

Digital, Culture, Media and Sport Committee

Oral evidence: Sports Governance, HC 320

Wednesday 13 September 2017

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Members present: Damian Collins (Chair); Simon Hart; Julian Knight; Ian C. Lucas; Christian Matheson; Brendan O'Hara; Rebecca Pow; Jo Stevens; Giles Watling.

Questions 1-34

Witness

I: Professor Miguel Poiares Maduro, Former Chair of the FIFA Governance Committee and its Independent Review Committee.

Examination of witness

Witness: Professor Miguel Poiares Maduro.

Q1 Chair: Good morning, Professor Maduro. Welcome to the Digital, Culture, Media and Sport Committee. This is the Select Committee's first hearing since the general election, and our intention is to conclude the work we have done on sports governance, with a view to producing a final report before the end of the year. We are delighted that Professor Maduro has accepted our invitation to come and give evidence to the Committee today.

Before we proceed to taking evidence, I would just like to say that we had discussed with Dr Cornel Borbély his coming to give evidence to the Committee today as well. Dr Borbély was willing to do so. At his request, I wrote to FIFA to ask whether they would be prepared to allow Dr Borbély to accept Parliament's invitation to give evidence to us as part of our inquiry. They said that they would not allow him to give evidence; they would hold him to the confidentiality agreement that he had signed with them and enforce it against him. They have even suggested it could be a criminal act for him to give evidence to a parliamentary inquiry. With Dr Borbély's permission, I am publishing today through the Committee my letter to FIFA and FIFA's response. The Clerks have copies of those letters available in paper form here, but they will also be published this



HOUSE OF COMMONS

morning on the Committee's website. People can draw their own conclusions as to why FIFA would seek to restrict someone from freely giving evidence to a national Parliament where there is a clear public interest in the subject matter, but nevertheless they have done so.

I am delighted that Professor Maduro has accepted our invitation to give evidence today. First, what is your view about FIFA's decision regarding Dr Borbély and also why their response has come not from the Ethics Committee, where you might expect it to have been referred, but from the Secretary-General?

Professor Maduro: Thank you very much for the invitation. It is an opportunity, for which I thank you, to co-operate and to continue to contribute, in any way, to reform in terms of governance of sport and FIFA in particular, but I think it is also my obligation to co-operate with a national Parliament in the context of an inquiry and a hearing that a national Parliament would like to conduct on a matter such as this.

I considered the issue and I considered the letter that FIFA sent you with respect to Dr Borbély. It is important that I make it clear that I do not consider myself bound by the duty of confidentiality in the FIFA code of ethics, with the exception of matters of a personal nature that have been divulged to me as chair of the Governance Committee in the context of the eligibility checks on candidates for FIFA positions. In the context of those checks, candidates have to fill in personal information, a questionnaire and a declaration, and confidentiality is assured to them. It is only in that context that I think confidentiality will apply.

In all other matters, the rule of article 16 of the FIFA code of ethics is clear: it depends on the functions. The Ethics Committee itself has said that it basically applies to the judicial bodies and not to a body of a mostly independent nature, such as my own. Moreover, it extends only so far as the acts or information in question—that have been given confidentiality—are compatible with the principles that govern FIFA. So if the information or the act is not compatible with those principles, then of course, the principle of confidentiality does not apply. Moreover, it is my understanding as a lawyer, and particularly as an EU law expert, that the case law of the European Court of Human Rights is very clear: when there is prevailing public interest—that public interest can come, for example, from the request of a national Parliament—that prevails over the duty of confidentiality, such as that in the FIFA rules.

With respect to the fact that the answer was provided to you by the Secretary-General of FIFA, I would say that that is the first evidence of what is wrong with FIFA governance. I wonder what anyone would think if you invited a former member of your Supreme Court to a hearing to discuss, for example, matters of a judicial nature. Not everything that Dr Borbély did will be covered by confidentiality, so to say that he is prevented from speaking in absolute terms is itself extremely surprising, to say the least. Moreover, for me what is more revealing is the fact that the answer was provided to you by the Secretary-General. As I was saying, imagine that you wanted to invite a former member of your



HOUSE OF COMMONS

Supreme Court and that the reply about whether he could go or not came from your Executive—the Government. Of course, first, who interprets the code of ethics should be the Ethics Committee, so FIFA should immediately forward your request to the Ethics Committee for it to decide whether or not Dr Borbély was prevented, and in which respects, from talking to a national Parliament. The second aspect is that in any rule-of-law system where you have a judicial body, the judicial body itself decides on the obligations of its members. So in itself, that reply from FIFA identifies some of the governance problems and some aspects that, unfortunately, I found out while exercising my functions at FIFA. It is a culture of governance that is, as I used to say sometimes, a system of rules without the rule of law.

Q2 Chair: Do you believe that despite what we were told about the new governance structures at FIFA, effectively, the President, the Secretary-General and the FIFA Council seek to exert their influence over the independent committees?

Professor Maduro: I think that there is a culture in the institution that starts at the level of the football associations and the confederations. That culture is not shared by all, but it is a dominant culture. That culture is extremely resistant to accountability, independent scrutiny, transparency and the prevention of conflicts of interest. Of course, steps have been taken to try to move forward in a positive direction. I was constantly told, including by the President himself, that we needed to be patient, that things needed to be done in a progressive manner and that reform will take place that way.

In many respects, me and my colleagues on the Governance Committee—I can tell you that there were one or two instances where I indeed thought there was an attempt to exercise undue influence on us. There were two different kinds of things: there were instances where we would take decisions and see by the reactions that they were not used to that kind of independent scrutiny. For example, on electoral matters, they sometimes expressed their strong dissatisfaction and at other times, they even refused to implement the decisions.

There are other instances that are more problematic where there was an attempt to exert some influence on us while we were in the process of taking a decision. In those instances, particularly in one of them, I considered the possibility of resigning. I remember that I discussed that with one of my colleagues on the Governance Committee. Our understanding was that we expected this culture to be resistant to change at first, but that with time, the more we exercised our independent role, the more they would get used to it. In particular, we expected that there would be protection for this independent authority. We knew that some of the decisions we were taking were difficult to accept, but my expectation of the President of FIFA was that ultimately he would protect the authority of the independent committees. What we saw, when our appointments were not renewed, was that that was not the case.



HOUSE OF COMMONS

I think that when President Infantino came into office, he generally accepted that there needed to be change and some independent scrutiny. I am still convinced of that. But I think at a certain point he realised that if he wanted to survive politically, either he had to choose to protect the independence of our committees and, therefore, to keep us in place, or he had to answer to what his constituency—the community to which he answers politically—was asking from him. FIFA was unhappy with the decisions that we were taking because they were genuinely independent. I think there is a tradition at FIFA of an understanding that somehow they are happy—I remember in terms of elections, sometimes we would take a decision and be supported; at other times, when we made a decision in the opposite sense, everybody would say to us, “You need to respect the independence of the confederations”, probably because that decision would go against certain interests. Suddenly, we were no longer enforcing principles but going against the democracy of the confederation, even if that democracy meant taking decisions that were themselves contrary to how our democratic system used to work.

- Q3 **Chair:** Just to be clear, you are suggesting that President Infantino has made the policy decision that he would rather prevent investigations into individuals, or not allow people to be prevented from serving at FIFA, to secure the political support of the people he needs to remain as president?

Professor Maduro: I don’t want to say that he thought about particular individuals, in general. Having a body that behaves genuinely independently, that applies the rules to every member or official of FIFA, independent of the importance of the federation or of the member in question, and that enforces rules in electoral matters—we can talk more about that because I think how elections take place is one of the most profound problems in FIFA—creates a position that a lot of the vested and established interests at FIFA are simply not used to. If FIFA really wanted independent scrutiny, they should have protected us. Not renewing our appointments after 10 months was a formal thing but, in fact, setting us aside meant that they were not ready to take that step. They decided to satisfy the community of interests that is contrary to that independent scrutiny. If you will allow me to give a parallel example again, FIFA is a legal order to a large extent. It is like a state beyond a state in a series of matters.

- Q4 **Chair:** It often behaves like that as well.

Professor Maduro: Yes. I have always said that it is a private institution but almost with the form of public authority; it regulates areas that would otherwise be in the realm of the state. In that respect, it should be subject to principles of the rule of law, accountability and transparency, as any public authority should. Think about the following parallel. If you wake up one day in a country and you have the Attorney General or the Queen’s prosecutor, the President of the Supreme Court or—in countries that have a constitutional court—the President of the constitutional court, all removed overnight, and some of them, as in my case, after only 10 months in office, how would we greet this? And that’s what took place.



HOUSE OF COMMONS

When you have the Chair of the Governance Committee, the Chair of the investigatory chamber of the Ethics Committee, the Chair of the adjudicatory chamber of the Ethics Committee, that's what took place.

If you didn't want that to convey the message that you are not ready to accept independent scrutiny, FIFA ought to have presented a very compelling argument for removing the three key figures in independent committees that were, moreover, generally accepted to be exercising their roles with—at least externally perceived—independence, and I believe with genuine independence. And that didn't happen.

Q5 Chair: You have described how people at FIFA sought to influence your work and the decisions reached by your committee. Could you give us an example of that?

Professor Maduro: The most well-known example, which everybody has talked about, is the election to the FIFA Council of Mr Mutko. I have no problem talking about that.

I have to say that, with the exception of that case, in general the President did not try to influence our decisions. He would transmit to me the fact that sometimes those decisions were not well accepted, but he did not try to influence, as I say. But in that case, there was indeed an attempt to try to influence our decisions.

We had the first meeting with the President of FIFA, where I conveyed to him, because I agreed that with my colleagues, that, when deciding on the eligibility of a candidate for the FIFA Council who is at the same time the Deputy Prime Minister of a country that is organising the World Cup in one year's time, we are certainly aware of the sensitivity of that. But it is one thing to be aware of how sensitive that is; it is another thing not to apply the rules for that reason. That's a very different thing, and that I was not ready to do, and I made that very clear to the President. In that case, or in any other case—it happened to be the case of the Deputy Prime Minister of Russia, but it could be any other case.

However, I did convey to the President that there were two main issues regarding the eligibility or not of Mr Mutko, who himself never contacted me and never behaved inappropriately—I have nothing to say in that respect. The only contacts I got were from FIFA itself.

There were two issues, and the preliminary one was the fact, precisely, that he was a Deputy Prime Minister. FIFA has a rule that is the principle of political neutrality and non-governmental interference. Early on, when I met the President, even before this case, I drew his attention to the fact that, in my view, there was a clear contradiction between the fact that FIFA was so active with respect to some football associations, invoking the principle of Government interference, while at the same time having members of national Governments in its own bodies.

The initial striking thing for me is that if a Minister sends a letter asking something from a football association, that is Government interference, but if the Minister becomes the president of that football association, that



HOUSE OF COMMONS

is not governmental interference. That, for me, was shocking, and I immediately said that to the President.

Moreover, in some cases these persons were in positions at FIFA. Our committee had the authority only for eligibility, so when they represented themselves, we could not apply it retroactively. We could not say, "You are in the FIFA Council, but you are in contradiction with this. You have to leave." But I warned the President that this issue was there, which should be addressed, and that there is a rule in the code of ethics that, in my view, prevents that. It is article 14, precisely—non-governmental interference.

I had a first meeting with the President when I told him that that preliminary question had emerged in the context of that case and that we were going to write to Mr Mutko, so that he would be prepared, because we knew of the sensitivity. We were going to write to Mr Mutko to give him the right to be heard and to express his view on that. On that occasion, the President already expressed some—how should I put it? He was not comfortable with the decision. He made several arguments why for he believed that. He did not tell me expressly; he did not ask me expressly not to decide that way, or for the committee not to decide that way. He didn't say that, but he expressed concerns about the impact of the decision on the World Cup. He was very clear on that. He also was very clear that he believed that there was another issue linked to the alleged participation or responsibility of Mr Mutko on the doping scheme. He made it clear to me that he believed that there was no evidence of that and that the IOC was also not going to intervene on that.

By the way, our committee ended up never deciding this question. This question was not addressed because Mr Mutko was excluded on the basis of the principle of non-governmental interference.

The President also told me that Mr Mutko had asked him himself if he thought there was any problem with his eligibility, and that he had told him that he believed there was no problem. To which I said, that was not something that we could do anything about or take into account. Our committee would decide on the basis of the rules and that was it. That was the extent.

At that time, in mid-January, I also had a meeting with the Secretary-General where she expressed the same concerns. She then asked us to delay sending the letter to Mr Mutko because she believed that she was going there a few days later and she did not want her visit to prepare the World Cup to be somehow impacted by our letter.

I talked to my colleagues and we accepted that. We thought that it was not going to affect our decision or the procedure. So, we did try, as I said, to accommodate in terms of being diplomatic. What we did not accept was to change our assessment of the case in any way.

These were the initial conversations. Then there was a second occasion when it became clear that there was dissatisfaction with this. I was in



HOUSE OF COMMONS

Brussels for other reasons for my professional and academic life and I got a call in the afternoon from the Secretary-General saying that she wanted to come to Brussels with the Chair of Audit and Compliance to talk to me.

They both came to Brussels and they stayed that night in the hotel. They came just to talk to me and they flew in early in the morning. The Chair of Audit and Compliance, I have to say, called me from the airport to say that he was very uncomfortable about doing this but the President had asked him to do that. During the meeting, he did not talk much; it was mostly the Secretary-General.

In that meeting, the Secretary-General made clear that it was extremely problematic. More than that, she said that we needed to find a solution to declare Mr Mutko eligible, otherwise the presidency itself would be in question and the World Cup would be a disaster. That was her view. As a consequence, the continued presidency of Mr Infantino would also be in question.

I told her very simply that that was a matter of political opportunity that was not for my committee to decide. That was simply not what we were entrusted to do. We were entrusted with the application of the rules, independently of the persons in question. If FIFA wanted—I was very clear to her—political arguments and political opportunity arguments to take precedence over this then they should assume it; they should have that in their rules and they should say openly to people that they operated in that way. I was very clear in that respect.

We continued. There were some other exchanges. Then our committee—the Governance Committee—decided in the way that is public that Mr Mutko could not be eligible because his position as Deputy Prime Minister contradicted the principle of political neutrality and non-governmental interference.

I communicated that to the President. I then got back an email from him, which I circulated to the members of the Governance Committee, in which he expressed great concern about that decision and about another decision that we were taking on the elections in Africa. The arguments there were of a different nature; basically the President argued that our decision was against the rule of law. The argument was basically that this had always happened at FIFA and therefore we were applying a rule retroactively.

Of course, we replied to the President that we were not applying a rule retroactively; we were applying a rule that existed already—article 14 of the code of ethics—and the problem was that it had never been applied in the past. That was the problem—not that we were applying it now.

His argument was mainly about that. It was a very strong letter, which said that we were going against the rule of law and putting good governance in question, and also that we should respect the rights of confederations to be free to choose the candidates they want. Of course, that is so, but the criteria of eligibility must be respected; otherwise, there



HOUSE OF COMMONS

is no point in having them. We replied to the President in that way and we therefore kept to our decision.

Chair: Thank you very much. There are lots of questions I could follow up with, but I know other colleagues want to get in.

Q6 **Rebecca Pow:** That example was quite well publicised. Was that just the beginning of your being put under pressure—not being allowed to do your job, effectively?

Professor Maduro: I remember saying to my colleagues on the Governance Committee that one of the good things about taking a difficult decision like the one we took in the case of Mr Mutko because of his visibility, his importance and the sensitivity for FIFA, is that people—even everybody at FIFA—would realise that we were really independent and that there was no point in putting pressure on us.

By the way, the sensitivity of that case also explains the problems of having Deputy Prime Ministers in FIFA positions, even aside from the fact that if we allowed that for all states, there would be nothing to stop FIFA becoming an intergovernmental organisation.

I will reply to your question in one second, but I think it is important to note this: in our interpretation, we only have direct jurisdiction on eligibility. For example, we were asked by a football association about a candidate for the executive of that football association. The principle is the same—the principle in the code of ethics applies to everybody, even those who are in confederations and football associations. FIFA continues to allow, in many football associations and confederations, a violation of the rule of non-governmental inference. At the level of football associations and confederations, there continue to be members of Governments who are in the associations' executive bodies at the same time. In my view, they are in clear contravention of the rule.

To answer your question, what happened several times was more resistance and the expression of strong dissatisfaction. For example, we would take or communicate a decision on matters of elections and hear back, "No, we're not going to accept that"—and in some cases they did not.

I can give you an example: female representation. FIFA adopted a rule in its reforms to require at least one woman among the representatives that each confederation elects to the FIFA Council. I was surprised early on when I got information from different confederations on how they were implementing that rule. Several of them had created what they called the female position, and all women candidates were candidates for that single position. That meant that the rule requiring at least one woman became a rule for not more than one woman—a rule aimed at promoting and favouring female representation was transformed into a rule that limited it. I wrote to those confederations. UEFA was one of them, and Oceania, if I remember correctly. They adapted their rules and understood there was



HOUSE OF COMMONS

a problem about the rules, but we had strong resistance on the part of the AFC. They argued that it was too close to the elections of their congress.

It was my first visit to a confederation and the first time I had been present in a congress; I had a meeting with the AFC's electoral commission. I said to them, "You don't need to cancel the elections; you just need to make the female candidates also candidates in the ballot for the other positions. It is just electoral procedure that you need to change."

I got this extraordinary reply—Professor Carlos Closa, the other selected representative, will confirm this—from the president of the electoral commission telling me that "All positions have already been agreed and negotiated, so you are putting that into question." I got that reply before the election, which is indicative of the culture of the institution.

They ended up, for another reason, postponing the election and not organising the congress. They called a new election just two days before the FIFA congress in Bahrain, also in Bahrain. Two or three months before—I don't remember exactly, although I can give the dates to the Committee—we got the information on how they had organised it. They had kept the female position and had issued a note to the confederations saying that women could choose, but it indicated that they could choose between being a candidate to the female position or to the other ones. That would lead to the same result.

In fact, we saw that there were four female candidates, who were candidates only for the female position. If I remember correctly—there was one person who withdrew after we reopened the eligibility check in the AFC—there were three other open positions that were only for men, and there were only three male candidates, maximum four.

We wrote to them and asked about that. They said, "No, no, no. They have been free to choose between one and the other." Among our representatives that we had appointed to that congress and to those elections—I always participated as the chair, but there was my deputy chair Navi Pillay and Ron Popper—we agreed to write another letter, with the exception of my deputy chair, who refused to sign the letter. We, the other three, were a majority, and we wrote that letter.

We said that they needed to reopen to female candidates. Even if we accepted that they acted in good faith, it was difficult to find an explanation. If things were as they were saying they were, that women could have applied for the female position and the others at the same time—they could be candidates for all at the same time—it was strange that women would not take advantage of that. Why would any candidate restrict himself or herself to one single position, when they could be a candidate for four positions? It was not rational. So we said moreover that we could not exclude the possibility that, if any female candidate contested the elections, we would intervene and annul the elections. We did not have the power to annul the elections, but we could declare the elected candidates as not admissible. That was the leverage we were using.



HOUSE OF COMMONS

Sometimes, we were supported, when people believed it was in their interests to support us, but other times, we were given the indication that we were going beyond our authority. But we did say that and we asked for our letter to be distributed to the female candidates so that they could exercise their rights.

As you know, deselections ended up taking place exactly at the moment that I left my position, but I was contacted by one of the female candidates after that. She told me that she had never received the letter; she was not aware of it. The confederation did not even circulate our letter to the female candidates as requested. This female candidate asked me for confidentiality; she said that I could tell you her name and that you could contact her to confirm, but preserving her confidentiality, if necessary.

Q7 Rebecca Pow: Just one more question, not related to women: did you feel that you were in a position where your hands were tied, and that there was no other senior official that you could go to, to explain—not just the women's example but the other examples—that these things were continually happening and that this was absolutely not the transparency and the job you had been asked to do?

Professor Maduro: We talked about it, even in the presence of the Secretary-General, up until the Mutko case, because after the Mutko case, the President basically stopped talking to me. He told me a couple of times that he wanted to talk to me, but he never talked to me again. Until that period, my conversations with the President were always that he was aware that there was a problem of culture, but he would tell me, "You need to be patient."

As I said, my expectation—I discussed this with my colleagues when I considered, for example, whether to resign—was, "Okay, we are changing a deeply embedded culture," but ultimately, even in the Mutko case, we decided as we wanted. It was made clear to us that our decision was not appreciated, but we decided as we wanted. No one threatened us, in a certain sense. It was made clear to us that that was not the decision that was wished for, but no one told us, "You are not going to stay in place," or anything like that.

It was my hope, more than my expectation. I was more pessimistic than my colleague—I can tell you who that colleague is, because I only discussed this with Professor Weiler. He has now brought a complaint to the Ethics Committee regarding several of these facts; several of these facts are also now before the Ethics Committee because of Professor Weiler. He told me I could tell this Committee that he has taken this complaint to the Ethics Committee. I discussed this with him. I remember he told me, "They will never dare not to renew our appointments, because it would put the entire process and its credibility in question," but, in fact, they did.

As I said, I think the ultimate factor was that we were ready to live with the lack of comfort, with the constant dissatisfaction, with the resistance,



HOUSE OF COMMONS

so long as we could progressively impose and shift the culture. But what is crucial in my view is the fact that these committees were not protected, and therefore the entire process was put into question.

- Q8 **Julian Knight:** Professor Maduro, I have one question, with two parts. First, what lay behind the resistance to the imposition of reforms over female representation, and what was Infantino's view? Secondly, and more generally, are the violations of ethics and governance that you are outlining today just chaos—rules that do not apply at all—or a case of selective application of the rules? If so, what are the parameters of that, in your view?

Professor Maduro: On the first one, I cannot speculate on the reasons for the resistance to female representation. One aspect is, of course, that the more you open to women, the more the likelihood is that those who have always been in power might be challenged.

- Q9 **Julian Knight:** Jobs for the boys?

Professor Maduro: And in this case, boys will be boys. That statement by the president of the electoral commission was very revealing to me. It assumes something that you can deduce by looking at the results of elections, when you have elections and several of them end in acclamation. By the way, we adopted guidelines for electoral procedure, so we were able to introduce and do some things. We adopted guidelines, because we were told by different people that voting control was a serious risk, for example. We adopted rules preventing things such as taking mobile phones into the voting booth, so they could not take a photo, and other aspects of this.

I want to give a good example: CONCACAF adopted our rules internally in their elections. We also found some other good examples but they are clearly a minority.

As I said, I do not know exactly what the resistance to female representation was, because I am not privy to their discussions and President Infantino never discussed that issue with me, so I do not know his view on that. Could you please repeat the second question?

- Q10 **Julian Knight:** Yes. Are the violations of ethics just a case effectively of the rules being ignored *carte blanche* or is it a case of selective application of the rules?

Professor Maduro: People don't mind the rules being applied as long as they impact on people that they don't mind being excluded from those positions. Even President Infantino told me that this was the practice in the past. He would tell me, in respect of the past, that the problem was that independent committees were used and instrumentalised. I cannot say whether that was true or not. I can say that I was told that by him and by many other people in the football world: the independent committees themselves were used to exclude some people and not others; they were used to protect some and exclude others.

In that context, it is natural that people will feel uncomfortable about being tested and scrutinised in some cases, because they are comfortable with those rules as long as they apply to others that they don't like.

One interesting thing was the fact that, in developing the eligibility and admissibility tests, we developed a note to try to provide certainty because we had controversial issues. It is relatively clear that, if someone has been convicted in the past of some major offence, for example, that that person should be declared not eligible. But what about, for example, ongoing proceedings? Allegations, ongoing proceedings—convictions are different things.

Our rule, which we adopted for everybody, was for when there were only allegations and we ourselves did not have concrete evidence. That was difficult for us because, even if we had an investigative report by a company, it would have been made with public information, so it was difficult to have hard evidence about someone, without having investigatory powers. So when we had allegations but no hard evidence, we would forward the case to the Ethics Committee. We did that in several cases, but we could not ourselves declare the person ineligible.

We might have some hard evidence ourselves because, on the basis of the allegations, we would ask those persons and sometimes it happened that they confirmed them, probably without wanting to. I remember asking somebody if they had received money from one of the candidates in past elections. My fear was that the person would say, "No, I have not received any," but the person actually said, "Yes, but he is my friend and it was a private loan." Of course, for us that does not matter. Sometimes it will happen that we end up having hard evidence.

At the same time, that is indicative of the culture among a lot of these agents. They really are not even aware of how their actions may be contrary to ethical rules. It is not embedded. Since this starts at the bases, the leadership ends up reflecting that. That is why I believe that they might replace President Infantino but, if you don't change the place systemically, they will simply get someone who is subject to the same pressure who will end up doing the same things.

Let's assume he did go with the idea of reforming the place, but then he has to cave in to these interests. Unless you change the systemic culture, you will continue changing the leadership but things will remain the same. Meanwhile, I forgot the question.

Q11 **Chair:** We might have to move on, but before we do, are you able to say in which election you asked whether someone had received a payment from a candidate?

Professor Maduro: It was a past election.

Q12 **Chair:** For the presidency?

Professor Maduro: Yes, but not the one in which Infantino was elected—a past one.



HOUSE OF COMMONS

Q13 **Chair:** Was that when bin Hammam stood for President?

Professor Maduro: I think it was, but I don't remember fully.

Q14 **Ian C. Lucas:** May I ask about your appointment? We are all aware of all the scandals that predated Mr Infantino's election. When you were appointed, were you Mr Infantino's appointment? Were you brought in by him?

Professor Maduro: To a large extent, yes. It was he who contacted me. I think some people in the administration of UEFA suggested his name to me, and then he contacted me. I had met him very briefly in a workshop at UEFA a couple of months before, but aside from that I had never met him.

Q15 **Ian C. Lucas:** When you were appointed, did you have discussions with him about the issues that you would be facing?

Professor Maduro: I had a discussion about the nature of the job and what it involved. He presented himself, mentioned the fact that he was contacting me and asked me for suggestions for other names. He came across to me as someone genuinely interested in reforming FIFA. He did come across that way.

Q16 **Ian C. Lucas:** Do you think he is still interested in reforming FIFA?

Professor Maduro: As I said, like many people in that culture, I think he has that idea. I cannot speak for him, but I think in his own mind he still believes he is reforming FIFA and moving forward. However, he believes that in order to do that, one needs to compromise on certain aspects, but I believe that if you compromise on them, you are no longer reforming FIFA. That is basically our difference.

Q17 **Ian C. Lucas:** But you only lasted months. Why do you think you were dismissed?

Professor Maduro: As I mentioned, I don't think it was because of one case specifically. It was the fact that we really took seriously our role of independent scrutiny, including at the level of elections, with our role in supervising them. There are interesting aspects, for example, no one discusses campaigns and the lack of transparency in how they are financed, but that was another matter that we were going to regulate.

The way we exercised our role with independence created a lot of opposition from the main stakeholders of his presidency, so I think he probably had to choose between protecting the independent bodies and preserving his own presidency. I think he was probably faced with that dilemma, and I think he made the wrong choice, because there is no point in being the President if you can no longer preserve the core principles of the reform process.

Q18 **Ian C. Lucas:** The fact of your dismissal tends to indicate that Mr Infantino is not serious about confronting the pressures that are needed for reform within FIFA.



Professor Maduro: I think that ultimately he chose to politically survive.

- Q19 **Chair:** Does it not also suggest that Russia exercises considerable influence over the functions of FIFA, given that he was so worried about his position in response to the Mutko case?

Professor Maduro: I want to say what I know exactly, not speculate in that respect. I do not know the nature of the relations between Russia and FIFA. As I said, we ourselves were never contacted by Russian authorities. I was clearly told that declaring Mr Mutko as not eligible would probably cost the presidency, but it was presented that that was because the World Cup would be a disaster and as a consequence the presidency would be in question.

Again, I do not want to make a specific relation between that decision and the fact that we were not renewed. I think it is a positive thing, because it showed that we were applying the rules to everybody independently.

Unfortunately, I think that several confederations and several presidents of the confederations, and it is basically that group of people who end up deciding for everyone else because of the way elections take place and are organised, were unhappy with our decisions. I mean, we have the case with AFC, too, which I know was unhappy in that respect and in other respects—with questions of eligibility, too.

However, we also had, for example, a difficult situation with CONMEBOL, because they called an election with a deadline that was shorter than the rules required, and their initial reaction there, too, was to say—we told them, “You cannot go ahead like this”, and they said, “No, no, no. We’re going ahead. You have to find a way. I need to have the elections.” That was their instinctive reaction.

As I said, in many cases, they are not even aware of the extent of what they are doing and how contrary it is to the principles of good governance; I think that in many instances. That is even more serious, to a large extent.

- Q20 **Giles Watling:** Thank you, Professor Maduro; you are an excellent witness. You are very good at answering questions before I have even thought of them. You touched on the election process and elections could be construed as the basis, if you like, or the starting point for any culture, be it beneficial or malignant. You identified some problems with the FIFA elections. How did you propose to address the problems that you identified? And how transparent do you think the appointment of officials to committees and the FIFA Council is?

Professor Maduro: What did we propose to do? There is a limit to what an independent committee could do, without reforming rules. The nature of the electoral process, with each football association having one vote and some of them being very small, was one of the things that made it very likely—very conducive to—voting control.



HOUSE OF COMMONS

When you have football associations—the most powerful confederations in terms of votes sometimes are not even the more relevant in terms of football. With all respect to small islands, a group of small islands, each one of them with one vote, and then you have Germany, Brazil, and Argentina also with one vote—you can see how elections take place and the extent to which you are creating incentives for voting control.

There was a limit to what we could do in that respect, although we could do something, which was to limit the possibilities for voting control to be enforced. And how? By those mechanisms, by intervening through the guidelines on the electoral procedures.

The things that I said, for example, about the organisation of elections, how ballots were to be organised, the prohibition on cameras, the obligation to use one pen that was given by us to each of the voting delegates, because one of the ways you control—I discovered a lot of these things; it was very interesting in that respect, as I worked in those few months. It was fascinating, because we tried to build a governance mechanism where it didn't exist, for a supranational entity.

One of the things that you use to control votes when you have 40 or 50 people is the giving of different coloured pens. By the type of pen, people know that their cross can be controlled. These kinds of things—there were rules that we implemented in our guidelines to prevent voting control.

However, the other thing is at the level of the campaigns, for example. So, we wanted to regulate campaigns. It was the next thing after the guidelines on the electoral procedures; they were the next guidelines we were going to issue. They were going to be on electoral campaigns—what can be done, what cannot be done, for one reason.

We had already identified a problem in the abstract. If you think about it, for example, to be a candidate to be President of FIFA, you need to spend more than £1 million, for sure. You have to travel all around the world. How this is paid, if the money is paid from confederations, transparency or not, or if it doesn't come from confederations which source is it coming from? The discrimination that might create between candidates, and the lack of transparency in that respect, is something that needs to be regulated and is something that we intended to regulate.

Aside from that, we started to see particular cases. There is one alleged case, for example, in the African confederation that is in the complaint that Professor Weiler sent to the Ethics Committee, because he was the observer there; your Committee might be interested in calling him too. In the last election for a Council member, the other candidate alleged that the candidate who won threw a party, basically, and flew in the other delegates from the other federations. Our understanding, if that is true, which we communicated to the Secretary-General, is that that would indeed be a violation of the principles under which elections should take place, if indeed that is the case.



HOUSE OF COMMONS

Moreover, the candidate who lost said, "He was with the other delegates two days ago. I didn't have any chance to address the delegates. Can I at least talk in the congress?" Normally, the confederations don't allow the different candidates to speak at the congress, which is understandable: it might be difficult if the expectation is that there are many positions and many candidates, and if you have given time before.

Moreover, this candidate had initially been excluded without that even being communicated to our Governance Committee. It was our committee that imposed, as a provisional measure, that he would be admitted to the elections. That was a few days before, so he had no opportunity to talk to the other persons. Our committee recommended, and said to the Secretary-General, who then communicated it to the African confederation, that he should at least be given the opportunity to speak at the congress. That did not happen, so we intended to investigate that matter. That is another example of the kinds of problem that we have with the elections.

Q21 Giles Watling: Do you think that FIFA is committed to reforming its electoral procedures?

Professor Maduro: I have not seen or heard any discussion of that type except in our own committee. I am not sure if the committee is going to continue that, because the members who were, let's say, more active and who shared— There were two sensibilities in the committee: the sensibility that the committee ought to be more as the culture of FIFA wanted— advisory; that we should advise but not enforce rules—and the other sensibility, which was mine and the majority view, that, in some respects, we were entrusted with the right to make proposals and advise, but in others, such as in supervising the elections or eligibility, we were entrusted with the task of enforcing rules, which we ought to do.

The members of the committee who mostly shared my view left when I left, including Navi Pillay, the former United Nations human rights commissioner. By the way, her resignation letter is also very strong, and she told me yesterday that, if the Committee wishes, I can transmit it to you and make public her resignation letter and give it to the Chair. Ron Popper has left, too, as has Professor Weiler.

Just one final point in this respect: I don't know if you are aware, but the Governance Committee, in its current composition, is not functioning in the regular manner in accordance with the rules. The rules require that at least half of the members should be independent. At the moment, after the resignation of the other members of the Governance Committee, the committee does not have a minimum of half of its members who are independent. I saw in a newspaper report that FIFA was contacted on that, and FIFA replied—again, I do not know if it was the Governance Committee itself, as it should have been, or if it was the Secretary-General for the Governance Committee—that it was not a problem because, so long as the President asks one of the non-independents not to vote, less than half of the votes will be by non-independents.



HOUSE OF COMMONS

Of course, that is absurd because a committee does not work only when they vote. Most of the committee's decisions are taken by consensus, and even if that was so for the vote, can you imagine what it would be? The Chair might be happy in the circumstances if he could decide to ask a Liberal Democrat or a Labour or a Conservative not to vote. To say that it is regular because the Chair can ask one of the non-independents not to vote is to give the Chair the power to determine the outcome of the election, because depending on who he chooses not to vote, he determines the outcome of the election. Again, that is another example of how weakly our good governance principles are embedded in the institution.

Chair: Thank you very much. A number of colleagues want to ask a question and I appreciate that time is quite tight, so could members keep their questions quite short? Professor Maduro, your answers have been fascinating but if we can get through all the questions, please give slightly shorter answers in the time we have left.

Q22 **Jo Stevens:** Professor Maduro, you were talking about the African Confederation election and the winning candidate. Who was that winning candidate?

Professor Maduro: It was a council member from Egypt but I do not remember his name.

Q23 **Jo Stevens:** Okay. Did you intend to carry out an investigation into that election shortly before your dismissal?

Professor Maduro: Yes. Professor Weiler communicated to me that there were allegations that he considered to be serious. That election took place two or three days before the FIFA Congress, when I was removed. He called me precisely to ask what my view was on the request of this competing candidate to be heard. I told him my view and we both agreed that the candidate should have the right to be heard; I said that in the circumstances, they should give him the right to be heard, so communicate that recommendation. Then, on the basis of what happened, he told me that he thought it would be important for us to investigate that but then we—

Q24 **Jo Stevens:** Were there any other investigations that you intended to carry out, which had been made known prior to your dismissal?

Professor Maduro: Taking into account that we are not the Ethics Committee, our only investigatory powers when talking about investigation are with respect to elections. If there were allegations that the elections had not taken place appropriately, we would intervene. Certainly, with respect to the AFC elections that had taken place too, if any female candidate appealed to us on the expectation that they had been communicated the letter, or if we had been informed that the letter had not been communicated, we would intervene and act. In terms of other kinds of investigation, the eligibility tests are applied only when you have candidates. Aside from that, responsibility lies with the Ethics Committee, not us.



- Q25 Brendan O'Hara:** On the basis of your experience, do you think that FIFA wants to reform? Do you think it is capable of reform, and post the 2015 scandal, do you think that it engaged in a PR exercise rather than a genuine recognition of that fact that its systems were rotten and needed change?

Professor Maduro: My view is that there are some aspects, for example in the financial area, where reform has taken place and has been positive. With respect to independent scrutiny, accountability or conflicts of interest, we made proposals. We made formal proposals in that respect to the council, which the council did not adopt, for example to expand the obligation to disclose conflicts of interest, which currently exists only for council members. Even there it took a long time and we had to insist a lot to receive the declarations. I received them a few weeks before I left my function so I never had the opportunity to check them. We actually wanted to expand that to other committees.

Think about the Development Committee, which has a huge budget. By definition, those people are not full-time on the Committee—they are football agents who may have training academies. The potential for a conflict of interest is very strong. That is an area where the council definitely should act. The other one is independent scrutiny, as I have said. There are not sufficient guarantees. The majority of members of the judicial bodies generally are not independent; they can come from confederations and federations. Again, we proposed to the council to reinforce the independence criteria in those instances. That was also not adopted. Whether it is a PR exercise—again, as I said, I honestly think Mr Infantino and some other people believe that they are reforming FIFA. Maybe I want to believe that, but I believe they won't. The problem is that the opposition and the incapacity to deal with independent scrutiny is so deeply embedded in their culture that in practice they do not accept the consequences of that reform. Moreover, at the basis of it, in the confederations and the federations, if you do not have that scrutiny or it is less than it should be, that determines what the leadership has to answer to in the end. I really believe that it will only happen through external pressure—I would like your Committee to play a role in that respect, but it is difficult for that to come from a single member state, a single foreign state. It needs to be co-ordinated.

- Q26 Simon Hart:** Absolutely on that point, if this is an embedded culture as you suggest, rather than a series of conscious decisions by individuals—

Professor Maduro: Yes. I believe it is that.

Simon Hart: If that is the case, how will it ever change? You used the word “external” pressure. You can apply all the external pressure in the world, but unless the leadership is mentally attuned to the changes that are necessary, rather than having embedded views, how will you succeed?

Professor Maduro: Let us assume that we will have a public authority with power—that is the real difficulty—at the global level, or a transnational level, with the capacity to intervene over FIFA. The way it



HOUSE OF COMMONS

will happen is that you will have to have something similar to what you have in a state, with respect to some private entities in that state. So you recognise them, but in order for them to operate, they have to comply with certain principles. You will have to say to FIFA, "You are only able to operate internationally in our states and our jurisdictions if you have independent bodies," where the independence of the bodies is assured because of the people and because they have non-renewable terms. I also mentioned that to the President early on—not to be dependent and what happened to us not happening because of being under that constraint. They operate with their own administration, and I have to say, we had two staff supporting us—two young lawyers from the administration—and that led me to believe that there are very good people there too. That is why I think there is a cultural problem at the political level of the institution. You need independence—you need it externally. It might be that even at the initial stage, you need to create some independent authorities—like checks and balances at the international level—that fit certain standards and control the review of the actions of these entities in the sports area, and not only in football. This is a problem; I have talked with judges and justices who have been involved in other supranational sports organisations and they tell me that the cultural problems are the same.

Q27 Simon Hart: Who has the power to set them up?

Professor Maduro: I see only two entities with the bargaining power to do that. Either you have international co-operation—something on the G20—or you have the United States, because of the extraterritorial authority that it manages to achieve, or the European Union, but I don't want to get involved in another debate in the UK. If you think about it, the only time that UEFA and FIFA accepted the decision of an external legal authority was in the Bosman case. It is very simple: if Portugal decides something, they will exclude Portugal from the sports competition, but if it is the European Union, they cannot exclude France, Germany, Italy and Spain. So the EU will have the authority. It is one area where the EU could prove to have some added value, independent of other questions that I do not want to get into.

Q28 Christian Matheson: Let me probe further on that, Professor Maduro, and ask you about the four British football associations. At your level in FIFA I suppose you would normally deal with the confederations. What was the reputation of the four British FAs—the English FA, the FA of Wales, the FA of Northern Ireland and the SFA—in terms of their commitment to supporting anti-corruption work and governance reform? Did you feel that you would have had support from those FAs, and what was their reputation for tackling these problems?

Professor Maduro: I cannot tell you. I did not hear anything in favour or against. I had no opposition, no negative feedback from those associations. I also did not have support. I do not know what their position was ultimately. I do not know any of those.

Q29 Christian Matheson: What about UEFA, then?



HOUSE OF COMMONS

Professor Maduro: Several of the associations in UEFA expressed concern to me after I had left about the fact that I had left. They expressed their deep dissatisfaction to me with what had happened. They expressed that also to my colleagues but more to me because I had been there for a short period of time. They did express that. It is, again, ultimately about the balance of power and how the systemic pressures work there. The decision was taken unanimously. In the Congress, the decisions that led basically to our removal and to the appointment of new people had more than 90%, even 98%, of the vote.

Q30 **Christian Matheson:** So, there wasn't one particular confederation that supported you or that you felt you had more confidence from.

Professor Maduro: No, there was no confidence, and I understand that. In the context, where the systemic pressures are the opposite, there may have been some football associations that expressed to me in private their concern and support, but to have done so publicly and acted publicly in our defence, would probably have had a huge political cost in their influence in football through those the associations.

Q31 **Christian Matheson:** It is not only FIFA then; the problem cascades to the lower levels.

Professor Maduro: I think it is the other way round. It starts at the bases and then it goes up to the political leadership. That is why I said it is not enough to change the political leadership because you will continue to have the same if you don't intervene at the systemic level.

Q32 **Chair:** If I may raise two quick final questions. You mentioned a candidate from Egypt. For the record, I want to check the name. Was that Hany Abo Rida?

Professor Maduro: It might be but I will have to check that and get back to you. It was the last candidate elected in CAF elections. As I said, there were allegations by the other candidate. What I can say objectively is that the other candidate asked us for the right to intervene in the Congress. We made that recommendation but that recommendation was not followed.

Q33 **Chair:** Finally, you raised concerns about Sheikh Ahmad from Kuwait. Was that because of the FBI indictment investigation or other reasons?

Professor Maduro: We don't go into proceedings. Our decision was that on the one hand there is the presumption of innocence but on the other the importance of protecting the public authority credibility of FIFA. Our idea was that, if there are only allegations, we do not exclude the person. If there is already a prima facie case made by a public investigatory authority that brings formal charges against someone, even if the person is still not convicted, we believed that was enough to exclude eligibility.

The question that we needed to ascertain was in the decision that had taken place in the United States with respect to Mr Lai, who we had excluded, whether the co-conspirator identified by the American judicial authorities was Mr Ahmad or not. We needed to define that because, if it



HOUSE OF COMMONS

indeed was the case, there was that prima facie case that would lead, in the light of our past decisions, to a likely exclusion from his eligibility. We wrote to him and after that he withdrew his candidacy, so we never got to decide in that case.

Q34 **Chair:** Thank you very much. We are extremely grateful for your evidence, which has been absolutely fascinating. We would certainly like to follow up with you on any written evidence you might be able to supply us with. Thank you for your time.

Professor Maduro: Thank you very much to the Committee.