



SGU
Sports Governance Unit



Sports Governance Unit

AN INDEPENDENT ETHICS COMMITTEE - CAN IT WORK IN SPORT?

Reflections exemplified by
FIFA's independent Ethics Committee



PLAY THE GAME CONFERENCE, 27 NOVEMBER 2017

HANS-JOACHIM ECKERT | SPORTS GOVERNANCE UNIT | WWW.SPORTS-GOVERNANCE.COM



CORRUPTION IN FOOTBALL?

Home of FIFA

Zürichberg, Zurich, Switzerland

Photo, source:
https://de.wikipedia.org/wiki/Home_of_FIFA#/media/File:FIFA-Headquarter.jpg; By MCaviglia www.mcaviglia.ch - Own work, CC BY-SA 3.0,
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[25/11/2017]

IT NOT ONLY HAPPENS IN FOOTBALL...

- Headlines have been dominated by countless examples of wrongdoing in sport
- Egregious conduct not so much motivated by the desire to win but by financial reward
- Corruption seems to be a growing problem in sport



Photo, source:
[https://commons.wikimedia.org/wiki/File:Lance_Armstrong_\(Tour_de_France_2009_-_Stage_17\).jpg](https://commons.wikimedia.org/wiki/File:Lance_Armstrong_(Tour_de_France_2009_-_Stage_17).jpg); By McSmit (Own work) [GFDL (<http://www.gnu.org/copyleft/fdl.html>) or CC BY-SA 3.0 (<https://creativecommons.org/licenses/by-sa/3.0/>)], via Wikimedia Commons [25/11/2017]

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... OR SNOOKER OR CRICKET ...

- Repeated instances of alleged corruption, in particular in 'vulnerable' sports, i.e. snooker

Stephen Lee was suspended from professional snooker following suspicious betting patterns during a game against John Higgins

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Photo, source.:
[https://en.wikipedia.org/wiki/Stephen_Lee_\(snooker_player\)#/media/File:Stephen_Lee_PHC_2012-1.jpg](https://en.wikipedia.org/wiki/Stephen_Lee_(snooker_player)#/media/File:Stephen_Lee_PHC_2012-1.jpg); By Benutzer:Bill da Flute - Own work (Original text: eigene Aufnahme), CC BY-SA 3.0,
<https://commons.wikimedia.org/w/index.php?curid=21159538> [25/11/2017]

DOPING IN BIATHLON ...



Photo, source:
https://en.wikipedia.org/wiki/Biathlon#/media/File:Biathlon_Schalke.jpg; CC
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[25/11/2017]



Photo, source:
https://de.wikipedia.org/wiki/Fu%C3%9Fball-Weltmeisterschaft_2006#/media/File:Wm-oly-de-cr.jpg; By René Stark – Own Work, CC BY-SA 3.0, <https://commons.wikimedia.org/w/index.php?curid=855426> [25/11/2017]

Media Release

FOOTBALL GOVERNANCE

Mohamed Bin Hammam resigns from football, banned for life

(FIFA.com) 17 Dec 2012



Source:
<http://www.fifa.com/governance/news/y=2012/m=12/news=mohamed-bin-hammam-resigns-from-football-banned-for-life-1973422.html>; Photo: © AFP
[25/11/2017]



Photo, source:
https://en.wikipedia.org/wiki/2018_and_2022_FIFA_World_Cup_bids#/media/File:Russia_2018_World_Cup.jpeg; By Kremlin.ru, CC BY 4.0,
<https://commons.wikimedia.org/w/index.php?curid=12204678>
[25/11/2017]



REFORMING FIFA (1/2)

- Numerous allegations of corruption following the 2010 decision of the FIFA Executive Committee (in one session) to award the rights to hold the 2018 and 2022 FIFA World Cups™ to Russia and Qatar
- FIFA (then) President Blatter decided to install a group of experts to reform FIFA

REFORMING FIFA (2/2)

- In the wake of an avalanche and as part of his “roadmap” to reform the organization, FIFA (then) President Blatter initiated an Independent Governance Committee (IGC), headed by Professor Pieth
- In the IGC’s final report, Pieth gave FIFA some credit for the introduction of a new independent Ethics Committee; he however recommended the structural division into an investigatory and an adjudicatory chamber
- Further recommendations included a central integrity check for all Executive Committee members and limitations to the terms of office

2012 CHAIRMEN CHAMBERS FIFA ETHICS COMMITTEE

- **Chairman Investigatory Chamber:**

- **Michael Garcia**, former US attorney for the Southern District of New York (appointed in 2012)
- To investigate the chaotic and controversial bidding process for the 2018 and 2022 FIFA World Cups™
- Since May 2015, **Dr. Cornel Borbely**, Chairman of the Investigatory Chamber

- **Chairman Adjudicatory Chamber:**

- **Hans-Joachim Eckert**, at that time still judge for economic crime at a Munich District Penal Court



Independent Ethics Committee

- Proceedings regulated by the **FIFA Code of Ethics (FCE)**
- Focus on conduct that has little or no connection with action on the pitch (**art. 1 FCE**)
- Investigates and judges the conduct of individuals bound by the code while performing their duties, and even while not performing their duties in case of potentially serious damage to the integrity, image or reputation of FIFA. (**art. 27 FCE**)
- Members must fulfil independence criteria, as stipulated by the **FIFA Governance Regulations**
- Operates under confidentiality terms regulated by **art. 36 FCE**
- Decisions of the Ethics Committee may be taken to the Appeal Committee (**art. 80 FCE**)
- Appeal Committee decisions are subject to appeals lodged with CAS (**art. 58 FIFA Statutes** and **art. 81 FCE**)



Investigatory chamber

May initiate preliminary investigations at its own discretion (**art. 62.3 FCE**) or upon receipt of a complaint (**art. 61 FCE**)

Free use of resources while performing investigative duties (**art. 66.3 FCE**)

May request that the adjudicatory chamber to take provisional measures (**art. 83 FCE**)

- ▼ **Final report** of investigation proceedings is submitted to adjudicatory chamber, with all facts, relevant evidence, mention of the possible rule violations
- ▼ and a recommendation for taking the appropriate measures (**art. 68 FCE**)



Adjudicatory chamber

Reviews the final investigation report (art. 29 FCE) and decides on the next step (art. 69 FCE):

Adjudicate

Return report to investigatory chamber for amendment

Undertake further investigations

Close the case

Relevant party is granted the right to be heard by:

- 1 Responding to the investigation report
- 2 Presenting new evidence
- 3 Requesting the hearing of oral statements

ART. 42 FIFA CODE OF ETHICS

- **“General obligation to collaborate**

1. *At the request of the Ethics Committee, the persons bound by this Code are **obliged to contribute to establishing the facts of the case and, especially, to provide written or oral information as witnesses. A failure to cooperate may lead to a sanction in accordance with this Code.***
2. *Witnesses are obliged to tell the absolute and whole truth and to answer the questions put to them to the best of their knowledge and judgement.*
3. *If the witnesses are dilatory in responding, the chairman of the appropriate chamber may, after warning them, impose further disciplinary measures on them.”*



DARK CLOUDS OVER FIFA ...



Photo, source:
https://de.wikipedia.org/wiki/Home_of_FIFA#/media/File:FIFA-Garden.jpg;
By MCaviglia, mcaviglia.ch – Won Work, CC BY-SA 3.0,
<https://commons.wikimedia.org/w/index.php?curid=8279992> [25/11/2017]

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International New York Times

Wednesday, May 27, 2015 | Today's Paper | Video | FTSE 100 +0.41% ↑

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FIFA Officials Arrested in Corruption Case

'We're struck by just how long this went on for and how it touched nearly every part of what FIFA did.'

Seeking Extradition, U.S. Alleges Fraud at Soccer Organization

By MATT APUZZO, MICHAEL S. SCHMIDT, WILLIAM K. RASHBAUM and SAM BORDEN 41 minutes ago

Swiss authorities raided the annual meeting of soccer's governing body after the U.S. filed federal charges alleging corruption over two decades.

137 Comments

REPORTS FROM ZURICH



Andrew Das
@AndrewDasNYT

Reminders: NYT's sp, actual @SamBorden and hallway of @MichaelSchmidt are' Como lists reflecting from toby: in Zurich: FIFA execs are led out by police.



FIFA officials were escorted out behind sheets at the Baur au Lac hotel in Zurich. Pascal Mora for The New York Times

RELATED COVERAGE

- Sports of The Times: FIFA Looks at Itself and Approves (Nov. 13)
- Secret FIFA Report Stirs Dispute Between Investigators (Nov. 6)
- FIFA's Investigative Report Is Stamped Top Secret (Oct. 8)
- Corruption Claims Cloud Qatar's World Cup Bid (June 9)

The



CONTRIBUTING OP-ED WRITER
Corrupting the Chinese Language

By MURONG XUECUN
The Chinese vernacular has become brutalized, and the Communist Party is largely blame.

Watching

15m The British Parliament reading a speech by t will set out its agenda
The Guardian ↗

2h China said the police recovered 1,168 re illegally excavated fro

Source:
<http://g1.globo.com/mundo/noticia/2015/05/imprensa-internacional-repercute-detencao-de-marin-e-dirigentes-da-fifa.html> [25/11/2017]

NOTIFICATION US DEPARTMENT OF JUSTICE

- **“Department of US Justice/Office of Public Affairs**
- **FOR IMMEDIATE RELEASE**

Wednesday, May 27, 2015

Nine FIFA Officials and Five Corporate Executives Indicted for Racketeering Conspiracy and Corruption

The Defendants Include Two Current FIFA Vice Presidents and the Current and Former Presidents of the Confederation of North, Central American and Caribbean Association Football (CONCACAF); Seven Defendants Arrested Overseas; Guilty Pleas for Four Individual Defendants and Two Corporate Defendants Also Unsealed”

REACTIONS

- **FIFA's reaction:**
 - “These are just some criminals, not a FIFA problem”
- **The FIFA Ethics Committee's reaction:**
 - Povisional ban of 11 FIFA officials
- The problem: indictment by US DOJ: allegations of organised crime, money laundering, fraud, etc.
 - FIFA got the status of a victim



Photo, source:
https://de.wikipedia.org/wiki/Home_of_FIFA#/media/File:FIFA-Headquarter.jpg; By MCaviglia www.mcaviglia.ch - Own work, CC BY-SA 3.0,
<https://commons.wikimedia.org/w/index.php?curid=82799039903>
[25/11/2017]



WHAT HAPPENED THEN?

- US lawyers worked in FIFA/with FIFA for internal investigations
- Prosecutors of the Central Prosecution Office of Switzerland (“Bundesanwaltschaft“) asked for more documents
- No exchange of documents between US-DOJ, Bundesanwaltschaft and the Ethics Committee

*Jack Austin Warner, former
President of CONCACAF*

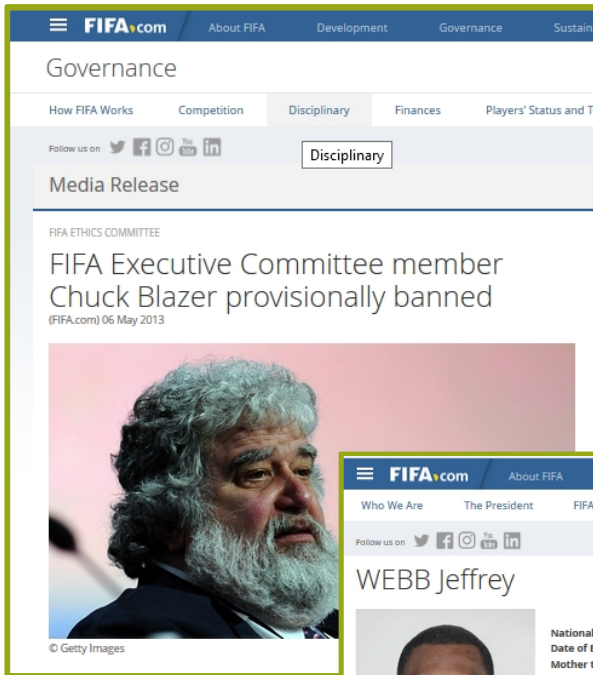


Photo, source:
[https://de.wikipedia.org/wiki/Jack_Warner_\(Fu%C3%9Fballfunktion%C3%A4r\)#/media/File:Barack_Obama_and_Sepp_Blatter_in_the_Oval_Office.jpg](https://de.wikipedia.org/wiki/Jack_Warner_(Fu%C3%9Fballfunktion%C3%A4r)#/media/File:Barack_Obama_and_Sepp_Blatter_in_the_Oval_Office.jpg); By White House (Pete Souza) / Maison Blanche (Pete Souza) (The Official White House Photostream [1]) [Public domain], via Wikimedia Commons [25/11/2017]



*FIFA President Joseph Blatter and
UEFA President Michel Platini,
banned by the Ethics Committee in
December 2015*

Photos, sources:
https://de.wikipedia.org/wiki/Datei:%D0%99%D0%BE%D0%B7%D0%B5%D1%84_%D0%91%D0%BB%D0%B0%D1%82%D1%82%D0%B5%D1%80.jpg; By Kremlin.ru, CC-BY 4.0,
<https://commons.wikimedia.org/w/index.php?curid=39686746> [25/11/2017]
https://de.wikipedia.org/wiki/Michel_Platini#/media/File:Michel_Platini_2010.jpg; By Chancellery of the President of the Republic of Poland - prezydent.pl, GFDL 1.2, <https://commons.wikimedia.org/w/index.php?curid=11790500> [25/11/2017]



*Jack Blazer, FIFA official
banned for life*



*Jeffrey Webb, former President of
CONCACAF, Vice-President of FIFA
and President of the Cayman
Islands Football Association,
banned for life*

Screenshots sources:
<http://www.fifa.com/governance/news/y=2013/m=5/news=fifa-executive-committee-member-chuck-blazer-provisionally-banned-2074803.html>;
<http://www.fifa.com/about-fifa/committees/people=36868/index.html>
 [25/07/2017]

AN EXAMPLE TO FOLLOW SUIT...

- There is a reason to fear that there has only been one really independent Ethics Committee, in FIFA
- It is unlikely for other big sports federations to accept an equally independent body able to punish or even ban officials for a long time/for life
- After all, officials enjoy the status of “family members” (“we are the good ones, we are not corrupt”)
- So problems persist: match-fixing, illegal betting, doping....

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WHAT IS NEEDED...

- Demands for change
- Need for political control of the sports organizations
- Need for control of the use and the flow of money

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Thank you for your attention!