



Questionnaire concerning Business, Sports & Fraud

Sports Law Commission

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1. Are there specific legal forms for sports club (e.g. specific type of company structure, association, etc.) in your jurisdiction?

The conditions for practising sports activities are regulated by the Sport Act of 25 June 2010 (the “**Sport Act**”), pursuant to which sports activities are conducted, in particular, in the form of sports clubs. The only legal requirement under the Sport Act is that such sport clubs must be legal entities. And so, sports clubs may operate under the legal form of:

- companies, i.e. limited liability companies, joint-stock companies, with the exception of partnerships, e.g. limited partnerships;
- associations entered into the register of associations, other social and professional organisations, foundations and public healthcare institutions of the National Court Register
- foundations entered into the register of associations, other social and professional organisations, foundations and public healthcare institutions of the National Court Register.

Sports clubs operating as non-profit entities, subject to additional requirements, may acquire the status of public benefit organisations (PBO) and are eligible to receive one per cent allocation of personal income tax according to taxpayers' individual decisions.

The Sport Act does not provide for any specific regulations as to the structure of a sports club, thus it should be established in accordance with the respective general requirements concerning each of the above-mentioned legal forms of activity.

2. How are sports clubs / players grouped? Are they administrative bodies, associations, federations etc.? Please provide a few examples.

The sport in Poland is organised in accordance with the so-called European model, which involves the institutionalisation of hierarchical and pyramidal structure. The basic unit in this structure is the sports club.

A sports association can be established by a minimum of three sports clubs. Under the Sport Act, it is not permissible for players to set up sports associations. Such a possibility was however allowed under a regulation repealed on 18 January 2010.

A sports association (*związek sportowy*) may operate as an association (*stowarzyszenie*) or a union of associations (*związek stowarzyszeń*).

The Polish sports associations (*polski związek sportowy*) form the third level in the sport structure in Poland. They are legal entities operating in the form of associations or unions of associations with the aim of organising the system of competition in particular sports disciplines. The establishment of a Polish sports association is subject to the approval by the Minister of Sport.

A Polish sports association has the exclusive right to:

- organise and conduct sports competitions for the title of Champion of Poland and the Polish Cup in the sport it represents;
- set and enforce sports, organisational and disciplinary rules in sports competitions organised by the association;
- appoint the national team and prepare it for the Olympic and Paralympic Games, World Championships or European Championships;
- represent the sport in international sports organisations.

On the other hand, it is noteworthy that, in general, organising and conducting sports competitions does not require that a Polish sports association be established. This means that such an activity may be conducted by other entities, e.g. sports associations or sports clubs. By way of an example, at the top of the football structure in Poland is the Polish Football Association formed of sports associations and sports clubs, e.g. the Masovian Football Association. Accordingly, the Polish Volleyball Association is at the top of volleyball system. Volleyball associations, e.g. the Masovian- Warsaw Volleyball Association operate at the voivodeship level.

3. What is the relevant regulatory framework for sports associations/clubs/etc. in your jurisdiction? Is State legislation applicable or is self-regulation applicable? Please provide a few examples.

The relevant regulatory framework for sports clubs, sports associations and Polish sports associations is provided for by both state legislation and self-regulation.

State legislation

- The Sport Act

Comprehensive state legislation on sport is laid down in the Sport Act.

The scope of regulation of the Sport Act differs in relation to sports clubs, sports associations and Polish sports associations. Basically, the higher level in the sports structure, the wider it is regulated by the Sport Act. Whereas in terms of requirements regarding the legal form of sports clubs the Sport Act merely says that they must have a legal capacity, the provisions pertaining to the legal form of the Polish sports associations is much more complex. By way of an example, the Sport Act sets forth requirements for a member of the management board of a Polish sports association. In addition, there is a regulation requiring the Polish sports association to be a member of a respective international sports association.

The Sport Act also contains regulations applicable to all three levels of the sport structure, e.g. the prohibition of doping or the promotion of sports by local and state authorities.

- The Code of Commercial Companies of 15 September 2000 (the “**Code of Commercial Companies**”) or the Act of 7 April 1989 – Law on Associations (the “**Associations Law**”).

Sports clubs, apart from being governed by the Sport Act, are also subject to the respective statutory legislation depending on their legal form e.g. the Code of Commercial Companies or the Associations Law. By way of an example, a sports club operating in the form of a limited liability company must comply with the provisions of the Code of Commercial Companies on share capital and/or governing bodies. On the other hand, since partnerships have limited legal capacity in Poland, according to the Sport Act they may not be a sports club.

However, since sports associations and Polish sports associations may operate only in the form of associations or unions of associations, their legal form is governed by the Sport Act and the Associations Law. By way of an example, the Associations Law which lays down provisions on authorities of an association will apply to authorities of sports associations and, to some extent, also to Polish sports associations.

- Miscellaneous regulations

Finally, it should be borne in mind that such general legal areas as, in particular, taxes, employment, competition or contract law, are regulated by respective legislation.

Self-regulation

- Organisation regulations

Self-regulation is widely applicable at each level of the sport structure in Poland.

Sports clubs are governed by internal regulations such as company’s charter (*statut*) in the case of joint-stock companies or organisation regulations in the case of associations. They regulate the internal matters of a sports club e.g. its name, registered office, membership, governing bodies, rights and duties of its members. Sports club which are members of sports associations must generally comply with the internal regulations of such sports associations.

Since sports associations operate in the form of associations they are widely governed by organisation regulations. As it is the case with sports clubs, organisation regulations of sports associations, apart from regulating their internal matters, also address the requirements for sports clubs, players, coaches and other entities. Internal regulations of sports associations which are members of Polish sports associations must conform to the latter’s provisions.

A Polish sports association adopts organisation regulations which apply to its members. Furthermore, all internal regulations of a Polish sports association have to be compliant with the regulations of an international sports association that it belongs to.

- Disciplinary rules and regulations

Polish sports associations are granted the exclusive right to implement disciplinary rules and regulations which apply not only to sports clubs and sports associations but also, in particular, to players, coaches and medical staff. Pursuant to Article 9.7 of the Sport Act, the disciplinary rules and regulations are adopted by the general meeting of a respective Polish sports association.

By way of an example, disciplinary rules with respect to football are laid down in the disciplinary rules and regulations of the Polish Football Association.

- League regulations

According to Article 15 of the Sport Act, a Polish sports association may establish a professional league. Certain circumstances require that such a league be established. The rules of a professional league are laid down in an agreement between the relevant Polish sports association and the company managing such a professional league. Unless found unlawful, the agreement is to be approved by the Minister of Sport. Each sports club must comply with specific regulations of a respective league e.g. the football clubs playing in the Polish top league “Ekstraklasa” must observe its by-laws such as general or marketing regulations.

- Miscellaneous internal regulations

Bearing in mind the pyramidal structure of sport in Poland, Polish sports associations adopt the most relevant internal regulations which must be observed by sports clubs, sports associations, players, coaches and other entities involved in the respective sport discipline. Frequently they simply reflect the international regulations of respective organisations such as FIFA or UEFA.

By way of an example, the Polish Football Association sets forth wide requirements for sports club which must be observed in order for the latter to be granted a licence entitling them to play in the Ekstraklasa. The so-called Licence Handbook stipulates requirements regarding, in particular, the infrastructure, personnel and administration or financial compliance of a sports club. Any infringement of the above regulations entails varied sanctions from warning to deprivation of points in the following season.

4. Are there any sport-specific risks that you may think of? Are there specific legislation for such risks? The following should be considered:

- Financing in connection with donations and/or subventions, misappropriation of money;

Particular attention should be paid to the issue of use of public funds, since they are subject to control not only by the tax authorities but also the Minister of Sport. Thus, any misappropriation can be sanctioned under the Polish Penal and Fiscal Code of 10 September 1999. Moreover, it is best practice that financial transparency is under internal supervision at each level of sport in Poland. Therefore, any ambiguity

regarding finances of a sports association may be subject to explanatory proceedings conducted by competent bodies of a Polish sports association.

- Decision-making process: nepotism, corruption in election or selection of venues for major sporting event;

Under Article 13 of the Sport Act, a Polish sports association is granted a wide scope of exclusive competences to organise and regulate particular areas of a relevant sport discipline. This entails the risk that the decisive members of a Polish sports association will demand material and/or personal benefits from sports clubs in return for adopting particular regulations or decisions e.g. appointing a player from a given sports club to the national team or selecting a venue for a sporting event.

In order to prevent such unlawful practices, both state legislation and self-regulation provide supervision procedures and sanctions for any such illegal acts.

In general, the regulations of the Sport Act provide that the Minister of Sport has a supervisory responsibility towards Polish sports associations. The supervision is carried out according to the criteria of legality.

An analysis of the provisions of the Sport Act implies that the Polish legislator has adopted the concept of the presumption of supervisory powers of the Minister of Sport. Pursuant to Article 16.2 of the Sport Act, the supervision of the Minister of Sport includes all matters related to the activity of Polish sports associations, except for the stipulated ones.

Moreover, the Minister of Sport has the right to control the use of public funds by Polish sports associations in terms of legality, expediency, thrift and diligence.

Accordingly, in order to prevent corruption or fraud, the Sport Act sets forth requirements that the members of the management board of the Polish sports association must meet e.g. the president of a Polish sports association shall hold office for no more than 2 consecutive terms, no member of the management board shall be a sole entrepreneur or a shareholder holding more than ten per cent of shares in a business operating in the field associated with the performance of the statutory tasks of the association in question, nor shall hold other positions in the governing bodies of that Polish sports association.

The general meeting of a Polish sports association exercises supervision over the management board by adopting the management board report on the operations of the association in question.

Furthermore, a member of a Polish sports association cannot be a member of any governing body of, or have shares in, other sports club participating in competitions within the same sport.

According to the disciplinary rules and regulations, each level of sport structure in Poland is subject to internal control against fraud and corruption, provided that a Polish sports association is established for the given sport. Any disciplinary offence

in this regard is sanctioned. By way of an example, the disciplinary rules and regulations of the Polish Football Association provide for sanctions for match-fixing, corruption and receiving unlawful personal or material benefits in connection with sport. In addition, the failure to report corruption or match-fixing is also an offence.

Moreover, specific license requirements apply to major sport disciplines. As mentioned in the answer to question no. 3, a sports club wishing to play in top leagues in the respective sport discipline must be granted a licence. It is a common practice that Polish sports associations appoint license committees which verify whether the clubs which were granted a licence still meet the specific requirements. If a sports club fails to meet same it may be sanctioned even with a withdrawal of the licence.

Specific regulations vary among Polish sports associations.

- Health-issues (doping);

Players are deemed to be one of the main assets of sports clubs, which very often invest significant sums of money in their transfers. Unfortunately, unlike other investments in fixed assets, buying players is exposed to a much higher risk. Since players' form and health can be barely predicted, they constitute a major risk in managing sports clubs. Doping allows to make the unpredictable more predictable.

Doping is prohibited by both state legislation and self-regulation.

It is a major risk for sports club to be sanctioned for the use of doping by their players. Moreover, combating doping is very often subject to financial and technical constraints. Poland lacks specialised laboratories which could not only detect EPO in a blood sample but also new substances such as FG4592.

In addition, due to financial constraints, the Polish Anti-Doping Agency focuses primarily on the Olympic Games disciplines, since they are financed from the state budget. In contrast, there is the so-called sports niche which includes such disciplines as combat sports, where the contestants are rarely tested, since the Polish Anti-Doping Agency has limited financial resources. It therefore focuses on such disciplines where doping is most likely to occur.

This means that a sports club operating in sport disciplines in which the Polish Anti-Doping Agency is particularly active e.g. Olympic Games sports should pay more attention to anti-doping compliance.

- Competition: match fixing, etc.;

In general, under the Sport Act any unfair behaviour that may affect the results or the course of a sports competition is forbidden (see the answer to question no. 11)

In addition, there is a risk unlawful pressure being exerted on referees or other influential persons for the purpose of affecting the results of a sports competition.

The Sport Act provides for respective regulations so that such a risk can be limited (see question no. 11)

Since one of the reasons for match-fixing is a payoff from gamblers, the Sport Act provides for a provision prohibiting such an activity (see question no. 11)

Respective disciplinary rules and regulations of Polish sports associations provide sanctions for match-fixing and corruption.

- Online gambling.

According to Article 29a of the Polish Gambling Act, organising, advertising and participating in online gambling is illegal and is prosecuted as a crime under the Polish Fiscal Penal Code. Only mutual betting is exempt from the ban, however requires a licence (see question no. 12).

However, it is a common practice that online gambling companies operate in Poland and have their registered offices abroad e.g. in Cyprus.

The case for compliance

5. How are risks to be evaluated with regard to corruption, fraud and other white-collar crimes? Are there internal control systems? Transparency criteria? Compulsory controls by auditors / administrative?

While evaluating the above-mentioned risks, both the size and assets of the evaluated entity should be taken into account. Therefore, particular risks such as corruption are evaluated differently when it comes to Polish sports associations with a large number of sports clubs in a popular sport discipline, and differently in the case of sports clubs representing niche disciplines. As a consequence, it is impossible to identify general principles of risk assessment, which would apply to all types of clubs or sports associations.

In general terms, Polish sports associations adopt internal control systems based mainly on disciplinary sanctions and license requirements.

Moreover, if a sports club operates in the form of a joint-stock company its financial statements should be audited. For instance, major professional football clubs in Poland operate in the form of joint-stock companies. According to the Sport Act, the financial statements of Polish sports associations are subject to a compulsory audit by an auditor. Furthermore, such financial statements, after being adopted by the general meeting of a Polish sports association, are to be submitted to the Minister of Sport in order to be published in the Public Information Bulletin (*Biuletyn Informacyjny Publicznej*).

6. How is compliance applied to sports-organization? What differences are there compared to the “traditional” business world?

Bearing in mind that, according to state legislation there is no general obligation to apply compliance procedures in sports entities, it is particularly difficult to outline how compliance is introduced to sport organisation.

However, it may be argued that compliance procedures in sport organisation are introduced by way of disciplinary rules and regulations as well as licence requirements of Polish sports associations. Internal supervision exercised by licence committees in major sports disciplines enforces compliance with the above-mentioned regulations.

7. Could you give examples of internal compliance process / internal decision-making processes?

According to the Licence Handbook of the Polish Football Association, sports club playing in Ekstraklasa are obliged to meet numerous requirements concerning, in particular, financial transparency. By way of an example, each sports club must submit a financial forecast for the upcoming year, audited financial statements or make a representation that it is not in default with any payments. In addition, the management board of a sports club must ensure that any and all documents filed with the licence committee contain true and complete data. Each of those factors is subject to control by the licence committee which may decide to withdraw the licence if respective requirements are not met. Other sanctions e.g. fines or bans on players' transfers may apply as well.

The issue of sanctions

8. According to which provisions (e.g. criminal law, regulatory law, and administrative law, etc.) may a sports association be sanctioned in your jurisdiction?

Listed below are the major provisions according to which sports associations can be sanctioned.

Criminal law

1. The Sport Act e.g. receiving material benefits or demanding same for unfair sport behaviour; administering doping to minors or athletes who are not aware of it; taking part in match-fixing by using influence in a Polish sports association; giving material benefits in return for taking part in match-fixing by putting unlawful pressure on members of Polish sports associations.
2. The Polish Penal and Fiscal Code of 10 September 1999 e.g. giving untruths or concealing the truth when submitting tax returns or statements to the tax authority; providing data inconsistent with reality, or concealing the real state of things in order to mislead competent authority exposing it to undue

reimbursement of tax, in particular VAT; organising of and participating in online gambling.

3. The Act of 20 March 2009 on Mass Events Security e.g. organising a mass event without a prior permit or contrary to its conditions; organising a mass event without complying with security measures.

Administrative law:

1. The Sport Act e.g. if the activity of authorities of a Polish sports association is unlawful the court may, at the request of the Minister of Sport, suspend such authorities or disband that Polish sports association; the Minister of Sport may overturn a decision of a Polish sports association or withhold the execution of same

Disciplinary responsibility:

1. Under the Sport Act, Polish sports associations adopt disciplinary rules and regulations. For instance, according to the disciplinary regulations of the Polish Football Association, sports club are disciplinarily responsible for disciplinary offences of e.g. their players, coaches and/or fans.

9. Who may be sanctioned within the association (e.g. the association itself, the board, an employee)? Please provide examples of applicable sanctions in the recent years.

Firstly, it should be distinguished that sanctions can be provided either by the state legislation e.g. criminal law or by the internal self-regulation of Polish sports associations, as provided in their disciplinary rules and regulations.

As regards sanctions under the state legislation, as a rule, if an unlawful act may be assigned to an association then the management board thereof will be sanctioned, in particular the member of the board who was directly responsible for such an unlawful act.

In addition, according to the Act of 28 October 2002 on Criminal Liability of Collective Entities for Punishable Offences (the “**Act on Criminal Liability of Collective Entities**”), a collective entity such as a sports club, sports association or Polish sports association shall be liable for a prohibited act committed by a natural person acting on behalf or in the interest of the collective entity, within the framework of his/her authority or duties to represent that entity, making decisions on behalf of the entity or performing internal audits, or in case of acting beyond the scope of that authority or failing to fulfil these duties.

A collective entity shall also be held liable if other additional preconditions are met e.g. if a prohibited act was committed as a result of at least the lack of due diligence in selecting the natural person or at least the lack of appropriate supervision over that person, on the part of a body or representative of the collective entity.

The Act on Criminal Liability of Collective Entities provides an exhaustive list of prohibited acts for which a collective entity could be held liable, e.g.:

- fiscal offences against the organisation of gambling games,
- fiscal offences against tax obligations and grant or subsidy settlements,
- offences of organising a mass event without the prior permit or contrary to its conditions.

One of the sanctions provided by the Act on Criminal Liability of Collective Entities in respect of collective entities is a penalty of fine of up to PLN 5 million.

However, it should be noted that it is not common for a collective entity to be held liable, in particular in the sport sector. According to the statistics of the Ministry of Justice, there were only 45 cases in the years 2006 - 2010 which ended with a definite conviction. Thus, the liability under Act on Criminal Liability of Collective Entities is rather illusory.

As regards disciplinary sanctions, they are stipulated in the disciplinary rules and regulations of respective Polish sports associations issued under Articles 13.1.1 and 45b of the Sport Act. For instance, the disciplinary regulations of the Polish Football Association set forth that disciplinary liability may be imposed on members of the Polish Football Association, players, coaches, instructors, referees, members of medical staff, players' managers, observers, deputies and activists e.g. members of football clubs' authorities and shareholders of the club.

Furthermore, it is laid down that football clubs shall bear disciplinary liability for disciplinary offences of its players, coaches, instructors, members of medical staff, football activists and fans.

Since particular disciplinary offences are provided for in the respective disciplinary rules and regulations, Article 45b of the Sport Act provides a non-exhaustive list of sanctions e.g. admonishment, reprimand or expelling from the Polish sports association. Specific sanctions are provided for in respective disciplinary rules and regulations.

10. How do those sanctions interact with decisions from State courts? Is there a need for enforcement of the sanctions (i.e. is there a filter / exequatur process by State courts, as in arbitration)? Is there a possibility for State courts to consider a case also examined by a regulatory body, e.g. a federation (i.e. is there a risk of “double jeopardy”)?

Recent changes to the Sport Act, which have come into force on 22 September 2015, introduced the provisions on the Court of Arbitration for Sport (the “**Court**”), which in particular settles disputes challenging disciplinary decisions taken by disciplinary bodies of Polish sports associations.

As mentioned in the answer to question no. 9, disciplinary sanctions and proceedings are stipulated in the disciplinary rules and regulations of respective Polish sports

associations. This means that the execution of a decision of a disciplinary body is dependent only on the internal regulations of the respective Polish sports association. However, according to the recent changes to the Sport Act, either party to the disciplinary proceedings is entitled to challenge a decision of a disciplinary body by lodging a complaint with the Court within 14 days from the receipt of such a decision.

It is not permissible to lodge a complaint against the technical rules of the game.

Having considered the complaint, the Court may overturn the decision and refer the case to disciplinary bodies if it proves necessary to take evidence in order to settle the case.

A cassation appeal may be filed with the Supreme Court against the decision of the Court, and the case is settled pursuant to the provisions of the Code of Civil Procedure of 17 November 1964.

Under Article 45b of the Sport Act, penal, administrative or civil proceedings against a person accused shall not preclude simultaneous disciplinary proceedings against that person in connection with the same act .

Given that above regulations have come into force about four months ago, it is still unclear how they will be applied in practice.

Case studies: Online gambling, doping scandals and whistleblowing

11. What are the legal consequences with regards to match-fixing in your jurisdiction? Please specify the relevant legal framework.

A comprehensive legal framework on match-fixing is provided for in the Sport Act, which penalises four major activities:

- unfair behaviour in a sport competition (Article 46 of the Sport Act)
- taking part in betting while being aware of unfair behaviour (Article 47 of the Sport Act)
- taking part in match-fixing by using influence in a Polish sports association in exchange for material or personal benefits (Article 48.1 of the Sport Act)
- giving material benefits in exchange for taking part in match-fixing by putting unlawful pressure on members of a Polish sports association (Article 48.2 of the Sport Act)

The notion of unfair behaviour in a sports competition refers to anyone who, in connection with sports competitions organised by a Polish sports association or by another entity which operates under an agreement concluded with such association, or by an entity which operates on its behalf, accepts material or personal benefit or promise thereof, or demands such benefits in exchange for unfair behaviour which could affect the results or the course of a sports competition.

Unfair behaviour is a criminal offence punishable by imprisonment for a term from 6 months to 8 years. The same punishment applies to anyone who in the circumstances described above gives or promises to give material or personal benefits.

In addition, anyone who, having knowledge of an unlawful act, takes part in betting that concerns sports competitions to which such information refers, shall be liable on conviction to imprisonment for a term from 3 months to 5 years.

Under Article 48.1 of the Sport Act it is forbidden to use the influence in a Polish sports association or in an entity which operates under an agreement concluded with that association, or in an entity which operates on its behalf, or leading another person to believe or strengthening that person's conviction that such influence exists, undertakes to act as a middleman in setting up a specific result or course of a sports competition in return for material or personal benefit or a promise thereof. It is punishable by imprisonment from 6 months to 8 years.

Pursuant to Article 48.2 of the Sport Act, the same punishment applies to anyone who gives or promises to give a material or personal benefit in return for someone acting as a middleman in setting up a specific result or course of a sports competition, by means of unlawfully exerting influence on an official of a Polish sports association or an entity which operates under an agreement with such an association, or an entity which operates on its behalf.

It is noteworthy that, according to the Sport Act, in particular circumstances the perpetrator of the crime shall not be liable to punishment if the material or personal benefit or a promise thereof have been accepted, and he/she immediately notifies the competent law enforcement body and reveals all the important circumstances of the crime before that law enforcement body gains knowledge thereof. It generally refers to persons who give or promise to give material or personal benefits for match-fixing.

In addition to state legislation, disciplinary rules and regulations provide for sanctions for match-fixing, corruption and accepting unlawful material or personal benefits from sport.

It should be also noted that, generally, a civil action may come in question if any of the above crimes results in the other party incurring a loss.

12. How is online gambling considered in your jurisdiction and how is it dealt with in case of fraud?

Under Article 29a of the Polish Gambling Act, organising and participating in online gambling is prohibited. The prohibition does not concern mutual betting under the granted permit.

Under Polish law, organising mutual betting without the required authorisation is a criminal offence punishable by a fine of up to around PLN 17.5 million or up to 3 years of imprisonment for the responsible members of management. If a fine is

imposed, in certain cases the entity on behalf of which a member of management is acting could also be held liable.

Moreover, participating in illegal (e.g. non-authorized) mutual betting is also a criminal offence punishable by a fine of up to around PLN 3 million.

However, a common practice to circumvent the above regulations is to establish an online gambling company in a country where such an activity is legal.

13. Are any measures foreseen in your jurisdiction for the protection of “whistle-blowers”?

The Polish legal framework does not provide any specific regulation for the protection of whistle-blowers. The Polish legislation does not even address the notion of whistleblowing. However, it is becoming a noticeable issue among the big corporations which tend to introduce internal whistle-blowers’ protection.

Since there is a significant need to introduce legislation concerning whistleblowing, the enactment of respective legislation should take place in the future. However, given that no works on a draft legislation are pending, it is impossible to specify any date of introduction of the respective regulations.

While trying to find a legal basis for measures for the protection of whistle-blowers, it should be noted that such a protection may be indirectly derived from general provisions on protection before unfair dismissal or protection of witnesses in criminal proceedings. Nonetheless, seeking remedies in case of unlawful activity towards a whistle-blower on the basis of the above regulations is rather not efficient enough.

14. How is confidential information treated in your jurisdiction? Any risks for whistle-blowers?

Confidential information construed as a trade secret is protected under the provisions of the Act of 16 April 1993 on Combating Unfair Competition (the “**Act on Combating Unfair Competition**”). In order to deem particular information a trade secret, it must be subject to the reasonable efforts of a business entity to maintain its secrecy and must not be publicly available.

With regard to whistle-blowers, there is no significant risk concerning the disclosure of trade secrets and consequently there is no substantive risk of committing an unfair trading practice.

However, it should be noted that unreasonable whistleblowing based on untrue information may entail civil liability for the infringement of personal rights of, in particular, sports clubs, players or medical staff. Furthermore, the dissemination of untrue information may be deemed a criminal offence of defamation. Therefore, whistle-blowers should take into account the potential liability for defamation.

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