), *Match-Fixing in International Sports: Existing Processes, Law Enforcement, and Prevention Strategies* (pp. 101-112). New York.
- Büchel, R. (2020). Time to act: Europe's political response to fighting the manipulation of sports competitions. Reference to committee Doc. 14518, Reference 4384 of 1 June 2018. 2020 - October Standing Committee. Retrieved from <https://pace.coe.int/en/files/28648/html>.
- CAS. (2009). Arbitral Award CAS 2009/A/1920 FK Pobeda, Aleksandar Zabrcanec, Nikolce Zdraveski v. UEFA.
- Council of Europe. (2011). Recommendation CM/Rec (2011)10.
- Council of Europe. (2012). 12th Council of Europe Conference of Ministers responsible for Sport, MSL12 (2012) 8.
- Council of Europe. (2014c). 13th Council of Europe Conference of Ministers responsible for Sport, MSL13 (2014) 10 rev.
- Council of Europe. (2014a). Council of Europe Treaty Series - No. 215. Explanatory Report to the Council of Europe Convention on the Manipulation of Sports Competitions. Retrieved from <https://rm.coe.int/16800d383f>.
- Council of Europe. (2014b). European Treaty Series No. 215. Convention on the Manipulation of Sports Competitions. Magglingen. Retrieved from <https://rm.coe.int/16801cdd7e>.
- Danish Gambling Authority. (2023). The Danish Gambling Authority becomes secretariat for national platform to combat match-fixing. Retrieved from <https://www.spillemyndigheden.dk/en/who-danish-gambling-authority>.
- European Commission. (2023). European Public Prosecutor's Office (the EPPO). Mission. Retrieved from https://commission.europa.eu/law/cross-border-cases/judicial-cooperation/networks-and-bodies-supporting-judicial-cooperation/european-public-prosecutors-office-eppo_en.

- European Parliament. (2013). European Parliament resolution of 10 September 2013 on online gambling in the internal market (2012/2322(INI)). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013IP0348>.
- European Union. (2012). Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. Retrieved from https://eur-lex.europa.eu/eli/treaty/tfeu_2012/oj.
- European Union. (2017). Official Journal of the European Union EUR-Lex - 283/1. COUNCIL REGULATION (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1939&from=SK>.
- EUROPOL. The involvement of organised crime groups in sports corruption. Situation report. Retrieved from https://www.europol.europa.eu/sites/default/files/documents/the_involvement_of_organised_crime_groups_in_sports_corruption.pdf.
- Gábriš, T. (2017). Effectiveness of European Countries' Laws and Regulations Dealing with Match-Fixing. Retrieved from https://uefaacademy.com/wp-content/uploads/sites/2/2019/06/20170331_UEFAFinalReport_Gabris-Tomas.pdf.
- Gassmann, F., Emrich, E., & Pierdzioch, C. (2015). Who bets on sports? Some further empirical evidence using German data. *International Review for the Sociology of Sport*, 52(4). <https://doi.org/10.1177/1012690215597650>.
- Godinho, A., & Barbosa, C. (2013). Topics for an Academic Agenda: The Prevention of Match-Fixing in Brazil. In M. R. Haberfeld & D. Sheehan (Eds.), *Match-Fixing in International Sports: Existing Processes, Law Enforcement, and Prevention Strategies* (pp. [225-245]). New York.
- Gough, C. (2023). Statista. Sports industry revenue worldwide in 2022, with a forecast for 2023 and 2027. Retrieved from <https://www.statista.com/statistics/370560/worldwide-sports-market-revenue/>.
- ICSS. (2014). University Paris 1 Panthéon-Sorbonne and the International Centre for Sport Security. Protecting the Integrity of Sport Competition – The Last Bet for Modern Sport: An executive summary. Retrieved from https://issuu.com/the_icss/docs/sorbonne-icss_report_executive_summ?utm_medium=referral&utm_source=theicss.org.
- Koch, R., & Maennig, W. (2006). Spiel- und Wettmanipulationen – und der Anti-Korruptionskampf im Fußball. *Macht und Versuchung auf dem grünen Rasen. Der Bürger im Staat*, 56(1), 50–56.
- Leuba, J-S. (2012). FK Pobeda et al. v. UEFA (CAS 2009/A/1920). In Anderson, P., Blackshaw, I., Siekmann, R., & Soek, J. (Eds.), *Sports Betting: Law and Policy* (pp. 162-172). DOI: 10.1007/978-90-6704-799-9.
- Lopez-Gonzalez, H., Estévez, A., & Griffiths, M. D. (2018). Controlling the illusion of control: A grounded theory of sports betting advertising in the UK. *International Gambling Studies*, 18(1), 39-55. <https://doi.org/10.1080/14459795.2017.1377747>.

- Nicholson, P. (2016). CAS dismisses Skenderbeu appeal with key decision in battle against match-fixers. Retrieved from <https://www.insideworldfootball.com/2016/07/07/cas-dismisses-skenderbeu-appeal-key-decision-battle-match-fixers/>.
- Palermo, G., & Williams, B. (2018). Match-fixing and the evolution of CAS Jurisprudence. *Bulletin TAS CAS Bulletin*, 2(8), 2018.
- Parry, J. (2020). The Concept of Sport in Olympism. *Diagoras: International Academic Journal on Olympic Studies*, 4, 131–148. Retrieved from <http://diagorasjournal.com/index.php/diagoras/article/view/94>.
- Productivity Commission. (1999). *Australia's Gambling Industries: Inquiry Report No.10*, 3 vols. AusInfo, Canberra.
- Rogic, S., Konatar, M., & Djuriscic, V. (2018). Sport Financing Through the Gambling Revenues in Montenegro. *Sport Mont Journal*, 16(2), 87-91. <https://doi.org/10.26773/smj.180616>.
- Serby, T. (2015). The Council of Europe Convention on Manipulation of Sports Competitions: the best bet for the global fight against match-fixing? *The International Sports Law Journal*, 15, 83–100. <https://doi.org/10.1007/s40318-015-0069-5>.
- Serby, T. (2017). Sports Corruption: Sporting Autonomy, Lex Sportiva and the Rule of Law. *Entertainment and Sports Law Journal*, 15(1), 2. <https://doi.org/10.16997/eslj.204>.
- Shani, A., Fong, L. H. N., Leung, D., Law, R., Gavriel-Fried, B. (Lecturer), & Chhabra, D. (2014). Ethics of Gambling? *Tourism Recreation Research*, 39(3), 453-486. <https://doi.org/10.1080/02508281.2014.11087011>.
- Statista Research Department. (2023). Market size of the sports betting and lottery sector worldwide from 2013 to 2022, with a forecast for 2023. Retrieved from <https://www.statista.com/statistics/1186240/sports-betting-and-lottery-industry-market-size-global/>.
- Trunz, M. (2016). *Ein globaler Lösungsansatz zur Bekämpfung der Spiel- und Wettspielmanipulation im Sport*. Dike Verlag. Zürich/St. Gallen.
- United Nations Educational, Scientific and Cultural Organization. (2013). Declaration of Berlin of the Fifth International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (MINEPS V), Berlin, Germany, 28-30 May 2013. Retrieved from <https://unesdoc.unesco.org/ark:/48223/pf0000225617?posInSet=1&queryId=N-EXPLORE-6689173d-83df-4c5f-8989-8369b1fa505e>.
- United Nations General Assembly. (2000). United Nations Convention against Transnational Organized Crime. Retrieved from <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>. Adopted on 15 November 2000 by resolution 55/25, Entry into force on 29 September 2003.
- United Nations General Assembly. (2003). United Nations Convention against Corruption. Retrieved from https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf. Adopted on 31 October 2003, by resolution 58/4, Entry into force on 14 December 2005, in accordance with article 68(1).

United Nations Office on Drugs and Crime. (2016). Resource Guide on Good Practices in the Investigation of Match-Fixing. Retrieved from https://www.unodc.org/documents/corruption/Publications/2016/V1602591-RESOURCE_GUIDE_ON_GOOD_PRACTICES_IN_THE_INVESTIGATION_OF_MATCH-FIXING.pdf.

Van Rompuy, B. The role of the betting industry. Retrieved from https://www.transparency.org/files/content/feature/4.2_RoleBettingIndustry_VanRompuy_GCRSport.pdf.

Yogonet Gaming News. (2020). Maltese gaming industry sees nearly 10% growth in 2019. Retrieved from https://www.yogonet.com/international/noticias/2020/06/24/53698-maltese-gaming-industry-sees-nearly-10por_ciento-growth-in-2019.