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European Sports Governance: Considerations of a governance approach to preventing match-Fixing

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ABSTRACT

The problem of sports corruption in match-fixing has become a serious international issue in the world of sports and threatens the integrity of sports competitions. Much focus has been given to the criminal laws that address the issue of sports fraud or sports corruption, particularly in betting, doping, money laundering and match-fixing. Although there is some activity by national sports organizations to provide education and information to players, coaches and management about the dangers and impacts of match-fixing, much more can and should be done to ensure a proper governance structure and sufficient oversight is in place to help prevent match-fixing. This paper will review the concept of taking a governance approach to prevent match-fixing and whether such an approach might be beneficial in the fight against sports corruption.

Keywords: Governance, sports, corruption, match-fixing, preventing, European, organizations

I Introduction

Anyone who has dealt with corruption in any form would admit that where people and money and power exist, you will always find corruption. Sports corruption is not new, but trying to identify effective ways to deal with the problem of sports corruption has been challenging. Other types of organizations have dealt with the issue of corruption. Defining sport as an organization might lend itself to utilizing certain organizational governance mechanisms that may help facilitate in the management, mitigation or prevention of sports corruption. The purpose of this paper is to consider the idea of a governance approach to preventing sports corruption, specifically match-fixing and determine whether or not governance can offer a viable solution to the problem.

II Existence of Sports Corruption

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“With billions of dollars involved and more importantly the very reputation of sport itself at stake, it is vital that law enforcement presents a united front in not only fighting this type of crime but to ensure that everyone involved from the rank and file official to the star player is given the resources and training to counter the corrupt influences of transnational organized crime.” INTERPOL Secretary General Ronald K. Noble

There are several fundamentals to be addressed to better understand the issue of sports corruption. First, *what is sport?* Sport is defined as, “Physical activity that is governed by a set of rules or customs and often engaged in competitively.”² The second point of inquiry is a bit more complex. The question of “*What is Sports Law?*” has been addressed quite a bit by practitioners and academics.³ In the early dialogues around this topic that involved the distinctions between *lex ludica*⁴ and *lex sportiva*⁵, there was very little documentation supporting the advancement of this area of law. However, over the past few decades, the area of sports law or laws that are applicable to sports has increased. Whether this area that may be referred to as sports law is categorized under or in association with entertainment law, or simply subsumed by more traditional areas of law (e.g. contracts, constitutional law, torts, etc.), over the past decade, the arena of sports related case law, regulations and debate has continued to increase. Whether it is due to the increase in *lex sportiva* primarily developed by the Court of Arbitration for Sport (CAS)⁶ and significant rulings from the European Court of Justice in sports related cases, or the laws that have been developed in many countries under national law that recognize the “specificity of sport,” today many people would acknowledge that a distinguishable area of law, referred to as sports law, does exist⁷, however, this issue *for some* remains unsettled.

It is important to move past the academic debate of whether or not “sports law” exists, to address the more important practical issues that have resulted from the convergence of sports and law. This is necessary because a common understanding of the fundamental principles of “sport” and “law” and “sports law” is a premise (and

² www.thefreedictionary.com/sport

³ See, Davis, Timothy, *What is Sports Law?*, 11 Marquette Sports Law Review, Spring 2001.

⁴ Sometimes associated with the rules of the game. See, *AEK Athens & SK Slavia Prague v Union of European Football Associations (UEFA)* (CAS 98/200); ‘Sports law has developed and consolidated along the years, particularly through the arbitration settlement of disputes, a set of unwritten legal principles -a sort of *lex mercatoria* for sports or, so to speak, a *lex ludica* -to which national and international sports federations must conform, regardless of the presence of such principles within their own statutes and regulations or within any applicable national law’ (98/200; Digest, Vol. 2 p.38; para 156, at p.102).

⁵ See, *Norwegian Olympic Committee and Confederation of Sports (NOCCS) & others v International Olympic Committee (IOC)* (CAS 2002/O/372); ‘CAS jurisprudence has notably refined and developed a number of principles of sports law, such as the concepts of strict liability (in doping cases) and fairness, which might be deemed as part of an emerging ‘*lex sportiva*’. Since CAS jurisprudence is largely based on a variety of sports regulations, the parties’ reliance on CAS precedents in their pleadings amounts to the choice of that specific body of case law encompassing certain general principles derived from and applicable to sports regulations’ (CAS 2002/O/372; para 65 at fn.15).

⁶ See, *AEK Athens & SK Slavia Prague v. UEFA*

⁷ Foster would refer to the body of information coming from the CAS as a “global sports law” or *lex sportive*. See, Foster, Ken, “Lex Sportiva and Lex Ludica: the Court Of Arbitration for Sport’s Jurisprudence”, Entertainment and Sports Law Journal, ISSN 1748-944X, January 2006, <http://go.warwick.ac.uk/eslj/issues/volume3/number2/foster/>.

the one that I will use in this paper) upon which to begin a discussion and analysis of sports corruption. This label of “sports law” is highly utilitarian in that, once defined, it provides an easier way in which to refer to the body of laws and activities relative to it and by which comparison can be drawn. The ability to make such reference is important when addressing this subset of issues that we have come to refer to as sports fraud or sports corruption. The occurrence of “sports corruption” is dependent upon the existence of sports since in the absence of sports, sports corruption would not exist. One issue to be addressed in this type of research is whether or not this distinction is important in addressing the issue of corruption in sport, or stated another way, in the absence of the distinction, would sports corruption simply be corruption and addressed under the existing laws of corruption just as any other form?⁸

The focus of this paper is to consider whether or not *governance* can provide a necessary means for addressing the issue of sports corruption in Europe.

Integrity of the game

With the prevalence of sports corruption being so high, it is somewhat surprising that in its Communication of 18 January 2011, The European Commission states: “Match-fixing violates the ethics and integrity of sport.”⁹ When we are watching a match or sporting event there is an automatic trust and belief that is inherent in the idea of sport, that those engaging in the activities are doing so using their own physical, mental and strategic (non-enhanced) abilities to perform leading to either their victory or defeat. When fraud or corruption enters into sport and the outcome is somehow pre-determined or an athlete’s abilities are artificially enhanced, that tends to remove the event from the sanctity of sport and into the realm of entertainment at best. *Would people be willing to pay to see their favorite sports team in a competition that everyone knows is pre-determined or even if there is a high likelihood that the integrity of the sport event has been somehow compromised?* There is no doubt that sports corruption puts a dark cloud over the entire industry of sports. Perhaps more specifically, it is a direct attack on the integrity of the game. If the sport is determined not by skill, strategies and physical abilities of the players but instead on who was able to “pay-off” the referee, official, team or player to “buy” the win, then it is questionable whether or not it is really sport at all. The whole concept of sports competition and the basis for our Olympic Games today began with the early games in Olympia, Greece in 776 BC. Public competition and individual achievement reflected the ancient Greek idea of *arête*, representing the Greek ideal of excellence. Even in ancient times there were those who were caught cheating.¹⁰ Anyone caught cheating was fined and the money raised was used for a statue erected in the name of Zeus bearing inscriptions of the offenses committed and warning others not to

⁸ See, Jones, K., Applicability of UN Convention against Corruption on Sports Corruption, ISLJ 2012 3-4, pp 55-57.

⁹ *Ibid.* at p12.

¹⁰ Some of the earliest sports corruptions included Eupolus of Thessaly who bribed boxers in the 98th Olympiad; Callippus of Athens bought off his competitors to secure a win in the pentathlon during the 112th Olympic festival; during the 226th Olympics two Egyptian boxers, Didas and Sarrapammon, were fined for fixing the match. See, Pausanius’ 2nd Century A.D. Guidebook to Greece.

cheat by skill or money and reinforcing the importance of piety, the Olympic Spirit, and fair competition.

Although there is a degree of public shame associated with being charged with sports corruption, thus far the possibility of public shame has done little to deter those would be cheaters. It is likely that the solution to sports corruption will require more than charging a fine or keeping a public account of the wrongdoings.

European Union

Because there is an area of discernible law that can be referred to as sports law within the European Union ("EU") it is appropriate to use the EU as a microcosm for this type of research, with the goal that it might ultimately have application to the international issues around sports corruption. The growth of sports as a business in a relatively short amount of time within the EU has been somewhat remarkable. Globally, about 2% of the gross domestic product (GDP) is generated by the sports sector.¹¹ Recent research indicates that global sports revenue will grow by an annual rate of 3.7% to about \$148.3 billion by 2015.¹² In Europe alone, revenues generated from sports are estimated to increase by 35.3% or about \$42.8 billion across EMEA by 2015.¹³ With sports being such a big business in Europe the European Commission clearly recognizes the threat posed by corruption. The European Union Treaty, article 29, specifically identifies the goal of the European Union in preventing and combating corruption in all forms.¹⁴ Issues faced by the European Union relative to corruption are not unique to the European Union, however, the multi-national and transnational aspects of the European Union, among other things, makes resolution of the problem of corruption challenging. These same challenges, when looked at in a much broader sense are representative of those issues faced at an international level. Issues relative to culture, society, economics, politics and even religion can impact sports corruption in various countries. The EU with its vast array of countries helps to provide insight into how some of those issues might be addressed.

III Governance of the Organization of Sport

This discussion of sport as an organization should not be confused with the European Union attempts to identify the organization of sports in the European Union. These two are distinct in that the European Commission sets out what they have determined to be the organization of sports in the European Union in the White Paper on Sports.¹⁵ In this important document that sets out the way sports are organized in the European Union, the importance of promoting certain traditions and

¹¹ European Commission, Developing the European Dimension in Sport, Brussels 18.1.2011.

¹² Changing the Game – Outlook for the global sports market in 2015, PricewaterhouseCoopers, December 2011, p. 11

¹³ *Ibid.* at p.12; these numbers are attributable to all of Europe, Middle East and Africa (EMEA).

¹⁴ EU Treaty, Article 29

¹⁵ White Paper on Sports

values associated with sports is stressed.¹⁶ However, even within the document itself limitations are confessed. They decline to identify a specific European Sport Model” stating that at present such a determination is unrealistic given the emergence of “new challenges¹⁷” that are impacting the member states and thus any realistic attempt at defining a discernible sports model for Europe. Interestingly, the report further states:

“The emergence of new stakeholders (participants outside the organized disciplines, professional sports clubs, etc.) is posing new questions as regards governance, democracy and representation of interests within the sport movement.”¹⁸

As evidenced by the statement above, the European Commission, within the White Paper on Sport, seem to acknowledge the impact that transnationalism has on the ability to define a European sports model. However, even further to the impacts of transnationalism on the creation of a European sports model, is the concept of looking at the formulation of sport as an entity.¹⁹ An entity refers to something that is “separate and distinct”. The most common types of entities are governmental units, organizations or businesses. It is those separate and distinct characteristics that establish the existence of an entity.

Despite the fact that the European Commission felt unable to define a European Sports Model in the original White Paper on Sport, it does not negate the fact that in some ways sports in the European Union has characteristics that might be compared with those of a multi-national organization; sporting events being the product that is produced and sports (as an entity) being the organization which governs them. Therefore, an understanding of sports corruption and identification of effective governance goes beyond simply defining the terms. Analysis of the structure of sport, or understanding the organization of sport and how sports are governed, is also important to add clarity to the terms. An organization can be defined as:

“A social unit of people, systematically structured and managed to meet a need or to pursue collective goals on a continuing basis. All organizations have a management structure that determines relationships between functions and positions, and subdivides and delegates roles, responsibilities, and authority to carry out defined tasks. Organizations are open systems in that they affect and are affected by the environment beyond their boundaries.”²⁰

Sport can be described as a “social unit of people” comprised of players, owners,

¹⁶ Id at Section 4. The Organization Of Sport, p. 12.

¹⁷ Id at Section 4, The Organization of Sport, the document points out that there are “...economic and social developments that are common to the majority of the Member States (increasing commercialization, challenges to public spending, increasing numbers of participants and stagnation in the number of voluntary workers) have resulted in new challenges for the organization of sport in Europe.” p.12.

¹⁸ Id at Section 4, The Organization of Sport, p. 12.

¹⁹ An entity can be described as: 1 a: being, existence; especially: independent, separate, or self-contained existence; b: the existence of a thing as contrasted with its attributes. 2: something that has separate and distinct existence and objective or conceptual reality. 3: an organization (as a business or governmental unit) that has an identity separate from those of its members, Merriam-Webster, <http://www.merriam-webster.com/dictionary/entity>.

²⁰ See, <http://www.businessdictionary.com/definition/organization.html#ixzz1lt5JYLi>.

referees and fans. The rules of the game and more importantly the way sports are organized at the local, national and international levels with its guideline requirements and rules and regulations all "...systematically structured and managed to meet a need or to pursue collective goals..."²¹ The "need" or "goal" of this collective pursuit can be winning a game or match, pursuit of excellence, satisfying fans, or being paid for skills and abilities. Professional sports, and to a large degree amateur sports, are organized in such a way that there is an intrinsic structure of management that not only oversees the games, but also dictates the roles and responsibilities of those who participate in the operation of a sports team, club or league. They also make decisions that impact the way the sport is played, and activities and relationships impacting sports, in a manner that carries with it a great degree of responsibility and authority. "All organizations have a management structure that determines relationships between functions and positions, and subdivides and delegates roles, responsibilities, and authority to carry out defined tasks."²² Finally, although the White Paper on Sport talks about the autonomy of sporting organizations and representative structures"²³, sports are not autonomous in that they are impacted by and they impact the world around them making them "open systems"; autonomous structures perhaps, but open systems nonetheless.

Even if the whole of sport is not conceived in terms of an organization, certainly the entities that comprise the arena of sports such as sports federations, associations, clubs, etc., can be looked at independently as organisms that are part of a larger complex body of related entities. Another way to view sports as an organization is to look at the larger international entities that perform some degree of governance or oversight (FIFA, FIFPro, UEFA, etc.) as multi-national organizations or multi-national entities. These are non-governmental organizations that often perform almost a pseudo governmental role. Because they are non-governmental, they do not adhere to any particular *governmental* structure or requirements.

Nonetheless, for these reasons, sport – or at least these international sports entities - can be looked at as an organization²⁴ and as such should have a governance structure and a regulatory framework²⁵ for effectuating rules, providing oversight and administering discipline. The White Paper on Sports would put this "governance" responsibility in the hands of what it refers to as "sports governing bodies"²⁶ further recognizing that this responsibility is, to some extent, shared with the Member States and social partners.²⁷ Nonetheless, within (and perhaps because of) this organization, distinct behaviors often exist within the framework of regulation and governance. Two key sports entities are an intricate part of the European (and international) sports organization. Federation Internationale de Football Association (FIFA) and Union de European Football Association (UEFA) both play important roles

²¹ *Ibid.*

²² *Ibid.*

²³ The White Paper on Sport, Section 4. The Organization of Sport, p. 13.

²⁴ Organization is defined as, "The act or process of organizing or being organized." See, <http://www.merriam-webster.com/dictionary/organization>. Another definition goes further and includes in the definition for Organization, "A number of individuals systematically united for some end or work..." Funk & Wagnalls New International Dictionary of the English Language, Comprehensive Edition, 1987.

²⁵ This *regulatory framework* can be a self-regulating framework. See,

²⁶ *Id.*

²⁷ *Id.*

not only in the administrative aspects of the functioning of the sport of football and the regulation of players, but more recently in the regulation and discipline of those who might engage in certain activities that harm players or corrupt the sport. Looking at the structure of these organizations and assessing their role in the governance activities relative to the sport of football may provide some insightful information as to the benefit or harm such involvement by these types of governing entities can provide.

Regardless of whether the activities and behaviors of these organizations are considered beneficial or harmful they are often a product of the larger organization from which they've grown. A point of discussion and perhaps even debate is whether or not sports fraud or corruption is a product (or by-product) of the organization in which it exists or whether it is a separate and independent phenomenon. Future research should address the organization of sport as a platform from which corruption in sport has grown and to some degree has been allowed to flourish in spite of the efforts and activity developed to address the same.²⁸ Further, a consideration of an organizational methodology as a possible approach to address some of the governance issues around corruption in sport would also be beneficial in addressing the larger issue of sports corruption.

Organizational Governance

Organizational governance is also referred to as corporate governance. The terms *corporate* or *organization* are used to represent any type of *entity* whether it is given legal identity or not.

Corporate (or organizational) governance has been defined in many ways. Some of those definitions include the following:

- "A generic term which describes the ways in which rights and responsibilities are shared between the various corporate participants, especially the management and shareholders."²⁹
- "Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance."³⁰
- "Corporate governance is about promoting corporate fairness, transparency and accountability."³¹
- "In its barest form, corporate governance is the *system* by which companies are directed and controlled principally by a board of directors."³²

²⁸ Defining sport as an organization does not exclude nor preclude consideration of sports as a corporation.

²⁹ Investorwords.Com. Search term used, Corporate Governance.

³⁰ OECD April 1999. OECD's definition is consistent with the one presented by Cadbury [1992, page 15].

³¹ J. Wolfensohn, president of the World Bank, as quoted by an article in *Financial Times*, June 21, 1999.

Despite which definition of corporate (or organizational) governance is used, common themes and characteristics of, such as responsibility and accountability, begin to emerge.

Therefore, a very basic definition of organizational governance is:

“The framework of rules and practices by which a board of directors ensures accountability, fairness, and transparency in a company's relationship with its stakeholders....”³³

Within the context of the idea of organizational governance is a framework that can be described as follows:

“The corporate governance framework consists of (1) explicit and implicit contracts between the company and the stakeholders for distribution of responsibilities, rights, and rewards, (2) procedures for reconciling the sometimes conflicting interests of stakeholders in accordance with their duties, privileges, and roles, and (3) procedures for proper supervision, control, and information-flows to serve as a system of checks-and-balances.”³⁴

So a framework of corporate or organizational governance would include important elements as identified in the definition above. As relative to sports organizations, the elements of a governance framework should include:

- Explicit and implicit contracts between the sports organizations and stakeholders, which clearly identifies a distribution of responsibilities, rights and rewards;
- A dispute resolution process to help reconcile conflicting interests that might arise; and
- Procedures for proper supervision, control, and flows of information – serving as a checks-and-balances system.

The formula for a governance framework as stated above seems clear. However, part of the challenge in the current *organization* of sports is that although some contracts exist between sports organizations and certain stakeholders, there are other stakeholders where contracts, either explicit or implicit do not exist. Some contracts might exist in the European Union Social Dialogue on sports,³⁵ however, the benefactor of the outcome of these measures may leave out some key

³² (Cadbury Report). It relates to the internal means by which corporations are operated and controlled (OECD Principles). In an expanded version, it is the process and structure used to direct and manage the affairs of the company towards enhancing business prosperity and corporate accountability with the ultimate objective of realizing long-term shareholder value whilst taking into account the interests of other stakeholders, (Finance Committee on Corporate Governance, Malaysia).

³³ www.BusinessDictionary.com/definition/corporate-governance.html

³⁴ *Id.*

³⁵ See, European Commission, White Paper on Sport, 5.3 Social dialogue, COM (2007) 391 Final, Brussels, 11.7.2007

stakeholders such as some specific community interests.³⁶ A lack of certain contracts that impact the environment in which sports corruption exists may contribute to the proliferation of this problem.³⁷

Several sports organizations have established internal means of addressing disputes. For example, the FIFA Dispute Resolution Chamber (DRC).³⁸ The effectiveness of the DRC and similar dispute processes are still being determined especially in the case of sports corruption as many cases require lengthy investigation periods.

Finally, the third point in the governance framework requires procedures for proper supervision and a system of checks-and-balances. This perhaps is an area where there are significant limitations in the current system. Each sports organization is highly autonomous and therefore have limited checks-and-balances.

Arthur Levitt, the former SEC Chairman described corporate governance as processes indispensable to effective market discipline.³⁹ When we consider all of the stakeholders within the larger organization of sports, including the market participants and influences, especially those that influence or impact sports corruption and match-fixing, there are a lot of opportunities for creating a more effective system of checks-and-balances. For instance stronger controls around sports betting, which are currently being considered⁴⁰, but also stronger limitations or controls on the type of involvement sports managers, officials, players and others directly involved in the game can have in the sports marketplace.⁴¹

IV Sports Governance in Europe

The structure for governance of sports in Europe is unique and differs greatly from other established sports governance models (ex. North American sports model). In Europe sports governance takes place, at least to some degree, at the national, European and international levels. Sports governance is the responsibility primarily of international non-governmental sports governance "umbrella" organizations (INGSO) and national-level non-governmental sports organizations (NGSO). These INGSOs and NGSOs generally represent a single sport and they not only govern the

³⁶ *Id.*

³⁷ For example, stakeholders such as betting affiliates and other market participants should be contractually obligated, explicitly or implicitly, as part of the larger organization of sport, to safeguard against the influence and activities of sports corruption and match-fixing.

³⁸ FIFA Dispute Resolution Chamber, Official Documents, FIFA.Com; Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (DRC) (2005)/(2008); Regulations Status and Transfer (2012), <http://www.fifa.com/aboutfifa/officialdocuments/doclists/disputeresolutionchamber.html>.

³⁹ Levitt, A., An Essential Next Step in the Evolution of Corporate Governance. Speech to the Audit Committee Symposium, June 29, 1999.

⁴⁰ See, Sports betting and corruption: How to preserve the integrity of sport, IRIS, University of Salford (Manchester), Cabinet Praxes-Avocats, CCLS (Universite de Pekin) (2011).

⁴¹ One consideration might be to restrict all those involved in sports from betting on any sports game, not just the ones in which they are involved. Severity of the limitation will require a balancing of individual rights.

rules of the game on the field of play, they also govern the activities associated with and that impact sport off the field. What that means is, they set out the requirements and expectations around all areas such as: discipline...,

Although sports governance is primarily the responsibility at the national level, European Law influences the activities around sport. Since the inclusion of sport into the European dialogue, sport has become an area of focus within Europe.

If we apply the framework of corporate or organizational governance discussed in Chapter III, these sports organizations should have, 1) explicit and implicit contracts between the sports organizations and stakeholders, which clearly identifies a distribution of responsibilities, rights and rewards; 2) a dispute resolution process to help reconcile conflicting interests that might arise; and 3) procedures for proper supervision, control, and flows of information – serving as a checks-and-balances system. These three elements would be required to support the idea that a true and perhaps even an effective governance structure actually exists amongst European sports organizations.

When looking at the sports organizations in Europe, you find a series of self-regulating organizations that operate independently. There have been alliances developed between several European sports organizations.⁴² For example the implementation of the *Joint Action Plan* by European football governance organizations to collaborate and incorporate common guidelines and programs in the areas of code of conduct, education and prevention programmes, betting fraud detection and reporting systems and coordination through integrity officers network and other persons at the national level.⁴³ This proposal goes even further to include - investigation and prosecution, and contribution of betting industry.⁴⁴

This *Joint Action Plan* is ambitious, especially with its goal of being fully implemented in 2013. However, when looking more closely at some of the activities many have already been in the works or even fully in place by most if not all of the organizations; such as the adoption of a code of conduct, education and prevention programs around match-fixing, monitoring of European competitions, identification of integrity officers in each national association, exchange of best practices, zero tolerance policy, etc. It will be interesting to see what changes or looks different within these organizations after the completed implementation in 2013, and whether operations within these organizations have actually changed.

The prospect of these INGSOs and NGSOs (and even some non-sports organizations) working more closely together is a positive step, but does it get us closer to a true organizational governance model? I would suggest that the current structure is one that is horizontal. A true organizational structure must also have a

⁴² See, *European Football United for the Integrity of the Game*, ECA, EPFL, FIFPro, UEFA, 2013.

⁴³ *Id.* at I, II, III, and IV

⁴⁴ *Id.* at V and VI

strong vertical scope as well. Primarily the horizontal addresses the breadth and scope of coverage, whereas the vertical addresses items such as accountability. What is lacking in the current European sports structure is the vertical accountability that is necessary to truly have a good organizational governance structure. The Joint Action Plan will address a lot of the horizontal aspects of governance, which will help with consistency across these organizations, but it does little or nothing to address the individual accountability of these organizations and their leaders.

Further, an important element appears missing from this Joint Action Plan. Several key players are included, but one significant one is missing. FIFA is not clearly represented as being part of this Joint Action Plan. A true organizational governance structure, soundly in place, would not tolerate the absence of a key player or stakeholder.

When trying to identify the three items discussed above that help create or establish a true organizational governance framework, The Joint Action Plan falls short. Although these European sports organizations have come together to implement these initiatives, it cannot be construed as a contract. At best, the parties may have an agreement of some sort, or mutual understanding. Even the document only makes reference to the decision to "join forces" and the actions as "concrete initiatives" there is no binding contractual language in this document, therefore, the provisions are not enforceable against the organizations involved. The contract element necessary for an organizational structure is not achieved.

Although several of these organizations have dispute resolution processes, there is not a process in place to address the conflicting interests that might arise within this organizational structure. Finally, it would be difficult to find a single channel of communication, procedures and most importantly supervision and oversight within the European sports organizational system - vertical.

So even if the Joint Action Plan and other initiatives by sports organizations in Europe does not rise to the level of a true organizational governance structure, perhaps within these structures organizational governance exists even if it is not across the European sports sector, but instead within each of the sports organizations. Stated another way, perhaps the sports organizations themselves are engaging a governance model that supports good governance and then collectively they can effectively govern the area of sport, and effectively address the issue of sports corruption.

V A concept of Good Governance

“Corruption destroys opportunities and creates rampant inequalities. It undermines human rights and good governance, stifles economic growth and distorts markets.”
UN Secretary-General Ban Ki-moon, The Kooza, December 7, 2012

The idea of governance is a basic principle for any type of organization. What constitutes “good governance” is a bit more subjective. There are many opinions with regard to what good governance actually looks like and how to appropriately measure it. One model of good governance that seems to capture most (if not all) of the elements commonly associated with the ideal of good governance is the United Nations 8 Characteristics of Good Governance. These eight characteristics are considered to be core for establishing a foundation of good governance for any organization. The fact that these characteristics have been developed within an international multi-national entity like the United Nations further suggests that at minimum these characteristics should be looked at and perhaps even considered when trying to create an environment of good governance within an international, multi-national or complex organization. The United Nations 8 characteristics are: 1. Accountable; 2. Transparent; 3. Responsive; 4. Equitable and Inclusive; 5. Consensus Oriented; 6. Participatory; 7. Rule of Law; and 8. Effective and Efficient. These characteristics are not necessarily surprising. Over the past year or so, much of the activity relative to preventing sports corruption and match-fixing specifically, has focused on governance-type programs and initiatives.

Governance is very complex especially applied to non-governmental organizations and often involving self-governance. However, in its broadest sense, governance can be looked at as a system of oversight and the approach used to achieve specified goals. Because governance can occur in various contexts, it is important to identify the circumstances around the application of governance to better understand the specific requirements and components.

Good governance operates in such a way as to realize the goals of the organization and society. If sport is considered the “organization” and the goal is to prevent sports corruption, then there should be a process of governance of sport to achieve the goal that would then be applied across the organization of sport. The idea of sport as an organization is important to the application of governance. To apply governance to sport there must be a structure in place that can support the governance initiatives. What is meant by this is that in order to effectuate governance, especially good governance, there must be an identifiable organization associated with it. When that specific organization is identified and the governance goals applied, then there can also be an expectation of accountability.

“Good governance in sport is a condition for the autonomy and self-regulation of sport organizations.”⁴⁵

Several organizations have engaged in efforts to address the issue of combating and preventing sports corruption. In many cases sports organizations have teamed up to work towards a solution to the problem or at least to raise awareness amongst

⁴⁵ European Union, European dimension of sport (January 18, 2011, 4.1 Promotion of good governance in sport).

stakeholders. For example, the Deutsche Fusaballiga⁴⁶ joined forces with Transparency International to offer education and awareness to players and coaches in an effort to prevent match-fixing. Another pairing up occurred when FIFA donated 20 million dollars to INTERPOL to help prevent match-fixing.⁴⁷ This has resulted in initiatives around the world by INTERPOL to provide education and awareness as well as link institutional organizations to engage in match-fixing efforts.⁴⁸ These efforts can be beneficial. There seems to be an effort to increase the accountability of sports organizations by these *pairings*. However, effectiveness of a true governance framework will require accountability within the sports organization itself.

There are many significant efforts that are occurring primarily in the area of education and awareness initiatives around match-fixing. Another area gaining some attention is that of transparency and how the organizations might more effectively share information regarding match-fixing that would be beneficial in supporting investigative efforts of law enforcement officials and sports organizations. These types of collaborations and concerted efforts are necessary to make any type of governance framework effective. Therefore, a *pairing* with organizations that increase the transparency of information that will aid in the effective investigation and enforcement of corruption laws is beneficial in the support of an effective governance structure.

V Conclusion

The solution for addressing sports corruption in its various forms is not clear and will likely require a multi-approach solution. The European Union has made some progress in developing an approach to certain aspects of sports corruption and less in others. In this research, I will review the current European Union regulations that have been developed to address sports corruption as well as some of the current discussions that are taking place around an approach to the problem. An analysis of the present body of information will reveal areas where the current approach falls short. Reviewing governance measures engaged by the sports governing bodies aimed at addressing this problem will offer further insights into the problem and/or the solution. By engaging in a deep analysis of the regulatory and governance aspects of the issue and seeing what opportunities there are for addressing the issue from this bifurcated approach, one might then be able to develop a workable framework to apply to a specific area of corruption and test its effectiveness.

The development of governance initiatives and the creation of a workable governance framework should not be confused. We have seen quite a bit of activity

⁴⁶ German professional football leagues I and II

⁴⁷ FIFA's historic contribution to INTERPOL in the fight against match-fixing, FIFA.com, Monday 9 May 2011.

⁴⁸ Id.

relative to the creation of governance-type initiatives, but have yet to see the true development of a good workable governance framework for sport. That is in part due to the fact that sport is not viewed as an organization. Currently, there are many independent autonomous actors that are addressing the problem from a very monolithic approach. A coordinated effort across the organization of sport will be required in order to achieve good governance.

Sports corruption not only affects the rules of the game but also the market within which sports operates. Much focus has been given to the criminal laws that address the issue of sports fraud or corruption, particularly in betting, doping, money laundering and match-fixing. Although there is some activity by national sports organizations to provide education and information to players about the dangers and impacts of match-fixing, much more can and should be done to ensure a proper governance structure and sufficient oversight is in place to help prevent match-fixing across Europe. Reviewing the legal framework is important as this provides the guidelines or box within which governance operates. Identifying the organizational governance approach is critical in an effort to identify effective mechanisms that can and should be used to help prevent match-fixing in football and contribute to a solution to the problem.

The Joint Action Plan that is currently being implemented in Europe may help in addressing the problem of sports corruption and in particular match-fixing. However, resolution to the problem is unlikely. A truly effective sports governance framework across European sport organizations is one that establishes a contractually binding contract amongst stakeholders, provides a means for efficient resolution of disputes amongst stakeholders, and creates a strong system of checks and balances and accountability within European sports organizations - a true sports organizational structure and framework - that can facilitate effective governance controls.