

# CRIMINAL LAW PROVISIONS FOR THE PROSECUTION OF COMPETITION MANIPULATION

UNODC IOC STUDY





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## Table of Contents

Foreword.....	5
Acknowledgements.....	6
Executive Summary.....	7
Overview of the Study.....	8
<b>1 Introduction.....</b>	<b>9</b>
I. Study Objectives.....	10
II. Methodology.....	11
III. Terminology.....	12
<b>2 Relevant International Legal Framework.....</b>	<b>13</b>
I. Preliminary Remarks: Disciplinary Sanctions vs. Criminal Sanctions for Match-Fixing.....	13
Disciplinary sanctions applied by sports bodies.....	13
Criminal sanctions by states.....	14
II. General Instruments: International Legal Frameworks.....	15
The United Nations Convention against Corruption.....	15
1 Active and passive bribery in the public sector.....	15
2 Active and passive trading in influence.....	17
3 Active and passive bribery in the private sector.....	18
The United Nations Convention against Transnational Organized Crime and the protocols thereto.....	18
III. The Council of Europe Convention on the Manipulation of Sports Competitions.....	19
<b>3 Legislation Studied.....</b>	<b>22</b>
I. Overview of Match-Fixing Offences at the National Level.....	23
1 Argentina.....	24
2 Australia.....	24
3 Brazil.....	24
4 Bulgaria.....	25
5 People’s Republic of China.....	25
6 Denmark.....	25
7 El Salvador.....	26
8 France.....	26
9 Germany.....	26
10 Greece.....	27
11 India.....	27
12 Italy.....	28
13 Japan.....	28
14 Republic of Korea.....	29
15 Latvia.....	29



16	Malta	30
17	New Zealand	30
18	Paraguay	30
19	Poland	31
20	Portugal	31
21	The Russian Federation	32
22	South Africa	32
23	Spain	33
24	Switzerland	33
25	Turkey	33
26	Ukraine	34
27	United Kingdom	34
28	United States of America	34
<b>II.</b>	<b>Legal Analysis of Selected Match-Fixing Offences</b>	<b>35</b>
1	General considerations	35
2	Main features of national match-fixing offences	35
<b>III.</b>	<b>Good Practice Elements and Recommendations</b>	<b>43</b>
1	Application of the match-fixing offence to all sports and competitions	43
<b>IV.</b>	<b>Model Criminal Law Provisions</b>	<b>46</b>
1	Core provisions criminalizing the manipulation of sports competitions	46
2	Additional guidelines to be considered by national legislators	48
<b>Annexes</b>		<b>49</b>
<b>Annex 1</b>	<b>National Legislation Providing a Specific Match-Fixing Offence</b>	<b>50</b>
	Argentina	50
	Australia	51
	Brazil	64
	Bulgaria	65
	People's Republic of China	67
	Denmark	68
	El Salvador	69
	France	70
	Greece	74
	India	75
	Italy	78
	Japan	79
	Republic of Korea	80
	Latvia	82
	Malta	83
	New Zealand	85
	Paraguay	87

Poland.....	87
Portugal.....	91
Russian Federation.....	93
South Africa.....	96
Spain.....	97
Switzerland.....	98
Turkey.....	101
Ukraine.....	103
United Kingdom.....	104
<b>Annex 2</b> Analysis Grid for the Specific Match-Fixing Offences Provided in National Legislation.....	107
<b>Annex 3</b> Relevant International Legislation – A Comparison on Selected Themes.....	114
<b>Annex 4</b> The Olympic Movement Code on the Prevention of the Manipulation of Competitions.....	119
<b>Annex 5</b> Bibliography.....	125

## Foreword

The manipulation of sports competitions, in particular when linked to betting activities, has become an area of great concern in recent years. Like doping, it threatens the very integrity of sport. Often, it also has links to other criminal activities such as corruption, organized crime and money-laundering.

In such cases, the investigation capacities of sports organisations, as well as the sanctions available to them, such as bans, relegations and penalties, are no longer sufficient and must be complemented with a criminal justice response. Legislation to establish criminal offences against competition manipulation is therefore needed alongside independent sports sanctioning systems.

The International Olympic Committee (IOC), as the guardian in charge of preserving the integrity of the Olympic Games, and the United Nations Office on Drugs and Crime (UNODC), as the global leader in the fight against corruption and crime, and guardian of related United Nations conventions, have joined forces to protect clean athletes.

In 2013, the IOC and UNODC published a joint study which compiled criminal law provisions on match-fixing and illegal betting from existing legislation of 19 countries. It identified discrepancies and similarities in legislative approaches. The document at hand uses this initial study and broadens its perspective by looking at specific legislation in 52 countries. This research reveals that during the last three years some national legislation has been further developed and more countries have adopted specific legislation aimed at criminalizing the manipulation of sports competitions.

This booklet puts forward for consideration Model Criminal Law Provisions aimed at assisting countries in establishing effective legislation to prosecute those involved in competition manipulation. The harmonization of criminal legislation is key for international law enforcement and judicial cooperation and will further facilitate convergence in criminal justice responses.

Our efforts in supporting national governments and other stakeholders involved in sport in cutting the Gordian knot that ties criminal activities with sports competitions is an ongoing process. At the same time, the UNODC and the IOC, as well as other major sports organisations, are stepping up efforts to support the prevention, monitoring, assessment and investigation of any unethical activity related to sports competitions.

It is this coordinated approach, at the international and national levels, that is key to protecting the integrity of sport, its values and athletes.



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## Executive Summary

Match-fixing is one of the most significant threats to the integrity of sport. It eliminates unpredictability, which is the inherent feature of fairness in a competition. In addition, it also destroys the core social, cultural and educational values of sports, as well as undermining its economic role.

An effective fight against match-fixing requires governmental action and coordination with sports organisations, especially in the field of criminal law. Multiple initiatives have been launched and developed as the problem has received more attention. Indeed, the realisation that a significant proportion of the illicit and illegal profits made from the manipulation of sports competitions strongly involves an international aspect has led States, the IOC and UNODC, and other organisations such as the Council of Europe and the European Union, to look at using existing international frameworks, as well as developing new mechanisms, in order to support efforts to counter this problem.

The United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime form the international legal framework to support efforts of governments and sports organisations in the fight against competition manipulation. In particular, the relevance of the Convention against Corruption was underlined by States parties as an effective mechanism for promoting good governance in sport and mitigating the risk of corruption that sport faces globally, who further acknowledged the work done by UNODC and IOC in this regard. Added to this is the Council of Europe's sport-specific international agreement, the "Macolin Convention".

This study represents a follow-up to the IOC-UNODC document entitled "Criminalization approaches to combat match-fixing and illegal/irregular betting" (hereinafter, the "IOC-UNODC Study (2013)") and seeks to implement the IOC International Forum on Sports Integrity Recommendations of April 2015. Based on an extensive legal analysis of 52 national jurisdictions which incriminate match-fixing, the study has the following objectives:

- To develop a check-list of "good-practice" elements identified in the above-mentioned legislation;
- To propose Model Criminal Law Provisions and additional guidelines for consideration by national legislators seeking to introduce legislative measures to combat competition manipulation.

Examples of cases involving match-fixing show that, due to the complexity of the crime, it is necessary to employ appropriate tools, such as police expertise, telephone interceptions, formal police interviews, prosecutions and trials.

Such cases underline the international nature of match-fixing and the need for effective coordination at the national and international levels between law enforcement bodies and sports organisations. In terms of match-fixing, examples exist of police and public prosecutors co-operating with sports organisations in relation to criminal cases, and without prejudicing the sanction systems<sup>1</sup> used in sport.

<sup>1</sup> KEA report (2012), p.16 ([http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version\\_en.pdf](http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version_en.pdf))



## Overview of the Study

**Chapter 1** – *Introduction* – sets out the objectives, methodology and terminology of the study, as well as the hypothesis that the introduction of specific legal provisions to criminalize match-fixing acts as a deterrent to those who would otherwise engage in such activity.

**Chapter 2** – *Relevant International Legal Framework* – reviews the existing instruments, at both global and regional levels, which are relevant to match-fixing, notably the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime, as well as the recent Council of Europe Convention on the Manipulation of Sports Competitions (see also Annex 3). This chapter also sets out the distinction between criminal and disciplinary sanctions, which may apply simultaneously to some match-fixing cases.

**Chapter 3** – *Study Results* – presents the findings of this study, specifically that the number of countries which have adopted, enacted or passed specific legislation criminalizing match-fixing has increased sharply since 2013 which stood at five, to 28 at time of writing.

**Chapter 4** – *Overview of National Jurisdictions Providing Specific Match-Fixing Offences* – presents the 28 jurisdictions which have adopted specific criminal legislation on match-fixing and provides direct hyperlinks to the texts currently in force. This chapter is complemented notably by Annex 1.

**Chapter 5** – *Legal Analysis* – uses an analysis grid composed of thirteen criteria (see also Annex 2) to examine the 28 jurisdictions where match-fixing is an offence.

**Chapter 6** – *Good Practice Elements and Recommendations* – lists the good practices identified in the 28 jurisdictions where match-fixing has been criminalized and proposes using the international instruments (presented in chapter 2) as a basis.

**Chapter 7** – *Model Criminal Law Provisions* – proposes two model criminal law provisions, accompanied by additional guidelines, which could be considered by national legislators when adopting new criminal law provisions against match-fixing.

# 1 Introduction

Match-fixing is one of the most significant threats to the integrity of sport. It eliminates the unpredictability of the game which is the inherent feature of fairness in a competition. In addition, it also destroys the core social, cultural and educational values of sports, as well as undermining its economic role.

Sports organisations are well aware of the harmful potential of match-fixing. The International Olympic Committee (IOC) President, Mr. Thomas Bach, has repeatedly identified the manipulation of sports competitions as one of the biggest challenges facing sports today, alongside doping.

Mr. Bach also underlined the need for a concerted action to fight this global phenomenon<sup>2</sup> as, indeed, such a challenge cannot be addressed by sports organisations alone.

An effective fight against match-fixing requires governmental action and coordination with sports organisations, especially in the field of criminal law. Multiple initiatives have been launched and developed as the problem has received more attention. Indeed, the realisation that a significant proportion of the illicit and illegal profits made from the manipulation of sports competitions strongly involves an international aspect has led States, the IOC and UNODC, and other organisations such as the Council of Europe and the European Union, to look at using existing international frameworks, as well as developing new mechanisms, in order to support efforts to counter this problem.

The United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime form the international legal framework to support the efforts of governments and sports organisations in the fight against competition manipulation. In particular, States parties have underlined the relevance of the Convention against Corruption as an effective mechanism for promoting good governance in sport and mitigating the risk of corruption that sport faces globally, and further acknowledged the work done by UNODC and IOC in this regard.<sup>3</sup> Added to this is the Council of Europe's sport-specific international agreement, the Convention on the Manipulation of Sports Competitions, often referred to as the "Macolin Convention".<sup>4</sup>

<sup>2</sup> [http://www.olympic.org/Documents/Commissions\\_PDFfiles/Ethics/IFSI\\_Opening\\_Remarks\\_IOC\\_President.pdf](http://www.olympic.org/Documents/Commissions_PDFfiles/Ethics/IFSI_Opening_Remarks_IOC_President.pdf)

<sup>3</sup> See: UNODC Resolution 6/6, available at:  
[https://www.unodc.org/documents/treaties/UNCAC/session6/Report\\_COSP\\_VI\\_advance\\_copy.pdf](https://www.unodc.org/documents/treaties/UNCAC/session6/Report_COSP_VI_advance_copy.pdf)

<sup>4</sup> Council of Europe Convention on the Manipulation of Sports Competitions, available at:  
<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016801cdd7e>

## I. Study Objectives

This study represents a follow-up to the IOC-UNODC document entitled *Criminalization Approaches Combat Match-Fixing and Illegal/Irregular Betting* (hereinafter, the “IOC-UNODC Study (2013)”) and seeks to implement the IOC International Forum on Sports Integrity Recommendations of April 2015. Based on an extensive legal analysis of 52 national jurisdictions which incriminate match-fixing, the booklet has the following objectives:

- To develop a check-list of “good-practice” elements identified in the above-mentioned legislation;
- To propose Model Criminal Law Provisions and additional guidelines for consideration by national legislators seeking to introduce legislative measures to combat competition manipulation.

These objectives are based on two premises: firstly, that the most effective way to deter match-fixing consists of establishing national laws to criminalize such activity; and secondly, that establishing a specific criminal offence concerning the manipulation of sport events may be more effective than relying on general criminal law provisions.

Examples of cases<sup>5</sup> show that the manipulation of sports competitions is not merely a breach of sporting rules which can be addressed through the independent sanctioning system created by national and international sports organisations. It is often necessary to resort to criminal justice measures as match-fixing frequently constitutes an offence against the public order in a broader sense.

Moreover, perpetrators are sometimes outside the reach of sports organisations and cannot therefore be sanctioned by them. At times, the scale of these unlawful activities is so wide that it surpasses the investigative and disciplinary powers of sports organisations. For example, during operation “Veto” conducted by Europol,<sup>6</sup> a total of 425 officials, players, and other participants of a sophisticated organized crime network, from more than 15 countries, were suspected of being involved in the manipulation of more than 380 professional football matches across Africa, Asia, Europe and South and Central America.<sup>7</sup> The activities generated over €8 million in betting profits and involved over €2 million in corrupt payments to those involved in the matches.<sup>8</sup>

Such cases highlight the important international dimension of match-fixing and the need for effective coordination at national and international levels between law enforcement bodies and sports organisations. Such cooperation already exists in the fight against doping, where criminal justice mechanisms were created for this purpose.<sup>9</sup> Examples of such cooperation in terms of match-fixing include instances where police and public prosecutors co-operate with sports bodies.<sup>10</sup>

Research shows that the enactment of a specific match-fixing offence is more effective in practice than the reliance on the general provisions incriminating fraud, bribery, cheating, corruption or deception.<sup>11</sup>

<sup>5</sup> KEA report (2012), p.16. ([http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version\\_en.pdf](http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version_en.pdf))

<sup>6</sup> See <https://www.europol.europa.eu/content/results-largest-football-match-fixing-investigation-europe>

<sup>7</sup> Idem

<sup>8</sup> See also Carpenter, K., *Match-Fixing – The Biggest Threat to Sport in the 21st Century?*, available at: <http://www.lawinsport.com/articles/anti-corruption/item/match-fixing-the-biggest-threat-to-sport-in-the-21st-century-part-1>

<sup>9</sup> For details, see McNamee, M., Møller V., (Eds.), *Doping and Anti-Doping Policy in Sport Ethical, Legal and Social Perspectives*, Routledge, 2011

<sup>10</sup> KEA report (2012), p.16. ([http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version\\_en.pdf](http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version_en.pdf))

<sup>11</sup> Haberfeld, M.R., Sheehan, Dale (Eds.), *Match-Fixing in International Sports - Existing Processes, Law Enforcement, and Prevention Strategies*, Springer 2013, pp.202, 279

Furthermore, such provisions may reinforce the educational and preventive aspects related to match-fixing by making it clear that cheating in a sports event can per se qualify as a criminal offence.<sup>12</sup> It is also noteworthy that a trend is emerging whereby different institutional stakeholders have requested the enactment of a specific criminal offence for match-fixing.<sup>13</sup>

All the national laws analysed in this study contain general criminal offences, such as corruption, bribery, fraud, deception, use of insider information, money laundering, organized crime, etc. These can cover certain actions or failures to act relating to the manipulation of sports events (for details, see chapter IV and Annex 1). However, as experience shows, gaps still exist by relying on only general offences, sometimes allowing offenders to avoid the most severe consequences of their deeds. For example, the absence of a specific crime for match-fixing was the main reason that three Swiss players were not convicted in 2009 in the context of a match-fixing scandal, which was part of the “Bochum” file.<sup>14</sup> In its judgment of 13 November 2012, the Federal Criminal Court acquitted the defendants and stated that Swiss criminal laws in force at that time were unsuitable to allow their conviction.<sup>15</sup> It is worth noting that Switzerland recently modified its legislation by enacting a new criminal offence for match-fixing.<sup>16</sup>

## II. Methodology

In order to increase the scope of the study, it was prepared using quantitative methods such as responses to standardized questionnaires used in the previous studies,<sup>17</sup> covering the general and specific offences related to the manipulation of competitions. These questionnaires were important in that they were both recent (2013 to 2015) and were provided directly by the relevant national authorities. The answers to these questionnaires have been reviewed in order to verify whether the legal provisions indicated in the previous studies were still applicable and, if necessary, to update them accordingly. This information was then reviewed using a “top-down” approach (legislative, jurisprudential and doctrinal review) in order to understand the general principles of criminal law and criminal procedure applicable in each jurisdiction and then scope of the legal texts was analyzed.

For the purpose of this study, the legal library on UNODC’s central platform TRACK “Tools and Resources for Anti-Corruption Knowledge”<sup>18</sup> was also used for cross-checking the national corruption-related offences.

<sup>12</sup> Idem. p.202

<sup>13</sup> Notably the IOC, UNODC, FIFA, UEFA, the European Parliament, etc. See KEA Report (2012), p.16

<sup>14</sup> <http://www.dw.com/en/europes-largest-match-fixing-trial-opens-in-bochum/a-6082391>

<sup>15</sup> Swiss Federal Criminal Court, judgment SK.2011.33: [http://bstger.weblaw.ch/pdf/20121113\\_SK\\_2011\\_33.pdf](http://bstger.weblaw.ch/pdf/20121113_SK_2011_33.pdf)

<sup>16</sup> Text available at: <https://www.bj.admin.ch/dam/data/bj/wirtschaft/gesetzgebung/geldspielinitiative/entw-f.pdf>

<sup>17</sup> Notably the previous IOC-UNODC-IOC Study (2013), the Council of Europe - European Committee on Crime Problems *Study on Criminal Law and integrity of sport against manipulation of result* (2012); the KEA Report *Match-fixing in sport – A mapping of criminal law provisions in EU 27* (2012) [hereinafter: the KEA Report (2012)], the *EU Anti-Corruption Report* (2014), the ICCS Report *Protecting the Integrity of Sport Competition – The Last Bet for Modern Sport* (2014) [hereinafter: the ICCS-Sorbonne Report (2014)] and the TMC Asser Institute Report *The Odds of Match Fixing – Facts & Figures on the Integrity Risk of Certain Sports Bets* (2015) [hereinafter: the TMC Asser Institute Report (2015)]

<sup>18</sup> <http://www.track.unodc.org/Pages/home.aspx>

### III. Terminology

The terms “*match-fixing*” and “*competition fixing*” have been used by a number of different institutions,<sup>19</sup> as well as at the EU level.<sup>20</sup> National regulations use a variety of different terms, including “*sporting fraud*” (e.g. India), “*corruption of players*” (e.g. Malta), “*bribery in sporting contests*” (e.g. United States) or “*corrupt activities relating to sporting events*” (e.g. South Africa).

The Council of Europe’s Convention against the Manipulation of Sports Competitions uses the term “*manipulation of sports competitions*”. This terminology is also used by a number of international sports organisations, including the IOC, which adopted in 2015 the Olympic Movement Code on the Prevention of the Manipulation of Competitions.

In this study, the terms “*manipulation of sports competitions*” and “*match-fixing*” are used interchangeably, except when otherwise indicated.

<sup>19</sup> KEA Report (2012) ([http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version\\_en.pdf](http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version_en.pdf)); IOC-UNODC Report (2013); ICCS-Sorbonne Report (2014); TMC Asser Institute Report (2015)

<sup>20</sup> [http://ec.europa.eu/sport/policy/organisation\\_of\\_sport/match\\_fixing\\_en.htm](http://ec.europa.eu/sport/policy/organisation_of_sport/match_fixing_en.htm)



# 2 Relevant International Legal Framework

The United Nations Conventions against Corruption and Transnational Organized Crime form the general international legal basis with which match-fixing can be addressed. This framework has been strengthened with the Council of Europe's Convention on the Manipulation of Sports Competitions, the "Macolin Convention". These instruments call for national legislators to adopt, where appropriate, legal provisions tackling corruption, transnational organized crime and the manipulation of sports competitions (see section 2). The criminal prosecution of these offences does not preclude sports organisations from applying disciplinary sanctions for match-fixers, in accordance with their applicable internal regulations (see section 1).

## I. Preliminary Remarks: Disciplinary Sanctions vs. Criminal Sanctions for Match-Fixing

Sanctions for match-fixing can be applied at two different levels: those which are applied by sports organisations according to their internal system of justice, namely disciplinary sanctions; and those applied by public authorities, namely state sanctions, which can be civil, administrative/disciplinary or criminal in nature.

### Disciplinary sanctions applied by sports bodies

National or international sports organisations adopt their own regulations and enforce them through their own sanctions system. The justice bodies established by sports organisations seek to settle disputes, mediate and guarantee a correct interpretation of sporting rules and regulations.<sup>21</sup>

Indeed, initiatives put in place by sports organisations and betting operators in recent years are fundamental in the fight against match-fixing. These initiatives may take the form of an "intelligence system", a code of conduct or ethics, integrity units or educational programmes. To mention only a few examples, the Fédération Internationale de Football (FIFA)<sup>22</sup> and Union des Associations Européennes de Football (UEFA)<sup>23</sup> were the first sporting bodies to establish early-warning systems to detect betting-related manipulation. The International Tennis Federation (ITF), the Association of Tennis Professionals (ATP), the Women's Tennis Association (WTA) and the Grand Slam Board, together created a permanent

<sup>21</sup> See Valloni L., Pachmann T., Sports Justice in Switzerland, European Sports Law and Policy Bulletin 1/2013, pp.600 et seq.

<sup>22</sup> [www.fr.fifa.com/aboutfifa/federation/releases/newsid=1040071.html](http://www.fr.fifa.com/aboutfifa/federation/releases/newsid=1040071.html)

<sup>23</sup> [www.fr.uefa.com/uefa/keytopics/kind=512/newsid=884732.html](http://www.fr.uefa.com/uefa/keytopics/kind=512/newsid=884732.html)

Tennis Integrity Unit in 2008.<sup>24</sup> The IOC launched in 2013 its own system for the exchange of information between sports betting regulators and operators and international sports federations<sup>25</sup> called the Integrity Betting Intelligence System (IBIS).<sup>26</sup> In addition to this intelligence system, the IOC's Code of Ethics (Articles 9 and 10) states that all forms of participation in, or support for betting related to the Olympic Games, and all forms of promotion of betting related to the Olympic Games, are prohibited. The IOC also approved, in 2015, the Olympic Movement Code on the Prevention of the Manipulation of Competitions (Annex 4), in order to harmonize regulations across all sports and provide for the possibility of applying disciplinary sanctions ranging from the minimum of a warning to the maximum of a life ban.<sup>27</sup>

The legal nature of "sport sanctions", which may include warnings, bans, relegations and penalties,<sup>28</sup> was clarified by the Swiss Federal Tribunal in the *Gundel* case, which qualified them as statutory sanctions, that is to say a form of contractual sanction.<sup>29</sup>

The Court of Arbitration for Sport has also made it clear that "disciplinary sanctions imposed by associations are subject to civil law and *must clearly be distinguished from criminal penalties*".<sup>30</sup> Obviously, disciplinary and criminal sanctions may be complementary.<sup>31</sup>

Provided that it is applied in line with legal constraints, the disciplinary power of sports institutions constitutes a fast and efficient coercive tool against the manipulation of sports competitions.<sup>32</sup>

## Criminal sanctions by states

As previously mentioned, the state sanctioning system can take several forms, depending on the applicable law. One of its strongest forms is criminalization, i.e. the enactment of criminal sanctions for the aspects related to match-fixing. The resort to criminal justice rests on the idea that sports manipulation is not only a breach of sports rules but also an offence to public order<sup>33</sup> and constitutes a manifestation of corruption that often overlaps with illegal and illicit activities involving national and transnational organized criminal groups.

The international community has recognized that international legal frameworks that promote cooperation have to be established to address the problems of match-fixing. These frameworks also impose obligations to enact relevant and effective laws to fight corruption and transnational organized crime. These are outlined below.

<sup>24</sup> <http://www.tennisintegrityunit.com/about-us/>

<sup>25</sup> [http://www.olympic.org/Documents/Commissions\\_PDFfiles/Ethics/Betting-factsheet-May-2013.pdf](http://www.olympic.org/Documents/Commissions_PDFfiles/Ethics/Betting-factsheet-May-2013.pdf)

<sup>26</sup> [http://www.olympic.org/Documents/Commissions\\_PDFfiles/Ethics/General\\_Presentation\\_IBIS\\_FRENCH.pdf](http://www.olympic.org/Documents/Commissions_PDFfiles/Ethics/General_Presentation_IBIS_FRENCH.pdf)

<sup>27</sup> [http://www.olympic.org/Documents/Commissions\\_PDFfiles/Ethics/olympic\\_movement\\_code\\_on\\_the\\_prevention\\_of\\_the\\_manipulation\\_of\\_competitions-2015-en.pdf](http://www.olympic.org/Documents/Commissions_PDFfiles/Ethics/olympic_movement_code_on_the_prevention_of_the_manipulation_of_competitions-2015-en.pdf)

<sup>28</sup> See also Van Kleef R., *Reviewing Disciplinary Sanctions in Sports*, Cambridge Journal of International and Comparative Law, Volume 4, Issue 1 (2015), pp.3-28

<sup>29</sup> Swiss Federal Tribunal, decision 119 II 271, c. 3c); also decision 120 II 369, c. 2

<sup>30</sup> CAS, award 2006/A/1102 par. 52, emphasis added

<sup>31</sup> See, for example, CAS award 98/200 *AEK Athens and Slavia Prague v. UEFA* of 20.08.1999

<sup>32</sup> ICCS-Sorbonne Report (2014), p.94

<sup>33</sup> KEA Report (2012), p.16 available at: [http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version\\_en.pdf](http://ec.europa.eu/sport/library/studies/study-sports-fraud-final-version_en.pdf)

## II. General Instruments: International Legal Frameworks

The complex international dimension that often accompanies cases of match-fixing requires instruments which can enhance cooperation between different countries, promote good governance and set international standards. Using the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime is an effective manner to achieve this.

They represent the global standards used to fight corruption and transnational organized crime and are almost universally supported.

### The United Nations Convention against Corruption

The main international instrument for tackling corruption is the United Nations Convention against Corruption which is the only legally binding universal anti-corruption instrument. The Convention, which at the time of writing has 180 States parties,<sup>34</sup> requires countries to establish criminal and other offences to cover a wide range of acts of corruption.

In practice, the Convention is most relevant for officials such as police, prosecutors and judges who cooperate across national borders to address the international dimension of corruption; however, it also include civil society and the private sector in order to fight this problem.

In terms of match-fixing, its application is important for a number of elements of effective detection, investigation, prosecution and adjudication.<sup>35</sup> Its direct applicability in terms of criminalization of competition manipulation activity relates to:

- Active and passive bribery in the public sector;
- Active and passive trading in influence; and
- Active and passive bribery in the private sector.<sup>36</sup>

#### 1 Active and passive bribery in the public sector

Active and passive bribery in the public sector are provided for in Arts. 15-16 of Convention against Corruption.

According to **Article 15 of Convention against Corruption** (Bribery of national public officials):

*“Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:*

- a) *The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;*

<sup>34</sup> The updated list (including ratifications) is available at: <http://www.unodc.org/unodc/fr/treaties/CAC/signatories.html>

<sup>35</sup> See Annex A and B of [https://www.unodc.org/documents/corruption/Publications/2016/V1602591-resource\\_guide\\_on\\_good\\_practices\\_in\\_the\\_investigation\\_of\\_match-fixing.pdf](https://www.unodc.org/documents/corruption/Publications/2016/V1602591-resource_guide_on_good_practices_in_the_investigation_of_match-fixing.pdf)

<sup>36</sup> UNODC-IOC Study (2013), p.279

- b) *The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.”*

According to Article 16 of Convention against Corruption (Bribery of foreign public officials and officials of public international organisations):

- “1. *Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.*
2. *Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties”.*

Active bribery is defined as the promise, offering or giving to a public official of an undue advantage, in order to act or refrain from acting in matters relevant to official duties. Passive bribery is defined as the solicitation or acceptance by a public official of an undue advantage, in order to act or refrain from acting in matters relevant to official duties. For the purposes of the Convention against Corruption, a “public official” is anyone “holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority” (the Convention against Corruption Article 2, subparagraph (a) (I)), as well as “any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party.”<sup>37</sup>

As underlined in the previous IOC-UNODC Study (2013), the main features of these articles, especially when applied to sports competitions, are the following:

- Article 15 criminalizes the bribery of national public officials, when committed intentionally, that makes him/her act or refrain from acting in the exercise of his/her official duties;<sup>38</sup>
- Article 16, Paragraph 1, establishes as a mandatory criminal offence the active bribery of foreign public officials and officials of public international organisations.<sup>39</sup> This paragraph defines the aim of bribery much more precisely and also more narrowly in scope than the other paragraphs analyzed here, since the (in)action of the official has to be related to the conduct of international business. The application of this definition in the framework of match-fixing through provisions on foreign or international bribery would mandatorily require sports activities to be considered as “international business”. While the targets of match-fixers

<sup>37</sup> See the Legislative Guide for the implementation of the the Convention against Corruption, 2006, available at: [https://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf)

<sup>38</sup> UNODC-IOC Study (2013), p.280

<sup>39</sup> UNODC-IOC Study (2013), p.280

include national competitions and therefore not international business per se, modern professional sports events usually have an international dimension (e.g. players from country A playing in national league B are involved in a fix organized by an individual from country C).

- The aim of soliciting or accepting bribes by foreign or international public officials in Paragraph 2 of Article 16 is to act or refrain from action in the exercise of his/her official duties.<sup>40</sup> Where athletes do not hold legislative, judicial, administrative or executive office, they can only be considered as public officials if their activity in sport in a specific country is being understood as “public function”, “public service”, or if they are explicitly defined as public officials. However, it should be made clear that such cases<sup>41</sup> are not common.

## 2 Active and passive trading in influence

Active and passive trading in influence are provided for in Article 18 of Convention against Corruption:

“Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

- a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;
- b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage”.

The IOC-UNODC Study (2013) underlined that the main features of this article, especially when applied to sports competitions, are the following:<sup>42</sup>

- The criminalization of trading in influence is not mandatory;
- The first paragraph deals with “active” and the second with “passive” trading in influence;
- The person who should use his/her real or supposed influence can be a public official but also any other person; and
- The aim of the envisaged influence is to gain an undue advantage from “an administration or public authority” and those terms have been explained as “an administration, public authority or State authority”.

<sup>40</sup> *ibid.*, p.281

<sup>41</sup> *ibid.*, p.282

<sup>42</sup> *ibid.*, p.283



### 3 Active and passive bribery in the private sector

In certain jurisdictions under scrutiny (such as Switzerland), sport is not considered to be part of the public sector, but of the private one. Private sector bribery in the Convention against Corruption is defined in Article 21.

According to **Article 21 of Convention against Corruption** (Bribery in the private sector):

“Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

- a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;
- b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting”.

The main features of this article, especially when applied to sports competitions, are the following:<sup>43</sup>

- The criminalization of private sector bribery is not mandatory;
- The “private sector” is described as “economic, financial or commercial activities”;
- The aim of the bribery is to incite a person to breach his/her duties by an action or omission; and
- A person breaching his/her duties can be anyone working in any capacity for a private sector entity.

It should also be noted that this article also acts as a mechanism to strengthen cooperation between law enforcement and the private sector. This cooperation is underpinned by the principles of transparency and accountability.

### The United Nations Convention against Transnational Organized Crime and the protocols thereto

The United Nations Convention against Transnational Organized Crime<sup>44</sup> is the main international instrument in the fight against transnational organized crime<sup>45</sup> which has, as its purpose, to “promote cooperation to prevent and combat transnational organized crime more effectively”. Based on the idea that if crime can cross borders, so too must law enforcement, it can be applied to match-fixing if transnational elements and organized criminal groups are involved.

<sup>43</sup> UNODC-IOC Study (2013), p.284

<sup>44</sup> <https://www.unodc.org/unodc/en/treaties/CTOC/index.html> (14/03/16)

<sup>45</sup> The Convention opened for signature by UN Member States on 12-15 December 2000 and entered into force on 29 September 2003

According to its Article 3, the Convention applies, except as otherwise stated herein, to the prevention, investigation and prosecution of (a) the offences established in accordance with articles 5,<sup>46</sup> 6,<sup>47</sup> 8<sup>48</sup> and 23<sup>49</sup> of the Convention; and (b) serious crime as defined in article 2 of this Convention;<sup>50</sup> where the offence is transnational in nature and involves an organized criminal group.

In the field of sport, the provisions of the Convention are relevant when the manipulation of sports competitions involves transnational organized crime. In particular, the definition of an “organized criminal group”, set out in Article 2(a) is very broad considering that only “three or more persons” need to be involved and thus which would cover a wide range of match-fixing activities.

In the area of sports, the provisions of this Convention are relevant when the manipulation of sports competitions involves transnational organized crime. However, “countries seem, at this stage, not to be able to fully utilize the potential and the added value of the Convention against Transnational Organized Crime (UNTOC) and the Convention against Corruption (UNCAC) to effectively combat match-fixing. The absence of several important elements of match-fixing from the scope of application of these Conventions might leave different offences unaddressed.”<sup>51</sup>

### III. The Council of Europe Convention on the Manipulation of Sports Competitions

Insofar as sport is concerned, the main relevant text is the recent Council of Europe Convention on the Manipulation of Sports Competitions (CETS 215) of 2014 (hereinafter, the “Macolin Convention”), which is also open for signature and ratification by non-European States.

One of the main reasons for the preparation of this Convention was the fact that, while certain important aspects of corruption in sport are already covered by existing international conventions, namely the Convention against Corruption and Convention against Transnational Organized Crime, those organized UNCAC and UNTOC international legal instruments do not specifically deal with cases involving the manipulation of sports competitions which may occur outside any transnational crime network and without any acts falling within the definition of corruption having been committed.<sup>52</sup>

As the Explanatory Report mentions, the advent of this Convention is linked to the fact that the manipulation of sports competitions is linked to fraud, organized crime and corruption. When linked to betting, the economic stakes are considerable. The manipulation of sports competitions, however, also poses a threat to the future of sport as a social, cultural, economic and political practice which is called into question every time doubts are raised about its integrity and values. In jeopardizing sports ethics and the unpredictability that should underlie every sporting contest, it calls into question the very nature of sport, and therefore the public’s interest in sport and the willingness of public and private sponsors to finance it.<sup>53</sup>

<sup>46</sup> Art. 5 deals with the criminalization of participation in an organized criminal group

<sup>47</sup> Art. 6 deals with the criminalization of the laundering of proceeds of crime

<sup>48</sup> Art. 8 deals with the criminalization of corruption

<sup>49</sup> Art. 23 deals with the criminalization of obstruction of justice

<sup>50</sup> Art. 2 (b): “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty”

<sup>51</sup> IOC-UNODC Report (2013), p.15

<sup>52</sup> Explanatory Report to the “Macolin Convention”, point 13

<sup>53</sup> Explanatory Report to the “Macolin Convention”, point 6

In order to achieve its goals, the Convention involves all relevant stakeholders in the fight against the manipulation of sports competitions, namely public authorities, sports organisations and sports betting operators and regulators. To ensure that the problem is addressed in a global context, it allows states which are not members of the Council of Europe to become parties to the Convention.<sup>54</sup>

The “Macolin Convention” is structured in nine main parts, which deal with the following issues:

- purpose, guiding principles and definitions, including the definition of a manipulation (Arts. 1-3);
- prevention (Arts. 4-11);
- exchange of information including a national platform (Arts. 12-14);
- substantive criminal law and cooperation with regard to law enforcement (Arts. 15-18);
- jurisdiction, criminal procedures and enforcement measures, including the protection of reporting persons and witnesses (Arts. 19-21);
- sanctions and measures (Arts. 22-25);
- international cooperation measures (Arts. 26-28);
- follow-up to the Convention (Arts. 29-31);
- final provisions (Arts. 31-41).

As regards prevention (Arts. 4-11), the aim of the Convention is to pave the way for more systematic application of the measures adopted by sports organisations, sports betting operators and public authorities to enable them to jointly identify and prevent manipulation of sports competitions and ensure better cooperation between these stakeholders. The Convention also provides for the introduction of a mechanism to exchange information between the various national systems, the national platform. As regards public authorities, the Convention encourages them to adopt the necessary legislative or other measures, including financial ones, to support any initiatives taken by other stakeholders and to combat illegal sports betting, but also to identify the authorities responsible for implementing the legal framework for the regulation of their sports betting market.<sup>55</sup>

With regard to the various aspects of law enforcement (Arts. 15-18), the Convention seeks, inter alia, to identify those acts which should be prosecuted – without, however, imposing the creation in each Party’s domestic law of a harmonized specific criminal offence in the field. The purpose of clarifying which types of conduct are to be considered offences is to facilitate judicial and police cooperation between Parties. With a view to ensuring an efficient enforcement system, the Convention considers a broad range of criminal, administrative and disciplinary sanctions. It also requires the Parties to ensure that sanctions are effective, proportionate and dissuasive.<sup>56</sup>

Because of the transnational aspect of the manipulation of sports competitions and the need to combat criminal and other acts related thereto, it was deemed vital to step up international cooperation (Arts. 26-28). The Convention is concerned to deal as much with enforcement as with prevention, including detection, exchange of information and education. Accordingly, international sports organisations are recognized as having a role to play as key partners of public authorities in combating the manipulation

<sup>54</sup> Explanatory Report to the “Macolin Convention”, point 17

<sup>55</sup> Explanatory Report to the “Macolin Convention”, point 19

<sup>56</sup> *ibid.*, point 20

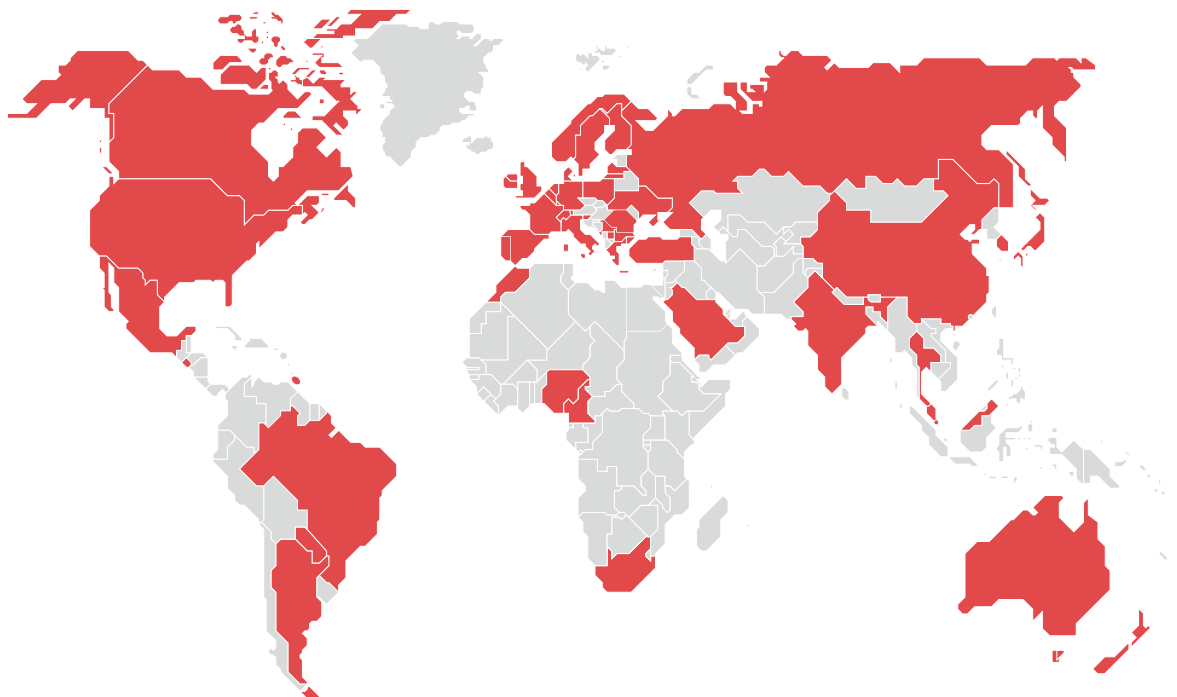
of sports competitions, in particular where disciplinary sanctions and exchanges of information are concerned. Sports betting operators are also recognized as key partners on prevention and exchange of information of betting-related manipulations. The Parties' obligation to encourage the principle of mutual recognition of disciplinary sanctions adopted by national sports organisations is also envisaged, in order to avoid that an athlete sanctioned by a national organisation is able to evade punishment by participating in other competitions or the risk of disciplinary sanctions being imposed twice for the same offence.<sup>57</sup>

<sup>57</sup> Explanatory Report to the "Macolin Convention", point 21

# 3 Legislation Studied

This study follows up on the previous IOC-UNODC Study (2013), where legislation from 19 jurisdictions was reviewed.<sup>58</sup> At the time of that study, “only five of the evaluated 19 jurisdictions covered in this Study have established specific or ad hoc criminal offences for match-fixing.”<sup>59</sup>

The present study reviews an increased number of national jurisdictions (52 in total<sup>60</sup>).



Map 1: National jurisdictions analysed in this study

<sup>58</sup> Argentina, Australia, Brazil, Canada, People’s Republic of China including the special administrative region of Hong Kong, Japan, Malaysia, New Zealand, Nigeria, Qatar, Korea, the Russian Federation, the Republic of South Africa, Thailand, Trinidad and Tobago, Ukraine, the United Arab Emirates and the United States of America

<sup>59</sup> IOC-UNODC Study 2013, pp. 14 and 255. These are: Japan, Korea, the Russian Federation, the Republic of South Africa and the United States of America

<sup>60</sup> Argentina, Australia, Belgium, Brazil, Bulgaria, Cameroon, Canada, People’s Republic of China including the special administrative region of Hong Kong, Denmark, Finland, France, Germany, Greece, India, Ireland, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Morocco, Mexico, the Netherlands, New Zealand, Nigeria, Norway, Paraguay, Poland, Portugal, Qatar, Romania, the Russian Federation, the Kingdom of Saudi Arabia, Serbia, Singapore, Slovenia, the Republic of South Africa, Spain, Sweden, Switzerland, Thailand, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, and the United States of America





## 1 Argentina

Argentina has had a specific provision on match-fixing in its Sport Act since 1974.<sup>61</sup> Article 24 of this Act provides a sanction of between one and three years of imprisonment, unless it constitutes a more serious crime, for the person who, on his own behalf or that of a third party, promises or offers a gift, or promises remuneration, in order to facilitate or secure an irregular result for a sports competition or an abnormal performance from a participant. The same punishment applies to the person who receives a gift or a promise for remuneration for the aforementioned purposes.

## 2 Australia

Chapter C 3.4 of the National Policy on Match-Fixing in Sport (10 June 2011),<sup>62</sup> seeks to promote a consistent approach when legislation by relevant jurisdictions is being prepared to criminalize match-fixing, so that it is done so with the aim of establishing effective deterrents and sufficient penalties to reflect the seriousness of related offences. At time of writing, match-fixing offences have been created in New South Wales, Victoria, South Australia, the Australian Capital Territory, Queensland and the Northern Territory.<sup>63</sup> These laws criminalize engaging, facilitating and/or concealing conduct that would corrupt a betting outcome on a sport or racing event and the use of corrupt conduct or inside information for betting purposes. The maximum penalty for these offences is 10 years (seven years in the Northern Territory). The use of corrupt conduct or inside information incurs a maximum penalty of two years.<sup>64</sup>

## 3 Brazil

In Brazil, Articles 41-C to 41-E of Law no 10.671 of 15 May 2003 (last amended in 2015)<sup>65</sup> provide for two to six years of imprisonment and a fine for anyone who solicits or accepts, on one's own behalf or that of a third party, benefits or promises for benefits, whether pecuniary or not, for any act or omission meant to alter or distort the results of a sports competition or event associated with it (Art. 41-C). The same penalty applies to whoever offers or promises pecuniary or non-pecuniary benefits in order to alter or distort the results of a sports competition or event associated with it (Art. 41-D). The same applies to the act of cheating, by any means, or that of participating in the distortion, by any means, of the results of a sports competition or event associated with it (art. 41-E).

<sup>61</sup> Law N° 20.655 on Sports (1974), Chapter IX - Sport crimes, Art. 24. Text available in original language at: <http://www.infoleg.gov.ar/infolegInternet/anexos/25000-29999/27274/norma.htm>

<sup>62</sup> Text available at: <http://www.health.gov.au/internet/main/publishing.nsf/Content/national-policy-on-match-fixing-in-sport>

<sup>63</sup> See Annex 1. See also Bricknell, S., Corruption in Australian sport - Trends & issues in crime and criminal justice no. 490, February 2015, Australian Institute of Criminology, available at: <http://www.aic.gov.au/publications/current%20series/tandi/481-500/tandi490.html>

<sup>64</sup> See articles 195 C et seq. of the Crimes Amendment (Integrity in Sports) Act 2013 (Victoria), 443 et seq. of the Criminal Code (Cheating at Gambling) Amendment Bill 2013 (Queensland); 193 H et seq. of the Crimes Amendment (Cheating at Gambling) Bill 2012 (New South Wales); 144 G et seq. of the - Criminal Law Consolidation Act 1935 Cheating at gambling (South Australia)

<sup>65</sup> Law no 10.671 – of 15 May 2003 (as amended by Law n° 13.155 of 4 August 2015); Original text available at: [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2015-2018/2015/Lei/L13155.htm#art40](http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2015/Lei/L13155.htm#art40)

## 4 Bulgaria

In Bulgaria, Chapter Eight “A” of the Bulgarian Criminal Code (amended in 2011)<sup>66</sup> provides for crimes against sports. Article 307b incriminates the use of force, fraud, threat, or of another unlawful way for persuading another person to influence the development or outcome of a sports competition administered by a sports organisation with a penalty of one to six years of imprisonment and a fine. Article 307c provides that anyone who promises, offers or grants any undue advantage to another in order to influence, or for having influenced the development or outcome of a sports competition administered by a sports organisation, shall be punished by one to six years of imprisonment and a fine. The same sanction shall apply to anyone who requests or accepts the undue advantage, or accepts the offer or promise of such advantage. Intermediaries also incur criminal liability. Article 307d provides for aggravating circumstances. Article 307e provides the possibility to order deprivation of rights and confiscation.

## 5 People’s Republic of China

According to Article 34 of the Law of the People’s Republic of China on Physical Culture and Sports (1995),<sup>67</sup> the principle of fair competition shall be followed in sports competitions. Organizers of competitions, athletes, coach and referees shall abide by sportsmanship, and may not practise fraud or engage in malpractice for selfish ends. It is strictly forbidden for any organisation or individual to engage in gambling activities on sports competitions.

## 6 Denmark

In 2015, with the Promotion of Integrity in Sport Act,<sup>68</sup> Denmark enacted a specific offence for match-fixing. This law amended the criminal code to ensure that all forms of match-fixing become a criminal offence, as part of a series of measures introduced to combat match-fixing. Section 10 of the Act authorizes the Minister of Culture to impose on certain sports associations a duty to establish and enforce rules to fight the manipulation of sports matches. If they do not, they would lose their subsidies. Section 10b provides for a prison sentence of up to one year if one grants, promises or offers to a person who takes part in, or acts as an official in, a sporting competition of a certain level, held either at home or abroad, a gift or other advantage in order to induce that person to act or refrain from acting in relation to the outcome of the match. The same sanction may be applied to the bribe-taker. In aggravated circumstances, the prison sentence could be increased to two years.

<sup>66</sup> Bulgarian Criminal Code (New, SG No. 60/2011), English translation available at [http://www.mlsp.government.bg/ckfinder/userfiles/files/admob/Criminal\\_Code.pdf](http://www.mlsp.government.bg/ckfinder/userfiles/files/admob/Criminal_Code.pdf); the Official Gazette text in Bulgarian language is available at: <http://dv.parliament.bg/DVWeb/index.faces>

<sup>67</sup> Translation in English available on the National People’s Congress website: [http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content\\_1383721.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383721.htm)

<sup>68</sup> Legislative Decree no. 116 of 31 January 2015 as amended by Act no. 536 of 29 April 2015. Original text available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=174633>

## 7 El Salvador

In March 2016, Article 218A entitled “Sporting fraud” was introduced in the Criminal Code.<sup>69</sup> It provides that anyone who, for himself/herself or for a third party, pledges or offers, promises, pays or distributes any type of benefit, with the aim of altering or ensuring a predetermined result of a professional sports competition or event of national or international level, or the abnormal behaviour of a participant in such a competition, shall be sanctioned by two to four years of imprisonment and a special prohibition of rights for the same period. According to Paragraph 2 of the same article, this sanction shall also apply to whoever, directly or through a third party, solicits or receives payment of any such benefit, with the aim of deliberately and fraudulently altering the result of a professional sports competition or event.

Paragraph 3 provides for aggravating circumstances if the perpetrator is an officer, director, manager, trainer, referee or judge, agent or employee of a club or sport entity, regardless of its legal form, in which case a sanction of three to five years of imprisonment and a special prohibition of rights for the same period would apply.

Finally, Paragraph 4 of the same article provides that, if the perpetrator is a high-level athlete acting as the country’s representative following national qualifications in individual or collective sports, the applicable sanction shall be four to six years of imprisonment and a special prohibition of rights for the same period.

## 8 France

In France, the Criminal Code has provided, since 2012, in its Article 445-1-1<sup>70</sup> for five years of imprisonment and a fine for any person who unduly promises or offers, at any time, directly or indirectly, gifts, offerings or any other advantages, for him/herself or another party, to a participant in a sports competition giving rise to bets, in order for this participant to alter, by act or omission, the normal and equitable development of the sports competition. According to Article 445-2-1 of the Criminal Code, the same sanctions apply to the sports participant who accepts such gifts, offerings or any other advantages.

## 9 Germany

In April 2016, Germany’s Federal Government adopted a draft law that aims to amend the German Criminal Code in order to criminalize sports betting fraud and the manipulation of professional sporting competitions.<sup>71</sup> The bill proposes to introduce criminal offences for sports betting fraud (§ 265c) and the manipulation of professional competitions (§ 265d). The proposed statutory offences apply to referees, athletes, coaches and persons taking undue advantages, and any person for giving such advantages. The proposed applicable sanctions range from a fine to a maximum of three years of imprisonment, which can be increased to a maximum of five years in aggravating circumstances (§ 265e<sup>72</sup> and § 265f<sup>73</sup>).

<sup>69</sup> Original text available at: <http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/codigo-penal>

<sup>70</sup> Code pénal, Article 445-1-1, créé par la Loi n°2012-158 du 1er février 2012 - art. 9. Original text available at: <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719>

<sup>71</sup> [https://www.bmjv.de/SharedDocs/Artikel/DE/2016/04062016\\_Kabinett\\_Spielmanipulation.html](https://www.bmjv.de/SharedDocs/Artikel/DE/2016/04062016_Kabinett_Spielmanipulation.html)

<sup>72</sup> “In besonders schweren Fällen wird eine Tat nach den §§ 265c und 265d mit Freiheitsstrafe von drei Monaten bis zu fünf Jahren bestraft. Ein besonders schwerer Fall liegt in der Regel vor, wenn

1. die Tat sich auf einen Vorteil großen Ausmaßes bezieht oder
2. der Täter gewerbsmäßig handelt oder als Mitglied einer Bande, die sich zur fortgesetzten Begehung solcher Taten verbunden hat”.

<sup>73</sup> “In den Fällen der §§ 265c und 265d ist § 73d anzuwenden, wenn der Täter gewerbsmäßig handelt oder als Mitglied einer Bande, die sich zur fortgesetzten Begehung solcher Taten verbunden hat”

## 10 Greece

Greek law (Article 132 of Law 2725/1999 amended by-law 3057/2002 and replaced in 2012 by Article 13 of Law 4049/2012)<sup>74</sup> provides that anyone intervening by illegitimate actions, with the intention of influencing the course, the form or the result of a game of any team or individual sport shall be punished with imprisonment of at least one year and a fine. The sanction is two years of imprisonment and a fine for anyone who, with the same intention, demands or accepts gifts or other benefits, or any other allotment or promise thereof. The same penalty applies to anyone who, with the same intention as described above, offers, gives or promises gifts, benefits or any other allotments to a sports participant (athlete, trainer, referee or administrator, or to any other person associated in any way with the athlete, the referee, the club, the Sport Incorporated Company, the Department of Paid Athletes). Article 13 Paragraph 4 of Law 4049/2012 further provides for aggravating circumstances (such as match-fixing in the context of a bet), which take the maximum sanction to 10 years imprisonment. Finally, according to Paragraph 4 of the same article, witness protection measures may be taken.

## 11 India

In India, the Prevention of Sporting Fraud Bill 2013<sup>75</sup> makes criminally liable anyone who, directly or indirectly, manipulates sports results, irrespective of whether the outcome is actually altered or not, or makes arrangements of an irregular alteration of the field of play or the result of a sporting event, in order to obtain any economic or any other advantage or benefits or promise of an advantage or benefits, for himself or for any other person so as to remove or reduce all or part of the uncertainty normally associated with the results of a sporting event. Section 3 (II) also includes sportspeople who wilfully fail to perform to their true potential, for economic or any other advantage or benefit for themselves or for any other person, unless such under-performance can be attributed to strategic or tactical reason deployed in the interest of that sport or team. Non-disclosure of information concerning the manipulation of a sports competition is also punishable, according to Sections 3 (III) and 4. Section 5 provides for sanctions which include include five years of imprisonment and a fine.

<sup>74</sup> Official Gazette 35A; text available at <http://www.hellenicparliament.gr/en/>

<sup>75</sup> Full text of the bill available at: <http://www.prsindia.org/downloads/draft-bills/>



## 12 Italy

Italy criminalizes fraud in sports competition, as per law 401,<sup>76</sup> as amended by Law-Decree no 119 of 22 August 2014.<sup>77</sup> Article 1, Paragraph 1 provides that any person who offers or promises money or other benefits or inducements to any participant in a sports competition organized by any association recognized by the Italian National Olympic Committee (CONI), the Italian National Horse Breeding Union (UNIRE) or any other State-recognized sports body or its member associations, in order to achieve a result that is different from one resulting from fair and proper competition (that is to say, commits fraudulent acts for such purpose) shall be punished by two and six years of imprisonment and shall receive a fine. In minor cases, only the fine shall apply. According to Paragraph 2 of the same article, the same punishment shall be applied to participants in competitions who accept money, other benefits or advantages, or who accept any promises of the same. According to Paragraph 3, if the result of a competition is influenced to benefit organized betting or gambling, the imprisonment sanction shall be augmented by half and a fine of between €10,000 and €100,000.

Art. 3 of the same law provides for the obligation to report. In this way, presidents of national sports federations affiliated to the Italian National Olympic Committee (CONI), chairmen of the boards of discipline of federations and corresponding bodies, which, in the exercise of their duties or because of their functions, are informed of the crimes referred to in Article 1, are obliged to report this information, under existing laws, to the judicial authorities.

## 13 Japan

In Japan, the Sports Promotion Lottery Law (Act No. 141 of 1961, modified by Law no. 63 of 2008 and totally revised in 2011 by the Basic Act on Sports) provides for several offences related to match-fixing: receipt of bribery (Articles 37, 38); giving of a bribe (Article 40); prejudicing fairness of the designated game (Article 41); conspiracy against the designated game (Article 42); unqualified sports promotion lottery (Article 32); and prohibition of betting (Articles 33-35).

Currently, Article 2(8) of the Basic Act on Sports provides that “sport shall be promoted in such a manner that [...] all activities concerning sport are performed fairly and appropriately”.<sup>78</sup>

<sup>76</sup> Law of 13 December 1989, n. 401 : sporting fraud (in Gazz. Uff., 18 Dicembre, n. 294). Original text available at: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1989-12-13;401>

<sup>77</sup> Original text at: <http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2014-08-22&atto.codiceRedazionale=14G00137&atto.articolo.numero=1&atto.articolo.tipoArticolo=0>.

<sup>78</sup> English translation by the Japanese Ministry of Sport available at: [http://www.mext.go.jp/a\\_menu/sports/kihonhou/attach/1336024.htm](http://www.mext.go.jp/a_menu/sports/kihonhou/attach/1336024.htm)

## 14 Republic of Korea

The Republic of Korea has three laws which incriminate match-fixing. These are the National Sports Promotion Act, the Bicycle and Motor Boat Racing Act and the Korean Horse Affairs Association Act.<sup>79</sup>

Under Art. 48/IV and Art. 26/3 and 4 of the National Sports Promotion Act, it is an offence if players, coaches and umpires receive, or promise to receive, or request property or pecuniary advantage from a third person, or let a third person give, or request a third person to give, or let a third person promise to give property or pecuniary advantage to another person, in response to an illegal solicitation concerning the sports game that can be bet on legally i.e. professional soccer, baseball, basketball, volleyball. Under Art. A. 48/III, 26/3, 4 of the same Act, the match-fixing offence also applies to any other person who gives, or promises to give, or expresses the will to give property or pecuniary advantage to players or a third person in response to an illegal solicitation concerning the sports game that can be legally bet upon.

The same offence is specified in the Bicycle and Motor Boat Racing Act 2007 (Articles 29/1, 2; 30/3, 4; 31; 26/I) and in the Korean Horse Affairs Association Act (Articles 53/1, 54, 51/II, 55).

## 15 Latvia

In Latvia, Article 15.1 of the Sports Law (as amended in 2016)<sup>80</sup> provides the definition of the manipulation of sports competition as any operation that violates the uncertainty concerning the course or result of a sports competitions. Article 2 of the Sports Law prohibits all such manipulations.

Article 212.1 of the Criminal Law (as amended in 2016)<sup>81</sup> provides that the manipulation of sports competitions is punishable by imprisonment for a term not exceeding one year or with a short custodial sentence or community service, or a fine. According to Paragraph 2 of the same article, if the manipulation is associated with the transfer or offering of material value, property or benefits of another nature, the sanction shall be imprisonment for a term not exceeding three years, or a short-term imprisonment or community service, or a fine. Finally, according to Paragraph 3 of the same article, manipulation activities, if they are committed on a large scale or by an organized group, shall be punished by imprisonment for a term not exceeding five years, or a short-term imprisonment or community service, or a fine.

<sup>79</sup> For the full translated texts and a detailed analysis, see UNODC-IOC Study “Criminalization approaches to combat match-fixing and illegal/irregular betting: a global perspective” (2013), pp.157 et seq

<sup>80</sup> Original text is available at: <http://likumi.lv/ta/id/68294-sporta-likums/redakcijas-datums/2016/05/12>

<sup>81</sup> Original text is available at: <http://likumi.lv/doc.php?id=88966>

## 16 Malta

In Malta, the Prevention of Corruption (players) Act 1976 (as amended)<sup>82</sup> provides in its Chapter 263, Article 3 Paragraph 1, that any player who accepts or obtains, or agrees to accept or obtain, or attempts to obtain, from any person for himself or for any other person whomsoever any gift or consideration as an inducement or reward for doing or for omitting from doing, or for having, after the enactment of this Act, done or omitted from doing, any act the doing or omission of which is against the interests of the side for which he plays, or those of the person or club by whom or by which he is engaged or whom or which he represents, shall be guilty of an offence. According to Paragraph 2, the offence also applies to any official or organizer. Paragraph 3 of the same article is aimed at the active perpetrator (the corruptor). Paragraph 4 of the same article establishes the duty of any official, player or organizer to report any information that he/she might have in relation to any such match-fixing offence. Article 9 provides for the applicable sanctions, which vary from a fine to imprisonment for a period of four months to two years.

## 17 New Zealand

The Crimes Act (as amended in 2014)<sup>83</sup> provides in Section 240 the offence of deception (obtaining by deception or causing loss by deception). Section 240A makes it clear that deception includes any act or omission that is done or omitted with intent to influence a betting outcome by manipulating the overall result of the activity or any event within the activity. This applies to activities of the following kinds: (a) sporting competitions, games, matches, races, and rallies involving human participants (whether or not they also involve equipment, horses, vehicles, or vessels); (b) dog races.

According to Section 241, the punishment of obtaining by deception or causing loss by deception is established as follows: (a) if the loss caused or the value of what is obtained or sought to be obtained exceeds \$1,000, to imprisonment for a term not exceeding seven years; (b) if the loss caused or the value of what is obtained or sought to be obtained exceeds \$500 but does not exceed \$1,000, to imprisonment for a term not exceeding one year; (c) if the loss caused or the value of what is obtained or sought to be obtained does not exceed \$500, to imprisonment for a term not exceeding three months.

## 18 Paraguay

In Paraguay, a bill was proposed in 2015<sup>84</sup> for the modification of the Law against money laundering no 1015/97. The bill aims at including sports clubs, federations and other entities in the scope of application of this law and at imposing transparency and integrity obligations on these entities. The bill was debated in the Parliament on 17 March 2016, but its adoption was postponed.

<sup>82</sup> Prevention of Corruption (players) Act 1976, ACT XIX of 1976, as amended by Acts XIII of 1983 and XXIV of 2001 and Legal Notice 423 of 2007. Original text available at: <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8756&l=1>

<sup>83</sup> Text available at: <http://www.legislation.govt.nz/act/public/1961/0043/latest/DLM327382.html>

<sup>84</sup> <http://sil2py.senado.gov.py/formulario/VerDetalleTramitacion.pmf?q=VerDetalleTramitacion%2F104963>

## 19 Poland

In Poland, match-fixing offences are provided for in Articles 46 to 49 of the Act of 25 June 2010 on Sport.<sup>85</sup> According to Article 46, Paragraph 1, anyone who, in connection with sports competitions organized by a Polish sports association or by another entity operating under an agreement concluded with such association, or by an entity operating on its behalf, accepts material or personal benefits or promise of such benefits, or demands such benefits or a promise of such benefits in exchange for unfair behaviour that may affect the results of a sports competition, shall be liable upon conviction to be imprisoned for a term from six months to eight years. According to Paragraph 2, the same sanction also applies to any person who gives or promises such material or personal benefits. Paragraphs 3 and 4 provide for mitigating and aggravating circumstances.

Match-fixing in the context of betting is criminalized in Article 47 and punishable by three months to five years of imprisonment. Article 48 incriminates middlemen involved in match-fixing. Finally, Article 49 provides for possibility of exoneration for a perpetrator of match-fixing who immediately notifies law enforcement and reveals all the important circumstances of the crime.

## 20 Portugal

In Portugal, match-fixing crimes are covered by law no 50/2007 of 31 August 2007.<sup>86</sup> According to Article 1, this law establishes criminal liability for unsporting behaviour, contrary to the values of truth, loyalty and fairness, which may fraudulently alter the results of a sports competition.

Article 8 refers to passive corruption and provides that a sports agent who directly, or upon his consent or approval through an intermediary, requests or accepts for himself or on behalf of a third party improper material or non-material gain, or the promise of such gain, in return for any act or omission intended to alter or falsify the result of a sports competition shall be punished by one to five years of imprisonment.

Article 9 deals with active corruption and provides that any person who directly, or upon his consent or approval through an intermediary, gives or promises improper material or non-material gain to a sports agent, or a third party in the knowledge of the said sports agent, for the purpose described in the previous article, shall be punishable by imprisonment for up to three years or by a financial penalty.

Articles 10 and 11 criminalize influence peddling and conspiracy.

<sup>85</sup> Act of 25 June 2010 on Sport (Journal of Laws of 15 July 2010, No 127, item 857. A translation is available at: [http://www.coe.int/t/dg4/sport/Doping/Antidoping\\_database/Reports/2010/leg/LEG2-PLO\\_EN.pdf](http://www.coe.int/t/dg4/sport/Doping/Antidoping_database/Reports/2010/leg/LEG2-PLO_EN.pdf)

<sup>86</sup> Law no. 50/2007 of August 31, 2007 Revoking Decree Law No. 390/91, dated 10 October, except Article 5 (Diário da República, 1.ª série — N.º 168 — 31 de Agosto de 2007, 6055 et seq.). Text available at: [http://www.fpf.pt/Portals/0/Documentos/Centro%20Documentacao/LegislacaoDesporto/Violencia/lei\\_50.2007.pdf](http://www.fpf.pt/Portals/0/Documentos/Centro%20Documentacao/LegislacaoDesporto/Violencia/lei_50.2007.pdf)

## 21 The Russian Federation

In the Russian Federation, Article 184 of the Criminal Code (amended by the Federal Act of 23 July 2013 No. 198-FZ<sup>87</sup>) is entitled “Bribery of participants and organizers of professional sports and entertainment profitmaking competitions”.<sup>88</sup> It provides for criminal liability for whoever carries into effect, or forces or incites any other person to carry into effect, or conspires with such persons to carry into effect any scheme, by bribery of athletes, referees, coaches, team managers, and other participants or organizers of an official professional sports competition (including the employees), as well as by bribery of jury members, participants and organizers of an entertainment profit-making competition, to influence in an illegal way the result of that competition. The applicable sanctions may be a maximum of four years of imprisonment, a fine and deprivation of certain rights. Aggravating circumstances include the perpetration of such acts as a member of an organized criminal group (Paragraph 2), or if the perpetrator is an athlete, coach, team manager or any other participant of an official professional sports competition (Paragraph 3), or a sports referee or organizer of the official professional sports competition (Paragraph 4).

## 22 South Africa

In South Africa, Section 15 of the Prevention and Combating of Corrupt Activities Act 2004 (as amended in 2012)<sup>89</sup> provides that a person shall be found guilty of the offence of corrupt activities relating to sporting events if he or she: (a) directly or indirectly accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of that other person or of another person; or (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, (I) in return for engaging in any act which constitutes a threat to or undermines the integrity of any sporting event, including, in any way influencing the run of play or the outcome of a sporting event, or not reporting the act to the managing director, chief executive officer or to any other person holding a similar post in the sporting body or regulatory authority concerned or at his or her nearest police station; or (II) as a reward for acting as contemplated in subparagraph (I); or (c) carries into effect any scheme which constitutes a threat to or undermines the integrity of any sporting event, including, in any way, influencing the run of play or the outcome of a sporting event.

Section 26 of the same act provides for the applicable sanctions, which range from a fine to imprisonment for up to five years (if the sentence is imposed by a magistrate’s court), up to 18 years (if the sentence is imposed by a regional court) or for life (if the sentence is imposed by a High Court).

Section 16 provides for similar criminal liability for bet-fixing (an offence of corrupt activities relating to gambling games or games of chance).

<sup>87</sup> Original text available at: <http://base.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=156920&fld=134&form=149645-93&rnd=208987.8118204811236698&>

<sup>88</sup> Unofficial translation available at [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_10699/](http://www.consultant.ru/document/cons_doc_LAW_10699/)

<sup>89</sup> Text available at: <http://www.justice.gov.za/legislation/acts/2004-012.pdf>

## 23 Spain

The Spanish Criminal Code was amended in 2015<sup>90</sup> in order to make the provisions on private corruption applicable to sport. Article 286 bis, Paragraph 4 now provides that the provisions of this article on private corruption shall be applicable, respectively, to directors, managers, employees or associates of a sports entity, notwithstanding its legal form, as well as to sportsmen, referees and sports umpires, with respect to conduct that is meant to predetermine or alter in a wilful and fraudulent manner the results of an event, match or sports competition that is particularly relevant from a sports or an economic standpoint.<sup>91</sup>

## 24 Switzerland

Switzerland has recently adopted a Project Law on Games of Chance proposing amendments to the Federal Law on Sport (RS 415.0<sup>92</sup>). Its Section 3 is entitled “Measures against competition manipulation”. Article 25a, Paragraph 1 provides for criminal liability, in the context of a sports competition on which bets are proposed, for whoever offers, promises or gives an undue advantage, with the aim of altering the course of that competition in favour of the corruptor or of a third party. The sanction provided for is up to three years of imprisonment or a fine. Paragraph 2 provides for the same sanction for a person who, exercising a function in the context of a sports competition, asks a promise of or accepts an undue advantage in order to alter that sports competition. Paragraph 3 of the same article provides for aggravating circumstances.

Articles 25b and 25c of the Project Law aim to associate the cantonal authority for surveillance with the criminal proceedings, and respectively to provide for exchange of information procedures between the cantonal authority for surveillance and the criminal enforcement authorities.

## 25 Turkey

In Turkey, Law 6222 on the Prevention of Violence and Disorder in Sports (enacted and published in the Official Gazette on 14.04.2011 and numbered 27905,<sup>93</sup> as amended by Law no 6259)<sup>94</sup> provides in its Article 11 that any person who provides a benefit or other source of income to another person with the intention of influencing the result of a specific sports competition shall be sentenced to one to three years of imprisonment and a punitive fine. The person who receives the benefit is punished as an accomplice. An agreement to receive a benefit or another source of revenue is punishable as if the offence were completed.

Paragraph 4 of the same article provides for aggravating circumstances, which include: exerting undue influence based on public duty, activities committed by agents or representatives of clubs or athletes, technical or administrative managers or presidents or members of a general assembly or board of directors of sports clubs or legal entities operating in the field of sport or federations, as well as activities qualifying as organized crime, or match-fixing in order to manipulate the outcome of betting.

<sup>90</sup> Art. 286 bis of the Criminal Code (as updated on 19.10.2015). Partial official translation is available at: [http://www.mjjusticia.gob.es/cs/Satellite/Portal/1292426983764?blobheader=application%2Fpdf&blobheadername1=Content-Disposition&blobheadervalue1=attachment%3B+filename%3DCriminal\\_Code\\_%28Codigo\\_Penal%29.PDF](http://www.mjjusticia.gob.es/cs/Satellite/Portal/1292426983764?blobheader=application%2Fpdf&blobheadername1=Content-Disposition&blobheadervalue1=attachment%3B+filename%3DCriminal_Code_%28Codigo_Penal%29.PDF)

<sup>91</sup> Text available at: <https://www.bj.admin.ch/dam/data/bj/wirtschaft/gesetzgebung/geldspielinitiative/entw-f.pdf>

<sup>92</sup> Text available at: <https://www.bj.admin.ch/dam/data/bj/wirtschaft/gesetzgebung/geldspielinitiative/entw-f.pdf>

<sup>93</sup> Original text available at: <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.6222.pdf>

<sup>94</sup> Original text available at: <http://www.resmigazete.gov.tr/eskiler/2011/12/20111215-7.htm>

## 26 Ukraine

In November 2015, the Ukrainian Parliament adopted an Act complementing Article 369-3 of the Criminal Code,<sup>95</sup> which criminalizes unlawful influence on the results of official sports competitions. Sanctions vary from a fine to a term of imprisonment of up to three years with special confiscation. The Act also amended the Code of Administrative Offences, Article 172-1, which establishes liability for violating the ban on sports betting, associated with the manipulation of an official sports event. This article provides for a penalty and a disqualification from holding certain positions or engaging in certain activities for a period of one year.

## 27 United Kingdom

In the United Kingdom, Section 42, Paragraph 1 of the Gambling Act 2005<sup>96</sup> provides that a person commits an offence if he (a) cheats at gambling, or (b) does anything for the purpose of enabling or assisting another person to cheat at gambling. According to Paragraph 3 of Section 42, cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with (a) the process by which gambling is conducted, or (b) a real or virtual game, race or other event or process to which gambling relates. Paragraph 4 sets out the applicable sanctions, which may be of (a) on conviction on indictment, imprisonment for a term not exceeding two years, a fine or both, or (b) on summary conviction, imprisonment for a term not exceeding 51 weeks, a fine not exceeding the statutory maximum, or both.

## 28 United States of America

In the United States, 18 U.S. Code § 224 a, entitled “Bribery in sporting contests”,<sup>97</sup> provides that whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery, any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined under this title, or imprisoned for not more than five years, or both. The term “sporting contest” means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence.

<sup>95</sup> Project Law no. 2243a of 02.06.2015.  
See also <http://portal.rada.gov.ua/en/news/News/115379.html>; <http://newsme.com.ua/en/ukraine/3173094/>

<sup>96</sup> Text available at: <http://www.legislation.gov.uk/ukpga/2005/19/contents>

<sup>97</sup> Text available at: <https://www.gpo.gov/fdsys/granule/USCODE-2011-title18/USCODE-2011-title18-partI-chap11-sec224>



## II. Legal Analysis of Selected Match-Fixing Offences

### 1 General considerations

A number of jurisdictions have opted for a separate offence related to match-fixing while others have relied on general offences related to corruption, such as bribery or fraud, which have been subsequently amended or interpreted to include the manipulation of sports competitions in their scope. The way in which these specific offences have been introduced varies greatly. Some countries, such as Australia, Bulgaria, France, New Zealand, Spain and Ukraine, have introduced a specific offence on the manipulation of sports results in their Criminal Codes or Crimes Acts. Others, such as Argentina, Brazil, Greece, Italy, Republic of Korea, Malta, Poland, Portugal, Switzerland and the United Kingdom, have included a specific offence in their sports laws.

Furthermore, the specific offences of match-fixing identified in the 28 jurisdictions in this study are extremely different insofar as their subjective and objective elements, as well as their applicable sanctions, are concerned. The imprisonment sanctions present perhaps the most striking disparity, with the minimum sanction ranging from one or two months in Argentina and France to two years in Brazil, El Salvador and Italy, and a maximum sanction (for non-aggravated offences) ranging from one year in Denmark to 10 years in Australia, Greece and Poland.

Despite these differences, all these regulations include a number of common features and, more importantly, have the common objective of trying to effectively tackle the manipulation of sports events and competitions.

The study has identified a number of common features that are set out below.

### 2 Main features of national match-fixing offences

#### Scope of applicability of the match-fixing offence

While the number of match-fixing cases is notably high in cricket, football and tennis,<sup>98</sup> compared to others, it is important to keep in mind that all sports can be affected. Cases of manipulation exist in snooker, basketball, sumo wrestling and rugby<sup>99</sup> and, as a phenomenon, both team and individual sports are impacted with manipulation, which occurs in professional and amateur contexts, and in higher and lower leagues.<sup>100</sup>

In practice, in 19 jurisdictions<sup>101</sup> the scope of the match-fixing offence includes all sports and competitions. Greek legislation, for instance (as amended in 2012), explicitly criminalizes manipulation involving “any team or individual sport” (Art. 13 of Law 4049/2012).

<sup>98</sup> KEA Report (2012), p.10

<sup>99</sup> *ibid.*

<sup>100</sup> *ibid.*

<sup>101</sup> Argentina, Brazil, Bulgaria, People’s Republic of China, Denmark, Germany, Greece, India, Italy, Latvia, Malta, Paraguay, Poland, Portugal, the Russian Federation, the Republic of South Africa, Turkey, Ukraine and the United States of America

However, other jurisdictions limit the scope of application of the match-fixing offence to:

- **Professional sports or competitions having an important economic or sporting impact.** This is the case in El Salvador, where the new Article 218A of the Criminal Code applies to professional sports competitions, and in Spain, where Article 286 of the Criminal Code, as amended in October 2015, provides that the offence only applies to a sporting event, meeting or competition having a special economic or sporting importance. A competition having a special economic importance is defined as being one where the majority of the participants receive some type of remuneration, compensation or economic revenue for their participation. A competition having a special sporting importance is defined as one which is part of the annual sporting calendar approved by the respective sports federation corresponding to an official competition of the highest level of that discipline or specialty (Art. 286 bis Paragraph 4 of the Spanish Criminal Code);
- **Certain designated sports**, such as football. This is the case in Japan where the Sports Promotion Lottery Act 1998, as amended, limits the scope of match-fixing offences to “soccer games as defined in Article 24”, which imply inter alia that the participants be remunerated for their participation in that game or competition;
- **Competitions on which bets are proposed.** This is the case in Australia, France, Republic of Korea, New Zealand, Switzerland and the United Kingdom. In these jurisdictions, the match-fixing offence is intrinsically linked to the risk associated with a manipulation of a betting event (see also section below ‘Distinguishing between Bet-Fixing and Match-fixing’);

### Categories of legislation addressing the relationship between the manipulation of a sports event and betting

The manipulation of a sports competition is often driven by the primary aim of achieving an economic gain indirectly from sport through betting activity<sup>102</sup> such as recent “Operation Veto” (see above). One of the first proven cases of betting-motivated match-fixing was the ‘Black Sox Scandal’ in 1919 which involved the Chicago White Sox baseball team, considered one of the best in the United States at that time. During one game, this team surprisingly lost 9:1 to the Cincinnati Reds and one-year later players admitted to having deliberately thrown the World Series with the involvement of a gambling syndicate.<sup>103</sup>

The study has identified two broad trends in relation to how legislation addresses the relationship between match-fixing and betting: those where the match-fixing offence is dissociated from the manipulation of betting; and those where the scope of the match-fixing offence is limited to competitions on which bets are offered. In the first category, comprising 22 jurisdictions,<sup>104</sup> the match-fixing offence refers to any sports event or competition, regardless of whether or not bets are proposed or manipulated in relation to that event or competition. In South Africa and Germany, for example, the law clearly provides for two separate offences: 1) the manipulation of a sports event (for South Africa, in Section 15 of the Prevention and Combating of Corrupt Activities Act 2004; for Germany, in Art. 265d Criminal Code); and 2) the manipulation of a bet (for South Africa, in Section 16 of the Prevention and Combating of

<sup>102</sup> See Diaconu, M., Betting, Sport and Integrity: Past, Present and Future from a lawyer’s perspective, *International Review on Sport and Violence*, no 7/2012, pp. 62-73. See also Forrest, D., McHale, I., McAuley, K., Risks to the Integrity of Sport from Betting Corruption, Report for the Central Council for Physical Recreation by the Centre for the Study of Gambling, University of Salford, February 2008

<sup>103</sup> KEA Report (2012), p.10

<sup>104</sup> Argentina, Brazil, Bulgaria, People’s Republic of China, Denmark, El Salvador, Germany, Greece, India, Italy, Japan, Latvia, Malta, Paraguay, Poland, Portugal, the Russian Federation, Spain, the Republic of South Africa, Turkey, Ukraine and the United States of America

Corrupt Activities Act 2004; for Germany, in Art. 265c Criminal Code). Within this first category, it is nevertheless important to note that, in six jurisdictions (Bulgaria, Greece, Italy, Poland, Spain and Turkey), bet-fixing is considered to be an aggravating circumstance for the match-fixing offence (for details, see Annexes 1 and 2). In other words, in these countries, match-fixing offences criminalize all manipulations of a sports competition but provide a more severe sanction for perpetrators who use the match-fix in the context of a bet.

In the second category, comprising six jurisdictions (Australia, France, Korea, New Zealand, Switzerland and the United Kingdom), the scope of a match-fixing offence is limited to competitions on which bets are offered as the relevant legislation specifically criminalizes match-fixing only in the context of betting manipulation. Thus, in these cases, non-betting-related match-fixing could not be prosecuted under the specific match-fixing offences and may only be prosecuted under the general criminal provisions on corruption, bribery, deception, etc.

#### Act and omission

The manipulation of a sports event can occur both by act and by omission. In the latter case, a competition participant could, wilfully fail to perform according to his duties and his potential, e.g. a football player who deliberately misses a decisive penalty or a referee who deliberately fails to call one. In general, such omissions are very difficult to prove in the absence of significant forensic evidence.

The match-fixing offences analyzed in this study establish, explicitly or implicitly, criminal liability for both acts and omissions perpetrated by the fixer of the sports event. This seems logical and adapted to the specific nature of sports competition (for details, see Annexes 1 and 2).

#### Active and passive manipulation

Fixing a competition involves at least two persons, playing an active and a passive role. In the case of bribery, these persons are the bribe-giver and the bribe-taker. In the field of sport, the bribe-taker usually is a direct or indirect participant in the competition, e.g. a player, referee, trainer, etc. It is naturally important that the match-fixing offence captures both these roles, in order to effectively curb the match-fixing phenomenon.

The specific match-fixing offences analyzed in this study established criminal liability for both active and passive roles associated with the manipulation of a sports event or competition (active and passive bribery, corruption, etc.). Thus, both the bribe-giver (directly or through an intermediary) and the bribe-taker, who is a participant in a sports competition or event (directly or through an intermediary) incur criminal liability (for details, see Annexes 1 and 2).

#### Manipulation for a third party

In all the relevant jurisdictions, the perpetrator incurs criminal liability even if the manipulation was perpetrated in the interest of a third party.

### Manipulation through intermediaries

It is clear that players are not the only people involved in match-fixing;<sup>105</sup> several cases of betting-related manipulations have involved the participation of referees, officials, sports managers and agents, as well as people beyond sports circles.<sup>106</sup> In this respect, all the relevant legislation studied provides for the liability of intermediaries which is essential to ensure effectiveness in the fight against match-fixing. This feature is particularly important in cases of organized crime, where one or several intermediaries may intervene in the manipulation process.

### Manipulation for material and non-material gain

It is important to note that the match-fixers' primary aim may consist of an unlawful economic gain, but it may also only consist of achieving a "mere" sporting advantage. "Sporting motivations" may involve winning a match or a competition, escaping relegation or qualifying for a higher level of the competition.<sup>107</sup> This is, for example, the case in the well-known "end-of-season-phenomenon" when deals may be made in order to avoid relegation or to keep a club in a competition.<sup>108</sup> Whilst economic considerations may not be the primary objective, maintaining a position in a division or qualification for higher competition may have financial implications, such as government subsidies, television rights or sponsorship contracts.<sup>109</sup>

With a few exceptions (Argentina, Korea, Malta and Turkey<sup>110</sup>), all of the legislation studied criminalizes match-fixing if it involves any undue advantage, be it material ("gift", "present", "consideration", "allotment", "material/pecuniary/financial advantage") or non-material ("any other undue advantage or benefit" - for details, see Annex 2). This undue advantage concerns the sporting participant (athlete, coach, director, agent, referee, etc.) who receives or accepts such an undue advantage in order to manipulate a given sports event.

However, the legislation was more nuanced when it came to the nature of the benefits expected by the match-fixer (that is, the motivation that may or may not include material gain). Most legislation does not mention this aspect at all, thus increasing the scope of application of their respective offences. However, for Australia, France, Korea, New Zealand, Switzerland and the United Kingdom, match-fixing is understood as being intrinsically linked to betting manipulation.

<sup>105</sup> KEA Report (2012), p.11

<sup>106</sup> *ibid.* and the quoted references

<sup>107</sup> *ibid.*, p.10

<sup>108</sup> *ibid.*

<sup>109</sup> *ibid.*

<sup>110</sup> These legislations limit the scope of their respective match-fixing offences to manipulation perpetrated in exchange for receiving a material gain

### Manipulation of overall result or partial event

In certain jurisdictions (Italy, Poland, Portugal, Spain and Turkey), legislation only criminalizes the alteration of the result of a game or competition, but not of its course, i.e. of its partial/intermediary events or elements. However, such elements (e.g., half-time result of a match, number of yellow or red cards, number of corners, team to kick-off the match, who will score the next goal, number of free kicks, etc.) may be very attractive for manipulators in view of the fact that these events can be bet upon.

Bets on a specific subset of a game (commonly referred to as “spot fixing”) pose substantial integrity risks because an individual can easily manipulate them and the breach of integrity can be difficult to prove.<sup>111</sup> Moreover, since this type of manipulation has a smaller impact – and in some cases even no influence whatsoever on the outcome of the game – the financial, ethical and sporting sacrifices for sports-cheaters would be diminished.<sup>112</sup>

In view of the above, it is recommended that national match-fixing offences allow for the sanctioning of any alteration of the competition’s result or course, including side events.

### Perpetrators’ position or qualifications

In 21 of the jurisdictions<sup>113</sup> studied, the law refers in general terms to “any person” who gives/promises the undue advantage, directly or through intermediaries and to the corrupted person, i.e. the participant in the sports competition (in Malta, “any player, official or organizer”; in France, any “sporting actor”; in Italy, any “participant in competition”; in Portugal, any “sport agent”; in Korea, “player, coach and umpire”, etc.).

However, in seven jurisdictions (Bulgaria, El Salvador, Greece, Russian Federation, Spain, Portugal and Turkey), the perpetrator’s position or qualifications have been defined more precisely, notably by distinguishing between the direct participants in the competition (players and referees) and their professional entourage. In Spain, the law distinguishes between the “directors, administrators, employees or collaborators of a sporting entity” (including coaches), on the one hand, and the “sportspeople, arbiters or judges” on the other hand (Article 286 bis Paragraph 4 of the Spanish Criminal Code). In Bulgaria, Portugal and Turkey, criminal sanctions are aggravated if the perpetrator is a “sports director, referee, agent or club” (Portugal – Article 12 Paragraph 1 of Law no. 50/2007) or a “member of the management or control body of a sports organisation, a referee, a delegate or anyone acting while discharging their duties or function” (Bulgaria – Art. 307d Criminal Code) or “agents or representatives of clubs or athletes, technical or administrative managers or presidents or members of general assemblies or boards of directors of sports clubs or legal entities that are operating in the field of sport as well as federations” (Turkey – Article 11 Paragraph 4b of Law 6222/2011 as amended). According to the Russian legislation, the passive perpetrator is any “athlete, coach, team manager or any other participant in an official professional sports competition as well as any participant of an entertainment profitmaking competition” (Russian Federation – Article 184 Criminal Code). In Greece, the distinction applies not only to the athlete’s professional entourage (trainer, referee or administrator) but also to “any other person associated in any way with the athlete, the referee, the club, the Sport Incorporated Company,

<sup>111</sup> TMC Asser Institute Report (2015), p.5

<sup>112</sup> *ibid.*

<sup>113</sup> Argentina, Australia, Brazil, People’s Republic of China, Denmark, France, Germany, India, Italy, Japan, Korea, Latvia, Malta, New Zealand, Paraguay, Poland, the Republic of South Africa, Switzerland, Ukraine, the United Kingdom and the United States of America

the Department of Paid Athletes” (Greece – Art. 13 of Law 4049/2012). In El Salvador, the perpetrator’s qualification as the country’s representative (national selection) in individual or collective sports leads to aggravated sanctions of imprisonment from four to six years and special prohibition of rights for the same period (El Salvador – Art. 218A Criminal Code). Finally, in Bulgaria, the law protects competitions involving young players under the age of 18 by providing an aggravating circumstance (two to eight years of imprisonment and an increased fine) for the corruptor of such players (Bulgaria – Art. 307d Criminal Code).

### Intention and recklessness

In 26 of the jurisdictions<sup>114</sup> reviewed, the specific match-fixing offence does not explicitly mention the intentional or reckless nature of the perpetrator’s action or omission. The two exceptions are Australia (where the law specifically covers both intentional and reckless behaviour) and Spain (where the law explicitly requires “deliberate” behaviour).

### Mitigating and aggravating circumstances

The manipulation of sports competitions may occur in a context which constitutes a mitigating or an aggravating circumstance. In most cases, the match-fixing offences considered in this study do not explicitly mention specific mitigating or aggravating circumstances.

However, in two jurisdictions (Poland and Turkey), the law provides for specific mitigating circumstances in which the imprisonment sanction can be reduced (in Turkey) or even replaced by a fine (in Poland). Such mitigating circumstances include, in Poland, cases of lesser significance, and in Turkey, the presence of incentive bonuses promised or given with the sole intention of promoting the success of a team (for details, see Annex 1).

Finally, in the following jurisdictions, the law provides for specific aggravating circumstances (for further details, see Annex 1):

- Competition on which bets are offered – in Bulgaria, Greece, Italy, Poland, Spain and Turkey;
- Manipulation of an important competition (national or international) – in Spain, El Salvador;
- The participant’s age (under 18 years old) – in Bulgaria;
- Importance of the loss caused by the fix (in Poland, Spain, New Zealand) or of the unlawful gain (in Switzerland);
- The plurality of sports participants (two or more) – in Bulgaria;
- The perpetrator’s position in a sports organisation (manager, director, coach, referee, agent, etc.) – in Bulgaria, El Salvador, Portugal, the Russian Federation and Turkey;
- The commission of a particularly serious offence – in Bulgaria, Spain;
- As a form of participation in an organized crime or conspiracy – in Bulgaria, Portugal, Spain, Switzerland and Turkey;
- In case of recidivism – in Bulgaria, Malta.

<sup>114</sup> Argentina, Brazil, Bulgaria, People’s Republic of China, Denmark, El Salvador, France, Germany, Greece, India, Italy, Japan, Korea, Latvia, Malta, New Zealand, Poland, Portugal, the Russian Federation, the Republic of South Africa, Switzerland, Turkey, Ukraine, the United Kingdom and the United States of America



### Protection of certain categories of persons

In the absence of forensic evidence, which is sometimes very difficult to obtain in match-fixing cases, the collaboration of witnesses or reporting persons (whistle-blowers) is crucial for the prosecution and conviction of match-fixers. One illustrative example in this sense involved the Italian defender, Simone Farina, who informed law-enforcement authorities that he was offered in 2011 the sum of €200,000 to help fix a second-tier match involving his club, Gubbio. Through his testimony, Mr Farina allowed for the prosecution and eventually the conviction of several Italian match-fixers.<sup>115</sup>

In the context of criminal law, protection of witnesses, reporting persons and collaborators or cooperating offenders a challenging issue, notably because these concepts are not uniform across different national jurisdictions.<sup>116</sup> Indeed, in certain countries, the law protects *witnesses* or persons who *report* or *inform* the authorities of a crime, but such protection excludes collaborating participants, i.e. perpetrators of the crime who later agree to cooperate with the authorities.<sup>117</sup>

From a terminological perspective, it should also be noted that both Convention against Corruption and the “Macolin Convention” distinguish mainly between the protection of *witnesses* and of *reporting persons*.<sup>118</sup> Indeed, Article 32 of Convention against Corruption refers to *witnesses, experts and victims*, similarly to Article 21 of the “Macolin Convention”, which refers to *witnesses* and their family members. Article 33 of Convention against Corruption and Article 21 of the “Macolin Convention” refer to persons who report “*in good faith and on reasonable grounds*” information concerning the offences, with the “Macolin Convention” extending this also to their family members.

Only three of the laws studied (in Malta, Poland and Turkey) contain a specific provision protecting witnesses or whistle-blowers in match-fixing offences (for details, see Annex 1). In Malta, Article 9 of the Prevention of Corruption (players) Act 1976 provides that “any person who shall have given evidence in respect of such charge, and who shall have made a true and faithful statement touching such charge, to the best of his knowledge, [...] shall, in consequence, be exempted from all punishment in respect of his participation in the offence forming the subject-matter of the charge upon which he gave evidence as witness”. In Poland, Article 49 of the Sports Law provides that no sanction shall be applied if the perpetrator immediately notifies the competent law enforcement body and reveals all of the important circumstances of the crime before that law enforcement body otherwise discovers them. In Turkey, Article 11 Paragraph 8 of Law 6222/2011, as amended, provides that no punishment shall be imposed on the person who exposes the crime before the relevant sporting event takes place.

<sup>115</sup> <http://www.thesun.co.uk/sol/homepage/sport/football/4780848/Match-fixing-Simone-Farina-tells-stars-to-be-brave.html>

<sup>116</sup> See also previous IOC-UNODC Report (2013), p.269

<sup>117</sup> This was, for instance, the case in Switzerland until the enactment of its new Criminal Procedure Code in 2011. In France, the protection of “collaborators of justice” is limited to certain serious offences (see <https://www.senat.fr/lc/lc124/lc1240.html>). See also the Council of Europe’s Recommendation Rec(2005)9 of the Committee of Ministers to member states on the protection of witnesses and collaborators of justice (Adopted by the Committee of Ministers on 20 April 2005)

<sup>118</sup> See the recent UNODC manual on reporting persons, available at: [https://www.unodc.org/documents/corruption/Publications/2015/15-04741\\_Person\\_Guide\\_eBook.pdf](https://www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf)



### Applicable criminal sanctions

The legislation reviewed for this study provides for sanctions ranging from imprisonment to a fine or another type of financial penalty. In certain jurisdictions (Bulgaria, El Salvador, Portugal, Russian Federation, Spain, and Ukraine), additional specific sanctions are provided for, such as deprivation of certain rights, notably of the right to exercise a certain profession, activity or industry, or special confiscation.

As already noted, minimum and maximum imprisonment sanctions vary largely from one jurisdiction to another, with the minimum sanction ranging from one or two months in Argentina and France to two years in Brazil, El Salvador and Italy, and a maximum sentence ranging from one year (in Denmark) or two years (in Malta and the United Kingdom) to 10 years of imprisonment (in Australia, Greece and Poland).

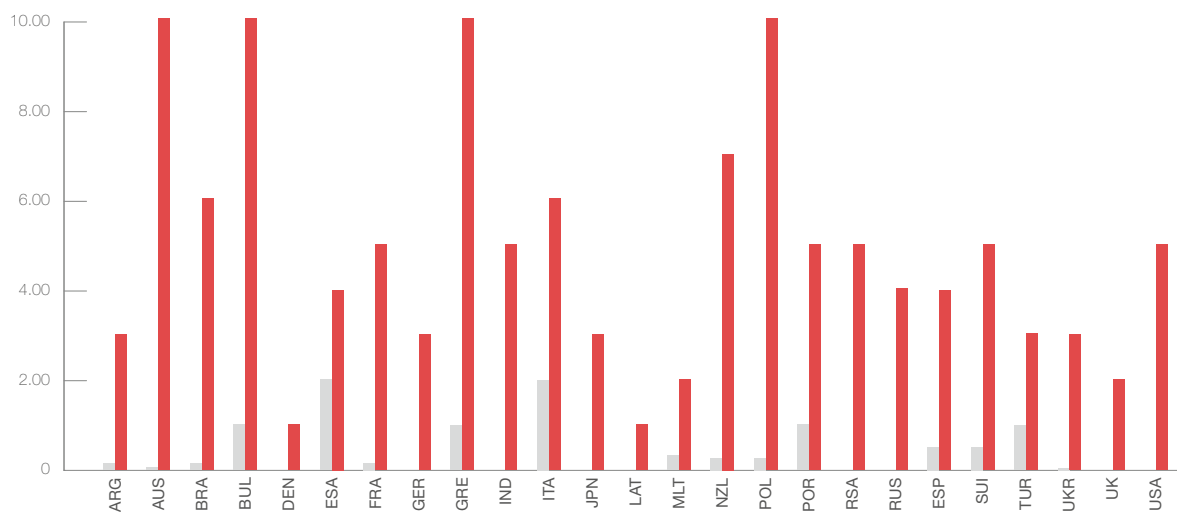


Table: Minimum and maximum imprisonment sanctions (non-aggravated offences)

## III. Good Practice Elements and Recommendations

Based on the analysis of the legislation of the 28 countries that have criminalized or are in the process of criminalizing match-fixing, a checklist of four key good practices was identified. Outlined in more detail below, these are: the application of the match-fixing offences to all sports and competitions; defining the offence of competition manipulation; the identification of the type of participants in the offence and; clearly distinguishing match-fixing offences from betting offences.

### 1 Application of the match-fixing offence to all sports and competitions

Given the importance of the threat represented by match-fixing and the inability to predict exactly which sports will be affected by match-fixing, a wide scope of application of this specific offence is preferable.

Indeed, experience has shown that criminals often choose less mediatized sports or competitions (second- or third-league matches, friendly matches, sports that are less popular in certain countries, etc.) to conduct their activities in order to better avoid detection.

This proposal is also in line with the provisions of the Convention against Corruption and of the “Macolin Convention”. The Convention against Corruption requires countries to establish criminal and other offences to cover a wide range of acts of corruption. Moreover, according to the definition provided in Article 3 of the “Macolin Convention”, “Sports competition” means “any sport event organized in accordance with the rules set by a sports organisation listed by the Convention Follow-up Committee in accordance with Article 31.2, and recognised by an international sports organisation, or, where appropriate, another competent sports organisation”.

#### Definition of competition manipulation

As a general remark, the definition of the manipulation of sports competition used in Article 3.4 of the “Macolin Convention” is useful, as it has the merit of being negotiated and developed at the international level. The definition used is “an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a sports competition with a view to obtaining an undue advantage for oneself or for others”.

#### Active / passive manipulation

In the legislation reviewed, countries predominantly identified both the active and passive manipulation of a sport event as the objective elements of the match-fixing offence. This dual approach is recommended as a good practice.

#### Manipulation for material / non-material gain

With a few exceptions, the national legislation studied included the concept of any undue advantage resulting from the match-fixing offence, be it material (“gift”, “present”, “consideration”, “allotment”, “material/pecuniary/financial advantage”) or non-material. This approach is recommended as a good

practice as it conforms with articles 15 and 16 of the Convention against Corruption and with article 3.4 of the “Macolin Convention”, all of which refer to “undue advantage”.

### Manipulation of overall result / partial event

The analysis undertaken for this study showed that many States sanctioned only the alteration of the final result of a game or competition, but not its intermediary (partial) events or components. However, there are substantial risks associated with the manipulation of outcomes/events (e.g. through number of red cards or goals scored etc.) during the competition itself. This is based on the presupposition that some types of bets, including spot betting on intermediary (partial) events, are attractive to criminal organisations. These bets can offer opportunities to such groups to place large bets with high pay out potential, but with a low risk of any manipulation being detected. Indeed, Article 3.4 of the “Macolin Convention” refers to both to the result and the course of a sport event or competition. It is recommended that States criminalize the manipulation of both the result or of the course of a sports competition.

### Participants

#### *Direct participants*

Most of the legislation analysed referred in general terms to direct participants to the match-fixing offence. At an international level, Articles 15, 16 and 21 of the Convention against Corruption refer in broad terms to direct participants. Depending on the applicable offence, these persons act as briber-givers and briber-takers, both in the public and the private sectors. The “Macolin Convention”, in its Article 3, refers in broad terms to the active perpetrators (corruptor/bribe-giver) but distinguishes between different categories of passive perpetrators (bribe-takers), referred to as “competition stakeholders”: 1) athletes; 2) athlete support personnel; and 3) officials.

For the purpose of effectiveness, it is recommended that broad terms be used to define active and passive participants in the match-fixing offence e.g. “any person” who promises or gives an undue advantage, directly or through intermediaries and “any person” who receives or accepts an undue advantage or the promise thereof, directly or through intermediaries, in order to manipulate a sport event.

#### *Intermediaries*

In view of the far-reaching nature of match-fixing – which can be viewed as a form of organized crime involving several persons and mobilizing significant human and material resources – establishing the criminal liability of intermediaries involved in the match-fixing offence is recommended as a good practice.

This recommendation is in line with the obligation set forth in Article 5 of the Convention against Transnational Organized Crime, which requires the criminalization of participation in an organized criminal group, including for intermediaries. It is also consistent with Article 27 of the Convention against Corruption, which clarifies that participation in any capacity such as an accomplice, assistant or instigator to a corruption offence is also criminal. Finally, this recommendation is also in line with Article 17 of the “Macolin Convention” which provides for aiding and abetting.

### Liability of legal persons

The legislation reviewed as part of this study provided for the liability of legal persons. This is consistent with Article 26 of the Convention against Corruption which states that, “each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences”, which may be criminal, civil or administrative in nature. Article 18 of the “Macolin Convention” also recommends establishing liability for legal persons found guilty of match-fixing.

It is therefore recommended that the liability of legal persons be provided for, subject to the legal principles of the State.

### Protection of certain categories of persons

In conformity with Articles 32 and 33 of the Convention against Corruption and Article 21 of the “Macolin Convention”, in the context of match-fixing as well as for wider considerations, it is recommended that the protection of witnesses and of reporting persons be legislated for in accordance with the legal principles recognized of each jurisdiction.

### Distinguishing between match-fixing and bet-fixing

In most of the States reviewed, the specific match-fixing offence is dissociated from the act of betting on a sport event or competition that is fixed. In two cases (Germany and South Africa), match-fixing and bet-fixing are criminalized in two different but interconnected offences. In other cases (Bulgaria, Greece, Italy, Portugal, Spain and Turkey), bet-fixing is considered to be an aggravating circumstance for the match-fixing offence. In six jurisdictions, however (Australia, France, Korea, New Zealand, Switzerland and the United Kingdom), the scope of the match-fixing offence is limited to competitions on which bets are made.

In order to ensure the highest efficiency possible in the fight against match-fixing, and for consistency with the objectives of the Convention against Corruption and of the “Macolin Convention”, it is recommended that the match-fixing offence be independent from betting on a sport event or competition which is fixed.

This recommendation does not preclude national lawmakers from adapting the match-fixing offence to include bet-fixing (i.e. to criminalize all match-fixing forms but in particular those aimed at altering the result of a bet) or to provide for a separate offence related to cheating at betting.

## IV. Model Criminal Law Provisions

### 1 Core provisions criminalizing the manipulation of sports competitions

#### Proposed model provisions

Using the analysis conducted of legislation related to match-fixing and based on the relevant legal and disciplinary instruments outlined in this study; the following model criminal law provisions are proposed for consideration:

- “1. Any person who, directly or indirectly, promises, offers or gives any undue advantage to another person, for himself, herself or for others, with the aim of improperly altering the result or the course of a sports competition shall be punished by \_\_\_\_\_.
2. Any person who, directly or indirectly, solicits or accepts any undue advantage or the promise or the offer thereof, for himself, herself or for others, with the aim of improperly altering the result or the course of a sports competition, shall be punished by \_\_\_\_\_”

## Explanatory Text

Proposed text	Specific comments and references to the relevant international instruments
<i>“Any person who ... promises/offers/gives” (Paragraph 1)</i>	This formulation (relating to active corruption) is the widest possible. In conformity with Articles 15 and 16 of the Convention against Corruption.
<i>“any person who ... solicits/accepts” (Paragraph 2)</i>	This is a broad formulation (relating to passive corruption) which ensures maximum flexibility for interpretation. In conformity with Articles 15 and 16 of the Convention against Corruption.
<i>“directly or indirectly”</i>	This provision covers both direct and indirect acts and omissions. In conformity with terminology contained in Articles 15 and 16 of the Convention against Corruption: “directly or indirectly”. Also in conformity with the “Macolin Convention”.
<i>“promises/offers/gives”</i>	In conformity with terminology contained in Articles 15 and 16 of the Convention against Corruption.
<i>“solicits/accepts”</i>	In conformity with terminology contained in Articles 15 and 16 of the Convention against Corruption.
<i>“any undue advantage or the promise or the offering thereof”</i>	In conformity with terminology contained in Articles 15 and 16 of the Convention against Corruption: “undue advantage” and with article 3.4 Macolin Convention: “undue advantage”. National legislation examined use varied terminology such as “gift”, “present”, “consideration”, “allotment” or confined this only to “material advantage”, “pecuniary advantage” or “financial advantage”. Using the unified international terminology seems the most appropriate solution. This formulation includes non-material advantages (such as advancing to a higher level in the competition, or simply the “glory” of winning). In conformity with the “Macolin Convention”.
<i>“with the aim of improperly altering”</i>	Article. 3.4 Macolin Convention: “aimed at an improper alteration”. Given the particular nature of this crime (relating precisely to sports competitions), the specific terminology of the “Macolin Convention” seems well adapted. The formulation “with the aim of” covers both attempt and completed offences.
<i>“the result or the course of a sports competition”</i>	Article 3.4 Macolin Convention: “[alteration] of the result or the course of a sports competition”. Considering the practice of betting on partial events (e.g. the number of red or yellow cards, the number of free kicks or of penalties, etc.). It is recommended that the offence concern not only the result of the sports competition, but also the normal and fair course of that competition.
<i>“for himself, herself or for others”</i>	This phrase is constructed to cover all the potential beneficiaries of the undue advantage, who may be the perpetrators themselves or other persons. In conformity with article 3.4 Macolin Convention: “[with a view to obtaining an undue advantage] for oneself or for others”. In conformity with terminology contained in articles 15 and 16 of the Convention against Corruption: “[undue advantage], for the official himself or herself or another person or entity”.

## 2 Additional guidelines to be considered by national legislators

In addition to the main provisions proposed above, other important elements could be considered by legislators, namely: participation and attempt; liability of legal persons; mitigating and aggravating circumstances and; protection of certain categories of persons.

While the following recommendations were not common to all the jurisdictions reviewed during the study, they do stand out as being useful to increase the effectiveness of draft legislation which is being revised or developed and as such are worthy of consideration.

### Participation and attempt

In order to make the fight against match-fixing more effective, it is recommended that national law criminalizes both participation and attempt in relation to the manipulation of sports competitions. Incorporating this recommendation would make relevant legislation in line with the obligations set forth in Article 5 of the Convention against Transnational Organized Crime (criminalization of participation in an organized criminal group), in Article 27 of the Convention against Corruption (participation and attempt), and Article 17 of the “Macolin Convention” (aiding and abetting).

### Liability of legal persons

As previously stated, according to Article 26 of Convention against Corruption and to Article 18 of the “Macolin Convention”, national legislators should adopt such measures as may be necessary, consistent with their legal principles, to establish the liability of legal persons for participation in the match-fixing offences. Subject to the legal principles applicable in each jurisdiction, liability of legal persons may be criminal, civil or administrative. As a further step, establishing criminal liability for legal entities is recommended, when possible, in national legislation.

### Mitigating and aggravating circumstances

Mitigating or aggravating circumstances largely depend on the principles applicable in every legal system. However, when possible, aggravating factors such as bet-fixing (as is the case in Bulgaria, Greece, Italy, Poland, Spain and Turkey), corruption of minors (as is the case in Bulgaria), or recidivism (as is the case in Bulgaria and Malta) should be considered for inclusion in the relevant legislation.

It is important to mention that other aggravating circumstances identified in national legislation (such as the plurality of participants or the participation in organized crime or conspiracy) should be consistent with the obligations assumed by States in application of Article 27 of Convention against Corruption and of Convention against Transnational Organized Crime.

### Protection of certain categories of persons

This important element should be considered for inclusion in national legislation, in conformity with Articles 32 and 33 of the Convention against Corruption, which refer to the protection of witnesses, experts and victims and to reporting persons. This recommendation is consistent with Article 21 of the “Macolin Convention”, which refers to the protection of witnesses and their family members, as well as to “persons who provide, in good faith and on reasonable grounds, information concerning [the] offences”, and their family members.



# Annexes

**Annex 1** – *National legislation providing a specific match-fixing offence*

**Annex 2** – *Analysis grid for the specific match-fixing offences provided in national legislation*

**Annex 3** – *Relevant international law – a comparison on selected themes*

**Annex 4** – *The olympic movement code on the prevention of the manipulation of competitions*

**Annex 5** – *Bibliography*

## Annex 1 National Legislation Providing a Specific Match-Fixing Offence

### Argentina

#### I General criminal law provisions

##### 1 Criminal Code (National Law n° 11179)<sup>119</sup>

- Bribery of public officials
  - Active bribery (Section 258)
  - Passive bribery (Section 256)
- Trading in influence (Section 256 bis)
- Embezzlement (Section 260, Section 261)
- Fraud (Section 172, Section 173(7))

#### II Sport-specific criminal law provisions

##### **Law N° 20.655 on Sports (1974) sanctioned on 21 March 1974 and promulgated on 2 April 1974.**<sup>120</sup>

###### Chapter IX – Sport crimes

“Article 24 – Shall be punished by imprisonment between one and three years, unless where it constitutes a more serious crime, the person who, on his own behalf or that of a third party, promises or offers a gift, or promises remuneration, in order to facilitate or secure an irregular result for a sports competition or an abnormal performance from a participant to the same. The same punishment shall apply to the person who receives a gift or a promise for remuneration for the aforementioned purposes.”

<sup>119</sup> Text available in original language at: <http://www.infoleg.gov.ar/infolegInternet/verNorma.do?id=16546>

<sup>120</sup> Text available in original language at: <http://www.infoleg.gov.ar/infolegInternet/anexos/25000-29999/27274/norma.htm>

## Australia

### I General criminal law provisions

#### 1 **Commonwealth Criminal Code Act 1995**<sup>121</sup>

- Obtaining a financial advantage by deception (Section 134.2)
- General dishonesty (Section 135.1)
- Obtaining financial advantage (Section 135.2)
- Conspiracy to defraud (Section 135.4)
- Bribery of a Commonwealth public official (Section 141.1)
- Corrupting benefits given to, or received by, a Commonwealth public official (Section 142.1)
- Facilitation payment (Division 70.4.)

#### 2 **Financial Management and Accountability Act 1997**<sup>122</sup>

- Embezzlement, misappropriation or other diversion of property by a public official (Part 3)

#### 3 **Public Governance, Performance and Accountability Act 2013**<sup>123</sup>

- Misuse of public property (Division 8)

#### 4 **Corporations Act 2001**<sup>124</sup>

- Bribery in the private sector (Sections 184, 601 FD, 01 FE, 596, 208, 209)

#### 5 **Interactive Gambling Act 2001**<sup>125</sup>

- Offence of providing an interactive gambling service to customers in Australia (Section 15)
- Offence of providing an Australian-based interactive gambling service to customers in designated countries (Section 15A)
- Excluded wagering service (Section 8A)

<sup>121</sup> Text available at: <https://www.comlaw.gov.au/Details/C2015C00601>

<sup>122</sup> Text available at: <https://www.comlaw.gov.au/Details/C2013C00282>

<sup>123</sup> Text available at: [https://www.comlaw.gov.au/Details/C2013A00123/Html/Text#\\_Toc361228531](https://www.comlaw.gov.au/Details/C2013A00123/Html/Text#_Toc361228531)

<sup>124</sup> Text available at: <https://www.comlaw.gov.au/Details/C2015C00336>

<sup>125</sup> Text available at: <https://www.comlaw.gov.au/Details/C2015C00101>

## II Sport-specific criminal law provisions

### 1 National Policy on Match-Fixing in Sport (10 June 2011)<sup>126</sup>

“3.4 All Australian governments agree to pursue, through Attorneys General, a consistent approach to criminal offences, including legislation by relevant jurisdictions, in relation to match-fixing that provides an effective deterrent and sufficient penalties to reflect the seriousness of offences. Governments note the approach to implementation of such provisions may vary in jurisdictions depending on existing legislative arrangements”.

### 2 Victoria - Crimes Amendment (Integrity in Sports) Act 2013<sup>127</sup>

#### New Division 2B inserted in Part I of the Crimes Act 1958

##### Division 2B

In this Division

*bet* includes:

- a) place, accept or withdraw a bet; and
- b) cause a bet to be placed, accepted or withdrawn.

*causing a financial disadvantage* includes:

- a) causing a financial disadvantage to another person; and
- b) inducing a third person to do something that results in another person suffering a financial disadvantage – whether the financial disadvantage is permanent or temporary.

*conduct* means an act or omission to do an act;

*conduct that corrupts or would corrupt a betting outcome of an event or an event contingency* means conduct that:

- a) affects or, if engaged in, would or would be likely to affect the outcome of any type of betting on the event or event contingency; and
- b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on the event or event contingency.

*encourage* includes incite, induce, persuade, urge, threaten or pressure;

*engage in conduct* means:

- a) do an act; or
- b) omit to do an act.

<sup>126</sup> Text available at: <http://www.health.gov.au/internet/main/publishing.nsf/Content/national-policy-on-match-fixing-in-sport>

<sup>127</sup> Text available at: [http://www.legislation.vic.gov.au/domino/web\\_notes/ldms/pubpdocs\\_arch.nsf/5da7442d8f61e92bca256de50013d008/ca2570ce0018ac6dca257b250008e9cf/\\$FILE/571217bs1.pdf](http://www.legislation.vic.gov.au/domino/web_notes/ldms/pubpdocs_arch.nsf/5da7442d8f61e92bca256de50013d008/ca2570ce0018ac6dca257b250008e9cf/$FILE/571217bs1.pdf)

*event* means an event (whether it takes place in Victoria or elsewhere) on which it is lawful to bet under a law of Victoria, another State, a Territory or the Commonwealth;

*event contingency* means a contingency connected to an event, being a contingency on which it is lawful to bet under a law of Victoria, another State, a Territory or the Commonwealth;

*obtaining a financial advantage* includes:

- a) obtaining a financial advantage for oneself or another person; and
- b) inducing a third person to do something that results in obtaining a financial advantage for oneself or for another person; and
- c) retaining a financial advantage that one has – whether the financial advantage is permanent or temporary.

#### **195C Engaging in conduct that corrupts or would corrupt a betting outcome of event or event contingency**

A person must not engage in conduct that corrupts or would corrupt a betting outcome of an event or event contingency:

- a) knowing that, or being reckless as to whether, the conduct corrupts or would corrupt a betting outcome of the event or the event contingency; and
- b) intending to obtain a financial advantage, or to cause a financial disadvantage, in connection with any betting on the event or the event contingency.

Penalty: level 5 imprisonment (10 years maximum).

#### **195D Facilitating conduct that corrupts or would corrupt a betting outcome of event or event contingency**

1. A person must not offer to engage in, or encourage another person to engage in, conduct that corrupts or would corrupt a betting outcome of an event or event contingency:

- a) knowing that, or being reckless as to whether, the conduct corrupts or would corrupt a betting outcome of the event or event contingency; and
- b) intending to obtain a financial advantage, or to cause a financial disadvantage, in connection with any betting on the event or the event contingency.

Penalty: level 5 imprisonment (10 years maximum).

2. A person must not enter into an agreement or arrangement in respect of conduct that corrupts or would corrupt a betting outcome of an event or event contingency:

- a) knowing that, or being reckless as to whether, the conduct the subject of the agreement or arrangement corrupts or would corrupt a betting outcome of the event or event contingency; and
- b) intending to obtain a financial advantage, or to cause a financial disadvantage, in connection with any betting on the event or the event contingency.

Penalty: level 5 imprisonment (10 years maximum).

### 3 **Queensland – Criminal Code (Cheating at Gambling) Amendment Bill 2013** <sup>128</sup>

#### **Chapter 43 Cheating at gambling**

##### 443 Definitions

In this chapter

*betting*, on an event, includes:

- a) accepting, placing or withdrawing a bet on the event; and
- b) causing the acceptance, placement or withdrawal of a bet on the event.

*causing financial disadvantage*:

- a) means causing financial disadvantage whether permanently or temporarily; and
- b) includes:
  - I. causing financial disadvantage to another person; and
  - II. inducing a person to do an act or make an omission causing financial disadvantage to another person.

*corrupt betting conduct*, in relation to an event, means an act or omission that—

- a) affects, or if engaged in would be likely to affect, the outcome of betting on the event; and
- b) is contrary to the standards of integrity that a reasonable person would expect of a person in a position to affect the outcome of betting on the event.

*encourage* includes incite, induce, persuade, pressure, threaten or urge.

*event*:

- a) means an event on which betting under a law of the Commonwealth or a State is lawful; and
- b) includes an event contingency.

*event contingency*, for an event, means a contingency for the event on which betting under a law of the Commonwealth or a State is lawful.

*obtaining financial advantage*:

- a) means obtaining financial advantage whether permanently or temporarily; and
- b) includes:
  - I. obtaining financial advantage for another person; or
  - II. inducing a person to do an act or make an omission resulting in obtaining financial advantage for another person.

#### **443A Engaging in corrupt betting conduct**

A person who knowingly or recklessly engages in corrupt betting conduct in relation to an event with the intention of obtaining financial advantage, or causing financial disadvantage, in relation to betting on the event commits a crime.

Maximum penalty: 10 years imprisonment.

<sup>128</sup> Text available at: <http://www.parliament.qld.gov.au/docs/find.aspx?id=5414T4908>

#### **443B Facilitating corrupt betting conduct**

1. A person who knowingly or recklessly offers to engage in, or encourages another person to engage in, corrupt betting conduct in relation to an event with the intention of obtaining financial advantage, or causing financial disadvantage, in relation to betting on the event commits a crime.

Maximum penalty: 10 years imprisonment.

2. A person who knowingly or recklessly enters into an agreement or arrangement in relation to corrupt betting conduct in relation to an event with the intention of obtaining financial advantage, or causing financial disadvantage, in relation to betting on the event commits a crime.

Maximum penalty: 10 years imprisonment.

#### **443C Concealing corrupt betting conduct, agreement or arrangement**

1. A person who knowingly or recklessly encourages another person to conceal from a relevant authority corrupt betting conduct, or an agreement or arrangement in relation to corrupt betting conduct, in relation to an event with the intention of obtaining financial advantage, or causing financial disadvantage, in relation to betting on the event commits a crime.

Maximum penalty: 10 years imprisonment.

2. In this section – *relevant authority* means:
  - a) a police officer; or
  - b) a body having the official function of controlling, regulating or supervising:
    - an event, other than an event contingency; or
    - the betting on an event, other than an event contingency.

#### **443D Using information in relation to event**

1. A person who knowingly or recklessly uses information about corrupt betting conduct in relation to an event for betting on the event commits a crime.

Maximum penalty: 10 years imprisonment.

2. A person who knowingly or recklessly uses information about corrupt betting conduct in relation to an event to encourage another person (the second person) to bet on the event in a particular way commits a crime.

Maximum penalty: 10 years imprisonment.

3. A person (the **first person**) who knowingly or recklessly communicates, or causes to be communicated, information about corrupt betting conduct in relation to an event to another person (also the **second person**) who the first person knows, or ought reasonably to know, would be likely to bet on the event commits a crime.

Maximum penalty: 10 years imprisonment.



4. In a proceeding for an offence against subsection (2) or (3), it is immaterial whether the second person bets on the event.

#### **443E Evidentiary provision**

1. This section applies for a proceeding for an offence under this chapter.
2. A person is taken to have intended obtaining financial advantage, or causing financial disadvantage, only if it is proved that the person—
  - a) intended obtaining financial advantage, or causing financial disadvantage, in relation to betting on an event; or
  - b) was aware another person intended obtaining financial advantage, or causing financial disadvantage, in relation to betting on an event resulting from the act or omission that is the subject of the charge for the proceeding.
3. It is immaterial whether financial advantage is obtained or financial disadvantage is caused”.

#### **4 New South Wales - Crimes Amendment (Cheating at Gambling) Bill 2012**

##### **Cheating at gambling**

Division 1 – Preliminary

##### **193H Corrupting betting outcome of event**

1. For the purposes of this Part, conduct corrupts a betting outcome of an event if the conduct:
  - a) affects or, if engaged in, would be likely to affect the outcome of any type of betting on the event, and
  - b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on the event.
2. For the purposes of this Part, an agreement about conduct that corrupts a betting outcome of an event is an agreement between two or more persons under which one or more of those persons agree to engage in conduct that corrupts a betting outcome of an event.

3. In this Part:

*agreement* includes an arrangement;

*conduct* means an act or an omission to perform an act;

*engage in conduct* means:

- a) do an act, or
- b) omit to perform an act.

## 5 South Australia - Criminal Law Consolidation Act 1935 (Cheating at Gambling)<sup>129</sup>

### Part 5B

#### 144G Interpretation

1. In this Part:

agreement includes an arrangement;

bet includes:

- a) place, accept or withdraw a bet;
- b) cause a bet to be placed, accepted or withdrawn.

*conduct* means an act or omission to perform an act;

encourage includes command, request, propose, advise, incite, induce, persuade, authorise, urge, pressure or threaten;

*engage in conduct* means:

- a) do an act; or
- b) omit to do an act.

*event* means an event (whether it takes place in this State or elsewhere) on which it is lawful to bet under a law of this State, another State, a Territory, or the Commonwealth;

*event contingency* means a contingency connected to an event, being a contingency on which it is lawful to bet under a law of this State, another State, a Territory, or the Commonwealth.

2. In this Part, a reference to betting on an event includes a reference to betting on an event contingency.
3. For the purposes of this Part, *conduct* will be taken to be conduct that corrupts a betting outcome if the conduct:
  - a) affects or, if engaged in, would or would be likely to affect the outcome of any type of betting on the event; and
  - b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on an event.
4. For the purposes of this Part, an agreement in respect of conduct that corrupts a betting outcome of an event is an agreement between two or more persons under which one or more persons agree to engage in conduct that corrupts a betting outcome of an event.
5. For the purposes of this Part, *obtaining a financial advantage* includes:
  - a) obtaining a financial advantage for oneself or for another person;
  - b) inducing a third person to do something that results in obtaining a financial advantage for oneself or for another person;
  - c) retaining a financial advantage that one has, whether the financial advantage is permanent or temporary.

<sup>129</sup> Text available at: [https://www.legislation.sa.gov.au/LZ/V/A/2013/CRIMINAL%20LAW%20CONSOLIDATION%20\(CHEATING%20AT%20GAMBLING\)%20AMENDMENT%20ACT%202013\\_7/2013.7.UN.PDF](https://www.legislation.sa.gov.au/LZ/V/A/2013/CRIMINAL%20LAW%20CONSOLIDATION%20(CHEATING%20AT%20GAMBLING)%20AMENDMENT%20ACT%202013_7/2013.7.UN.PDF)

6. For the purposes of this Part, causing a financial disadvantage includes:
  - a) causing a financial disadvantage to another person;
  - b) inducing a third person to do something that results in another person suffering a financial disadvantage, whether the financial disadvantage is permanent or temporary.
7. In proceedings for an offence against this Part, the defendant will be taken to have intended to obtain a financial advantage, or cause a financial disadvantage, if, and only if, it is proved that the defendant:
  - a) intended to obtain a financial advantage or to cause a financial disadvantage in connection with betting on an event; or
  - b) was aware that another person intended to obtain a financial advantage or to cause a financial disadvantage, in connection with betting on an event, as a result of the conduct the subject of the charge.
8. In proceedings under this Part, it is not necessary to prove that a financial advantage was actually obtained or a financial disadvantage was actually caused.
9. In this section, the conduct the subject of the charge means:
  - a) in the case of an offence against section 144H – the conduct that the defendant engaged in; or
  - b) in the case of an offence against section 144I(1) – the conduct the defendant offered to engage in; or
  - c) in the case of an offence against section 144I(2) – the conduct the defendant encouraged another person to engage in; or
  - d) in the case of an offence against section 144I(3) – the conduct the subject of the agreement; or
  - e) in the case of an offence against section 144J – the conduct, or the conduct the subject of the agreement, that the defendant encouraged another person to conceal.

#### **144H Engaging in conduct that corrupts betting outcome of event**

A person who engages in conduct that corrupts a betting outcome of an event:

- a) knowing that, or being reckless as to whether, the conduct corrupts a betting outcome of the event; and
- b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event, is guilty of an offence.

Maximum penalty: 10 years imprisonment.

### **144I Facilitating conduct that corrupts betting outcome of event**

1. A person who offers to engage in conduct that corrupts a betting outcome of an event:
  - a) knowing that, or being reckless as to whether, the conduct corrupts a betting outcome of the event; and 12.5.2013—Criminal Law Consolidation Act 1935 Cheating at gambling—Part 5B [6.8.2015] This version is not published under the Legislation Revision and Publication Act 2002 3
  - b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event, is guilty of an offence.

Maximum penalty: 10 years imprisonment.

2. A person who encourages another person to engage in conduct that corrupts a betting outcome of an event:
  - a) knowing that, or being reckless as to whether, the conduct corrupts a betting outcome of the event; and
  - b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event, is guilty of an offence.

Maximum penalty: 10 years imprisonment.

3. A person who enters into an agreement in respect of conduct that corrupts a betting outcome of an event:
  - a) knowing that, or being reckless as to whether, the conduct the subject of the agreement corrupts a betting outcome of the event; and
  - b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event, is guilty of an offence.

Maximum penalty: 10 years imprisonment.

## **6 Northern Territory – Criminal Code Amendment (Cheating at Gambling) Act 2013<sup>130</sup>**

### **Division 5A Cheating at Gambling**

Subdivision 1 Preliminary matters

#### **237A Definitions**

In this Division:

*agreement about conduct that corrupts a betting outcome of an event*, see section 237B(2);

*bet*, see section 237C(1);

*cause a financial disadvantage*, see section 237E(2);

*conduct that corrupts a betting outcome of an event*, see section 237B(1);

*encourage*, see section 237G;

<sup>130</sup> Original text available at: <http://www.austlii.edu.au/au/legis/nt/bill/ccaagb2013340/>

*event*, see section 237D(1);

*event contingency*, see section 237D(2);

*obtain a financial advantage*, see section 237E(1).

### **237B Corrupting betting outcome of event**

1. Conduct corrupts a betting outcome of an event if the conduct:
  - a) affects or, if engaged in, would be likely to affect the outcome of any type of betting on the event; and
  - b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on the event.
2. An agreement about conduct that corrupts a betting outcome of an event is an agreement between two or more persons under which one or more of them agrees to engage in conduct that corrupts a betting outcome of an event.

### **237C Betting**

1. To bet includes doing any of the following:
  - a) placing, accepting or withdrawing a bet;
  - b) causing a bet to be placed, accepted or withdrawn.
2. In this Division, a reference to betting on an event includes a reference to betting on any event contingency.

[...]

Subdivision 2 Offences

### **237H Engaging in conduct that corrupts betting outcome of event**

A person is guilty of a crime if the person:

- a) engages in conduct that corrupts a betting outcome of an event; and
- b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event.

Maximum penalty: Imprisonment for seven years.

### **237J Facilitating conduct that corrupts betting outcome of event**

1. A person is guilty of a crime if the person:
  - a) offers to engage in conduct that corrupts a betting outcome of an event; and
  - b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event.

Maximum penalty: 7 years imprisonment.

2. A person is guilty of a crime if the person:
  - a) encourages another person to engage in conduct that corrupts a betting outcome of an event; and
  - b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event.

Maximum penalty: Imprisonment for seven years.

3. A person is guilty of a crime if the person:
  - a) enters into an agreement about conduct that corrupts a betting outcome of an event; and
  - b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event.

Maximum penalty: 7 years imprisonment.

### **237K Concealing conduct or agreement about conduct that corrupts betting outcome of event**

1. A person is guilty of a crime if the person:
  - a) encourages another person to conceal from any appropriate authority conduct, or an agreement about conduct, that corrupts a betting outcome of an event; and
  - b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event.

Maximum penalty: 7 years imprisonment.

2. In this section:

appropriate authority includes:

- a) a police officer; or
- b) a body that has the official function of controlling, regulating or supervising an event or any betting on an event.

### **237L Use of corrupt conduct information for betting purposes**

1. A person is guilty of a crime if:
  - a) the person possesses information in connection with an event; and
  - b) the information is corrupt conduct information; and
  - c) the person:
    - bets on the event; or
    - encourages another person to bet on the event in a particular way; or
    - communicates the information, or causes the information to be communicated, to another person who the first person knows or ought reasonably to know would or would be likely to bet on the event.

Maximum penalty: 7 years imprisonment.

2. Information in connection with an event is corrupt conduct information if the information is about conduct, or proposed conduct, that corrupts a betting outcome of an event.
3. In proceedings for an offence against subsection (1)(c)(II) or (III), it is not necessary to prove that the person encouraged to bet, or to whom information was communicated, actually bet on the event concerned.

### **237M Use of inside information for betting purposes**

1. A person is guilty of an offence if:
  - a) the person possesses information in connection with an event; and
  - b) the information is inside information; and
  - c) the person:
    - bets on the event; or
    - encourages another person to bet on the event in a particular way; or
    - communicates the information, or causes the information to be communicated, to another person who the first person knows or ought reasonably to know would or would be likely to bet on the event.

Maximum penalty: 2 years imprisonment.

2. Information in connection with an event is inside information if the information:
  - a) is not generally available; and
  - b) if it were generally available, would, or would be likely to, influence persons who commonly bet on the event:
    - in deciding whether or not to bet on the event; or
    - in making any other betting decision.
3. Information is generally available if:
  - a) it consists of matter that is readily observable by the public; or
  - b) it has been made known in a manner that would, or would be likely to, bring it to the attention of the public; or
  - c) it consists of deductions, conclusions or inferences made or drawn from information mentioned in Paragraph (a) or (b).
4. In proceedings for an offence against subsection (1) (c)(II) or (III), it is not necessary to prove that the person encouraged to bet, or to whom information was communicated, actually bet on the event concerned.

## **7 Tasmania**

In Tasmania, amendments to the existing laws were announced in 2015<sup>131</sup> but have not yet been enacted.

<sup>131</sup> See [http://www.aic.gov.au/media\\_library/publications/tandi\\_pdf/tandi490.pdf](http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi490.pdf), p.7



## 8 **Australian Capital Territory – Criminal Code (Cheating at Gambling) Amendment Act 2013**<sup>132</sup>

### **Part 3.8A Cheating at gambling**

Division 3.8A.2 Offences – pt 3.8A

#### **363F Conduct that corrupts betting outcome**

A person (the first person) commits an offence if:

- a) the first person engages in conduct; and
- b) the conduct corrupts a betting outcome on an event; and
- c) the first person is reckless about whether the conduct corrupts a betting outcome for the event; and
- d) the first person intends:
  - obtaining a financial advantage for the first person or another person from a bet on the event; or
  - causing a financial disadvantage to another person who bets on the event.

Maximum penalty: 10 years imprisonment.

#### **363G Bet with information about corrupt betting outcome**

**1** A person (the first person) commits an offence if:

- a) the first person engages in conduct that results in:
  - a bet by the first person on an event; or
  - another person being encouraged to bet on an event; or
  - information being communicated to another person who the first person knows would, or would be likely to, bet on an event; and
- b) at the time of the conduct the first person:
  - possesses corrupt conduct information for the event; and
  - is reckless about whether the information is corrupt conduct information.

Maximum penalty: 10 years imprisonment.

#### **363H Bet with inside information**

**1** A person (the first person) commits an offence if:

- a) the first person engages in conduct that results in:
  - a bet by the first person on an event; or
  - another person being encouraged to bet on an event; or
  - information being communicated to another person who the first person knows would, or would be likely to, bet on an event; and
- b) at the time of the conduct the first person:
  - possesses inside information for the event; and
  - is reckless about whether the information is inside information.

Maximum penalty: imprisonment for two years.

<sup>132</sup> Original text available at: [http://www.legislation.act.gov.au/b/db\\_47839/20130606-55392/pdf/db\\_47839.pdf](http://www.legislation.act.gov.au/b/db_47839/20130606-55392/pdf/db_47839.pdf)

## 9 Western Australia

In Western Australia, existing legislation was considered sufficient to accommodate the national agreement on match-fixing.<sup>133</sup>

## Brazil

### I General criminal law provisions

#### 1 Criminal Code (Decree-Law No 2.848, of 7 December 1940)<sup>134</sup>

- Active bribery (Section 333)
- Passive bribery (Section 317)
- Prevarication (Section 319)
- Trading in influence (Section 332)
- Fraud (Section 171)

#### 2 Law on Industrial Property (Law No 9.279, of 14 May 1996)<sup>135</sup>

- Disloyal Competition (Section 195)

### II Sport-specific criminal law provisions

#### Law no 10.671 – of 15 May 2003 (as amended by Law n° 13.155 of 4 August 2015)<sup>136</sup>

Art. 41-C. The act of soliciting or accepting, on one's own behalf or that of a third party, benefits or promises for benefits, whether pecuniary or not, for any act or omission meant to alter or distort the results of a sports competition or event associated with it (Wording introduced by Law n° 13.155, of 2015).

Penalty – Imprisonment from 2 (two) to 6 (six) years and fine (Inserted by Law n° 12.299 of 2010).

Art. 41-D. The act of offering or promising pecuniary or non-pecuniary benefits in order to alter or distort the results of a sports competition or event associated with it (Wording introduced by Law n° 13.155, of 2015).

<sup>133</sup> See explanations here: [http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/d3d10b7f5d21e77f48257cef0007bab0/\\$FILE/A39+S1+20140520+p37b-41a.pdf](http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/d3d10b7f5d21e77f48257cef0007bab0/$FILE/A39+S1+20140520+p37b-41a.pdf)

<sup>134</sup> Original text available at: [http://www.planalto.gov.br/CCIVIL\\_03/Decreto-Lei/Del2848.htm](http://www.planalto.gov.br/CCIVIL_03/Decreto-Lei/Del2848.htm)

<sup>135</sup> Original text available at: [http://www.planalto.gov.br/ccivil\\_03/Leis/L9279.htm](http://www.planalto.gov.br/ccivil_03/Leis/L9279.htm)

<sup>136</sup> Original text available at: [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2015-2018/2015/Lei/L13155.htm#art40](http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2015/Lei/L13155.htm#art40)

Penalty – Imprisonment from 2 (two) to 6 (six) years and fine (Inserted by Law n° 12.299 of 2010).

Art. 41 E. The act of cheating, by any means, or that of participating in the distortion, by any means, of the results of a sports competition or event associated with it (Wording introduced by Law n° 13.155, of 2015).

Penalty – Imprisonment from 2 (two) to 6 (six) years and fine (Inserted by Law n° 12.299 of 2010).

## Bulgaria

### I General criminal law provisions

#### 1 Criminal Code<sup>137</sup>

- Bribery of public officials (Section 93 (1))
- Embezzlement (Section 201-204, 283)
- Bribery in the private sector (Section 225c)

### II Sport-specific criminal law provisions

#### 1 Criminal Code as amended in July 2011

Chapter Eight “A” (New, SG No. 60/2011)

##### Crimes Against Sports

##### Section 307b. (New, SG No. 60/2011)

Anyone who – through the use of force, fraud, threat, or in another unlawful way – persuades another person to influence the development or outcome of a sports competition administered by a sports organisation shall be punished with imprisonment from one to six years and a fine ranging from BGN 1,000 to 10,000, unless the act constitutes a more severe crime.

<sup>137</sup> English translation available at: [http://www.mlsp.government.bg/ckfinder/userfiles/files/admob/Criminal\\_Code.pdf](http://www.mlsp.government.bg/ckfinder/userfiles/files/admob/Criminal_Code.pdf);  
the Official Gazette text in Bulgarian language is available at : <http://dv.parliament.bg/DVWeb/index.faces>

**Section 307c. (New, SG No. 60/2011)**

1. Anyone who promises, offers or grants any undue advantage to another in order to influence or for having influenced the development or outcome of a sports competition administered by a sports organisation shall be punished with imprisonment from one to six years and a fine ranging from BGN 5,000 to 15,000.
2. The punishment under Paragraph 1 shall also be imposed on anyone who requests or accepts any undue advantage, or accepts an offer or promise of an advantage, in order to influence or for having influenced the development or outcome of a sports competition or when, with the consent of that person, the advantaged is offered, promised or given to another.
3. Anyone who acts as an intermediary for the commitment of an act under Paragraphs 1 and 2 shall be punished with imprisonment for up to three years and a fine of maximum BGN 5,000.
4. The punishment under Paragraph 1 shall also be imposed on anyone who provides for or organises the advantage offering or granting.
5. Offenders shall be punished pursuant to the conditions of Section 55 (mitigating circumstances) if they voluntarily inform the competent authority about any crime committed under Paragraphs 1-4.

**Section 307d. (New, SG No. 60/2011)**

1. The punishment shall be imprisonment from two to eight years and a fine ranging from BGN 10,000 to 20,000 when the act under Article 307b or Article 307c is committed:
  - in respect of a sports competition participant who is under 18 years of age;
  - in respect of two (or more) sports competition participants;
  - in respect of, or by a member of a sports organisation's managing or control body, a referee, a delegate or anyone acting while discharging his duties or function;
  - repeatedly.
2. The punishment shall be imprisonment from two to ten years and a fine ranging from BGN 15,000 to 30,000 when the act under Article 307b or Article 307c:
  - is committed by a person acting upon an order or decision of an organized crime group.
  - is committed in the context of dangerous recidivism;
  - is a particularly grave offence;
  - concerns a competition included in a game of chance that involves betting on the development or outcome of sports events.

**Section 307e. (New, SG No. 60/2011)**

1. In the cases under Article 307b, Article 307c and Article 307d, the competent court may order deprivation of rights under Article 37(1)(6) and (7).
2. In the cases under Article 307d, the court may also order that half of the assets, or less, of the guilty person be confiscated.

### **Section 307f. (New, SG No. 60/2011)**

The object of any crime falling within the scope of this chapter shall be forfeited in favour of the state, and when this object is not available or is expropriated, it is the relevant monetary equivalent that shall be forfeited.

## **People's Republic of China**

### **I General criminal law provisions**

#### **1 Criminal Law (CL) of the People's Republic of China effective as of 1 October 1997<sup>138</sup>**

- Bribery of public officials (Sections 185, 394, 385-388, 389-393)
- Embezzlement (Sections 382-383)
- Fraud (Section 266)

### **II Sport-specific criminal law provisions**

#### **1 Law of the People's Republic of China on Physical Culture And Sports<sup>139</sup>**

(Adopted at the 15th Meeting of the Standing Committee of the Eight National People's Congress on 29 August 1995, promulgated by Order No 55 of the President of the People's Republic of China, and effective as of October 1, 1995)

#### **Section 34**

The principle of fair competition shall be followed in sports competitions by organizers of competitions, athletes, coaches and referees, who shall abide by sportsmanship, and may not practise fraud or engage malpractice for selfish ends.

The use of banned drugs and methods is strictly prohibited in sports activities. Institutions in charge of testing banned drugs shall conduct strict examination of the banned drugs and methods.

It is strictly forbidden for any organisation or individual to engage in gambling activities through sports competition.

<sup>138</sup> Text available in English at: <http://www.cecc.gov/resources/legal-provisions/criminal-law-of-the-peoples-republic-of-china>

<sup>139</sup> Translation in English available on the National People's Congress website: [http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content\\_1383721.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383721.htm)

## 2 Section 303 Criminal Law – Gambling and crime of running a gambling house

Whoever, for the purpose of profit, gathers people to engage in gambling, runs a gambling house or makes gambling his profession shall be sentenced to fixed-term imprisonment of no more than three years, criminal detention or public surveillance, and shall also be fined.

## Denmark

### I General criminal law provisions

#### 1 Criminal Code<sup>140</sup>

- Bribery of public officials (Sections 122, 144)
- Embezzlement (Sections 277, 278, 279 283, 286)
- Bribery in the private sector (Section 299)
- Fraud (Section 279)

### II Sport-specific criminal law provisions

#### 1 Section 10 and 10b of the Act on the Promotion of Integrity in Sport (amended in 2015)

(Legislative Decree no. 116 of 31 January 2015 as amended by Act no. 536 of 29 April 2015<sup>141</sup>)

This Act amended the Criminal Code to ensure that all forms of match-fixing become a criminal offence, as part of a series of measures introduced to combat match-fixing.

Section 10 authorises the Minister of Culture to impose on certain sports associations a duty to establish and enforce rules to fight the manipulation of sports matches. If they do not, they would lose their subsidies.

<sup>140</sup> Text available in original language at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=121398>

<sup>141</sup> Original text of the proposals available at: [http://kum.dk/fileadmin/KUM/Documents/Publikationer/2014/Rapport\\_fra\\_arbejdsgruppen\\_om\\_matchfixning.pdf](http://kum.dk/fileadmin/KUM/Documents/Publikationer/2014/Rapport_fra_arbejdsgruppen_om_matchfixning.pdf); adopted text available at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=174633>

Section 10b provides for a prison sentence of up to one year if one grants, promises or offers to a person who takes part in, or acts as a an official in, a sporting competition of a certain level, held either at home or abroad, a gift or other advantage in order to induce that person to act or refrain from acting in relation to the outcome of the match. The same sanction may be applied to the bribe-taker. In aggravated circumstances, the prison sentence could be increased to two years.

Note that the Danish sports movement had already adopted comprehensive internal regulations tackling match-fixing.<sup>142</sup>

## 2 **The Act on Gaming**<sup>143</sup>

- Executive order 65 on land-based betting (Section 7)
- Executive order 66 on online betting (Section 22)

## **El Salvador**

### **I** General criminal law provisions

#### **1** **Criminal Code**<sup>144</sup>

- Fraud (Section 215)
- Aggravated Fraud (Section 216)
- Unlawful appropriation or retention (Section 217)
- Fraudulent management (Section 218)

### **II** Sport-specific criminal law provisions

#### **1** **Art. 218-A of the Criminal Code (introduced on 16 March 2016)**<sup>145</sup>

Sporting Fraud - Art. 218-A.

Anyone who, for himself/herself or for a third party, pledges or offers, promises, pays or distributes any type of benefit, with the aim of altering or ensuring a predetermined result of a professional sports competition or event of national or international level, or the abnormal behaviour of a participant in such a competition, shall be sanctioned by imprisonment from two to four years and special prohibition of rights for the same period.

<sup>142</sup> Original text available at: <http://www.dif.dk/~media/difdk/om%20dif/pdf-filer/lovregulativiiimatchfixingndret04102014.pdf>

<sup>143</sup> See <http://www.skat.dk/SKAT.aspx?old=1905223&vld=0> for full English text

<sup>144</sup> Original text available at: <http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/codigo-penal>

<sup>145</sup> Original text available at: <http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/codigo-penal>



The same sanction shall apply to whoever, directly or through a third party, solicits or receives payment of any such benefit, with the aim of deliberately and fraudulently altering the result of a professional sports competition or event.

The sanction shall be aggravated by imprisonment from three to five years and special prohibition of rights for the same period when the perpetrator is an officer, director, manager, trainer, referee or judge, agent or employee of a club or sports entity, regardless of its legal form.

Whoever, in his/her quality as the country's representative following national qualifications, in individual or collective sports, commits the above-mentioned offences, shall be sanctioned by imprisonment from four to six years and special prohibition of rights for the same period.

## France

### I General criminal law provisions

#### 1 **Criminal Code** <sup>146</sup>

- Bribery of public officials (Sections 432-11, 433-1 434-9, 432-11, 433-22, 433-23, 434-44, 434-46 and 432-17);
- Embezzlement (Sections 432-15, 432-16);
- Bribery in the private sector (Sections 314-2, 314-1, 445-1, 445-2).

#### 2 **Commercial Code**

- Bribery in the private sector: (Section L.242-6, L.241-3).

#### 3 [Original text]

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

<sup>146</sup>Text available at: <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719>

## II Sport-specific criminal law provisions

### 1 Criminal Code<sup>147</sup>

#### Section 445-1-1<sup>148</sup>

[*Original text*] Les peines prévues à l'article 445-1 [cinq ans d'emprisonnement et d'une amende de €500 000, dont le montant peut être porté au double du produit tiré de l'infraction, n.n.] sont applicables à toute personne qui promet ou offre, sans droit, à tout moment, directement ou indirectement, des présents, des dons ou des avantages quelconques, pour lui-même ou pour autrui, à un acteur d'une manifestation sportive donnant lieu à des paris sportifs, afin que ce dernier modifie, par un acte ou une abstention, le déroulement normal et équitable de cette manifestation.

#### Section 445-2-1<sup>149</sup>

[*Original text*] Les peines prévues à l'article 445-2 [cinq ans d'emprisonnement et d'une amende de €500 000, dont le montant peut être porté au double du produit tiré de l'infraction, n.n.] sont applicables à tout acteur d'une manifestation sportive donnant lieu à des paris sportifs qui, en vue de modifier ou d'altérer le résultat de paris sportifs, accepte des présents, des dons ou des avantages quelconques, pour lui-même ou pour autrui, afin qu'il modifie, par un acte ou une abstention, le déroulement normal et équitable de cette manifestation.

## Germany

### I General criminal law provisions

#### 1 Criminal Code<sup>150</sup>

- Bribery of public officials (Sections 331, 334);
- Private corruption (Sections 299, 300);
- Fraud (Section 263).

### II Sport-specific criminal law provisions

On 6 April 2016, Germany's Federal Government has adopted a draft law which aims to amend the German Criminal Code in order to criminalize sports betting fraud and the manipulation of professional sporting competitions.<sup>151</sup> The draft proposes mainly two new

<sup>147</sup> Original text available at: <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719>

<sup>148</sup> Introduced by Section 9 of Law n°2012-158 of 1 February 2012

<sup>149</sup> *ibid.*

<sup>150</sup> English translation available at: [http://www.gesetze-im-internet.de/englisch\\_stgb/index.html](http://www.gesetze-im-internet.de/englisch_stgb/index.html)

<sup>151</sup> [https://www.bmjv.de/SharedDocs/Artikel/DE/2016/04062016\\_Kabinett\\_Spielmanipulation.html](https://www.bmjv.de/SharedDocs/Artikel/DE/2016/04062016_Kabinett_Spielmanipulation.html)

criminal offences punishing sports betting fraud (§ 265c) and the manipulation of professional competitions (§265d). The proposed statutory offences capture referees, athletes, coaches and equated persons for taking undue advantages, and any person for giving such advantages. The proposed applicable sanctions range from a fine to maximum three years of imprisonment, which can be augmented to a maximum of five years in aggravating circumstances (Sections 265e<sup>152</sup> and 265f<sup>153</sup>).

## 1 **Sports betting fraud (Sportwettbetrug) (proposed Section 265c Criminal Code):**

[Original text]

- “1. Wer als Sportler oder Trainer einen Vorteil für sich oder einen Dritten als Gegenleistung dafür fordert, sich versprechen lässt oder annimmt, dass er den Verlauf oder das Ergebnis eines Wettbewerbs des organisierten Sports zugunsten des Wettbewerbsgegners beeinflusse und infolgedessen ein rechtswidriger Vermögensvorteil durch eine auf diesen Wettbewerb bezogene öffentliche Sportwette erlangt werde, wird mit Freiheitsstrafe bis zu drei Jahren oder mit Geldstrafe bestraft.
2. Ebenso wird bestraft, wer einem Sportler oder Trainer einen Vorteil für diesen oder einen Dritten als Gegenleistung dafür anbietet, verspricht oder gewährt, dass er den Verlauf oder das Ergebnis eines Wettbewerbs des organisierten Sports zugunsten des Wettbewerbsgegners beeinflusse und infolgedessen ein rechtswidriger Vermögensvorteil durch eine auf diesen Wettbewerb bezogene öffentliche Sportwette erlangt werde.
3. Wer als Schieds-, Wertungs- oder Kampfrichter einen Vorteil für sich oder einen Dritten als Gegenleistung dafür fordert, sich versprechen lässt oder annimmt, dass er den Verlauf oder das Ergebnis eines Wettbewerbs des organisierten Sports in regelwidriger Weise beeinflusse und infolgedessen ein rechtswidriger Vermögensvorteil durch eine auf diesen Wettbewerb bezogene öffentliche Sportwette erlangt werde, wird mit Freiheitsstrafe bis zu drei Jahren oder mit Geldstrafe bestraft.
4. Ebenso wird bestraft, wer einem Schieds-, Wertungs- oder Kampfrichter einen Vorteil für diesen oder einen Dritten als Gegenleistung dafür anbietet, verspricht oder gewährt, dass er den Verlauf oder das Ergebnis eines Wettbewerbs des organisierten Sports in regelwidriger Weise beeinflusse und infolgedessen ein rechtswidriger Vermögensvorteil durch eine auf diesen Wettbewerb bezogene öffentliche Sportwette erlangt werde.
5. Ein Wettbewerb des organisierten Sports im Sinne dieser Vorschrift ist jede Sportveranstaltung im Inland oder im Ausland,
  1. die von einer nationalen oder internationalen Sportorganisation oder in deren Auftrag oder mit deren Anerkennung organisiert wird und
  2. bei der Regeln einzuhalten sind, die von einer nationalen oder internationalen Sportorganisation mit verpflichtender Wirkung für ihre Mitgliedsorganisationen verabschiedet wurden.

<sup>152</sup> “In besonders schweren Fällen wird eine Tat nach den §§ 265c und 265d mit Freiheitsstrafe von drei Monaten bis zu fünf Jahren bestraft. Ein besonders schwerer Fall liegt in der Regel vor, wenn  
1. die Tat sich auf einen Vorteil großen Ausmaßes bezieht oder  
2. der Täter gewerbsmäßig handelt oder als Mitglied einer Bande, die sich zur fortgesetzten Begehung solcher Taten verbunden hat”

<sup>153</sup> “In den Fällen der §§ 265c und 265d ist § 73d anzuwenden, wenn der Täter gewerbsmäßig handelt oder als Mitglied einer Bande, die sich zur fortgesetzten Begehung solcher Taten verbunden hat”

6. Trainer im Sinne dieser Vorschrift ist, wer bei dem sportlichen Wettbewerb über den Einsatz und die Anleitung von Sportlern entscheidet. Einem Trainer stehen Personen gleich, die aufgrund ihrer beruflichen oder wirtschaftlichen Stellung wesentlichen Einfluss auf den Einsatz oder die Anleitung von Sportlern nehmen können”.

## 2 **Manipulation of professional sporting competitions (Manipulation von berufssportlichen Wettbewerben) (proposed Section 265d Criminal Code):**

*[Original text]*

- “1. Wer als Sportler oder Trainer einen Vorteil für sich oder einen Dritten als Gegenleistung dafür fordert, sich versprechen lässt oder annimmt, dass er den Verlauf oder das Ergebnis eines berufssportlichen Wettbewerbs in wettbewerbswidriger Weise zugunsten des Wettbewerbsgegners beeinflusse, wird mit Freiheitsstrafe bis zu drei Jahren oder mit Geldstrafe bestraft.
2. Ebenso wird bestraft, wer einem Sportler oder Trainer einen Vorteil für diesen oder einen Dritten als Gegenleistung dafür anbietet, verspricht oder gewährt, dass er den Verlauf oder das Ergebnis eines berufssportlichen Wettbewerbs in wettbewerbswidriger Weise zugunsten des Wettbewerbsgegners beeinflusse.
3. Wer als Schieds-, Wertungs- oder Kampfrichter einen Vorteil für sich oder einen Dritten als Gegenleistung dafür fordert, sich versprechen lässt oder annimmt, dass er den Verlauf oder das Ergebnis eines berufssportlichen Wettbewerbs in regelwidriger Weise beeinflusse, wird mit Freiheitsstrafe bis zu drei Jahren oder mit Geldstrafe bestraft.
4. Ebenso wird bestraft, wer einem Schieds-, Wertungs- oder Kampfrichter einen Vorteil für diesen oder einen Dritten als Gegenleistung dafür anbietet, verspricht oder gewährt, dass er den Verlauf oder das Ergebnis eines berufssportlichen Wettbewerbs in regelwidriger Weise beeinflusse.
5. Ein berufssportlicher Wettbewerb im Sinne dieser Vorschrift ist jede Sportveranstaltung im Inland oder im Ausland,
  1. die von einem Sportbundesverband oder einer internationalen Sportorganisationorganisation veranstaltet oder in deren Auftrag oder mit deren Anerkennung organisiert wird,
  2. bei der Regeln einzuhalten sind, die von einer nationalen oder internationalen Sportorganisationorganisation mit verpflichtender Wirkung für ihre Mitgliedsorganisationenorganisation verabschiedet wurden und
  3. an der überwiegend Sportler teilnehmen, die durch ihre sportliche Betätigung unmittelbar oder mittelbar Einnahmen von erheblichem Umfang erzielen.
6. § 265c Absatz 6 gilt entsprechend”.

## Greece

### I General criminal law provisions

- 1 Criminal Code<sup>154</sup>
  - Bribery of public officials (Sections 235, 236).
- 2 **Law 2429/1996**
  - Embezzlement (Section 27).
- 3 **Law 2802/2000**
  - Bribery of public officials (Sections 2, 3).

### II Sport-specific criminal law provisions

**Section 132 of Law 2725/1999 – Sports Law** (as amended by Law 3057/2002<sup>155</sup>).  
This section was replaced in 2012 by Section 13 of Law 4049/2012, see hereinafter.

<sup>154</sup> <http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Psifisthenta-Nomoschedia>

<sup>155</sup> Section 132: ““1. Any person requiring or accepting bribes or other advantages or any other providing or promise thereof, in order to alter the result in favour or against sports clubs, groups of paid athletes or athletic public limited companies, in any team or individual sport that is going to be conducted, shall be punished with at least three months’ imprisonment and at least one million drachmas fine.  
2. The same penalty shall be imposed on every person that, under Paragraph 1, offers, gives or promises gifts, advantages or any other providing to athletes, referees or administrative factor or any other person connected in any way with the athletes, the referee, the union, the groups of paid athletes or athletic public limited companies.  
3. If the result intended by the offender actually occurred through the aforementioned criminal act, the offender is punished with at least six months’ imprisonment and at least two million drachmas fine.  
4. Apart from these sanctions, the persons committing offences of the aforementioned paragraphs are also punished with a disciplinary proceeding, according to the provisions of article 130, for breach of sportsmanship.  
5 . If the prosecuted for the criminal offence of Paragraphs 1, 2 and 3 of this article are athletes, coaches, trainers, administrative factors or members of sports clubs, members of groups of paid athletes or athletic public limited companies, a disciplinary proceeding is imposed by the competent disciplinary body of the relevant sports federation or by the relevant professional association to the team of association, to the groups of paid athletes or to the athletic public limited companies, in which the above persons belong.  
This disciplinary proceeding is imposed either with points deduction in the grading table of the championship in progress or the forthcoming championship, in which they will participate, or by their downgrading to the next lower category. The disciplinary proceeding, under the aforementioned paragraphs, the prosecution and imposition of penalties is self-contained and independent from the criminal trial to which the offenders for the execution of the above offences are indicted”.  
Section 128: The Head of Public Prosecutor’s Office of Magistrate’s Court of Athens, Piraeus and Thessaloniki appoints a public prosecutor responsible for sports. He attends to conduct a criminal prosecution for criminal offences, committed on the occasion of sports events or during these, and offences committed by persons who are involved in the administration of sports bodies in the performance of their competence or duties

**Section 13 of Law 4049/2012<sup>156</sup> (Official Gazette 35A<sup>157</sup>)**

“Confrontation of violence in the stadia, Doping, match-fixing and other provisions”

“Article 132 of the L.2725/99 is replaced by article 13 of the L.4049/2012 (Official Gazette 35A) as follows:

1. Anyone intervening with illegitimate actions, with the intention to influence the evolution, the form or the result of a game of any team or individual sport is punished with imprisonment of at least one (1) year and cash penalty from one hundred thousand (100,000) up to five hundred thousand (500,000) Euros.
2. Anyone who, with the same intention, demands or accepts gifts or other benefits, or any other allotment or promise of them is punished with imprisonment of at least two (2) years and cash penalty from two hundred thousand (200,000) up to one million (1,000,000) Euros.
3. By the same penalty of Paragraph 2 of the present article is also punished anyone who, with the same intention according to this paragraph, offers, gives or promises to an athlete, trainer, referee or administrator, or to any other person associated in any way with the athlete, the referee, the club, the Sport Incorporated Company, the Department of Paid Athletes, gifts, benefits or any other allotments.
4. If by the punishable action of the previous Paragraphs 1 to 3, the aim pursued by the perpetrator is achieved, or if the game, of which the result is distorted, is included in bets placed at national level or abroad, then the perpetrator is punished with imprisonment up to ten (10) years.

For the punishable actions of Paragraphs 1 to 4, the investigation and the interrogatory actions can also include all the proceedings of Article 253A of the Code of Penal Procedure, under the conditions mentioned therein.

During the criminal procedure for these crimes, measures of protection of witnesses can be taken, according to the article 9 of the L. 2928/2001”.

## India

### I General criminal law provisions

#### 1 Criminal Code<sup>158</sup>

##### – Fraud (Sections 25, 415 ss)

###### Section 25

*Fraudulently* – A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

<sup>156</sup> English translation available here: <http://edz.bib.uni-mannheim.de/daten/edz-b/gdbk/12/ksj/study-sports-fraud-update-gr.pdf>

<sup>157</sup> Original text available here, together with the law's Explanatory Report: [http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=0cfdb411-3752-4ae2-b8dc-ce38ae4bc27b](http://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=0cfdb411-3752-4ae2-b8dc-ce38ae4bc27b)

<sup>158</sup> Text available in English at: <http://indiacode.nic.in/>

– **Cheating (Section 415)**

**Section 415** – Cheating

Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

– **Abetment (Section 107 ss)**

**Section 107** – Abetment of a thing

A person abets the doing of a thing, who- First.-Instigates any person to do that thing; or Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing. Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing. Illustration A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.121 Explanation 2.-Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

– **Criminal conspiracy (Sections 120A ss)**

**Section 120A** – Definition of criminal conspiracy

When two or more persons agree to do, or cause to be done, (1) an illegal act, or (2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy: Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

*Explanation* – It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

**Section 120B - Punishment of criminal conspiracy**

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2\* [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence. (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both].



**2 Prevention of Corruption Act, 1988 (PCA)** <sup>159</sup>

- Bribery of public officials (Sections 7, 7.5, 8, 9, 20.1)
- Embezzlement (Section 7.1)

**II Sport-specific criminal law provisions**

**1 Prevention of Sporting Fraud Bill, 2013** <sup>160</sup>

**Section 3**

A person is said to commit the offence of sporting fraud in relation to a sporting event if he, directly or indirectly:

- manipulates sports result, irrespective of whether the outcome is actually altered or not, or makes an arrangement of an irregular alteration of the field of play or the result of a sporting event, including its incidental events, or deliberately misapplies the rules of the sport, in order to obtain any economic or any other advantage or benefits or promise of an advantage or benefits, for himself or for any other person so as to remove or reduce all or part of the uncertainty normally associated with the results of a sporting event; or
- wilfully fails to perform to his true potential for economic or any other advantage or benefit for himself or for any other person unless such under- performance can be attributed to strategic or tactical reason deployed in the interest of that sport or team; or
- being in possession of inside information as a member, discloses such information to any person before or during any sporting event with the knowledge that disclosure of such information is likely to result in financial gain or is likely to be used in relation to betting or manipulation of a sporting event; or
- omits to perform the duty imposed on him under section 4.

**Section 4**

Whoever gets any information as to the commission of any of the acts referred to in clauses (I) to (III) of section 3, shall forthwith or within such time as may be prescribed, give the information regarding the same to the appropriate authority or the team management or the National Sports Federation, in writing.

Provided that the team management or National Sports Federation, as the case may be, shall inform the appropriate authority within three working days of receiving such information.

<sup>159</sup> Text available in English at: <http://www.persmin.gov.in/>

<sup>160</sup> Full text of the bill available at: <http://www.prsindia.org/downloads/draft-bills/>

## Section 5

Whoever commits the offence of sporting fraud shall be punishable:

- a) where such sporting fraud relates to clauses (I) and (II) of section 3, with imprisonment for a term which may extend to five years and with a fine of ten lakh (10 X 100,000) rupees or five times the economic benefits derived by the person from sporting fraud, whichever is greater;
- b) where such sporting fraud relates to clauses (III) and (IV) of section 3 with an imprisonment for a term not exceeding three years and with a fine of five lakh (5 X 100,000) rupees or three times the economic benefits derived by the person from sporting fraud, whichever is greater.

## Italy

### I Sport-specific criminal law provisions

#### 1 **Law of 13 December 1989, n. 401: sporting fraud,<sup>161</sup> as amended lastly by Law-Decree no 119 of 22 August 2014<sup>162</sup>**

##### **Article 1 Fraud in sports competitions**

1. Any person who offers or promises money or other benefits or inducements to any participant in a sports competition organized by any association recognised by the Italian National Olympic Committee (CONI), the Italian National Horse Breeding Union (UNIRE) or any other State-recognised sports body and its member associations, in order to achieve a result that is different from one resulting from fair and proper competition, that is to say, commits fraudulent acts for such purpose, shall be punished by imprisonment for between two and six years and shall receive a fine ranging from €1,000 to €4,000. Minor cases shall be liable to a fine only.
2. The same punishment shall be applied to participants in competitions who accept money, other benefits or advantages, or who willingly accept any promises of the same.
3. If the result of a competition is influenced to suit the purposes of organized betting or gambling, the imprisonment for perpetrating the activities outlined in Paragraphs 1 and 2 shall be augmented by half and a fine will be applied, of between €10,000 and €100,000.

<sup>161</sup> Original text available at: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1989-12-13;401>

<sup>162</sup> Original text available at: <http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2014-08-22&atto.codiceRedazionale=14G00137&atto.articolo.numero=1&atto.articolo.tipoArticolo=0>

### **Article 3 Obligation to report**

The presidents of national sports federations affiliated to the Italian National Olympic Committee (CONI), the chairmen of the boards of discipline of second order of the same federations and corresponding bodies responsible for the discipline of entities and associations referred to in Paragraph 1 of Article 1, which, in the exercise of their duties or because of their functions, hear news of the crimes referred to in Article 1, are obliged to report this, under existing laws, to the judicial authority.

## **Japan**

### **I General criminal law provisions**

#### **1 Criminal Code 2006**

- **Bribery of public officials**
  - Abuse of authority by public officers (Article 193);
  - Abuse of authority by special public officers (Article 194);
  - Abuse of authority causing death or injury by special public officers (Article 196);
  - Acceptance of bribes; acceptance upon request; acceptance in advance of assumption of office (Article 197);
  - Passing of bribes to a third party (Article 197-2);
  - Aggravated acceptance; acceptance after resignation of office (Article 197-3);
  - Acceptance for exertion of influence (Article 197-4); and
  - Giving of bribes (Article 198).
- **Fraud:** (Article 246)

#### **2 Companies Act 2005**

- **Bribery in the private sector**  
Crime of the Giving or Acceptance of a Bribe by a Director, etc. (Article 967)

## II Sport-specific criminal law provisions

### 1 **Sports Promotion Lottery Law (Act No. 141 of 1961, modified by Law no. 63 of 2008 and totally revised in 2011 by the Basic Act on Sports)**

- Receipt of bribery (Articles 37, 38);
- Giving of a bribe (Article 40);
- Prejudicing fairness of the designated game (Article 41);
- Conspiracy against the designated game (Article 42);
- Unqualified sports promotion lottery (Article 32);
- Prohibition of betting (Articles 33-35).

### 2 **The Basic Act on Sport (2011)**<sup>163</sup>

#### Article 2(8)

“Sport shall be promoted in such a manner that no-one who plays sport receives discriminatory treatment unjustly, and that broad understanding and support for sport are gained from citizens through increasing the citizens’ awareness of the importance of anti-doping, etc. based on the idea that all activities concerning sport are performed fairly and appropriately.”

## Republic of Korea

### I General criminal law provisions

#### 1 **Criminal Act 2005**

- Acceptance of bribe and advance acceptance (Article 129);
- Bribe to a third person (Article 130);
- Improper action after acceptance of bribe and subsequent bribery (Article 131);
- Acceptance of bribe through good offices (Article 132).
- **Article 357 Paragraph 1 (Receiving Bribe by Breach of Trust)**  
(1) A person who, administering another’s business, receives property or obtains pecuniary advantage from a third person in response to an illegal solicitation concerning his duty, shall be punished by imprisonment for not more than five years or by a fine not exceeding ten million won. (2) A person who gives the property or pecuniary advantage as specified in Paragraph (1) shall be punished by imprisonment for not more than two years or by a fine not exceeding five million won. (3) The property mentioned in Paragraph (1) which has been obtained by the offender shall be confiscated. When confiscation is impossible or pecuniary advantage has been obtained, the equivalent price thereof shall be collected.
- **Fraud (Article 347)**

<sup>163</sup> English translation by the Japanese Ministry of Sport available at: [http://www.mext.go.jp/a\\_menu/sports/kihonhou/attach/1336024.htm](http://www.mext.go.jp/a_menu/sports/kihonhou/attach/1336024.htm)

## II Sport-specific criminal law provisions<sup>164</sup>

### 1 National Sports Promotion Act (NSPA) 2007

#### **Crimes by player, coach, umpire (hereinafter: players)**

Articles 48/IV and 26/3, 4

Under Article 48/IV and Article 26/ 3, 4, it is an offence if players:

- receive, or promise to receive, or request property or pecuniary advantage from a third person; or
- let a third person give, or request a third person to give, or let a third person promise to give property or pecuniary advantage to another person;

in response to an illegal solicitation concerning the sports game that can be betted on legally by the Act. i.e. professional soccer, baseball, basketball, volleyball.

*Illegal solicitation* means the request for match-fixing such as intentional mistake of players.

#### **Crime by people other than “players” (Articles 48/III and 26/3,4)**

Under articles 48/III, 26/3, 4, it is an offence for a person other than players who

- gives, or promises to give, or expresses the will to give property or pecuniary advantage to players or a third person in response to an illegal solicitation concerning the sports game that can be betted legally by the Act. i.e. professional soccer, baseball, basketball, volleyball.

### 2 Bicycle and Motor Boat Racing Act 2007

#### **Crimes by players and umpires (Articles 29/1, 2 and 30/3, 4)**

Under 29/1, 30/ 3, 4, it is an offence if the players or umpires:

- receive, or promise to receive, or request property or pecuniary advantage from a third person;
- or let a third person give, or request a third person to give, or let a third person promise to give property or pecuniary advantage to another person;

in response to an illegal solicitation concerning bicycle and motor boat racing.

#### **Crimes by person other than players and umpires (Article 31, Article 26/i)**

Under 31, 26/i, it is an offence for a person other than players and umpires who:

- gives, or promises to give, or expresses the will to give property or pecuniary advantage to players and umpires or a third person in response to an illegal solicitation concerning bicycle and motor boat racing.

<sup>164</sup> IOC-UNODC Report (2013), pp.157-170

### 3 Korean Horse Affairs Association Act

#### **Crimes by horse rider and horse trainer (Article 53/1, Article 54, Article 51/II)**

It is an offence:

- for horse rider and horse trainer to receive property or obtain pecuniary advantage from a third person or let a third person give, or request a third person to give, or let a third person promise to give property or pecuniary advantage to another person in response to an illegal solicitation concerning his duty (Article 53/1, Article 54);
- for horse rider to lessen the ability of horse, in order to have property or pecuniary advantage or to let another person have property or pecuniary advantage (Article 51/II).

#### **Crimes by People other than horse trainer and horse rider (Article 55)**

Under 31, 26/I, it is an offence for a person other than the horse trainer and horse rider who:

- gives, or promises to give, or expresses the will to give property or pecuniary advantage to horse trainers and horse riders or a third person in response to an illegal solicitation.

## Latvia

### I Sport-specific criminal law provisions

#### 1 **Article 15.1 of the Sports Law (as amended on 28.01.2016, entry in force on 1 March 2016)**<sup>165</sup>

Article 15.1. Manipulation of sports competitions

1. Manipulation of sports competition (hereinafter - manipulation) means any operation that violates the uncertainty concerning the course or result of a sports competition.
2. Manipulation is prohibited.
3. Athletes, sports organisations, sports workers and sports professionals are obliged to take all necessary actions to prevent manipulation.

#### 2 **Article 212.1 of the Criminal Law (as amended on 28.01.2016, entry in force on 1 March 2016)**<sup>166</sup>

1. Manipulation of the sports competitions shall be punished by imprisonment for a term not exceeding one year or with a short custodial sentence or community service, or a fine.

<sup>165</sup> Original text is available at: <http://likumi.lv/ta/id/68294-sporta-likums/redakcijas-datums/2016/05/12>

<sup>166</sup> Original text is available at: <http://likumi.lv/doc.php?id=88966>

2. If the activities described in Paragraph 1 are associated with transfer or offering of material value, property or benefits of another nature, the sanction shall be imprisonment for a term not exceeding three years, or a short-term imprisonment or community service, or a fine.
3. The activities described in Paragraph 2, if they are committed on a large scale or by an organized group, shall be punished by imprisonment for a term not exceeding five years, or a short-term imprisonment or community service, or a fine.

## Malta

### I General criminal law provisions

#### 1 Criminal Code

- Bribery of public officials: Art. 112 ss, Criminal Code;
- Embezzlement: Art. 112 ss, Criminal Code

### II Sport-specific criminal law provisions

#### Prevention of Corruption (players) Act 1976<sup>167</sup>

ACT XIX of 1976, as amended by Acts XIII of 1983 and XXIV of 2001 and Legal Notice 423 of 2007.

Chapter 263

#### Article 3

1. Any player who accepts or obtains, or agrees to accept or obtain, or attempts to obtain, from any person for himself or for any other person whomsoever, any gift or consideration as an inducement or reward for doing or for omitting to do, or for having, after the enactment of this Act, done or omitted to do, any act the doing or omission of which is against the interests of the side for which he plays, or those of the person or club by whom or by which he is engaged or whom or which he represents, shall be guilty of an offence.
2. Any official or organizer who accepts or obtains, or agrees to accept or obtain, or attempts to obtain, from any person for himself or for any other person whomsoever, any gift or consideration as an inducement or reward for doing or for omitting from doing, or for having, after the enactment of this Act, done or omitted from doing, any

<sup>167</sup> Original text available at: <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8756&l=1>



act in relation to any game or sport in or with which he is concerned, other than such as is lawfully due to him, or for showing or exercising favour or disfavour to any person or side taking part in any game or sport, or for otherwise influencing the course or result of any game or sport, shall be guilty of an offence.

3. Any person who gives, or agrees to give or offers or proposes to another person, directly or indirectly, that such other person should give or agree to give or offer any gift or consideration to any player or to any official or organiser as an inducement or reward for doing or for omitting to do, or for having, after the commencement of this Act, done or omitted to do any act which, if done or omitted, would be in contravention of sub-article (1) or (2), shall be guilty of an offence.
4. Any official, player or organizer who has knowledge, whether verbally, in writing, or otherwise, that an offence has been committed against any of the provisions of Article 3, shall communicate such knowledge to the Commissioner of Police and, if he fails to do so within a period of three months from the date in which he became aware of such knowledge, he shall be guilty of an offence: Provided that this section shall not apply to the husband or wife, the ascendants or descendants, the brother or sister, the father-in-law or mother-in-law, the son-in-law or daughter-in-law, the uncle or aunt, the nephew or niece, and the brother-in-law or sister-in-law of a principal or an accomplice in the crime so not disclosed.
6. No gift or other consideration given or offered to any player by the management or by any member of the committee of the club to which such player is attached or engaged (provided such member has been previously authorised so to do by the committee of the said club) shall be deemed to be in contravention of any provision of this Act if such gift or consideration is offered or given and accepted for genuine efforts by the player concerned in the furtherance of the interests of the club in question.
7. Where two or more persons take part in the commission of any offence against any of the provisions of this Act, any one of them who, prior to the initiation of any criminal proceedings, gives first information thereof and reports the other offender or offenders to the competent authorities shall be exempt from punishment.

## Article 9

1. Saving the provisions of article 8, any person who is guilty of an offence against –
  - a) the provisions of article 3 shall be liable, on conviction, to a fine (multa) of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87) but not exceeding two thousand an three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) and to imprisonment for a term of not less than four months but not exceeding two years;
  - b) the provisions of article 4 shall be liable –
    - on a first conviction, to a fine (multa) of not less than two hundred and thirty-two euro and ninety-four cents (€232.94) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69), or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment; and

- on a second or subsequent conviction, to a fine (multa) of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37), and to imprisonment for a term from four to six months.
- 2. In the case of a prosecution under the provisions of this Act, any person who, in any way whatsoever, has taken part in the commission of an offence, and whose evidence is required in support of such charge, shall be compellable to answer any question respecting that charge, notwithstanding that the answer thereto will expose him to criminal prosecution; but in any such event, any person who shall have given evidence in respect of such charge, and who shall have made a true and faithful statement concerning such charge, to the best of his knowledge, shall thereupon obtain from the court a certificate to that effect, and he shall, in consequence, be exempted from all punishment in respect of his participation in the offence forming the subject matter of the charge upon which he gave evidence as witness.

## **New Zealand**

### **I** General criminal law provisions

#### **1** Crimes Act 1961

- Bribery of public officials – Sections 100-105, Crimes Act 1961;– Deception – Section 240, Crimes Act 1961 (see also Section 240A quoted below).

#### **Section 240 – Obtaining by deception or causing loss by deception**

- “1. Everyone is guilty of obtaining by deception or causing loss by deception who, by any deception and without claim of right;
- a) obtains ownership or possession of, or control over, any property, or any privilege, service, pecuniary advantage, benefit, or valuable consideration, directly or indirectly; or
  - b) in incurring any debt or liability, obtains credit; or
  - c) induces or causes any other person to deliver over, execute, make, accept, endorse, destroy, or alter any document or thing capable of being used to derive a pecuniary advantage; or
  - d) causes loss to any other person.
- 1a. Every person is liable to imprisonment for a term not exceeding three years who, without reasonable excuse, sells, transfers, or otherwise makes available any document or thing capable of being used to derive a pecuniary advantage knowing that, by deception and without claim of right, the document or thing was, or was caused to be, delivered, executed, made, accepted, endorsed or altered.

2. In this section, deception means:
  - a) a false representation, whether oral, documentary, or by conduct, where the person making the representation intends to deceive any other person; and
    - knows that it is false in a material particular; or
    - is reckless as to whether it is false in a material particular; or
  - b) an omission to disclose a material particular, with intent to deceive any person, in circumstances where there is a duty to disclose it; or
  - c) a fraudulent device, trick or stratagem used with intent to deceive any person”.

## 2 **Secret Commissions Act 1910, Section 3, 4 and 8**

Section 3 – Secret Commissions Act 1910: Gifts to agent without consent of principal an offence.

Section 4 – Secret Commissions Act 1910: Acceptance of such gifts by agent an offence.

Section 8 – Secret Commissions Act 1910: Receiving secret reward for procuring contracts an offence.

## 3 **Company Act 1993, Section 380 – Carrying on business fraudulently**

## II **Sport-specific criminal law provisions**

### **Match-fixing as a form of deception – Sections 240A and 241, Crimes Act (as amended in 2014)**

**Section 240A** – Application of Section 240 to match-fixing:

“(1) For the purposes of section 240, deception includes any act or omission that is done or omitted with intent to influence a betting outcome of an activity of a kind to which subsection (2) applies by manipulating:

- a) the overall result of the activity; or
- b) any event within the activity.

2. This subsection applies to activities of the following kinds:

- a) sporting competitions, games, matches, races and rallies involving human participants (whether or not they also involve equipment, horses, vehicles or vessels);
- b) dog races.

3. This section does not limit or affect the generality of section 240.

### **Section 241** – Punishment of obtaining by deception or causing loss by deception

“Everyone who is guilty of obtaining by deception or causing loss by deception is liable as follows: (a) if the loss caused or the value of what is obtained or sought to be obtained exceeds \$1,000, to imprisonment for a term not exceeding 7 years: (b) if the loss caused or the value of what is obtained or sought to be obtained exceeds \$500 but does not exceed \$1,000, to imprisonment for a term not exceeding 1 year: (c) if the loss caused or the value of what is obtained or sought to be obtained does not exceed \$500, to imprisonment for a term not exceeding 3 months.”

## **Paraguay**

Sport-specific criminal law provisions

In Paraguay, a bill was proposed in 2015<sup>168</sup> for the modification of the Law against money laundering no 1015/97.

The bill aims at including sports clubs, federations and other entities in the scope of application of this law and at imposing transparency and integrity obligations on these entities. The bill was debated in the Parliament on 17 March 2016, but its adoption was postponed.

## **Poland**

### **I** General criminal law provisions

#### **1** Criminal Code – Articles 228-230

##### **Article 228**

1. Whoever, in connection with the performance of public functions, accepts a material or personal benefit or a promise thereof, shall be subject to the penalty of deprivation of liberty for a term of between six months and eight years.
2. In the event that the act is of a lesser significance, the perpetrator shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to two years.

<sup>168</sup> <http://sil2py.senado.gov.py/formulario/VerDetalleTramitacion.pmf?q=VerDetalleTramitacion%2F104963>

3. Whoever, in connection with the performance of public functions, accepts a material or personal benefit or a promise thereof in return for the conduct which violates the provisions of law shall be subject to the penalty of deprivation of liberty for a term of between one and 10 years.
4. The penalty specified in § 3 shall be also be imposed on anyone who, in connection with performing public functions, makes the performance of his official duties conditional upon receiving a material or personal benefit or a promise thereof or who demands such a benefit.
5. Whoever, in connection with the performance of public functions, accepts a material or personal benefit of considerable value or a promise thereof, shall be subject to the penalty of deprivation of liberty for a term of between two and 12 years.
6. The penalties specified in § 1-5 shall be also imposed on anyone who, in connection with performing his public functions in a foreign state or in an international organisation, accepts a material or personal benefit or a promise thereof or who demands such a benefit, or on anyone who makes the performance of his official duties conditional upon receiving such a benefit.

#### **Article 229**

1. Whoever gives a material or personal benefit or promises to provide it to a person performing public functions in connection with his official capacity ('in connection with performance of this function') shall be subject to the penalty of deprivation of liberty for a term of between six months and eight years.
2. In the event that the act is of a lesser significance, the perpetrator shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to two years.
3. If the perpetrator of the act specified in § 1 strives to induce a person performing public functions to violate the law, or provides such a person, or promises to provide, with a material or personal benefit for violation of the law, they shall be subject to the penalty of deprivation of liberty for a term of between one and 10 years.
4. Whoever gives a material benefit of considerable value or promises to provide it to a person performing public functions in connection with his official capacity, shall be subject to the penalty of deprivation of liberty for a term of between two and 12 years.
5. Accordingly, subject to the penalties specified in § 1-4 shall be also anyone who gives a material or personal benefit or promises to provide it to a person performing public functions in another country or an international organisation in connection with these functions.
6. The perpetrator of the act specified in § 1-5 shall not be liable to punishment if the material or personal benefit or a promise thereof were accepted by the person performing public functions and the perpetrator had reported this fact to the law-enforcement

agency, revealing all essential circumstances of the offence before this authority was notified of the offence.

### **Article 230**

1. Whoever, claiming to have influence on a state or local government, a national or international organisation or a foreign organisational unit governing public funds, or making any person believe or confirming this person to believe that such influence exists, undertakes to intercede in the settling of a matter in return for a material or personal benefit or for a promise thereof, shall be subject to the penalty of deprivation of liberty for a term of between six months and eight years.
2. In the event that the act is of a lesser significance, the perpetrator shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to two years.

## **II Sport-specific criminal law provisions**

**Articles 46 - 49 of Act of 25 June 2010 on Sport** (Journal of Laws of 15 July 2010, No 127, item 857).

Working translation in English:<sup>169</sup>

### **“Articles 46**

1. Anyone who, in connection with sports competitions organized by a Polish sports association or by another entity operating under an agreement concluded with such association, or by an entity operating on its behalf, accepts material or personal benefits or promise of such benefits, or demands such benefits or a promise of such benefits in exchange for unfair behaviour that may affect the results of a sports competition, shall be liable on conviction to imprisonment for a term from six months to eight years.
2. Any person who gives or promises such material or personal benefits, as described in Paragraph 1, shall be liable on conviction to the same punishment.
3. In cases of lesser significance, anyone who commits the acts described in Paragraph 1 or 2 shall be liable on conviction to a fine, restriction of liberty or imprisonment for a term not exceeding two years.
4. If the value of the material benefit referred to in Paragraph 1 or 2 is significant, any person who has accepted the material benefit or promise of such benefit, or has given or promised such benefit, or has demanded such a benefit or promise of such benefit shall be liable on conviction to imprisonment for a term from one to 10 years.

<sup>169</sup> Full translation of this Act is available on the Council of Europe’s website: [http://www.coe.int/t/dg4/sport/Doping/Antidoping\\_database/Reports/2010/leg/LEG2-PLO\\_EN.pdf](http://www.coe.int/t/dg4/sport/Doping/Antidoping_database/Reports/2010/leg/LEG2-PLO_EN.pdf)

### **Articles 47**

Anyone who, having gained information about an unlawful act referred to in Article 46, takes part in betting that concerns sports competitions to which such information refers, or discloses such information to [encourage] another person to take part in such betting shall be liable on conviction to imprisonment for a term from three months to five years.

### **Articles 48**

1. Anyone who, referring to his or her influence in a Polish sports association, or in an entity operating under an agreement concluded with this association, or in an entity operating on its behalf, or leading another person to believe, or strengthening that person's conviction, that such influence is real, undertakes to act as a middleman in setting up a specific result of a sports competition in return for material or personal benefits or for a promise of such benefits, shall be liable on conviction to imprisonment for a term from six months to eight years.
2. Anyone who gives or promises to give a material or personal benefit in return for someone to act as a middleman in setting up a specific result of a sports competition, by means of unlawful influence on an official of a Polish sports association, or of an entity operating under an agreement with such association, or of an entity operating on its behalf, in connection with the performance of their official functions, shall be liable on conviction to the same punishment.
3. In cases of lesser significance, a perpetrator of an act described in Paragraphs 1 or 2 shall be liable on conviction to a fine, restriction of liberty or imprisonment for a term not exceeding two years.

## Articles 49

Exclusion of criminal records for accepting or requesting an advantage or its promise by conduct liable to affect the outcome of sports competitions.

A person who has committed a crime specified in Article 46 Paragraph 2, Article 46 Paragraph 3 or 4, in connection with Paragraph 2, or in Article 48 Paragraph 2 or 3, in connection with Paragraph 2, shall not be punishable, if the material or personal benefit or a promise of such benefit has been accepted, and the perpetrator immediately notifies the competent law enforcement body and reveals all the important circumstances of the crime before that law enforcement body discloses them otherwise.”

## Portugal

### I General criminal law provisions

- 1 **Penal Code**<sup>170</sup> – Art. 372 to 374B
  - Art. 372: Receiving of an undue advantage
  - Art. 373: Passive corruption
  - Art. 374: Active corruption
  - Art. 374A: Aggravation
  - Art. 374B: Sanction exoneration or alleviation

- 2 **Law no. 20/2008, of 21 April**  
Criminal liability for corruption in international commerce and in private activities.

### II Sport-specific criminal law provisions

**Law nr. 50/2007 of 31 August 2007 Revoking Decree Law No. 390/91, dated 10 October, except Article 5**<sup>171</sup> (Diário da República, 1.<sup>a</sup> série – N.º 168 – 31 de Agosto de 2007, 6055 et seq.<sup>172</sup>).

“**Article 1** – Object

This law establishes the criminal liability for unsporting behaviour, contrary to the values of truth, loyalty and fairness, which may fraudulently alter the results of a sports competition.

<sup>170</sup> <http://www.codigopenal.pt/>

<sup>171</sup> Unofficial translations provided in the CoE Report (2012), pp. 77 et seq. and in the KEA Report (2012), pp.94 et seq.

<sup>172</sup> [http://www.fpf.pt/Portals/0/Documentos/Centro%20Documentacao/LegislacaoDesporto/Violencia/lei\\_50.2007.pdf](http://www.fpf.pt/Portals/0/Documentos/Centro%20Documentacao/LegislacaoDesporto/Violencia/lei_50.2007.pdf)



**Article 3** – Criminal liability of legal persons and similar entities

1. Legal persons and similar entities, including sports legal persons, are liable for the crimes foreseen by the present law.
2. The status of public usefulness sports does not exclude the criminal liability of such sports legal persons.

**Article 4** – Additional penalties

Agents of the crimes set forth in the present law may be subject to the following additional penalties:

- a) Suspension of participation in competitive sport for a period of six months to three years;
- b) Ineligibility to subsidies, grants or incentives granted by the State, Autonomous Regions, local authorities and other public bodies for a period of one to five years;
- c) Prohibition of practice of profession, function or activity, public or private, for a period of one to five years, in the case of sports director, sports coach, sports official, sports entrepreneur or legal person or similar entity.

**Article 8** – Passive corruption

A sports agent who directly, or upon his consent or approval, through an intermediary, requests or accepts for himself or on behalf of a third party, improper material or non-material gain, or the promise of such gain, in return for any act or omission intended to alter or falsify the result of a sports competition shall be punished by imprisonment for a duration of one to five years.

**Article 9** – Active corruption

1. Any person who directly, or upon his consent or approval, through an intermediary, gives or promises improper material or non-material gain to a sports agent, or a third party in the knowledge of the said sports agent, for the purpose described in the previous article, shall be punishable by imprisonment for up to three years or by a financial penalty.
2. Any attempt to perpetrate such criminal offences shall also be punishable by law.

**Article 10** – Influence peddling

1. Any person who directly, or upon his consent or approval, through an intermediary, requests or accepts for himself or on behalf of a third party, improper material or non-material gain, or the promise of such gain, to abuse his real or supposed influence on any sports agent, in order to obtain an agreement to alter or falsify the result of a sports competition, shall be punishable by imprisonment of up to three years or a financial penalty, in the event that such person is not liable to receive a heavier punishment by means of another legal provision.

2. Any person who directly, or upon his consent or approval, through an intermediary, gives or promises improper material or non-material gain to another person for the purpose described in the previous clause, shall be punishable by imprisonment for a duration of up to two years or by a daily financial penalty, accruing for up to 240 days, in the event that such person is not liable to receive a heavier punishment by means of another legal provision.

#### **Article 11 – Criminal collusion (conspiracy)**

1. Any person who organises, sets up, participates in or supports a group, organisation or association whose purpose or activity is designed to achieve the perpetration of one or more of the criminal activities outlined in this law shall be punishable by imprisonment for a duration of one to five years.
2. Any person who leads or organises the groups, organisations or associations referred to in the previous clause shall be punishable by the sentence stipulated therein, whereby the maximum and minimum sentence shall be increased by one third.
3. For the purposes of this article, a group, organisation or association is defined as a group of at least three people acting in a concerted manner during a given period of time.

#### **Article 12 – Aggravation**

1. The minimum and maximum sentences outlined in Article 8 and Article 10(1) shall be increased by one third if the accused party is a sports director, referee, agent or club.
2. If the criminal activities outlined in Article 9 and Article 10(2) are perpetrated in relation to any of the entities referred to in the previous clause, the sentence shall be applied in accordance with the particular case, and the minimum and maximum sentences increased by one third.”

## **Russian Federation**

### **I General criminal law provisions**

#### **1 Criminal Code (Criminal Code of the Russian Federation of 13 June 1996, No. 63-FZ)**

- Swindling - Article 159;
- Unlawful organisation and conducting of gambling - Article 171.2;
- Bribery in a profit-making organisation - Article 204;
- Bribe-taking - Article 290;
- Bribe-giving - Article 291.

## II Sport-specific criminal law provisions

### 1 **Criminal Code (Criminal Code of the Russian Federation of 13 June 1996, No. 63-FZ).**

- Art. 184 – Bribery of participants and organisers of professional sports and entertainment profitmaking competitions<sup>173</sup> (Amended by the Federal Act of 23 July 2013 No. 198-FZ<sup>174</sup>):
  1. Whoever carries into effect, or forces or incites any other person to carry into effect, or conspires with such persons to carry into effect any scheme, by bribery of athletes, referees, coaches, team managers and other participants or organisers of an official professional sports competition (including the employees), as well as by bribery of jury members, participants and organisers of an entertainment profitmaking competition, to influence in an illegal way the result of that competition, shall be fined not less than three hundred thousand (300,000) rubles, and not more than five hundred thousand (500,000) rubles, or fined a sum equal to his wage or salary or any other income for a period of not less than one (1), and not more than three (3) years, or be condemned to community service for not more than four (4) years with deprivation of the right to occupy certain posts or to practise certain activities for a period of not more than three (3) years or without such deprivation, or be imprisoned not more than four (4) years with a fine of not more than fifty thousand (50,000) rubles or a sum equal to his wage or salary or any other income for a period of not more than three (3) months, or without such a fine but with deprivation of the right to occupy certain posts or to practise certain activities for not more than three (3) years or without such deprivation.
  2. Whoever commits the deeds mentioned in Part 1 of the present Article as a member of an organized group. shall be fined not less than five hundred thousand (500,000), and not more than one million (1,000,000) rubles or a sum equal to his wage or salary or any other income for a period of not less than two (2), and not more than five (5) years, or be condemned to community service for not more than five (5) years with deprivation of the right to occupy certain posts or to practise certain activities for a period of not more than three (3) years, or without such deprivation, or be imprisoned not more than seven (7) years with deprivation of the right to occupy certain posts or to practise certain activities for not more than three (3) years or without such deprivation.
  3. Any athlete, coach, team manager or any other participant in an official professional sports competition as well as any participant in an entertainment profitmaking competition, who receives money, securities, any other property, or gets other lucrative services, or benefits from other advantages and privileges, or the conspiracy of these persons in order to influence in an illegal way the result of the official professional sports competition or that of the entertainment profitmaking competition, shall be fined not less than three hundred thousand (300,000), and not more than five hundred thousand

<sup>173</sup> Unofficial translation available at [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_10699/](http://www.consultant.ru/document/cons_doc_LAW_10699/)

<sup>174</sup> Original text available at: <http://base.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=156920&fld=134&form=149645-93&rnd=208987.8118204811236698&>

(500,000) rubles or a sum equal to his salary or wage or any other income for a period of not less than one (1), and not more than three (3) years, or be condemned to community service for not more than four (4) years with deprivation of the right to occupy certain posts or to practise certain activities for not more than three (3) years or without such deprivation, or be imprisoned not more than four (4) years and fined not more than fifty thousand (50,000) rubles or a sum equal to his salary or wage or any other income for the period of not more than three (3) months or without such a fine and with deprivation of the right to occupy certain posts or to practise certain activities for not more than three (3) years or without such deprivation.

4. Any sports referee or organiser of the official professional sports competition as well as any member of the jury or organiser of the entertainment profitmaking competition, who commits the deeds mentioned in Part 3 of the present Article, shall be fined not less than five hundred thousand (500,000), and not more than one million (1,000,000) rubles or the sum equal to his salary or wage or any other income for a period of not less than two (2) years, and not more than five (5) years, or condemned to community service for not more than five (5) years with deprivation of the right to occupy certain posts or to practises certain activities for a period of not more than three (3) years, or without such deprivation, or be imprisoned not more than seven (7) years with deprivation of the right to occupy certain posts or to practises certain activities for not more than three (3) years or without such deprivation.

Note. The person who has committed a deed mentioned in Parts 1 and 2 of the present Article, shall not be criminally liable if this person has been a victim of extortion or if this person has voluntarily denounced the act of bribery to the organ which is competent to take legal action.

- **Illegal gambling – Article 171.2** <sup>175</sup>

<sup>175</sup> Unofficial translation provided at: <http://legislationline.org/documents/section/criminal-codes/country/7>

## South Africa

### I Sport-specific criminal law provisions

#### **Prevention and Combating of Corrupt Activities Act 2004 (as amended)<sup>176</sup>**

##### **Section 15 Offences in respect of corrupt activities relating to sporting events**

“Any person who, directly or indirectly:

- a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of that other person or of another person; or
- b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person:
  - I. in return for:
    - aa) engaging in any act which constitutes a threat to or undermines the integrity of any sporting event, including, in any way influencing the run of play or the outcome of a sporting event; or
    - bb) not reporting the act contemplated in this Section to the managing director, chief executive officer or to any other person holding a similar post in the sporting body or regulatory authority concerned or at his or her nearest police station; or
  - II. as a reward for acting as contemplated in subparagraph (I); or
- c) carries into effect any scheme which constitutes a threat to or undermines the integrity of any sporting event, including, in any way, influencing the run of play or the outcome of a sporting event;

is guilty of the offence of corrupt activities relating to sporting events.”

##### **Section 16 Offences in respect of corrupt activities relating to gambling games or games of chance**

“Any person who, directly or indirectly:

- a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of that other person or of another person; or
- b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person:
  - I. in return for engaging in any conduct which constitutes a threat to or undermines the integrity of any gambling game or a game of chance, including, in any way, influencing the outcome of a gambling game or a game of chance; or
  - II. as a reward for acting as contemplated in subparagraph (I); or
- c) carries into effect any scheme which constitutes a threat to or undermines the integrity of any gambling game or a game of chance, including, in any way, influencing the outcome of a gambling game or a game of chance;

is guilty of the offence of corrupt activities relating to gambling games or games of chance”.

<sup>176</sup>Text available at: <http://www.justice.gov.za/legislation/acts/2004-012.pdf>

## Spain

### I General criminal law provisions

#### 1 **Criminal Code (enacted by Organic Law 1/2015, of 30 March, which amends Organic Law 10/1995)<sup>177</sup> – Art. 286 bis to 286 quarter (corruption)**

### II Sport-specific criminal law provisions

#### **Criminal Code<sup>178</sup> (enacted by Organic Law 1/2015, of 30 March, which amends Organic Law 10/1995)**

##### **Article 286 bis**

- “1. Whoever, personally or through an intermediary, promises, offers or grants executives, directors, employees or collaborators of a trading company or any other firm, partnership, foundation or organisation an unfair benefit or advantage of any nature, in order for the to favor him or a third party against others, breaching their obligations in acquisition or sale of goods or in hiring of professional services, shall be punished with a sentence of imprisonment of six months to four years, special barring from practice of industry or commerce for a term from one to six years and a fine of up to three times the value of the profit or advantage obtained.
2. The same penalties shall be imposed on executives, directors, employees or collaborators of trading companies, or firms, associations, foundations or organisations who, personally or through an intermediary, receive, request or accept a benefit or advantage of any unjustified nature, in order to favour whoever grants, or whoever expects the profit or advantage over third parties, breaching their obligations in the acquisition or the sale of goods or in the hiring of professional services.
3. The Judges and Courts of Law may impose a lower degree of punishment and reduce the fine, at their prudent criteria, in view of the amount of profit obtained or value of the advantage and the importance of the duties of the offender.
4. The terms set forth this Article shall be applicable, in the respective cases, to executives, directors, employees or collaborators of a sporting company, whatever its legal status, as well as sportsmen, referees or judges, regarding conduct aimed at deliberately and fraudulently predetermining or altering the result of a professional sport match, game or competition.”

<sup>177</sup> <http://www.codigopenal.pt/>

<sup>178</sup> Partial official translation by the Spanish Ministry of Justice is available at: [http://www.mjusticia.gob.es/cs/Satellite/Portal/1292426983764?blobheader=application%2Fpdf&blobheadername1=Content-Disposition&blobheadervalue1=attachment%3B+filename%3DCriminal\\_Code\\_%28Codigo\\_Penal%29.PDF](http://www.mjusticia.gob.es/cs/Satellite/Portal/1292426983764?blobheader=application%2Fpdf&blobheadername1=Content-Disposition&blobheadervalue1=attachment%3B+filename%3DCriminal_Code_%28Codigo_Penal%29.PDF) . Partial unofficial translation provided by the KEA Report (2012), p.104

## Switzerland

### I General criminal law provisions

#### 1 Criminal Code<sup>179</sup> – Art. 146 (Fraud)

[Original text]

##### Art. 146 – Escroquerie

- “1. Celui qui, dans le dessein de se procurer ou de procurer à un tiers un enrichissement illégitime, aura astucieusement induit en erreur une personne par des affirmations fallacieuses ou par la dissimulation de faits vrais ou l’aura astucieusement confortée dans son erreur et aura de la sorte déterminé la victime à des actes préjudiciables à ses intérêts pécuniaires ou à ceux d’un tiers sera puni d’une peine privative de liberté de cinq ans au plus ou d’une peine pécuniaire.
2. Si l’auteur fait métier de l’escroquerie, la peine sera une peine privative de liberté de dix ans au plus ou une peine pécuniaire de 90 jours-amende au moins.
3. L’escroquerie commise au préjudice des proches ou des familiers ne sera poursuivie que sur plainte”.

#### 2 Federal Act on Unfair Competition – RS 241<sup>180</sup>

##### Art. 4a – Corruption active et passive

- “1. Agit de façon déloyale celui qui:
  - a) aura offert, promis ou octroyé un avantage indu à un employé, un associé, un mandataire ou un autre auxiliaire d’un tiers du secteur privé, en faveur de cette personne ou en faveur d’un tiers, pour l’exécution ou l’omission d’un acte en relation avec son activité professionnelle ou commerciale et qui soit contraire à ses devoirs ou dépende de son pouvoir d’appréciation;
  - b) en tant qu’employé, en tant qu’associé, en tant que mandataire ou en tant qu’autre auxiliaire d’un tiers du secteur privé, aura sollicité, se sera fait promettre ou aura accepté, en sa faveur ou en faveur d’un tiers, un avantage indu pour l’exécution ou l’omission d’un acte en relation avec son activité professionnelle ou commerciale et qui soit contraire à ses devoirs ou dépende de son pouvoir d’appréciation.
2. Ne constituent pas des avantages indus ceux qui sont convenus par contrat de même que ceux qui, de faible importance, sont conformes aux usages sociaux”.

<sup>179</sup> Unofficial translation by the Swiss Confederation available: <https://www.admin.ch/opc/en/classified-compilation/19370083/201501010000/311.0.pdf>

<sup>180</sup> Unofficial translation available on the WIPO website: <http://www.wipo.int/wipolex/en/details.jsp?id=660>

## II Sport-specific criminal law provisions

### **Project Law on Games of Chance<sup>181</sup> – Art. 63 – 64**

[Original text]

#### **“Art. 63 – Information de l’autorité en cas de soupçon de manipulation de compétitions sportives**

1. Les exploitants de paris sportifs informent sans délai l’autorité intercantonale de tout soupçon de manipulation d’une compétition sportive pour laquelle ils proposent des paris.
2. En cas de soupçon de manipulation d’une compétition sportive qui a lieu en Suisse ou pour laquelle des paris sont proposés en Suisse, les organisations ayant leur siège en Suisse qui participent à cette compétition, l’organisent, en assurent le déroulement ou la surveillent en informant sans délai l’autorité intercantonale.
3. Si la prévention ou la poursuite d’une manipulation de compétition sportive l’exige, les exploitants de paris sportifs et les organisations visées à l’al. 2 communiquent les informations requises, y compris des données sensibles, à l’autorité intercantonale et aux autorités fédérales, cantonales et communales compétentes.

#### **Art. 64 – Collaboration avec les autorités**

1. L’autorité intercantonale collabore avec les exploitants de paris sportifs, les organisations visées à l’art. 63, al. 2, et les organisations concernées ayant leur siège à l’étranger pour la prévention et la poursuite des manipulations de compétitions sportives.
2. Si elle a des motifs suffisants de soupçonner une manipulation de compétition sportive, elle peut notamment communiquer à ces exploitants et à ces organisations des données personnelles concernant les parieurs, y compris les données sensibles relatives à l’existence de procédures pénales ou administratives et des profils de la personnalité. Si le soupçon s’avère infondé, les données doivent être immédiatement effacées.
3. Le Conseil fédéral règle l’objet et les modalités de la transmission des données à ces organisations”.

### **Project Law on Games of Chance - proposed amendments to the federal Law on Sport of 17.06.2011, RS 415.0**

[Original text]

“Section 3 - Mesures contre la manipulation des compétitions

#### **Art. 25a Manipulation de compétitions**

1. Quiconque offre, promet ou octroie un avantage indu à une personne exerçant une fonction dans le cadre d’une compétition sportive pour laquelle des paris sont proposés, dans le but de fausser le cours de la compétition en faveur de cette personne ou d’un tiers (manipulation indirecte), est puni d’une peine privative de liberté de trois ans au plus ou d’une peine pécuniaire.

<sup>181</sup> <https://www.bj.admin.ch/dam/data/bj/wirtschaft/gesetzgebung/geldspielinitiative/entw-f.pdf>



2. Quiconque, en tant que personne exerçant une fonction dans le cadre d'une compétition sportive pour laquelle des paris sont proposés, sollicite, se fait promettre ou accepte un avantage indu en sa faveur ou en faveur d'un tiers dans le but de fausser le cours de la compétition (manipulation directe) est puni d'une peine privative de liberté de trois ans au plus ou d'une peine pécuniaire.
3. Dans les cas graves, le juge prononce une peine privative de liberté de cinq ans au plus ou une peine pécuniaire; en cas de peine privative de liberté, une peine pécuniaire est également prononcée. Le cas est grave notamment lorsque le délinquant:
  - a) agit comme membre d'une bande formée pour se livrer de manière systématique à la manipulation indirecte ou directe de compétitions;
  - b) réalise un chiffre d'affaires ou un gain importants en faisant métier de manipuler des compétitions.

#### **Art. 25b Poursuite pénale**

1. Les autorités de poursuite pénale compétentes peuvent associer à l'instruction l'autorité intercantonale de surveillance et d'exécution visée à l'art. 102 de la loi fédérale du ... sur les jeux d'argent.
2. En cas de soupçons de manipulation d'une compétition sportive pour laquelle des paris sont offerts, l'autorité intercantonale de surveillance et d'exécution visée à l'art. 102 de la loi sur les jeux d'argent informe les autorités de poursuite pénale compétentes et leur transmet tous les documents pertinents.
3. L'autorité intercantonale de surveillance et d'exécution visée à l'art. 102 de la loi fédérale sur les jeux d'argent dispose des droits de procédure suivants dans les procédures menées du fait d'infractions au sens de l'art. 25a:
  - a) droit de faire recours contre les ordonnances de non-entrée en matière et de classement;
  - b) droit de former opposition contre les ordonnances pénales;
  - c) droit d'interjeter appel ou appel joint contre des jugements au pénal.

#### **Art. 25c Information**

1. Les autorités de poursuite pénale et les autorités judiciaires compétentes informent l'autorité intercantonale de surveillance et d'exécution visée à l'art. 102 de la loi fédérale du ... sur les jeux d'argent<sup>30</sup> des poursuites engagées pour des infractions au sens de l'art. 25a, ainsi que de leurs prononcés.
2. Le Conseil fédéral détermine les informations qui doivent être transmises".

## Turkey

### I General criminal law provisions

**Law No 5237, Turkish Criminal Code of 26/09/2004,<sup>182</sup> Articles 155, 157, 158, 252, 255, and 257.**

### II Sport-specific criminal law provisions

#### 1 **Law No. 6222 on the Prevention of Violence and Disorder in Sports (enacted on 14.04.2011 and published on the Official Gazette dated 14.04.2011 and numbered 27905,<sup>183</sup> as amended by Law no 6259).<sup>184</sup>**

##### **“Art. 11**

Match-fixing and incentive bonuses:

1. A person who provides benefit or another source of income to another person with the intention of influencing the result of a specific sports competition is sentenced to imprisonment from one year to three years and punished with a punitive fine up to twenty thousand days. The person who receives the benefit is punished as an accomplice. If an agreement on receiving benefit or another source of revenue is nevertheless reached, the punishment is sentenced as if the offence is completed.
2. Persons who contribute to achieve the result pursuant to the agreement by knowing the match-fixing agreement are equally punished in accordance with the first paragraph.
3. If an agreement is not reached despite a promise or offer of benefit or other source of income being made, punishment is sentenced on the grounds of attempting to commit an offence.
4. If the crime is committed:
  - a) By exerting undue influence based on public duty;
  - b) By agents or representatives of clubs or athletes, technical or administrative managers or presidents or members of general assemblies or boards of directors of sports clubs or legal entities that are operating in the field of sports as well as federations;
  - c) By activities qualifying as organized crime;
  - d) In order to manipulate the outcome of betting;

then the punishment to be imposed is increased by one half.

<sup>182</sup> Original text available at: <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf>; Translation available at [https://www.unodc.org/res/cld/document/tur/2004/criminal\\_code\\_law\\_no\\_5237\\_html/Turkey\\_Criminal\\_Code\\_Law\\_No\\_5237\\_2004.pdf](https://www.unodc.org/res/cld/document/tur/2004/criminal_code_law_no_5237_html/Turkey_Criminal_Code_Law_No_5237_2004.pdf)

<sup>183</sup> Original text available at: <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.6222.pdf>

<sup>184</sup> Original text available at: <http://www.resmigazete.gov.tr/eskiler/2011/12/20111215-7.htm>

5. If the crime is committed by providing or promising incentive bonuses with the intention of promoting the success of a team, the punishment to be imposed pursuant to this article is abated by one half.
6. The provisions of this Article are not applicable if a bonus is provided or promised to:
  - a) National teams or national athletes to promote their success;
  - b) Athletes or members of technical management staff from their sports clubs to promote their success.
7. If the crime is committed for the benefit of sports clubs or other legal entities, an administrative fine is imposed on these in the amount of the incentive bonus or fixed match. In any event, the amount of the administrative fee to be imposed cannot be less than one hundred thousand Turkish Liras.
8. No punishment is imposed on the person who exposes the crime before the relevant sporting event takes place.
9. Concerning the offences that are within the scope of this article; deferment of the announcement of the verdict cannot be made pursuant to Law No: 5271, Code of Criminal Procedure dated 04/12/2004; sentenced imprisonment cannot be converted into optional sanctions or reprieved.
10. If the offences that are defined in this article are committed multiple times within execution of a decision to commit a crime, then a single sentence is established by increasing the punishment of the relevant offence, which requires imposition of the heaviest punishment, from one quarter to three quarters.
11. The person who is punished with the sanctions stated in this article shall be banned from taking managerial and supervisory duties at sports clubs, federations or legal entities that are operating in the field of sports pursuant to Article 53 of the Criminal Code.

**2 Law no. 7258 regarding Provision of Betting and Luck Games in Football and Other Sporting Competitions (enacted on 29/04/1959 and published on the Official Gazette dated 09/05/1959 and numbered 10201).<sup>185</sup>**

**Art. 5**

Without a valid authorisation based on the Law:

- a) Persons who organise or facilitate fixed odds and pari-mutuel betting or luck games by providing a place or opportunity based on sports competitions are sentenced to imprisonment from three to five years and a punitive fine up to ten thousand lira.
- b) Persons who provide access by internet or other means to fixed odds or pari-mutuel betting or luck games based on sports competitions and enable betting from Turkey are sentenced to imprisonment from three to five years and a punitive fine.

<sup>185</sup> Original text available at: <http://www.mevzuat.gov.tr/MevzuatMetin/1.3.7258.pdf>

- c) Persons who coordinate transfer of money in connection with fixed odds or pari-mutuel betting or luck games based on sports competitions are sentenced to imprisonment from three year to five years and a punitive fine up to five thousand Lira.
- d) Persons who encourage betting or participating in fixed odds or pari-mutuel betting or luck games based on sports competitions by advertising or other methods are sentenced to imprisonment from one year to three years and a punitive fine up to three thousand lira.

In connection with the crimes that are specified in this article; objects that are assigned or used or represent subject matter of the crime in order to facilitate placing bets or participating in fixed odds or pari-mutuel betting or luck games based on sports competitions and any other assets that possess monetary value used for latter purpose are confiscated pursuant to the provisions of confiscation of objects and revenue of Law No: 5237 Turkish Criminal Code of 26/09/2004.

Regarding the crimes that are specified in this article, characteristic security measures are applied to legal persons.

Regarding the crimes that are specified in this article, Law No. 5651 on Regulating Broadcasting in the Internet and Fighting Against Crimes Committed through Internet Broadcasting dated 04/05/2007, provisions regarding blocking access are applicable.

The workplace in which the crimes that are specified in this article are committed are locked up and sealed by the chief administrative officer without a prior notification for a period of three months. Workplaces that possess a workplace establishment and operation licence are revoked by the authorised local authority upon notification of the chief administrative officer.

## Ukraine

### I General criminal law provisions

#### 1 Criminal Code of Ukraine

- Fraud (Article 190);
- Receiving of illegal benefit by an employee of a state enterprise, institution or organisation (Article 354);
- Abuse of Official Authority by an Officer of a Private Law Legal Entity Irrespective of Organisational-Legal Form (Article 364<sup>1</sup>);
- Bribe-taking (Articles 368 et seq.);
- Bribe-giving (Article 369 et seq.);
- Abuse of influence (Article 369<sup>2</sup>).

**2 Code of Administrative Offences (Bulletin of Verkhovna Rada of UkrSSR, 1984, Attachment No. 51, p. 1122)**

- Breach of limitations on the use of official status (Article 172-2);
- Offer or provision of illegal benefit (Article 172-3).

**3 Law on Principles of Preventing and Counteracting Corruption**

**II Sport-specific criminal law provisions**

In November 2015, the Ukrainian Parliament adopted an Act complementing Article 369-3 of the Criminal Code,<sup>186</sup> which establishes liability for unlawful influence on the results of official sports competitions. Sanctions vary from a fine to imprisonment up to three years with special confiscation. The Act also amended the Code of Administrative Offences, Article 172-1, which establishes liability for violating the ban on sports betting, associated with the manipulation of official sports events. This article provides for a penalty and disqualification to hold certain positions or engage in certain activities for a period of one year.

**United Kingdom**

**I General criminal law provisions**

**1 Bribery Act 2010<sup>187</sup> (repealed the Prevention of Corruption Act 1906)**

**2 Fraud Act 2006<sup>188</sup>**

**3 Criminal Law Act 1977<sup>189</sup> – Chapter 45 (conspiracy)**

<sup>186</sup> Bill no. 2243a of 02.06.2015. See also <http://portal.rada.gov.ua/en/news/News/115379.html> and <http://newsme.com.ua/en/ukraine/3173094/>

<sup>187</sup> <http://www.legislation.gov.uk/ukpga/2010/23/contents>

<sup>188</sup> <http://www.legislation.gov.uk/ukpga/2006/35/contents>

<sup>189</sup> <http://www.legislation.gov.uk/ukpga/1977/45>

## II Sport-specific criminal law provisions

### **Gambling Act 2005<sup>190</sup> – Section 42**

- “1. A person commits an offence if he:
- a) cheats at gambling; or
  - b) does anything for the purpose of enabling or assisting another person to cheat at gambling.
2. For the purposes of subsection (1) it is immaterial whether a person who cheats:
- a) improves his chances of winning anything; or
  - b) wins anything.
3. Without prejudice to the generality of subsection (1), cheating at gambling may, in particular, consist of actual or attempted deception or interference in connection with:
- a) the process by which gambling is conducted; or
  - b) a real or virtual game, race or other event or process to which gambling relates.
4. A person guilty of an offence under this section shall be liable:
- a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both; or
  - b) on summary conviction, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding the statutory maximum, or to both.
5. In the application of subsection (4) to Scotland, the reference to 51 weeks shall have effect as a reference to six months.
6. Section 17 of the Gaming Act 1845 (c 109) (winning by cheating) shall cease to have effect.”

<sup>190</sup> <http://www.legislation.gov.uk/ukpga/2005/19/contents>

## United States of America

### I Sport-specific criminal law provisions

#### 18 U.S. Code § 224<sup>191</sup> – Bribery in sporting contests

- “1. Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery, any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined under this title, or imprisoned for not more than 5 years, or both.
2. This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, and no law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.
3. As used in this section:
- a) The term “scheme in commerce” means any scheme effected in whole or in part through the use in interstate or foreign commerce of any facility for transportation or communication;
  - b) The term “sporting contest” means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence;
  - c) The term “person” means any individual and any partnership, corporation, association, or other entity.”

<sup>191</sup> <https://www.gpo.gov/fdsys/granule/USCODE-2011-title18/USCODE-2011-title18-partI-chap11-sec224>

## Annex 2 Analysis Grid for the Specific Match-Fixing Offences Provided in National Legislation

Country	Author		Criminalised behaviour		Financial/ non-financial purposes		Beneficiary		Result/course of competition		Sports event / Betting		Subjective conditions		Sanctions	
	Active	Passive	Act	Omission	Financial	Non- financial	For Himself	For a 3rd party	Overall result	Partial event	Sports event	Betting event	Intention	Negligence	Imprisonment	Fine
ARG	✓	✓	"offers or delivers a gift or makes a remunerative promise in order to facilitate or to ensure the irregular result of a sport competition or the abnormal performance of a participant to such competition"	✓	✓		✓	✓	✓	✓	✓					1 m – 3 y
AUS	✓	✓	knowingly or recklessly engages in corrupt betting conduct in relation to an event with the intention of obtaining financial advantage, or causing financial disadvantage, in relation to betting	✓	✓				✓	✓	✓ (limited)	✓	✓	✓		Max. 10 y
BRA	✓	✓	"solicits or accepts", "gives or promises" "frauds" "a pecuniary or non-pecuniary advantage or promise" "for any act or omission with the purpose of altering or fixing the result of a sports competition or an event associated with that competition"	✓	✓	✓	✓	✓	✓	✓	✓					2 – 6 y ✓



Country	Author		Criminalised behaviour		Financial/ non-financial purposes		Beneficiary		Result/course of competition		Sports event / Betting		Subjective conditions		Sanctions	
	Active	Passive	Act	Omission	Financial	Non- financial	For Himself	For a 3rd party	Overall result	Partial event	Sports event	Betting event	Intention	Negligence	Imprisonment	Fine
BUL	✓	✓	<p><b>"persuades</b> another person <b>to influence</b> the development or outcome of a sporting competition"</p> <p><b>"promises, offers or grants</b> any undue advantage ... in order to influence or for having influenced the development or outcome of a sporting competition"</p> <p><b>"requests or accepts"</b></p> <p><b>"acts as an intermediary"</b></p> <p><b>"provides for or organises the advantage offering or granting"</b></p>	✓	✓		✓	✓	✓	✓	✓	✓ <small>(aggravating circumstance)</small>			1-10 y	✓
CHN	✓	✓	<p><b>"practice fraud", "engage malpractice"</b></p> <p>"for selfish ends"</p>	✓	✓	✓	✓				✓	✓ <small>(separate offence)</small>				
DEN	✓	✓	<p>grants, promises or offers to a person who takes part in, or acts as an official in, a sporting competition of a certain level, held either at home or abroad, a gift or other advantage in order to induce that person to act or refrain from acting in relation to the outcome of the match</p>	✓	✓	✓	✓	✓	✓						1 y; Aggrav: 2 y	✓
ESA	✓	✓	<p>Anyone who, for himself/herself or for a third party, pledges or offers, promises, pays or distributes any type of benefit, with the aim of altering or ensuring a predetermined result of a professional sports competition or event of national or international level, or the abnormal behaviour of a participant in such a competition</p>	✓	✓	✓	✓	✓	✓	✓	✓				2 – 4 y Aggrav: 3 – 5 y 4 – 6 y	✓

Country	Author		Criminalised behaviour		Financial/ non-financial purposes		Beneficiary		Result/course of competition		Sports event / Betting		Subjective conditions		Sanctions	
	Active	Passive	Act	Omission	Financial	Non- financial	For Himself	For a 3rd party	Overall result	Partial event	Sports event	Betting event	Intention	Negligence	Imprisonment	Fine
FRA	✓	✓	<p><b>"promises or offers</b> unlawfully, at any time, directly or indirectly, presents, gifts or any kind of advantages, for himself or for another party, to a participant in a sports event on which bets are offered, in order to modify, through an act or omission, the normal and equitable development of a sports event"</p> <p><b>"accepts</b>, with a view to modifying or to altering the result of a sports bet, presents, gifts or any kind of advantages, for himself or for another party, in order to modify, through an act or omission, the normal and equitable development of a sports event"</p>	✓	✓	✓	✓	✓	✓	✓	✓	✓ (limited)			2 m (general) – 5 y	✓
GER (draft)	✓	✓	<p><a href="https://www.bmjv.de/SharedDocs/Artikel/DE/2016/04062016_Kabinett_Spielmanipulation.html">https://www.bmjv.de/SharedDocs/Artikel/DE/2016/04062016_Kabinett_Spielmanipulation.html</a></p>	✓	✓	✓	✓	✓	✓	✓	✓	✓ (separate offence)			3 y	✓
GRE	✓	✓	<p><b>"intervening with illegitimate actions</b>, with the intention to influence the evolution, the form or the result of a game of any team or individual sport"</p> <p>"with the same intention, <b>demands or accepts</b> gifts or other benefits, or any other allotment or promise"</p> <p><b>"offers, gives or promises</b> to an athlete, trainer, referee or administrator, or to any other person associated in any way with the athlete, the referee, the club, the Sport Incorporated Company, the Department of Paid Athletes, gifts, benefits, or any other allotments"</p>	✓	✓	✓		✓	✓	✓	✓	✓ (aggra- vating circum- stance)			2 – 6 y	✓
IND	✓	✓	s-or (iv) omits to perform the duty to inform".	✓	✓	✓	✓	✓	✓	✓	✓				5 y	

Country	Author		Criminalised behaviour		Financial/ non-financial purposes		Beneficiary		Result/course of competition		Sports event / Betting		Subjective conditions		Sanctions	
	Active	Passive	Act	Omission	Financial	Non- financial	For Himself	For a 3rd party	Overall result	Partial event	Sports event	Betting event	Intention	Negligence	Impri- sonment	Fine
KOR	✓	✓	<p><b>“give, or promise to give, or express the will to give”</b></p> <p><b>“receive, or promise to receive, or request property or pecuniary advantage from a third person; or let a third person give, or request a third person to give, or let a third person promise to give property or pecuniary advantage to another person; in response to an illegal solicitation concerning the sports game that can be betted on legally by the Act. i.e. professional soccer, baseball, basketball, volleyball, bicycle and motor boat racing, horse riding.</b></p>	✓			✓	✓			✓ (limited)	✓				
LAT	✓	✓	any operation that violates the uncertainty concerning the course or result of a sports competitions	✓	✓	✓	✓	✓	✓	✓	✓				1 y, 3y, Aggrav: 5 y	✓
MLT	✓	✓	<p><b>“accepts or obtains, or agrees to accept or obtain, or attempts to obtain, from any person for himself or for any other person whomsoever any gift or consideration as an inducement or reward for doing or for omitting from doing, or for having, after the enactment of this Act, done or omitted from doing, any act the doing or omission of which is against the interests of the side for which he plays, or those of the person or club by whom or by which he is engaged or whom or which he represents”</b></p> <p><b>“gives, or agrees to give or offers or proposes to another person, directly or indirectly, that such other person should give or agree to give or offer any gift or consideration to any player or to any official or organiser as an inducement or reward for doing or for omitting from doing, or for having, after the commencement of this Act, done or omitted from doing any act ...”</b></p>	✓	✓		✓	✓	✓	✓	✓				4 m – 2 y	✓

Country	Author		Criminalised behaviour		Financial/ non-financial purposes		Beneficiary		Result/course of competition		Sports event / Betting		Subjective conditions		Sanctions	
	Active	Passive	Act	Omission	Financial	Non- financial	For Himself	For a 3rd party	Overall result	Partial event	Sports event	Betting event	Intention	Negligence	Imprisonment	Fine
NZL	✓	✓	<p><b>“any act or omission</b> that is done or omitted with intent to influence a betting outcome of an activity of a kind to which subsection (2) applies by manipulating:</p> <p>a) the overall result of the activity; or b) any event within the activity”</p>	✓	✓			✓	✓	✓	✓				3 m – 7 y	
PAR (draft)	✓	✓	Includes sports bodies in the scope of application of the money-laundering laws and imposes transparency and integrity obligations		✓		✓	✓								
POL	✓	✓	<p><b>“accepts</b> material or personal benefits or a promise of such benefits, or <b>demands</b> such benefits or a promise of such benefits in exchange for unfair behaviour that may affect the results of a sports competition”</p> <p><b>“gives or promises</b> such material or personal benefits”</p>	✓	✓	✓	✓	✓		✓	✓ <small>(aggravating circumstance)</small>				3 m – 10 y	✓
POR	✓	✓	<p><b>“gives or promises” “requests or accepts</b> for himself or on behalf of a third party improper material or non-material gain, or the promise of such gain, in return for any act or omission intended to alter or falsify the result of a sports competition”</p>	✓	✓	✓	✓	✓	✓		✓				1 – 5 y	✓

Country	Author		Criminalised behaviour		Financial/ non-financial purposes		Beneficiary		Result/course of competition		Sports event / Betting		Subjective conditions		Sanctions	
	Active	Passive	Act	Omission	Financial	Non- financial	For Himself	For a 3rd party	Overall result	Partial event	Sports event	Betting event	Intention	Negligence	Impri- sonment	Fine
RSA	✓	✓	<p>"a) <b>accepts</b> or <b>agrees</b> or <b>offers to accept</b> any gratification from any other person, whether for the benefit of himself or herself or for the benefit of that other person or of another person; or</p> <p>b) <b>gives</b> or <b>agrees</b> or <b>offers to give</b> to any other person any gratification, whether for the benefit of that other person or for the benefit of another person</p> <p>c) carries into effect any scheme which constitutes a threat to or undermines the integrity of any sporting event, including, in any way, influencing the run of play or the outcome of a sporting event"</p>	✓	✓	✓	✓	✓	✓	✓	✓	✓ (separate offence)			General: 5 y, 18 y, life	✓
RUS	✓	✓	Bribery of athletes, referees, coaches, team leaders, and other participants or organisers of professional sports competitions, and also organisers or jurymen of profit-making entertainment competitions, with the purpose of exerting influence on the results of these competitions or contests	✓	✓		✓	✓	✓		✓				4 y Aggrav: 7 y	✓
ESP	✓	✓	<p><b>"promises, offers or concedes"</b> <b>"receives, solicits or accepts"</b></p> <p>"an undue benefit or advantage of any kind" "in order to deliberately and fraudulently predetermine or alter the result of a sporting event, meeting or competition having a special economic or sporting importance"</p>	✓	✓	✓	✓	✓	✓		✓	✓ (aggra- vating circum- stance)	✓		6 m – 4 y	✓

Country	Author		Criminalised behaviour		Financial/ non-financial purposes		Beneficiary		Result/course of competition		Sports event / Betting		Subjective conditions		Sanctions	
	Active	Passive	Act	Omission	Financial	Non- financial	For Himself	For a 3rd party	Overall result	Partial event	Sports event	Betting event	Intention	Negligence	Imprisonment	Fine
SUI	✓	✓	<p><b>“Offers, promises or gives</b> an undue advantage to a person having a position in a sports competition for which bets are proposed, with the purpose of fixing the course of the competition in his/her favour or for a third party”</p> <p><b>“solicits</b> an undue advantage, <b>asks for a promise thereof or accepts</b> it, in his/her own benefit or for a third party, with the purpose of fixing the course of the competition”</p>	✓	✓	✓	✓	✓	✓	✓	✓	✓			6 m – 5 y	✓
TUR	✓	✓	<p>any person who provides benefit or other income with the intention of influencing the result of a specific sports competition.</p> <p>The person who receives the benefit is punished as an accomplice. If an agreement on receiving benefit or another source of revenue is reached, the punishment is sentenced as if the offence is completed</p>	✓	✓		✓	✓	✓		✓	✓			1 – 3 y	
UKR	✓	✓	<p>unlawful influence on the results of official sports competitions. Sanctions vary from a fine to imprisonment up to three years with special confiscation</p>	✓	✓		✓	✓	✓		✓	✓			3 y	
UK	✓	✓	<p><b>“cheats at gambling”</b> or <b>“does anything</b> for the purpose of enabling or assisting another person to cheat at gambling”</p>	✓	✓	✓	✓	✓	✓	✓	✓	✓			0 – 2 y	✓
USA	✓	✓	<p><b>“carries into effect, attempts</b> to carry into effect, or <b>conspires</b> with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery, any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest”</p>	✓	✓	✓		✓	✓	✓	✓	✓			5 y	✓

## Annex 3 Relevant International Legislation – A Comparison on Selected Themes

Selected Theme	The Convention Against Corruption	The “Macolin Convention”
<i>Terminology relating to Offences</i>	<p><b>Art. 15 – Bribery of national public officials</b></p> <p>Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:</p> <ol style="list-style-type: none"> <li>the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;</li> <li>the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.</li> </ol> <p><b>Art. 16 – Bribery of foreign public officials and officials of public international organisations</b></p> <ol style="list-style-type: none"> <li>Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.</li> <li>Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.</li> </ol>	<p><b>Art. 3 – Definitions</b></p> <p><b>Point 4 – Manipulation of sports competitions</b></p> <p>“Manipulation of sports competitions” means 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.</p> <p><b>Point 5 – Sports betting</b></p> <p>“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.</p> <p><b>Art. 15 – Criminal offences relating to the manipulation of sports competitions</b></p> <ol style="list-style-type: none"> <li>Each Party shall ensure that its domestic laws enable to criminally sanction manipulation of sports competitions when it involves coercive, corrupt or fraudulent practices, as defined by its domestic law.</li> </ol>

Selected Theme	The Convention Against Corruption	The “Macolin Convention”
	<p><b>Art. 18 – Trading in influence:</b></p> <p>Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:</p> <p>a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;</p> <p>b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.</p> <p><b>Art. 21 – Bribery in the private sector</b></p> <p>Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:</p> <p>a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;</p> <p>b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.</p>	
	<p><b>Arts. 17, 22 – Embezzlement, misappropriation or other diversion of property</b></p>	
	<p><b>Art. 20 – Illicit enrichment</b></p>	
	<p><b>Art. 23 – Laundering of proceeds of crime</b></p>	<p><b>Art. 16 – Laundering of the proceeds of criminal offences relating to the manipulation of sports competitions</b></p>
	<p><b>Art. 24 – Concealment</b></p>	
	<p><b>Art. 25 – Obstruction of justice</b></p>	



Selected Theme	The Convention Against Corruption	The “Macolin Convention”
<i>Terminology relating to Participants</i>	<b>See Arts. 15, 16, 18, 21 above</b>	<b>Art. 3 – Definitions</b> Point 2 – Sports organisation Point 3 – Competition organisers Point 6 – Competition stakeholders
<i>Liability of legal persons</i>	<p><b>Art. 26 – Liability of legal persons</b></p> <ol style="list-style-type: none"> <li>Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.</li> <li>Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.</li> <li>Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.</li> <li>Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.</li> </ol>	<p><b>Art. 18 – Corporate liability</b></p> <ol style="list-style-type: none"> <li>Each Party shall adopt such legislative or other measures as may be necessary to ensure that legal persons can be held liable for offences referred to in Articles 15 to 17 of this Convention, committed for their benefit by any natural person, acting either individually or as a member of an organ of the legal person, who has a leading position within the legal person, based on: <ol style="list-style-type: none"> <li>a power of representation of the legal person;</li> <li>the authority to take decisions on behalf of the legal person;</li> <li>the authority to exercise control within the legal person.</li> </ol> </li> <li>Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.</li> <li>Other than in the cases already provided for in Paragraph 1, each Party shall take the necessary measures to ensure that a legal person can be held liable when lack of supervision or control by a natural person referred to in Paragraph 1 has made possible the commission of an offence referred to in Articles 15 to 17 of this Convention for the benefit of that legal person by a natural person acting under its authority.</li> <li>Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.</li> </ol> <p><b>Art. 23 – Sanctions against legal persons</b></p> <ol style="list-style-type: none"> <li>Each Party shall take the necessary legislative or other measures to ensure that legal persons held liable in accordance with Article 18 are subject to effective, proportionate and dissuasive sanctions, including monetary sanctions and possibly other measures such as: <ol style="list-style-type: none"> <li>a temporary or permanent disqualification from exercising commercial activity;</li> <li>placement under judicial supervision;</li> <li>a judicial winding-up order.</li> </ol> </li> </ol>

Selected Theme	The Convention Against Corruption	The “Macolin Convention”
<p><i>Participation and attempt</i></p>	<p><b>Art. 27 – Participation and attempt</b></p> <ol style="list-style-type: none"> <li>1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.</li> <li>2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.</li> <li>3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.</li> </ol>	<p><b>Art. 17 – Aiding and abetting</b></p> <ol style="list-style-type: none"> <li>1. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the aiding and abetting of the commission of any of the criminal offences referred to in Article 15 of this Convention.</li> </ol>
<p><i>Protection of certain persons</i></p>	<p><b>Art. 32 – Protection of witnesses, experts and victims</b></p> <ol style="list-style-type: none"> <li>1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.</li> <li>2. The measures envisaged in Paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:             <ol style="list-style-type: none"> <li>a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;</li> <li>b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.</li> </ol> </li> <li>3. State Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in Paragraph 1 of this article.</li> </ol>	<p><b>Art. 21 – Protection measures</b></p> <ol style="list-style-type: none"> <li>1. Each Party shall consider adoption of such legal measures as may be necessary to provide effective protection for:             <ol style="list-style-type: none"> <li>a) persons who provide, in good faith and on reasonable grounds, information concerning offences referred to in Articles 15 to 17 of this Convention or otherwise cooperate with the investigating or prosecuting authorities;</li> <li>b) witnesses who give testimony concerning these offences;</li> <li>c) when necessary, members of the family of persons referred to in sub-paragraphs a and b.</li> </ol> </li> </ol>

Selected Theme	The Convention Against Corruption	The “Macolin Convention”
	<p>4. The provisions of this article shall also apply to victims insofar as they are witnesses.</p> <p>5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.</p> <p><b>Art. 33 – Protection of reporting persons</b></p> <p>Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.</p>	
<p><i>Cooperation</i></p>	<p><b>Art. 39 – Cooperation between national authorities and the private sector</b></p> <p>1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.</p> <p>2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.</p>	<p><b>Art. 4 – Domestic coordination</b></p> <p><b>Art. 13 – National platform</b></p> <p>1. Each Party shall identify a national platform addressing manipulation of sports competitions. The national platform shall, in accordance with domestic law, inter alia:</p> <ul style="list-style-type: none"> <li>a) serve as an information hub, collecting and disseminating information that is relevant to the fight against manipulation of sports competitions to the relevant organisations and authorities;</li> <li>b) coordinate the fight against the manipulation of sports competitions;</li> <li>c) receive, centralise and analyse information on irregular and suspicious bets placed on sports competitions taking place on the territory of the Party and, where appropriate, issue alerts;</li> <li>d) transmit information on possible infringements of laws or sports regulations referred to in this Convention to public authorities or to sports organisations and/or sports betting operators;</li> <li>e) cooperate with all organisations and relevant authorities at national and international levels, including national platforms of other States.</li> </ul> <p>2. Each Party shall communicate to the Secretary General of the Council of Europe the name and addresses of the national platform.</p>

## Annex 4 The Olympic Movement Code on the Prevention of the Manipulation of Competitions

### Preamble

- a) Acknowledging the danger to sports integrity from the manipulation of sports competitions, all sports organisations, in particular the International Olympic Committee, all International Federations, National Olympic Committees and their respective members at the Continental, Regional and National level and IOC-recognised organisations (hereinafter, 'Sports Organisations'), restate their commitment to safeguarding the integrity of sport, including the protection of clean athletes and competitions as stated in Olympic Agenda 2020;
- b) Due to the complex nature of this threat, Sports Organisations recognise that they cannot tackle this threat alone, and hence cooperation with public authorities, in particular law enforcement and sports betting entities, is crucial;
- c) The purpose of this Code is to provide all Sports Organisations and their members with harmonised regulations to protect all competitions from the risk of manipulation. This Code establishes regulations that are in compliance with the Council of Europe Convention on the Manipulation of Sports Competitions, in particular Article 7. This does not prevent Sports Organisations from having more stringent regulations in place;
- d) In the framework of its jurisdiction as determined by Rule 2.8 of the Olympic Charter, the IOC establishes the present Olympic Movement Code on the Prevention of the Manipulation of Competitions, hereinafter 'the Code';
- e) Sports Organisations bound by the Olympic Charter and the IOC Code of Ethics declare their commitment to support the integrity of sport and the fight against the manipulation of competitions by adhering to the standards set out in this Code and by requiring their members to do likewise. Sports Organisations are committed to taking all appropriate steps within their powers to incorporate this Code by reference, or to implement regulations consistent with or more stringent than this Code.

## Article 1 Definitions

- 1.1** “Benefit” means the direct or indirect receipt or provision of money or the equivalent, such as, but not limited to, bribes, gains, gifts and other advantages including, without limitation, winnings and/or potential winnings as a result of a wager; the foregoing shall not include official prize money, appearance fees or payments to be made under sponsorship or other contracts;
- 1.2** “Competition” means any sports competition, tournament, match or event, organised in accordance with the rules of a Sports Organisation or its affiliated organisations, or, where appropriate, in accordance with the rules of any other competent sports organisation;
- 1.3** “Inside Information” means information relating to any competition that a person possesses by virtue of his or her position in relation to a sport or competition, excluding any information already published or common knowledge, easily accessible to interested members of the public or disclosed in accordance with the rules and regulations governing the relevant Competition;
- 1.4** “Participant” means any natural or legal person belonging to one of the following categories:
- “athlete” means any person or group of persons, participating in sports competitions;
  - “athlete support personnel” means any coach, trainer, manager, agent, team staff, team official, medical or paramedical personnel working with or treating athletes participating in or preparing for sports competitions, and all other persons working with the athletes
  - “official” means any person who is the owner of, a shareholder in, an executive or a staff member of the entities which organise and/or promote sports competitions, as well as referees, jury members and any other accredited persons. The term also covers the executives and staff of the sports organisation, or where appropriate, other competent sports organisation or clubs that recognise the competition.
- 1.5** “Sports Betting, Bet or Betting” means any wager 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.

## Article 2 Violations

The following conduct as defined in this Article constitutes a violation of this Code:

### 2.1 Betting

Betting in relation either:

- to a Competition in which the Participant is directly participating;
- to the Participant’s sport; or
- to any event of a multisport Competition in which he/she is a participant.

## **2.2** Manipulation of sports competitions

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 sports competition with a view to obtaining an undue Benefit for oneself or for others.

## **2.3** Corrupt conduct

Providing, requesting, receiving, seeking, or accepting a Benefit related to the manipulation of a competition or any other form of corruption.

## **2.4** Inside information

1. Using Inside Information for the purposes of Betting, any form of manipulation of sports competitions or any other corrupt purposes whether by the Participant or via another person and/or entity.
2. Disclosing Inside Information to any person and/or entity, with or without Benefit, where the Participant knew or should have known that such disclosure might lead to the information being used for the purposes of Betting, any form of manipulation of competitions or any other corrupt purposes.
3. Giving and/or receiving a Benefit for the provision of Inside Information regardless of whether any Inside Information is actually provided.

## **2.5** Failure to report

1. Failing to report to the Sports Organisation concerned or a relevant disclosure/reporting mechanism or authority, at the first available opportunity, full details of any approaches or invitations received by the Participant to engage in conduct or incidents that could amount to a violation of this Code.
2. Failing to report to the Sports Organisation concerned or a relevant disclosure/reporting mechanism or authority, at the first available opportunity, full details of any incident, fact or matter that comes to the attention of the Participant (or of which they ought to have been reasonably aware) including approaches or invitations that have been received by another Participant to engage in conduct that could amount to a violation of this Code.

## **2.6** Failure to cooperate

1. Failing to cooperate with any investigation carried out by the Sports Organisation in relation to a possible breach of this Code, including, without limitation, failing to provide accurately, completely and without undue delay any information and/or documentation and/or access or assistance requested by the competent Sports Organisation as part of such investigation.
2. Obstructing or delaying any investigation that may be carried out by the Sports Organisation in relation to a possible violation of this Code, including without limitation concealing, tampering with or destroying any documentation or other information that may be relevant to the investigation.

## 2.7 Application of Articles 2.1 to 2.6

1. For the determination of whether a violation has been committed, the following are not relevant:
  - a. Whether or not the Participant is participating in the Competition concerned;
  - b. The outcome of the Competition on which the Bet was made or intended to be made;
  - c. Whether or not any Benefit or other consideration was actually given or received;
  - d. The nature or outcome of the Bet;
  - e. Whether or not the Participant's effort or performance in the Competition concerned were (or could be expected to be) affected by the acts or omission in question;
  - f. Whether or not the result of the Competition concerned was (or could be expected to be) affected by the acts or omission in question;
  - g. Whether or not the manipulation included a violation of a technical rule of the respective Sports Organisation;
  - h. whether or not the competition was attended by the competent national or international representative of the Sports Organisation.
2. Any form of aid, abetment or attempt by a Participant that could culminate in a violation of this Code shall be treated as if a violation had been committed, whether or not such an act in fact resulted in a violation and/or whether that violation was committed deliberately or negligently.

## Article 3 Disciplinary Procedure

The contents of this Article are minimum standards which must be respected by all Sports Organisations.

### 3.1 Investigation

1. The Participant who is alleged to have committed a violation of this Code must be informed of the alleged violations that have been committed, details of the alleged acts and/or omissions, and the range of possible sanctions.
2. Upon request by the competent Sports Organisation, the concerned Participant must provide any information which the Organisation considers may be relevant to investigate the alleged violation, including records relating to the alleged violation (such as betting account numbers and information, itemised telephone bills, bank statements, internet service records, computers, hard drives and other electronic information storage devices), and/or a statement setting out the relevant facts and circumstances around the alleged violation.

### 3.2 Rights of the concerned person

In all procedures linked to violations of the present Code, the following rights must be respected:

1. The right to be informed of the charges; and
2. The right to a fair, timely and impartial hearing either by appearing personally in front of the competent Sports Organisation and/or submitting a defence in writing; and
3. The right to be accompanied and/or represented.

### 3.3 Burden and standard of proof

The Sports Organisation shall have the burden of establishing that a violation has been committed. The standard of proof in all matters under this Code shall be the balance of probabilities, a standard that implies that on the preponderance of the evidence it is more likely than not that a breach of this Code has occurred.

### 3.4 Confidentiality

The principle of confidentiality must be strictly respected by the Sports Organisation during all the procedure; information should only be exchanged with entities on a need-to-know basis. Confidentiality must also be strictly respected by any person concerned by the procedure until there is public disclosure of the case.

### 3.5 Anonymity of the person making a report

Anonymous reporting must be facilitated.

### 3.6 Appeal

1. The Sports Organisation shall have an appropriate appeal framework within its organisation or recourse to an external arbitration mechanism (such as a court of arbitration).
2. The general procedure of the appeal framework shall include provisions such as, but not limited to, the time limit for filing an appeal and the notification procedure for the appeal.

## Article 4 Provisional Measures

**4.1** The Sports Organisation may impose provisional measures, including a provisional suspension, on the participant where there is a particular risk to the reputation of the sport, while ensuring respect for Articles 3.1 to 3.4 of this Code.

**4.2** Where a provisional measure is imposed, this shall be taken into consideration in the determination of any sanction which may ultimately be imposed.



### Article 5 Sanctions

- 5.1** Where it is determined that a violation has been committed, the competent Sports Organisation shall impose an appropriate sanction upon the Participant from the range of permissible sanctions, which may range from a minimum of a warning to a maximum of life ban.
- 5.2** When determining the appropriate sanctions applicable, the Sports Organisation shall take into consideration all aggravating and mitigating circumstances and shall detail the effect of such circumstances on the final sanction in the written decision.
- 5.3** Substantial assistance provided by a Participant that results in the discovery or establishment of an offence by another Participant may reduce any sanction applied under this Code.

### Article 6 Mutual recognition

- 6.1** Subject to the right of appeal, any decision in compliance with this Code by a Sporting Organisations must be recognised and respected by all other Sporting Organisations.
- 6.2** All Sporting Organisations must recognise and respect the decision(s) made by any other sporting body or court of competent jurisdiction which is not a Sporting Organisation as defined under this Code.

### Article 7 Implementation

- 7.1** Pursuant to Rule 1.4 of the Olympic Charter, all Sports Organisations bound by the Olympic Charter agree to respect this Code.
- 7.2** These Sports Organisations are responsible for the implementation of the present Code within their own jurisdiction, including educational measures.
- 7.3** Any amendment to this Code must be approved by the IOC Executive Board following an appropriate consultation process, and all Sports Organisations will be informed.

This Code was approved by the IOC Executive Board on 8 December 2015.

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