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## Billion-dollar colossus spiralling out of control

World football's governing body, FIFA, the world's largest sporting federation, is regarded as a sanctuary for bribery and corruption. This also casts a shadow over Switzerland and Zurich, where FIFA is headquartered. A professor of law is now drawing up proposals for new structures and more transparent management. But the people who will ultimately decide on the reforms are precisely those who caused the failings in the first place.

By Jean François Tanda



Joseph Blatter, FIFA President, and Mark Pieth, professor of law, at the press conference on the anti-corruption measures on 30 November 2011

Joseph "Sepp" Blatter agitatedly drums his fingers on the table. He pays no attention to the flurry of photographers' flashlights going off. The FIFA President sent out the invitations to the press conference but his place in the auditorium at FIFA headquarters in Zurich is occupied. It is 30 November 2011 and Blatter's seat is taken by Mark Pieth, the Basel-based professor of law, who is the founder and head of the "Basel Institute on Governance" (BIG). BIG has produced an advisory report for FIFA on good governance and compliance. This is believed to have cost 120,000 Swiss francs. Blatter introduces Pieth as the head of FIFA's new internal "independent governance committee". For a daily fee of 5,000 Swiss francs, the lawyer is to ensure the improvement of management and transparency within FIFA. The money will go to BIG and the University of Basel, while Pieth himself will not earn anything.

Pieth is essentially the navigator and fire officer aboard the FIFA steamship, which captain Blatter wants to steer back to calmer waters, so he says. FIFA has predominantly made negative headlines for many years. It

has become synonymous with underhand practices, bribery and corruption, and, because FIFA is headquartered in Zurich, Switzerland is also in the firing line.

Fourteen years after Blatter took over the helm at the world's largest sports federation, FIFA's image has reached a low point. Four of the senior management body's 24 members have left FIFA over the past year and a half due to allegations of bribery and corruption. Six others are facing judicial inquiries in their native countries on suspicion of corruption but still sit on FIFA's Executive Committee for the time being.

### Swiss politicians grow concerned

Headlines worldwide about affairs and scandals at FIFA are also a cause of concern for politicians in Switzerland. The nation has come in for criticism internationally for turning a blind eye to the shady dealings of football officials for years. But politicians are now starting to ask questions. They want to know more about FIFA's business practices and are working on amendments to the law.

Politicians were alarmed by an article that appeared in the "Tages-Anzeiger" newspa-

per in October 2010. Parliament had to accept with consternation that Switzerland lacks the legal basis to clamp down on the practices of FIFA officials. International sports associations like FIFA are not subject to Swiss anti-corruption legislation. This legal loophole has provided countless FIFA officials with protection from the judicial authorities. That is now set to change. On 17 January 2012, the National Council's Committee for Legal Affairs approved a parliamentary initiative under which corruption at sports associations would be declared a criminal offence liable to public prosecution. Professor of law Pieth is calling for the officials of FIFA and within other sports to be given the same legal status as representatives of other international organisations. The judicial authorities would then have to investigate any suspicion of corruption officially.

FIFA is a heavyweight among the international federations. Every male, female and junior footballer, but also every football match in the world, is governed by FIFA's regime except for fun tournaments and matches in alternative leagues. When accepting their licence, all footballers recognise the authority of FIFA and agree to refrain from going to ordinary courts over football-related disputes. FIFA sanctions anyone who does not adhere to these rules. FIFA has monopolised a human cultural asset – and exploits it for commercial purposes.

### Mr Blatter in court

Football's governing body was once an organisation that arranged the football World Cup every four years. Today, FIFA is a billion-dollar business. It generates annual revenues of over a billion US dollars (2010: 1.3 billion) through the sale of television and marketing rights for football World Cup tournaments. Companies vie with one another to become official FIFA partners. Football's World Cup is the most-watched TV programme in the world. According to FIFA, over 700 million viewers tuned in to



FIFA President Joseph "Sepp" Blatter as a "First Class Grand Commander" at the Royal Pahang Palace in Kuala Lumpur in March 2011

watch the final between Spain and the Netherlands on 11 July 2010. FIFA sponsors are guaranteed a presence on TV screens around the world.

Advertising space at World Cups is extremely sought after. FIFA ruthlessly exploits this during contractual negotiations. In 2006, two US credit card companies, VISA and MasterCard, competed for advertising space around the pitch. MasterCard had been one of FIFA's sponsorship partners for many years but this was to count for nothing. FIFA held secret negotiations with VISA and even informed it of MasterCard's offers. This is not hearsay. It is stated in the court records of the US judicial authorities.

MasterCard took FIFA to court. The MasterCard vs. FIFA court hearing in New York was an unpleasant experience for Joseph Blatter. The judge treated him like the president of any association under Swiss law and not, as he is accustomed to, like a president who is driven to state receptions in limousines with police escorts and who shakes hands with heads of state.

FIFA contested the jurisdiction of the US court and wanted the case to be heard at a court of arbitration in Zurich, but was unsuccessful. At the trial, the US judge charged FIFA and its negotiation delegations with repeated dishonesty during contractual nego-

tiations with MasterCard. FIFA finally had to agree to a settlement and paid MasterCard compensation of 90 million US dollars, around half of what it received from VISA for the four-year sponsorship deal. FIFA dismissed its head of negotiations on account of the court case, but six months later Blatter reinstated him and made him his number two. General Secretary Jérôme Valcke is today the most important person at FIFA besides Blatter.

It was not by coincidence that the US court adjudged FIFA to be an association under Swiss law. FIFA, which was founded in 1904, is still an association from a legal perspective despite billion-dollar revenues, million-dollar profits and its global significance. It is therefore no different legally to a bowling club or carnival organisation committee. In 2010, FIFA posted net profit of over 200 million US dollars but still wishes to be regarded as a charitable organisation. According to its own figures, it spends 70% of its income on development projects in its member states. FIFA has 208 members, which is more than the UN with 194 member states.

#### Criticism from politicians in Zurich

FIFA (Fédération Internationale de Football Association) has been headquartered in Zurich since 1932 when it moved from Paris

to Switzerland. It has been based at the "Home of FIFA" for five years on the Zürichberg mountain, next to the zoo. The FIFA headquarters is a magnificent building designed by leading architect Thilla Theus. The floors in the entrance hall have a marble covering, and a candelabra containing Swarovski crystals hangs in the conference room – at 18.3 metres this is of exactly the same diameter as the centre circle on a football pitch. The entrance to the underground car park with 270 spaces looks like a motorway tunnel.

Since FIFA is entered in the commercial register as an association it benefits from a reduced tax rate despite its billions in assets. Instead of corporate income tax at 8.5%, which is what public limited companies pay to the fiscal authority, FIFA only pays a rate of 4.25%. According to its 2010 annual report, it paid just 893,000 US dollars in income tax on net profit of over 200 million US dollars. The members of the "management bodies" received 32.6 million US dollars in "remuneration payable short-term". This category includes salaries and bonuses that are payable in full within twelve months of the balance sheet date. Those on FIFA's "management bodies" include the ten FIFA directors and the members of the 24-strong Executive Committee.



Special entrance for officials at FIFA's headquarters in Zurich

A growing number of politicians in the canton of Zurich are showing concern about goings-on at FIFA. They want the world football federation to be taxed like a public limited company. A petition calling for this has been signed by over 10,000 people in Switzerland. FIFA rejects the calls, highlighting its economic importance to Zurich. FIFA claims that six million Swiss francs a year are generated for the city thanks to overnight stays for FIFA events. FIFA also estimates that restaurants and shops benefit from a further one million Swiss francs in personal spending by visitors. Partner companies providing 100 jobs also ultimately depend on it. FIFA itself employs 360 staff in Zurich, all of whom pay normal tax rates according to FIFA. However, these figures and arguments have failed to silence the critics.

#### Hidden camera

This critical attitude, which sometimes goes as far as abhorrence, is explained by one key event. A few weeks before the 24 members of FIFA's Executive Committee were to award the football World Cups in 2018 and 2022 on 2 December 2010, two of the decision-makers fell into a trap set up by British journalists. Reporters from the "Sunday Times" posed as representatives of the US

2022 bid. They met with two FIFA officials who did not hesitate to demand millions in return for voting for the USA. The meeting was filmed with a hidden camera so the whole world could see how corrupt the practices of FIFA representatives were. The world football federation had previously always refuted claims that its members were corrupt, arguing that there had never been any convictions.

The next thunderbolt struck at the awarding of the World Cup on 2 December 2010. The bids of Russia and Qatar were accepted over the favourites England and the USA. The selection of Qatar in particular provoked global outrage. According to FIFA's internal evaluation committee, Qatar had submitted the weakest bid of all nine candidates for the 2018 and 2022 World Cups. The FIFA inspectors were critical of temperatures of over 40° Celsius during the World Cup, which would pose a health risk for footballers as well as the "FIFA family" and fans. Of the 12 football stadiums that the desert state presented in its bid, only three actually existed and all of these require expansion. The other nine stadiums have yet to be constructed. The railway network presented by Qatar also only exists on paper.

Poor scores and a lack of infrastructure clearly did not dissuade FIFA's decision-

making body, the Executive Committee. In a secret ballot, the desert state fell short of an absolute majority by just one vote in the first round of voting. An outcome was reached in the fourth round, with Qatar receiving 14 votes and the favourite, the USA, 8. Rumours that Qatar bought FIFA votes refuse to go away. Qatar obviously denies this.

Qatar's most prominent football representative, Mohammad Bin Hammam, once a FIFA Vice-President, has been expelled from FIFA. He dared to challenge Blatter in the contest for FIFA presidency. He is also suspected of attempting to buy votes here. After Bin Hammam's elimination, Blatter was the only candidate to stand on 1 June 2011 and was elected FIFA President for another four years. Bin Hammam is now waiting for a judgement from the International Court of Arbitration for Sport, where he challenged his expulsion after FIFA twice pronounced him guilty.

Jack Warner has also been expelled from the FIFA management. The official from Trinidad and Tobago had progressed from being a modest history teacher to a millionaire thanks to his position at FIFA. But then he tried to help Bin Hammam win the election, having previously always supported Blatter. This change of sides cost him his job



A view of the reception area at the "Home of FIFA" in Zurich

at FIFA. As revenge, he immediately presented documents proving that he had received FIFA TV rights from Blatter on several previous occasions for the nominal price of one dollar as payment in return for supporting him.

#### No coming to terms with the past

Mark Pieth, the Basel-based professor of law, now has the task of drawing up new governance rules for FIFA. He has indicated that he has no intention of shedding light on the past in the process. He will just look to the future. Though, there are a few matters from the past that will need to be resolved. The FIFA corruption file held by the judicial authorities in the canton of Zug provides evidence of dubious practices. This relates to an order for the withdrawal of prosecution issued by the public prosecutor's office after FIFA and two of its representatives together paid 5.5 million Swiss francs as compensation in 2010 after criminal proceedings. A special investigator had previously conducted an investigation against FIFA for improper business practices and misappropriation. He established that two FIFA officials had been pocketing kickbacks from a former business partner for years. It would appear that the FIFA leadership overlooked this practice and

never demanded the repayment of the money that it in fact was due from the two officials. Five media organisations, including the "Handelszeitung" and the "Beobachter" in Switzerland and the BBC in the UK, are currently attempting to gain access to this file. Both FIFA and the two officials are seeking to prevent this through their lawyers and in court – without success so far, but they have won time with their objections. The Federal Supreme Court will rule on the case soon.

Given that FIFA reformer Pieth has – at least officially – shown little interest in the corruption cases of the past, the anti-corruption organisation Transparency International (TI) has refused to cooperate with him. His reform programme risks being left in tatters. This is not just because, in addition to TI, several journalists approached have also refused to cooperate, but also because Pieth will ultimately have to present his reform proposals to the men who would be the first to be affected directly by more rigorous governance rules. If they happen to reject or dilute his proposals, Pieth has said that he will leave the FIFA ship protesting loudly. This could then signal the demise of captain Blatter.

#### **SPORTS FEDERATIONS LOVE SWITZERLAND**

Around 60 international sports federations have their headquarters in Switzerland owing to the liberal association law and proximity to the umbrella organisation, the International Olympic Committee (IOC). In addition to FIFA, these include the world Olympic federations for rowing (FISA), baseball (IBAF), basketball (FIBA), boxing (AIBA), cycling (UCI), horse riding (FEI), fencing (FIE), gymnastics (FIG), handball (IHF), hockey (FIH), wrestling (FILA), swimming (FINA), table tennis (ITTF), archery (FITA), volleyball (FIVB), ice hockey (IIHF), skating (ISU) and skiing (FIS).

The officials of several of these federations have also made a lot of money or become implicated in shady dealings. For example, investigations have been conducted against Hassan Moustafa, President of the International Handball Federation (IHF), René Fasel, President of the International Ice Hockey Federation, and Rubén Acosta, President of the International Volleyball Association.

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