

Whistleblowers protection in case of manipulation of sports competitions :

French legal perspectives

**following the MotivAction project and in the
context of Olympic Games of Paris 2024**

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Introduction

“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.” art. 3 of the Macolin Convention



Linked to
betting or not

Sport tactics

Can be linked to

- corruption
- Organized crime
- Money Laundering

Introduction

- Many scandals and studies

The OM-VA football match case (1993-1995)

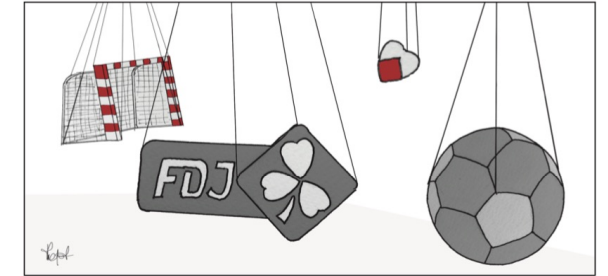
The case of the fixed bets of the Cesson-Sévigné against Montpellier handball match (2012)

The case of the bettor Bellahcene in tennis/ Dan Added (2017)

The affair of the Fréjus-Colomiers football match (2014)

- In response : creation of tools to alert

Few alerts recorded



Problematic

How can we encourage competition stakeholders to alert in the case of manipulation of sports competitions?

Project objectives

Implementation of whistleblowing policies at national levels to PROMOTE, PROTECT AND HANDLE ALERTS.

BRING together national platforms and actors of sport competition: Consultation and co-construction

DEVELOP national action plans for effective reporting mechanisms and whistleblowing policies

01.06.2022- 31.12.2024

- **7 national platforms :**



- **3 sports stakeholders representative organizations**

- EU Athletes
- ICCE (coaches)
- IFSO (referees)

- **A pole of international and interdisciplinary experts**

- Rennes II University (Sports management)
- University of Gdansk (Sports Law)
- Univeristy of Paris 1 Panthéon-Sorbonne (Sports Law)

Specific objective of the article

Identify which legal improvements in the French legal arsenal could encourage competition stakeholders to report manipulation of sports competitions

Recent european legal basis

- The Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of whistleblowers
 - global objectives / Member States are free to choose what means they implement to achieve these objectives
 - Sport is not one of the areas directly cited in Article 2 relating to the material scope of the directive
- The Convention of the Council of Europe on the manipulation of sports competitions (Macolin convention) – art. 7.2 for the whistleblowers protection

French Legal basis

→ Whistleblower legal framework

Law No. 2016-1691 of December 9, 2016 relating to transparency, corruption and the modernization of economic life (The “Sapin II” Law),

Law No. 2022-401 of March 21, 2022 aimed at improving the protection of whistleblowers (the Wasserman Law)

Specific regulation for antidoping (Deliberation n° 2023-01 of February 9, 2023)

→ The fight against manipulation of sports competitions

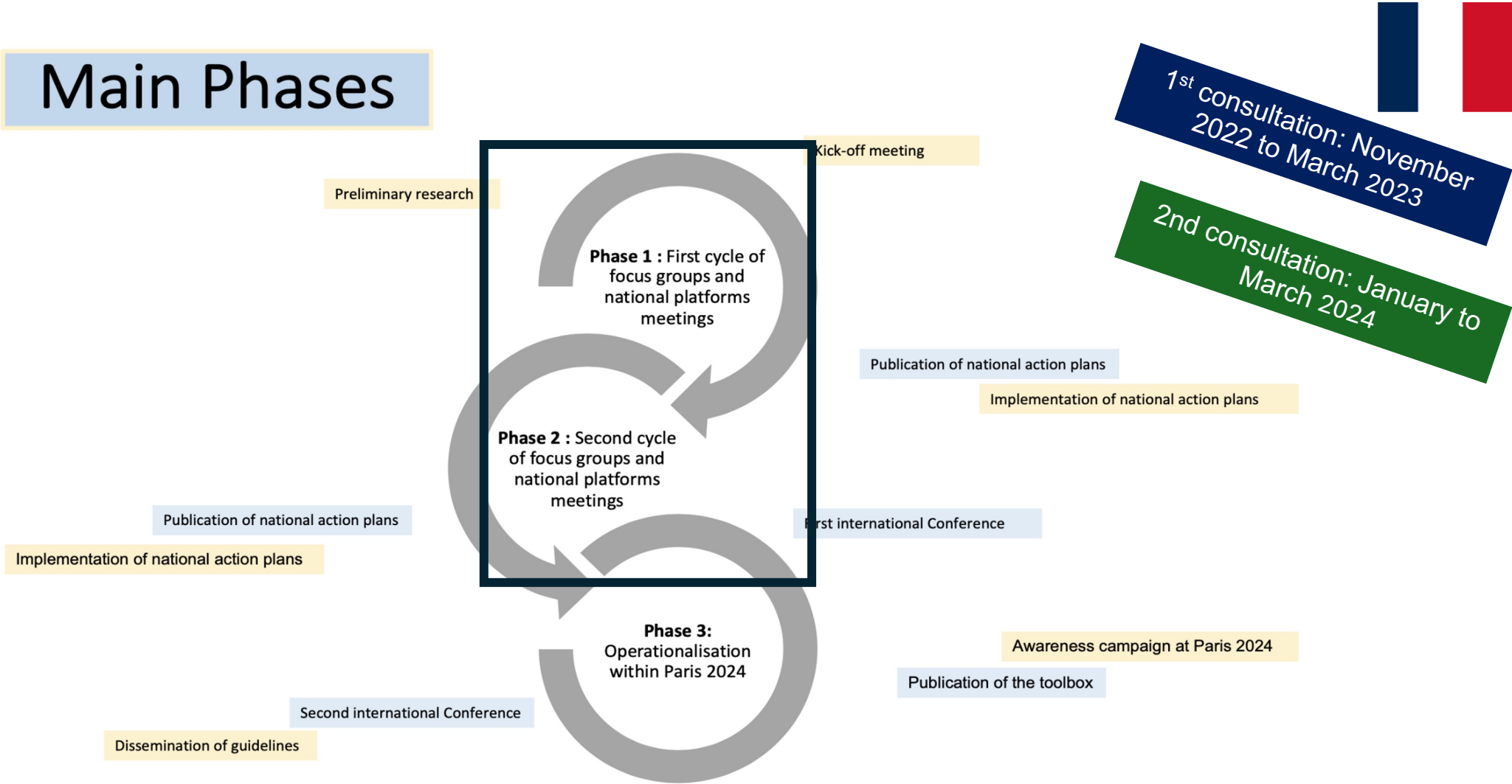
Law No. 2022-296 of March 2nd, 2022 - establishment of the French national platform for the fight against the manipulation of sports competitions

Law No. 2022-1555 of December 12, 2022 - ratification by France of the Convention of the Council of Europe on the manipulation of sports competitions.

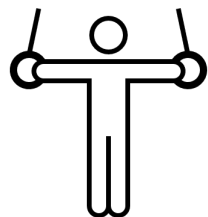
Specific offenses of sports corruption in the French criminal code (Art. .335-1 to L.335-3)

Data collection in France

Main Phases



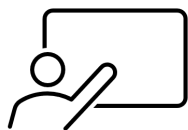
Data collection in France



QUANTITATIVE DATA COLLECTION

1391 complete questionnaire responses

Between November 2022 to June 2023

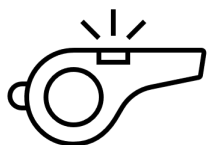


QUALITATIVE DATA COLLECTION

8 one-hour focus groups with the main target audiences:
coaches, referees, athletes/players and national platform
More than 40 people

1st consultation: November 2022 to March 2023

2nd consultation: January to March 2024



Disciplines :

Boxing, Football, Ice-Hockey, Tennis, Basket-ball ; Handball ; Rugby ; Skating, Athletics, Swimming, Gymnastics, Taekwondo, Badminton, Fencing, Table, Volleyball, Sitting volleyball (Paralympic) tennis

National or international level

Majority of men

Results

- **The obstacles to alerting are numerous.**

- the anonymity of the corrupters

- the fear of reprisals

- ignorance and distrust of the reporting tools.

- **their lack of knowledge of legal guarantees and protections** in terms of security, confidentiality but also in the event of retaliation

- Question of support for the sports movement in case of alert :

The vast majority of respondents believe that they would be supported and helped by their federation (80%) or their local team or club (86%) in the event of a report of match-fixing.

On the contrary, some respondents responded that they think they would not be helped by their federation (249 people) or by their clubs (173 people).

Results

→1. Sports stakeholders do not know the protections offered to them in the event of an alert.

What do they “gain” by alerting if they don’t know if they are protected?

→2. The French actors of sport ignores the legal framework for whistleblowers in sport. Two distinct legal frameworks : private and disciplinary law (sport movement) and national law (state)

Legal perspectives

- **Why does the general French legal framework partially apply to the world of sport?**
- **Why is it important to create a specific framework for the whistleblowers in sport in France?**

Legal perspectives

- I. Why does the general French legal framework partially apply to the world of sport?

- A. The French legal definition of a whistleblower



*"natural person who reports or discloses, without direct financial compensation and in good faith, information **relating to a crime, an offence, a threat or harm to the general interest, a violation or an attempt to conceal a violation of an international commitment regularly ratified or approved by France, of a unilateral act of an international organization taken on the basis of such a commitment, of the law of the European Union, of law or regulation**". (Art. 6 SAPIN II Law)*

→ general of specific provisions in French criminal code

→ ratification of the Council of Europe Convention on the Manipulation of Sports Competitions,

Legal perspectives

- I. Why does the general French legal framework partially apply to the world of sport?
- B. The legal scope of application of the French Law

"legal persons governed by private law and companies operated in their own name by one or more natural persons, employing at least fifty employees"

- Sports federations, in the form of associations / entities under private law which, **if** more than 50 employees
- Sports clubs and organizers sports organizations in the form of sports companies (art. L.122 C. sport) and organizers of private sports events mentioned in article 331-5 of the Sports Code **if** more than 50 employees



- Sports organizations less than 50 employees
- licensees are not employees of sports federations
- amateurs, professional athletes but self-employed

*"any sportsman or sportswoman and any person involved in sport (such as coaches, staff, officials, third-parties, relatives), **irrespective of the existence or nature of a contractual relationship** with a sports organization".*

Legal perspectives

- II. Why is it important to create a specific framework for the whistleblowers in sport in France?

A. The extent of whistleblower protection provisions

The article 10-1-II of the Sapin modified Law lists the prohibited reprisals : complete
→BUT the scope of retaliation does not include the athlete's families or entourage

Numerous additional protections:

- The civil and criminal irresponsibility of whistleblowers is extended
- Criminal (1 year of imprisonment and 15,000 euros fine) and civil penalties (Fine of 60,000 euros and damages)
- Financial and psychological (art. 14-1 Sapin modified Law)
- Confidentiality guarantees

→BUT not specific to the world of sport : only one provision relating to doping for the sanction of intimidation or reprisals

- National judicial authorities should be conferred to sport whistleblowers and this should be legally enshrined
- Sanctions provided for are not adapted to the world of sport : provide for **full compensation** for damages suffered which, depending on the sporting discipline, exceed 60,000 euros.

Legal perspectives

- **II. Why is it important to create a specific framework for the whistleblowers in sport in France?**

A. The extent of whistleblower protection provisions

Idea of an additionnal protection included in law :

- adoption of internal regulations prescribing rules for alert mechanisms ((agreement between the whistleblower and the report recipient)
 - listing the rights and responsibilities of both the whistleblower and the report recipient.
 - exists for the fight against doping (the right to provide information, the right to confidentiality, the right to secure reliable and reporting channels(...))
- should be extended to all integrity themes and to all public bodies responsible for handling alerts, like the National Gambling Authority (ANJ) and the Ministry of Sports.

Legal perspectives

- **II. Why is it important to create a specific framework for the whistleblowers in sport in France?**

B. A public/external reporting mechanism for sports in the law

→ a three-step reporting mechanism with Sapin II modified Law: the whistleblower has the choice, alternatively or cumulatively, between an internal or external report and then a public disclosure

AFLD sets up an internal procedure

→ BUT only for doping issues.

→ Idea: the establishment of a global reporting tool for all sport integrity issues within French sport

- doping - national anti-doping agency (AFLD)
- harassment and violence - the Ministry of Sports
- manipulations related to betting - the National Gambling Authority (ANJ)
- (or all manipulations – the national platform)

Legal perspectives

- **II. Why is it important to create a specific framework for the whistleblowers in sport in France?**

C. The legal designation of sports facilitators

Protection planned since the Wasserman Law.

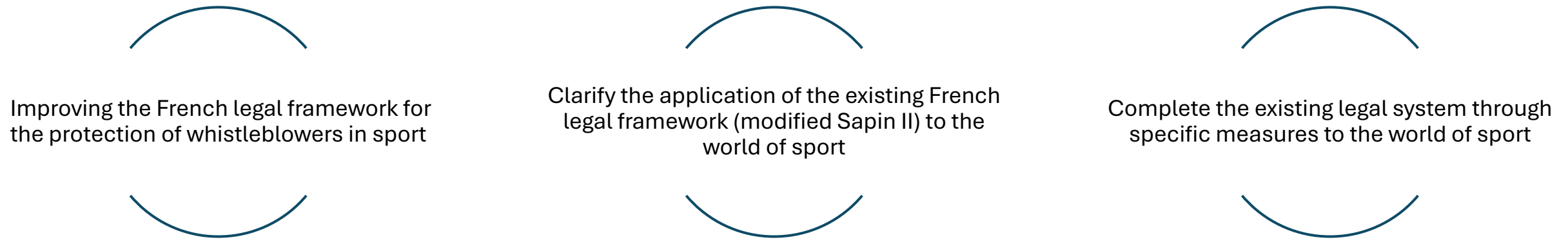
“any natural or legal person under private law, not for profit, who helps a whistleblower to make a report or a disclosure” (art. 6-1-1° Sapin modified Law).

→ Express clarification:

- the coaches
- the integrity representatives
- the employee integrity delegates
- the unions of sports actors
- sports agents

Conclusion

- How can we encourage competition stakeholders to alert in the case of manipulation of sports competitions?



Improving the French legal framework for the protection of whistleblowers in sport

Clarify the application of the existing French legal framework (modified Sapin II) to the world of sport

Complete the existing legal system through specific measures to the world of sport

The extent of the legal scope
The validation of the definition of whistleblowers

The extent of whistleblower protection provisions
A public/external reporting mechanism for sports in the law
The legal designation of sports facilitators



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Thanks for your attention !

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