

MEMO

To Sindisiwe Mabaso-Koyana, Acting Chairperson of the Audit and Compliance Committee

Copy

From

Date 23 May 2016

Re **Gianni Infantino**

Total Pages 11

Fédération Internationale de Football Association

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Dear Sindi

In my capacity as _____, it is my duty to report cases of potential breaches of regulations and other non-compliant activities within the Administration to you as the Acting Chairperson of the Audit and Compliance Committee.

Please note that some of the observations noted in this report had already been addressed on various levels.

Markus Kattner was informed that questionable transactions by Gianni Infantino were occurring since he took on his role at FIFA on 26 February 2016. Upon such notification, Markus Kattner immediately raised the transactions known to him directly with Gianni Infantino in order to find a solution.

In addition, this matter was also discussed between Domenico Scala and myself on 29 April 2016. He raised the point that pecuniary advantages, considered as additional contributions not contractually agreed, shall be further discussed with the Compensation Sub-Committee. With such action, he was of the view, that he could potentially solve this issue through personal interaction and deducting questionable funds from Gianni Infantino's ordinary salary.

Given the resignation of Domenico Scala, and you taking on the role of the Chairperson of the Audit and Compliance Committee, I would like to pass on some critical information to you.

I summarise matters known to me in the following sections:

1. Governance matters as stipulated in the FIFA Statutes
2. FIFA Governance Regulations
3. Repeated breaches of the FIFA Code of Conduct and the FIFA Code of Ethics
4. Employee contract
5. Pecuniary advantages
6. Management override of controls, policies and procedures
7. Dismissal of Domenico Scala and files logged with the Ethics Committee

Governance matters as stipulated in the FIFA Statutes

The FIFA council did submit proposals for the vacancies of the various Standing Committee and the judicial bodies to the Congress on 13 May 2016. However, the proposals were not submitted in writing to the general secretariat four months before the start of the Congress as it is required for the members of the Audit and Compliance Committee members as per Article 27.7 of the FIFA Statutes. Instead Gianni Infantino presented his candidates to the FIFA Council on the same day, just before the Congress. Based on this situation the Congress ended up electing some candidates, for which the mandatory eligibility checks may have not yet been conducted (required as per Article 27.8). Furthermore, a number of the independent positions of the standing committees were filled with individuals obviously being close to Gianni Infantino (e.g. supporting him during his presidency campaign). This is by no means in the spirit of the Reform process.

As the proposals were only handed in shortly before the Congress, the qualification of the candidates may not been validated by the FIFA Administration, as per the prerequisites of Article 41 and following of the FIFA Statutes.

Furthermore, it has been noted that Gianni Infantino asked the Council meeting on the second day on 10 May 2016 to be held without the attendance of the FIFA Administration. One of the reasons were, to discuss the position of the Chairman of the Audit and Compliance Committee, as Gianni Infantino was raising his disagreement to certain actions taken by Domenico Scala. It is the duty of the Audit and Compliance Committee to oversee the Council – taking on the right to dismiss the relevant members, Gianni Infantino, through the decision of the FIFA Congress, took away all relevant power from such a Committee and made it ineffective in practice.

FIFA Governance Regulations

Article 3	Members of FIFA bodies and FIFA employees shall know and comply with all applicable laws and regulations, as well as with FIFA's internal rules and regulations. Gianni Infantino has repeatedly not respected the internal rules and regulations (refer to section "Management override of controls, policies and procedures")
Article 4	Candidates being selected by Gianni Infantino were announced at the Congress on 13 May 2016. Some of them may not yet have passed the eligibility check (Secretary General, various standing committee members)
Article 9.8	The minutes of every Council meeting shall be recorded by the Secretary General, who attends the Council meetings ex officio. The minutes shall, as a general rule, be signed by the Secretary General. For the meeting on 10 May 2016, neither the Secretary General nor his deputy were not allowed to take part as per Gianni Infantino's decision. No member of the FIFA Administration was allowed to take part or being present in the room with the exception of Gianni Infantino's personal assistant Matthias Grafström.
Article 13	The details regarding the relationship between FIFA and the President including, in particular, compensation matters, shall be regulated by a contract between the (incumbent) President and FIFA. This contract shall be approved by the Compensation Sub-Committee and signed on behalf of FIFA by the Secretary General and a second person having the power to sign. Although Gianni Infantino has obtained the relevant contract in March 2016, he refused to sign this document up to date of this report.
Article 15.6 lit f	It is the responsibility of the Secretary General to appoint and/or dismiss directors or employees of FIFA. It was noted, that Gianni Infantino still hired a number of individuals and signed the relevant contracts without involving the Acting Secretary General.

In addition, the following has been changed in comparison to the version established for the Reforms which were approved on 26 February 2016:

The FIFA Secretary General shall consult with the FIFA President concerning following decisions:

- Approval of the organisational structures in each division at the proposal of the respective director;
- Preparation of the administration and organisation of the Congress;
- Appointment and/or dismissal of directors of FIFA; approval of proposals from the directors of the various divisions regarding the appointment or revocation thereof of a deputy; engagement and dismissal of personnel in the FIFA general secretariat;
- Appointment of removal of one of the division directors as a deputy to the Secretary General;

- Proposal to the Council for amendments to the material structure of FIFA's subsidiaries as well as regarding acquiring and selling holdings in companies;
- Determination of persons for representation in subsidiaries and companies in which FIFA has a full or partial holding and proposes their withdrawal;
- Designation of specific persons for overall projects (overall project leaders) and submission of the relevant project plans to the Council for approval;

In the initial version approved as part of the reforms, no such consultation for above tasks were intended, in order to allow having a clear separation between the Administration and the FIFA President. (please see *attachment 1* – track change version of the FIFA Governance Regulation approved by the FIFA Congress in conjunction with the Reform plans compared to the FIFA Governance Regulation approved by the FIFA Council on 9/10 May 2016)

In addition to the above, article 5 of the FIFA Governance Regulations (independent committee members) was significantly changed since the reforms were passed on 26 February 2016. Such changes gave Gianni Infantino the possibility to get a number of persons being close to him on board of the standing committees. This undermines all efforts taken up to date, to strengthen FIFA's governance.

Repeated breaches of the FIFA Code of Conduct and the FIFA Code of Ethics

Conflict of interest / acceptance of gifts and benefits

Gianni Infantino flew on a number of occasions with private jets which were not organised by FIFA, and neither invoices have been received up to date of this report nor was the usage of a third-party paid aircraft announced to the compliance department, which is requested in Art. 5 of the guidelines for chartering aircrafts. This bears a significant risk of conflict of interest as these flights may have been paid through other Confederations, officials of the respective government and/or the LOC.

On 18/04/2016 Gianni Infantino flew from Geneva to Moscow. On 20/04/2016 the trip continued from Moscow to Doha. Finally he flew home from Doha to Zurich on 22/04/2016. For this particular trip, FIFA Travel organized convenient commercial direct flights at a value of USD 7,300. As there was only very last minute communication to the transport department with regards to the separately organised flights, the tickets issued by FIFA Travel could only be partially refunded. The total value of the private jet invitations are in a range of at least approx. USD 115,000 to USD 150,000, depending on aircraft and ferry-flights, even more.

On 6 May 2016, Gianni Infantino was invited to an opening of a member association's headquarter in Slovenia. FIFA Travel proposed various options on commercial flights at costs of approx. USD 1,800. Finally he accepted an invitation to take a plane organised by the UEFA to fly with a private jet to Slovenia. This value is considered to be approx. USD 12,000 to USD 18,000.

According to article 19 of the FIFA Code of Ethics, situations shall be avoided that could lead to conflicts of interest. Furthermore, according to article 20 of the FIFA Code of Ethics, one may only accept benefits which

- have symbolic or trivial value
- exclude any influence for the execution or omission of an act that is related to their official activities
- do not create any undue pecuniary or other advantage
- do not create a conflict of interest.

As with FIFA's regulations, such Private Jet flights to Moscow, Doha or Slovenia are not possible, hence the private jets paid by third parties is considered a personal advantage. As of the day of this report, we are not aware of any such invoices submitted to FIFA. According to latest information obtained internally, he may accept a further invitation on a private jet in the next few days.

FIFA officials are required to disclose any kind of potential conflict of interests. However, the FIFA Administration was not made aware of such conflicts.

We assume that the flights were either paid by the Government or the LOC (we did not see any costs in the FIFA funding part of the LOC up to date) for the first trip. For the trip to Slovenia, we do assume that the costs were covered by UEFA.

Employee contract

Below please find a summary of the non-existing employment agreement as this was partly stated in the press:

- As per article 37.11 of the FIFA Governance Regulations, it is the Compensation Sub-Committee's task to determine the compensation of the President.
- It is also the Compensation Sub-Committee's duty to approve the contract of the President.
- With the letter dated 23 March 2016 (please see *attachment 2* – letter in german), Gianni Infantino was informed that the decision on the salary was taken and he got informed about the compensation defined by the Compensation Sub-Committee. In addition, Gianni Infantino received the relevant employment agreement (please see *attachment 3*).

- Although the process and decision taken was aligned to the FIFA Governance Regulations, Gianni Infantino did not recognize the validity of the contract. In particular:
 - he did not sign the employment agreement
 - being repeatedly asked by the HR department to provide his bank details, he did ignore all such request
 - he stated the compensation offered as “insulting” at the FIFA Council meeting on 10 May 2016. He also informed the FIFA Council meeting, that the previous President was earning CHF 3.6m (as disclosed in the Financial and Governance Report 2015) and he was offered less than half of this, which is not true.
- As a result, the FIFA Administration is not in a position to pay Gianni Infantino’s salary up to date.
- FIFA Administration considers the contract as existing and valid based on above considerations, hence the monthly salaries are accrued on this basis in the accounting system.
- Ignoring the employment contract is a violation of Article 13 of the FIFA Governance Regulations.

Pecuniary advantages

As per above information, the contractual terms of Gianni Infantino’s employee contract are set. Within the past few weeks, we had a significant number (although he was travelling most of the time and not in the office) of additional contributions which are not stipulated in his employee contract. In the following part, I will explain one matter more in detail in order to get the full picture and list further items thereafter.

Personal Driver

FIFA has entered into a lease agreement 21/04/2016 (Audi Q7, monthly rate of USD 2,170) in order to provide Gianni Infantino with a car. Having a car leased for him, FIFA Administration was furthermore providing a driver and an additional car for him. Although FIFA has already a number of drivers being employed, Gianni Infantino insisted having an external driver as his preferred service supplier (and provide him an employment contract later on). For the month of March 2016, FIFA got charged CHF 19,602 (equivalent to approximately USD 20,008) for a total of 211,5 hours driven (refer to *attachment 4*). As Gianni Infantino was abroad almost the entire months, most of the driver’s time was spent for his family as well as for his advisors. Finally, this particular driver was given an employment contract with FIFA.

Such pecuniary advantages are not foreseen in his employment contract. In addition, these costs were not incurred for activities Gianni Infantino being on duty for FIFA. For April 2016, FIFA got charged an additional CHF 13,500 through this particular driver (please see *attachment 5*).

Various additional charges

- FIFA Administration paid 6 football shoes for the initial football game after election for a total amount of CHF 1,256.70 (approx. USD 1,282) – *attachment 6*
- FIFA paid CHF 1,415 (approx. USD 1,444) for a tuxedo Gianni Infantino bought for an IFAB event – *attachment 7*
- FIFA paid CHF 11,440 (approx. USD 11,688) for the mattresses purchased for his apartment – *attachment 8*
- On 15/03/2016, a stepper was bought for the price of CHF 8,883 (approx. USD 9,075) – *attachment 9*
- Flowers in the value of CHF 860 were organised for his apartment – *attachment 10*
- FIFA paid BOB 39 and USD 176 for laundry services whilst being abroad. Please note that minor charges are against the expense regulations as in his capacity as a FIFA President, as a) he gets CHF 2,000 (approx. USD 2,042) per months a lump sum payment in order to cover minor expenses and b) no FIFA employee is allowed to charge such costs according to the expense regulations (unless other conditions are set for specific events such as the Congress or other FIFA Events) – *attachment 11*
- Approx. USD 1,000,000 for the excessive legends programme during the 66th FIFA Congress in Mexico (final statements will be elaborated in the next days) where FIFA Travel reported various violations to the expenses regulations.

Please note that some of above transactions are against the expense regulations approved by the tax authorities of the Kanton Zurich. This has been addressed with Gianni Infantino by the Acting Secretary General early May 2016.

Furthermore, it needs to be noted, that I do not have a complete list of all transactions, as such transactions were managed by various employees being instructed by Gianni Infantino. There are no transactions he directly has approved in the system as he only gave the relevant orders. Considering there is already a number of doubtful transactions within the first two months after his election, further similar transactions are expected going forward.

Management override of controls, policies and procedures

The HR department was not involved in the hiring process of Gianni Infantino's personal advisors. As such, no internal procedures in this respect were followed. In particular, no vacancy was existing, no job profile was compiled, no references were available, and when Gianni Infantino was asked for the relevant job description, no response was given. By assuming the role, HR gave in and provided the salary range which was completely ignored by Gianni Infantino. Instead, his advisors were given a significant higher amount in excess to the proposed salary.

Further we noted, that some of his advisors were from the Geneva region. Although not being part of the employee contract, they are still living in hotels paid by FIFA. Furthermore FIFA gets charges for flight tickets Geneva-Zurich and return on a weekly basis, although such commuting costs should be borne by the employee. In addition to such flight costs, Gianni Infantino was regularly flown into Zurich as well, paid by FIFA.

With regards to travel activities, we noted that on a number of his journeys, he was accompanied by externals, some of them not known to us. Costs of these externals were to be paid by FIFA, whilst roles and responsibilities remained unclear (no contracted employees or freelancers of FIFA).

Organising such trips, Gianni Infantino did not book the hotels through FIFA Travel as per internal rules. Internal rules would require the involvement of FIFA Travel to ensure cost efficiencies. Further to negative cost impact, this also resulted in a breach of contract with Match Accommodation for not using their services as foreseen in the relevant contract (hotels in Russia).

Dismissal of Domenico Scala and files logged with the Ethics Committee

Below, please find a summary of the FIFA Council meeting on 10 May 2016, which took place without the presence of the FIFA Administration:

- Gianni Infantino informed the Council members, that he did not sign the contract handed over to him by Domenico Scala.
- Gianni Infantino informed that he considered the amount determined by the Compensation Sub-Committee to be insulting. Stating it was less than half of the CHF 3.6m the former President was receiving in the previous year, he was giving wrong facts to the FIFA Council.
- Gianni Infantino stated that he was informed by the chair of the Investigatory Chamber of the Ethics Committee, Cornel Borbély, that the Chairman of the Audit and Compliance Committee, Domenico Scala, has filed a complaint against him. The content he claimed to be a) Gianni Infantino not obtaining a salary and b) Gianni Infantino still looking for a house to be bought in Zurich, concluding that there's a suspicion of corruption and/or money laundering as he had no ordinary income.
- Gianni Infantino stated, that Cornel Borbély told him that he considered this case being non-sense and he would throw this case straight into the bin. In addition it was stated that Cornel Borbély told him that there will be no investigation in this regards.
- Furthermore Gianni Infantino stated that Domenico Scala was reporting further matters, also mentioning that these were of a childish nature.
- Gianni Infantino was referring to a discussion he had with an employee (not stating that this was in fact Markus Kattner), who made him aware of the breaches of the FIFA internal expense regulations. He was noting that such regulations were "stupid" having laundry costs to pay whilst being on travel. Gianni Infantino stated that he had no rights on expenses and had to pay it on his own – this is not true, as his employment agreement (which he did not sign yet) is stating "The President shall receive a monthly flat fee of CHF 2,000 gross in order to cover the representation expenses".
- Gianni Infantino informed that this particular employee was handing over such information to Domenico Scala, who again filed it with the Ethics Committee, being not in-line with the employment contract (refer to *attachment 12* – in German)
- Again Gianni Infantino stated that this will go in the bin of the Ethics Committee as this was considered "ridiculous".
- Gianni Infantino mentioned that there are certain individuals complicating everybody's life. He concluded that at least the Ethics Committee had shown some good common sense.

In the FIFA Council meeting on 13 May 2016 shortly before the FIFA Congress, the main discussion was about how to dismiss Domenico Scala, on the basis of the discussion started on 10 May 2016 as per above.

Going through all these facts, the following need to be considered:

- The FIFA Council took a decision to dismiss Domenico Scala, partly based on wrong facts stated by Gianni Infantino (wrong indications about the determination taken by the Compensation Sub-Committee on his compensation, stating the employment contract does not foresee any expenses to be paid).
- Gianni Infantino quoted several times information provided to him by the Chairman of the Investigatory Chamber of the Ethics Committee. Not having talked to Cornel Borbély myself, I do not state that this is a true statement. However, it has to be noted that there's certainly a breach of the confidentiality in accordance with article 36 of the FIFA Code of Ethics as Gianni Infantino was in the possession of certain information which were filed with the Ethics Committee (access to such information to be evaluated). If such information were not handed over to Gianni Infantino by Cornel Borbély, the FIFA Council once again obtained wrong information.
- Given the fact that the individual against whom the claim was logged was informed about it in detail, there are concerns about the level of independency of said Committee. As stated above, the leak may also have happened outside the committee (e.g. through FIFA Administration employees having access to such information).

CONCLUSION

This report is based on Gianni Infantino's first two months with the FIFA Administration and no activities with FIFA in his previous role as the Secretary General of UEFA has been considered in this report.

Although the observations may have a rather minor financial impact on FIFA's daily business, it is still of a very significant nature as it is about integrity and ethical behavior. It is our duty to monitor that all bound by the Code of Conduct and Code of Ethics comply with all applicable laws, adhere to internal rules and regulations and avoid any conflict of interests.

As a last point I want to point out: the fact that the FIFA Council may decide about the election and dismissal of the members of the Audit and Compliance Committee as well as the Judicial Bodies are against all good governance rules.

Last but not least the leakage of the files logged at the Ethics Committee need further consideration.

I truly have trust in you and hope that you may stand up for your matters in the future as you did in the past to ensure that the FIFA may maintain the level its good compliance culture and continue to further improve it as in the past few months and years.

As this report is related to a FIFA official, you may want to get in touch with Cornel Borbély in conjunction with Article 18.1 of the FIFA Code of Ethics, which ultimately requires a disclosure of such matters to the investigatory chamber of the Ethics Committee.

Please do not hesitate to contact me if you need clarification or further information.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION

Zurich, 23 May 2016

Attachments

1. *FIFA Governance Regulations in track changes (comparison between version approved with the Reforms on 26 February 2016 and the version approved at the Council meeting on 9 May 2016)*
2. *Letter send to Gianni Infantino informing him about the employment agreement*
3. *Employment agreement for Gianni Infantino*
4. *Costs for the personal driver, March 2016*
5. *Costs for the personal driver, April 2016*
6. *Invoices for the football shoes*
7. *Invoice for the tuxedo*
8. *Invoice for the mattresses*
9. *Invoice for the stepper*
10. *Invoice for the flowers in his apartment*
11. *Invoices for the laundry services*
12. *Information sent to Domenico Scala being subsequently filed with the Ethics Committee*