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Good governance and ethics in sport

Report[1]
Committee on Culture, Science, Education and Media
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Summary

The uncontrolled incursion of purely financial considerations is seriously jeopardising the ethics of sport and increasing the risk of abuses, or even criminal acts. Not only are doping, corruption and match-fixing growing insidiously, but other problems are also undermining the world of sport and tarnishing its image: sports competitions are becoming unfair because of too wide a discrepancy between competitors' resources; ever-younger sportspeople are treated as commodities; and good governance in sport is affected by the power stakes and by the opacity of decision-taking processes.

Council of Europe member States are called on to support the work of the Enlarged Partial Agreement on Sport (EPAS) and work together with the governing bodies of the sports movement to strengthen financial fair play, ensure that young sportspeople are effectively protected and improve the machinery of governance within sports institutions, taking due account of the proposed guidelines.

Every sporting discipline is concerned, but football is at the forefront. Therefore, the Fédération Internationale de Football Association (FIFA) has a particular responsibility and is urgently requested to take the necessary steps to cast full light on the facts underlying the various scandals which, in recent years, have tarnished its image and that of international football.

1. Reference to committee: Doc. 12336, Reference 3709 of 4 October 2010.

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A. Draft resolution[2]

1. Sport plays an important role in personal development and social cohesion, as a powerful vehicle for the transmission of positive values and role models, particularly to young people. This role is closely linked to the respect and promotion, by all involved in the world of sport, of high ethical principles.

2. The Parliamentary Assembly notes that, in the globalised world of sport, high economic stakes and the uncontrolled incursion of purely financial considerations are seriously jeopardising the ethics of sport and increasing the risk of abuses, or even criminal acts, either by individuals or by organised criminals. Not only are doping, corruption and match-fixing growing insidiously, but other problems are also undermining the world of sport and tarnishing its image.

3. The Assembly is concerned that sports competitions are becoming unfair because the discrepancy between competitors' resources is too wide; it regards as particularly serious and alarming the fact that ever-younger sportspeople, and even children, are treated as commodities. Furthermore, the Assembly cannot help noting with concern that good sports governance, a precondition for ethical sport, is affected by the power stakes and by a certain opacity in decision-taking processes. In this context, football is at the forefront, but the problem is gradually spreading to every sporting discipline.

4. The Assembly therefore recommends that Council of Europe member States and national and international governing bodies of the sports movement strive to strengthen financial fair play, ensure that young sportspeople are effectively protected and improve the machinery of governance within sports institutions, taking due account of the "Guidelines on good governance and ethics in sport" appended to the present resolution, of which they form an integral part.

5. The Assembly also recommends that Council of Europe member States support the work of the Council of Europe's Enlarged Partial Agreement on Sport (EPAS), and particularly the preparation of the draft recommendation of the Committee of Ministers to member States on the problems associated with migration flows in sport.

6. The Assembly specifically calls on the Fédération Internationale de Football Association (FIFA) to take the necessary steps to fully investigate the facts underlying the various scandals which, in recent years, have tarnished its image and that of international football. The Assembly insists that FIFA, *inter alia*:

6.1. speed up the process of reform of its internal governance and, in this context, significantly increase the investigative powers of its Ethics Committee;

6.2. publish in full any judicial and other documents relating to the ISL/ISMM case which may be in its possession;

6.3. open an internal investigation in order to determine whether, and to what extent, during the latest campaign for the office of President, the candidates, and particularly the elected candidate, exploited their institutional positions to obtain unfair advantages for themselves or for potential voters.

7. These guidelines are addressed to the member States of the Council of Europe and to all governing bodies of the sports movement, all of which have their own responsibilities but need to work in a co-ordinated manner and co-operate effectively in the search for common solutions.

8. They are intended to promote a number of activities designed to:

8.1. prevent certain financial abuses which affect sports clubs' financial balance and, at the same time, give rise to inequalities between those clubs, thus distorting competitions;

8.2. provide effective protection to young sportspeople;

8.3. improve governance machinery within sports institutions.

9. They do not therefore directly relate to some other extremely serious issues which undermine sport and jeopardise its future, such as doping, match-fixing and other issues, which have been the subject of other Assembly reports.

10. Intervention by States in the fields covered must allow for the need to preserve the autonomy of the sports movement, but also for the need to ensure that this autonomy does not become an excuse for failure to react to the abuses eroding sports ethics and to acts covered, or which should be covered, by criminal law.

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2. Draft resolution adopted unanimously by the committee on 6 March 2012.

11. National legal systems should include legislation regulating sports activity as a whole and including specific provisions to deal with the problems which cannot effectively be resolved through sport's own regulations.

12. The sports movement's governing bodies must strive for effective co-operation amongst themselves and for synergies with public authorities' efforts to combat the abuses threatening sports ethics. They must remain exemplary in their internal functioning and, in the context of their own autonomy, take action without ever losing sight of the fact that sport must remain a vehicle of positive values which contribute to personal development, social cohesion and the bringing together of peoples.

13. In order to foster co-ordinated action, government authorities and the sports movement's governing bodies must promote the setting up of national platforms regularly bringing together the organisations in charge of sport and professional sportspeople's trade unions.

14. Club finances and "financial fair play"

14.1. "Financial fair play" must be strengthened by adopting rules requiring financial transparency, limiting debt and fostering the self-financing of clubs. Budgetary constraints of this kind, and the requisite monitoring machinery to ensure effective compliance with them, should be imposed by the sports federations or organisations concerned, in the context of self-regulation. The financial fair play rules adopted by the Union of European Football Associations (UEFA) could serve as a model.

14.2. The generalisation of financial fair play also implies the laying down of standards and monitoring mechanisms by national federations as necessary to ensure that the conditions for fair competition between clubs exist, to contribute to their financial stability and to guarantee the fairness of sport. French football's Direction nationale de contrôle de gestion (DNCG) offers an example which other States and other sports could follow.

14.3. European States could back up these reforms by the sports movement through better harmonisation of national rules regarding sports companies' accounts, with a view to improving financial transparency.

14.4. Moreover, States should ensure that the prohibition of public aid to professional sports companies is strictly applied according to European Union law.

15. Protection of young sportspeople

15.1. In order to combat the most serious problems in terms of the exploitation of young sportspeople and their treatment like commodities, the Council of Europe member States, including those that have not yet ratified these texts, should guarantee, also by means of efficient controls, rigorous application of the United Nation Convention on the Rights of the Child, the revised Council of Europe European Social Charter (ETS No. 163) and the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).

15.2. National legislation on sport should contain provisions to protect young national and migrant sportspeople, including to:

15.2.1. prohibit commercial transfers of sportspeople under the age of 16, in order to prevent minors from becoming mere objects of financial transactions;

15.2.2. prohibit remuneration of intermediaries for sportspeople aged under 16 (a prohibition which would also apply to non-commercial transfers);

15.2.3. give binding force (for all sports) to measures derived from the 10 recommendations issued by France's Union of Professional Football Clubs (UCPF) on looking after foreign players who are minors;

15.2.4. make compulsory the combining of sport with schooling/vocational training, failing which a change of club should be null and void, whatever legal form it may take (transfer, loan, etc.);

15.2.5. prohibit the issue to sportspeople of "student" or "tourist" visas and consider introducing a special visa allowing for the specificity of sport and enabling migratory movements by sportspeople to be monitored.

15.3. In the absence of national legislation on sport and pending the adoption of such specific legislation, States should at least secure protection for sportspeople who are minors through appropriate provisions in the legislation regulating the rights of employed children.

15.4. Work should start, in co-operation with the European Union, on harmonising national legislation concerning sports agents, in order to regulate in a consistent manner, as has been done for other professional categories, the activities of these agents and of intermediaries not registered as sports agents but acting as such.

15.5. National sports associations should promote the adoption of charters which aim to prevent any moral or physical ill-treatment of sportspeople who are minors and should establish the requisite monitoring machinery to ensure compliance with these charters.

15.6. UEFA, in order to increase its supervisory capacity, could introduce a compulsory levy to be used to fund a system for monitoring the conditions in which sportspeople who are minors are transferred and looked after, with a view to detecting and punishing abuses.

16. Governance, transparency and the combating of corruption and self-interest on sports bodies

16.1. Federations, associations, professional leagues and other sports organisations should include in their codes of sports ethics the provisions needed to prevent criminal associations from infiltrating the management bodies of sports companies or authorities. The purchase of sports clubs using capital of unknown origin should be prevented, by making it compulsory for clubs to seek information about potential owners.

16.2. The Basic Universal Principles of Good Governance of the Olympic and Sports Movement, drawn up by the International Olympic Committee (IOC) in 2008, should be complied with by all sports organisations.

16.3. Within sports federations, it is necessary to introduce supervisory mechanisms achieving a new balance in the powers of their presidents and ensuring that presidents are accountable to members' assemblies (checks and balances).

16.4. In this context, the term of office for which presidents of federations are elected should be limited (for example a four-year term, renewable only once). In addition, within sports federations, multiple candidates should be encouraged to stand for election as president, as should female candidates at every level.

16.5. The statutes of sports federations should prevent any form of conflict of interest by prohibiting individuals from holding senior offices within those federations if, at the same time, they hold senior posts in a club.

16.6. The governance machinery of sports federations should be such as to involve sportspeople in the major decisions relating to the regulation of their sport. In this respect, encouragement could be given to the representation of players' and sportspeople's trade unions and to the presence of former sportspeople of acknowledged integrity on federation committees.

16.7. Improvements would be necessary, within all sports federations, to the provisions concerning the committees responsible for examining candidatures for the hosting of major international sports events; strict rules on eligibility and on these committees' election and operating arrangements should be drawn up in order to prevent and punish any conflicts of interest or acts of self-interest among members, and strict checks should be provided for in order to avoid any attempted bribery or the exercise of improper influence on voting members' final decision. The possibility of including on such committees outside observers without the right to vote should be considered.

16.8. Sports associations and federations at every level (regional, national, continental and international) should publish annually (on their Internet sites, in their activity reports) details of their income and expenditure and the remuneration of their senior executives and elected managers.

B. Explanatory memorandum by Mr Rochebloine, rapporteur

1. Introduction

1.1. Terms of reference and stages of the drafting of the report

1. On 7 July 2010, with some colleagues, I tabled a motion for a resolution on “Good governance and sport ethics” (Doc. 12336). On 4 October 2010, this motion was referred for report to the Committee on Culture, Science, Education and Media, which appointed me rapporteur on 7 October 2010.

2. On 29 June 2011, a motion for a resolution on “More transparency and accountability at FIFA” was tabled by Mr Pieter Omtzigt and several of his colleagues (Doc. 12673). The Assembly referred it on 3 October 2011 to the Committee on Culture, Science, Education and Media, to be taken into account in the preparation of the present report.

3. On 6 December 2011, the committee held a hearing with the participation of:

– Ms Maud De Boer-Buquicchio, Deputy Secretary General of the Council of Europe;

– Mr Bernard Amsalem, President, French Athletics Federation (FFA) and Head of Mission for the London 2012 Olympic Games;

– Mr Jean-Pierre Mougin, Secretary General, French National Olympic and Sport Committee (CNOSF);

– Mr Dominique Rocheteau, former President of the Ethics Committee of the French Football Federation (FFF) and Member of the Ethics Committee of FIFA (Fédération Internationale de Football Association);

– Mr Frédéric Sitterlé, President, Racing Club de Strasbourg;

– Ms Maryse Ewanjé-Epée, former athlete and journalist, France;

– Mr Andrew Jennings, investigative journalist, United Kingdom, who had previously prepared, at my request, a report on problems of corruption within FIFA, which was distributed during this hearing.

4. Following this hearing, I decided to analyse in greater detail the issues relating to ethics, good governance and transparency in sports institutions, and in particular in FIFA. In this context, I met, on 15 December 2011, Mr Julien Zylberstein, who is responsible for European Affairs at the Union of European Football Associations (UEFA); then I met, on 17 January 2012, Ms Fani Misalidi, official in charge of European Affairs in FIFA's Directorate of Legal Affairs. In addition, I organised, on 26 January 2012, an exchange of views with Mr Nicolas Maingot, FIFA's Deputy Director of Communications and Public Affairs; Ms Fani Misailidi was also present. I would like to thank these experts for their valuable contributions.

5. Through the committee Secretariat, I also contacted Mr Thomas Hildbrand, the Public Prosecutor in the Canton of Zug (Switzerland), who dealt with the ISL case (which Mr Andrew Jennings referred to at the hearing), in order to find out whether it would be possible to interview or meet him. To this end, a letter was also sent to the Chief Public Prosecutor of the Canton of Zug, Mr Christian Aebi. Consultations took place with Switzerland's Ministry for Foreign Affairs, which granted permission to transmit the information I had requested. Subsequently, the general public prosecutor asked the Zug High Court to declassify the file concerned. The High Court granted this application by order of 14 February 2012.

1.2. Scope of the investigation and purpose of the report

6. Sport is commonly linked to a number of values associated with a person’s self-relationship (commitment, effort, discipline, strength of character, spirit of sacrifice, seeking to improve their own performance while at the same time accepting their own limits) and relations with others (solidarity and team spirit, loyalty and playing by the rules, as well as showing respect for opponents and recognising their merits).[3]

3. The revised Code of Sports Ethics appended to Recommendation No. R (92) 14 rev. of the Committee of Ministers points out in paragraph 6 that a sporting activity, “when played fairly, offers the opportunity for self-knowledge, self-expression and fulfilment; personal achievement, skill acquisition and demonstration of ability”, adding that sport permits “social interaction” and “promotes involvement and responsibility in society”.

7. Moreover, sports competitions have an extremely important social dimension in providing opportunities for different people to meet. Thus, sport goes beyond the individual dimension and is expected to be a vehicle for peace, friendship and mutual respect between the members of a society and between different peoples. Therefore, sport is more than a spectacle: it is a societal phenomenon at the global level.

8. The image of sport and of sportsmen and women is a powerful means of conveying these values and positive behavioural models, especially to young people. However, the benefits of sport and its contribution to the construction of a better society are closely linked to what is termed "sport ethics", which refers both to the sportsperson's personal moral integrity and to the collective integrity of sports teams, associations or companies, or even supporters. Without respect for these ethics, the image of sport becomes tarnished and the message conveyed becomes unhealthy and even dangerous.

9. The European Union and the Council of Europe have conducted many studies on subjects linked to the idea of integrity and ethics in sport. The most important and most sensitive issues include doping, racism and spectator violence and have been dealt with in previous Parliamentary Assembly reports, as well as being the subject of two Council of Europe conventions. It is not our intention to return to them in the context of this report.

10. The starting point for this report is recognition that the affirmation of, and effective compliance with, ethical principles are seriously jeopardised not only by economic interests (individual or collective) but also by power struggles within sports bodies (clubs and federations). These factors pose a challenge to the ethics of sport in that they transform the organisation and running of sports competitions into opportunities for unfair conduct, cheating, fraud and illicit earnings, and even abuse, especially of young sportsmen and women.

11. Unfortunately, there is no lack of front-page stories, such as the widespread bribery of football referees in the "Calciopoli" affair in Italy, the life ban on all football-related activities imposed on Mohammed Bin Hammam for vote-buying during the FIFA presidential election, or the bankruptcy of several professional clubs in England, France, Italy and Spain. Moreover, the sports scandals that come to light are only the tip of the iceberg; experts are fully aware that the hidden part, largely unknown to the public, is even bigger and of a more worrying dimension.

12. Beyond the punishment of criminal law offences, the aim of this report is to consider whether and how it would be possible to take action at the level of sports bodies' management and governance apparatus in order to deal more effectively with the ethical risks brought about by economic or power-related issues.

13. Good governance, at all levels, is a necessary condition for ethics in sport. Therefore, the relationship between "good governance" and "ethics" in the world of sport is the core issue of our study. It is football that often first springs to mind when mention is made of the notion of good governance and ethics in sport. However, the problems identified in this report affect all sports disciplines, to varying degrees depending on circumstances. The following sections examine three particularly complex and important issues: "financial fair play", "the protection of young migrant sportsmen and women" and "good governance and transparency in sports institutions".

2. Financial fair play

14. The world of sport, especially at the professional level, is closely associated with highly lucrative commercial activities. The continuous development of the economic dimension of sport, which is also supported by its internationalisation, is reflected, *inter alia*, in the amounts spent on purchasing television broadcasting rights, in transfer fees and the salaries paid to sportspeople by the most prestigious clubs and in the advertising contracts negotiated by sports goods manufacturers. Even the economic crisis has not really put a check on spiralling costs, and the amounts of money involved are rising all the time.

15. The uncontrolled emergence of purely financial considerations increases the risk of abuse. It is therefore essential for the European sports economy to remain firmly anchored in a set of fundamental values that enable a certain ethical position to be maintained. "Financial fair play" is a key concept employed in this connection.

16. This concept links the traditional notion of sporting fair play to the financial dimension of the management of sports clubs (associations or companies), so the general notion of sporting fair play is a good starting point for achieving a better understanding of the specific notion of financial fair play, before going on to examine the mechanisms to guarantee financial fair play introduced in France and then at the European level and discussing the problems that remain and how to deal with them.

2.1. From sporting fair play to financial fair play in sport

17. The Code of Sports Ethics appended to Recommendation No. R (92) 14 rev. of the Committee of Ministers states that fair play is much more than playing by the rules and also incorporates the concepts of respect for others and playing in the right spirit (paragraph 5). Fair play is therefore at odds with all forms of violence, exploitation and unequal opportunities; with corruption, as well as excessive commercialisation; and with doping and cheating, as well as the art of employing trickery while keeping within the rules.

18. The Code of Sports Ethics emphasises that "ethical considerations leading to fair play are integral, and not optional elements, of all sports activity, sports policy and management, and apply to all levels of ability and commitment, including recreational as well as competitive sport" (paragraph 1).

19. It also stresses that "[t]he potential benefits to society and to the individual from sport will only be maximised where fair play is moved from the peripheral position it currently occupies to centre stage" (paragraph 7) for everyone involved, ranging from individuals as spectators or supporters to governments (at all levels) and also involving teachers and instructors, sportspeople (especially top sportsmen and women who act as role models) and those who assist them (trainers, doctors, etc.), referees, commercial operators, the media and sports organisations, especially the sports federations and governing bodies.

20. Sport remains a specific activity that cannot be entirely compared to other economic activities. It has its own particular values, which must be emphasised by those who govern, supervise and engage in it, a social function, which requires that the sporting community should continue to set an example, and a specific dimension associated with the part played by the concept of the "game" and the uncertainty inherent in a sports competition – a dimension that underlies public attachment to the sporting spectacle.

21. This justifies that professional sports clubs should be required to accept additional restrictions compared with those normally imposed on commercial companies. It is not simply a question of playing by the rules that apply to every economic activity in a market economy, but also of mitigating certain effects that the application of the principles of the free market may have, for the sake of preserving sport's inherent values and its key social function.

22. It was first of all in the world of professional football that the need for action to ensure better financial discipline became apparent. For several years now, spending on players' salaries and transfer fees has followed an upward trend and there has been a general deterioration in the finances of football clubs, several of which have repeatedly sustained losses, some of them very considerable.

23. The income of football clubs – especially from television broadcasting rights but also from sponsorship and merchandising – has risen, but their expenditure has soared. The main cause of the budgetary imbalance is salaries, which have gone through the roof in the last fifteen years and constitute an increasingly heavy burden on clubs' accounts in Europe (for example, 74% of the turnover of French League 1 clubs in 2010, compared with 61% in 2006).

24. Roughly half of European clubs are in deficit and the five most important European football leagues are in debt. Paradoxically, it is the big and richest clubs that run up huge debts. For example, Manchester United's debts currently amount to more than €800 million, and FC Barcelona posted a deficit of €77 million for the 2009-10 season alone.

25. This situation is perceived not only as a source of concern with regard to the sustainability of European football, but also as a source of inequalities since small and medium-sized clubs cannot have the same resources as big clubs. Comparing this situation with other economic sectors, it could be said that the major clubs have a dominant position and exploit it to the full.

26. It should be stressed that worrying signs of an escalation of professional players' salaries are now emerging in other team sports in Europe. Without wishing to deny top sportsmen and women the right to be paid a salary commensurate with the economic benefits they generate for their employers, the excesses currently condemned in the world of male professional football should not be replicated in sports like rugby, basketball or team cycling.

27. There is also a need to protect the development of female team sports from these excesses while at the same time bearing in mind the very important (perhaps too important) difference that currently exists between the pay of sportsmen and sportswomen.

2.2. Rules guaranteeing financial fair play in France and in Europe

28. In the European context, the situation of French professional football is an exception. A National Directorate of Management Control (Direction nationale du contrôle de gestion – DNCG) has been set up within the French Football Federation (Fédération Française de Football – FFF).[4] Each season, the DNCG's committee responsible for overseeing professional clubs (Commission de contrôle des clubs professionnels) reviews the legal and financial situation of all League 1 and League 2 clubs[5] on the basis of the financial information (historical and projected) they provide.

29. The main objective of this review is to ensure the sustainability and fairness of competitions, especially by verifying that each club's expenditure does not exceed its financial capacities. In order for the DNCG to be able to carry out this task, clubs have obligations concerning:

– the transmission of documents (accounts, financial, legal, etc.);

– bookkeeping (for example, the obligation to follow the model chart of accounts adopted by the FFF);

– subjection to review procedures (on the basis of document-based and on-the-spot checks).

30. If clubs fail to comply with these obligations and/or depending on their financial situation, the DNCG can take action against them with a view to avoiding mismanagement. In particular, it can impose staffing sanctions (such as a partial or total ban on recruiting new players; controlled recruitment with a cap on the proposed budget or payroll; a restriction on the number of players who may be transferred to the first team) and can take decisions on the club's participation in competitions (relegation, ban on moving up to the next division, exclusion from competitions). Appeals may be lodged against these decisions with internal bodies and subsequently with the administrative courts.

31. This mechanism has improved the transparency of club budgets and enabled their financial management to be put on a sounder footing. The budgetary rigour imposed on them helps to ensure a balance in the transfer market. However, although the measures taken by the DNCG strengthen ethics in sport in France, they (to some extent) place French clubs at a disadvantage vis-à-vis other clubs, which face different financial conditions depending on the country where they operate.

32. In order to remedy this inequality, the introduction of a system at European level had become desirable. At the instigation of its president, Mr Michel Platini, UEFA therefore proposed imposing controls on the finances of European football clubs, and, in May 2010, it approved the Club Licensing and Financial Fair Play Regulations,[6] setting up at the European level a monitoring system pursuing similar objectives to the French DNCG.

33. In particular, as their Article 2.2 states, these regulations "aim to achieve financial fair play in UEFA club competitions and in particular:

a. to improve the economic and financial capability of the clubs, increasing their transparency and credibility;

b. to place the necessary importance on the protection of creditors by ensuring that clubs settle their liabilities ...;

c. to introduce more discipline and rationality in club football finances;

d. to encourage clubs to operate on the basis of their own revenues;

e. to encourage responsible spending for the long-term benefit of football;

f. to protect the long-term viability and sustainability of European club football."

34. All the provisions concerning financial discipline of clubs came into force on 1 June 2011. The tangible measures to achieve the regulations' aims include the obligation for clubs to provide detailed accounting information and to balance their books: they must not spend more than the income they generate. High-risk clubs will have to submit strategic plans.

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4. For a more detailed presentation, visit www.lfp.fr/corporate/dncg#missions It should be noted that in France the law (Article L 132-2 of the Sports Code) obliges each federation operating a professional league to create a body responsible for the legal and financial oversight of sports associations and companies. However, the creation of a professional league is not compulsory.

5. As part of the tasks assigned to the DNCG by the Law of 16 July 1984, as amended, and by the regulations of the French Football Federation and the Professional Football League.

6. www.uefa.com/MultimediaFiles/Download/Tech/uefaorg/General/01/50/09/12/1500912_DOWNLOAD.pdf

35. Club accounts will be subjected to a multi-annual assessment by the Club Financial Control Panel, which has been set up to ensure that all clubs comply with these new rules. Implementation will be gradual and a deviation from the requirements within prescribed limits will be tolerated.[7] For clubs failing to comply with the budget balance requirements, sanctions may range from a ban on recruitment to exclusion from European competitions.

36. The first sanctions could be imposed in 2013 and a ban on participating in European competitions in 2014-15. UEFA has stated that the regulations will be applied in the same way to all clubs, including the biggest clubs. To give an idea of the potential impact of these measures, suffice to say that 11 of the 32 clubs playing in the Champions League in the 2010-11 season did not meet the financial fair play requirements.

2.3. Remaining problems concerning the implementation of financial fair play and points for discussion

37. However, the measures introduced by UEFA cannot fill the gap between European clubs. Clubs do not generate the same income, and the richest ones will therefore continue to attract the best players. In addition, UEFA will not (at least at this stage) impose sanctions for the debts already run up by clubs, even though the financial stabilisation measures will have to take account of the level of repayment of these debts.

38. It is still too early to judge whether, and to what extent, the need to reduce expenditure will result in a drop in salaries and whether that reduction will actually affect all players (including those at the top). Clubs will no doubt try to supplement their income if possible. They could for example call on sponsors to invest more so as to reduce or eliminate their deficits.

39. Care will have to be taken to prevent any circumvention of the financial fair play rules in this way. A case in point is Manchester City, which has entered into a contract estimated at £400 million (over €450 million) with the airline Etihad. Etihad belongs to the Abu Dhabi royal family, and the Abu Dhabi United Group, which is led by Suleiman Al-Fahim, owns Manchester City. In order to avoid improper transactions of this kind, UEFA should prohibit clubs from sponsoring themselves or using associated bodies to do so. There is also a need to monitor the "purchases" of sponsors, who should not overpay for the rights they acquire.

40. Another concern is that clubs will be tempted to conceal their deficits by "creative accounting" or illegal operations (such as paying part of salaries "under the table"), which UEFA would then find hard to detect. Is it therefore necessary to envisage other measures?

41. The desirability of imposing a salary cap on clubs and/or limiting the number of professional contracts that sports companies may enter into (which is tantamount to limiting the number of professional players who can be recruited into a team) has been discussed. Such restrictions are actually applied as sanctions by the French DNCG. The general application of one or the other measure would no doubt foster improved budgetary control but it would also have some major drawbacks.

42. For example, the imposition of a salary cap could increase the temptation to reduce the pay of less well-known players (especially young players or players from African or Asian countries), to enter into secret deals or to reach arrangements with sponsors to transfer part of the costs to them (in return for benefits provided at below the normal rate). Moreover, this measure does not seem to command much support. Limiting the number of professional contracts would not help to bring down big salaries and could also penalise young players and deprive a large number of them of real opportunities to establish themselves. Furthermore, it could ultimately have an impact on training policies.

43. In both cases, the difficulty in applying the same standards to everyone everywhere is a fundamental problem: there are many variables from one country to another, depending on circumstances, and uniform treatment could lead to injustices. On the other hand, it does not seem conceivable to adopt standards that vary case by case, as it would then be misleading to speak of common standards. Consequently, it seems very unlikely that agreement can be reached on such measures at the international level, which explains the simpler solution chosen by UEFA, namely making it compulsory to achieve a degree of budget balance.

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7. For the first monitoring period (2011-12 and 2012-13 seasons) a cumulative deficit of €5 million is tolerated. This amount can be raised to €45 million if the shareholders agree to make up the difference. For the second period (2014 to 2017), the deviation tolerated will be only €30 million. It should, however, be noted that not all expenditure will be taken into account. This applies, for example, to costs incurred in training young players or building a new stadium.

44. It should be noted that part of the problem lies in the differences between national legislations and in the support indirectly given to clubs by public authorities. Taxes and charges differ from country to country; these factors have a clear impact on expenditure associated with players' salaries and, consequently, distort competition to some extent. In addition, local and national loyalties should not translate into unfair financial support for certain teams.

45. This poses the question at which point competition between clubs can significantly be distorted, and some clubs enjoy an undue advantage, as a result of the financing of sports infrastructure, its sale to sports companies or placing on loan to teams, the granting of subsidies, loans, tax breaks or other financial benefits, gifts, the purchase by public authorities of advertising space or, indeed, facilities belonging to clubs, or other measures to support sports companies. For example, in the early 2000s Real Madrid was able to sell its training ground back to the city for more than €400 million.

46. There is a need for strict application of the ban on State aid for professional sports companies – which are, by definition, engaged in economic activities and are therefore covered by the term "undertaking" for the purposes of Community law.[8] Moreover, greater financial transparency should be required at national level in all transactions involving the use of public funds for the benefit of professional sport. This is in order to avoid taxpayers having to pay for the survival of companies incapable of introducing sound financial management.

47. Finally, States could support the efforts of the national and European federations through greater harmonisation of accounting rules for sports clubs, with the specific goal of increasing financial transparency and preventing opaque accounting operations and tricks designed to circumvent the rules on balancing the books.

3. Protection of young migrant sportsmen and women

48. The migration of sportsmen and women to Europe is not a recent phenomenon. It already existed in the early days of modern sport at the end of the 19th century but was not very common. Globalisation has led to its becoming widespread and internationalised. It is not rare today for football, basketball, ice hockey or handball clubs to have a majority of players who are not nationals of the country in which they play.

49. Sport sets young people dreaming. Despite the few opportunities available to become professional sportsmen and women, many young people live under the illusion that they personally will succeed. Europe, whose prestigious leagues attract young people from all over the world (in particular from Africa and South America), has had to contend with a migratory influx of young footballers, more so than other continents. This migration takes place in the form of transfers,[9] loans or trials, and the number is rising.

50. Migration of sportspeople who are minors raises both legal and ethical issues.[10] To date, the answers are insufficient; there is therefore a need to consider more in depth how to deal with this phenomenon.

3.1. Problems associated with the migration of young sportsmen and women: serious but less noticeable abuses

51. Since the 1980s, sports clubs have developed into professional sports companies and now have financial resources that enable them to look for young talents farther and farther afield. They have also set up academies (coaching centres) to coach the talents of tomorrow, and this encourages them to seek out foreign sportsmen and women of an increasingly young age.

52. Some football clubs, such as AJ Auxerre in France, Ajax Amsterdam in the Netherlands, FC Barcelona in Spain and Arsenal FC in England are designated "training clubs". They are recognised for the quality of their training for young people and generally provide other clubs with young players. To take one example, Lionel Messi, the Argentinian currently considered the best football player in the world, arrived in Barcelona at the age of 13.

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8. See, for example, the explanations concerning public support for sport on the European Commission's website: http://ec.europa.eu/sport/white-paper/swd-the-economic-dimension-of-sport_en.htm.

9. A player transfer is a legal act permitting a licensed player to leave one sports company to join another. The terms employed are therefore "negotiation", "contract" and the "amount of the transfer fee".

10. This report mainly deals with the issue from the point of view of a young migrant player but mass transfers of young players should also should give pause for reflection regarding the drain of sporting talent and the risk of destroying the prospects for top-level sport at national level.

53. However, Messi is today no longer an exceptional case. According to researchers[11] who produced statistics on transfers of professional players in 2010, 7.38% of initial international migration takes place before the age of 18,[12] which is a significant percentage.

54. Moreover, in certain cases, those concerned are clearly children. Manchester United had already hit the headlines in 2007 when recruiting an Australian 9-year-old boy after watching a DVD sent by a member of his family.[13] In 2011, Manchester United recruited a 5-year-old English boy spotted at the age of 3.[14] He is now training every day in Manchester as a professional. Also in 2011, Real Madrid recruited a 7-year-old Argentinian boy, shortly after his arrival in Spain.[15]

55. Account is rarely taken of the fact that the young sportsmen and women in question are taken a long way from where they have emotional ties (family, friends, home, etc.) to a destination that they usually do not know, a country whose language they may not speak and with a culture and rules that are foreign to them (food, religious beliefs, administrative arrangements and procedures, dress, weather, rules of hygiene, etc.).

56. Furthermore, even more difficult situations may arise if the individual is relocated and accommodated not after but in advance of the conclusion of a contract and subject to tests being carried out or to a trial period. The non-renewal of a contract with the sportsperson in question may pose similar problems if it is not accompanied by a new transfer. Some young people may therefore be tempted to choose to become clandestine.

57. In some serious cases, it is fair to speak of genuine exploitation, including with the family's complicity. Unfortunately, there are cases where the family and friends of a young sportsman seek to benefit financially from his talent, sometimes even to the detriment of his balanced psychomotor development. Many parents try to "sell" their children to clubs, academies or sports agents in order to send them to Europe, where living conditions are much better than in their country of origin, and then follow them there.

58. The emergence of swindlers and rogue agents, of profiteers who abuse the trust of young people to make money totally illegally, is another worrying phenomenon and may have very serious consequences. After a trial that does not work out and, indeed, after unscrupulous intermediaries have failed to meet commitments, many young people attracted to Europe by the dream of playing for a major club are abandoned every year, without any money or papers. An association in the Paris area takes in hundreds of young Africans who find themselves in this situation each year. It is essential to combat such practices vigorously and to better protect these young people.

59. The Study on Sports Agents in the European Union, which was commissioned by the European Commission and was published in 2009,[16] describes a "classic scenario of trafficking in football players", which offers a good illustration of the damage for which these agents are liable. It is stated, in particular, that: "very few players … are recruited or given a contract in relation to the high numbers who travel to Europe, which results in a large population of destitute persons who are reluctant to return to their countries of origin and who try to remain in Europe at any price".

60. Even apart from the cases mentioned above, other problems arise for young migrant sportsmen and women. They are particularly vulnerable to discrimination and abuse because they are unaware (or have little knowledge) of their rights and, in particular, the national employment laws of the country to which they have travelled. They also face difficulties in becoming integrated into the host country and are at risk of losing their cultural identity: for a young African, Asian or American sportsperson, the experience of a different language, food and quality of life following a brutal change of environment may result in the loss of his or her culture of origin and in the total loss of points of reference at the psychological level. Another risk is that they may sacrifice their education or drop out of school. Although there is a clear obligation in some sports to attend school, many top sportsmen and women choose to pursue their sporting career to the detriment of their education because their very full daily training schedule does not enable them to engage in other activities.

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11. Roger Besson, Raffaele Poli and Loïc Ravenel, *Etude démographique des footballeurs en Europe*, CIES, 2010 edition.
12. It can also be noted that the majority of players who are minors undertaking their first international transfer do so from the age of 16.
13. FIFA's website highlights this type of "recruitment": www.fifa.com/worldfootball/clubfootball/news/newsid=562773.html
14. Story available at: www.thesun.co.uk/sol/homepage/news/3936889/New-little-devil-is-a-City-fan.html.
15. Story available at the following address on the website of a major French sports newspaper: www.lequipe.fr/Football/breves2011/20110808_144609_un-argentin-de-7-ans-au-real.html
16. Document available at: http://ec.europa.eu/sport/documents/study_on_sports_agents_in_the.pdf

3.2. The international legislative framework: the principal benchmark provisions

61. A first set of benchmark provisions for the protection of sportspeople who are minors wishing to migrate is the International Convention on the Rights of the Child[17] (adopted by the United Nations General Assembly in its Resolution 44/25 of 20 November 1989). Article 11 provides: "States Parties shall take measures to combat the illicit transfer and non-return of children abroad". Sport should not be used as a reason for derogating from this principle, so the term "illicit transfer" is entirely relevant to sports-related migration. In addition, according to Article 19, "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation …". This provision clearly plays a role in certain particularly serious situations of exploitation and neglect.

62. Rules similar to those of the United Nations convention can be found at the European level in the Council of Europe's European Social Charter (revised) (ETS No. 163). With regard to the rights of children and young people to social, legal and economic protection, it provides: "[w]ith a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake … to take all appropriate and necessary measures designed … to protect children and young persons against negligence, violence or exploitation" (Article 17.1.*b*).

63. The Social Charter enshrines in its Article 19 the "right of migrant workers and their families to protection and assistance". This article includes several specific provisions, including the parties' commitment to "adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey" (Article 19.2).

64. Certain cases of psychological or physical abuse of young sportsmen and women could even come under the definition of "trafficking" within the meaning of the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197). For the purposes of this convention: "'[t]rafficking in human beings' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (Article 4.*a*).

65. In addition, "the recruitment, transportation, transfer, harbouring or receipt of a child [this term referring to any person under 18 years of age] for the purpose of exploitation shall be considered 'trafficking in human beings' even if this does not involve any of the means set forth in sub-paragraph (a) of this article" (Article 4.*c*).

66. The issue of international transfers of players who are minors is the subject of specific provisions of the FIFA Regulations on the Status and Transfer of Players,[18] Article 19 of which states: "[i]nternational transfers of players are only permitted if the player is over the age of 18". It is therefore surprising to note the number of transfers of under-age players.

67. Part of the explanation lies in the fact that the same article provides for three exceptions to the principle it establishes: young players who follow their parents, transfers of players of at least 16 years of age within the European Union or the European Economic Area, and transfers within transfrontier areas.[19] Nonetheless, a number of problematic cases remain.

68. On the one hand, it is not certain that all the transfers authorised under these three exceptions are actually justified. It is true that Article 19 states that "[e]very international transfer … and every first registration … is subject to the approval of the subcommittee appointed by the Players' Status Committee for that purpose", but as that sub-committee is not permanent it is unable to verify all the details of every case, seeing as there are hundreds or even thousands of cases a year.

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17. For the purposes of this convention, "a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (Article 1).

18. Document available at: www.fifa.com/mm/document/affederation/administration/01/27/64/30/regulationsstatusandtransfer2010_e.pdf

19. The following three exceptions to this rule apply: "the player's parents move to the country in which the new club is located for reasons not linked to football; the transfer takes place within the territory of the European Union (EU) or European Economic Area (EEA) and the player is aged between 16 and 18 …; or if the player lives no further than 50 km from a national border and the club with which the player wishes to be registered in the neighbouring association is also within 50km of that border. The maximum distance between the player's domicile and the club's headquarters shall be 100 km."

69. On the other hand, the system is subject to significant limitations: not all under-age players who arrive in Europe have been previously licensed in their country of origin and the transfer procedure is not subject to FIFA's jurisdiction in this case. This applies for example to football in Africa, where many young people are spotted while playing in unofficial neighbourhood tournaments or at clubs or training centres not affiliated to their federation.

70. Another problem that may arise is the use of false identity documents to have a minor legally registered with an academy. Article 19*bis* of the FIFA Regulations deals with the question of the "registration and reporting of minors at academies". Each academy is obliged to report to the association on whose territory it operates all minors who attend it for the purpose of training (paragraph 2.*b*), and each association must keep a register containing the details provided by clubs or academies, together with the names and dates of birth of minors (paragraph 3). While the most renowned academies with the best funding and infrastructure are vigilant and it may be assumed that they take the job of verifying documents seriously, the "second division" academies in the less prestigious European football leagues might be both less careful and less well equipped to undertake all the checks required.

3.3. Lack of adequate protection for young migrant sportsmen and women: lines of action

71. The European Social Charter (revised) and the Convention on Action against Trafficking in Human Beings can be invoked to counter the most serious violations of the rights of young migrant sportsmen and women, which constitute exploitation. But these texts alone cannot respond fully to the problems posed by the migration of young sportsmen and women. Within the national framework, these problems are compounded not only by gaps in legislation but also by defective administrative practices.

72. For example, a number of discrepancies have been identified, such as:

– the misuse of tourist or study visas (for example, to attend a club trial);

– identity manipulation, especially concerning a person's age or nationality;

– the facility with which visas are granted in certain countries where agents have preferential contacts with embassy employees, thereby opening the door to repeated fraudulent visa applications;

– naturalisations of convenience, which enable clubs to recruit promising minors and train them at their own facilities for a few years before they obtain the host country's nationality – a strategy used to exceed the quotas of players from outside the European Union.[20]

73. The distressing situations in which young migrant sportsmen and women find themselves because of fraudulent intermediaries have been mentioned above. Admittedly, only a minority of unscrupulous agents/ intermediaries act in this way. In general, licensed agents[21] who specialise in the recruitment of players who are minors undergo training of a high standard[22] and are strictly subject to and apply the FIFA regulations. Nevertheless, in this connection, the harmonisation of national laws should be encouraged at the European level.

74. The European Union has already initiated discussions on this, but possible Community legislation would cover only its 27 member States. The Council of Europe could act as a discussion forum at pan-European level, more appropriate to the Europe of sport, in order to avoid a situation in which countries outside the European Union, where the issue of legislation on the profession of sports agent is just as crucial, remain lawless zones in these matters.

75. For example, the Enlarged Partial Agreement on Sport (EPAS) could establish a platform for dialogue, bringing together UEFA and other stakeholders, and launch a debate on such issues as: the possibility for lawyers to act officially as sports agents; the ambiguous role of agents (who should clearly represent and protect the interests of either the club or the player, whereas today they may be mandated by both a club and one of its players, resulting in an obvious conflict of interests); or the role of the player's family in negotiations.

76. With regard to sports regulations, the principle prohibition of international transfers of players who are minors established by the FIFA Regulations on the Status and Transfer of Players points in the right direction. However, FIFA is the only international federation to have established a legal framework relating to young

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20. For example, this seems to be the case in Belgium, where many young Africans and South Americans play in the football championship.
21. These are both agents who possess a licence from a European federation and agents with a non-European licence.
22. Training provided by each national federation that normally attests to a knowledge of both employment law and sports regulations.

sportspeople. In other sports there are no regulations at all. Moreover, even within the FIFA framework, attempts are made to circumvent regulations (for example, by invoking the three exceptions for authorising the transfer of a player who is a minor); furthermore, these rules do not necessarily apply to all sportsmen and women (for example, players or sportsmen and women not affiliated to a federation).

77. The issue of the migration of young footballers is also linked to the question of training allowances to be paid to the club that trained the young player. In practice, the amount of these allowances depends on the confederations and FIFA member associations. The sums paid in this connection may accordingly vary considerably. The majority of European clubs have every interest in recruiting a player in Africa or South America, where the sum payable will be lower. Once again, footballers who are minors are treated like commodities on which it is possible to speculate.

78. National federations are doing very little to deal with these different problems. A positive but isolated example is France, where a set of good practices for clubs has been drawn up by the Union of Professional Football Clubs, entitled “Ten recommendations for looking after a foreign minor in a French club”.

79. These recommendations are:

– admit the young person to an introductory training course on the basis of predetermined criteria and find out about his or her sporting record;

– ensure the reliability of his or her intermediaries/people accompanying him or her;

– send a letter of invitation to the French consulate in the country of origin and, where possible, the club of origin;

– obtain an agreement and a parental discharge;

– ask for a photocopy of the passport and visa;

– check the return air tickets;

– take out public liability and physical injury insurance;

– organise a medical examination by the club doctor;

– pay the player’s accommodation costs and expenses during his or her stay at the club;

– arrange to have the player picked up from and driven to the airport.

80. Compliance with these recommendations should enable the treatment of young migrant sportspeople to be improved and abuses to be avoided. However, these recommendations have no binding force.

4. Good governance and transparency in sports governing bodies

81. Good governance and transparency are crucial to the credibility and efficiency of every institution. This also applies to sports institutions, including the major federations, international, continental and national. The autonomy of the sports movement should not prevent compliance with these two fundamental principles. The autonomy of sports federations must be respected, but without making possible opaque financial management. Power must be acquired and maintained in accordance with not only the letter, but also the spirit of the principle of democracy. Cheating during elections or in the process of awarding major international sports events, financial abuses and misappropriation for personal benefit of funds intended for are serious problems to which a proper answer should be given.

82. The world of football and its global federation, FIFA, have all too often hit the headlines, and continue to do so, because of suspicions of fraud or corruption hanging over some of its senior officials. With FIFA playing such a major role, as both the regulatory body and the provider of large sums of money for the development of football worldwide, it has a duty to set an example. Hence this part of the report will deal in particular with certain scandals involving this institution. The aim is not to condemn. But FIFA's image is deteriorating and action is urgently needed to prevent further abuses. Furthermore, other sports are experiencing similar problems. So the question is what to do to improve governance and financial transparency in the sport sector in general.

83. Before moving on to the substance of this issue, a reminder should be given of the definition of good governance given in Committee of Ministers Recommendation Rec(2005)8 on the principles of good governance in sport: “a complex network of policy measures and private regulations used to promote integrity

in the management of the core values of sport such as democratic, ethical, efficient and accountable sports activities …". The same recommendation also specifies that "these measures apply equally to the public administration sector of sport and to the non-governmental sports sector".

4.1. Cases of corruption within major sports federations

4.1.1. The award of the 2002 Winter Olympic Games to Salt Lake City and of the 2012 Summer Olympics to London

84. At the 108th Extraordinary Session of the International Olympic Committee (IOC), in a secret ballot, IOC members voted for six members to be excluded "for inappropriate conduct in relation to Salt Lake City's candidature".[23] The members concerned had either received financial assistance or had directly received money for their vote on the award of the 2002 Winter Olympics to Salt Lake City. "Each case was studied separately, and each member facing expulsion was given the chance to be heard by the Session."[24]

85. The IOC's Ethics Commission has made several recommendations concerning persons, IOC members or not, who have been involved in corruption cases inside the sports movement. In 2011, it recommended that Mr Issa Hayatou,[25] an IOC member, be reprimanded for misappropriating a cash sum of 100 000 French francs from a company called ISL/ISMM which had been intended to finance the 40th anniversary of the African Football Confederation (CAF). In 2004, following an investigation by journalists working for a BBC channel, concluding that several IOC members were willing to take bribes or were completely under the control of representatives of candidate cities, the IOC Ethics Commission proposed to exclude one IOC member, Mr Ivan Slavkov,[26] and to withdraw the accreditation of four such representatives.[27]

4.1.2. The ISL/ISMM-FIFA case relating to the award of television and commercial rights (Switzerland, 2001-11)

86. Investigative journalist Andrew Jennings has on several occasions (including when addressing the December 2011 hearing held by the Committee on Culture, Science, Education and Media) condemned the case in which certain top officials of FIFA were bribed by the sports marketing company International Sport and Leisure (ISL).[28] Before it went bankrupt in 2001, triggering a judicial investigation some years later by the Public Prosecutor of the Canton of Zug in Switzerland – culminating in dismissal of the charges in 2011 – the company had concluded agreements with FIFA in order to obtain the television rights to the 2010 football World Cup. These agreements made provision for commissions to be paid at regular intervals to certain senior FIFA officials.

4.2. Financial and power issues within sports federations: the example of FIFA

87. The people in charge of international, continental and national sports federations tend to be in power for a long time. Mr Lamine Diack (Senegal) has been at the helm of the International Association of Athletics Federations (IAAF)[29] since 1999. In 2011, he was re-elected president for a four-year term of office, having been the only candidate. Mr Joseph Blatter (Switzerland) has been President of FIFA for almost 14 years, and was the only candidate when last re-elected. His predecessor, Mr João Havelange, ran FIFA for 24 years. Whoever holds power at FIFA has a position recognised worldwide, high visibility in the media, authority in the world of sport and undoubted influence over decisions which have an economic and, in certain cases, a political impact.

88. Presidents of other federations have held office for many years: Bruno Grandi (Italy) has been President of the Fédération Internationale de Gymnastique (FIG) since 1996; the International Ski Federation (FIS) has been headed by Mr Gian-Franco Kasper (Switzerland) since 1998; the International Tennis Federation (ITF) has had Mr Francesco Ricci Bitti (Italy) as its president since 1999; the International Handball

23. See *Olympic Review*, Volume XXVI, No. 26, April-May 1999, p. 6.
24. Ibid.
25. IOC Ethics Commission Decision with Recommendation No. D/02/2011 concerning Mr Issa Hayatou.
26. IOC Ethics Commission Decision with Recommendation No. D/5/04 concerning Mr Ivan Slavkov.
27. IOC Ethics Commission Decision with Recommendation No. D/3/04 concerning BBC One Panorama.
28. This company was a subsidiary of International Sports Media and Marketing (ISMM), the leading sports marketing group of the early 2000s.
29. This federation covers track and field athletics, but also includes disciplines such as marathon and cross-country running.

Federation (IHF) has been led by Mr Hassan Moustapha (Egypt) since 2000; the Fédération Internationale de Natation (FINA, swimming's governing body) was led by Mr Mustapha Larfaoui (Algeria) from 1988 to 2009. And more could be added to the list.

89. The fact that the same figures stay in positions of power within sports authorities for a long time is not necessarily, in itself, either a problem or a symptom of abuse. This tendency is probably a consequence, first and foremost, of the capacity of the leaders of sports' governing bodies, who often have charismatic personalities, to create for themselves support networks based on the esteem in which they are held by their peers. This phenomenon nevertheless means that the question must be asked whether, in a few cases at least, there is not purely formal compliance with democratic principles when the senior officials of certain sports institutions are elected or re-elected, and whether their support networks do not also sometimes turn into real leveraging systems which certain governance mechanisms make it possible to consolidate.

90. This last statement may be of general application. If we are turning our attention to FIFA here, this is not because it has the worst governance machinery, but more because it is better known (and also – praise should go to FIFA where it is due – because the quality of information on its official website is very high) and because that institution is incomparably more important than any other sports federation, with the exception of the IOC.

4.2.1. Questionable governance mechanisms

91. If we scrutinise FIFA's institutional structures, we find that the Statutes state that the supreme body is the Congress, bringing together the representatives of the 208 member associations of FIFA; extensive powers are nevertheless held by the Executive Committee and the president.

92. Among the Executive Committee's responsibilities are the following:

– it appoints the chairpersons, deputy chairpersons and members of the standing committees and of the judicial bodies;

– it may decide to set up new ad hoc committees;

– it compiles the regulations for the organisation of standing committees and ad hoc committees;

– it approves regulations stipulating how FIFA is to be organised internally;

– it decides the places and dates of the final competitions of FIFA tournaments and the number of teams taking part from each confederation.

93. It may also be noted that the chairpersons and deputy chairpersons of FIFA's standing committees must be members of the Executive Committee, with the exception of the chairperson and deputy chairperson of the Internal Audit Committee, who may not in any circumstances be members thereof. Furthermore, the members of the Executive Committee are distributed among the various committees and, at least at the present time, monopolise two of them which are of strategic importance:

– the six members of the Finance Committee (one for each continental confederation) are all members of the Executive Committee. This committee monitors financial management and advises the Executive Committee about financial matters and asset management; it analyses FIFA's budget and annual financial statements prepared by the Secretary General and submits these to the Executive Committee for approval;

– among the 29 members of the Organising Committee for the FIFA World Cup, 22 are members of the Executive Committee (namely all the members of the current Executive Committee, except the president, Mr Blatter).

94. The President of FIFA chairs the Congress and the Executive Committee and is in charge of the administrative apparatus. Although the Secretary General of FIFA, who runs the office, is formally appointed by the Executive Committee, he is answerable to the president, who has the power to propose to the Executive Committee both the appointment and the dismissal of the secretary general. The president also has the power to appoint those who work directly with the secretary general (deputy and directors), to adopt the salary structure for managers and staff (including bonuses and social benefits) and to approve the administrative units' objectives. In the "Governing FIFA" report,[30] this situation is compared unequivocally to a "monistic" system of corporate governance, and even to the existence of a chairman/managing director. But the necessary corrective machinery is lacking within FIFA, in the form of appropriate checks and balances.

95. Bearing in mind the foregoing, the question may arise of the effectiveness of the internal democratic procedures of an organisation whose management bodies seem to have no difficulty whatsoever in controlling the institutional mechanisms and can thus more easily maintain and consolidate the power acquired. The likelihood of those in authority being held in awe should not be overlooked, nor the possibility of influence being exerted over Congress members' voting through the adoption of decisions concerning the assignment of duties and responsibilities, or even the allocation of funds to different projects. The life ban imposed on Mr Mohammed Bin Hammam, after he had paid for votes in the election to the Presidency of FIFA, unfortunately provides evidence that the existing system gives rise to such risks.[31]

4.2.2. Limited financial transparency and potentially dubious expenditure

96. FIFA complies with the accounting and auditing rules to which it is subject under Swiss law. Since 2003, it has presented consolidated annual accounts in accordance with International Financial Reporting Standards (IFRS); these standards require certain principles to be applied which guarantee greater financial transparency and the presentation of more reliable accounts.

97. The consolidated financial information compiled is submitted to external auditors. The accountancy firm KPMG was asked to carry out the audit for the years 2007-10. However, as the auditor's report explains, KPMG verifies only the methodology applied for the compilation, while responsibility for the consolidated financial information lies with FIFA's Executive Committee.

98. The consolidated accounts are also the subject of a report by the Internal Audit Committee to the FIFA Congress. One may nevertheless wonder to what extent this internal audit goes beyond the mere correctness of the accounts. Costs which are correct in accounting terms may be unethical or against the interests of football: the money earned by FIFA should serve those interests alone, and no others.

99. FIFA has extremely high revenue (US$4 189 million for the period 2007-10), enabling the institution to incur considerable expenditure while still making large profits. According to the financial report for 2010,[32] over the period 2007-10 FIFA spent US$3 558 million.

100. In various places, the consolidated financial report refers to “miscellaneous” or “other” expenses, with some examples but insufficient details. For 2010, for example, other expenditure under the heading of event-related expenses was more than US$203 million: *inter alia*, marketing expenses are mixed up with the travel and accommodation expenses of delegates participating in the various events. Among the operating expenses, expenditure of US$42 772 000 from the total of US$103 858 000 (namely more than 41%) is not detailed. Value-in-kind transactions are mentioned in the financial report as part of the US$493 million of non-cash items (which also included gross effects and depreciation), without any more details. How are the value, composition and use made of these “value-in-kind transactions” to be verified? FIFA has such high income and expenditure that allowing them to be accounted for without further details may open the door to abuse.

101. In 2010, the total wage bill at FIFA was US$65 280 000,[33] distributed between 387 staff on average over the year, meaning that average pay per staff member was US$168 682.17. The average monthly income at FIFA in 2010 was thus US$14 056.85. FIFA's spending on salaries rose by 31.6% between 2009 and 2010 (from a total of US$49 599 000 in 2009 to US$65 280 000 in 2010), while the average number of staff members increased by only 7.2% over the same period. The financial report does not explain these increases and gives no information about the salaries of key management personnel.

102. The members of the Executive Committee and Finance Committee (who are all also members of the Executive Committee) and FIFA management are considered to be the key management personnel. In 2010, “short-term employee benefits” of US$32.6 million were paid to the key management personnel[34] (in 2009: US$20.9 million). On the basis of the report, it is impossible to know what these “benefits” correspond to. It

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30. “Governing FIFA – Concept paper and report, 19 September 2011”, Professor Mark Pieth of the University of Basle (Switzerland). available on FIFA’s website: http://fr.fifa.com/mm/document/affederation/footballgovernance/01/54/99/69/fifagutachten-en.pdf

31. In this context, see the following two articles on FIFA's website:
www.fifa.com/aboutfifa/organisation/bodies/news/newsid=1479068/index.html
and on *Le Monde* newspaper’s website (in French only):
www.lemonde.fr/sport/article/2011/07/23/mohamed-bin-hammam-banni-a-vie-du-football-par-la-fifa_1552270_3242.html

32. Available on FIFA’s website: www.fifa.com/mm/document/affederation/administration/01/39/20/45/web_fifa_fr2010_eng[1].pdf

33. That is to say more than €48.5 million, at the average exchange rate over the year of 1.3443 (used by FIFA). This sum does not include social and other benefit costs paid by FIFA, which totalled US$12 153 000 in 2010.

should be noted that official journey expenses (travel and accommodation) are already accounted for elsewhere in the financial report. Financial transparency would require more details about these "short-term employee benefits" which are paid afresh each year, solely to the key management personnel. If these benefits are added to salaries (and not counting over US$14 million of social and other benefit costs), the total comes to almost US$102 million (more than €75 700 000 at the average exchange rate for the year). By way of comparison, the audited accounts of the Council of Europe for 2010 show that expenditure on the staff of the European Court of Human Rights (629 Secretariat members and 47 judges) totalled €55 476 023.17.

4.3. Elements of good governance in European and international sports federations

4.3.1. Measures taken by FIFA

103. FIFA has decided to consider a number of reforms, some of which relate directly to its governance. In the financial sphere, FIFA has since 2003 (as already stated above) been applying IFRS standards, and an independent auditor checks its accounts.

104. In 2009, FIFA adopted a new Code of Ethics[35], which includes a set of provisions regulating conduct, including, *inter alia*, fairly strict provisions on conflicts of interest, conduct towards governments and private organisations, accepting and giving gifts and other benefits, accepting and offering commissions, and corruption. Part 1 of Article 4 states that "[o]nly those persons who demonstrate a high degree of ethics and integrity and pledge to observe the provisions of this Code without reservation are eligible to serve as officials. …", while sub-paragraph 3 states that "[o]fficials who do not comply with this Code or severely fail to fulfil, or inadequately exercise, their duties and responsibilities, particularly in financial matters, are no longer eligible and shall be removed from office". It is regrettable that this Code is not applicable to acts committed prior to its adoption, except where its application would not penalise the person concerned.

105. In October 2011, FIFA drew up a good governance road map, the first stage of which was the setting up of four task forces: "Revision of Statutes", "FIFA Ethics Committee", "Transparency and Compliance" and "Football 2014". The Executive Committee, at its December 2011 meeting, set up a new Independent Governance Committee (IGC). This committee's first report and proposals are expected in March 2012, with a view to submission of the requested amendments to the Statutes to the FIFA Congress of June 2012. It has also been decided that host countries for future World Cups will no longer be chosen by the Executive Committee, but by the Congress (with each national association which is a FIFA member having the right to vote, namely 208 votes). The Ethics Committee has also been reinforced and will henceforth comprise an investigation and research organ and a judicial body.

4.3.2. Measures taken by the IOC

106. Following the Salt Lake City scandal, the IOC approved the setting up of an Ethics Commission in 1999, and in the early 2000s amended the procedure for awarding Olympic Games to host cities, to keep down the risk of bribery of the members entitled to vote. Those members had been particularly well received, and, prior to the introduction of the new procedure, had easily been able to obtain benefits in kind (or even backhanders) directly. Subsequently, the IOC approved, in 2008, at the Copenhagen Congress,[36] the "Basic Universal Principles of Good Governance of the Olympic and Sports Movement", which should be considered the minimum standards with which sports federations should comply.

107. This document attaches equal importance to the political and financial principles of good governance, and it covers:

– the importance of the employment of professional staff by federations;

– the minimum structures which must exist to make a democratic decision-making process possible;

– financial transparency and independent verification of accounts;

– the involvement of sportspeople in the taking of decisions concerning them;

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34. That is to say more than €27.2 million. This sum does not include benefit expenses amounting to US$1 900 000 in 2010.

35. Available on FIFA's website: http://fr.fifa.com/mm/document/affederation/administration/50/02/82/efsdcodeofethics_web.pdf

36. See Recommendation 41 of the Copenhagen Congress. Document: www.olympic.org/Documents/Conferences_Forums_and_Events/2008_seminar_autonomy/Basic_Universal_Principles_of_Good_Governance.pdf/.

– compliance with certain ethical standards on the basis of a code of ethics;

– respect for a vision, mission and strategy based on a set of values;

– harmonious relations with governments and political institutions, while preserving federations' autonomy.

108. These principles are fundamental, and every sports federation should be required to comply with them, in proportion to its means and its level of development. Finally, the IOC has conducted an education campaign by organising gatherings on the subject of good governance and financial transparency which national Olympic committees are required to attend.

5. Conclusions

109. In line with the fundamental principle of self-governance, responsibility for dealing with problems relating to sports policy primarily lies with the sporting community. Self-regulation is of paramount importance, but if problems persist then governments should step in. The autonomy of the sports movement cannot extend to serious infringements of sports ethics, or to inaction where management systems are no longer able to cope with legitimate concerns about transparency and good governance. Autonomy is there to protect the interests of sport, not those of unscrupulous individuals.

110. The autonomy of the sports movement requires States to refrain from undue interference in the organisation and functioning of sports authorities. It cannot, however, come to be used as an excuse for inaction. Sport is an area in which the public interest applies, and States have an important role to play in preserving the common interest. This role implies the creation of an appropriate legal framework, the penalising of abuses that are against the law and effective co-operation with governing bodies of the sports movement to combat any abuses contrary to the ethics of sport and to the fundamental values of which sport should be a vehicle.

111. The following paragraphs put forward some ideas about the strengthening of financial fair play, the protection of young migrant sportspeople and the promotion of transparency and good governance within the sports movement. These ideas are taken up again in the guidelines appended to the draft resolution.

5.1. Financial fair play

112. So that professional sports companies' expenditure on players' salaries does not spiral out of control in other team sports in the same way as in football, it would seem necessary to reinforce "financial fair play" by adopting rules requiring financial transparency, limiting the debts that may be run up and fostering the self-financing of clubs.

113. Such budget constraints, together with the monitoring mechanisms necessary to ensure effective compliance with them, should be laid down by the federations and associations concerned in the context of self-regulation. The Financial Fair Play Regulations adopted by UEFA could serve as a model for other European federations. Similarly, the French DNCG is a model that could be followed in other States and for other sports disciplines.

114. European States should seek better harmonisation of national provisions on sports company accounting, with the aim of enhancing financial transparency. They should also ensure that the ban on public aid to professional sports companies is strictly observed.

5.2. Protection of young migrant sportspeople

115. Football is the sport in which problems concerning young migrant sportsmen and women are most evident and it can become a testing ground for a sports policy in migration matters. However, it has to be stressed that other team sports – like rugby, basketball or handball – are also affected by the phenomenon of sports-related migration. Moreover, it has been established that conditions in individual sports like athletics, gymnastics or tennis are conducive to the migration of minors.

116. In order to combat the most serious problems of commoditisation and exploitation of young sportspeople, it is necessary to apply stringently the United Nations Convention on the Rights of the Child, the European Social Charter (revised) and the Council of Europe Convention on Action against Trafficking in Human Beings. However, these texts cannot solve all the problems.

117. The member States of the Council of Europe should support the work of the Enlarged Partial Agreement on Sport (EPAS), which is currently drawing up a draft recommendation from the Committee of Ministers to member States on the problems associated with migration flows in sport. It would be desirable for this document to respond to the issues mentioned in this report.

118. Moreover, member States should pass a law on sport that includes provisions on protecting young sportspeople, both nationals and migrants. They should also seek to harmonise, in co-operation with the European Union, legislation on the status of sports agents and of intermediaries who, without having that title, act as such.

119. Lastly, in order to increase its monitoring capabilities, UEFA could introduce a compulsory levy that would be used to fund a system for monitoring the transfer and accommodation conditions of sportsmen and women who are minors, with the aim of detecting abuses and sanctioning them.

5.3. Governance, transparency and the prevention of corruption and self-interest within governing bodies of the sports movement

120. Good governance is regularly mentioned in discussions relating to the world of politics and economics; there is nothing surprising about it also being mentioned in the sphere of sport. Sport holds an important place in our societies, and citizens and policy makers naturally expect sports federations, associations and officials to comply with very high ethical standards and with the commonly asserted principles of good governance.

121. Many cases of bribery of sports officials have shaken European and world sport in the past decade, not only in major sports such as football, but also in more minor sports. In order to prevent such acts, it seems necessary to:

– improve the democratic processes relating to the conditions for acquiring and keeping power in the sphere of sport;

– increase financial transparency within sports federations;

– identify the systemic defects which foster conflicts of interest, misappropriation of funds and the bribery of sports officials, so that these are remedied.

122. Sports federations cannot of course be asked to operate like private firms. However, it would be naive to ignore the fact that the financial stakes are rising. The award of a football World Cup currently represents the sum of over US$4 billion. The sums involved are lower for other competitions and in other sports, but they remain significant. This money should benefit sport and its development: it is unacceptable for it to be misappropriated for personal benefit.

123. It is therefore not only rules ensuring that accounts formally comply with standards which are needed, but also checks on the use made of funds, a battery of rules enabling internal investigations to be conducted, and bodies (good governance committees, ethics committees or other bodies) endowed with genuine powers to punish.

124. In conclusion, one question to which I did not seek to give an answer in this report, but which in my view is arising with increasing force, is that of the sports movement's contribution to the development of society as a whole, which could entail greater solidarity. Should the money earned from sport be invested solely back into sport, or would it not be praiseworthy for sport to play a greater part in the efforts to promote a cohesive society and sustainable development? I would like to quote, this time as a positive example, FIFA and some of the programmes which it is setting up with this in mind. An example to be promoted, perhaps.