



UNODC

United Nations Office on Drugs and Crime



Comprehensive training material for investigative and law enforcement authorities

I. Manual on match-fixing and illegal betting for investigative and law enforcement authorities

As a second step after the elaboration of the study on the criminalization approaches to match-fixing and building on the law enforcement expertise available for both partners, it is proposed to jointly work for the elaboration of a manual for investigators and prosecutors, to be used as training material in capacity-building programmes focused on the enhancement of national law enforcement and investigative capabilities.

An indicative list of issues to be addressed in the manual may cover both domestic and international aspects of investigations and law enforcement in the area of match-fixing and may, in particular, include the following:

- Models on how investigators are dealing with match-fixing cases based on typical cases;
- Elements and, if possible, case studies relating to the involvement of the private sector, including investigative cooperation and the design of technical and information systems in ways which are supportive of crime detection and investigation;
- Legal requirements and compilation of good practices at the operational level to support international cooperation within the context of multinational investigations, including case studies illustrating the possibility of cooperation with counterparts in foreign countries;
- Specific modules designed to enable law enforcement officers to identify elements of match-fixing crimes when the latter are encountered in other investigations;
- Information about the content and possible use of the United Nations Convention against Transnational Organized Crime and of the United Nations Convention against Corruption.

Thematic areas of particular interest for inclusion, consideration and further analysis within the manual may include, among others, the following criminal justice and law enforcement measures, as foreseen in the UNCAC that could also be utilized in match-fixing cases to enhance effectiveness of counter-action:

- **Liability of legal persons:** The UNCAC requires in article 26 that States parties adopt such measures as may be necessary to establish the liability of legal persons for participation in corruption-related offences. There is no obligation, however, to establish criminal liability in view of the divergent approaches followed in different

legal traditions. Civil or administrative forms of liability for legal entities are sufficient to meet the requirement.

- **Protection of whistle-blowers:** Article 33 of the UNCAC requires that States parties consider incorporating into their domestic legal system appropriate measures to provide protection against any unjustified treatment of any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with the Convention. The UNCAC the Convention against Corruption acknowledges the potential of useful contributions made by persons who observe or otherwise come into contact with corrupt practices. In such instances, protection should be considered for those making reports on acts relative to corruption offences that are made in good faith, on reasonable grounds and to appropriate authorities.
- **Effective investigation means/techniques:** In order to ensure that their law enforcement agencies and prosecuting authorities have appropriate investigative means at their disposal for investigations into match-fixing, States should review their national laws and make them compliant with the UNCAC requirements (article 50). Some of the most useful investigative means are listed as possible examples (monitoring of communications, seizure of material, covert surveillance, monitoring of bank accounts and other financial investigations), but the list is not exhaustive.
- **Lifting of bank secrecy:** Bank secrecy rules have often been found to be a major hurdle in the investigation and prosecution of serious crimes with financial aspects. Article 40 of the UNCAC requires that, in cases of domestic investigations of offences established in accordance with the Convention, States parties have appropriate mechanisms available within their domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.
- **Cooperation between national authorities and the private sector:** There is already some evidence that an important private-sector player, namely the **betting operators**, would also be willing to take part in these actions because of their enormous losses due to illegal betting. The UNCAC requires in article 39, paragraph 1, States parties to take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector on matters involving the commission of offences established in accordance with the Convention. This is also valid for purposes of tackling money-laundering and with regard to financial institutions.
- **Seizure and confiscation:** Article 31 of the UNCAC requires States parties to put in place a robust and effective domestic confiscation regime, including measures for the identification, freezing and seizure of proceeds of corruption, as well as confiscation — the permanent deprivation of property by order of a court or other competent authority, as defined by art. 2(g) of the Convention — as the most important legal tool to deprive offenders of their ill-gotten gains. The regime promoted by the Convention revolves around the concept of the confiscation of “*proceeds of crime*”, defined by art. 2(e) of the Convention as “*any property derived from or obtained, directly or indirectly, through the commission of an offence.*”
- **Mutual legal assistance:** Building on the precedent of article 18 of the United Nations Convention against Transnational Organized Crime (UNTOC), article 46 of the UNCAC, a “mini-treaty” on mutual legal assistance (MLA), addresses every aspect of mutual legal assistance reflecting the considerable evolution of this concept and mechanism as one of the primary tools of international cooperation against corruption. Under this article, States parties are obliged to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings pertaining to the offences established by the UNCAC.

It is envisaged that the elaboration of the manual will be carried out through consultancy work, under the guidance, oversight and supervision of UNODC, in collaboration with nominated ICSS members and partners.

The main issues identified in the course of the elaboration of the Manual will be shared by UNODC with ICSS also for the purposes of contributing to the preparation by the ICSS in cooperation with the Council of Europe, UNESCO and the Sorbonne University of an Handbook focusing on information exchange between governments and the sport movement. Such contribution of UNODC will be fully acknowledged in the Handbook and, if so mutually agreed by the parties involved, UNODC will be referred to as partner of the initiative.

II. Modular material on the links between match-fixing and other criminal activities

The need to fight against match-fixing is increasingly perceived as a *public interest issue* as this phenomenon jeopardizes the integrity of the competitions, damages the social, educational and cultural values reflected by sports, and also jeopardizes the economic role of sports.

Agreements on the need to fight against anything which alters the unpredictability of outcomes in sport entail questions about the most efficient ways to fight against this phenomenon. Recent cases reveal the magnitude of the problem and indicate the dire need to address it through appropriate tools such as police expertise, phone-tapping, formal police interviews, prosecutions and trials. Resorting to criminal justice in the fight against match-fixing shows that sporting manipulation can be not only a “simple” breach of sporting rules, but also an offence against the public in a broader sense.

More importantly, existing links between match-fixing and other criminal activities have been identified as additional challenges for investigators and law enforcement authorities. Match-fixing is growingly treated as a ‘new and emerging’ form of crime that needs to be addressed through tailor-made legislative responses and effective investigative powers, particularly in view of its interrelationship with organized crime, corruption, money-laundering etc.

In particular, match-fixing can be considered as a *form of corruption* and as such must be sanctioned by criminal law. In fact, the expression “match-fixing” is sometimes replaced in the relevant literature by the expression “sport bribery”. Terminology here is eloquent and demonstrates vividly “why sport is not immune to corruption”.

Moreover, while problems linked to betting are not new, it appears that betting in sport has reached new levels of sophistication with various operators involved across several countries and continents and new offshore betting companies being established. Such sophistication strongly indicates the use of *organized crime patterns* with transnational dimensions.

Money-laundering is also a cross-cutting issue covering both organized crime and corruption patterns in the field of sports manipulation. Due to the fact that most countries have different gambling regulations, the gambling market is non-transparent and is a heterogeneous market with a mix of private and state companies acting both nationally and internationally. Providers are often established in countries which allow the organization of gambling activities or in countries that do not regulate or supervise gambling. It is however not easy to take legal action against providers who offer their services online and are established abroad. This in combination with the non-transparency of the gambling market makes betting an

interesting money laundering vehicle for criminals. Moreover, the use of the Internet for online betting further increases the risk of money laundering.

All these parameters can be taken into account as key indicators in putting in place effective investigative and law enforcement measures to combat match-fixing and illegal betting. This would not necessarily affect the capability of sports organizations to tackle the problem of match-fixing alone (sport autonomy) as in many cases the police and public prosecution are already collaborating with sporting bodies without undermining independent sporting sanction systems, which include bans, relegations and penalties.

Based on its in-house expertise, and in order for States to be able to assess more thoroughly the links between match-fixing and other criminal activities, UNODC is in a position to develop specific modules on the links between match-fixing and organized crime, corruption, money-laundering and other forms of crime. These links will be highlighted through *specific case studies, which will be included as an annex to the manual*, but can also be consulted independently of the core content of the manual

Again, it is envisaged that the elaboration of the manual will be carried out through consultancy work, under the guidance, oversight and supervision of UNODC.

A meeting of an expert group, bringing together different stakeholders (competent experts from selected countries, representatives from international and intergovernmental organizations such as UNESCO, Interpol, the Council of Europe, the European Union etc.) will be held for verification purposes for both the training manual and its annex.