Governance of sport governance: The limits to autonomy

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From a few amateurs to big business

- Since the 19th century sport has evolved from a pass-time for a few amateurs to a social movement for billions of people all around the world
- Sport is now a major global social, economic and political phenomenon
- On average, in Europe, 65% of population get some physical exercise, 40% play sport once a week (Eurobarometer 2010)
- The sport sector represents 2-3% of GDP in Europe
- About 30% of media space
Elite sport mostly run by associations

All Non-Profit Organisations (NPOs)!
For more than a century since 1894!

New actors in elite sport as of 1970-90s

- **Governments** from 1970s
  - To promote the good side of sport (health, education, integration…) and fight the dark side of sport (doping, violence, corruption…)

- **Sponsors and broadcasters** from 1980s
  - To benefit from lucrative partnerships with sport

- **Professional sport leagues** from 1990s
  - To have their pro athletes take part in major sports events

- Involvement of public or for-profit actors in the Olympic System
Introduction of some regulation

- **Commercialisation / commodification**
  >>> Creation of **CAS** by IOC in 1984

- **Hooliganism / violence**
  >>> National and international **Laws** in 1980s et 1990s

- **Doping**
  >>> Creation of **WADA** by IOC and governments in 1999

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The Olympic System (2000)

- **WADA**
- **CAS**
- **IOC**
- **Internat. Sponsors**
- **NOCs**
- **OCOGs**
- **IFs**
- **Pro Leagues**
- **National sponsors & Media**
- **NFs clubs**

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Main issue in 2010s

- 2 types of **rampant corruption** because of financial and political stakes
- **Competition corruption** (on the field of play by athletes, coaches, judges and referees)
  - Doping
  - Match fixing because of illegal/irregular betting...
- **Management corruption** (off the field by managers and elected officials)
  - Arranging the awarding of sport events and contracts against bribes
  - Rigging elections, bending club rules...

Competition corruption (on the field)

- A huge problem for the integrity, credibility, sincerity of sport
- But also a problem of **public health and public order**
- Must be dealt jointly by sport organisations and public authorities
- **WADA a good start**, but not enough resources to fight the underworld, the **mafias** which have taken over the lucrative business of doping and irregular betting
- But pharmaceutical companies and lottery operators can help
- Let’s expend the UNESCO anti-doping convention to create a **World Sport Integrity Agency** to preserve sport’s credibility
Management corruption (off the field)

- Maybe fans do not care if sport managers/officials take bribes
- But governments should care in order to maintain a good and ethical business and social environment
- Why treat sport organisations differently from other organisations?
- Let’s apply the rules of good (corporate) governance at all management levels
- And, if necessary, the laws on private corruption at national and international level (including the anti-corruption conventions from the UN, OECD and Council of Europe)

But associations are not corporations

- (Sport) associations are not controlled as strictly as corporations (especially under Swiss law, art. 60-79 CC)
- Associations are self governed
- Blatter: “We’ll solve our difficulties within the FIFA family.”
- Some Code of Ethics, Rules on conflict of interest and Bid regulations adopted since 1999 but difficult to enforce and incomplete
- BUPs (Basic Universal Principles of Good Governance of the Olympic and Sport Movement) made compulsory as part of the IOC Ethics Code (2010) but rather soft and lengthy
The Management of IOC and FIFA

<table>
<thead>
<tr>
<th>IOC</th>
<th>FIFA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Association of natural persons (115 IOC members)</td>
<td>Association of associations (208 national football associations)</td>
</tr>
<tr>
<td>1894</td>
<td>1904</td>
</tr>
<tr>
<td>Under Swiss law since 1915</td>
<td>Under Swiss law since 1927</td>
</tr>
<tr>
<td>President CEO since 1980 (Samaranch) No salary (but residence expenses)</td>
<td>President CEO since 1998 (Blatter) With a salary</td>
</tr>
<tr>
<td>Director General Salaried COO</td>
<td>Secretary General Salaried COO</td>
</tr>
<tr>
<td>Controls 2 foundations and 3 limited companies (SA)</td>
<td>Controls 10 limited companies (AG and GmbH)</td>
</tr>
<tr>
<td>Financial report published every two years (since 1999)</td>
<td>Financial report published every year (since 2004)</td>
</tr>
</tbody>
</table>

Management of management (governance)

<table>
<thead>
<tr>
<th>IOC</th>
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</tr>
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<tbody>
<tr>
<td>Executive Board (EB) (15 members)</td>
<td>Executive Committee (EC) (24 members)</td>
</tr>
<tr>
<td>Session (115 votes)</td>
<td>Congress (208 votes) One NA = one vote</td>
</tr>
<tr>
<td>Both chaired by President CEO</td>
<td>Both chaired by President CEO</td>
</tr>
<tr>
<td>Audited by PWC</td>
<td>Audited by KPMG</td>
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</tbody>
</table>

- Executive body and general meeting chaired by CEO
- No real term limits for members (except IOC President)
- High average age at IOC (61), no age limit at FIFA
- Few female at IOC (16%), none at FIFA
- High number of Executive Board/Committee members
## Management of governance

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<tr>
<td>Members are elected by the Session upon recommendation of EB after screening by Nomination Commission</td>
<td>NAs are admitted by Congress upon request by EC, EC members are appointed by the 5 confederations</td>
</tr>
<tr>
<td>Ethics Commission named by President, confirmed by EB</td>
<td>Ethics Commission appointed by EC or elected by Congress</td>
</tr>
<tr>
<td>BUPs of good governance</td>
<td>-</td>
</tr>
<tr>
<td>Only President can refer cases to Ethics Commission</td>
<td>EC members, and NAs / Confederations can fill complaint</td>
</tr>
</tbody>
</table>

- Members are not representative of all stakeholders
- Independence and transparency of Ethics Commission
- Harmonisation of various ethics codes/rules

## Governance of governance

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<tr>
<td>CAS recognised since 1985 for some [unspecified] cases (article 15.4 Olympic Charter)</td>
<td>CAS recognised since 2004 for recourse after all internal channels have been exhausted</td>
</tr>
<tr>
<td>265 arbitrators (general list)</td>
<td>35 arbitrators (football list)</td>
</tr>
</tbody>
</table>

- Independence of arbitrators proposed by IOC/IFs/NOCs & FIFA?
- CAS costs and delays (e.g. Landis, Contador)
- CAS lacks resources (financed by IOC, ASOIF, AIWF & ANOC)
- Appeals only for procedural errors (to Swiss Federal Tribunal)
- Compatibility of sporting rules with national/international Law
The limits to autonomy

- Sport organisations should be autonomous and self-governed within reinforced good governance frameworks and partnerships with public authorities.
- But when management corruption occurs, national civil and criminal courts should be involved.
- Under Swiss Law (art. 75 CC), only members can contest in courts their association’s decisions (within one month of being informed).
- Other means and pressures must be used.

The need for a watchdog

- To assess sport organisations compliance with good governance standards on the basis of a set of pertinent indicators (age, gender, term, stakeholder representation, financial transparency, accountability…), the Global Sport Index.
- To investigate independently.
- To act as whistle blower for fans, media, sponsors, governments.
- To fill complaint in the courts when possible.
- Let’s call it the World Sport Watch!
- And let’s find a sustainable funding and nominating mechanism!