

THE BUSINESS OF SPORTS AND CORRUPTION

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Presentation

by

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1. GENERAL CONTEXT

The last World Cup perfectly organized in Germany was a tremendous success. As the European national teams performed outstandingly, the strength of European football was more than underlined. These results are a consequence of the high level and the good performances of European clubs. It's in Europe that the standard of worldwide football is set. From an economical point of view up to 4 % of the EU's annual GDP is generated by sports and sports average annual growth rate lies by 4 % also.

The whole context has led to an expansion of TV rights, higher merchandising and sponsorship income as well as the increase of international competitions and activities. However European football like European sports in general is also facing a lot of challenging problems.

Several ECJ rulings, of which the Bosman-case is the best known, especially in the football community, have shown that it is impossible for European sports authorities to run the game without taking into account national and European legislation.

Concerning European law, we must note that the European political authorities have recognized the specificity of sports.

A European independent football review launched by the UK EU presidency has resulted in an interesting report to the EU Commission.

The European Parliament has announced to come up with a report on sport matters and also the European Commission announced the presentation of a White Paper for 2007.

2. INTRODUCTION

The European Constitution would have been the first EU Treaty with an article dedicated to sports.

So we have to accept that the Treaty will not enter into effect (at least for the next future) the political people cannot stay aside the problems linked to sports.

In contrary recent developments have shown that we need clarification concerning many sports issues.

Nobody can ignore the irreversible trend towards commercialization of sports and the fact that all these challenges occurred with the background of the EU extending to 25 Member states.

It is no secret that sports and especially football are facing tremendous challenges in this new environment.

International money laundering, corruption, traffic of young players represent a serious threat to the integrity of professional sport in Europe, in particular football. Scandals like in Italy, a referee and betting problem in Germany, the operations of the Chinese mafia in Belgium have recently occurred. Recent media reports suggest that the danger is already present and also growing in other countries.

UEFA has a responsibility to do everything possible, within its legal capacity, to keep money laundering and criminal activities out of European football.

However, the investigation and prosecution of criminal activities lie outside of UEFA's legal competence.

Therefore, it will be necessary for UEFA and its member associations to identify institutions with which they can collaborate. As these challenges are not disappearing there is a lot of concern on the side of sports authorities, national and international public authorities, but also the public in general on how these challenges could be faced.

The process of money laundering and corruption has continued to develop over the past years mainly thanks to the potentiality provided by the globalization of financial markets. According to the estimation of the International Monetary Fund (IMF), the annual volume of money laundering operations represent between 2 and 5 % of the global GDP, which is more than 500 billion euros. Consequently, the organized crime having at its disposal such a lot of money is able to infiltrate, acquire or control entire economic sectors and corrupt actors.

According to Interpol, money laundering is defined as any act or attempt act to conceal or disguise the identity of illegal obtained proceeds (arms dealing, drug trafficking, prostitution, forgery....) in order to conceal the real source of income and make believable that the means have been legally obtained.

Money laundering and corruption are intimately tied up. It is so because even if the money used for corruption is not inevitably dirty money, during the corruption process it turns into such, therefore, one time or another it becomes necessary to launder it in some kind of legal activity.

The criminals launder the money to avoid anything that national administration may perform against them and then reinvest the funds in other activities which would either be equally illicit or entirely legal. Among legal undertakings in which illegal funds are being reinvested there is the entire "world of sports" and in particular football.

The sport environment in general and especially football are in the end affected by the same drift as we could notice also in other sectors of economic activities.

The recent scandals largely commented by the media have shown the risk of using football, especially by clubs for money launder is no longer imagination but became real.

Laundering through football clubs takes place when dirty money is inserted into club's official finances or becomes secret funds.

Sponsorship or purchase of football clubs, setting up infrastructure, buying good players whose transfer price remains "secret", official and unofficial ticket sale...create such a lot of "associated" activities that it becomes easy to launder vast amount of money.

These practices may bring into disrepute football and discourage sponsors and spectators.

3.WHY ARE CRIMINALS INTERESTED IN FOOTBALL?

- ° We have to face the development of an entertainment society and the increasing profitability of the specific market of sport betting.
- ° On the other side mafias have adopted a classic entrepreneurial structure regarding their plans and strategies.
- ° There is no criminal exception for football, meaning that nowadays there is no reason why the football sector should not be affected by the criminal activities.
- ° Criminal organizations are interested in the football sector, first of all as it is beneficiary, second because football activity allows relatively easy money laundering and corruption. To fight this process it is important:

- to acknowledge the situation in theory and in practice
- In Italy for ex. Up to a few months ago the Italian authorities denied the existence of mafia and criminal organizations
- There is another phenomena which must be fought: The quasi-acceptance of organized crime and the fact that in most cases of corruption in football some of the players cooperate with their superiors, as it is rare that a player alone sells a match.

Following aspects may explain why criminal organizations are interested in football:

1. Considerable sums are involved
2. Football may be used as a means for money laundering
3. The risk is minimal for such large profits
4. The limited control (little regulation)
5. The presence of disreputable persons even within sport international institutions
6. Financial circuits are multiple and global
7. It is difficult to prove a fraudulent set-up when there are a number of mediators
8. The immaterial character of the sums involved in football (How to measure the value of a player)
9. Football is a team sport: Corruption of a single actor (president, player,...) leads to possessing control over the whole club
10. Football is linked to many channels providing opportunity for criminal activities (marketing, sponsorship...)
11. A statute of extraterritoriality is acknowledged to football (zone considered as lawless, e.g. tolerance of racism at stadiums)
12. Laundering and corruption are considered as bloodless crime; therefore they are socially more accepted
13. Football is an activity where volunteers have still difficulties to protect themselves
14. A certain sociological fragility of players (mainly due to their young age)
15. The opportunity for acquiring a “nice maecenas” status thanks to supporting a club. No matter where the money for supporters, municipality, direction of the club, federation..., comes from.

4.HOW TO PROTECT FOOTBALL FROM CRIMINAL ORGANISATIONS

It is always necessary to ask following questions regarding money and its motion:

- Where from?
- When?
- How?
- Why? Comes the money...

But the most significant matter is to know where the money comes from.

It is a must to seek for abnormalities, illogical ties and variations taking place in the circuit. For ex.: Detection of anomalies in club bookkeeping (abrupt variations, large deviations as well in team score or refereeing).

For ex.: For sport betting the quotes value of a football club should remain credible.

As criminal organizations seek for opportunities and since sport has become a global matter, just as the betting are now, this fact causes additional difficulties for monitoring the process of laundering and corruption.

How can we stop someone from buying a club?

Money laundering involves subcontracting of local delinquent groups and the support of local fraud systems.

In the future it will be a must to use software presenting tendencies. It is the analysis of anomalies that may reveal the activities performed by mafia.

°Sport federations should admit the existence of the problems, not deny them

°Research should start as soon as possible of falsehood meaning suspicious elements among outgoing funds and means used for (false invoices, false documents) as well as seeking for signs of blackmail, threats.

°It should not be thought that there are sport mafias, but simply that there are criminal organizations which invest in all economic sectors.

°Protection of both professional and amateur sport spheres. Criminal organizations don't distinguish any difference.

5. THE DOUBTFUL ORIGIN OF MONEY

Big clubs need large sums to have success, to be able to buy players. They often risk more in order to achieve their goals. They care less about the reputation of those who are ready to give them the funds. Very often (even if professional and educated managers are recruited by major clubs) some clubs are still managed by non professional employees having not the required education and easy fascinated by outside influence.

Very often there is a lack of awareness of some key players about their responsibility in the process of fighting illicit activities.

Even if the UEFA licensing system is a good way of supervising the financial part of the football business, a major risk occurs from the transnational activities.

Most of all, criminal organizations, by investing in football aim at gaining control on associated activities (real estate, betting) or at laundering dirty money, but they are not really interested in making money via clubs.

6. INTERNATIONAL INSTITUTIONS RESPOND TO CRIMINALITY

The fight against money laundering became one of the priorities of public policies about 20 years ago, when the States realized that the significant development of circuits reinvesting dirty money constitutes a real threat to social and economic framework of the world. It was soon discovered that a counter-money laundering strategy would not be successfully if limited to the system of state control.

The international community has joined forces against money laundering and corruption. Principle guidelines were adopted and the community encouraged the States to adopt their legislations defining an action both preventive and repressive.

(The European Council, the FATF, Money Val, EU Directives for trans border movement of currency if the amount exceeds 150.000.-€)

The cooperation between actors of the public and private sectors regarding the elaboration of solutions and sanctions should be conducted on a large scale.

7. WHY CRIMINAL ORGANISATIONS CONSIDER SPORT AS A GOOD MEANS OF MONEY LAUNDERING AND CORRUPTION?

- It is a market easy to penetrate
- It is easy to manipulate some markets key players

Five elements may explain why it is easy for criminal organizations to enter the economic circuit of sports:

1. The vulnerability of sport institutions. This sector is only moving from amateurism to professionalism. The management is still very often voluntary and lacks experience. Additionally the real sports business is fairly new. It really started only 20 years ago. Many people lack necessary experience and that is where the vulnerability derives from.
2. The internationalization/globalization of the business. It is the great ability of capturing audiences attention that globalizes the sector and therefore it is more difficult to control it.
3. The extraterritoriality of sport institutions. They have created their specific rules. They regulated their litigations; at least it was so up to the Bosman ruling. They determine their own laws and make that they are applied as long as they are not circumvented by national or international law. This fact causes a certain fragility of the sports business.
4. The ethical visibility of the sports business. Sport represents certain humanist values. It is said that there are no “sponsors” but “mecenases”.
5. The layering system, characteristic of the observed sport. The relations between circuits are not clear.

From these five criteria comes the easiness for criminal organizations to enter the sport business.

The abuses affect both the professional and amateur sport sector. It would be delusive to believe that only professional sports is being affected.

THE RISK is TRIPLE:

- On one side the loss of interest from the public, sponsors (public and private)
Look to Italy where the last corruption scandal had a tremendous affect on spectators going to the stadium.
- On the other side, the reassessment of the fundamental role of sport institutions.

° Finally, the voluntary aspect connected to the values spread through football risks to disappear as criminal companies will not assure them.

Sports institutions should strengthen the defense of sports values as criminal enterprises have only one objective -profits-, then, if the ethics is “flouted” or sport equilibrium unbalanced it will be “simply” collateral damage.

8. HOW TO FIGHT?

There are two possible roads to take:

- 1) The preventive one
- 2) The repressive one
- 3) The fight should be considered on the national and the international level, but also on public and private ground.
- 4) When speaking about the repressive aspect one should think like criminals think. If the risk is high, one prefers not to be involved. Therefore a criminal should be scared by the severity of the sanctions.
- 5) As for the preventive, there is a need of awareness, knowledge and position. One should stay vigilant for signs which indicate laundering and corruption.

9. NEW AND PLANED INSTRUMENTS OF THE INTERNATIONAL ORGANISATIONS

1) PROGRAMS OF THE EUROPEAN UNION

2) THE HAGUE PROGRAM: TEN PRIORITIES FOR THE NEXT FIVE YEARS

- Strengthening fundamental rights and citizenship
- Anti-terrorist measures
- Defining a balanced approach to migration
- Setting up a common asylum procedure
- Maximizing the positive impact of immigration
- Developing integrated management of the Union’s external borders
- Striking the right balance between privacy and security while sharing information
- Developing a strategic concept on tackling organized crime
- A genuine European area of justice
- Sharing responsibility and solidarity

10. RECOMMANDATIONS

- Do any of these instruments have a direct effect on sports?

Probably all of them have positive affects on the whole economical environment and society as such. Certainly also sports and particularly football are or will be influenced by each of the instruments.

As football however is a very interesting scene for many of the national and international criminals, the future will learn us whether existing measures are sufficient to keep football clean against all strong criminal nets and activities.

- Nomination of Mrs or Mr. Anti-Money laundering and Anti-Corruption

UEFA should nominate a “MRS. or MR. ANTI-MONEY LAUNDERING and ANTI-CORRUPTION” to take care and keep contact with the officials of international anti-money laundering and anti-corruption policies and regulators in order to support UEFA’s efforts to keep money laundering and corruption out of football;

- Most appropriate institutions to collaborate

The most appropriate institutions with which international football institutions must collaborate are:

- In first instance: The officers of GAFI/FATF based within OCDE
 - Secondly: The responsible persons of the Egmont Group
 - Thirdly: The leaders of the important Financial Intelligence Units
 - Fourthly: The officers of the European Commission to develop through the specificity of sports also rules protecting sports and particularly football through the extension of some directives to player agents.
 - Fifth: Organizations like Transparency International
- UEFA should also try together with the international authorities to identify the criminal organizations, the king pins as well as the command structures of these networks in order to combat them together.

- Themes to be further analyzed:

Investigation with the member associations:

UEFA should try to find out with its member associations

- Whether one or the other of UEFA’s member association experienced and detected activities of organized illegal action through money laundering during the sales of shares in a club, or during player transfers respectively other activities
- To what extent one or the other association conducted investigation into the financial aspects of organized illegal money traffic in football
- What pattern have been identified in the use of particular money transfer or payments as related to illegal activities in football
- What indicators associations have observed to money laundering associated with football

Additional criteria in the Licensing system

Such recommendations could be brought in UEFA’s licensing system by some additional financial criteria covering:

- The appeal by players, agents or all kinds of other intermediates to contracts of images handled through fiscal paradises
- Get the exact names and functions of all intermediates and agents involved
- Try that agents will be part of a future Directive of the European Union in order to give national authorities the power to make identical control than in the cases of lawyers and notaries. Implementing a kind of international clearing house system for transactions related to transfer of players
- Get complete and full openness concerning the financial flows related to the players transfers and commissions paid to agents and intermediates

- Improve the independence of clubs (Multi-ownership)
- Ensuring that national associations implement the system
- Publishing reports on compliance
- Establishing an independent body to monitor overall compliance, including more extensive spot-checking
- Establishing a European Code of Corporate Governance for clubs
- Elaborating benchmarking procedures to help establish best practice for clubs
- Introducing additional measures to achieve competitive balance in European football, including some form of salary cost control

European Diploma for players agents

Each players agent should no longer pass examination at a national association but should be trained and examined by independent people.

Besides all relevant knowledge a player agent should also be aware of anti-money laundering and anti-corruption ethics.

Establishment of an Ethic Codex

UEFA FIFA should establish an Ethic Codex concerning money laundering, corruption and other criminal activities to be signed by all the persons acting in the football world.

Trafficking of young players

Sport institutions should work in cooperation with the immigration and national labour inspection services, in particular, to examine the issuance of short-term visas and related transfer certificates to deter “trafficking” of young players.

Cooperation with police

A strong cooperation to the maximum extend possible to detect and deter criminal activities around football and in particular to prevent match-fixing, Governing statutes for clubs

The EU Commission should assist UEFA in creating coherence concerning the statutes of European clubs in order to ensure an identical level playing field (Legal personality, ownership/use of the mark of the club,...), fraud, money-laundering or any other form of corrupt or criminal activities

11. CONCLUSION

It appears that on the international (EU) and domestic legislation level, a multitude of laws and regulations have been set up to combat money laundering and corruption.

It remains however that EU Member States and third States still lack, despite their legislative efforts, a clear political will to let go off their traditional monopoly in criminal law.

Since money laundering issues still have to be criminalized within the domestic legislations, laundering offences are interpreted differently in every State.

The authorities of each State are not really willing to accept other States legislations within their own territory.

In the meantime the fight against organized criminality has not a very long tradition.

UEFA is the first private movement to take action in order to keep football clean of money laundering and corruption.

The study of money laundering through football reveals to be very complex due to the interdependence between the different actors -journalists-players-managers-club officials,

but also through the fact that it is very difficult to bring the prove of fraudulent constructions as many operations and criminal activities are realized abroad.

For example the transfer of players from one country to the other, image rights companies in tax havens escape to the national control.

Multinational cooperation between police and football authorities will be a must if the football family wants to counter criminal money laundering activities through football.

The final objective will be that the international football family gets the most appropriate solutions to fight efficiently money laundering, corruption and youth players trafficants criminals using football to fulfill their dirty activity.