

Why are countries taking so long to act on match-fixing?

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There is growing evidence that sport is corrupted by match-fixing and illegal betting. These illegal activities jeopardize the integrity of the competitions, damage the social, educational and cultural values reflected by sports, and threaten the economic role of sports. The phenomenon of match-fixing brings to the surface its links to other criminal activities such as corruption, organized crime and money-laundering. Recent cases reveal the magnitude of the problem and indicate the dire need to address it through appropriate investigative and law enforcement tools. In fact, a criminal justice response against match-fixing would demonstrate that sporting manipulation is not a 'simple' breach of sporting rules, but also an offence against the public in a broader sense.²

This quote comes from the foreword to the comparative study by the International Olympic Committee (IOC) and United Nations Office on Drugs and Crime (UNODC) on the applicability of criminal law provisions concerning match-fixing³ and illegal/irregular betting. One would expect any activity that involves organised crime, threatens economic well-being and is 'an offence against the public' to have been a priority for national governments around the world. This is not true for the majority of countries, however, which begs the question: 'Why?'

A cross-border, multifaceted, international pandemic

One of the principal reasons why countries are taking so long to act is that they have only recently started to come to terms with the full scale of the problem.⁴ It has now become apparent that match-fixing is a pandemic that is truly transnational in scope, being driven by advances in technology and sports betting, and attracts the attention of high-level sophisticated organised global crime networks that affect not just sport but society at large.⁵ This is why in recent years the United Nations (with

the Declaration of Berlin, agreed by national sport ministers),⁶ the European Union (through reform of the frameworks for online gambling in the Community),⁷ the Council of Europe (via its recently adopted Convention on the Manipulation of Sports Competitions)⁸ and Interpol (working with the Fédération Internationale de Football Association – FIFA – and the IOC)⁹ have been extremely visible and active in this area. As will become apparent below, none of this can happen overnight, and reform is made even more difficult by the fact that the actors involved in match-fixing are already some way ahead of the curve.

Legal and regulatory loopholes

The maintenance of law and order is, of course, a fundamental responsibility of any sovereign state. Part of that responsibility is recognising what should be classified as an offence, drafting appropriate legislation and putting the necessary frameworks in place to enforce it. Sometimes this is driven by international legal instruments, such as the Council of Europe's Convention on the Manipulation of Sports Competitions,¹⁰ but more often than not it is decided upon by each country individually. In the case of match-fixing, a failure to recognise and fully appreciate the threat has led to a number of loopholes in the civil and criminal legal instruments of individual countries, which, regrettably, allows organised criminals to thrive: '[The loopholes] of many countries seriously hamper the efforts of law enforcement agencies and judicial authorities to combat match-fixing at the national, and even more so, international level.'¹¹

Remedying such loopholes can take a long time, from several months to several years, on account of the political processes required to amend legislation. This is the case at the moment in the United Kingdom, where there is disagreement between the current government and other stakeholders on the need for specific criminal match-fixing legislation which would be broader than the principal legislative provision contained in the Gambling Act 2005¹² regarding "cheating at gambling".¹³ In the author's experience, one such obstacle is often the belief that the issue should be handled

principally by sports governing bodies (SGBs) in the exercise of their accepted autonomy. For a number of reasons, however, this view is mistaken: the lack of jurisdiction that SGBs have over non-participants in sport¹⁴ (that is, organised criminals),¹⁵ inadequate powers to obtain evidence (as an example, although it is about a different form of alleged corruption, see the FIFA Independent Ethics Committee investigation into the bidding for the 2018 and 2022 World Cups),¹⁶ an absence of provisions for whistleblowing and protection for whistleblowers¹⁷ and a general lack of resources and expertise on the part of the majority of SGBs. Nonetheless, some states are driven to swifter action by being awarded the right to host major sporting events, Russia being an example.¹⁸

Police and law enforcement difficulties

Once the legal and regulatory reform process to combat the threat from match-fixing is in place, the police and other law enforcement agencies must be properly trained and resourced. Again, this takes time, and it was specifically highlighted as a problem by the United Kingdom's Gambling Commission following the integrity operation at the London 2012 Olympic Games.¹⁹ It is the author's experience that in many cases around the world the police do not have an adequate understanding of the criminal threat posed. Match-fixing is rarely a stand-alone civil/criminal offence, let alone a victimless crime, and is often linked to one or more of the following: money-laundering, duress, violence, human trafficking, tax fraud and other offences linked to organised crime.²⁰ Not only are these links not understood but there is also an inherent lack of understanding by law enforcement of how (admittedly complex) sports betting markets work. All this leads to a lack of enthusiasm and will to devote time and resources to targeting and investigating criminals – with the result that combating match-fixing is usually not a police priority.²¹

Resources and concerted action in short supply

For whatever reason, a number of stakeholders in sport still regard doping as the principal threat to the integrity of sport, rather than match-fixing, as even a cursory look at the news stories on

sporting integrity/corruption will show. This is despite match-fixing affecting wider social issues and being heavily linked to organised crime. Doping already has its own dedicated independent international agency, however: the World Anti-Doping Agency (WADA), which is composed of and funded equally by the sport movement and governments of the world.²² Nevertheless, we are told that they are being asked to do more in the fight against doping but that funding is not increasing commensurately.²³ Therefore, in times of continuing global austerity, what hope is there of funds being allocated to finance the actions required to fight the global and pervasive threat from match-fixing? Some organisations, including the Sports Rights Owners Coalition²⁴, believe that a new form of quasi-intellectual property right, in essence a betting right, should be introduced to ensure a “fair financial return” from revenue derived from (commercial) betting similar to what has been introduced in France and Australia.²⁵ However this faces two major obstacles: the political power of the betting industry due to the levels of employment for instance, which is convinced that it already contributes sufficiently in other ways, namely sponsorship, providing betting monitoring services and sharing information; and the fact that the largest volumes of sports betting are illegal, originating from unlicensed and unregulated grey/black markets²⁶ which economically would mean they are placed at a competitive disadvantage which would further drive bettors to bet with opaque operators.

In the meantime individual states have in the past few years acknowledged that they cannot tackle this in isolation and need to work together with other countries and regional and international bodies, such the ones mentioned earlier. At present, however, ‘very few countries have implemented a real co-ordination involving the main stakeholders on the issue of [match-fixing]’.²⁷ In Finland, for example, where there have been a number of incidents of match manipulation, there is no mention of the subject in the platform of the current government, in any national anti-crime strategy or in any action plan.²⁸ The lack of coordination is exacerbated by the absence of basic exchanges of intelligence and evidence between key stakeholders.²⁹

Thankfully, some jurisdictions, including Norway, Australia and New Zealand, have decided to establish and implement national action plans in response to high profile and/or a high volume of match-fixing scandals. As part of this process they had to secure buy-in from all relevant stakeholders - a diverse group ranging from regional and national government, to sports governing bodies, betting companies and regulators. These cases are the exception and not the rule, however, with political and resource pressures continuing to hamper efforts in the majority of nations.

The future

As this article clearly shows, there is a sizeable challenge facing all stakeholders in sport from those who seek to exploit it and corrupt its integrity for their own selfish financial gain. This is a task that has to be led by national governments who can coordinate all relevant parties to find innovative and above all effective ways of stemming the flood of match-fixing.

Notes

¹ Kevin Carpenter is an independent sports business and legal consultant.

² International Olympic Committee and United Nations Office on Drugs and Crime, *Criminalization Approaches to Combat Match-Fixing and Illegal/Irregular Betting: A Global Perspective* (Lausanne: IOC, 2013), p. 1, www.olympic.org/Documents/Commissions_PDFfiles/Ethics/Publication-Criminalization-approaches-to-combat-match-fixing.pdf.

³ In this article 'match-fixing' is meant in the broadest possible sense, encompassing all forms of match-fixing including for instance match manipulation and spot fixing.

⁴ University Paris 1 Panthéon–Sorbonne and International Centre for Sport Security (ICSS), *Protecting the Integrity of Sport Competition: The Last Bet for Modern Sport* (London: SportBusiness Communications, 2014), p. 104, www.theicss.org/wp-content/themes/icss-corp/pdf/SIF14/Sorbonne-ICSS%20Report%20Executive%20Summary_WEB.pdf.

⁵ United Nations Educational, Scientific and Cultural Organization, Declaration of Berlin, 30 May 2013, <http://unesdoc.unesco.org/images/0022/002211/221114e.pdf>.

⁶ *Ibid.*

⁷ European Commission, 'Match Fixing', http://ec.europa.eu/sport/policy/organisation_of_sport/match_fixing_en.htm.

⁸ Council of Europe, 'Convention on the Manipulation of Sports Competitions', 18 September 2014, <http://conventions.coe.int/Treaty/EN/Treaties/Html/215.htm>.

⁹ Interpol, 'Integrity in Sport', www.interpol.int/Crime-areas/Integrity-in-Sport/Integrity-in-sport.

¹⁰ Convention on the Manipulation of Sports Competitions.

¹¹ IOC/UNODC (2013), p. 14.

¹² Gambling Act 2005 (UK), c.19, <http://www.legislation.gov.uk/ukpga/2005/19/contents>

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- ¹³ LawInSport (UK), 'Tackling match-fixing: a look at the UK's new anti-corruption plan', 13 February 2015, www.lawinsport.com/blog/kevin-carpenter/item/tackling-match-fixing-a-look-at-the-uk-s-new-anti-corruption-plan.
- ¹⁴ University Paris 1/ICSS (2014), p. 95.
- ¹⁵ Efraim Barak and Dennis Koolaard, 'Match-fixing: the aftermath of *Pobeda* – what have the past four years brought us?', *Bulletin Arbitral du Sport* (1/2014), p. 19, www.tas-cas.org/fileadmin/user_upload/Bulletin_2014-1_final_II.pdf.
- ¹⁶ Hans Joachim-Eckert, 'Statement of the chairman of the Adjudicatory Chamber of the FIFA Ethics Committee on the report into the inquiry into the 2018/2022 FIFA World Cup bidding process prepared by the Investigatory Chamber of the FIFA Ethics Committee' (Zurich: FIFA, 2013), p. 18 www.fifa.com/mm/document/affederation/footballgovernance/02/47/41/75/statementchairmanadjcheckert_neutral.pdf.
- ¹⁷ IOC/UNODC (2013), p.16.
- ¹⁸ Russian Legal Information Agency, 'Putin signs match-fixing bill into law', 24 July 2013, http://rapsinews.com/legislation_news/20130724/268304784.html.
- ¹⁹ 'It would be prudent to ensure that law enforcement investigators have understanding of the type of criminal threat posed': Gambling Commission, 'Working Together to Protect the Integrity of Sport: The Role of the Joint Assessment Unit at the London 2012 Olympic Games', INFO 13/14 (Birmingham: Gambling Commission, 2013), p. 7, www.gamblingcommission.gov.uk/pdf/jau%20report%20-%20march%202013.pdf.
- ²⁰ IOC/UNODC (2013), p. 16; Kevin Carpenter, 'Match-fixing: the biggest threat to sport in the 21st century?', *International Sports Law Review*, vol. 12 (2012).
- ²¹ Kevin Carpenter, 'Monitoring betting at Olympic events: lessons from London 2012', *ICSS Journal*, vol. 1 (2014), p. 88, http://icss-journal.newsdeskmedia.com/images/Upload/vol_1_no_4/ICSS-Journal-vol1-no4.pdf.
- ²² See the home page of the World Anti-Doping Agency website: www.wada-ama.org/en.
- ²³ Cyclingnews.com, 'WADA funding at critical point in doping war', 12 November 2012, www.cyclingnews.com/news/wada-funding-at-critical-point-in-doping-war.
- ²⁴ Sports Rights Owners Coalition Position Paper on the Asser Study on Sports Organisers' Rights in the European Union, November 2013, p.5, http://sroc.info/files/9513/8667/7878/SROC_position_paper_on_Asser_Study_-_08_11_13.pdf
- ²⁵ TMC ASSER Instituut, *Study on Sports Organisers' Rights in the European Union*, February 2014, Chapter 4 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf
- ²⁶ University Paris 1/ICSS (2014), p. 26.
- ²⁷ *Ibid.*, p. 72.
- ²⁸ Johanna Peruala, 'Match-manipulation in football: the challenges faced in Finland', *International Sports Law Journal*, vol. 13 (2013), <http://paperity.org/p/36683630/match-manipulation-in-football-the-challenges-faced-in-finland>.
- ²⁹ Ben Van Rompuy, 'Effective sanctioning of match-fixing: the need for a two-track approach', *ICSS Journal*, vol. 1 (2013), p. 73, http://icss-journal.newsdeskmedia.com/images/Upload/Vol_1_no_3/ICSS_Journal_Vol1.3.pdf.