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**Convention on the manipulation of sports competitions –
The Macolin Convention (CETS n°215)**

Updated concept of manipulations of the sports competitions

The concept of “manipulations of sports competitions” is evolving

Given the ever growing scale of engagement of national and international actors as well as the experience acquired in the fight against sport manipulations and associated corrupted practices in the last few years, it had become vital to clarify the concept of “manipulations of sports competitions”. The work initiated within the Network of National Platforms (Group of Copenhagen), created by the Council of Europe in 2016, update the terminology, over the usual distinction between the terms “Sport” and “Betting” - related manipulations. Based on the “updated concept” presented at the 3rd International Conference held in Strasbourg on 24 and 25 September 2018 and now published, the Council of Europe will continue its explanatory work implementing the spirit and the principles of the Macolin Convention.

Introduction

The Macolin Convention has been open for signature since 2014 and is now close to entry into force. Over the last two years, national and international stakeholders that make up the Macolin Community have made a considerable collective effort to fight sports manipulations. The institutional and professional environment has consequently positively evolved. The understanding of the concept of sport manipulations has been enriched by the increase in published research as well as the rising number of criminal and disciplinary cases that have come to light. The general evolution also benefited from the results of the extensive field co-operation activities carried out, as for example the “Keep Crime Out Of Sport” (“KCOOS”) project since 2016, which led to the dissemination of guidelines and synthesis¹.

The Network of National Platforms (known as “the Group of Copenhagen”), which was established by the Council of Europe in 2016, is contributing significantly to on-going developments. The Network is currently engaged in the elaboration of a comprehensive “Survey” based on national experience to identify the *modus operandi* used by manipulators. The Council of Europe’s objective is to specify the different types of sports manipulations and associated corrupt practices. The on-going efforts are already revolutionising currently used terms (i.e. “Sport” and “Betting” - related manipulation both of which are now out dated and inaccurate). That work will imminently provide a systematic data base of manipulations cases and the use of a “typology” giving access to harmonised procedures for tackling the different types of manipulations.

This 2018 version of the “*updated concept of manipulations of sports competitions*” as defined within the framework of the Macolin Convention is a first step reflecting on the work already achieved by the Group of Copenhagen. It should help participants at the 3^d *International Strasbourg Conference* in their

¹ KCOOS Guidebook 2017 (Joint project of the Council of Europe and the EU) + “Panorama”, Council of Europe 2018

discussions of unresolved issues and priority actions. This “narrative” will continuously be updated as the survey progresses.

The concept of manipulation of sports competitions

The first point which had to be clarified is related to the frequency with which the terms “match-fixing” and “manipulations of sports competitions” have been used interchangeably, at times inaccurately in this domain. While the Macolin Convention may have previously been referred to as the ‘match-fixing convention’, its scope in fact covers a considerable number of areas and types of offences. This is why the Convention refers to a number of other Conventions by the Council of Europe as well as the United Nations as well as instruments by the European Union. This is also why the Macolin Convention recommends the specific criminalisation of the manipulation of sports competitions².

Consequently, the Council of Europe now restricts the use of the term “match-fixing” (whether this includes fixing the entire event, a tournament or one part of it) purely to the on-venue action, through which the manipulation is implemented; the “match-fixing” is therefore a part of the manipulation, rather than a synonym. In this context, it links and distinguishes the two aspects, “on” and “off” the sport venue, and guarantees that with regard to the Macolin Convention, they are equally important when defining the nature of the manipulation.

Moreover, in the spirit of Macolin Convention, all types of manipulations are committed to acquire an “undue advantage”, and always result in an eventual direct or indirect financial benefit, (intentionally or consequentially). This financial benefit could be attained directly (e.g. accepting bribes) or indirectly (e.g. personal favours).

The manipulation of sports competitions, as a global concept, therefore covers various acts that may include for example doping, match-fixing, using clubs as shell companies, influencing player agents, use of insider information, conflict of interests, bad governance, etc. These acts are attempted, successfully or unsuccessfully, to change the way a competition is played and / or its result. Rendering competitions predictable (in part or entirely) ruins the basic values of sport and the interest of fair and ethical competition.

Determining the nature of manipulations

Given the increasing economic importance of sport over the last few decades, with the increased financial stakes, gains, for stakeholders and States alike, as well as the international nature of competitions, it can be justifiably complex to understand just who is cheating (offenders), why they cheat (aim) and how they may be doing so (*modus operandi*). It is consequently difficult to consider what efficient counter-measures need to be taken.

Determining the *modus operandi* of the manipulations is crucial to deciding whether the case may be tackled through purely sporting means, law enforcement intervention, or both. While the gain is always eventually financial, the aims can be analysed by considering the nature of the undue advantage:

- It could principally be for a **sport advantage**: the aim is to arrange the event to obtain a sporting benefit (e.g. to win the sport event, to avoid relegation, to achieve a certain rank, to qualify for other tournaments). The interest of the manipulator is to obtain illicitly something for the benefit of the club, the team or athletes. There will *almost always* be a financial benefit (sponsorship, bonus for promotion / victory / non-relegation / increase in ranking, etc.), but this is an accessory intention or even a consequence.
- It could be principally for a **non-sport advantage**: to arrange the sport event to obtain some direct financial benefit with no regard for the sporting result. The vehicles used are most often corruption, bribery, fraud and money laundering (amongst others). These manipulations are committed *not* to achieve something for sport or sport clubs or for any athletes. In this case the manipulator uses sport as a simple tool.

² Articles 15-17, chapter IV, CETS n°215

The manipulation methods used are varied as cases and investigations have proven, for example (and non-exhaustive):

- Ranging from “simple” collusion between two athletes / teams, to coercion;
- Influencing transfers in order to strengthen / weaken a team;
- Influencing athletes or sport clubs or taking over sport clubs;
- Taking advantage of clubs in difficulty to then abuse positions of power;
- Using clubs as ‘shells’ to carry out money laundering activities via ‘transfers’ between two owning clubs;
- Creating fake / ghost games, in order to permit betting to take place;
- Player agents may concretely influence the line-up of teams in order to be able to regulate and fix competitions (by force or collusion);
- Exploiting factors such as age, identity, equipment.

Those involved in manipulations

Sport, as a business activity, is so lucrative and increasingly professional across the board, that it involves a large number of actors connected to the competition. While some look to take advantage of the insufficient or inexistent legislative and political attention, others capitalise on the potential economic benefits.

There are those who are active on / around the field: They may be athletes and referees, extending to managers, coaches, technical staff, and further to club / association management, as well as side-line actors such as family and friends, who themselves may have the same desire or be coerced. There are finally those opportunistic individuals, who use their connections and knowledge in sport (former athletes) and approach athletes to fix the games. All these people may be conscious offenders using their free will, or may have been coerced or unknowingly manipulated³. While these actors may be reprimanded by their federation or club, they are often not the source of the manipulation but just a replaceable tool involved in a more or less complex process.

It is a fact that organised crime syndicates are increasingly involved in manipulations, either influencing the fixing of competitions, or indirectly. This includes buying sport associations in order to exploit them as shells, making arrangements with other clubs to manipulate and control transfers, or threatening the lives of athletes in order to directly influence their performances.

To a certain extent, these behaviours may be tackled by the sport movement through transparency and good governance, in the instances that such criminals cannot enter the sport domain. It should be noted however, that sports organisations can only sanction persons who are within their jurisdiction (i.e. registered with the clubs / associations / federations). Beyond this, a legal framework is required in order for prosecutors and judges to thoroughly investigate and robustly sanction perpetrators on and off the field.

In order to facilitate the analysis of cases and clarify the *modus operandi*, the Group of Copenhagen’s research distinguishes the following kind of potential perpetrators:

- The actors that “fix” the event (match, game, tournament) on the sport venue. They are referred to as ***executors (passive manipulators)***: the persons, who gain, ask and/or claim benefit from another to fix a sport event (even when such a person is coerced into fixing) for the good of other person(s).
- Those who manipulate the event (e.g. criminal organizations, club owners) for reasons beyond the venue. They will not only approach and ensure that the passive manipulators will fix the event on the field of play but will also undertake to ensure a larger financial gain thanks to the same fix on the field. They may be referred to as the ***instigator (active manipulator)***: the persons that offer some benefit to an executor to fix the sport event on the field of play in order to obtain undue financial benefit for themselves and/or others⁴.

³ For example, a trusted person tells them to cause a throw in just before half-time in a football match; unbeknownst to them, the person to be able to bet on the action.

⁴ Extract from “Exploring the definition of the manipulations of sports competitions” by Norbert Rubicsek J.D., RC3 and Partners 2018

Why is it so difficult to trace and dismantle sports manipulations?

Without specific knowledge, the whole picture of the manipulation remains obscure and incomplete, similar to missing pieces in a jigsaw puzzle:

1. it is hard to identify the problem, the source and the extent.
2. it is hard to investigate such offences without all the information from the sport movement and other stakeholders.
3. it is hard to find the relevant person/organization who can help to carry out the procedure against the perpetrators
4. It is hard to classify the illicit actions sufficiently to go to court and obtain a judgment

As part of the existing diverse legislations in the different countries, the manipulation of sports competitions is not always considered to be a criminal offence. Sometimes, the offences are simply not fit-for-purpose to be successfully pursued as criminal offence, or the legislation in place nationally does not envisage such aspects as a crime. Many times, the sports disciplinary procedure is only sufficient to sanction the offenders, whilst the individuals behind the manipulation are almost always beyond the jurisdiction of the sports federation, and so the fixing activity continues. It must be noted that sometimes, while criminal procedures are not possible, civil procedures (such as administrative sanctions or corporate liability)⁵ may be engaged (including in parallel).

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 transnational and international cooperation and coordination to not only effectively prevent and detect, but especially to identify the circle of offenders and prosecute them, thus attacking the plague at its source. Collective action and collective engagement of responsibilities are the only way forward.

⁵ See articles 23 and 24 CETS 215