

Justitiële verkenningen

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Sports and criminality

Summaries

Sports and corruption

R. Stokvis

In general two main areas of corruption in sports are distinguished: corruption in the business side of sport and in the competition side. Since the business side of sport functions as any other business, this field is not dealt with in this article. Corruption in the competition side of sport (sportspecific corruption) has to do with attempts to influence the results of sportevents by offering athletes money to underperform, or to pay arbiters or judges to favor one of the opponents. The author suggests two models of conditions that heighten the chance of corruption in the competition side of sports. The first model implies a constellation of uncontrolled betting on the results of events between underpaid athletes, in which the events are organised by sport organisations with weak organisational capabilities (betting related sport specific corruption). The second model has as main components rich business men or enterprises trying to gain local or national popularity by supporting sportteams or stars and using their popularity to gain political influence. Also in this situation underpaid athletes or umpires heighten the chance on corruption (political sport specific corruption). The author illustrates these models with a number of examples and tries to estimate the prevalence of corruption according to these models in the Netherlands.

Malversations in the world of soccer; amateurism, division and a hazy transfer-market

B. Heere

In this article the author tries to explain how judicial problems in the world of soccer have arisen. By explaining the development from the typical Dutch amateuristic soccer culture into a professional league he describes all the cases in which the Dutch soccer clubs have crossed the line between legal and illegal action. For these malversations, he gives two motives. First, the need for clubs to improve the economic value of the organization as much as possible. Second, the need to attract the best players to the club. And, in the desire to become the best in this economic race, the divided, and in some cases, amateuristic clubs have made a lot of mistakes. To prevent the malversations to occurs in the world of soccer, the author favors the abolition of the transfer-market, since this is the subject which causes the most malversations. The author recognizes the problem which occur when you abort the current system and make a comparison with the American system, in which the professional clubs all are franchises of one organization (for example, NBA, NFL, MLB), and there are strict rules of exchanging players. In this system, it is not allowed to involve money in the transfer of a player from one franchise to the other. But more important, the overruling organization guides the mutual race of all competing clubs in the league and tries to prevent the franchises for having too much different economic and sportive interests, as the case is in the European soccer market.

Scoring with children; the trade in young soccer players

J. de Boer

Alarmed by press reports, Terre des Hommes recently investigated the trade in young soccer talents from non-EU countries to professional clubs in The Netherlands. Dutch law prohibits minors from non-EU countries working (playing professional soccer) in The Netherlands, but 18 cases were discovered in which boys from non-EU countries had been illegally contracted by Dutch clubs. This turns out to be a pan-European practice. Further investigation revealed that clubs exploit various loopholes in current legislation. Of great concern is the role of player's agents, who lure young talented boys to Europe under false pretences, exclusively for their own financial gain. Under Dutch law, such activity can be labelled trafficking (mensensmokkel, mensenroof). The Dutch government is presently taking

measures to protect young talents from unscrupulous scouts, agents and other middle men. Whilst applauding these initiatives Terre des Hommes emphasises that unless additional action is taken at European level, soccer clubs will be able to continue avoiding national restrictions, thereby allowing several parties to take advantage of under-age soccer players.

The judicial base of the ban on dope in sports

H. van Staveren

The Convention of Strasbourg states that the use of doping in sport frustrates fair competition, is dangerous to people's health and diminishes the ethical and educational values of sports as well. The Convention recognizes the importance of fighting the use of doping in sports by means of the disciplinary law in sports affairs, as it is used in the Netherlands. It is, however, remarkable that the offender is liable to punishment without having a right of exculpation. The offender's 'strict liability' constitutes a rigorous violation of the principle that there shall be 'no punishment without guilt'. This strict liability in doping affairs is the result of emphasizing the argument that the use of doping in sport frustrates the fair competition. However, the ban of doping has nothing to do with the rules that define the game, as for example the rule that a football player can't play the ball with his hands or a handball player can't play the ball with his feet. The ban of doping doesn't define the game nor the fair competition. It should be noticed that if all competitors use doping the chances in the same game are again equal. The ban of doping is related primarily to the issue that sport retains its image as a healthy, relaxing and educational activity. Thus, there is no reason to deprive sportsmen and -women of their right of exculpation if they are being accused of using dope.

Judging misbehavior in sports; aspects of penal and disciplinary law in sports

W. Bos and H. de Doelder

The general coarsening which can be observed in society can also be found in the playing field. In all sorts of sports one notices that the players do not hesitate to use violence or other unsportsmanlike means. Furthermore unsporting behaviour tends to be dealt with in criminal law. Although this tendency is understandable because of the growing interest of society for sports, it should be rejected. Reprehensible sports behaviour should not be brought to before a criminal court, but should be subjected to the relevant disciplinary law. The disciplinary institutions must, of course, be well equipped for this purpose. If that is the case, the criminal authorities are less liable to interfere with the sports world. Doping cases should be brought before a disciplinary tribunal as well. Criminal law can then be used again as *ultimum remedium*, as the ultimate resource.

Martial arts; learning how to fight & or learning how not to fight?

M. Theeboom

Martial arts (e.g. judo, karate etcetera), which are popular sports activities among youths, are often associated with delinquency and violence. However, at the same time, martial arts practice is regarded by many as a useful socializing tool for youngsters providing them, among other things, with conflict-resolution skills. In other words, the question can be raised whether martial arts learn youngsters how to fight or, on the contrary, not to fight? The existing literature shows that, to date, there is little empirical evidence to provide more knowledge on this topic. The author attempts to provide some more insight in a number of aspects which should be taken into consideration when looking for an answer to this question, such as the existence of three different approaches of martial arts practice (i.e., traditional, efficiency and sporting), which each might have a different impact on young participants.