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A Comparative Case Study of Match-Fixing Laws in Singapore, Australia, Germany, and Switzerland

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Abstract

Despite being ranked top three countries in the world in the Corruption Perception Index 2018, Singapore has a reputation in sports integrity for being the ‘academy of match-fixers’ in football and home to the leader of ‘the world’s most notorious match-fixing syndicate’. It is curious (and somewhat ironic) that Singapore, as one of the world’s leaders in managing public section corruption, has been home to sports corruption and match-fixing locally and internationally.

To date, Singapore has not instituted sport-specific laws on match-fixing to specifically combat match-fixing and other forms of manipulation of sports competitions in the country, and primarily relies on its criminal laws on corruption to prosecute match-fixing conduct, pursuant to the Prevention of Corruption Act (Cap 241, 1993 Rev Ed Singapore). This is in comparison to other countries which are home to match-fixing conduct, such as Australia, Germany, and Switzerland.

This article will focus on the discussion on whether it is necessary for countries, with particular focus on Singapore, to enact sport-specific laws on match-fixing in their endeavour to combat match-fixing in their country. This work will conclude that while there are benefits to enacting sport-specific match-fixing laws, there may not be a dire or urgent need for Singapore to enact sport-specific laws on match-fixing. In any event, it may be necessary for Singapore authorities and sport governing bodies to take certain concrete steps to buttress the present regulation of match-fixing and state of players’ contracts in order to mitigate the risks of such sports manipulation activities. One of these steps may include for Singapore to become a Signatory to the Council of Europe Convention on the Manipulation of Sports Competition (Macolin Convention).

Keywords: Match-fixing; corruption in sport; manipulation of competition; match manipulation; sport integrity

Introduction

Since the establishment of the Corruption Perception Index in 1995, Singapore has been ranked as one of the least-corrupt countries in the world. However (and quite ironically), since the 1990s, Singapore has also been at the forefront of major sports match-fixing scandals with the likes of Rajendran Kurusamy (Pal), Wilson Raj Perumal (Perumal), and Dan Tan Seet Eng (Dan Tan), with their arresting involvement in bribery and corruption in local, regional, and international football matches. Notorious Singaporean match-fixers, such as Pal, Perumal, and Dan Tan, are major players within a scheme of global criminal syndicates associated with gambling and match-fixing,

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and polluted the ‘well-earned anti-crime reputation’ that Singapore has cultivated.¹ It is therefore indisputable that Singapore has been an international match-fixing hub.

Match-fixing,² which is primarily the action of manipulating the outcome or contingency by a stakeholder in the match, such as athlete, umpire, coach, or manager,³ has tainted the contest legitimacy of local and regional football matches, as well as international football matches, such as the 2018 Fédération Internationale de Football Association (FIFA) World Cup qualifiers, English Premier League matches, and Union of European Football Association (UEFA) Champions League matches. As such, Singapore has also been labelled ‘the academy of match-fixers’⁴ and home to the leader of ‘the world’s most notorious match-fixing syndicate’.⁵ It is curious that match-fixing does not affect a country’s ranking and index in the Corruption Perception Index,⁶ without which, Singapore would unlikely have its high rankings all these years.

Despite the deterioration in Singapore’s reputation as ‘the academy of match-fixers’ since the 1990s, there has been little public discussions on the institution of a sport-specific criminal offence of match-fixing in Singapore. Other countries with high incidents of match-fixing activities, such as Australia, Germany, and Switzerland, have moved towards the creation of sport-specific laws on match-fixing as effective measures to deter match-fixing activities in the country. Singapore’s prosecution of match-fixing activities has been under the general auspices of corruption under the *Prevention of Corruption Act (PCA)*.⁷

This work will endeavour to kickstart discussions on whether Singapore should enact sport-specific laws on match-fixing, as a measure to combat match-fixing activities in the country, especially given the prevalence of match-fixing of local, regional, and international football matches by Singaporeans. This paper will begin by introducing the state of match-fixing in Singapore in local and regional football matches, as well as international match-fixing activities by Singaporeans. Thereafter, this article will analyse the present regulatory framework to combat match-fixing in Singapore, such as Singapore’s criminal laws on corruption, and contractual and regulatory approaches to combat match-fixing by sport governing bodies. The next part of the work will assess the feasibility of enacting sport-specific match-fixing laws in Singapore with due references and case studies of Australia, Germany, and Switzerland. It will further examine whether or not there are lacunas in Singaporean’s criminal laws on the material scope of dishonesty offences, which would oblige the Singaporean government to criminalise match-fixing and other forms of the manipulation of sports competitions explicitly. This work will proceed to highlight other means and mechanisms which can be adopted, apart from enacting sport-specific laws on match-fixing, in Singapore’s endeavour to effectively combat match-fixing in the country.

This work will conclude that while there may not be a pressing need to enact sport-specific laws to combat match-fixing activities in Singapore, concrete measures have to be taken to mitigate the risks of match-fixing in the country, as well as to rehabilitate Singapore’s reputation against match-fixing to the international community.

¹John O’Callaghan, ‘Silence on Match-Fixing Probe Puts Singapore at Risk’ (Reuters, 6 Feb 2013) <<https://www.reuters.com/article/us-soccer-matchfixing-singapore-idUSBRE9150GY20130206>> accessed 20 Sep 2021.

²For the purposes of this article, ‘match-fixing’ shall be limited to the fixing of matches, rather than spot-fixing, or any other variation of match-fixing.

³See eg, CAS 2009/A/1920, *FK Pobeda, Aleksandar Zabrcanec, Nikolce Zdravski v UEFA*, Award of 15 Apr 2010 (*FK Pobeda and ors v UEFA*); CAS 2010/A/2172, *Oleg Oriekhov v UEFA*, Award of 18 Jan 2011 (*Oleg Oriekhov v UEFA*); CAS 2014/A/3625, *Sivasspor Kulübü v UEFA*, Award of 3 Nov 2014; CAS 2016/A/4650, *Klubi Sportiv Skenderbeu v UEFA*, Award of 21 Nov 2016; CAS 2017/A/4947, *Ion Viorel v Romanian Football Federation (RFF)*, Award of 6 Oct 2017; CAS 2017/A/5173, *Joseph Odartei Lamptey v FIFA*, Award of 4 December 2017 (*Joseph Odartei Lamptey v FIFA*).

⁴Alvin Chia, ‘Football: Match-Fixing under Control, so Singapore Can Help Region, Football News & Top Stories’ (The Straits Times, 8 Nov 2016) <<https://www.straitstimes.com/sport/football/football-match-fixing-under-control-so-singapore-can-help-region>> accessed 24 Aug 2022.

⁵*ibid.*

⁶Declan Hill, ‘A Critical Mass of Corruption: Why Some Football Leagues Have More Match-Fixing than Others’ (2010) 11 *International Journal of Sports Marketing and Sponsorship* 38, 47.

⁷*Prevention of Corruption Act (Cap 241, 2020 Rev Ed Sing) (PCA)*.

The Present Regulatory Framework to Combat Match-Fixing in Singapore

At present, there are legislative and investigative measures which have been taken by the authorities in Singapore to combat match-fixing activities, under the PCA.⁸ There are also other measures which are taken by the national sports governing body, the Football Association of Singapore (FAS), at the regulatory level of the sport, as well as data monitoring activities by Singapore Pools, the local betting house.

Framework under the Prevention of Corruption Act

Singapore does not have specialised match-fixing offences but prosecutes match-fixing conduct under general dishonesty offences, primarily corruption⁹ under the PCA¹⁰ and its specialised and functionally independent investigative unit, the Corrupt Practices Investigation Bureau (CPIB).¹¹ The CPIB is empowered with authority and legitimacy to conduct investigation in both the public and private sector.

The United Nations Development Programme defines corruption as the ‘misuse of public power, office or authority for private benefit – through bribery, extortion, influence, peddling, nepotism, fraud, speed money or embezzlement’.¹² This generally-accepted definition of corruption can be read to be encompassed within the conduct of the ‘manipulation of sports competition’,¹³ such as match-fixing behaviour (e.g. the payment of players or officials in a football match to manipulate the outcome of the match). Corruption, together with other general dishonesty offences, like conspiracy, fraud, and money-laundering, have been the traditional means of prosecuting match-fixing conduct prior to the institution of specialised match-fixing offences around the world.

Under the PCA, any person who has corruptly solicited or received, promised, or offered any gratification as inducement for the doing or forbearing of any matter, can be guilty of an offence and liable to the conviction of a fine not exceeding S\$100,000.00 and face imprisonment for a term not exceeding five years.¹⁴ It is interesting to note that the PCA allows a wide prosecution of ‘any person’ (not just a Singaporean, or a person in Singapore), for corruption that occurs anywhere.¹⁵

Unlike other law enforcement agencies in Singapore, like the Singapore Police Force (SPF), investigation officers from CPIB are not seconded from SPF but are permanent civilian investigators, with the head of CPIB reporting directly to the Prime Minister of Singapore. Further, CPIB is intentionally made a separate unit from SPF under the Prime Minister’s Office in order to eradicate cumbersome administrative procedures and excessive red tape which may provide opportunities for corruption, making investigation officers functionally independent to conduct investigations into public sector corruption, if required.¹⁶

⁸ibid.

⁹ibid.

¹⁰ibid.

¹¹Corrupt Practices Investigation Bureau, ‘Home’ <<https://www.cpi.gov.sg/>> accessed 20 Sep 2021.

¹²United Nations Development Programme, ‘Fighting Corruption to Improve Governance’ (UNDP, Feb 1999).

¹³Cf. Convention on the Manipulation of Sports Competition, opened for signature 18 Sep 2014, CETS No 215 (entered into force 1 Sep 2019) (Macolin Convention) which defines ‘Manipulation of sports competition’ as ‘an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a sports competition in order to remove all or part of the unpredictable nature of the aforementioned sports competition with a view to obtaining an undue advantage for oneself or for others’.

¹⁴PCA, s 5.

¹⁵Corrupt Practices Investigation Bureau Singapore, ‘Prevention Of Corruption Act’ (Corrupt Practices Investigation Bureau) <<https://www.cpi.gov.sg/about-corruption/legislation-and-enforcement/prevention-of-corruption-act/>> accessed 23 Aug 2022.

¹⁶Muhammed Ali, ‘Eradicating Corruption: The Singapore Experience’ (Paper presented at The Seminar on International Experiences on Good Governance and Fighting Corruption, The Grand Hotel Bangkok, Thailand, 17 Feb 2000) <<https://tdri.or.th/wp-content/uploads/2013/04/ali.pdf>> accessed 1 Aug 2022.

Most local cases of match-fixing have been prosecuted under the PCA, as bribery and corruption. For example, in the 1990s, there was a huge chain of match-fixing prosecution in Singapore under offences under the PCA,¹⁷ due to Pal's evidence and testimony against FIFA-ranked referee, Thiru Rajamanickam,¹⁸ international players like mid-fielder Abbas Saad¹⁹ and Michael Vana (who jumped bail and disappeared), and other match-fixers, like Kannan s/o Kunjiraman and Ong Kheng Hock.²⁰ In 1997, Pal was personally convicted for fixing local matches played in 1996.²¹ In 2008, six players from former S-League club, Liaoning Guangyuan, were convicted for receiving bribes to intentionally lose S-League matches in 2007.²² Although the general manager of Liaoning Guangyuan evaded corruption charges in Singapore, he was eventually charged in a court in north-eastern Liaoning in 2012.²³ In 2015, Singapore courts convicted and jailed three persons, for bribing the technical director of the Timor Leste Football Association to lose a match against Malaysia at the Southeast Asian Games.²⁴

There are other criminal offences in Singapore's *Penal Code* and the *Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1999* (CDSA) which are closely associated with match-fixing events, such as criminal conspiracy²⁵ and money-laundering.²⁶ For example, Kannan s/o Kunjiraman and Ong Kheng Hock were prosecuted in 1995, not just for match-fixing offences under the PCA, but also crimes of conspiracy under the Penal Code.²⁷

While Singapore authorities have heavily prosecuted match-fixing activities under the auspices of the PCA (and under the CDSA, secondarily), there is still no clear evidence as to whether match-fixing in local and regional matches in Singapore has decreased, although most local authorities will claim that match-fixing does not exist in Singapore any longer given the reduction of prosecution of match-fixing since the 1990s. Nevertheless, the reduction in prosecution of match-fixing offences in Singapore under PCA could also be due to other reasons, such as the lack of evidence. This is evidenced in the case of Dan Tan, who has been preventively detained but not prosecuted for match-fixing in other jurisdictions, allegedly due to the lack of evidence,²⁸ which seems to be a trite problem for match-fixing around the world. The International Centre for Sports Security released a list showing more than 60 football matches played Asian Teams since 2011, which have been suspected to have been manipulated but had insufficient information for prosecution.²⁹ This included matches in the Asian Games, ASEAN Football Federation Suzuki Cup, and even 2018 FIFA World Cup qualifiers (which will be discussed in the next parts).

¹⁷PCA, s 5 et seq.

¹⁸Declan Hill, *The Fix: Soccer and Organized Crime* (McClelland & Stewart 2010).

¹⁹*Public Prosecutor v Abbas Saad* (District Arrest Case No 6962 of 1995).

²⁰*Kannan s/o Kunjiraman and another v Public Prosecutor* [1995] 3 SLR(R) 294 (henceforth '*Kannan v PP*').

²¹*Rajendran s/o Kurusamy and others v Public Prosecutor* [1998] 2 SLR(R) 814.

²²'Fixing Football from Singapore: A Timeline' (BBC News, 28 Oct 2013) <<https://www.bbc.com/news/world-asia-24489526>> accessed 24 Aug 2022.

²³'He Flees S'pore, Gets 7 Years in China Jail' (The New Paper, 16 Jun 2012) <<https://www.asiaone.com/print/News/AsiaOne%2BNews/Crime/Story/A1Story20120615-352938.html>> accessed 20 Sep 2021.

²⁴Chitra Kumar, 'Indonesian Jailed 30 Months for SEA Games Football Match-Fixing Attempt' (The Straits Times, 21 Jul 2015) <<https://www.straitstimes.com/singapore/courts-crime/indonesian-jailed-30-months-for-sea-games-football-match-fixing-attempt>> accessed 20 Sep 2021; Elena Chong, 'Ex-Football Manager Jailed for Match-Fixing' (The Straits Times, 7 Nov 2015) <<https://www.straitstimes.com/singapore/ex-football-manager-jailed-for-match-fixing>> accessed 20 Sep 2021.

²⁵Penal Code (Cap 224, 2008 Rev Ed Singapore);

²⁶Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed Singapore).

²⁷*Kannan v PP* (n 20).

²⁸See *Tan Seet Eng v Attorney-General* [2015] 2 SLR 453 (*Tan Seet Eng v AG High Court*); *Tan Seet Eng v Attorney-General and another matter* [2016] 1 SLR 0779 (*Tan Seet Eng v AG Court of Appeal*).

²⁹Zaihan Mohamed Yusof, 'Analysts: Global Match-Fixing Has Strong Asian Links' (The Straits Times, 19 Sep 2017) <<https://www.straitstimes.com/singapore/courts-crime/analysts-global-match-fixing-has-strong-asian-links>> accessed 20 Sep 2021.

In any event, it must be admitted that there was a steep drop in local opportunities and perhaps, interests, for match-fixing when Singapore withdrew from the various Malaysian leagues in 1994.³⁰ Local match-fixers, such as Perumal, turned their focus to other football leagues, including the FIFA World Cup, English Premier League, and UEFA Champions League, which were still highly viewed and betted on in Singapore. Perumal also confessed to preferring not to fix local matches, as he could be put under close supervision and purview of CPIB.³¹

It is interesting to note that in comparison to the match-fixing of local and regional football matches, there is no record of local prosecution of Singaporean match-fixers at international matches, despite having public record and publication of such actions. Massive evidence of Singapore's prolific international match-fixing surfaced when Perumal was arrested in Finland and went under the Hungarian witness protection program, resulting in the prosecution of other Singaporean match-fixers, such as Dan Tan, in Italy and Hungary, between 2011 and 2013. However, Dan Tan was only arrested in Singapore on 16 September 2013, for his alleged involvement in match-fixing activities globally, for directing, assisting, and financing the corruption and match-fixing in Egypt, South Africa, Nigeria, Turkey, Trinidad and Tobago, among others.³² Dan Tan was one of four persons issued with detention orders in Singapore for illegal football match-fixing activities,³³ which is incarceration without trial under the *Criminal Law (Temporary Provisions) Act* (CLTPA) for being associated with criminal activities, in 'the interests of public safety, peace and good order'.³⁴ While there were some issues on the validity of the grounds of detention³⁵ under the CLTPA, Dan Tan was eventually released but re-arrested in December 2015 on revised grounds of detention.

There have been numerous publications on the match-fixing works of Dan Tan, among other match-fixers, in the public space since 2010. Business partners such as Pal and Perumal have come forward to provide documentary evidence on Dan Tan's involvement in global match-fixing, yet, neither Dan Tan nor Perumal is being prosecuted by Singapore authorities. There is also no information on whether Singapore authorities are actively taking steps to negotiate with Hungary to extradite Perumal back to Singapore to 'face the music', if any.

Contractual and Regulatory Framework of Football Players in Singapore

There were also other efforts to combat match-fixing by the FAS, which is the national sport governing body (SGB) for football in Singapore. Athletes and other sportspersons (eg, coaches and referees) in the FAS are addressees of sports regulations, such as regulations governing the misconduct of match manipulation,³⁶ by their signing of membership agreements, athlete agreements, or license agreements. The acceptance of the provisions on match-fixing is made a mandatory requirement in order to be eligible to participate in certain sporting competitions by the FAS. For example, players in the Singapore Premier League (SPL) are contractually prohibited from participating in any form of sports corruption and match-fixing, pursuant to a clause in the annual standard contract for players prior the start of the season, which stipulate that players are not allowed to receive payment

³⁰Jason Dasey, 'Football: Kicking LionsXII out of Malaysian League Helps No One' (The Straits Times, 25 Nov 2015) <<https://www.straitstimes.com/sport/football/football-kicking-lionsxii-out-of-malaysian-league-helps-no-one>> accessed 20 Sep 2021.

³¹Wilson Raj Perumal, Alessandro Righi & Emanuele Piano, *Kelong Kings: Confessions of the World's Most Prolific Match-Fixer* (Invisible Dog Classics 2014).

³²*Tan Seet Eng v AG High Court* (n 28) 457.

³³Singapore Parliamentary Debates, Official Report vol 90 (21 Oct 2013).

³⁴Criminal Law (Temporary Provisions) Act (Cap 67, 2020 Rev Ed Sing), s 38.

³⁵See generally *Tan Seet Eng v AG High Court* (n 28) and *Tan Seet Eng v AG Court of Appeal* (n 28).

³⁶See eg, FIFA Disciplinary Code: 2019 Edition, art 18 <<https://digitalhub.fifa.com/m/1b1c85f7bbc8b3e6/original/i8zsik8xws0pyl8uay9i-pdf.pdf>> accessed 1 Aug 2022.

or gifts to win, lose, or draw a match, except for payment from his club.³⁷ Due to the close connection between match-fixing and sports betting, officials in all clubs involved in the SPL whose duties have bearing on the outcome of any match, such as management committee members, staff involved in the day-to-day running of the club and team affairs, are also contractually prohibited from participating in sports gambling with Singapore Pools, pursuant to official undertaking required by the respective clubs prior to the start of SPL.

Additionally, in 2013, FAS published its zero-tolerance for sports corruption and match-fixing in Singapore, which includes the permanent suspension of players or officials upon conviction by court of law.³⁸

Moreover, players and officials of SPL sign codes of conduct for them to contractually undertake for their immediate family members not to participate in any form of sports gambling. The respective code of conduct also imposes a contractual obligation for players and officials to report any form of communication on match-fixing immediately to the club. Notably, in signing the players' code of conduct, players subject themselves to random polygraph examination³⁹ directed by the FAS, which is intended to act as a deterrence measure in the players' risk of gambling and accepting bribes to fix matches.⁴⁰ The FAS also works closely with the CPIB to combat local match-fixing by players and officials, such as the CPIB providing pre-season talks to the S-League clubs.⁴¹ The FAS also issues an Anti-Corruption Advisory Notice to all clubs participating in the SPL about sports corruption and local legislation pertaining to it.

The FAS further adopts the disciplinary standards and procedure from the Disciplinary and Ethics Code of Asian Football Confederation (AFC), which includes misconduct of players and officials by partaking in sports gambling and corruption. The FAS also purports to adopt AFC Integrity Action Plan,⁴² which sets out recommended steps to alleviate risks of corruption and match-fixing in football, on prevention, awareness-raising, and detection.

However, it is interesting to note that apart from the regulatory framework imposed on players for match-fixing and sports betting conduct, there are no other public measures and safeguards taken to mitigate the risks of match-fixing by players and officials, as there are to prevent corruption in the public sector in Singapore. At the outset, it is prudent to understand that players and officials in local football are not earning enough to mitigate the risks of match-fixing. While the S-League used to offer up to five-figure salaries to its players in 1996, the average player in SPL now earns S\$3,000.00 a month,⁴³ which is quite a meagre income to live in one of the most expensive cities in the world,⁴⁴ in comparison to other players in the region like players in the Malaysia Super League who are paid a minimum of RM30,000.00 (approximately S\$9,800.00).⁴⁵ Players in the

³⁷Singapore Premier League, 'Player's Contract' (2 Jan 2019), cl 9. Templates of this contract are not publicly accessible.

³⁸FAS' Reply to Media Queries on Match-Fixing - Football Association of Singapore' (Football Association of Singapore, 20 Feb 2013) <<http://www.fas.org.sg/fas-reply-to-media-queries-on-match-fixing-2>> accessed 20 Sep 2021.

³⁹Mike Collett, 'Polygraph Test Helping Cut Corruption, Say Singapore FA' (Reuters, 10 Oct 2012) <<https://www.reuters.com/article/uk-soccer-leaders-lies/polygraph-test-helping-cut-corruption-say-singapore-fa-idUKBRE8990OW20121010>> accessed 23 Aug 2022.

⁴⁰ibid; 'Fixing Football from Singapore: A Timeline' (n 22).

⁴¹Justin Ong, 'Will Singapore Ever Be Rid of "Kelong" Scourge?' (Yahoo News, 21 Feb 2013) <<http://sg.sports.yahoo.com/blogs/fit-to-post-sports/singapore-ever-rid-kelong-scurge-032630044.html>> accessed 20 Sep 2021.

⁴²Asian Football Confederation, 'AFC Integrity Action Plan' <<https://www.fas.org.sg/wp-content/uploads/2020/07/afc-integrity-action-plan.pdf>> accessed 23 Aug 2022.

⁴³Bharati Jagdish, 'Commentary: Are Singapore's Efforts to Be a Sporting Nation Half-Hearted?' (Channel News Asia, 6 Jan 2018) <<https://www.channelnewsasia.com/commentary/commentary-are-singapores-efforts-be-sporting-nation-half-hearted-838071>> accessed 23 Aug 2022 (Commentary).

⁴⁴Maureen O'Hare, 'These are the world's most expensive cities in 2021?' (CNN, 1 Dec 2021) <<https://edition.cnn.com/travel/article/world-most-expensive-cities-2021/index.html>> accessed 25 Aug 2022.

⁴⁵Gary Koh, 'Young and Retired: Why Players are Leaving Professional Football in Singapore' (The Home Ground Asia, 8 October 2021) <<https://thehomeground.asia/destinations/singapore/young-and-retired-why-players-are-leaving-professional-football-in-singapore/>> accessed 5 Sep 2022.

Chinese Super League, which is China's top tier football league, earn an average annual salary of US\$1,051,603.00 (approximately S\$1,500,000.00),⁴⁶ which is approximately US\$87,600.00 (approximately S\$12,400.00) a month. Unfortunately, football in Singapore never went through the salary explosion like football in Europe did,⁴⁷ with the rise of gate receipts, sponsorship, and broadcasting rights as major sources of income for European football clubs.

When players in football are not earning sufficiently to provide for themselves and their families, if any, or not earning as much as their peers in other industries, it can be extremely tempting to accept bribes to make up their meagre income in exchange for fixing of matches, especially young players as well as players at the end of their sports career who may be keen to reap as much financial benefits as they can before they retire. Despite this prevailing issue of match-fixing in Singapore, there is no major body (like CPIB for public servants)⁴⁸ or labour union examining the salaries of players and stakeholders in football in Singapore.

Further, Singapore Pools is a licensed betting house for lotteries, horse racing, and football betting,⁴⁹ and as part of its efforts to alleviate the risks of match-fixing, Singapore Pools has also joined a global alliance, the so-called Global Lottery Monitoring System since its establishment in 2015, to provide data on sports betting and monitor unusual betting irregularities.

The Feasibility of Enacting Sport-Specific Laws on Match-Fixing

The practice of manipulating sports competitions is considered as one of the greatest threats to the integrity of sport. The impact on the nature of sport is very serious as the influence on the results of matches amputates one of the most important features of sport, *viz*, the unpredictability of the outcome of the game. In addition, perpetrators make use of evasive means to make prosecution of match-fixing incidents very difficult, particularly in team sports.⁵⁰

As mentioned above, players in Singapore have salaries which are incompatible with their peers in other countries, and below the national average wages. In such situations, it can be extremely tempting to accept bribes to make up their meagre income in exchange for fixing of matches, especially players at the end of their sports career who may be keen to reap as much financial benefits as they can before they retire. And unlike public servants in Singapore, who have CPIB to regularly review their salaries to ensure that they are compatible with the private sector to reduce opportunities and temptations for corruption, local players have little or no opportunities for salary review, or any weighted bargaining power associated with labour unions. Therefore, players are very vulnerable to get involved in match manipulation.

In this regard, the criminalisation of the manipulation of sports competitions, including match-fixing, may be necessary due to the limited disciplinary jurisdiction of SGBs, such as FAS. This restriction is derived from the fact that SGBs may only apply their regulations to their own members who have submitted to their jurisdiction. However, the manipulation of sports competitions is often carried out by internationally-operating organised crime groups who do not fall within the *ratione personae* of the regulations of SGBs. Consequently, SGBs are legally prevented from prosecuting and sanctioning betting syndicates internally. Therefore, efforts to combat the manipulation of sports competitions cannot just be a single-pronged approach by sports organisations, but may necessitate the involvement of national governments and law enforcement agencies to tackle the problem

⁴⁶Robert Kidd, 'The Country Where Soccer Salaries Are 160 Times More Than The Average' (Forbes, 29 Aug 2019) <<https://www.forbes.com/sites/robertkidd/2019/08/29/the-country-where-soccer-salaries-are-160-times-more-than-the-average/>> accessed 20 Sep 2021.

⁴⁷Raffaele Poli, 'Africans' Status in the European Football Players' Labour Market' (2006) 7 Soccer & Society 278, 278.

⁴⁸Ali (n 16).

⁴⁹Munidasa Winslow, Christopher Cheok & Mithily Subramaniam, 'Gambling in Singapore: An Overview of History, Research, Treatment and Policy: Overview of Gambling in Singapore' (2015) 110 Addiction 1383, 1383.

⁵⁰See *FK Pobeda and ors v UEFA* (n 3). See also *Oleg Oriekhov v UEFA* (n 3) para 21.

effectively together. Similar to approaches in the fight against doping in sport,⁵¹ the adoption of specific offences on the manipulation of sport in national criminal codes has been identified as one of the key measures in the fight against match manipulation. Accordingly, sports organisations and national governments have taken measures in the fight against match manipulation on a national and international level, which is briefly addressed in the following.

Approaches Taken by Sports Organisations

Regulatory Approach

Sports organisations have long-recognised the threat posed by the influence on the outcome of the results of a match or certain elements of a game (so-called spot-fixing). In order to protect the integrity of sports competitions, sports organisations took different approaches in the fight against match-fixing and other forms of match manipulation. The first step taken by SGBs was to implement provisions to sanction any fraudulent involvement of their direct and indirect members. For example, FIFA, the world governing body of football, has mentioned the prevention of match manipulation as one of its objectives for over a decade.⁵² The FIFA Statutes (2022 edition) that are currently applicable makes explicit reference to the fight against manipulation of sports as one of FIFA's aim.⁵³ In addition, any involvement of athletes and other sportspersons in fraudulent influence on the game is sanctionable under Article 18 of the FIFA Disciplinary Code (2019 Edition) which provides – in its pertinent parts – as follows:

‘Anyone who directly or indirectly, by any act or an omission, unlawfully influences or manipulates the course, result or any other aspect of a match and/or competition or conspires or attempts to do so by any means shall be sanctioned [...].’

Similar provisions are encompassed in the provisions of continental SGBs in football, such as AFC⁵⁴ and UEFA. UEFA has even imposed ineligibility sanctions on clubs by provisionally suspending them from UEFA club competitions if the UEFA is ‘comfortably satisfied’ that the alleged club has been involved in some form of match manipulation.⁵⁵ Almost all international sports organisations within and outside the world of football have enacted either explicit provisions on the manipulation of sports competitions or treated such misbehaviour under a more general provision on integrity-threatening conduct. To overcome the difficulties to prove match manipulation conduct,

⁵¹See eg, Anti-Doping Act (Germany), s 4. See also Jack Anderson, ‘The Juridification and Criminalisation of Doping: Time to Revive the Spirit of Sport?’, in Ulrich Haas & Deborah Healey (eds), *Doping in Sport and the Law* (Hart Publishing 2016) 264.

⁵²cf FIFA Statutes: 2009 Edition, art 2 <<https://digitalhub.fifa.com/m/7efe00d0bc28b58/original/mvnbgrxs1ya8lhzguoa-pdf.pdf>> accessed 6 Aug 2022.

⁵³FIFA Statutes: 2022 Edition, art 2(g) <https://digitalhub.fifa.com/m/3815fa68bd9f4ad8/original/FIFA_Statutes_2022-EN.pdf> accessed 6 Aug 2022. The Article states that ‘The objectives of FIFA are to promote integrity, ethics and fair play with a view to preventing all methods or practices, such as corruption, doping or *match manipulation*, which might jeopardise the integrity of matches, competitions, players, officials and member associations or give rise to abuse of association football’ (emphasis added).

⁵⁴AFC Statutes: 2022 Edition, art 73(6) <[https://assets.the-afc.com/downloads/mission-and-statutes/AFC-Statutes-\(2022-Edition\)--English.pdf](https://assets.the-afc.com/downloads/mission-and-statutes/AFC-Statutes-(2022-Edition)--English.pdf)> accessed 7 Aug 2022. See also CAS 2018/A/5500, *Lao Toyota Football Club v AFC*, Award of 12 Jun 2018.

⁵⁵cf Regulations of the UEFA Champions League: 2022/23 Edition, art 4.02 <<https://documents.uefa.com/r/Regulations-of-the-UEFA-Champions-League-2022/23-Online>> accessed 7 Aug 2022; Regulations of the UEFA Europa League (2021/22 edition), art 4.02 <<https://documents.uefa.com/r/Regulations-of-the-UEFA-Europa-Conference-League-2022/23/Article-3-Entries-for-the-competition-Online>> accessed 7 Aug 2022. See also discussion on the nature of such provisional measures at Ulrich Haas & Björn Hessert, ‘The Legal Regime Applicable to Disciplinary Measures by Sports Association – One Size Does Not Fit All’, in Peter Jung, Frédéric Krauskopf & Conradin Cramer (eds), *Theorie und Praxis des Unternehmensrechts – Festschrift für Lukas Handschin* [Theory and Practice of Corporate Law – Festschrift for Lukas Handschin] (Schulthess Verlag 2020) 279–291.

many SGBs have implemented certain cooperation and reporting obligations for athletes and other sportspersons. Persons subjected to such sports regulations must therefore support SGBs in the SGBs' endeavour to combat match-fixing when they become aware of any match manipulation incident, or if investigations have been commenced against them.⁵⁶

Additionally, most players are regulatorily and/or contractually prohibited from engaging in any form of sports betting. This prohibition can be limited to bets offered on the specific sport in which the player is participating. Furthermore, sports associations may prohibit betting on domestic matches or on matches worldwide. In other words, in international sports, each SGB may decide whether, and if so, what kind of betting-related activities shall be deemed appropriate within a sports organisation. For example, Football Australia has decided that any member may not engage in any bet of any club competing in the same competition whereas the FA and the FIFA prohibit bets on football matches worldwide.⁵⁷ Separately, within their regulatory authority, the SGBs of tennis have also determined the lawful betting-related conduct of members. Under section D(1)(a) of the Tennis Anti-Corruption Program (2022 Edition), a person subject to it may not 'directly or indirectly, Wager on the outcome or any aspect of any Event or any other tennis competition.' Besides this worldwide prohibition to place bets on tennis matches, any actual or commercial support of betting on tennis is forbidden.⁵⁸

Other Measures taken by Sports Governing Bodies

SGBs are well aware of the difficulty of establishing the involvement of a specific athlete in match-fixing activities, bearing in mind that the onus lies with the sports organisations in such sports disputes. In order to overcome these difficulties, sports organisations have established specialised Integrity Units (eg, the International Tennis Integrity Agency). In 2021, FIFA partnered with United Nations Office on Drugs and Crime to launch an Integrity Program for its members, which provides education and resources to combat match-fixing in football.⁵⁹ SGBs have also begun to cooperate and partner with operators of so-called fraud detection systems.⁶⁰ In 2017, the AFC launched an application for reporting of suspicious match-fixing conduct, in order to make such information more accessible to its Integrity Unit.⁶¹ Such systems constantly monitor the activity on the betting market and give the alarm if suspicious betting patterns occur.

However, the satisfaction of the burden of proof remains difficult, particularly in team sports, because all players and referees on the field can potentially be involved in 'the fix'. Accordingly, circumstantial evidence gathered by fraud detection systems is often only a marker that the specific

⁵⁶Björn Hessert, 'Cooperation and Reporting Obligations in Sports Investigations' [2020] *International Sports Law Journal* 145.

⁵⁷Football Australia National Code of Conduct, art 2.9 <<https://www.footballaustralia.com.au/sites/ffa/files/2021-04/FA%20Code%20of%20Conduct%20and%20Ethics%20%282021%29.pdf>> accessed 7 Aug 2022; The FA Handbook: 2022-23 Edition, art E8.1.2 <https://www.thefa.com/-/media/files/thefaportal/governance-docs/rules-of-the-association/2022-23/individual-sections/fa_handbook_2022-23_v11.ashx> accessed 7 Aug 2022; FIFA Code of Ethics: 2020 edition), art 26(1) <<https://digitalhub.fifa.com/m/174b40d0256de722/original/upxpc0qzxdgipiiejuj-pdf.pdf>> accessed 8 Aug 2022; The Olympic Movement Code on the Prevention of the Manipulation of Competitions (2018), art 2.1 <https://stillmed.olympics.com/media/Document%20Library/OlympicOrg/IOC/What-We-Do/Protecting-Clean-Athletes/Competition-manipulation/Code-Prevention-Manipulation-Competitions.pdf?_ga=2.234010585.635986932.1659979383-856360766.1659979383> accessed 8 Aug 2022.

⁵⁸cf Tennis Anti-Corruption Program: 2022 Edition, s D(1)(a) <<https://www.itia.tennis/media/2ebnyerf/tacp-2022.pdf>> accessed 7 Aug 2022.

⁵⁹United Nations Office on Drugs and Crime, 'Launch of FIFA and UNODC Global Integrity Programme to Tackle Match Manipulation' (16 Mar 2021). <<https://www.unodc.org/unodc/en/safeguardingsport/newsandevents/launch-of-fifa-and-unodc-global-integrity-programme-to-tackle-match-manipulation.html>> accessed 20 Sep 2021.

⁶⁰For example, the Sportradar AG with headquarters in St Gallen, Switzerland.

⁶¹Asian Football Confederation, 'New Mobile App Strengthens AFC's Fight against Match-Fixing | Football News |' (Asian Football Confederation, 21 Nov 2017) <<https://www.the-afc.com/media/new-mobile-app-strengthens-afcs-fight-against-match-fixing--40147>> accessed 20 Sep 2021.

match was fixed, not a ‘smoking gun’.⁶² More conclusive evidence is required, eg, footage of the game, to establish the indirect or direct involvement of one of the participants. For example, in the case of *Lamptey*⁶³ before the Court of Arbitration for Sport (CAS), an umpire was sanctioned for life from the sport of football based on the provided betting patterns in conjunction with the footage that clearly showed Lamptey’s influence on the game by instinctively making bad decisions in favour of the betting syndicates. The CAS panel held in this case that:

‘[t]he images reviewed by the Panel, in fact, clearly show that both Field Decisions were directly taken by the Referee. In particular, the Penalty Decision was taken within a couple of seconds, leaving no time for the communications with Assistant Referee 1 to overcome an “obstructed view”, and are inexplicable for an expert referee [...] the images of the Match show that initially the Referee was about to blow his whistle and stop the restart, but then decided to let the action continue. In that regard, the Panel notes that the refereeing department of FIFA, in a statement dated 28 June 2017, not contradicted by expert opinion brought by the Appellant, confirmed, inter alia, that it is “unusual” for a FIFA elite referee to make two wrongful decisions in such a short time period (between min. 41 and min. 45). The Panel, then, notes that it is undisputed that the betting patterns for the live betting market relating to the Match are highly suspicious. The Panel is convinced by the concurring opinions of a number of experts, who rendered declarations in this arbitration, and finds it extremely that a number of entities active on the betting market immediately (i.e. soon after the Match) and spontaneously detected the irregular betting patterns and raised concerns as to the integrity of the Match.’⁶⁴

Clear cases of conclusive match manipulation conduct are so rare that SGBs often make use of cooperation and reporting obligations of players so expensively, to the extent that they demand the disclosure of information contained on personal devices of the sportsperson under investigation.⁶⁵ Nevertheless, it is generally argued that the investigative powers of sports organisations are restricted and therefore, ‘[s]ports [o]rganisations recognise that they cannot tackle this threat [ie, the manipulation of sports competitions] alone, and hence cooperation with public authorities, in particular law enforcement and sports betting entities, is crucial’.⁶⁶ In addition, the establishing of criminal offences by national governments has been recognised as a necessary measure in the fight against match manipulation which will be addressed in the following.

National Criminal Law Provisions on Match-Fixing and Other Forms of Match Manipulation

The manipulation of sports competitions has many faces that can vary from sport to sport, depending on the structure and nature of the game.⁶⁷ Arguably, the most common forms of match manipulation are match-fixing (including spot-fixing) and the use of inside information. The former directly or indirectly influences the results or certain parts of a match whereas in the latter, the corrupted gambler obtains non-public knowledge and has therefore a betting advantage over the betting community. Nevertheless, the use of inside information does not necessarily require influencing any part of the match, which makes it even more difficult to establish any wrongdoing.

⁶²cf CAS 2018/A/6075, *Igor Labuts v Football Association of Ireland*, Award of 17 Jul 2020.

⁶³*Joseph Odartei Lamptey v FIFA* (n 3).

⁶⁴ibid para 79 et seq.

⁶⁵See eg, Tennis Anti-Corruption Program: 2022 Edition, s F.2.d <<https://www.itia.tennis/media/2ebnyerf/tacp-2022.pdf>> accessed 7 Aug 2022.

⁶⁶The Olympic Movement Code on the Prevention of the Manipulation of Competitions (2018), Preamble.

⁶⁷For example, ‘courtsiding’, a sub-category of the use of inside information, is more suitable for sport competitions where bets can be placed on each individual point or part of a match, such as tennis and cricket; see in detail Björn Hessert, ‘Against All Odds: The Legitimacy of the Use of Inside Information in Tennis’ [2019–2020] 13 *The Australian and New Zealand Sports Law Journal* 133.

In the past few years, many state governments have established criminal offences on match-fixing and other forms of match manipulation in their national (state) criminal codes.⁶⁸ However, a harmonised international approach on the criminalisation on sport-specific corruption is not given. The national (state) criminal laws differ in their material scope. This is evidenced by the sport-specific laws on match-fixing and the use of inside information in Australia, Germany, and Switzerland which will be subsequently analysed.

Laws on the Manipulation of Sports Competitions in Australia

In Australia, the establishing of criminal offences on sports competition manipulation falls within the legislative power of State governments. In 2012, the State government of New South Wales (NSW) was the forerunner for sport-specific criminal legislation on match-fixing and the use of inside information for betting purposes.⁶⁹ Since then, all other Australian States – with the exception of Western Australia (WA) and Tasmania (TAS) – have introduced sport-specific criminal offences on the manipulation of sport. The scope of these criminal offences under Australian State crime acts is generally limited to sporting events on which a bet can be placed.⁷⁰ Any lacuna resulting from the betting-related material scope may be filled with other offences encompassed in the Australian criminal codes such as corruption or bribery.⁷¹ It seems questionable why non-betting-related actions have been excluded from the match manipulation-specific offences. In addition, a harmonised substantive scope of the different criminal offences among the Australian State legislation does not exist.

Differences apply to the criminalisation of the use of inside information. For example, both the use of corrupt conduct information and the use of inside information for betting purposes is criminalised in NSW under section 193Q(1)(2) of the *Crimes Act 1900 (NSW)* whereas the specific provision in the State of Victoria (Vic) only refers to the use of corrupt conduct information for betting purposes.⁷² In other words, section 195F of the *Crimes Act 1958 (Vic)* is silent on matters in which a person is in possession of information that can influence the bettors' behaviour, but may not be considered as corrupt betting (eg, information on the injury of a player).⁷³ Therefore, the substantive scope of the use of corrupt conduct information under section 195F of the *Crimes Act 1958 (Vic)* is narrower than the scope of application under section 193Q(1) of the *Crimes Act 1900 (NSW)*, as well as Article 3(7) of the Macolin Convention. The latter defines 'inside information' as follows:

'Inside Information means information relating to any competition that a person by virtue of his or her position in relation to a sport or competition, excluding any information already published or common knowledge, easily accessible to interested members of the public or disclosed in accordance with the rules and regulations governing the relevant competition.'

⁶⁸See United Nations Office on Drugs and Crime & IOC, *Criminal Law Provisions for the Prosecution of Competition Manipulation* (International Olympic Committee 2017) <<https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf>> accessed 20 Sep 2021; see also United Nations Office on Drugs and Crime & International Olympic Committee, *Model Criminal Provisions for the Prosecution of Competition Manipulation* (International Olympic Committee 2016) <https://www.unodc.org/documents/corruption/Publications/UNODC-IOC_Model_Criminal_Law_Provisions_for_the_Prosecution_of_Competition_Manipulation_Booklet.pdf> accessed 1 Aug 2022.

⁶⁹*Crimes Act 1900 (NSW)*, ss 193N et seq. See also Hayden Opie & Genevieve Lim, 'The Australian Legal Framework for Countering Match-Fixing', in Stacey Steele & Hayden Opie (eds), *Match-Fixing in Sport – Comparative Studies from Australia, Japan, Korea and Beyond* (Routledge 2018) 55, 62.

⁷⁰See eg, *Crimes Act 1900 (NSW)*, s 193N; *Crimes Act 1958 (Vic)*, s 195C; a non-betting-related offence is encompassed in *Criminal Code Act 1899 (Qld)*, s 443A ('match-fixing conduct').

⁷¹United Nations Office on Drugs and Crime & International Olympic Committee, *Criminal Law Provisions for the Prosecution of Competition Manipulation* (International Olympic Committee 2017) <<https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf>> accessed 20 Sep 2021.

⁷²*Crimes Act 1958 (Vic)*, s 195F.

⁷³*ibid.*

Consequently, the restriction of the use of information to merely corrupt conduct information is therefore not ‘Macolin Convention-compliant’ (see below).

Despite this discrepancy, further differences can be examined within the established offences on the engaging in match-fixing and other forms of match manipulation in Australia. For example, based on section 193N of the Crimes Act 1900 (NSW), the misconduct of the person must be directly linked to the sports betting market.⁷⁴ In turn, a person may not be held accountable for any wrongdoing if the influence on the sporting event has no betting-related background. This merely betting-related approach encompassed in section 193N of the Crimes Act (NSW) is problematic insofar as the manipulation of sports competitions is not always associated with the betting market. The influence of a game can also be based on gaining non-betting-related advantages. A player may therefore get involved in match-fixing activities to receive non-monetary benefits such as ranking points or easier opponents in the tournament after the end of the group phase.⁷⁵ Such misconduct would not fall within the meaning of ‘conduct that corrupts a betting outcome of an event’ under section 193N of the Crimes Act 1900 (NSW). A betting-related approach is reasonable for the criminalisation of the above-mentioned use of inside information, as this conduct is generally related to corrupt betting market activities. However, it is incomprehensible to exclude ‘private match manipulation’ from the scope of sport-specific criminal offences. Such misconduct poses a threat to the integrity of sport tantamount to betting-related match manipulation. Therefore, the resulting loopholes are incompatible with the objective of the enacted criminal law provisions in the fight against the manipulation of sports competitions. It is thus necessary to criminalise both betting and non-betting-related misconduct in order to protect the integrity of sport comprehensively. The State government of Queensland (Qld) has taken such an efficient approach when it incorporated section 443A of the Criminal Code Act 1899 (Qld). This provision has a wider scope in the absence of any reference to the betting outcome of a sports event. Therefore, section 443A(1) of the Criminal Code Act 1899 (Qld) reads as follows:

‘A person who engages in match-fixing conduct in relation to a sporting event or the happening of a sporting contingency for the purpose of

- (a) Obtaining or receiving a pecuniary benefit for any person; or
 - (b) Causing a pecuniary detriment to another person;
- commits a crime.’

This provision sanctions all kind of match-fixing conduct, including non-betting-related conduct. Nevertheless, a loophole also exists under section 443A(1) of the *Criminal Code Act 1899 (Qld)* if a person receives non-material, imaginary, or historical values, as these benefits have no pecuniary nature. To close this legal gap, a broader wording of the term ‘benefit’ should be used, such as the wording of Article 2.3 of the IOC Olympic Movement Code on the Prevention of the Manipulation of Competitions (‘a Benefit related to the manipulation of a competition or any other form of corruption’). Consequently, national governments need to consider the scope of sport-specific laws on the manipulation of sports competitions carefully when drafting and establishing criminal offences in this respect. If the integrity of sport is considered as a public interest that needs to be protected by criminal laws, the provisions in place must ensure that all actions that can potentially threaten the integrity of sport are criminalised.⁷⁶

⁷⁴See also *ibid* s 195C.

⁷⁵Rod Gilmour, Badminton match-fixing scandal: how and why the four pairs were disqualified from the London 2012 Olympics (The Telegraph, 1 Aug 2012) <<https://www.telegraph.co.uk/sport/olympics/badminton/9444025/Badminton-match-fixing-scandal-how-and-why-the-four-pairs-were-disqualified-from-the-London-2012-Olympics.html>> accessed 20 Sep 2021. See also CAS 2014/A/3832 & 3833, *Vanessa Vanakorn v Fédération Internationale de Ski (FIS)*, Award of 19 Jun 2015.

⁷⁶cf Macolin Convention, art 15.

Laws on the Manipulation of Sports Competitions in Germany and Switzerland

The Swiss criminal offences on the manipulation of sports competitions contained in Article 25a of the *Sport Promotion Act* (SPA)⁷⁷ seem similar to the Australian legislations. In comparison to the Australian and Swiss legislation, a demarcation is provided between betting-related and non-betting related offences on the manipulation of sports competitions under sections 265c (Sports betting fraud) and 265d (Manipulation of professional sports competitions) of the *German Criminal Code* (GCC) which read – in their pertinent parts – as follows:

Section 265c

- (1) Whoever, in the capacity as an athlete or coach, demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for influencing the course or the result of an organised sports competition for the benefit of the opponent in the competition, as a result of which an unlawful pecuniary benefit is to be obtained for a public sports bet placed on that competition, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
- (2) Whoever offers, promises or grants an athlete or coach a benefit for themselves or a third party in return for influencing the course or the result of an organised sports competition for the benefit of the opponent in the competition, as a result of which an unlawful pecuniary benefit is obtained for a public sports bet placed on that competition, incurs the same penalty [...].

Section 265d

- (1) Whoever, in the capacity as an athlete or coach, demands, allows themselves to be promised or accepts a benefit for themselves or a third party in return for influencing the course or result of a professional sports competition in an anticompetitive manner for the benefit of the opponent incurs a penalty of imprisonment for a term not exceeding three years or a fine.
- (2) Whoever offers, promises or grants an athlete or coach a benefit for themselves or a third party in return for influencing the course or result of a professional sports competition in an anticompetitive manner for the benefit of the opponent incurs the same penalty.

Based on these provisions, the active and passive attempts to influence a game for betting and other benefits are criminalised under the GCC. This approach is insofar coherent to Article 25a of the SPA. In Switzerland, any person can commit a crime under Article 25a(1) of the SPA, whereas only sportspersons can actively offer the manipulation of sports competitions for her or his own benefits or for the benefits of a third party under Article 25a(2) of the SPA. Under the SPA, the term ‘sportsperson’ refers to ‘any person who exercises a function at a sports competition’ and can potentially influence the game directly.⁷⁸ This term is generally to be construed broadly and may include, but is not limited to, the person in charge of the hawk-eye in tennis or a president of a football club. The scope of potential offerees respectively offenders is more restricted in the

⁷⁷Articles 25a(1) and (2) of the Swiss Sport Promotion Act [Sportförderungsgesetz] provides as follows: ‘(1)Any person who, for his own benefit or for the benefit of a third party, offers, promises or grants an undue advantage to a person who exercises a function at a sports competition at which sports betting is offered in order to falsify the outcome of that sports competition (indirect competition rigging) shall be liable to a custodial sentence not exceeding three years or to a monetary penalty. (2) Any person who exercises a function at a sports competition at which sports betting is offered and who requests, secures the promise of or accepts, for his own benefit or for the benefit of a third party, an undue advantage in order to falsify the outcome of that sports competition (direct competition rigging) shall be liable to a custodial sentence not exceeding three years or to a monetary penalty’.

⁷⁸Björn Hessert, ‘Straftatbestände gegen Wettkampfmanipulationen – Ein gelungener Start [Criminal offences against the manipulation of sports competitions – A successful start]’ [2019] *Causa Sport* 268.

GCC as sections 265c and 265d of the GCC expressly mention athletes, coaches, judges, referees, and arbiters.⁷⁹ In contrast to the Swiss criminal offence, the wording of the German criminal provisions on match-fixing enables persons who only indirectly manipulated sports competitions to be criminally sanctioned.⁸⁰

In comparison to the Australian legislation, the Swiss and German legislation is not limited to domestic sports competitions, as compared to, eg, section 193J of the Crimes Act 1900 (NSW). Instead, the wording of sports competitions within the meaning of sports-specific criminal laws in Germany and Switzerland are not restricted territorially. This approach is consistent with the purpose of such offences in the fight against the manipulation of sports competitions, which are generally committed by internationally operating organised crime groups, as the above example of Singapore shows.

As previously mentioned, section 265d of the GCC criminalises ‘private match manipulation’, which has no connection whatsoever to the betting market. Instead, said provision criminalises the manipulation of sports competitions ‘for the benefits of the opponent’. An equivalent provision to section 265d of the GCC is missing in Swiss and Australian law; a lacuna therefore exists in this respect. This must be seen critical in the light of the Macolin Convention, which has been signed by both Switzerland and Australia. Under Article 15 of the Macolin Convention, every signatory has the obligation to ‘ensure that its domestic laws enable to criminally sanction manipulation of sports competitions when it involves either coercive, corrupt or fraudulent practices, as defined by its domestic law.’ Accordingly, signatories to the Convention may not implement sport-specific offences in their criminal codes as long as the specific form of the manipulation of sports competitions can be criminalised under the applicable law in place. The manipulation of sports competitions for sporting or other non-betting-related purposes must therefore be punishable in every signatory state. Thus, Switzerland and Australia are currently not Macolin Convention-compliant with regard to private match manipulation practices. In addition, all three jurisdictions lack a sufficient offence for the manipulation of sports competitions for the perpetrator’s own benefits. For example, a player is not sanctionable if she or he is intentionally underperforming a game in order to gain sporting benefits at a later stage of the tournament (so-called ‘tanking’). In this case, the player influences the game neither for betting-related purposes nor for the benefits of her or his opponent. This lacuna has not yet been filled by any of the jurisdictions analysed.

A further difference between the Australian approach, on the one hand, and the Swiss and German approach, on the other hand, can be explored in relation to the misuse of inside information for betting purposes. In contrast to many States’ criminal codes in Australia, an expressed offence on the misuse of inside information does neither exist in Switzerland nor in Germany. However, in Switzerland, sportspersons providing the information can be sanctioned for aiding to the manipulation of sports competitions. In Germany, in turn, the use of legally obtained inside information is qualified as a general betting risk and may therefore not be criminally punishable.⁸¹ Sections 265c and 265d of the German Criminal Code also requires that the perpetrator is ‘influencing the course or the result of an organised sports competition’. However, the mere use of inside information does not constitute influencing sports competitions.

Interim Conclusion

Based on the conducted analysis of the sport-specific criminal offences on the manipulation of sports competitions in Australia, Germany and Switzerland, it can be noted that the approaches taken by state and federal governments differ in many ways. Nevertheless, all countries are aiming

⁷⁹Judges, referees and arbiters are mentioned in paragraph 3 of sections 265c and 265d of the GCC.

⁸⁰Hessert, ‘Straftatbestände Gegen Wettkampfmanipulationen – Ein gelungener Start’ (n 78) 268, 274.

⁸¹Roland Hefendehl, ‘StGB § 263’, in Wolfgang Joecks & Klaus Miebach (eds), *Münchener Kommentar zum StGB* (Verlag CH Beck 2019) para 597.

at criminalising all potential forms of match-fixing and match manipulation. The focus of the current offences, at least in Australia and Switzerland, have been on betting-related manipulations. However, other reasons for athletes that influence the game in a corruptive manner must be considered and criminalised. In this regard, section 265d of the GCC offers an example to punish non-betting-related misconduct of sportspersons. Provisions on the misuse of inside information for betting purposes is a useful tool to avoid ambiguous legislation and legal uncertainty, particularly when the criminalisation of such misconduct appears to be difficult under the often rather broad offence of corruption. In order to give some international guidance and consistency in the attempt to combat the manipulation of sports competitions on a national and international level, the Macolin Convention was introduced in 2014. It not only imposed obligations upon its signatories, it also served as a guidance for national governments that are affected by the activities of match-fixers in their country and therefore were seeking to establish criminal offences on the manipulation of sports competitions. A brief overview of the main provisions of the Macolin Convention is therefore the subject of the next section.

The Convention on the Manipulation of Sports Competitions (Macolin Convention)

Pertinent provisions contained in the Macolin Convention

The Macolin Convention is the first Convention to harmonise and coordinate the fight against the manipulation of sports competitions internationally. Its primary aim is stated in Article 2 of the Macolin Convention, which, inter alia, mentions: ‘to prevent, detect and sanction national or transnational manipulation of national and international sports competitions.’ The Convention is generally open for signature and ratification by European and non-European countries. Although the Convention was open for signature from 18 September 2014, it only recently entered into force on 1 September 2019, after Switzerland became the fifth country that ratified the Convention. By August 2022, the Macolin Convention had been signed by thirty-two (including Australia and Germany) and ratified by seven states (Greece, Italy, Norway, Portugal, Republic of Moldova, Switzerland, and Ukraine). To date, Australia is the only non-member of the Council of Europe that has become a Signatory to the Convention.

One of the main achievements of the Macolin Convention is the harmonisation of the above-mentioned definition of the term ‘manipulation of sports competitions’ in Article 3(4) of the Macolin Convention.⁸² This is important because an internationally harmonised definition was previously lacking.⁸³ Article 3 of the Macolin Convention further encompasses other vital definitions in the fight against all forms of misconduct potentially related to match manipulation, such as illegal sports betting or inside information. The latter is defined in Article 3(7) of the Macolin Convention, which refers to inside information as:

‘information relating to any competition that a person possesses by virtue of his or her position in relation to a sport or competition, excluding any information already published or common knowledge, easily accessible to interested members of the public or disclosed in accordance with the rules and regulations governing the relevant competition.’

As seen above, signatories to the Macolin Convention have the further obligation to ensure that the manipulation of sports competitions can be criminally sanctioned under national criminal laws. Interestingly, Article 15 of the Macolin Convention only expressly refers to the criminalisation of

⁸²Hayden Opie & Stacey Steele, ‘Comparing Approaches to the Match-Fixing in Sport’, in Stacey Steele & Hayden Opie (eds), *Match-Fixing in Sport – Comparative Studies from Australia, Japan, Korea and Beyond* (Routledge 2018) 7.

⁸³Mirjam Trunz, *Ein Globaler Lösungsansatz Zur Bekämpfung Der Spiel- Und Wettbewerbsmanipulation Im Sport* [A Global Approach to Combat Competition Manipulation in Sport] (Dike Verlag AG 2016) 318.

the manipulation of sports competitions as defined under Article 3(4) of the Macolin Convention. Due to the demarcation between the definitions of the manipulation of sports competitions (Article 3(4)) and inside information (Article 3(7)) in the Macolin Convention, the clear wording of Article 15 of the Macolin Convention ('criminally sanction manipulation of sports competitions') only imposes an obligation on the Signatories to ensure the criminalisation of the former. Accordingly, the criminalisation of the misuse of inside information is, however, not mandatory.

Furthermore, the exchange of information between various stakeholders has been recognised as one of the important measures to combat the manipulation of sports competitions. Therefore, Chapter III of the Macolin Convention contains provisions of how information may be transmitted between public authorities, sports organisations, competition organisers, sports-betting operators, and national platforms, subject to the personal information of individuals (Article 14 of the Convention). The functions and objectives of these national platforms are extensively described in Article 13(1) of the Macolin Convention which reads as follows:

'Each Party shall identify a national platform addressing manipulation of sports competitions. The national platform shall, in accordance with domestic law, inter alia:

- a serve as an information hub, collecting and disseminating information that is relevant to the fight against manipulation of sports competitions to the relevant organisations and authorities;
- b co-ordinate the fight against the manipulation of sports competitions;
- c receive, centralise and analyse information on irregular and suspicious bets placed on sports competitions taking place on the territory of the Party and, where appropriate, issue alerts;
- d transmit information on possible infringements of laws or sports regulations referred to in this Convention to public authorities or to sports organisations and/or sports betting operators;
- e co-operate with all organisations and relevant authorities at national and international levels, including national platforms of other States.'

National platforms bring together all information gathered by all actors, including law enforcement and sports organisations, which have already proven to be effective in practice.⁸⁴ However, this must be seen critical, because the individual concerned does not know what kind of personal information is exchanged between the different stakeholders. Accordingly, the exchange of information raises concerns regarding the abuse of national platforms, the miscarriage of justice and the violation of the individual's personality rights.

Is there a need for Singapore to become a signatory to the Macolin Convention?

After examining the Singaporean case study on match-fixing, the attempt to combat this threat to the integrity of sport in other national laws, as well as the main provisions encompassed in the Macolin Convention, the question arises as to whether Singapore should sign the Macolin Convention, as a step to tackle match-fixing at the national level.

The fight against match-fixing is fundamentally different from the fight against doping in sport. In doping, the anti-doping provisions are defined, enacted and enforced by the World Anti Doping Agency, a foundation under Swiss law. The World Anti-Doping Code (WADA Code) constitutes a uniform and harmonised legal framework, which has to be implemented by the signatories to the

⁸⁴See in detail Marc Henzelin, Giulio Palermo & Teresa Mayr, 'Why National Platforms Are the Cornerstone in the Fight against Match-Fixing in Sport: The Macolin Convention' (LawInSport, 18 Jun 2018) <<https://www.lawinsport.com/topics/item/why-national-platforms-are-the-cornerstone-in-the-fight-against-match-fixing-in-sport-the-macolin-convention>> accessed 8 Aug 2022.

WADA Code, such as international sports federations. National governments have supported the fight against doping by signing and ratifying the UNESCO International Convention against Doping in Sport⁸⁵ (Doping Convention), which Singapore acceded to in 2007. The objective of the Macolin Convention, in turn, is not to establish a uniform framework against the fight against match-fixing. Instead, it seeks to guide and coordinate the stakeholders' endeavour in the fight against the manipulation in sport. Accordingly, it remains the responsibility of international sports federations to individually create and implement rules and regulations on match manipulation in absence of any harmonised legal document equivalent to the WADA Code.

As seen above, the signature and ratification of the Macolin Convention would impose an obligation upon the Singaporean government to take certain measures in the fight against the manipulation of sports competitions as provided in the Convention. The compliance of Singapore with the Convention would then be monitored from outside. Any violation of the implementation process could potentially be detrimental for Singapore in future attempts to host major sports events, if the bidding process criteria require compliance with the Macolin Convention. Having said that, the signature and ratification of the Macolin Convention may also send strong signals to those being involved in match manipulation, as well as signify Singapore's strong commitment in the fight against the manipulation of sports competitions seriously. It may therefore be more of a politically-driven objective for the Singaporean government to commit itself to the obligations laid down in the Macolin Convention.

By being a party to the Macolin Convention, Singapore could not only signify to the world of its commitment to combat match-fixing in and from Singapore, but also access and adopt the measures and strategies available to combat match-fixing, such as encouraging SGBs to establish effective monitoring of match-fixing and educational programmes to warn athletes of the dangers of sports gambling and match-fixing.⁸⁶ After being a party to the Macolin Convention, Singapore would have to address its extradition relationship with certain countries, such as Finland and Hungary, pursuant to its obligation under the said Convention,⁸⁷ for the extradition of prolific match-fixers, such as Perumal, to face criminal prosecution for match-fixing in Singapore. Similarly, Singapore ought to cooperate in the extradition of other notorious match-fixers such as Dan Tan, for him to face prosecution in other countries, such as Hungary, should Singapore choose not to prosecute him.

By being the first Asian country as a party to the Macolin Convention, Singapore would also be paving a way for further international cooperation to combat match-fixing within Asia, which will be a crucial step to combat match-fixing globally. Singapore would have the additional obligation to disseminate relevant information to a 'National Platform', pursuant to Article 13 of the Macolin Convention. The involvement of Singapore, as the hub of match-fixing in Asia, can potentially be critically decisive to curb match-fixing in Asia. It would be even more effective if Singapore becomes a 'National Platform'⁸⁸ for Asia, to serve as an information hub for relevant information and possible infringements, and co-ordinate the fight against match-fixing in and from Asia. There would then be little doubt as to Singapore's commitment to curb global match-fixing in and from Singapore.

The same objectives stated above, however, may also be achieved if Singapore takes the Macolin Convention as a guideline when drafting their internal statutory provisions, including criminal offences, and policies on the manipulation of sports competitions. If Singapore decides to follow this approach, it should nevertheless take into account the uniformed and harmonised aim of

⁸⁵*International Convention against Doping in Sport*, open for signature 19 Oct 2005, 2419 UNTS 201 (entered into force 1 Feb 2007).

⁸⁶Macolin Convention, art 7.2.

⁸⁷*ibid* art 19.3.

⁸⁸*ibid* art 13.

the Macolin Convention. Therefore, any legal framework should more or less incorporate the definitions on match manipulation, illegal betting and inside information as set out in Article 3 of the Macolin Convention one-to-one. This way, Singapore joins forces with the signatories of the Macolin Convention in the fight against sports competition manipulation on a worldwide scale, but remains independent in the implementing of means to combat the manipulation of sports competitions at national level. By corollary, the question raised concerning the signature and ratification of the Macolin Convention by Singapore must therefore be answered in the negative.

Final Remarks and Considerations

The above analyses show why Singapore should be mindful regarding the enactment of sport-specific laws on match-fixing. At the same time, there are certain steps which Singapore authorities and sport governing bodies ought to take to rehabilitate its credibility in the international community to combat match-fixing, as well as mitigate the risks of match-fixing in and from Singapore.

At the outset, it is prudent to note that the political will to combat match-fixing by Singapore is nowhere near Singapore's commitment and conviction to combat public-sector corruption in the 1950s. In 1959, when Singapore was first granted self-governance status from the British and first committed itself to curb corruption in the public-sector, the government took two crucial measures to combat corruption in an efficient and effective manner – major revision in the criminal code for corruption then and empowering CPIB, which were both based on the strategy, 'logical of corruption control', or to eradicate corruption by minimising or removing *both* the incentives and opportunities for corruption.⁸⁹ In 1960, when the new PCA was enacted in place of the previous legislation on corruption, the penalty for corruption was raised to an imprisonment of a term not exceeding five years and/or a fine of not more than S\$10,000.00, in an attempt to raise the deterrent effect of engaging in corrupt action. Singapore's focus on corruption has been solely and mainly on the public sector, as seen from the aggravated sentence of imprisonment term of up to seven years, instead of the usual five years.

However, the Singaporean government's razor-sharp focus on eradicating public-sector corruption has not yet overflowed to the specific corrupt issue of match-fixing, which is treated in the same manner (with the same sanctions) as corruption in the private sector, *viz*, maximum imprisonment term of five years. At present, even though Singapore's PCA has a maximum imprisonment term of up to five years for corruption, criminal sentencing framework set out by Singapore High Court⁹⁰ for football match-fixing only mandates that the maximum of five years imprisonment is only imposed if the accused person has had four antecedents of fixing a local match, or three antecedents if the accused person has fixed a FIFA World Cup match. Although there is mandatory imprisonment term (pursuant to the established criminal sentencing framework in Singapore), fixers of local matches in Singapore only face one to four years imprisonment term in their first three local fixing conviction under the PCA. The current maximum imprisonment term of five years for the fixing of local matches in Singapore is lenient and ineffective as deterrence against match-fixing.

Two pertinent points ought to be made of the present sanctions on match-fixing in Singapore. First and foremost, even if match-fixing is classified as a *private* sector corruption, it must be acknowledged that match-fixing of football matches in and from Singapore has wide, far-reaching implications on the credibility and legitimacy of sports globally. Although match-fixing of local football matches does not involve public servants or government contracts, the reputation of Singapore as the 'academy of match-fixers' continues to expand its reach globally, and arguably

⁸⁹Jon ST Quah, 'Combating Corruption Singapore-Style: Lessons for Other Asian Countries' [2007] Maryland Series in Contemporary Asian Studies no 2, Article 1 <<https://digitalcommons.law.umaryland.edu/mscas/vol2017/iss2/1/>> accessed 1 Aug 2022.

⁹⁰*Ding Si Yang v Public Prosecutor and another appeal* [2015] 2 SLR 229, 259–270 (henceforth '*Ding Si Yang v PP*').

has the same effect of impeding public stability and competitive commercial advantage for national development as public sector corruption does.⁹¹

Second, Singapore's present maximum imprisonment terms of five (5) years and sentencing practice for match-fixing under the PCA is relatively lenient compared to some sanctions and sentencing practice for match-fixing, especially in Australia, as shown in this work. In most states in Australia, the maximum imprisonment term for match-fixing is ten (10) years.⁹² It is trite that a lower maximum imprisonment term would inextricably result in a lower sentence of an accused person facing the same offence under an offence with a higher maximum imprisonment term in another jurisdiction. By extension, it is arguable that Singapore's present sentencing framework and practice for match-fixing is incontrovertibly lenient, compared to Australia.

If Singapore is not moving towards enacting sport-specific laws for match-fixing conduct, perhaps steps could be taken to buttress the punishments on match-fixing conduct in Singapore, by raising the statutory maximum imprisonment term of match-fixing conduct to ten years, like in Australian state legislation.⁹³ This would have the inextricable effect of raising or uplifting the sentencing framework of match-fixing offences, and thereby, further deterring match-fixing conduct in and from Singapore.

Further and/or in the alternative, Singapore could consider imposing a statutory minimum imprisonment term for match-fixing or sports corruption offences, much like the sentencing framework for drug trafficking offences in Singapore under the *Misuse of Drugs Act* (MDA).⁹⁴ Under section 5(1) of the MDA, read together with the Second Schedule therein, persons who have trafficked classes of drugs in an unauthorised manner are subjected to minimum imprisonment terms and strokes of the cane. As such, it is not without precedent for Singapore to take bold steps to deter and eradicate foreign syndicates, often associated with drug trafficking, gambling *and* match-fixing.

Conclusion

In view of the above and in consideration of the approaches taken by the Australian, German, and Swiss government, the criminalisation of sports competition manipulation in national criminal codes appears to be a pertinent step in the fight against fraudulent conduct in this regard. The scope of the criminal norms may differ and sanction different behaviours in the attempt to combat match-fixing effectively. As a consequence, the Singaporean government should be mindful when defining the scope of criminal offences if it decides to criminalise the manipulation of sport.

In the authors' view, it is not absolutely essential that Singapore becomes a Signatory to the Macolin Convention. The Convention is not watertight and has loopholes. However, the Macolin Convention in conjunction with the national legislation mentioned can be a guidance for the Singaporean legislator. The criminalisation of the manipulation of sports competitions is therefore certainly advisable, taking into consideration the role of Singapore as an international match-fixing hub for organised crime groups and betting syndicates. It would send a signal to other Asian countries to join force in the fight against match-fixing in Asia.

⁹¹Ali (n 20).

⁹²See eg, Crimes Act 1900 (NSW), s 193N; Crimes Act 1958 (Vic), s 195C; Criminal Code Act 1899 (Qld), s 443A.

⁹³ibid.

⁹⁴(Cap 185, 2008 Rev Ed Sing).