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Chairperson of the Committee on Culture, Science,
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Draft report on the reform of football governance

Dear Ms Guțu,

We would like to thank you once again for the invitation to attend the hearing that took place on 5 December 2014 on the reform of football governance and the protection of human rights in the context of major sports events. We have read the preliminary draft report on the reform of football governance prepared by the rapporteur Michael Connarty, which was distributed to the participants in the above-mentioned hearing of the PACE Committee on Culture, Science, Education and Media in Paris (document AS/Cult (2014) 34).

In this respect, please allow us to make some comments on the current draft of Mr Connarty's report. While we are pleased to see that the extensive reform process that FIFA initiated two years ago, mainly in the areas of governance, transparency and compliance, is generating so much interest within the Parliamentary Assembly of the Council of Europe, we would have expected – based also on our experience of similar work on good governance from other political institutions – an approach that goes more in the direction of benchmarking and best-practice exchange rather than one that appears to focus almost exclusively on a single sport, football, and on a single sports organisation – an international organisation (as opposed to a European one), at that – i.e. FIFA, also taking into account all your previous work, reports and hearings on football.

Within the overall debate of principles of good governance, which we understand to be the constant and tangible commitment of all organisations, whether in the private or public domain, we would have expected a more general discussion on this topic rather than an approach based on the assumption that incidents of corruption prevail mainly in sport, and particularly in football, compared to other sectors of society. As such, we believe that an exchange of best practices on sport governance would have been a more useful and constructive approach for sports bodies in general as well as public authorities, as the former would have the opportunity to exchange best practices, while public authorities could gain a more complete and comprehensive understanding of the governance standards applied by the sports movement. In our opinion, a broader approach would be more appropriate in order to generate added value and consolidate a dialogue and cooperation based on mutual respect and trust.

As a general remark, it is also important to note that FIFA's governance reform process was indeed undertaken on its own initiative within the context of self-regulation. Therefore, the decision-making process on which reforms to implement and the exact modalities of how to implement them had to observe a specific procedure emanating from the FIFA Statutes, which form the guiding and legal basis of all of FIFA's activities. This process is also actually part of good governance. The final decisions in terms of the reforms that were adopted and implemented were the result of a democratic, intensive and inclusive consultation process involving stakeholders at all levels of football as well as external experts in order to make sure that the measures ultimately taken were adequate, pragmatic and met the needs of modern football governance.

An objective observation of the reforms implemented which goes beyond a mere quantitative assessment can only confirm that the overall results of the FIFA reform process have contributed to greater transparency, stronger separation of powers, enhanced ethics and compliance structures and corresponding procedures. We therefore hope that the reforms implemented by FIFA will eventually be properly appreciated and perhaps also serve as future reference or best practice for other organisations. In this respect, we consider that Mr Connarty's latest draft still does not reflect the reality of the reform process undertaken by FIFA since June 2011 on the initiative of the FIFA President, nor does it place FIFA's reforms in the area of governance structures in a proper context compared to other sports organisations – and even perhaps beyond the sports sector.

In light of the above, we would like to comment on certain topics addressed in the preliminary draft of your report on the reform of football governance:

Section 2: The new FIFA Ethics Committee and Code of Ethics

All of our comments given on various past occasions and written answers on the Code of Ethics and the Ethics Committee remain valid. In addition, and as already stated in the past, any necessary reviews and adjustments to the Code of Ethics will have to be the result of the experience gained so far following the implementation of the bicameral structure as well as vis-à-vis the relevant procedural provisions. As previously mentioned, such an exercise and process have to follow procedures, consultations and decision-making processes according to and within the overall applicable statutory and regulatory framework.

Section 3: Transparency, accountability and prevention of conflict of interest within the FIFA governance system

Paragraphs 74 & 75: Regarding your suggestion to allow outside observers to attend FIFA Executive Committee meetings as well as meetings of other standing committees with decision-making powers in risk areas, as stated in your report, you may want to note that the independent chairman of the FIFA Audit and Compliance Committee may attend all meetings he deems necessary at his entire discretion. Furthermore, the chairman of the FIFA Audit and Compliance Committee has stated on various occasions that he has always attended all necessary meetings and has always been provided with all of the requested documentation and information. In addition, the independent chairmen of both chambers of the FIFA Ethics Committee, Michael J. Garcia (former chairman of the investigatory chamber) and Hans Joachim Eckert (chairman of the adjudicatory chamber) have both stated in the past that having a permanent seat on the FIFA Executive Committee would not best serve their

independent functions. Furthermore, to have permanent external observers or “outsiders” in the executive body of a sports federation – or beyond, as a matter of fact – is not standard practice.

Paragraph 76: In future, the FIFA Congress will select the host venue for the FIFA World Cup™ from the bids designated by the FIFA Executive Committee. With a view to achieving the objective of securing the best possible hosting conditions in the host country, the FIFA general secretariat shall establish a fair and transparent bidding procedure, inviting all qualified member associations to submit a bid and defining in detail the requirements for the bidding and hosting as well as criteria for selecting the host of the event. According to art. 80 of the FIFA Statutes, specific regulations in this regard will be issued by the FIFA Executive Committee in due course, bearing in mind that the next edition of the FIFA World Cup™ for which the host venue is to be selected is 2026. In this respect, and as a general remark, you may also wish to note that FIFA is already in the process of incorporating recommendations made by independent experts, including the FIFA Ethics Committee, on how the FIFA World Cup™ selection process can be improved on a fair, ethical and open basis.

Paragraph 77: Regarding your comment that formal, objective requirements and criteria for and transparency in the decision-making should be established in respect of candidatures for the hosting of all FIFA tournaments, you may wish to note that in terms of scope and operational processes, other FIFA tournaments are not comparable to the FIFA World Cup™, so the need to issue specific regulations is a priority for the decision on the host venue for the final competition of the FIFA World Cup™.

Paragraph 78: According to art. 80 par. 2 c) of the FIFA Statutes, *“the Executive Committee shall review the report and designate, based on its best judgement and in an open ballot, up to three bids to be submitted to the Congress for a final decision.”* As a general rule, three bids will be submitted to the FIFA Congress for a final decision. The wording of this article is therefore mainly intended to provide for a potential situation whereby only one or two candidates fulfil the requirements and/or number of member associations that have expressed an interest in participating in the bidding process.

Paragraph 79: With regard to gender equality, FIFA has enhanced opportunities for women to sit on FIFA’s Executive Committee with the election of the first female member and the co-opting of two additional female members in 2013. FIFA is also planning to introduce a requirement for there to be at least one female member on the executive committee of each member association. Furthermore, in October 2013, FIFA created a Task Force for Women’s Football with the responsibility of identifying and promoting priority opportunities for women’s football. Topics including governance, development, marketing, communications, gender equality and the creation of a FIFA Women’s Club World Cup were among those discussed at the first meeting of the Task Force.

Paragraph 80: In accordance with FIFA’s Internal Organisation Directives, the procurement of goods and services is subject to the FIFA Procurement Guidelines. For all goods and services above specific amounts, at least three binding offers must be obtained, documented and stored for later review while a comprehensive tender process with further formal requirements must be implemented for all major contracts. Such requirements depend on the amounts involved for the procured goods and services, which in turn may involve additional and stricter compliance and control obligations.

Paragraphs 84-87: Please note that all matters pertaining to compensation for key management personnel, as well as the principles and components of the compensation, fall within the competence and duties of the Compensation Sub-Committee. In addition, you may wish to note that information

on personnel expenses and the remuneration of key management personnel is published annually in accordance with International Financial Reporting Standards (IFRS). Generally speaking however, it is not standard practice for individual salaries to be disclosed or published.

In addition, as you know, FIFA's financial statements are annually audited by KPMG and all information on FIFA's finances is available in the FIFA Financial Report, which has been published on an annual basis since 2002.

Paragraphs 88-89: As mentioned above, the final decisions and reforms adopted and implemented were the result of a democratic and inclusive consultation process. The introduction of limits on age and/or terms of office for certain positions was discussed in the context of the FIFA governance reform process and at the level of the confederations affiliated to FIFA and, as you may already know, there were a number of differing positions among the confederations and their respective member associations regarding the extent, scope and content of the reforms. As part of the roadmap and publicly communicated decision-making process in line with FIFA's regulations and procedures, both of the above-mentioned items were submitted to the FIFA Congress for decision and rejected by the 64th FIFA Congress on 11 June 2014. Irrespective of individual assessments and appraisals of this result, the principle of a democratic vote must also be observed and respected.

Paragraph 90: Regarding your recommendation that FIFA Executive Committee members should not have the right to vote for their own country's candidature for the FIFA World Cup™, we would like to refer you once more to our comments on paragraph 76 above and the fact that all modalities regarding the venue selection for the FIFA World Cup™ will be defined in the specific regulations foreseen in accordance with art. 80 of the FIFA Statutes.

Paragraph 92: As previously mentioned, a large number of the suggested reforms – for example, the integrity checks being carried out at FIFA level – were also subject to a consultation procedure at confederation level, during which various confederations, for example UEFA, submitted a different opinion and approach.

Section 5: "Qatargate"

Please allow us, first of all, to object to the use of such a term, which does not appear to be in line with the language expected to be used in a document of such a nature from a political institution. Similarly, we deplore the phraseology used with regard to the procedures established according to the FIFA Code of Ethics "[...] in the process of being revealed as a farce [...]". We believe that such choices of wording are hardly compatible with the language standards expected in reports by institutions such as the Council of Europe. Irrespective of this and as a general remark, such references can hardly contribute to any constructive, sincere and genuine dialogue as they risk at the very least provoking mutual suspicion and mistrust. Following this logic and as a matter of principle, we will refrain from further commenting on this particular reference.

Paragraphs 119-124: In your report, you state that the conclusions presented in the report of the chairman of the adjudicatory chamber of the FIFA Ethics Committee, Hans Joachim Eckert, on the inquiry into the bidding process for the 2018 and 2022 FIFA World Cup™ tournaments are a "clear whitewash". You also refer to material presented to you by the British newspaper, the Sunday Times, as being "unequivocal pieces of evidence." In this respect, as a general remark and irrespective of individual appraisals of the content of the statement of the chairman of the adjudicatory chamber –

which, indeed, may not be to the liking of every single reader – any proceedings of judicial bodies require evidence and data that go beyond mere suspicion, speculation, public perception, individual opinions and media reports. In light of this, you may also wish to note that the principle of presumption of innocence also applies to FIFA ethics proceedings.

In this context, it is also worth reiterating that the FIFA Ethics Committee is independent from FIFA and, as such, FIFA does not have any influence over the writing of investigatory reports or over the findings of any investigations. Furthermore, the integrity, competence, expertise and extensive professional experience of the two chairmen of the two chambers of the FIFA Ethics Committee, Michael J. Garcia and Hans Joachim Eckert in their respective legal fields, are well documented, well known and publicly available. The same applies to Cornel Borbély who, following the resignation of Mr Garcia, was appointed chairman of the investigatory chamber of the independent FIFA Ethics Committee until the FIFA Congress of May 2015. Mr Borbély is also an outstanding lawyer and an expert in forensics, and, having previously worked closely with Mr Garcia, will be responsible for leading the ongoing proceedings against specific individuals and ensuring that they are pursued to the fullest extent.

Considering the extensive revision of FIFA's system of justice, the restructuring of the Ethics Committee into two chambers with separate powers, and the fact each chamber is composed of renowned and highly qualified people, we would have expected at least an endorsement of such a major reform as a best-practice reference model, instead of the allusions in your report that ultimately undermine the merits of this initiative to reform the FIFA Statutes in their entirety.

In addition to the above, you may wish to note that FIFA has, upon the recommendation of Judge Eckert, lodged a criminal complaint with the Office of the Attorney General of Switzerland in Bern. The subject of the criminal complaint is the possible misconduct of individual persons in connection with the awarding of the hosting rights of the 2018 and 2022 World Cups. Unlike FIFA's bodies, the Swiss criminal prosecution authorities have the ability to conduct investigations under application of criminal procedural coercive measures.

In addition and as you may already know, in a meeting in Zurich on 20 November 2014, the two chairmen of the FIFA Ethics Committee also agreed that the independent chairman of the FIFA Audit and Compliance Committee, Domenico Scala, should receive full copies of all reports of the investigatory chamber to fulfil his fiduciary and statutory duties and to determine how much of that information should be made available to the FIFA Executive Committee. As you may appreciate, full publication of the report is at the very least problematic from a legal point of view as it would violate the personal rights of the people mentioned in the report both under the Code of Ethics (cf. art. 36 – Confidentiality) as well as under relevant Swiss state law. In addition, you may wish to note that confidentiality is a fundamental principle when it comes to ensuring the cooperation of individuals in the judicial ethics proceedings of a private association like FIFA, in order to establish the facts of a case. In such contexts, transparency considerations – despite their validity in principle – have to be weighed against the obligation to protect the rights of individuals as well as bear in mind the tools that the Ethics Committee requires for the conduct of its work and proceedings.

As you may have also seen in the meantime, FIFA's Executive Committee, at its meetings on 18 and 19 December 2014, unanimously supported the recommendation expressed by the chairman of FIFA's Audit and Compliance Committee, Domenico Scala, that the chairmen of the Ethics Committee

publish the report on the inquiry into the 2018/2022 FIFA World Cup™ Bidding Process prepared by the investigatory chamber of the Ethics Committee.

The Executive Committee also stressed that such publication must fully adhere to the provisions of the FIFA Code of Ethics, notably the obligation of confidentiality (art. 36 of the FIFA Code of Ethics), and also recommended that publication should only occur after cases against individuals have been concluded, as also recommended by Mr Scala.

All the relevant information, press releases and statements, as well as the summary of the report by Mr Scala, may be found in full on FIFA's official web site.

Section 6: Sports governance and the promotion of human rights

Paragraph 125: Regarding your suggestions on the approach taken by sports organisations towards the host countries of major sports events in terms of control and support, in this regard, we would like to make the following general remarks:

FIFA is closely involved in the preparation of the event, providing the Local Organising Committee (LOC) with extensive guidance and expertise not only with regard to logistical and operational aspects but also for the development of a comprehensive sustainability strategy covering both social and environmental topics. In this respect, we trust that the information provided by the FIFA representatives at the recent hearing in Paris with regard to FIFA's sustainability strategy has been useful.

For the 2014 FIFA World Cup Brazil™, FIFA financed the entire operational costs of around USD 2 billion with revenues generated by the sale of TV and marketing rights. About a half (USD 1 billion) was spent on services in Brazil – in other words, money injected directly into the Brazilian economy. The budget of the Local Organising Committee (LOC) was also entirely financed by FIFA (BRL 1,056 million). FIFA's operational expenses for the 2014 FIFA World Cup™ covered areas such as prize money, TV production, teams and match operations. The LOC was mainly responsible for the event logistics and operations (e.g. local transportation, stadium operations and security).

In addition to the above, a legacy fund of USD 100 million was established by FIFA in the wake of the 2014 FIFA World Cup™, which will be used to promote development in areas such as infrastructure, women's and grassroots football, healthcare and social programmes for underprivileged communities, with a special focus on the 15 states that were not home to Brazil 2014's Host Cities. As per the relevant FIFA regulations, all funds provided by FIFA under this project will be subject to an annual central audit by KPMG.

With regard to taxes, it is important to note that FIFA does not ask the candidate countries for FIFA's sponsors to enjoy unrestricted or complete exemption from any form of taxation. Instead, FIFA requests specific, limited exemption for its sponsors and certain service providers, which are closely connected with the event. Regardless of tax guarantees, FIFA never receives tax exemption across the board. In Brazil, for example, FIFA's subsidiaries such as FIFA Ticketing, the LOC and our service providers were taxed according to local legislation. FIFA also paid taxes on every single ticket sold. The exemption requested by FIFA for its sponsors is on a level with the tax relief requested by other organisers of major sporting or cultural events. For example, FIFA does not demand any general tax exemption for sponsors and suppliers for the general commercial activities in the host country. Instead,

FIFA only requires an easing of customs procedures for some materials that need to be imported for the organisation of the FIFA World Cup™ that cannot be obtained within the host country (e.g. the importing of computers to be used by FIFA or the LOC, of electronic advertising boards (and their subsequent export), of footballs to be used during the FIFA World Cup™), and which will either be used and exported after the event or donated to an institution linked to sport in the host country.

Paragraphs 126-128: FIFA expects the host countries of its flagship event, the FIFA World Cup™, to ensure healthy, safe and dignified working conditions and respect for human rights for all – nationals and foreigners, regardless of their position – involved in the preparation of the event.

With regard to Qatar, and as also mentioned during the hearing, FIFA firmly believes that the platform provided by the 2022 FIFA World Cup™ constitutes a unique opportunity to promote social and human development in Qatar, including improving the situation of migrant workers, their labour conditions and the protection of their rights. Even before the 2022 FIFA World Cup™ was awarded to Qatar, social and human development was an integral part of the bid as part of the country's "Qatar National Vision 2030".

FIFA welcomes initiatives aimed at raising awareness of the need to improve the situation of migrant workers in Qatar emanating from political institutions, civil society organisations, trade unions and the International Labour Organization (ILO) in order to substantially improve the situation of migrant workers in Qatar. This is a complex matter which requires the attention of and action from all involved parties: the Qatari government and national authorities, the international business community and the large corporations that are active in Qatar as well as political leaders and the ILO. FIFA, within its remit, stands ready to provide all necessary assistance so that the situation of migrant workers in Qatar and their labour rights are addressed with the necessary urgency.

To this end, FIFA has already been in contact with human rights civil society organisations, trade unions and the ILO going back to 2011 and is still maintaining this approach. FIFA is in constant touch with the Supreme Committee for Delivery and Legacy and continues to promote dialogue between the Qatari authorities, the ILO, civil society organisations and trade unions.

As you might already know, the Qatar Supreme Committee for Delivery and Legacy, which is the entity in charge of the projects connected with the 2022 FIFA World Cup™, has issued its own workers' welfare standards applicable to all 2022 FIFA World Cup™ construction projects and, at present, such standards form an integral part of the Supreme Committee's tender procedures. Furthermore, the State of Qatar recently announced its plans for a series of reforms to its labour laws and the *kafala* system, as well as the enforcement of various aspects of the existing legislation, for which the implementation process should start within the next few months. While there is clearly still a lot to be done, all of us, according to our respective roles and capacities, also have a responsibility to recognise and support areas where progress is being made and initiatives that are heading in the correct direction. The fact that the issue of improving the living and working conditions of expatriate labour in Qatar is being addressed with the utmost urgency is already a positive development arising from the international attention generated from the hosting of the 2022 FIFA World Cup™. This matter was also discussed at the recent FIFA Executive Committee meeting and FIFA will continue to treat this matter with priority in accordance with what was communicated following the Executive Committee meeting in December.

As was also mentioned during your most recent hearing, please allow us to repeat that already two years ago, FIFA stated that, in the context of future bid requirements, the intention is that aspects such as promotion of human rights and labour standards are reviewed and/or enhanced as appropriate in the bid documents.

We trust that the above information will help you to gain a better understanding and, consequently, appreciation of FIFA's initiatives aimed at improving its governance structures and corresponding procedures. Considering the work of your committee, sub-committee and ad hoc sub-committee on this subject, which has focused on our organisation in particular, and FIFA's constant willingness to provide you with all of the requested information as well as accommodate your meeting requests – in the context of which additional information and data has been always made available to you and the members – we would like to believe that your committee and the rapporteur will eventually be in a position to properly appreciate what has been changed and the significant and substantial reforms that have been introduced and implemented.

As previously mentioned, we consider it our duty and responsibility to engage and discuss with public authorities and political institutions – and we maintain this approach in many different contexts – but at this stage and bearing in mind our constant availability and assistance, such an almost unilateral focus on a single international sports organisation appears to go beyond what would have been expected from a European political institution on the subject of good governance, and it also raises the question – in our opinion at least – as to the ultimate objective that is guiding your single-minded focus and report on football and particularly on FIFA. While we remain committed to constantly improving the governance and the overall compliance and control environment of our organisation as appropriate and in accordance with our statutes and regulations in terms of processes and decision-making procedures, we also have to accept – and I trust that you will agree with us – that it would be almost impossible to satisfy every single person and/or stakeholder. As is the case at every organised and professional body, decisions are taken based on clear frameworks, rules and procedures.

Once again, FIFA's objective is to constantly adapt its structures and procedures where relevant and on the basis of the needs of the organisation and the game. This has always been the case and the same principle continually guides and informs our work.

FIFA is committed to fulfilling its role and responsibility as football's governing body and organiser of the FIFA World Cup™.

Yours sincerely,

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION

Jérôme Valcke
Secretary General

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