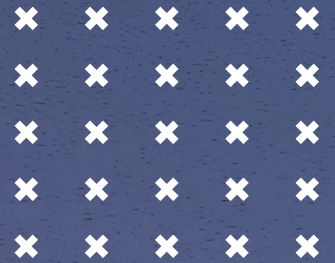




**UNODC**

United Nations Office on Drugs and Crime



# CRIME, CORRUPTION AND WRONGDOING IN THE TRANSFER OF FOOTBALL PLAYERS AND OTHER ATHLETES







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### *Objective of the paper*

This advocacy paper seeks to highlight the key crime risks and vulnerabilities associated with the transfer of athletes. It is part of the ongoing effort by the United Nations Office on Drugs and Crime (UNODC), through its Programme on Safeguarding Sport from Corruption and Crime<sup>1</sup>, to support governments, sports organizations and other relevant stakeholders in their efforts to effectively tackle corruption and crime in sport.

<sup>1</sup> [https://www.unodc.org/documents/Safeguardingsport/Documents/BROCHURE\\_CORRUPTION\\_SPORT\\_PROGRAMME.pdf](https://www.unodc.org/documents/Safeguardingsport/Documents/BROCHURE_CORRUPTION_SPORT_PROGRAMME.pdf)

The Programme on Safeguarding Sport from Corruption and Crime is an integral part of the UNODC Global Programme Global Programme to prevent and combat corruption through the effective implementation of the United Nations Convention against Corruption in support of Sustainable Development Goal 16



## Setting the scene

As noted in the *UNODC Global Report on Corruption in Sport* (UNODC Global Report), the sports sector has undergone comprehensive changes in recent decades. Globalization, a huge influx of money at the top level of professional sport, the rapid growth of legal and illegal sports betting and marked technological advances have transformed the way sport is performed and consumed. These factors have also had a major impact on corruption in sport, both in terms of its scale and its forms. They have greatly affected the systems used for the transfer of athletes and the role played by international organizations, governments and sports organizations in preventing and combating criminal and corrupt activities.

Building on the findings and recommendations of the UNODC Global Report, this advocacy paper examines the issues of crime and corruption in the transfer of athletes, with the aim of supporting governments, sports organizations and other relevant stakeholders in their efforts to prevent and combat crime and wrongdoing associated with the systems used for the transfer of athletes.

Crime and wrongdoing associated with these systems are indicative of the shortcomings within governance systems in sport. The enforcement of regulations related to the effective management of systems used for the transfer of athletes has been undermined by inconsistencies and the exploitation of loopholes in legislation. An analysis of crimes linked to the transfer of athletes reveals the involvement of organized crime, trafficking in persons, illicit financial flows, migration and labour-related issues. Greater transparency in the operation of systems used for the transfer of athletes is key to addressing loopholes and to enabling the creation of effective legislative and regulatory frameworks that govern the transfer systems.

Although there is anecdotal evidence that systems used for the transfer of athletes have been affected by corruption and other criminal conducts, large gaps of knowledge exist and more empirical research and data collection are required to inform evidence-based responses that are specific to the risks in different sports.

## Glossary

**Athlete:** any person or group of persons participating in sports competitions. This paper refers in particular to those individuals earning a significant part of their living through their profession as athletes. In addition, in this paper, the terms “player” and “athlete” are used interchangeably.

**Beneficial ownership:** “the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted”.<sup>3</sup>

**Child:** a person under the age of 18<sup>4</sup> unless under the law applicable to the child, majority is attained earlier.

**International transfer:** a movement of the registration of an athlete from one association to another association.<sup>5</sup>

<sup>2</sup> Council of Europe, Convention on the Manipulation of Sports Competitions (Macolin Convention), article 3.6.a.

<sup>3</sup> Emile van der Does de Willebois et al., *The Puppet Masters – How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It* (Washington, DC: Stolen Asset Recovery Initiative, the World Bank and UNODC, 2011), p. 19.

<sup>4</sup> United Nations Convention against Transnational Organised Crime, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, article 3.d, and The United Nations Convention on the Rights of the Child, article 1.

<sup>5</sup> Fédération Internationale de Football Association (FIFA), Regulations on the Status and Transfer of Players, March 202 Edition, p. 7, para. 21.



## Mandate

The Conference of the States Parties to the United Nations Convention against Corruption (UNCAC) held its eighth session in December 2019. At that session, the Conference adopted resolution 8/4 on safeguarding sport from corruption and requested that UNODC “develop, within its mandate, in close consultation with States parties and in cooperation with interested stakeholders, a comprehensive thematic study on safeguarding sport from corruption, including consideration of how the Convention can be applied to prevent and counter corruption in sport”.

Recommendations are presented in this paper that are aimed at implementing this request by providing relevant stakeholders, in particular governments and sports organizations, with information and examples that highlight the vulnerability of systems used for the transfer of athletes to crime, corruption and other wrongdoing. The paper also offers considerations on how to deal with those vulnerabilities.

## Methodology

Given the advocacy nature of this paper, its principal methodological approach was characterized by conducting a desk review of data from official sources, academic journals, studies and articles. Where possible, the examples used were based on adjudicated cases and/or relevant case studies. The methodology was multidisciplinary in its approach and was informed by a comparative legal analysis of the incidence of crime and corruption in the transfer of athletes.

The structure of the paper and its areas of focus have been peer reviewed by a wide range of experts and officials as part of an extensive evaluation process. This involved the review of the paper by more than 50 representatives of governments, international organizations, sports organizations, civil society and the private sector. This process was designed to ensure that the paper was developed in an inclusive and transparent manner. Representatives were able to review early drafts and provide their feedback in written form and through a virtual meeting of experts that was organized by UNODC on 21 April 2022.

**Minor:** a player who has not yet reached the age of 18.<sup>6</sup>

**Youth:** persons between the ages of 15 and 24, without prejudice to other definitions by Member States.<sup>7</sup>

**Transfer:** any movement or mobility of an athlete within or outside the scope of a sports contract or employment agreement (nationally or internationally, for free or against payment).<sup>8</sup>

**Systems used for the transfer of athletes:** systems through which athlete (employment) contracts are managed to facilitate the process of athletes transferring their employment contracts (typically fixed-term or temporary contracts) from one sports organization to another, typically involving, among other matters, negotiating a release clause, compensation to a sport organization that contributed to the athletic development of an athlete and liability.

<sup>6</sup> Regulations on the Status and Transfer of Players, January 2021 Edition, pp 5.

<sup>7</sup> Secretary-General’s Report to the General Assembly, A/36/215, 1981

<sup>8</sup> Fédération Internationale de Football Association (FIFA), *Regulations on the Status and Transfer of Players* (March 2022).



## Executive summary

While strong anecdotal evidence (mainly but not exclusively from journalistic sources)<sup>9</sup> indicates a variety of corrupt and criminal conducts in transactions (from illicit financial flows to trafficking in persons) related to the transfer of athletes, authoritative empirical research is limited.

The problem of trafficking in sport highlights a potential correlation between the sector's vulnerability to trafficking and the ceding by States and governments of jurisdiction over the private regulation of workplaces. In sport, these workplaces can include powerful private transnational organizations and institutions.<sup>10</sup> This regulatory gap allows for unequal power relationships, especially in recruitment, which makes this space particularly vulnerable to exploitation. As a result, there is an urgent need to further raise awareness of these risks and to address these regulatory gaps.

This paper advocates for the establishment of a programme of research for the development of a coordinated, evidence-based approach with the goal of supporting efforts to enhance governance, transparency and accountability in systems used for the transfer of athletes. The research programme would draw from and run in parallel to the reform of systems used for the transfer of athletes by other organizations, such as that by the Fédération Internationale de Football Association (FIFA).

A plan is suggested for future research in the following areas:

- » Illicit financial flows and money-laundering, linked to the transfer of athletes
- » The detection and reporting of crimes linked to the transfer of athletes
- » The role of investigative and adjudicative bodies of sports organizations in the detection and reporting of crimes linked to the transfer of athletes
- » The hiding or disguising of beneficial ownership through transfer transactions of athletes
- » Other organized criminal activities linked to the transfer of athletes
- » Trafficking in persons linked to the transfer of athletes
- » The impact of abuse and criminal activities linked to the transfer of athletes
- » Athlete labour rights, in particular the fundamental principles and rights at work<sup>11</sup> in the world of sport<sup>12</sup>
- » Protection of the rights of athletes, with a particular focus on vulnerabilities relating to age and gender

The paper also strongly recommends that governments, sports organizations and relevant stakeholders become increasingly aware of crimes and wrongdoings associated with the transfer of athletes.

In addition, the paper argues that, to effectively counter the threat of crime and wrongdoing linked to the transfer of athletes – football players in particular – the knowledge and capacity of relevant government officials and sports organizations must be strengthened through the development and delivery of new effective programmes and tools.

<sup>9</sup> Fred Lord, "Human Trafficking: International Fake Player Agents and Scouts, and their Selling of Dreams" *Inside World Football*, 2 November 2020.

<sup>10</sup> See, for example, University of Nottingham Rights Lab, "The Problem of Sports Trafficking: Setting an Agenda for Future Investigation and Action" (2021).

<sup>11</sup> International Labour Organization, Declaration on Fundamental Principles and Rights at Work (1998 - amended in 2022).

<sup>12</sup> International Labour Organization, conclusions of the Global Dialogue Forum on Decent Work in the World of Sport (Geneva, 2020).

## Introduction

Governments and sports organizations are increasing their efforts to tackle crime in sport and criminal activities in the context of sporting events and the transfer of athletes.

These efforts are driven, in part, by the need to “address risks to groups in vulnerable conditions, in particular children and young athletes, posed by corruption in sport, with a view to promoting fair competition, healthy lives and principles of integrity and to creating an atmosphere of intolerance towards corruption in junior and youth sport.”<sup>13</sup> Child labour, trafficking in persons and forced labour remain a serious concern in sport.<sup>14</sup> In addition, attention is being focused on preventing the use of sports for money-laundering purposes.

In sport, the transfer of professional athletes is commonly considered a means of enhancing team competitiveness and revenue streams by entities involved in the training and development of athletes. For professional athletes, transfers reflect the choice, possibility or need to change employers.

The capacity of corporations, organizations and other entities to invest in some of the most popular sports worldwide – such as football, baseball, cricket and athletics – has increased significantly. The money generated from the sale of media rights and sponsorships has resulted in an increase in the number of athletes being transferred and the amounts being paid by clubs for the transfer of athletes.

However, there is concern that the systems regulating the transfer of athletes may not comply with and even contradict:

- » Fundamental human and labour rights of athletes, especially those of children and vulnerable athletes
- » Principles of solidarity and competitive balance
- » Principles of contractual stability
- » Free movement of athletes in professional sports

In addition, systems used for the transfer of athletes often help drive speculation on the value of athletes, contributing to greater contractual instability, which puts athletes in a vulnerable position. This is exacerbated by a lack of transparency in areas such as payments to intermediaries or athletes’ family members and access to transfer certifications in many sports.

The transfer of athletes can often involve a complex network of actors and stakeholders, including clubs, owners, players, agents, intermediaries, advisers and sponsors. This activity can encompass stakeholders from various levels. For example, in football, clubs may range from amateur and youth levels to elite professional organizations operating on the stock exchange. Owners of clubs can range from supporters’ trusts to wealthy non-domiciled individuals and private equity funds. This complexity, when coupled with a lack of transparency, may leave athletes exposed to a range of crimes, which have been identified in multiple jurisdictions across the globe. .

<sup>13</sup> General Assembly resolution S-32/1, annex, para 71.

<sup>14</sup> International Labour Organization, “Global Dialogue Forum on Decent Work in the World of Sport” (Geneva, 2020).





Effective governmental action and coordination with sports organizations, especially in the field of crime prevention and criminal justice, are required to tackle criminal activity that has an impact on sport. In dealing with the various crimes linked to sport (including bribery, fraud, money-laundering, competition manipulation, abuse of authority, the involvement of organized crime also in trafficking in persons), the role of criminal justice authorities, including law enforcement agencies, has grown steadily in recent years.

Effective cooperation between criminal justice authorities and sports organizations could enable the systematic exchange of information useful to the prevention, detection, investigation and prosecution of crimes affecting all aspects of sport, including those related to the transfer of athletes.

The shortcomings in the systems of transfer of athletes make them particularly vulnerable to a wide range of criminal activities. Those systems are susceptible to criminal activities because they fall short of achieving their main objectives, such as:

- » Protecting children and vulnerable adults
- » Safeguarding contractual stability
- » Encouraging training
- » Ensuring solidarity between the elite and grassroots levels of sport
- » Ensuring competitive balance
- » Protecting the integrity of sports

The crimes linked to the transfer of athletes that have been identified in multiple jurisdictions and across many types of sport include:

- » Involvement of organized criminal groups
- » Trafficking in persons
- » Illicit financial flows, including money-laundering
- » Hiding or disguising beneficial ownership

These and other crimes are often facilitated by the absence of adequate systems to protect athletes and to detect and report illicit activities by unscrupulous intermediaries and agents.



## 1.1. Key stakeholders involved in addressing crimes linked to the transfer of athletes

The involvement of organized criminal groups in the transfer of athletes has resulted in the international community paying closer attention to the design and vulnerabilities of transfer systems. The problems related to the transfer of athletes in sport, and especially those in football, have become of deep concern to governments and the sports community.

Crime linked to the transfer of athletes can be analysed in two distinct ways:

1. By the transfer of funds (“financial flows”) through a sport associated with the transfer of athletes
2. By the movement of athletes (“people flows”)

The analysis of the latter involves consideration of:

- » **The athlete** – a player’s vulnerability in terms of age, gender, socio-economic background, geographical and jurisdictional location, and access to adequate legal advice or other representation.
- » **The transfer** – financial transactions or inducements surrounding a transfer outside of the player fee – such as the non-payment of solidarity contributions,<sup>15</sup> the role of image rights, add-on bonuses or supplementary payments, particular benefits and even the manner of payment (i.e., the use of cryptocurrencies). The increasing role of player data analytics in assessing transfer fees and associated data protection means that cyber security and privacy issues must also be considered.
- » **The parties to the transfer** – the nature of the clubs involved, the role of agents, scouts, coaches, national federations (to the extent that the transfer is also linked to the change of an athlete’s nationality) and any other third-party interests in a player (for instance, private equity funds, non-domiciled individuals).
- » **The regulating sports organization** – the extent to which the sports organization in question has the necessary capacity to investigate and enforce sanctions following breaches of its transfer and agent regulation (including data and cryptosecurity of trades) and to notify relevant law enforcement agencies of possible associated criminal conducts.
- » **Law enforcement agencies and criminal justice authorities** – crimes perpetrated in systems used for the transfer of athletes are likely to endanger or lead to the exploitation of vulnerable young athletes. They may also undermine the integrity and solidarity of the sports industry.

<sup>15</sup> If a professional is transferred before the expiry of his/her contract, any club that has contributed to his/her education and training shall receive a proportion of the compensation paid to his/her former club (solidarity contribution). In line with the requirements of article 21, the provisions concerning solidarity contributions are set out in Annex 5 (solidarity mechanism) of the FIFA *Regulations on the Status and Transfer of Players* 2022.







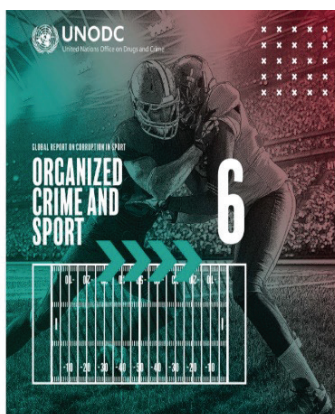
## 1.2. Specific crimes linked to the transfer of athletes

This section highlights several specific crimes linked to the transfer of athletes that have been identified in multiple jurisdictions across the globe. These crimes were identified during the development of the paper and include:

- » Involvement of organized criminal groups
- » Trafficking in persons
- » Illicit financial flows, including money-laundering
- » Hiding or disguising beneficial ownership

### 1.2.1. Involvement of organized crime groups

While anecdotal and journalistic accounts exist of sport being used by organized criminal groups as a channel for their illicit activities, there has been little research on their involvement in the transfer of athletes. As a result, the evidence base that policymakers can use to develop policies and allocate resources is limited.



In section six of the *UNODC Global Report on Corruption in Sport*, which is focused on organized crime in sport, it is highlighted that *“the involvement of organized crime in sport is a serious threat to the social role of sport and to the ethos and values that underpin it. Organized crime groups use corruption to facilitate their infiltration of sport and make it possible to exploit it in both its amateur and professional forms at local, national, regional and global levels. They exploit sport through illegal betting, competition manipulation and human trafficking to generate illicit profit. However, they also use sport as a vehicle to project power and influence in local communities, often with devastating consequences, particularly when their activities have an impact on children, young athletes, and vulnerable groups. However, more information and knowledge are required to understand the organized crime threat in the sport context; to develop effective policies, mechanisms and initiatives; and to allocate the resources needed to tackle it.”*

The UNODC Global Report also states that *“while the involvement of organized crime in sport is multifaceted, the principal areas of activity involve the manipulation of sports competitions, illegal betting, money-laundering, manipulation of public procurement processes for the construction of sport infrastructure and the use of corruption to infiltrate sports organizations, both at professional and amateur levels. There is also increasing concern about the scale of human trafficking in sport, which involves transnational organized criminal groups infiltrating the transfer market of athletes.”*



In the aftermath of Operation Zero (also known as Operation Clean Hands) in Belgium (2018–2022), the federal prosecutor’s office launched judicial proceedings against a number of active and former club officials and international players’ agents. At the time of publication, this investigation concerning bribery, illicit transfer fees, money-laundering, forged transfer contracts and the involvement of organized crime was ongoing.

### 1.2.2. Trafficking in persons linked to transfer-of-athletes transactions

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, was adopted by the General Assembly in November 2000. It is the first legally binding instrument with an internationally recognized definition of trafficking in persons. The Protocol is a vital tool for the prevention, detection and prosecution of offences established in accordance with it and for the identification and protection of victims of trafficking. States parties to the Protocol must criminalize trafficking in persons and develop anti-trafficking laws in line with the provisions of the Protocol. They must provide protection and assistance to victims of trafficking and ensure that victims' rights are fully respected.

With regard to sports organizations, it is important that they are aware that the offence of trafficking in persons has three elements that are required to qualify the crime as such: act (e.g., recruitment, transportation); means (e.g., the use of force, deception, fraud, abuse of position and coercion); and purpose (exploitation). With regard to trafficking in children, there is no requirement that any of the above elements materialized. It is sufficient that exploitation was intended (even if it was not carried out). In other words, there is no need for the victim to have been exploited by traffickers. Authorities would only need to prove the exploitative intention of the trafficker.

Sports organizations are becoming increasingly aware of the risk of trafficking in sports. For example, FIFA player transfer regulations have specific provisions relating to age limits for international transfers<sup>16</sup> and minors registered with private academies (i.e., outside of the structure of organized football). FIFA is currently reviewing these safeguarding mechanisms to ensure that they provide the necessary level of protection. This is part of a larger reform effort by FIFA aimed at introducing a transfer clearing house (to process transfers and avoid fraudulent conduct), a licencing system for agents, special certification to represent minors and a cap on agent remuneration. These measures are positive steps towards more effective action to tackle trafficking in sport.

As noted in literature on the trafficking in young sports professionals, including in a report published by the University of Nottingham Rights Lab,<sup>17</sup> the problem of trafficking in sport highlights a potential correlation between the sector's vulnerability to trafficking and the ceding of jurisdiction on the private regulation of workplaces by States and governments. In sport, these workplaces can include powerful private transnational organizations and institutions. This regulatory gap allows for unequal power relationships, especially in recruitment, which makes this space particularly vulnerable to exploitation. As such, there is a need to raise awareness of such risks and to address such regulatory gaps. To help prevent trafficking and corruption in sport, sports organizations should be provided with education programmes to enable them to better comply with international legal standards on human rights, employment, the rights of the child and the prevention of trafficking in persons.

<sup>16</sup> FIFA, *Regulations on the Status and Transfer of Players* (2022), article 19 (on protection of minors) and article 19bis (on registration and reporting of minors at academies).

<sup>17</sup> University of Nottingham Rights Lab, "The Problem of Sports Trafficking: Setting an Agenda for Future Investigation and Action" (2021).



The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children defines trafficking in persons as:

"The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."



Two points are noteworthy in relation to the wider context of transfers, sport and trafficking in persons.

- » **First**, the residency status of foreign athletes is often linked to their sports clubs, which usually sponsor them. This makes foreign athletes highly dependent on their employers, which in turn makes them more vulnerable to various forms of exploitation.
- » **Second**, not much is known about athletic accomplishment as a form of exploitation, in particular when it includes the subject of payment. For example, college athletes may receive compensation in the form of free tuition or in-kind reimbursement rather than payment in monetary terms, while their colleges can make significant financial profits from the same sporting activity.

In light of this, it is important that national authorities consider dedicating resources to collect data, gain a better understanding and raise awareness of wrongdoing and crime linked to the transfer of athletes. Attention could focus on the use of domestic financial and non-financial sectors by criminals to conceal illicit proceeds from, among other things, transactions involving the transfer of athletes. Focusing on these sectors would also provide an assessment of the level of cooperation between law enforcement, judicial authorities and sports organizations with regard to transfer-of-athletes financial transactions. The collection of this information could inform more targeted responses and allocation of resources.

### 1.2.3. Illicit financial flows, including money-laundering

As noted in section 2.3.5 of chapter 6 of the *UNODC Global Report on Corruption in Sport*, money-laundering is a key reason behind the involvement of organized criminal groups in sport. Estimates of the financial value of the sports industry vary, depending on the range of metrics used. In 2018, valuations ranged from \$488.5 billion when looking at specific sport products to \$614.1 billion when other economic sectors are included.

Investigative journalism,<sup>18</sup> has revealed how football transfers have been associated with large-scale tax evasion and money-laundering. The same and other sources have revealed how these activities have been facilitated by a global web of inactive companies (known as shell companies), lax regulation, limited investigative capacity of sport organizations, significant diversity in national and supranational tax regimes with regard to professional athletes and limited information-sharing between national law enforcement agencies.<sup>19</sup>

Illicit financial flows in a transfer system have been associated with tax-related crimes, corruption and money-laundering involving public (governments) and private (sports federations) resources. Such crimes can undermine trust in national and international sporting governance, drain and divert resources from people, clubs and sport associations, and undermine key principles of the regulatory model of modern sport.

<sup>18</sup> For example, Alex Duff and Tariq Panja, *Football's Secret Trade: How the Player Transfer Market was Infiltrated* (London: Wiley, 2017); and Rafael Buschmann and Michael Wulzinger, *Football Leaks: Uncovering the Dirty Deals Behind the Beautiful Game* (London, Guardian Faber Publishing, 2018).

<sup>19</sup> European Parliament, *Taxing Professional Football in the EU: A Comparative and EU Analysis of a Sector with Tax Gaps* (2021).

#### 1.2.4. Hiding or disguising beneficial ownership

Important considerations for sport organizations (irrespective of their status) are whether they should comply with international anti-money-laundering standards in the context of transfer of athletes that have cross-border economic dimensions and whether they should consider holding beneficial ownership information on all legal vehicles associated with transactions involving the transfer of athletes.

Beneficial ownership continues to be a topic in which States parties to the Convention against Corruption have a strong interest. In sport, its three main forms are: third-party ownership, third-party influence, and multiple-club ownership. Beneficial ownership can be obfuscated by layers of complex corporate structures, potentially concealing activities such as money-laundering and tax evasion. Hiding or disguising beneficial ownership can also:

- » Facilitate the perpetration of criminal activities linked to the transfer of athletes
- » Increase the risks posed by the lack of transparency of certain funds used for transfer transactions
- » Provide the opportunity for offshore payments, in case of limited beneficial ownership disclosure requirements of destination accounts

The Conference of the States Parties to the United Nations Convention against Corruption, at its ninth session, held in Sharm el Sheikh in December 2021, adopted resolution 9/7 on enhancing the use of beneficial ownership information to facilitate the identification, recovery and return of proceeds of crime.

The subject was also highlighted by the General Assembly special session against corruption (UNGASS 2021) and its political declaration in which Member States committed "to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate, reliable and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems and using as a guideline the relevant initiatives of regional,



##### *Relevant articles of the United Nations Convention against Corruption*

Article 14 of the United Nations Convention against Corruption calls on States parties to take measures to institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions.

Article 52 of the Convention against Corruption calls on State parties to take measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.



interregional and multilateral organizations against money-laundering.” To this end, Member States will “develop and implement the measures necessary to collect and share such information on the beneficial ownership of companies, legal structures, and other complex legal mechanisms, and enhance the ability of competent authorities in this regard.”<sup>20</sup>

Recommendation 24 of Financial Action Task Force, amended in March 2022, highlights the importance of ensuring “adequate, accurate and up to date information on the beneficial ownership and control of legal persons that can be obtained or accessed rapidly and efficiently by competent authorities, through either a register of beneficial ownership or an alternative mechanism.”<sup>21</sup>

By developing case studies, assessing the risks of corruption and money-laundering in transactions related to the transfer of athletes, criminal justice authorities and sport organizations could identify potential suspicious transactions and behaviour patterns indicative of illicit financial activities potentially linked to the transfer of athletes.

### 1.3. Factors facilitating crime and wrongdoing linked to the transfer of athletes

Understanding how crimes linked to the transfer of athletes originate is key to helping officials from sport organizations and criminal justice authorities, including law enforcement agencies, to design and implement evidenced-informed responses. In this regard, it is important to consider challenges relating to detection and reporting, the increasing value of transfer markets, the role of intermediaries and agents involved in illicit activities and the role of gender.

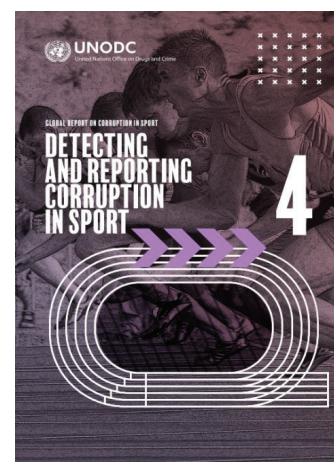
#### 1.3.1. Detecting and reporting crimes linked to the transfer of athletes

For detecting and reporting mechanisms to be effective, there must be buy-in from relevant stakeholders. These mechanisms must also be fair and accessible, for example in relation to the legal status of athletes in adjudicatory processes. In most systems, athletes are considered as third parties to the legal procedures and have no right to sue (only to be sued), while nevertheless having an obligation to report or else face sanctions. An important consideration for sport organizations (irrespective of their status) is whether they should grant athletes the right to sue.

In section four of the *UNODC Global Report on Corruption in Sport*, which is focused on detecting and reporting corruption in sport, it is highlighted that “effective detection and reporting mechanisms can help to develop a better understanding of the nature and scale of corruption in sport. Equally, such mechanisms can strengthen intelligence-led investigation processes and increase the likelihood of securing successful criminal prosecutions or sport-

<sup>20</sup> UNGASS political declaration “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation” (2021), para 16.

<sup>21</sup> Financial Action Task Force, “Public Statement on revisions to R.24”, 4 March 2022.



*led disciplinary sanctions, thus allowing stakeholders to better safeguard the integrity of their sports. These mechanisms are also vital in helping to address and mitigate the impact of abuse on children and young athletes in sport, and on adult athletes, officials, fans and other relevant participants.”*

Building on the joint UNODC and International Olympic Committee guide on reporting mechanisms in sport,<sup>22</sup> three points are noteworthy in relation to detecting and reporting crimes linked to the transfer of athletes, especially those involving illicit financial flows in sport.

- » **First**, there may be limitations as to what sports organizations can do to maintain confidentiality of reporting (e.g., in the context of transfer-of-athlete transactions, it is inevitable to have prior communication between the reporting person and others involved in the transaction, such as agents, coaches, fellow players or club officials).
- » **Second**, any investigation prompted by a disclosure relating to the transfer of an athlete and/or illicit financial flows may require specialized law enforcement and investigative capacity such as forensic accountants, cross-border economic crime investigators and data analysts. Capacity and confidentiality concerns may be prompted by protected disclosures in this area.
- » **Thirdly**, the issue of reprisal could be relevant in cases of revelations concerning transfer-of-athletes transactions (e.g., a club could take retaliatory action against a reporting person or their family). This prompts consideration of how an effective and proportionate sanctioning regime could deter and prevent retaliatory action.

In addition to establishing mechanisms to facilitate reporting by individuals, systems to support the reporting of suspicious transactions are crucial to the opening of investigations and to the detection and understanding of complex schemes aimed at laundering illicit gains. These systems can be used for reporting suspicious transactions in the sports sector, and specifically in relation to transfer-of-athlete transactions.

Examples of groups and networks that could provide information to support relevant criminal justice authorities to detect and investigate crimes linked to the transfer of athletes at the international level include:

- » **The Egmont Group of Financial Intelligence Units**, which brings together a global network of financial intelligence units.
- » **The Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval)**, which is a permanent monitoring body entrusted with assessing compliance with the principal international standards to counter money-laundering and the financing of terrorism, and the effectiveness of their implementation.
- » **United Nations Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobeE Network)**, which is an initiative that offers a platform for information exchange between frontline anti-corruption law enforcement practitioners and provides the knowledge, resources and tools needed to track, investigate and prosecute cases of cross-border corruption.

An example of a mechanism at the national level is:

- » **The Australian Transactional Reports Analysis Centre**, which plays a key role in identifying and reporting suspicious financial activity.

<sup>22</sup> UNODC and International Olympic Committee, *Reporting Mechanisms in Sport: A Practical Guide for Development and Implementation* (Vienna, 2019).

### 1.3.2. Increasing value of transfer markets

The large financial sums linked to the transfer of athletes can make it an appealing economic activity for those looking to make illicit gains from criminal activity. This is especially the case when athlete transfer markets can be exploited as a result of limited regulation and oversight and the absence of clear laws, policies and regulations at the national and international levels.

A focus on the football player transfer market highlights the vast sums of money that can be involved in such activity:

- » Investment in transfer fees by clubs in the five major European leagues (England, France, Germany, Italy and Spain) increased from 1.5 billion euros in 2010 to 6.6 billion euros in 2019. During this period, the net balance of transfer fees (the amount spent by clubs in these leagues on buying players versus that received by selling clubs) was a deficit of 8.9 billion euros. The net deficit alone for clubs in the English Premier League was 6.5 billion euros. According to the statistical model used by the International Centre for Sports Studies (CIES) Football Observatory, the value of transfers during this period involving clubs from these leagues rose by 181 per cent.
- » While the impact of the coronavirus (COVID-19) pandemic has seen transfer activity decline since 2020, the importance of transfer fee income as a proportion of overall club revenue has increased. As stated in the *Deloitte Football Money League Report 2021*, which focuses on the 20 richest football clubs: *“Whilst remaining uncertain, at this stage broadcast rights values appear to be stabilising, and in some cases declining, amidst the pandemic, particularly in domestic markets. Therefore, the onus is on clubs to drive their own revenue growth from matchday and commercial sources ... [and] to recognise that the sale of players forms a key part of certain clubs’ business models, particularly those clubs outside our top 20 within the ‘big five’ leagues and even the largest of clubs from outside the ‘big five’ leagues.”*<sup>23</sup>
- » It is also noted in the Deloitte report that the top 20 football clubs generated average income of 116 million euros for the 2020 financial year and *“these same clubs generated an average player income of 86 million euros in the previous year, ... [reflecting] the growth seen across the wider transfer market prior to COVID-19”*.

### 1.3.3. Role of intermediaries agents, and sports directors

Transfers of athletes involve a complex network of actors and stakeholders, including clubs, owners, athletes, agents and sponsors. At the same time, this activity can involve stakeholders from various levels. For example, in football, clubs can range from amateur and youth level clubs to elite professional clubs operating on the stock exchange. Owners of clubs can range from supporters’ trusts to non-domiciled individuals and private equity funds. Notably, multiple examples of adjudicated cases<sup>24</sup> exist of intermediaries and agents exploiting their roles in the transfer of athletes for illicit gain.

Intermediaries, agents and sports directors have a significant impact on the integrity of sports (e.g., in football). However, regulation by governments and sports organizations of the profession and its activities is unclear at best. Without clear and proper regulation, athletes are vulnerable to intermediaries and agents looking to exploit them for illicit gain.

<sup>23</sup> Deloitte, *Testing Times: Football Money League* (Manchester: Deloitte Sports Business Group, 2021), pp. 7, 9.

<sup>24</sup> See “Three sentenced for paying and accepting bribes in football”, *City of London Police*, 17 January 2020; and “Voormalig management moet profvoetballer Stefan de Vrij 4,75 miljoen euro betalen”, *De Rechtspraak*, 6 April 2022.



To effectively tackle the problem of wrongdoing and crime linked to the transfer of athletes, it is necessary to work with legitimate intermediaries, agents and sports directors who respect the national frameworks regulating their work.

The increasingly international nature of sport demands the establishment of an effective criminal justice system that is able to successfully respond to the involvement of those falsely presenting themselves as legitimate intermediaries and agents. The illicit activities (such as fraud, abuse of authority, involvement with organized crime and money-laundering) of intermediaries, agents and sports directors must be brought to a halt as much as possible. What this requires is the development of a harmonized legislative and regulatory approach (such as FIFA's reform on football agents further explained below) that will lead to greater opportunities for information exchange and investigative cooperation.

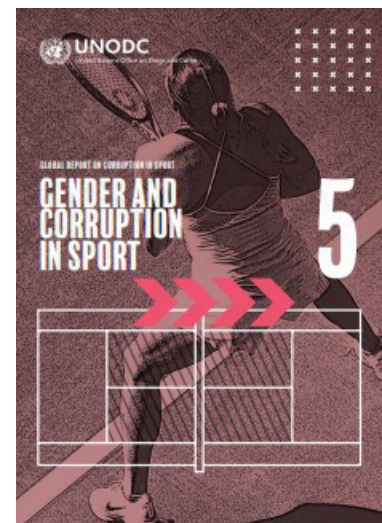
#### 1.3.4. Role of gender

Sport has an important role to play in achieving the Sustainable Development Goals, including Goal 5, which is focused on achieving gender equality and empowering all women and girls. In 2010, the General Assembly adopted resolution 65/4, in which the use of sport as a vehicle to achieve this Goal was emphasized and encouraged.

However, as noted in the *UNODC Global Report on Corruption in Sport*, the rising popularity and the increasing commercialization of women's sport are offering those intent on corruption more opportunities to exploit and abuse competitions, games and people. A notable vulnerability in women's sport is the gender pay gap, with many professional female athletes unable to live off their earnings.

Overarching vulnerabilities and problems that are impacting women in sport include:

- » The limited number of women in sports governance
- » Inequality of pay
- » Abuse (including physical, psychological and sexual abuse, and abuse of authority)



With the growth of women's sport, it is important to better understand the risks to which women and girls are exposed in relation to their involvement in systems for the transfer of athletes.



Between 2011 to 2020, according to the *FIFA Global Transfer Report 2021*, \$48.5 billion were linked to the transfer of football players. At the same time, there was a marked increase in agents' commission, from \$131.1 million in 2011 to \$640.5 million in 2019. In a ten-year period, \$3.5 billion were paid to agents representing clubs in the transfer system.







## 2.1. Initiatives from national authorities

### 2.1.1. Belgium

From July 2021, the scope of anti-money-laundering legislation in Belgium has been extended to include:

- » High-level professional football clubs
- » Sports agents in the football sector
- » The Royal Belgian Football Association

As a result, the Royal Belgian Football Association has set up a clearing house to have more control over transfer commissions. Since the creation of this clearing house, there has been a significant increase in the number of suspicious transaction reports submitted to the national Financial Intelligence Unit.

### 2.1.2. Portugal

Since June 2008, the anti-money-laundering legislation in Portugal has included the persons involved in the sale and acquisition of rights over participants in professional sports activities, which covers sports agents, in the group of “designated non-financial business and professions” that are obliged to comply with the prevention of money-laundering.

### 2.1.3. South Africa

In South Africa, there is legislation relevant to the protection of minors in the context of the transfer of athletes. This legislation is:

- » Children’s Act 38 of 2005 (chapter 18 on trafficking of children)
- » Prevention and Combating of Trafficking in Persons Act 7 of 2013

### 2.1.4. United States of America

In 2018, the Federal Bureau of Investigation (FBI) established the Integrity in Sport and Gaming Initiative within its Criminal Investigative Division. The aim of the Initiative is to identify, combat and disrupt criminal activities that degrade the integrity of sport and sports competitions and that erode public confidence in these institutions. The FBI is working in partnership with sports leagues and sport’s governing bodies, international law enforcement and independent watchdog groups to identify illegal activity and bring charges against criminal actors.

Education is also a key part of the work of the FBI in this area. Agents and analysts regularly meet with athletes and teams to help them understand the ways they may be approached or affected by criminal actors. By connecting with athletes and sporting institutions, the FBI is helping athletes and teams protect themselves and encourage the reporting of suspicious or illegal activity.



## 2.2. Initiatives from international organizations

### 2.2.1. UNODC Global Programme against Corruption and its Programme on Safeguarding Sport from Corruption and Crime

UNODC is the global leader in the fight against corruption and crime, with widely recognized expertise and specialization in a range of areas, including in relation to international cooperation in criminal matters.

The UNODC Programme on Safeguarding Sport from Corruption and Crime was established by UNODC in 2017 and is an integral part of the UNODC Global Programme against Corruption. It provides a framework through which to support governments, sport organizations and relevant stakeholders to tackle corruption and crime in sport.

The focus areas of the Programme include:

- » Developing tools to support detection and reporting of corruption and crime in sport
- » Preventing corruption and crime in sport by continuing to raise awareness of corruption and crime in sport using both online and in-person formats
- » Ensuring legislation, regulations and policies are in place to prevent and counter corruption and crime in sport
- » Developing effective cooperation frameworks among law enforcement, judicial authorities and sports organizations
- » Enhancing the capacity of relevant stakeholders to help address corruption and crime in sport

Furthermore, the United Nations Global Plan of Action to Combat Trafficking in Persons includes a commitment by Member States to promoting a zero-tolerance policy on corrupt public officials who engage in or facilitate trafficking in persons consistent with the Convention against Corruption and the Organized Crime Convention.

### 2.2.2. Council of Europe

In 2018, the Parliamentary Assembly of the Council of Europe adopted a resolution on good football governance that urges FIFA and the Union of European Football Associations (UEFA) to set up a joint working group to address *“financial fair play, caps on player transfer fees and player wages, player ownership, the status of agents or*



The United Nations Convention against Transnational Organized Crime is a global tool aimed at preventing and fighting all forms and manifestations of transnational organized crime and protecting the victims of such crimes. Notably, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children is key to reinforcing the capacity of parties to the Convention to take this action, and to combat the crime of trafficking in persons. This includes the context of sport where evidence is growing of trafficking in persons linked to the transfer of athletes and the organization of major sports events. The United Nations Office on Drugs and Crime supports the implementation of the Convention through specialized projects and programmes.



The United Nations Convention against Corruption is the only legally binding universal anti-corruption instrument. The anti-corruption activities, including tackling corruption and crime in sport, of the United Nations Office on Drugs and Crime are implemented through its Global Programme to prevent and combat corruption through effective implementation of the United Nations Convention against Corruption in Support of Sustainable Development Goal 16, of which the Programme on Safeguarding Sport from Corruption and Crime is an integral part.

*intermediaries and other issues*<sup>25</sup> In this regard, the Assembly calls on the European Commission and the Enlarged Partial Agreement on Sport to participate in this working group. In the resolution, there is a call for enhanced protection of professional players' rights and reflection on the financial excesses in the world of football, with an emphasis on a joint multi-stakeholder approach to address this matter.

In 2021, the Council of Europe produced a technical paper<sup>26</sup> outlining specific recommendations relating to the FIFA transfer system reform. The analysis recognized the efforts of FIFA to further develop the transfer system of football players and acknowledged that further measures were needed to achieve a greater degree of comprehensiveness, transparency and integrity.

The Parliamentary Assembly report entitled "*Football governance: Business and values*", which was adopted by the Parliamentary Assembly of the Council of Europe in January 2022, "*stresses the importance of ensuring the transparency of all financial flows related to international transfers and calls on FIFA and other stakeholders to agree that not only commissions but also all agents' services fees related to international transfers should gradually be processed through the clearing house system and that agents and their activity should be subject to compliance assessment procedures*".<sup>27</sup>

The report also highlights the importance of "prohibiting excesses" and capping agent fees by "*establishing a maximum percentage of the gross transfer price and/or wages that these fees may not exceed and an absolute limit on the total sums that may be paid to the agent of the releasing club for a transaction*".<sup>28</sup>

### 2.2.3. European Union

Various institutions and bodies connected to the European Union have taken an active interest in addressing risks of crimes linked to the transfer system. In 1989, the European Parliament presented a report in which James L. Janssen van Raay criticized the transfer system in professional football, showing that it failed to comply with the Treaty on European Union.<sup>29</sup> Since then, the issue has been raised and examined on many occasions.<sup>30</sup>

The Sport Intergroup of the European Parliament has traditionally addressed the issue of player transfers. This activity has included the holding of a hearing on the football transfer system in 2018 and the co-organization of an event on the trafficking of young African football players in 2020.

In addition, the European Parliament adopted a resolution on sport in 2017 in which it "*calls on governing bodies and national authorities at all levels to take measures that guarantee compensation to training clubs with a view to encouraging the recruitment and training of young players*".<sup>31</sup>

In 2018, the Directorate General for Education, Youth, Culture and Sport of the European Commission presented a report entitled "An Update on Change Drivers and Economic and Legal Implications of Transfers of Players"<sup>32</sup> that provided a comprehensive analysis of the transfer market and new developments relating to the system, highlighting main economic trends and legal evolutions.

<sup>25</sup> Council of Europe, Parliamentary Assembly, Resolution 2200 (2018), para. 14.

<sup>26</sup> Council of Europe, "FIFA Transfer System Reform – Analysis and Recommendations", Technical Paper, May 2021.

<sup>27</sup> Council of Europe, Parliamentary Assembly, Resolution 2420 (2022), para. 23.3.

<sup>28</sup> Ibid. para. 23.5.

<sup>29</sup> European Parliament, Resolution of the European Parliament on the Freedom of Movement of Professional Football Players in the Community, Rapporteur: James L. Janssen van Raay (A2-415/88, 1 March 1989).

<sup>30</sup> European Parliament, *EU Sports Policy: Assessment and Possible Ways Forward* (2021).

<sup>31</sup> European Parliament, document P8 TA(2017)0012, entitled "An integrated approach to Sport Policy: good governance, accessibility and integrity", point 38.

<sup>32</sup> The report was based on "The Economic and Legal Aspects of Transfers of Players", a 2013 report produced by KEA European Affairs and the Centre for Law and Economics of Sport, which provided an important overview of the functioning processes of the transfer of players in different sporting activities. The study not only focused on the analysis and evaluation of this market, but also suggested relevant policy recommendations aimed at fixing and balancing the existing distortion and discrepancies of the market.

In 2020, the European Union Agency for Law Enforcement Cooperation published a report entitled, “The Involvement of Organised Crime Groups in Sports Corruption”, in which it argues that there was a link between the infiltration of organized crime into sport and the transfer of (corrupted) athletes, with the transfer of players being a means to enable criminal schemes. The report goes on to say that in such cases, pro-active intelligence gathering activities are crucial to identifying and investigating key individuals from criminal groups.

Furthermore, in November 2021, the European Parliament adopted a resolution on the “EU Sports Policy: Assessment and Possible Ways Forward”, in which the Parliament “welcomes reforms and measures to improve transparency and accountability in the player transfer market across sports and urges further efforts”. It is also stated that “European frameworks are needed to improve player transfer systems to meet European standards and objectives, in particular with regard to labour market and financial regulations”. Moreover, it is stressed in the resolution that young athletes from developing countries must be protected from fraud and trafficking and should benefit from a legal status in Europe and receive support with the assessment and monitoring of their contracts.<sup>33</sup>

In the same resolution, the European Parliament is supportive of the FIFA transfer system reform aimed at improving good governance and integrity. Notably, in the resolution, the need to regulate the activities of agents is recalled, while it is acknowledged that recent reforms of the football transfer market, including the establishment of a clearing house, licencing requirements for agents and caps on agents’ commission, are positive steps. In the resolution, the European Parliament also urges the relevant sports authorities to ensure the prompt implementation of these reforms and calls on the European Commission to monitor its progress. The resolution emphasizes that fighting corruption in sport, which is often linked to money-laundering and other crimes, requires transnational cooperation between all stakeholders.<sup>34</sup>

#### **2.2.4. G20 Anti-Corruption Working Group**

Corruption in sport is acknowledged as an emerging risk area by the G20 Anti-Corruption Working Group, and the issue was included in the G20 Anti-Corruption Working Group Action Plan covering the period 2019 to 2021. Furthermore, under the Italian presidency, the Group of 20 adopted the “G20 High-Level Principles on Tackling Corruption in Sport”.

Principle six of this document is focused on supporting sports organizations to enhance governance, transparency and accountability and to ensure the integrity of major sports events, including associated procurement. The present advocacy paper takes also into account two key sub-principles of Principle six, namely:

- » Providing, where appropriate and in line with domestic laws, and any risk-based arrangements, the regulation of professional activities of agents, intermediaries, advisers and representatives of athletes and the transfer of athletes between clubs, associations, and sports organizations, to prevent corrupt conduct and unethical behaviour and ensure financial transparency, also through the development and adoption of codes of conduct.
- » Exploring ways to improve customer due diligence by financial institutions, consistent with applicable domestic laws and regulations, with respect to customers who exercise a prominent function in an international sports organization, particularly where such customers’ transactions pose a heightened risk of corruption, money-laundering and other financial crimes.

<sup>33</sup> European Parliament resolution of 23 November 2021 on EU sports policy: assessment and possible ways forward, P9 TA(2021)0463.

<sup>34</sup> Ibid., paras. 33–34.



### 2.2.5. International Criminal Police Organization

The Financial Crime and Anti-Corruption Centre of the International Criminal Police Organization (INTERPOL) provides a coordinated global response to the exponential growth in transnational financial crime.

Fuelled by ever-increasing globalization and digitalization, criminals can commit financial crimes with increasing efficiency and sophistication and cause huge losses to businesses, sport organizations and individuals worldwide.

The INTERPOL Global Focal Point Network on Anti-Corruption and the INTERPOL Match Fixing Task Force are law enforcement expert groups that share knowledge, experiences and *modi operandi* in relation to corruption and the manipulation of sports competitions, including transfer issues.

### 2.2.6. International Labour Organization

In its Global Dialogue Forum on Decent Work in the World of Sport, which was held in January 2020, the International Labour Organization (ILO)<sup>35</sup> recognized that sport is a key enabler for the achievement of the Sustainable Development Goals, including Goal 8 on the promotion of inclusive and sustainable economic growth, employment and decent work for all.

In the Forum's points of consensus, it is recognized that all athletes, regardless of the type of employment relationship, require, as a minimum, to be protected by the fundamental principles and rights at work, and that social dialogue is based on respect for freedom of association and the effective recognition of the right to collective bargaining.

It is also stated that athletes may be bound to provisions preventing them from moving or competing. Government, social partners and relevant stakeholders should work together on preventing any practice that may result in forced labour and other eventualities, including injuries and doping. The ILO Indicators of Forced Labour<sup>36</sup> are intended to help "front-line" law enforcement officials, labour inspectors, trade union officers, non-governmental organization workers and others to identify people who are trapped in a forced labour situation and who may require urgent assistance.

In this area, ILO provides technical assistance relating to: the promotion, ratification and effective implementation of international labour standards relevant to the sport sector, taking into account the changing patterns of the world of work; the needs of workers and sustainable enterprises; strengthening the capacities of sport bodies; the collection of data on employment and labour; the sharing of good practices in social dialogue and collective bargaining mechanisms; ensuring occupational health and safety; enforcing laws on and good practice in social protection (i.e. work place injury and maternity); safeguarding the rights of children in sport; and the development of skills needed to enter the labour market.

### 2.2.7. Financial Action Task Force

The money flows generated by player transfers, the importance of such transfers as a source of income and the complex network involved in any single transfer led the Financial Action Task Force in 2009 to highlight the vulnerability of the professional football sector to criminal activity and, specifically, to money-laundering.

<sup>35</sup> International Labour Organization (ILO), "Global Dialogue Forum on Decent Work in the World of Sport", GDFWS/2020/7, Geneva, 2020.

<sup>36</sup> See International Labour Office, *ILO Indicators of Forced Labour: Special Action Programme to Combat Forced Labour* (2012).

In a report entitled “Money Laundering through the Football Sector”, issued in 2009, the Financial Action Task Force highlighted a number of issues relating to the regulation of agents and third-party ownership of players (particularly those from South America), as well as the following four points of concern:

- » The transfer market is vulnerable to various forms of misuse, such as tax evasion, insider fraud and money-laundering. Risks relate to a lack of transparency in relation to the funding for certain transfer transactions and the opportunity for funds to be paid offshore with limited disclosure requirements regarding beneficial ownership of destination accounts.
- » Estimating the transaction price for a player is often unfeasible, since substantial amounts are involved, often carried out in one transaction, or transferred abroad, making it difficult to verify their destination. The over-evaluation of a player corresponds to a money-laundering technique like the over-invoicing of goods and services seen in trade-based money-laundering. The key element of this technique is the misrepresentation of the price of the good or service to transfer additional value.
- » The football specificity is that the transfer of a football player (it would be more correct to say the termination of a contract with a previous employer – unless such contract has expired – and the subsequent signing up of a contract with a new employer) implies a compensation from the second employer to the first employer. Compensations may be high and increase the costs of transfers, therefore increasing the attractiveness of these transfers for illegal activities such as money-laundering.
- » Another problem is raised by the multiple financial transactions that occur during the transfer process. Besides the transfer sum stated in the contract, there are transfer bounties and the additional costs that are made to attract a football player (including those related to a house, car or financial arrangements for the family). All these items can be used for the benefit of players but also for clubs, managers and agents. There are no fixed rules on how these transactions should be accounted for. The overall settlement of the transfer could therefore remain non-transparent and provide opportunities for money-laundering.

## *2.3. Initiatives from sport organizations and relevant organizations*

### **2.3.1. Athletics Integrity Unit**

The Athletics Integrity Unit (AIU) works independently of World Athletics, the international governing body for athletics. The AIU board oversees sport’s integrity matters. In 2022, AIU launched a questionnaire on trafficking in persons in athletics in 11 languages.

Trafficking in persons remains a great concern to the sport of athletics, following multiple reports of alleged exploitation of athletes by agents and issues concerning the transfer of allegiance, with young athletes from developing countries particularly at risk.

### **2.3.2. Fédération Internationale de Football Association**

As part of its mission of “Making Football Truly Global: The Vision 2020–2023”, FIFA promotes safe sport as part of broader efforts to protect human rights.

One of the cornerstones of this commitment is the FIFA Guardians Programme. The Programme was launched in 2019 and provides a framework to help the Federation's 211 member associations prevent any risk of harm to children in football, as called for in article 3 of the FIFA Statutes and in line with article 23 of the FIFA Code of Ethics.

In January 2021, FIFA launched the FIFA Guardians Safeguarding in Sport Diploma, a global education programme designed to strengthen and professionalize safeguarding standards across football. It provides the 211 member associations with a dedicated, interactive educational resource to develop safeguarding good practices. In addition, FIFA competition regulations require participating teams to appoint a dedicated safeguarding focal point.

As part of the reform of the transfer system, in May 2021, the FIFA Football Stakeholders Committee endorsed key measures included in the third reform package. The third package is focused on the topics of the international transfer of minors, squad sizes, registration periods and financial regulation.<sup>37</sup>

Development in relation to the international transfer of minors is focused on the following areas:

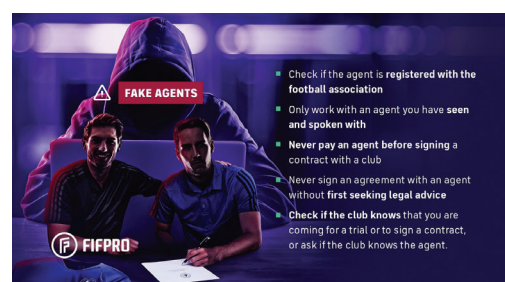
- » **Humanitarian exception:** examination of the humanitarian exception in article 19 of the FIFA Regulations on the Status and Transfer of Players and whether it could be applied more flexibly or modernized to reflect real-life cases that are rejected.
- » **Trials:** exploration of a regulatory framework for trials to provide legal certainty and protect minors (and all footballers) from exploitation.
- » **Private academies:** exploration of the possibility of reviewing and modernizing the regulation of private academies (currently covered by article 19bis of the FIFA Regulations on the Status and Transfer of Players) operating outside the scope of organized football.
- » **Safeguarding:** exploration of the possibility and feasibility of minimum protection standards for minors who transfer internationally.

FIFA has been actively engaged in tackling crimes linked to the transfer of football players, including through the investigation and sanctioning of clubs found in breach of its rules governing the transfer of athletes.

For example, in July 2021, three Italian clubs were sanctioned by the FIFA Disciplinary Committee for rule breaches relating to the international transfer and registration of underaged players. The sanctions included the imposition of a registration or transfer ban. Following an investigation carried out by the FIFA Regulatory Enforcement Department, Spezia Calcio was ordered to pay 500,000 Swiss francs, while U.S.D. Lavagnese 1919 and Valdivara Cinque Terre were fined 4,000 Swiss francs each for their involvement in a scheme aimed at circumventing article 19 of the FIFA Regulations on the Status and Transfer of Players.

### 2.3.3. Fédération Internationale des Associations de Footballeurs Professionnels (FIFPRO)

As a result of messages received from players or family members of players who were allegedly defrauded by persons impersonating agents or intermediaries, so called "fake agents", FIFPRO has developed an awareness-raising campaign to warn its members about such activities.



<sup>37</sup> See "Football Stakeholders Committee agrees on key principles pertaining to third reform package", FIFA Media Release, 14 May 2021, <https://www.fifa.com/about-fifa/organisation/media-releases/football-stakeholders-committee-agrees-on-key-principles-pertaining-to-third-ref>.





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### 3.1. International nature of transactions involving the transfer of athletes

In December 1995, the Court of Justice of the European Union issued a decision relating to the cross-border, free-movement rights of a Belgian-born football player called Jean-Marc Bosman in what has become known as the Bosman ruling. The decision had a profound impact on the governance and finances of football.

Prior to the Bosman ruling, football players' rights to transfer to another club were restricted, even on the expiry of their contract with their employing club. This restrictive policy, known as the retain and transfer system, was aggravated by the fact that nationality quotas applied in the European Union regarding the employment of professional footballers.

Since the Bosman ruling,<sup>38</sup> and in conjunction with the expansion of broadcasting rights and corporate investment in football, the sport has undergone rapid commercial development.<sup>39</sup> This development has been epitomized by an exponential rise in transfer fees paid for players. Since the 2000s, and initially in dialogue with the European Commission, the global governing body for the sport, FIFA, has sought to harmonize the regulation of the transfer of players, attempting to strike the necessary balance between clubs' and leagues' desire for contractual stability and players' rights to employment mobility.<sup>40</sup>

### 3.2. Strengthening transfer rules and regulations to protect football players

Since 2017, FIFA has undertaken a project to reform the international transfer system, in consultation with its football stakeholders. The aims of the reform are to:

- » Protect integrity in football
- » Bring more transparency and rationality to football financing
- » Develop, train and protect young players
- » Enhance the social function of football through solidarity
- » Increase competitiveness

Because of the range and diversity of the topics, the decision was taken to split the workload into three distinct packages<sup>41</sup> that would be dealt with separately to ensure an efficient process and a realistic timeframe.

The main elements of the reform include:

- » **Creation of a clearing house** to process transfers with the aim of protecting the integrity of football and avoiding fraudulent conduct. This will ensure that the system operates correctly by centralizing and

<sup>38</sup> European Court, *Union royale belge des sociétés de football association ASBL v Jean-Marc Bosman, Royal club liégeois SA v Jean-Marc Bosman and others and Union des associations européennes de football (UEFA) v Jean-Marc Bosman*, Case No. C-415/93, Judgement of the Court, 15 December 1995.

<sup>39</sup> KEA European Affairs and The Centre for the Law and Economics of Sport, "The Economic and Legal Aspects of Transfer of Players" (2013).

<sup>40</sup> FIFA, *Regulations on the Status and Transfer of Players*.

<sup>41</sup> The three packages include reforms related to the 1) FIFA Clearing House and electronic registration; 2) Training rewards, loans, and agents; 3) International transfer of minors, squad sizes (loans), registration periods (transfer windows), financial regulation, and related matters. For more information, please consult here.

simplifying the training rewards payments associated with transfers, such as solidarity contributions and training compensation. If successful, it will be expanded to include service fees paid to football agents and, potentially, all transfer fees. The FIFA Clearing House entity should begin operating two months after the receipt of a licence from the competent regulatory authority within the European Union (it is expected that this licence will be granted in the second half of/within 2022).

- » **Development of new regulations concerning agents**, including:
  - Reintroduction of a mandatory licencing system, which includes further education requirements (continuing professional development) to raise professional standards
  - Prohibition of multiple representation to avoid conflicts of interest
  - Agent fees paid via the FIFA Clearing House to guarantee financial transparency
  - Caps on agent fees to protect the integrity of the sport and to ensure the proper functioning of the transfer system
  - Creation of an effective dispute resolution system to resolve agent-related disputes

In addition, several reforms have already been approved, including:

- » **Landmark regulatory reforms to strengthen the protection of female players and football coaches.** This comprises new global minimum standards for female players, particularly in relation to maternity, along with new rules establishing minimum standards for coaches' contracts and the provision of greater clarity on the content of employment agreements. These reforms came into force on 1 January 2021.
- » **New provisions concerning loans of players in international football.** The driving force behind the desire to review the loan system was the adoption of rules that accurately regulate the loan activity of clubs to ensure that loans are used to pursue legitimate training and development objectives, while, at the same time, limiting excessive and abusive practices. The new rules entered into force on 1 July 2022.

While the above-mentioned initiatives demonstrate that the various reforms introduced by FIFA, especially regarding agents, have provided a foundation for the improvement of the transfer system, further information is required to better understand the current risks faced globally and across sport, including threats relating to transnational economic crime, illicit activity and corruption.

Also, as part of the FIFA transfer system reform, it was agreed to establish a new football agent legal framework to address issues that have developed because of the increased globalization and commercial interest in football clubs, such as the role of speculation in driving the market (as opposed to solidarity) and greater contractual instability.

One of the objectives of the new football agent legal framework is to raise professional and ethical standards for agents to protect players, who have short careers, and to protect contractual stability and solidarity.

To achieve the objective of protecting players (in particular young players), the following measures will be included in the new football agent legal framework:



- » An approach (and/or any subsequent execution of a representation agreement) to a minor or their legal guardian in relation to any football agent services may only be made no more than six months before the minor reaches the age where they may sign their first professional contract in accordance with the law applicable in the country or territory where the minor will be employed. This approach may only be made once prior written consent has been obtained from the minor's legal guardian.
- » A football agent who wishes to represent a minor or represent a club in a transaction involving a minor shall first successfully complete the designated continuing professional development course on minors and comply with any requirement to represent a minor established by the law applicable in the country or territory of the member association where the minor will be employed.
- » A representation agreement between a football agent and a minor shall only be enforceable if it complies with the two above-mentioned requirements and the representation agreement is signed by the minor and their legal guardian as provided for by the law applicable in the country or territory of the member association where the minor will be employed.
- » A football agent may not receive a service fee when engaged to perform services relating to a minor unless the relevant player is signing their first or subsequent professional contract in accordance with the law applicable in the country or territory of the member association where the minor will be employed.
- » An anti-human trafficking e-learning module will be included in the continuing professional development programme for football agents to raise their awareness about that crime.
- » A public, centralized international football agent register, with information on who may represent minors in order to protect them from fake agents, will be established.
- » A handbook for children and their parents so they can be informed of their rights will be made available.

### 3.3. Enhancing financial management in basketball

The International Basketball Federation (FIBA) is the governing entity for 212 national basketball federations globally. In a recent report from FIBA on transfers (covering the 2020/21 season),<sup>42</sup> it is noted that the number of international transfers was the lowest since the 2014/15 season, at 7,687. A total of 6,254 players were involved in one (or more) international transfers, compared to 7,371 in the previous season. This dip was related to the COVID-19 pandemic. The number of transfers in basketball has generally followed an upward trajectory since record-taking began for the 2010/11 season. In that season, a total of 6,167 international transfers were reported, compared to 8,943 transfers in 2019/20.

While it is important to clarify that the transfer markets of different sports can differ significantly (e.g., football and basketball, with the former market much larger in terms of activity and value than the latter),<sup>43</sup> they can be plagued by the same problems.

In its report, FIBA makes two significant points of note on transfers:

- » The report provides detailed evidence on migratory transfer patterns, both in terms of the flow of players

<sup>42</sup> CIES Sports Observatory, *FIBA International Basketball Migration Report 2021* (2021).

<sup>43</sup> According to the KEA European Affairs-The Centre for the Law and Economics of Sport joint study, "The Economic and Legal Aspects of Transfers of Players", the total amount of transfer fees worldwide in basketball in 2013 was approximately 12 million euros (i.e., only 0.4 per cent of the total spent on the transfer of football players in Europe).

between countries and the migratory balance per country. The application of such data more widely to sport would be useful in tracing both the human and money flows associated with all transfers of athletes.

- » There is specific mention of the fact that under the FIBA agent licencing system, a total of 536 agents are now officially certified, allowing these agents to represent players and clubs around the globe. The report observes that FIBA-certified agents “form an integral part of the international transfer market to which they provide greater professionalism, ethics and transparency.” The report goes on to specify that “a total of 8,626 representations are listed on [www.fiba.basketball/agents](http://www.fiba.basketball/agents) which highlights the importance of players’ agents and the need for a proper framework to regulate their activities thus ensuring a smooth processing of international transfers and the compliance with FIBA’s Internal Regulations and ethical standards.”<sup>44</sup>

### 3.4. Tackling the trafficking of persons in athletics

According to clause 8 of its safeguarding policy, World Athletics makes the following commitments:<sup>45</sup>

- » World Athletics, Area Associations and Member Federations shall promote physical and mental health and wellbeing of all those associated with athletics. This includes athletes not being subjected to unsafe, excessive, or unwelcome training regimes, human trafficking, financial abuse or manipulation of their age or nationality.
- » World Athletics shall review its reporting processes and disciplinary procedures for alleged incidents of abuse, harassment and exploitation for concerns raised by Applicable Persons (as defined in rule 1.1 of the World Athletics Integrity Code of Conduct)<sup>46</sup> that fall within the jurisdiction of World Athletics and the Athletics Integrity Unit.
- » World Athletics shall provide access to educational material and training material for its workforce as well as direct individuals to appropriate training courses delivered by specialist organisations.
- » World Athletics shall monitor and evaluate the implementation and effectiveness of this Policy by assessing how effectively Area Associations and Member Federations are addressing safeguarding in their respective territories by implementing the guidance provided by World Athletics.

<sup>44</sup> CIES Sports Observatory, *FIBA International Basketball Migration Report 2021* (2021).

<sup>45</sup> World Athletics, *World Athletics Safeguarding Policy* (2021), p. 10.

<sup>46</sup> World Athletics, “Integrity Code of Conduct”, rules 1.1.1 to 1.1.7.







### 4.1. Conclusion

Concerns exist in the international community and among sport organizations about risks of corruption and crimes linked to the transfer of athletes. Concerted and coordinated initiatives are needed from governments and sports organizations at the local, national, regional and global levels to address those concerns. The initiatives should focus on:

- » Addressing the infiltration of sport by organized criminal groups and the methods they employ to generate illicit gains, including activities linked to the transfer of athletes (although it is important to note that transfer-of-athlete transactions could be linked to a wider range of crimes)
- » Protecting athletes by emphasizing the importance of a victim- or athlete-centred approach that incorporates human rights and gender considerations
- » Promoting partnerships and cooperation at all levels, in particular given the transnational nature of organized criminal groups and their economic crime- neither criminal justice authorities nor sports organizations can address those crimes alone

To prevent, detect, investigate and adjudicate crimes linked to the transfer of athletes, there is a need to raise awareness and increase understanding of such crimes among governments, sports organizations and other relevant stakeholders.

To effectively counter crime and wrongdoing that may be associated with transfer of athletes, including in relation to the football transfer system, there is a need to develop the capacity of government officials and sports organizations, including through the generation of knowledge and delivery of tools.

The recent efforts to reform the transfer market made by sports organizations (e.g., FIFA), which include measures such as the establishment of a clearing house to process transfers and avoid fraudulent conduct, a licencing system for agents and the introduction of a cap on agent remuneration, could help ensure greater transparency and accountability in the transfer market.

Given the unique challenges presented by the complexity of the sports sector and the cross-border nature of the risks that this sector must manage, governments should seek to introduce specific legislation that allows for more effective prevention, deterrence and disruption of criminal conduct in sport and for more robust enforcement of regulations.

## 4.2. Considerations and recommendations

Governments can strengthen their efforts to deal with risks of crimes and wrongdoing linked to the transfer of athletes by designing and implementing policies and measures to:

- » Adhere to, for those that have not yet done so, and effectively implement the United Nations Convention against Transnational Organized Crime and its Trafficking and Smuggling Protocols and the United Nations Convention against Corruption.
- » Adopt clear and comprehensive legislation that prohibits all forms of exploitation of and violence against children and adults in all contexts including sport.
- » Support more effective implementation of existing legislation relating to crimes linked to the transfer of athletes or, where appropriate, support the development of specific legislation to criminalize wrongdoing linked to the transfer of athletes.
- » Conduct or support empirical studies to enhance understanding of the risks of corruption and crimes linked to the transfer of athletes, whether in specific sports or in sport in general.
- » Develop initiatives that promote and enhance cooperation and the exchange of information and good practices, both at the national and the international levels, between and among law enforcement and judicial authorities, corruption prevention authorities, lawmakers and policymakers, international organizations, sports organizations, civil society organizations and other relevant stakeholders linked to the transfer of athletes.
- » Develop education and awareness-raising programmes that promote principles of integrity and create an atmosphere of intolerance towards corruption, particularly in junior and youth sport. These programmes should include age-sensitive material for children and young athletes and their parents to alert them to risks of crimes linked to the transfer of athletes.
- » Establish or maintain mechanisms for reporting crime linked to the transfer of athletes and for effective protection of witnesses, experts, victims and reporting persons, including in sport, from retaliation and intimidation in line with articles 24 and 25 of the United Nations Convention against Transnational Organized Crime and articles 32 and 33 of the United Nations Convention against Corruption.
- » Support youth development and the protection of minors and vulnerable adults by harmonizing the conditions of entry for young players from one country to another and by improving rules on minors and youth athletes.
- » Establish or adapt existing mechanisms or platforms to support the investigation and prosecution of economic crime-related misconduct in athlete transfers.

Sport organizations can strengthen their efforts to deal with risks of crimes linked to the transfer of athletes by designing and implementing policies and measures to:

- » Enhance transparency and accountability in relation to the transfer of athletes, establish mechanisms to facilitate the mandatory reporting and referral to competent authorities of crimes linked to the transfer of athletes for intermediaries, agents, managers, employees and athletes, and assess regularly specific risks relating to infiltration by organized crime.



- » Develop mechanisms for open, confidential and anonymous reporting of all crimes and wrongdoing in sport, including those linked to the transfer of athletes.
- » Introduce preventive measures aimed at addressing risks of crimes linked to the transfer of athletes, including the promotion of education and awareness-raising campaigns for children and young adults.
- » Support, promote and strengthen reporting, cooperation and the exchange of information and good practices with law enforcement, judicial authorities and corruption prevention entities to effectively prevent, detect and adjudicate crimes and wrongdoing linked to the transfer of athletes.
- » Develop and adopt, where appropriate and in line with domestic laws, codes of conduct aimed at better regulating the transfer of athletes, while monitoring the effectiveness of transfer system reforms, based on appropriate qualitative and quantitative indicators and drawing on feedback from internal and external sources.
- » Take measures to acknowledge and effectively implement sports organization accountability in the context of the transfer of athletes, including guaranteeing safe travel and safe return in the context of transfer of athletes and humane and safe working conditions free of violence, abuse and discrimination.
- » Develop inclusive and accountable governance structures to ensure that interests of all affected stakeholders are represented in line with basic principles of democracy.





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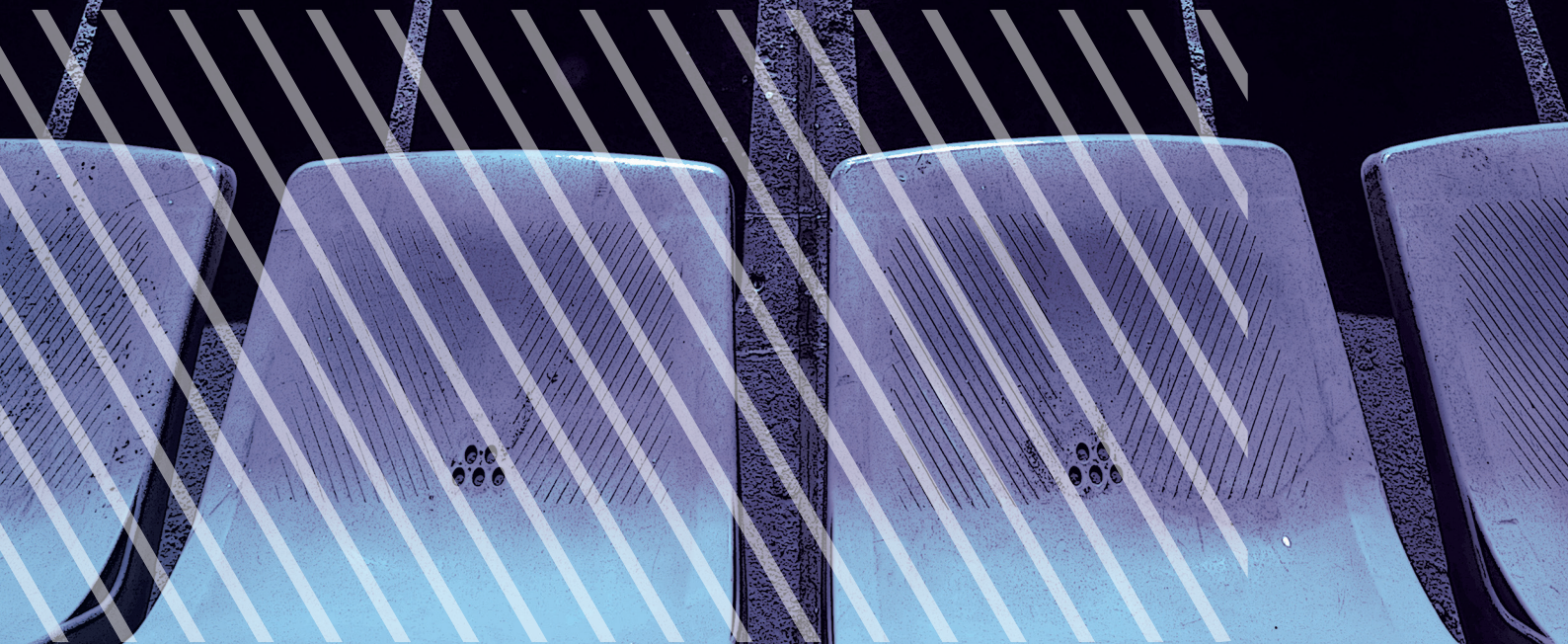


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