Addressing fraudulent manipulation of sport results: the UNODC perspective

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International Instruments

The United Nations Conventions against Corruption and Transnational Organized Crime

A response for national jurisdictions to address the issue of match-fixing through applicable general offences and other supportive provisions.
Global instrument with near universal adherence – 161 SP
Entered into force on 14/12/2005

Prevention

Criminalization

Asset Recovery

International Cooperation

UNCAC Overview

UNITED NATIONS CONVENTION AGAINST CORRUPTION

UNODC
United Nations Office on Drugs and Crime
No definition of corruption but corruption offences:

Mandatory Offences
- Bribery of National Public Officials (Art. 15)
- Active Bribery of Foreign Public Officials (Art. 16, para. 1)
- Embezzlement, Misappropriation or Other Diversion of Property (Art. 17)
- Laundering of proceeds of crime (Art. 23)
- Obstruction of Justice (Art. 25)

Optional Offences
- Passive Bribery of Foreign Public Official (Art. 16, para. 2)
- Trading in Influence (Art. 18)
- Abuse of Functions (Art. 19)
- Illicit Enrichment (Art. 20)
- Bribery in Private Sector (Art. 21)
- Embezzlement of Property in Private Sector (Art. 22)
- Concealment (Art. 24)
Bribery and embezzlement of property in the private sector (Art.21, 22 UNCAC)

*Mutatis mutandis* same considerations as corruption in public sector with 3 specific requirements:

- Applicable to economic, financial or commercial activities
- Perpetrators as persons who direct or work in any capacity for a private sector entity
- Breach of duties

Art. 39 Encourages cooperation between national authorities and the private sector
Liability of Legal Persons (Art. 26 UNCAC)

- Obligation for States parties to establish liability of legal persons for participation in UNCAC offences.
- Discretion as to the nature of liability in view of divergent national approaches: criminal, civil, administrative liability.
- No prejudice to personal criminal liability of natural persons
- Effective, proportionate and dissuasive sanctions for legal entities, including monetary sanctions.
Money laundering an offence under UNCAC (Art. 23) and UNTOC (Art. 6)

- Conversion or transfer of property for the purpose of concealing
- Concealment or disguise of the true nature, source etc. of illicit property
- Acquisition, possession or use of property with knowledge of illicit origin
- Participation (aiding, abetting, facilitating) in any of aforementioned

Art. 14 UNCAC and Art. 7 UNTOC request:

- Comprehensive regulatory and supervisory regimes for banks and non-bank financial institutions and for the deterrence and detection of all forms of ML
- Ensure that regimes have capacity for domestic and international cooperation
Protection of Witness and Reporting Persons
(Art. 32, 33 UNCAC and Art. 24, 25 UNTOC)

Protection of Witnesses, Experts and Victims
Effective Protection from Potential Retaliation or Intimidation

In Accordance with its Domestic Legal System and within its Means

Protection of Reporting Persons
Protection against Any Unjustified Treatment

Optional
International cooperation

**UNCAC establishes legal frameworks for international cooperation**

<table>
<thead>
<tr>
<th>Acts as an autonomous legal basis for:</th>
<th>Permits case-by-case cooperation for:</th>
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<tbody>
<tr>
<td>• <strong>Extradition</strong> (Art. 44 UNCAC, Art.16 UNTOC)</td>
<td>• <strong>Joint investigations</strong> (Art. 49 UNCAC, Art.19 UNTOC)</td>
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<td>• <strong>Mutual legal assistance</strong> (Art. 46 UNCAC, Art.18 UNTOC) “Mini treaty”</td>
<td>– Creation of international teams</td>
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<td>• <strong>International cooperation for the purpose of confiscation</strong> (Art. 55 UNCAC, Art.13 UNTOC)</td>
<td>• <strong>Special investigative techniques</strong> (Art. 50 UNCAC, Art. 20 UNTOC)</td>
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<td>– Proceeds of crime, instrumentalities</td>
<td>– Domestically and internationally</td>
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<td>• <strong>Law enforcement cooperation</strong> (Art. 48 UNCAC, Art.27 UNTOC)</td>
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<td>– Measures to enhance communication and collaboration</td>
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Domestic Implementation

Domestic measures:

• To criminalize offences, and facilitate investigation, prosecution and adjudication of offences

• Put in place processes for information gathering/sharing; Cooperation among national authorities, incl. private sector; and Prevention

• Establishment of institutions with appropriate capacity

• Set-up frameworks for international cooperation: to allow for cross border criminal investigations and prosecutions, as well as enforcement of sentences, confiscation/recovery of proceeds of crime

➢ Importance of regional and international harmonization of domestic measures to facilitate international cooperation and avoid safe havens

➢ Need for development of common norms and implementation frameworks, and shared strategy and catalyze political will
UNCAC as a framework to mainstream anti-corruption safeguards related to the organization of major public events

- Focus on the organization of major sports, cultural or political events, which enhance the risk of corruption, e.g.
  - Time constraints
  - Large scale procurement needs

- Initiative aims to identify good practices, based on UNCAC, for dissemination to both governments and the private sector

- High-level international expert group meeting held in June

- Final report expected by November 2012, including a “checklist” to assist the organizers of major events in reviewing their own preparedness and capacity to prevent, detect and respond to corruption
The cooperation between UNODC and the International Olympic Committee (IOC)
Memorandum of Understanding between the IOC and the UNODC signed in May 2011

Participation of UNODC to the IOC Working Group on the Fight against illegal/irregular Betting in sport

- Education
- Monitoring, Intelligence and analysis
- Legislation and Regulations
1. In this fight, sports organizations need to have effective rules and be capable of acting in support of these. However, they cannot operate alone but require the support of the national prosecution authorities (justice/police/gambling regulators), international organizations and betting operators.

2. The appropriate national legislative framework is essential to regulate the activity and permit all forms of action against irregular and illegal betting in sport.

3. National betting regulators seem to represent the best solution for enabling effective cooperation between the various stakeholders, the sports movement, sports betting operators and public authorities, at both national and international level.

4. A national statute creating a criminal offence of sports manipulation linked to betting is needed in order for the national prosecution authorities to act, together with international agreements. It would be preferable if the statute creating the offence included certain guidelines in order to facilitate international cooperation.

5. Interpol and UNODC must play a central role in facilitating this international cooperation, particularly with regard to enabling the flows of information and Intelligence between the investigating agencies, and to establishing guidelines allowing for meaningful cooperation, based on their practical experience.
Elaboration of a comparative study compiling criminal law provisions on match-fixing and illegal/irregular betting from legislation of Member States around the world, particularly Members States facing Acute challenges in combating these criminal activities.


Development, as an annex to the study, of model criminal law provisions on match-fixing/sport manipulation and illegal/irregular betting.
UNODC can thus play a key role in supporting legislative interventions for establishing criminal offences in Domestic laws against match-fixing, as well as putting in place effective and dissuasive criminal sanctions to combat it.
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