



PROVISIONAL

The reform of football governance

Report¹

Committee on Culture, Science, Education and Media

Rapporteur: Mr Michael CONNARTY, United Kingdom, Socialist Group

Draft resolution

1. The Parliamentary Assembly recognises the educational and social value of sport. It considers good governance of sports organisations essential in order to promote the values of our democratic societies, and attaches the highest importance to the responsibility which sports organisations bear – and must fully assume – for furthering and safeguarding human rights and the rule of law. All sports organisations must give proper consideration to ensuring effective protection of fundamental rights enshrined in the international binding instruments and, in Europe, in the European Convention on Human Rights.
2. The Assembly welcomes that sport is an important economic activity and that the major sports organisations are able to support the development of sport in every part of the world. It is nevertheless anxious that secrecy in the decision-making processes of certain sports organisations and flaws in their mechanisms for preventing and sanctioning breaches of sports ethics may foster corruption and financial misappropriations. The scandals which tarnish the image of sport confirm that this risk is quite real.
3. The Assembly reaffirms that the need to preserve the independence of the sports movement is attended by the constraint of ensuring that this independence does not become a front for justifying inaction against malpractices that flout sports ethics and dealings that should come or already come under criminal law when business organisations are concerned.
4. It is necessary to combat corruption not only on the field of sports, but also within sports organisations. These must be committed to developing a culture of transparency and to establishing internal self-regulatory procedures which ensure irreproachable management of their financial resources, stringent controls to prevent any illegal holding of personal interest, and effective investigation and detection mechanisms allowing any breach of sports ethics to be sanctioned.
5. Football holds a special place in the world of sport: for its universal coverage, for its impact on untold millions of supporters, for the financial and political implications of its major events such as the FIFA World Cup or the European Football Championship (UEFA EURO). For this reason, the Assembly considers that alongside the International Olympic Committee (IOC), the International Federation of Association Football (FIFA) and the Union of European Football Associations (UEFA) have a heavier responsibility and the duty to be exemplary in their external action and in their systems of internal governance.
6. The IOC has shown that it is possible to make reforms and to bring about change in depth. The UEFA has a legal framework at the leading edge in the field of preventing conflicts of interests and fighting corruption. It is exemplary in the promotion of financial fair play and in its stand against match-fixing. The Assembly commends in particular the support which UEFA gives to the process of ratifying and implementing the Council of Europe Convention on the Manipulation of Sports Competitions.
7. Likewise, the Assembly welcomes the concrete initiatives of FIFA in combating manipulation of matches and its action to aid the development of football in all regions of the world. The Assembly also notes that the reforms carried out so far by FIFA have considerably improved its statutory and regulatory framework.
8. Nevertheless FIFA does not yet seem capable of putting an end to corruption scandals. The findings of the inquiry conducted by the investigatory chamber of the FIFA Ethics Committee concerning the award of

¹ Unanimously adopted on 27 January 2015.

the World Cup to Russia for 2018 and to Qatar for 2022, even though they have been disclosed only partially, show that extremely dubious practices are widespread as if they formed an integral part of the system.

9. The Assembly notes that FIFA, following this inquiry, has decided to bring a complaint before the Swiss courts. The Assembly regrets, however, that FIFA's internal provisions prevent the publication of the investigatory chamber's report and is amazed at the ease with which the adjudicatory chamber of the FIFA Ethics Committee has confirmed the decision to assign the 2022 World Cup to Qatar.

10. The Assembly feels that this decision was radically flawed. The documents divulged in the London *Sunday Times* – whose authenticity seems unarguable – compel the conclusion beyond all reasonable doubt that Mr bin Hammam paid over thirty senior representatives of the African football community (nearly all presidents of national football associations) and/or their national associations large sums of money, to assure Qatar of the votes of the Confédération Africaine de Football (CAF) representatives on the FIFA Executive Committee at the vote on 2 December 2010.

11. The votes of these members of the FIFA Executive Committee were of strategic importance for Qatar to be able to get ahead of the other bidding countries belonging to the Asian Football Confederation (AFC), viz. Australia, Japan and Korea. After their elimination M. bin Hammam, who was AFC President at the time, was sure of the votes for Qatar of the AFC representatives on the FIFA Executive Committee.

12. In these circumstances, FIFA cannot evade the obligation to hold a new vote under its new rules on the allocation of major events including the World Cup. The claim that Qatar's does not have direct responsibility for Mr bin Hammam's dealings should not be allowed to validate a procedure so fundamentally undermined by illegality.

13. Consequently, the Assembly recommends that FIFA:

13.1. speedily open a new procedure for the award of the 2022 World Cup and ensure – by means including the immediate adoption of new provisions – the establishment of adequate information and supervision machinery in order that this procedure genuinely guarantees equality between bidding countries and a final decision strictly founded on the merit of their projects;

13.2. urgently requests the authorities of Qatar:

13.2.1. to take without delay all necessary measures to secure respect for the fundamental rights of all foreign migrant workers employed in this country;

13.2.2. to co-operate with the International Labour Organisation (ILO) in verifying the effective observance of these rights by the public or private enterprises operating in Qatar;

13.2.3. to act with the utmost firmness to punish all abuses by companies or individuals and assure all victims of just redress of the damage sustained;

13.3. carry on the reforms which it has commenced and follow the detailed recommendations made to it by the Committee on Culture, Science, Education and Media in its report on "International football reform".

14. The Assembly recommends that UEFA:

14.1. support – directly and through the agency of its representatives on the FIFA Executive Committee – the governance reforms within FIFA and in particular the whole of the recommendations made to FIFA by this resolution and by the report on "The reform of football governance";

14.2. follow the detailed recommendations made to it by the Committee on Culture, Science, Education and Media in its report on "International football reform".

15. The Assembly appeals to all international sports organisations and in particular the IOC, FIFA and UEFA:

15.1. to ensure that any country bidding for the organisation of major sports events undertakes, in all activities linked with the organisation and conduct of the event, to abide by international standards in respect of fundamental rights, including the standards of the ILO;

15.2. to strengthen cooperation with the relevant intergovernmental organisations to promote human rights through sport, and to foster their effective protection, in particular through their development programmes.

16. Also referring to its Resolution 1875 (2012) “Good governance and ethics in sport” and to the guidelines which it contains, the Assembly invites all sports organisations to have a constant concern for improvement of their governance. In that respect the Assembly stresses the need to ensure:

16.1. transparency of the decision-making process;

16.2. strict adherence to rules against any improper inducements to gain advantage in the award of major events or when deciding financial disbursements;

16.3. financial transparency, to include the salaries and indemnities drawn by the elected executives and senior management;

16.4. introduction of procedures for verifying integrity and of effective mechanisms to prevent, detect and punish all acts of corruption and financial misappropriation;

16.5. a periodic renewal in the discharge of the offices of President of the organisation and membership of a governing body or of a judicial body of the organisation;

16.6. adequate participation of relevant stakeholders in the decision-making process;

16.7. fair representation of women in the governing bodies.

17. Lastly, the Assembly asks the Council of Europe member states to establish a legal framework encouraging the sports organisations under their jurisdiction to combat corruption and illegal holding of personal interest, including the adoption of legislative provisions to ensure:

17.1. that the sports organisations called on to manage significant sums of money are subjected to transparent accounting and budgetary rules applicable to commercial companies, even if sports organisations are constituted as non-profit concerns;

17.2. that acts of private corruption committed in the performance of functions in sports organisations are classified as offences under criminal law and as such are subject to mandatory prosecution.

Explanatory memorandum by the rapporteur, Mr Connarty

1. Origin and scope of the present report

1. Since 2011, the Committee on Culture, Science, Education and Media has been considering ways to enhance ethical standards, transparency and accountability in sports governance. Based on a report of the Committee (Rapporteur: Mr François Rochebloine, France, EPP/CD), the Parliamentary Assembly of the Council of Europe adopted on 25 April 2012 Resolution 1875 (2012) "Good governance and ethics in sport". This resolution enumerates concrete recommendations and guiding principles addressed to sports organisations, including a set of guidelines on "Governance, transparency and the combating of corruption and self-interest in sports bodies". Their main point is that good governance in sport is hampered by the concentration of executive power and by the lack of transparency in the decision-making processes of sports bodies.

2. The report on "Good governance and ethics in sport" and its appendix pinpointed drawbacks in the governance system of the "Fédération Internationale de Football Association" (FIFA) which various scandals contributed to highlight. For this reasons, Resolution 1875 (2012) addressed specific requests to FIFA. In the knowledge that a governance reform process had started within FIFA, as a follow up to Resolution 1875 (2012), our Committee organised a hearing on "FIFA governance" which was held on 19 December 2012 in Paris.

3. Subsequently, the Committee decided, on 12 March 2013, to establish an Ad Hoc Sub-Committee on the Reform of International Football, with the mandate to discuss with FIFA, but also with the "Union of European Football Associations" (UEFA) and of the "European Club Association" (ECA), the on-going reforms, seeking to identify further action that could enhance football governance at European and international level.

4. On 3 December 2013, the Ad Hoc Sub-Committee on the Reform of International Football submitted to the Committee an information report [AS/Cult/RF 2013) 05] with the proposal to initiate a new report on the reform of football governance. The Committee tabled a motion for resolution, which the Assembly referred to it for report on 27 January 2014. I was appointed rapporteur on 28 January 2014.

5. The present report takes account of the Committee's previous work and of the fruitful exchanges the Ad Hoc Sub-Committee on the Reform of International Football held with FIFA, UEFA and ECA partners and in particular with the respective presidents of these organisations: Mr Joseph S. Blatter, Mr Michel Platini and Mr Karl-Heinz Rummenigge.² It also takes account of the assessment by the FIFA Independent Governance Committee on the implementation of their proposals [see AS/Cult/EYS (2014) 04] and of written explanations provided by FIFA in response to questions by the Ad Hoc Sub-committee on the Reform of International Football.

6. On 19 September 2014, in Zurich (FIFA headquarters) the Sub-Committee on Education, Youth and Sport, held an exchange of views with Mr Michael Garcia, Chairperson of the Investigatory Chamber of the FIFA Ethics Committee, and Mr Cornel Borbely, Deputy Chairperson of the Investigatory Chamber of the FIFA Ethics Committee.

7. On 30 September 2014, the Sub-Committee on Education, Youth and Sport, in Strasbourg, held a hearing with Ms Heidi Blake, Assistant Editor of The Sunday Times, and Mr Jonathan Calvert, Insight Editor of the Sunday Times, on the alleged bribes paid to numerous high representatives of the African football in the framework of the procedure which resulted in the designation of Qatar as the host country for the 2022 FIFA World Cup. I met them again in London on 6 November 2014; I was accompanied by a member of the Assembly Secretariat.

8. On 5 December 2014, the committee held a hearing with Mr Gilbert Hougbo, Deputy Director General for Field Operations and Partnerships, International Labour Organization (ILO), and Mr Steven Murphy, General Secretary of the British Union of Construction, Allied Trades and Technicians (UCATT). FIFA and UEFA were also represented.³

² The Ad Hoc Sub-Committee on the Reform of International Football held the following meetings:

- Zurich on 16 July 2013 (FIFA headquarters),
- Nyon on 9 September 2013 (UEFA headquarters),
- Geneva on 9 September 2013 (hosted by ECA).

³ Mr Alasdair Bell, Director of Legal Affairs at UEFA, Mr Walter de Gregorio, Director of Communications and Public Affairs of FIFA, and Ms Fani Misailidi, Head of Public Affairs of FIFA, participated at the hearing.

9. I would also like to mention the contribution of Mr Mark Pieth, Chairman of FIFA Independent Governance Committee (IGC) and of Mr Domenico Scala, Chairman of FIFA Audit and Compliance Committee, as well as of the input of two independent experts, Ms Sylvia Schenk (Transparency International) and Professor Roger Pielke (University of Colorado at Boulder), whose analyses helped in identifying key issues to consider when assessing FIFA reform process.

10. Sections 2 and 3 focus on the FIFA governance system and the reform process within this organisation. Section 4 considers the UEFA governance system. Because of their importance, these two organisations – as the IOC – are important role models and should be exemplary. For this reason, the report also highlights a number of positive elements in their respective systems. Our aim is also to encourage sound developments in all the other sports organisations.

11. Sections 5 and 6 deal respectively with the case of corruption concerning the allocation to Qatar of the 2022 FIFA World Cup, and with the crucial issue of sports governance and the protection of human rights, with reference to the alarming situation in Qatar.

12. Finally, appendices 1 and 2 present the specific recommendations that we, as a committee, could address to FIFA and UEFA. The draft resolution proposes that the Assembly endorses them.

2. The new FIFA Ethics Committee

13. In its Resolution 1875 (2012), the Assembly insisted that FIFA “6.1. (...) *significantly increase the investigative powers of its Ethics Committee, authorising it, inter alia, to undertake, on its own initiative and at any point, internal investigations, including with regard to former officials, and ensuring that the arrangements for electing its members guarantee the committee’s full independence*”.

14. This is an area where substantial changes have already been implemented and these should be warmly welcomed: the new control system has all the hallmarks of being a real improvement. However, there are important issues which remain unresolved.

2.1. Achievements

15. The Ethics Committee has been divided into an investigatory and a separate adjudicatory chamber and its investigative powers have been increased. It can investigate and adjudicate on past issues or behaviour and the investigatory chamber has the power to open investigations “on its own initiative and ex officio at its full and independent discretion” (art. 28.1 of the Code of Ethics), i.e. independently from decisions of any other FIFA bodies or officials. There are no time limits for the prosecution of bribery and corruption (art. 12 of the Code of Ethics). These improvements are remarkable.

16. The Chairpersons, the Deputy Chairpersons and the members of the Ethics Committee shall be elected (and can be removed) by the FIFA Congress (art. 27 of FIFA Statutes, which applies to all FIFA “judicial bodies”). They cannot be members of another judicial body, of the Executive Committee or of a standing committee, and they cannot belong to any other FIFA body (art. 61 of FIFA Statutes and art. 34 of the Code of Ethics).

17. Both chambers are now chaired by independent persons, who meet the necessary professional requirements. In addition, a new provision (article 13.3. of the Standing Orders of the Congress) states that the Audit and Compliance Committee shall verify, at least annually, that the current chairpersons of the two chambers and their deputies or the candidates for these offices meet the independence criteria. It is noted that the chairpersons, deputy chairpersons and members of the judicial bodies are subjected to an integrity check prior to their election (see sub-section 3.1.2.).

18. Article 61 of FIFA Statutes also includes the following rules:

“The judicial bodies are to be composed in such a way that the members, together, have the knowledge, abilities and specialist experience that is necessary for the due completion of their tasks. The chairmen and deputy chairmen of the judicial bodies shall be qualified to practise law. The term of office shall be four years. The members may be re-elected or relieved of their duties at any time, although they may only be relieved of their duties by the Congress. (Article 61.3)

“The chairmen and deputy chairmen of both chambers of the Ethics Committee shall fulfil the independence criteria as described in the Standing Orders of the Congress.” (Article 61.4)

19. Concerning the independence criteria, according to Article 12.1 of the Standing Orders of the Congress, a candidate for the office of chairperson or deputy chairperson of the Audit and Compliance Committee or of either of the two chambers of the Ethics Committee shall not be considered independent if, at any time during the four years preceding his/her term, he/she or any family member (spouse, children, stepchildren, parents, siblings, domestic partner, parents of spouse/domestic partner and siblings and children of domestic partner):

- held any paid position or material contract (directly or indirectly) with FIFA and/or any member, confederation, league or club (including any of their affiliated companies/organisations);
- was employed by FIFA's outside legal counsel or by FIFA's auditor (and was engaged in auditing FIFA);
- held any paid or voluntary position with a non-profit organisation to which FIFA and/or any member, confederation, league or club makes annual payments in excess of USD 100,000.

20. The Ethics Committee has been given the resources to discharge its purpose. In particular, the investigatory chamber draws up a budget at its own discretion in order to conduct professional investigations with internal or external resources.

21. The Code of Ethics has been revised to describe the rules of conduct and expected behaviour (e.g. conflicts of interest, gifts and other benefits, bribery and corruption) more clearly. Finally, a confidential reporting mechanism in order to systematically manage complaints and allegations of all kinds has been activated at the beginning of February 2013; this is to be commended.

2.2. Outstanding issues

22. The present legal framework could be further improved to:

- ensure that all serious past and present violations of the Code of Ethics are investigated and punished;
- reinforce and ring-fence the independence of the Ethics Committee's members and the transparency of its work.

2.2.1. Ensuring that all serious violations of the Code of Ethics are investigated and punished

23. The control mechanism should make sure that all allegations of serious violations of the Code of Ethics be investigated and that the most severe sanctions be applied when such violations are established. The following elements, which relate to the scope of competence of the Ethics Committee and to its entitlement to take discretionary decisions, may hinder this result and therefore should be reviewed.

Competence *ratione personae*

24. Article 2 on "*Persons covered*" establishes that the Code is applicable to the persons who "*are bound by this Code on the day the infringement is committed*". This statement could be misleading as it could lead to an interpretation contradictory to article 3 (see below). As an example, it could be interpreted as excluding the possibility of investigating an allegation of corruption or of bribery committed by someone who thereafter becomes a FIFA official, for example, having paid money in order to become a FIFA official. It also seems to exclude corrupt acts which were committed before the code was set down.

25. FIFA explained that article 2 is interpreted in a manner by which no individual is subject to sanctions under any FIFA Code of Ethics before becoming an individual subject to FIFA jurisdiction. However, it would be appropriate to modify the ambiguous sentence in the next edition of the Code of Ethics.

26. Also the provisions in article 56 on "*suspension of proceedings*" raise concern. Article 56.1., while confirming the competence of the Ethics Committee to render a decision concerning the case of a person bound by the Code who "*ceases to serve in his function during the proceedings*", seems to exclude, *a contrario*, the competence of the Ethics Committee to render a decision against someone who ceases to serve in his or her functions before the procedure starts. This would be a serious systemic drawback.

27. FIFA explained that based on article 3 of the Code of Ethics: "*while the FIFA Ethics Committee may not impose specific sanctions on individuals who have ceased to serve in their functions before the relevant procedure has been initiated, it may still assess the conduct in question and establish that violations of the FIFA Code of Ethics (FCE) have been committed.*"

28. To me, this is not sufficient: I see no reason why someone who, for example, accepted bribes could escape all sanctions just by resigning from his or her functions before an investigation starts. Article 56.1

should be modified to state that the Ethics Committee shall remain competent – and may apply sanctions – even when the person concerned has ceased his or her functions, or association with FIFA.

29. According to article 56.2., if the person concerned has ceased his or her functions, the adjudicatory chamber of the Ethics Committee “*may suspend the proceedings or take a decision as to the substance*”. I consider that this room for manoeuvre is problematic, namely when investigations concern serious offences. In these cases, the adjudicatory chamber (its Chairperson) shall be entitled to close the case only if there is insufficient evidence to proceed and no scope to undertake further investigations (see the rule in article 69.2.).

30. FIFA objected that such an approach would encounter the difficulty of specifying which offences exactly would have to be considered as “serious” and in addition “*according to the relevant case-law of state courts (...), private associations may conduct sanctioning procedures against individuals that are no longer subject to their jurisdiction only if there is a specific legal interest justifying such procedures. The issue of whether there is such an interest or not, in turn, is a question that must be assessed individually in the light of the circumstances of every single case.*” Finally, FIFA pointed out that “*if the person concerned should ever take up a position in football again that subjects him or her to FIFA’s jurisdiction, the relevant proceedings would be resumed.*”

31. As explained below (see §§ 35-39), it is an oversight that there is no indication on what violations are to be considered “serious” by nature. In addition, while accepting the idea that there should be a concrete legal interest, this would not impede the redrafting of article 56.2 to establish that at least in cases of corruption, bribery and match fixing, the Ethics Committee must continue the procedure, because of the specific legal interest that FIFA has (and shall have) in combating such problems.

Competence *ratione temporis*

32. Article 3 on “*Applicability in time*” establishes that “*This Code shall apply to conduct whenever occurred including before the passing of the rules contained in this Code (...)*”. This is a most welcome provision. However, the same article excludes the retrospective application of rules introducing new infringements or heavier sanctions.

33. The rationale seems to lie in the application of the principle of non-retroactivity of (more severe) disciplinary provisions. This is an essential principle of penal law; however I wonder whether it is wise to apply it, with no exceptions, in the framework of FIFA (and, more in general, sports) disciplinary self-regulation. Some thought should be given to the need to take action when corrupt arrangements only come to light years after they are enacted, as with doping methods that are only discovered with the advancement of detection techniques. A good example is the “Lance Armstrong Rule”, which may apply to corrupt syndicate or hidden criminal arrangements.

34. The principle of non-retroactivity of penal law is closely interconnected with the protection of the fundamental individual right to liberty and security, which is not at stake here. Moreover, according to article 13.4. of the Code of Ethics (which in substance reproduces the previous article 3.3.), “*Persons bound by this Code may not abuse their position as part of their function in any way, especially to take advantage of their function for private aims or gains.*” Based on this principle, we could suggest adding in the Code of Ethics a provision recognising explicitly the competence of the Ethics Committee to investigate and punish, under the present Code, any cases of corruption, bribery or match fixing.

Lack of correlation between infringements and sanctions

35. The correlation between infringements and sanctions (i.e. matching the level of sanctions with the gravity of unethical behaviour) help to ensure respect for two key principles: equal treatment and proportionality. It also reduces the risks of undue pressures on those called on to decide on individual cases.

36. Section 2 on “Disciplinary measures”, lists the sanctions that could be applied in case of breach of the Ethics Code (article 6) and Section 5 establishes the fundamental rules of conduct. However, the Code does not determine which sanctions should apply to a given breach of these rules and does not include criteria which should be followed stringently by the Ethics Committee. It just says that the Ethics committee “*shall decide the scope and duration of any sanction*”.

37. FIFA explained that: “*by this approach, the FIFA Ethics Committee is enabled to identify, in every single case, the individually most appropriate consequences and to decide accordingly*”. Moreover “*misconduct involving acts of corruption or match-fixing have been sanctioned considerably harshly by the*

FIFA judicial bodies. Moreover, this particular attitude has been expressly supported and confirmed by the Court of Arbitration for Sport (CAS)."

38. This explanation is not entirely convincing. While it is understandable that the Ethics Committee is given certain room for manoeuvre, the legal framework must avoid any risk of arbitrary decisions. The final decisions should not only "be fair", but also "appear to be fair". As an example, during the hearing held in Paris on 19 December 2012, we were told that the sanction pronounced against Mr Bin Hammam had been more severe than others given for equally (if no more) serious violations. There may have been reasons but they are not disclosed and this triggers suspicion which weakens confidence in the system.

39. Therefore, it seems necessary to establish a clear link at least between the most serious breaches and the most severe sanctions. When bribery or corruption are eventually established, the most severe sanctions (long-term or life ban) should be applied and the Ethics Committee should not have the possibility to decide otherwise. The same should apply to any breaches of article 25 on "Integrity of matches and competitions".

Anonymous witnesses

40. Articles 47 and 48 include a set of provisions on anonymous witnesses. These provisions seem to apply to both the procedure before the investigative chamber and the procedure before the adjudicatory chamber of the Ethics Committee. Anonymity is foreseen "*when a person's testimony (...) could endanger his life or put him or his family or close friends in physical danger*" (article 47.1).

41. The protection should have a wider scope and also cover those persons who are clearly exposed to the risk of adverse measures having a significant social and/or financial impact (e.g. who could be removed from their positions if they testify against their managers or senior members of FIFA committees).

42. On this issue, FIFA explained the following: "*the FIFA Ethics Committee is certainly free to apply this provision per analogiam to other factual circumstances that require protection of a witness by granting her or him anonymity. Moreover, the Committee may also conclude specific anonymity agreements with individual witnesses, thereby extending, in practice, the possibility to grant anonymity beyond the circumstances provided for by article 47.1 of the FCE.*"

43. This is an acceptable approach; however the entitlement of the Ethics Committee to proceed as described should be formally included in the text.

2.2.2. Reinforcing the independence of the Ethics Committee's members and transparency of its work

44. During the meeting at FIFA, Mr Blatter, in reply to a question about the independence of the Ethics Committee, asked us: "what more could be done"?

45. We acknowledge that the present chairpersons of the two chambers of the Ethics Committee are well-known, experienced persons. They have been selected following the proposals of, or in agreement with, the IGC. This is the case for their deputies too. However, the IGC no longer exists; moreover, independence and professionalism should be qualities of the body as a whole and not just of its chairpersons and deputies, though their personal integrity and expertise is, of course, fundamental.

46. In this respect, further improvements should be required concerning the composition of the Ethics Committee, the duration of terms of office and the removal and rotation of its members. Confidentiality is an additional complex issue.

Composition of the Ethics Committee

51. The provisions on the Ethics Committee presented under section 2.1. read like a well-thought, coherent set of rules; there are, however, some issues not covered. There are no statutory rules on the number of members of the judicial bodies.⁴ The professional requirements are not clearly determined.⁵ The

⁴ At present the composition of the Ethics committee is of 16 members (8 in each chamber including the chairperson and his/her deputy).

⁵ In this respect, we only find article 61.3 of the Statutes (whose text was not changed) which asks that chairpersons and deputies of the judicial bodies are "*qualified to practice law*".

selection procedure of candidates and the submission of proposals for membership of the Congress appear to be under the total control of the Executive Committee.⁶

52. The risk is that the wide room for manoeuvre of the Executive Committee does not produce true independence of the members of the Ethics Committee and could become a threat to the professionalism of this body. There should be no link at all, if possible, between the membership of the Ethics Committee and approval of the Executive Committee.

53. With this in view, new provisions should be studied and included in the Statutes (or, if more appropriate, in the Code of Ethics) so that:

- the Congress is given the sole competence to establish (and modify if need be) the number of members of the judicial bodies;
- the competences that candidates for membership of these bodies should have are clearly listed;
- all members of these bodies shall fulfil the independence criteria as described in the Standing Orders of the Congress;
- a transparent procedure is established for the submission to the Congress (by the Confederations, FIFA members and possibly other stakeholders) of candidates for the positions of chairperson, deputy chairperson and member of both chambers of the Ethics Committee.

54. The Executive Committee shall be entitled to submit a proposal to the Congress, but the proposal should be justified and Congress should be able to proceed with an informed vote "for" or "against" each of the shortlisted candidates.

Terms of office and removal

55. The duration of terms of office, in particular for chairpersons and deputies, is at present 4 years with no limitation for renewals.

56. The IGC suggested fixing the terms of office for 6 years, not renewable. This is a sound proposal and should be followed, together with the IGC proposal to introduce a "staggered board" membership principle. It should also be formally stated that members could be removed by the Congress only upon reception of a specific request from the Executive Committee, which should clearly indicate the reasons for such a removal.

Confidentiality of the procedure before the Ethics Committee

57. Independence and transparency are closely related: the second upholds the first. At present, according to article 36.2 of the Code of Ethics "*Only the final decisions already notified may be made public*". As was stressed during the hearing of 19 December 2012 in Paris, strict confidentiality of the procedure before the two chambers of the Ethics Committee triggers opacity and does not help to dissipate suspicions when sensitive cases are to be judged.

58. FIFA main arguments against the idea of making public the report of the investigatory chamber and the procedure before the adjudicatory chamber are the following:

- The proceedings within the framework of private institutions like FIFA are not comparable to proceedings before judicial bodies of states. Even there, certain documents, procedures and facts remain confidential (for example, judgments and other decisions are, as a general rule, anonymous if published). This must certainly a fortiori be the case with regard to proceedings in the context of private associations.
- The proceedings before and the decisions of the CAS (which is the instance the decisions of the FIFA Ethics Committee can be appealed to) are also, as a general rule, strictly confidential. There is no persuasive reason why documents and proceedings on lower levels (i.e., in the context of FIFA) should allow for more publicity than the ones on appeal level.
- As far as the investigation reports in particular are concerned, they contain highly sensitive information (e.g., bank account numbers, company and individual names, contact details etc.) which must not be divulged to the general public.

59. These arguments are not entirely convincing. It is incorrect to say that confidentiality and anonymity are general rules for procedures before state judicial bodies. A public procedure is not only "the rule", but a fundamental principle enshrined in article 6 of the European Convention on Human Rights. Of course, we do not assimilate state judiciary procedures and disciplinary procedures internal to private associations. However, FIFA is not a private association or institution in the same manner as other, smaller organisations.

⁶ This is not explicit, but the Executive committee has a general competence to take decisions which are not in the sphere of responsibility of the Congress or are not reserved to other bodies by law or under the Statutes (see Article 31.1 of the FIFA Statutes).

60. It is also incorrect to say that CAS decisions are “strictly confidential”. While hearings before CAS are not open to the public, its decisions are published on its website at <http://www.tas-cas.org/recent-decision>. Just as an example, the arbitral award in the case 2011/A/2625 Mohamed Bin Hammam v. FIFA⁷ is a detailed 56-page document rich in names, dates and facts.

61. Sport is not a “private business” and a case e.g. of corruption within FIFA is not a “private” affair but a “public” one because the public interest is at stake. The key question is how to find the right balance between the need to protect the interests of the persons who are subject to a procedure before the Ethics Committee and the need for transparency, whilst maintaining a guarantee of impartiality and independence.

62. On the one hand, confidentiality of the on-going investigatory procedure is understandable. On the other hand, we could suggest that, at least when the procedure concerns most serious breaches, and in particular bribes, corruption or manipulation of sports competitions:

- once investigation ends, the report of the investigatory Chamber should be made public, including when the procedure is closed; this should not impede data of a certain nature (e.g. bank account numbers or contact details and more in general personal data other than those strictly necessary to identify the concerned persons, except of course anonymous witnesses) being redacted or removed;
- transparency of the procedure before the adjudicatory chamber should be the rule: the procedure before the adjudicatory chamber should be public (not in camera as currently practised) with the exception only to ensure the protection of vulnerable witnesses;
- the reasons for the final decision (including when it is taken by the investigatory Chamber) should be published.

3. Transparency, accountability and prevention of conflict of interest within the FIFA governance system

63. With regard to these fundamental elements, there have been a number of significant steps forward. We value them particularly taking account of the relatively short time-span between the launching of the process, the agreement on new measures and their implementation. However, there remains much to be done.

3.1. Achievements

3.1.1. New bodies and mechanisms of financial control

64. FIFA established a new Audit and Compliance Committee. It is entrusted with the usual supervisory role of an Audit Committee and additional responsibilities for a Compliance Programme as well as for Compensation and Benefits. It has been given the resources to fulfil its task; it has access to persons and information and can decide to consult externally at its discretion. At present, it is chaired by an independent and skilled professional, appointed upon proposal by the IGC. The chairman is allowed to attend the meetings of the other committees, including the Executive Committee. In addition, a Compensation Sub-Committee was established, which is composed by: the chairperson of the Finance Committee, the chairperson of the Audit and Compliance Committee and one independent member (within the meaning of art. 12.1 of the Standing Orders of the Congress) to be jointly appointed by the two chairpersons.

65. The main duties of the Compensation Sub-Committee are as follows:

- to define the Compensation Rules, which shall define the competent body and proper proceedings for determining compensation as well as the principles and components of the compensation;
- to determine the compensation of the President, the members of the Executive Committee, the Secretary General and FIFA management;
- to draft the contract of the FIFA President;
- to monitor compliance with the compensation rules.

66. According to the new article 12.2 of the Standing Orders of the Congress, the investigatory chamber of the Ethics Committee shall review, at least annually, whether the current chairpersons of the Audit and Compliance Committee and their deputies or the candidates for these offices meet the independence criteria.

67. FIFA also established a new Development Committee. It is responsible for taking decisions on individual development projects based on an overall strategy adopted by the Executive Committee. The use

⁷ See http://www.tas-cas.org/d2wfiles/document/6115/5048/0/Award20262520_FINAL_internet.pdf.

of funds by the beneficiary countries will be controlled through the requirements for audited final reports by recipients of funds; FIFA will itself conduct audits (though not systematically on all projects).

3.1.2. Integrity checks

68. New provisions have been adopted on integrity checks⁸ which shall be conducted on the candidates for key positions, prior to their election, re-election or extension of mandate.

69. In particular, the investigatory chamber of the Ethics Committee is competent to undertake an integrity check on candidates for the following offices: president, female member of the Executive Committee, chairpersons, deputy chairpersons and members of the other judicial bodies and of the Audit and Compliance Committee. The integrity check on candidates for the offices of chairperson, deputy chairperson and members of both chambers of the Ethics Committee shall be conducted by the Audit and Compliance Committee.

70. The integrity check on the candidates for the offices of the vice-presidents and the other members of the Executive Committee shall be undertaken by the respective Confederation prior to their election, in accordance with the standards established in the Organisation Regulations of FIFA. The Confederations shall provide the FIFA general secretariat with the results of the integrity check.

3.1.3. Bidding procedures for the hosting of the FIFA World Cup

71. FIFA Statutes were amended to introduce a new article 80 on the venue of FIFA competitions. The most significant change is that the final decision on the hosting country of the FIFA World Cup is now in the hands of the Congress (instead that of the Executive Committee).

72. The article also includes new provisions on the bidding procedure:

- the Executive Committee shall issue specific regulations;
- based on these regulations, the FIFA general secretariat shall establish a fair and transparent bidding procedure, defining in detail the requirements for the bidding and hosting as well as the criteria for selection of the host for the event;
- after receiving the bids, the FIFA general secretariat shall submit to the Executive Committee a public report evaluating the compliance of all bids with the bidding procedure and the requirements for hosting the event, taking into consideration the defined criteria for selection of the host;
- the Executive Committee shall designate, based on its best judgement and in an open ballot, up to three bids to be submitted to the Congress for a final decision; the result of each ballot shall be made public;
- the Congress shall select the host venue from the bids designated by the Executive Committee.

73. In addition, the Congress may not award more than one FIFA World Cup event at the same meeting and may not award two consecutive events to members of the same Confederation.

3.2. Pending issues

3.2.1. Open and objective decision making

74. Transparency assists sound decision making. Of course, there can be reasons for restricting access to meetings of decision-making bodies and to (sections of) documents and information. However, it has been suggested that FIFA decision-making processes be opened up by allowing outside observers (without the right to vote and, if need be, with an obligation of confidentiality) to attend the Executive Committee and possibly meetings of other standing committees with decision-making powers in risk areas (e.g. the Development Committee).

75. At present, the chairman of the Audit and Compliance Committee may attend all Executive Committee meetings he deems necessary. He has informed us that he can also attend the meetings of the Development Committee. This is a good start, but the entitlement of the chairperson of the Audit and Compliance Committee is not contained in the rules; the Statutes should explicitly recognise his/her entitlement to attend as an observer all committee meetings within FIFA, particularly when decisions in risk areas are to be adopted.

76. Another crucial element should be to frame decision making by setting clear, objective criteria on which decisions should be based. Concerning the FIFA World Cup, the Executive Committee is now

⁸ See article 13 of the Standing Orders of the Congress.

requested to issue specific regulations and FIFA general secretariat shall define in detail the requirements and the criteria for evaluating the bids. It is urgent that these steps are implemented.

77. It is a significant improvement that the evaluation report shall be “public”, the Executive Committee shall proceed to an “open ballot” and the results of each ballot shall be “made public”. However, these rules apply only to the FIFA World Cup. Formal, objective requirements and criteria and transparency of the decision making should be established in respect of candidatures for the hosting of all FIFA international sports events.

78. Apparently, the Executive Committee is not required to submit more than one bid to the Congress; the provision in article 80.2.c. just states “*up to three*”. We suggest that three bids be the minimum number, unless of course only one or two candidates fulfil the requirements; otherwise, the rule giving the Congress the power to decide could be made void.

79. Another element which could contribute to opening up decision making would be enhanced gender equality. Having one female elected member and two other female co-opted members in the Executive Committee is a good step, but does not really ensure gender balanced representation. FIFA should encourage female candidates to key positions within its different standing committees and judicial bodies. In this respect, FIFA policy could also have a knock on effect on the gender equality policies of its members. In this respect, I welcome the FIFA initiative to create in October 2013 a Task Force for Women’s Football, which should identify and promote priority opportunities for women in football; FIFA is also planning to introduce a requirement that at least one female member should sit on the executive committee of each member associations.

3.2.2. Financial transparency and accountability

80. Redesign of the decision-making process is necessary not only for the “hosting” decisions but also for the governance of development projects, marketing and procurement activities. The IGC suggested that commercial contracts (TV rights, marketing, i.e. licensing and hospitality, ticketing and sponsoring) should be put out to tender. The bidding procedures should be transparent and based on objective criteria. According to information provided by FIFA, for all goods and service above a certain amount (which was not given) at least three binding offers must be obtained and further requirements are set for major contracts. However we heard Mr Scala telling us that there is still work to be done. Therefore, I would recommend that the corresponding policies need to be reviewed by the Audit and Compliance Committee, which should ensure their consistency with the highest international standards in this domain.

81. We also heard during the hearing of 19 December 2012 in Paris the proposal to separate regulatory and commercial functions within FIFA. UEFA has adopted this solution and we could suggest that FIFA should do the same.

82. A crucial issue is that of transparency concerning the remuneration and other financial advantages of senior management and elected executives. The establishment of an expert subcommittee to the Audit & Compliance Committee with the responsibility for setting clear policies in the area of compensation and benefits is an important step. Work in this domain is in progress and should be encouraged:

- the Audit and Compliance Committee should define the overall compensation and benefits strategy of FIFA;
- regulations should be adopted containing the strategy and criteria for compensation and benefits;
- the compensation and benefits of the key management positions should be individually and annually reported to the Congress.

83. At present, the FIFA financial report discloses the overall amount of money covering remunerations paid to the President, the members of the FIFA Executive Committee, the Secretary General and key management (high-level staff such as the Directors and key people in the area of TV and Marketing) i.e. a total of 37 persons. However, the details on individual remunerations and other financial advantages perceived are not public.

84. The salary grids for all key positions should become public: transparency in this area is crucial. In addition, transparency should be required not only on the level of per diems and cost reimbursements, but also on how much does it really cost FIFA for its President and each of the members of the Executive Committee. The question is not to challenge the level of remuneration or financial advantages offered to top managers, but just to make it public.

85. Finally, it sounds incongruous that one of the three members of the Compensation Sub-Committee is the chairperson of the Finance Committee, i.e. necessarily a member of the Executive Committee, who has a direct interest at stake; I believe this would also deserve better consideration.

3.2.3. Duration of the terms of office

86. There are no limitations for the term of office of the President and other elected managers in governing bodies mentioned in the FIFA Statutes, including the Executive Committee.

87. The IGC proposed, for the President and the members of the Executive Committee, a maximum of 2 terms of office of 4 years. No agreement has been reached to date on this issue. On the contrary, on 11 June 2014, the 64th FIFA Congress voted against the introduction of limits to the numbers of terms of office of top managers and members of the judicial bodies, as well as against an upper age limit for candidates. This shows that key players within FIFA neither intend to abandon the power they have within FIFA internal government structures, nor to lose direct and indirect high benefits which are linked to highest functions therein.

88. I would like to stress that, according to Rule 20 of the Olympic Charter, the President of the International Olympic Committee (IOC) is elected for a term of eight years renewable once for four years. The duration of the terms of office of the Vice-Presidents and of the other members of the IOC Executive Board is four years and they can serve for a maximum of two successive terms. After two successive terms of office, they may be elected again as members of the IOC Executive Board after a minimum period of two years (Rules 19.2.2. and 19.2.3. of the Olympic Charter). In addition, Rule 16.3.3. of the Olympic Charter provides that any IOC member ceases to be a member at the end of the calendar year during which he reaches the age of 70. I believe that these provisions reach a reasonable balance between different interests at stake and should be a benchmark for all sports organisations.

3.2.4. Prevention of conflicts of interest and integrity check

89. There are at least three elements which I would consider problematic. The first one is that the Executive Committee members can vote for their own country's candidature for the World Cup (which is relevant during the selection process even though the final decision is for the Congress) and for other major competitions on which the Executive Committee shall decide. This may expose the concerned members of the Executive Committee to some "pressure" from the authorities of their respective countries and give them undue advantage. Therefore, we would suggest that a member of the Executive Committee should not have the right to vote when his or her country is a candidate.

90. A second rule which is similarly incongruous is the one on "commissions" in the article 22 of the Code of Ethics: "*Persons bound by this Code are forbidden from accepting commission or promises of such commission for themselves or intermediaries and related parties as defined in this Code for negotiating deals of any kind while performing their duties, unless the applicable body has expressly permitted them to do so. In the absence of such a body, the body to which the person bound by this Code reports shall decide.*" The opportunity to receive a "commission" triggers, by nature, a risk of conflict of interests (which would fall under art. 19 of the Code of Ethics) and should be excluded with no exceptions. FIFA stated that the possibility to authorise "commissions" will be deleted in the next edition of the Code, which we call for without delay.

91. Finally, according to the initial IGC proposal, integrity checks on the members of the Executive Committee should be centralised at FIFA level and not decentralised, as this can lead to inconsistencies; we could support this proposal.

4. The governance of UEFA

4.1. Key differences between UEFA and FIFA governance frameworks

92. UEFA governance is less complex by nature than FIFA's, given the geographical scope and number of members.⁹

93. There is, within UEFA, a closer relationship between less numerous and more homogeneous members, and – de facto – a stronger and more direct reciprocal control. Around 1/3 of the member associations are represented within the Executive Committee, which is composed of the President and 15 members elected by the Congress, plus a representative of female football.

⁹ UEFA counts 54 member associations covering all Europe (including the four football associations of the United Kingdom and the associations of Belarus, Faroe Islands and Gibraltar) plus Israel and Kazakhstan.

94. There is a major participatory dimension in UEFA's decision-making process. The 54 member federations are represented in the 19 UEFA committees and are therefore all involved in the decision-making process through reports, opinions and recommendations addressed directly to UEFA's Executive Committee. Moreover, all the stakeholders in the European football family (clubs, players, national leagues and member associations of UEFA) are represented on the Professional Football Strategy Council (PFSC). In practice, no major decisions are taken without the agreement of the PFSC.¹⁰ Lastly, a memorandum of understanding was signed on 22 March 2012 by the Association of European Professional Football Leagues (EPFL), the European Players' Union (FIFPRO – European Division) and the European Club Association (ECA).

95. Moreover, UEFA has never been affected by internal scandals. However, even within the UEFA governance system there is some room for improvement. Once more, I would stress that the aim is not to criticise but to encourage positive developments. For this reason, although there are no precedents that could demand a sense of urgency in reforming the system, I believe that some of the recommendations to be addressed to FIFA could also be relevant for UEFA.

4.2. Transparency in decision making and the prevention of corruption and conflicts of interest

96. The UEFA Statutes and Organisational Regulations clearly forbid participation to a vote of a person who is in conflict of interest.¹¹ In particular, article 56 of the Organisational Regulations on "*Independence and loyalty*" states that:

"1. Members of UEFA committees and expert panels undertake to refrain from any action whatsoever which could be of an unsporting nature and/or contrary to UEFA's interests.

2. Members of UEFA committees and expert panels abstain from taking part in deliberations and/or decisions on any matter involving the UEFA member association and/or a club affiliated to the UEFA member association with which he is associated or in any matter involving a conflict of interest, whether with the member's own interest or that of his family, relatives, friends or acquaintances.

3. Members of UEFA committees and expert panels must inform the chairman immediately of any such conflict of interest. In case of doubt or dispute on the independence of a member, the General Secretary decides."

97. In addition, article 61 of the Organisational Regulations on "*Ethical conduct, professional conduct and other duties*" include the following provisions:

"1 Before entering office, members of UEFA committees and expert panels are required to:

a) inform the General Secretary in writing of any positions they have held or currently hold which could conflict with their UEFA activities, namely in football, any other professional activity, secondary occupations or business relations and/or connections with persons or companies;

b) undertake to immediately inform the General Secretary in writing of any change occurring in this respect during their term of office.

2 During their term of office, members of UEFA committees and expert panels are required:

a) to observe the principles of loyalty, integrity and sportsmanship in accordance with the principles of fair play, which includes, in particular, the obligation to refrain from any activities that endanger the integrity of UEFA or its competitions, or bring the sport of football into disrepute;

b) to refrain from accepting or giving any gift of money and from accepting or giving any benefit in kind which might reasonably be considered as exceeding local cultural customs (this provision also applies to free invitations issued by third parties that have a vested interest in future UEFA decisions or elections; if in doubt, members must consult the UEFA President or the General Secretary);

c) not to accept bribes, which means that they must refuse any gifts or other advantages that are offered, promised or sent to them to incite breach of duty or dishonest conduct for the benefit of a third party;

d) not to bribe third parties and not to urge or incite others to do so in order to gain an advantage for themselves or third parties;

e) to notify UEFA immediately if they are targets of attempted bribery;

f) not to participate, directly or indirectly, in betting or similar activities relating to UEFA competition matches and not to have any direct or indirect financial interest in such activities (...)"

98. Finally, Bid Regulations for UEFA EURO 2020 established that "*Executive Committee members may not participate in the deliberations or the voting procedure if they are associated with a candidate*

¹⁰ For instance, the introduction of the financial fair play regulations and the reform of the competition formats. The operating arrangements for the PFSC are set out in Articles 10 to 16 of UEFA's Organisational Regulations.

¹¹ See art. 26.3 for the members of the Executive Committee; art. 32.1 for the members of the judicial bodies; art. 56.2 of the UEFA organisational regulations for all members of UEFA committees and expert panels.

association/city participating in the selection phase concerned or if a conflict of interests exists.” (article 2.4. of the Annex on Executive Committee voting procedure).

99. These provisions are sound. The only remark I would have is that the UEFA Executive Committee, as well as the other UEFA bodies, holds its meetings in camera. This rule is normal and understandable, but entails risks when decisions are to be taken which have a high political and economic impact. I believe that all bids for the hosting of major international sports events should be decided by “open ballots” and they results should be published. Therefore, similarly to what I proposed for FIFA, we could recommend that UEFA ensure the public nature of the vote of each member of the executive committee in relation to the decisions on host countries and towns for major European football events that UEFA organises.

100. In addition, I would highlight, for UEFA too, the need to ensure a more balanced gender representation. After a recent change in the Statutes, one female football representative is member of the Executive Committee, but this does not ensure gender balanced representation. UEFA should also continue to promote a change of culture in all European national football associations.

101. In this respect, I welcome the launching of the UEFA Women in Football Leadership Programme, which aims at encouraging more women to be in decision-making roles in football. By way of example, consideration could be given to establishing rules to ensure that the number of women on the executive and standing committees of national sports federations is at least proportionate to the number of registered players, with a minimum number of seats reserved for women in all cases.

4.3. Disciplinary procedure

102. Concerning the legal framework and the procedural mechanisms to investigate and sanction misbehaviours, the UEFA Disciplinary Regulations are, in general, a well-thought, comprehensive text. Are subject to these regulations: all member associations and their officials, all clubs and their officials, all match officials, all players and all persons assigned by UEFA to exercise a function (art. 3.1).

103. Article 4 (“*Scope of temporal application*”) states that: “1. *These regulations apply to all those who fall under UEFA’s jurisdiction on the day the alleged disciplinary offence is committed*” and it adds that: “2. *Disciplinary proceedings instigated against someone who was under UEFA’s jurisdiction on the day the alleged disciplinary offence was committed must not be abandoned by UEFA’s disciplinary bodies solely because the person involved is no longer under UEFA’s jurisdiction.*” This is exactly the kind of provision that FIFA could incorporate in its Code of Ethics.

104. Article 10 states that, while the prosecution of other offences is time-barred after one, five or eight years depending on their nature, “*match-fixing, bribery and corruption are not subject to a statute of limitations*”; thus these offences can be prosecuted at any time. In addition, while the general principle is that all disciplinary measures may be suspended, article 20 states that this does not apply (among others) to disciplinary measures related to match-fixing, bribery and corruption. These provisions are to be commended.

105. The disciplinary bodies are the Control, Ethics and Disciplinary Body (which consists of a chairman, two vice-chairmen and seven other members) and the Appeals Body (which consists of a chairman, two vice-chairmen and nine other members). Their members are elected by the Executive Committee for a term of four years. The elected members are presented to the Congress for ratification (art. 22.2). The Executive Committee also appoints the ethics and disciplinary inspectors and designates the chief inspector. All appointments are presented to the Congress for ratification (art. 25.1).

106. The Ethics and Disciplinary Inspectors may investigate any possible offences falling within the scope of the UEFA Disciplinary Regulations (art. 25.5.a). They represent UEFA in the proceedings before the disciplinary bodies (art. 22.2). They may initiate disciplinary investigations and lodge appeals against the decisions of the Control, Ethics and Disciplinary Body (art. 22.3). The Executive Committee, the President, the General Secretary and the disciplinary bodies may commission the inspectors to conduct investigations, either alone or in cooperation with other UEFA or non-UEFA bodies (art. 22.4).

107. According to article 26:

“1. The members of the disciplinary bodies and the ethics and disciplinary inspectors are independent and may not belong to any other UEFA organ or committee.

2. They shall not take any measure nor exercise any influence in relation to a matter where any conflict of interest exists or is perceived to exist.”

108. In addition, according to article 27, they “*must decline to participate in cases relating directly to themselves, their national associations or clubs belonging to their national associations*”.

109. Article 45 states that “*The UEFA administration publishes decisions issued by the disciplinary bodies. Where such a decision contains confidential information, the UEFA administration may decide, ex officio or at the request of either one of the parties or the ethics and disciplinary inspector, to publish an anonymised version.*” Finally, I note that witnesses could be kept anonymous in case where they, their family or close friends are exposed to a danger for their life or to a physical danger (art. 40).

110. Given the above, it seems to me that the system in place offers guarantees for effective pursuit of offences under the UEFA Disciplinary Regulations. This system was further reinforced by a confidential reporting mechanism – the “UEFA Integrity Platform” – which, in particular, allows individuals to provide information to UEFA concerning match-fixing or corruption.

111. However, we would recommend that UEFA (for reasons analogous to those which justify similar proposals to FIFA) should:

- strengthen the independence of the members of its disciplinary bodies and inspectors giving the Congress the competence to elect – and remove – them (and not only to “ratify” their designation) upon proposals of the Executive committee;
- extend the possibility to keep a witness anonymous to cases where the witness is clearly exposed to the risk of adverse measures having a significant social and/or financial impact;

4.4. Financial transparency and accountability and duration of the terms of office

112. UEFA is as wealthy as FIFA and manages substantial amounts of money. The financial report for 2011-2012 mentions revenues of 2 795.7 million euros (including 1390.9 million euros generated by the UEFA EURO 2012). The financial report for 2012-2013 mentions revenues of 1 698.9 million euros; taking account of the extra income generated by the UEFA EURO 2012, this means an increase in ordinary revenues of more than 290 million euros.

113. Being an association under Swiss law, UEFA is not formally subjected to the financial reporting constraints of a business company. However, similarly to FIFA, UEFA nevertheless adopted higher accounting and budget reporting standards than those compulsory under applicable Swiss legislation.

114. Although the starting point seems the same, in the area of financial accountability, there are at least three elements which make the UEFA situation much less problematic:

- UEFA has established a wholly-owned subsidiary limited company: “UEFA Events S.A.”. This company manages UEFA commercial operations and events. We believe that this approach may help to reduce the risk of bribes, conflict of interests and mismanagement.
- as UEFA activities are (mainly) in Europe, for commercial bidding they are compelled to meet the requirements set out in EU legislation; this means stringent rules for calls for tender and selection procedures.
- UEFA regulations on bidding procedures are there and clear rules exist for distribution of investment funds (and in particular the programme Hat Trick III) to all members associations.

115. Therefore, the legal framework of UEFA financial activities appears sound.

116. However, with regards to the remuneration and other financial advantages of the president, senior executives and managers, UEFA budget report lacks transparency. The amount of salaries and benefits – which for 2012-2013 was of 59.81 million euros – is mentioned only as an aggregate figure and there are no detailed figures for amounts received by top managers or elected executives. Therefore, we could recommend that UEFA should make public the grid of salaries, indemnities and other financial benefits of key functions and post-holders.

117. Concerning the terms of office, according to article 22.1, the UEFA president and members of the Executive Committee are elected by the Congress for four years¹² and all members are eligible for re-election. However an age limit is established by article 22.2: “*A person aged 70 or more shall not be eligible for election or re-election*”.

118. We commend this rule; however it could be complemented by a limit to the number of terms of re-election, e.g., as provided by the Olympic Charter for the President of the IOC, eight years renewable once for four years. Various systems have been implemented in other organisations to ensure the rotation of

¹² Eight members, or seven members and the President, shall be elected every two years.

memberships of management bodies, such as durations of the number of terms a former executive committee member must remain off the executive before being again eligible to stand for re-election.

5. FIFA enquiry on bribes allegedly paid to influence the vote on the 2018/2022 FIFA World Cup country allocation

119. On 13 November 2014 morning, Mr Joachim Eckert, chairperson of the Adjudicatory Chamber of the FIFA Ethics Committee, issued a statement on the report on the enquiry into the 2018/2022 FIFA World Cup country allocation. The statement (which is published on the FIFA website) contains a summary of the main findings, which, among others, clear the 2022 World Cup host, Qatar, of wrongdoing.

120. I am very disturbed, but not really surprised by this. These conclusions, as presented in Mr Eckert's statement, are to me a clear whitewash, aimed at trying to put an end to the embarrassing debate about the need to rerun the bid. I sincerely welcome the immediate reaction of Mr Michael Garcia, the Chairman of the Investigatory Chamber of the FIFA Ethics Committee, who conducted the inquiry together with his deputy, Mr Cornel Borbély. Mr Garcia stated that the report by the Adjudicatory Chamber contains numerous materially incomplete and erroneous representations and presented an appeal, which was dismissed on 16 December 2014. Mr Garcia resigned on 17 December 2014. This epitomises the serious problems that secrecy of the procedure before the Adjudicatory Chamber entails.

121. Neither our committee nor the public know what Mr Garcia's report says and which elements discussed in this report were not duly taken into consideration by Mr Eckert. I do know, however, that the documents leaked to the Sunday Times – which I was given an opportunity to examine – are unequivocal pieces of evidence. They show that Mr Mohamed bin Hammam, who was at that time member of the FIFA Executive Committee, from October 2008 until the December 2010 ballot and even after this vote, distributed large amounts of money to more than 30 high representatives of the African football community to gain the support of the representatives of the Confederation of African Football (CAF) within the FIFA Executive Committee for the Qatar bid for the 2022 World Cup.

122. It is evident that this support was eventually given and that it significantly contributed to the end result. Indeed, gaining the votes of CAF members participating at the ballot on 2 December 2010, Qatar was practically ensured to keep a leading position over the other bidding countries who were members of the Asian Football Confederation (AFC), i.e. Australia, Japan and Korea. Mr bin Hammam, who was also President of the AFC could almost guarantee to receive the votes of the three other AFC members of the FIFA Executive Committee, after the elimination of the other Asian candidates, to add them to his own vote for Qatar. It is equally evident that the Qatar "Bid Committee" could not claim they were ignorant of the fact that Mr Bin Hammam was acting to gain support for Qatar.

123. Even for those who are not willing to see such disturbing but plain truth, it should be apparent that Mr bin Hammam's behaviour resulted in a biased decision-making process which illicitly favoured Qatar against the other suitable candidates. To say it with the terminology used by Mr Eckert, the circumstances resulting from the documents leaked to the Sunday Times were suited to compromise the integrity of the FIFA World Cup 2018/2022. It is incomprehensible that, given a structured action of this scale and the sums involved, there can still be any doubt that there was a "direct correlation" between these flagrant irregularities and the outcome of the vote. The inappropriate behaviour in relation to payments and subsequent votes revealed by the leaked documents must be a sufficient reason to rerun the bid, at least as far as the 2022 World Cup is concerned. Therefore, this is a recommendation that I intend to include in the draft resolution.

124. The revelations made by the Sunday Times are corroborated by the accounts given by Ms Phaedra Almajid. She worked on the Qatar bid committee as media officer from April 2009 to March 2010. Shortly after the vote on 2 December 2010, she contacted journalists and exposed irregularities committed by the Qatar bid committee. In an interview with the magazine, *France Football*,¹³ she said that, during the Confederation of African Football (CAF) congress held in Luanda (Angola) in January 2010, she had been present at discussions in which a Qatari dignitary had offered three African football officials financial incentives – of one and a half million dollars in each case – for their respective federations in order to gain their support. Ms Almajid also confirmed that Mr bin Hammam had acted on behalf of the Qatar bid committee.

125. In conclusion, Mr Eckert's statement and Mr Garcia's reaction constitutes the perfect evidence that the procedure set forth by the Ethics Code, which on paper is a very advanced and effective one, has been revealed as a farce particularly because of the lack of transparency and it is urgent that this is changed.

¹³ See the article, "*Qatargate: la confession accablante*", published in *France Football* No. 3582 of 9 December 2014, pp. 19 et seq.

6. Sports governance and the promotion of human rights

126. UEFA and FIFA should take a new and different approach to working with the host countries of major events they organise – both in terms of control and support. For example when it is known that these countries lack project-management capacity or have problems with corruption. They should not overtax host countries with undue burdens. However, they should monitor the use of grants they pay to host countries, as they should also do for money they disburse in the framework of their football development programmes. We can also encourage them to offer some kind of technical assistance in project design (e.g. providing advice on real need for new infrastructures).

127. A major outstanding issue is the role that main sports organisations such as FIFA and UEFA, but also the International Olympic Committee and others, must play in the protection and promotion of human rights in countries which are accepted by these organisations as “suitable” to host major events. If the situation emerging in evidence from Qatar was not so shocking, there would have been a possibility to deal with the Human Rights issue separately in another report, building on our report “Good governance and ethics in sport”, which includes an analysis of the question of the protection of young athletes and in particular those who leave their countries when they are just children.

128. There are 1.4 million migrant workers building and supporting the expansion of Qatar’s infrastructure as a precursor for FIFA’s 2022 World Cup. The vast majority live in overcrowded, insanitary camps, with construction workers and cleaning staff earning less than £5 a day. Salaries go unpaid; passports are routinely confiscated. The Kafala system of sponsored employment and the abuses perpetuated against migrant workers in Qatar are unacceptable. Their working conditions could easily be qualified as “inhuman treatments” if not of “slavery”. I believe the Assembly cannot remain silent on this.

129. At the hearing on 5 December 2014, Mr Hounoubo (ILO) and Mr Murphy (UCATT) insisted on, and illustrated, the gravity of the problems faced by the migrant workers in Qatar and on the urgent need to act. For hundreds of people this could make a difference between life or death. I share the conviction that, as pointed out at the hearing, to be effective there is a need to bring together the different stakeholders, draw together the reforms which are required and request that they are implemented by the Qatari authorities without delay.

130. The FIFA representative, Mr de Gregorio argued that the Parliamentary Assembly would not be speaking about migrant workers’ conditions in Qatar if FIFA had not awarded the 2022 World Cup to this country. He also indicated that FIFA had prompted the Qatari authorities to remedy the problems which migrant workers are facing and to improve their conditions. From the evidence available to date of the leaving conditions and the deaths of overseas workers in Qatar, FIFA have not managed to persuade the Qatari authorities to improve conditions adequately to comply with acceptable standards of human rights, or to grant overseas workers the civil right to acceptable representation.

131. I am aware that football can be a powerful catalyst for change and that FIFA could have a great influence on countries which ask to host major football events – as UEFA could have in the European framework. This is exactly why I would strongly recommend that FIFA join with the ILO and other stakeholders to urge the Qatari authorities to continue to enforce improvements in the treatment of overseas workers involved in the infrastructure projects in Qatar. We need FIFA to be fully on board and for FIFA to make clear that the implementation of human rights standards, and particularly those set by the ILO is a condition with which Qatar and other countries staging football events must comply.

132. I was informed that Mr Michael Van Praag, Dutch Member of the UEFA Executive Committee, has proposed that human rights be fully considered in future bid processes for UEFA football tournaments, starting with the bid process for UEFA EURO 2024. I believe this is the right approach and that we shall recommend to FIFA, UEFA, but also to all other sports organisations to follow it with no hesitation: all candidate countries which bid to host major events must be bound to respect basic human rights.

7. Conclusions

133. Sport in general and football in particular are powerful tools to promote universal values. To this aim, intergovernmental organisations and major international sports organisations should seek to enhance their cooperation and joint efforts. FIFA and UEFA are already doing a lot to promote sports highest values. Just as examples, both organisations are active in fighting discrimination. The social value of their respective development programmes is doubtless; they have shown a firm commitment to and fight against match-fixing by concrete actions. FIFA entered into a partnership with the Interpol. UEFA strongly supported the initiative

to draft a Council of Europe convention on the manipulation of sports competitions and is now strongly supporting its ratification and implementation. A number of other positive actions are the protection of young athletes, the fight against doping, the prevention of violence, etc.

134. In the European context, we must actively seek closer co-operation between the main sports organisations. UEFA would seem to be a natural partner and the Council of Europe's Enlarged Partial Agreement on Sport (EPAS) offers the framework for this collaboration. Perhaps consideration could be given to formalising more co-operation with agreements such as the co-operation arrangement which the European Commission and UEFA concluded on 14 October 2014 with the overall objective of promoting and safeguarding the values of fairness and openness in sport.

135. The credibility of sports organisations is also dependent on their "governance systems" and the capacity of these systems to ensure that the values they affirm apply with no exceptions within sports organisations themselves. In this respect, major sports organisations have influence as a role model. This is why we should pay particular attention to them.

136. My analysis of FIFA and UEFA governance and the proposals I make in the preliminary draft resolution and in the two appendices to the present report are based on what I consider to be the fundamental principles which should support good governance of sports organisations. Transparency, accountability and a well-thought-out legal framework are required to ensure prevention of conflicts of interest effective mechanisms to investigate, detect and severely sanction unethical behaviour and wrongdoings, especially bribes, corruption and manipulation of sports competitions.

137. Within this context, we have a duty to ask FIFA to put an end to the series of scandals that are damaging its image and speed up the internal changes required to consolidate a different corporate culture, capable of more effectively counteracting attempts to manipulate the decision-making process.

138. It seems to me that there is a clear link between good governance of sports organisations and their capacity to back human rights and the rule of law. The case of Qatar is a perfect example. FIFA should have every right to be proud of its new Ethics Committee, but lack of transparency hampered the very first case that should have proven its effectiveness. I believe there is an urgency to ask FIFA – but also UEFA representatives, who are members of FIFA Executive Committee – to throw light on the circumstantiated allegations of bribes which may have altered the decision-making process on the Qatar bid. Moreover, it is for me of the utmost important to bring pressure on Qatari authorities to improve the shocking working conditions of migrant overseas workers.

139. My final word will be that, while this report deals essentially with the two main football organisations, it is clear that the main messages are relevant for all sports organisations.

Appendix 1

Specific recommendations by the Committee on Culture, Science, Education and Media to FIFA

Unanimously adopted on 27 January 2015

1. Ensure that all serious violations of the Code of Ethics are investigated and punished

1.1. Competence *ratione personae* and *ratione temporis*

1. In article 2 of the Code of Ethics, the words “*on the day the infringement is committed*” should be deleted.

2. Article 3 of the Code of Ethics should provide that any cases of corruption, bribery and match fixing, even if the relevant facts were committed before the present Code of Ethics entered into force, are within its scope and can be investigated and punished.

3. Article 56.1. of the Code of Ethics should provide that the Ethics Committee remains competent to render a decision even when the person concerned has ceased his or her functions.

4. Article 56.2. of the Code of Ethics should provide that, in cases of bribery, corruption and match fixing, the Ethics Committee shall continue the procedure and take a decision as to the substance even if the person concerned has ceased his or her functions.

1.2. Correlation between infringements and sanctions

5. The Code of Ethics should establish a clear link between the most serious breaches and the most severe sanctions: when bribery, corruption and breaches against integrity of matches and competitions are eventually established, the most severe sanctions, i.e. long-term or life ban, shall be applied (the length of the ban allowing for the sanction to be tailored depending on the concrete circumstances of a given case).

1.3. Anonymous witnesses

6. The Code of Ethics should include a provision reflecting the entitlement of the Ethics Committee to apply article 47.1. by analogy to other cases when factual circumstances require the protection of a witness, and to conclude specific anonymity agreements with individual witnesses.

2. Reinforce the independence of the Ethics Committee’s members and transparency of its work

2.1. Composition of the Ethics Committee; terms of office and removal of its members

7. The Congress should be given the sole competence to establish (and modify if need be) the number of members of the judicial bodies, and in particular of the Ethic Committee.

8. The objective professional requirements for candidates for membership of the judicial bodies should be clearly listed.

9. All members of the judicial bodies should fulfil the independence criteria as described in the Standing Orders of the Congress.

10. A transparent procedure should be established for the submission to the Congress (by the Confederations, FIFA members and possibly other stakeholders) of candidates for the positions of chairperson, deputy chairperson and membership of both chambers of the Ethics Committee.

11. The Executive Committee shall submit justified proposals to the Congress, as to ensure that the Congress can proceed to an informed vote “for” or “against” each of the shortlisted candidate.

12. The duration of the terms of office, in particular for chairpersons and deputies, should be limited (e.g. 6 years, not renewable; or in alternative, 4 years renewable only once).

13. The introduction of a “staggered board” membership principle should be considered.

14. Members should be removed by the Congress only upon reception of a specific request from the Executive Committee, which should clearly indicate the reasons for such a removal.

2.2. Transparency of the procedure before the Ethics Committee

15. At least in cases of bribery, corruption and match fixing, once investigation ends, the report of the investigatory Chamber should always be made public, including when the procedure is closed; data of a certain nature (e.g. bank account numbers or contact details and more in general personal data other than those strictly necessary to identify the concerned persons, except of course anonymous witnesses) could be redacted or removed.

16. At least in cases of bribery, corruption and match fixing, the procedure before the adjudicatory chamber should be public with the exception only to ensure the protection of vulnerable witnesses or to comply with an obligation of confidentiality imposed according to the national law, in particular within the framework of the collaboration between disciplinary bodies and the judiciary.

17. At least in cases of bribery, corruption and match fixing, the reasons for the final decision (including when it is taken by the investigatory Chamber) should be published.

3. **Reinforce transparency, accountability and prevention of conflict of interest**

3.1. Open and objective decision making

18. FIFA Statutes should establish the entitlement of the chairperson of the Audit and Compliance Committee to attend (with no voting rights) Executive Committee meetings and any meetings of other FIFA standing committees with decision-making powers in risk areas (e.g. the Development Committee).

19. Transparent decision making on all bids for the hosting of FIFA international sports events (as it is now the case for the FIFA World Cup) should be ensured by requiring “open ballots” and the publication of the results of each ballot.

20. Concerning the FIFA World Cup, 80.2.c. of the Statutes should provide that at least three bids are transmitted to the Congress, unless of course only one or two candidates fulfil the requirements.

21. FIFA should speed up the drafting, adoption and publication of the regulations on bids and of objective requirements and criteria for evaluating the bids for the hosting of FIFA World Cup and of the other FIFA international sports events.

3.2. Financial transparency and accountability

22. FIFA should redesign its decision-making process for development projects, marketing and procurement activities. In particular:

- all commercial contracts (TV rights, marketing, ticketing and sponsoring) should be put out to tender;
- the bidding procedures should be transparent and based on objective criteria, and the corresponding policies should be reviewed by the Audit and Compliance Committee, which should ensure their consistency with the highest international standards in this domain.

23. FIFA should consider separating regulatory and commercial functions, establishing a subsidiary company to manage commercial functions.

24. The salary grids for all key positions, as well as the level of per diems and expenses reimbursements, should be made public.

25. FIFA should ensure that the full costs for its President, each of the members of the Executive Committee and each of its most senior officials be made public.

26. The provision whereby one of the three members of the Compensation Sub-Committee is the chairperson of the Finance Committee – who is necessarily a member of the Executive Committee and therefore has a direct interest at stake – is incongruous and should be reconsidered.

3.3. Duration of the terms of office

27. The term of office of the President and other elected managers in governing bodies mentioned in the FIFA Statutes, including the Executive Committee should be limited. The relevant provisions in the Olympic Charter are, in this respect, a good model.

3.4. Prevention of conflicts of interest and integrity check

28. A member of the Executive Committee should not have the right to vote when his or her country is a candidate for a FIFA award under discussion.

39. Article 22 of the Code of Ethics should be amended to exclude with no exceptions the possibility of accepting commissions or promises of such commission.

30. Integrity checks on the members of the Executive Committee should be centralised at FIFA level and possibly entrusted to the Ethics Committee.

4. Gender equality

31. FIFA should aim at encouraging female candidates to key positions and seek to have a knock-on effect on gender equality policies of the national football associations and federations.

Appendix 2

Specific recommendations by the Committee on Culture, Science, Education and Media to UEFA

Unanimously adopted on 27 January 2015

1. Improve the disciplinary procedure and reinforce the independence of the members of the disciplinary bodies and transparency of their work

1. Inspectors and members of the Control, Ethics and Disciplinary Body and of the Appeals Body should be elected and removed by the Congress; removal should be decided only upon motivated request from the Executive Committee.

2. The Disciplinary Regulations should establish a clear link between the most serious breaches and the most severe sanctions: when bribery, corruption and breaches against integrity of matches and competitions are eventually established, the most severe sanctions, i.e. long-term or life ban, shall be applied (the length of the ban allowing for the sanction to be tailored depending on the concrete circumstances of a given case).

3. At least in cases of corruption, bribery and match fixing, the procedure before the disciplinary bodies should be public, with the exception only to ensure the protection of vulnerable witnesses or to comply with an obligation of confidentiality imposed according to the national law, in particular within the framework of the collaboration between disciplinary bodies and the judiciary.

4. Concerning the protection anonymous witnesses, article 40.1. of the Disciplinary Regulations, should be modified so as to apply to other cases – in addition to danger for life or physical integrity – when factual circumstances require the protection of a witness.

2. Reinforce transparency, accountability and prevention of conflict of interest

5. Transparent decision making on all bids for the hosting of UEFA international sports events should be ensured by requiring “open ballots” and the publication of the results of each ballot.

6. The salary grids for all key positions, as well as the level of per diems and expenses reimbursements, should be made public.

7. UEFA should ensure that the full costs for its President, each of the members of the Executive Committee and each of its most senior officials be made public.

8. In addition to the age limit, UEFA should consider limiting the duration of the term of office of the President and other elected managers in governing bodies mentioned in the UEFA Statutes, including the Executive Committee. The relevant provisions in the Olympic Charter are, in this respect, a good model.

3. Gender equality

9. There is a need to develop gender equality policy. UEFA should aim at encouraging female candidates to key positions and seek to have a knock-on effect on gender equality policies of the national associations.