

COUNTERING SPORTS MANIPULATION

The

European Convention on the

Manipulation of sports competitions and the way forward

by

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Preface

As a representative of the Bulgarian National Football Information Point that was established in accordance with the European Convention on spectator violence of the Council of Europe, I took part in the legislative drafting of the articles of the Bulgarian criminal code related to the manipulation of sports competitions in 2011. Following the recommendation of the Council of Europe, European Commission and European parliament, Republic of Bulgaria implemented the sports manipulation as a criminal offence in order to highlight the seriousness of this new threat for the sport. In 2013 I took part in the biggest investigation of match-fixing in the Bulgarian football championship, where I cooperated successfully with Interpol, Europol, Eurojust, FIFA, UEFA, Sport radar, various players in the betting industry and other actors on the field of the fight against match-fixing. In 2014, I took part in the drafting of Bulgarian recommendations for the new Convention on the manipulation of sports competition that was signed in Magglingen/Macolin Switzerland.

Knowing the negative effect of sports manipulation for the sport and society, as well as the problems that is facing the Macolin Convention in its ratification, I decided to do this research in order investigate the phenomenon of match-fixing, controversial issues about the online gambling and potential effect of ratification of the convention and its entry into force. I was totally surprised when I found out so many International business law issues are covered in this topic. The sports betting markets are similar to the stock market, where odds movement depends on the performance of the teams and players. The insider trading is similar to the match-fixing, where a pre-match information for the result is used in order to achieve a great profit. Memorandums of understanding between betting companies, sports governing bodies and public authorities are used to cover the lack of regulation in this area. In the same time there is a need of acceleration of negotiations for the ratification of the convention due to the spreading of the phenomenon of sports manipulation. The match-fixing cannot be distinguished from the online gambling, because it is consequence from the fusion of professional sport and expansion online gambling in 1995. The regulation of online gambling is a controversial issue for the EU, at the same time the online gambling raises competition issues because it is economic activity. Nowadays using disruptive innovation to deal with a problem is a well-known approach, using algorithms to identify irregular betting patterns is the next “big thing” in the countering sports manipulation and maintain integrity in sport.

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List of abbreviations

MoSC - Manipulation of Sports Competition

ECMoSC- European Convention on Manipulation of sports competition

CAS- Court of Arbitration of Sport

UEFA- Union of European Football Associations

FIFA- Federation Internationale de Football Association

ICSS- International Center for Sports Security

OECD- Organization for Economic Cooperation and Development

CoE- Council of Europe

EU- European Union

IOC- International Olympic Committee

GGDP- Global Gross Domestic product

IOC- International Olympic committee

1. Introduction

1.1. Problem definition

With the beginning of the new century, the contemporary sports business (ticketing, sports broadcasting rights, sports betting market, sporting goods distribution market, sports labor market and other economic activities related to professional sport) increases its weight in the global economy. Nowadays, sport-related business activities make up for 2 % of the global gross domestic product and it is expected to generate over $91 billion in 2017.[1] Meanwhile, the size of the online gambling market only in Europe is characterized by an annual growth rate of 15 % and in 2015 the annual revenues are €13 billion, compared to € 9.3 billion in 2011.[2] The economic significance of the gambling continues to increase due to the high volume of tax revenues for the EU member states, jobs and introducing of the innovation in the sector. The fusion of gambling and professional sport on the one hand provide sponsorship to the sport, on the other hand gambling can lead to negative consequences like sports manipulation, money-laundering and betting addiction. However, there are no unified online gambling regulations within the European Union. The online gambling is a fast-growing industry but every single state regulates its own market. With the increase in market share and its overall globalization, the sports industry faces new threats as it has to find appropriate solutions to keep growing revenues and reduce losses. One of these new threats is betting-related sports manipulation that is arising from criminal activities related to the globalization of the sports market, sports broadcasting market and the expansion of the betting market after the introducing of online betting platforms and mobile apps. This innovation increases its market share to a global scale, but it also facilitates the exploitation of the sport by the organized crime for sports manipulation, money-laundering, tax evasion, and other criminal activities.[3] The betting-related sports manipulation (hereafter: match-fixing) totally distorts the competitive nature of sport, reduce its value and undermines its social and educational impact. The great number of match-fixing cases every year alarms that an united and effective response from all stakeholders (public authorities, sports organizations and betting companies) is needed. [4]

The manipulation of sport competition emerged as a worldwide threat to the integrity of sport, negatively influencing the revenues of the sport industry and concerning all stakeholders, including the supranational organizations like the European Union and the Council of Europe,

[1] Statistacom, 'Global sports market - total revenue from 2005 to 2017 (in billion US dollars)' (Wwwstatistacom, 2017) <https://www.statista.com/statistics/370560/worldwide-sports-market-revenue/> accessed 26 August 2017

[2] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Towards a comprehensive European framework for online gambling /* COM/2012/0596 final */ [2012] OJ 1 1/1

[3] Jack Anderson, 'Match Fixing and Money Laundering' [April 14, 2014] 12(3) Queen's University Belfast Law Research Paper No 2014-05

[4] Ivana katsarova, 'Briefing April 2016, Match-fixing: Issues and policy responses' (Http://wwweuroparleuropaeu/RegData/etudes/BRIE/2016/580891/EPRS_BRI(2016)580891_ENpdf, 2016) <http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/580891/EPRS_BRI(2016)580891_EN.pdf> accessed 26 August 2017

the states, sport clubs, betting companies, sponsors, media, private sports companies, international sport governing organizations and the society. It covers all individual and team sports and could involve athletes, coaches, referees and other sports perpetrators.[5] In light of this threat the sport governing organization, public authorities and betting companies are trying to create a long-lasting solution for neutralization of the concepts of match-fixing.

In most cases, the manipulation of sports competition is related to betting and pursuits a rapid profit.[6] Oftentimes, it is used by international criminal syndicates as a money-laundering technique. Betting of significant stakes on secure picks could lead on the one hand to an enormous profit and on the other hand to money-laundering due to the liquidity of the betting market and the fact that they are easily accessible internationally via online betting platforms.[7] It alters the nature of gambling and the wagering of money on an event with an uncertain outcome and turns it into a highly-profitable criminal activity. The sports manipulators minimize the risk of loss by solicitation of the sports participants, officials and other parties that are relevant to organized sport competitions. To be more precise, using match-fixing as a money-laundering technique increases the jeopardy significantly. Arising from typical corrupt behavior, sports manipulation has become a worldwide phenomenon influencing the modern sport, trying to eliminate the competition and the desire to win in the game. Another aspect of the match fixing and its arising like a worldwide threat to the integrity of sport, is that the betting companies in Europe are often established in tax havens where the EU regulations and the European convention on manipulation of sports competition have no influence, gambling is allowed, gambling is not well-regulated or supervised and the international coordination and exchange of information between the law-enforcement authorities is not on a sufficient level.[8] For example, Gibraltar (UK) has granted 14 online gambling licenses, Alderney (Guernsey) 58 granted, Isle of Man (UK) 46, Cagayan (Philippines) 68, Malta 86, Curacao (The Netherlands) 17, Antigua and Barbuda 5, and Kahnawake (Canada) 40.[9] Bwin, one of the biggest remote gambling operators in Europa is established in Gibraltar licensed by the government of Gibraltar and regulated by the Gibraltar Gambling Commissioner.[10] According to article 355 (3) of the Treaty on the Functioning of the European Union the free movement of services shall apply to Gibraltar which in particular brings controversial issues.[11] Thus these betting havens receive only the

[5] university paris 1 panthéon-sorbonne and international centre for sport security (icss, 'Protecting the Integrity of Sport Competition The Last Bet for Modern Sport' [May 2014] 142(4) An executive summary of the Sorbonne-ICSS Integrity Report Sport Integrity Research Programme, 2012-14

[6] Interpol and international olympic committee, 'Https://wwwinterpolint/contentinterpol/search?SearchText=HANDBOOK+ON+PROTECTING+SPORT+FROM+COMPETITION+MANIPULATION&x=10&y=5' (HANDBOOK ON PROTECTING SPORT FROM COMPETITION MANIPULATION, May 2016) <https://www.interpol.int/contentinterpol/search?SearchText=HANDBOOK+ON+PROTECTING+SPORT+FROM+COMPETITION+MANIPULATION&x=10&y=5> accessed 26 August 2017

[7] Jack Anderson, 'Match Fixing and Money Laundering' [April 14, 2014] 12(4) Queen's University Belfast Law Research Paper No 2014-05

[8] PM Anderson and others, Sports Betting: Law and Policy (2012)

[9] Oecd, 'Illicit Trade Converging Criminal Networks' (Wwwoecdorg, April 18, 2016) <http://www.oecd.org/gov/risk/charting-illicit-trade-9789264251847-en.htm> accessed 26 August 2017

[10] Bwin, 'Licenses and regulatory environment' (Wwwbwincom, 2017) <https://www.bwin.com/en/p/about-us/company/licences-and-regulatory-environment> accessed 26 August 2017

[11] the Treaty on the Functioning of the European Union [26/10/2012] OJ 1 326/1

benefits (profits from licenses, administration and taxes) of gambling and the negative consequences (match-fixing, money-laundering and betting addiction) remain for the other states.

Besides this, a rapid growth of the annual number of sport events in the recent years can be observed, therefore the sports betting market increase. The betting market, which is operating in a legal environment is the one of the most susceptible to the manipulation of sports competition. It becomes a global market and its products are available to customers all over the world due to the online platform of the betting companies and wider use of mobile devices and apps. Simultaneously, the labor market of high performing athletes and the financing of the sports clubs become global.[12] Corruption in sports clubs, sports federations and public authorities is another risk factor and creates an environment for the development of the phenomenon.[13]

Sports manipulation undermines the societal role of sport. Its educational dimension needs to be underlined and sport also plays a cultural and recreational role and facilitates the external relations between the countries. At the same time it contributes to the social cohesion and more integrated societies. Many countries use the potential of sport for social inclusion, integration, and equal opportunities.[14]

In order to assess the role of the main participants in the fight against sports manipulation, it is necessary to distinguish and in the same time to determine the main goals of each of them. Protecting their financial interests, minimizing the risk of fraud, avoiding taxes and licensed and increasing profit are the primary goals of the betting companies. Sports governing organizations take care of national and international coordination and standardized rules of particular sports discipline. Public authorities on the other hand have to target criminal and illegal activities that can be related to sport. In an attempt to counteract this new phenomenon, all main actors have adopted multiple legal instruments like code of conduct, guidelines, regulations, memorandums of understanding and soft law, laying the foundation of effective fighting against Sports manipulation and its consequences to the sports industry and the public authorities. The participation in manipulated sports competition could lead to severe sanctions for the sportsmen and sports clubs, for example, bans from taking part in any sport-related activities, fines or even imprisonment for the responsible subjects.

The practical consequences of the fast growing online betting market are the match-fixing and money-laundering via online betting platforms.[15] What will the bookmakers respond to manipulated sports competition be without criminal or sports disciplinary legislation when

[12] Pascal boniface sarah lacarriere pim verschuuren alexandre tuaillon and Pr david forrest , 'Sports betting and corruption' [1 March 2011] 94(1) STUDY Sports betting and corruption How to preserve the integrity of sport
[13] Sport guest editors: lisa a kihl, james skinner and terry engelberg, 'Corruption in sport: understanding the complexity of corruption' [2017] 4(1) European Sport Management Quarterly
[14] White Paper - White Paper on Sport {SEC(2007) 932} {SEC(2007) 934} {SEC(2007) 935} {SEC(2007) 936} [2007] OJ 1 1/1
[15] Fatf, 'Money Laundering through the Football Sector' (Http://wwwfatf-gafiorg, July 2009) <http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20through%20the%20Football%20Sector.pdf> accessed 26 August 2017

their only instruments are the betting odds?[16] Of course, they can decrease the odds, combine the picks, set limits on stake or even remove the sports event from their betting lists. The betting industry needs an integrity in sport to operate on one market more efficiently. If there is a scandal related to match fixing, the licensed betting companies suffer because they suffer losses and lose clients. Furthermore, most of the licensed betting companies are listed in the stock exchange markets and in their close interest is to stop bribery and match fixing. The betting companies are the main course of sponsorship for the professional sport and the commercial the partnership agreements continue to increase.[17] In many cases the sponsorship is the only way to maintain the integrity in sport, because not all sports are profitable enough. A great rise of online sports betting is observed and they reach new markets after introducing of mobile apps and live online betting, but it seems that the regulatory framework is not prepared in order to prevent sports manipulation in the world of online platforms and mobile apps. With the entering of platform betting platforms (the remote gambling) the expansion of the market of new picks which are not related to the end result it become easier to manipulate and fix the separate picks.

The European Convention on Manipulation of sports competition (hereafter: ECMoSC) was signed in 2014 in Magglingen/Macolin Switzerland and is the first multilateral agreement - legal act of the Council of Europe in the fight against match-fixing in Europe. After its ratification by the member states and entry into force, it should provide an effective legislative framework for combating the match-fixing including, but also it should create an effective structure at national and international level of cooperation between the three main actors in the fight against sports manipulation: public authorities, sports organizations and betting companies. Another main characteristic of the ECMoSC is that it tries to regulate the EU controversial remote online betting market where there is no clearly defined framework and therefore there is legally precarious.

At the same time the ECMoSC just sets the base but doesn't implement the role of the betting monitoring systems sufficiently, which monitor odds movement on the betting markets for indications that sports events are may be fixed and alarm the stakeholders. Introducing the definitions of "suspicious sport betting" and irregular sport betting" is an appropriate first step, nevertheless the disciplinary and criminal law need sufficient evidence to sanction the sports manipulation. They seem to be the new element of the developed mechanism for countering sports manipulation and it is obvious that they will be an effective measure for prevention, detection and sanction sports manipulation. Using disruptive innovations to detect, prevent and prove frauds is the consequence of the new innovative world where we are living now and betting monitoring systems are the "unicorn" of the betting industry.

[16] Parimal kanti bag bibhas saha, 'Match-Fixing under Competitive Odds' [September 4, 2009] 28(2) ∗Department of Economics, National University of Singapore, Faculty of Arts and Social Sciences, AS2 Level 6, 1 Arts Link, Singapore

[17] PM Anderson and others, Sports Betting: Law and Policy (2012)

1.2. Research question

In Europe, the sports manipulation is covered by three legal systems: EU Law and UN conventions, national criminal law and sports organizations disciplinary law. A great number of resolutions and recommendations are submitted by the European Parliament, European Commission and the Council of Europe in an attempt to get a political response to the growing threat of sports manipulation and raise the public awareness of the issue.

In accordance with the main aim of Council of Europe to achieve greater unity between member states and its standard-setting role in legislation, the resolution adopted at the 18th Council of Europe Conference of Ministers responsible for sport on 22 September 2010 in Baku, Azerbaijan on the promotion of integrity of sport against the manipulation of results urges the member states of Council of Europe to implement the manipulation of sports results as a specific criminal offence in their legislation. The resolution also gives a definition for sports manipulation, provides a model of sharing of responsibilities and cooperation between public authorities, sports organizations and betting operators, highlights the preventing role of sports organizations and betting operators and lay the foundation of future activities in the area of sport integrity.[18]Another recommendation on the promotion of the integrity of sport by the committee of ministers of the Council of Europe was made in 2011 and its main goal is to outline the need of cooperation between the law enforcement, prosecuting authorities and sports organizations. [19] In 2012 the parliamentary Assembly of the Council of Europe adopts its resolution on the need for combat match-fixing and propose effective measures for fighting this phenomenon to the member states, national and international sport organizations and sports betting operators.[20] The resolution and recommendation of the CoE are not legislation, but they could be the basis for drafting a national legislation by the member states or they could be serve for demonstration of political wish to deal controversial issues.

In its resolution on the European dimension in sport in 2012, the European Parliament outlined the need for all necessary actions to prevent and punish illegal activities affecting the integrity in sport and mirrored that the sports manipulation should be implemented into the existing body of legislation. The European Parliament highlights the social role of sport, economic dimension of sport and the need of organization of the sport.[21]The European Parliament

[18] Council of europe committee of ministers, '18th Council of Europe Informal Conference of Ministers responsible for Sport (Baku, 22 September 2010) Report by the Secretary General' (Wwwcoeint, 21-22 September 2010) <https://www.coe.int/t/dg4/epas/resources/INF16BakuSGReport_en.pdf> accessed 26 August 2017

[19] Council of europe committee of ministers, 'Recommendation CM/Rec(2011)10 of the Committee of Ministers to member states on promotion of the integrity of sport against manipulation of results, notably match-fixing ' (Wwwcoeint, 28 September 2011) <https://www.coe.int/t/dg4/epas/resources/texts/CM_Rec_2011_10_en.pdf> accessed 26 August 2017

[20] Parliamentary assembly, 'The need to combat match-fixing' (Wwwcoeint, 2012) <http://semantic-pace.net/tools/pdf.aspx?doc=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbnQvbncveG1sL1hSZWY-vWDJILURXLWV4dHIuYXNwP2ZpbGVpZD0xODI2NCZsYW5nPUVO&xsl=aHR0cDovL3NlbW-FudGljcGFjZS5uZXQvWHNsdC9QZGYvWFJlZi1XRC1BVC1YTUwyUERGLnhzbA==&xsltparams=Zml-sZWlkPTE4MjY0> accessed 26 August 2017

[21] European parliament, 'DRAFT REPORT on the European dimension in sport (2011/2087(INI))' (Wwweuro-parleuropaeu, 22.6.2011) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COM-PARL+PE-466.981+01+DOC+PDF+V0//EN&language=NL> accessed 26 August 2017

also adopts its resolution on the Integrity of Online Gambling in the Internal Market in order to improve the definition of sports fraud and simplify the international administrative cooperation in fighting money-laundering and integrity in sport.[22] The resolutions of European Parliament are also non-binding and indicate politic desire to act in the area of sports integrity without legal obligation for the European Commission and member states.

In 2007 the European Commission encourages the public-private partnerships to fight against sports manipulation in its White Paper on Sport.[23] This is the first EU comprehensive initiative and strategic guidelines in sport. The document contains 53 proposed actions regarding the societal role of sport and economic dimension of sport, organization of the sport, which should be implemented in a period of 5 years. In order to ensure integrity in sport and online gambling the European Commission adopts a resolution on online gambling in the internal market that is focused on integrity in sport and cross border police and juridical cooperation and highlights the need of making the illegal activities related to the integrity of sport a criminal offence.[24] It also adopts and communication on online gambling and related to it match-fixing activities to promote efficient exchange of information and mutual measures from sport bodies, regulators and operators. The lack of legislation is covered by a great number of memorandums of understanding between private entities and the public authorities.

After the signing of the Treaty on the Functioning of the European Union (TFEU) in 2007, the EU established a legal basis to protect the integrity in sport for a first time.[25] According to article 165 of TFEU, one of the main tasks of the parties is to promote "fairness and openness in sporting competitions and cooperation between bodies responsible for sports". It serves like a starting point in EU law in promoting sports integrity.

At the same time the development of domestic and international legal framework in fighting against sports manipulations is mirrored by the international and domestic sports governing organizations which taken steps to develop good governance structure and codes of conduct in order to deal with this phenomenon. Although the efforts of the sports governing bodies to tackle with the match-fixing, the phenomenon have gone outside their competences and they need more support from the public authorities and betting industry.

The presence of so many political acts of the EU institutions and the Council of Europe of highlighting the fighting against sports manipulation to a great extent illustrates the seriousness of match-fixing and sets the foundations of the European convention on the manipulation of sports competitions. Although the multiple political initiatives in the sphere of fighting against match, they are not mandatory for the member states and the stakeholders and have no legislative power like CoE conventions, EU regulations and directives. As a result of this the match-fixing finds its presence in the disciplinary regulations of sports federation as a serious

[22] On online gambling in the internal market (2012/2322(INI)) [11 June 2013] OJ 1 1/1
[23] White Paper - White Paper on Sport {SEC(2007) 932} {SEC(2007) 934} {SEC(2007) 935} {SEC(2007) 936} /* COM/2007/0391 final */ [2007] OJ 1 1/1
[24] On online gambling in the Internal Market (2011/2084(INI)) [2011] OJ 1 1/1
[25] the Treaty on the Functioning of the European Union [26/10/2012] OJ 1 326/1

offence and it also begins its implementation in the national criminal legislation of EU countries, before adoption of EU rules or the signing of the international multilateral agreements. This political acts highlight the close relationship between sports manipulation, online gambling and money-laundering and first step to strengthen the EU rules to tackle the sports manipulation phenomenon.

EU sports manipulation legislation has therefore placed various obstacles in order to prevent the manipulation of sports competition. However, the European Convention on the Manipulation of sports competitions is the response of the Council of Europe to this phenomenon. The main purpose of the convention is to prevent, detect and sanction manipulation of sports competitions, regulate the illegal betting market, prevent conflict of interest in betting operators and sports organizations, promote the national and international co-operation and the exchange of information between the main actors. The European Convention intends to cover first the general legal definition of sports manipulation and introduce other relevant definition related to the phenomenon of sport manipulation. It encourages all stakeholders to undertake appropriate measures and describe the specific role of every one of them. It also introduces the entry of new technology in the fight against sports manipulation and is trying to create a legal framework for that. The ECMoSC is an international treaty in the sense of the Convention of Vienna of 1969 and its extension in 1986. Its ratification from the member states bears the obligations to act in compliance with its provisions.[26] Whether it is qualitative and enough sufficient in order to prevent match-fixing and the undermining of the social and educational impact on sport, is a complicated question. After adopting several resolutions against corruption in sports in 2014, the Council of Europe adopted the ECMoSC and it was signed by 27 states until July 2016. The CoE consists of 47 member states, including 28 EU member states. The convention can enter into force if it has unanimous approval by the member states. Due to the international dimension of the threat of match-fixing, the convention is open for ratification from the states outside the Council of Europe. Another problem facing the fighting against sports manipulations is that the ECMoSC is not signed by all member states of Council of Europe and EU and only three countries are ratified it. Five ratifications from at least three member states of the Council of Europe are needed for it to enter into force. What is the reason for the waiting position of the member states, for non-ratification and not enter into force of the ECMoSC till 2017?

The ECMoSC encourages the member states to take action in several main spheres of the combat against match-fixing. They have to put in place an awareness raising strategy for nationally highlighting issues related to sports manipulations and sports betting. Also, they need sufficient measures of cooperation and exchange of information between law enforcement and other public authorities (ministries, betting regulatory agencies) as well as with the private sector (sports betting operators and sports organizations) nationally with the regards to manipulation of sports competitions. The ECMoSC recommends establishing a national platform for fighting sports manipulation activities and a legislation related to sport. The member states can decide to draft a special legislation on sports law, implement in general legislation, with spe-

[26] Door sir ian mctaggart sinclair, The Vienna Convention on the Law of Treaties (1984) 3

cific sport-related provisions or they can use general legislation that can apply to sports manipulations (corruption, fraud, aiding and abetting, influence peddling, conflict of interest, administrative sanctions.) But is the law in books like the law in action? Can the act of sports manipulations fulfill the criteria of a criminal offence, therefore the court could impose a penalty?

The European Convention is an attempt of the Council of Europe to develop a common European legal framework and emphases the phenomenon of sports manipulation as a global threat to the integrity of sport. It expresses the concerns that the impact of the organized crime on sport acquires a great share and notes that the international co-operation is the only suitable response for an effective fight against sports manipulation. The role of Council of Europe to promote international cooperation and facilitate the external relations of its members is the base of the drafting of the convention. The European Convention encompasses the prevention, detection and fighting against the global threat of sport manipulation, strengthens the international cooperation and encourages the exchange of information between all actors at national and international levels. Although the convention is the prior scores of fighting against the sports manipulations, it does not outline in a sufficient manner the role of new technologies especially the betting monitoring companies. It tries to regulate illegal betting after the globalization of the betting market and introducing of the online platforms and mobile apps.

In this work, it will be introduced in details how exactly the manipulation of sports competition is specifically committed, its relationship with the online betting and its consequences to the different stakeholders. Also, it will provide analyses of the phenomenon and how the innovation could influence it in a positive way. The controversial issue about the regulation of online gambling in the EU will be discussed.

The main object of the research is the extent to which the European Convention on manipulation of sports competition has perspective to be effective in preventing sports manipulation in Europe and regulating the online gambling? In order to understand the nature of the European convention the next subquestions should be discussed - what is sports manipulation and what are the consequences of sports manipulation, which are the main actors involved in fight against match-fixing, what is European convention on the manipulation of sports competition and why was it drafted and which aspects of sports manipulation and online gambling are covered by European convention on the manipulation of sports competition and which are not? Which are the main reasons for non-ratification of the convention and which would be the consequences of its ratification?

1.3. Thesis outline

The main purpose of this thesis is to explore the effectiveness of the European Convention on manipulation of sports competition in fighting against the sport manipulation in Europe and the regulation on online gambling. Also it explores the cooperation between the public authorities, sport governing bodies and betting operators. In the following chapters I will built a

framework of appropriate measures it will be build and new approach for enchasing and strengthening the fighting against this threat which protect the integrity in sport.

The analyses of the phenomenon will be conducted as follow:

In chapter 2, a definition for sports manipulation and differentiation between sports-related and betting-related sports manipulation will be made and the new phenomenon of the betting-related match-fixing will be introduced, its dimension and why it becomes a global threat to the integrity in sport. It will also provide the mechanism of match-fixing and answer of the question, why betting-related sports manipulation influences the sports industry negatively, its social and economic impact and why the current existing measures are not sufficient in fighting against this threat and it will outline the role of each actor on national and international level will be introduced- the root of the phenomenon will be introduced and the consequences of the sport manipulation for the stakeholders. The mechanism of cooperation between the main actors (public authorities, sports governing bodies and betting operators) engaged in fighting against sports manipulation will be investigated. The "unicorn "of the betting industry betting monitoring systems will be introduce. Also the social and economic impact will be discussed.

In chapter 3, what is the new step after the signing of the convention on manipulation of sports competition will be analyzed with its two main questions the fight against match-fixing and online gambling regulation.

In chapter 4, briefly analyzes of the reasons for non-ratification. Some disadvantages will be discussed and the role of the national platforms will be introduced. It will be make some suggestions and proposals for amendments

In chapter 5 a brief analyses of chapter 2, 3 and 4 will be made and the final conclusion will be introduced.

2. Sports manipulation

2.1. Introduction

The fairness, teambuilding, equality, discipline, perseverance and respect are the main values in the contemporary sport. However, these values have come under serious threat from the phenomenon of match-fixing. Some of the reasons for the growth of this threat are personal greed, ineffective sports governance, expansion of the online betting market, internationalization of the sports business, neglect of match-fixing as a global threat from the law enforcement

authorities.[27] Sports manipulation is a typical corrupt behavior by its nature because the participation of insiders (sports players or officials) is always a mandatory element of its realization. They have to receive and accept the bribe and act in accordance with the preliminary arrangements with the manipulators. Due to their main role in sports manipulation, the insiders are subject to disciplinary as well as criminal sanctions and their primary obligation is to observe the sports regulations of their sports governing bodies. There are different mechanisms of manipulation dependent on the sport in question, the rules of the sport and the number of participants involved in the game. The impact of the manipulation of sport competition could be divided into two spheres namely economic and social. The economic impact influence the betting companies, sports clubs, sport governing bodies, state and EU and the social impact has its reflection in the educational role and social cohesion in the EU. A comprehensive overview of the root causes of the sports manipulation, main actors acting in the field of the fighting match-fixing and the modus operandi will be made in this chapter. The sports manipulation is the negative consequence of the fusion between the gambling and the professional sport.

2.2. Definition on sports manipulation

The ECMoSC tries to provide the relevant legal definition of the manipulation of sports competition, which covers broad aspects of actions committed by the actors. The convention defines the sport manipulation as "an international agreement, act or omission aimed at an improper alternation of the result or the course of a sport competition in order to remove all or part of the unpredictable nature of the aforementioned sport competition with a view to obtaining an undue advantage for the oneself or do the others." The definition omit the detail that the sports manipulation for betting purposes must be accompanied with financial gain and in this way it also includes the sport-related manipulation.[28] The following basic characteristics of sports manipulation can be observed, which appear in several situations: the deliberate loss of a match or phase of a match, deliberate underperformance by a competitor or improper withdraw before the conclusion of a match, fixing of specific element of a match, de-liberate misappropriation of the rules of a sport by the referee and/or other match officials and interference with the play, paying surface or equipment. The basic consequences of sports manipulation are that it destroys the competition and undermines the social and educational impact of the sport activities.

Nowadays, sports organization regulation, investigation capacity and the disciplinary sanctions (bans, relegations and penalties) are not effective enough to prevent, detect and fight against Sports manipulation because this phenomenon has come out of the their reach and must

[27] United nations office for drugs and crimes, 'Good Practices in the Investigation of Match-Fixing' (Good Practices in the Investigation of Match-Fixing, 2016) <https://www.unodc.org/documents/corruption/Publications/2016/V1602591-RESOURCE_GUIDE_ON_GOOD_PRACTICES_IN_THE_INVESTIGATION_OF_MATCH-FIXING.pdf> accessed 26 August 2017

[28] Tom serby , anglia ruskin university in cambridge and chelmsford, 'The Council of Europe Convention on Manipulation of Sports Competitions: the best bet for the global fight against match-fixing?' [June 2015] 15(15) The International Sports Law Journal 1-2

be complemented with criminal sanctions.[29] The Bulgarian criminal code contains a special criminal provision for sports manipulation in accordance with the ECMoSC. It defines sports manipulation as an offence committed by "using violence, deception, intimidation or other unlawful means, persuades other person to influence the development or outcome of a sporting event, administered by a sport organization" or asking or accepting a benefit which is not due or accept an offer or promise for a benefit in order to influence or because the per-son is influenced the development or outcome of a sporting event". In the German criminal code the sports manipulation is covered by section 263 "Anyone who with the intent of obtaining for himself or a third person an unlawful benefit-damages the property of another by causing or maintaining an error by pretending false facts or by distorting or suppressing true facts". Due to its traditions in gambling the United Kingdom has a good legal framework and the British gambling act defines sports manipulation as a "cheat at gambling or improve chances of another person to cheat at gambling". The act also defines the chain-gift scheme as an alternative approach of financial gain of manipulation in gambling.[30] The main reason that the sports manipulation increases its jeopardy is that betting operators suffer financial damages, participation of transnational criminal syndicates and it is a potential money-laundering mechanism. Sports manipulation is covered by the German criminal code as a fraud and there is no distinction between the fraud and the sports manipulation of competitions in accordance with the European Convention. The situation is the same in United Kingdom, where the sports manipulation is drafted like a cheating in gambling and stands together with other illegal gambling activities. Only the Bulgarian criminal law fulfils the criteria of the legislative drafting of match-fixing strictly and implement it like a separate crime and it tries to describe the specific role of each of the participants and the overall composition of the match-fixing.

2.3. Sports-related and betting-related sports manipulation

It should be noted that there are two main forms of match-fixing: the sport-motivated form and the betting-related form. The sport-motivated form relates to athletes who aim at personal benefits. For example their progression in the tournament or other benefits for their club. This form of match-fixing depends on the tournament regulations for example if the team or player has a sufficient amount of points to continue to the next stage of the tournament, the overall tournament schema is pre-drawn and its next-stage opponents are known, the sportsmen can decide to lose in a concrete competition due to the mote favorable rival in the next stage. Another sporting-motivated form could be related to saving the plays in an elite sports league which follows financial income from sponsorship, commercial and broad-casting contracts. For example, the football match of shame" Germany against Austria World Cup 1982.[31] The sport's

[29] Unodc, 'MODEL CRIMINAL LAW PROVISIONS FOR THE PROSECUTION OF COMPETITION MANIPULATION ' (Wwwunodcorg, June 2016) <https://www.unodc.org/documents/corruption/Publications/UNODC-IOC_Model_Criminal_Law_Provisions_for_the_Prosecution_of_Competition_Manipulation_Booklet.pdf> accessed 26 August 2017

[30] Kea, 'Match-fixing in sport A mapping of criminal law provisions in EU 27' (Http://wwwkeaneteu, MARCH 2012) <http://www.keanet.eu/docs/study-sports-fraud-final-version_en.pdf> accessed 26 August 2017

[31] Brian blickenstaff , 'THE SHAME OF GIJON' (Http://wwwsportsonearthcom, June 23, 2014) <http://www.sportsonearth.com/article/81203692/1982-world-cup-west-germany-austria-shame-of-gijon> accessed 26 August 2017

governing disciplinary regulations could cover only the sporting-motivated form effectively. This form of sports manipulation is not influenced by the translational criminal syndicates and the game is manipulated only by the insiders. The different sanctions vary from fine to life ban from sport.

2.4. Online betting revolution and the infiltration of the organized crime

In 1995 gambling faced internet and it expands online.[32] The modern match-fixing has an international dimension due to the wide scale of exploitation by the organized criminals and the easy use of online betting platforms and the development of the technology. It is linked to fraud, organized crime and corruption and when it is linked to betting there are significant economic stakes. Sports manipulation is a low-risk criminal enterprise with a big profit for the manipulators. The betting-related match-fixing involves using inside information for the result or specific elements of the match to achieve financial gains through sport betting platforms. There is no universal definition of organized crime. In 2008 the EU adopted a framework decision on the fight against organized crime and its defines it as "A structured association, established over a period of time, of more than two persons acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit".[33] One of the strategic tasks of the criminal syndicates is money-laundering. Interpol defines it as "any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources."[34] Opening a betting accounts in different countries, depositing "dirty money", betting on manipulated competition and withdrawals the money is a typical schema of money-laundering.[35] The main reasons for the infiltration of criminal syndicates in online betting are (i) easily accessible online betting platforms, (ii) anonymity, (iii) high liquidity, (iv) links between physical networks and the internet, (v) the traditional relationship between gambling and crime and (vi) different regulations in the individual states.[36] The online betting company's requirements for registration of an account are personal data, copies of the ID, confirmation of being 18 years of age or over and a bank account[37] and the registration takes only 5 minutes. Easily accessible betting market facilitates one stake of € 50 000 to be divided to 10 stakes of € 5 000,

[32] Robert t wood and Robert j williams, 'Internet Gambling: Past, Present and Future' [2007] 22(1) Research and Measurement Issues in Gambling Studies 491 ñ514

[33] COUNCIL FRAMEWORK DECISION on the fight against organised crime [2008] OJ 2 300/42

[34] Interpol, 'Money laundering' (Wwwinterpolint, 2017) <https://www.interpol.int/Crime-areas/Financial-crime/Money-laundering> accessed 26 August 2017

[35] Iris eu commission, 'Preventing criminal risks linked to the sports betting market' (Http://wwwiris-franceorg, http://www.iris-france.org) <http://www.iris-france.org/wp-content/uploads/2017/06/PRECRIMBET_2017_FINAL.pdf> accessed 26 August 2017

[36] Iris eu commission, 'Preventing criminal risks linked to the sports betting market' (Http://wwwiris-franceorg, http://www.iris-france.org) <http://www.iris-france.org/wp-content/uploads/2017/06/PRECRIMBET_2017_FINAL.pdf> accessed 26 August 2017

[37] Bwin, 'How to register with bwin – a tutorial' (Https://sportsbwincom, 2017) <https://sports.bwin.com/en/news/betting-guide/how-to-register-with-bwin,1992.html> accessed 26 August 2017

or even 25 stakes of € 2 000. Using of fiduciaries for betting on fix-matches is a frequent approach by the criminal syndicates.

The internet revolution provides new challenges and perspectives to the betting market. To assess the benefit from the new technologies for the organize crime and that they facilitate the commitment of crimes, the situation before and after their introduction must be analyzed. Initially the bettor was not be able to place a bet outside its country, whereas after introduction of the online betting he can place a bet worldwide, he can use a fake or stolen ID to create an account or use an illegal betting operator. Another reason for betting market being easily assessable is that the number of the betting operators soar dramatically after the expansion of the internet. The betting companies change the betting product from pool betting to fixed –odds betting. With pool betting the bettor doesn't know in advance how much he can win, by fixed-odds betting the price is equal of stake multiplied by the odds. For example, if the bettor places a 10 euro stake on Barcelona victory and the odd is 1.9, he would collect 10x1.9=19 euro, or realize a 9 euro gain. The market of betting types is growing to, the new types of betting like corners, number of yellow cards, penalties enter with the traditional 1, X, 2. The online bets can be made after starting a game, before that this was impossible and the bet had to place before the game. Online betting platforms give the opportunity to enter new sports in the betting market, before that the football was with dominant position. Another innovative betting option of online platforms is the cash out. Sports manipulation is a financial crime by its nature. Betting markets are financial markets where bettors and betting companies trade assets, based on the available information about the performance of the team or athletes. A form of insider trading could be observed when the player or official or to them related individual uses inside information for the eventual performance in the sports event and uses to bet and generate a profit.

2.5. The "unicorn" of the betting industry

The betting monitoring systems are technical systems which are using algorithms in order to detect irregular or suspicious betting patterns related to match-fixing.[38] They are analyzing the pre-match and in-lay flow of betting data of the national and international betting markets, but most of them detect eventual manipulations because the financial risk exceeds a given threshold. We have to distinguish the betting monitoring systems from alert systems which are analyzing the information from betting monitoring systems, intelligence information and other relevant information. The betting monitoring systems use two different approaches: indirect and direct. The indirect approach use the movement betting odds and the market-wide volumes, whereas the direct approach is based on betting account level. The most significant algorithms which are used for detection of irregular betting patterns are (i) pre-match significant odds change, which exceeds a given threshold - this indicates that customers don't follow the odds and something is happened on the betting market, (ii) pre-match time window between two

[38] Ck consulting, stichting vu-vumc, eu commission, 'The monitoring systems of sports betting and warning mechanisms between public and private actors' (Http://ethisportcom, 2017) <http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf> accessed 26 August 2017

odds changes, (iii) in-play significant change in current odds and calculated odds, (v) significant volume for a given bet, (v) the change in odds – betting operators are using special formulas to calculate the betting odds,[39] (vi) temporal distribution of bets, (vii) geographic pattern of bets, (viii) change in finale outcome market 1x2, (ix) change in an amount of single bets, (x) number of operators have removed the bet from their betting list, (xi) individual betting analysis.[40] The big step forward is the that Court of Arbitration for Sport confirms the betting monitoring report for a sufficient evidence in several disciplinary proceedings.

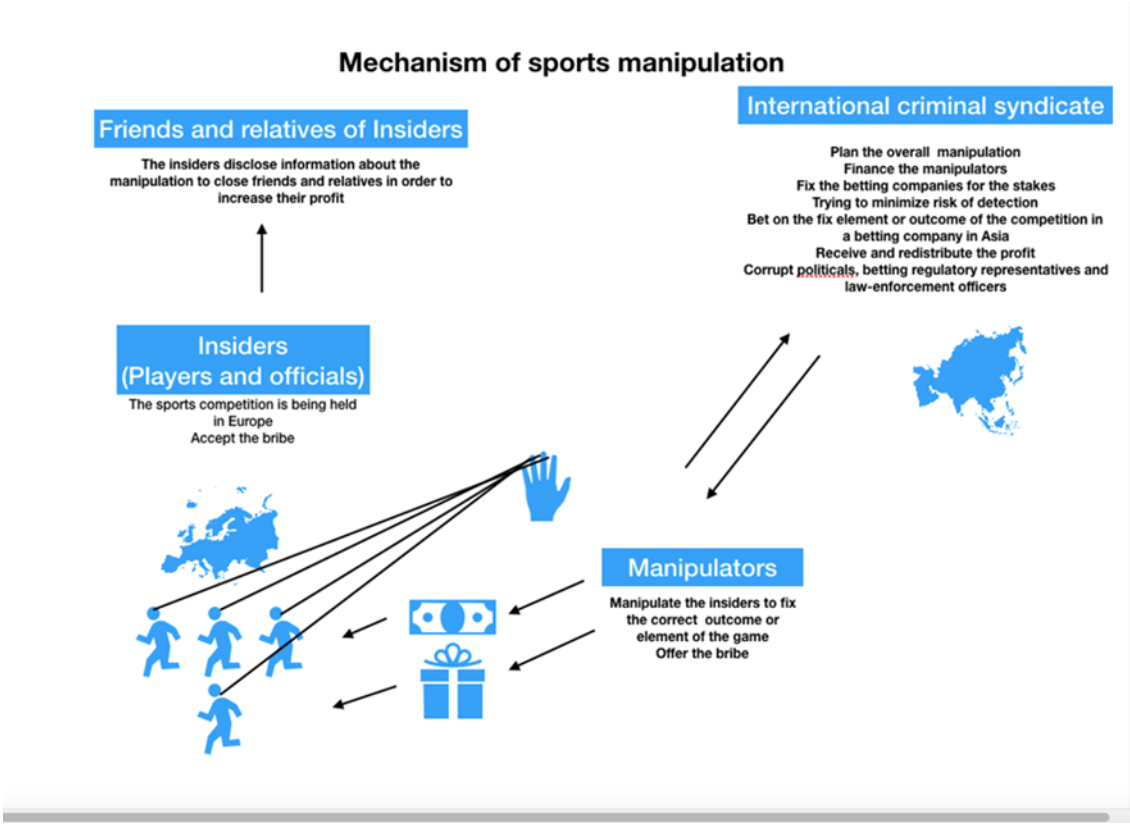
2.6. Mechanism of sports manipulation

The basic mechanism of sports manipulation involves a person acting on behalf of the organized crime syndicate, who offers a bribe to insiders (sports players or officials) with the objective to guarantee a specific outcome or to fix a special element of the sports event. When the result or an element of the sports event is fixed, the syndicate bets a great amount of money on this pick in particular betting company, principally in tax-havens. The main feature of sports manipulation as a crime is that it is committed in two or more countries and the criminal consequences occur on the territory of many states. For example, the sport manipulated event is played in Bulgaria, the criminal syndicate plan the manipulation in the Netherlands and bet in the Philippines. Due to the high liquidity of betting market, the syndicate receives the profit sooner than with most of the many other criminal activities. The elements of sports manipulation may include some or all of the following elements: (i) failing to perform to players' merits, (ii)misuse of inside information, (iii) offering a bribe, (iv) receiving a bribe placing a bet, (v) soliciting a bet and (vi) withdrawal the profit. It is important to say that it is not necessary for both the teams and athletes to participate in the manipulation of the competition. Only the team that is meant to lose is needed, whereas another team is trying to compete and achieve the best possible result in the sports event.[41]

[39] Parimal kanti bag bibhas saha, 'Match-Fixing under Competitive Odds' [September 4, 2009] 28(2) ∗Department of Economics, National University of Singapore, Faculty of Arts and Social Sciences, AS2 Level 6, 1 Arts Link, Singapore

[40] Ck consulting, stichting vu-vumc, eu commission, 'The monitoring systems of sports betting and warning mechanisms between public and private actors' (Http://ethisportcom, 2017) <http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf> accessed 26 August 2017

[41] Université paris 1 panthéon-sorbonne et centre international pour la sécurité dans le sport (icss), 'Fighting against manipulation on sports competitions' [2014] 33(1) Sorbonne-ICSS Research Programme on Ethics and Sports Integrity



Scheme 1- Mechanism of Sports manipulation

The modus operandi of sports manipulation contains four main steps. First, making a plan for execution, including defining participants, betting market, the amount of bets and betting formula that could allow high profit from the fix betting activities. Second, corruption of the players and officials, which are directly involved in the competition. Third, picking the fix result or an element of the event and placing a high amount stake in a particular betting company. The last step is returning the stake with the achieved financial gain. In most cases, the manipulators are trying to become friends with the insider and during the first period they are offering gifts to create a feeling of obligation towards them. Corruptors are also trying to identify weaknesses of the target. The first manipulation is the fixing of a small element of the game, for example cause a corner. After a period of time, the target is ready to manipulate everything that is wanted from him.[42] Factors like if the salary of the player or official is paid, addiction, gambling, personal debts, underperformance in career, lack of moral influence the corrupt behavior of the insiders plays a role in their willingness to participate.

Criminal syndicates that engage in sports manipulation have to invest a significant amount of money before receiving a profit due to minimizing the risk of disclosure of the fraud. The cost of corrupting participants in sports competition depends on its profession, age, financial insecurity, moral, the type manipulation (result or element of the game) and the amount of

[42] Interpol and international olympic committee, 'Https://wwwinterpolint/contentinterpol/search?SearchText=HANDBOOK+ON+PROTECTING+SPORT+FROM+COMPETITION+MANIPULATION&x=10&y=5' (HANDBOOK ON PROTECTING SPORT FROM COM-PETITION MANIPULATION, May 2016) <https://www.interpol.int/contentinterpol/search?SearchText=HANDBOOK+ON+PROTECTING+SPORT+FROM+COMPETITION+MANIPULATION&x=10&y=5> accessed 26 August 2017

stakes of the game. A good financial gain for the insiders guarantees their loyalty to the criminal syndicates and mitigate the risk of disclosure of the manipulation to the law-enforcement agencies or the disciplinary bodies of the sports organizations. Of course risks of failure in sports manipulation could be observed as for example: the participants could not fix the exact result or element of the game, bettors could not place a bet due to the lack of coordination or the manipulation is detected before, by the placement of the bet or afterwards and the profit is not paid out to the manipulators. Sometimes the match-fixing can arise from the tournament design, when for the first team the game is not important (the team is qualified for the next stage) whereas for the second team the milestone is their performance.[43]

An economic model of sports manipulation defines that referees could be the main insiders engaged in match-fixing due to their importance in the match and low level of compensation.[44] Sports manipulation depends on the rules and participants of the manipulated game. For example, if manipulators want to fix result in a football match, they have to engage the main players - goalkeeper, minimum two or three defenders and the strikers of one team because in most cases the game is manipulated for negative outcome for the insiders of manipulation. A frequent scenario is the disclosure of information about the fixed result from insiders to their relatives and close friends in order to increase the financial gain from the manipulated competition. Such kind of disclosure endangers the overall scheme and its detection from law-enforcement agencies and disciplinary bodies.

2.7. The Sports integrity gatekeepers

The Secretariat of the ECMoSC introduced a report in order to map national and inter-national actors involved in fighting against sports manipulation.[45] The participation of different actors in the fight against sports manipulation could be outlined in two main rings of influence. According to the dimension of competence these are actors with international, regional and national dimension and to the sphere of influence: political, justice, police, betting, monitoring, sports and society. A political factor with regional influence is European Parliament, whereas the state ministries and national agencies are mostly with national influence. Justice actors which are involved in the fight against match-fixing are national courts, Eurojust, sport federations' disciplinary bodies and Court of arbitration of sport (CAS). Law-enforcement agencies are represented by local police, Europol and Interpol. Betting sector actors are private betting companies, European Gambling and Betting Association, Remote Gambling Association and World Lottery Association. National gambling regulatory agencies and betting monitoring

[43] Kea, 'Match-fixing in sport A mapping of criminal law provisions in EU 27' (Http://wwwkeaneteu, MARCH 2012) <http://www.keanet.eu/docs/study-sports-fraud-final-version_en.pdf> accessed 26 August 2017

[44] Christian deutscher,eugen dimant,brad r humphreys, 'Match Fixing and Sports Betting in Football: Empirical Evidence from the German Bundesliga' [2017] 26(12) Match Fixing and Sports Betting in Football: Empirical Evidence from the German Bundesliga

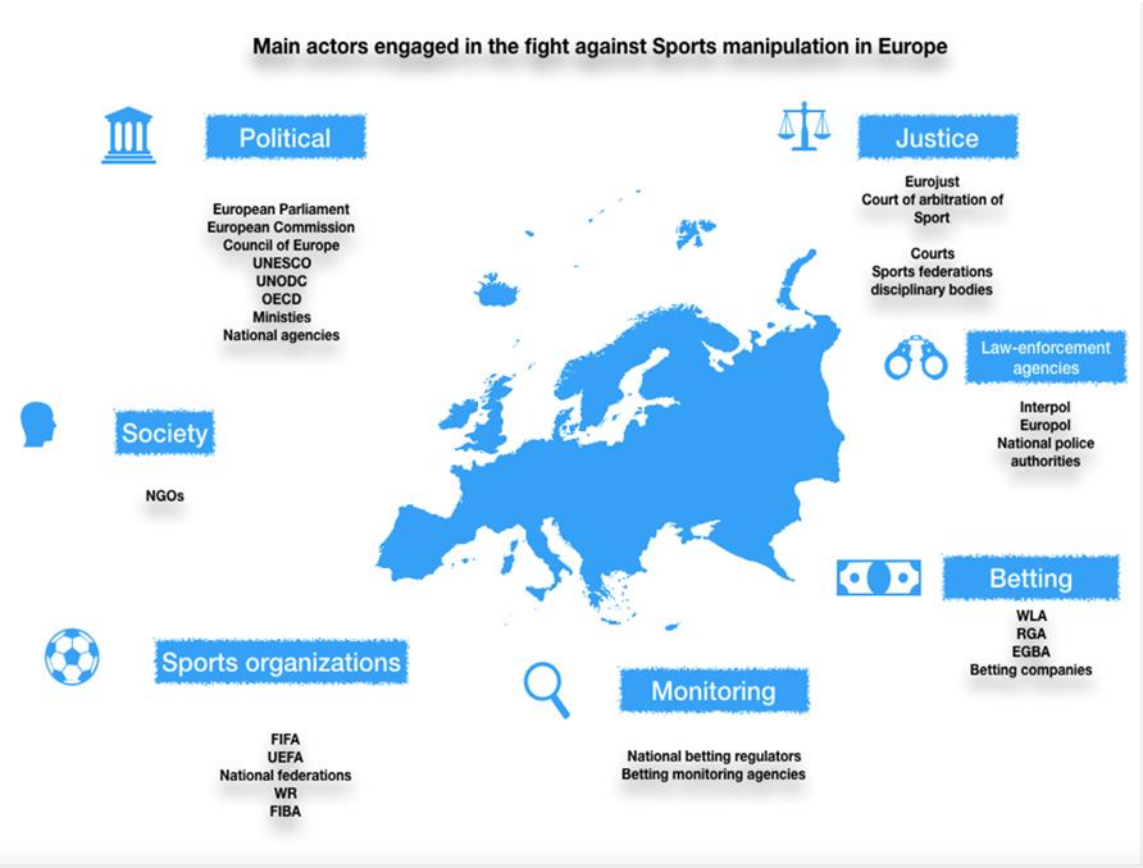
[45] Coe, 'Convention on the Manipulation of Sports Competitions (Macolin Convention) Mapping of Actors involved in Fighting the Manipulation of Sports Competitions' (Http://wwwcoeint, 16 September 2016) <http://www.coe.int/t/dg4/sport/match-fixing/T-MC(2016)18%20Mapping%20MdT%201.09.16.pdf> accessed 26 August 2017

agencies carry out monitoring of the sports manipulation. Sports actors are nation-al sport federations, European sports federations like Union of European Football Association (UEFA) and international sport federations like Federation Internationale de Football Association (FIFA). Society is represented by NGOs of national and international level. The good coordination and cooperation between public and private bodies in the fight against sports manipulation is a starting point for eliminating this threat.

Each state has its own national structure of public and private bodies that are engaged in combating sports manipulation, but there are mainly four groups of actors responsible for combating corruption and organized crime on a national level, which are at the root of sports manipulation.[46] The first group includes state ministries, public institutions and betting regulatory agencies. Ministries formulate the sports policy, set up rules for governing sports federations and provide financial support to sports organizations. Also, ministries benefit from betting on sport because of the cash flow of betting that comes into the state budget. The main part of the taxes and licenses for betting on sport come back to the sport thought the state budget. The betting regulatory agencies only exist where the betting is legal and their responsibility is to regulate the sports betting operators and all gambling on a national level. Sports organizations are representatives of the second main group of actors fighting against sports manipulation. Athletes unions, federations, international governing bodies, sports clubs, national Olympic commit-tees they are front-line workers in the fight against sports manipulation due to their closeness to the main figures the players and officials. They play the most important role due to their ability to determine the rules of their sport, tournament regulations, and codes of conduct and set up disciplinary regulations. It is important to say that in most cases they are outside the sphere of influence of the public authorities. The third group includes betting companies and betting monitoring companies. The betting companies are most affected by the sports manipulation because they have to pay the profit to the manipulators. In order to facilitate the exchange of information and best practices about the sports manipulation private betting companies unite themselves in associations. Entering the betting monitoring companies in the betting arena is a new feature of combating match-fixing. Detecting of suspicion betting patterns could be the milestone in fighting against this threat, but there is a long way till this would be enough sufficient evidence to prove match-fixing. Law-enforcement agencies are members of the last group: police, prosecutor offices and courts are closest involved in fighting against sports manipulation due to their role in enforcing the national law.

Of course we should highlight the role of international actors in combating the match-fixing: United Nations (UN), Organization for Economic Co-operation and Development, Council of Europe, European Parliament, European Commission, Interpol and Europol, Eurojust, Court of Arbitration for Sport (CAS), International Olympic Committee, The Federation Internationale de Football Association (FIFA), World Rugby, International Cricket Council, Union of European Football Association (UEFA), FIFPro.

[46] Coe, 'Convention on the Manipulation of Sports Competitions (Macolin Convention) Mapping of Actors involved in Fighting the Manipulation of Sports Competitions' (Http://wwwcoeint, 16 September 2016) <http://www.coe.int/t/dg4/sport/match-fixing/T-MC(2016)18%20Mapping%20MdT%201.09.16.pdf> ac-cessed 26 August 2017



Scheme 2- Main actors engaged in the fight against sports manipulation in Europe

Source: http://www.coe.int/t/dg4/sport/Source/T-MC/Mapping_actors_A3.pdf

The United Nations is one of the main actors that is involved in the development of politics to influence the sport's integrity positively. Sports integrity was one of the main themes of the 5th United Nation educational, Scientific and Cultural Organization (UNESCO) Conference of Ministries of Sport in 2013. UNESCO highlights the core values of sport and prioritize the fight against sports manipulation. It also wants to aware the society that the good governance in sport would affect the integrity positively, minimize this phenomenon and will create an environment where the educational role of sport will be fully realized. [47] The global leader in the fight against international crime the United Nations Office on Drugs and Crimes (UNODC) produced a Resource guide on good practice in the Investigation of Match-Fixing in 2016 and the model of criminal law provision for the prosecution of competition manipulation. [48]The Recourse guide is produced in cooperation with the International Center for Sports Security (ICSS) alarming that the weak governance of sport, easily accessible global betting

[47] Unesco, 'UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION FIFTH INTERNATIONAL CONFERENCE OF MINISTERS AND SENIOR OFFICIALS RESPONSIBLE FOR PHYSICAL EDUCATION AND SPORT ' (Http://wwwunescoorg, 28 – 30 May 2013) <http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/SHS/pdf/mineps5_workingdocument.pdf> accessed 26 August 2017

[48] United nations office for drugs and crimes, 'Good Practices in the Investigation of Match-Fixing' (Good Practices in the Investigation of Match-Fixing, 2016) <https://www.unodc.org/documents/corruption/Publications/2016/V1602591-RESOURCE_GUIDE_ON_GOOD_PRACTICES_IN_THE_INVESTIGATION_OF_MATCH-FIXING.pdf> accessed 26 August 2017

market and underestimation of the sports manipulation by the law-enforcement agencies facilitate the invasion of match-fixing in sport. It also is trying to give an appropriate investigation model to the stakeholders. It should be outlined that the innovation in technology should be followed by amendment of legislation. The Model of criminal law provision for the prosecution of competition manipulation tries to provide relevant criminal law provisions for legislators in countries where the sports manipulation is not implemented in the legislation.

The Organization for Economic Co-operation and Development (OECD) draws attention to illicit activities, tries to create a map of transnational criminal networks and in this way to increase an economic and social resilience to the match-fixing. In OECD report are listed several measures for effective fighting against match-fixing which are addressed to illegal betting operators.[49]

The ECMoSC as adopted by the Council of Europe CoE is the first legally binding document in the sphere of fighting against sports manipulation. ECMoSC aims to raise awareness on the issues of sports manipulation and the primary goal of the Council of Europe is to promote it and assist countries in its implementation in national law. The most significant legal respond to match-fixing will be analyzed in details in the next chapter.

The European parliament (EP) drafts a great number of resolutions in order to highlight the need for combat the new threat. It also establishes an informal group of members of European parliament - Sport intergroup. [50]

The European commission (EC) is also a strategic partner in combating match-fixing in Europe and it initiated a great number of actions focused on fighting this phenomenon. EC established EU expert group of match-fixing of representatives of public authorities responsible for integrity in Sport in order to exchange best practices, advise and assist and monitoring the fight against sports manipulation. [51] Another expert group established by EC is an Expert group on Gambling services which comprised experts from the public authorities responsible for gambling and it has analogic tasks like the other group, but in the sphere of gambling. [52] Erasmus + is a programme supported by EC to combat match-fixing, protect the integrity and develop a proactive approach in the fight against match manipulation.[53]

The international law-enforcement agency Interpol and its regional partner Europol also have an initiative in combating match-fixing. The Interpol match-fixing task force supports

[49] Oecd, 'Illicit Trade Converging Criminal Networks' (Wwwoecdorg, April 18, 2016) <http://www.oecd.org/gov/risk/charting-illicit-trade-9789264251847-en.htm> accessed 26 August 2017

[50] Eu parliament , 'INTERGROUP "SPORTS"' (Http://wwweuroparleuropaeu, 2016) <http://www.europarl.europa.eu/pdf/intergroupes/VIII_LEG_21_Sports.pdf> accessed 26 August 2017

[51] Eu commission , 'Expert Group on Match Fixing' (Http://eceuropaeu, 2017) <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> accessed 26 August 2017

[52] Eu commission , 'Expert Group on Gambling Services (E02868)' (Http://eceuropaeu, 2017) <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2868> accessed 26 August 2017

[53] Eu commission , 'FIX THE FIXING: PROACTIVE QUELLING OF SPORTS EVENTS MANIPULATION' (Http://eceuropaeu, 2017) <http://ec.europa.eu/programmes/erasmus-plus/projects/eplus-project-details-page/?nodeRef=workspace://SpacesStore/c802d2ea-4abc-4f32-b0ad-92f6ad01b809> accessed 26 August 2017

law-enforcement agencies from around the world[54] and Europol's Focal Point Sports Corruption do this at European level. [55]

Eurojust is EU agency which promotes coordination and cooperation in criminal investigation within the EU. The greatest example of its work is operation VETO in 2013. More than 425 players, officials and criminals from more than 15 countries are suspected in manipulation of 425 football matches in Europe. The overall profit of the criminal syndicate is more than 8 million.[56]

The Court of Arbitration for Sport (CAS) is specialized in sports dispute, it is not a criminal court. A great number of sports competition manipulation cases came before the CAS in recent years. The last one is Skenderbey v. UEFA where for the first time the report of the betting monitoring company is accepted like relevant evidence for match-fixing. [57]

One of the main goals of the International Olympic Committee (ICO) is to promote integrity in Sport. The ICO adopts an Olympic movement code on the prevention of the manipulation of competitions in 2015[58] and it uses the Integrity betting intelligence system (IBIS) for an exchange of intelligence information between the stakeholders of the Olympic committee.[59] In 2016 the ICO with cooperation with Interpol issued a Handbook on protecting sport from Competition manipulation. In 2017 was established the Olympic movement unit for the prevention of sports manipulation

In 2014 the FIFA issued a specific recommendation to combat match-fixing and to develop a national integrity initiatives.[60] The global Network of integrity officers established by FIFA is an analytical hub for fighting this threat.[61] The agreement between FIFA and Sport radar for detecting of suspicious betting behavior or pattern takes the central stage in FIFA's fight against match-fixing

[54] Interpol, 'Match-fixing and illegal gambling' (Https://wwwinterpolint, 2017) <https://www.interpol.int/Crime-areas/Crimes-in-sport/Match-fixing-and-illegal-gambling> accessed 26 August 2017

[55] Europol, 'SPORTS CORRUPTION' (Https://wwweuropoleuropaeu, 2017) <https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/corruption/sports-corruption> accessed 26 August 2017

[56] Eu commission , 'Operation VETO - the largest match-fixing investigation in Europe' (Https://eceuropaeu, February, 2013) <https://ec.europa.eu/home-affairs/what-is-new/news/news/2013/20130206_01_en> accessed 26 August 2017

[57] Arbitration CAS 2016/A/4650 Klubi Sportiv Skenderbeu v. Union Européenne de Football Association (UEFA), award of 21 November 2016 (operative part of 6 July 2016)

[58] Ioc, 'Olympic Movement Code on the Prevention of the Manipulation of Competitions' (Https://stillmedolympicorg, 2016) <https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Ethics/olympic_movement_code_on_the_prevention_of_the_manipulation_of_competitions-2015-en.pdf> accessed 26 August 2017

[59] Ioc, 'FACTSHEET IOC INTEGRITY BETTING INTELLIGENCE SYSTEM (IBIS)' (Https://stillmedolympicorg, 2015) <https://stillmed.olympic.org/Documents/Reference_documents_Factsheets/Integrity_Betting_Intelligence_System_IBIS.pdf> accessed 26 August 2017

[60] Fifa, 'Specific Recommendations to Combat Match Manipulation ' (Http://resourcesfifacom, 2014) <http://resources.fifa.com/mm/document/affederation/administration/02/35/37/56/circularno.1424-specificreconmendationstocombatmatchmanipulation_neutral.pdf> accessed 26 August 2017

[61] Uefa, 'The Integrity Officer' (Https://wwwsportanddevorg, 2016) <https://www.sportanddev.org/sites/default/files/files/data_overview_-_integrity_officer_.pdf> accessed 26 August 2017

World rugby has established an Anticorruption program for combating match-fixing in sport.[62] In order to highlight the threat from sports manipulation in Tennis, the tennis integrity Unit is established to implement integrity protocols and prevent corruption in the sport.

UEFA has a great number of initiatives to prevent, detect and fight match-fixing in Europe. They include the adoption of a code of conduct, educational and prevention programmers, agreements with betting monitoring companies, integrity officers, investigations and prosecutions and contributions of betting industry.

A great number of tournament regulations and codes of conduct of the sports organizations, even the general terms and conditions of the betting companies emphasize the fighting against manipulation of the competition. In recent years, most of the international organizations have accepted legislative acts, best practice and drafting an approach to deal with it. In the closest interest of the community is to combat the manipulation of sports com-petition and minimizes its the negative impact on the sport industry. The European Convention is a call to the member states to highlight the seriousness of the threat of match-fixing and is trying to provide a unified mechanism to legislation, coordination and cooperation in a field of Sports integrity.

For an effective combat with MoSC we have to focus on three activities: setting standards to combat, ensuring effective complaints with standards and indenting methods and threats.

2.8. Social and economic impact

Gambling is simply transfer of money and goods, without creating money and goods and only absorb time and resources.[63] According to the economic theory, the match-fixing expected benefit is equal to the size of the bribe multiplied by the probability that the result or element of the sports event will be fixed successfully. Not all results or element of the game can be fixed successfully, because it depends on the individual behavior of all participants (players and officials).The expected costs for the players have three elements.[64] The expected direct financial cost (advertising contracts, loss of prize money and decrease in athletes value on the transfer market), the threat of suspension of the sport and loss of future income and the loss of probability of being caught (financial cost of sanctions, the effect of negative reputation). The loss based on the loss of its glory and reputation and the forthcoming benefits from that. Finally, the value of moral unease and shame the player experience from betraying sport. Economic theory accepts that the player or official will manipulate competition event if the expected benefit will exceed the excepted cost.

[62] international rugby board, 'Keep Rugby Onside Promoting Integrity in Rugby' (Http://integrityworldrugbyorg, 2014) <http://integrity.worldrugby.org/resources/KRO_Final_Report_22-07-14.pdf> accessed 26 August 2017
[63] Samuelson, Economics, 10th ed., 1976, p. 425
[64] Anderson, pm, blackshaw, is, siekmann, rcr, soek, j , 'Sports Betting: Law and Policy' [2012] 960(4) ASSER International Sports Law Series

2.9. Summary

Arising like a typical corrupt behavior sports manipulation threatens contemporary sport seriously. The participation of the insiders (players and officials) and transnational criminal syndicates lead to the incapacity of sports governing bodies to tackle it with disciplinary sanctions. The betting-related sports manipulation or match-fixing has an economic and social impact. On the one hand it influences the revenues of the betting companies, sports clubs, state and sports organizations, and on the other hand it influence society negatively because it undermines the social and educational impact on sport. At its base stands receiving and accepting by the players to influence the element or result of the game in favor of the manipulators from trans-national criminal syndicates. The manipulators bet a significant amount of money on the fixed game in order to receive a great profit. The ECMoSC tries to define the sports manipulation effectively and to unify the international fight against this phenomenon. Currently, some countries have accepted its standards to implement sports manipulation as a special crime in their criminal law, but most of the countries are using their current law for fraud and bribery. The match-fixing exceeds the negative effect of sport-related manipulation and thereupon it needs a law-enforcement response. Odds betting monitoring facilitates its identification and serves for blowing the whistle for fix games in every sport.

Engaging of so many actors in the fight against match-fixing indicates the seriousness of its consequences to the contemporary sport. The fact that so many financial resources are used to deal with the phenomenon means that the states and the organizations need to restore some certain amount of these sums in some form, because the fight against sport manipulation needs to be financed

3. The European convention on the manipulation of sports competition

3.1. Introduction

The signing of the European Convention on the manipulation of sports competition in 2014 was a new milestone in combating the phenomenon of match-fixing in Europe. CoE considering " achieving a greater unity between its member states", "develop a common EU and global framework for a development of sport", "emphasizing the sports manipulation phenomenon, as a global threat to the integrity of sport", "expressing concerns about the involvement of organized crime", "the importance of effectively investigating without undue delay", " emphasizing that sports organizations bear the responsibility to detect and sanction the manipulation of sports competitions committed by persons under their authority", "an effective fight against the manipulation of sports competitions requires increased, rapid, sustainable and properly functioning national and international co-operation", "in accordance with the principle of the autonomy of sport, sports organizations are responsible for sport and have self-regulatory and disciplinary responsibilities in the fight against manipulation of sports competitions, but that public authorities, protect the integrity of sport, where appropriate" and "acknowledging that the development of sports betting activities, particularly of illegal sports betting, increases the risks of such manipulation" have sighed the ECMoSC. [65]

The Convention is multilateral agreement between the member states and it is signed in accordance with the standard-based politics of CoE in regulating the member states legislation. It is preceded by the adoption of great number of political communications, recommendations and resolutions of the EU institutions and the Council of Europe, which highlight the need of an international organization legal response to the growing number of betting-related sports manipulation detected in recent years. It became obvious that match-fixing increases its jeopardy and the current disciplinary measures are not able to deal with it so more serious sanctions are needed. The European Convention is therefore very much expected and needed in order to (i) set standards and import unified legislative framework in the fight against sports manipulation and money-laundering, (ii) provide more effective supervision by the authorities responsible for betting market and (iii) minimize the illegal betting markets. It promotes high standards in prevention, detection and sanctioning of the sports manipulation involving all stakeholders: such as public authorities, sports organizations and betting companies. The Council of Europe goes even further in its vision to combat the match-fixing and established a special group of qualified experts (follow-up committee) from all member states in order to assist the development of the European Convention, monitoring trends and best practices and to overall analysis of the phenomenon of match-fixing.[66] This would develop the countering of sports manipulation and facilitate the cooperation through regular meetings of the committee. It is a well-known approach of CoE due to the fact that the functioning of the standing committee to

[65] Council of Europe, Council of Europe Treaty Series - No. 215, Convention on the Manipulation of Sports Competitions

[66] Eu commission , 'Expert Group "Match Fixing" Report from the 1st meeting (29 September 2014) ' (Http://eceuropaeu, 2014) <http://ec.europa.eu/assets/eac/sport/library/documents/expert-groups/xg-mf-20140929-rpt.pdf> accessed 26 August 2017

the European Convention on spectators violence has shown that it is highly-effective in the development of politics and monitoring the trends in a partial sphere of competence.[67] Before introducing the European convention, the main international legal binding instruments for the fighting against corruption in sport were article 165 of the TFEU, UN convention against corruption[68] and UN convention against transnational organized crime[69] which cover the corruption in sport but also are too extensive. ECMoSC is the third sport multilateral agreement of the CoE. After adoption of the Anti-doping convention and convention on spectator violence, the CoE responds to the serious threat of match-fixing influencing the contemporary sport negatively.

The convention can be divided into the following parts: prevention, law-enforcement, international cooperation measures, exchange of information and follow-up to the convention.[70]

The convention proposes more systematic approach and better cooperation between the main actors (public authorities, sports organizations and betting companies) and tries to synchronize their efforts in fighting against sports manipulation. It outlines the autonomy of sports governing organization, but at the same time urges the betting companies to implement anti-fraud measures (manipulation of results, conflicts of interest and misuse of inside information) in accordance with the recommendation of the CoE.[71] One of the most important initiatives of the convention is the introduction of the national mechanism of exchange of information between the member states. These national platforms will collect information from various local sources and will cooperate with the other national platforms. This could lead to an improvement in communication, overall cooperation between the international stakeholders and mostly it would improve the response time in case of manipulation. Also the convention raises the question of the implementing of the regulation of sports betting market and the identification of the authorities responsible for it. In 2015 EU commissions introduces communication towards "a comprehensive European framework for online gambling" in an attempt to strengthen the position for the growing need of regulation of online gambling within EU.[72]

Chapter 1 of the convention provides a definition for illegal sports betting being "all sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located''. This definition is controversial and is one of the

[67] CoE, European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches, European Treaty Series - No. 120
[68] UNITED NATIONS, CONVENTION AGAINST CORRUPTION
[69] UNITED NATIONS, CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME
[70] CoE, Explanatory Report to the Council of Europe Convention on the Manipulation of Sports Competitions, Council of Europe Treaty Series - No. 215
[71] Council of europe committee of ministers, 'Recommendation CM/Rec(2011)10 of the Committee of Ministers to member states on promotion of the integrity of sport against manipulation of results, notably match-fixing ' (Wwwcoeint, 28 September 2011) <https://www.coe.int/t/dg4/epas/resources/texts/CM_Rec_2011_10_en.pdf> accessed 26 August 2017
[72] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Towards a comprehensive European framework for online gambling /* COM/2012/0596 final */ [2012] OJ 1 1/1
Jack Anderson, 'Match Fixing and Money Laundering' [April 14, 2014] 12(3) Queen's University Belfast Law Research Paper No 2014-05

main purposes for non-ratification as is considered below. The convention encourages all necessary measures related to restriction of access to national territory of illegal remote sports betting operators, even blocking of financial transactions. This is the convention response to the great risk of money-laundering through online betting and it tries to strengthen the screening mechanism of on line betting industry.

The convention tries to harmonize the criminal legislation in the field of spots manipulation that would lead to improving the cooperation between the law-enforcement authorities and would exclude the possibility of different ways of enforcement of sports manipulation regulation in different countries. It pursues the maximum effectiveness of the criminal, administrative and disciplinary sanctions.

According to the transnational character of the sports manipulation phenomenon the convention highlights the importance of the international cooperation between the main actors and the specific role of each of them. The exchange of information is the main tool for fighting against sports manipulation. The information exchange is regulated in the EU data protection directive,[73] and the convention tries to overcome the difficulties in its implementation in national regulations. The EU General data protection Regulation 2016/679 repeals the directive and will provide more adequate regulation for exchange of information, however it will entry into force on 25 May 2018.

According to the chapter 3 "Exchange of information" betting companies should provide information about match-fixing to the national platforms.

It define irregular betting pattern which "includes unexpected activity with atypical bet sizes or volumes that continue even after significant price corrections have been implemented to deter such market activity". Monitoring the odds and betting market is the competence of the bet-ting monitoring companies.[74] UEFA has an agreement with Sportsradar and its Betting fraud detection system monitor every match in Europe

3.2. Fight against match-fixing

With the introduction of the ECMoSC the CoE tries to provide for an effective tool for countering sports manipulation. When the phenomenon of match-fixing occurs, the CoE and EU institutions realize that there currently is no an appropriate mechanism to counteract the threat due to its international nature. The main purpose of the convention is therefore to overcome the difficulties in the exchange of information between international actors, as well as between

[73] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1995] OJ 2 281/1

[74] Eu, 'Study on the sharing of information and reporting of suspicious sports betting activity in the EU 28' (Http://europaeu/, 2014) <http://ec.europa.eu/assets/eac/sport/news/2014/docs/oxford-vu-excecutive-summary_en.pdf> accessed 26 August 2017

the public authorities and betting industry and to unify the legislative framework in sports manipulation and online gambling. [75]

The unification of the legislation is the most important element of effective prevention, investigation and sanction of criminal and disciplinary offences. The infiltration of the organized crime in sports manipulation and its transnational nature lead to need for cooperation between several states during the investigation. In the largest sports manipulation investigation in Europa with codename operation VETO more than 13 country investigative authorities were involved and criminals from 15 different nationalities are suspected. [76] On the one hand the international dimension of the match-fixing increase the need for similar national legislation, because if the match-fixing is a crime in one state, but it is not in the other for example it is a disciplinary offence, the states would not be able to cooperate efficiently. On the other hand when the investigation of match-fixing has such an international nature, it needs constant and rapid flow of information between the different states. The implementation of data protection directive is different in the EU member states.[77] The convention urges the member states to set high standards and to the ensure principles of lawfulness, adequacy, relevance and accuracy in exchanging of information.[78] In favor of greater harmonization the convention tries to create a secure network for exchanging of information. Some member states like Austria needs permission from the court to exchange personal information.[79] Getting a juridical permission could cost loss of time during the investigation. Another aspect of the data protection controversial issues is that the provided data by the betting companies will be used only for the investigation purposes. In many cases the business industry is very sensitive to providing data to public authorities due to possible abuse. The establishment of a national platform for exchange of information would minimize the time for response, facilitate the investigation and coordinate all efforts in the fight against sports manipulation. The convention shows the relationship between the match-fixing, online gambling and money-laundering unambiguously. The easy accessibility of the online gambling and using it like a tool for money-laundering, increase the jeopardy of match-fixing significantly. The increase in supervising of the betting regulatory agencies is a primary goal of the European community. The convention urges the betting regulators to establish high standards in regulation of the national gambling sector. Their main instrument is the licensing and the convention highlights their important role. They should provide for an effective mechanism for combating illegal betting and to attach additional individual conditions to a license. For example, the UK gambling commission obligates the betting

[75] CoE, Explanatory Report to the Council of Europe Convention on the Manipulation of Sports Competitions, Council of Europe Treaty Series - No. 215

[76] Eu commission , 'Operation VETO - the largest match-fixing investigation in Europe' (Https://eceuropaeu, February, 2013) <https://ec.europa.eu/home-affairs/what-is-new/news/news/2013/20130206_01_en> accessed 26 August 2017

[77] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1995] OJ 2 281/1

[78] Authors: university paris 1 panthéon-sorbonne and the international centre for sport security (icss), 'Guiding Principles for Protecting the Integrity of Sports Competitions' [2014] 40(8) Sorbonne-ICSS Research Program on Ethics and Sports Integrity

[79] Austria, Datenschutzgesetz 2000

cooperators to share information regarding suspicious or unusual betting patterns.[80]The betting regulators also should monitor the individual bets at the national level.

3.3. European convention and the online gambling

EU gambling market is estimated at around €84, 9 billion and grows with around 3 % yearly. The online gambling market represents around 12% of it. In 2015 gambling regulatory authorities of the member states signed a cooperation agreement in accordance with the EU Commission communication toward a comprehensive European framework for online gambling. The gambling industry ins accessed as a highly sensitive, some public investment banks like BPI in France, don't invest in the betting companies.[81] The technological boom helps online gambling to exceed the member states national market and the EU market became easily assessable. The agreement facilitates cooperation and share of in-formation between the gambling regulatory agencies. The communication urges member states to take measures for good cooperation highlights the need of fight against match-fixing and money-laundering. It also alarms that article 56 prohibit the restriction of the main freedoms, including freedom to provide services. In countries like Finland, Portugal and Sweden there is monopoly regime in gambling. Member states can restrict the cross-border supply of online gambling due to protect the public interest. A great number of infringement cases related to online gambling are registered in the EU Commission in accordance with the application of article 49 and 56 of TFEU. The CJEU confirmed in its decisions that the online gambling is an economic activity and it is related to the basic freedoms. Some counties like the Netherlands are in enragement procedure. At the same time the economic significant of the gambling continue to increase due to growing market and respectively growing taxes.

The exchange of information between the betting operators may restrict the competition. It may have anti-competitive impact and could be constitute as a cartel (article 101 TFEU).[82] If it reduce the strategic uncertainly in the market[83] , legitimate behavior[84] and the frequency.[85]The betting operators can disclose information to sports governing bodies and public authorities on the basis of memorandums of understanding and their general terms and conditions clauses, because they have contractual agreement with their clients.

[80] Uk gambling commission , 'Protecting betting integrity' (Wwgamblingcommissiongovuk, 2013) <http://www.gamblingcommission.gov.uk/PDF/Protecting-betting-integrity.pdf> accessed 26 August 2017
[81] Ck consulting, stichting vu-vumc, eu commission, 'The monitoring systems of sports betting and warning mech-anisms between public and private actors' (Http://ethisportcom, 2017) <http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf> accessed 26 August 2017
[82] the Treaty on the Functioning of the European Union [26/10/2012] OJ 1 326/1
[83] C-7/95, John Deere [1998] ECR I-3111, T-25/95 Cimenteries [2000] ECR II-491
[84] T 202/98, Tate & Lyle v Commission [2001] ECR II 2035.
[85] Case CJEU, C-8/08, T-mobile versus the Netherlands ECR I, C-89/85, Wood Pulp. [1993] ECR 1307, See also T-25/95 Cimenteries [2000]
ECR II-491.

3.4. Summary

European convention is an appropriate tool to enhance the significance of the fight against match-fixing, illegal betting and money-laundering. At the same time, it tries to regulate the online betting which is controversial issue, because it is a great soar of taxes for the member states. On the other hand, online gambling has very important economic impact for countries like Malta and UK and it brings great revenues. However, the online gambling is related to match-fixing, money laundering and addiction and the negative effect of it sometimes exceed the benefits. For this reason, the member states restrict or provide licenses to the gambling operators and in this way they infringe the article 49 of the TFEU, because gambling is economic activities. The establishment of national platforms for cooperation in the fight against match-fixing is a qualitative approach to tackle this threat, because it will facilitate the investigation and impose sanctions. The convention set the base on the implementing high standards of investigation of match-fixing and money-laundering. Thought introducing the definition of illegal betting and its regulation in accordance with the national legislation, the convention is trying to enter a licensing regime for online betting in the EU. This would increase the transparency and supervising of the online betting and it would decrease a money-laundering through online betting. Introducing the definition for suspicions betting and irregular betting is the first step for recognizing of the betting monitoring companies like an actor in the fight against sports manipulation. Convention also introduce the figure of whistle-blower and underlies its important role.

4. Analysis

4.1. Reasons for non-ratification

Although the European convention was sighed in 2014, it has not entered into force yet. It is has been signed by 28 countries, but only Norway, Portugal and Ukraine have ratified it till now. To enter into force the convention needs 5 ratifications including at least 3 member States of the Council of Europe. It is necessary to note that the leaders in online betting market United Kingdom and Malta didn't sign the convention. Malta criticizes the definition of illegal sports betting drafted in the convention being "Illegal sports betting means any sports betting activities whose type or operator is not allowed under the applicable law of the jurisdiction where the customer is located". The concerns of the government of Malta is that the above mentioned definition will render all betting operators operation in Europe via Malta Gambling license and will define them as illegal. Malta goes even further and submit a request for an opinion to CJEU with regard to the compatibility of the convention with the EU Treaties and the breach of the internal market law, but withdraws it after that [86] Malta's online gambling industry accounts for 12 % of its GDP and on its territory are more than 150 online betting companies established. [87] Malta is an EU member which is a perfect base for the investors and entrepreneurs to access to the EU betting market. The main characteristic of on line gambling services in Europe is that there is no specific EU legislation in the sector. Some member states have a monopolistic regime and others have a licensing systems.[88] Other member states that have concerns about the implementation of the Convention are Poland and Portugal. They declare reservation about article 19 regarding their jurisdiction over the offences described in the convention.[89]

With the introduction of the convention an attempt is made to regulate the extremely sensitive European online betting market. The Convention goes beyond the fighting against the match fixing and tries to regulate the online betting market in Europe. The remote online gambling provides to small countries like Malta and the UK external territories like Gibraltar and the Isla of Man an opportunity for invasion of the internal market. They consider the licensing regime like an abuse of the movement, according to the TFEU. The online betting licensing would divide the internal single market of the EU to different markets. Another reason for becoming this tax-havens a preferable country for establish a betting company is a low-taxation and non-stringent supervision.

To summarize the first reason for the delayed ratifications process of the European Convention is the attempt to regulate the online betting market. In case that the convention enters

[86] Wwwlegalsportsreportcom, 'Why Malta Is Blocking A European Effort To Create Match-Fixing Prevention Standards' (Wwwlegalsportsreportcom, 2016) <https://www.legalsportsreport.com/11657/malta-blocks-council-europe-convention-manipulation-sports-competitions/> accessed 26 August 2017

[87] Malta gambling authority , 'Gaming Malta' (Http://wwwmgaorgmt, 2017) <http://www.mga.org.mt/wp-content/uploads/GAMINGMALTA-2017-EDITION.pdf> accessed 26 August 2017

[88] Eu commission , 'Gambling' (Https://eceuropaeu/, 2017) <https://ec.europa.eu/growth/sectors/gambling_nl> accessed 26 August 2017

[89] Coe, 'Reservations and Declarations for Treaty No215 - Council of Europe Convention on the Manipulation of Sports Competitions' (Https://wwwcoeint, 2017) <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/215/declarations?p_auth=nVewztrr> accessed 26 August 2017

into force, it would lead to division of the internal online betting market into a separate national market, because the betting companies have to apply for a local licenses to national gambling regulatory agencies and if they have no license they will be considered as illegal online operators. This would influence the business environment for remote online betting of Malta and UK negatively and some establishment would switch to other European countries where the market share is bigger and the conditions are more advantageous.

Other member states are staying in waiting position due to the regulative effect on online gambling which will have the European Convention. Due to its comprehensive nature, gambling is difficult to regulate. EU union doesn't implement a unify regulation for so many years, even some counties have had a monopoly regime in contradiction with EU competition law.

4.2. Disadvantages

One of the main disadvantages of the convention is the definition of the sports manipulation that is Article 3, (4) "an international agreement, act or omission aimed at an improper alternation of the result or the course of a sport competition in order to remove all or part of the unpredictable nature of the aforementioned sport competition with a view to obtaining an undue advantage for the oneself or do the others." In this version the definition includes not only the betting-related sports manipulation but also sports-related sports manipulation. The jeopardy of sports related sports manipulation is lower than that of the match-fixing, it is like the doping. The sports-related sports-manipulation could be regulated effectively through disciplinary measures. Sports related form of manipulation in most cases exclude the participation of international criminal syndicates and the financial gain is only for the insiders. If the convention entry into force in this version this could be lead to an excessive number of hardly verifiable criminal lawsuits and it will abandon the possible prevention of the disciplinary measures.

The convention encourage the sport's governing bodies to "detect and sanctioned sports manipulation committed by person under their authority" but also outlines that ''principle of the autonomy of sport… sports organizations are responsible for sport and have self-regulatory and disciplinary responsibilities in the fight against manipulation of sports competitions''. The sports governing bodies have taken a lot of measures to prevent, detect and punish the match-manipulation. They implemented a disciplinary and codes of ethics of its organizations, sanctioned insiders for committed manipulation, also introduced educational pro-grams for the sportsmen, and even made an agreement with betting monitoring systems to detect irregular suspicions betting pattern for over 500 online betting sites. [90] The problem is that the character of the convention suggests that it is related to the states, not to private organizations like sports governing organization which are extremely independent. They could hardly be influenced by the public authorities in their activity and policy.

[90] Uefa, 'EUROPEAN FOOTBALL UNITED FOR THE INTEGRITY OF THE GAME' (Https://wwwuefacom, 2017) <https://www.uefa.com/MultimediaFiles/Download/uefaorg/Clubs/01/93/51/24/1935124_DOWNLOAD.pdf> accessed 26 August 2017

Nowadays a great number of betting monitoring systems have been put in place to monitor the betting activities across the market. The creativity has no limits and the new technologies influence all aspects of human's life, including the sport's industry. Innovations comes increasingly in the sports industry, while the regulatory framework stays in the waiting position. Even the manipulation of sport competition is a new phenomenon and need a qualitative and quantitative answer to deal with. Unfortunately, the European convention doesn't introduce the use of betting monitoring companies as a consciousness actor in the fight against sports manipulation The innovation in the technology related to analysis of the data conferring the sport competition now is close to give us the solution. A new technology that can lead to significant progress and increased value can be defined as innovative. The used of Sport radar fraud detection system would provide for the solution for detecting of manipulated competition. [91] The monitoring of the flow of data and betting activities and analyses trough special algorithms is the appropriate approach to deal with the phenomenon. Monitoring of suspicious activities on betting market would enhance the transparency and integrity. [92] We can observe the qualitative analysis of the phenomenon in the report by the Sorbonne University. Having examined the scale and the nature of the manipulation of sport competition would be given us an effective formula to focus our efforts to deal with the phenomenon.

4.3. National platforms

The convention's initiative to establish national platforms to exchange information be-tween various actors have the potential to be effective. Collecting relevant information within the separate member states and exchange it to the others is a good mechanism to fight against transnational crimes. The platform will pull together public and regulatory authorities, sports governing organizations, payers unions and betting companies. The group of Copenhagen (Germany, Belgium, Denmark, Finland, France, Italy, the Netherlands, Norway, Spain, Sweden and UK) unifies the member states which are established and developed a national platform for fighting against sports manipulation. The legal framework of national platforms differ from country to country. In the UK the betting operators have to report the irregular betting patterns to the Sports betting integrity unit situated as a public entity in the UK Gam-bling commission. The platforms of Denmark and Finland are situated as a public entity in their Anti-doping agencies. However, the national platform of the Netherlands is established as a no public entity and has no investigative power on its own. At this moment there is no legal ground to share

[91] David forrest professor of economics, university of liverpool, uk and Ian g mchale professor of sports analytics, university of salford, uk, 'AN EVALUATION OF SPORTRADAR'S FRAUD DETECTION SYSTEM' [2015] 84(43) AN EVALUATION OF SPORTRADAR'S FRAUD DETECTION SYSTEM

[92] university paris 1 panthéon-sorbonne and international centre for sport security (icss, 'Protecting the Integrity of Sport Competition The Last Bet for Modern Sport' [May 2014] 142(4) An executive summary of the Sorbonne-ICSS Integrity Report Sport Integrity Research Programme, 2012-14

information between the platforms and the exchange is very difficult to the number of the public and private actors involved.[93] The contemporary legislation frame-work doesn't allow public bodies to pass criminal information to private entities but after en-try into force of the new data protection EU regulation in 2018, this would be possible if the private entitis can guarantee an adequate level of protection. Although the convention is not ratified, the National platforms already cooperate in (i) development of studies and good practice, (ii) providing support to national platforms (iii) elaboration new national platforms and (iv) professional development of national and international actors.[94] The functioning of the national platforms without the convention is being ratified, is a clear sign that that could be effective.

4.4. Amendments

The match-fixing stays in a close relationship with general criminal offences such as corruption, bribery, deception, bribery, use of inside information, money-laundering and organized crime, etc. The definition of sports manipulation needs to be improved. First, it is necessary to distinguish the active and passive manipulation as the objective elements of the match-fixing. Second, it should define the term "undue advantage" on manipulation for material or non-material gain. Third, the character of the manipulation should be characterize like manipulation of overall result or of the element of the game. UNDOC provides a model of criminal law provisions for sports manipulation: "Any person who, directly or indirectly, promises, offers or gives any undue advantage to another person, for himself, herself or for others, with the aim of improperly altering the result or the course of a sports competition, shall be punished by...." and "Any person who, directly or indirectly, solicits any undue advantage or promise or offer thereof for himself, herself or for others, with the aim of improperly altering the result or the course of a sports competition, shall be punished by.."

The whistle-blowing model should be improved. The Convention outlines the need of the protection measures for person who provide information concerning sports manipulation, but there is a need of developing the model of whistle-blowing. The model of whistle-blowing consist of 5 stages: (i) the observing of wrong-doing, (ii) the considering what action to, (iii) taking decision to whistle the blow or stay silent, (iv) finally the action undertake by organization and (v) assessing of the reaction of the organization by the whistle-blower is it adequate. One of the main characteristics of successful model is that the properly investigation by the competent authorities. It should be established a successful internal reporting mechanism and educational platform of disclosing of wrongdoing.

[93] Ck consulting, stichting vu-vumc, eu commission, 'The monitoring systems of sports betting and warning mechanisms between public and private actors' (Http://ethisportcom, 2017) <http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf> accessed 26 August 2017

[94] Coe, 'Network of National Platforms (Group of Copenhagen)' (Http://wwwcoeint, 2017) <http://www.coe.int/t/dg4/sport/Match-fixing/T_MC_Network_of_National_Platforms_EN.asp> accessed 26 August 2017

Another proactive approach that would be considered is the member state should provide licenses only to betting companies located in "cooperative countries" and to avoid providing a betting license to companies established in offshore financial centers. The exchange of information is the base of countering sports manipulation. For private entities like betting companies is pragmatic to be established in the tax-havens and operating on the EU market. The problems of unknown beneficial owners of the company registered in the tax-haven could be led to investigation problems. [95]In this way they decrease the payment of taxes and the level of supervising. However, the investigation of sports manipulation is not possible without the collaboration between the betting companies and public governments. Actually the betting companies doesn't care about the sports manipulation until their loss exceeds a certain financial threshold.

4.5. Summary

The importance of the online gambling and the integrity of sport underlines the controversial role of the European convention. It is an act of the CoE, but it is directed to the EU online internal market. Some countries have established a national platforms, but they were not prepared to function in accordance with the convention. With a little amendments the convention has potential to be a great tool to counter match-fixing and set standard in online gambling regulation within Europe.

5. Conclusion

Nowadays the sports business faces a lot of challenges while increasing its market share. One of these changes is the negative influence of the gambling on it. The match-fixing is a consequence of the fusion of the gambling and professional sport. Unfortunately, most of the professional sports are not so profitable and they need the sponsorship of the betting companies to exist. The professional sport continues to increase its weight for the economic and society, but match-fixing undermines its values and threatens its development. The great raise of match-fixing is influenced by introducing of online betting platform and mobile apps in gambling. The unregulated gambling legal environment is a great base for infiltration of transnational criminal syndicates for using it for money-laundering purposes. Due to its adaptiveness, the criminal syndicates have developed several mechanisms to manipulate sports competition in order to increase their profit. Nowadays, the betting-related sports manipulation exceeds the disciplinary responsibility and it needs to be related to crimes. The engagement of so many actors in the fight against sports manipulation is a certain sign of its importance to the global public. The development of the dialogue and better cooperation between betting companies, sports organizations and public authorities has a crucial role in the finding an efficient solution

[95] Toine spapens and others, Crime, Addiction and the Regulation of Gambling (2009)

for the increasing threat. The professional sport couldn't be able to create stable financial profit in such kind of environment. The match-fixing undermines the moral value of the players, destroys competition, and repeals the audience and influence the investment environment negatively.

The Convention on the manipulation of sports competition is a qualitative response of the Council of Europe to the phenomenon of match-fixing. It is the result of the EU and CoE efforts to deal with this threat. According to the nature of match-fixing and its relationship with the expansion of online gambling, a unified approach is needed. In 1969, when the Internet was invented, nobody could imagine that it would be used for gambling and that it will facilitate the cross border expansion of gambling. Also, nobody could imagine in 1993 when the Maastricht treaty was signed that the innovation in the technology would make the expansion of gambling in the internal market of EU possible. Unifying the regulation of match-fixing and online betting is the main purpose of the European Convention. Because of its complicated structure the EU was not able to regulate the internal gambling market, and the European Convention of the CoE is a perfect approach to deal with this threat, because all 28 Members are part of the CoE. The opposition of the UK and Malta is clear, due to their interests in the online gambling sector because most of the betting companies operating in Europe are established in Malta and the external territories of the UK like Isle of Man and Gibraltar due to the tax benefits and the lack of supervision. The European convention is trying to harmonize the legislative framework, facilitate the exchange of information and engage the main actor on the field of effective fight against match-fixing. Regulating the gambling is a controversial issue due to its the specific nature, but infiltration of organized crime in sports manipulation with betting purpose and money-laundering is a catalyst to find appropriate unified EU regulation. The European Convention is not ratified, but it has all characteristics to be effective. After the BREXIT one of the main opponents of the convention will be out of the internal EU market and this would facilitate the negotiation is ratifying the convention. The licensing of the online betting companies that operate on the internal market would increase the transparency and tax revenues for the member states and minimize the money-laundering. The efficient exchange of information is the base of qualitative investigation, but unfortunately the different implementation of the EU data protection directive from 1995 is one of the obstacles for an effective investigation of match-fixing. It is expected that the new data regulation which will go into force in 2018 will remove the obstacles and facilitate the exchange of information between all main actors on the field of fight against match-fixing. The functioning of the Copenhagen group (group of national platforms unifying the sports integrity gatekeepers) without the convention is being ratified is a great sign that it will be effective. Currently the member states are waiting for ratifying of the convention because they need to adapt that the online gambling will be regulated. Of course the role of lobby of the betting companies can be underestimated but the regulation of the online gambling is part of the solution of the problem with match-fixing. Sport needs integrity, states needs tax revenues and appropriate regulation and creating a good business environment is very important for the economic efficiency.

Improving the financial transparency and strong sport governance would minimize the risk of manipulation of sport competition. Enhancing the regulatory framework of fighting the manipulation of sport completion, clear jurisdiction and prosecution takes a great role in solving this negative phenomenon. The role of whistle blowers should be highlighted due to their significant importance. But how will the sport business will counter the match-fixing threat? The answer is in disruptive technology. We can't afford to underestimate the role of innovation in fighting the manipulation of sport competition. Using an online platform, big data and coding would be increase the opportunity to deal with the problem successfully. Many bet monitoring system that are using special algorithms for detecting manipulative or abusive betting behavior have been put in place by the betting authorities. There is no intelligence body which can analyze more than 500 betting sites an one hour. The good example that the CAS accepts the betting monitoring reports as a sufficient evidence in a disciplinary proceeding is milestone in introducing the role of the betting monitoring systems as an"unicorn" in the sports industry. The manipulation of sport competition for betting purposes is together with doping and money-laundering, one of the greatest problems that the sport industry is facing regarding the influence of its integrity

The sports and betting industry will face new challenges very soon. The cryptocurrencies displace the traditional payment instruments, platform based businesses displace traditional offices of the companies, smart contracts displace their old fashioned analogue, disruptive innovation displace human's factor. On the other hand, the value of the sport industry has increased rapidly in the past decades and it became harder for the regulatory framework to adjust to all the innovation which influence our life.

The development of the technology sometimes creates obstacles like the establishment of the phenomenon of match-fixing in the modern sport, but it as well as creates solutions for this problems like introducing the betting monitoring companies. Drafting the effective regulation in order to regulate the fast changing technology environment is important for its proper functioning, because there is a possibility to be forbidden or to have negative effect of the industry. The lack of regulation of the online betting market leads to the raise of sports manipulation and the eventual prohibition of online betting due to its negative effect. Today's world is facing obstacles when regulating the new technologies but the appropriate assessment of eventual consequences would prevent such kind of situation for sport after introducing the internet and the expansion of online gambling. The match-fixing phenomenon is a result of unregulated disruptive innovation and only using a disruptive innovation will minimize its negative effect on the sports industry.

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