

KCOOS Guidebook 2017

GUIDEBOOK ON UNDERSTANDING
AND EFFECTIVELY COMBATING
THE MANIPULATION OF
SPORTS COMPETITIONS

CONVENTION ON THE MANIPULATION OF SPORTS COMPETITIONS

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1. Introduction

The Council of Europe's joint project co-funded by DG Home affairs of the European Commission, "Keep Crime Out Of Sport" (KCOOS), ran from 1 January 2016 to 30 June 2017. Over 18 months, five regional seminars (The Netherlands, Croatia, Denmark, Romania, Greece) involving 33 countries, four study visits by thirteen countries (in France and in the United Kingdom) and two experts missions (to Latvia and Cyprus) took place.

In total, over 250 experts and representatives from ministries, law enforcement agencies, betting regulatory authorities, prosecutors, the sport movement and sport betting providers and monitoring systems participated in concrete discussions and working groups to create a cross-sectorial networking dynamic identifying, sharing and understanding challenges faced in the fight against the manipulation of sports competitions. A considerable amount of information has been composed on the situation in the participating countries, notably on the existing perceptions of the manipulation of sports competitions, the threat that it represents for institutions, the society and the economy, the diversity of actors that are or should be engaged and good practices as well as the missing structures and mechanisms which need to be established, in order to strengthen the efficiency of actions. The European Union and the European Parliament should be thanked for having created that opportunity.

It was important for the stakeholders to meet on a regular basis, to exchange their concerns and experiences and to create direct and personal contacts. KCOOS provided them with this opportunity, generating considerable expectation in terms of maintaining such indispensable institutional dialogue. Given the project's partnership consortium¹, these key international actors found KCOOS to be a useful channel for enhancing partnerships, with stakeholders but also with the Council of Europe, creating an effective forum for combining expertise and resources. The international stakeholders helped create a positive momentum amongst national actors through KCOOS, which has, in return, enhanced the values of these individual actors through a ground-breaking dynamic sketching what should be the best way to proceed in the future.

KCOOS was, and will remain, a key step in the process initiated before the adoption of the Convention on the Manipulation of Sports Competitions in 2014² (the Macolin Convention), consolidated around the Macolin Convention and progressively formalised more systematically as part of the "Macolin Roadmap" which stakeholders and partners contributed to defining following the 2nd International Conference on the Manipulation of Sports Competitions, held on 20-21 September 2016 in Strasbourg.

The pilot project actively raised awareness and revealed that the manipulation of sport competitions covers areas from national-level suspicious activity to cross-border and cross-continental crime. It revealed to all stakeholders that criminals are often of an organized nature and exploit the vulnerabilities of sport and legislation to perform criminal activity. The criminal activity itself also infiltrates more than simply the betting world and more than match-fixing, including money laundering, management of clubs and other financial crimes. Over the course of the project, EU and non-EU member states recognised the need for a legal framework supporting the implementation of the various mechanisms, thus increasing support for the Macolin Convention. Nine countries signed the Convention from 2016-2017, while Ukraine ratified the Convention in December 2016.

¹ (International Olympic Committee, INTERPOL, Europol, European Lotteries, ESSA, Norwegian Ministry of Culture, UK Gambling Commission, ARJEL, Finnish Olympic Committee, Oxford Research

² Convention on the Manipulation of Sports Competitions, adopted by the Council of Europe in 2014 and open for accession worldwide

The wider impact of the project has led to countries that were not part of KCOOS activities to join the Macolin Roadmap³ movement in a larger sense. The increased awareness has led to stakeholders looking to consider simultaneously EU legislation and that of the Council of Europe and other international legislation. KCOOS played a central role in the process of creating synergies, building coherent collaborations, stimulating partnerships and envisaging future coordination via the Macolin Roadmap. KCOOS endeavoured to operate in a concrete manner, encouraging working groups, reports, rapporteuring, going beyond superficial handling of issues and established links with neighbouring European (EU and non-EU) states, all in order to draw out the real challenges and issues faced by the various stakeholders in order to move forward with assistance.

Such technical assistance activities as those provided by KCOOS were welcomed by country stakeholders, as the activities were concrete, operational and took into account the work of other projects, thus creating a complementary global vision rather than overlapping. The project produced an intermediate impact in terms of follow-up actions from countries following KCOOS activities, including increased participation in regional networks, participation in transnational strategic activities and a stronger will for the entry into force of the Macolin Convention. The project's success therefore ensures a mid to long term continuity and effect. Activities led to the establishment of an ensemble of measures and tools which are operational and could be replicated in other regions or simply multiplied over a longer period of time in order to impact in a maximum of countries and sustain long-term processes.

The Guidebook's approach

In the context of the KCOOS results and achievement, and clearly considering what remains to be done in the continuation of the engagement by stakeholders to act concretely and to establish structures to combat the manipulation of sports competitions, the guidebook proposes a restitution of the positive experiences and lessons learned in the countries, as well as a series of suggestions. KCOOS has established the real state of progress, pointing out the different options developed in the countries, the common understanding about the challenges, etc.

The guidebook aims to clarify the steps towards coherently fighting the manipulation of sports competitions, as well as the gaps and the needs on which the countries should focus in order to consolidate the foundations of a future solid institutional framework. It approaches the fight against the manipulation of sports competitions from a practical point of view, taking into consideration challenges faced by countries and stakeholders. It aims to provide insight and guidance with regard to concretely identifying who should be involved in the fight and how they should proceed; through risk assessment and legal considerations.

The guidebook illustrates the importance of States coordinating the efforts and actions of their national stakeholders and encouraging the national and transnational co-operation between States and stakeholders. Understanding the need to share information and how to piece together the complex puzzle in a manipulation will lead to the effective detection and prevention on the one hand, of competition manipulation, as well as the detection, prosecution and sanctioning of the offenders, on the other hand. Finally, trust underlines all actions because, even with legislation and structures in place, the willingness to cooperate and share information and intelligence, while keeping in mind the constraints and of other stakeholders and the rules to which they may be subject, will be the key to eradicating the disease from sport competitions.

The first edition of the guidebook is based on the outputs from exchanges with countries over the duration of the project from January 2016 until June 2017 and will aim to deliver clarification and insight into various areas of challenges, which are key to the fight against the manipulation of sports competitions and included thus, in the Convention, notably co-operation and coordination, sharing of

³ The Macolin Roadmap is the movement resulting from the 2016 Council of Europe Conference on the Manipulation of Sport Competitions. On this occasion, countries from 45 countries and 4 continents agreed to coordinate actions and collaborate in a more structure manner to effectively fight the manipulation of sport competitions, including implementing the principles of the Macolin Convention.

information, legislative analyses, risk assessment and tackling the basic concepts of the manipulation of sports competitions: the amplitude, the multi-sectorial involvement, the criminality and most of all, the attack to the integrity of sport.

The diagnosis made by KCOOS should be an alert, and help to create a turning point. Countries should find in the Guidebook reinsuring confirmation about the value of their actions, as well as warning about risks of dispersion. A strategic focus is important now in order to make more solid the policies and strategies in individual countries, and on that base, to start to build trans-national co-operations.

The large amount of information collected contributed to developing a practical guidebook for countries to consider various factors in address the manipulation of sport competitions.

The pilot project actively raised awareness and revealed that the manipulation of sport competitions covers areas from national-level suspicious activity to cross-border and cross-continental crime. It revealed to all stakeholders that criminals are often of an organized nature and exploit the vulnerabilities of sport and legislation to perform criminal activity. The criminal activity itself also infiltrates more than simply the betting world and more than match-fixing, including money laundering, management of clubs and other financial crimes. Over the course of the project, EU and non-EU member states recognised the need for a legal framework supporting the implementation of the various mechanisms, thus increasing support for the Macolin Convention⁴. Nine countries signed the Convention from 2016-2017, while Ukraine ratified the Convention in December 2016.

The wider impact of the project has led to countries that were not part of KCOOS activities to join the Macolin Roadmap⁵ movement in a larger sense, including Portugal, who has already ratified the Convention. Portugal has since begun to set up its national platform and has started to exchange with other EU and CoE member states. Beneficiaries received and shared concrete information on national processes and challenges in countries, going beyond superficial handling of issues and established links with neighboring European (EU and non-EU) states. Certain countries particularly benefited from the activities in order to modify and continue drafting national legislation. The increased awareness has led to stakeholders looking to consider simultaneously EU legislation and that of the Council of Europe and other international legislation.

KCOOS was most successful at setting the groundwork for future and parallel activities within and around member states. The project's success therefore ensures a mid to long term continuity and effect. Activities led to the establishment of an ensemble of measures and tools which are operational and could be replicated in other regions or simply multiplied over a longer period of time in order to impact in a maximum of countries and sustain long-term processes.

Such technical assistance activities as those provided by KCOOS were welcomed by country representatives, as the activities were concrete, operational and took into account the work of other projects, thus creating a complementary global vision rather than overlapping. The project produced intermediate impact in terms of follow-up actions from countries following KCOOS activities, including increased participation in regional networks, participation in transnational strategic activities and a stronger will for the entry into force of the Macolin Convention.

⁴ Convention on the Manipulation of Sport Competitions, adopted by the Council of Europe in 2014 and open for accession worldwide

⁵ The Macolin Roadmap is the movement resulting from the 2016 Council of Europe Conference on the Manipulation of Sport Competitions. On this occasion, countries from 45 countries and 4 continents agreed to coordinate actions and collaborate in a more structure manner to effectively fight the manipulation of sport competitions, including implementing the principles of the Macolin Convention.

The guidebook approaches the fight against the manipulation of sports competitions from a practical point of view, taking into consideration challenges faced by countries and stakeholders. It aims to provide insight and guidance with regard to concretely identifying who should be involved in the fight and how they should proceed; through risk assessment and legal considerations. The guidebook illustrates the importance of States coordinating the efforts and actions of their national stakeholders and encouraging the national and transnational co-operation between States and stakeholders. Understanding the need to share information and how to piece together the complex puzzle in a manipulation will lead to the effective detection and prevention on the one hand, of competition manipulation, as well as the detection, prosecution and sanctioning of the offenders, on the other hand. Finally, trust underlines all actions because, even with legislation and structures in place, the willingness to cooperate and share information and intelligence, while keeping in mind the constraints and of other stakeholders and the rules to which they may be subject, will be the key to eradicating the disease from sport competitions.

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The Guidebook is not exhaustive and will be updated in later editions on the Council of Europe website on a regular basis. Its value comes from contributions from countries and stakeholders, as well as the upcoming project, KCOOS+. In addition, it refers to a number of texts already in existence from various organisations and countries and will endeavour to continue in the same manner, to act as a reference point for tackling the manipulation of sports competitions with regard to prevention, detection and sanctioning.

A template chapter will be developed, with guidelines on developing structures such as the national platforms under article 13 of the Convention or carrying out other measures. Such templates will allow for easier reference to the content of the guidebook.

1. Understanding the complexity of the manipulation of sports competitions

"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".

Although the phenomenon of the manipulation of sports competitions has existed since the Ancient Olympics, it has taken sport by storm in the last two decades, affecting all types of sport, from individual sports such as tennis and badminton, to team sports, notably football.

The Council of Europe has executed for the first time a definition that is widely used by all relevant stakeholders at international level to describe this threat, including the International Olympic Committee and Europol, among others. This is only one of the many definitions to be found in the Convention, which is the first and only international, legally binding text to exist in the world. The definition not only sanctions the actual manipulation, but also the attempted manipulation, *"an arrangement, act or omission aimed at...with a view to obtaining an undue advantage"*.

When we talk about the manipulation of sports competitions, we speak about various acts, or lack thereof, to change the way a competition is played and/or its result, thus eliminating partly or entirely the unpredictable nature of sporting competition, its key component.

The advantage to be gained is generally financial, whether directly or indirectly, or there would be no need to try to manipulate. In addition, the willingness to manipulate and render results predictable ruin the basic values of the unpredictability of sport and the interest of fair and ethical competition.

Given the proportions taken by the activity of sport in the last few decades, with the increased financial stakes, gains, increased betting, increased economy for stakeholders and countries, as well as the increased international nature of competitions, it can be justifiably complex to understand just who is cheating (offenders) and how they may be doing so (*modus operandi*). In addition, it is also a challenge to understand just who may be those that have to protect (stakeholders), who should be protected (stakeholders) and the measures that need to be taken.

It is crucial to keep in mind that the manipulation of sports competitions is a threat to sport and, due to its highly economic nature, a threat to society. Sport has traditionally been left solely to the sport movement, in respect of the principle of autonomy, to regulate, thus including those who cheat in the sport. However, the money and the possibilities for financial gain by a plethora of actors have left it vulnerable to attack by non-sporting methods, beyond the realm of purely sporting disciplinary methods.

While it is crucial to remember that maintaining the integrity of sport remains the core objective of the Convention, it is increasingly obvious that the manipulation of sports competitions is not an isolated matter, to be dealt with solely by the sport movement.

A large variety of actors

Sport as a business activity is so lucrative and increasingly professional across the board, that it involves a large number of actors directly connected to the competition, not to mention those that look to profit from the lack of/low non-sporting attention paid to regulating the sporting domain.

The first stakeholders, that may be offenders, but also victims, are those on the field: athletes and referees. This then extends to managers, coaches, technical staff, and further to club/association management. They may be conscious offenders of free will, or coerced, or unknowingly manipulate (for example, a trusted person tells them to cause a throw in just before half-time in a football match, unbeknownst to them for the person to be able to bet on the action). While these actors may be reprimanded by their federation or club, they may not be the source of the fix but just a replaceable tool, thus not eradicating the problem at the source.

This brings us to those actors on the side-lines: family and friends, who themselves may have the same desire or be coerced.

This then extends even further to organised crime syndicates, wanting to carry out their activities of money laundering, fraud, corruption, bribery...financial gain, by tricking those on or around the court, or coercing them, to manipulate in order to gain an undue advantage⁶. To an extent this may be tackled by the sport movement through transparency and ensuring good governance, in the instances that such criminals enter the sport domain (for example, buying clubs, transferring athletes). However, beyond this, legislation is required.

⁶ Those with nothing to do with sport who use sport as a vector to generate a financial gain:

- Opportunist individuals, who use their connection and knowledge in sport (former athletes) and approach athletes to fix the game (methodologies explained in a number of sources, including IOC-Interpol Handbook on Protecting Sport from competition manipulation 2016 and the UNODC Resource guide on good practices in the investigation of match-fixing).
- Organised crime groups who either fix competitions, or carry out manipulations that will ultimately affect competitions on a larger scale, including buying sport associations in order to exploit them as shells for money laundering activities, making arrangements with other clubs to manipulate and control transfers, using this as an opportunity to launder money, threatening the lives of athletes in order to directly influence the outcome of competitions.

This is why therefore; other actors beside the sport movement are needed. While in the sport movement itself, athletes unions, sport organisations and athletes are all either affected or are those responsible for raising awareness and education⁷, those off the field; the law enforcement authorities and prosecutors, are responsible for investigating further and deeper, beyond just the manipulation on the court, to determine the criminal nature that may exist in the act or omission. In addition to this, the sport movement will and has been working on detecting such actions to manipulate, but as always, the picture only becomes whole when all angles are tackled. Betting operators are crucial to the process of being able to identify the offenders (on and off the sporting venue), the methods used, and this information is not only useful for the sport movement to tackle the situation through disciplinary means, but also provides more information for law enforcement authorities to make links to other crime areas and known criminals infiltrating the sporting domain. Finally, even the law enforcement authorities may only be able to address crimes related to the manipulation of sports competitions if they are able to do so: physically, when some priority is given to the domain and legislatively, with the appropriate laws and regulations in place.

Determining the nature

While the Convention may be referred to as the 'match-fixing convention', its scope covers a number of areas. It is not always corruption, but may fall under a number of types of offences, which is why the Convention refers to a number of other Conventions by the Council of Europe as well as the United Nations, and instruments by the European Union⁸. It may be even wider, which is why the Macolin Convention recommends the criminalisation specifically of the manipulation of sports competitions.

The scope of manipulations is much wider, including doping (not covered by the Convention), match-fixing, using clubs as shell companies, influencing player agents, athletes, use of insider information, conflict of interests, bad governance, etc.

The manipulation of sports competitions is often shortened to the term 'match-fixing'. However, it is wider than just match-fixing, as a concept and within the Convention. An initial important consideration is that manipulation of sporting competitions is financially related. The Modus Operandi of this motivation is the key.

Different modus operandi

Determining the modus operandi of the manipulation is crucial to determining whether the case may be tackled through purely sporting means, or criminal means, or both. The games or competitions are manipulated to obtain undue direct or indirect financial advantages often exploited:

- Through fixing results to win a league, or avoid relegation, or to finish in a certain position and thus gain financial advantage (allowing another team to win by a certain amount because they have been offered a larger sum for the fix off the sports ground by a criminal than would have been the case normally had they won), or under duress, or even to bribe other teams to lose because winning and/or advancing in a competition means more money and more sponsors);
- Through sport competition – for example if a club qualifies for a prestigious international or regional competition, stakeholders stand a lot to gain from selling/buying athletes, not to mention the win bonus;
- Through spot fixing or 'in-play' betting;
- Through altering the natural course of a competition for betting purposes;
- Through influencing the club (buying the club, using it as a shell for money laundering purposes)
- Through influencing the athletes or officials (player agents, etc.);

⁷ Through integrity programmes, handbooks, projects such as the EU Athletes' PROtect Integrity project, among others

⁸ Criminal Law Convention on Corruption (1999, ETS 173), Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of terrorism (2005, CETS 198)

- Through other activities: for example using clubs as 'shells' to carry out money laundering activities via 'transfers' between two criminals owning clubs, or creating fake/ghost games, in order to permit betting to take place and money to be laundered. Player agents may also have influence that may be used to determine the line-up of teams in order to be able to regulate and fix competitions. Another example is that criminal organisations exploit clubs in financial difficulty, appearing to 'save' them.

Of course, the manipulation of sports competitions is not always considered as a criminal offence. Sometimes, the offences are simply not strong enough to meet the standard of proof to be pursued as a criminal offence, or the legislation in place nationally does not envisage such aspects as a crime. Many times, the disciplinary sports procedure is sufficient to sanction the offenders (for example, the Skenderbau case is an example of an affair that went to the highest sport arbitration court (CAS) but not to legal courts), but this becomes difficult as the individuals behind the manipulation may be beyond the jurisdiction of the sports federation⁹.

In addition, with increased technology and cross border services comes increased possibility for exploitation for undue gain. Money transfer across countries, organised crime syndicates targeting sports across continents, betting across countries, are just some reasons for which tackling the phenomenon requires international cooperation and coordination to not only effectively detect and prevent, but especially to identify the circle of offenders and prosecute them, thus removing the plague at its source. Collective Actions & Collective responsibilities are the only way forward.

The Convention's approach (integrity, corruption, money laundering, fraud, bribery, etc.)

The Macolin Convention aims to approach the manipulation of sports competitions in a unique manner, taking into account the consideration of all stakeholders it considers relevant; the sport movement, law enforcement agencies and the judiciary, the betting movement and relevant ministries.

It recognizes the threat of the manipulation of sports competitions to sport itself and to society:

- Threat to society: sport is a potential for large rewards and low risk to criminals, due to weak criminal penalties or sanctions. Linked to corruption, fraud, organised crime and money laundering, at the very least, the manipulation of sports competitions poses a serious threat to the rule of law, additionally due to its very high economic stakes, often linked to betting and financial gains;
- Threat to the sporting activity. As stated by the IOC¹⁰ and agreed with in the Convention, the manipulation of sport competitions poses a threat to the integrity to sport and its core values, while exploiting its economic values for negative use. It recognises the importance for all stakeholders to take a strong, coordinated position in eradicating manipulation of its competitions through appropriate legislation, good governance, transparency, accountability and responsibility. The coordinated action proposed by the Convention is through the original concept of the national platform. It is asking a lot for the sport movement to handle criminal activity alone, however. Other stakeholders are needed to address effectively a phenomenon, which cannot be overcome without collective actions and collective responsibilities.

⁹ For example, The UNODC-IOC Study Criminal Law Provisions on the Prosecution of the Manipulation of Competitions aims to assist countries in establishing effective legislation to prosecute those involved in Competition Manipulation. Available at: <https://www.olympic.org/~media/Document%20Library/OlympicOrg/IOC/What-We-Do/Leading-the-Olympic-Movement/Sporting-Regulations/Regulation-Legislation/UNODC-IOC-Study.pdf?la=en>

¹⁰ INTERPOL-IOC 'Handbook on Protecting Sports from Competition Manipulation', May 2016, Lausanne, Switzerland.

2. Actions to address manipulation of sports competitions

Addressing this issue requires a few steps to be taken by all stakeholders as well as by the State parties themselves. The first step is to increase awareness of the extent of the threat within all stakeholder groups, and determining the situation concretely on a national level. This involves carrying out a risk assessment on various aspects: the sports affected, the potential actors, the economy of the sport domain nationally, the resources at hand. Next, it is important to understand how to and why two stakeholders would need to coordinate actions and co-operate within a country and across borders. Developing such mechanisms is a challenge to overcome and the chapter will provide some guidelines and examples as to how other states have tackled this. Finally, any actions to be taken need to have a legal basis, ranging from national platforms themselves to prosecuting effectively the manipulation of sports competitions. When addressing cross border cases, the effectiveness of collective actions may be challenged by different local jurisdictions and regulations.

3.1 Risk assessment

3.1.1 Introduction

In order to combat threats, it is indispensable to understand what the risks are and to decide how to mitigate them. The methodology used must allow for cross-checking the information. The result should be to measure the vulnerability of the social institutions and to compare the gaps in the existing tools, practices and competencies with the level of sophistication of the risk (gap analysis). The final goal is to identify the improvements needed to mitigate the risk.

There are two types of risks:

- To society: this concerns the negative impact of corrupt behaviour that threatens the rule of law, the trust of citizens vis-a-vis their institutions and/or reputation of the national jurisdiction, and so on. Considering the global nature of the problem, the assessment of the risk that the manipulation of sports competitions may pose requires an integrated cross-sectorial approach, and the mobilisation of a large number of actors;
- To sport: this concerns the vulnerability of each sport, taking into account its specific rules, its governance structure, etc.

3.1.2 Obligations in the convention on manipulation of sports competition

The Convention on Manipulation of Sports Competitions compels parties to identify, analyse and evaluate the risks associated with the manipulation of sports competitions (art. 5.1). This has to be done by public authorities, but in co-operation with all relevant actors. The specific measures required to proceed to this evaluation are not specified in the Convention.

The final goal is obviously to encourage all actors to take their responsibilities in their fields of competencies in order to manage the risks identified (art. 5.2), which is fundamentally what the fight against the manipulation of sports competition means according to the Macolin Convention.

The risk assessment should include a long-term analysis and development of the capacity to respond to specific risks, with the assistance or in the framework of the legislation and measures to be put in place by public authorities, with regard as well to criminal investigation procedures.

It is necessary to consider two phases: risk prevention and risk detection/management. Managing risk is a crucial part of fighting against the manipulation of sports competitions. It includes detection of suspicious and irregular bets (detection and prevention/education) and it includes criminal investigation of acts including coercion and other criminal activity (managing risk). The Macolin convention calls upon the signatories to put in place a number of mechanisms or processes to facilitate the fight against the

manipulation of sports competitions. Some of these were central to the discussions during KCOOS and include:

For prevention, according to the Convention:

- Raising awareness and priority – article 6 CETS 215, article 10-3 requiring Parties to encourage national sports betting operators-and through them- international organisations of betting operators, to educate and raise awareness among owners and employees of the consequences of and the fight against the manipulation of sports competitions, through education, training and the dissemination of information.
- Establishing adequate legal framework (Chapters IV, V and VI in particular of CETS 215) (Guidebook Chapter 3.2).

Through Article 8, it is stated that increased transparency in financing of sports organisation will allow for lower risk of manipulations, Parties therefore have an obligation to ensure adequate transparency of organisations that are funded by the State. The breadth of the transparency will depend on the legal system in place. Parties are also to consider financially supporting NGOs and sport organisations with suitable mechanisms to combat the manipulation of sport competitions. This will allow the Party to reduce the possibilities of abuse of position or conflict of interest as infringements may be sanctioned by withholding of funding, under article 8-3. The possibility for implementing such a provision is an obligation for all Parties. Principles of legality and proportionality apply.

For detection, according to the Convention:

- Improved coordination and cooperation and competences (article 4, Chapter III, IV and VII of CETS 215), (Guidebook Chapter 3.3);
- Better sharing of information (Chapters III and VII CET 215), (Guidebook Chapter 3.4)

For management of risk, according to the Convention:

The contribution to the global assessment of risks pose by the problem to the society and to sport is expected from all the stakeholders identified within the Convention. This includes specifically the following, although the extent to which it is implemented appears to be for the Party to decide upon:

- The regulatory authority (art.9) which has the responsibility to implement sports betting regulation. This may include the authority supervising the State lottery operating in a monopoly market, or the authority responsible for monitoring activities in cases where a ban is in place (for example, Hungarian Gambling Commission, dependant on the Ministry of Development, or the Gambling Commission in Belgium). They coordinate the implementation of policies set up by the Party. The State should decide on how supervisory duties should be carried out. There may also be several authorities, for example in a federal state such as Germany. The competition organisers (art. 9.1.c) who should obtain the advance information of types and objects of sports betting products in order to allow them to identify manage the risks of manipulation. This information should not include sensitive information (amounts, transactions, value of bets, consumer identity) in respect of the data protection rules.
- The betting operators (art. 9.1.e) who should provide appropriate mechanisms in cooperation with sports organisations and if possible, between the organisations and betting operators, to prevent bets on the competitions in which stakeholders participate as well as handling other factors, including conflict of interests and abuse of position.
- The sport organisations (art. 7.a) who are required to provide also information at disciplinary level
- Law enforcement authorities and prosecutors need an appropriate level of awareness of the implications and sources of the manipulation of sports competitions in order to assess the risk associated between a manipulation and criminal factors (is organised crime involved, was there

money laundering). For this, co-operation with other stakeholders is crucial in order to have all the facts at hand (article 28).

- Where appropriate, each Party to the Convention shall adopt legislative or other measures (article 5) to allow for the detection and management of risk, be it to prevent manipulations, or to manage threats including criminals, through investigations and prosecution, or even in order to seize data, for example.

Parties must set up mechanisms to share relevant information with regard to risk assessment and namely advanced provision of information about the types and abject of betting products to competition organisers (article 12). The Party may also suspend bets when considered appropriate and delegate this task to a relevant authority (article 9.1.f).

Amongst the measures which the public authorities are expected to put in place, they should ensure the systematic use of traceable means of payment for financial flows, above a certain threshold (art. 9.1.d). The traceability allowing for the identification of senders, recipients and amounts of the flows would be useful in investigations related to the manipulation of sports competitions but also other related crimes.

The Convention not only for the first time gives a framework to illegal betting (article 11) in order to facilitate risk management, with regard to betting, but it also demonstrates the increased risks of illegal betting operators under the applicable law of the State that may be unwilling to share information for fear of exposing themselves, which increases the risks of manipulations going undetected by competition organisers. This is in addition to operators considered illegal in the applicable State being free of any control. It is important to note that applicable law may include EU law and does *not* infringe the fundamental principles (taking into consideration the principles of subsidiarity with regard to gambling services) for EU member states. Parties enjoy certain autonomy in mitigating and eradicating the risks and threats posed by illegal operators in their jurisdictions. However, this must always be in respect of national and EU legislation¹¹.

Data protection is also dealt with by the Convention, as it is a crucial aspect of the risk assessment process (article 14). There is no conflict with existing Data protection laws, as Parties are required to respect these. Note should be taken of the GDPR entering into force in 2018 for EU Member states. This protection includes cross-border flows of information, enshrined in Convention 108 and the 2001 protocol. The risk aspect refers to the sharing only of necessary data between the relevant stakeholders at the relevant time and that it is not kept longer than necessary (article 14 § 3). Therefore Parties are required by the Convention to ensure legislation to this effect. A suggest method to reduce the possibility of risk is to set up working committees to ensure that all stakeholders have an input and understand before arriving at a consensus on the methods of data sharing to appropriate share information but also to ensure the security of the data¹².

3.1.3. Challenges and country practices

In many countries actions against manipulation of sports competitions has been sparked by a specific incidence or *scandal*, which has created pressure on relevant stakeholders to take action.

If actions are only reactions then when a scandal then hits, the reaction is short term, uncoordinated and reflects negatively on the country. Anticipation and preparation is therefore key. Low awareness keeps ignorance high and therefore priority low. Risks are therefore not monitored and not assessed and finally, when a scandal occurs, emergency measures – usually short term solutions- have to be employed. The direct offender, for example the athlete actually undertaking the act of fixing on the venue, may be stopped; however the criminals outside would remain undiscovered.

¹¹ <http://www.gamingintelligence.com/legal/42547-cjeu-backs-unibet-over-incompatible-hungarian-gaming-laws>

¹² More information at page 54 of the Guidebook ' *Managing data protection requirements*'

Anticipating the Risk and working on Prevention

It is imperative to work on prevention measures and certify the standards and raise awareness in countries.

The definition of a Code of Conduct to be adopted by all parties would allow the certification of the level of measures to be adopted and standardise its application effectively.

Recognising the risk

It is clear from the discussions at the KCOOS events that there is still a need to raise awareness in countries.

In Cyprus, the trigger was a meeting of the Cyprus Sport Organisation with the UEFA representative at the Council of Europe international conference on the manipulation of sport competitions in September 2016, as well as a number of high profile match-fixing scandals in football around the same period. Since then, the country has spent the last 12 months using assistance from the project KCOOS, the CoE secretariat and other experts to work on its national legislation, its national platform and has signed the Convention in the meantime. There is also increased co-operation between various stakeholders nationally.

Other countries, such as Denmark and Georgia, have initially approached the problem by establishing a working group or similar on manipulation of sports competitions – often initiated by the government - to understand the challenges posed by manipulation of sports competitions and to involve all relevant parties in developing a comprehensive strategy or action plan against manipulation of sports competitions. While the pressure to take action is often justified it is important not to rush to action but to make sure that action is well-planned, coherent and covers all relevant aspects of manipulation of sports competitions instead of being a reaction to a specific incidence or situation, which might only be one of several issues that ought to be addressed.

The sport movement in general at national and international level has been developing its disciplinary sanctioning system, mitigating manipulations of sport competition that have surfaced over the last decade. It is not a new phenomenon, manipulators being around in sport since the Ancient Olympic Games¹³. Basic human greed has always existed. However, now the sources of manipulations are increasing, thanks to technology and to sport becoming a real business. However, its unpredictability of results is the aspect that makes it the most interesting – for fans, athletes ... and criminals.

Action only by the sport movement is often not enough to stop manipulations, notably influenced by those outside the field of play and not bound by licenses to sport federations, therefore falling out of the scope of disciplinary action. Cases were revealed by police and investigated as criminal offenses, which proved the globally significant threat posed by the manipulation of sports competitions and required a larger mobilisation of all stakeholders.

Commitment to engage

Once a country has recognised that there is a potential risk to national sport and society, there should be sufficient commitment to engage in analysis. It is clear from the discussions at the KCOOS events that there is still a need to raise priority in a number of countries, either amongst all relevant stakeholders or certain actors.

Stakeholders should at a minimum assess the threat to their domain of the manipulation of sports competitions (a study, a questionnaire from members, statistics, etc.) and cross-check this with other stakeholders as other, unknown threats may also surface, due to the cross-sectorial nature of the

¹³ At the Olympic Games in 388BC, Eupolos of Thessalia bribed three of his competitors in a fighting tournament allowing him to win the gold medal (Maennig 2005).

phenomenon. This would be most effective within a structured co-operation mechanism, notably the national platform (chapter 3.3).

Low priority attached to manipulation of sports competitions can be due to a variety of reasons, including:

- Lack of awareness of the problem and the threat it poses to sport and society among key stakeholders;
- Few-if any- cases of manipulation of sports competition in a respective country and therefore a belief that the issue is not relevant or necessary to priorities;
- Time and resources in both the public sector and many sports associations are scarce and some stakeholders might therefore – especially in the absence of cases and pressure to act – devote their resources to other issues;
- A wish not to draw attention to the issue in order not to signal that the problem is or can become a problem in the country.

The often heard perception is that this is uniquely a sport problem, which is an excuse not to act at the level of public authorities.

The most mobilised stakeholder nationally varies from country to country; the manipulation of sports competitions has not been a high priority at a government level in Bulgaria until recently, whereas in Ireland, the sport movement is arguably the most mobilised stakeholder (prevention programmes, for example by the Gaelic football association and Rugby federation), in Bulgaria the national police has an anti-sports corruption team, having worked on the famous JIT Veto (Bochum) case in the last few years¹⁴. This is proof of the need for stakeholder groups such as those being developed by the Council of Europe, in order to render visible the isolated efforts and bring them to the political limelight for anticipatory action and funding, as required by the Convention.

In other countries, lack of recognition and awareness of issues related to manipulation of sports competitions is not only an issue at government level, but also in among sports federations and betting operators. In Slovakia, awareness of issues related to manipulation of sports competitions is generally low and betting operators, sport federations, law enforcement and the relevant ministries are according to KCOOS participants not fully engaged in the fight against manipulation of sports competitions.¹⁵

In Lithuania, where the phenomenon of manipulation of sports competitions is not systematically recognized and the main stakeholders – including public authorities and sports federations – do not seem to prioritize the phenomenon¹⁶, the global commitment to engage is the next key step. However, this can be helped along by active stakeholders' involvement in the international networks (Interpol match-fixing task force, associations of betting regulators and operators, sport movement, Council of Europe networks) which will raise the political profile nationally. The Football association has also made a concentrated effort in recent years to raise awareness. Europol has also supported raising awareness initiatives in Lithuania in recent years.

In Latvia where manipulation of sports competitions has low priority, not only for the Police, but also within the government, which for example is due to doping taking precedence, there was a lack of sufficient awareness across the board of the extent of the issue and absence of mechanisms to deal with the area, notably within other relevant Ministries. Therefore, the Ministry responsible for sport took a strong move in Autumn 2016 to get itself and active stakeholders (police, betting regulatory authority) involved in KCOOS activities (regional seminar, study visit) and garnered enough attention that it succeeded in qualifying to receive experts from the project on an expert mission. As of November 2017,

¹⁴ KCOOS Fourth Regional Seminar Report

¹⁵ KCOOS Fourth Regional Seminar Report

¹⁶ KCOOS Lithuanian Assessment Report Study Visit

Latvia has a fledgling national platform and has already analysed its national legislation and is passing new legislation specifically related to the manipulation of sports competitions. It has relevant points of contact amongst almost all relevant stakeholders and has identified its national priorities, one being money laundering-related manipulations of sports competitions. The priorities have raised the interest of other relevant ministries and this has been a huge step in the right direction towards signature and ratification of the Convention.

Analysing the risk

In order to know how to handle risks, assessment of the risk is the first step. Once each stakeholder assesses in its own area the threat of manipulations to their sector, there needs to be a global assessment concerning the threat of this phenomenon to society as a whole. In Georgia, this assessment was carried out by the Ministry responsible for sport. The link can then be made more easily to other ministries, other areas and the next step to assessment of legislation (chapter 3.2) is more straightforward. In some countries, the step to start assessing the risk of manipulations of sports competitions in the domain of sport came about following scandals.

With regard to the sport movement, the IOC-Interpol handbook¹⁷ explains in detail various risks, related and non-related to betting, but in particular provides a risk assessment for Sport to 'identify areas of vulnerability and to design counter measures to minimise the risks'. There is also a proposed risk management process: Identify risk → Analyse: assess risk → Implement control measures (regulations, investigatory capacity, enhance partners' responsibilities and capacities) → monitor/review: react to immediate issues; rectify control measures → repeat. Communication and media handling are also mentioned as key factors. The role of the media is strategic in the fight against the manipulation of sports competition and it is an effective vehicle to develop a culture of integrity among citizens and engage them effectively. This preventive approach is difficult to implement as in many cases the media would put under their magnifying lens a case only after a manipulation of sports results has occurred, again a reaction rather than a preventive action. However, as a preventative tool, it may be very effective and worth the effort.

As discussed before, there are two types (at least) of sports manipulations that need to be assessed as to whether it is relevant in the country or not. It is possible that all types of manipulations exist in all countries; the challenge is to prioritise and focus on the most significant ones.

- Types and sources of manipulations

It is important to remember that all manipulation of sport competitions is financially motivated-whether directly or indirectly. It is also crucial to remember the fringe actors within the sporting domain.

There is a plethora of reasons for which manipulations take place and the offenders. Reasons may be political, in which case, solving the issue may take more than putting in place legislation, but a more in depth analysis of the country structure related to corruption in general. Below are a few (non-exhaustive) examples.

- Player agents and managers as factor of risk

In a few European countries, a stakeholder that has surfaced as a threat is the player agent. Player agents and managers often manage a number of players and coaches from the same competitions, league, and tournament. This of course refers more to team sports. These agents have a considerable influence on which teams play and therefore on which team may win or lose a game/competition, based on the players he manages in the team. Blackmail is therefore a high risk. Another risk to consider is the financial status of clubs, regardless of the sport. For instance,

¹⁷ INTERPOL-IOC 'Handbook on Protecting Sports from Competition Manipulation', May 2016, Lausanne, Switzerland (or however you will do your references).

in Portugal, LEA dismantled an organised crime group suspected of using football clubs in difficulty and offshore tax havens for laundering money since 2008¹⁸.

Hypotheses may be as follows:

They can influence the results of matches when they have several trainers of the same competition in their portfolio. For example, a player agent ENRICO manages the coaches of two clubs about to face off. In the face off, one club (Club A) stands to win the national league and qualify for the Champions' League (which entails a 15 million Euro bonus, not including sponsorship, etc.) while the other team (Club B) has no major issue at stake. ENRICO may blackmail Club B to lose their match in order to allow Club A to win. He knows that by winning the league and qualifying for the Champions' League, Club A will enlist his services for further players and he will earn a considerable commission. The blackmail for Club B may be that if they do not allow Club A to win, ENRICO will use his influence to remove his players from the club and/or prevent new players from joining. He will also use promises, such as promising the coach of Club B who he manages as well, a commission for the coach from all deals he would strike through selling players to Club A in the next season.

A side effect may be that the creation and use of insider information on this situation leads to certain persons gambling on the result, but the original crime is not betting-related manipulation.

In this situation, not only has the agent made extra money, but so has the coach of Club B. In the meantime, Club A will have a bonus, new sponsorship contracts for the team and for individual athletes, increased bonuses from television rights, better players with a higher chance of winning, higher fan membership and more publicity.

Enrico may blackmail a football team to buy players from him on pain of influencing other athletes not to join the club and threatening their position in the higher levels of the competition.

Of course, this is not to place an attack on player agents, but simply an example of how important it is to assess ALL sides of the risk and to look at all possibilities from all angles.

- Organised criminal groups buying clubs

Large financial (criminal) groups are organizing themselves to take over teams with financial problems. Then they are able to carry out a number of activities:

- They may buy a few good players to put them in the picture to generate finances, for example to transfer players between clubs owned by similar criminals during which they would have uncontrolled money transfer activities, ideal for money laundering. They often look for younger players and younger or smaller level teams...this has recently been the case in Portugal and in Belgium;
- They can use the club to obtain some financial benefit out of its status (tax wise for instance);
- They may use the club as a front to smuggle people and use them as manpower (as yet not entirely explored, due to low awareness and insufficient cross-linking attempts, but still mentioned off the record by a number of law enforcement representatives);
- They use the total control over a-or a number of clubs- for manipulating sport events for various other purposes.

¹⁸ Portuguese authorities dismantled a transnational criminal group, composed of mainly Russian citizens, which allegedly utilized the football sector and offshore tax havens to launder money since at least 2008.

When they have generated enough money they leave the club destabilized financially and perhaps even in terms of players.

- Exploiting sport through traditional crimes

Knowledge about the exploitation of sport in traditional crimes, including money laundering, bribery, etc. for recognising when crimes involve sport is crucial and needs to be increased. Sport manipulation cases may rise by ricochet through dealing with other non-related cases. For example, the famous modern sport manipulation case (JIT VETO/Bochum case) involving over 6 countries, began originally as a drug case in Germany. This is one of the main aspects of manipulation of sport competitions which proves that the sport movement should not be forced to deal with the phenomenon alone.

- b. Type of sport and financial situation of potential fixers

Another factor which is relevant to determining the modus operandi is whether it is a team sport or an individual sport. Generally, individual sports are easier to manipulate and can be manipulated with greater certainty since only two athletes as opposed to for example 22 influence the outcome and collusion is easier.

Vulnerability of the athletes and officials also influence how easily they can be persuaded to manipulate a match or competition. Several factors influence the vulnerability of the athlete and include:

- Salary of the player. The higher the salary of the player the more he/she will lose if caught and banned from sport. Also, non-payment of athletes and low salaried athletes against higher salary athletes are risk factors;
- General satisfaction of the athlete. If an athlete is not getting paid on time or is unhappy for other reasons he/she might be easier to influence;
- Excessive gambling or gambling debt. These are factors that can be used to pressure the athlete to manipulate a game or competition;
- General corruption and ethics in the sport and in society. If sport or society is highly corrupt it might influence the behaviour of athletes who can potentially be persuaded to manipulate a match more easily;
- Dissatisfied club owners and management selling the games/agreeing with other managers-avoiding relegation, manipulating the group stage status, for gaining sponsors (all have an indirect financial gain). This risk increases when there is low transparency in the club, a reason for which the Convention specifically insists on transparency in sport organisations, notably those financially supported by the State (article 8).
- Club owners in financial troubles selling the games to pay athletes' salaries.

Generally, the above considerations should only be regarded as general guidelines and should be applied carefully and to the extent possible be supplemented with data on where manipulation of sports competitions actually occurs. Based on the above factors one could, for example, conclude that the individual competitions at the Olympic Games, are at high risk of manipulation since the liquidity is high for many matches, many of the competitions are individual sports and the athletes in many Olympic disciplines have relatively low salaries. However, no data indicates that there is a high frequency of manipulation of Olympic matches. Domestic competitions are more likely to be at risk for example in a country such as the United Kingdom, than the Olympic Games..

Tennis also fits many of the criteria of a high risk sport – it is an individual sport with high liquidity and many athletes in the smaller tournaments with relative low incomes – and has seen many suspicious bet alerts recently. The manipulation of tennis matches often follow the same betting

pattern and the history of manipulation of tennis matches has allowed betting operators to understand better how tennis matches are manipulated. Betting operators therefore also know what types of betting patterns to look for and has become better at detecting manipulation of tennis matches. The 2016 scandal involving approximately 16 of the top 50 ranked tennis players was an eye opener for the Tennis world¹⁹. The Tennis Integrity Unit has already been working on enhancing their prevention, detection and disciplinary systems.

- Resources

Often, the challenge may not be about recognition or lack of willingness to act, but rather the absence of sufficient resources – human and financial. Countries have pointed out that human and financial resources devoted to combating manipulation of sports competitions are very limited. This is often mentioned in relation to law enforcement agencies, which often have to prioritise their resources and deal with the cases they regard as most important. While manipulation of sports competitions might be important in the world of sport it is not always prioritised as high – unless organized by crime syndicates also involved in other criminal activities - as other criminal cases, which can more easily lead to convictions and/or to longer sanctions. Consequently, KCOOS participants have been very interested in exchanging experiences on how to mobilising law enforcement agencies effectively.

Lack of resources has also been pointed out in relation to government initiatives that sometimes have to be carried out with existing resources or very limited extra funding and sports federations and associations, where especially smaller federations and associations have limited resources. State Parties must keep in mind that the Convention calls for them to support their stakeholders, including financially. Seizing opportunities such as did thirty two countries during the KCOOS project to have financial aid to participate is also a great way to immerse the stakeholders in the international context and to raise the political aspect of the topic nationally.

Ireland is an example of a country which has had few known examples of manipulation of sports competitions (for example the Athlone scandal) and where many thought that manipulation of sports competitions was something that happened in other countries.²⁰ This-and resource issues- is one of the reasons why signing and ratifying the Macolin Convention according to KCOOS participants is not a high policy priority at the government level. However, it should be added that a research team is currently assessing the impact of Ireland ratifying the Convention and what steps Ireland needs to take in order to comply with the Convention.²¹ Ireland is therefore now working on anticipating the problem by putting appropriate legislation in place. Having managed to participate in a KCOOS regional seminar and exchange with 7 other countries, as well as now showing interest in participating in further activities with the Council of Europe has given the country a boost. In line with this approach, law enforcement from Ireland have expressed interest and participated at a recent Expert meeting on sports corruption organised by Europol.

- Betting-related risks and detection

In order to detect, prevent and mitigate the risk of the manipulation of sport competitions through betting means, the Convention requires Parties to establish a regulatory authority or designate a responsible authority. They are to ensure the exchange of information between sports organisations and sports betting operators and in coordinating the rules governing sports betting operators and supervising the compliance to such rules (exchange of information dealt with in Chapter 3.4 Sharing Information).

¹⁹ "Tennis match fixing: Evidence of suspected match-fixing revealed" by Simon Cox, BBC 18 January 2016

²⁰ <http://www.irishtimes.com/sport/athlone-match-fixing-investigation-a-warning-for-irish-sport-1.3074565>

²¹ KCOOS Fourth Regional Seminar Report

Some also argue that the types of bets offered influence the risk. While it has been argued that spot bets are risky, a study of suspicious bets finds that most suspicious bets are placed on the final score and Asian handicap²², although side bets may be the entry point for criminals to sport. The lack of suspicious spot bets is most likely due to the limitations on the amount, which can be wagered on these types of bets, which indicate that the amount that can be bet also influence the risk of manipulation.

While the exact approach to monitor betting patterns vary from operator to operator a report produced for the EU-Commission highlights the following factors as indicators of suspicious bets applied by betting operators:²³

Market level:

- Sudden unexpected activity on a particular market
- Bet sizes or volumes not typical for the type of market
- Price changes do not effect demand as expected
- Market trading volume deviates from what would be expected
- Activity polarise around a single specific outcome
- The market price becomes significantly out of line with traders' assessment of where it should be
- Large price movement
- Price movements that do not reflect the action on the sporting terrain in an in-play market
- Unusual performance based on the historic records of the teams or participants in the match

Account level:

- An account, or a group of linked accounts, risked or won far more than is the normal behaviour for the account(s)
- Customer staking markedly more than normal
- An account has been specifically opened to bet on a suspicious market
- One account, or a group of accounts, won a large percentage of all winnings in the market
- An account that has a bias towards betting for/against one of the teams suddenly switching

Taking steps to address risks

Even if countries appear to only have limited exposure to manipulation of sport competitions it is important not to be complacent. If countries prepare their response to the threat from manipulation of sports competitions before the pressure to act mounts, the conditions for developing a comprehensive, coordinated and effective response based on thorough analysis and understanding of the issue is much better. This is why the Convention requires Parties to put in place mechanisms to assist stakeholders in tackling and preventing such risks. Once a country has determined their understanding and approach to combating the manipulation of sport competition, risk assessment of different kinds needs to be carried out, including the challenges of prioritisation, co-operation, budget that will be dedicated to this activity and human resources. For most countries that participated in KCOOS in 2016, human and financial resources were a considerable hurdle. This is why an analysis of the national situation together with all actors is so important and addressed in chapter 3.3 of the guidebook.

²² Asser Institute (2015). The odds of Match Fixing. To be noted that the *ASSER study does not take into account other sports (outside football), individual sports, friendly matches, lower leagues etc. The results are of a general nature, subject to thorough and comprehensive examination and investigation of other facts and sources by criminal investigators.*

²³ http://www.eu-ssa.org/wp-content/uploads/study_oxford_en.pdf

As described above risk assessment is not used frequently by Council of Europe member states with only a few countries applying risk assessment (and as such, only betting-related risk assessment currently) consistently to inform about risks and/or to restrict or prohibit bets. However, as countries are implementing the convention on manipulation of sports competitions more countries are looking into how they can apply risk assessments. While certain principles can be deduced to assess risk they also have to be applied carefully since it is highly complex to assess the risks, which is influenced by many factors. The application of risk assessments effectively is also challenged by the lack of data on where manipulations of sports competitions occur most frequently. More data on manipulation of sports competitions could facilitate a more effective and widespread use of risk assessment in the future.

Once a country has determined their understanding and approach to combating the manipulation of sport competition, risk assessment of different kinds needs to be carried out, including the challenges of prioritisation, co-operation, budget that will be dedicated to this activity and human resources. For most countries that participated in KCOOS in 2016, human and financial resources were a considerable hurdle. This is why an analysis of the national situation together with all actors is so important.

Identifying and prioritising

The next step is to determine the approach the country would like to take. In order to determine this, analysis of the aspects of manipulation of sport competitions faced by a certain country is particularly important. For instance, the UK considers betting-related risks as high priority and therefore focuses efforts on this domain. In Belgium, risks are related more to money laundering and organised crime.

In Denmark focus of manipulation of sports competitions was growing in 2012 and the pressure on the government and sports associations to act was mounting. However, before deciding on what actions to take the Danish Ministry of Culture established a working group comprising a broad range of actors to advise the government on match-fixing issues and to analyse if the current framework was sufficient to address manipulation of sports competitions in Denmark. The working group met 8 times from March 2013 to June 2014 to discuss a variety of issue and brought in national and international experts to inform the discussions. The working group developed a number of recommendations directed at the criminal justice system, sports, betting and cross cutting issues to improve the efforts to combat match-fixing.

Addressing the risk based on the priority

Most risks lists will include a mix of betting and non-betting factors, rendering co-operation between all stakeholders all the more important.

The first consideration is the threat that the manipulation of sport competition poses to the society in question, first and foremost at the national level. This means:

- Risk of the threat of MSC taking place in sport: Sport competition claims its value in the unpredictability and uncertainty of results. This attracts opportunities for legitimate (player salaries, transfers, sponsoring, betting) and illegitimate businesses (financial crimes);
- Risk of the threat of MSC to society: This includes those in and around the sport, but also society at large (for example financial crimes, coercion, organised crime influence, other criminal activities, threat to athletes and families, threat to businesses of legitimate business and sponsoring investors, etc.). This requires a larger scale analysis of the situation, with regard to the impact of sport in the society, the type of sport that is most relevant to the citizens of the country and then the impact of manipulations (for example a country in which football is the main sport, is most at risk. If football has a considerable impact on society at large, then the impact of manipulations is also larger).

Risk assessment systems

France has identified betting related risks as a high priority nationally. Since summer 2017, it has also started considering other risks. The country has also worked on identifying the sports highest at risk of being manipulated. France has therefore applied a risk assessment to prevent the manipulation of sport competitions for a number of years. The risk assessment is based on an assessment of how vulnerable to manipulation a sport competition is. Based on the assessment a list of authorised competitions and bets is developed by ARJEL²⁴. Criteria used to evaluate the suitability of sports competitions for betting include:

- The organiser of the sports event must be a sports federation or sport organiser mentioned in the French Sports Code, an international sports federation or a sports organiser that is legally organized abroad;
- The rules applicable to the sporting events must include provisions on the publicity of the event's results;
- The sporting event does not exclusively involve minors;
- The sporting event must be capable of attracting a sufficient number of bets;
- For each sport and each sports event category, ARJEL defines the types of bets, which may be offered. The list of sporting events and bets is established by ARJEL following consultation with the competent sports federation or the Ministry of Sports. In addition, betting operators must obtain event organisers' authorisation to offer bets. Thereby all event organisers are aware if bets are offered on their matches.

The risks associated with manipulation of sports competitions is a decisive factor for establishing the list of events. The restrictions of bets based on a prior risk assessments is unique in Europe but is more widely used outside Europe, i.e. in countries like Canada, Hong-Kong, Japan, Korea, etc.

It must be noted that, due to the international nature of the issue, betting markets outside of Europe (notably Far-East Asia) should also be considered with regard to betting risks. The same applied to non-betting related risks (activities of international organised crime groups for example within sport in Europe).

In the UK, where sports betting are considered a priority area for regulation, the Sports Betting Integrity Forum (SBIF) has committed to undertaking risk assessments of the threats from betting integrity on sport and sports betting in their Sports Betting Integrity Action Plan. SBIF has developed Sports Betting Profiles to identify and assess the current threats and highlight good practice in risk assessment based on contributions from SBIF members. In the profiles both betting operators, sport governing bodies and athletes' associations provide a risk assessment and describe how they mitigate risks. While betting operators describe some general risks – mainly liquidity in the market – the SBIF report concludes that *"it is difficult to design a formal matrix which can codify the many different factors which may be taken into account by a betting operator when deciding whether or not a bet or series of bets may actually be either unusual or suspicious and whether such are reportable. This is because each set of circumstances surrounding betting activities is different... Consequently, decisions of this type are ultimately subjective and based on experience and evidence from the market as a whole"*²⁵.

²⁴ French online gambling regulatory authority

²⁵ UK Sports Betting Integrity Forum – Sports Betting Profiles 2016 <http://www.sbif.uk/images/Documents/SBIF-Sports-Betting-Profiles-External-Final-Version.pdf>

Italy and Spain has also applied risk assessment systems. In addition, the Australian National Integrity of Sport Unit has developed a sport integrity plan, including assessment tools for federations. Although Australia has not yet signed the Convention, this is a requirement in Convention for Parties to put at the disposal of their national stakeholders such mechanisms (education programs, risk assessment, links to resources, etc.)²⁶. This step comes after the risk assessment and legal analysis.

3.1.4 Guidelines

Risk assessment concerns not only assessing risks that may or may not exist. In order to best utilise what are often limited human and financial resources, it is worth the effort first researching the current issues taking place nationally. The best way to gather this information is co-operating with other relevant stakeholders: ask questions, ask the sport movement what recent disciplinary cases took place, ask the police if they have any cases that touched on sport, ask the betting stakeholders the status on sports betting, etc. Then analyse the existing legislation (Guidebook chapter 3.2) and the efficiency of cases that may have been related to sport and their success and impact (appropriate sanctions).

These are the early steps of the national platform (guidebook chapter 3.3):

- "*Threat Assessment*" – understanding the complexity of manipulation of sports competitions; measuring the risks affecting sport (in general) and society), Raising awareness among all relevant parties
- "*Gaps and needs assessments*" – how the issue is addressed currently, on which legal basis, what the main stakeholders are doing with the tools they have, what are the challenges and concerns, identifying things to be done
- As a next step, determining priorities faced by the country is also important. Part of the efforts to prevent and detect manipulation of sports competitions is risk assessment of where the risk of manipulation of sports competitions is the highest, for example: in order to restrict the betting supply or remove the betting supply. Identifying the source of the manipulation is a crucial step (is it about athletes betting on themselves? Or international organised crime groups buying clubs? Or is it both? is the issue that the teams/athletes agree to define a result in advance in order to benefit mutually from it – team A is not relegated and team B goes in the Champions League a draw is good for both teams and leads to eventual financial benefit, etc.).
- The fourth step would be to mitigate the risks and this in particular is unique to a country's situation, although, as evidenced through KCOOS regional seminars, countries in a same region may have similar ideas and solutions.
- Mitigating risks includes preventative actions, such as education of sports athletes and officials as well as the athletes' entourage and highlighting the risks of and the type of grooming, inside information, infiltration of organised crime groups. Therefore this includes for example: Educational programs to key stakeholders starting from the school level onwards; A Collective pre-defined and agreed Code of Conduct applicable to all parties involved

Real time information and Intelligence sharing with the highest degree of automation

- Engagement of all stakeholders is important, but, as the Convention states, encouragement to continue by State parties, is just as important. Some of the large national sport governing bodies in Ireland are taking steps to increase awareness among relevant stakeholders. For example, a number of national governing bodies of sport have rules or practices in place (such as the Football Association of Ireland) regarding the misconduct of athletes/players, including the manipulation of sports competitions, and raising awareness in relation to this issue. Furthermore, specific education and information is provided to clubs and players participating in the National League competitions.²⁷ Now Ireland is close to passing a Bill on Gambling Control. A little from each stakeholder will culminate in a very effective whole.

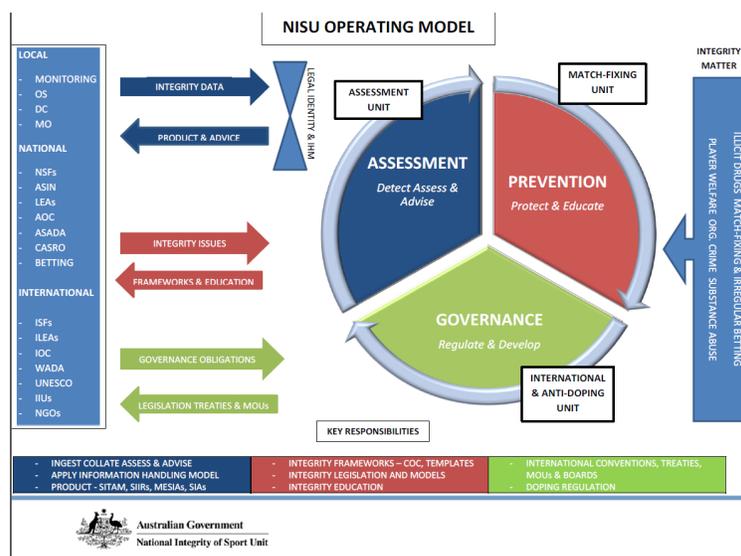
²⁶ Australian Government Department of Health, Integrity of Sport Unit

²⁷ KCOOS Questionnaire Ireland Sports ministries

- With regard to data protection laws in EU member states, with the new EU GDPR coming into force, ministries should consider that the CJEU has consistently ruled that Member States have a very wide discretionary margin in determining their gambling policy (and this is also stated in the Preamble of the Convention). The UNIBET²⁸ case, cited on this occasion, recalled that a restrictive national legislation could be justified, as long as the principle of proportionality is satisfied. A system of concessions and licenses for the organisation of games of chance must be based on objective, non-discriminatory criteria which are known in advance.

One national model that may be considered as quite complete is the Australian Sport Integrity Unit Risk assessment model²⁹, which involves a number of stakeholders including LEA and betting stakeholders, legal considerations, prevention and detection. Of course, this is just one example, based on national priorities and sports. Australia does not yet have a national platform, but developing from this model into a national platform would be more straightforward as basic analysis has already been taking place and there is a certain level of priority nationally given to the topic. The assessment by the Australian model covers all sports, and analyses the level of risk of the manipulation of sports competitions to each sport

that exists in the country. This is the type of coordinated study that may be conducted in the early phases of a national platform. This model is currently undergoing an integrity review and is likely to develop in 2018³⁰



What are the potential risks to sport of the manipulation of sport competitions?

- "Betting being an activity related to sports for many years is not an offence or problematic per se. However, non-regulated betting environments by States are a threat to the fight against the manipulation of sports competitions since the amounts involved, their cross border nature, and lack of international law in this regard does not allow stakeholders to have a fully certified monitoring of betting and sport- related dynamics³¹
- Assessing the risk of manipulation of a competition:
- Consider the level of the teams facing each other
- Consider the stakes involved: if a team simply wants to avoid facing a particular adversary in the following round, they may bribe the opponent: need for sport federation to warn against

²⁸ CJEU Press Release 68/17, 22 June 2017 <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-06/cp170068en.pdf>

²⁹ http://www.ors.sa.gov.au/data/assets/pdf_file/0004/148522/National-Sport-Integrity-Unit-Presentation.pdf

³⁰ <http://www.health.gov.au/internet/ministers/publishing.nsf/Content/health-mediarel-yr2017-hunt076.htm> /

³¹ Macolin Convention preamble § 33

manipulations, necessity for regulatory authority and operators to be on the lookout for suspicious bets placed

- Consider the potential stakeholders involved- on, around and far away from the sporting ground
- Co-operation between stakeholders is primordial. For example, the UNODC Resource Guide on Good Practices in the Investigation of Match-fixing³² discusses Disruption and dismantling, for Law enforcement agencies AND for the sport movement. This requires a certain level of co-operation between the two groups of stakeholders for managing risk.
- Assess an identified risk from all stakeholder points of view. Each stakeholder will possess different pieces of a puzzle. For example, a betting operator may see a strange series of bets placed on an ice hockey game between two clubs. The federation would inform them of the difference traditionally in the strength of the teams. Law enforcement authorities may find other links, such as the owners of the clubs appearing on criminal databases for other crimes. This is how one can then move to mitigate the risk.

General factors that may increase the risk of manipulation of sport competitions:

- Not paying athletes' and sport officials' salaries
- Clubs with financial problems vulnerable to being bought by criminals
- Athletes and sport officials with financial problems
- Athletes, relatives and sport officials linked to organised crime groups
- Betting addiction
- Unclear knowledge of betting rules
- Unclear knowledge of conflict of interest (multiple ownership, betting on own sport,
- Ex-athletes and sport officials in financial dilemma
- Low awareness of consequences
- Player agents/managers managing team coaches and/or athletes from both opposing teams or numerous teams in the same competition
- Risk of monetary loss (direct or indirect)
- Betting operators sponsoring competitions (not prohibited by the Convention but the increased risk of manipulation is highlighted, for example offering bets on the competition, controlling the organiser) combined with lack of legislation and processes related to the control of the operators in the respective country

There are of course, more specific factors that may be considered as a risk, such as³³:

- no obligation to report manipulation attempts (although this is changing in the code of a number of sport federations)
- High tournament incentives (for example 1million dollars for winning a tennis grand slam)
- Weak sanctioning of manipulation
- No (or no effective) independent anti-corruption unit or hotline
- No independent integrity officers within the sport
- No effective programs for athlete addictions (primarily gambling addiction)
- No/little focus on education and medical assistance amongst athletes and officials
- Insufficient monitoring of betting markets
- Insufficient or non-compulsory anti-manipulation education program for athletes and officials^{3.2}
Effective legal and procedural framework

³² Published by UN August 2016

³³ Certain references obtained from Litterature by Dr. Declan Hill, Investigative journalist and Academic

3.2 Legislative Framework

3.2.1 Introduction

A key issue for discussion during KCOOS has been about appropriate regulations and legislation to allow for efficient prevention, detection and sanction procedures against the manipulation of sports competitions. The first point to remember is that the definition provided by the Convention and widely used does not only include the actual act of manipulation, but also the attempt. This means that detection in order to prevent is a good first step and the point at which many countries have reached, but that going the step further to tackle the criminal aspects of the manipulation of sports competitions, still remains to be developed. This is where the Convention's importance comes into play.

From 2012 until 2014, the Macolin Convention was drafted by countries and organisations from all over the world, following an explicit desire for the existence of an international legal framework³⁴. The Council of Europe already possess a standard setting mechanism in various domains, notably in sport as the only organisation with a monitoring mechanism for the anti-doping Convention and so was the ideal forum for preparing such an instrument.

Currently the Convention remains out of force. Emphasis was placed on the signature and ratification of the EU member states, which would have seen an immediate entry into force. However, EU internal procedures have resulted in a deadlock due to a single country blocking the entry into force. Despite this, countries have begun to put in place mechanisms, structures and other measures in compliance to the Macolin Convention, with the assistance of not only the Council of Europe, but other projects run by other organisations, including, but not limited to, the International Olympic Committee, UNODC, UNESCO, the EU, private stakeholders and also member states and sports federations (FIFA, UEFA, etc.).

However, it is important to remember that without the entry into force of the Convention, most measures, including national platforms, have no legal status and in particular, have no legal basis for transnational co-operation in this specific field, without the Convention.

The other chapters of the guidebook referring to risk assessment, improved coordination and co-operation (including national platforms) and sharing of information need a legal basis for all their activities. This legal basis has to be national, regional (for example, within the EU, or GCC for Middle Eastern states) and international (Council of Europe instruments, UN instruments, etc.). The Macolin Convention explicitly mentions that all its articles are in line with other international instruments and in no way are intended to pose a conflict. Therefore developing legal framework does not simply mean an article or provision 'criminalising the manipulation of sports competitions' and another 'establishing a national platform'. While these steps are crucial to providing legal legitimacy to actions in this field, they must fall within a structured procedure, including legal assessments, needs, gap analysis and priorities.

3.2.2 Obligations in the Convention on manipulation of sports competition

The Convention imposes on Parties to the Convention to put in place a number of legislative measures. In addition to this, it calls upon (therefore does not impose or compel) the Parties (legislators) to encourage certain disciplinary measures from its sports organisations.

The convention thus calls upon each Party to encourage its sports organisations, and through them the international sports organisations to apply specific, effective, proportionate and dissuasive disciplinary sanctions and measures to infringements of their internal rules against the manipulation of sports competitions, as well as to ensure mutual recognition and enforcement of sanctions imposed by other sports organisations, notably in other countries (article 7).

³⁴ Recommendation CM/Rec(2011) 10 and the Council of Europe Conference of Ministries responsible for Sport 15 March 2012 concluded the need for an international convention dealing with all preventative measures and sanctions aimed at suppressing the manipulation of sports competitions.

However, action only by the sport movement is often not enough to stop manipulations, notably influenced by those off the field/court/Etc. of play and not bound by licenses to sport federations, therefore falling out of the scope of disciplinary action. Cases were revealed by police and investigated as criminal offenses, which proved the globally significant threat posed by the manipulation of sports competitions and required a larger mobilisation of all stakeholders. These cases were prosecuted through existing anti-corruption legislation. It is thus important to first distinguish between:

- Disciplinary framework and sanctions established by national and international sports organisations. The Olympic Movement Code on the Prevention of the Manipulation of Sports Competitions, approved in December 2015, aims to 'harmonise sports rules in relation to competition manipulation based on minimum standards; to harmonise definitions in line with the Council of Europe Convention (...); and to establish minimum violations and minimum standards for disciplinary procedures in order to enable mutual recognition of sanctions. This Code therefore, puts the main disciplinary regulations in line with the only international legal tool to exist currently, thus providing a unique alignment of disciplinary and legal procedures, on which national systems and federations may depend in order to tackle investigations of a legal or disciplinary nature.
- Legal framework and sanctions established by the legislative entities nationally and internationally. These can be civil, administrative/disciplinary and criminal in nature i.e. can include for example fines and imprisonment.³⁵ Countries need to consider legislation that is national, at regional level (for example, EU-level, including regulations and directives, such as the imminent new regulation on data protection and on exchange of information by the judiciary), as well as Council of Europe legislation³⁶ such as the Anti-Money Laundering Convention and the Convention against Corruption as well as legal instruments to which they may be Party, such as the UN Convention against Corruption or the UN Convention against Transnational and Organised Crime³⁷. Each state needs to integrate those treaties to which they are members into their national legislation. This requires some gymnastics in order to avoid conflicts between the various legislative acts. However, most legislation at international level has been elaborated taking into consideration other existing instruments and does not intend to create conflict.

It also ensures that no existing EU or international legislation will be negatively impacted.

The Convention has two levels of obligations: those were Parties (implying public authorities/legislators) to carry out actions, implicitly via legislation and those where they require Parties to encourage actions from other stakeholders (with other often non-binding measures as they see fit).

Thus, with regard to Parties' direct actions, the Convention compels Parties to:

- Co-ordinate the policies and action of all relevant public authorities (article 4.1)
- Identify, analyse and evaluate risks associated with this phenomenon (article 5.1)
- Adopt legislative or other measures to ensure transparency regarding the funding of sports organisations that are financially supported by the State (article 8)
- Identify a regulatory authority for issues concerning online gambling.
- Prevent conflicts of interest and misuse of inside information by those providing sports betting products as well as to put in place adequate reporting mechanisms (article 10)
- Consider adopting measures in accordance with the applicable law of the relevant jurisdiction (therefore in the EU, this applies to an EU member state's legislation plus the EU regulations) to fight against illegal sports betting (article 11), the scope of which is to be defined by each Party

³⁵ UNODC-IOC Study Criminal Law Provisions on the Prosecution of the Manipulation of Competitions, available at: <https://www.olympic.org/~media/Document%20Library/OlympicOrg/IOC/What-We-Do/Leading-the-Olympic-Movement/Sporting-Regulations/Regulation-Legislation/UNODC-IOC-Study.pdf?la=en> P. 48.

³⁶ Council of Europe Convention against Transnational and Organised Crime, Council of Europe Convention against Money Laundering, etc.

³⁷ UN Convention against Corruption and UN Convention against Transnational Organised Crime

- Facilitate the exchange of information between relevant public authorities, sports organisations, competition organisers, sports betting operators and national platform (article 12)
- Set up mechanisms for the sharing of relevant information about the types and object of betting products to competition organisers (article 12)
- Set up mechanisms for initiating or carrying out investigations or proceedings concerning the manipulation of sports competitions (article 12).
- Identify a national platform to address the manipulation of sports competitions (article 13)
- Ensure that national data protection laws are respected in the fight against the manipulation of sports competitions and guarantee that public authorities and relevant stakeholders in the Convention take the necessary measures to ensure due regard to the principles of lawfulness, adequacy, relevance and accuracy when collecting, processing and exchanging personal data, including security of data (article 14).
- ensure that its domestic laws enable them to criminally sanction manipulation of sports competitions when it involves either coercive, corrupt or fraudulent practices, as defined by its domestic law (article 15)
- adopt such legislative and other measures as may be necessary to establish manipulation of sports competitions as criminal offences under its domestic law (article 16), including with regard to aiding and abetting (article 17)
- ensure that corporate liability is possible legally in this domain (article 18).
- Establish jurisdiction via legislation or related measures, over such criminal acts as described in articles 15-17, always in accordance with national and international laws (article 19).
- Ensure that securing electronic evidence and storage of computer data, search and seizure (including article 25), real-time collection of traffic data and interception of content data during investigations is covered by relevant legislation with regard to this field (article 20).
- Ensure legal protection for those who report (whistle-blowers) including those who report in good faith, witnesses, and even when necessary, family members (article 21).
- Ensure that relevant, proportionate and dissuasive sanctions are put in place for the offenders, be they natural persons (article 22) or legal entities, guilty of corporate liability (article 23) or for offences that may be brought by administrative authorities (article 24), for example licence withdrawal for a sanctioned operator or blocking website access.
- Co-operate with other Parties in accordance with applicable relevant national, regional and international instruments on investigation, prosecutions and judicial proceedings concerning criminal offences under the Convention (fraud, laundering, organised crime, aiding and abetting, etc.), including with regard to mutual assistance and extradition (article 26)
- Fulfil the dual criminality principle from the moment that both States recognise that the conduct in respect of mutual legal assistance or extradition is a criminal offence in both countries, regardless of whether they are classified in the same way (article 26.3).
- Integrate as much as possible assistance to prevent and fight the manipulation of sports competitions in programs for third States (article 27).
- Shall co-operate with international sports organisations in accordance with domestic law (article 28).
- Shall inform the Council of Europe Secretary General of all relevant information concerning legislative and other measures in compliance with the Convention (article 29).
- Shall, once the follow up committee is in place, be represented by one or more delegates (public authorities, law enforcement or betting regulators) (article 30).

With regard to indirect actions, the Convention compels Parties to:

- Encourage cooperation by sports organisations, competition organisers and sports betting operators in the fight against the manipulation of sports competitions (article 4.2)
- Encourage awareness raising, education, training and research to strengthen the fight against the manipulation of sports competitions (article 6)

- Encourage sports organisations and competition organisers to adopt and implement rules to combat the manipulation of sports competitions as well as principles of good governance (article 7)
- Consider assisting sports organisations in this via appropriate funding mechanisms (article 8.2) including withholding financial support for manipulations (article 8.3) or for lack of application of appropriate legislation (article 8.4)

3.2.3 Challenges and country approaches

Insufficient legislation

In several cases of manipulation of sports competitions offenders have avoided the most severe consequences of their offences due to inadequate legislation. For example, the absence of a specific crime for match-fixing was the main reason three players from Switzerland avoided being convicted of match-fixing in 2009 as part of the “Bochum file” match-fixing scandal.³⁸

Difficulties convicting corrupt practices and the call for action by the Convention have motivated many countries to assess the need to amend their legislation. Some countries have chosen to introduce specific laws and/or articles to criminalize manipulation of sport competitions and to be able to prosecute offences effectively and others have found existing laws – such as the general penal code and/or anti-corruption and money-laundering laws – sufficient to prosecute manipulation of sport competitions. Similarly, some countries have found existing laws to be applicable to manipulation of sports competitions and others have found them inadequate and have or are in the process of introducing new more suitable laws and sanctions.

Poland has no specific legislation on sports corruption. They amended their 2010 act on sport in 2015.³⁹ The Act of 25 June 2010 on Sport provides for criminal liability for crimes against the principles of fair sports competition, including crimes relating to corruption in sport. The Act indicates such crimes as bribery in sport and corruption in sport in connection with sports betting. The amendment to the sports act, which entered into force in 2015 introduced, in addition, the penalization of corruption acts which alters the course of a sports competition (e.g. the number of yellow cards in a football match) rather than only the result of a sports competition.⁴⁰ Despite these changes Poland still feel the legislation needs to be stronger.

In Finland, there is no specific law on betting fraud. Sanctions have been imposed based on the general fraud clause in the Criminal Code and for bribery in business activities. For the time being, there is a loophole in the legislation and it is difficult to sanction match-fixing which takes place in divisions that cannot be considered as profession (and therefore not business activities), as is the case with lower football divisions: there was a Parliament initiative a few years ago to criminalise betting fraud, but the process was halted at the Ministry of Justice.⁴¹

Adapting general legislation

Some countries have general broad laws that can be applied to a variety of specific offences including manipulation of sports competitions but many countries have or are in the process of introducing specific articles or laws criminalising manipulation of sports competitions explicitly. The relevant and most effective approach depends on a variety of factors including the legal tradition of a country and not all countries seem to need specific legislation on manipulation of sports competitions to sanction it effectively. What is important, however, is that all countries carefully consider and continue to monitor if

³⁸ UNODC-IOC Study Criminal Law Provisions on the Prosecution of the Manipulation of Competitions, available at: https://www.olympic.org/~/_media/Document%20Library/OlympicOrg/IOC/What-We-Do/Leading-the-Olympic-Movement/Sporting-Regulations/Regulation-Legislation/UNODC-IOC-Study.pdf?la=en

³⁹ KCOOS Fourth Regional Seminar Report

⁴⁰ Report_ on activities in the field of the fight against corruption in sport and, in particular, against the manipulation of sports competitions (Poland)

⁴¹ KCOOS Third Regional Seminar Report

the current legislative framework enable them to prosecute and sanction manipulation of sport competitions effectively.

Despite loopholes in some countries many countries have made significant progress in adapting their laws. The Netherlands and Norway are examples of countries with legislative frameworks but without legislation targeted directly at sports manipulation. In Norway, sports manipulations falls under the National Penal Code for corruption and Fraud, with secondary attendance to breach of trust.⁴² Through this approach to the issue, Norway maintains broader provisions and a wider array of investigative tools for the police and sees no need for introducing specific legislation on manipulation of sports competitions.⁴³ Similarly, The Netherlands have no specific legislation and existing law has so far sufficed according to the national authorities.

Italy has a specific legislation in the domain of manipulation of sports competitions. The Criminal code distinguishes between various forms of match-fixing and opens up for sanctions up to 9 years for serious offences and new provisions from 2015 expand the legislation and tools to include confiscation of goods and properties connected to fixers.⁴⁴

In Hungary, manipulation of sports competitions was previously prosecuted as bribery cases but today they have a specific section for match-fixing offences and sanctions for profit as well as not-for-profit offences. However, Hungary has not as yet conducted any investigations under the new law and therefore has not had the chance to test if the new framework is adequate. In Albania, the Criminal code has included an article on manipulations of sport competitions since 2008. However, so far they have no convictions either.⁴⁵

Until recently match-fixing unrelated to sports betting was not covered by the criminal law in Germany even if it affects the integrity of sports in the same way since fans are watching matches that have been fixed in both cases.⁴⁶ A bill passed by the Federal Government in early 2017 introduces two new criminal offences: (1) "sports betting fraud" which will cover agreements to manipulate results of sports competitions upon which a sports bet is to be placed; (2) "manipulation of professional sports competitions" which is designed to criminalize agreements to manipulate high-level professional sporting events and which is applicable irrespective of whether or not the manipulation is linked to betting.⁴⁷ The bill makes it possible for the authorities to order searches of premises and to conduct surveillance on suspected match fixers. The new bill sets out prison sentences of up to three years for any player, coach or referee found guilty of match fixing. In particularly serious cases, courts may hand out sentences of up to five years. The bill was introduced because existing measures were deemed insufficient and new criminal law instruments were needed.

In Montenegro, the government started reviewing national legislation in 2012 to clarify if new legislation is needed. The analysis showed that existing national laws are not adequate to combat match-fixing.⁴⁸ In Georgia, a new law on sports is also in process.⁴⁹

In Cyprus, there is a very limited legal space for investigations into manipulation of sport competitions and therefore often limited evidence for the police to prosecute upon. Under the current legislation it is no possible to use certain investigative methods, for example undercover work. Partly to compensate for the difficulty to prosecute manipulation of sports competition within the courts significant financial disciplinary sanctions have been introduced by sport governing bodies. So far, these sanctions have only been applied to clubs and not individuals. To improve the applicability of the legislation Cyprus has

⁴² National Action Plan against Match-Fixing in Sport 2013-2015

⁴³ Interview with Norwegian NP

⁴⁴ KCOOS 3rd study visit report

⁴⁵ KCOOS Second Study Visit report

⁴⁶ KCOOS German Assessment Report Study Visit

⁴⁷ KCOOS Second Regional Seminar Report

⁴⁸ KCOOS Fifth Regional Seminar Report

⁴⁹ Georgia Country Summary

proposed new legislation specifically aimed at sports corruption, as well as a revision of the general legislation on corruption. Another piece of legislation aiming at regulating betting is also on its way, which will further assist in developing a strong foundation for combating sports manipulations.⁵⁰

Latvia cannot use the articles on fraud to sanction manipulation of sport competitions as you need a victim to apply the articles on fraud but since March 2016 they have had a specific article in the criminal law on manipulations of sports competitions organized by a sports organization. The sanctions range up to 5 years. Other measures in place in the criminal law to prosecute and sanction manipulation of sports competitions include the articles on laundering of the proceeds from crime, using an official position in bad faith, accepting bribes as well as other criminal offences in the Criminal Law. Due to the introduction of the new regulations from March 2016 cases from Latvia will now be brought before the court.

In 2012 France introduced a legal framework, with two new articles in the Criminal Code to include specific reference to the manipulation of sport competitions on which bets have been placed. Prior to this, it was only possible to take action if there was a proven link with corruption. Independently of the improvements to the legal framework it is still difficult to prove that an athlete has not performed to the best of his or her ability.⁵¹

In Lithuania the Lithuanian Parliament in 2016 unanimously adopted three important laws for the sport sector, which came into force on 1 January 2017. The negotiation process to create a legal framework to combat manipulation of sports competitions raised the question of professional sport versus amateur sport, since the new criminal provision only cover professional sports competitions, thus, professionals.⁵² As illustrated by the vast majority of examples above many countries have made significant progress in securing that they can criminalise manipulation of sport competition and that they can convict and sanction offenders. Revising the laws is the second most important issue – after establishing national platforms – currently for many countries.

Before the Convention, countries had 2 schools of methods to approach the manipulation of sports competitions (although this was subject to countries recognizing the phenomenon in the first place):

- No specific legal framework, therefore they used different criminal articles when they could, such as bribery, corruption and money laundering.
- Specific articles, either as provisions linked to other crimes or stand-alone articles or even amending the entire legislation;

There are a few types of legal framework in place, therefore:

- Amended framework, including specific articles on the manipulation of sports competitions
- New framework dedicating a whole chapter to the domain
- Continuing to use existing legislation and increasing awareness in order for prosecutors and investigators to take account of the manipulation related to sports competitions.

UNODC and IOC have published a publication on Model Criminal Law Provisions for the Prosecution of Competition Manipulation aimed at legislators. This information has already been updated in the last 12 months, with Latvia, Georgia and Cyprus about to finalise specific legislation, for example. KCOOS supports this research that many countries have changed their legislation to be able to prosecute manipulation of sport competitions more effectively and more countries have adopted specific legislation aimed at criminalizing the manipulation of sports competitions over the last years.⁵³ The research undertaken for the publication show that national laws contains applicable general criminal offences, such as corruption, bribery, fraud, deception, use of insider information, money laundering, organized crime, etc. but that 25 of the 52 jurisdictions examined have adopted or enacted specific legislation to

⁵⁰ Expert Mission to Cyprus

⁵¹ <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1>

⁵² Country (Lithuania) assessment supporting the Expression of interest for participating in the KCOOS Study Visit

⁵³ <https://www.unodc.org/documents/corruption/Publications/UNODC->

[IOC_Model_Criminal_Law_Provisions_for_the_Prosecution_of_Competition_Manipulation_Booklet.pdf](https://www.unodc.org/documents/corruption/Publications/UNODC-IOC_Model_Criminal_Law_Provisions_for_the_Prosecution_of_Competition_Manipulation_Booklet.pdf)

criminalize the manipulation of sports competitions. At the same time the study also found that many countries sanctioned only the alteration of the final result of a game or competition, but not its intermediary (partial) events or components.

Taking into account subtleties in the legislation is a factor that requires more in-depth analysis, a task that may be carried out by a national platform:

With regard to betting, for example, the UNODC-IOC study recommends a specific match-fixing offence to be dissociated from the act of betting on a sports event or competition, which is fixed. In some countries, like Germany, the fact that people are trying to make money on the betting market is considered a separate offence from the act of manipulating it. In countries like Bulgaria, Greece, Italy, Portugal, Spain betting is considered an aggravating factor for the match-fixing offence but the fact that there may be betting on the match is considered independently from the match-fixing offence.

Exchange and sharing of information⁵⁴ and coordination and co-operation⁵⁵

This was perhaps one of the biggest concerns by stakeholders, notably with regard to the exchange of information between public and private stakeholders nationally.

In addition to the now famous article 13, requiring Parties to set up a national platform, the effectiveness and functionality of the platform is dependent on legislation and appropriate mechanisms as well as a desire by stakeholders to communicate. The challenge here is two-fold:

Most national platforms lack the legal basis to exchange information officially, but do so thanks to having developed close cooperation, which may be more complex when referring to sensitive data and respective data protection laws, including those in the Convention itself. In a number of countries, the governments have not necessarily seen a priority in officialising the existence of the national platform; coming full circle back to the challenge of low priority that needs to be addressed.

The second challenge is that when a legal basis may exist for exchange of information (for example, bilaterally between certain stakeholders), the specific knowledge and experience on the topic may be missing. At the end of the investigation procedure, the file arrives at the judge's table and the lack of awareness on the specificity of the manipulation in sports competitions may cause a criminal case to immediately be sent back to the sport movement.

Therefore legal basis and a certain level of awareness are both crucial elements.

In addition, concrete legislation in this area will facilitate the exchange of sensitive information. The channels of sharing and exchange of information are extremely important for maintaining the admissibility of evidence in the court of law. Therefore, law enforcement authorities already use various channels, including bilateral exchange, as well as via channels that fulfil all requirements such as that of Europol⁵⁶, Interpol⁵⁷, as well as mutual legal assistance in criminal matters (under the Council of Europe conventions and regionally, such as in the EU) and other regional channels⁵⁸. Law enforcement authorities will always prioritise these, but with increased trust and understanding of the functioning of national platforms (including a legal status for the platforms nationally and internationally through the Convention, as well as legislation compliance with regard to data protection), the sharing of information with other stakeholders would be facilitated.

⁵⁴ Guidebook chapter 3.4

⁵⁵ Guidebook chapter 3.3

⁵⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0794&from=FR>

⁵⁷ <https://www.interpol.int/INTERPOL-expertise/Data-exchange>

⁵⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015D0219&from=FR> for example

Cross border co-operation and lack of international framework

Given the cross-border nature of the offence, a certain level of awareness is needed across Europe at this stage of legislation of other countries. Therefore, the Council of Europe works on this aspect with networks such as the network of prosecutors.

It is important to mention first and foremost here that each national platform will respond to its own priorities and needs. Therefore a co-operation between national platforms arriving at the topic on manipulation of sports competitions will be from different angles legislatively and practically.

There is no international legal basis for the co-operation internationally between national platforms. The only instrument to validate this is the source of the concept, the Macolin Convention and then its Follow-up committee, therefore one more very important reason to ratify the Convention and allow it to enter into force.

Countries have different laws enabling them to fight against different types of criminal offences, which are currently used with varying success in the domain of sport-related manipulations. The legal approach by public authorities to sports manipulations varies from country to country and many different types of legislation can potentially be used to sanction the manipulation of sport competitions. Of course, there is the approach to criminalise the manipulation of sport competitions, as encouraged by the Convention. Legislation will provide the framework for establishing co-operation and coordination between all relevant stakeholders in order to tackle the issue from the start (for example preventative grassroots campaigns in Latvian basketball) to detection (such as networks of stakeholders working together during competitions to better detect suspicious activity) to the end (awareness of LEA and prosecutors in particular to better gather relevant evidence for prosecutions).

Coordination between disciplinary and criminal law

The disciplinary and ethical frameworks introduced by sport are often more strict than national laws and certain behaviour can be deemed illegal/unethical and subject to sanctions in the world of sport – for example betting on the Olympics by an Olympic athlete – but legal according to national legislation. They only apply to those that are members of their federations and this is the limit.

The relevant form of sanction is dependent on the nature of the act or omission. It is possible that an act or omission can lead to both disciplinary sanctions by a sport governing body and criminal or administrative sanctions by public authorities. The two systems can work in parallel or sequentially. Sometimes, as exposed in recent Portuguese legislation, the solution may be to allow courts to rule on sport movement decisions, such as the licences for athletes. This decision in Portugal has been debated but may provide a solution to criminal and disciplinary procedures working together⁵⁹.

National or international sports organizations adopt their own regulations and enforce them through their internal sanctions system. The justice bodies created by sport organizations are responsible for settling disputes, mediating and guaranteeing the correct interpretation of sporting rules and regulations. Internal investigations by sport governing bodies are in general less resourceful than police investigations and the standards for proving guilt can be lower.

It is importance to find a 'juste milieu' in order to allow disciplinary and legal proceedings to work side by side. One of the main challenges raised by many countries during KCOOS activities was the conflict between LEA and the sport movement in general to receive, handle and process data for respective proceedings. It is important to bear in mind that both procedures are needed, as disciplinary sanctions will be effective for tackling the manipulation of sport competitions ON and around the sport terrain, while legal sanctions will protect to a larger extent, basic rights and the rule of law, as well as counter financial cross border criminality and organised crime.

⁵⁹ Extract from Article on 'Information sharing in the fight against the manipulation of sports competitions', 2017, by Norbert Rubicsek

Each sport federation, including international federations and organisations also has codes of ethics and regulations to which their licensed members have to adhere to. The limit of these regulations is that it does not concern those stakeholders who are not licensed members of the federation/association/organisation.

The IOC has also published an Olympic Movement Code, as referred to earlier in the guidebook, for preventing competition manipulation. The Code aims to provide the Olympic Movement and its members with harmonised regulations to protect all competitions from the risk of manipulation. The Code is a regulatory framework defining the different kinds of violations, minimum standards of disciplinary procedures and the scope of sanctions. Any sports organisation bound by the Olympic Charter is expected to respect the provisions of the new Code. The Code is minimum standards and does not prevent sports organisations from having more stringent regulations in place.⁶⁰

On the national level the Sports Confederation of Denmark was the first national Sport Confederation to introduce a code on match-fixing and similar unethical behaviour in 2013. The aim of the code is to deter, fight and sanction manipulation of sports competitions and member sports federations and participants in sports events organised by the sports federations has to comply with the code. The code introduces common minimum rules and uniform legal positions across all sports. Suspicion of manipulation of sports competitions are investigated by the Sports Confederation of Denmark but can if requested also be investigated and processed by the individual sports confederations. The code is especially valuable for the small sports federations, which do not have resources to create their own code, investigate cases, enforce them and sanction offenders. The Code of good governance in Flemish sports organisations from 2016 is a more recent example of sports organisations coordinating good governance. It implements rules related to countering match-fixing (including with regard to bets on youth leagues, betting on one's own competition, reporting any requests to fix a match, sanctioning procedure, risk management and a single point of contact).

Most countries found that tackling the manipulation of sport competitions via disciplinary methods was not always sufficient. This is because of the involvement of non-licensed actors becoming involved in operations.

Another issue faced often was the inability of the disciplinary procedure to be reconciled with the legal/criminal procedure, because of the difficulty of exchanging information. Due to the sport movement on the one hand unwilling to demonstrate difficulties in the sport and Law enforcement authorities claiming difficulty in sharing information on on-going investigations, the issue often results in reduced co-operation and sharing of information.

Therefore, a number of federations and organisations in sport have established MOUs with regard to betting-related manipulation, in order to quickly share alerts and suspicious activity. It is as yet unclear as to the definition used of suspicious betting activity, a definition of which exists in the Convention, along with irregular activity and illegal betting⁶¹. This is the prevention part of the process. The path towards investigation and sanctioning in the legal system comes about when there is effective legislation in place to allow for this, supplemented by MoUs with LEA as well. The ideal situation would be between LEA and the national platform.

As revealed by the examples from KCOOS as well as other studies, the manipulation of sport competitions was not taken into consideration when older laws were designed and inappropriate legal frameworks have been a barrier for prosecuting offenders in many countries, for example in Switzerland, when the infamous match-fixer, Raj Perumal Wilson had to be tried for various manipulation-related crimes.

⁶⁰ <https://www.olympic.org/news/ioc-publishes-unprecedented-olympic-movement-code-for-preventing-competition-manipulation>

⁶¹ Reference articles

3.2.4 Guidelines

- There must be a consistent policy in proceeding towards the signature and ratification of the Macolin Convention. It is the instrument which provides the legal basis for all actions in this field, nationally and transnationally. Once each stakeholder has reviewed the Convention and the guidebook and noted how it facilitates their tasks in the fight against the manipulation of sports competitions, this will inevitably provide the basis for further political pressure to accede to the Convention (or to produce an affirmative decision in the case of the EU).
- Carrying out an analysis of all existing legal and general measures nationally is vital before understanding the legislation to be modified or proposed. Georgia and Latvia have most recently completed a legal analysis on all existing legislation in order to better observe and consider the criminalisation of the manipulation of sport competitions. This depends on whether the existing legislation is sufficient or needs to be supplemented. A new general proposed legislation in Georgia covers all aspects of sport, whereas other countries, such as Cyprus are working on specific legislation criminalising the manipulation of sport competitions, and match-fixing in particular.
- Legislation must be analysed notably with regard to facilitating risk assessment by the various stakeholders, exchange of information and sharing of information, coordination and co-operation (including giving national platforms a legal status), cross-border co-operation in this specific field.
- Once the legal analysis has been carried out, depending on the results, a State can decide whether the general legislation may simply continue, be revised or an entirely new legislation be put in place.
- Close exchanges must take place between the sport movement, the legislator and public authorities investigating crimes in order to come to agreements on the adequacy of the rules in place in the disciplinary and legal domains, as well as an agreement reached on the procedure for disciplinary and legal proceedings to move forward in harmony. For example, the UK has a triage process, involving LEA, the betting regulatory authority and the sport movement in order to agree upon how to proceed for each case.
- There must be programs put in place (which may be supported by the Parties as is their duty under the Convention) to support awareness raising programs of prosecutors, judges and investigators.
- Consider the signing of agreements and MOUs to facilitate exchange of information between private and public stakeholders. States may even be inspired from the Council of Europe's sister Anti-Doping Convention's recommendation in this field of sharing of information between public and semi-public/private stakeholders⁶².

Considerations:

- Legal analysis of all existing legislation that may be related to the manipulation of sport competitions: betting and non-betting related (debate and discussion in parliamentary committee)
- Gap analysis (with the assistance of various networks and CoE for example)
- Assessment of adhesion to European and international legal framework
- Assessment of existing disciplinary procedures
- Understanding the need for specific provisions criminalising the manipulation of sports competitions to allow LEA and prosecutors to effectively pursue such offences. In addition, it is important to consider that the provision should also regard that this offence can also be a transnational economic and organised crime. Therefore law enforcement authorities must be able to legally counter organised offences such as telephone tapping.
- In order to best know whether the legislative framework is effective, it needs to be tested in the courts.

⁶² <https://rm.coe.int/recommendation-rec-2016-1-of-the-monitoring-group-on-information-shari/1680735158>

- Consideration of how disciplinary and legal system procedures work together
- Consideration of what type of legislation should be created: special entire law on the manipulation of sport competitions, separate legislation for organised crime-related and spontaneous manipulations, a general sports law including ALL acts (doping, match-fixing, organised crime, money laundering, good governance, etc.) related to sport, etc.
- Inclusion of the national platform into the national legislation: actors, methodology, exchange of information, communication during sporting events
- Consideration (debate, discussion) on the consequences and impact of the possible new legislation
- Debate on the impact of the Macolin Convention

The guidance from experts and countries that have a longer history of dealing with manipulation of sports competitions has generally stressed that best way forward depends on what exactly the problem is, the current setup in the country and what the country wants to achieve. Before a country can address issues related to manipulation of sports competitions effectively it is necessary to understand the issue in all its complexity. Once that has been achieved a country can develop an appropriate strategy, using the assistance of other countries, as well as the Council of Europe, describing how they want to address manipulation of sports competitions, what it wants to achieve and how to achieve it? For example, the expert missions in the project KCOOS allowed for meetings with experts and the CoE secretariat with relevant stakeholders, including at the political level (parliamentary committee and ministry of Justice) in order to assess how best to implement articles to criminalise the manipulation of sport competitions and how to ensure that the concept of the national platform was adequately inserted into the legislation.

3.3 Cooperation and coordination

3.3.1 Introduction

The manipulation of sports competitions is a problem with a global dimension (cf. chapter 2⁶³) thus requiring that all relevant actors accept to co-operate in order to reduce the attack on sport competitions of various manipulations.

On the one hand, willingness to coordinate actions implies that they share at least a similar level of concern and are looking to increase the priority level and are ready to help each other. Therefore, countries and national stakeholders understand that aligning interests and undertaking collective actions towards achieving common results will be ultimately more successful than individual well produced parallel results in their own fields with regard to a phenomenon that they have understood to be multi sectorial and transnational.

On the other hand, willingness to co-operate implies that stakeholders accept to work together within specific structures based on concrete agreements and processes. This includes sharing and exchanging of information. This makes actions more cost-effective actions more efficient. Co-operation does not impact on current activities implemented by each actor, but implies establishing additional activities enabling the development of new approaches and understanding resulting from co-operation.

Therefore while co-operation requires stakeholders to take into consideration others' (other stakeholder groups or other countries') methods, points, needs, restrictions, in implementing their own activities and legislation, coordination require a higher level of interaction and alignment of policies. Stakeholders and/or countries accept that their activities be adapted in order to accommodate better arrangements with other activities presenting complementary outputs.

⁶³ KCOOS Guidebook chapter 2 [Understanding the phenomenon of manipulation of sports competitions](#)

In order to best cooperate and coordinate actions and assemble all relevant stakeholders on a given topic, structured mechanisms are required, and in order for these mechanisms to function efficiently, procedures need to be established; procedures that would be the result of coordination between relevant public authorities and require the cooperation of private stakeholders in order to produce optimal results and a balanced effort from all actors, without one actor needed to exhaust their resources more than absolutely necessary.

The coordination and co-operation in the fight against the manipulation of sport competitions needs to take into consideration national and international levels:

- Public authorities are mainly required to coordinate their actions, implying a consensus, compromise and concessions. Private stakeholders, notably the sport movement and betting operators, are mostly required to co-operate, allowing them a little more margin for independent choice-making.
- In order to be able to tackle the phenomenon across borders, certain coherence is needed between all national actors before being able to communicate to counterparts and national platforms in other countries. This avoids loss of intelligence, data and time. If all stakeholders, private and public, do not co-operate, then, as evidenced in a number of countries, the transnational problem of manipulation of sport competitions, is inevitably much harder to prevent, detect and especially sanction. Organised crime is mentioned as a main source for initiating various forms of manipulation. The term 'organised' implies that there is much co-operation and even some coordination, keeping the offenders one step ahead of those that are attempting to fight the manipulation of sport competitions.

3.3.2 Obligations in the Convention on manipulation of sports competition

One of two main objectives of the Convention is to promote national and international co-operation against manipulation of sports competitions between the public authorities concerned, as well as with organisations involved in sports and in sports betting.

National cooperation

The Convention differentiates between what Parties (State institutions) can directly control and organise in terms of co-ordination and cooperation for specific stakeholders, and what they should do to encourage other stakeholders to organise themselves, including in order to implement relevant provisions of the Convention for which they might be entrusted. This therefore allows for the autonomy of sport to remain intact.

The Convention leaves a considerable margin for organising their stakeholders nationally, taking into account the national differences in structure, policy and operation. The Convention (article 4) articulates direct responsibilities for Parties concerning co-ordination and co-operation between the national stakeholders, as explained below.

Coordinating policies and actions – public authorities

States have direct authority over a series of actors and therefore coordination can and should be stimulated by State action (of its public authorities) in order to create the conditions enabling stakeholders to agree on the forms of coordination. The Convention specifies that public authorities shall "*co-ordinate the policies and action of all the public authorities concerned with the fight against the manipulation of sports competitions*" (article 4.1).

In addition to the ministry responsible for sport, given that article 15 requires that Parties ensure domestic laws enable the criminal sanctioning of sport competitions when it involves coercive, corrupt or fraudulent practices as defined by domestic law and that article 16 adds money laundering, confiscation, this clearly indicates that law enforcement agencies and responsible ministries (Justice, Interior, Finance) are also directly concerned. The other main stakeholder implied is the Prosecutor, who would be

conducting investigations, especially that Chapters 5 and 6 specifically refer to jurisdiction, criminal procedures and enforcement measures, as well as sanctions, seizure and confiscation, which in most countries is led and/or authorised by the prosecutor's office.

This means that Parties are expected to set up strategies to coordinate the fight against the manipulation of sports competitions by public authorities, by:

- Coordinating policies and actions of all public authorities that are relevant to the fight against the manipulation of sports competitions
- Facilitating exchange of information between public and private entities through the establishment of mechanisms to share relevant information in order to carry out effective risk assessment (Guidebook chapter 3.1)
- Identifying, analyse and evaluate risks associated with the manipulation of sports competitions (article 5), including adopting legislative measures to this end
- Ensuring the transparency of funding of sports organisations supported by the State, via legislation and similar measures. This includes also assisting sports organisations by putting in place appropriate funding mechanisms, as well as by withdrawing such funds from competition organisers and organisations that do not apply regulations in the fight against the manipulation of sports competitions.
- Naming (or establishing) at least one authority who has the legal authority to implement sports betting regulation and to apply measures that have been put in place by the State to combat the manipulation of sports competitions in relation to sports betting (article 9).
- Ensuring, via legislation, that conflicts of interest and misuse of inside information is handled with regard to providing sports betting products
- Compelling sports betting operators to report irregular or suspicious betting without delay to the betting regulatory authority or the national platform.
- Identifying a national platform (addressed in chapter 3.1.2.5)
- Facilitating national cooperation and ensure the implementation not only of article 12 of the Convention on exchange of information between competent public authorities and private stakeholders, but also all measures and articles of the Convention.
- Putting in place legislation and other measures as necessary in order to ensure the effective coordination of national stakeholders (look at chapter 3.2 of the KCOOS Guidebook)

The betting regulatory authority

"In addition to the public authorities that very likely already exist in all member states (law enforcement agencies, prosecutor's office, relevant ministries), the Convention requires the nomination of an authority to regulate and monitor the correct implementation of rules related to betting. This is not to create more bureaucracy, but rather to ensure coordination at national level and to ensure that there will be somewhere for all information to be cantered before being passed on to the national platform.

In the economic domain, the regulation is of a single or many markets of the economic system to designate mechanisms and means to ensure good functioning. For the financial and gaming sectors, the term regulation is used neutrally with regard to rules (the drafting of laws and norms which apply to different stakeholders) and to supervision (the monitoring of the correct application of these rules).

To regulate the sports betting sector is to question the expected aims. The balance of this sector of activity needs to be considered by taking into account three aspects:

- Geographic dimension: today, most of the time, national jurisdictions have to rule on sport betting. The (European Court of Justice) ECJ, for example, has left its member states to fix their own rules as

long as they respect the general principles of the EU and sufficiently justify restrictions for the need of public order;

- The priority given to the regulation: depending on the entity in charge of regulation, the emphasis may be placed on the limit of gaming, the prevention of public and social order risks, the fight against illegal betting, the creation of jobs or the collection of additional revenues. The country's policy in games of chance and money is defined by the law.
- Targeted stakeholders by the regulation in place: there is a need to target who the stakeholders are that are targeted by the regulator:
 - Religion: most religions directly condemn games of chance or impose a negative moral judgment against the dangers of love of money. In these conditions, religious institutions today still have a significant influence on the regulation of bets in a number of countries worldwide (for instance, Middle Eastern countries).
 - State interest: whether guided by economic ambition or a need to ensure its sovereignty *vis à vis* an illegal offer, public authorities will often legitimately defend their own interests.
 - The consumer: sports betting regulators make their choices often depending on the potential satisfaction and protection of the consumer (protection against himself for excessive gambling, or against external aggression, for example fraud or manipulation of sport competitions) can result in the regulator of sport bets to choose very different options. With the more evolved forms of sports betting (betting exchange, live betting, spread betting, for example) it is important to verify if the regulator considers the recreational aspects of bets or if they accept on the other hand, to adapt existing norms to the interests of professional bettors. For the more dynamic operators on the market, only a small percentage of bettors (1%) generate more than half their revenue.
 - Operators: whether they are public or private, they play an essential role today in the regulation of bets, notably due to their increasingly frequent interactions with administrations in charge of monitoring of the sports betting market. Their capacity to influence linked to human and financial means has become key to the evolution of the market. In certain countries, their satisfaction is part of the regulator's objectives (for instance, in Malta, in the United Kingdom).
 - Sport organizations: sports events are (almost) always subject to bets. Whether or not today the sport economy is not dependent on bets, contrary to horseracing bets which is a strong element in many countries, sport has become an indispensable actor in the regulation of sport bets. The evolution of sport betting supply has considerably increased the risks linked to the manipulation of sport competitions. Public authorities have since consulted and included the sport movement in their work.

Taking into account its multiple dimensions, the regulation of sport bets is more than ever a delicate subject today. It concerns finding a balance, depending on the following factors:

- Demands expressed by consumers.
- The attractiveness of the offer in all its forms.
- Risk management:
 - Protection against criminal infiltration, and most of all money laundering, cyber criminality and match-fixing;
 - Protection against excessive gambling⁶⁴.

⁶⁴ Extract from Regulating modern sports betting: balancing demand, attractiveness, offer and management of risks? (*Translated from* Réguler les paris sportifs modernes : Quel équilibre entre demande, attractivité de l'offre et maîtrise des risques?) by Christian Kalb

The advantage of an international convention in this area is that it promotes a risk- and evidence-based approach and allows commonly agreed standards and principles to be set in order to prevent, detect and sanction the manipulation of sports competitions. To achieve this, all stakeholders in the fight against manipulation of sports Competitions need to be involved, namely public authorities (ministries, Law enforcement agencies, prosecutors), sports organisations and sports betting operators (and regulators).

In its Resolution 1602 (2008) on the need to preserve the European sport model, the Parliamentary Assembly of the Council of Europe had noted that recent scandals in several European countries, involving illegal sports betting and manipulation of results, had seriously damaged the image of sport in certain countries, including in Europe. It called for the introduction of mechanisms to reduce the risk of match-fixing, illegal sports betting or other forms of corruption. It further emphasized that these problems would require more active involvement on the part of state authorities.

Co-operating – sport organisations, competition organisers and sport betting operators

“... encourage sports organisations, competition organisers and sports betting operators to co-operate” (article 4.2).

Here, the action required is more flexible. They do not have direct control over the actions, but can rather encourage the stakeholders to work together. Parties have flexibility as to the method used to encourage these private entities to co-operate. This may be via action plans and policies put in place, as well as legislation.

Article 7 includes specific points on what the Parties should encourage sport organisations to adopt in their codes and regulations to combat the manipulation of sport competitions; specifically with regard to conflict of interest (such as betting on their own competitions, use of inside information), compliance to sport regulations, reporting of suspicious activity; monitoring; analysis of risks of manipulation and mechanisms for disclosure of information.

Article 10 does the same with regard to betting operators, with regard to prevention of conflicts of interest, misuse of inside information abuse of position, obligation for betting operators to report irregular or suspicious betting activity to the betting regulatory authority, the other responsible authorities or the national platform.

Article 12 addresses the exchange and sharing of information⁶⁵ that would take place between public and private stakeholders

The fastest and most efficient method, as indicated by the Convention, to ensure the national and international coordination and cooperation, would be the national platform in order to inform, in one report, all relevant authorities and stakeholders. This concept is enshrined in article 13 of the Convention. It is not a stand-alone article, but is rather a culmination of all the measures provided for in the Convention. The National platform is a concept developed by the Macolin Convention in the manner in which it is currently promoted by various organisations.

International cooperation

In terms of international co-ordination the Convention calls for the Parties to co-operate with each other to the widest extent possible for the purposes of, among others, investigations, prosecutions and judicial proceedings (Chapter III – Exchange of Information, Chapter VII – International cooperation in judicial and other matters).

⁶⁵ Chapter 3.4 Sharing of Information

Each party shall also co-operate with international organisations in the fight against the manipulation of sports competitions. Articles 26-28 concerns international cooperation in criminal matters in particular, citing international and Council of Europe framework⁶⁶. The explanatory report specifically mentions, as on many occasions in the Convention, that all cooperation is on the basis of existing international instruments, including for EU member states, EU framework.

Article 26 in particular encourages cooperation across borders in investigation, prosecution and judicial proceedings, given the international nature of the phenomenon, including seizure and confiscation.

Article 28 asks Parties to cooperate with international sport organisations, notably with regard to prevention, raising awareness, detection and sharing of information.

Article 27 asks Parties to endeavour to integrate assistance to third State Parties, where possible, in the prevention of the manipulation of sport competitions.

With regard to where dual criminality is required, for example, the explanatory report of the Convention specifies that the description of the crime of manipulation does not need to be the same, as long as it is recognised in the national systems concerned and provided that the conduct at the origin of the offence in respect of which a request for mutual assistance or extradition was made constitutes an offence in the legislation of both Parties.

The national platform must also cooperate, according to article 13(b), with all relevant authorities nationally AND internationally, as well as with other national platforms including, but not necessarily and not limited to, sharing of public information.

3.3.3 Tackling challenges

Most coordination and/or co-operation between stakeholders at international level have thus far been spontaneous and rare. However, in 2016-2017, KCOOS project partners were from all relevant stakeholder groups; as such, they have been able to encourage their own network members to integrate into international affairs and better collaborate with the secretariat of the COE as well, via KCOOS. This sort of collaboration, exchange and sharing of information and content should only increase as stakeholders begin to grasp the intricate details of the importance of combating sport manipulations, because most exchange and integration is still superficial. .

While coordination is rapidly improving in many countries, it is still one of the major issues hindering an effective response to manipulation of sports competitions and many countries still have no effective procedures for coordination and cooperation among key stakeholders. At many of the regional seminars, national stakeholders of the same country had met each other for the first time.

Once the essential conditions are met at national level, (consensus about priorities to be faced in order to fight the manipulation of sports competitions, identification of the relevant stakeholders), other processes may be advanced, thus enabling the development of contacts and connections between actors and moving towards the establishment of a coordinated action. This naturally leads toward a common understanding about the role and function of the National Platform. In that sense, the establishment of the National Platform would be built from the bottom upwards as the most effective process for mobilising the different stakeholders and for clarifying the national policy in the fight against the manipulation of sports competitions.

It is thus important that such actions continue following such events in order to maintain the momentum. Such was the case, for example, with Hungary, where following the regional seminar and study visit, main stakeholders are starting to develop a connection and moving towards the establishment of a coordinated action in the way of a national platform.

⁶⁶ Convention 24, 30, their additional protocols, Convention 141

Sport enjoys a certain degree of autonomy in most countries and prior to manipulation of sports competitions becoming an issue it was generally not relevant to have coordination forums or platforms for the government, law enforcement, sport, betting operators, etc. However, in many countries the introduction of national platforms is beginning to facilitate improved domestic cooperation.

Through the KCOOS experience, a series of challenges have been identified. Some of them have been successfully tackled in some countries, or specific situations are underlining problems still to be addressed:

Identifying and mobilising actors

Identifying the main national stakeholders is a condition in order to shape an effective coordination framework or strategy.

In Latvia, identifying all stakeholders was the first obstacle due to minimal interaction not only between stakeholders in general, but also between the elements of a group of stakeholders. Previously therefore, the ministry responsible for sport was not necessarily in close contact with other relevant ministries. In addition, lack of human resources and not knowing the starting point made the process all the more difficult, a common challenge faced by countries. Latvia has responded however, by requesting and receiving specific technical assistance, not only from the CoE secretariat and project KCOOS, through expert missions, study visits and bilateral exchange, but also through various stakeholder networks, including the network of national platforms⁶⁷. The regional seminars and study visits gave the stakeholders an insight into the difficult yet inevitable stage of 'getting to know each other and building trust', airing out each stakeholder's challenges and identifying common interests. The expert missions allowed Latvia to streamline their needs and have a real starting point for their following steps. Therefore before the expert mission, while they did have a meeting of most stakeholders and had started to put in place legislation, the mission allowed them to meet all stakeholders bilaterally and multilaterally and better understand the global vision of the fight against the manipulation of sports competitions and therefore act accordingly with regard to identifying priorities and completing their legislation.

Identifying priorities and the main stakeholders

The relevant forms of cooperation and coordination can only be defined in relation with the priorities to be addressed in each country. This requires first to identify the main challenges faced nationally with regard to manipulations of sport competitions: does it concern infiltration of organised criminals in club management, does it concern the conflict of interest and misuse of inside information, does it concern limited control over offer and supply of bets, lack of reporting of suspicious activity; is it more betting related or more related to other crimes or a mixture? KCOOS expert missions had worked on increased bilateral contact at operational, strategic and sometimes political level in order to provide a bridge for transfer of progress and push the process forward. Only when the challenges are identified faced by all stakeholders, can the priorities then be set and a coordination plan can be put in place. The interests of all stakeholders (and therefore their motivation to participate) are then addressed.

Therefore the very first step is to identify the main stakeholders and develop simultaneously the challenges. In the United Kingdom, the national platform is centred around the Gambling Commission and betting integrity primarily, because they have identified this as the main area of concern. They have also then established who the main stakeholders are in an investigation (therefore creating levels within their national platform); thus the triage process is the method used by the UK to involve relevant stakeholders in sport and law enforcement as well to be informed and to collect relevant information and potential evidence for launching a criminal and/or disciplinary case.

⁶⁷ Group of Copenhagen

In Belgium, a large number of recent cases do not involve betting related activity. However, a lot of the activity involves serious and organised crime, cross border issues and is also often criminal in nature. Therefore, the federal police is the leading stakeholder, although a rotation system is now being developed.

Setting up relevant cooperation framework

Co-operation and coordination between stakeholders and states is crucial when fighting in particular against criminal aspects of manipulations and notably against organized crime groups. These groups work pragmatically and effectively: they always try to maximize their profit and minimize their risk to be exposed. With being involved in manipulation of sports competitions, they found a perfect playground for themselves, due to the low-level legislation, knowledge of the danger and limited willingness by all stakeholders to step up against and recognise criminal activities in this domain. (The reasons have been discussed above). Once sport starts to protect itself – and has assistance operationally and politically to do so- criminals and criminal syndicates will move on to another country and another sport on which to parasite. A coordinated solidary action is therefore imperative to preventing this.

As soon as they figured out that the sport they penetrate starts to protect itself: the country they intrude, express and act to show that such criminal acts are not welcomed in their jurisdictions, the criminal groups do not insist in staying, they move to the next sport and country to parasite on.

That is why the international co-operation and coordination is important in this domain: if stakeholders of countries or even regions (such as EU) can coordinate their counter measures, or even co-operate and share information, they unite their powers and possibilities, against (organized) match fixers, the danger of organized manipulations can minimize radically⁶⁸.

Knowing what the biggest national threats are, and what existing tools are at the country's disposal, in terms of legislation, disciplinary regulation, experience, practices and procedures, as well as resources and related measures, is crucial to strategizing. This is why the gap and risk analysis phases are so important (see chapter 3.1).

Once the priorities and main stakeholders have been identified, the structure needs to be established. The Convention proposes this in the form of a national platform (see 3.1.2.5), in order to best manage the implementation of all articles of the Convention which are deemed themselves to highlight relevant measures in the fight against the manipulation of sports competitions.

International co-operation

Many countries have focused on increasing domestic co-ordination and co-operation first and have then moved onto the phase of increased co-operation at the international level. This international co-operation is easier through a structured mechanism, notably the national platform, as the platform would have a legal status and its actions supported by legislation.

In Lithuania, in April 2015, the Lithuanian Department of Physical Education and Sports signed a Cooperation Agreement with Ministry of Interior, Lithuanian Gaming Control Authority, Police Department and Prosecution Office aiming at ensuring and fostering cooperation in the fight against manipulation of sports competition. However, key stakeholders – including public authorities and sports organizations – had not been cooperating effectively. The creation of a national platform is, however, starting to facilitate cooperation, since stakeholders are starting to have regular meetings.⁶⁹ Structured systems are important to the operational activities.

⁶⁸ Extract from Article on 'Information sharing in the fight against the manipulation of sports competitions', 2017, by Norbert Rubicsek

⁶⁹ 'KCOOS First Study Visit report' and 'KCOOS Lithuanian Assessment Report Study Visit'

Another issue with regard to cooperation is that a lack of clear understanding on how to implement the measures of the Macolin Convention at national level can also cause difficulties in terms of international cooperation. The measures in the Convention are numerous and at times complex. Countries often felt that they were alone in facing certain issues of priority, awareness, etc.

In Bosnia and Herzegovina this seems to be an issue. Though, Bosnia and Herzegovina took part in designing the Convention, the country has not yet ratified the Convention. A major challenge is possibly the lack of priority and awareness on implementation of the Convention and its application among key national stakeholders engaged in the fight against manipulation of sports competitions. The second regional seminar in Zagreb allowed them the opportunity to exchange with neighbouring and other countries in Europe and they are now at the very early stages of preparing national legislation. For this reason, the country is currently has started⁷⁰ to be exposed to receiving experiences from other countries and assistance from the Council of Europe. This is a clear example of the need to coordinate and co-operate nationally first.

Ensuring effective operation

Memoranda of understanding are increasingly common between notably private stakeholders among countries in Europe. The signature of MoU between actors is a simple first step in order to start building national co-operation. The signature of such agreements with law enforcement agencies, which are the principal actor linking detection of manipulation of sport competitions to the prosecution phase is often an indicator that countries are taking concrete measure to ensuring effective operation, and paving the way toward cooperation. There is a shift between simply remaining at the detection and prevention phase, to adding the prosecution phase. The Conventions definition of the manipulation of sports competitions does, after all, include as well the *intent* to manipulate sports competitions. The sport movement has been amongst the first to conclude memoranda of understanding with betting operators and with monitoring systems in many countries in order have better and quicker exchange of information on specific betting related alerts during major competitions.

KCOOS revealed how various countries have responded with first step toward the need of ensuring an effective operation. A number of sport organisations, notably in football, have signed MoUs with monitoring systems (such as GLMS or Sportradar) as well as with associations of betting operators (such as again, GLMS or ESSA) in order to enhance their collect of information. Other stakeholders have established channels of communication with law enforcement authorities in order to transmit potential intelligence as often as possible.

It is important to remember that the national platform is official when the national legislation decrees this. Once a national platform is official under national legislation and the Convention, it will have a certain legal status and possibility for overcoming challenges such as handling sensitive data. For example, as Norway had ratified the Convention, the national platform was officialised and requested authorisation from the national data protection agency to handle sensitive data. Other Scandinavian countries may follow suit.

Developing the national platform

The national platform is first and foremost, a Council of Europe concept, developed within article 13 of the Convention and adopted and promoted by organisations all over the world. The 12 countries which currently have national platforms have implemented them in a variety of different ways. Some of the differences include:

- Hosting of the platform. Countries have generally decided to host the platforms in existing organisations but have decided on different organisations such as the ministry responsible for sport (Georgia), other relevant ministries (Norway) , the law enforcement agency (Belgium), the anti-doping agency (Denmark), public independent bodies dependant on a ministry (United Kingdom,

⁷⁰ KCOOS Second Regional Seminar Report

Portugal) or an entity mandated by a ministry (such as the working group in Finland or independent entities).

- The mandate of the platform and the exact competencies of the platform vary from country to country. One of the major differences is whether the platform has investigative powers (such as the UK) and competences and whether betting operators are required by law to report suspicious betting patterns to the platform (such as the Netherlands). This also affects what kind of competences the staff of the platform should have and how many financial and human resources is needed to run the platforms (for example 2 persons fulltime in Norway, a large group of persons, none full time in most other countries, including France).
- Financing of the platform. The amount for creating and running the national platforms and the source of the funding vary greatly between countries. Some countries have asked the relevant organisation to run the platform from its existing budgets; some have received funding from the national general budget and some from a tax on licensed betting operators.
- Operation of the platform. Most platforms seem to include roughly the same actors – representing the four types of actors described above – but the exact number of members varies from country to country and so does the meeting frequency, the use of thematic subgroups to discuss specific topics, etc.

In the Netherlands, an issue in regards to coordination and cooperation is the lack of inclusion of online betting providers, who would like to participate in the platform. The Netherlands are currently opening up the betting market but online providers are – even if they in reality operate in the Netherlands - still illegal and therefore not able to be part of the National Platform. However, the Netherlands have been courageous in modifying the format of their national platform as it evolves in order to best suit national needs. Other countries face the same issue. Certain countries have found a partial solution in dividing the national platform into strategic and operational circles, allowing betting operators to be involved in the strategic activities. Other countries, for example Georgia, are considering inviting operators on a needs basis. It is overall crucial to recognise that operators DO have an important role to play, notably in detection and raising alerts. The way they are to be included in a national platform or in the exchange of information generally depend on each country's priorities and legislation.

The National Platform can also face other cooperative and coordinative issues. For example, in Germany, the responsibility for implementation of the Macolin Convention lies with the Ministry of Interior but the federal states ("*Länder*") are responsible for the regulatory systems on sports betting and law enforcement. Also, due to the decentralized system it can be difficult to gather all relevant parties and it can be difficult to secure that all parties are represented without ending up with a very large group. It is Germany's intention to establish a national platform to serve as an information hub between the relevant authorities at the national level and the responsible authorities at the federal state level, such as the gambling supervisory authorities and the law enforcement agencies. This will make the national platform the key information hub, where all the different pieces of information from the various relevant stakeholders could be collected and analysed. Stakeholders are currently communicating with each other and participating in international networks, such as the informal network of prosecutors of the Council of Europe.

Co-operation and coordination across borders

International cooperation is already well-established in some areas and should not be duplicated. INTERPOL and Europol have well-established channels for international cooperation for exchange of international criminal intelligence/information. Similarly, IOC, UEFA and FIFA (for football) etc. facilitates cooperation among sports federations and associations across borders, via, for example the IOC Intelligence Betting Integrity System (IBIS) with regard to betting alerts. At regular Interpol task force meetings, there is always an allocated time for bilateral operational exchange, while Europol utilises the SIENA exchange of communication system to allow LEAs of EU member states and other operational partners to exchange operational data and classified information within a secure environment. Additionally, Europol facilitates regular operational and strategic meetings connecting LEAs of EU member

states and other operational partners as well as ad hoc Expert meetings involving Public and Private sector. At the political level the EU has established expert groups on match-fixing and the Council of Europe has initiated the network of betting regulators and the network of prosecutors. Most of these groups are mainly aimed at building networks and sharing of information rather than dealing with concrete cases of manipulation of sport competitions in real time, although the informal Network of National Platforms (Group of Copenhagen) has started to work on real time competitions⁷¹. Implementing the three articles in Chapter VII of the Convention on international co-operation in judicial and other matters is crucial to tackling the cross border issue. The JIT Veto Case (Bochum) of 2012 and more recently, the Jogo Duplo case, which were both supported by Europol as well, are clear examples of the need for cross border co-operation in investigations. Moreover, the increasing number of cases of suspicious betting from Asia on Brazilian football matches is a small but significant indication of the reach of international crime in this area. This responsibility is on the Parties to put in place legislation (bilateral, multilateral and international) concerning offences of fraudulent practices, money laundering, corruption, aiding and abetting.

3.3.4 Guidelines

While there clearly are issues related to cooperation and coordination it is equally clear that the introduction of national platforms is becoming the key coordination forum it is meant to be and that domestic coordination has improved vastly in the countries that has established national platforms. The simple act of organising the process to establish the national platform, while challenging, creates a dynamic capable of tackling many of the key challenges. During this building process trust and confidence between stakeholders can be developed, awareness can be shared and promoted together, and stakeholders can begin to discover their common interests. This increases clarity on coordinated actions to be carried out. The national platform itself is thus developing and forming and proving itself to be a relevant structure.

The platforms are also building trust and creating networks between participants and facilitate cooperation and coordination among actors outside the platform.

Typically, key actors are meeting 3-4 times a year at the national platforms and in addition many platforms have working groups devoted to specific themes that are meeting an additionally 3-4 times a year or when relevant.

In addition, co-operation across sectors nationally and internationally is important in prevention as well. Article 6 of the Convention refers to education and awareness raising. KCOOS activities revealed that while a number of stakeholders, notably in the sport movement, have a number of tools in place for awareness raising (more recently the Spanish football first division setting up an integrity program including youth levels, girls and boys), awareness raising across sectors is still rare. National platforms will help those directly in the sectors to understand the requirements, challenges and needs of the other sectors, in order to better understand how to coordinate and co-operate, but this needs to be more systematic. With increased understanding there will hopefully be more willingness to compromise.

Basic requirements for the national platform:

- The national platform would become official once its existence is legalised nationally and addressed to the Secretary General of the Council of Europe.
- The Parties may choose the leading body for the national platform, taking into account existing structures and the distribution of national administrative functions.

⁷¹ World Handball Championship 2017, World ice Hockey Championship 2017, IAAF World Championship 2017, Eurobasket 2017

- The Convention advises that a public authority be the leading stakeholder for ease and neutrality, although it is not a requirement, as also stated in the Convention explanatory report⁷², as long as the stakeholder is recognised as being in accordance with national law.
- The national platform having a legal status is important because one of the main functions according to the Convention (article 13(b) and (c)) is to be able to collect, analyse and disseminate relevant information to public and private stakeholders alike on irregular and suspicious bets for example placed on competitions taking place on the territory of the Party, as well as, where possible, issuing alerts.

Establishing a structured mechanism

In order to best proceed towards an effective coordination and co-operation, countries are advised to consider the following points:

- Identifying the stakeholders – who sits in the National platform, regularly or spontaneously, existence of all relevant public authorities (regulatory authority, LEA, relevant ministries)
- Gathering the stakeholders around a table – actually getting the stakeholders to sit together
- Giving the platform a legal status – the platform needs to be given legal status nationally or at least have the sufficient powers to execute necessary actions to tackle the manipulation of sports competitions. In order to be official under the Convention, per article 13, notification to the Council of Europe is needed with the nomination of contact points.
- Identifying main priorities – need to identify main priorities nationally (betting-related? Money laundering? Serious and organised crime? Etc.).
- Gap analysis and legislative analysis – national legislation and all relevant international legislation – conducting analysis on national measures and legislation in existence on the current status.
- Identifying the method of coordination and a single point of contact – the leading stakeholder may not be the same as the entity coordinating the platform. The Convention remains flexible on the entity coordinating and the method of coordination of national actors.
- Identifying the leading stakeholder – the Convention does not specify a stakeholder, nor whether it needs to be public or private: it simply has to be a stakeholder recognised by national law
- Tackling coordination - how to overcome financial and human resources and engage all stakeholders regularly
- Tackling financial resources – how to optimise available resources
- Tackling human resources – how to optimise available resources

Ensuring main points of operation and sustainability

- Tackling exchange of information – tackling exchange of type of various types of information (general, sensitive, for various actors, for disciplinary and criminal procedures, for detection and prevention purposes, etc.).
- Mechanisms for reporting activity – ensuring reporting of suspicious or irregular bets and activity by operators to the regulatory authority
- Risk analysis – mechanisms and tools for conducting or receiving information on analysis of risks (of bets placed, possibilities of manipulation at a competition) and ensuring all relevant parties are informed in advance
- Disclosing information – who, how
- Awareness raising – prevention activities

⁷² Article 13 explanatory report para. 118.

- Confidentiality of personnel involved in an upcoming competition – link to coordination with competition organisers to ensure measures in place
- Addressing all measures of the Convention – ensuring the presence of relevant stakeholders
- Rendering the topic a priority – making the topic a priority at political level

3. Sharing of information and intelligence

3.4.1 Introduction

Sharing of information is a key issue, which hinders efforts to fight the manipulation of sport competitions and which has been flagged numerous times at KCOOS events.

Since the largest transnational case of JIT Veto (Bochum case) was revealed in 2012 by Europol, a lot of attention has been placed on the key words ‘information sharing’. The phrase is used a lot, without being really dissected. It is necessary to understand the difference between data, information and intelligence, because these terms are used loosely and sometimes interchanges and employed inaccurately. According to Collin’s English dictionary, ‘data’ can be described as a collection of facts and statistics, in no particular order or sense; ‘information’ is when the data has been organised; finally, ‘intelligence’ would be when the information has been interpreted and given some meaning to the question at hand. In a law enforcement context a definition of intelligence that can be widely used is: ‘processed information designed for action’.

Since this scandal was revealed (in addition of a number of others, bringing once again to light older scandals such as Calciopoli (2006), there was uncertainty as to how to proceed, although the recognition for the need to better share information at the very least between various concerned stakeholders was increased. The three big concerned stakeholders, sport, law enforcement/justice and betting were developing separately, and each area trying to identify a solution to fight manipulation of sports competitions and related crimes (sports corruption). Each of the areas depends on different legislation and regulations and receives different types of data, organizing this into information that makes sense to them as a stakeholder group. This information needs to be gathered into intelligence for efficient use in investigations by the law enforcement agencies⁷³. This is why co-operation and coordination is so crucial (Guidebook chapter 3.3). Even policy makers handled these areas separately: The European Union handled sports corruption under three separate Directorates, DG Home (LEAs), DG EAC (Sport) and DG GROW (Betting).

In addition to LEA being able to compel other stakeholders to share and report information (this is often in the law with regard to potential criminal activity), it is often difficult for stakeholders to do so for fear of either not receiving feedback in return or not considering the information to be relevant for Law enforcement authorities or even that they do not want to reveal the weakness in their sector. National platforms allow for this exchange amongst stakeholders who are known and trusted in a more confidential space; knowledge of the exact point of contact and trust that there will be give and take (for example, in return to release non sensitive/sport related information for the sport movement to carry out its disciplinary procedure), is an important factor.

It is important to first recognise that the Convention does not directly address the various stakeholders, but rather the Parties to the Convention, who are required themselves to encourage the various stakeholders to undertake the terms in the various articles.

⁷³ Article on ‘Information sharing in the fight against the manipulation of sports competitions’, 2017, by Norbert Rubicsek

When discussing sharing of information, we distinguish between:

- Sharing of personal information, which is regulated by data protection laws enforced by data protection agencies. The data protection laws set conditions for when personal information can be shared. In order to protect people from having their personal information shared against their will.
- Sharing of non-personal data, such as odds movements, market data and general suspicions of manipulations, which is generally unproblematic

It is equally important to distinguish between sharing of information between:

- Public authorities, including ministries, law enforcement agencies and prosecutors. It is generally allowed to share personal information with these actors and even generally required by law when considerable suspicion exists or on request by the law enforcing stakeholders.
- Private organisations, such as betting operators and sports associations and clubs. It is only allowed to share information between these actors if the data protection rules are observed. This entails that there must be a legal basis for sharing the information but also that the recipient of the information must be able to handle and store the information according to the law.
- Sharing of information between public authorities and private entities. In general criminal procedure law, when requested (normally by order from the judge), private entities are required to turn over information to public authorities, notably law enforcement agencies. With regard to betting operators reporting to betting regulatory authorities, the Convention encourages the setting up of legislation or regulations to ensure this. For example, in the Netherlands this is a requirement (article 10-3 CETS 215). However, establishing good connections with the operators is crucial to a transparent working relationship. In the United Kingdom, for example, a high channel of communication has been established between the regulatory authority and the main betting operators. Based on a list of established criteria, operators are encouraged to inform the regulatory authority of alerts and suspicions. A mix of both approaches (communication and legislation) will generally pave the way to increased efficiency.

3.4.2 Obligations in the Macolin Convention

The Convention calls on each Party to facilitate, at national and international levels and in accordance with its domestic law, exchanges of information between the relevant stakeholders. Chapter VII concerns international cooperation in judicial matters, taking into consideration all existing international instruments of the UN and the Council of Europe, in particular as well as EU instruments for EU member States. The Convention underlines the importance of cross border sharing of intelligence and information and cooperation for offences referred to in articles 15-17 as well as for seizure and confiscation for a phenomenon that is largely transnational.

Parties (thus implying public authorities) are required:

- To identify one or a number of responsible authorities entrusted with the implementation of sports betting regulations, in accordance with relevant national and international data protection laws (art. 9). Regulatory authorities should have the responsibility to apply measures, including the timely and efficient exchange of information with other relevant authorities or the national platform for illegal, irregular or suspicious sports betting as well as infringements of the regulations referred to or established in the Convention.
- to ensure that the regulatory authority ensure the advance provision of information about the types and objects of sports betting products to competition organisers in support of their efforts to identify and manage risks of sports manipulation within their competition. Sensitive data notably the identity of consumers, value of bets and transactions are not included in the article (art. 9.1.c).

- To identify one or more authorities entrusted with the exchange of information, in a timely manner, with other relevant authorities or a national platform for illegal, irregular or suspicious sports betting (article 9.1.a).
- To oblige sports betting operators to report irregular or suspicious betting⁷⁴ without delay to the betting regulatory authority or other responsible authorities or the national platform (art.10.3).
- To set up mechanisms facilitating the exchange of information between the relevant public authorities, sports organisations, competition organisers, sports betting operators and national platforms (article 12).
- To set up mechanisms to share relevant information with regard to risk assessment and namely advanced provision of information about the types and abject of betting products to competition organisers (article 12).
- To adopt legal measures to ensure the protection of persons who report, in good faith information on criminal offences, money laundering and aiding and abetting (art. 21). This is in particular to protect those who may be subject to pressure and coercion from organised criminal groups. This is taking into account various international instruments, including the Council of Europe Recommendation No. R (97) 13 of the Committee of Ministers to member States concerning intimidation of witnesses and the rights of the defence (1997). This is to be considered together with regulations put in place by the various sport organisations with respect to whistle-blowers.

Of course, Parties must consider existing data protection laws in the exchange and sharing of information, as well as the integrity, lawfulness, adequacy, relevance and accuracy of exchanges by the entity collecting and processing information (art. 14). This covers all areas of activity as the manipulation of sport competitions may cover administrative cooperation, consumer protection, child protection, combating fraud and money laundering, identity theft and other forms of cybercrime, etc.

In addition, public authorities should concretely encourage the following:

- Sport organisations and competition organisers to carry out effective monitoring and to then put in place mechanisms to facilitate the disclosure of information over the course of competitions (art. 7).
- Competition stakeholders (therefore not only the organisers necessarily) to report immediately any suspicious activity, incident, incentive or approach which could be considered an infringement of the rules against the manipulation of sports competitions (art. 7.1.c). Note that reporting is to be an obligation where betting operators are concerned.

Illegal Betting

Article 11 defines illegal betting. One of the reasons that betting needs to be defined as illegal is because in order to best monitor bets, regulations and limits are needed. If there are operators unknown to the jurisdiction's betting regulatory authority, then the sharing and exchange of information is all the more difficult and notably, is insufficient.

3.4.3 Challenges and country approaches

Sharing types of information with law enforcement authorities

It is generally the law to share information on potentially criminal activity with law enforcement authorities (LEA). However, determining, especially in the case of sport organisations, what is potentially criminal and what is potentially disciplinary activity, is a challenge. The general feel that arises from many

⁷⁴ Article 3 definitions: irregular sports betting – any sports betting activity inconsistent with usual or anticipated patterns of the market in question or related to betting on sports competitions whose course has unusual characteristics. Suspicious sports betting – any sports betting activity which, according to reliable and consistent evidence, appears to be linked to a manipulation of the sports competition on which it is offered.

private stakeholders is that, while they are putting in place monitoring mechanisms within their sport (either developing their own systems or engaging the services of external providers), they are unsure about sharing this information. This is particularly when they are unsure and unlikely to receive much information in return. The challenge then becomes:

- Reconciling disciplinary and criminal procedures in order to optimise sharing of information between all relevant stakeholders
- Understanding the restrictions and needs of various stakeholders in the sharing of information.

There is already literature on this topic, for example the UNODC Resource Guide on Good Practices in the Investigation of Match-fixing⁷⁵. However, it is often that stakeholders remain at the stage of exchanging information between private entities: for example, sport movement and the betting operators, in order to detect and prevent the undesired betting activity. However, this information often does not reach LEA for fear that it either will not be treated or that it will not have feedback due to restrictions of on-going investigation. The other reason that LEA may not be informed is because the sport movement carries out its own disciplinary procedures with regard to its licenced members.

The negative result is that for a disciplinary procedure purely, the criminals behind the immediate manipulation, notably those of the organised crime nature, as is increasingly the case, or the corrupt third party influencing an athlete, for example, sees no consequences. On the other hand, a purely criminal procedure takes time; in the meanwhile, the athlete may continue to participate in the competition without needing to atone for their actions, thus compromising the integrity of the sport.

The other issue is that when information IS shared with LEA, it may not be suitable for investigations. The challenge is to render the potential evidence sufficient enough to allow LEA to be attracted to the intelligence and to be able to have enough to launch an investigation. This lack of sufficient information often leads to demotivation by stakeholders to share more information as they often see their efforts ignored by LEA for lack of sufficient information. This was a particularly widely cited challenge during the KCOOS project.

Finally, while many organisations have reporting lines (red button, hotline, etc.), questionnaire replies often revealed that the means of reporting were often inefficient. This may be due to lack of sufficient promotion of the existence of the hotline, for example, or that athletes are not reassured enough that they would be protected.

In Belgium, a betting related match-fixing case received intensive press coverage in the mid-2000s involving a Chinese businessman, the management of top-flight Belgian football clubs and famous footballers who allegedly fixed matches⁷⁶. Since then, Belgium have increased focus on how to tackle manipulation of sports - notably on how to tackle match-fixing cases - and initiatives have been taken including setting up a national platform⁷⁷. However, Belgium still experiences much secrecy with regards to exchange of information between actors in the world of sports that needs to be overcome to be able to effectively tackle match-fixing cases.⁷⁸ This difficulty has also surfaced between betting stakeholders and sport organisations.

Sharing information with competition stakeholders

The more information that competition stakeholders have *in advance*, either from the LEA on potential external or internal influences of organized crime or other criminals, on the one hand, and from betting operators and/or the betting regulatory authority on bets offered on their competitions, the easier it would be for them to observe and report back. However, in many countries, there is limited sharing of

UNODC Resource Guide on Good Practices in the Investigation of Match-fixing – United Nations, 2016

⁷⁶ www.wsc.co.uk/the-archive/18-letter-from/1370-belgium--match-fixing-and-corruption

⁷⁷ KCOOS Second Study Visit Report

⁷⁸ KCOOS First Regional Seminar Report

information with competition organisers or sport organisations. In Austria the general perception is that personal data cannot be shared with sport associations, clubs and betting operators etc.

Naming specific points of contact

Identifying within each stakeholder group is essential. For instance, when competition organisers want to report a suspicion, they need to have a single point of contact who would then communicate this information to the National platform point of contact. Thus, disseminating the information by the actual contacts is extremely important. The national platform then fulfils its statutory duty to collect the necessary information and disseminate it further to relevant stakeholders (federation for disciplinary procedures and/or prosecutor for legal system procedures). Putting in place a triage system as exists in the United Kingdom with Key stakeholders to assess the information gathered is important.

Organising regular meetings will allow for personal contact. It is important to consider, when conducting the national analysis, that there may be specific procedures in place which may block sharing of information today and which therefore may need to be deconstructed in order to set up new practices.

It is important as well to understand that disclosing information on on-going criminal investigations is restricted for the protection of those disclosing, but also in order not to permit the alleged criminal to escape arrest and/or prosecution. However, when there is trust, for example within the national platforms and when certain protocol is fixed on sharing of information, then there may be a way for the relevant parties, for example, the integrity officer of a federation, to have limited feedback. An example of a well-functioning process is the United Kingdom's triage process, with three stakeholders in the national platform, including the national Crime agency and the gambling commission investigators, are charged with assessing, together, the nature of intelligence and information received and then determining the next steps in order for a disciplinary and criminal/court procedure to be carried out simultaneously.

When it comes to exchanging criminal intelligence on concrete cases, already established channels should be maintained and optimised. The Interpol Task Force on Match Fixing as well as Europol Sienna system are two existing channels for law enforcement agencies. With regard to exchanging information amongst betting operators and state owned lotteries, the existence of associations such as ESSA (betting operators), European Lotteries, World Lotteries Association the International Association of Gambling Regulators, the EU Expert Group for Gambling Services and the Council of Europe Network of Betting Regulatory Authorities are amongst the established networks available. The Group of Copenhagen has also been developing methods, such as the logbook, to enhance the exchange of alerts in live time between the national platforms, as required in the Convention. National platforms should take into consideration the existence of such established networks in order to conduct the sharing and exchange of strategic information as soon as possible to all relevant parties. Certain National Platforms, such as France, already work with associations, for example ESSA, while others have members of the national platform participating in the various groups. In addition, as disclosed during the KCOOS project activities as well as for example, the EU Joint project BETMONITALERT, developing a typology for private entities to report to LEA would be very helpful in allowing LEA to carry out investigations with sufficient evidence. This requires cooperation and an understanding that such a typology would include betting and non-betting-related information. The National Platform would be the ideal setting for getting relevant stakeholders motivated and around the table.

With regard to money laundering and sport competitions, most countries have acceded to the various international instruments of the United Nations, the Council of Europe and the European Union (where relevant) and should consider involving their FIUs, specialised police officers and bank representatives in the exchange of intelligence.

Managing data protection requirements

In the EU countries, sharing of information is regulated by the data protection directive and in non-EU countries national data protection laws typically regulate sharing of information. Data protection questions should also be addressed in the risk assessment phase⁷⁹. In 2012 the European Commission proposed a reform of the data protection directive in order to strengthen citizens' fundamental rights in the digital age and facilitate business by simplifying rules for companies in the Digital Single Market. In 2015, the European Parliament, the Council and the Commission reached agreement on the new data protection rules, establishing a harmonised data protection framework across the EU. The Directive entered into force on 5 May 2016 and EU Member States have to transpose it into their national law by 6 May 2018.⁸⁰ The data protection rules regulate processing of personal data and on free movement of such data. The rules generally limit the sharing of personal data but data can for example be shared if a person gives his/her consent, based on a contract, a legal obligation, a public interest and a legitimate interest.⁸¹ The interpretation of the data protection rules are governed by the national Data Protection Agencies in the EU countries. It is important for EU member states to note that the new General Data Protection Regulation⁸² will come into force in 2018 and stakeholders and Parties should be well aware of this when carrying out their assessment of the national measures and national platform functioning.

It is not only data protection laws, which make it difficult to share information on manipulation of sports competitions among relevant stakeholders, but trust is a major factor. The more that stakeholders trust each other, the more likely they are to share information. A number of more practical and cultural issues exist too. This was obvious simply from the regional seminars in KCOOS, which led to, for example, exchange of intelligence on on-going cases between Bulgaria and Georgia, and increased bilateral contact between the UK and French National platforms from continuous contact.

A possible solution is also found with the explanatory report of the Convention on Article 14 on Data protection, which proposes that Parties set up consultation committees involving various stakeholders nationally and personal data protection experts to agree to the type of data to be shared and the time they should be preserved in order to ensure greater protection. In the UK national platform, such exchange has taken place.

Finally, since manipulation of sports competitions is in some cases initiated by organised crime syndicates people can be reluctant to share information in order not to bring themselves in danger. This is why protection of those that report (often known as whistle-blowers) and ensuring the confidentiality of the national platform systems of exchange of information is crucial and therefore in the Convention's article 21⁸³. Involving athletes associations, as is the case in France and in the United Kingdom, and was welcomed in discussions in Cyprus as well, for example, is crucial to developing this aspect, as athletes are one of the best sources of detecting manipulations and also would probably have useful intelligence for LEA with regard to the criminals BEHIND the scenes.

In Norway the national platform was tasked with setting up and running a centralized database with the purpose of collect relevant information on manipulation of sport competitions from all the stakeholders. The aim was to be enable the national platform to detect and prevent concrete cases of manipulation of sports competitions. The national platform therefore initiated a dialogue with the Data Protection Authority to clarify the rules for how to collect and store sensitive information in compliance with the national data protection laws. Following the dialogue, they received a license from the DPA to collect and store sensitive information. The national platform in Denmark has considered initiating a similar process on order to clarify the boundaries for sharing personal information in Denmark.

⁷⁹ Chapter 3 Addressing the manipulation of sports competitions, 3.1 Risk assessment, page 14

⁸⁰ http://ec.europa.eu/justice/data-protection/reform/index_en.htm

⁸¹ http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet_mythbusting_2012_en.pdf

⁸² <http://www.eugdpr.org/>

⁸³ Protection measures

In the UK, information exchange has been highlighted as the biggest challenge even if they have made significant efforts to facilitate sharing of information and the data protection act – according to other EU-countries - is interpreted more loosely than the data protection rules in most other European countries. Schedule 6 of the 2005 Gambling Act lists bodies which are able to exchange information with the Gambling Commission.⁸⁴ The bodies listed include both public authorities and sport governing bodies. License conditions also require betting operators who suspect betting irregularities to share information with sports governing bodies included in the schedule. Schedule 6 thereby allows information about suspicious betting patterns to be shared between betting operators and a number of sport governing bodies. Of course with regard to exchange of information between private actors, this is usually subject to civil law and contract law; many stakeholders have concluded memoranda of understanding on exchanging information. If a sport governing body is not mentioned in Schedule 6 and the information does not relate to a criminal investigation or criminal proceedings, the Gambling Commission (and the national platform's strategic core – the Sports Betting Intelligence Unit⁸⁵) has to make a decision on a case by case basis as to whether it is appropriate to share the information. Information sharing protocols have also been developed by the SBIU, which sets out the procedures and practical arrangements for cooperation among the members of the Forum to share information and ensure compliance with the provisions of the Law of Great Britain and the Data Protection Act. Thus, if a sport governing body is not mentioned in schedule 6 the UK faces the same difficulties in sharing information as other EU-countries but due to schedule 6 the SBIU can share information with the majority of large sport governing bodies.

Reporting

This challenge refers to informing about the occurrence of potentially criminal or illicit activity. This is also a form of sharing information. When persons 'blow the whistle', they share information. When betting operators report on suspicious or irregular bets, they share information of a different kind. A national platform would collect this information and convert it into intelligence, redistributing it back to the relevant stakeholders. Therefore, a reporting structure for each of the stakeholders is important.

In Germany, cases of suspicions of manipulation of sports competitions are regularly reported within the different domains (e.g. betting domain and sports domain). Nevertheless, there is no established reporting structure between the different domains and law enforcement (police). As an example, in one case suspicious bets were accepted in shops in Germany, but the match was in Denmark and the person placing the bets was of Polish nationality. However, due to lack of guidelines on how and where to report the information, it was not obvious what to do with the information. In addition, stakeholders have experienced that when they do report findings to law enforcement, the information is not necessarily acted upon. Furthermore, certain persons have also been actively threatened when they continue to make claims of manipulation of sports competitions⁸⁶.

This is an illustration of how important the protection of those that report is and that the national platform should work on setting up such mechanisms. Guidelines to report information can be developed within stakeholder groups, notably the network of national platforms. For this to be effective, national platform members and stakeholders need to be willing to participate and share their thoughts.

Ability to share information

Often sport associations – who might like to sanction athletes or officials involved in manipulation of sports competitions – have been frustrated by the police's refusal to share information of on-going or completed investigations. This is generally to protect on-going investigation and personal information but the police has also been criticised for not being willing to and not having a culture open to sharing of information. According to Interpol it is correct that law enforcement (police) generally does not share

⁸⁴ http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga_20050019_en.pdf

⁸⁵ The SBIU includes betting operators, sport movement, data protection stakeholders and LEA

⁸⁶ KCOOS Second Regional Seminar Report

information with sports organizations. The ability to share also depends on whether law enforcement agencies are in an on-going investigation or are gathering intelligence.⁸⁷

Previous research has shown that there is some un-clarity to what personal information can be shared and under what circumstances and the data protection agencies have rarely been consulted to clarify if sharing of personal information for sports manipulation purposes is legal.⁸⁸ Norway and the UK are examples of countries that have made significant in progress in clarifying what and when information can be shared.

The key to this is trust and to correctly understanding the laws in place in order to best know how to use them. Across most – if not all - countries participating in KCOOS, sharing of sensitive information between stakeholders on a national as well as international level is regarded as a challenge. Data protection laws and lack of trusts among stakeholders on a national as well as international level are highlighted as the primary reasons⁸⁹. These laws are sometimes not correctly understood or not correctly used. All possibilities they offer are not exploited. That is an excuse for not doing anything. This is why reports on legislative analysis are so important. In addition, as trust and confidence between stakeholders has proved to be developing, legislation still prevents sharing of information backwards from law enforcement agencies to stakeholders such as the sport movement, regardless of the will to do so or not.

3.4.4 Guidelines

It is clear that sharing of personal information is one of the major issues stakeholders are trying to find a solution to in order to optimise their efforts to combat manipulation of sports competitions. Given the recent introduction of new EU rules for data protection and the focus on protection people's privacy in other spheres - for example online – there is no immediate prospect of data protection laws being relaxed. It will therefore be necessary to find ways to improve exchange information within the upcoming EU-framework. While a few countries have made progress in establishing ways to share personal information and exploring the boundaries for sharing of personal information, the majority of countries can still increase efforts to improve sharing of personal information.

Building trust and confidence

Trust and confidence needs to be built between relevant stakeholders through regular meetings and through working on competitions.

Working groups on tackling specific challenges such as the nature of the data or information to be shared would enhance mutual understanding.

The recipient of the information (usually the national platform) shall inform the organisation or the authority sharing the information of the follow-up given to this communication. This therefore also covers disciplinary regulations.

Review legislation

Reviewing legislation (also elaborated on in guidebook chapter 3.2) is crucial to knowing just what information and intelligence can legally be shared and also allows legislators adapt legislation if the law in place no longer correspond with the reality of the situation, for example, to best suit a national platform.

⁸⁷ KCOOS Second Regional Seminar Report

⁸⁸ http://www.eu-ssa.org/wp-content/uploads/study_oxford_en.pdf

⁸⁹ KCOOS Third Regional Seminar Report