

Match-Fixing: Institutional, Normative, Legal and Preventive Framework in Austria

1. Introduction:

Criminality in competition in general, and match-fixing in particular, are threatening to infiltrate the fundamental character of sport, as well as its credibility, fairness and integrity. This negative trend represents a grave threat to sport as a whole.

Prior to 2012 the complex set of questions relating to how to deal with the controversial issues of match-fixing and betting fraud had never been tackled in a comprehensive manner in Austria. This changed substantially when the Austrian Ministry of Sport, the Austrian Football Association (AFA) and the Austrian Football League collectively founded the Association for Protecting the Integrity in Sport.

2. European institutional and normative framework:

drafted by UCSC

The Play Fair Code is also present in several areas at an international level (eg. as a member of the EU Expert Group "Match-Fixing" nominated by the Austrian Ministry of Sport, as a cooperation partner of the Erasmus+ supported EU projects "European Rookie Cup", "FixtheFixing" and "Anti Match-Fixing Top Training", as an cooperation partner of the Erasmus+ supported EU project "European Rookie Camp" and the Erasmus+ supported project of the Polish Football League "Extraklasa", which are both in the application stage at the moment. Also as an expert in the International Olympic Committee (IOC) Expert Group "Game manipulation". Furthermore the Play Fair Code was also part of the preparatory Expert Group "Match-Fixing" in the framework of the the 1st and 2nd IOC Forum for Sports Integrity (IFSI).

In addition, the Play Fair Code was awarded the European Fair Play Diploma 2014 in Riga for its efforts in the fight against "match fixing".

3. Status of Implementation of Macolin Convention on the Manipulation of Sport Competitions:

With the prospect of a national platform being established in the future in the context of Austria's signature of the EPAS convention against match-fixing on June 2, 2016, it is satisfying that some milestones have already been achieved with the Play Fair Code. Austria already has (with almost five years of experience in the subject) a functioning national platform on an informal basis (having not yet ratified the EPAS convention) within the framework of the required stakeholder approach. All important Austrian sports stakeholders are on board of the Play Fair Code. The approach to prevention is exemplary solved, an ombudsman office is established, disciplinary measures have been implemented at a large scale and there is an excellent cooperation with the colleagues of the Federal Police Authority / Ministry of Interior at the administrative level.

4. Most important match-fixing scandals in the last decade (which sport, actors involved, legal framework used):

Dominique Taboga, Sanel Kuljic and Thomas Zündel:

Criminal law aspect:

The accused individuals were five professional footballers and five other persons who had manipulated games for betting purposes from 2004 to 2013. The case eventually resulted in eight convictions and two acquittals, failed football championships and in some cases major financial problems.

Sanel Kuljic, formerly an AFA team player, was sentenced to 5 years' imprisonment without probation. Dominique Taboga, who had been involved in most of the examples of match-fixing, was given three years' in prison, with two conditional.

It was Taboga's evidence that helped uncover the case. Apart from the match-fixing, issues of blackmail, coercion, misappropriation and perjury were also involved, as the defendants attempted to compel one another to continue the fraud in part. Money was also lent to and stolen from those involved, and a number of false accusations were made. All in all, this led to six other defendants, besides Kuljic and Taboga, to receive sentences ranging between one year's imprisonment conditional and four years without probation. Some of them – like Kuljic – were arrested immediately and not given the option to serve their sentences at home while wearing an ankle bracelet.

Taboga was not affected by this, however, and is serving his time at home rather than in prison.

Thomas Zündel, a former team mate of Dominique Taboga at Austrian Football League Club SV Scholz Grödig who was also partially involved in the case, was acquitted together with another defendant and accepted the verdict.

Taboga is currently working as a department manager in a specialised paper shop in Salzburg and got divorced in 2016. Sanel Kuljic was released early in March 2017 and lives in Vienna. He intends to start working again in the near future as a building custodian in Salzburg.

Thomas Zündel successfully returned to professional football in Austria and is now playing for the club WAC in the Austrian Football League.

From a sports federation viewpoint:

Taboga was suspended from playing or playing any role related to Austrian Football for life on 19 February 2014 by Senate 1 of the Austrian Football League for the match-fixing. After the verdict was confirmed by the appeals committee in the second instance, in fact, it was extended to include a worldwide ban by FIFA. Dominique Taboga submitted a complaint to the Austrian Football League at the Regional Court of Vienna (Landesgericht Wien), claiming the intergovernmental decision was ineffective. The Regional Court of Vienna then declared the lifelong suspension as having been annulled, a verdict subsequently confirmed by the Higher Regional Court of Vienna (Oberlandesgericht Vienna) with reference to the prohibition of retrospective legislation in criminal law (the life-long suspension only applies to circumstances which arose after 1 July 2013).

In October 2016, the Higher Regional Court of Vienna (Oberlandesgericht Wien), referring to the prohibition of retrospective legislation in criminal law, confirmed the verdict of the District Court of Appeal in Vienna (Landesgericht für Zivilrechtssachen Wien), which ruled that Dominique Taboga's life sentence had been annulled.

On 12 December 2016, a new trial was held on the penal order before Senate 1 of the Austrian Football League, at which Taboga, just as at his first hearing in February 2014, did not make use of the option of a personal hearing. He received a 5-year suspended sentence for bribery, unauthorised sports betting and prohibited disclosure of information related to match-fixing. The playing ban came into force on the day of Taboga's suspension on 19 December 2013, and ends on 18 December 2018. In addition to this, Dominique Taboga will be banned for exerting any role related to Austrian football for 10 years. This ban also applies from 19 December 2013, now ending on 18 December 2023. Taboga can appeal this decision to the appeals committee of the Austrian Football League.

Sanel Kuljic was banned from playing professional football for life and suspended from performing any function in Austrian football.

Thomas Zündel was banned from playing for one year by the Austrian Football League because he had possessed information relating to the match-fixing by Taboga and Kuljic and others involved which he failed to disclose. This meant he breached AFA regulations, which state that any player and functionary of the AFA is obliged to report potential game manipulations of which they have become aware.

Mario Majstorovic:

Following a trial in Salzburg, former professional footballer Mario Majstorovic (39) and his uncle (58) were both condemned to conditional imprisonment in November 2016 for serious fraud relating to the football betting scandal surrounding the players mentioned above. The former professional football player was sentenced to nine months' imprisonment, while his relative got twelve months on probation. The verdicts in these rulings are not legally binding for the moment.

According to the accusation, the match between Red Bull Salzburg and SV Kapfenberg on 29 August 2009 was fixed. Majstorovic, who was playing for SV Kapfenberg at the time, and his uncle allegedly earned € 104.000,- as a result of the match-fixing.

The second accusation of fraud by the public prosecutor relates to the Austrian Football League game between SV Kapfenberg and FK Austria Wien on 28 October 2009. Kapfenberg surprisingly won the match 1-0, and according to prosecutor Christian Weismann, the accused deceived and financially harmed some betting providers. Joint betting would have meant they were playing with full stakes.

The 39-year-old had also met Ante Sapina in Germany previously; Sapina, known as the "godfather of betting", was condemned to five years in prison in 2014 by a court in Bochum for fixing numerous football matches.

According to Weismann, it was agreed that the match FC Red Bull Salzburg played against SV Kapfenberg was to end by a difference of at least three goals. Salzburg eventually won the game 4-0. Sapina and the two defendants are said to have participated in fixing the match on 28 October, with a total of € 100.000,- in bribes being allocated to the players involved.

Eventually, however, there was no defeat. The 39-year-old defendant, said on the first day of the trial in November 2015 that he had neither intended to harm anybody nor fixed a match. There was discussion of fixing relating to the match against Red Bull, but Kapfenberg had no chance. His uncle, denied the

allegations. According to the prosecution, the 58-year-old Croatian was accused of having passed on the bribes to his nephews and other players. Neither defender appealed. Since the prosecutor has not issued a statement, however, the judges' verdicts, are not final. Mario Majstorovic currently plays for Austrian fifth division club ASC Korneuburg.

5. Legislation:

a. Legal framework on sport corruption and match-fixing:

Criminal law:

From a criminal law perspective, match-fixing is currently dealt with as the criminal offence of fraud (§ 146 and following of the Austrian Penal Code). This was the basis for criminal convictions in the major football match-fixing scandal that occurred in Austria's first division in 2013.

Sports federational law:

Besides criminal law, there is a strong focus in Austria on the consequences of match-fixing in terms of the Austrian Football Federation's own regulations. Like in other countries, there is a specific stipulation in the association's rules requiring players, referees and officials to report suspicions of match-fixing. The report has to be filed with the competent Austrian regional football association. This obligation to report is particularly emphasised within every training session of the Play Fair Code.

Following this example the Play Fair Code together with the Austrian Ministry of Sport and the Austrian Sports Organization (BSO) has pushed the implementation of a clear and concrete sport integrity rule among the Austrian national sports federations in the past two years.

This framework consists of two types of regulations, both of which have already advanced significantly at the implementation stage: on the one hand, the general principle of integrity in sport as a written commitment to the programme of fighting match-fixing; and on the other, a range of more detailed, associated rules governing the conduct of athletes and functionaries (officials) in the field of preventing match-fixing and fraud.

Of a total of 60 professional sports associations in Austria, 43 have already integrated the general written commitments into their regulatory frameworks, while 30 of the associations are also using the more detailed rules.

The Play Fair Code provides professional sports associations with consulting and service activities within the implementation process of the disciplinary regulations.

b. Were there any modifications in the legal status of match-fixing and/or any

change in the penal code to improve the capacity to fight against match-fixing?

Criminal law:

Like in the rest of Europe, also in Austria there are ongoing discussions whether or not an introduction of a specific sports integrity and anti-match-fixing section into the existing criminal law code might facilitate the fight against match fixing. For the moment, however, it would appear that no such addition is on the legislative agenda. Also from the experience of the criminal trials in the framework of the Austrian match-fixing scandal in 2013, the existing criminal law regulation seems to be sufficient to tackle the problem.

On 9 March 2017, the German Bundestag adopted a government draft on the punishability of sports betting and game manipulation in its second and third reading. Future criminal offenses cover corruptive manipulation arrangements in sports competitions (§ 265c of the German Penal Code). The offense of manipulating professional sporting competitions (§ 265d of the German Penal Code) is provided for manipulation agreements in high-class professional competitions. In addition, the draft law for both criminal offenses include an introduction of examples for particularly serious cases. The draft legislation is also intended to provide the new criminal offenses with a special power to monitor telecommunications (phone tapping etc). In the future, those who participate in betting and game manipulation, like players, coaches, supervisors, referees will have to face up to three years of imprisonment.

Sports federational law:

As mentioned above the Play Fair Code has pressed ahead with implementing a clear and concrete framework regulating integrity in sport at Austrian professional sports associations. This framework consists of the afore mentioned two types of regulations, both of which have already advanced significantly in the implementations stage.

6. Current prevention campaigns and training sessions:

a. Who implements them?

The operating strategy of the Play Fair Code, which was laid down as soon as the organisation was founded and remains clearly defined, lies in prevention and monitoring, and has included the creation of an ombudsman facility to receive communications related to match-fixing in Austrian sport.

b. Who are the target groups?

From the very beginning the Play Fair Code applied a top-down education strategy, with professional athletes (including future professional athletes)

constituting the first target group, followed by the interface between professional, semi-professional and amateur athletes, referees and sport representatives.

Since 2012 all the players in Austria's top two professional football leagues plus the third-highest Austrian football division, the Austrian Football Association's national teams (both men, women and youth teams), players at its youth football academies and the country's top match officials in football, all the players of Austria's top ice hockey league, the under 18 and under 20 ice hockey league as well as several foreign ice hockey teams within the European Rookie Cup tournaments and various elite youth squads of the Austrian Ski Federation have been trained using a tool developed especially for the senior athletes of these three different sports, youth team players, referees and linesmen. In addition, the Play Fair Code, with its training module, is the only external UEFA expert on the subject of game manipulation and betting fraud on various elite tournaments of youth national teams in Austria. Altogether the Play Fair Code did 330 trainings lectures for 10000 people, reaching an all-time high score of 96 lectures per year in 2015.

c. What is the methodology and premises of the prevention campaigns?

Experience to date has confirmed that the one-to-one athlete education approach is a sustainable and verifiable model of raising awareness and understanding. It also provides a means to speak directly about the penalties for involvement in match-fixing, such as criminal law prosecution, consequences from the point of view of the sports federational regulations, labour law implications and, last but not least, the loss of social reputation.

7. Protected reporting system and whistle-blower protection?

a. Is there any protected reporting system implemented?

Yes, there exists an ombudsman office in Austria to whom anybody in Austrian sports can report regarding manipulating issues. Beside this the Play Fair Code serves as a center of competence in a close cooperation with law enforcement (Federal Police Authority / Ministry of Interior).

b. Which institution has implemented it and how it works?

With the idea of creating incentives for informants, the Play Fair Code, in collaboration with the Austrian Ministry of Sport, has set up an ombudsman office since 1 February 2014 as a confidential first point of contact for athletes and participants in sport in the event of issues related to match-fixing. The contact details of the attorney-at-law, who is managing the ombudsman office, has been extensively promoted in the Austrian world of sport. He can be reached 24/7 by e-mail or telephone, is available to help and offer advice free of charge when he receives information and tips about match-fixing that is either being planned or has already taken place and is there to guide the concerns. The ombudsman office is required to treat any information it receives from informants in total confidence, and it can also be contacted anonymously. Working in close collaboration and harmony with the informant/person seeking advice – and, most importantly of all, only ever with their explicit agreement – the ombudsman will then

contact the Play Fair Code, in order to find a tailored solution, together with the sports association involved.

8. Actors and Stakeholders' definitions and awareness:

The Play Fair has subsequently been joined by a series of other major sports stakeholders, including the Austrian Federal Sports Organisation (BSO), the Austrian Olympic Committee (ÖOC), the Austrian Ski Federation (ÖSV), the Bookmakers' Federation (OBMV), the Austrian Lotteries, the Austrian Ice Hockey League (Erste Bank Eishockey Liga - EBEL) the Austrian Basketball League (Admiral Basketball Bundesliga - ABL), together with a range of Austrian betting providers and the sponsors UNIQA Insurance Group AG, Raiffeisen Bank International and Coca-Cola.

Combating match-fixing demands far-reaching and ongoing efforts from sports associations, law enforcement agencies, betting operators, governmental institutions and other stakeholders, which is the main reasons for Austria's well-recognized international position in the fight against match-fixing.

- a. Quote some public statements of relevant actors and stakeholders that express awareness of the problem and/or claim for institutional and/or legal changes for improving the framework to fight against the phenomenon.

Executive Secretary EPAS Stanislas Frossard: "Play Fair Code is an original initiative to mobilize and connect stakeholders and governmental authorities in charge of sport, to prevent and fight match-fixing. It is implementing some of the provisions of the Council of Europe Convention on the Manipulation of Sports Competitions, which was signed by Austria, and especially regarding the setting up of the Austrian National Platform. Play Fair Code activities are connected with other national and international projects against the manipulation of sports competitions and its work is recognized in particular in the fields of prevention, awareness-raising, risk assessment and stakeholder co-ordination."

International Ice Hocke Federation (IHF) President Dr. René Fasel: "The European Rookie Cup with ist partner Play Fair Code is a big step forward not just in the development of Austrian hockey, but also for the advancement of European youth hockey. I welcome the landmark support that this tournament has received from the European Union. I also applaud the innovative approach that the organizers have taken to bring these countries together and integrate them into workshops to fight against the biggest threats in our sport."

European Fair Play Movement (EFPM) President Christian Hinterberger on the occasion of a key –note speech of Play Fair Code CEO Severin Moritzer while the annual general assembly 2016 in Vienna:

"This year's keynotes were among the best within the past 20 years."

9. International projects implemented in each country in the last 5 years.

„European Rookie Cup“ (ERC):

Under the leadership of the Austrian Ice Hockey League (Erste Bank Eishockey Liga - EBEL), the Play Fair Code is cooperation partner of the Erasmus+ supported EU project "European Rookie Cup" from 2015 until 2017. The key element is an international tournament series alongside an education initiative in the fields of betting and game manipulation, anti-doping and anti-racism and discrimination. The Play Fair Code, which has accompanied this project from the very beginning, raises the awareness of young players from different European countries on the subject of match fixing.

The "European Rookie Cup" is a cross-country tournament series for U16 teams. Seven nations (AUT, HUN, ITA, SLO, GER, CRO and BiH) participate in this Erasmus+ supported project. In four play-off tournaments in different countries, the four best teams enter the "final tournament" to determine the tournament win in each of the 3 years. The aim of the "European Rookie Cup" is not only to enable the youth athletes to compete on an international level, but also to offer the athletes, their coaches and the referees the opportunity to receive training and education in special integrity workshops. In these workshops the project partners NADA Austria, Play Fair Code and the Vienna Institute of Dialogue and Cooperation (Fair Play) sensitize the young athletes in the fields of doping, betting fraud & game manipulation and intolerance & discrimination.

The project will expire by the end of 2017, but a follow-up project, called the "European Rookie Camp", was already applied within the call latest Call for Proposals of the Erasmus+ initiative. The new project will once again be accompanied by the Play Fair Code, NADA Austria and Fair Play with expert roles. The decision by the EU whether or not to support the new project is due in fall 2017.

„FixtheFixing“ (FtF):

„Fix the Fixing“, an 18 month research project of six European associates led by the Aristoteles University Thessaloniki, aims to develop a user-friendly education tool for any stakeholders to increase awareness about corruption, fraud and match-fixing in different types and levels of sport. Teaching skills on resisting offers and temptations to engage in match-fixing and indicating solutions to properly report match-fixing incidents to the relevant authorities are at the intellectual center of this project.

Within the scope of the „FtF“ project the Play Fair Code with its expertise is entrusted with a survey on manipulation in sports with athletes from all kinds of sports and leagues. The results of this survey aim to develop instruments and workable tools to clamp down on manipulation in sports.

As part of this Erasmus+ project, partners also have to conduct focus groups with coaches, athletes, managers and journalists to evaluate the level of knowledge in the respective focus group.

„Anti Match-Fixing Top Training (AMMAT):

In the Erasmus+ project AMMAT, the Play Fair Code is working together with partners from Belgium, Italy, the Netherlands, Portugal, Slovenia and Spain to explore new approaches in training methodology designed to appeal to the target audience of national and international sporting associations and their decision-makers.

10. Preliminary Needs Assessment, if applicable.

For further information, please visit our website (www.playfaircode.at), especially the sections „Association → Members“, „Tasks → Ombudsman Office“, „Match-Fixing“ and „National Platform“.

Also have a look into the „Download“ section on our Website where you can find among others a statement of Dominique Taboga, the UEFA integrity video and the links to the following recommendations:

Film recommendations:

- Football worlds – The loser is the sport
- In the clutch of the gambling mafia
- Sport, mafia and corruption
- The Fix
- Supervision of the betting market
- Corruption in sport

Book recommendations:

- Benjamin Best: The mobbed-up football
- Brett Forrest: The big fix
- René Schnitzler: Gambling league
- Declan Hill: Safe victories
- Declan Hill: The Fix
- Jürgen Roth: Unfair Play Fair
- Dominique Taboga: Serious foul play

Website recommendations:

- In the sights of the betting mafia
- Together against game manipulation
- AFA Disciplinary Regulation
- Interpol
- Play the game
- UEFA Disciplinary System
- Protect & Integrity