

Match-manipulation in football - the challenges faced in Finland

Johanna Peurala

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Abstract During the last few years, an increasing number of match-manipulation cases in different sport disciplines have been detected all over the world. Also in Finland there have been, during the very recent years, cases of match-manipulation in football. Match-manipulation is not a new phenomenon in Finland; at the turn of the millennium, some clubs in Finnish pesäpallo (a special type of baseball) faced allegations of betting-related match-manipulation. As a result of these allegations, twenty persons, all of them Finnish nationals, were sentenced for fraud in 2001. As a result of these very recent cases of match-manipulation in football in Finland sentences have been imposed for bribery in business. This research analyses match-manipulation in football. It aims to provide a deep and systematic analysis of the phenomena by discussing its magnitude, link to transnational organised criminality as well as the reasons and the motivations behind the phenomenon. The research identifies different modus operandi of match-manipulation, also highlighting the points of vulnerability. The emphasis of the research is on the prevention side and the focus is on Finland. The aim is on mapping and analysing the Finnish legal responses against match-manipulation, the Finnish criminal code 19.12.1889/39 and the relevant criminal case law are in the centre of the research. A short comparative part is presented to illustrate the Nordic perspective on combating the phenomenon. A hybrid of methods is used: legal dogmatics, criminological theories and criminal policy views are combined. This research works as an opener

for further research of match-manipulation in Finland, in Scandinavia and also globally.

Keywords Match-manipulation · Match-fixing · Corruption · Bribery · Football · Finland

1 Introduction

... attempts to manipulate sports results, including in an organised manner and at the international level, constitute an important threat for the integrity of sport. (Council of Europe 2012)

Match-manipulation¹ is not a new phenomenon in sport. But during the last years, a number of match-manipulation cases have been detected all over the world. The Internet has revolutionized the sport betting markets making betting-related match-manipulation an attractive mean for criminals, such as the transnational² organised crime³ (hereafter: TOC) groups to gain money or to launder it to finance their activities. The TOC groups have recently been involved in many cases of betting-related match-manipulation

¹ In this research, the term match-manipulation is used to refer to manipulations, where bribes are paid to some person(s) to manipulate different aspects of the match. This term is regarded as a wider term than match-fixing, which refers to the fixing of the result of the match.

² Transnational crimes refers to crimes committed across different jurisdictions (Rawlinson 2009).

³ The United Nations Convention against Transnational Organized Crime, Resolution 55/25 (2000) defines OC as meaning *a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.*

J. Peurala (✉)
Helsinki University, Helsinki, Finland
e-mail: johanna.peurala@helsinki.fi

J. Peurala
Police College of Finland, Tampere, Finland

all over the world. Only a few years after the large match-manipulation scandal in Germany, the Bochum-case,⁴ Europol, in February 2013, informed that it has, with the help of national police teams from different European countries, uncovered a large criminal network involved in almost 400 cases of match-manipulation in football in Europe and in 300 matches outside Europe (Europol 2013). Nineteen out of 27 Member States of the European Union (hereafter: EU) and four Candidate Countries have been recorded to have cases of match-manipulation (Bozkurt 2012).

Based on court data, there have not been many cases of match-manipulation in Finland. In some of these match-manipulation cases, the Finnish National Betting Operator, Veikkaus,⁵ has been deceived. However, because of the emergence of (legal and illegal) betting sites on the Internet, matches can be manipulated in Finland and bet abroad. The involvement of TOC groups in match-manipulation and their use of Internet for betting the manipulated aspects of the match are new phenomena that bring more challenges to national law enforcement authorities and legislators. And Finland is not the only country facing these new challenges.

1.1 Aim, materials and methods of the research

Although there is a great deal of academic research made on different aspects of corruption, the phenomenon of match-manipulation, which is one form of bribery, has been subject to only a few academic legal or criminological studies.⁶ The knowledge about the phenomenon is tenuous not only among law enforcement authorities but also a potential target of the bribes and the general public.

⁴ The Bochum-case involved 351 suspected persons from 25 different countries.

⁵ At the turn of the millennium, Finnish *pesäpallo* (a special type of baseball) faced allegations of betting-related match-manipulation. As a result of these allegations, twenty persons were sentenced for fraud in 2001 (Court of Appeals R 01/2825, 6 February 2003). In this case, the Finnish National Lottery, Veikkaus, was deceived. There is also another court case (CoA R08/1275) where Veikkaus has been deceived. There was no international dimension in either of the cases.

⁶ The academic literature in the field of match-manipulation is scarce. Hill discusses match-manipulation in his book: Hill (2010). See also, Hill's scientific article about the roles of internal corruptors: Hill (2009). But there are manifold reports on match-manipulation made by regional and international actors, as referred later in this study. Except for the article by Pihlajamäki (2008) *Yksityisen sektorin lahjonta*. 4 DL, the research concerning bribery in Finland has mainly concentrated on the public sector. Two studies concerning the match-fixing in *pesäpallo* in Finland have been made, and these are both theses: Matikainen (2006); and Sarvikivi (2006) *Vedonlyönnin rikosoikeudellisen vastuun ongelmakohdat urheiluedonlyönnissä*. Turku, Turun Yliopisto. In Finland, there have been no academic texts written on match-manipulation in football except the very recent thesis by Jouko Ikonen (2013) *1x2 - varma voitto - jalkapallo-ottelun manipulointi*. Turku, Turun yliopisto.

Research on the subject is needed. For example, no Scandinavian academic literature on match-manipulation in football has come to the knowledge of the author.

This research aims to provide a deep and systematic analysis of the phenomena of match-manipulation in football. The magnitude of match-manipulation, its link to TOC as well as the reasons and the motivations behind this manipulation are discussed. The research identifies different modus operandis of match-manipulation. After this general view of the phenomenon, concentration is paid on mapping and analysing the Finnish legal responses against match-manipulation, emphasising the Finnish criminal code (19.12.1889/39; hereafter CC) and the relevant criminal case law.⁷ The prevention side of the match-manipulation is emphasised. The actions and actors to prevent match-manipulation are discussed both in Finland but also at regional and international level. The research highlights points of vulnerability of Finnish football to match-manipulation. In addition, it is asked what has been done in Finland to tackle this phenomenon and whether there is seen room for improvement.⁸

The concentration of the research is on the match-manipulation in football affecting the run of the match or on its outcome. The emphasis is put on the visible criminality and mainly on the bribery side in the match-manipulation phenomenon. The non-competition corruption, as Maenning (2005) calls it, i.e. corruption related to the decisions by sporting bodies and sports officials regarding the host venues for competitions, allocation of broadcasting rights, nomination for positions or commissioning construction works for sporting venues, is not discussed. Also the trafficking of young players is excluded from the research. The information is presented as it is on the 20th of September 2013.

This piece of research uses a hybrid of methods: it combines legal dogmatics, criminological theories and criminal policy views. A legal dogmatic method⁹ is employed to analyse, to interpret and to systematise the statutory offences of bribery in business. The analysis is carried out on two levels: (1) the offences of bribery in business related to match-manipulation are analysed as normative offences, as defined in the Finnish CC and (2) as decisions of the Finnish courts.¹⁰ These two aspects

⁷ The translations of Finnish legislation and case law used in this research are unofficial translations.

⁸ This type of research is called *de lege ferenda* research.

⁹ Legal dogmatics is the interpretation and systemisation of legal rules and weighing and balancing legal principles and other legal standards. For more about the legal dogmatics, see Hirvonen (2012) and Siltala (2002).

¹⁰ The structure of Finnish judiciary in criminal law matters: The District Court is the lowest court; the Court of Appeals is the appellate court; and the High Court is the highest court in Finland. Appeal to the High Court is restricted by a leave to appeal system.

constantly influence each other.¹¹ Some criminological explanations, the routine activity theory and the strain theory are presented to understand the motivations of the criminals, like the TOC groups, involved in match-manipulation. Previously criminological theories have not been employed to analyse the motivations behind match-manipulation. Criminal policy views are brought when analysing effectiveness current laws on match-manipulation and the penalties given. The approach of this research is interdisciplinary and thus challenges the conventional normative approach within criminal law science.

The empirical part of the study consists of the criminal court cases on match-manipulation in the twenty-first century in Finland. The space does not allow for a full comparative analysis, but a short comparative part is presented to illustrate the Nordic perspective on combating match-manipulation: the new Swedish legislation on bribery as well as the Norwegian Action Plan Against Match-Fixing are discussed in Chapter 7.

2 Corruption and sports

... the nature of sport itself, based on fair-play and equal competition, requires that unethical practices and behaviors in sport be forcefully and effectively countered (Council of Europe 2012).

Sport is vulnerable to corruption because, especially in professional sport, it involves large amounts of money (Bures 2008). The sums spent on sports betting are of growing interest to TOC groups. (Brasseur 2012) Match-manipulation is one form of corruption. Bozkurt (2012) sees match-manipulation as very interesting for TOC groups because of its relatively high revenues and short sentences. Football is an ideal context for corruption because of the economic interests, the arbitrariness of decision-making by referees and the natural variation of human performance on the playing field (Della Porta and Vannucci 2012). Corruption can be found in different areas of sport. It can emerge as match-manipulation, misuse of inside information or corrupted elections in sporting bodies, and so on. (Bures 2008) Match-manipulation is found to also happen in other sports than football; cricket, horse-racing and tennis are usually seen as being vulnerable to manipulation.¹²

Match-manipulation can have devastating effects on the sport, not only eroding the certain uncertainty associated with the sport. But once the public and the spectators have the widespread perception that a certain sport, sporting

event, or club is corrupt, they will abandon it,¹³ and the sponsors and the TV-broadcasters will follow (Hill 2010). Match-manipulation may erode confidence of the public if they perceive that manipulated sports results give benefits mainly to the individuals behind this manipulation (Council of Europe 2012). Thus, deterring match-manipulation is necessary to protect the integrity of sport, to maintain a trustworthy gaming industry and to combat against TOC (Norwegian Action Plan against Match-Fixing 2012).

The bribery is mainly hidden criminality (Huisman and Walle 2010). Thus, the match-manipulation is also to a great extent hidden criminality and the recorded cases of match-manipulation may not tell the whole truth of its scale either globally or in Finland. Maenning (2008) emphasises that, globally speaking, the known cases of match-manipulation represent only *the tip of the iceberg*. One reason for this can be that sporting organisations may not want to bring these cases to light, because they fear it being financially detrimental to the clubs because they worry that sponsors may abandon the discipline (Hill 2008).

Although the Study on match-fixing in Sport (KEA European Affairs 2012) found that match-manipulation is criminalised in all Member States of the EU, the criminalisation of the different forms of actions relating to match-manipulation varies greatly from one country to another. The countries where bribery has been identified as the main offence in on-going investigations or in judicial proceedings on match-manipulation are Belgium, the Czech Republic, Finland and France (Kalb 2011). In Finland, non-betting-related match-manipulation offences are prosecuted as bribery in business (Chapter 30, section 1–4, of the Finnish CC). If Veikkaus is deceived, the provision of fraud (Chapter 36, section 1 or 2, of the Finnish CC) is applied.

3 Match-manipulation

Match-manipulation means removing the unpredictability associated with sports results (Kalb 2011). There is no uniform definition for match-manipulation (KEA European Affairs 2012). However, an agreed definition of match-manipulation would enhance the understanding of the problem. (Council of EU 2012) In this research the following definition is used:

Match-manipulation covers the arrangement or an alteration of the result of a match or any manipulation occurring relating to the run of the match in order to obtain any advantage, financial or non-

¹¹ The law forms a hermeneutical circle. For more, see Hirvonen (2012). For English literature on the doctrine of legal sources in Finland, see Aarnio (2012).

¹² See, for example, Smith (2012).

¹³ See, for discussion the situation in Albania, Boniface et al. (2012).

*financial, for oneself or for another, and remove all or part of the uncertainty normally associated with the match.*¹⁴

It is commonly seen as the financial advantage (either money or expensive merchandise) being the motivation of the target of the bribe to engage in match-manipulation. In addition, match-manipulation may include other advantages offered/given like sexual favours, more playing time or threats or violence may be used (Interpol 2012).

There are various types of match-manipulation. Boniface et al. (2012) have identified three different modus operandi in match-manipulation in football: (1) fraud in sport at the grassroots level; (2) institutional fraud in sport; and (3) exogenous sporting fraud, which involves criminal gangs outside the sport. In the first type of manipulation, a team's coach plays the main role in the bribery. The coach sets out to bribe the coach or a player from the opposing team. The bribery is attempted by directly contacting the coach or the players of the opposing team. In the type of modus operandi where corruption is institutionalised in the club or in the federation, a club may contact the referee of a match or a player on the opposing team or the chairman of the opposing club and try to bribe him/her. The traditional way is to buy the match, in other words, to make sure which team wins. The bribe can be made by contacting players directly or by having targeted players approached first by a sports person (current or ex-player) or agent, someone the players know, and then by a club manager or chairman who will suggest the deal. The chairman or the players can themselves place bets or sell inside information to OC groups (Boniface et al. 2012). The third type of modus operandi is discussed later in more detail in Chapter 4.

Match-manipulation can occur both at the professional and the amateur level. The classic example is to fix the result of the match, to buy a match, i.e. decide who will lose or win, while the parties involved in this fixing bet on the result of the match. But match-manipulation is more than mere cheating to lose or a decision who will win. Other means of match-manipulation include: the team lineup may not be the best possible¹⁵; match-manipulation may involve limiting the number of goals, and this certain goal difference is bet on; and spot-fixing. Spot-fixing refers to an illegal agreement on a specific action during a

competition (Brasseur 2012). Some sports-betting operators accept bets on the number of yellow/red cards, the first or last player to receive these cards, the number of minutes of additional time, the name of the first substitute to come onto the pitch, and so on. Because such happenings do not affect the final score, the players may agree more readily to this type of manipulation. Furthermore, the performance of the players may be affected, e.g. a team doctor can be bribed to dose the player(s), or the stadium technicians can be bribed to turn the electricity off to freeze the result. In addition, one way is that the chairman or the players sell the inside information they have to outsiders, e.g. to the OC groups (Boniface et al. 2012).

Cases of match-manipulation may involve the bribery of referees, players, team managers, agents, ex-players, club executives, physiotherapists or doctors.¹⁶ Van Megen (2012) concludes that on several occasions ex-players have been involved in match-manipulation. These ex-players may be in financial difficulties after ending their careers, and they may have a lot of respect among young players whose trust they can abuse. Furthermore, it is possible that the bribes are paid systematically and regularly (like the second salary) to the players of a certain club, thus systematically manipulating the matches of the club and placing bets on those matches. When this happens, the corruption can be seen to have institutionalised in the club or in the federation (Boniface et al. 2012).

Greed and fear are motivation factors behind accepting the bribes (Smith 2012). TOC groups can use threats against their potential targets to make them accept bribes. The players or other members of the club may be extorted. The clubs and players in difficult economic straits are potential targets for match-manipulation (FiFPro 2012). Many players lack financial security because their contracts are fixed term (usually only for one season or even less). The FiFPro (2012) study demonstrates a clear link between non-payment of players' salaries and match-manipulation. According to this, the longer a salary is in arrears, the greater is the risk for the player to participate in match-manipulation.¹⁷ In the District Court (R11/900) case, the defendants said that the temptation to accept the bribes offered was great because they considered their salaries low. In 2011, in Finland, the average salary for a player in

¹⁴ This definition is based on the definition of *manipulation of sports results* established in 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 (adopted by the Committee of Ministers on 28 September 2011 at the 1,122nd meeting of the Ministers' Deputies).

¹⁵ In this type of bribery, there is a question of misuse of inside information because the bettor has inside information about the abilities of the players and the line-ups when betting (Boniface et al. 2012).

¹⁶ Van Megen (2012) argues that the football authorities tend to see only players being involved in match-manipulation.

¹⁷ According to a FiFPro (2012) study concerning Eastern-Europe, the players whose clubs pay salaries on time are less often approached by match-manipulators. The study demonstrates that 55 % of respondents whose club does not pay salaries on time have been approached to consider manipulation for the result of a match. Whereas, among the respondents who were never approached with this kind of a proposal, 39.7 % of them state their club does not pay salaries on time.

the Veikkausliiga, the top division of Finnish football, was, including fringe benefits, EUR 19.230 a year.¹⁸ Seventy-five percent of the players were playing fulltime, and 35 % of the players earned less than EUR 9.600 annually (Jal-kapallon pelaajayhdistys 2011).

Bribing a referee is less certain and usually more obvious than bribing a player. The referee is often bribed after a person fails to bribe the players (Boniface et al. 2012). Indeed, in football, one player cannot affect the result of a match as much as a referee. In match-manipulation in football, five to seven players of a certain club are normally involved in match-manipulation—at least the goalkeeper, a defender and a striker (Hill 2008). Maenning (2005) observes that based on the revealed match-manipulation cases, referees and other officials are nowadays more commonly involved in match-manipulation, whereas athletes and trainers are more seldom directly involved. He found in his study an increased amount of cases of management corruption in sport.

The majority of the betting-related match-manipulation that occurred in Europe during 2000–2010 has concerned category B sports and leagues. A reason for this can be that it is more difficult to manipulate Premiership players and officials because of the great media attention paid on these actors, as well as the security around Premiership players (Gorse and Chadwick 2011). However, in February 2013, Europol (2013) revealed that it had, with the help of the national police from various European countries, detected football matches suspected to have been manipulated. These suspected matches have been e.g. World Cup and European Championship qualification matches, two UEFA Champions League matches and various top-flight matches in different European national leagues. So, it seems that manipulation can happen at all levels of football, also at the very top.

4 Betting-related match-manipulation

Because of the hidden nature of bribery, the magnitude of match-manipulation is subject to conflicting, varying and inaccurate estimations.¹⁹ Maenning (2008) argues that there is no proof that corruption in sports has increased during the past years. He sees that the increased public awareness on the issue and the improvements in international communications technologies can explain that more

¹⁸ In Finland, the average monthly income in the private sector in 2011 was EUR 3.328. Tilastokeskus Suomen virallinen tilasto: Yksityisen sektorin kuukausipalkat 2011. ISSN = 1798-3894. <http://www.tilastokeskus.fi/til/yskp/index.html> (Accessed 22 Feb 2013).

¹⁹ Bribery benefits both parties and, thus, it is in the interests of both parties to keep it in secrecy.

and more cases are being revealed and that information on match-manipulation is more available. The criminal jurisprudence concerning the manipulation of the results of sporting events is relatively rare in the EU27 (KEA European Affairs 2012), like in Finland.

There are only few academic studies on the magnitude of match-manipulation. Gorse and Chadwick (2011) have evaluated the prevalence of corruption in international sport. Using a database of 2089 proven cases of corruption (doping crimes were seen as one form of corruption in this study) between the years 2000 and 2010, they found 57 cases of match-manipulation. Of these, 2.73 % concerned betting- and non-betting-related match-manipulation and 1.63 % misuse of inside information for betting purposes. Over half of the cases took place in Europe and one-third in Asia. Seventy percent of the cases which occurred in Europe concerned football. In the FiFPro (2012) study, 11.9 % of the Eastern-European professional football players participating in the survey ($n = 3357$) admitted that they had been approached by individual(s) who wanted them to involve in match-manipulation.

4.1 International betting

The liberalisation of betting markets, the establishment of new methods for betting, along with developments in betting technologies have created greater risks for the manipulation of sports results (Brasseur 2012).²⁰ Betting on football has grown exponentially in the last five years (Small 2012). On the Internet, based on the information from the year 2006, it is estimated that out of 14823 active gambling sites in Europe, more than 85 % are operated without a licence (Cert-Lexsi 2006). According to Hill (2008), the main problem is that the Asian-based OC groups bet on the Asian gambling market,²¹ not with the European national lotteries. McLaren (2011) sees the gambling through non-regulated bookies as the main source of the problem of betting-related match-manipulation.

As a result of fierce competition among online betting sites, complex, but attractive betting modes have been invented.²² Through the Internet, sports betting pay-out

²⁰ For more about developments in betting markets, see Forrest et al. (2008).

²¹ The runner take bets and transfer them to the regional bookmakers who manage the betting finances by placing bets with supra-regional betting houses. These physical markets have now been replaced by Internet sites (Boniface et al. 2012).

²² The most dangerous betting formulas for match-manipulation are Asian totals, i.e. will there be more or less than X goals scored during the match; and what will be the goal difference between two teams (Kalb 2011; Brasseur 2012).

rates can be more than 90 %, thus making it extremely attractive to money launderers (Kalb 2011).

Live betting represents over two-thirds of current sports betting markets. Live betting is difficult, or almost impossible, to control because of constantly changing odds. Tracking the manipulation is difficult. Furthermore, the matches may be directly influenced from the spectator stand by using different codes (Boniface et al. 2012).

For example, the regulation of licensed operators falls within the sole jurisdiction of the EU27. But the extensive availability of illegal gambling is a cross-border problem.²³ The main problem is that betting is regulated at the national level, although today the bets are placed with online betting sites all over the world. Because of the Internet, the betting markets have become more difficult to regulate. The illegal betting-site operators, as well as unregistered operators, are not subject to any surveillance (Boniface et al. 2012). They are outlawed and potentially dangerous by undermining the integrity of sports as well as the legal betting industry.

The risk of being caught for this betting-related match-manipulation is low because the money trail in betting-related match-manipulation crosses different jurisdictions (Norwegian Action Plan against Match-Fixing 2012). Thus, international police co-operation at the pre-trial investigation phase, like establishment of the inter-state Joint Investigation Teams (JITs), in uncovering match-manipulation cases is essential. Although creating more opportunities for criminals, the technology helps in detecting them; for example, monitoring systems may be used to find abnormal changings in betting patterns.

4.2 Motivations of match-manipulators

In match-manipulation, two different types of motivations by the briber(s) may be distinguished: (1) direct financial motivation, which is linked to gambling (betting-related); and (2) indirect financial motivation (non-betting-related) (Kalb 2011). In betting-motivated cases of the match-manipulation the briber(s) achieves economic gain indirectly from the sport through betting activity. A defeat can be very profitable if the team loses by a substantial margin, because bets on greatly differing scores are lucrative (Boniface et al. 2012; Bures 2008) This betting-related match-manipulation can be motivated either by

greed or by money laundering. The OC groups may launder their illegal moneys or they seek profit-making opportunities (Rawlinson 2009). Non-betting-related match-manipulation is seen as sports-motivated, because the aim of the manipulation is to achieve a direct advantage from the result, i.e. winning a match or qualifying for a higher level of a competition (Kalb 2011).

The criminological theories can explain the motivations behind the betting-related match-manipulation. The strain theory, by Robert Merton (1968), sees the criminal (illegal) behaviour to be a way to achieve the desired goals in society because achieving those goals is not possible by legitimate means for that individual. For example, betting-related match-manipulation by the TOC is one way for making good money to fuel its illegal businesses. The field of betting-related match-manipulation is, at least currently, less regulated and subject to fewer controls than, for example, the trafficking of humans, drugs or weapons.

Routine activity theory (Cohen and Felson 1979) sees that a crime occurs when three factors are present: (1) motivated offenders; (2) availability of suitable targets or victims; and (3) the absence of capable guardians. Betting-related match-manipulation can be very lucrative, the money works as motivator. By target hardening or by removing one of these three factors, the crime should be prevented. When it comes to betting-related match-manipulation, the occasions for criminals have never been greater than today. Sports betting on the Internet offers criminals various opportunities and large sums of money are involved. When matches are manipulated in different countries and betting takes place on the Internet, the risks for criminals getting caught are not great. It should be emphasised that there is a clear need for a permanent intergovernmental structure for the surveillance and monitoring of sports betting being offered on the Internet (Boniface et al. 2012).

4.3 Roles of TOC groups in match-manipulation

The betting-related match-manipulation, when involving OC groups, is at the focal point of three transnational crimes: OC, money laundering and corruption. TOC groups can pay bribes to manipulate matches, and bet on these results, aiming to launder illegally obtained money and/or to finance their activities.

Recently, Asian-based TOC groups have been involved in match-manipulation in different parts of Europe, with the aim of manipulation matches and betting on them. These TOC groups have targeted clubs, players and matches at all levels, for example, in Europe. The criminal organisations are not vertically integrated, but TOC groups work like a network (Grabosky 2009). There are,

²³ Joint open letter by the three associations EL, ECA (European Casino Association) and EPMA (European Pari Mutuel Association) to Commissioner Michel Barnier, sent on the 23rd January 2013. <http://www.european-lotteries.org/announcement/open-letter-commissioner-michel-barnier> (Accessed 19 Feb 2013).

nowadays, many complex, transnational networks to facilitate criminal activity across jurisdictions (Newburn 2007). The most important persons are the ones who occupy certain ‘nodal’ points in this network (Rawlinson 2009). According to Hill (2008), the illegal Asian gambling industry is led by an influential businessman or politician who provides protection for OC groups and bookies from the government and the police.

The literature identifies different approaches used by TOC groups in match-manipulation: (1) a direct approach, i.e. threats or offers of money in exchange for a poor performance in a match; (2) an indirect approach, like the use of intermediaries to contact the person aimed to be bribed; and (3) OC groups themselves arrange matches (e.g. friendship matches) whose only purpose is to obtain money from the betting markets. This second type of an approach is demonstrated by Hill (2008), as following: when bribing, match-manipulators often use intermediaries (usually ex-players, agents or persons otherwise known in sports circles) to approach players or the officials of the club(s). These intermediaries may select players who are in financial straits or at the end of their careers (Boniface et al. 2012). After the intermediary has met the member of the club, this corrupt club member is contacted by the bookie. The bookie tells this particular member the amount of the bribe and the match concerned, as well as the other club members who this particular member should have as accomplices. When the bribe and the outcome of the match have been agreed, the TOC group bet on the result of this match in international betting markets. (Hill 2008) This type of betting-related match-manipulation has happened in Finland.

A strong link has been detected between the football establishment and OC groups, especially in Eastern Europe and the Balkans. (Bozkurt 2012) A classic scenario of betting-related match-manipulation in Europe by Asian OC groups aiming to launder their illegal money is illustrated by Kalb (2011). He sees that an illegal organiser in Asia who is connected to OC co-operates with “A worldwide network of sports ‘friends’ managed from the Balkan Peninsula”, i.e. bribers, and they try to find a sports team in Western Europe which has financial difficulties.

5 Match-manipulation in Finland

The poor financial situation of Finnish football clubs has drawn the attention of the Finnish media several times in recent years. It is a global phenomenon that to acquire the best players the clubs are forced to offer high salaries and

sometimes spend more money than they have, thus finding themselves in financial difficulty (Boniface et al. 2012). Clubs in financial difficulty are a common target for match-manipulators. In recent years, at least one Asian OC group have been involved in match-manipulation in Finland.

The Veikkausliiga²⁴ is Finland’s premier division in football. The management of the Veikkausliiga, is delegated to an independent association, Jalkapalloliiga ry (Football League). In the twenty-first century, there have been approximately 14 teams in the Veikkausliiga (with some exceptions). In 2010, there were 80 foreign players in the Veikkausliiga, of whom 37 % were Africans and 14 % were from Eastern Europe. (Jokiranta 2012) The Veikkausliiga is played between April and the end of October, when most of the other series are on holiday. This may attract bettors from all over the world (Hill 2010).

In Finland, the referees of the football matches are paid remuneration, (possible) daily allowance and kilometre allowance by Suomen Palloliitto ry (the Finnish Football Association, hereafter: Palloliitto).²⁵ Palloliitto educates the referees. The observers of the referees (also paid by Palloliitto) are present at every match of the Veikkausliiga and League One, and some of the matches of the 2nd Division and women’s league. After each match, the observers of the referees give both oral and written feedback of the performance of the referees.

Veikkaus is the Finnish state lottery and the betting operator. According to Chapter 3, section 11, of the Lotteries Act (1047/2001), Veikkaus has a monopoly to execute betting games in Finland. It operates lotto games, pools, betting games, instant games and other draw games. Veikkaus has different betting games: pitkäveto,²⁶ voittajaveto and tulosveto. It offers betting in the Veikkausliiga, as well as

²⁴ The Veikkausliiga has issued the General terms of contracts (YSE), intended to be part of the contract signed by every player. Provision 13 of the YSE includes a ban on betting for the player (even through an agent) on matches of a player’s own club. However, in Finland there are matches, which are subject to betting, that involve the players who do not have a contract which prohibits them from placing bets on their own team.

²⁵ Palloliitto, a member of FIFA and UEFA, is a special organisation for football in Finland. It manages League One and all other leagues or competitions.

²⁶ According to the rules of pitkäveto, the betting agreement between the player and Veikkaus takes effect when the bet has been placed on the online system and thus forwarded to the data system of Veikkaus. The only criminal court cases in Finland concerning betting-related match-manipulation, in which Veikkaus was one party, involved the use of pitkäveto, a fixed-odds game. CoA (01/2828) and CoA (R 08/1275).

in lower divisions of football, even in the second division. However, betting on the lower division matches is subject to stricter regulations.²⁷

Betting operators may have their own monitoring systems to monitor trends in betting exchanges. The abnormal trend in the betting exchange may be a sign that exceptional inside information is used by bettor(s). This is not, however, unequivocal evidence of match-manipulation because dramatic changes in line-ups can affect the betting exchange. And an alert by a monitoring system does not constitute proof of match-manipulation. For example, if Veikkaus perceives some exceptional betting patterns, then it contacts Palloliitto or Jalkapalloliiga ry and searches for international information regarding the betting patterns on those particular matches. Veikkaus also constantly shares information with its international partners, such as the European Lottery Monitoring System (ELMS).²⁸ (Ilmivalta and Sundström 2012).

5.1 Cases of Match-Manipulation in Finland

The table illustrates all the court cases of match-manipulation in football in Finland until the end of year 2012. All these cases, except one, have been examined by both the District Court and the Court of Appeals (hereafter: CoA) (Table 1).

In these court cases, the targets of bribery have been both the Finnish and the foreign players. The manipulation has happened only in the men's series in the Veikkausliiga and in lower divisions. In all these cases, the bribes have

been bribes of money. In none of the cases have there been bribed or attempted to bribe a referee, although referees have also been a common target of bribery in cases abroad (like in the mentioned Bochum case). As Boniface et al. (2012) highlight, the referee has an important role relating to the run of the match, because he alone makes the decisions, since video refereeing is lacking and decisions with linesmen are not mandatory. They also emphasise that the decisions by referees are subjective; for example, sending off the player can dramatically change the course of a match. Thus, more emphasis in Finland should be given to the possibility that referees can also be the target of bribery.²⁹

Only one form of match-manipulation, of the three different *modus operandi* illustrated by Boniface et al. (2012), has not appeared in Finland based on this data. In Finland, there have been no cases in which corruption can be seen to have institutionalised in the club or federation.³⁰

In Finland there is only one court case on match-manipulation in football where Veikkaus has been deceived. This falls with the category betting-related match-manipulation at the operational level, introduced by Boniface et al. (2012). In the case, the court regarded that N, a Finnish national and one coach for football club W (a team in the second division), and L, a Finnish national, a friend of N, had deceived a representative of Veikkaus (in a retail outlet) when they played *pitkäveto* in round 23/2004. At the time of the betting, they knew that W would lose an upcoming match with Z (a football club in the second division), because W's best goalkeeper was not going to play (a decision taken by N). CoA (R08/522) argued that the probability of W to draw or to win would have been greater if the first goalkeeper would have played. The court concluded that N and L had obtained unlawful financial benefits for themselves. They played four different triples³¹ in *pitkäveto* for a total of EUR 63.000 (630 coupons) and with every coupon they bet for a loss by W. As a result of these bets, L and N won EUR 208.550 (550 coupons). The CoA (R 08/1275) found N and L guilty of aggravated fraud. N was convicted for conditional imprisonment for a year and a month for aggravated fraud and two different offences of bribery in business. L was convicted for

²⁷ A player who bets on the Veikkaus website on the Internet is subject to mandatory identification. According to Finnish law, if a bettor plays in the location of an authorised Veikkaus representative (such as in a shop, a kiosk, etc.), then the bettor has to reveal her/his identity if the bet involves over EUR 3.000. (Lotteries Act [1047/2001] and Chapter 2, section 7 of the Act on Preventing and Clearing Money Laundering and Terrorist Financing 18.7.2008/503.) For example, in Norway, the bettor is always subject to identity identification. Chapter 3, section 23 of the Act on Preventing and Clearing Money Laundering and Terrorist Financing 18.7.2008/503 also imposes obligations for gaming operators referred to in section 12(1) of the Lotteries Act (1047/2001), to report suspicious transactions. Since 2004, Veikkaus has offered live betting. However, this includes betting only on the playing aspects of a match. Live betting is subject to strict regulation; the ceiling of daily betting per player is EUR 300 (Ilmivalta and Sundström 2012). The person is subject to identification when winning EUR 1.000 or more in games of Veikkaus and if s/he is not registered by Veikkaus (2012). Veikkaus monitors the betting in all areas in which it offers betting. For example, as a means of risk management, Veikkaus does not allow betting on every match. However, betting on friendship matches is permitted. Veikkaus can close the betting on a certain match if deemed necessary, e.g. because of exceptional patterns in the betting (Ilmivalta and Sundström 2012).

²⁸ FIFA, UEFA and many national football associations use the early warning system Betradar to reveal exceptional behaviours in betting patterns.

²⁹ See, news about the suspected bribery of a referee in UEFA Europa League first qualifying round match between FC Inter Turku and Vikingur on 11 July 2013 in Finland. UEFA suspends two Armenian officials, 7 August 2013, <http://www.uefa.com/uefa/disciplinary/news/newsid=1979667.html> (Accessed 17 September 2013).

³⁰ In that case, the liability of a legal person (Chapter 9 of the Finnish CC) could be applied.

³¹ At that time, it was only possible to bet triples in *pitkäveto*, not singles.

Table 1 Court cases of match-manipulation in Finland pre-2013

Years	Court	CoA changed the District Court judgment	Crime(s)	Crim. law provisions	Penalties imposed
2009	CoA	No	Passive bribery in business	30:8	4 months conditional imprisonment
2009	CoA	No	A: 2× active bribery in business and aggravated fraud	30:7	A: 1 year and 1 month conditional imprisonment
			B: Active bribery in business and aggravated fraud	36:2 (1)	B: 1 year conditional imprisonment
2011	CoA	No	Active bribery in business	30:7	5 months conditional imprisonment
2011	District Court	No appeal	A: Passive bribery in business	30:8	A: 7 months conditional imprisonment
			B: Passive bribery in business		B: 7 months conditional imprisonment
2012	CoA	Yes, sentences of all the defendants except F were reduced	A: Passive bribery in business	30:7	A: 1 year conditional imprisonment
			B: Passive bribery in business	30:8	B: 10 months conditional imprisonment
			C: Passive bribery in business	5:3	C: 1 year conditional imprisonment
			D: Passive bribery in business	5:6	D: 8 months conditional imprisonment
			E: Passive bribery in business and abetting active bribery in business	6:5 (1)–(2)	E: 8 months conditional imprisonment
			F: 3× active bribery in business, forfeiture, border offence, obstruction of a public official	(33:1, 17:7, 16:3)	F: 2 years imprisonment

Active bribery refers to bribes that are given or offered by the person in question, whereas passive bribery refers to the person in question being the target of the bribery

aggravated fraud and bribery in business for a conditional sentence of a year.

Nowadays, a match played in Finland can be subject to betting around the world. As an example: In 2006, M, a Russian national, was the goalkeeper for the football team X, which belongs to the first division of football in Finland. M took EUR 1.500 in cash from an unknown person. In return, M assisted his team into losing its match with Q. The bets placed on this match in the English betting exchange were considerable: 97.65 % of the bets laid were for a Q victory and the betting exchange was over EUR 300.000, which was many times larger than the normal exchange in such matches. M's behaviour in the game was not considered normal by football experts. The CoA (R08/522) ruled that M had accepted a bribe for favouring or as a reward for such favouring, through his/her function or duties, the briber or another. M was convicted for acceptance of bribes for conditional imprisonment of four months. The Disciplinary committee of Palloliitto imposed a fixed-period ban of playing on M (Urheiluoikeuden yhdistys 2008).³²

³² The Disciplinary Committee of Palloliitto can impose sanctions relating to the playing aspects. This Committee can impose penalties, such as a temporary ban on playing, based on Section 2(h) of Disciplinary regulations 2013 for persons involved in match-manipulation. Disciplinary regulations 2(h) impose an obligation to report to Palloliitto or to a club if someone is approached to manipulate a match. However, no sanctions have been imposed in Finland under

Another case also illustrates this. It was suspected that H, a Hungarian national, who offered a bribe, was an intermediary whose motive was to acquire monies from international betting markets. However, in the pre-trial investigations, H's background was not scrutinised, although it was agreed that H himself did not have large sums of money. In that case, H either promised or offered S, also a Hungarian national and the goalkeeper for Z, a bribe of EUR 15.000 if S would play in a way that would negatively affect the outcome of Z's game against F. S did not accept the offer. H was sentenced for bribery in business by the CoA (R 10/72). The Disciplinary committee of Palloliitto did not handle this case.

6 Actions against match-manipulation in Finland

For cases of betting- and non-betting-related match-manipulation, provisions of the Finnish CC concerning bribery, more specifically bribery in business, and fraud, if Veikkaus is deceived, are applied. Next, the kinds of

Footnote 32 continued

this 2(h). (Personal correspondence with Petteri Lindblom, the lawyer of Palloliitto. 15 February 2013). In Finland, the court cannot impose a ban of playing. But, for example, in Spain, the punishment includes six months to four years imprisonment, disqualification from one to six years and a fine of up to three times the gains obtained by the illicit activity (KEA European Affairs, 2012, p. 49–50).

problems that may arise when applying the essential elements of bribery in business to the cases of match-manipulation are illustrated. But, first, the actions and actors to counter match-manipulation in Finland are discussed.

6.1 Actions and actors to counter match-manipulation in Finland

Although, in Finland, a systematic match-manipulation prevention programme (partners to it are Veikkaus, Veikkausliiga and Palloliitto) has been in use since 2007,³³ match-manipulation is not mentioned in the current government platform, in any national anti-crime strategy or in any action plan. This shows that placing the problem of match-manipulation on the political agenda has not been a priority in Finland, although there would be a need for it.

Finland does neither have specific laws regarding match-manipulation nor any special anti-corruption organ. However, establishing a special independent organ to combat corruption in sports in Finland could be one option to deter and to detect match-manipulation. This organ could handle ethical questions, raise awareness about the issue, organise training to deal with different aspects of corruption in sports, give advice about corruption-related questions in sports, and provide a hotline for corruption issues,³⁴ as well as to conduct surveys and research the issue. Veikkaus could also inform this organ whenever irregular behaviour in betting patterns is observed. On the other hand, if the anti-corruption agency were established in Finland, the prevention of match-manipulation would fall under its competence.

6.2 Criminalisations - Bribery in business

The High Court of Finland has not given any decision in the cases on match-manipulation, thus, High Court precedents are lacking. The Finnish CC sections on bribery in business date back to the beginning of the 1990s, and the travaux préparatoires are silent on the application of the sections to the match-manipulation cases.³⁵ Although the new sections concerning the aggravated forms of bribery in business were added in 2011 (Law 637/2011), the match-manipulation issue was ignored.

The application of the bribery sections to match-manipulation cases has, to this day, meant that lower court

judges have had to interpret the wording and the meaning of the sections of bribery in business within the limit imposed by the legality principle. Next, the wording of the sections and their interpretation in courts are illustrated.

An active form of bribery in business is criminalised in Chapter 30, section 7, of the Finnish CC:

A person who promises, offers or gives an unlawful benefit (bribe) to (1) a person in the service of a businessman, (2) a member of the administrative board or board of directors, the managing director, auditor or receiver of a corporation or of a foundation engaged in business, or (3) a person carrying out a duty on behalf of a business, intended for the recipient or another, in order to have the bribed person, in his/her function or duties, favour the briber or another person, or to reward the bribed person for such favouring, shall be sentenced for bribery in business to a fine or to imprisonment for at most two years.

On the 1st of October 2011, sub-section (4) criminalising the bribery of foreign arbitrators was added to Chapter 30, section 7, along with a new provision in Chapter 30, section 7a, concerning the aggravated form of bribery in business. The maximum penalty for this aggravated form of offence is four years imprisonment; the minimum is four months. As aggravating factors³⁶ are seen if:

(1) the gift or benefit is intended to make the person act in service contrary to his or her duties in a manner which would result in a considerable benefit to the briber or to another person or in a considerable loss or detriment to another person, or (2) the gift or benefit is of significant value and (3) if bribery in business is aggravated also when assessed as a whole.

The mere offer of a bribe materialises the essential elements of bribery in business. As an example: N, one coach for W, a football club, offered the coach of football club G around EUR 17.000 if G would lose the match. The coach of G did not accept the bribe. N also offered a goalkeeper of football club C EUR 3.000 if they would lose the match against B. The goalkeeper of C did not accept the

³³ The program details are not public.

³⁴ In Finland, there is very recently established a warning system to combat match-manipulation. For more, see: FIFPro News. FIFPro and Finnish players union test match-fixing app. 16 July 2013. http://www.fifpro.org/news/news_details/2310 (Accessed 17 September 2013)

³⁵ The bribery in business was criminalised in 1991 (Law 769/1990).

³⁶ As to compare: in Bulgaria, concerning aggravated forms of bribery, as aggravating circumstances are seen, for example, when offences are committed relating to a participant in a sports competition who is under 18 years of age; to or by a person who is a member of a managing or controlling body of a sports organisation, or involving a referee, delegate or another person undertaking their official duties or functions. Also, the fixing of results by persons under the instruction of OC group(s) is a criminal offence. Penalties with a maximum of 10 years imprisonment are imposed if the acts involve betting on the progress or on the outcome of a sports competition (KEA European Affairs 2012).

bribe. Meanwhile, L, a friend of N, offered a considerable sum of money (the amount unknown) to the goalkeeper of football club V if the team would lose two matches. This bribe was not accepted either. Regarding these offences, the CoA (R 08/1275) found N and L guilty of bribery in business.

The passive form of bribery in business is criminalised in Chapter 30, section 8, of the Finnish CC:

A person who (1) in the service of a business, (2) as a member of the administrative board or board of directors, the managing director, auditor or receiver of a corporation or of a foundation engaged in business, (3) in carrying out a duty on behalf of a business, or (4) as an arbitrator resolving a dispute between corporations, other parties or a corporation and the other party³⁷ demands, accepts or receives a bribe for himself/herself or another or otherwise takes an initiative towards receiving such a bribe, for favouring or as a reward for such favouring, in his/her function or duties, the briber or another, shall be sentenced for acceptance of a bribe in business to a fine or to imprisonment for at most two years.

The maximum penalty for the aggravated bribery in business (Chapter 30, section 8, of the Finnish CC)³⁸ is four years imprisonment; the minimum is four months. Aggravating factors are similar to those in Chapter 30, section 7, of the Finnish CC.

6.2.1 Are Finnish football clubs carrying on business?

In Finland, the football clubs can be either limited companies or registered associations. Thus, when they are registered associations, there are conflicting arguments as to whether the football clubs can be regarded as *carrying on business* as referred to in Chapter 30, sections 7 and 8, of the Finnish CC. Neither Chapter 30, section 7–8, of the Finnish CC nor Government Bill 66/1988 defines for the term *carrying on business*.³⁹ In examining the issue, the District Court (R07/7286) referred to the preamble of the Unfair competition offence (Chapter 30, section 2, of the Finnish CC), which states that *carrying on business* refers to professional activity for the purpose of financial

gain. The Court considered the income of football club X, a registered association, as consisting of sponsor contracts, tickets, the selling of refreshments and income from selling the players. Expenses were the remuneration given to players, coaches and supporters, as well as insurance fees, the series fees, licenses and travelling expenses. The Court thus regarded football club X as carrying on business aiming at success in sports and financial gain, as referred to in Chapter 30, section 8, of the Finnish CC. It saw the actual activity of the football club as crucial, regardless of the financial gain. The same outcome was in judgment by District Court (R 07/1666).

6.2.2 Are referees and the players of Finnish football clubs in service of a business?

The crucial question is whether the players of football clubs are *in service of a business*, in particular, when they play as non-professionals. In Finland, the essential elements of the offence of bribery in business require the bribed person to hold the status of manager or employee. Participants in competitions are sometimes employees of football clubs, but sometimes there is no employment or any other actual contractual relationship, and thus essential elements of the provisions of bribery are cannot be materialised. There is no court decisions whether self-employed persons with independent contracts are included among those who can be charged with bribery in business in Finland.

The defendant in the CoA (R 08/1275) argued that because of the principle of legality, *in service of a business* (Chapter 30, sections 7 and 8, of the Finnish CC) should not be interpreted as covering registered associations and the matches they organise. However, in the case, the CoA regarded the players as being *in the service of a business*. In the District Court (R07/7286), the defendant (M) argued that football club X was not carrying on a business, but was a non-profit association and thus he was not in the service of the club. However, the Court regarded M as a professional player who had been under the control of the club and not able to play in any other club during that time. For tax reasons, M was paid a subsistence allowance, not a salary, of EUR 600 per month. The Court regarded M as being in service of a business in the meaning of Chapter 30, section 8, of the Finnish CC.

Although CoAs have seen the football clubs in the Veikkausliiga and in the First Division as carrying on business, problems may arise when the actions of persons engaged in bribery in sports, e.g. referees, athletes, organisers, marketing people, do not correspond exactly to the definition of bribery in the business provisions of the Finnish CC. There may be situations in which a player or a

³⁷ In 1 October 2011, to this Chapter 30, section 8 was added a subsection (4).

³⁸ The section was added on the 1st of October 2011.

³⁹ In law amendments (Government Bill 77/2001) and (Government Bill 8/2005) by which Council of Europe Criminal Law Convention on Corruption 1999 and EU Council Framework Decision 2003/568/JHA on combating corruption in the private sector were implemented in Finnish CC, it was concluded that in the Finnish CC the term *carrying in business* (elinkeinoitoiminta) is wider than the concept (liiketoiminta) used in these two instruments.

referee has no employment or any actual contractual relationship with a club or any other organisation, and thus the act cannot be punishable as bribery in business under the Finnish CC. For example, regarding referees, in the Finnish court praxis, there are no examples of the application of the CC sections of bribery when the referee is bribed. The crucial question here is whether the referee can be held as being *in service of a business*.⁴⁰

Regarding match-manipulation, it has not been considered in Finnish jurisprudence whether the captain of the team should get harsher punishments for the same offence than the other players. It could be reasonable for the captain of the team if involved in match-manipulation, because of his/her position, to receive a more severe punishment. In the District Court case (R 11/900), the captain of the team received the same punishment for the same offence as the player. In that case, the court did not even examine the possibility of giving the captain a harsher punishment.

Owing to the principle of legality, clarifications of the provisions concerning the offences of bribery and fraud in the context of sports would be welcomed to the Finnish CC, as Sarvikivi suggested already in 2006 (then regarding the pesäpallo-case). Not only concerning Finland, but generally speaking, Kalb (2011) sees that a special offence targeted at betting-related match-manipulation could address the uncertainties posed by existing legislation and facilitate and encourage the prosecution of such offences.

6.2.3 What can constitute favouring the giver of the bribe?

The aim of the provisions of bribery in business is to protect the relationship of loyalty between employers and employees. This loyalty should not be violated. The bribery is commonly considered, above all, an offence against the employer of the bribed. CoA (R 11/734) argues that in cases of match-manipulation, harm is done to the clubs, i.e. the match-manipulation is conducive to cause losing points for the clubs. Also, damages to the reputation of the clubs may come into question as harm. Reputation is an important asset of the clubs. But if the corruption is institutionalised in the club, the manipulation cannot then be an offence against the club and thus the employer. But in this kind of a situation match-manipulation could be seen as an offence against the *integrity of sport*. The integrity of sport

could be regarded as legal good to be protected in the tackle against match-manipulation.

In the essential elements of acceptance of bribes in business, it is not required any actual damage to occur (CoA [R 11/900]). CoA (R 11/734) emphasises that the materialisation of the essential elements of bribery in business does not specify that there be conflicting interests between the briber and the club of the bribed. This means that if a briber wants bribed players to score as many goals as possible, the club usually has the same interest.

The intentional weakening or limitation of players' performances materialises the essential elements of bribery in business. Thus, throwing, drawing or limiting the number of goals or allowing the opposing club to score a goal materialises the essential elements of bribery in business (CoA [R 11/734]). However, it is difficult to obtain evidence that players or referees did not play/officiate as well as they normally do. This is illustrated by the decision of the District Court (R 11/900): Two Zambian players for the football club D were convicted for accepting bribes in business by the District Court (R 11/900) in 2011. Both players admitted that they had a conversation in a hotel room with two unknown persons before the Veikkausliiga match Y-D. These persons wanted these two players to secure that D would lose the match. However, the players, according their own words, disagreed. But they agreed when these two unknown men promised to pay the players EUR 50.000 if one of them gets red card and one penalty kick in the match. One of the players got a yellow card in the match and D lost the match by 5-0. The players were paid EUR 50.000 after the match. The District Court concluded that these two players did not play as well as they normally play. It recognised these players as being involved in many of the critical mistakes made by the team D, although it admitted that it is very difficult to conclude what behaviour in football is intentional or not. These players were sentenced for bribery in business for conditional imprisonment of seven months. The Disciplinary committee of Palloliitto imposed a two-year fixed-period ban of playing on both players (Yle Urheilu 2011). Football club D dissolved their contracts.

6.2.4 Roles and the liabilities of intermediaries

As illustrated above, TOC groups, can use intermediaries into persuade persons to agree in match-manipulation. The Finnish CC provisions regarding bribery or fraud do not explicitly criminalise the use of intermediaries. However, even without any express reference, bribery through an intermediary can be seen to be covered by CC provisions regarding instigation and abetting (Chapter 5, sections 5 and 6, of the Finnish CC), although there are no High Court

⁴⁰ The High Court (1987:4) has given a civil law ruling concerning the contractual relationship between a sport association and a referee (the case concerned accident indemnity). The court regarded that the referee did not have employment based on a contract with the Suomen Pesäpalloliitto (Finnish Baseball Association) although the Suomen Pesäpalloliitto paid remuneration to the referee and also paid the tax withheld in advance. See, also Tjurin (2001).

precedents on the matter. However, explicit criminalisation of the use of intermediaries in either provisions concerning bribery or in the general part of the Finnish CC would be welcomed.

6.2.5 Participation in the activity of an OC group by the briber

The only case where a person participating in the activity of an OC group has been convicted for match-manipulation in Finland is the case concerning football club Q: Mr W, a Singaporean businessman, who had been convicted for match-manipulation,⁴¹ was sentenced by the CoA (R 11/734) to two years in prison for bribery in business. Also, five players were sentenced from eight to 12 months conditional imprisonment. Mr W bribed football players, the majority of whom were Zambians, and manipulated several football matches by football club Q. The players were either bribed to insure that football club Q would lose the match or to assure a certain outcome, such as more than three goals. The bribes were paid either beforehand or afterwards. If the result was not satisfactory for Mr W, but the bribes had already been paid, then the players had to pay back the bribes. The amount of the bribes varied, from EUR 1.000 (to be shared among the players) to thousands of euros per player (totalling around EUR 20.000–40.000 per player).⁴² This case did not include betting by match-manipulators with Veikkaus. The Disciplinary committee of Palloliitto imposed a two-year fixed-period ban of playing on the players (a temporary playing ban had been

imposed, but after the court decision, it was decided that the ban would be for a total of two years). This ban is based on the Disciplinary regulations section 3.1(e) (Suomen Palloliitto 2012).

In Finnish CC regarding some specific offences, such as aggravated trafficking in human beings (Chapter 25, section 3, of Finnish CC) and aggravated customs clearance offence (Chapter 46, section 8, of the Finnish CC), the offence is aggravated if it is committed within the framework of a criminal organisation or committed as part of the activity of a criminal organisation. However, in chapters of the Finnish CC concerning the bribery offences, these are not aggravating factors. However, subject to certain conditions, Chapter 17, section 1(a), of the Finnish CC can be applied to the crimes of bribery. This section includes the criteria as to when a person can be seen as participating in the activity of a criminal organisation, for example,

when a person who by establishing or organising a criminal organisation or by recruiting or attempting to recruit persons for it; by directly or indirectly giving or collecting funds to finance the criminal activity of a criminal organisation; by managing financial affairs that are important for the criminal organisation; or by actively promoting the accomplishment of the aims of a criminal organisation in another substantial manner participates in the activities of a criminal organisation with the aim of committing offence(s) for which the maximum statutory sentence is imprisonment for at least four years and if such an offence or its punishable attempt is committed.

Minimum conviction is a fine; maximum imprisonment is, at most, two years. This section was, however, not used by the courts in the case concerning football club Q (R 11/734) because the maximum sentence for bribery in business is two years, and thus Chapter 17, section 1(a), was not applicable. However, currently, because of the provisions concerning the aggravated bribery in business impose a maximum sentence of four years, Chapter 17, section 1(a), is applicable to these offences.⁴³ This is a major improvement concerning both the general and the special deterrence on match-manipulation in Finland.

⁴¹ In a judgment (R 12/400) given by the District Court in 2012, Mr W admitted that he has been a member of a group which has been involved in illegal betting in Asia and manipulated games played in different countries. The manipulation has taken place by placing 'trusted' (i.e. bribed) players in the clubs. The bribes have been faded out using different kinds of sponsor agreements. Mr W is also involved in a case (District Court R 12/159) where persons in F (a football club which was in financial difficulties) are being prosecuted for money laundering of moneys gained from Mr W. Mr W has told that the monies he provided to football club F originate from the betting-related match-manipulation. The District Court dismissed charges, but the CoA regarded that former managing director and board chairman of F should have known that 300,000 euros the team received from a Singaporean company as part of partnership deal in 2010–2011 was obtained through crime.

⁴² This case has, to some extent, similar features with the case of Finnish football club M. In that case, a Chinese businessman Z took a possession of football club M, which was in financial difficulties in 2004. He placed two of his close henchmen, A and B, in the club as well as a number of foreign players. The club played a match against Finnish football club H in 2005 with a score of 0–8, and suspicions arose as to whether the match was rigged. As a result, the club was fined EUR 10.000 for not having played its best. Z disappeared and no charges against him were brought.

⁴³ However, in the case of football club Q (R 11/734) commission of the offence as a member of a group organised for serious offences, was held as a ground for increasing punishment for W on basis of Chapter 6, section 5(2), of the Finnish. In this case, Chapter 6, section 5(2), of the Finnish CC (the methodical nature of the criminal activity) was also used to increase punishment for W.

7 Nordic perspective: steps taken in Sweden and Norway to prevent match-manipulation

Sweden and Norway have taken steps to prevent match-manipulation. In 2012, Sweden criminalised match-manipulation by updating its CC concerning bribery offences. Whereas, Norway has not yet issued any specific criminalisations regarding match-manipulation, but it has, in 2012, issued an action plan to target match-manipulation. Next, both actions are briefly analysed, as well as the reasons behind these actions.

7.1 Sweden

The study of Brå (2007) did not report any signs of bribery in sports although it analysed 147 prosecuted corruption cases reported to Riksenheten mot korruption (Anti-Corruption Unit) in Sweden during 2003–2005. Neither Cars (2001), in his study, identifies any cases of bribery in sport in Sweden. In addition, the Swedish authorities did not provide any information of such cases to the report made by KEA European Affairs (2012).

On the 1st of July 2012, the new bribery provisions, criminalising match-manipulation, were introduced into the Swedish CC. Chapter 10, section 5a, of the Swedish CC now criminalises bribe-taking, covering also

... a participant or steward in a contest that is the subject of widely organised betting and it is the matter of a undue benefit of his or her performance or duties at the event.

Chapter 10, section 5b, of the Swedish CC criminalises bribe-giving in situations referred to in Chapter 10, section 5a. The maximum penalty for the basic form of an offence is two years imprisonment; the minimum penalty is a fine.

As aggravating factors (Chapter 10, section 5c, of the Swedish CC), both bribe-giving and bribe-taking are seen

... if the offence involved the abuse of a particularly responsible position or attack on a person holding such a position, aimed significant value or was part of a crime that was carried out systematically or in a large scale or otherwise was of a particularly dangerous nature.

The maximum penalty for aggravated forms of bribe-giving and bribe-taking is six years imprisonment; the minimum is six months.

The reasons behind the introduction of this new criminalisation relating to match-manipulation are given in Betänkande av utredningen om mutor (SOU 2010:38).

It was seen that because of the large amounts of money involved in sports and in sport betting, there is a risk that match-manipulation can become common in Sweden. Also, it was emphasised that the old bribery legislation did not cover the situation when the players do not have an employee status in the club. Furthermore, the non-criminal sanctions were not seen as adequate to tackle match-manipulation. However, e.g. the possibility of the doctors to influence the sporting events was seen as so limited that they were not covered by this new criminalisation. These new criminalisations cover the bribes given afterwards.

7.2 Norway

The match-manipulation in Norway has been a little-known phenomenon until very recently. (Norwegian Action Plan against Match-Fixing 2012) In summer 2012, Norway's football association (NFF) reported a suspected match-manipulation in its second division to the national police. It was suspected that players in a Norwegian football club have been approached by organised criminals in an attempt to manipulate the matches for betting reasons. The case is currently under police investigation (Parkkinen 2012).

Later in 2012, the Ministry of Culture of Norway published the Norwegian Action Plan Against Match-Fixing 2013–2015 (Nasjonal handlingsplan mot kampfiksing i idretten 2013–2015). The plan establishes certain areas of importance in combating match-manipulation. The objectives of the plan are: increasing the knowledge of match-manipulation to prevent, uncover and respond to match-manipulation in sports; to monitor and regulate the gaming industry; and to strengthen the laws and regulations as well as the participation in the international efforts against match-manipulation. Emphasis is put on establishing ethical guidelines, training and the educational programmes on match-manipulation. Furthermore, the importance of international co-operation and information sharing is highlighted.

8 The challenges in the prevention of match-manipulation

... the criminal underworld is now heavily engaged in ways that, if unchecked, will seriously jeopardize the future of modern sport (Howman 2011).

As Council of EU (2012) remarks, because of the transnational nature of betting-related match-manipulation, cross-border co-operation of investigative and judicial

authorities (Europol, Eurojust and Interpol)⁴⁴ as well as relevant ministries is vital. It emphasizes that it is essential to ensure the coordination between different stakeholders, like sport movement, betting operators, gambling regulators, public authorities and law enforcement authorities. Betting-related match-manipulation by TOC groups needs international and regional instruments to combat it. In this chapter, the actions taken by the international and regional actors to combat match-manipulation are discussed as well as the steps taken in Finland to tackle the problem are illustrated.

8.1 Transnational problem needs the inter-state co-operation

The main and the only truly international instrument for tackling corruption is the UN Convention against Corruption 2003 (UNCAC)⁴⁵, which requires its signatories to establish criminal and other offences to cover different acts of corruption. Although Article 21 of UNCAC concerns private sector corruption, its active and passive forms (the provision is not mandatory), it does not explicitly criminalise the match-manipulation.⁴⁶

The other important actor in the anti-corruption field has been the Council of Europe. Its Criminal Law Convention on Corruption 1999 was entered into force in 2002, aiming to coordinate the criminalisation e.g. of active and passive bribery in the private sector. However, these non-mandatory provisions do not explicitly deal with match-manipulation. Currently, the negotiations concerning an international legal instrument on match-manipulation by the Council of Europe have started. This is a natural step because the Council of Europe has, in addition to corruption, regulated many types of transnational crime, such as money laundering and OC.⁴⁷

⁴⁴ Europol and Eurojust are actively involved in match-manipulation because the cases of match-manipulation often imply OC. At the EU level in the field of sport the co-operation of law enforcement agencies has traditionally been focused on spectator violence but the match-manipulation is a new area for cross-border co-operation. European Commission (2012) Recommendation for a Council Decision Authorising the European Commission to participate, on behalf of the EU, in the negotiations for an international convention of the Council of Europe to combat the manipulation of sports results (Brussels, 13 November 2012, COM(2012) 655 final).

⁴⁵ The Convention adopted by the General Assembly by resolution 58/4 of 31 October 2003.

⁴⁶ Furthermore, UNCAC and United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25 of 15 November 2000) both include the provisions of money laundering and protection of witnesses and reporting persons, as well as establishes legal frameworks for international co-operation.

⁴⁷ The actions against TOC in match-manipulation should be seen, not only on the global level, but also at a national level, as a part of the general actions against OC (Norwegian Action Plan Against Match-Fixing 2012).

The EU lacks its own special instrument concerning manipulation of sports results. Regarding the EU, the manipulation of sports results falls under the scope of the EU Council Framework Decision 2003/568/JHA on combating corruption in the private sector. But it remains unclear as to what extent it applies to betting-motivated cases, in particular concerning non-professional sports (KEA European Affairs 2012). Also, the Member States of the EU have not implemented the Framework Decision as they should have (European Commission 2007). The study of Match-fixing in Sport 2012 by KEA European Affairs recommends that the EU should expand the scope of Framework Decision 2003/568/JHA on combating corruption in the private sector, impose surveillance obligations for betting operators and to reinforce surveillance in betting activities. The EU could also modify the Directive 2005/60 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing to cover sport betting organisations, because Article 2 of the Directive does not currently include the organisers of sport-betting activities (KEA European Affairs 2012).

However, the EU has tackled the match-manipulation in several different ways. According to the Resolution of the EU's Council Work Plan for Sport 2011–2014, to develop the integrity in sport, the focus should be put on the fight against match-manipulation. In 2011a, b, the EU Council Conclusions on combating match-fixing were adopted. The Conclusions observe that match-manipulation is one of the most significant threats to contemporary sport. It is seen to damage the image of sport by jeopardising the integrity and unpredictability of sporting competitions and, thus, contradicting the fundamental values of sport, such as integrity and fair play. The Conclusions call on the Commission, the Member States and/or other stakeholders to adopt different measures to increase awareness, e.g. the setting up of educational programmes, the promotion of information exchanges and the enhancement of international cooperation. Furthermore, in 2012, the Communication towards a comprehensive European framework for online gambling by the European Commission was issued. In 2014, the Commission will announce the adoption of a Recommendation on best practices in the prevention and combating of betting-related match-manipulation.

However, although the actions by the EU in preventing match-manipulation are essential, it is of utmost importance that any action against match-manipulation should go beyond the borders of the EU27. An international instrument with mandatory provisions covering different aspects of match-manipulation should be established. This kind of an instrument would enable the avoidance of safe havens, i.e. countries with weak regulation of match-manipulation. This kind of action would remove the national law variables, close legislative loopholes concerning the

criminalisations of match-manipulation and strengthen interstate co-operation, which is essential in preventing, detecting and investigating match-manipulation. This kind of an instrument would also include guidelines on how to facilitate international co-operation in the cross-border cases of match-manipulation.

When considering the involvement of TOC groups in match-manipulation, sport betting is a poorly monitored activity compared to other activities of TOC groups like drugs trafficking (Boniface et al. 2012). More cooperation is needed between betting operators, sport bodies and competent authorities, such as gambling regulators at the national and international levels (European Commission 2012). There is a need for a global regulatory system concerning betting-related match-manipulation. One option is to establish a new global institution to control transnational match-manipulation, like the World Anti-Doping Agency (WADA) in the field of anti-doping with national sub-agencies.

8.2 Steps to be taken in Finland

In Europe, some countries have introduced specific criminal law provisions to address certain types of match-manipulation.⁴⁸ The steps being taken in Finland to combat match-manipulation as well as what kinds of steps should be taken in near future are discussed next.

Both FIFA and UEFA regard that designating match-manipulation as a specific offence in the national CC would be helpful (KEA European Affairs 2012). Currently, the criminalisation of match-manipulation in Finland is nowhere in sight. Based on the results of this research, some changes could be made in the Finnish CC to the provisions on bribery in business: the offence of bribery in business should be considered aggravated when (1) a crime has been committed by a person acting on behalf of an OC group or (2) the offence involves management. Also, it should be taken account that referees may be potential targets of bribery, and it would be essential that they would be explicitly covered by the bribery provisions. These would be important steps because of the principle of legality.⁴⁹ It should also be taken into account that criminals may look for the weakest regulated jurisdictions or

jurisdiction with low sanctions for match-manipulation. Thus, it should be ensured that, in Finland, the sanctions for match-manipulation are effective and dissuasive to have a future general (and also special) deterrence effect. Furthermore, it should be ensured that a player, referee or an official banned in one country for match-manipulation is not able to take part in a sporting competition somewhere else (KEA European Affairs 2012).

It is essential that for investigative authorities adequate tools are provided to detect match-manipulation. For example, in Finland Chapter 5a, Section 2, of Coercive Measures Act (450/1987) does not mention the offence of bribery in business. Thus, interception of telecommunications is not possible what comes to the offence of bribery in business. The forthcoming Coercive Measures Act (in force from 1st of January 2014) does not bring any change to this problem.

It appears that persons and sports federations are afraid or reluctant to reveal their suspicions or even their knowledge about bribery because they fear that it may have a negative effect on sponsors and audiences (Brasseur 2012). In addition those involved may be reluctant to give testimony if an OC group is involved in a case. Thus, anonymous witnessing plays an important role concerning the cases of match-manipulation⁵⁰. Furthermore, it should be carefully analysed whether to introduce measures in Finland to exonerate those who inform the police about match-manipulation from criminal liability (whistleblowing rules), or whether the action of sports persons who fails to notify the appropriate persons of wrongdoing about which s/he is aware should be criminalised. In addition, because match-manipulation takes place in a multi-country-setting jurisdictional questions need to be made clearer e.g. in Finland Veikkaus is no longer the one being deceived as the bets are placed in international betting agencies on Finnish matches.

In Finland, training and awareness-raising programmes should be established for young amateur and professional athletes, referees, support staff and other relevant persons to inform them on different forms of corruption in sports and the regulations on betting. One way to influence the motivation of potential offenders is to raise their consciousness about the consequences of the act. The consciousness of the phenomenon of match-manipulation of potential victims and capable guardians should also be raised. Also, the training of young players from economically disadvantaged backgrounds and countries should especially be emphasized. (Interpol 2012) Effective

⁴⁸ These countries are: Bulgaria, Cyprus, Greece, Italy, Poland, Portugal, Spain, Russian Federation, Sweden and the United Kingdom (Chiaromonte 2012). For example, the UK Bribery Act 2010 introduces a new criminal offence of failure of a commercial organisation to prevent bribery. Thus, senior employees can be found personally liable for actions of other members of staff in their organisation if they have not taken 'adequate procedures' to prevent the bribery.

⁴⁹ For more discussion on a theory of criminalisation and legal constraints to criminal legislation in Finland, see Melander (2008).

⁵⁰ See a proposal for anonymous witnessing in Finland: Anonymymi todistaminen mahdolliseksi vakavimmissa rikoksissa. Oikeusministeriö 9 November 2012. <http://valtioneuvosto.fi/ajankohtaista/tiedotteet/tiedote/fi.jsp?toid=1928&c=0&moid=1939&oid=369109> (Accessed 18 September 2013).

education, anti-corruption units, sporting governing bodies as well as players' and officials' associations all have a key role to play in rooting out bribery in sports. It is crucial that players and also other persons involved in sports are educated about the importance of the applicable reporting⁵¹ requirements and the seriousness of the consequences that any failure to comply may cause. (Smith 2012) In addition, the clubs should not live beyond their income but to be able to pay adequate salaries on time. As Council of EU (2012) suggests, to improve the protection of the integrity in sport, the attention should be paid also to good governance principles like sound financial management, risk management and transparency. It also emphasizes that there should by national legislation be limited access to illegal gambling offers (especially in third countries) through technological means. Furthermore, it sees that Member States should consider the establishment of a national contact point which would enable meetings of relevant actors involved in combating the match-manipulation. In addition, Council of EU (2012) sees important that at the national level adequate protection of witnesses and whistle-blowers is considered.

As one important way to prevent match-manipulation, Hill (2009) stresses that it should be ensured that each position in the league is rewarded with certain monetary value. He sees this as important because if the clubs do not care whether their ranking in the league is in the middle (not facing relegation but neither at the top), the club may not care towards the end of the season whether it will lose some matches or not. This is clearly seen in the CoA case (R08/1275), where L tried to bribe the goalkeeper of the football club V. L wanted the goalkeeper to influence the match in a way that football club V would lose the match. When calling the goalkeeper, L tried to assure him that the rest of the matches in the season were meaningless, because the club could not either win the series or be relegated from the series.

To effectively tackle betting-related match-manipulation, some general actions, especially concerning the betting aspect, should be taken: Betting operators should not allow gamblers to place bets anonymously in any situation; Sports-betting operators should refrain from offering chances to place bets that are regarded as very risky, especially betting on competitions between the most vulnerable (e.g. athletes under 18, amateur competitions and, in football, lower-division professional competitions)

⁵¹ For example, Prevention and combating of corrupt activities act 2004 in South Africa has a separate criminalisation of offences in respect to corruption activities relating to sport. The act criminalises both influencing the run of the play and the outcome of a sporting event (Chapter 15(b) (i) (aa). According to Chapter 15(b) (i) (bb) of the act, there is an obligation to report to the police, to a sporting body or to a regulatory authority.

should be prohibited; And the states should work with national and international betting operators to introduce effective procedures for detecting suspicious betting (Bures 2008, p. 14; Brasseur 2012; Boniface et al. 2012; McLaren 2008).

9 Closing comments

The deregulated growth of sports betting in an environment where organised crime and corruption in general are extensive, is particularly deadly for sport (Boniface et al. 2012).

This research illustrates that match-manipulation can be both betting- and non-betting-related. In the former way of manipulation, the match is intended to result in economic gain through betting. The Internet has created a new playground for betting, and this may attract criminals into manipulating matches and betting on them. In the latter, the aim can be to qualify for a higher level of competition. Betting-related match-manipulation can be used by criminals, e.g. by TOC groups, to launder their illegally-obtained money. This means that match-manipulation can in some cases be closely connected to TOC groups and money laundering, thus, being at the focal point of three transnational crimes: corruption, OC and money laundering.

The known cases and jurisprudence of match-manipulation are extremely rare in Finland; for example, there is no High Court jurisprudence on the matter. However, this study illustrates that football in Finland is vulnerable to match-manipulation for many reasons: in Finland the football is played during the summer months, some clubs are in financial difficulty, players' salaries are low, and the playing contracts can be short and fixed-term. Also, awareness and knowledge on match-manipulation is in its infancy in Finland. For example, in Finland, there is neither any organ specialised in the prevention of match-manipulation nor any general anti-corruption organ. Indeed, in Finland, no single actor is responsible for prevention of match-manipulation. Furthermore, no national operating plan has yet been developed to prevent match-manipulation.

The Finnish CC does not explicitly criminalise match-manipulation: there are no separate provisions concerning match-manipulation, and Government Bills remain silent on the issue. The provisions on bribery in business as well as fraud are used in cases of match-manipulation. However, the investigation authorities should be given appropriate and adequate tools to detect and to investigate the match-manipulation, e.g. concerning the Coercive Measures Act (450/1987). Furthermore, in Finland, the example of the criminalisation of match-manipulation given by Sweden could be followed. In addition, target hardening,

more social control and international co-operation are needed to tackle match-manipulation. Interstate co-operation is of the utmost importance in detecting and investigating the cases.

Finland needs a stronger political will to combat match-manipulation. In Finland, it remains to be seen whether after these court cases the table is now clean or whether these cases handled by courts are only the tip of the iceberg. Football is not the only discipline vulnerable to the manipulation, and more research is needed on different aspects on match-manipulation, also concerning other sport disciplines. To deter and to detect match-manipulation the emphasis should be put on improving the monitoring of online betting, as well as on cooperation between law enforcement agencies, betting operators, players, ex-players and sports officials. These preventive actions are important because as a result of match-manipulation, sports can become unappealing, not only to spectators, but also to sponsors. This can be a road to the destruction of sports.

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