



EU SPORT WHISTLE PROGRAMME (2017–2018)

Implementation of whistleblowing policies by sport organizations in the EU

An operational report with policy recommendations

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<https://sportwhistle.eu/>

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Preamble

This report is an outcome of the programme Sport WHISTLE (2017–2018), co-financed by the the European Commission.

The Sport WHISTLE programme has been coordinated by the Aristotle University of Thessaloniki (Greece), and gathered a consortium of eight other EU institutions:

- Cyprus Sport Organization (Cyprus);
- FAIR PLAY CODE HELLAS (Greece);
- International Council of Sport Science and Physical Education (Germany);
- International Council for Coaching Excellence (UK);
- National University of Physical Education and Sports (Romania);
- Department of Psychology, Sociology & Politics, Sheffield Hallam University (UK);
- Società Sportiva Lazio Baseball and Lacrosse (Italy);
- The French Institute for International and Strategic Affairs (France).

The aims of the WHISTLE project were to:

- Raise awareness, guide and inform athletes and stakeholders to recognize, resist and report harmful irregularities; and
- Encourage and help sport organisations to introduce compliance systems and mechanisms for internal reporting.

The key expected outcomes of WHISTLE project included:

- The Sport WHISTLE Education tool, which aimed to increase the awareness of sport actors about recognizing – resisting and reporting, in different types and levels of sport; (competitive and non-competitive – professional and recreational sport) and indicate ways to properly report irregularities, including doping, corruption, abuse, violence, harassment to the relevant authorities, sport integrity platforms or sport governing bodies ethics committees or sport compliance systems. This education tool is composed of six modules, available online (<https://sportwhistle.eu/sport-whistle-educational-material/>), and by guidelines on how to use the tool. It can be downloaded and used by anyone.
- The operational report, addressed to the sport (private or public) authorities, including a presentation of what whistleblowing is, why it is important to consider, and recommendations to guide implementation of sport whistleblowing and sport compliance systems and practices.

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Introduction

A series of recent scandals (from doping to sexual abuse and match fixing) in the global sports community have led to the recognition of the importance as well as the limitations of whistleblowing practices in sport. For instance, the “Nassar” case¹ which involved sexual abuse within USA Gymnastics was made public through several testimonies from athletes and coaches at the Michigan State University and gymnastics clubs made in the press. Although relevant authorities were informed early on about the potential occurrence of sexual abuse, it took the courage of whistleblowers to publicly expose the scandal and mobilize sanctions against it. In a different context, the Russian doping scandal was firstly revealed by the German press in 2014, and received worldwide attention following the decision of Russia's anti-doping laboratory chief, Grigori Rodchenkov, to publicly expose an alleged state-run doping control evasion programme that was implemented by his lab. The relevant report that was published by the World Anti-doping Agency (WADA) demonstrated that Russia's government-directed doping programme had involved, or benefited, more than 1,000 athletes across 30 sports².

Despite the fact that whistleblowing in both cases led to immediate action to safeguard and protect sports and athletes from similar incidents, whistleblowers were faced with severe criticism and allegations about their integrity, and received death threats. Whistleblowing can be controversial. In some societies the reporting of misconduct is still seen in a negative light and can be assimilated to “snitching”, or treason. In some historical periods, snitches helped authoritarian regimes to detect and repress dissidents. Such memories still resonate today. But even in countries with no such political past, whistleblowing can involve individuals confronting an entire organization with a lot of personal interests at stake. A whistleblower breaks social bonds in favour of fairness and justice principles. This explains why whistleblowers still find a hard time fighting frauds and misbehaviour, and why many organisations or countries are reluctant in setting up reporting mechanisms and whistleblower protection systems.

Regardless of their motives and their background, whistleblowers can provide invaluable information and contribute to stopping, unravelling and sanctioning major wrongdoings occurring in sport. They help authorities, while taking prominent personal risks, to nurture a sport environment free of hazards and abuse. While the fight against doping has met its own limits, whistleblowers can open doors and go far beyond what the traditional testing procedures achieve. For instance, the WADA Speak Up platform had received more than 400 alerts in less than two years³. Even if all alerts do not prove useful, many new cases have been opened or deepened thanks to the brought-up information. National anti-doping agencies, along with international federations, are also increasingly relying on inside tips to orientate their testing strategies⁴. Similarly, the establishment of numerous confidential whistleblowing platforms have been a key feature of the fight against match-fixing. Actually, the first fully-fledged whistleblowing systems in international sports were targeting match-fixing (FIFA, UEFA, IOC, World Rugby, International Cricket Council, etc.).

Like in the public administration or business sectors, albeit some years later, whistleblowing systems have become an indispensable compliance tool within sport organisations. That does not mean that a whistleblowing

1 For a series of articles presenting the case, consult: Larry Nassar sex abuse scandal. *BBC*. Retrieved 14 November 2018, from <https://www.bbc.com/news/topics/clwx28lpp90t/larry-nassar-sex-abuse-scandal>

2 For a series of article presenting the affair (on-going), consult: Russia doping scandal. *The Guardian*. Retrieved 14 November 2018, from <https://www.theguardian.com/sport/russia-doping-scandal>

3 WADA has 400 doping cases after flood of info from new whistleblowers (2018, October 5), *CBC*. Retrieved 14 November 2018, from <https://www.cbc.ca/sports/olympics/wada-has-400-doping-cases-from-whistleblowers-1.4852107>

4 *Global Whistleblowing Landscape for Reporting Doping in Sport, Report prepared for the World Anti-Doping Agency by Leeds Beckett University*. Retrieved 14 November 2018, from: https://www.wada-ama.org/sites/default/files/resources/files/leeds_beckett_wada_report_on_whistleblowing_platforms_july_2018.pdf

system will automatically be successful and attract numerous qualitative reports. In addition, setting up and managing a whistleblowing system is a complicated process. The present report aims to help decision-makers in the sport sector to understand the realm and implications of whistleblowing systems, presents several good practices set up by sport organisations in the EU, and provide basic recommendations to consider while planning, implementing and evaluating whistleblowing systems.

The background of the slide is a light-colored tennis court. Several dark shadows are cast across the court, including a prominent shadow of a tennis racket and a tennis ball. The shadows are cast from the upper right towards the lower left, suggesting a low sun position.

Part 1

Concepts, needs and practices

A. Whistleblowing in the sport sector

1. A rather new legal phenomenon

Whistleblowing emerged as a concept in the 1960s in the USA. The term was coined either as an analogy to English policemen blowing their whistle to alert about criminal acts, or to sport referees sanctioning foul play. Whistleblowing behaviour is based on the freedom of speech principles, which have been promoted for centuries in Europe and in the USA. But the USA were the first country to explicitly favour whistleblowing. The 1863 False Claim Act (FCA) first allowed individuals to raise alerts on fraud concerning public contracts. Whistleblower protection was reinforced with the 1978 Civil Service Reform Act (CSRA) and the 1989 Whistleblower Protection Act. More recently, the Public Company Accounting Reform and Investor Protection Act of 2002 extended whistleblowing promotion to all publicly traded companies. This law, also named Sarbanes-Oxley Act, or SOX, has a strong extra-territorial impact, as it obliges all companies registered at the New York stock exchange (also foreign companies) to install internal compliance mechanisms, including reporting systems⁵.

Over the last 20 years, a number of countries (mostly Anglo-Saxon and European) have enacted laws and regulations to encourage and protect whistleblowers, within public administrations, companies and NGOs. For example, a law from 2004 in Romania protects public employees who report breaches of the law. In the UK, the 1998 Public Interest Disclosure Act placed the protection for whistleblowers within the Employment Rights Act, under certain conditions. An anti-corruption law adopted in December 2016 in France obliges every organisation counting more than 50 employees or agents to set up a confidential reporting mechanism. A similar law has also been voted in Italy in November 2017. Other countries (the Netherlands, Ireland, etc.) have also made similar actions⁶. In April 2018, the EU Commission has proposed an EU-wide Directive on the protection of whistleblowers⁷.

2. Definitions

In literature, whistleblowing is classically defined as the “disclosure by organisation members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action”⁸. However, the following different forms of whistleblowing behaviour can be identified:

Internal vs external

“Internal whistleblowing” covers the disclosures made through technical systems and recipients that have been formally tasked by the concerned organisation to collect and handle the reports, even if these mandated persons are situated outside of the organisation. “External whistleblowing” consists of disclosures made to outside individuals or institutions who are not formally charged by the concerned organisation to conduct this role of complaint recipients. This latter type of whistleblowing has been prominent over the last years,

5 Schultz, D., & Harutyunyan, K. (2015). Combating corruption: The development of whistleblowing laws in the United States, Europe, and Armenia. *International Comparative Jurisprudence*, 1 (2), 87–97.

6 For examples of national provisions and international standards, see Transparency International. (2018). *A best practice guide for whistleblowing legislation*. Retrieved 17 November 2018, from https://www.transparency.org/whatwedo/publication/best_practice_guide_for_whistleblowing_legislation.

7 European Commission. (2018, April 23). *Press release. Whistleblower protection: Commission sets new, EU-wide rules*. Retrieved 17 November 2018, from http://europa.eu/rapid/press-release_IP-18-3441_en.htm.

8 Near, J. P., & Miceli, M. P. (1985). Organizational Dissidence: The Case of Whistle-Blowing. *Journal of Business Ethics*, 4 (1), 1–16, p.4.

since organisations like Wikileaks, or media organisations try to attract disclosures by organisations insiders. Whereas internal mechanisms are set up to avoid public revelations, external systems are meant to have a public dimension. They can lead to scandals. This is, for example, the case of Edward Snowden, an NSA employee who chose to publicly reveal illegal practices by his organisation. Another example involves bank employees gathering evidence of fraud by their organisation (for example, facilitation of tax evasion or money laundering) and sending the data to media organisations (ex: PwC/Antoine Deltour⁹; HSBC/Hervé Falciani¹⁰).

Private vs public interests

The subject of the disclosure can be either of “private interest”, where the wrongdoing affects one individual only (also called grievance claims), or “public interest”, where it is supposed to affect most or all society. Within sport, it involves wrongdoings that jeopardise the integrity and credibility of sport as a whole. Such issues can be: institutional corruption or bribe taking/offering, match fixing, doping, harassment, physical abuse, and violence.

The present report is focused on internal whistleblowing systems set up by sport organisations. A first issue concerns the whistleblowing system itself. It can be either a phone hotline, an email address, a mobile phone application, an internet platform or a dedicated person who collects vocal reports (some systems allow several options). A second issue regards the recipient of the report. The mandated person can be either within the structure of the formal organisational chart (e.g. an integrity officer at a federation, league or club level, or a compliance unit) or outside the organization (e.g. an ombudsman, a lawyer, or a syndicate, that is more or less independent from the sport organisation and is tasked to collect, orientate and/or treat the reports).

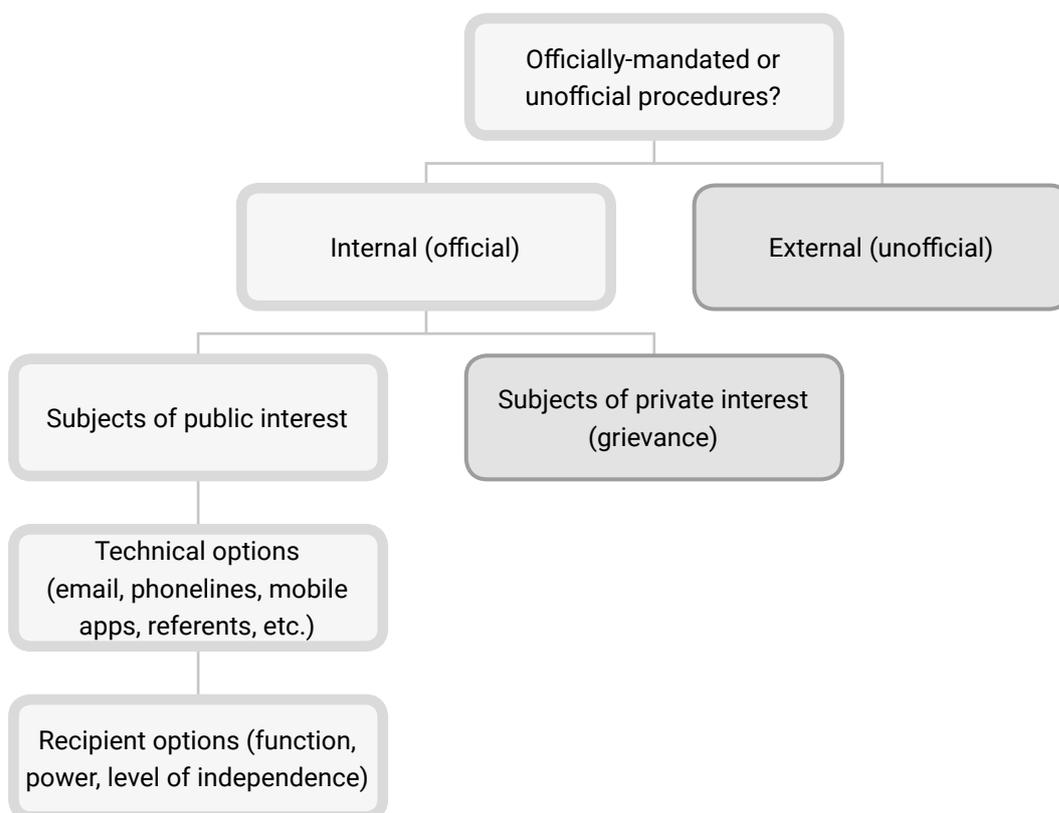


Figure 1: Segmentation of whistleblowing systems

9 Luxleaks whistleblower Antoine Deltour has conviction quashed (2018, January 11), *BBC*. Retrieved 17 November 2018, from: <https://www.bbc.com/news/world-europe-42652161>

10 J. Garside (2015, November 15). HSBC whistleblower given five years' jail over biggest leak in banking history. *The Guardian*. Retrieved 17 November 2018, from: <https://www.theguardian.com/news/2015/nov/27/hsbc-whistleblower-jailed-five-years-herve-falciani>

The act of whistleblowing is actually one step within a long process, starting with the observation of a wrongdoing and eventually (potentially) terminating with the correction of the initial wrongdoing. When an insider decides to make a report to his/her organisation, (s)he actually activates the compliance responsibility of the organisation. When the unit or person in charge receives a report, it actually faces the same initial situation of the whistleblower about whether an investigation should start.

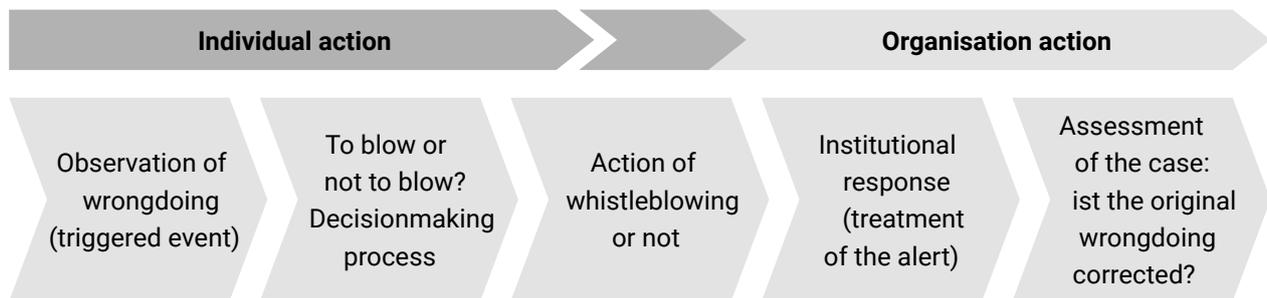


Figure 2: The five steps of the whistleblowing process

The whistleblowing process is a sensitive process for the whistleblowers who will ask themselves:

- Am I sure of what I did see or understood? Is this situation a crime? Is it a fraud? Is it a violation of law? Is it a violation of sport disciplinary regulations? (Recognition)
- Should it be reported? By whom? Am I legally obliged to do it, by law or by sport disciplinary regulation? (Responsibility)
- How can I report? Can I stay anonymous? (Reporting modalities)
- What are the risks? How can I avoid retaliation? What will be the consequences of my report for the wrongdoer and for the victim? Who will be in charge of the investigation? Will the alert be treated fairly and thoroughly? (Consequences)

Similarly, whistleblowing can also be a tricky managerial issue for the organisation:

- Is the information legitimate? Can we trust the whistleblower? What level of information/proof is available? Is the wrongdoing worth to be responded to? (Recognition)
- Whose responsibility is within my organisation or outside of it to deal with the report? (Responsibility)
- What are the options for reactions? Do I have the disciplinary or legal mandate to investigate and/or sanction? Should (ought) law-enforcement be contacted? How to conduct an investigation while protecting the confidentiality of the whistleblower and the rights of the persons or organisations who are accused in the report? (Action modalities)

3. The onset of whistleblowing systems in sport organisations

Whistleblowing systems in sport are rather new. Most of them have been implemented to address critical integrity issues, such as match-fixing, doping, institutional corruption, violence or harassment. And quite often they have been implemented following public scandals which damaged the image and credibility of sport organisations. The earliest efforts concerned mainly sexual harassment, at national level. In the aftermath of an abuse scandal (the Sheldon Kennedy–Graham James case), Hockey Canada established in 1997 their ‘Speak Out’ programme in association with the Canadian Red Cross to enable reporting. One year later, after a scandal in the judo discipline (the Peter Ooms case), the Dutch NOC*NSF opened one of the first general tele-

phone support services for sexual harassment in sport¹¹. In the 2000s, such lines on sexual violence started to develop at national level (for example, in France the Sports Ministry set up a line in 2007) and are followed by a development of whistleblowing system for doping incidents. These systems are run either by the ministry in charge of sport, the national Olympic committee, a federation or national anti-doping organisations.

At international level, the first formal whistleblowing system mainly emerged as a response to the match-fixing phenomenon. Following a competition manipulation alert at the Sopot tennis tournament in 2007, numerous tennis players made public that fixers had already tried to approach them¹², but no one had actually reported the bribery attempts. The growth of the match-fixing threat prompted sport authorities to set up whistleblowing systems to allow players or their entourage to report approaches or other relevant information. Major international sports disciplines started to set up integrity units to collect and handle the reports, actually following the pioneer step of the international cricket council (ICC) which installed an anti-corruption unit as early as in 2001, following the infamous Hans Cronje affair (2000) and rising online betting activity around its competitions¹³. In 2008, the tennis integrity unit was created (using the model from the ICC anti-corruption unit), which also included a whistleblowing system and a duty to report for all tennis players¹⁴. In 2011, UEFA created a network of national integrity officers, without mentioning whistleblowing in its communication¹⁵, but in 2014 it required national associations to set up reporting mechanisms and launched a seven-language Integrity website to support whistleblowing via the UEFA website. This whistleblowing system was operational on July 1, 2014¹⁶. FIFA, the world football federation, created a dedicated whistleblowing system in 2013 for event manipulations as well as for any breach of its Code of conduct¹⁷. Already in 2004, a code of conduct was created by FIFA, covering mainly institutional corruption and conflicts of interests, including a duty to report¹⁸. The IOC announced the creation of their first hotline in July 2015 to “report suspicious behaviour or activities related to event manipulation and infringements of the IOC Code of Ethics or other matters which fall under the IOC’s jurisdiction. These include financial misconduct or other legal, regulatory and ethical breaches”¹⁹. In March 2017, WADA, also in the eye of the Russian doping affair turmoil, launched a platform to report doping violations²⁰. This platform, “Speak Up”, was introduced as a direct reaction to the fate of several Russian athletes and staff members who participated, at their own risk, to the unravelling of the Russian doping case. Recently, the international gymnastics, biathlon, hockey, ski and sailing federations were among the sport organizations who followed suit and implemented confidential whistleblowing systems.

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- 11 For an analysis of this tool, see Vertommen, T., Schipper-van Veldhoven, N. H., Hartill, M. J., & Van Den Eede, F. (2015). Sexual harassment and abuse in sport: the NOC* NSF Helpline. *International Review for the Sociology of Sport*, 50 (7), 822–839.
 - 12 Newman, P. (2007, October 10), Murray attacks match-fixing as ATP gets tough. *The Independent*. Retrieved 17 November 2018, from: <http://www.independent.co.uk/sport/tennis/murray-attacks-match-fixing-as-atp-gets-tough-396432.html>
 - 13 Ugra, S. and Samiuddin, O. (2010, August 31). No concerns over ACSU's work – Haroon Lorgat. *ESPN*. Retrieved 17 November 2018, from: <http://www.espnricinfo.com/england-v-pakistan-2010/content/story/475305.html>
 - 14 3 years later, one player was sanctioned for failing to report an approach.
 - 15 UEFA. (2011, September 15). First-ever Integrity Officers workshop at UEFA. Retrieved 17 November 2018 from: <http://www.uefa.com/insideuefa/about-uefa/legal-justice/news/newsid=1680280.html>
 - 16 UEFA. (2014, March 27). Unanimous approval for integrity resolution. Retrieved 17 November 2018, from: <http://www.uefa.com/insideuefa/about-uefa/organisation/congress/news/newsid=2078383.html>
 - 17 FIFA. (2013, February 6). FIFA launches new reporting mechanism. Retrieved 31 July 2018, from <http://www.fifa.com/governance/news/y=2013/m=2/news=fifa-launches-new-reporting-mechanism-2002097.html>
 - 18 However, this tool was never really promoted.
 - 19 IOC. (2018, June 27). New IOC integrity and compliance hotline fully operational. Retrieved 31 July 2018, from <https://www.olympic.org/news/new-ioc-integrity-and-compliance-hotline-fully-operational>
 - 20 WADA. (2017, March 9). WADA launches “Speak Up!” – A secure digital platform to report doping violations. Retrieved 31 July 2018, from <https://www.wada-ama.org/en/media/news/2017-03/wada-launches-speak-up-a-secure-digital-platform-to-report-doping-violations>

B. The need for robust whistleblowing policies

1. The cognitive dissonance faced by sport actors. Results from the WHISTLE consultation programme

Methodology

In the second half of 2017, members of the Sport WHISTLE programme consulted sport actors about their view of whistleblowing as a behaviour and under which conditions they would consider blowing the whistle.

Semi-structured focus groups interviews were conducted with 79 sport actors from 7 countries (Germany, UK, France, Italy, Greece, Cyprus, and Romania), 17 disciplines (individual and collective sport: tennis, rowing, wrestling, gymnastics, rugby, shooting, judo, volley-ball, dancing, ultimate frisbee, football, track-and-field, squash, swimming, fitness, baseball, softball). Forty-two participants (more than half) were either coaches or athletes with coaching activity. The majority of respondents were aged between 18 and 25 years old, and approximately one quarter were female.

Following previous research on whistleblowing behaviour, the interview themes and questions were derived from whistleblowing behaviour and social cognition models, such as the Theory of Planned Behaviour (TPB)²¹, Behavioural Reasoning Theory (BRT), and the Prototype/Willingness Model. According to TPB, behaviour is governed by intentions, and behavioural intentions stem from people's attitudes (i.e., an evaluation of the benefits/costs of the behaviour), social norms (e.g., perceived social approval and prevalence of the given behaviour among the many and similar/referent others), and perceived behavioural control (e.g., perceptions of controllability and efficacy in successfully carrying out the behaviour in question). The reasons for engaging or avoiding to engage in whistleblowing have also been addressed by BRT, which can be seen as an extension of the TPB²². Finally, among the few studies that addressed whistleblowing against harmful irregularities in sport, such as doping use, a recent study showed that variables derived from the Prototype/Willingness Model – an alternative to TPB social cognitive theory that accounts for more automatic and normative influences on behaviour – can be usefully applied to explain athletes' intentions to blow the whistle against doping²³. Therefore, the themes and questions used for this consultation pertain to the understanding of the potential whistleblower's intentions to report harmful irregularities in sport in the future, and take into account both individual-level factors, such as perceived costs and benefits of whistleblowing, and group-level factors and situational contingencies, such as acquaintance with other whistleblowers, as well as perceived social approval/favourability of whistleblowing from (many) and similar/referent groups (see Table 1).

21 Ajzen, I. (1991). The theory of planned behavior. *Organizational Behavior and Human Decision Processes*, 50 (2), 179–211.

22 Westaby, J. D. (2005). Behavioral reasoning theory: Identifying new linkages underlying intentions and behavior. *Organizational Behavior and Human Decision Processes*, 98 (2), 97–120.

23 Whitaker, L., Backhouse, S. H., & Long, J. (2014). Reporting doping in sport: national level athletes' perceptions of their role in doping prevention. *Scandinavian Journal of Medicine & Science in Sports*, 24(6), e515–521.

Table 1. Interview guide

Question theme	Grand tour questions	Behavioural beliefs	Normative beliefs	Controllability beliefs	Reasons for/against whistleblowing
Main questions	What do you think about whistleblowing?	Why do you think some people engage in whistleblowing? How would you feel if you became aware of a harmful irregularity in sport (e.g., doping, match fixing) and you reported it through a whistleblowing mechanism?	Who are the individuals or groups of people that would be more likely to engage in whistleblowing in your sport? How acceptable do you think is whistleblowing among your colleagues/fellow athletes in your sport?	What factors, conditions or situations would enable or hinder you from engaging in whistleblowing?	What are the five most important reasons that would motivate you to engage in whistleblowing to report a harmful irregularity in your sport? What are the five most important reasons that would prevent you from engaging in whistleblowing to report a harmful irregularity in your sport?
Prompts (if not addressed already in the answers provided by the participants)	Are you aware of ways and mechanisms to safely and effectively engage in whistleblowing if you needed to?	What do you think are the benefits of whistleblowing for you personally and for your sport? What do you think are the risks of whistleblowing for you personally and for your sport?	What do you think that most people of your age, gender and profession (or level – if athletes are interviewed) would do if they became aware of a harmful irregularity in sport, such as doping and match fixing?	What issues come to mind when you think about your ability (i.e., how easy or difficult it would be for you) to engage in whistleblowing?	

Results

One of the first findings of these interviews was that attitudes of sport actors towards whistleblowing proved predominantly positive (Table 2). Attitudes, or behavioural belief, refers to the perceived positive or negative consequences of performing the behaviour and the subjective values or evaluations of these consequences.

Table 2. Statements referring to whistleblowing positivity

Whistleblowing is a good thing...	Quantity
...to protect sport justice, fairness, level-playing field	9
...to protect the spirit, values of sport	10
...to protect health, and correct wrongdoings	22
...to show the example and promote more whistleblowing	3

Table 3. Statements referring to ambiguous feelings regarding whistleblowing

Mixed or negative feelings...	Quantity
...Mixed feelings, both positive and negative	1
...Whistleblowing is only a good thing if you have hard/clear evidence	8
...There is a risk for the reputation of your sport, and for the wrongdoer	4

In the same vein, actors reported that they would feel pride to blow the whistle (Table 4).

Table 4. Statements referring to feelings associated with blowing the whistle

If I had to blow the whistle....	Quantity
...I would feel pride/well	15
...I would feel pride, despite the risks and pressures	4
...I would feel bad if I did not do it	1
...I would have mixed feelings (risk of harming or getting harmed)	2
...I would feel quite bad/uncomfortable	3

However, 31 statements were collected implying that whistleblowing is risky and/or difficult. Also, the awareness and trust of the reporting procedures is ambiguous (Table 5).

Table 5. Statements regarding existing reporting procedures

	Quantity
I know that procedures do exist/it's possible to report things	9
It's a grey area, it depends on the frauds, or levels of competition	8
These procedures and their managers are not trustworthy	10
I don't know about procedures, who to talk to	7

In conclusion, attitudes towards whistleblowing were strongly ambivalent, if not conflicted. On the one hand, whistleblowing was very positively valued among sport actors. They seemed to agree that it is an important thing to do for their sport. But on the other hand, they expected difficulties to successfully terminate the action. Fear of social or career retaliation is a clear component of the reported consequences. Whistleblowing was found to be the result of a salient belief, of a complex decision-making process where both affective and cognitive beliefs interact.

This evidence suggested that the majority of the interviewees see whistleblowing as a risky and difficult action. Very few would unconditionally blow the whistle. Most of the times it would depend on:

- *The wrongdoing.* For example, it may be easier to blow the whistle on a case of repeated physical abuse issues, than on doping.
- *The profile of the wrongdoer.* It might be more difficult to blow the whistle on a known champion than on an unknown athlete. The sport authorities may be less likely to investigate and sanction an athlete who participates in a popular sport.
- *The level of proof.* Many potential whistleblowers feel insecure about what they have witnessed, and whether it is really illegal.
- *The disciplines and cultural context.* The interviews showed that some disciplines and some organisations may be more prone to accept and support whistleblowing.

Consequently, the interviews demonstrated a strong cognitive dissonance between the values of the sport actors, who in majority praise whistleblowing in order to protect the athletes and favour sport integrity, and the reality within their environment, where they expect whistleblowers to face negative consequences and where they do not automatically trust leadership.

Given this low level of trust and the impact of contextual conditions, robust and reliable whistleblowing systems and policies are necessary to empower individuals to contribute in the detection of various wrongdoings.

2. Internal reporting systems, a tool to address legal and ethical concerns

In corporate settings, whistleblowing has been valued as one of the most efficient tools to unravel wrongdoings. They have been considered as an effective tool of self-regulation, risk-management and organizational

efficiency²⁴. Internal whistleblowing systems can help organizations to fix wrongdoings before they become scandals compromising their image and credibility. Increasingly, sport organisations are taking responsibility for their overall compliance with rules and standards, whistleblowing systems can contribute to the results of this strategy.

Experiments on the fight against doping have concluded that the existence of whistleblowing systems (including leniency programmes) can reduce the occurrences of doping and lower the regulation costs since less controls are necessary²⁵. As the traditional anti-doping strategy, focusing on athletes' testing, is not fully effective, anti-doping organisations are increasingly seeking to promote whistleblowers as an alternative way of detecting wrongdoing²⁶. Whistleblowing is a critical tool to the fight against doping, as athletes are at the forefront of this fight and often feel powerless²⁷.

As seen in the Nassar or Russian doping cases, whistleblowers are critical in the detection and sanction of the wrongdoing. Without them, the procedures may not have succeeded. Whistleblowers do not need to be disinterested, ethical individuals. Sometimes they have participated in a wrongdoing and agree to raise the alarm and provide information; either because they feel too much at odds with the situation and want to stop the situation, or because they feel that they can negotiate a reduced sanction through their cooperation. Whatever the motives of the whistleblower, they need to be supported in order to address the wrongdoings that they raise.

As individuals fighting against formal or informal systems of wrongdoing, or wrongdoings that are more or less supported by the organisations, they often face personal risks, ostracism, retaliation, etc. Too often their careers are broken by the allegations²⁸. Because they contribute to protect sport's integrity, whistleblowers need to be supported, accompanied, and protected.

3. Whistleblowing can be challenging in the sport sector

Compared to other sectors, it may be more difficult to detect and signal wrongdoings in sport, as some wrongdoings can be collective. In other words, they can be initiated and supported by a large group of individuals, including managers. Besides, past evidence showed that strong cultures of silence exist in sport. In 1988, Adler and Adler studied the environment of USA college athletics and concluded that it belongs to a particular type of organisations characterised by forms of "intense loyalty", which they were conceptualized around five social features: domination, identification, commitment, integration and alignment. Athletes were strongly dominated by a head coach with strong structural authority and personal leadership. They identified themselves in relations to both their organisation and their coach. A sense of commitment was legally entrenched by the signing of a contract and by a number of symbols (for example, team equipment). Integration referred to the "coalescence of discrete individuals into a cohesive unit" bound together by "unification in opposition", group solidarity and sponsorship. Lastly, the goal alignment factor described how individual career aims fitted with the organisational winning goal. Adler and Adler underlined that in such "intense loyalty" organisations, subordination

24 Brown, A., Mazurski, E., & Olsen, J. (2008). The incidence and significance of whistle blowing. In A. Brown (Ed.), *Whistle blowing in the Australian public sector* (pp. 25–53). Canberra: ANU E Press; Vandekerckhove W. (2006). *Whistleblowing and organisational social responsibility: A global assessment*. Aldershot, England: Ashgate.

25 Berentsen, A., Bruegger, E. & Loertscher S. (2008). On cheating, doping and whistleblowing. *European Journal of Political Economy*, 24 (2), 415–36.

26 Global Whistleblowing Landscape for Reporting Doping in Sport, Report prepared for the World Anti-Doping Agency by Leeds Beckett University. (n.d.). Retrieved 14 November 2018, from: https://www.wada-ama.org/sites/default/files/resources/files/leeds_beckett_wada_report_on_whistleblowing_platforms_july_2018.pdf

27 Erickson, K., Backhouse, S.H., & Carless, D. (2017). I don't know if I would report them: Student-athletes thoughts, feelings and anticipated behaviours on blowing the whistle on doping in sport. *Psychology of Sport and Exercise*, 30, 45–54.

28 Hanna, C., Levine, J., & Moorman, A. M. (2017). College athletics whistle-blower protection. *Journal of Legal Aspects of Sport*, 27 (2), 209–226.

is more accepted, to the contrary of dissent and non-conformism²⁹. Subsequent works have confirmed this specificity of the sport sector. Also analysing USA college athletics, Richardson and McGlynn described two other contextual features which further lowers the ethical climate: the impact of external actors like the media and the public which add on potential retaliation forces against the whistleblowers, and the hypermasculinity of sport, which represents an additional power dimension and acts to the detriment of whistleblowers who may suffer from sexualized/gendered retaliation and structured isolation³⁰.

Such situations can vary across countries and disciplines. Studies of UK Rugby League and Track and Field athletes and anti-doping measures, confirm the existence of a strong code of silence but demonstrate that rugby league players were less likely to blow the whistle than track and field athletes³¹. Differences between individual/collective, amateur/professional sports and between perceptions of wrongdoing (here, doping) are at stake and should be taken into account by authorities.

The weakness of athletes towards the organisation also emanates from their legal dispositions. Career of high-level sport athletes is indeed generally much shorter than the career of classical employees and they rarely have opportunities to recoup career damages. Their working contracts are most of the time short termed and contain less legal protection than in other corporate sectors. Their professional fate is highly dependent on staff and management. This fragile bargaining power leaves potential sport dissenters at a higher risk of retaliation, especially since sport governing bodies may be in a situation of quasi-monopoly over their discipline³². Also, at international level at least, collective representation of athletes is still lacking³³. This may not apply to other sport agents, like staff, coaches or managers, who (at least in theory) have a higher power position and tenure and could be more prone to raise issues.

Some of the sport actors are reporting irregularities in the media. A research conducted by the National University of Physical Education and Sports in Bucharest in 2018³⁴ revealed that many athletes are coming to journalists to “blow the whistle” when confronted with the absence of any official mechanism to report or because of lack of trust in sport organisations.

Because speaking up may be so difficult to do for sport actors, specific and tailored reporting options are necessary to lower the threshold and trigger and channel whistleblowing behaviour within the organisation, not outside of it. Such reporting mechanisms have to be supported by coherent integrity policies (including prevention and awareness-raising programmes), a listening ear (recipients and management have to answer to the alerts), and continuous assessment to adapt the whistleblowing and integrity policies to the needs and context.

4. Protecting the whistleblowers and promoting moral reasoning

Whistleblowing systems are a potentially effective tool to reduce the distance between the athletes and sport top-management. Through whistleblowing systems, authorities are not only providing ways to rescue athletes from hazardous situations, but they also provide a line of communication with all members of the sport family,

29 Adler, P. A., & Adler, P. (1988). Intense loyalty in organisations: A case study of college athletics. *Administrative Science Quarterly*, 33 (3), 401–417.

30 Richardson, B. K., & McGlynn J. (2015). Blowing the whistle off the field of play: An empirical model of whistle-blower experiences in the intercollegiate sport industry. *Communication and Sport*, 3 (1), 57–80

31 Whitaker, L., Backhouse, S., & Long, J. (2014). Reporting doping in sport: National level athletes' perceptions of their role in doping prevention. *Scandinavian Journal of Medicine and Science in Sports*, 24 (6), 515–521.

32 Smith, A. C. T., & Stewart, B. (2010). The special features of sport: A critical revisit. *Sport Management Review*, 13 (1), 1–13.

33 Geeraert, A., Alm, J., & Groll, M. (2014). Good governance in international sport organisations: an analysis of the 35 Olympic sport governing bodies. *International journal of sport policy and politics*, 6 (3), 281–306.

34 The research “Facing irregularities in sport: whistle blowing and watchdog journalism” was presented at the Sport & EU 13th Annual Conference, Edge Hill University, Liverpool, 3–4 July 2018.

to exchange information about their working environment. For example, the establishment of a helpline dedicated to sexual harassment run by the Dutch national Olympic committee provided valuable information to authorities on the scale and nature of wrongdoing in the organisation³⁵. Hence, whistleblowing systems (theoretically at least) are a positive tool for the well-being of the athletes. They are in line with the new focus that sport organisations follow towards the athletes, such as through the setting up of athletes' commissions, the inclusion of athletes in management boards, new models for revenue distributions, the promotion of dual careers, etc.

Organisations that fix internal problems and generally value dissent and moral reasoning may also find an increase in loyalty, identification and commitment. Many sport actors, athletes in particular, may be disheartened by the difference between the integrity rhetoric of sport authorities and the reality within sport environments, where sometimes acts of doping, psychological abuse, harassment, non-tolerant behaviour can be collectively sustained. The promotion of ethical behaviours, like whistleblowing, can assist aligning the global integrity objectives with on-the-ground reality.

35 Vertommen, *Op. Cit.*

C. The legal pressure towards whistleblowing systems in sport

The number of sectors and entities who are legally required to set up whistleblowing systems and protection for insiders has slowly been growing over the last three decades. One turning point has been the early 2000s. A string of scandals in the USA private and public sectors highlighted the low ethical culture that could collectively be sustained in large organisations. Many of these cases, such as the Enron scandal, were revealed by the report of internal whistleblowers.

In response to these organizational failures, the Sarbanes-Oxley Act ("SOX") was adopted by the USA Congress in July 30, 2002. It contained several provisions on compliance and ethical policies, including the obligation for all publicly traded corporations to implement procedures for the collection of confidential internal complaints regarding financial or accounting mismanagement, and the criminalization of retaliations against whistleblower (this last element applied to every employer nationwide). Criminal penalties could be applied for any violation of the SOX Act³⁶. The content of this legislation was not revolutionary, since for example the UK included also compulsory whistleblowing protection regimes in place since 1998 and the UK PIDA Act³⁷. The unprecedented nature of the SOX Act came from its extraterritorial dimension. Since most of the major multinational companies are registered at the New York Stock Exchange, its impact was worldwide. Thousands of corporations had to adapt their internal procedure and compliance systems. It contributed to a general experience of reporting mechanisms, which was spread to many countries and sectors. Humanitarian or international public organisations have for example imported these auditing and whistleblowing policies from the business sector³⁸.

1. International and European legislation on whistleblowing

The EU's Charter of Fundamental Rights (2000) contains three provisions which form the basis of whistleblowers' rights: freedom of expression, protection from unjustified dismissal and a right to effective remedies³⁹. A number of international organisations are pushing to convert these rights into law.

In October 2013, through a resolution, the European Parliament (EP) first issued a call asking the European Commission to establish an effective and comprehensive whistleblower protection programme for the European public and private sectors⁴⁰. A new resolution had been proposed by the EP in October 2017⁴¹. The EU Commission had meanwhile started a discussion about preparing a directive on whistleblowing. This led to an EC Directive proposal published in April 2018 setting a standard for the protection of whistleblowers across the

36 Dworkin, T. M. (2007). SOX and Whistleblowing. *Michigan Law Review*, 105, 25.

37 Public Interest Disclosure Act 1998. Retrieved 17 November 2018, from: https://www.legislation.gov.uk/ukpga/1998/23/pdfs/ukpga_19980023_en.pdf

38 See, for example, for the intergovernmental and humanitarian sectors: Joint Inspection Unit. (2018). *Review of whistleblower policies and practices in United Nations system organizations*. Retrieved 17 November 2018, from: <https://www.unjiu.org/content/review-whistle-blower-policies-and-practices-united-nations-system-organizations>

39 Charter of Fundamental Rights of the European Union (2000/C 364/01). (2000). Retrieved 17 November 2018, from: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

40 European Parliament. (2013). *European Parliament resolution of 23 October 2013 on organised crime, corruption and money laundering: recommendations on action and initiatives to be taken (final report) (2013/2107(INI))*. Retrieved 17 November 2018, from: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0444&language=EN>

41 European Parliament. (2017). *European Parliament resolution of 24 October 2017 on legitimate measures to protect whistle-blowers acting in the public interest when disclosing the confidential information of companies and public bodies (2016/2224(INI))*. Retrieved 17 November 2018, from: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0402+0+DOC+XML+V0//EN>

28-member European Union⁴². The measures will require companies to set up clear whistleblowing channels, feedback obligations and mechanisms to prevent retaliation. All companies with more than 50 staff members or an annual turnover of more than €10 million would have to set up an internal procedure to handle whistleblowers' reports (public administrations with more than 10,000 people would also have to comply).

A three-tier reporting system ensuring confidentiality, consisting of internal reporting channels, a way to report to authorities and/or the public or media would be followed, with authorities and companies obliged to give feedback. All forms of retaliation are to be banned. In case of a breach, whistleblowers should have access to free advice and "adequate remedies." These could include measures to prevent harassment in general as well as dismissals. Importantly, the burden of proof is to be reversed – the organization must prove that they are not acting "in retaliation against the whistleblower". Final legislation (a Directive which would cover all EU-based entities) is unlikely to come into force before 2020. However, if it passes through it will be far reaching, and many sports organisations would have to comply. With this Directive, the fragmented nature of whistleblowing protection and obligations for companies may soon be abolished.

Other prominent international actors acknowledge the importance of whistleblower protection:

- The Council of Europe (2014 recommendation⁴³),
- The Organisation for Economic Co-operation and Development (OECD) and the G20⁴⁴,
- The UNODC (Anti-corruption Convention)⁴⁵,
- Civil society, and Transparency International in particular⁴⁶

2. EU national legislations: a fragmented landscape

On whistleblowing, the legal situation within the EU depends on each national jurisdiction. Differences concern, in particular:

- The definition of whistleblowing and the whistleblower
- The subjects of disclosures or covered sectors
- The obligation to implement reporting procedure
- The extent and nature of whistleblower protection provisions, etc.

The heterogeneity of this landscape can be illustrated by comparing the existence of whistleblower protection provisions. Of the 28 EU countries, only ten have passed a specific whistleblower protection law that covers employees in both the public and private sectors: France, Hungary, Ireland, Lithuania, Malta, Netherlands, Slovakia, Sweden, UK and Italy. However, in most of these countries these laws have been implemented in the last four years,

42 European Commission. (2018). *Proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law COM/2018/218 final – 2018/0106 (COD)*. Retrieved 17 November 2018, from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018PC0218>.

43 Council of Europe. *Recommendation CM/Rec(2014)7 and explanatory memorandum (October 2014)*. Retrieved 17 November 2018, from: <https://rm.coe.int/16807096c7>

44 OECD. *Committing to Effective Whistleblower Protection: Highlights*. (n.d.). Retrieved 17 November 2018, from: <https://www.oecd.org/corruption/Committing-to-Effective-Whistleblower-Protection-Highlights.pdf>; G20 Anti-Corruption Action Plan. *Protection of whistleblowers. Study on whistleblower protection. Frameworks, compendium of best practices and guiding principles for legislation*. Retrieved 17 November 2018, from <http://www.oecd.org/daf/anti-bribery/48972967.pdf>; OECD. (2011). *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Related Documents*. Retrieved 17 November 2018, from: <http://www.oecd.org/corruption/oecdantibriberyconvention.htm>

45 UNODC. (2004). *United Nations Convention against Corruption*. Retrieved 17 November 2018, from: https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

46 Transparency International. (2018). *A Best Practice Guide for Whistleblowing Legislation*. Retrieved 17 November 2018, from: http://transparency.eu/wp-content/uploads/2018/03/2018_GuideForWhistleblowingLegislation_EN.pdf

which is too short time period to judge the level of protection and consistency offered by these frameworks⁴⁷.

Other countries have specific but lesser provisions: either the countries have embedded their provisions within other laws, or designated law that only covers the public sector (Romania), or have no provisions at all (about ten EU countries have no specific provisions).

Of the 28 EU countries, five have passed laws that include all three layers of disclosure channels (i.e., internal, regulatory, public). This means that employees can report information first within an organisation or enterprise; then, if the alert is not well managed, to public regulatory bodies, law enforcement agencies or supervisory bodies; and finally, in case of last resort, the alert can be sent to the public (for example, via a journalist or parliament member). Only France, Ireland, Romania, Sweden and the UK have this three-tier approach. In these countries, the individual is entitled to raise an alert externally (to the regulators or to the public), if the organisation does not act following the initial report made internally.

Do national legal whistleblowing provisions apply to the sport sector? The situation varies greatly across the jurisdictions. For example, on the obligation to set up disclosure channels: Most countries do not set up obligation for private entities in this regard. However, countries like the Netherlands or France oblige private organisations with more than 50 employees to set up confidential whistleblowing systems. This means that sports clubs or federations with more than 50 employees have to implement disclosure channels. Below there are some examples of how national frameworks apply to sport:

The UK

The UK is the first EU country to set up broad and specific provisions for whistleblowers. It came from the Public Interest Disclosure Act (PIDA, 1998) – “An act to protect individuals who make certain disclosures of information in the public interest; to allow such individuals to bring action in respect of victimization”⁴⁸. To be protected, a worker must reasonably believe that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone’s health and safety
- damage to the environment
- covering up wrongdoing in the above categories⁴⁹

An employee cannot be dismissed because he has made a protected disclosure (unfair dismissal). He can take a case to the employment tribunal if he suffered retaliation as a consequence of his or her whistleblowing behaviour. However, as such, the law does not oblige the organization to set up whistleblowing policies. The UK Government nevertheless provides advice for employers⁵⁰.

47 A review can be consulted here: Blueprint for Free Speech. (2018). *Safe or Sorry: Whistleblower Protection Laws in Europe Deliver Mixed Results*. Retrieved 17 November 2018, from: <https://www.changeofdirection.eu/assets/uploads/BLUE-PRINT%20-%20Safe%20or%20Sorry%20-%20Whistleblower%20Protection%20Laws%20in%20Europe%20Deliver%20Mixed%20Results.pdf>; Blueprint for Free Speech. (2018). *Gaps in the System: Whistleblower Laws in the EU*. Retrieved 17 November 2018, from: <http://www.fibgar.org/upload/publicaciones/34/es/gaps-in-the-system--whistleblower-laws-in-the-eu-huecos-en-el-sistema--leyes-de-proteccion-de-alertadores-en-a-ue-.pdf>

48 PIDA 1998. *Op. Cit.*

49 UK Department for Business Innovation and Skills. (2015, March). *Whistleblowing. Guidance for Employers and Code of Practice*. Retrieved 17 November 2018, from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf

50 *Ibid.*

UK's Public Interest Disclosure Act is also revolutionary in the sense that it allows employees to choose any disclosure channel, though with certain restrictions.

To what extent does it cover the sports sector? The whistleblowers will only be protected by the Public Interest Disclosure Act 1998 if they are defined as a 'worker'. The Act indeed protects most workers in the public, private and voluntary sectors⁵¹.

A notable example of this uncertainty occurred when a former track sprinter for British Cycling, made a complaint about sex discrimination, victimization and unfair dismissal. As a media report stated: "If the 26 year-old can demonstrate that athletes in receipt of an APA [Athlete Performance Award] are employees – which was previously thought unlikely as their funding is recognised as a grant rather than a salary – then it could open UK Sport and other national governing bodies up to all sorts of legal action"⁵².

Greece

A partial whistleblower protection regime exists today in Greece. It is mainly covered by the April 2014 Law No. 4254: "Measures to Support and Develop the Greek Economy" (2014). It introduced provisions that aim to protect people who report corruption from criminal prosecution for perjury, slander, libel, and breach of confidentiality and personal data. Additionally, the law bans various forms of retaliation against public employees who report corruption, including firing, disciplinary actions, discrimination and withholding of promotions. The measure also provides witness protection measures if needed and regulates whistleblowing in the financial sector⁵³.

But this law only protects public servants. There is no obligation for private organization to set up whistleblowing policies. Within the sports sector, it only covers the employees of the Ministry in charge for sport and the General secretariats of the Hellenic Republic. Some public servants are working at the Hellenic Olympic Committee and Paralympic Committee and the sport federations. They are covered by the law.

In November 2017 the General Secretariat against Corruption has delivered a proposal for a Law on Whistleblower Protection in Greece to the Minister of Justice. A number of changes are therefore expected.

France

The Law on Transparency, the Fight against Corruption and Modernization of the Economy (2016) ("Loi Sapin 2") has created a whole new obligation for any public or private entity with more than 50 employees to set up confidential disclosure channels for employees (including temporary workers, interns, etc.).

A whistleblower is defined broadly as "an individual who reveals or reports, acting selflessly and in good faith, a crime or an offence, a serious and clear violation of an international undertaking which has been ratified or approved by France (...) the law or regulations, or a serious threat or loss for the general interest, of which the individual became personally aware"⁵⁴. The Sapin 2 legislation imposed a three-tier approach to the whistleblower. The whistleblower must first report the wrongdoing to a direct or indirect supervisor or a person appointed for this purpose. If this is not followed by any action, he/she can proceed to the judicial or adminis-

51 PIDA Act 1998. *Op. Cit.*

52 Cary, T. (2017, November 9). Jess Varnish 'told she can sue UK Sport and British Cycling'. *The Telegraph*. Retrieved 17 Nov. 2018, from: <http://www.telegraph.co.uk/cycling/2017/11/09/jess-varnish-told-can-sueuk-sport-andbritish-cycling/>

53 OECD. (2018). *Greece-OECD Project: Technical Support on Anti-Corruption Whistleblower Protection in the Private Sector: Developing the Legal Framework*. Retrieved 17 November 2018, from <http://www.oecd.org/corruption/anti-bribery/OECD-Greece-Whistleblower-Protection-Legislative-Proposal-ENG.pdf>

54 Légifrance. (2016). *LOI n° 2016-1691 du 9 décembre 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique (1)*. Retrieved 17 November 2018, from: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&dateTexte=&categorieLien=id>

trative authority, or the representative of a professional order. As a last resort, the report may be made public (reported to the press).

The new law introduces measures to ensure the confidentiality and non-liability of whistleblowers. Entities must implement procedures that:

- Enable whistleblowers to report internally to either direct (line manager) or indirect supervisors (for example compliance officer). If there is no appropriate internal response, or in case of serious and imminent danger, a whistleblower can turn to appropriate judicial or administrative authorities, as well as to the relevant professional association. The information may be made public only as a last resort.
- Ensure that whistleblowers' identities remain confidential.

Individuals who do not respect these provisions of non-retaliation or reveal a whistleblower's identity may be punished by imprisonment and fines⁵⁵.

This covers the sport sector (only the entities with more than 50 employees). Professional clubs, some national federations and the Ministry in charge of sports are concerned.

Romania

Romania was the first EU country, after the UK, to establish a comprehensive whistleblower protection policy, although it is only addressed at public employees. The Law on the Protection of Public Officials Complaining about Violations of the Law (2004) includes the protection of staff who file a complaint about breach of legislation by public authorities, public institutions or state-owned companies. The definition of whistleblowing is broad: "the disclosure made in good faith of any offense involving a violation of the law, of professional ethics and of the principles of good governance, efficiency, effectiveness, economy and transparency". Interestingly, it obliges institutions to set up disclosure channels, but employees may choose any channel (internal or external) under any circumstances. Also, the 2004 Law benefits from a special statute, giving it priority over general laws, which further increases its effectiveness. However, public servants have limited knowledge about it, and public institutions seem reluctant to apply its provisions⁵⁶.

The term used to designate whistleblowing in Romania is "avertizare de integritate", which translates into "integrity warning". Whistleblowers are called "avertizori de integritate", which translates into "those who give integrity warnings". The term is meant to have largely positive connotations, in an attempt to change the view some people have about whistleblowers by painting them as guardians of integrity rather than informants, as they are occasionally seen.

There is no obligation for sport organizations (or any private entity) to set up whistleblowing systems, and no specific whistleblowers' protection policy exists. However, some initiatives have been enforced. The Romanian Football Federation has set up an Integrity Department and a confidential (or anonymous) reporting platform called "Clean Football". One landmark match-fixing affair in Romanian football was first revealed thanks to whistleblower Burlacu Dorin. His alert has been handled and numerous sanctions given to the culprits. Despite his gesture, he has been suspended and fined⁵⁷.

55 *Ibid.*

56 Transparency International Romania. (2009). *Whistleblower Protection Assessment Report*. Transparency International Romania. Retrieved 17 November 2018, from: <https://www.whistleblowers.org/storage/documents/transparenciaintrom.pdf>

57 Ionasco, A. (2016, June 30). Fotbalistul Dorin Burlacu recunoaște faptul că a trucat meciuri pentru pariuri la Gloria Buzău: "Au fost meciuri aranjate! Eu, fiind mai mic, aflu ba pe tunel, ba chiar când începea meciul". *Mediafax*. Retrieved 17 November 2018, from: <https://www.mediafax.ro/sport/fotbalistul-dorin-burlacu-recunoaste-faptul-ca-a-trucat-meciuri-pentru-pariuri-la-gloria-buzau-au-fost-meciuri-aranjate-eu-fiind-mai-mic-aflu-ba-pe-tunel-ba-chiar-cand-incepea-meciul-15512845>

Switzerland

Although Switzerland is not part of the EU, its legislation is important to follow since it covers a majority of international sport federations and authorities. According to a new law proposition (currently under scrutiny by the Parliament), whistleblowers would be protected from retaliation if they follow a three-tier approach, first reporting to their employer, second to a regulator and third to the press. The employer has no legal obligation to set up a reporting system, but they would have the obligation to notify and handle the alert (within maximum 90 days).

Besides, four criteria are provided for a presumably effective internal reporting system: independence of the report recipient, existence of procedures to handle the alerts, prohibition of retaliation and possibility to report anonymously⁵⁸.

3. Sport regulation and whistleblowing

The Council of Europe and whistleblower protection in sport

The Council of Europe Convention on the Manipulation of Sports Competitions urges sport organisations to implement “effective mechanisms to facilitate the disclosure of any information concerning potential or actual cases of manipulation of sport competitions, including adequate protection for whistleblowers”⁵⁹.

The 15th Council of Europe Conference of Ministers responsible for Sport held in Tbilisi (Georgia) on the 16th of October 2018 staged discussion on promoting whistleblowing in sport. The Draft Resolution No. 2 “Fighting corruption in sport: scaling up action” contains a call to “encourage Member States to strengthen the protection of whistleblowers on sport-related corruption cases through:

- i. systems applicable to both public and private sector employees, bearing in mind Article 9 of the Council of Europe Civil Law Convention on Corruption, and Recommendation CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistleblowers;
- ii. measures applicable to individuals such as athletes who, despite not being employees, are at similar risk of retaliation when disclosing information on a threat or harm to the public interest, in particular on possible corruption cases.”⁶⁰

International sport organisations

In absence of a (yet) concrete legal stimulus for whistleblowers’ protection and confidential whistleblowing systems, international sport authorities nowadays push member associations to consider implementing whistleblowing systems.

For example, FIFA recommended national member associations to “establish a mechanism that can be used for confidential reporting of suspicious approaches or activities related to match manipulation so that players, referees, officials, administrators, stakeholders and other members of the football community have an estab-

58 Confédération Suisse. (September 21, 2018). Propositions du Conseil fédéral relatives au projet d’acte du message du 20 novembre 2013 concernant la révision partielle du code des obligations. Retrieved 17 November 2018, from: <https://www.admin.ch/opc/fr/federal-gazette/2018/6183.pdf>

59 Council of Europe. (2014). Council of Europe Convention on the Manipulation of Sports Competitions. (Art. 7.2.c). Retrieved 17 November 2018, from: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016801cdd7e>.

60 Council of Europe. (October 16, 2018). 15th Council of Europe Conference of Ministers responsible for Sport. Final Resolutions and the Tbilisi Declaration. Retrieved 17 November 2018, from: <https://rm.coe.int/resolutions-adopted-by-the-15th-council-of-europe-conference-of-minist/16808e70ae>

lished outlet channel made available to report match manipulation, corruption or other infringements of ethics or other disciplinary matters”⁶¹.

UEFA has also been sustaining a network of integrity referents within all national member associations. They can act as report recipients, although the most publicised whistleblowing system is the UEFA Integrity Platform (desktop and app), available at the following link: <https://integrity.uefa.org/index.php?isMobile=0>

The IOC toolkit for “Safeguarding athletes from harassment and abuse in sport” (2017) contains recommendations and advices for organisations in order to create whistleblowing policies to help victims and witnesses to come forward. It can be downloaded from the following link: <https://www.olympic.org/news/ioc-launches-toolkit-for-olympic-movement-to-safeguard-athletes-from-harassment-and-abuse-in-sport>.

As a sign that whistleblowing policies are becoming a compliance standard for sport organisations, the existence or not of whistleblowing systems at international federations is a “good governance” criteria taken into account by the Governance Task Force set up by the Association of Summer Olympic International Federations (ASOIF)⁶².

Last but not least, two recent sport initiatives at EU level have to be highlighted and would further develop the implementation of reporting options with EU sport organisations:

- Through an ongoing project co-funded by the European Commission (2017–2018) and run by EU Athletes (“PROtect Integrity Plus”), several player associations within the EU will put in place mobile and desktop application to allow players to raise match-fixing concerns (“Red Button” application). Poland (football), Iceland (football), Greece (volleyball), France (rugby), Italy (basketball), Ireland (rugby), UK (rugby) and Spain (futsal). Finland (football and basketball), Sweden (football), Cyprus (football), Norway (football and ice hockey), Denmark (football) also have a red button system⁶³.
- The EU Olympic Committee office is also running an EU Programme (“POINTS”) which intends to create “Single Points of Contact on Integrity” (SPOC) at each EU national Olympic committees⁶⁴.

61 FIFA. (May 20, 2014). Specific recommendations to combat match manipulation, May 2014 edition, para. 3.1, published with FIFA circular letter no. 1424. Retrieved 17 November 2018, from: https://resources.fifa.com/mm/document/affederation/administration/02/35/37/56/circularno.1424-specificreconmendationstocombatmatchmanipulation_neutral.pdf

62 ASOIF. (n.d.). ASOIF Governance Task Force (GTF) International Federation (IF) Self-Assessment Questionnaire. Retrieved 17 November 2018, from: http://www.asoif.com/sites/default/files/basic_page/if_governance_questionnaire.pdf

63 For more information, consult the programme website: <http://www.euathletes.org/protect-integrity-plus-red-button-app-introduced-players-around-europe/>.

64 For more information, consult the programme website: <http://www.points-project.com/>.

D. Good practices of whistleblowing systems by EU sport organisations

Considering the multiplication of whistleblowing systems in the sport sector, a review of practices at national level within the EU is presented. Many of these systems are rather new, so the results are not yet clear. Also, it is difficult to judge what are “good” or “bad” results for a whistleblowing system: Is it the number of reports? The quality of reports? The number of proceedings and sanctions? So, this review does not aim to score the “best practices”, but rather to present the variety of solutions implemented by national sport organisations. Some of them are innovative because of the reporting technology, some because of the nature and quality of the report recipient, some because of the subjects covered by the tool. The list below is non-exhaustive, and needs to be regularly updated to take into account the rapid changes and innovations within the international sport sector.

A more exhaustive review has been conducted for the international anti-doping sector⁶⁵.

The Danish anti-match-fixing platform⁶⁶

Genesis

The idea to set up this whistleblowing system came up from the Danish sports sector itself. Some Danish federations had a procedure in place, but it was not deemed satisfactory. While Anti-doping Denmark was building a whistleblowing system on doping during 2016, the Council of Europe Macolin Convention had been opened for signature (Denmark signed it in September 2014). So Anti-doping Denmark proposed to run a dedicated and common whistleblowing system for match-fixing, in parallel to the anti-doping reporting procedure.

Modalities

Any individual can file a report. Before sending the report, the whistleblower creates a password to be able to log in later on, and exchange with the recipient, receive feedbacks and/or advice.

It is possible to report anonymously (about 50% of the reports are anonymous).

The system is available anytime.

The working languages are English and Danish.

Responsibilities

Anti-doping Denmark outsourced the reporting system design to a private company specialised in setting up reporting solution for entities (name of the company: GotEthics, <https://www.gotethics.com/>). The reports are only seen by three Anti-doping Denmark employees. These are the only persons cleared to have access to the systems and can manage the content of the alerts. Depending on the content of the alerts, the cases can be referred to the police.

Price: The technical reporting system (only for match-fixing) costs around 10.000 euros for installation and 10.000 euros for yearly maintenance.

65 Global Whistleblowing Landscape for Reporting Doping in Sport, Report prepared for the World Anti-Doping Agency by Leeds Beckett University. Retrieved 17 November 2018, from: https://www.wada-ama.org/sites/default/files/resources/files/leeds_beckett_wada_report_on_whistleblowing_platforms_july_2018.pdf

66 <https://stopmatchfixing.whistleblownetwork.net/Issues/>

Innovative aspects

The alerts are managed by Anti-doping Denmark, which is a public authority under the supervision of the Ministry of Culture. This ensures that the procedure is compliant with national data protection laws. Importantly, it is more likely to inspire trust from other public partner institutions which are involved in investigations and prosecutions.

Italy “Anti Match-Fixing Formula”⁶⁷

Genesis

A study conducted in 2013 by the Catholic University of Milan revealed that the majority of consulted sport actors considered match-fixing to be a public, state issue (to the contrary of doping, because doping does not involve organised crime). The whistleblowing system was inaugurated in October 2017. It was first destined to collect specifically match-fixing alerts, but was later open to any subject linked to “clean sport”. The goal was to provide a way to undermine the strong ‘omerta’ which can exist in sports. The goal was also to inspire trust, and gain general information about the state of sports integrity in Italy.

Reporting modalities

The available channel is a web platform. It is available, anytime, in English and Italian. Anonymity is possible.

Once a report has been made, the whistleblower receives a code, which he has to use in order to access to potential messages and information about his case.

Responsibilities

There are 4 partners who run this system:

- Catholic University of Milan,
- Transparency International Italy,
- the Italian sports ministry,
- the network of chambers of commerce (60 offices spread all over the country).

The sports ministry supervises and owns the systems. The technical tool is run by Transparency International Italy, and is derived from Globalleaks Open Source (<https://www.globalleaks.org>), a reporting platform which is provided by the company “Whistleblowing Solutions” (<https://www.whistleblowingsolutions.it>). Transparency International Italy receives and handles the anonymous reports. Two persons are charged in handling the report (a legal expert and a psychologist). After processing the report and, according to a wide range of typological cases, they address each alert to the proper institution. The scope is to filter, verify, integrate the report, before sending it to the adequate authority. But the role of the reporting platform is to check the information and build a trusty relationship with the whistleblower.

Catholic University of Milan serves as advisor and dialog provider, with a psychological approach. The chambers of commerce have a strong experience in helping companies against criminal infiltration. They offer a wide territorial coverage, which can be useful in major criminal cases.

67 <http://www.rischioreatosport.it/homepageENG.html>

Innovative aspects

This system is voluntarily external to organisations that usually deal with sport integrity issues (National Italian Olympic committee and the sport federations). The system is built to inspire trust from sport actors.

The other innovative aspect is that the whistleblowing system is integrated into a wider programme, which notably includes a “pilot project”, involving grassroots actors and bottom-up approach. The system is prone to engage other actors in order to share competences on fighting organised crime.

The number of alerts has been low since the creation of this platform. New awareness-raising programmes were scheduled for October 2018.

The Czech hockey federation/Transparency International CZ platform⁶⁸

Genesis

In the aftermath of a major integrity scandal that rocked the Czech hockey federation, the Czech chapter of Transparency International (TI CZ) proposed to help the federation. In 2015, a cooperation agreement was signed, including mediation services between the federation and individuals, and notably the installation and management of an online whistleblowing system. At that time, TI CZ was already an active player in the field of sport integrity.

Modalities

The platform consists in a confidential email address and phone line, where anyone can raise issues with sport corruption in the broad sense (conflict of interest, match-fixing, doping, etc.). Reports can be raised anonymously. Available languages are Czech and English. The phone line is available during the TI working hours (Monday – Friday 9:00–15:00).

Responsibilities

TI CZ acts as a mediator between the whistleblower and the federation that has the internal capacities, and mandate, to solve issues/complaints. Two lawyers from TI CZ receive the report, and relate with the whistleblower. After initial screening, the case is handled to the federation, with an advice on how to treat the alert. The federation generally respects the advice.

For example, an alert concerned a conflict of interest, with one hockey referee who was about to officiate in a game where one of the teams was the employer of his father. After TI CZ transferred the information, the Federation changed the referee.

If an alert concerns the federation top-management, TI CZ is not obliged to transfer the case to the federation. It can also go to the police. TI has a position of neutrality.

TI CZ reports the numbers (and nature) of alerts it received to the federation (including on-relevant alerts), however the details of the cases (names, names of clubs, etc.) are never revealed.

Innovative aspects

The role of TI CZ is not only to receive formal complaints and alerts. It serves as a helpdesk, where sport actors can inquire, discuss, and find a listening hear on any integrity issue.

68 <https://www.korupcniviceboj.cz/>

The platform is supported by a wider education and awareness raising campaign, with a special website (<https://www.korupcniviceboj.cz/>; one material example: <https://www.youtube.com/watch?v=YF4ilMJXZnw>).

Although only a few complaints had been received in the first two years of activity, in 2018 one alert contributed to the start of a criminal investigation (ongoing).

Play Fair code and the Ombudsman system⁶⁹

Genesis

After the eruption of a major scandal in Austrian football in 2013, an ombudsman system was set up in 2014 in Austria. The concept was adapted from Germany, where the Bundesliga had nominated a lawyer as “ombudsman” to collect reports dealing with match-fixing issues.

In contrary to Germany, the system in Austria was opened to all sport disciplines.

Modalities

The Ombudsman is a lawyer from the law office “Niederhuber & Partner Rechtsanwälte”, which can be contacted at any time. Reports can be made anonymously.

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Mail: ombudsmann@nhp.eu

In the first years, a number of high quality reports were received (8–10 per year). The number as since then decreased. Twice a year, Play Fair Code and the ombudsman meet to evaluate the quality and quantity of reports. The follow-ups of the reports are also assessed.

Responsibilities

The ombudsman acknowledges reception of reports, and relates with the whistleblower. Following a pre-assessment of the case, and if the information seems relevant, the ombudsman will accompany the whistleblower in contacting a “trust person” at the police.

Innovative aspects

Three major innovations can be promoted for other EU sport organizations:

First of all is the independence of the recipient, which can give him credibility towards sport actors. Second is his lawyer status, which means he is formally obliged to respect the confidentiality of the whistleblowers. Third, is the construction of the system along the Play Fair Code institute, which is already an innovative organization, entirely equidistant to, but recognized by all major sport organisations and stakeholders in Austria. Play-Fair Code conducts many education and awareness campaigns in Austrian sports, and seem to be trusted by the sport community. Sometimes, reports are sent directly to Play Fair Code. It is the availability of several reporting options which can make a whistleblowing policy effective.

69 <http://www.playfaircode.at/en/contact/>

Ethics and Sport Committee (Comité Ethique et sport, France)⁷⁰

Genesis

Created in 2013, the Ethics and Sport Committee is an association gathering a network of multidisciplinary volunteer specialists (journalists, researchers, doctors, etc.). The goal of the association is to contribute to sport integrity, through various actions. In 2016 the Committee created a specific reporting line for harassment and abuse issues

Modalities

A phone line is available (01 45 33 85 62), anytime, as well as an email address (contact.maltraitances@ethiqueetsport.com).

It is possible to stay anonymous. Some calls start anonymously, but most of the time, after a relationship has been established, the whistleblower agrees to provide his identity.

Responsibilities

After the first contact, a physical meeting is arranged between the contacting person (the victim) and one of the 30 psychologists (volunteers) who are linked to the Committee and dispersed all over France. Meetings can also be arranged with doctors. The victim is then supported and accompanied. The Committee can also provide legal advice, especially when the victim wants to file a criminal complaint.

Alerts can be transferred to the clubs or federations, on a case-by-case basis, or directly to the police.

An agreement has been negotiated in 2018 with the French police, which has a central point of contact for harassment/abuse issues. Complaints are directed to the point of contact.

The Committee keeps track of the alerts, through an anonymized paper-based system.

Innovative aspects

The Committee is totally independent from sport organisations, which is considered to be more trustworthy for whistleblowers. It cannot conduct investigation, nor sanction any actor. This independence has drawbacks, since it hinders the publicity of the helpline. Sport organisations ought to promote the existence and reliability of the line, which they do not automatically do.

No other line specific to harassment/abuse issues in sport seem to exist in France. The presence of experienced psychologists, doctors and lawyers provides relief to potential victims, and help them to file a criminal complaint.

“Handclean” – French Handball Federation⁷¹

Genesis

In 2012 the French Handball Federation (FFH) was hit by a match-fixing scandal, involving some of the best French players. In November 2015 the federation opened a website dedicated to the fight against match-fixing, including a whistleblowing system.

70 <http://www.ethiqueetsport.com/nos-missions/les-maltraitances/>

71 <http://www.hand-clean.com/?lang=en>

Modalities

Reports can be raised via a webpage, which is not formally a web/phone app but can be downloaded as such like any other app. The platform is intended to receive information on match-fixing, updates. It is open to anyone. Anonymity is possible.

The system is available in French, English and Spanish.

Responsibilities

FFH outsourced the creation of the website and the reporting tool to a French IT company (“N’gine”).

All alerts are sent to two FFH employees: the integrity officer (who is also the legal officer) and the vice-president (also a lawyer).

Price: Creating the website cost around 28 000 euros, and 1500 euros for yearly maintenance. The creation of the content (videos, translations, etc.) cost around 13000 euros.

Innovative aspects

The reporting platform is not only dedicated to the reporting mechanism. It also contains information on the regulation in place, awareness raising videos, updates on the match-fixing subject at world level, examples of cases, links with other relevant national and international actors, etc.

FIFPRO – Red Button

Genesis

In 2012 FIFPRO presented the results of a survey on match-fixing in Eastern Europe. The results showed, among others, the financial precarity of many professional football players, the high rate of criminal approaches, and the lack of available reporting options. In the meantime, the Football players association of Finland set up a mobile app (“red button”) to report match-fixing attempts and concerns. The system being praised across Europe, FIFPRO decided to take it over and extend it to other countries. So far, Sweden, Cyprus, Norway (football and ice hockey), Denmark and Finland (Basketball) also have a red button system. Through an ongoing EU project (2017–2018) run by EU Athletes (“PROtect Integrity Plus”), other associations are starting to implement the Red Button App: Poland, Iceland, Greece (Volley-ball), France (Rugby), Italy (basketball), Ireland (rugby), UK (rugby) and Spain (Futsal).

Modalities

The app system has been developed by a Finnish IT company (HIQ Finland). A number of printed cards with individual codes for players are distributed during dressing room visits, each player can then install the app and send a report. Individual codes can be used only once, and the report cannot be sent without a code.

The reports can only concern match-fixing issues.

The reports can be made anonymously, anytime.

The reports are sent to the chosen party (determined in advance) in each country. It can be the national platform, a lawyer, the football federation, the league, the player union, the police, etc.

Innovative aspects

The mobile app solution may be more convenient than websites or hotlines. Most importantly, the distribution of the codes only to the players guarantee that reports come from concerned stakeholders. The quality of the reports may therefore be higher.

The distribution of the system via the player's Union may inspire trust from players. As a syndicate, FIFPRO has a high affiliation rate (between 65 and 100% depending on the countries).

Kick It Out

Genesis

The "Kick It Out" association was created in 1993 and focused on the fight against racism and discrimination in football. Although it was possible to contact them earlier for any concern, in 2013 Kick It Out launched a new app which allows fans to report discriminatory incidents in a football setting.

Modalities

Kick It Out has a number of whistleblowing channels available to anybody who has seen, heard or been on the receiving end of discriminatory abuse in a football environment. A free phone, an app, and an online incident report are available.

Anyone can report any instances of discrimination across all levels of the game.

Anonymity is possible.

Responsibilities

All complainants have the choice as to whether they wish their report to be dealt with in confidence. Contact details are taken so Kick It Out can report back on how the club or governing body has responded to the complaint, or in case the campaign requires any further information.

info@kickitout.org or call Kick It Out on 020 7842 8932.

Innovative aspects

Kick It Out may be the most advanced reporting platform for discrimination purposes. Also, every year, Kick It Out publishes a statistical summary of the reports of discrimination the organisation has received. Statistics can be found at this link: <http://www.kickitout.org/get-involved/report-it/>

Part 2

Setting up whistleblowing policies: Recommendations and implementation check list for sport organizations

Implementing whistleblowing policies in sport organisations can be a challenging task that depends on the cultural context and attendant social norms towards whistleblowing; the legal framework around whistleblowing and the protection of whistleblowers; the nature of the misconduct to be reported (e.g., doping, match fixing, harassment, bad governance); and the resources available to the sport organisations in question. Therefore, designing, implementing and evaluating whistleblowing policies is a dynamic process that should take all these aspects into account in order for the policies to be realistic, timely, relevant and effective in terms of protecting sports as well as who cross the line and report harmful misconduct.

Setting up whistleblowing policies not only entails opening a hotline and hiring a hotline recipient. Running an internal whistleblowing system means coordinating two types of elements: the whistleblowing procedures (the concrete reporting line, responsible structures and individuals) and a larger whistleblowing policy (communication strategy, protection and promotion of whistleblowers, value of integrity, etc.). Both dimensions are fully necessary.

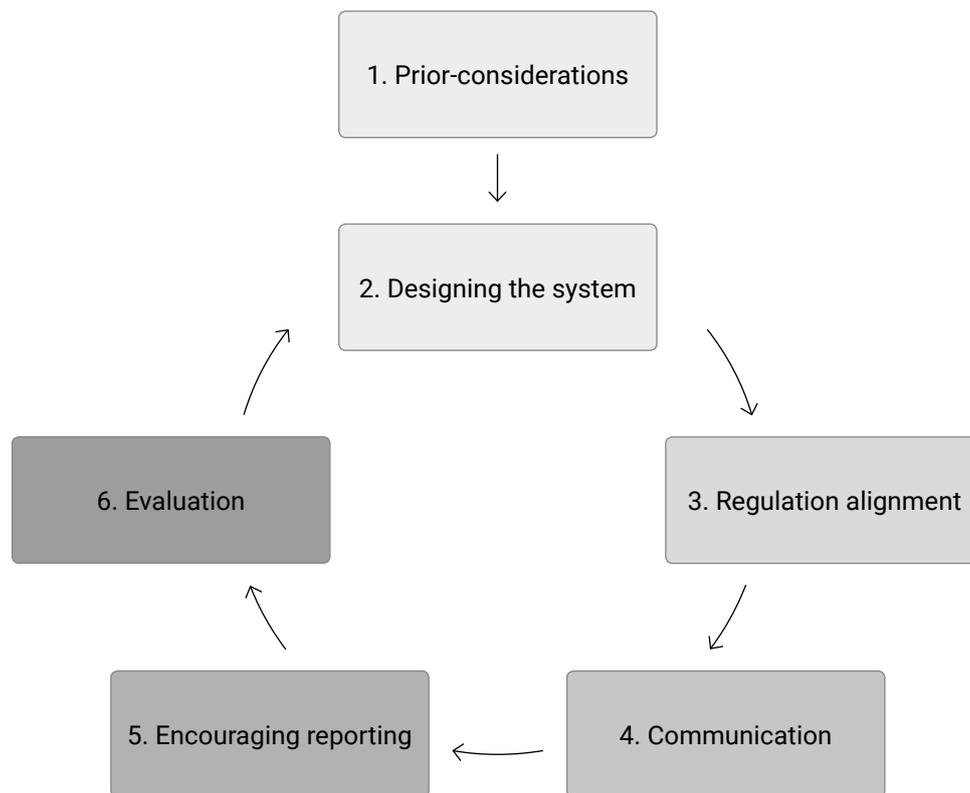


Figure 3. Process of setting up whistleblowing policies in sport organisations

A. Before designing a whistleblowing system

Consult: Before considering the technical and technological aspects of whistleblowing systems, the first step is to consult the constituents of the organisation in order to assess their opinion and general experience towards whistleblowing. To this end, the organisation members designing the whistleblowing system need to understand:

- The organisation's own experiences with misconduct reporting. Is it a common type of misconduct? How was the misconduct handled by the organisation? Was the misconduct reported (if yes, what was the experience/consequences of reporting it)?
- To what extent do they feel responsible for the protection of the organisation's integrity?
- Would they react and report the same type of misconduct today? If not, why?
- How do they evaluate the ethical culture within the organisation?
- What do they think about whistleblowing? Do they perceive it as a positive behavior?
- Do they trust the organisation in keeping their identity confidential (or anonymous), and handle the alert thoroughly and fairly? If not, who do they trust most? What type of reporting channel and recipient are they most inclined to contact?

Such a consultation can easily be conducted via an online survey, or through local meetings. Internal athlete committees or outside athlete representative bodies can be involved in the creation and enforcement of the consultation; depending on the type of the organisation. It can also be useful to involve the whole management and ask their opinion and experiences, as it may differ from the athlete's view.

Use external specialized knowledge: Whistleblowing procedures involve sensitive and complex legal issues, which, if they are not well addressed, and may discredit the whole effort. Therefore, consider seeking external and independent legal advice by expert attorneys/barristers before initiating a whistleblowing system. Other sport organisations might offer advice if they have already implemented reporting systems. Private entities specialised in compliance programmes can also provide their services.

Consider pooling options: In some cases, it might be preferable to share a tool with other organisations around you. For example, if a national federation is planning setting a platform for alerts concerning racism, violence and discrimination issues, other national federations may be interested too. A single central whistleblowing system could then be installed and used by a single authority/body (e.g., a National Sport Confederation, the Ministry of Sport, an NGO, etc.). For instance, some countries have pooled their anti-match-fixing lines, especially in link with the national platforms required by the Council of Europe Convention on the manipulation of sport competitions. In Denmark, the national anti-doping agency (Anti-doping Denmark) collects all reports related to match-fixing (in addition to doping alerts). Similarly, National Tennis Federations allow the international Tennis Integrity Unit to collect all reports on match-fixing. This model fits the characteristics of the discipline (strong international dimension).

B. Designing the system

1. What is the target audience for the system? Who would be allowed to blow the whistle?

Several options are available:

- The whistleblowing system should be open for use by any athlete or sport stakeholder who has become aware of a specific type of misconduct. Measures should be taken to avoid bad-faith or malicious reports that aim to defame athletes or organisations, and/or purposefully divert the public's and the authorities' attention. For example, anti-match fixing hotlines (like the FIFA or UEFA anti-match-fixing platforms) have attracted disgruntled fans who call to complain about a defeat and suggest that the game was fixed.
- The line can be restricted to sport actors. This is the case for example of the "Red Button app" or the TIU reporting app. Since only internal stakeholders can use it, the proportion of malicious use is lower. The organisation can more easily trust the whistleblower.

2. Which reporting channels should be used?

As of today, multiple reporting options are available:

- Phone lines
- Emails
- Online platform
- Mobile and desktop applications
- In person (integrity referents)
- Mail

It could be preferable to have several options proposed to potential whistleblowers, in case one option is not possible. Phone lines require constant presence of an operator, who is able to speak the language of the whistleblowers (voicemails are not ideal options). Emails may not always inspire trust as their origin can be retraced. Today, solutions exist to anonymize phone calls, online platforms and applications.

3. Should anonymity be proposed as an option?

Anonymous reports may be more difficult to follow through, and in some countries (e.g., Spain) anonymous reports can be taken into account in a prosecution procedure. In general anonymous information is regarded negatively, since it is more likely to hide a malicious reporter. However, in some cases the information can still prove useful. It is generally advised to allow anonymity as an option. Several managers of whistleblowing systems in sports underlined that initially approximately half of the reports are anonymous. However, after several ice-breaking contacts, most whistleblowers agree to disclose their identity. When it comes to addressing malicious reports, it should be made clear from the start that malicious reports will be prosecuted. When communication is consistent on this point, the number of bad faith generally drops.

4. A hotline or a helpline?

An organisation can create a "helpline" rather than a "hotline". The system will allow individual first to contact the organisation about a wrongdoing, without formally sending an alert. For example, several abuse situations are not clear enough for a witness or a victim to know to what extent the behaviour is illegal, whether it should

be reported, etc. When contacting a “hotline” might look like a formal step. Contacting a “helpline” might appear as a smoother option, allowing, after building a trustworthy relationship, to file an official complaint or report. Importantly, these whistleblowing system should be positively framed e.g., present the benefits of using the system.

5. Last but not least: what name?

The name of the reporting system is also an important question. Specialists advice to use semantics to create a positive meaning of the reporting behaviour. Titles such as “Red button”, or “hotline” imply that actors using the system are formally taking stance from the first contact, and that consequences will automatically follow. It may scare and rebuke potential whistleblowers, who often need a listening hear and some answers before formally engaging.

Also, in some countries, “whistleblowers” or “whistleblowing” could refer to “snitches”. Organisations should take semantics into account to create a positive meaning around the whistleblowing action.

C. Regulation alignment

1. Adapting the internal disciplinary regulation

An organisation wishing to set up a whistleblowing system needs to embed it in a legal/disciplinary framework. This entails:

- Adjusting legal rights and obligations to the constituents:
An internal document (code of ethics or code of conduct or integrity declaration), explicitly signed by all constituents should contain information about the whistleblowing procedure, as well as a right to complaint. Acknowledging that athletes and staff have the right to raise an alert about wrongdoing in their environment shows the organisation takes care the well-being and health of its constituents. Formal duties to report can also be included in the legal documents. However, it should be remembered that some situations might be dangerous for a whistleblower, and that one cannot expect all athletes or staff to be able to raise an alert in all situations. Sanctions for failing to report should only be administered for certain types of wrongdoings (for example, when one victim is suffering physical abuse). Before sanctioning a non-reporter, the organisation should indeed consider to what extent using its whistleblowing system was a reliable and safe option.
- Adjusting legal rights and obligations to the whistleblower:
The WADA whistleblowing policy can be a model in this regard⁷². It attributes certain rights to the whistleblower:
 - make a disclosure,
 - receive an acknowledgement of receipt,
 - participate (for free) to an in-person interview with the official alert recipient,
 - seek advice from a designated person,
 - receive updates on the progress of the investigation.

The whistleblower also has a number of responsibilities:

- make the disclosure in good faith and on reasonable grounds,
- refrain from taking any action that could put himself or anyone in danger, and informing the organisation about any possible threats,
- seek approval from the organisation before undertaking any action related to the ongoing investigation,
- cooperate with organisation (including giving interviews and testimonies upon request),
- maintain strict confidentiality at all times.

Interestingly, the rights and duties of the whistleblower are included in a “Whistleblower Agreement” signed between WADA and the whistleblower. This could serve as a model for any organisation implementing a whistleblowing policy.

2. Adapting to external legal frameworks.

Each organisation needs to seek legal advice in its jurisdiction to determine what is legal and what is not when implementing a whistleblowing system. To start with, before implementation, each organisation should create a document outlining:

72 WADA. (October 25, 2016). WADA Whistleblowing Program. Policy and Procedure for Reporting Misconduct. Retrieved 17 November 2018, from: https://www.wada-ama.org/sites/default/files/whistleblowingprogram_policy_procedure_en.pdf

- The reasons for creation of the whistleblowing system.
- The modalities of the system (how it works).
- All security arrangements (IT security, protection of the confidentiality and anonymity, who has access to the information, etc.).
- Information on how the information is received, processed, stored, used, and shared.
- Information on how the organisation formally complies with data protection obligations.

Data protection

A crucial issue is the compliance with relevant national, European and international personal data protection laws and standards. Organisations need to seek legal advice to ensure compliance. The combination of the new EU GDPR Regulation with national laws is particularly challenging for organisations running (anonymous) whistleblowing systems. Basically, the 6 main legal data protection issues at EU level are:⁷³

- Confidentiality – The information on the whistleblower and the accused person should be treated with confidentiality. This is also an important element for encouraging staff to report on any wrongdoing.
- Data quality – It is important not to process more personal data than necessary. This can be done by collecting only relevant information. In practise this means, an initial check of the information reported and keeping only the information that is relevant to the case.
- Right of information – It is not enough to provide a general privacy notice on the website of an organisation. The persons involved should be informed about the way their personal data will be processed as soon as practically possible. Following the new EU GDPR regulation, the request for consent must be provided in an intelligible and easily accessible form. Whistleblowing systems need to check confirmation processes. The personal information in a whistleblowing report can relate to whistleblowers, the person under investigation, witnesses or other individuals that are mentioned. However, it is possible that informing the accused person at an early stage may jeopardise the investigation. In these cases, the sharing of specific information with the accused person might need to be deferred. Deferral of information should be decided on a case by case basis and the reasons for any restriction should be documented. Data breaches also have to be notified rapidly.
- Right of access – It is necessary to balance all interests involved in such a request, including of the whistleblower and the person(s) accused.
- Retention period – The reports that do not lead to an investigation should not be kept. The new GDPR regulation includes a “right to be forgotten”, in which a data subject can force the erase of the data if (s) he withdraws consent.
- Data security – Given that the information processed is sensitive and that leaks or unauthorised disclosure may have adverse consequences both for the whistleblowers and the persons accused, special care must be taken over the technical and organisational measures needed to mitigate the risks and ensure data security.

System security

It is the responsibility of the organisation to guarantee that the reporting system can safely and reliably collect, store and process data. One prerequisite could be to certify their whistleblowing system according to the ISO 27001 information security standard. For that, organisations could consider outsourcing the system to a specialised and already certified private contractor. Specialised companies can offer a reliable system, including 24/7 and multilingual capabilities. Such external solutions might also be deemed more legitimate and reliable towards potential whistleblowers.

73 European Data Protection Supervisor. (n.d.). Whistleblowing. Retrieved 17 November 2018, from: https://edps.europa.eu/data-protection/data-protection/reference-library/whistleblowing_en

D. Positive norm development

Although nowadays many instances of whistleblowing exist in the sport environment, very often the athletes are not aware of their existence. Communication and awareness-raising strategies are therefore necessary for the publicity of the system and for developing more positive social norms towards whistleblowing (i.e., emphasizing that whistleblowing is both prevalent and approved/desirable). Even when whistleblowing systems are well known, they are not always trusted and widely used. Communication strategies are also needed to address this mistrust. To be effective, communication policies should be sustained and target all possible end users. They should include the information about possible changes of the policy and the results obtained through implementation (e.g. number of alerts, action taken, etc.).

1. Communication mode

Beyond the issue of content, several modes of communication have to be used by the organization:

1. Endorsement of management team: An official declaration of the management team about the organisation's mission in the field of whistleblowing in sport. The tone-from-the-top is a key element for a successful communication campaign.
2. Constant and coherent promotion of the organisation's commitment to sport integrity: campaigns, seminars/conferences, workshops, posters, website, etc.
3. Embedding the communication inside the structure of the organization: setting up an ethics/whistleblowing commission, committee or foundation.
4. Publication of the policies (disciplinary regulation, whistleblower protection policy, alert management procedures).

2. Detailing and explaining the information you expect

Record the information needed from a potential whistleblower?

- Who was involved?
- Who might have witnessed it?
- Who knew about it?
- When allowed it to happen?
- Was the behaviour repeated or one-time?
- Where did it happen?

However, most of the time the potential whistleblowers do not have all this information (or proof) at hand. This lack of concrete information or proof often hinders witnesses or victims to raise an official report. Therefore, it is very important to state that any hint or partial indication can be useful when it will be combined with reports on the same wrongdoing or wrongdoer from other whistleblowers.

Other important messages to be clearly displayed:

- Confirm that the confidentiality (and anonymity) will be 100% respected. Except when in some cases, details have to be shared with law-enforcement.
- Confirm that the whistleblower will be updated on the progress of the report.
- Confirm that all data protection provisions will be respected.
- Confirm that the organisation will sanction any retaliation actions taken against whistleblowers.
- Confirm that reports made in bad faith will be sanctioned.

E. Encourage reporting: Embed the whistleblowing policy within the organisational culture

Whistleblowers should be aware that their action might be risky for them. They could face opposition, anger from colleagues or managers, the public, the media, or even their close relatives. So, to inspire trust and increase the likelihood of whistleblowing, it is of outmost importance to have a policy in place to protect and support whistleblowers. This can take various forms:

- In sensitive cases, whistleblowers might be physically in danger, receive death threats etc. Even though this happens rarely, organisations need to anticipate it and, in collaboration with the respective authorities for witness protection, plan measures to relocate athletes or staff (and possibly their family). This can also be anticipated with relevant police units which might provide assistance or give advice as to how to protect a sensitive whistleblower.
- It is important to have an anti-retaliation policy. It should be explicitly stated that retaliations will not be tolerated, and will be sanctioned. In case of a dispute between a whistleblower and a potential retaliator, it should be considered to leave the burden of proof (of non-retaliation) to the potential retaliator.
- For larger organisations, it might be considered to have a second-tier grievance mechanism for whistleblowers through which they could formally complaint about retaliations they have suffered. This grievance mechanism could also be used for whistleblowers who might complain about the way their alert has been handled by the recipient organisation.
- It is important to reward whistleblower for their action. They should be publicly promoted (if they agree), to show that the organisation values and encourages whistleblowing behaviours.
- In cases where the whistleblower is implicated in the wrongdoing he contributed to detect, plea bargaining avenues should be allowed. This would also demonstrate that integrity and dissent is rightly defended by the organisation.

All these actions taken to support whistleblowers should be publicised repeatedly.

The case of an ombudsman

To further encourage reporting another option might be considered, which is to install a “confidential integrity manager”, whose role will be to take calls (or emails) and answer any question linked to the alert system. The Dutch legislation, for instance, obliges companies to have such a person within each company (with more than 50 employees). (S)he serves as an ombudsman who will give advice to any person who hesitates to raise an official alert. This person needs to be knowledgeable about the whistleblowing process, legal issues and the organisation in itself, but (s)he should be somehow independent from the formal administration. (S)he is not the alert recipient, and (s)he is not the individual’s representative. (S)he will act as an intermediary between the organisation and the individual. (S)he will give confidence to the individual and guide him through his whistleblowing action, if (s)he decides to officially fill an alert.

F. Implementation: Dealing with the reports

1. Who shall receive (and handle) the reports?

Generally speaking, the recipients of the reports need to be limited to a strict minimum. This will help keeping the information confidential and will make management more efficient.

Both the recipients and the investigators need to be properly trained. For example, on match-fixing issues, betting regulation and addiction issues can become complex. The same is true for doping matters. In any case, the whistleblower should find an informed recipient at the other end of the system.

It is preferable to have a recipient unit or person who is both:

- Well-resourced.
- Relatively independent towards the formal administration. (S)he should be able to mobilise any managerial level, if needed. If an alert concerns his/her superior, or the organisation's top-management, (s)he should have the capacity to find another person or unit to contact and relate with. For example, (s)he could report to the organisation's executive body once a year, but without having any formal supervision. Independence also means theoretical impartiality when dealing with the reports.

If possible, it is preferable to separate the person who relates with the whistleblower from the person who investigates the content of the report. These two functions require different skills. The former needs to have human and social experiences which make him/her suitable to listen and properly understand the whistleblower's personal experience. For example, for a reporting line concerning safeguarding (abuse/harassment) issues, it is advised to have both one female and one male recipient.

A number of sport organisations have implemented whistleblowing systems with a recipient who is outside the organization. This makes whistleblowing more likely since the outside recipient will be seen as totally independent. For example, the German professional football league (Bundesliga) have empowered an outside "ombudsman" (a lawyer who is also a former football player) to receive the match-fixing reports. His role is to pass the information on the sport authorities or to law-enforcement depending on the content and target of the report.

2. How to handle the alerts?

Before receiving any report, there should be agreed procedures in place which define what to do with it. This is even more relevant if the recipient is external to the organization. As a minimal standard:

- Each report should be given a unique reference number and recorded on a database.
- Criteria should be determined as to when a report is not worthy of further action.
- Initial analysis and assessment ("pre-assessment") should be conducted to corroborate the information.
- If the information is corroborated, identify the proper body to further investigate the alleged wrongdoing. Depending on their content and the first investigatory results, reports may be referred to:
 - The legal department.
 - The legal adviser to the whistleblower representative body.
 - An ethics commission or committee.
 - The relevant law-enforcement agency.
 - A public regulatory agency.
 - Any other relevant organisation or person.

When the content of reports is shared with other organisations, it is very important to ensure that the source of information is properly protected. All parties need to have a clear understanding of what will be done with the information. It could be made mandatory that the receiving organisation should inform and obtain the agreement of the giving organisation before acting on the basis of the given information. Of course, this applies differently when the information is given to law-enforcement agencies.

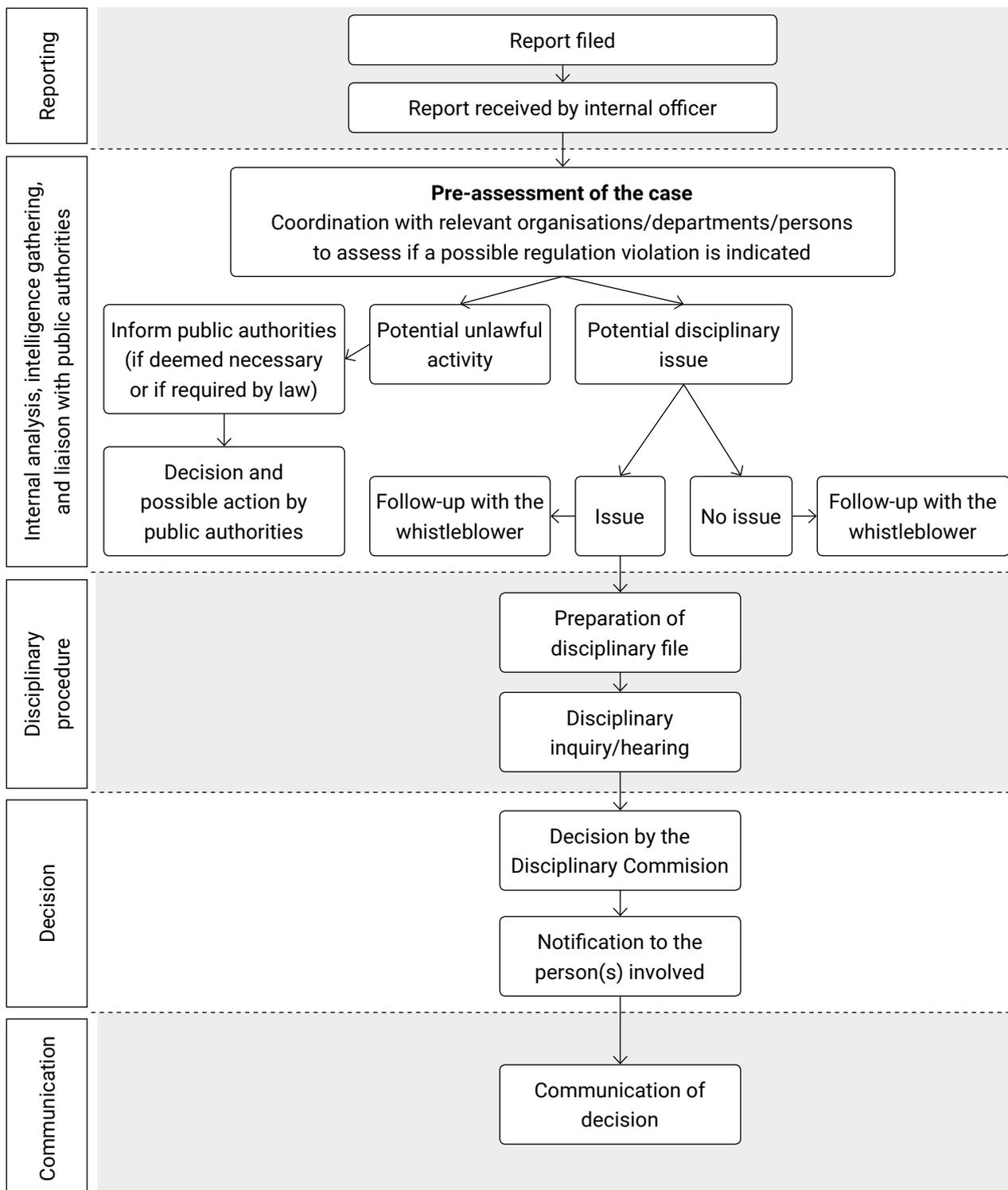


Figure 4: Flowchart of alert management⁷⁴

74 Inspired from: IOC. (2016). Safeguarding athletes from harassment and abuse in sport. IOC Toolkit for IFs and NOCs, p.51. The document can be downloaded here: <https://www.olympic.org/news/ioc-launches-toolkit-for-olympic-movement-to-safeguard-athletes-from-harassment-and-abuse-in-sport>

G. Evaluation and adaptation

Results of whistleblowing procedures and policies need to be assessed at a regular level. It can also be mandated to an independent person or organization.

- How many reports have been made?
- What were the content of the reports?
- Have all of them been fairly and thoroughly processed?
- Did any of the whistleblowers complaint about the handling of the procedure?
- How many reports were inconclusive or made on bad-faith?
- Who were the whistleblowers (i.e., athletes, staff, fans etc)?
- What was the profile of the whistleblowers (i.e., age, gender, level of competition etc)?
- How many investigations were triggered and concluded?
- How many disciplinary action were taken, or complaints transferred to law-enforcement?

Such questions have to be answered in order to adjust the whistleblowing policy, as well as other organizational policies. Whistleblowing policies involve also risk-management. They can foster innovation within an organization.

It is advised to publish the results of the whistleblowing procedure, to demonstrate that the organisation takes it seriously. Any changes or policy adaptations also need to be publicised. Ongoing improvement will improve the system's performance and demonstrate that the organisation is committed to empower whistleblowers.

Awareness of the existing whistleblowing system and trust in its managers should also be regularly tested. Do people feel safe to report? Would they report if they had witnessed of been victims of a wrongdoing? This would tell if the whistleblowing procedure is supported by an adequate whistleblowing policy and culture.

It could also be useful to interact with other organizations who implemented similar policies. Benchmarking data could be compared with the results.

H. Final checklist for the design, implementation and promotion of a whistleblowing policy by sport organisations

A number of standards are available to verify the level of performance of a whistleblowing policy:

Standards for international governmental organisations:

- **UN JIU – Review of whistleblower policies and practices in UN system organisations (2018)**⁷⁵. This review has been conducted by a UN Joint Inspection Unit, which analysed the whistleblower policies and practices of 23 UN system organisations. It represents the “first ever system-wide review of the adequacy of written whistleblowing policies among UN system organisations”. After their own benchmarking of source documents (27 documents have been compiled – see p.73), the report proposes five dimensions for the evaluation of whistleblowing policies, through 22 indicators. Each UN system organisation was then evaluated to determine which indicator was fulfilled or not by the organisation.

Standards for multinational companies:

- **Good Corporation – The Good Corporation Whistleblowing Framework (2014)**⁷⁶. This company specialising in corporate responsibility and business ethics lists five main elements to assess “the robustness of an organisation’s processes for enabling stakeholders to raise concerns”. Their criteria are based on the work of the NGO “Public Concern at Work”.
- **KPMG – Fraud and whistleblowing (2016)**⁷⁷. KPMG proposes “key questions for audit committees to consider” on “whistleblowing possibilities”
- **Transparency International – Best practices and challenges for whistleblowing systems in multinational companies (2014)**⁷⁸. This document underlines “the main challenges and solutions for having a well-functioning whistleblowing system”, as “identified in the literature”.

Standard for national public organisations:

- **UK National Audit Office – Assessment criteria for whistleblowing policies (2014)**⁷⁹. This national public agency lists indicators for whistleblowing policies of UK public bodies, and propose three grades: (poor/satisfactory/excellent) for 10 dimensions.

Standards for national public or private organisations:

- **Whistle While They Work – Strength of organisational whistleblowing processes (2016)**⁸⁰. This tool, built and coordinated by Griffith University in Australia, evaluates the “strength” of whistleblowing “processes” for public or private organisations. Three dimensions and 10 indicators are used for the evaluation.

Generic standards:

- **Transparency International – Internal whistleblowing mechanisms – Topic guide (2017)**⁸¹. This document lists seven “key elements of an effective whistleblowing mechanism”.

75 https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2018_4_english_0.pdf

76 https://www.goodcorporation.com/wp-content/uploads/2014/02/GoodCorporation_Whistleblowing_2.pdf

77 <https://home.kpmg.com/content/dam/kpmg/pdf/2016/07/2-aci-fraud-whistle-fs-uk-v1-lr.pdf>

78 https://www.transparency.org/files/content/corruptionqas/Best_practice_and_challenges_for_whistleblowing_systems_in_multinational_companies_2014.pdf

79 <https://www.nao.org.uk/wp-content/uploads/2014/01/Assessment-criteria-for-whistleblowing-policies.pdf>

80 <http://www.whistlingwhiletheywork.edu.au/wp-content/uploads/2017/08/WWTW2-Strength-of-whistleblowing-processes-report-Australia-New-Zealand-Griffith-University-August-2017.pdf>

81 <https://knowledgehub.transparency.org/assets/uploads/kproducts/Whistleblowing-Topic-Guide.pdf>

CHECKLIST FOR SPORT ORGANISATIONS

(inspired from the international standards)

Preparation

- Have relevant internal and external stakeholders been consulted before designing the whistleblowing procedure?
- Have national and international laws and regulations (relevant to whistleblowing, data protection, criminal laws, etc.) been reviewed?

Whistleblowing policies constitution

- Is the whistleblowing recipient independent enough towards daily administration of the organization?
- Is the recipient well-resourced and trained to handle the cases?
- Are several reliable, confidential channels provided to the whistleblowers?
- Are anonymous reports possible?
- Is there a clear internal document detailing the responsibilities and modalities for handling the alerts?

Does the communication clearly detail

- Who can use the procedure, for which kind of information?
- Why whistleblowing is a valuable behaviour?
- The follow-up procedure?
- Procedures for handling concerns, i.e. actions taken to record and investigate claims?
- The types of feedback whistleblowers can expect, while respecting the confidentiality of those being investigated?
- That reports made in bad faith will be subject to disciplinary action?
- That deterring employees from raising concerns or victimizing them for doing so will be subject to disciplinary action?

Openness, confidentiality and anonymity

- While respecting confidentiality, does the policy outline instances where this may be compromised, i.e. in matters of criminal/civil law?
- Does it encourage open disclosures and outlines the key drawbacks to remaining anonymous, i.e. difficulties investigating, providing feedback and protecting an individual's identity?
- Does it state that anonymous disclosures are preferred to silence about serious wrongdoing?

Commitment, clarity and tone from the top

- Did top leadership clearly communicate a commitment to maintain high ethical standards and taking concerns seriously?
- Is there a clear whistleblowing policy document, outlining the goals, responsibilities, implementation and assessment modalities?
- Are internal legal documents covering the scope of the whistleblowing policy signed by all organization members? Do they clearly state that all members are expected to raise concerns they become aware of? And that it is the organization's responsibility to investigate them?

Access to independent advice

- Does it address the point of how to obtain independent advice, and lists possible contacts (e.g. a nominated Confidential Integrity Manager, NGOs, Trade Unions, etc.) with relevant contact details?
- Is there an alternative grievance mechanism (at least a relevant contact) in place for the whistleblower regarding the whistleblowing policy?

Assessment and publicity

- Are the results of the reporting system regularly reviewed and assessed?
- Is assessment published?
- Are the prevention, education and awareness policies regularly assessed, especially to make sure that they include information on the whistleblowing procedure and policy?
- Is the level of knowledge and trust towards the whistleblowing system and its management regularly measured?

Conclusion

Implementing a whistleblowing policy should not be an end in itself. Such tools are instrumental to achieve a variety of possible ends: addressing wrongdoing, protecting potentially vulnerable organization members or simply complying with societal demands to have such types of compliance mechanisms in place.

Whistleblowing policy cannot work alone. It can only be successful if it is embedded in a value-driven organizational culture, embodied by the discourse and action from top-management, and every managerial level within the organization. They need to be integrated in a coherent and consistent integrity framework (prevention, education, etc.).

As such, whistleblowing systems are an effective test to measure the ethical climate within an organization. They represent one of the links between leadership and every member of the organization. Their performance depends on the engagement and trust from both sides: the end-user who is empowered to act for the protection of sport integrity and trusts the management that its action will be defended, and leadership, who is committed to act upon reports and protect sport integrity.

Compared to the corporate sector and public administration, the sport world has been late in implementing these kinds of compliance tools. The breakdown of trust can be felt across sports disciplines and countries and is a challenging obstacle for the performance of whistleblowing tools. It will take time to align individual leaders, organizational cultures, and larger integrity policies with the numerous reporting mechanisms that have recently been created.

But sport organizations are catching up. One positive note is that the current popularity of whistleblowing tools within the sport sector cannot be separated from the focus that sport leaders and institutions are actually taking with regards to the athletes. Proposing reliable and trustworthy alert mechanisms honours basic tenets of freedom of expression, as well as a right to be heard and protected when confronted with organizational hazards or crimes. Sport authorities are coming to terms with the need to consider sport athletes as the priority stakeholder of their organizational policies and decisions.

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