



**UNODC**

United Nations Office on Drugs and Crime



GLOBAL REPORT ON CORRUPTION IN SPORT

# APPLYING THE UNITED NATIONS CONVENTION AGAINST CORRUPTION TO SPORT

# 2







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# GLOBAL REPORT ON CORRUPTION IN SPORT

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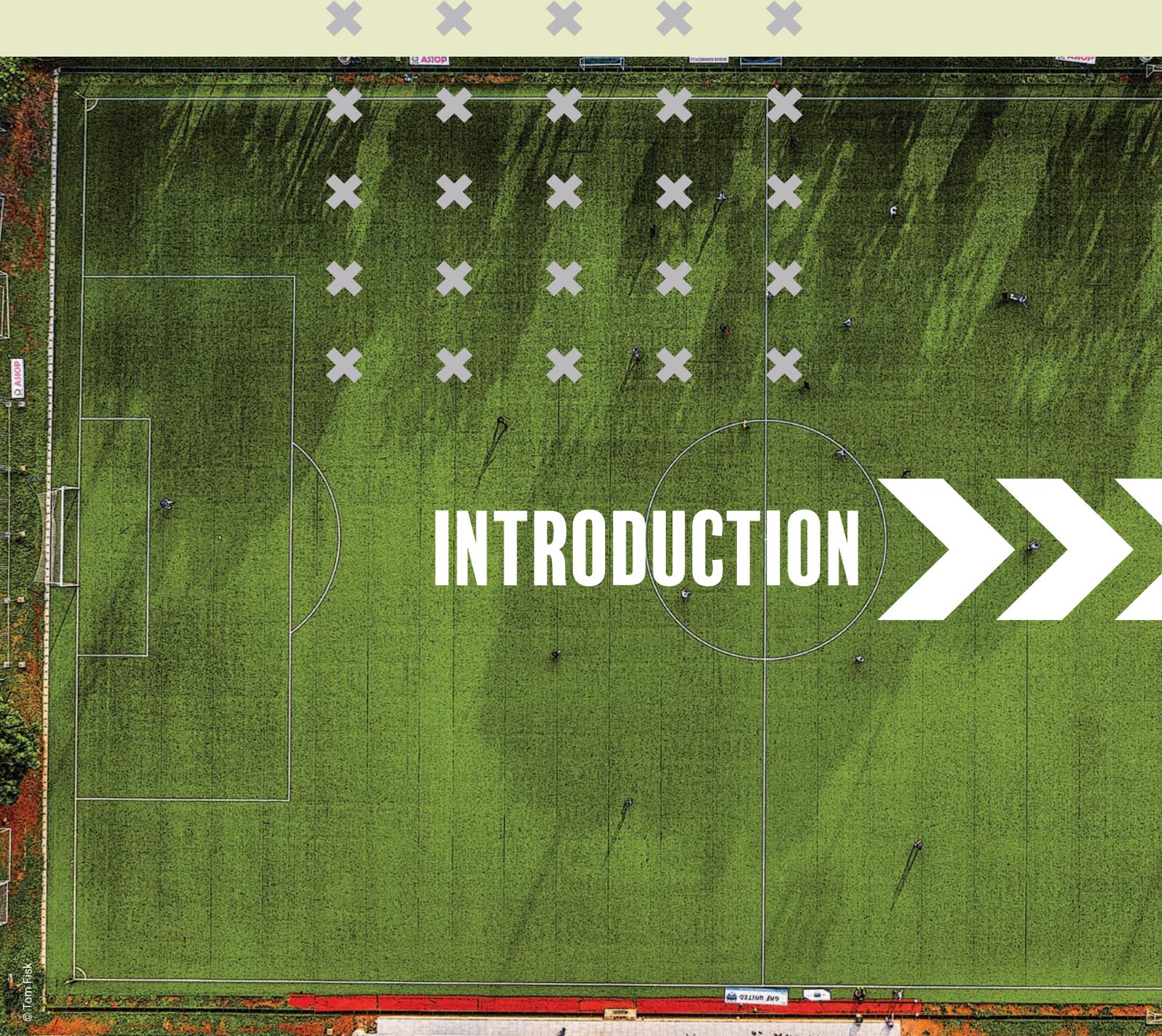
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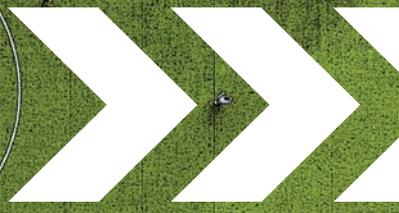
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# INTRODUCTION



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## INTRODUCTION

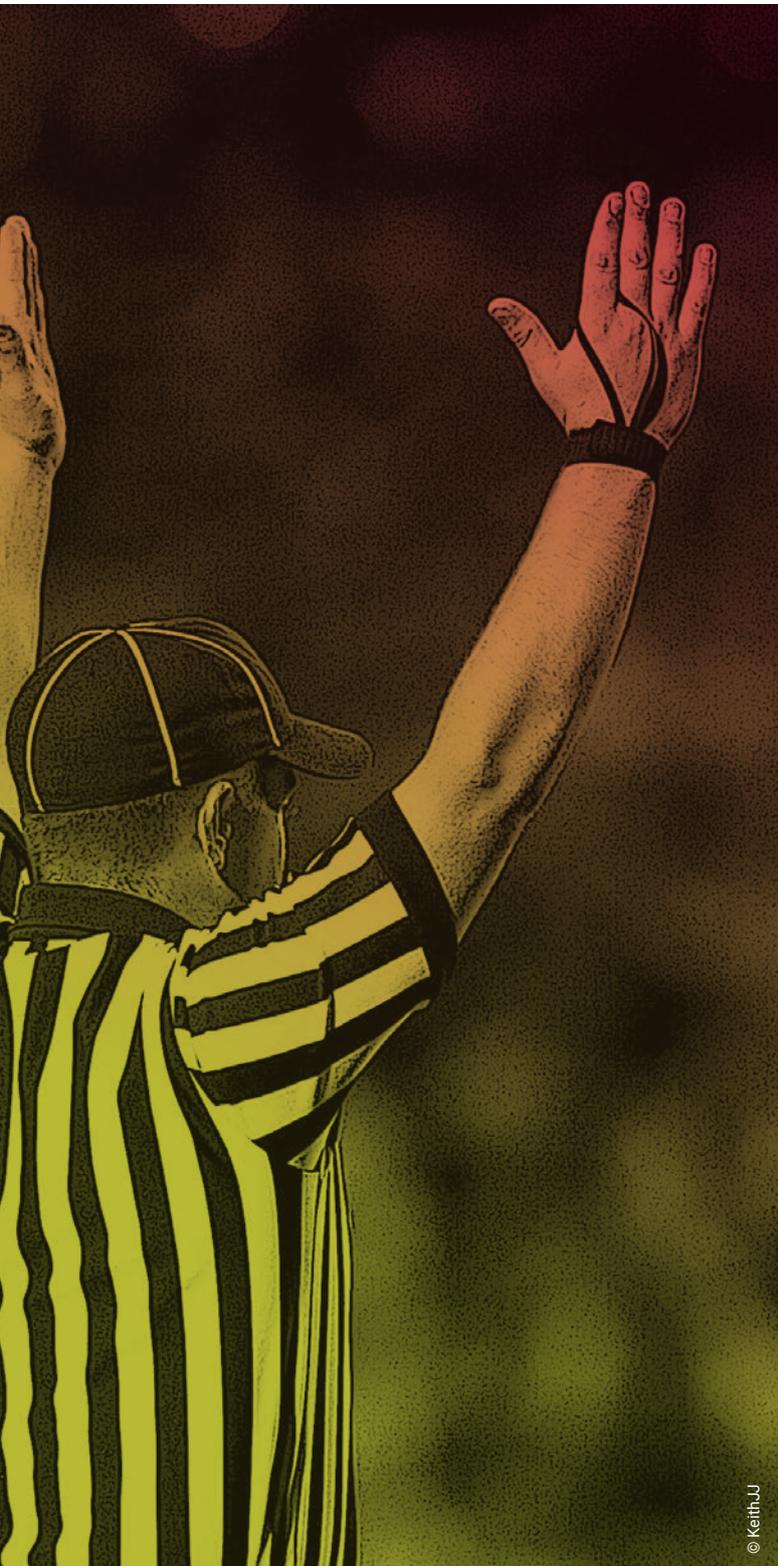
Corruption is a complex and multifaceted threat to the integrity of sport, often with transnational characteristics. The use of legislation by Governments is an effective way to help tackle corruption in sport.

The overall aim of this section is to provide lawmakers, policymakers, prosecutors and other relevant officials with an overview of practical approaches, good practices and guidance to help tackle the threat of corruption to sport and society, and to enhance the credibility and transparency of sport. Furthermore, it seeks to identify ways in which the anti-corruption and integrity policies of sports organizations can be aligned more closely with the principles of the United Nations Convention against Corruption.

Although the Convention against Corruption is not legally binding on sports organizations, it can be a useful basis for these entities and related stakeholders to review to what extent they are developing and implementing policies and mechanisms that can be effective in the fight against corruption in sport.

The section is also aimed at supporting States parties to the Convention against Corruption to implement the recommendation detailed in paragraph 9 of resolution 8/4, on safeguarding sport from corruption, adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its eighth session, held in Abu Dhabi from 16 to 20 December 2019. In this paragraph, the Conference “requests the United Nations Office on Drugs and Crime to develop, within its mandate, in close consultation with States parties and in cooperation with interested stakeholders, a comprehensive thematic study on safeguarding sport from corruption, including consideration of how the Convention can be applied to prevent and counter corruption in sport.”

Information used to develop the section was provided by States parties in response to a questionnaire issued by the United Nations Office on Drugs and Crime (UNODC) to 187 States parties to the Convention against Corruption in June 2020. This was complemented using open-source materials, including legislation, judicial decisions, jurisprudence, academic journals, articles, studies and relevant research.



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# 1. >>>>>

## OVERVIEW OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION AND ITS RELEVANCE TO SPORT

The Convention against Corruption is the only legally binding universal anti-corruption instrument. The far-reaching approach of the Convention and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem. At time of writing, the Convention has 188 parties.

The Convention establishes measures to prevent and combat corruption in five main sections: preventive measures; criminalization and law enforcement; international cooperation; asset recovery; and technical assistance and information exchange. It does not define corruption, but it does define specific acts of corruption that are established as criminal offences by every State that adheres to the Convention.

For the purposes of this section, four areas will be focused on that are of particular importance to tackling corruption in sport, namely: preventive measures; criminalization and law enforcement; international cooperation; and technical assistance and information exchange.

The Conference of the States Parties is the main anti-corruption policymaking body established by the Convention. It supports States parties in their implementation of the Convention and gives policy guidance to UNODC to develop and implement anti-corruption activities.

The Conference was established, as per article 63 of the Convention, to:

- » Improve the capacity of States to implement the Convention
- » Enhance cooperation among States in achieving the objectives of the Convention
- » Promote and review the implementation of the Convention

The Conference meets every two years and adopts resolutions and decisions in furtherance of its mandate.

It has identified tackling corruption in sport as a priority issue through the adoption by consensus of two resolutions, namely:

- » Resolution 8/4, on safeguarding sport from corruption, adopted by the Conference at its eighth session, held in Abu Dhabi, from 16 to 20 December 2019
- » Resolution 7/8, on corruption in sport, adopted by the Conference at its seventh session, held in Vienna, from 6 to 10 November 2017

The topic of corruption in sport was not a key focus area for the international community during the negotiation of the Convention against Corruption, which entered into force in December 2005. As such, the various instruments and initiatives developed to ensure the implementation and applicability of its provisions to the sphere of sports requires consideration and analysis.

Given this, the resolutions dedicated to tackling corruption in sport, related resolutions<sup>1</sup> and a political declaration<sup>2</sup> adopted at the first special session of the General Assembly against corruption in June 2021, which includes reference to the need to tackle corruption in sport, take on special significance. These resolutions and the political declaration represent a major and significant commitment by the international community to preventing and tackling corruption in sport, while contributing to an emerging global framework for enhancing the contribution of sport to development and peace.

<sup>1</sup> Including resolution 73/24, on sport as an enabler of sustainable development; resolution 73/190, on preventing and combating corrupt practices and the transfer of proceeds of corruption, facilitating asset recovery and returning such assets to legitimate owners, in particular to countries of origin, in accordance with the United Nations Convention against Corruption; and resolution 75/30, on sport as an enabler of sustainable development.

<sup>2</sup> Political declaration adopted by the special session of the General Assembly against corruption, paragraph 71, <https://undocs.org/A/S-32/2/Add.1>.

<sup>3</sup> For example, the anti-corruption strategy 2017 to 2022 of the United Kingdom of Great Britain and Northern Ireland (United Kingdom) lists greater integrity in domestic and international sport among its long-term goals. HM Government, *United Kingdom Anti-Corruption Strategy 2017–2022* (London 2017). The Portuguese National Anti-Corruption Strategy 2020–2024 includes among its objectives the creation of a national platform to address the manipulation of sport competitions; the standardization of penalties for corruption of sports agents; and the responsibility of regulators for the implementation of good practices and additional measures in their sub-sectors, including the sports sector. Governo de Portugal, Ministério da Justiça, *Estratégia nacional de combate à corrupção 2020–2024*, <https://justica.gov.pt/Portals/0/Estrategia%20Nacional%20de%20Combate%20a%20Corrupcao%20-%20ENCC.pdf>.

## 2. >>>>>

# PREVENTION OF CORRUPTION IN SPORT

Corruption can be prosecuted after the fact, but primarily, it requires prevention. An entire section of the Convention against Corruption is dedicated to prevention, with measures directed at both the public and private sectors.

States must endeavour to ensure that their public services are subject to safeguards that promote efficiency, transparency and recruitment based on merit. Preventing public corruption also requires an effort from all members of society at large. For these reasons, the Convention calls on countries to actively promote the involvement of non-governmental and community-based organizations, as well as other elements of civil society, and to raise public awareness of corruption and what can be done about it.

Many of the provisions contained in the section on the prevention of corruption can be useful in helping Governments, sport organizations and related stakeholders to prevent corruption in sport. A sample of some of the most pertinent provisions is set out in this section of the section.

### 2.1 ANTI-CORRUPTION POLICIES

Article 5 of the Convention against Corruption states that effective, coordinated anti-corruption policies should be developed and implemented or maintained at the national level. In addition, under article 6, each State party is required to ensure the existence of a body or bodies, as appropriate, that prevent corruption by implementing the policies referred to in article 5 and, where appropriate, by overseeing and coordinating the implementation of these policies.

This is a valuable tool to ensure a comprehensive and consistent approach to combating corruption.

Such an approach could apply to the field of sport, as follows:

- » Anti-corruption and integrity issues can be included in national anti-corruption strategies and planning<sup>3</sup>

- » At the national level, a separate plan for the integrity of sport could be adopted<sup>4</sup>
- » Anti-corruption policies and plans can be adopted by international and national sports bodies<sup>5</sup>

Indeed, the importance of anti-corruption policies in sport is explicitly referred to in paragraph 15 of resolution 8/4, on safeguarding sport from corruption, where the Conference:

Encourages States parties, in order to tackle the problems of competition manipulation, illegal betting and related money-laundering activities, to periodically evaluate national policies, effective practices and national law with a view to determining their efficiency and effectiveness in preventing and combating corruption in sport and to make use of the booklet entitled "Model criminal law provisions for the prosecution of competition manipulation" and the study entitled *Criminalization Approaches to Combat Match-Fixing and Illegal/Irregular Betting: A Global Perspective*, joint publications of the United Nations Office on Drugs and Crime and the International Olympic Committee, and of the *Resource Guide on Good Practices in the Investigation of Match-Fixing and National Anti-Corruption Strategies: A Practical Guide for Development and Implementation*, published by the United Nations Office on Drugs and Crime.

## 2.2 STANDARDS OF CONDUCT

The Convention against Corruption encourages States parties to develop conflict-of-interest regulations (paragraph 4 of article 7) and to establish codes or standards of conduct, which include specific anti-corruption prohibitions, restrictions and obligations, such as in relation to asset declaration (article 8).

These provisions can be applied to the field of sport in a variety of ways:

- » Governments can introduce anti-corruption standards that apply to a wide range of public officials, including those responsible for regulating sports. These can be developed bearing in mind the specificities of sport. For example, developing a list of conflicts-of-interest risks

(e.g. a situation whereby a person is holding a position as a director or shareholder in an entity which is in a contractual relationship with a given sports organization) to be managed or mitigated, or rules regarding interactions with officials of sports organizations, especially in relation to gifts and hospitality, such as those related to distribution of tickets and merchandise.

- » Governments may directly or indirectly impose anti-corruption standards on sports bodies officials, athletes, coaches and referees. This can be done by obliging sports organizations that apply for public funding to adopt and implement measures aimed at enhancing transparency and promoting good governance and ethics.<sup>6</sup> Another measure is to extend to the sports sector the anti-corruption standards originally developed for public officials.<sup>7</sup>
- » Standards of conduct, including conflicts-of-interest regulations, can be established by Governments and by international and national sports bodies. To date, many such codes have been adopted.<sup>8</sup> However, they differ significantly in terms of who they apply to, their compliance procedures and the types of sanctions for breaches.<sup>9</sup>

Highlighted in the section on major sport events and corruption is a growing trend whereby international sport organizations are looking to support relevant stakeholders in their sport ecosystem. Their aim is to ensure compliance with relevant codes, rules and regulations that link to tackling

<sup>6</sup> See, for example, Sport England and UK Sport, "A Code for Sports Governance – revised: list of mandatory Code requirements". Both Sport England and UK Sport were established by Royal Charter in the 1990s. In this context, it should be noted that paragraph 14 of resolution 8/4 explicitly calls on states to encourage the implementation of standards of conduct in sports organizations at all levels.

<sup>7</sup> For instance, in Greece, Act No. 3213 of 31 December 2003 on the Declaration and Audit of Assets of Members of Parliament, Public Officials, Media Owners and Other Categories of Persons expressly imposes a duty to declare assets. This includes the president and board members of sports federations and persons who are executive members of Anonymous Sports Companies (AAE) or Professional Athletes' Associations (TAA). It also pertains to certified referees, assistant referees, monitors of professional sports championships and persons serving on relevant bodies or tribunals. See Organisation for Economic Co-operation and Development (OECD) and Greece's National Anti-Corruption Plan, *Technical Report on Asset Declarations in Greece*, Greece-OECD Project: Technical Support on Anti-Corruption (OECD 2017), p. 55.

<sup>8</sup> See, for example, International Olympic Committee (IOC), *IOC Code of Ethics* (2020), or Fédération Internationale de Football Association (FIFA), *FIFA Code of Ethics: 2019 Edition* (Zürich, 2019).

<sup>9</sup> The content and effectiveness of such codes have been extensively studied. See, for example, Els De Waegeneer, Jeroen Van De Sompele and Annick Willem, "Ethical codes in sports organizations: classification framework, content analysis, and the influence of content on code effectiveness", *Journal of Business Ethics*, vol. 136 (2016), pp. 587–598; Els De Waegeneer, Ignaas Devisch and Annick Willem, "Ethical codes in sports organizations: an empirical study on determinants of effectiveness", *Ethics & Behavior*, vol. 27, No. 4 (2017), pp. 261–282; Jens Alm, *Sports Governance Observer 2019: An Assessment of Good Governance in Six International Sports Federations* (Play the Game, October 2019); Christina Philippou and Tony Hines, "Anti-bribery and corruption policies in international sports governing bodies", *Frontiers in Sports and Active Living*, vol. 3 (2021); Erika Riedl, "How sport regulations are being used to restore trust following the International Biathlon Union scandal", in *Restoring Trust in Sport: Corruption Cases and Solutions*, Catherine Ordway, ed. (London, Routledge, 2021).

<sup>4</sup> Such plans have been adopted, for example, in Australia (Sport Integrity Australia, 2020–2024 *Corporate Plan: Protecting Sport Together*) and Spain (Ministry of Consumer Affairs, *Action Plan of the National Commission to Fight Sports Competition Fixing and Betting Fraud*).

<sup>5</sup> For example, International Basketball Federation, "FIBA Integrity Policy", [www.cbfbasketball/el/file/hSz+0cCwWtf2nxXo9+AUZw==/](http://www.cbfbasketball/el/file/hSz+0cCwWtf2nxXo9+AUZw==/); Italian National Olympic Committee (CONI), *Three-Year Anti-Corruption Plan 2018-2020*; and Football Kenya Federation, "Integrity Action Plan (2021–2023)".

corruption in sport and strengthening its integrity, and with stated ethical principles of behaviour and ethical norms. Approaches to doing this include the establishment of commissions, engaging independent private oversight bodies (such as an external audit company) and working with a relevant government monitoring agency.

### 2.3 GOOD GOVERNANCE AND TRANSPARENCY

The Convention against Corruption also emphasizes that to effectively combat corruption, it is not enough to criminalize certain offences and introduce specific anti-corruption measures. It is also of paramount importance to promote good governance.

Article 7 of the Convention calls for the development of human resource management systems “based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude.” It indicates the need to have adequate procedures and clear criteria for selecting candidates for positions considered especially vulnerable to corruption, to ensure transparency in their funding and to provide them with specialized and appropriate training to enhance their awareness of the risks of corruption.

Article 10 calls for the promotion of public reporting, including the adoption of procedures that allow public access to information on the organization, functioning and decision-making processes in the national public administration. Paragraph 3 of article 12 emphasizes the maintenance of books and records, financial statement disclosures and accounting and auditing standards.

Applied to a sports context, the application of articles 7 and 10 of the Convention can be used to support the building of systems of governance, enhancing transparency (including that linked to financial issues) and increasing accountability in sports organizations.

In recent years, many major international sports organizations have reformed their management systems, which are in line with the spirit of the Convention. Examples of the types of reforms include updating procedures used in the selection of hosting sports events, introducing term limits for senior officials, introducing objective criteria such as merit, equity and aptitude in the appointment of individuals to important positions, and ensuring greater transparency in the disbursement of funds. Education and training have also played central roles in the prevention of corruption in sport, with many sports organizations developing relevant programmes, including for young athletes.

For their part, Governments have increasingly encouraged sporting organizations to adopt such measures, developing governance standards oriented towards them and sometimes even making the receipt of public funding contingent on the implementation of standards.<sup>10</sup> This also applies to those in positions that may be vulnerable to corruption.<sup>11</sup> The importance of such measures is also highlighted in paragraph 14 of resolution 8/4, on safeguarding sport from corruption, where the Conference:

*Urges States parties, in accordance with their domestic legal systems, to strongly encourage sports organizations at all levels and relevant stakeholders to promote and enhance ethical practices and transparency in sport, including through the adoption, where appropriate, of term limits for senior officials of sports organizations and by developing and implementing conflict of interest policies, preparing and making publicly available relevant information, including statutes, rules and regulations, annual activity reports and main events reports, annual financial reports and summaries of reports or decisions taken during executive board and committee meetings, election processes and results, and monitoring the implementation of such policies and procedures, and encourages the use by sports organizations of the publication of the United Nations Office on Drugs and Crime entitled *An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*.*

### 2.4 PROCUREMENT AND CORRUPTION IN SPORT EVENTS

Sport events is an area that has been affected by multiple cases of corruption, and which is explored in the section on major sports events and corruption in this publication.

Article 9 of the Convention against Corruption, on public procurement and management of public finances, highlights the importance of transparency, competition and objective criteria in decision-making when linked with the offer of contracts funded by public resources. The Convention does not explicitly encourage the criminalization of procurement violations, although it is stated in article 9 that States parties are required “to take the necessary steps to establish

<sup>10</sup> For example, in the United Kingdom, to receive public funding, sports organizations must meet the “golden standard of governance” contained in the “Code for Sports Governance”, adopted by the government through Sport England and UK Sport. In Argentina, the Anti-Corruption Office issued Principles of Good Governance in Sports Entities in 2019 in *Oficina Anticorrupción, Principios de Buen Gobierno en Entidades Deportivas* (2019). [www.argentina.gob.ar/sites/default/files/principios\\_de\\_buen\\_gobierno\\_de\\_entidades\\_deportivas\\_0.pdf](http://www.argentina.gob.ar/sites/default/files/principios_de_buen_gobierno_de_entidades_deportivas_0.pdf). In Belgium, the government sports regulator issued the *Code of Good Governance in Flemish Sports Federations* (Sport.Vlaanderen, 2016).

<sup>11</sup> Associated Press, “New Swiss law allows more scrutiny of Fifa and IOC finances”, *The Guardian*, 12 December 2014.

appropriate systems of procurement, based on transparency, competition, and objective criteria in decision-making, that are effective, inter alia, in preventing corruption.”

While criminalizing certain procurement irregularities can be instrumental in combatting corruption in the preparation of sporting events, especially major ones requiring large-scale infrastructure development, other measures aimed at protecting competitions and enhancing transparency are also effective.

These include centralizing information pertaining to the development of sports-related infrastructure; identifying and mapping the roles and responsibilities of stakeholders in the delivery of sports infrastructure; reducing predictability in the outcomes of tender processes to minimize risks of corruption or collusion; and ensuring that amendments to contracts benefit from strong oversight.<sup>12</sup>

The relevance of applying article 9 to the field of sport is underlined by paragraph 13 of resolution 8/4 in which the Conference “encourages States parties and relevant stakeholders, including organizing committees, in the course of organizing sports events, to take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption and to make use of the United Nations Office on Drugs and Crime publication entitled *The United Nations Convention against Corruption: A Strategy for Safeguarding against Corruption in Major Public Events*, as well as of its support tool.”

## 2.5 PARTICIPATION OF SOCIETY

Article 13 of the Convention against Corruption encourages States parties to promote active participation of individuals and groups outside the public sector in the prevention of and the fight against corruption. This provision is of relevance to the field of sports.

Addressing corruption in sport cannot be effective without the support of sports organizations, athletes, coaches, officials, related stakeholders and the public, including fans and observers, a point repeatedly emphasized in the resolutions

<sup>12</sup> Other international and sports organizations have also paid considerable attention to the issue of good procurement for major sporting events. See, for example, the report by the International Partnership against Corruption in Sport (IPACS), *Mapping of Procurement Standards and Risk Management Activities in the Construction of Infrastructure for Sporting Events* (2019), or the report by the IOC, *Procurement of Major International Sport-Events-Related Infrastructure and Services: Good Practices and Guidelines for the Olympic Movement* (2020).

on sport adopted by Conference of the States Parties to the United Nations Convention against Corruption.

Stakeholders that are not formally members of a sports organization, such as civil society organizations and the media, also play a crucial role. Civil society organizations have long been involved in combating corruption in sports. Some organizations, such as Transparency International,<sup>13</sup> address this issue, while others, such as Play the Game, have established specialized projects. Civil society organizations raise awareness, conduct research,<sup>14</sup> organize conferences,<sup>15</sup> monitor the measures implemented by sports organizations,<sup>16</sup> participate in partnership initiatives and support the development of reporting mechanisms and the protection of reporting persons.<sup>17</sup>

Regarding the role of the media, high-profile journalist investigations have been one of the key reasons for the dramatic increase in attention paid to the topic of corruption in sports, an area which is explored in detail in the section on detecting and reporting corruption in sports.

Examples exist of media reports uncovering cases of illegal betting, competition manipulation and other corruption-related offences in the world of sport, involving prominent sports officials, coaches and athletes.<sup>18</sup> Investigations by the media can be lengthy and involve sophisticated investigative

<sup>13</sup> Transparency International, *Global Corruption Report: Sport* (New York, Routledge, 2016).

<sup>14</sup> See, for example, Transparency International, “Staying on side: how to stop match-fixing” (2014).

<sup>15</sup> [www.playthegame.org/conferences/](http://www.playthegame.org/conferences/).

<sup>16</sup> See the report series by the Sports Governance Observer, [www.playthegame.org/theme-pages/the-sports-governance-observer/](http://www.playthegame.org/theme-pages/the-sports-governance-observer/) and the initiative by the National Sports Governance Observer.

<sup>17</sup> As exemplified by the cooperation between Czech Ice Hockey Federation and Transparency International in the section on reporting systems.

<sup>18</sup> Andrew Jennings, with his book *Foul! The Secret World of FIFA: Bribes, Vote Rigging and Ticket Scandals* (London, Harpersport, 2007) and other publications, has contributed significantly to launching the investigations that eventually led to the arrest of FIFA officials in 2015 and the resignation of its president. During the prosecutions, to date, 27 individual defendants have pleaded guilty to the crimes with which they were charged. In December 2017, two former FIFA officials, Juan Ángel Napout of Paraguay and José María Marin of Brazil, were convicted of racketeering conspiracy and related offenses. Four corporate entities have pleaded guilty, and others, including banking institutions, have acknowledged their roles in criminal conduct through deferred prosecution or non-prosecution agreements. The government’s prosecutions and investigation are ongoing. United States Department of Justice, “Justice Department approves remission of over \$32 million in forfeited funds to victims in the FIFA corruption case”, 21 August 2021. Operation “Double Game”, conducted by the Organized Crime and Corruption Reporting Project (OCCRP), investigated 336 individuals that engaged in illegal online sports betting schemes linked to Sicily’s Cosa Nostra. It led to the seizure of over €80 million and restriction orders against 23 people. Alessandro Ford, “Italian Mafia bets on illegal online gambling”, 4 March 2021, [www.occrp.org/en/daily/13985-italian-mafia-bets-on-illegal-online-gambling](http://www.occrp.org/en/daily/13985-italian-mafia-bets-on-illegal-online-gambling).

techniques, including undercover operations.<sup>19</sup> Also, journalists are often external contact points for reporting persons who may not wish to rely on official reporting systems. When communicated, reports<sup>20</sup> have been the starting point of many investigations by journalists.

Unfortunately, such activities can carry significant risks<sup>21</sup> and the protection of journalists and civil society representatives who publish sensitive information on corruption is no less important than the protection of reporting persons. Article 13 of the Convention specifically mentions the need “to respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption.”

## 2.6 ADMINISTRATION OF JUSTICE

Corruption in the justice system, whether actual or perceived, poses a real threat to confidence in the rule of law. The implementation of article 11 of the Convention against Corruption involves taking measures to strengthen integrity and prevent opportunities for corruption among members of the judiciary.

Relevant developments and initiatives in this area include the adoption by the United Nations of an e-solution endorsing the Bangalore Principles of Judicial Conduct, which sets out six core principles (independence, impartiality, integrity, propriety, equality and competence and diligence), and the establishment of the Global Judicial Integrity Network, which is aimed at assisting judiciaries across the globe in strengthening judicial integrity and preventing corruption in the justice sector, in line with article 11 of the Convention.

The application of an administration of justice that is free from corruption holds equally true for sport. It is important to highlight that sport has created disciplinary bodies that are responsible for settling disputes, mediating and guaranteeing the correct interpretation of sporting rules and

<sup>19</sup> For example, “Exclusive investigation: England manager Sam Allardyce for sale”, *The Telegraph*, 22 September 2016. Numerous sting operations were conducted in India on match-fixing or cash-for selection: “BCCI bans players exposed in India TV sting operation on IPL players”, India TV, 30 June 2012; Prabhaskar C. Jha, “Cash-for-selection sting rocks Jharkhand cricket, two suspended”, *Times of India*, 22 February 2019. The BBC has filmed African referees and a member of the FIFA Council accepting cash during an undercover investigation into African football. “Betraying the game: African officials filmed taking cash”, *BBC Sport*, 7 June 2018.

<sup>20</sup> A well-known example is “Football Leaks”, the largest leak in sports history involving more than 18 million leaked documents. They served as material for publications by the European Investigative Collaborations (EIC) network comprising 12 European media. The Panama Papers also touched on corruption in sports. See Bastian Obermayer and Frederik Obermaier, *The Panama Papers: Breaking the Story of How the Rich and Powerful Hide Their Money* (London, Oneworld Publications, 2016), Chapter 7.

<sup>21</sup> Ulla Carlsson and Reeta Pöyhtäri, eds., *The Assault on Journalism: Building Knowledge to Protect Freedom of Expression* (Gothenburg, Nordicom, 2017). The case involving the murder of an investigative journalist in Ghana has been reported in Gary Al-Smith, “Corruption, murder and how Ghana’s football has ground to a halt”, *The Guardian*, 7 February 2019.

regulations. Such bodies exist at the national and international levels, with the Court of Arbitration for Sport, an independent institution that facilitates the settlement of sports-related disputes through arbitration or mediation by means of procedural rules adapted to the specific needs of the sports world, being the highest appeal body for international sports.

The existence of internal justice systems in sport, when operated as independent bodies, significantly enhances the capacity of the justice system to respond to the needs of sport and serves to support the implementation of the fundamental principles of judicial conduct underpinning article 11 of the Convention. When they are applied in line with legal constraints, the disciplinary powers of sports organizations can constitute an effective tool in the fight against corruption in sport. Equally important is the need for these bodies to be free from the threat of corruption and to operate to the highest standards of conduct.

## 2.7 ANTI-CORRUPTION TRAINING

As efforts to fight corruption in sport gain momentum and laws, rules, regulations and standards are developed and implemented to help tackle the problem, it is necessary that those who are subject to these requirements are aware of them. It is equally important that they are provided with the knowledge to comply with and apply them in practice and receive up-to-date information about relevant policies and experiences. This is where anti-corruption training plays a vital role. The subject is covered by article 60 of the Convention against Corruption. In addition, it is requested in paragraph 9 of resolution 8/4 that UNODC provide up-to-date training materials, guides and tools for Governments and sports organizations, and share information and good practices.

Many relevant educational initiatives have been undertaken in recent years by international organizations, Governments, sports bodies and academic institutions.<sup>22</sup> However, while the high quality of many anti-corruption training programmes is of benefit to sport, their effectiveness can be enhanced by

<sup>22</sup> Examples include: at the international organizations level, seminars and workshops run by INTERPOL and the IOC as provided for by the Memorandum of Understanding between the two parties of January 2014 (“INTERPOL and IOC renew partnership to strengthen sports integrity”, 27 July 2018); at the national level, the e-learning courses provided by Sport Integrity Australia ([https://elearning.sportintegrity.gov.au/blocks/androgogic\\_catalogue/index.php?c1=Courses](https://elearning.sportintegrity.gov.au/blocks/androgogic_catalogue/index.php?c1=Courses)); at the level of sports organizations, the FIFA Global Integrity Programme ([www.fifa.com/legal/integrity/programme](http://www.fifa.com/legal/integrity/programme)) or the International Volleyball Federation’s “E-learning course on prevention of competition manipulation” ([www.fivb.com/development/manipulationcourse](http://www.fivb.com/development/manipulationcourse)); and at the academic level, the Erasmus Mundus Joint Master Degree in Sports Ethics and Integrity ([www.maisi-project.eu/](http://www.maisi-project.eu/)).

expanding their scope and scale and by catering to the needs of all categories of relevant stakeholders, including children and young athletes, which involves quite a diverse range of requirements.

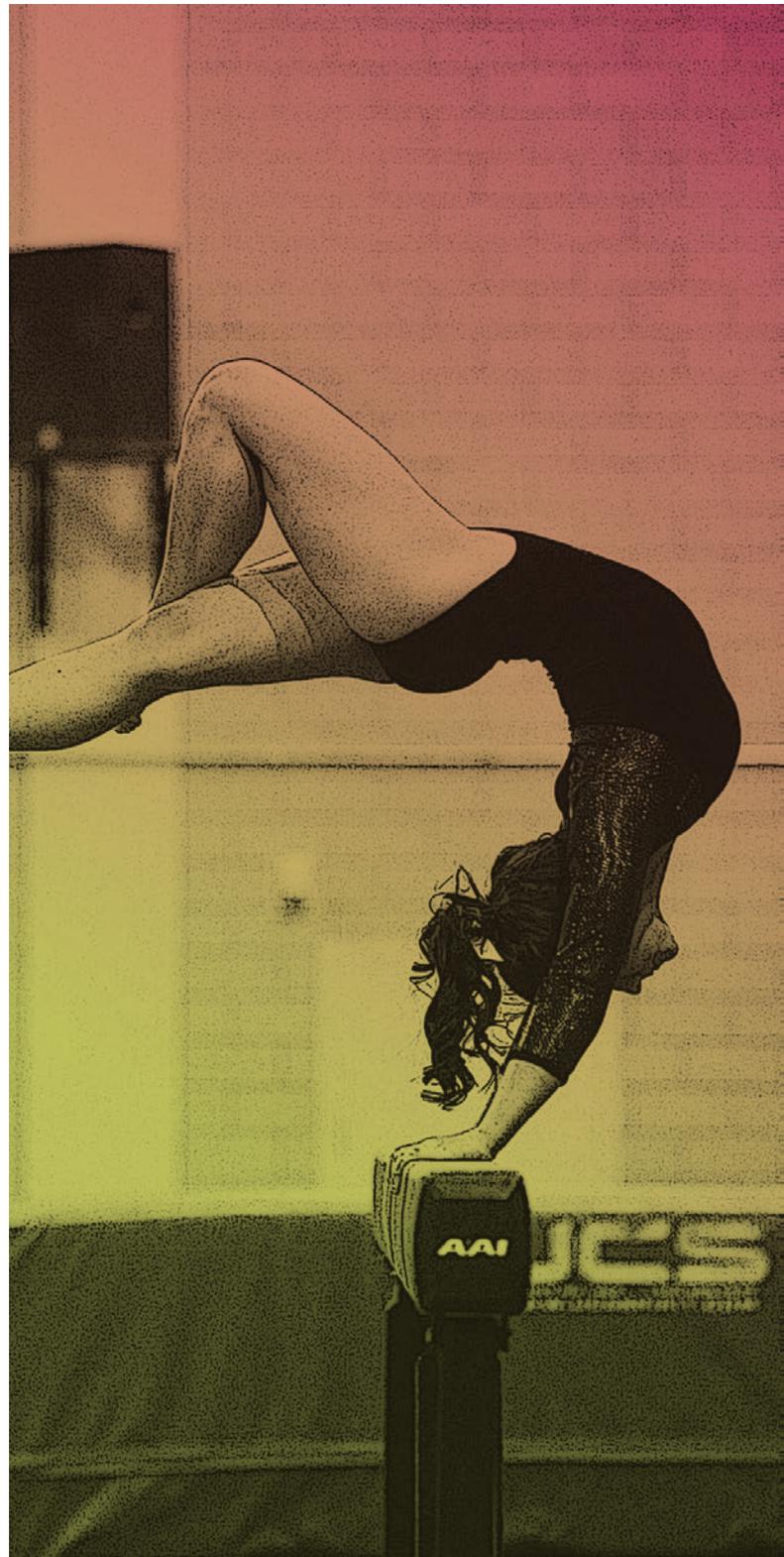
## 2.8 CORRUPTION, ABUSE AND VULNERABLE GROUPS

Ensuring that sport is a safe space for children and young athletes by tackling the corruption that puts them at risk and prevents them from realizing their potential are areas of increasing focus and interest, including for States and sports organizations.

It is important to acknowledge that corruption impacts all levels, including the amateur, youth and grassroots levels. This corruption can include the embezzlement of funds and the use of bribes to get enrolled into a sports academy, to secure a place on a team or to make undue payments to amateur players. Equally important to acknowledge is how corruption can facilitate abuse in sport. This topic is addressed in detail in the section on corruption and abuse in sport. Abuse in sport can lead to insurmountable psychological trauma, unjustly deprive talented young athletes of a chance to compete and hinder the development of national sport.<sup>23</sup>

While the Convention against Corruption does not explicitly address the impact of corruption on vulnerable groups, this issue receives special attention in resolution 8/4. In paragraph 10, the Conference “urges States parties and relevant stakeholders to address the risks to vulnerable groups, in particular children and young athletes, posed by corruption in sport, with a view to promoting healthy lives and principles of integrity and to creating an atmosphere of intolerance towards corruption in junior and youth sport.” It is also referred to in the political declaration adopted at the special session of the General Assembly against corruption, in paragraph 71, which states: “We will address risks to groups in vulnerable conditions, in particular children and young athletes, posed by corruption in sport, with a view to promoting fair competition, healthy lives and principles of integrity and to creating an atmosphere of intolerance towards corruption in junior and youth sport, in accordance with domestic legal systems.”

<sup>23</sup> See, for example, the educational video about corruption and sport in Kyrgyzstan: Госагентство сняло видеоролик против коррупции в спорте – ELGEZIT.





# 3. >>>>>

## CRIMINALIZATION AND LAW ENFORCEMENT

### 3.1 CRIMINALIZATION

The Convention against Corruption requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law. In some cases, States are legally obliged to establish offences, while in other cases, in order to consider differences in domestic law, they are required to consider establishing certain offences. The Convention introduces minimum standards, but States are free to go beyond them.

The far reaching approach of the Convention and the mandatory character of many of its provisions makes it a unique and comprehensive tool. The Convention goes beyond previous instruments of this kind, criminalizing not only basic

forms of corruption such as bribery and the embezzlement of public funds in both public and private sectors, but also trading in influence and the concealment and laundering of the proceeds of corruption. Offences committed in support of corruption, including money-laundering and obstructing justice, are also dealt with.

Some of the approaches used by States parties to apply provisions in the Convention to the criminalization of corruption in sports are set out below, but the examples do not purport to be comprehensive or exhaustive.

#### 3.1.1 CORRUPTION IN THE PUBLIC SECTOR

Most offences subject to criminalization under the Convention against Corruption (articles 15 to 20) are related to corruption in the public sector and by default are primarily aimed at tackling corruption offences by public officials. Relevant articles in the Convention that relate to corruption in the public sector include:

- » Articles 15 and 16 on bribery of national public officials and bribery of foreign public officials and officials of public international organizations
- » Article 17 on embezzlement, misappropriation or other diversion of property by a public official
- » Article 18 on trading in influence
- » Article 19 on abuse of functions
- » Article 20 on illicit enrichment

However, officials of sports organizations, coaches, athletes, referees and other members of the sports movement are not ordinarily classified as public officials. Nevertheless, even without being amended, articles on the criminal liability of public officials for bribery, embezzlement and abuse of office or functions, as well as those criminalizing the bribery of public officials, and more rarely provisions on illicit enrichment, may be used in the context of sport:

- » Such legal provisions help to counteract corruption in government agencies responsible for sports as well as in state-owned enterprises<sup>24</sup> involved in the implementation of sport-related projects, such as the construction of sports infrastructure.

<sup>24</sup> In many countries, employees of state-owned enterprises are recognized by criminal law as public officials.

- » In some countries, certain sports organizations are also state-owned enterprises. The management or a broader range of employees of such organizations may be subject to anti-corruption regulations, including criminal ones that apply to public office holders, civil servants and other public officials.<sup>25</sup>
- » These provisions could also be useful for combating bribe-giving through sports. For example, when undue payments are made to a public official in the form of free or discounted tickets to sporting events or, more significantly, in the form of sponsorship or investment in a sports club by a public official.<sup>26</sup>
- » Provisions on criminal liability for corruption offences can be used as a model by sports organizations when building their internal sanction systems. Even though sports organizations are not empowered to impose criminal penalties, they may provide for disciplinary sanctions for the same offences.
- » Some States parties have extended the provisions originally aimed at public officials to sports-related individuals and legal entities. The definition of a public official could be amended accordingly<sup>27</sup> or the rules on the criminal liability of public officials may be applied to the employees of any organization, including sports organizations.<sup>28</sup>

<sup>25</sup> This is the case in the Russian Federation, where many sports schools have the status of state institutions. Persons who are in a position of authority or organizational responsibility and carry out regulative, administrative, and economic functions in state institutions are recognized by the Criminal Code (article 285) as public officials. Accordingly, they are subject to criminal liability for bribery, abuse of power, embezzlement and other corruption offences.

<sup>26</sup> See, for example, certain enforcement actions of the Foreign Corrupt Practices Act (FCPA). In the cases of SBM Offshore N. V., 2017, ([www.justice.gov/criminal-fraud/file/1017346/download](http://www.justice.gov/criminal-fraud/file/1017346/download)) and Telefônica Brasil S. A., 2019 ([www.sec.gov/litigation/admin/2019/34-85819.pdf](http://www.sec.gov/litigation/admin/2019/34-85819.pdf)), the companies transferred illegal remuneration in the form of tickets to sporting events. SBM Offshore N.V. and its wholly owned United States subsidiary, SBM Offshore USA Inc. (SBM USA), agreed to resolve criminal charges and pay a criminal penalty of \$238 million in connection with schemes involving the bribery of foreign officials. In the case of Telefônica Brasil S.A., without admitting or denying the findings, Telefônica agreed to a cease-and-desist order and to pay a \$4,125,000 civil money penalty. In the case of BHP Billiton (BHPB), 2015, the basis for enforcement action was a global hospitality programme that the company hosted in connection with its sponsorship of the 2008 Beijing Summer Olympic Games. BHPB invited approximately 176 government officials and employees of state-owned enterprises to attend the Olympics at BHPB's expense ([www.sec.gov/litigation/admin/2015/34-74998.pdf](http://www.sec.gov/litigation/admin/2015/34-74998.pdf)). The United States Securities and Exchange Commission (SEC) charged BHPB with violating the FCPA and BHPB agreed to pay a penalty of \$25 million to settle the SEC's charges. The case of Las Vegas Sands, 2016, involved the alleged misconduct of the payment of fictitious consultancy fees to acquire or sponsor a professional basketball team in the Chinese Basketball Association ([www.justice.gov/criminal-fraud/file/1022231/download](http://www.justice.gov/criminal-fraud/file/1022231/download)). Las Vegas Sands Corp. agreed to pay a \$9 million penalty to settle charges that it had violated the FCPA.

<sup>27</sup> For instance, the Malaysian Anti-Corruption Commission Act of 2009 criminalizes bribery of an officer (that is, any person who is a member, an officer, an employee or a servant) of a public body, while a "public body includes any sports body registered under Section 17 of the Sports Development Act 1997.

<sup>28</sup> The Vietnamese Penal Code, for example, applies to an office holder (i.e., a person who is given certain duties and power through appointment, election, contract conclusion or another method) in an enterprise or organization *other than a state organization* the same penalties for active and passive bribery as it applies to office holders in government agencies (para. 6, article 354; para. 6 article 364).

### 3.1.2 CORRUPTION IN THE PRIVATE SECTOR

Applying laws on private corruption to the field of sports can be an effective way to tackle corruption given that sports bodies, clubs, institutes and academies schools are often private-sector organizations.<sup>29</sup> The following articles of the Convention against Corruption are relevant in this context:

- » Article 21 on bribery in the private sector
- » Article 22 on embezzlement of property in the private sector

However, it is important to bear in mind that sometimes the language of criminal anti-corruption provisions may limit their applicability. This is particularly the case for certain restrictive clauses that limit the scope or coverage of such provisions, including the following:

- » **Type of organization.** In some jurisdictions, private sector bribery provisions apply only to commercial organizations or to bribery during commercial activities,<sup>30</sup> whereas international and national sports bodies are frequently established as non-governmental organizations and sport-related corruption offences are often not related to commercial transactions (e.g. vote rigging).
- » **Categories of employees.** Whereas a corruption offence in the private sector can apply only to persons who perform managerial or other specific functions,<sup>31</sup> the roles and responsibilities of athletes, coaches and referees often are not considered as such functions and thus do not fall under criminal liability.
- » **Harm.** In certain jurisdictions, a corruption offence is criminalized only if it brings harm to specific social relations or to society at large. In the area of sport, such a restrictive clause may make it more difficult to impose sanctions. Firstly, it could be problematic to prove social harm from certain corrupt acts (e.g. bribing officials of international sports bodies to gain the right to host a major sporting event). Secondly, sports organizations

<sup>29</sup> For further guidance, refer to UNODC, *The United Nations Convention against Corruption: A Resource Guide on State Measures for Strengthening Corporate Integrity* (Vienna, 2013).

<sup>30</sup> For example, in Greece, article 396 of the Greek Criminal Code criminalizes private commercial bribery, that is, the acceptance or receipt directly or indirectly of any benefit **during the exercise of a commercial activity** in breach of their duties or the giving or offering of benefits directly or indirectly to a person in the private sector for the purposes of acting or omitting to act in breach of their duties. In Australia, commercial bribery is not expressly prohibited under the Criminal Code. However, if a bribe is paid **to obtain a commercial advantage**, various national criminal and civil laws can hold the company and the individuals involved liable for the conduct.

<sup>31</sup> In the Russian Federation, article 204 of the Criminal Code criminalizes commercial bribery, that is, the illegal transfer or receipt of money, securities or any other assets, or the unlawful provision of monetized services or granting of other property rights by an individual or group for the commission of actions or omissions in the interests of the giver, in connection with an official position held by **a person discharging managerial functions**.

may not be involved in specific relationships that are covered by criminal law.<sup>32</sup>

Thus, regarding the application of articles 21 and 22 of the Convention and national legislation on private-sector corruption to the field of sport, it is important to carefully consider the language of the relevant provisions and, when necessary, consider excluding restrictive clauses to ensure that laws can be applied to a broad range of sport-related persons.

A different approach is also possible: to solve the applicability issues, some jurisdictions have explicitly stated that provisions relating to private-sector corruption extend to certain sports actors.<sup>33</sup>

### 3.1.3 SPECIFIC LAWS ON CORRUPTION IN SPORTS

In addition to applying and adapting existing general criminal anti-corruption laws to tackle forms of corruption that are used in sport (as discussed throughout this report, but for example, bribes paid to ensure a particular city or country is selected to host a major sporting event, to facilitate the inclusion of a player on a team and to secure a high-level position in a sports organization), an increasing number of jurisdictions have enacted legislation that addresses sport-specific or sport-related corruption, such as the criminalization of competition manipulation and illegal betting. For example, in 2021, 45 jurisdictions that specifically criminalize the manipulation of sport competitions were identified. This represents a significant increase compared to the five jurisdictions identified in 2013 (see the section on understanding the manipulation of sports competitions for more information). In addition, another approach used is also to develop specific provisions that can be incorporated into more general laws on corruption in the private sector.<sup>34</sup>

<sup>32</sup> Before the 2016 amendments to the Penal Code came into force in Switzerland, the country hosting most international sports bodies, bribery in the private sector was only criminalized under the Swiss Unfair Competition Act in cases where such actions led to the distortion of the market. Since sports bodies officials may take bribes also outside the market relations, this provision severely limited the applicability of the relevant rules. The situation was remedied with the introduction of articles 322octies–322novies in the Criminal Code.

<sup>33</sup> For instance, article 333 of the Criminal Code of the Republic of Moldova criminalizes its claim, acceptance or receipt, in person or by an intermediary, by an arbitrator elected or appointed to settle by arbitration a litigation, by a person managing a commercial, public or other non-state organization, or by a person working for a such organization, by a participant in a sporting event or in a betting event, goods, services, privileges or benefits in any form, for itself or for another person, or accepting offers or promises from them in order to fulfill or not or to delay or accelerate the performance of an action in exercising its position or contrary to it either within a sporting event or a betting event.

<sup>34</sup> For example, article 286bis of the Spanish Penal Code, dedicated to countering private bribery, includes para. 4, according to which the provisions of this article shall be applicable, in their respective cases, to the directors, administrators, employees or collaborators of a sports entity, regardless of its legal form, as well as to athletes, referees or judges, with respect to those conducts whose purpose is to deliberately and fraudulently predetermine or alter the result of an event, match or sports competition of special economic or sporting relevance.

### 3.1.4 FRAUD

In addition to the criminalization of bribery, embezzlement, abuse of office and other corruption offences, norms on criminal liability for fraud are also used as an anti-corruption tool. Even though the Convention against Corruption does not explicitly provide for the criminalization of fraud, the use of anti-fraud measures to combat corruption can be consistent with the spirit of the Convention, as they are aimed at countering the same types of criminal actions.

Fraud encompasses any act or omission whereby an individual or entity knowingly misrepresents or conceals a material fact in order to obtain an undue benefit or advantage for himself, herself, itself or a third party, or to cause another to act to his or her detriment.<sup>35</sup>

Anti-fraud legislation can be applied to the field of sports in a variety of ways, including, but not limited to, the following:

- » Competition manipulation (which is discussed in greater detail in the chapter on understanding the manipulation of sports competitions) can be considered as a form of fraud. According to the study *Criminal Law Provisions for the Prosecution of Competition Manipulation* by UNODC and the International Olympic Committee, many countries use provisions on fraud, among other general criminal law provisions, to sanction competition manipulation,<sup>36</sup> with some countries even introducing the term “sports fraud” to refer to competition manipulation.<sup>37</sup>
- » Criminal liability for fraud may be applied to an employee implementing a scheme that results in the employer, such as a Government, a sports organization or a private company, being deprived of certain assets. The losses to the employer may be pecuniary, for example, when an employee of a sports organization ensures the purchase of uncompleted or fictitious goods and services,<sup>38</sup> receives a bribe to sell broadcasting rights of a sporting event at a low price or siphons off funds received for the transfer of a player.<sup>39</sup> The losses can also be intangible, such as when the employer is deprived of the proper

<sup>35</sup> Anti-Fraud and Anti-Corruption Framework of the United Nations Secretariat, <https://undocs.org/en/ST/IC/2016/25>.

<sup>36</sup> See relevant examples of prosecutions in the chapter on the manipulation of sports competitions.

<sup>37</sup> For example, in El Salvador, article 218A entitled “Sporting fraud” is included in the Criminal Code. In India, the term “sports fraud” was used in several consecutive though not yet adopted bills.

<sup>38</sup> For example, in the Russian Federation, the director of a state-owned sports school was accused of fraud, according to investigators, for making a fictitious purchase of equipment that had previously been supplied free of charge by sponsors, 31 January 2021, <https://22.xn--b1aew.xn--p1ai/news/item/22818453/>.

<sup>39</sup> See, for example, the case of Zoran Mamic, a former Dinamo Zagreb coach, who was found guilty of fraud on players’ transfer fees. In 2012, Croatia issued an international arrest warrant for him. The case is adjudicated.

performance of an employee's duties and there is a breach of fiduciary duty.<sup>40</sup>

- » It may also constitute fraud when damages are suffered by sports-related organizations because of fraudulent actions by persons who are not formal members of the organization. For example, when agents offer bribes to players, in exchange for the players agreeing to be represented by the agents in the future and signing post-dated representation contracts<sup>41</sup> or when agents and sports clothing companies give money to the families of college players in exchange for their commitment to later join the teams sponsored by those companies.<sup>42</sup>
- » The application of anti-fraud provisions, which are often quite broad in terms of their scope, can be a convenient way for law enforcement and criminal justice authorities to tackle corruption in sport. For example, when a bribe is paid to a person who can informally influence the outcome of an event through a network of contacts, such as the awarding of a bid or the selection of players for a competition, but who has no formal role on a selection committee or is not formally employed by the given sports organization.

### 3.1.5 LAUNDERING OF PROCEEDS OF CRIME

The link between corruption in sport and money-laundering has been the subject of many publications and initiatives. In the Convention against Corruption, the issue of money-laundering is addressed in article 14 on measures to prevent money-laundering and in article 23 on laundering of proceeds of crime. Article 23 prescribes that a range of criminal offences established in accordance with the Convention should be included as predicate offences.

In terms of protecting the integrity of sport, anti-money-laundering measures are important for several reasons:

- » They prevent the free use of criminal proceeds by unscrupulous public officials, members of sports organizations, organizers of illegal betting and other criminals who may have infiltrated sport

<sup>40</sup> 18 U. S. C. § 1346. For instance, honest services fraud counts were the predicate for the racketeering counts when the Racketeer Influenced and Corrupt Organizations (RICO) act was applied to FIFA officials.

<sup>41</sup> As in *United States v. Walters*. In this case, two sports agents were found guilty of defrauding two universities of their property interests in athletic scholarships. For a detailed discussion, see Landis Cox, "Targeting sports agents with the Mail Fraud Statute: *United States v. Norby Walters & Lloyd Bloom*", *Duke Law Journal*, vol. 41, (1992) pp. 1157–1210.

<sup>42</sup> For example, *United States v. Gatto*. For a detailed discussion, see e.g., Seth Myers, "An intentional foul: corruption in NCAA Basketball & the aftermath of the 2017 scandal", *DePaul Journal of Sports Law*, vol. 15, No. 1 (2019), pp. 65–92.

- » They facilitate combating money-laundering through sports, such as using proceeds of crime to buy a sports club, to invest in transfers and to provide sponsorship, and through sports-related betting<sup>43</sup>
- » They can be an effective tool for law enforcement agencies and criminal justice authorities as they allow for the prosecution of persons to whom, for several reasons, anti-corruption provisions cannot be applied

Anti-money-laundering issues in sport, including the experiences of individual jurisdictions in implementing the relevant provisions of the Convention, are discussed in more detail in the section on understanding the manipulation of sports competitions.

## 3.2 LAW ENFORCEMENT

In addition to adopting relevant laws and regulations to criminalize corruption which are of direct relevance to sport, it is also important to ensure proper investigative procedures, prosecution, adjudication and sanctions, as well as, to the extent possible, compensation for damages.

The Convention against Corruption addresses these issues in several articles, including:

- » Article 24 on concealment
- » Article 25 on obstruction of justice
- » Article 26 on liability of legal persons
- » Article 27 on participation and attempt
- » Article 28 on knowledge, intent and purpose as elements of an offence
- » Article 29 on statute of limitations
- » Article 30 on prosecution, adjudication and sanctions
- » Article 31 on freezing, seizure and confiscation
- » Article 34 on consequences of acts of corruption
- » Article 35 on compensation for damage
- » Article 41 on criminal record
- » Article 50 on special investigative techniques

As these articles are of a general nature, they can be applied to a variety of corruption offences, including those that are

<sup>43</sup> A recent report by the European Union Agency for Law Enforcement Cooperation (Europol) on the involvement of organized crime in sports corruption notes that money-laundering through sports corruption can be a straightforward activity, where smaller amounts of money are laundered directly through betting with illegal funds and turned into legitimate betting wins.

committed in sports. They can also be used as guidance by sports organizations when they establish disciplinary measures and develop internal systems of investigation.

### 3.2.1 SPECIALIZED BODIES

Specialized bodies that can perform various functions regarding corruption prevention and law enforcement are an essential element of any anti-corruption framework. The role of such entities is covered by the Convention against Corruption in the following articles:

- » Article 6 on preventive anti-corruption body or bodies
- » Article 36 on specialized authorities
- » Article 38 on cooperation between national authorities
- » Article 39 on cooperation between national authorities and the private sector

In resolution 8/4, the Conference also addresses this issue and “calls upon States parties, where possible and in accordance with the fundamental principles of their legal systems, to inform the Secretariat of the names and addresses of authorities that may be able to assist other States parties in developing and implementing specific measures to address corruption in sport.”

In recent years, the number of specialized bodies to tackle corruption in sport has grown. At the national level, numerous examples exist involving either the establishment of units within sports regulatory bodies<sup>44</sup> or within law enforcement agencies.<sup>45</sup> Such units can deal with a wide range of issues related to anti-corruption and the protection of the integrity of sport. Some have a specialized mandate, such as focusing on tackling competition manipulation.<sup>46</sup> Some jurisdictions have moved towards the creation of a separate sports integrity body with a mandate that includes tackling the various forms of wrongdoing and corruption in sport.<sup>47</sup>

<sup>44</sup> In Japan, a Sport Integrity Unit was established under the Japan Sport Council in 2014, which is dedicated, among other things, to ensuring good governance and integrity in sports organizations.

<sup>45</sup> In Belgium, the Sports Fraud Team was established within the Federal Judicial Police. In Spain, the National Police Center for Integrity in Sports and Gambling (CENPIDA) was created. In the United States, the FBI has recently launched the Sport and Gaming Initiative. In India, the Sports Integrity Unit was created under the Special Crime Branch of the Central Bureau of Investigation (CBI).

<sup>46</sup> For example, in Italy, the Sports Betting Information Unit (UISS) was established within the Central Directorate of the Criminal Police.

<sup>47</sup> In Australia, a specialized agency – Sport Integrity Australia – was established in 2020 to bring together the functions of the Australian Sports Anti-Doping Authority, the National Integrity of Sport Unit, and the sport integrity functions of Sport Australia. Public debate has recently started in Malta on the creation of the Sports Integrity Authority ([https://meae.gov.mt/en/Public\\_Consultations/MISW/Pages/Consultations/ParliamentaryBillforPublicConsultationSportsGovernanceandIntegrityAct2021.aspx](https://meae.gov.mt/en/Public_Consultations/MISW/Pages/Consultations/ParliamentaryBillforPublicConsultationSportsGovernanceandIntegrityAct2021.aspx)).

Regarding sports bodies, numerous examples exist of the establishment of integrity units or the appointment of integrity officers at both the international and national<sup>48</sup> levels, often with mandates aimed at preventing corruption and conducting internal investigations. Efforts are also being made to introduce anti-corruption regulatory entities in new areas such as e-sports.<sup>49</sup>

Furthermore, in the spirit of articles 38 and 39 of the Convention, initiatives are emerging that facilitate cooperation on anti-corruption in sport between different public bodies and between public bodies and sports organizations or other private sector organizations. Such forms of cooperation can be initiated by Governments<sup>50</sup> or sports organizations.<sup>51</sup> In recent years, agreements with private sector organizations that can provide the data necessary to detect wrongdoing have become increasingly common.<sup>52</sup>

While the number of anti-corruption bodies in sport is growing, it is an approach that can be considered a new phenomenon. Despite calls for more bodies, it is not a widespread practice, especially when compared to approaches to tackle other integrity risks in sport, such as doping.

### 3.2.2 REPORTING SYSTEMS

At the international level, it has been consistently emphasized that for the fight against corruption to be effective, it is important to establish reporting systems that enable reporting individuals to report on possible corruption offences and that ensure that reporting persons are protected against retaliation. This topic is examined in detail in the section on detecting and reporting corruption in sport.

<sup>48</sup> The Italian Olympic Committee (CONI), for instance, created the General Prosecution Office for Sport (Procura Generale dello Sport).

<sup>49</sup> See, for example: The Global Anticorruption Blog (GAB), “eSports: a playground for corruption?”, 2 July 2021.

<sup>50</sup> For example, in Spain, the National Commission to Combat the Manipulation of Sports Competitions and Betting Fraud (CONFAD) was established. CONFAD is chaired by the Ministry of Consumption in coordination with the Superior Council of Sports, National Police, Civil Guard, sports federations, organizers of sports competitions and game operators.

<sup>51</sup> In Malaysia, the Football Association of Malaysia created the Integrity Committee that includes the representatives of the Malaysian Anti-Corruption Commission and the Royal Malaysia Police. In Estonia, the Estonian Center for Integrity in Sports was set up in 2019 by the Estonian Olympic Committee in cooperation with the Ministry of Culture; in 2020, the Center merged with the Estonian Anti-Doping Foundation.

<sup>52</sup> Sportradar, one of the leading companies in supplying sports related data, has numerous agreements with state authorities (Bulgaria’s National police, the Central Service of Races and Games of France’s National Police Force, the Estonian Center for Integrity in Sports, etc.) as well as with international and national sports bodies (with the IOC and FIFA being among the largest, and the Netherlands Olympic Committee, the National Hockey League, and the International Table Tennis Federation the most recent partners). Such agreements often involve, among other things, the provision of data on integrity risks.

In the Convention against Corruption, reporting on corruption is addressed in paragraph 4 of article 8 on codes of conduct for public officials and in article 33 on protection of reporting persons. These are supplemented by article 32 on the protection of witnesses, experts and victims, and by article 37 on cooperation with law enforcement authorities, which include provisions for the protection of witnesses and persons assisting investigations.

These provisions are applicable to the field of sport, as explicitly stated in paragraph 12 of resolution 7/8, where the Conference “encourages States parties and sports organizations, bearing in mind in particular articles 8, 32 and 33 of the United Nations Convention against Corruption, in conformity with national legislation and in the context of sport, to consider developing reporting mechanisms in sport and establishing effective protection measures for reporting persons and witnesses, to increase awareness of such measures and to make use of the joint publication of the United Nations Office on Drugs and Crime and the International Olympic Committee entitled *Reporting Mechanisms in Sport: A Practical Guide for Development and Implementation* and the publication of the United Nations Office on Drugs and Crime entitled *Resource Guide on Good Practices in the Protection of Reporting Persons*.

In 2019, UNODC and the International Olympic Committee released a publication entitled *Reporting Mechanisms in Sport: A Practical Guide for Development and Implementation*, which looks at the key elements of reporting systems in sport, provides guidance on their implementation and gives examples from different jurisdictions and sports organizations. It is available in Arabic, English, French, Spanish and Russian.

Reporting mechanisms are currently being implemented at the national level, where appropriate reporting channels are usually established within sport regulatory bodies and/or law enforcement authorities,<sup>53</sup> and by international and national sports bodies. Both Governments and sports organizations are looking for ways to make reporting systems more effective, with the aim of trying to better gain the trust of potential reporting persons, increasing the use of reporting channels, improving the quality of information handling, and ensuring the ability to conduct effective investigations. Various innovative solutions can be applied, including new

<sup>53</sup> Such reporting systems have been established, for example, as part of Sport Integrity Australia ([www.sportintegrity.gov.au/contact-us/anonymously-report-integrity-issues](http://www.sportintegrity.gov.au/contact-us/anonymously-report-integrity-issues)) or by the Belgian police ([www.politie.be/5998/nl/vragen/sportfraude/heb-jij-informatie-over-sport-fraude](http://www.politie.be/5998/nl/vragen/sportfraude/heb-jij-informatie-over-sport-fraude)).

information technology<sup>54</sup> and the outsourcing of reporting mechanism management to third parties.<sup>55</sup> However, the issue of the insufficient protection of reporting persons, as set out in article 33 on protection of reporting persons, and the reluctance to disclose information about corruption because of a fear of reprisals, is still highly relevant and requires close attention.

### 3.2.3 SPECIAL INVESTIGATIVE TECHNIQUES

Crimes in the field of sports are often complex, transnational in nature and involve the use of modern technologies. Therefore, a variety of often innovative methods must be used to investigate them (see the sections on detecting and reporting corruption in sport, understanding the manipulation of sports competitions and illegal betting and sport for additional information).

Article 50 of the Convention against Corruption urges States parties “to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.”

In recent years, certain countries have allowed the use of special investigative techniques in relation to sport-related corruption offences<sup>56</sup> and in some cases, national law enforcement agencies have successfully applied the new tools in practice.<sup>57</sup> Sports organizations, although more

<sup>54</sup> For example, within the framework of the PROtect Integrity Plus project, co-funded by the Erasmus+ Programme of the European Union, the specialized Red Button reporting App was introduced to professional athletes from seven European Union countries. Initially developed by the Football Players Association of Finland (JPY) and FIFPro, the application was installed on players’ smartphones and allows them, anonymously if preferred, to report match-fixing. Later, FIFA used this experience and distributed the Red Button application to its member associations. See Babatunde Buraimo and David Forrest, *Report on ‘Project Integrity Plus’: Roll-Out of the Red Button App to New Sports and New Countries* (University of Liverpool Management School, December 2019).

<sup>55</sup> The Czech Ice Hockey Federation, for example, has outsourced the analysis and review of whistleblower information to a specialized anti-corruption NGO. See Ordway, *Restoring Trust in Sport*, Chapter 8.

<sup>56</sup> For instance, in Albania, the crimes for which photographic or video surveillance and the use of tracking devices are permitted include predetermining results in sports and distortion of competition in sports. Articles 197/A and, 197/B of the Criminal Code of the Republic of Albania, <https://rm.coe.int/16806ec19f>.

<sup>57</sup> Such cases are quite numerous. In Italy, in 2013, during Operation New Line, the Antimafia District Directions (DDAs) used sophisticated interceptions of web communication to identify and dismantle an illegal betting organization managed by Camorra and specialized in sports events. The organization created an illegal web platform able to collect thousands of Euros each week in various Italian regions. It even fraudulently modified the display of sport results to alter the payment of illegal bets. - [https://ec.europa.eu/home-affairs/sites/default/files/e-library/docs/20150312\\_1\\_amoc\\_report\\_020315\\_0\\_220\\_part\\_2\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/e-library/docs/20150312_1_amoc_report_020315_0_220_part_2_en.pdf). In the United States, in 2017, the FBI used wiretaps, undercover agents, informants and other means to investigate fraud and corruption in college basketball. See [www.justice.gov/usao-sdny/press-release/file/998751/download](http://www.justice.gov/usao-sdny/press-release/file/998751/download).

constrained in their choice of means, are also trying to expand their range of investigation methods.<sup>58</sup> In addition, international organizations are contributing to this effort by providing methodological and educational support with regard to investigating corruption in sport.<sup>59</sup>

### 3.2.4 JURISDICTION

Regarding article 42 of the Convention against Corruption, on jurisdiction, some countries have adopted and enforced anti-corruption legislation with a wide extraterritorial reach. In general, extraterritorial liability means that a jurisdiction can, in certain cases, apply sanctions for corruption offences (as well as for fraud, money-laundering and other crimes) to foreign nationals and/or non-resident organizations. These can be applied for activities that take place outside the regulating jurisdiction.

Extraterritorial liability creates additional opportunities to prosecute officials of international sports bodies for corruption, although it is not an approach that is widely used. This approach provides legal grounds for the investigation of such persons by law enforcement authorities of jurisdictions other than the jurisdiction hosting the sports body or the jurisdiction of which the official is a citizen. A well-known example of the use of such measures is the use of the Racketeer Influenced and Corrupt Organizations (RICO) Act in the United States of America to bring charges against former officials of the Fédération Internationale de Football Association.<sup>60</sup>

<sup>58</sup> International sports federations are increasingly enshrining in their codes of conduct the right to demand from a suspected wrongdoer access to his/her clouds or electronic devices. For a more detailed discussion of this method and an example of its practical application in corruption investigations, see the chapter on detecting and reporting on corruption in sport. For a discussion of the difficulties associated with the use of such investigative tools, see, for example, Björn Hessert, "The protection of minor athletes in sports investigation proceedings", *International Sports Law Journal*, vol. 21, No. 1–2 (2021), pp. 62–73.

<sup>59</sup> For more on this, see, for example, the section on Interpol initiatives.

<sup>60</sup> See, for example, Catherine Lee, "How the Foreign Corrupt Practices Act can help referee FIFA", *Maryland Journal of International Law*, vol. 31, No. 1 (2016), pp. 283–310; Branislav Hock, "Transnational bribery: when is extraterritoriality appropriate?", *Charleston Law Review*, vol. 9, (2017), pp. 305–352; Jake Elijah Struebing, "Federal criminal law and international corruption: an appraisal of the FIFA prosecution", *New Criminal Law Review*, vol. 21, No. 1 (2018), pp. 1–56; Conor Slattery, "A new world order: FIFA fiscal scandal opens the door for the United States Department of Justice to prosecute crimes committed across the globe through the use of extraterritorial jurisdiction", *Suffolk Transnational Law Review*, vol. 41, No. 1 (2018), pp. 201–231.

## 4. >>>>>

# INTERNATIONAL COOPERATION AND EXCHANGE OF INFORMATION

Corruption in sport has long been a transnational phenomenon that requires coordinated action across borders to effectively tackle it.

Under the Convention against Corruption, State parties agree to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation and the prosecution of offenders.

In this regard, the articles of the Convention on international cooperation are of particular importance, including those on the exchange of information on suspects, the movement of proceeds of crime, property and equipment used in the commission of offences, joint transnational investigations, mutual legal assistance, extradition of criminals (articles 43 to 50), asset recovery (articles 54, 55, 56, 58 and 59) and technical assistance and support in investigating corruption (articles 60 and 61). All these articles can be applied to a wide range of corruption offences, including those in sports.

It is crucial to the overall anti-corruption effort to build effective cooperation between officials and agencies with responsibility for the enforcement of relevant laws. In recent years, there has been a significant increase in the number of international and regional initiatives to help law enforcement and other agencies from different countries share information and collaborate in other ways, including informally, to tackle crime in sport.

These include:

- » United Nations Office on Drugs and Crime (UNODC) Programme on Safeguarding Sport from Corruption and Crime
- » UNODC Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network)
- » International Partnership against Corruption in Sport Task Force 4 on Effective Cooperation between Law Enforcement, Criminal Justice Authorities and Sport Organizations



- » International Criminal Police Organization (INTERPOL) Match-Fixing Task Force
- » Organization for Economic Development Global Network of Law Enforcement Practitioners against Transnational Bribery
- » Council of Europe Network of National Platforms (Group of Copenhagen)
- » Europol Analysis Project Sports Corruption

Some of these initiatives are more focused on facilitating cooperation between authorities from different jurisdictions with regard to specific law enforcement actions, while others are aimed at strengthening the basis for international collaboration: developing common terminology, disseminating useful resources and technologies, preparing analytical materials and conducting educational activities.

Increasingly, sports organizations, non-governmental organizations and other relevant stakeholders are also involved in several ways in such cooperation. For example, numerous formal agreements<sup>61</sup> have been reached between sports

organizations and international organizations specializing in law enforcement cooperation and anti-corruption training.

Regarding cooperation in law enforcement actions, the practice of joint investigations of corruption in sports, as promoted by article 49 of the Convention against Corruption, is gradually growing. Examples include the *Flankengott* investigation<sup>62</sup> in Germany launched in 2009 by the Bochum criminal investigations division, which quickly gained international coverage, and Operation VETO that ran between 2011 and 2013, for which the joint investigation team comprised Europol experts and teams from 13 European countries.

The Convention also prepares the legal ground for developing other elements of international cooperation, including extradition. In 2019, the first extradition of its kind took place under the extradition treaty between the United Kingdom of Great Britain and Northern Ireland and India, involving an Indian businessperson accused of manipulating of cricket matches (see the section on understanding the manipulation of sports competitions).

<sup>61</sup> See, for example, the partnership agreement between UNODC and the IOC to tackle corruption in sport ([www.unodc.org/unodc/en/frontpage/2018/October/unodc-and-international-olympic-committee-enter-partnership-to-tackle-corruption-in-sport.html](http://www.unodc.org/unodc/en/frontpage/2018/October/unodc-and-international-olympic-committee-enter-partnership-to-tackle-corruption-in-sport.html)); the memorandum of understanding between UNODC and FIFA ([www.unodc.org/unodc/frontpage/2020/September/unodc-and-fifa-partner-to-kick-out-corruption-and-foster-youth-development-through-football.html](http://www.unodc.org/unodc/frontpage/2020/September/unodc-and-fifa-partner-to-kick-out-corruption-and-foster-youth-development-through-football.html)); and the renewal of the partnership between INTERPOL and the IOC ([www.interpol.int/es/Noticias-y-acontecimientos/Noticias/2018/INTERPOL-and-IOC-renew-partnership-to-strengthen-sports-integrity](http://www.interpol.int/es/Noticias-y-acontecimientos/Noticias/2018/INTERPOL-and-IOC-renew-partnership-to-strengthen-sports-integrity)).

<sup>62</sup> See Thematic Compilation of Relevant Information Submitted by Germany: Promoting Good Governance in Sport and Mitigating the Risk of Corruption, page 3 ([www.unodc.org/documents/corruption/WG-Prevention/Art\\_5\\_Integrity-in-sport/Thematic\\_compilation\\_Sports\\_Germany.pdf](http://www.unodc.org/documents/corruption/WG-Prevention/Art_5_Integrity-in-sport/Thematic_compilation_Sports_Germany.pdf)).



# CONCLUSION AND POLICY CONSIDERATIONS



## CONCLUSION

While the Convention against Corruption does not explicitly refer to sport, its provisions have been and can be directly applied in many ways that can lay a strong foundation for the development of relevant measures, tools and mechanisms to tackle the corruption sport faces and to strengthen its integrity.

This applies to the criminalization of certain offences and the establishment of effective systems to detect, investigate and sanction corruption. Equally significant are measures to prevent corruption in sport, including promoting good governance and standards of conduct, improving procurement systems and providing anti-corruption education. The Convention also emphasizes the important role relevant stakeholders can play in the fight against corruption. Building effective cooperation between these stakeholders, both at the national and international levels, needs to be an important aspect of anti-corruption efforts.

The field of anti-corruption in sport is actively developing and new issues are emerging that were not apparent at the time the Convention was negotiated. Such issues (for example, illegal betting, competition manipulation and the protection of vulnerable groups) are often touched upon in the soft law instruments adopted in furtherance of the Convention, primarily in the resolutions of the General Assembly and the Conference of the States Parties to the Convention against Corruption.

Importantly, while the Convention is addressed to States parties and signatories, it is not only Governments that can apply its principles and measures. Sports organizations can use the Convention as a benchmark and adapt its provisions to create their own systems to prevent, detect, investigate and sanction corruption, which they have been consistently encouraged to do by the international community.

## POLICY CONSIDERATIONS

Governments can strengthen efforts to tackle corruption in sport by:

- » Effectively implementing the United Nations Convention against Corruption
- » Developing comprehensive policies on anti-corruption in sport based on an assessment of the corruption risks faced, including where applicable, but not limited to, those related to the organization of major sports events, competition manipulation and illegal betting, and those

that negatively impact children, young athletes and other vulnerable groups

- » Establishing a body or bodies that have clear responsibility for the prevention, detection, investigation and sanctioning of corruption in sport, and ensuring that they have the necessary independence, training and resources required to carry out their functions effectively
- » Supporting programmes, projects, task forces, expert groups and existing initiatives that promote and enhance cooperation and the exchange of information and good practices among law enforcement agencies, criminal justice authorities, corruption prevention authorities, law-makers and policymakers

Sports organizations can strengthen efforts to tackle corruption by further aligning their rules and regulations with the principles of the Convention against Corruption. They can do this by:

- » Reviewing and updating, where necessary, their rules and regulation to align with the principles of the United Nations Convention against Corruption
- » Including public reporting on corruption risks in their organization as part of their information disclosure policies
- » Developing comprehensive anti-corruption policies based on an assessment of corruption risks faced by their organizations. The use and adaptation of the UNODC publication entitled National Anti-Corruption Strategies: A Practical Guide for Development and Implementation can be helpful in this regard
- » Developing, implementing and simplifying their mechanisms for reporting acts of corruption, including the possibility of anonymous reporting
- » Providing staff with access to services that can provide confidential advice on ways to prevent, mitigate and remedy conflicts of interest, and assisting staff in conforming their conduct to the ethical expectations established by their organizations
- » Developing and implementing procedures for the selection of individuals for positions considered especially vulnerable to corruption
- » Establishing a body or bodies within their institutions that have clear responsibility for the prevention, detection, investigation and sanction of corruption. These bodies should be provided with the necessary independence, training and resources required to carry out their functions effectively



**UNODC**

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