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Combating sports corruption: an analysis of international regulations

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Olha Bondarenko *

Maryna Utkina **

Oleg Reznik ***

Petro Malanchuk ****

Vitalii Yurakh *****

Abstract

Today, sport is one of the most developed and highly profitable industries. According to various sources, the annual revenue of industry participants is estimated at at least \$145 billion. The article analyzes the relevant international anti-corruption legal acts. We would like to emphasize that the adoption of these documents and the ratification of most of them is an important step in the fight against corruption in sport. At the same time, most of these international standards are aimed at combating corruption, that is, they offer active and punitive measures to combat it. Instead, the authors insist on the priority of preventive measures against corruption. The author's classified approach to measures to combat corruption in sport is proposed. It is concluded that the first step should be to combat corruption in international sports organizations. The effectiveness of anti-corruption measures in this area depends mainly on the transparency of their activities. Another area of corruption in sport is determined to be grassroots corruption. The oldest form of corrupt sport is that which arises spontaneously during competitions between two participants or two teams.

Keywords: sports corruption; criminal offences; counterattack to corruption; corporate culture; international conventions.

* Department of Criminal Legal Disciplines and Procedure, Sumy State University, Ukraine. ORCID ID: <https://orcid.org/0000-0002-2288-1393>

** Department of Criminal Legal Disciplines and Procedure, Sumy State University, Ukraine. ORCID ID: <https://orcid.org/0000-0002-3801-3742>

*** Department of Criminal Legal Disciplines and Procedure, Sumy State University, Ukraine. ORCID ID: <https://orcid.org/0000-0003-4569-8863>

**** Department of Justice, Faculty of Law, Sumy National Agrarian University, Ukraine. ORCID ID: <https://orcid.org/0000-0002-4501-708X>

***** Department of Law and Law Enforcement of the Central Ukrainian Volodymyr Vynnychenko State Pedagogical University, Ukraine. ORCID ID: <https://orcid.org/0000-0003-1705-389X>

Lucha contra la corrupción deportiva: un análisis de las regulaciones internacionales

Resumen

Hoy en día, el deporte es una de las industrias más desarrolladas y altamente rentables. Según diversas fuentes, los ingresos anuales de los participantes de la industria se estiman en al menos \$ 145 mil millones. El artículo analiza los actos jurídicos internacionales anticorrupción relevantes. Nos gustaría enfatizar que la adopción de estos documentos y la ratificación de la mayoría de ellos es un paso importante en la lucha contra la corrupción en el deporte. Al mismo tiempo, la mayoría de estas normas internacionales están dirigidas a combatir la corrupción, es decir, ofrecen medidas activas y punitivas para combatirla. En cambio, los autores insisten en la prioridad de las medidas preventivas contra la corrupción. Se propone el enfoque clasificado del autor sobre las medidas para combatir la corrupción en el deporte. Se concluye que, la primera medida debería ser combatir la corrupción en las organizaciones deportivas internacionales. La efectividad de las medidas anticorrupción en esta área depende principalmente de la transparencia de sus actividades. Se determina que otra área de corrupción en el deporte es la corrupción de base. La forma más antigua de deporte corrupto es la que surge espontáneamente durante las competencias entre dos participantes o dos equipos.

Palabras clave: corrupción deportiva; delitos penales; contraataque a la corrupción; cultura corporative; convenciones internacionales.

Introduction

According to experts, sports corruption has existed for a long time. During the first Olympic Games, athletes and their representatives were bribed in ancient Greece. Greek geographer and writer who lived in the II century BC, Povsaniy called the competition «unconsecrated.» In addition, K. Weber published the work «The Unholy Games: Ancient Olympia between Legend and Reality», in which he described cases of «acquired victories», bribery and «political intrigue». Based on the writings of writers and critics, it can be assumed that the beginnings of corruption in the sports industry appeared shortly after the start of the first Olympic Games in ancient Greece. Corruption is still an unresolved issue (Manukov, 2016: 34).

Nowadays, sport is one of the most developed and highly profitable industries. According to various sources, the annual income of industry

participants is estimated at at least \$ 145 billion. Most cash flows flow through international organizations, such as the International Football Federation and the International Olympic Committee. The state of affairs in sports shows that this environment has become one of the most corrupt. For example, evidence of corruption in sports is match-fixing, club tax evasion, and the opacity of agency business (Sokolova, 2019).

This definition of the main features, types and measures to combat sports corruption is essential.

1. Methods

The methodological basis of the study was a set of methods of scientific knowledge. Of the philosophical methods, we used the phenomenological method, which allowed us to analyze normative sources of national and international law. With the help of the abstraction method, we were able to investigate the grounds for the criminalization of illegal corruption in sports. The generalization method made it possible to systematize the types of sports corruption to identify the main areas of combating sports corruption.

The hypothetical-deductive method ensured the implementation of a cross-sectoral approach in analyzing the nature of sports corruption and developing measures to combat its specific manifestations. In addition, we used other methods of scientific knowledge, which in their complex allowed us to ensure the completeness, objectivity, and depth of research on the specifics of combating sports corruption in Ukraine.

2. Results and Discussion

2.1. International anti-corruption legislation in the field of sports

The urgent need to combat sports corruption led to the accumulation of efforts at the international level, which resulted in the adoption of relevant anti-corruption international law: the International Convention against Doping in Sport of October 19, 2005. Ukraine signed this convention on November 18, 2005. and ratified on August 3, 2008.

The Convention contains binding rules for the harmonization of anti-doping legislation, including barriers to the production and use of illicit substances such as anabolic steroids; assistance in financing anti-doping tests; establishing links between the strict application of anti-doping rules, and the provision of subsidies to sports organizations or individual

athletes; conducting regular doping control procedures during and outside competitions, in particular in other countries. The Convention also contains a list of prohibited substances. It is also essential to set up a monitoring group to periodically review this list and monitor compliance (Anti-Doping Convention, 2016).

Unfortunately, the ratification of the International Convention against Doping in Sport has not led to appropriate changes in the criminal law of Ukraine. In particular, it is advisable to supplement Art. 323 of the Criminal Code of Ukraine indicates the scope of the law - sports, and therefore provides for more severe penalties for doping in this area. It is essential to supplement the Criminal Code of Ukraine with an article that will introduce liability for doping (Reznik *et al.*, 2020).

Another important anti-corruption document in sports is the Council of Europe Convention against the Manipulation of Sports. This document was signed on September 18, 2014, in Maglingen as part of the work of the Council of Europe. Ukraine acceded to it on December 21, 2015, and ratified it on November 17, 2016.

Under the Convention, Parties must provide for the possibility of criminal prosecution for manipulating sports if it covers acts of coercion, corruption, or fraud as defined in their legislation, as well as the adoption of legislative and other measures aimed at establishing criminal liability in their national law for laundering of proceeds of crime related to the manipulation of sporting events and the prosecution of legal persons for the offenses outlined in this Convention.

The Convention contains provisions on the cooperation of the Parties to investigate, prosecute, and administer justice in respect of offenses covered by it, including arrest and confiscation. Teamwork is required in full compliance with existing international, regional, and bilateral treaties on mutual assistance in criminal matters and the law of each Party on offenses under Articles 15-17 of the Convention (Article 26). The Convention also provides for the Parties' cooperation with international sports organizations to fight against the manipulation of sports competitions (Council of Europe Convention Against the Suppression of Sporting Competitions, 2014).

It should be noted that the relevant law in Ukraine was adopted before the official signing of the Convention. In particular, November 3

In 2015, the Law of Ukraine, "On Prevention of the Impact of Corruption Offenses on the Results of Official Sports Competitions," was adopted. , elimination of their consequences and application of the proper type of legal liability (On the Prevention of the Impact of Corruption Offenses on the Results of Official Sports Competitions, 2015). In particular, among other things, the analyzed law provided for additions to the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine.

Thus, the first was supplemented by an article providing for liability for violating the ban on sports betting related to manipulation of official sports competitions (Articles 172-9-1 of the Code of Administrative Offenses of Ukraine), and the second - an article establishing liability for illegal influence on the results of official sports competitions (Article 369-3 of the Criminal Code of Ukraine) (Bondarenko, 2017).

Another important document, of course, was the Council of Europe Convention on Integrated Security, Protection and Services in Football Matches and Other Sports Events (concluded in San Denis on July 3, 2017, still a document to Ukraine, unfortunately, has not been ratified). At the same time, ratification is significant because, as stated in the explanatory note to the draft Law of Ukraine «On Ratification of the Council of Europe Convention on Integrated Approach to Security, Protection and Services during Football Matches and Other Sports Events», adoption of a law on ratification culture and sports to European standards, in particular in the field of security, protection and services during the organization and holding of football matches and other sporting events (Explanatory note to the draft law of Ukraine, 2017).

Following the Convention, the Parties shall take measures aimed at ensuring safety, protection, and service at football and other sporting events; prevention and prevention of the risk of wrongdoing or misconduct (Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events, 2016).

We want to emphasize that adopting these documents and ratifying most of them is an essential step in combating sports corruption. At the same time, most of these international regulations aim to fight corruption, i.e., they offer punitive, active measures to combat it. Instead, we are convinced of the need for more extraordinary anti-corruption measures. The need for their introduction is because the negative consequences of sports corruption (violation of the principle of protection of good behavior in sports and sports ethics; undermining public confidence; money laundering, etc.), despite criminal liability, are becoming stronger every year.

And this, in turn, leads to: first, violation of Article 49 of the Constitution of Ukraine, which states that the state cares about the development of physical culture and sports, in particular in the context of preventing any undue influence on the course and results of sporting events; secondly, distorting the perception of the social importance of sport for the life of the population in Ukraine, for example in the context of forming and maintaining traditions of healthy living; thirdly, it hurts the health of athletes in the case of doping; fourth, it damages Ukraine's image.

2.2. Anti-corruption measures in international sports organizations

Because of the above, we propose the following measures to combat sports corruption. First of all, it is advisable to divide them by areas. The first is the fight against corruption in international sports organizations. The effectiveness of anti-corruption measures in this area primarily depends on the transparency of their activities. Today, international sports associations are, in a sense, similar to developing countries in a period of economic recovery. Revenues are overgrowing, and regulation is lagging far behind because, at first, they are all non-profit and supranational organizations. The current scandals and investigations are mainly due to developed countries' supranational tax and police authorities.

Public opinion is so vital that it can lead to an investigation into corruption and has the leverage to oversee the investigation. The investigation into corruption in the International Football Federation has already led to several arrests, resignations, and disqualifications of the world and European football leaders.

The positive outcome of these investigations will be the reform of international associations and the development of stricter and more transparent rules for sports business in all areas (Corruption in sports is similar to corruption in third world countries, 2021). Therefore, transparency in access to the finances of organizations is crucial. In particular, we consider it necessary to provide full free online access to information on finances and payments to the Member States, the declaration of management income.

In addition, in our opinion, it is advisable to delineate the administrative and financial functions of international sports organizations because the combination of both administrative and financial powers creates the preconditions for abuse due to a lack of internal control. For example, in 2020, the doping schemes were exposed by the head of the International Weightlifting Federation, T. Ayan. In particular, it is established that, like any other international sports federation, the International Weightlifting Federation regularly receives money from the International Olympic Committee.

From 1992 to 2009, about \$ 23 million was transferred to two accounts of the International Weightlifting Federation in Swiss banks, which were not reflected in the organization's financial statements. Only Ayan had access to the accounts. According to research, the fate of at least \$ 5.5 million in these accounts is currently unknown.

According to the International Weightlifting Federation rules, the national associations of countries whose athletes have been convicted of doping must pay a fine of up to \$ 500,000 per year, depending on the

number of positive doping tests. Such penalties were often paid in cash directly to T. Ayan. In 2013, Azerbaijan had to pay a fine of \$ 500,000 for 18 positive doping tests, but the financial report does not specify this amount (Doping coverage and corruption, 2020).

Most modern sports organizations receive financial resources from various sources, such as sports lotteries, ticket sales, advertising, sponsorship, philanthropy, entrepreneurship, deposit operations, property leasing, and many other activities. On the other hand, sports organizations spend money from various channels for their own needs, pay salaries and bonuses to athletes and coaches, pay on loans from commercial banks, make tax deductions.

Thus, the finances of the sports organization are not in a static state, and they are constantly circulating from one payer to another. And even temporarily free money should not be a «dead weight», but bring income to the sports organization, preferably as much as possible. It is necessary that all these tasks of managing the financial flows of a sports organization be entrusted to a particular economic service, which should be headed by a competent specialist who is well versed in both sports and finance - the financial manager.

The financial manager in sports clubs and organizations performs the following functions: performs financial analysis and planning (including business planning); interacts with commercial banks and develops credit policy; together with the management of the sports organization plans the total amount of transfers and financial investments; manages cash flows (for salaries, bonuses, business trips for athletes, coaches and staff of sports organizations), manages taxes; seeks and attracts sponsors (Tasks and functions of the financial manager in sports organizations, 2021).

Another measure to combat corruption in international sports organizations should be the development of corporate culture. Corporate culture is a specific form of existence of an interdependent system, which includes a hierarchy of values that dominate among employees of the organization and a set of ways to implement them, prevailing in it at a particular stage of development (Chernyshova and Nemchenko, 2010).

The importance of corporate culture for a sports organization is that it strengthens cohesion and creates consistency in the behavior of employees. For the latter, corporate culture serves as a compass for choosing the proper behavior necessary for successful work in the organization. Thus, the corporate culture of a sports organization is a set of fundamental values, beliefs, attitudes common to members of the sports organization, which determine the standards or norms of behavior for all its members, including the inadmissibility of corrupt behavior (Hoya, 2013).

To combat corruption, it is imperative to form the correct organizational principles, i.e., the principles laid down in the mission and vision of the sports organization, which will guide the organization in general and its leader, particularly when interacting with the environment working with staff. The formation of organizational values is influenced by social and cultural norms that have developed in society and the importance of critical employees and departments. Thus, without a clear understanding of the characteristics of the corporate culture of a sports organization, you can not start to change the corporate culture. Established values and beliefs are complicated to transform, and even with the psychologically competent introduction of new symbols, heroes, etc., the real change in corporate culture takes years or may require a modification of generations (Zhabakov, 2018).

That is why, for example, now, given the numerous corruption scandals and leadership renewal, the world community has high hopes for the new leadership of the International Football Federation, not only in the fight for honesty in sports but also in the comprehensive development of sports relations in general (Trubitsyna, 2016).

2.3. Measures to combat «grassroots» sports corruption

Another area of corruption in sports is «grassroots» corruption. The oldest form of corrupt sport arises spontaneously during competitions between two participants or two teams—competitor A bribes competitor B to win. Or even competitor A would bribe opponent B to agree to help them win over a third opponent. Such corruption is not planned and occurs when the opportunity to win accidentally arises during a sporting event.

It is a petty (as opposed to severely criminal) corruption that distorts sports results without endangering someone's life and creating substantial social problems. For example, in long-distance races such as the Tour de France, in some circumstances, the victory in the stage takes place between two riders who finish ahead; eventually, one rider bribes the others. In addition, there is spontaneous cooperation between rivals in sports competitions.

In a football match, the players of the two teams talk to each other - just like two cyclists at the end of a stage - or simply signal to their opponents, aimlessly and lazily hitting the ball, that they are ready to make less effort and record the result. Such corruption usually involves cash payments. Winning the Tour de France will «cost» within 100,000 euros.

The specific amount will depend on the circumstances of the race and the type (mountain or not) of the stage. This type of corruption occurs between sports insiders; none of the corrupt employees work outside the sports industry. Sports insiders are athletes/players, coaches, referees,

and sports managers from the club level to international sports governing bodies (Maennig, 2006).

The next type of petty corruption in sports, which is also a place among insiders but has a non-monetary nature - is barter corruption. In such a barter exchange, the corrupt athlete or team A, which is on the verge of declining in the sports hierarchy and therefore absolutely in need of a victory, offers the athlete or team B to allow it to win; the ill-gotten gains are not paid in cash, and later with some of the planned losses taken by A in subsequent matches against B. Barter corruption is difficult to detect because there are no cash flows or temporal indicators. At the same time, there are specific methods of seeing this type of sports corruption (Duggan and Levitt, 2001).

For example, it was possible to detect abuses in Japanese sumo wrestling through meticulous analysis of a significant number of fights. Traditionally, the reward for wrestlers is paid for consecutive systemic victories of several matches in a row. The research carried out by journalists made it possible to identify a disproportionate share of battles won first by some wrestlers for the award and then by others (Maennig, 2006).

It is much more challenging to combat grassroots corruption because it is important to conduct educational activities to educate people interested in sports corruption and unacceptable attitude to corruption offenses. In particular, in this aspect, it is necessary to note the positive experience of the International Criminal Police Organization (Interpol), which developed the program «Fair Sports». The essence of this program is to educate and train key people in sports, how to recognize, resist and report on attempts to bribe or falsify the results of matches; improve the training of law enforcement agencies to investigate corruption offenses or match-fixing. The program includes tools to protect sports from corruption, including national and regional seminars and e-learning modules (Trubitsyna, 2016).

Also, according to foreign experience, the attention of the public and the media to the problem of sports corruption is essential. Corruption can go unnoticed due to the «blindness» of sports journalists, who may be either naively fascinated by the beauty of sports, immersed in daily journalistic routine, or maintain neutrality through symbolic and material gifts from athletes, sports clubs, and organizations. However, for the most part, sports journalism involves efforts to obtain complete information and technically perfectly reproduce modern sports (Numerato, 2012).

An example of a successful journalistic investigation that uncovered corruption abuses is that in 2012 the American L. Armstrong was disqualified for doping and annulled all his results since his return to cycling in 1998. In January 2013, the athlete publicly acknowledged the use of illicit drugs and multiple blood transfusions (The Outstanding Racer Turned Out to Be a Deceiver, 2021).

Journalists of the program «STOP Corruption» revealed the corruption schemes of the President of the Football Federation of Ukraine, A. Pavelko. Every year, the Union of European Sports Organizations allocates 6 million euros to Ukraine within the framework of the Hat-Trick social program for the construction of football fields with artificial turf. These funds are enough to build 300 venues across Ukraine every year, but the Football Federation has decided to dispose of European millions differently.

In particular, the president of the Football Federation of Ukraine, A. Pavelko, decided to build a plant to produce artificial turf for football fields instead of building playgrounds. In 2016, the federation established a limited liability company, «FFU-Production,» and spent 8 million euros on a social program to construct this plant. As a result, domestic coverage turned out to be more expensive than foreign counterparts (Journalists uncovered FFU President Andrei Pavelko's corruption schemes, 2019). According to the Swiss journalist, the president of the Ukrainian Football Association was confident of his inviolability.

However, something went wrong, and he was forced to sign a secret agreement, pay a fine, and even resign from the Disciplinary Committee of the International Football Association, of which he was a member (European journalists have revealed the contents of Palvelki's secret deal with FIFA, 2021). Thus, the role of journalists in combating sports corruption is significant.

Conclusions

Thus, the authors found that at the international level, they have developed a specialized legal framework for combating sports corruption: the International Convention against Doping in Sport, the Council of Europe Convention against Manipulation of Sports, the Council of Europe Convention on Integrated Security, Protection and services during football matches and other sporting events, etc. According to the results of the analysis of these international conventions, the approach proposed in them mainly consolidates measures to combat corruption.

Instead, in our opinion, it is more appropriate to apply measures to prevent corruption in the sports industry. The importance of implementing measures to combat sports corruption in specific areas is tackling corruption in international sports organizations and grassroots sports corruption. It is proposed to fight corruption in international sports organizations by introducing transparency mechanisms, delimitation of administrative and financial functions of international sports organizations, and developing corporate culture. Regarding the fight against grassroots corruption in the sports field, educational activities and active participation of the media in conducting anti-corruption investigations are essential for this.

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