



TRADE UNION ADVISORY COMMITTEE
TO THE ORGANISATION FOR ECONOMIC
COOPERATION AND DEVELOPMENT
COMMISSION SYNDICALE CONSULTATIVE
AUPRÈS DE L'ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

Integrity and Governance of International Sporting Organisations - Mapping of relevant OECD instruments

Note by the TUAC Secretariat
Paris, 29 June 2015

Global sports events, such as the FIFA World Cups and the Olympic Games, matter for the people. The 2014 FIFA World Cup in Brazil was attended by 3.5 million people, and matches were viewed by record numbers of national populations – 86.3% in Germany, 85% in Belgium, and 89.3% in the Netherlands. More people watch the FIFA World Cup than vote in presidential elections in many developed countries. Global sport events are not only about passion and leisure, they are also about business and money.

Given their economic and financial importance, and in light of series of corruption cases and scandals, the governance of sporting organizations should not be overlooked. The OECD has a number of instruments (guidelines, conventions and best practices) that should be considered in strengthening the governance and integrity of these organizations and the events that they produce.

The case of FIFA

A recent scandal has put the largest and most powerful sporting organization in the world, FIFA, under the spotlight. On May 27th 2015, the U.S. FBI and IRS Criminal Investigation unit indicted fourteen FIFA officials for wire fraud, racketeering, and money laundering. Following this move by U.S. authorities, other countries opened or intensified separate criminal corruption investigations into top FIFA officials, including Australia, Colombia, Costa Rica, and Switzerland. Hours after the May 27th raid, Switzerland launched a parallel investigation concerning bribery within the bidding processes of the 2018 Russia and 2022 Qatar World Cup locations.

The U.S. indictment includes at least US\$ 150 million in bribes related to the Copa America Centerio planned to be hosted in the U.S. in 2016, and alleges as well that bribery was used to influence clothing sponsorship contracts and in the selection process for the 2010 FIFA World Cup and the 2011 FIFA presidential election. Former FIFA official Chuck Blazer also admitted to taking bribes in exchange for allocating the 1998 World Cup to France and the 2010 World Cup to South Africa, while acting as an informant. Following these breakthroughs, long time FIFA president Sepp Blatter surprisingly resigned from his post a few days after being elected to a fifth term.

Apparently, these bribery indictments do not come as a surprise to the general public. FIFA has been considered a corrupt organization since its previous president Joao Havelange took over in 1974. FIFA's legal status, as well as its economic power, has allowed it to bypass regulation and governance controls and even strong arm national governments into modifying their own laws in order to accommodate FIFA's demands. The latter can be seen in the case of Brazil, where FIFA demanded Parliament to fast pass a Federal Statute called the General

Statute of the World Cup, n.12.633, allowing it serve alcohol, for example, which was previously forbidden at sporting events under national legislation. The organization's legal status is also controversial. FIFA is classified as an association under Swiss law, so that it is not required to conform to regulation and governance requirements typically demanded of an organization of similar economic importance.

Mapping OECD instruments

The case of FIFA has highlighted a real problem of weak governance and lack of integrity among sporting organizations in general, which is often manifested in the events that they organize. Such issues are not particular to FIFA, of course, but have occurred in Olympic bids and UEFA football cups as well. Lack of integrity can be manifested through various channels, such as lobbying, whistle blower protection, conflicts of interest, public procurement procedure, competition, and money laundering.

The following section maps out the current OECD instruments relevant to the governance of sporting organizations, organized by their relevant OECD Department.

List of OECD and OECD-related instruments

Directorate for Financial and Enterprise Affairs - Anti-Corruption Division (DAF/ACD)

- 2011 (revised) Convention on Combating Bribery of Foreign Public Officials in International Business Transactionsⁱ
- 2009 Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactionsⁱⁱ

Directorate for Financial and Enterprise Affairs - Investment Division (DAF/INV)

- 2011 (revised) Guidelines for Multinational Enterprises

Directorate for Financial and Enterprise Affairs – Corporate Affairs (DAF/CA)

- 2015 (revised) Principles of Corporate Governance

Public Governance and Territorial Development - Public Sector Integrity Division (GOV/PSI)

- 2015 Recommendation on Public Procurementⁱⁱⁱ
- 2010 Principles for Transparency and Integrity in Lobbying^{iv}
- 2003 Guidelines for Managing Conflict of Interest in the Public Service

Cross directorate Initiatives

- CleanGovBiz Toolkit^v

OECD-related

- 2012 Financial Action Task Force (FATF) Recommendations^{vi}

The OECD Anti-Bribery Convention is the only international anti-corruption instrument that focuses specifically on the supply side of bribery transactions. The Convention, which was adopted in 1997 and entered into force in 1999, has been ratified by all 34 OECD member countries plus Argentina, Brazil, Bulgaria, Colombia, Latvia, Russia, and South Africa. The Convention requires all signatory countries to make it a crime to bribe a foreign public official in international business transactions. It also provides country monitoring within the context of a peer review process and follow-up mechanisms to guarantee implementation^{vii}. Within the DAF, the Convention falls under the responsibility of the Directorate for Financial Affairs Anti-Corruption Division (DAF/ACD).

Also under the responsibility of the DAF, and its Investment Division (DAF/INV), the OECD Guidelines for Multinational Enterprises provide principles and standards for responsible business conduct that are agreed and implemented by governments. They set out the standard of behaviour expected of enterprises throughout their global operations, including on

corporate governance and human rights. The OECD Guidelines for Multinational Enterprises apply to sports organizations such as FIFA to the extent that they are engaged in international commercial activities. The Principles of Corporate Governance, which are under the responsibility of the Corporate Affairs (DAF/CA) are also relevant to the transparency and accountability of governing bodies of sporting organisations.

The Directorate for Public Governance and Territorial Development and its Public Sector Integrity Division (GOV/PSI) have responsibility for two OECD instruments which are also relevant to consider in the context of the governance of sporting events: the 2015 Recommendation on Public Procurement and the 2010 Principles for Transparency and Integrity in Lobbying. The GOV also has on-going work on whistleblower protection^{viii}.

In addition to the instruments listed above, there is also CleanGovBiz, a cross-directorate OECD initiative that supports governments in fighting corruption, with the goal of engaging with the private sector and civil society to promote integrity. The CleanGovBiz Toolkit offers practical guidance on how to counter corruption across industries. The Toolkit provides users with priority checklists, implementation guidelines, and access to relevant instruments, case studies and reviews conducted.

The OECD has also studied the economic spill-overs of global sports events within the context of the Local Economic and Employment Development (LEED) programme^{ix}.

Outside (but close enough to) the OECD, it is also worth considering the 2012 Financial Action Task Force (FATF) Recommendations. The FATF is an inter-governmental body established in 1989 with the goal of setting standards to promote legal, regulatory, and operational measures to combat threats to the international financial system, including money laundering and terrorist financing. The FATF has created Recommendations, first issued in 1990 and revised most recently in 2012, on combating money laundering which are considered an international standard. The FATF works on several topic areas, including corruption, based on the notion that corruption and money laundering are intrinsically linked. Relevant publications include “Laundering the Proceeds of Corruption” which develops this link, and a subsequent report targeted for reporting institutions “Specific Risk Factors in Laundering the Proceeds of Corruption- Assistance to Reporting Institutions”^x. In 2009, FATF authored “Money Laundering through the Football Sector” a specialized report which analyses the rise of economic importance of football along with other sports, and the increased investment in the industry, some of which with explicit criminal connections^{xi}.

ⁱ <http://www.oecd.org/daf/anti-bribery/oecdantibriberyconvention.htm>

ⁱⁱ <http://www.oecd.org/daf/anti-bribery/oecdantibriberyrecommendation2009.htm>

ⁱⁱⁱ <http://www.oecd.org/gov/ethics/Recommendation-on-Public-Procurement.pdf>

^{iv} <http://www.oecd.org/gov/ethics/oecdprinciplesfortransparencyandintegrityinlobbying.htm>

^v <http://www.oecd.org/cleangovbiz/>

^{vi} <http://www.fatf-gafi.org/topics/fatfrecommendations/documents/fatf-recommendations.html>

^{vii} <http://www.oecd.org/daf/anti-bribery/50350066.pdf>

^{viii} <http://www.oecd.org/corruption/ethics/whistleblower-protection.htm>

^{ix} Local Development Benefits from Staging Global Events: Achieving the Local Development Legacy from 2012. A peer review of the Olympic and Paralympic legacy for East London proposed by the Department of Communities and Local Government, United Kingdom <http://www.oecd.org/cfe/leed/46207013.pdf> & <http://www.oecd.org/berlin/40514233.pdf>

^x <http://www.fatf-gafi.org/topics/corruption/documents/specificriskfactorsinthelaundryingofproceedsofcorruption-assistancetoreportinginstitutions.html>

^{xi} <http://www.fatf-gafi.org/topics/methodsandtrends/documents/moneylaunderingthroughthefootballsector.html>