



Corruption in the governance of sport

by Michael Connarty,
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Dear Mr Maurer¹,
Secretary General [Mr Jagland],
Madame President of the Parliamentary Assembly, [Dear Anne]
Mister President of the Congress of Local and Regional Authorities, [M Van Staa]
Yours Excellences / Ministers,

Sport holds an important place in our societies. It creates the potential for thousands of sportspeople to become role models for youth, and nations to feel proud for their sports-people's achievements in trans-national championships. It is also potentially a powerful vehicle to transmit the values of fairness, respect for others and inclusion, alongside effort and excellence.

But this can only remain true, if Sport itself stays true – true to its principles. and bound by well thought-out and understood rules.

Sports organisations must understand that when the picture is distorted by shadowy arrangements or corrupt dealings, Sport loses its value and its meaning.

Citizens and policy makers naturally expect sports federations, associations and officials to comply with very high ethical standards.

Good governance and transparency are crucial to the credibility and efficacy of all sports institutions, starting with the major federations, international, continental and national.

While recognising and respecting the principle of autonomy of sports organisations with regard to the operational rules for participants, we need to ensure that they adhere to, and promote, the highest ethical standards.

Thus, the Parliamentary Assembly has not only a strong motivation but also the duty to encourage and support reforms intended to enhance transparency, accountability and ethics in international sport governance.

Since 2011, the Committee on Culture, Science, Education and Media has been considering ways to promote ethical standards, transparency and accountability in sports governance. Based on a report of the Committee (Rapporteur: Mr François Rochebloine, France, EPP/CD), the Parliamentary Assembly of the Council of Europe adopted on 25 April 2012 Resolution 1875 (2012) "Good governance and ethics in sport".

This resolution sets out concrete recommendations and guiding principles addressed to sports organisations, including a set of guidelines on "Governance, transparency and the combating of corruption and self-interest in sports bodies". Their main point is that good governance in sport is hampered by the concentration of executive power and by the lack of transparency in the decision-making processes of sports bodies.

While being conscious of the autonomy of sports federations we ask:

- What reasons could possibly justify that the COE accept that sports institutions – and the substantial income generated by sports events – is de facto under the control of a few persons who hold firmly, virtually *sine die* the leadership of their organisations and key functions therein?
- And, why should we asked to accept the often opaque financial management and decision making, or accept as a normal situation that key managers have direct or indirect interests in business enterprises who are contractual partners of the sports organisations they control?

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It is important that the Parliamentary Assembly view is clear: the money which is managed by sports organisations is not “private money”; it is the public’s money and those who manage it must be accountable to the public.

Transparency, accountability and ethics in sports governance are closely linked with the fight against corruption. Past and more recent scandals – including but not only those that continue to tarnish FIFA’s reputation – leave no doubts about the extent of the problem and the need to counter it more effectively.

However, I would like to say that, to me, corruption is neither a troubling question related uniquely to sports governance, nor a matter to be dealt with in isolation.

We should not overlook the fact that decisions on the host country for major sports events, not only have a broad (not necessarily positive) economic impact, but are of “political” significance.

Winning or losing a bid could become a national affair, and be used by one side or another of the political playfield. Hosting major events is an opportunity to showcase a country, a question of political prestige for its rulers internally and in the international scene, a signal of international recognition.

Sports events are catalysers of investments and of renewal of key infrastructure, which are factors for development; but they can also result in a waste of huge amounts of public money.

They can trigger social unrests, as it was the case in Brazil at the occasion of the 2014 Football World Cup, and lead to flagrant violations of basic rights, as it is the case in Qatar, where working conditions imposed on immigrants who are employed to build the required infrastructures could easily qualified as “inhuman treatments” and possibly modern slavery”.

If I add now that evidence would suggest that corruption and/or private interest are likely to skew the decision-making process on bids, I believe that the highly disturbing picture appears more clearly, together with the need to act and change it.

Therefore, as Ms Brasseur rightly pointed out, the reply to those that wonder why the Council of Europe or its Parliamentary Assembly use their time discussing sports governance is that, in helping to build good sports governance, we may significantly contribute to upholding the values of our democratic societies. To guarantee the “rule of law” and the protection of human rights are key aims of the Council of Europe and of its Parliamentary Assembly.

The concept of Good governance in sport, is defined at the Council of Europe as “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 ...”.

Starting with this definition, I believe we should work together to:

- a) ensure a multidisciplinary and holistic approach to improving governance in sport;**
- b) secure remedy, redress and recovery of funds in cases of misappropriation of funds;**
- c) enable regular international scrutiny of sport governance at European and world level.**

a) Developing an inter-disciplinary and holistic approach

The existing accountability mechanisms do not easily apply to sports organisations, and even less to the most powerful ones. Therefore, we should seek to set up new accountability mechanisms following a multidisciplinary and holistic approach.

The multidisciplinary and holistic approach requires that all aspects of governance of local, national and international sports federations and associations are subject to a compliance review including democratic processes; decision-making processes; financial management, particularly the control of payments made to members of sport’s executive bodies, the distribution of funds to member associations; internal integrity checks and accountability mechanisms, including proper investigation and effective sanctioning of unethical behaviours.

In this respect, we should ensure that adequate legal instruments are established to fight corruption and to promote good governance in sport internally and externally, identifying the systemic defects which foster conflicts of interest, misappropriation of funds and the bribery of sports officials, so that these are remedied.

The law applicable to the fight against corruption in sport is characterized by a genuine legal pluralism, mainly due to the involvement of several types of stakeholders. In most countries, public law includes numerous instruments for the prevention, detection and punishment of corruption. The effectiveness of these instruments, however, can only be ensured by concerted action of the various parties involved.

I would also note that current "common law" legal instruments in fight against corruption – be they preventive or repressive – often fail to apprehend corruption in sport.

Indeed, most national laws and international conventions relating to bribery of public officials are not applicable to sports organisations and corruption of their officials.

As to their provisions on corruption in the private sector, where they exist, they are neither mandatory nor cover all cases of sports corruption, mainly because private corruption is defined in relation to the commercial and financial activities, whilst the sport organisations, and particularly Governing bodies based in Switzerland are, most of the time, registered as associations (and not private businesses) or civil society organisations, thus escaping the legal framework that prevents corruption in the private sector.

This is a failure that needs to be addressed. If specific international standard legislation could be drafted applicable to sports bribery and fraud offences, there would be more chances to improve sport governance. However, these laws might not be sufficient to solve the problem. Sports organisations also have a decisive role to play.

b) Remedy, redress and recovery

One of the paths to better governance of sports organisations is self-regulation, at least when it is linked with the development of a culture of transparency within their governing bodies and clear accountability to the participant organisations in the sport concerned.

In this respect, the reforms undertaken by the International Olympic Committee (IOC) after the 1998 Olympic bribery scandal and the results achieved by this organisation are a good example.

I use this opportunity to address our hosts – the Swiss authorities. As the seat of more than half of the Olympic Sports Federations, the International Olympic Committee, FIFA, UEFA, ECA and many other umbrella organisations (Sport Accord, ANOC, etc.) that play a fundamental role in the governance of world and European sport, Switzerland is directly impacted by corruption in sport.

International sport organisations based in Switzerland are classed as not-for-profit associations without strong legal obligations and without strong transparency requirements. The legal status they have in Switzerland is extremely favourable for their functioning, but may lack proper means of remedy, redress and recovery of funds in cases of misappropriation of funds.

The Swiss Federal Council's report on corruption in the governance of sports highlighted the failure of international sport organisations to introduce effective self-regulation measures against corruption.

Therefore, I would suggest that compliant self-regulation standards must be stimulated and if necessary supplemented by changes to Swiss law.

c) International scrutiny

It would not be an honest reflection of our investigations if failed to put forward the proposal that at least umbrella organisations governing sports internationally should be subject to international scrutiny.

Let me stress that I am not thinking about a formal intergovernmental or inter-parliamentary monitoring, scrutiny, or similar system. My idea is simpler, and builds on what the Parliamentary Assembly has been doing since 2011.

The report on "Good governance and ethics in sport" pinpointed drawbacks in the governance system of the "Fédération Internationale de Football Association" (FIFA) which various scandals had contributed to highlight.

For this reasons, Resolution 1875 (2012) addressed specific requests to FIFA. FIFA complained about what it called 'our interference; but somehow our report accelerated the publication by the Swiss judicial authorities of previously unpublished documents on the ISL case, something which many other partners, like Transparency International had been requesting for many years.

Following this, a governance reform process started within FIFA, which has now led to some improvements. To accompany this process, in March 2013, we established an Ad Hoc Sub-Committee on the Reform of International Football, with the mandate to discuss with FIFA, but also with the "Union of European Football Associations" (UEFA) and of the "European Club Association" (ECA), the on-going reforms, seeking to identify further action that could enhance football governance at European and international level.

We are now preparing a new report on "The reform of football governance". As the rapporteur I will provide an objective assessment of what has already been achieved by FIFA, but also by UEFA, seeking to identify and encourage further steps required to enhance self-regulation and strengthen organisational democratic culture.

Our intent is to build dialogue with FIFA, UEFA, ECA and their leaderships, as they are those who have to accomplish and then implement governance reforms.

I would add that our action in this field should be better coordinated with the action of other stakeholders: independent watchdogs like Transparency International or Play The Game; investigative journalists whose work is fundamental; associations of sportspersons and key sports sponsors which might have interest in not associating their image with scandals and threats to human rights. Of course, coordination should start by ourselves: I value the collaboration between EPAS and the Parliamentary Assembly and would warmly welcome any step to reinforce it.

In short, we could seek to set a pragmatic, flexible, collaborative framework to continue to spur sound development of self-regulation. Maybe, if sports organisations EPAS and the Parliamentary Assembly, work together, I believe we can achieve this result.

However, where self-regulation fails, sports autonomy should neither shield any threats to human rights or the rule of law, nor protect those who accept bribes or divert money from sport for their own personal interests.

Conclusions

To conclude, I should like to refer again to the main aims of the Council of Europe: Democracy, Human Rights, and the Rule of Law. Respect for human rights and fundamental freedoms is at the heart of societal progress, and even though we have advanced greatly in this respect in Europe, much more remains to be done. This is also true for sport.

I am glad that our next session is devoted to policy matters for international cooperation. There is one area where we, definitely, need to get our act together: we should act to reinforce respect for human rights in and through sport!

We need to think about the role that main sports organisations (FIFA, UEFA but also the International Olympic Committee and others) should play in the promotion of human rights. This is particularly true when countries are proposed as the country venue for major sporting events, and a full review should be undertaken of the Human Rights record of the proposed host country.

One of the matters we need to address is respect of the rights of child in sport. Sports institutions and public authorities must make sure that:

- Minors do not become tradable merchandises;
- Competitive sport does not put children health at risk; and
- All measures are taken to prevent psychological pressure, physical and sexual abuse and anorexia, which occur more frequently in sports than in other environments.

I also believe that we have to consider very seriously setting strict conditions in terms of respect of basic human rights, including international standards on labour conditions, for all countries that submit their candidature to host major sport events. Of course, we should not ask sports organisations to endorse responsibilities that states themselves have difficulties in assuming properly; my proposal is again to work together.

Thank you for listening, and I look forward to an enlightening discussion.