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*Sports fraud, match-fixing, and the prohibition of manipulation of sports related to betting: «fair play on and off the pitch»*

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# Secção I

## Investigação Científica\*

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\* Os artigos presentes nesta secção foram sujeitos a processo de revisão segundo o método *blind peer review*.

## **A proibição da fraude desportiva relacionada com apostas: fair play dentro e fora do relvado**

### **Sports fraud, match-fixing, and the prohibition of manipulation of sports related to betting: «fair play on and off the pitch»**

**Alexandre L. Dias PEREIRA<sup>1</sup>**

**ABSTRACT:** The fight against sports fraud related to betting is one of the purposes of the Council of Europe Convention on the Manipulation of Sports Competitions. Portugal has ratified this Convention but it is not yet in force. However, the existing regulatory framework (self-regulatory measures, criminal protection of sports integrity, the prohibition of betting to people involved in sports, and the identification of winners of betting prizes) may already cope with concerns addressed by the Convention and therefore promote fair play on and off the pitch.

**KEYWORDS:** Sports Law– Manipulation of Sports Competitions - Match-Fixing – Online Betting

#### **Introduction**

In 2016, several international several sport events with worldwide impact took place, such as the European football championship of national teams in France and the Olympic Games in Rio de Janeiro, Brazil. Sport events attract much mass media attention and large corporate investments, notably sponsorship, and the outcome of matches is the object of the growing industry of online sports betting. This brings forward the need to address sports fraud.

The prevention of sports fraud, in particular related to betting, is a topic of growing interest in scholarship<sup>2</sup> as well as the subject matter of NGOs such as

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I am grateful for comments received from the blind review to article. Any mistakes or errors remain fully mine.

<sup>2</sup> See HABERFELD, M. R., SHEEHAN, Dale (eds.), *Match-Fixing in International Sports. Existing Processes, Law Enforcement, and Prevention Strategies*. Springer, Cham, 2013. ISBN 978-3-319-02582-7. ROMPUY, Ben Van. *The Odds of Match Fixing: Facts & Figures on the*

the Sports Integrity Initiative.<sup>3</sup> Moreover, the European Commission sponsors the project ‘Staying on Side: How to stop match-fixing’<sup>4</sup>, and an Integrity Code of Conduct has been adopted by UEFA.<sup>5</sup> Last – but not the least -, the Council of Europe has adopted the Convention on the Manipulation of Sports Competitions, of 18 November 2014.

The Convention aims to prevent, to detect, to punish and to discipline the manipulation of sports competitions, and to prevent conflicts of interest among sports betting operators and sports organisations. Moreover, it intends to fight against fraud (including where necessary by limiting the supply of sports bets or suspending the taking of bets) and illegal sports betting (by means of controlling access to the market by betting operators and blocking financial flows between them and consumers). The Convention will also have an impact upon sports organisations and competition organisers as they will be required to adopt and to implement, besides good governance principles, stricter rules to combat corruption as well as sanctions and proportionate disciplinary and deterrents for offences. As enforcement measures the Convention provides also safeguards for informants and witnesses.<sup>6</sup>

Entry into force requires five ratifications including at least three member States of the Council of Europe. As of October 2017 this last requirement was met (Norway, Portugal and Ukraine), but so far non-Members of the Council of Europe have not ratified the Convention.<sup>7</sup> Despite the Convention is not yet in

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*Integrity Risk of Certain Sports Bets.* T.M.C. Asser Institute (Jan. 2015) - <<http://www.asser.nl/media/2422/the-odds-of-matchfixing-report2015.pdf>>

This topic is a classic in movies, e.g. *Owning Mahowny* (2003), *Two for the Money* (2005), *Lay the Favourite* (2012), *The Gambler* (2014). For a report of cases up to 2017 in Portuguese football <<http://tribunaexpresso.pt/tribuna-expresso/2017-07-23-Apostas-viciadas-no-futebol-portugues>>

<sup>3</sup> Available from <<http://www.sportsintegrityinitiative.com/>>

<sup>4</sup> Available from <[http://www.transparency.org/news/feature/staying\\_on\\_side\\_how\\_to\\_stop\\_match\\_fixing](http://www.transparency.org/news/feature/staying_on_side_how_to_stop_match_fixing)>

<sup>5</sup> Available from <<http://www.uefa.org/disciplinary/match-fixing-prevention/index.html>>

<sup>6</sup> Available from <<http://conventions.coe.int/Treaty/EN/Treaties/Html/215.htm>>

On the implications of the Convention on the fight against match-fixing see notably CARPENTER, Kevin. *Combating Match-Fixing in Sport. A Guide to the Council of Europe's Convention on the Manipulation of Sports Competitions* (2014), available from <<http://www.lawinsport.com/blog/kevin-carpenter/item/combating-match-fixing-in-sport-a-guide-to-the-council-of-europe-s-convention-on-the-manipulation-of-sports-competitions>>; and SERBY, Tom. The Council of Europe Convention on Manipulation of Sports Competitions: the best bet for the global fight against match-fixing?. *The International Sports Law Journal*, 2015, vol. 15, n.º 1-2, p. 83-100. ISSN 1567-7559.

<sup>7</sup> Cf. full list available from <<https://www.coe.int/en/web/conventions/full-list-/conventions/treaty/215>>

force, Portuguese law deals with the prevention of sports fraud by self-regulation measures and criminal legislation, including specific acts on online sports betting and money laundering. This paper, which originated from a contribution to a European-wide study<sup>8</sup>, provides an overview of the Convention and Portuguese law concerning sport fraud related to betting.

Portuguese authorities deal with sport fraud related to betting, in particular online sports bets with great concern. Traditionally, the exploitation of sports bets was a monopoly of the *Santa Casa da Misericórdia de Lisboa* (SCML), which undertakes projects of social welfare for vulnerable people, notably young and elder, as well as people facing difficult life situations. Moreover, there is a general policy to prevent conflicts of interests and other situations capable of compromising the integrity of the game.<sup>9</sup>

### **The Council of Europe Convention on the Manipulation of Sports Competitions<sup>10</sup>**

The Convention has 41 articles divided in 9 chapters. The recitals of the Convention illustrate the rationale behind its provisions: “every country and every type of sport in the world may potentially be affected by the manipulation of sports competitions[.] This phenomenon, as a global threat to the integrity of sport, needs a global response”, taking into the consideration that “the involvement of criminal activities, and in particular organised crime in the manipulation of sports competitions and about its transnational nature [and] the development of sports betting activities, particularly of illegal sports betting, increases the risks of such manipulation”.

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<sup>8</sup> ASSER Institute. *Study on risk assessment and management & prevention of conflicts of interest in the fight against betting-related match-fixing in EU 28* (EAC/16/2013). Available from <[http://ec.europa.eu/sport/news/2014/docs/study-asser\\_en.pdf](http://ec.europa.eu/sport/news/2014/docs/study-asser_en.pdf)>

<sup>9</sup> In Portugal there is an Observatory of Sports Fraud: <<http://fraudedesportiva.jogoremoto.pt/>>

<sup>10</sup> Done in Magglingen/Macolin, on the 18th of September 2014, in English and in French. Having been adopted in the light of several Conferences of the Council of Europe (Athens, December 2008; Baku, September 2010; Belgrade, March 2012) and the UNESCO 5th International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport, this Convention comes in line with other international instruments, notably the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches (1985), the Anti-Doping Convention (1989), the Criminal Law Convention on Corruption (1999) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005).

Chapter I provides the purpose, the guiding principles and operative notions: “The purpose of this Convention is to combat the manipulation of sports competitions in order to protect the integrity of sport and sports ethics in accordance with the principle of the autonomy of sport” (art. 1/1). This fight shall respect for, *inter alia*, human rights, legality, proportionality, and protection of private life and personal data (art. 2). For purposes of this Convention, manipulation of sports competitions is “an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a sports competition in order to remove all or part of the unpredictable nature of the aforementioned sports competition with a view to obtaining an undue advantage for oneself or for others” (art. 3/4).

Chapter II provides measures on prevention, co-operation and other. It includes domestic co-ordination of public authorities (art. 4), risk assessment and management procedures of sports organisations, sports betting operators, competition organisers and any other relevant organisation (art. 5), education and awareness raising (art. 6), principles of good governance for sports organisations and competition organisers (art. 7)<sup>11</sup>, transparency of financing of sports organisations (art. 8), action of betting regulatory authorities (art. 9)<sup>12</sup>, sports betting operators (art. 10)<sup>13</sup>, and the fight against illegal sports betting (art. 11)<sup>14</sup>.

In order to implement prevention and risk assessment measures and to fight against illegal sports betting, chapter III provides rules on exchange of information between competent public authorities, sports organisations and sports betting operators (art. 12), including the identification of a national platform by each Party which will serve notably as an information hub, coordinator of the fight against the manipulation of sports competitions, and

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<sup>11</sup> These include measures of prevention of conflicts of interest, such as prohibiting competition stakeholders from betting on sports competitions in which they are involved and prohibiting the misuse or dissemination of inside information, as well as requiring them to report immediately any suspicious activity, incident, incentive or approach which could be considered an infringement of the rules against the manipulation of sports competitions (art. 7).

<sup>12</sup> For example, the prohibition of sports betting designed for people under the age of 18 or the suspension of betting on suspicious competitions, *i.e.*, those for which there was appropriate alert.

<sup>13</sup> For example, restricting stakeholders being involved in compiling betting odds for the competition in which they are involved.

<sup>14</sup> For example, blocking of financial flows between illegal sports betting operators and consumers (a) and the prohibition of advertising for illegal sports betting operators (b).

‘whistle-blower’ (alerts issuer) of suspicious bets placed on sports competitions taking place on the territory of the Party (art. 13). Moreover, personal data protection is safeguarded (art. 14).

Concerning substantive criminal law and co-operation with regard to enforcement, chapter IV provides that each Party ensures the provision in domestic law of criminal offences relating to the manipulation of sports competitions “when it involves either coercive, corrupt or fraudulent practices, as defined by its domestic law” (art. 15). The same applies to laundering of the proceeds of criminal offences relating to the manipulation of sports competitions, as provided by international conventions<sup>15</sup>, “when the predicate offence giving raise to profit [involves either coercive, corrupt or fraudulent practices or the intentional aiding and abetting of the commission of such practices] and in any event, in the case of extortion, corruption and fraud” (art. 16/1). Legal persons shall be held liable for such offences, where they are “committed for their benefit by any natural person, acting either individually or as a member of an organ of the legal person, who has a leading position within the legal person, based on: a) a power of representation of the legal person; b) the authority to take decisions on behalf of the legal person; c) the authority to exercise control within the legal person” (art. 18/1) on corporate liability.

Chapter V concerns jurisdiction, criminal procedure and enforcement measures. In principle, each party has jurisdiction where any of such offences is committed in its territory or on board a ship flying its flag or on board an aircraft registered under its law, or by one of its nationals or by a person habitually residing in its territory (art. 19/1). Measures to secure electronic evidence are notably the expedited preservation of stored computer data, traffic data, production orders, as well as search and seizure of stored computer data, real-time collection of traffic data, and the interception of content data - art. 20. Any good-faith informer and witness giving testimony, as well as when necessary his/her family members, may be afforded special protection (art. 21).

Chapter VI provides sanctions and measures. Criminal sanctions against natural persons include monetary sanctions and deprivation of liberty (art. 22).

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<sup>15</sup> Cf. art. 9(1)(2) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005), art. 6 (1) of the United Nations Convention against Transnational Organized Crime (2000), or art. 23(1) of the United Nations Convention against Corruption (2003).

Sanctions against legal persons include monetary sanctions and possibly other measures such as temporary or permanent disqualification from exercising commercial activity, placement under judicial supervision and a judicial winding-up order (art. 23). In any case, sanctions shall be effective, proportionate and dissuasive.

Administrative sanctions also apply and are enforceable notably by the betting regulatory authority (art. 24/2). In any case, whether criminal or administrative in nature, seizure and confiscation of the goods, documents and other instruments used, or intended to be used, to commit the offences referred to above, as well as the proceeds of those offences, or property of a value corresponding to those proceeds (art. 25).

Chapter VII concerns international co-operation in judicial and other matters. International co-operation in criminal matters is crucial, notably Parties are required to provide adequate measures with the widest extent possible for the purposes of investigations, prosecutions and judicial proceedings concerning typified offences, including seizure and confiscation (art. 26/1), as well co-operation in extradition or mutual legal assistance in criminal matters. International co-operation measures in respect of prevention include the integration of the prevention of and the fight against the manipulation of sports competitions into assistance programmes for the benefit of third States (art. 27). Moreover, Parties have a general obligation to co-operate with international sports organisations in the fight against the manipulation of sports competitions (art. 28).<sup>16</sup>

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<sup>16</sup> The Convention has also provisions on the follow-up (chapter VIII) and final provisions (chapter IX). The former include each Party's obligation to provide information "concerning legislative and other measures taken by it for the purpose of complying with the terms of this Convention" (art. 29) and the set-up of a Convention Follow-up Committee (art. 30) and its functions, in special to make recommendations (art. 31). The Convention enters into "on the first day of the month following the expiration of a period of three months after the date on which five signatories, including at least three member States of the Council of Europe, have expressed their consent to be bound by the Convention" (art. 32(4)). The Convention also governs its effects and its relationship with other international instruments (art. 33), a safeguard clause of Human Rights and proportionality concerning the establishment, implementation and application of the Convention (art. 34/)), its territorial application (art. 35), a federal clause (art. 36), reservations (art. 37), procedure of amendments (art. 38, in special they may be adopted by the majority provided for in art. 20(d) of the Statute of the Council of Europe, i.e. "a two-thirds majority of the representatives casting a vote and of a majority of the representatives entitled to sit on the Committee"). Disputes on the application or interpretation of the Convention are settled through negotiation, conciliation or arbitration, or any other peaceful means of the Parties' choice, following procedures possibly established by the Committee of Ministers of the Council of Europe (art. 39). Finally, the Parties have the right to denounce the Convention,



## **The prevention of sport fraud related to betting under Portuguese law and private regulations by sport governing bodies**

### *General concerns*

The Portuguese Government is entrusted with the fight against fraud in order to protect the integrity of sports against manipulation (match-fixing). According to the Regulation of Physical Activities and Sports<sup>17</sup>, the Government has the obligation to adopt measures to prevent and to punish corruption in sport activities in order to assure ethics in sports (art. 3/1-2).

Moreover, the Parliament has enacted Law No 50/2007 of 31 August, concerning criminal liability for fraud, corruption and unethical actions in sports activities. The Sports Fraud Act, as last amended by Law No 13/2017 of 2 May, provides several criminal offences, such as passive corruption, active corruption and traffic of influence, as well as the criminal association for the organized practice of such crimes.

In addition, the Sports Companies Act, enacted by Decree-Law No 10/2013 of 25 January, provides measures to prevent conflicts of interest. For example, sports companies cannot hold shares in other sports companies (art. 12) and some persons cannot be members of the administration or managing boards of sports companies, notably members of statutory bodies of sports federations or associations of teams of the same modality, and acting professional players, coaches and referees of the same modality (arts 12 and 16/1).

Finally, the Sports Employment Act<sup>18</sup> provides that sport workers shall act, in the course of sports activities, in accordance with rules of sports ethics (art.

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which becomes “effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General” (art. 40/2). The Secretary General of the Council of Europe has an obligation of notification concerning a number of acts related to the Convention (e.g. any signature, the deposit of any instrument of ratification, acceptance or approval, etc.).

<sup>17</sup> Law No 50/2007 of 16 January, and as last amended by Law No 30/2015 of 22 April.

This Act revoked and replaced the framework regulation of the sport system which provided that the value of sports ethics, notably by means of preventing and punishing violence, corruption, doping, or any form of negative social discrimination, such as racism (arts. 3 and 40); in particular corruption should be fought by means of preventive education, on one hand, and definition and punishment of acts of corruption (art. 44).

<sup>18</sup> Law No 28/98 of 26 June, as amended by Law No 114/99 of 3 August.

13-e). It means that they have to comply with discipline regulations set by sport governing bodies, such as the Portuguese League of Professional Football, as well as to refrain from committing criminal offences. The Discipline Regulation of the Portuguese League of Professional Football<sup>19</sup> provides rules for agreements between teams, which aim to fix an irregular score. These include, notably, the manipulation of scores related to betting, either by the anomalous performance of one or both teams or of any of their players (or the intentional irregular use of any of them) or by playing with a team obviously inferior to the usual team. This prohibition includes other means with the same purpose, such as, for example, promises of rewards (arts. 63(4) and 64). Teams are liable for facts directly or indirectly carried out by their directors or managers, employees and any other sport agent bound to them (art. 63/6).

*Self-regulation penalties for sport fraud and match-fixing (discipline regulations)*

Where 'sports truth' (*verdade desportiva*) is infringed due to match-fixing caused by unlawful causes such as bribery or corruption, the score of the match can be modified by the Discipline Department of the Professional League of Football (art. 28). Teams are subject to *expulsion* from professional competitions of football if they enter into agreements aimed at manipulating scores for purposes of sport betting, even if they are unlawfully organized or abroad, as well as if they are concluded with criminal organizations or in the context of highly organized criminal activity (art. 63/2). Moreover, 'fixed matches' are void and shall be repeated, provided that the score has not yet been ratified and damages are suffered by the innocent team or a third-party (art. 63/3).

There are also sanctions for attempted match-fixing, notably cuts between 2 and 5 in the general score, defeat in the match or reduction of 3 points, and a monetary penalty (art. 63/5). Teams offering rewards to any sports agent of adversaries, in order to fix the score of the match, are punishable with reduction of score (from 5 to 8 points) and payment of a fine (art. 64).

<sup>19</sup> Hereinafter, the LPF Discipline Regulation. Available from <<http://ligaportugal.pt/pt/paginas/menu/estatutos-e-regulamento-geral/>>

Concerning other sports, the Regulations of Tennis also provide preventive rules concerning betting-related match-fixing.<sup>20</sup> The Discipline Regulation of Tennis deems as a very serious discipline offence to bet on any match of the official calendar in which a tennis operator is directly or indirectly involved, the penalty being suspension from 1 to 3 years and fine up to € 750 (art. 47). The Code of Conduct (2010) provides that tennis players cannot behave against the spirit of the game (rule 17).

The Discipline Regulation of Tennis Referees provides that referees are bound to act impartially where applying tennis regulations (hereinafter, DRTR), and that they cannot act as referees regarding matches involving players who have any relationship capable of causing conflicts of interest or their impartiality compromised; in particular, referees cannot take part of any kind of bets related with tennis events (arts. 4 and 12/b-f). There are penalties for infringements, in special it is a very serious infringement to take part of any kind of betting related with tennis (arts. 6 and 7). For purposes of disciplinary jurisdiction sports operators (*agentes desportivos*) include individuals who take part in the sport activity of tennis, notably: directors, employees and collaborators of the federation, associations, teams or alike registered members (a), coaches and other technical staff (b), doctors and physicians (c), referees (d) and players (e) (art. 14). Under the 2010 Guide for Officials, concerning conflicts of interests, it includes other officials involved in activities related with tennis (such as coaching, team captaining, serving in tennis related companies, tennis clubs, organizer of events or even friends and family of players) and which may cause a conflict with the work of the Official.

Concerning basketball, under the articles of association of the Portuguese Federation, members of the board are removed from office if they act, for example, in the exercise of their functions or because of them, directly or indirectly, in any contract in which they have an interest of their own, or in which their spouses or direct relatives have an interest, or even a person whom they live with (art. 18/1-b). Moreover, under the Basketball Discipline Regulation<sup>21</sup>, corruption, either active or passive, is a serious infraction (art. 42) punished with a penalty of one to five years of suspension; where the agent is a referee

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<sup>20</sup> See <<http://www.tenis.pt/index.php/regulamentos/tecnicos-e-outros>>

<sup>21</sup> See <<http://www.abp.pt/docs/Regulamento%20de%20Disciplina.pdf>>

suspension is two to ten years; where a club is involved it is disqualified to a lower degree of competition (art. 63). The Handball Discipline Regulation also provides sanctions for corruption and traffic of influences (arts. 29 and 29-A).<sup>22</sup>

### **The Sports Fraud Act (Law 50/2007)**

Besides self-regulatory measures, the fight against sports fraud is a matter of special criminal law: the Sports Fraud Act enacted by Law 50/2007 of 31 August, and as last amended by Law No 13/2017 of 2 May, strengthening sanctions.

#### *Scope of application*

This Act applies to a broad range of subjects in the field of sports, notably directors, coaches and other technical staff, referees, managers, legal persons (teams, federations, companies, etc.), as well as so-called 'sports operators' (*agentes desportivos*) defined as any person who performs or takes part in a sports competition (art. 2). Members and employees of sports federations or professional leagues, associations and affiliated groups of teams have the obligation to give notice to the Public Prosecutor of the criminal actions of which they gain knowledge in the exercise of their functions and/or because of them (art. 6). *Corporate liability* is set up in general terms, and it cannot be waived from due to the sports public utility of a legal person (art. 3).

#### *Criminal offences related to sports fraud*

Law No 50/2007 provides criminal liability for actions or omissions that may affect the truth, loyalty and correctness of the competition and its outcome in sporting activity. For this purpose, it provides several types of criminal offences related with sports activities, notably passive and active corruption, traffic of influence, and criminal association.

*Passive corruption* consists of 'asking for or accepting, directly or through middle-men, an undue economic or non-economic advantage or promise thereof, in return for any action or omission aimed at modifying or falsifying the

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<sup>22</sup> See <[http://www.andebolporto.pt/downloads/file446\\_pt.pdf](http://www.andebolporto.pt/downloads/file446_pt.pdf)>

result of a sports competition'; it is punished with imprisonment from 1 to 8 years (art. 8).

*Active corruption* is defined as 'to give or to promise, directly or through middle-men, an undue economic or non-economic advantage or promise thereof, in return for any action or omission aimed at modifying or falsifying the result of a sports competition'; it is punished with imprisonment of 1 to 5 years or equivalent fine penalty (art. 9).

*Traffic of influence* means 'to ask or to accept – or to promise - for oneself or for a third person an undue economic or non-economic advantage, in order to abuse of his/her actual or admitted influence by any sport operator, so that a decision is taken to change or to fake the result of a sport competition'. It is punished with imprisonment from 1 to 5 years or equivalent fine penalty, unless it consists of giving or promising such an advantage, where the criminal sanction is prison imprisonment up to 3 years or fine penalty until 240 days (art. 10(1)).

*Criminal association* in sports means 'to promote, to establish, to take part of or to support any group, organization or association the scope or activity of which is directed to committing any sport crime'; punishment for criminal association is imprisonment from 1 to 5 years (art. 11/1); leaders are punished with jail from 2 to 8 years (art. 11/2). For this purposes a criminal association exists where at least 3 people act in a concerted way during a certain period of time (art. 11/3).

Accessory penalties include (a) suspension of participation in sports competitions for a period of six months to three years; (b) cancellation of the right to subsidies, grants or incentives granted by the State and other public legal persons for a period of one to five years; and (c) prohibition to carry out a professional activity or function, public or private, for a period of 1 to 5 years, in case it concerns a sports official, coach, referee, entrepreneur or legal person or related entity (art. 4).

On the other hand, penalties are aggravated where crimes of passive corruption, passive corruption and traffic of influences are committed by or towards directors of teams, referees, sports manager or any legal person - art. 12. However, a sort of leniency is provided, as penalties can be reduced or even discharged if the operator helps with the investigation, gathering relevant

evidence to identify or to capture other infringers, or voluntarily repudiating before the criminal act any offer or previously accepted promise or giving back the benefit or, concerning fungible good, its value (art. 13/1). Concerning criminal association, the penalty can be specially reduced or discharged where the agent prevents or make serious efforts to prevent groups, organizations or associations or if he/she communicates their existence to the authorities so that this can prevent the crimes to occur (art. 13/2).

Law No 13/2017 added two new types of crimes: offer or acceptance of undue advantage and unfair sports bet (*aposta antidesportiva*). On one hand, offer or acceptance of undue advantage means the sports operator who, by himself or through a proxy, with his consent or approval, by third person, requests or accepts, for himself or for third parties, directly or indirectly, in the performance of his duties or because of them, an undue asset or non-equity advantage, or its promise thereof, of an agent that before him has had, or may have a claim dependent on the exercise of his duties; punishment is imprisonment for up to five years or a fine up to 600 days (art. 10-A/1). Moreover, who, by himself or by a proxy, with his consent or ratification, gives or promises to a sports operator, or a third party by indication or knowledge of that, an asset or non-equity advantage, which is not due to him in the performance of his duties or because of them, is punished with a prison sentence of up to three years or with a fine of up to 360 days (art. 10-A/2). Actions socially adequate and in conformity with good usages are not covered by this new crime (art. 10-A/3).

On the other hand, unfair sports bet (*aposta antidesportiva*) means the sports operator who makes, or for his benefit orders the making of sports betting, online or on a territorial basis, regarding incidents or the result of any sporting events or competitions in which he participates or is involved; punishment is imprisonment up to 3 years or a fine of up to 600 days (art. 11-A).

#### *Educational measures and prevention of conflicts of interest*

In order to prevent conflicts of interest between relevant stakeholders, Law No 50/2007 imposes upon sports federations, companies and associations a duty to undertake each year educational and pedagogic events so that sports operators become aware of the values of truth, loyalty and correctness, and to

prevent facts, which may fraudulently modify the outcome of competitions (art. 14). However, it is not clear whether how, to whom and by which means (either formal or informal) are those rules and practices communicated among relevant stakeholders.

### **Regulations of Online Gaming, Sports Betting and Money Laundering**

The regulation of gaming and sport betting are also relevant tools in the fight against sports fraud related to betting. In fact, the Online Gaming and Betting Act<sup>23</sup> and the Sport Betting to Share Act<sup>24</sup> interdict online gaming and betting, either directly or through a third person, to any people, such as: sports leaders, sports coaches, coaches, athletes, professional and amateur, referees, sports business and the leaders of the organizers of competitions and sporting events and competitions. This betting prohibition applies where the person at stake, directly or indirectly, may have any intervention in the outcome of sports events (respectively art. 6/1-i and art. 4/1-i).

Moreover, the Anti-Money Laundering and Terrorism Funding Act<sup>25</sup> also applies to the gambling industry, notably casino concessionaires and betting houses, including online sports betting (art. 4). As a relevant measure to enforce sports betting regulations, those who pay prizes of bets or lotteries have to identify and to check the identity of the winners of the prize (art. 33). This obligation provides transparency to the market by disclosing the identity of the beneficiary of the prize and therefore renders it possible to establish a nexus between the score of the match and the bet winner.

### **Closing remarks**

Portuguese law in force provides several remedies against sports fraud related to betting. Legislation on sports bets interdicts betting to people taking part in sport events where, directly or indirectly, they may have any input in the outcome of events. The regulation of anti-money laundering and terrorism

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<sup>23</sup> Decree-Law No 66/2005 of 29 April. For an overview of the restrictive framework concerning online betting before the new legislation, PEREIRA, Alexandre L. Dias. Media rights and online betting in football matches under Portuguese law. *The International Sports Law Journal*, 2014, vol. 14, n.º 3-4, p. 167-178. ISSN 1567-7559.

<sup>24</sup> Decree-Law No 67/2015 of 29 April.

<sup>25</sup> Law No 25/2008 of 5 June, as last amended by Law No 118/2015 of 31 August. On this regulation see SILVA, L. Nascimento, BANDEIRA, G. de Melo. *Branqueamento de Capitais e Injusto Penal - Análise Dogmática e Doutrina Comparada Luso-Brasileira*. Gaia: Juruá, 2010.

funding makes the identification of winners of the prizes mandatory making identifiable a plausible link nexus between a match score and the beneficiary of a bet.

There is room to incorporate the provisions of the Convention on the Manipulation of Sports Competitions, for example concerning cooperation and enforcement remedies. However, as important as good legislation is effective law enforcement. Sports integrity requires fighting and punishing fraud. The market of online betting has been open up, while safeguarding the integrity of the game against sports fraud. For the good of the game, may the regulatory framework be adequate and enforced. After all, fair game is an issue not only on but also off the pitch!

However, online betting does not stop at the geographical frontiers of isolated countries, and therefore it would be important to harmonize the basic aspects of online sports gaming crucial to the good functioning of the European digital single market.

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