

ASSER
INSTITUTE



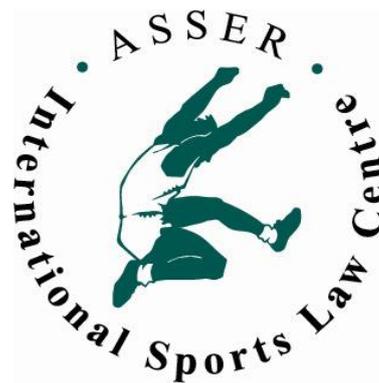
Centre for International & European Law



**Study on risk assessment and management
and prevention of conflicts of interest in the
prevention and fight against betting-related
match fixing in the EU 28**

Final Report

July 2014



EXECUTIVE SUMMARY

The objective of this study was to map the provisions and practices governing risk assessment / management and conflict of interest prevention in the 28 EU Member States within the context of concerns over against betting-related match fixing in sports. At its most basic, “risk assessment” means assessing the possibility that the outcome of a game or competition, or particular aspects of that game or competition, will be manipulated for betting purposes and financial advantage. We would note at the outset that greater consistency and transparency of the criteria used in the betting monitoring industry as to the identification of “irregular” betting patterns which trigger an obligation to report to the relevant sports body would assist greatly in safeguarding against match fixing is clearly a necessary and pressing need. We also note that the setting of industry standards inevitably demands the involvement of all relevant stakeholders - sport, the betting industry, national regulators and law enforcement agencies.

As would be expected, the rules and practices currently existing within individual Member States reflected their particular national context regarding cultural, moral and economic views of gambling and betting, and these vary significantly across the EU. These national differences necessarily preclude an EU-wide legal regime that could operate consistently in all Member States. However, two key observations of general applicability can be made. First, it is too early to comment on the extent to which Member State provisions, jointly and individually, are an adequate response to the perceived current match fixing “crisis” in sport, not least because of the impossibility in ascertaining the extent to which that “crisis” genuinely exists (we would caution against making global generalisations on the basis of high-profile discrete incidents in such sports as snooker, cricket and tennis). Second, in several Member States the current legislation was enacted long before the huge technological changes which have facilitated developments in online and remote gambling: as with many fields where law and technology collide, the regulation of online gambling is an area where the former lags several years behind the latter.

If one were minded to seek a template for a legal framework that could be adopted by all Member States, then the models developed in France and the United Kingdom would appear to be the most “comprehensive” in the sense of covering both risk assessment / management and preventing conflicts of interests, and both appear to incorporate realistic means of monitoring, enforcing compliance, and sanctioning breaches. But in addition to the difficulties outlined above both models place significant demands on the national gambling regulator. There are clear resource implications for the public purse and there are strong arguments that such provisions should not be publically-funded. Rather than investing too much power and resources in a single

regulatory entity, a better approach might be to note how good practices across the EU 28 tend to be collaborative projects which incorporate formal means of dialogue and cooperation between sports governing bodies, betting companies, gambling regulators and the regulator and other law enforcement authorities.

With that in mind, the best examples of good practice all seem to have four shared features. First, betting companies and sports bodies agree to share information and intelligence on suspicious betting patterns. Second, a commitment to a similar information-sharing arrangement between betting companies and national gambling regulators is one of the conditions of the licence granted to that betting operator (this can be accompanied by regulators reserving the right to veto the offering of certain types of bets). Third, the information gathered is analysed by a sports betting integrity unit attached to the national gambling regulator. Fourth, there is a clear process for determining whether there is any evidence of criminal activity. We would recommend this 4x4 approach (4 key partners; 4 elements of collaboration), funded by sports and the gambling industry rather than the public purse, as preferable other Member States attempting to incorporate something akin to the UK or French models in their national laws.

In the short term, we would recommend publication of documents and the creation of better web based facilities to support the sharing of information. It is rather surprising that this has not already happened. The former could consist of a publication similar to the match manipulation guidelines produced by FIFA at its 2014 Congress but including a directory of contact points throughout the EU. The latter could be based on Interpol's Integrity in Sport initiative, <http://www.interpol.int/Crime-areas/Integrity-in-Sport/Integrity-in-sport>, which contains risk assessment provisions helping sporting bodies to determine if their respective competitions are vulnerable to potential match fixing or other related betting market manipulations.

With regard to the athletes, widely-drawn contractual prohibitions are advantageous in terms of both the enforcement of associated disciplinary offences and also in terms of education. In respect of the former it must be noted that enforcement rates of sports specific corruption sanctions, and particularly of enforcing "conflict of interest" prohibitions against athletes appear to be extremely low (one is reminded here of the inconsistent enforcement of doping regulations in certain sports, especially pre-WADA). In some sports, the regulations have been usefully and inexpensively reinforced by the introduction of so-called Integrity Declarations (e.g. FIFA circular no. 1378, 16 August 2013) as a means of embedding awareness of and compliance against match fixing. With the explicit support of players' representatives and only after proper consultation, Integrity Declarations could be incorporated into employment contracts or participation contracts signed by professional sports participants and thus strengthen and clarify the legal basis for the pursuit

of those involved in or facilitating match fixing. As regards the education of players, widely drawn conflict of interest bans are advantageous in the sense that the delivery of the educational training and message to player can be equally straightforward. For example, the simple education message “never bet on football” is easily replicated in a contract term.

Similarly, “Conflict of Interest” regulations typically include provisions prohibiting players from passing on inside information to a third party who uses it for betting. Definitions of “inside information” vary according to sport but again the general principle is clear. Any information that is not generally or publically available and which, if it were so available, would be likely to influence the betting market on the relevant event is “inside information”. Enforcement of sanctions relating to such provisions appears low but the definition of a “third party” to whom a sports participant might advertently or inadvertently pass on inside information should be better considered (for a potential comparator, see the so-called “entourage” offences under the 2015 World Anti-Doping Code). Second, the evidence gathered in this study again indicates that the enforcement of provisions which place players under an express duty to report betting manipulation approaches are not extensively used. Subject to the same *caveat* before: athletes consultation and involvement, we would encourage greater use of “entourage” and “duty to report” provisions.

Whatever law and policy frameworks are adapted, proper collaboration between all partners is vital in order to risk assess integrity threats (prevention); to disrupt such threats (intervention); and where necessary apply the appropriate sanctions (including prosecution or civil sanctions if necessary) to those involved (deterrence). Finally, sporting and national agencies must also consider the wider context in which match fixing may occur. The prevention of money laundering activities by criminal syndicates, the protection of minors who might be groomed for illegal betting purposes and the wider social ills that inevitably accompany gambling are not “sport’s problem” alone; but it is sports’ responsibility to contribute as much as possible, financially and institutionally, to taming the societal problems stemming from the competitions it brings to life. This report emphasizes this by showing that match fixing is an ill, which can be combatted solely through systematic collaboration between the various actors at the transnational and national level. International Sports Governing Bodies need to make sure that their national members are taking match fixing seriously by *inter alia* vigilantly enforcing their conflict of interest provisions. Similarly, the European Commission needs to provide adequate guidance and support to Member States seeking to develop a successful strategy against match fixing, e.g. in order to strengthen their risk assessment and management capabilities.

This report has been prepared by the T.M.C. Asser Instituut (Asser International Sports Law Centre) for the European Commission, DG Education and Culture.

The research team consisted of Prof. Dr. Jack Anderson (Queen's University Belfast) (team leader), Antoine Duval, Prof. Dr. Ben Van Rompuy, Marco van der Harst, and Dr. David McArdle. Further research assistance was provided by Frédérique Faut and Giandonato Marino.

Annex I lists the national correspondents who also have contributed to this study.

The views expressed in this study are those of the authors and do not necessarily reflect the official opinion of the European Commission. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

