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# COMPLIANCE IN SPORT ORGANIZATIONS



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## 1 CULTURAL FAIR PLAY AS TARGET

Fair play has become the catchphrase for ethically and morally correct behavior in sports. This includes compliance with culturally accepted values and the ethical rules for the respective sport. In sports organizations, such rules are often written down in a Code of Ethics. The idea of fair play is not just about specific behavior during a game and on the pitch, but mainly about personal responsibility and a lived inner attitude. It's about respect for the sport in general, for the specific sport of the organizations, the opposing team, other members of your own organizations and lastly for yourself.

It must be considered that the concept of fair play is perceived differently depending on the manifestation of cultural and social differences. This is particularly important to understand when it

comes to assessing alleged misconduct by people from different cultures. Nevertheless, it is possible to define individual principles which have general validity. In the foreground stands the mentioned personal responsibility of every exponent of a sports association or individual athlete. They must know the rules and promote them proactively. Next, the concept of mutual respect needs to be filled in with deeds. In the event of possible breaches of fair play (and the Code of

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Ethics), instances must be installed that mediate neutrally or seek solutions. In extreme cases, sanction is to be given.

### 2. CULTURAL CHANGE IN SPORTS ORGANIZATIONS, ALSO AS A RESULT OF LEGAL SHOCK WAVES

One of the main challenges for sports organizations is the constant adaptation to a changing environment. Be it social, cultural, regulatory, or based on other factors. Problems can arise from the fact that a sports association grows quickly, the control instruments and bodies are not developed proportionally at the same time – which can ultimately lead to governance failure.

However, constant progress and change represent one of the most important opportunities to reform sport and to adapt modern governance structures. For sports organisations, this means taking on the leadership role for modern fair play and effective compliance. Strong governance has positive effects on marketing, sponsoring, and fundraising. Ultimately, this leads to an increased reputation and better credit-worthiness.

Structural change is neither quick nor easy. This should be developed and promoted with the involvement of all stakeholders. Only then is there a guarantee that the continuation of the set of rules is broadly based as well as stable. Sports organizations have to check whether their practises, which have grown over decades, are still appropriate today.

Against this background, sport organizations can be hit badly in cases of non-compliance. Some of FIFA's employees and body members for example have been targeted by law enforcement authorities in the past. In autumn 2015, a state investigation was initiated against the then president. He was immediately banned from his position by FIFA's independent ethics committee. As a result, a comprehensive reform was initiated inhouse, the so-called Lex FIFA was introduced at the state level in Switzerland, thereby tightening the criminal law on corruption in the private sector.

### 3. ESSENTIAL ASPECTS OF COMPLIANCE IN SPORTS ORGANIZATIONS TO COMBAT CORRUPTION

Noteworthy are the following aspects of compliance organization that have particularly proven themselves in the fight against corruption.

#### 1. Risk assessment

To prevent and combat bribery, it must first be analyzed whether and to what extent there is a corresponding risk. The process of risk assessment is a systematic method with which the risk of bribery is analyzed, and the probability of occurrence is evaluated.

A distinction is made between different phases for the risk assessment process: The primary aim is to ensure that the top management implements the necessary instruments to show any existing risks transparently. In a planning phase, the ground must be prepared for the risk assessment. It's about fixing responsibilities. Then information must be obtained, and the risk of bribery determined. Based on the knowledge gained, the existing anti-corruption program must be further developed and adapted. All this on a regular basis.

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## 2. Code of Ethics as a guideline for basic values

To give employees of sports organization and athletes a guardrail, it is standard to transfer the company values into the Code of Ethics. It sets out the applicable principles of compliance organization, each translated into practical explanations. This should be made public and

regularly checked for suitability. Since such a code forms the yardstick for accepted norm behavior the target group must be precisely defined.

## 3. The value of effective whistleblowing tools

Via whistleblowing channels, employees or third parties can report possible grievances or seek advice on how to cope with potentially sensitive situations. Corresponding channels should not be underestimated in terms of importance. If such an instrument is installed in a credible manner, this can lead to relevant behavior being exposed if there is sufficient trust. The mere fact of the existence of a whistle-blowing tool has a deterrent and considerable preventive effect.

## 4. Correction of misconduct

In the case of misconduct, a company must react immediately. The longer you wait, the greater the potential for damage. It is also necessary to take sanctions, which should be communicated within the framework of the applicable principles.

## 4. CONCLUSION AND OUTLOOK

Sports is of outstanding importance to society. It's about more than just entertainment for a large audience. We speak of youth promotion and education, up to and including the fight against poverty and disease. At the same time billions are turned over in sports organizations and distributed to target groups. Sometimes sporting, economic and political aspects are mixed up. Accordingly, sports organizations have the opportunity to set a positive example.

In recent years, sports organizations have shown considerable improvements in compliance. Nonetheless, checks must be carried out on a regular basis to determine whether the practises in use meet today's requirements. And: Even with a highly elaborated Code of Ethics and statute, one point is key: the human factor.

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In his capacity as a Attorney at law, he provides advise and litigation services, primarily in the fields of criminal law, business law as well as administrative law. As a former public prosecutor and head of a group for economic crime investigations in the Canton of Zurich, he has many years of experience in providing advise and conducting complex national and international proceedings. Alongside his work as an Attorney at law, he was also the Chairman of the Investigatory Chamber of FIFA Ethics Committee and is the Chief of the Swiss German investigating judges of the Military Justice. In addition, he lectures at various universities in the field of economic criminal law. Between 2015 and 2020, he was also the director of the master studies in Economic Crime Investigation at the University of Lucerne HSLU. Cornel Borbély also publishes in professional magazines on topical subjects in the areas of criminal law and good governance.



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