

PE1319/TTT

Scottish Football Association and Scottish Professional Football League joint submission of 7 June 2017

Public Petitions Committee – Meeting on 15 June 2017 - Requested Information

Further to the above, in advance of the meeting of the public petitions committee on 15 June, we would like to provide the committee with the following information which has been requested through the Clerk.

The position relating to FIFA and third party involvement

In football, FIFA/UEFA statutes specifically prohibit any form of third party influence/intervention, including government intervention, in football. FIFA has not hesitated to suspend the membership of a national association whose independence it considers to have been compromised by government interference.¹

Rule 14 of the FIFA statutes states:

Member associations have the following obligations:

(...)

- i) to manage their affairs independently and ensure that their own affairs are not influenced by any third parties in accordance with art. 19 of these Statutes;*

(...)

3. Violations of par. 1 (i) may also lead to sanctions, even if the third-party influence was not the fault of the member association concerned. Each member association is responsible towards FIFA for any and all acts of the members of their bodies caused by the gross negligence or wilful misconduct of such members. (emphasis added).²

Rule 7bis (2) of UEFA provides:

- (a) Member Associations shall manage their affairs independently and with no influence from third parties. Member Associations shall provide in their statutes for a procedure guaranteeing that their executive body is freely elected and that their other bodies are elected or appointed in a completely independent way. Anybody or decision from a body that has not been elected or appointed in compliance with such a procedure, even on an interim basis, shall not be recognised by UEFA.³

¹ FIFA suspends the Kenyan Football Federation, available at <http://www.fifa.com/about-fifa/news/y=2006/m=10/news=fifa-suspends-the-kenya-football-federation-106935.html>

² FIFA statutes 2016, available at http://resources.fifa.com/mm/document/affederation/generic/02/78/29/07/fifastatutsweben_neutral.pdf

³ UEFA statutes 2016, available at http://www.uefa.org/MultimediaFiles/Download/OfficialDocument/uefaorg/WhatUEFAis/02/33/81/40/2338140_DOWNLOAD.pdf

A recent case in which FIFA and UEFA had to intervene against state measures which affected the independence of a member association was in relation to the Greek Football Federation (GFF).

In early March 2015, the Greek government was preparing to pass laws on violence following a series of incidents at a number of football matches. On 30 March 2015 a joint FIFA and UEFA mission visited Greece to meet officials from the GFF as well as Greece's Minister for Culture and Sport and other ministry officials, in order to discuss the aforementioned draft legislation proposed by the Greek government. During the visit, Thierry Reznar, the Director of National Associations of FIFA raised concerns about the legislation, emphasising the great importance of the autonomy of sport and non-government intervention and extra-institutional football authorities.

On 22 April 2015, on learning that the draft bill 'Emergency measures for the confrontation of violence in sports and other provisions' had been submitted to parliament for a vote, the general secretaries of FIFA and UEFA, Jérôme Valcke and Gianni Infantino, wrote a joint letter⁴ to the President of the EPO Georgios Gkirtzikis. In it they warned that the adoption and application of the draft bill without amendments would contravene the FIFA and UEFA third party influence rules state above. The letter further warned of sanctions that would likely be imposed upon the GFF by FIFA and UEFA, including the suspension of the GFF, meaning that no Greek team of any sort would be able to participate in FIFA or UEFA competitions.

On meeting with representatives of the Greek government just a week after the aforementioned letter, Infantino reiterated that it was absolutely essential to ensure that the self-rule and therefore autonomy of the GFF would be protected. Infantino stressed that the priority of the law was in any case not to remove the GFF's ability to work independently and on its own, but to fight violence and match-fixing, which he said were the main problems to be addressed by Greek football.

Following the meeting on 29 April, the Greek government informed UEFA of modifications to the articles of the draft bill as discussed during the meeting. However in a letter to Stavros Kontonis, the Deputy Minister of Culture, Education and Religious Affairs, UEFA's Infantino stressed that there were still remaining points that needed to be addressed in order for the legislation to comply with its autonomy principles, and that failure to do so would be considered as going against the principle of self-governance required from FIFA/UEFA member associations.⁵ In the letter FIFA/UEFA made amendments to the provisions regarding fines, the ability of the government to appoint judges and administrative charges imposed on ticket sales.

⁴ available at

http://www.epo.gr/media/files/FIFA_UEFA/150422%20Submission%20of%20the%20draft%20bill%20to%20the%20Greek%20Parliament.pdf

⁵ available at

http://www.epo.gr/media/files/FIFA_UEFA/20150502_FIFA%20UEFA%20letter%20to%20Greek%20Sport%20Ministry%20re%20amendments%20to%20the%20n...pdf

Following correspondence and meetings held between Infantino and Gkirtzikis, the President of the GFF, in early May, UEFA once again wrote to the EPO on 6 May. In the letter Infantino expressed UEFA's surprise in learning that some new changes had been submitted that day to the Greek Parliament – the day the bill was set to be voted on – before reportedly having been approved by UEFA.

No further action was taken by FIFA/UEFA as the proposed amendments were implemented and the final form of the Bill was in terms which satisfied the football authorities that there was no compromise to the autonomy of the GFF.

Currently, both Kuwait and Guatemala are suspended by FIFA for breaches of the third party interference regulations.⁶

Actions that are being considered in respect of the obligations on clubs to pay minimum wage

As stated previously, it is not disputed by either the Scottish FA or the SPFL that clubs have to comply with **all** relevant laws including the national minimum wage legislation. In relation to registration, the Scottish FA registers players not contracts and, as part of that registration process, FIFA requires contracts to be lodged with the Association for evidential purposes should there be a subsequent player/club dispute. It is far from straightforward to determine from the face of a contract whether or not national minimum wage legislation is being complied with never mind other potentially relevant employment legislation.

The Scottish FA registration department processes 18,000 transactions per year which includes:

- Player with Contract
- Player with Contract Extension
- Player with Contract Variation
- Permanent Transfer
- Standard Temporary Transfer
- Emergency Transfer
- Development Transfer
- Delayed Transfer
- Amateur
- Youth
- Youth Extension
- International Clearance outwards
- International Clearance inwards
- Cancellation of registration

⁶ available at <http://www.fifa.com/governance/news/y=2016/m=10/news=suspension-of-the-guatemala-football-association-2847078.html>

<http://www.fifa.com/governance/news/y=2015/m=10/news=suspension-of-the-kuwait-football-association-2717726.html>

- Cancellation of Temporary Transfer
- Cancellation of Delayed Transfer
- Offer terms of Re-engagement
- Withdrawal of offer of terms
- Reinstatement from Professional to Amateur status
- Upgrade Temporary Transfer to permanent
- Extension of Temporary Transfer
- Extension of Emergency Transfer
- Extension of Development Transfer

The focus for both the Scottish FA and the SPFL is to ensure that players are paid the minimum wage rather than punishing clubs for non-compliance. This is why the SPFL have an adjudication mechanism where players can have disputes with clubs (including in relation to the minimum wage) determined. The Scottish FA's independent judicial panel system would hear any appeal from such an adjudication.

Neither the Scottish FA nor the SPFL would instigate a widespread investigation into any issue pursuant to one potential breach or, indeed, several on the face of it isolated breaches being brought to its attention by a third party.

In addition, nothing brought to our attention to date would trigger a Scottish FA disrepute charge (it has been suggested that we should have raised such a charge against clubs). Disrepute in sport is not a subjective test but is determined by reference to an Australian Court of Arbitration for Sport case and is a very high hurdle to overcome in any prosecution.

Since giving evidence to the public petitions committee on 22 December 2016, the following has taken place in relation to the national minimum wage issue within football:

- The SPFL are working with their external lawyers to produce a new standard form contract specifically for use in relation to part-time players. It is hoped that we will be in a position to roll out the new contract this summer for immediate use by those clubs who employ part-time professional players. Both this new part-time player contract and the standard contract (more suitable for use in relation to full-time professional players) will, for the first time, contain specific reference to National Minimum Wage legislation;
- Following the success of the SPFL's seminar for clubs held on 26 January in relation to the National Minimum Wage, it is our intention to hold further such events, all of which will create further opportunities to continue to educate clubs about the need to abide by National Minimum Wage and other relevant employment legislation;
- Both the SPFL and the Scottish FA have written to all our members to remind them of their obligations regarding National Minimum Wage and have also provided guidance on the subject; and
- As part of the normal end of season rules revision process the Scottish FA are looking to introduce new processes in relation to both registration and club licensing

which will require clubs to provide specific confirmation that they have considered and complied with national minimum wage legislation. Breaches of either the registration procedures or the club licensing regime may lead to references being made to either the Compliance Officer or the Club Licensing Committee.

Further information about the Project Brave initiative and how it relates to the issues of registration of youth players

Project Brave is the name given to the Scottish FA's new performance strategy which is currently in the process of being implemented by the Scottish FA's newly appointed Performance Director Malky MacKay. The implementation is due to be complete by and rolled out in 2018.

Project Brave has a number of elements including:

- A Best v Best Games Programme – it is currently envisaged that this will be smaller than the current top level games programme and will therefore involve less boys than currently;
- Pitch Sizes relevant to age categories;
- Modifications to the loans system to gain more game time for young players who are unable to break into the first team at their parent club and;
- A new registration system which will for the first time bring in a Summer football season for all age categories up to U16 when the transition will be made to the traditional Winter Scottish football season – this will necessitate a change to the system of registrations including the age groups for registration. The detail of this is currently being considered and has still to be finalised.

It should be noted that the reimbursement of training costs matrix will also be considered as part of the new regulations being introduced as part of Project Brave. In relation to this matrix, it should be noted that:

- It is a FIFA requirement to have such a system and, changes have been made since 2010 to more closely align it with the costs of clubs at different levels of the Club Academy Scotland system.
- As well as changing the system, the SPFL introduced commitment letters in terms of which, if a club is looking to take player they have to give a commitment in writing that they will pay the amount calculated in accordance with the matrix.
- We do not keep a record of payments between clubs in relation to the matrix as this is private between the clubs. However, we do get involved in providing guidance to clubs in relation to the matrix and, if approached by a club or a player, we would also get involved in disputes between clubs in relation to matrix payments. Having said that, given the changes since 2010, there should not be disputes in relation to matrix payments.

Regarding registration, we are aware that one of the major issues before the committee is in relation to the players who are registered at 15 and then have this registration rolled forward for two further years.

If this banding or similar did not exist this would likely have a negative impact on the young people involved. In particular, the upheaval (of young people and their families) would be disruptive to family life and education (at a crucial stage in both). In addition there are numerous examples of players moving to England and not succeeding (evidence shows that this is a particular issue with young persons moving to English clubs from outwith England).

If the rule were removed and replaced by one year registrations (i.e. the same as for ages 10-14) our top talent would likely be taken by clubs in the English Premier League who could easily afford to “take a punt”. This would have a knock-on effect within Scotland as the clubs losing talent to England would look to backfill from other clubs within Scotland which would in turn lead to clubs feeling that it is not worth having an academy, which in turn would reduce the opportunities for young people.

What has been acknowledged is that it is not in the best interests of clubs and more importantly young people to keep players they are not utilising – hence the introduction of a game time (25%) rule. In addition, if a player wishes to return to the recreational game we have introduced a mechanism to allow this to happen.

Finally, clubs are also not going to want to keep players who are disgruntled and we are aware of numerous occasions where clubs have let players go within this 3 year period.

We also introduced the Young Person’s Wellbeing Panel to assist with issues between clubs and players. This panel comprises a pool of 10 members being individuals with a range of legal, football and child wellbeing experience. To date one referral has been made to the panel and this is currently being dealt with.

Information about taking forward arrangements for members to visit academies

As part of the Committee’s deliberations in relation to this issue we feel that it is important for the members to visit an academy to understand its workings and to meet some of the young people that are part of this system. We understand that the former Children’s Commissioner visited Kilmarnock FC in February 2016 but are unaware of his experience at said visit. In addition, in our correspondence with the Commissioner during 2015 we highlighted some of the examples of work done by clubs in relation to their academy players and it is this that we would encourage the committee members to experience for themselves:

- Well Being – completion by players on a daily basis of an online questionnaire measuring how they are feeling, how they have slept, readiness to train etc. If certain indicators are triggered then appropriate members of the club’s coaching, sports science medical and welfare staff are immediately notified and take the necessary precautions.

- Lifestyle Education – clubs provide lifestyle education on a variety of topics including drugs and alcohol, sexual health, gambling, sectarianism, money handling and budgeting, media training, diet and nutrition, cooking lessons, road safety, social media (in particular around child protection) and laws of the game. The Scottish FA with the encouragement of the Scottish Government has supported the appointment of the football chaplain Mark Fleming. Mark has worked closely with numerous club chaplains with specific focus on the academy players and the lifestyle issues faced by them.
- Academic Education – clubs exchange information with the schools of the children to ensure that their best interests are always looked after; for example this may lead to assistance with behavioural or motivation issues in school and a carefully planned diary leading up to exams. Homework classes are operated by the clubs (staffed by teachers and qualified tutors) to ensure that the boys complete their homework; based on research gathered by one club over a ten year period, evaluations completed by teachers at the schools of the boys demonstrate either an improvement or maintenance of their anticipated academic outcomes.
- Football Education – youth players together with their parents or guardians meet with clubs at player assessments and are encouraged to take part in that process. Players are also encouraged during training and post matches, to discuss their performance with the coaches. Players are encouraged to speak freely about how they see their development and what areas they consider they can improve. Once agreement is reached a bespoke training plan is issued for the player to work on individual skills. Clubs also provided numerous examples of where players have come through their academy ranks and now play for them or another club within Scotland at a professional level.
- Child Protection – clubs have undertaken a series of educational workshops to improve child safety online. Parents, carers, and coaching staff have also participated in these workshops; clubs also have child protection panels to review policies and training needs for staff, players, parents and carers in this important area – the views of the players are sought for these forums.
- Parents' Nights – many clubs have parents' nights on a more regular basis than schools have. Players and parents or carers attend these nights where there are good two way exchanges of information and feedback.

If there are particular academies that members would like to attend please let us know and we will assist with making suitable arrangements. Alternatively, we would be happy to provide a list of academies for members to choose from and again we would then assist in making suitable arrangements.

In addition to the good work done by clubs the Scottish FA have over the last few years looked at various ways to embrace the voice of the young person in our deliberations and decision making. Specifically:

- In compiling our response to the report by the children's commissioner we consulted 198 young players;

- We have introduced a youth congress (with one member specifically assigned to football governance) to assist us in ensuring that we do have appropriate access to the views of young people in our decision making processes;
- As mentioned above, we have introduced a Young Persons Wellbeing Panel.

The Scottish FA have also appointed a Children's Rights and Wellbeing Officer (over and above our Child Wellbeing Manager) to assist in advancing developments of education for coaches and referees making children's rights and wellbeing essential elements for people coming into these roles. It should also be noted that the Scottish FA have been invited by UNICEF UK to develop an International Learning Set across Scottish football as part of the International Safeguarding Children in Sports Working Group (The Scottish FA is the first Sports National Governing Body to receive such an invitation).

We hope that the above information is of some assistance to the Committee and we look forward to discussing matters further at the upcoming session on 15 June.