

Dear Mr. Infantino,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Working Group on the issue of human rights and transnational corporations and other business enterprises and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 55/5, 53/3 and 52/36.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to the attention of your organization information we have received concerning **football clubs that have developed in the Israeli colonial settlements of the West Bank and have been integrated in the Israeli Football Association (IFA), and the related upcoming decision of the FIFA Council on this matter.**

According to the information received:

Over the years, at least eight football clubs have developed or have been identified as playing in the Israeli colonial settlements of the West Bank. These clubs have been integrated in the Israeli Football Association (IFA), despite the fact that they are located or deploy their activities in occupied territory.

Six of them, Maccabi Ariel, Ironi Ariel Football Club, Beitar Givat Ze'ev, Beitar Ma'aleh Adumim, Hapoel Oranit and Hapoel Bik'at Hayarden, are based in the settlements.

Two others have registered offices in settlements but play in Israel, such as Hapoel Yerushalayim and Ironi Elitzur Yehuda.

Mr Gianni Infantino
President
Fédération Internationale de Football Association

A ninth club, the Hapole Katamon Yerushalayim, has been identified and reported to be based inside Israel while playing some home games in a settlement.

According to the FIFA Statutes,

- FIFA is committed to respecting all internationally recognized human rights and shall strive to promote the protection of these rights. (art. 3)
- Only one association shall be recognized as a member association in each country (art. 11. 1)
- Member associations and their clubs may not play on the territory of another member association without the latter's approval. (art. 72.2)
- Associations, leagues or clubs that are affiliated to a member association may only join another member association or take part in competitions on that member association's territory under exceptional circumstances. In each case, authorization must be given by both member associations, the respective(s) confederation and by FIFA. (art. 73)

In 2015, this situation was brought to the attention of FIFA. At that time, five football clubs only had been identified as having developed or playing in the settlements in the occupied Palestinian territory. In response, the FIFA Congress, where each of the football associations has equal vote, established the Monitoring Committee Israel-Palestine for further analysis, and referred the matter to it.

In 2017, the Monitoring Committee submitted its report presenting three options to FIFA. Option 1 proposed maintenance of the current Status Quo, whereby the IFA continues to administer football in the settlements in question. This option implied that there should be no action by FIFA until the Oslo discussions (or similar) involving facilitated or direct talks between the parties have resolved the Israel-Palestine conflict.

Option 2 proposed that FIFA warns IFA (Yellow Card). In line with article 72.2 of the FIFA Statutes, which proclaim that member associations and their clubs may not play on the territory of another member association without the latter's approval, the IFA would be given a warning by FIFA (yellow card) to rectify this issue by desisting to administer football in the settlements within a minimum period of 6 months. Failure to find a resolution within this period shall mean that the matter will revert to the FIFA Council for decision-making.

Option 3 proposed that discussion should be encouraged between the IFA and the Palestinian Football Association (PFA), based purely on football where the IFA and PFA should be encouraged to find accommodation on how to agree amongst themselves.

The Monitoring Committee also concluded that FIFA must be aware of and sensitive to its obligations under international law and that the FIFA leadership could not any longer avoid taking a decision on this matter. The Committee then stopped its work.

That same year, in 2017, following the Monitoring Committee's report, the FIFA Council announced that it had agreed on a position with regard to the administration of football in the West Bank. The Council decided that, given that the final status of the West Bank is the concern of the competent international public law authorities, FIFA, in line with the general principle established in its Statutes, must remain neutral with regard to political matters. The Council stressed that any interference by FIFA in the status quo of football in the occupied Palestinian territory without the consent of the parties concerned might aggravate the situation of football not only in the territory in question, but also in the greater region affected – which would not be in the best interests of the game. Therefore, the FIFA Council decided to refrain from imposing any sanctions or other measures on either the IFA or the PFA, as well as from requesting any other FIFA body to do so. The matter was declared closed and not to be the subject of any further discussion until the legal and/or de facto framework has changed.

In March 2024, the Palestine Football Association made a proposal to FIFA Congress to exclude Israel from all club and national competitions over the war in Gaza, accusing it of multiple breaches of FIFA statutes. The PFA accused the IFA of complicity in violations of international law by the Israeli government, inclusion in its league of clubs located in illegal settlements in the occupied Palestinian territory, and discrimination against Palestinian players.

The PFA noted in particular that the IFA has repeatedly failed in taking decisive action against discrimination and racism, in the areas under its jurisdiction, mentioning the Beitar Jerusalem Football Club, an Israeli professional football club from Jerusalem, and a member of the Israeli Premier League. Reportedly, the club openly prevents Palestinians from joining its ranks. Further, Palestinians are allegedly barred from entering stadiums in illegal settlements.

On 17 May 2024, in order to evaluate this situation, the President of FIFA announced at the FIFA Congress the setting up of an ad hoc legal expert team to analyse and assess the requests made by the PFA and ensure that the statutes and regulations of FIFA are applied. Those findings would be referred to the FIFA Council, its main decision-making body outside of the Congress, to convene an extraordinary meeting in July and take appropriate decisions.

However, the process was delayed and on 28 August 2024, the legal team submitted its legal opinion. FIFA announced that the legal opinion would be considered during the ordinary Council meeting of October 2024.

Reportedly, the legal opinion stresses that, in the name of the autonomy of associations as recognized in Swiss law and by the Court of Arbitration for Sport in particular when it comes to disciplinary matters, FIFA was at liberty to structure its organization as it saw appropriate, particularly in terms of imposing sanctions or taking measures against one of its members.

The legal opinion, nonetheless, refers to the undertaking by FIFA to respect all internationally recognised human rights and to promote the protection of these rights, in accordance with the UN Guiding Principles on Business and Human Rights, as well as to its Human Rights Policy and its commitment to working with its member associations to develop and implement anti-discrimination action plans.

However, based on the assumption that private associations are not subjects of international public law, the legal opinion concludes that FIFA does not have any direct obligation under international law and has no authority to sanction potential violations of international law. It stressed that FIFA is not responsible for and does not have authority over the political situation in Israel and Palestine and the existence of alleged illegal settlements. However, FIFA may choose to base its actions on international law principles.

The legal team concluded that the question of the demarcation of the territory of the PFA for the purposes of the application of the FIFA Statutes is entirely at the discretion of the FIFA Council. While international law is not mandatorily applicable to FIFA, the latter may choose to base its assessment on international law principles. Subject to the discretion of the FIFA Council, it is recommended that the FIFA Governance, Audit and Compliance Committee be entrusted with the mission to investigate and advise the FIFA Council on the issue of the determination of the territory of the Palestine Football Association.

In matters regarding racial discrimination, the legal team recommended that given FIFA's zero tolerance against discriminatory conducts, the FIFA Disciplinary Committee initiate an investigation on this alleged offense of discrimination.

The legal opinion does not make any mention of the International Court of Justice advisory opinion of 19 July 2024 on the legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.

Without prejudging the accuracy of the above-mentioned allegations, we express grave concerns that FIFA may continue allowing clubs located in or playing in settlements in the occupied Palestinian territory to participate in the Israeli Football Association. Such an approach would amount to indirectly recognizing as legal the situation arising from the unlawful presence of Israel in the occupied Palestinian territory. This is in direct opposition with international law, as reiterated by the International Court of Justice in its advisory opinion of 19 July 2024 on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.

In its advisory opinion, the International Court of Justice has clearly stated that Israel's occupation of the Gaza strip and West Bank, including East Jerusalem, was unlawful, along with the associated settlement and annexation, and further noted that Israel's policies violate the prohibition on racial segregation and apartheid set out in article 3 of the International Convention on the Elimination of all Forms of Racial Discrimination. The Court mandated Israel to end its occupation, dismantle its

settlements and separation wall, provide full reparations to Palestinian victims and facilitate the return of displaced people.

We would like to remind FIFA that international human rights law, which includes the right to self-determination, as well as the prohibition of racial discrimination and apartheid, applies to private international organizations, especially those that have global jurisdiction and mandates such as itself, in accordance with the UN Guiding Principles on Business and Human Rights. The Guiding Principles are the global standard for preventing and addressing the risk of adverse impacts on human rights involving business activity, and they provide the internationally accepted framework for enhancing standards and practices with regard to business and human rights. As such, sports governing structures must integrate human rights standards into their governance structures and operations.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above- mentioned allegations.
2. Please provide a detailed account of football clubs located or playing in the settlements of the occupied Palestinian territory, that are affiliated with the IFA.
3. Please provide information on action FIFA intends to adopt to ensure its policies and decisions do not lead to recognizing as legal of the situation arising from the unlawful presence of Israel in the occupied Palestinian territory. In particular, please provide information on decisions and policies adopted to make proper distinctions in dealings with Israel between the territory of Israel and the occupied Palestinian territory.
4. Please provide detailed information as to the measures, including human rights due diligence and heightened human rights due diligence in conflict-affected areas, in line with the Working Group on business and human rights' report on conflict-affected areas (A/75/212) and in line with the UNGPs, that your company has taken to identify, prevent, mitigate and account for adverse human rights impacts. As part of this response, please provide a detailed account of the measures adopted by FIFA to ensure implementation of its zero tolerance against discriminatory conducts when it comes to Israel and the occupied Palestinian territory.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also

subsequently be made available in the usual report to be presented to the Human Rights Council.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your organization to clarify the issues in question.

Please be informed that a copy of this letter has been also sent to Israel and the State of Palestine.

Please accept, Mr. Infantino, the assurances of our highest consideration.

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Fernanda Hopenhaym
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Ashwini K.P.
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the relevant international norms and standards.

Both International Covenants on human rights, in their common article 1, recognize that all peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.

The right to equality and non-discrimination is established in a number of human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Convention on the Elimination of all Forms of Racial Discrimination. All persons, without exception, are entitled to freedom from discrimination and sporting bodies also have taken on the responsibility to respect international standards and prohibit discrimination within sport.

Equality and non-discrimination are fundamental principles of international human rights law and are an essential element of human dignity, as enshrined in article 2 of the Universal Declaration of Human Rights. Discrimination constitutes any distinction, exclusion, restriction or preference or other differential treatment that is directly, or indirectly based on prohibited grounds of discrimination, including national origin, and which has the intention or effect of nullifying or impairing the equal recognition, enjoyment or exercise of their human rights. Differential treatment based on prohibited grounds will be considered as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with human rights standards and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.

In accordance with article 27 of the UDHR, and article 15 of the International Covenant on Economic, Social and Cultural Rights, everyone has the right to take part in cultural life, which includes the practice of sports. Articles 23 of the Universal Declaration of Human Rights and 6 of the International Covenant on Economic, Social and Cultural Rights also recognize the right of everyone to work. All these provisions must be read in conjunction with the principles of equality and non-discrimination.

In its report on the right to participate in sports, the Special Rapporteur in the field of cultural rights stressed that the existing high degree of autonomy and self-regulation in sport must not be detrimental to human rights. Ensuring the application of human rights standards in sport is clearly part of the human rights obligations of States and other relevant stakeholders. (A/79/299, para. 44)

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights

Council in its resolution (A/HRC/RES/17/31) after years of consultation with governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These Guiding Principles are based on the recognition of:

- a) "The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms;
- b) The role of business enterprises as specialised bodies or corporations performing specialised functions, which must comply with all applicable laws and respect human rights;
- c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The Guiding Principles also make clear that companies have an independent responsibility to respect human rights. principles 11-24 and 29-31 provide guidance to companies on how to meet their responsibility to respect human rights and to provide remedies where they have caused or contributed to adverse impacts. The Guiding Principles have identified two main components of the corporate responsibility to respect human rights, which require "business enterprises to:

- a) Prevent their own activities from causing or contributing to adverse human rights impacts and address those impacts when they occur;
- b) Seek to prevent or mitigate adverse human rights impacts directly related to operations, products or services provided through their business relationships, even where they have not contributed to those impacts". (guiding principle 13)

The commentary to guiding principle 13 notes that companies can be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties (...) The 'activities' of business enterprises are understood to include both actions and omissions; and their 'business relationships' include relationships with business partners, entities in their value chain and any other non-State or State entities directly linked to their business operations, products or services.

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances:

- a) A political commitment to uphold their responsibility to respect human rights.
- b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact.
- c) Processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15).

According to guiding principles 16-21, human rights due diligence involves:

- a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships.
- b) Integrate the results of impact assessments into relevant business functions and processes, and take appropriate action in accordance with their involvement in the impact.
- c) Monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working.
- d) Communicate how adverse effects are addressed and demonstrate to stakeholders - particularly those affected - that appropriate policies and processes are in place to implement respect for human rights in practice.

This process of identifying and assessing actual or potential adverse human rights impacts should include substantive consultation with potentially affected groups and other stakeholders (guiding principle 18).

Where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31 (guiding principle 22).

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political and other attempts to influence the outcome (commentary to guiding principle 25).

Lastly, the Working Group on business and human rights, in their report on “Business, human rights and conflict-affected regions: towards heightened action” (A/75/212), indicated that businesses operating in conflict-affected areas should:

- a) Seek advice from embassies and investment and trade-related functions to receive conflict-sensitive advisory services and tools to assist them in respecting human rights in conflict-affected settings.
- b) Engage in heightened human rights due diligence that incorporates tools from atrocity prevention and conflict prevention to augment their existing due diligence frameworks.

- c) Develop operational-level grievance mechanisms that have a conflict-sensitive approach.
- d) Commit to active engagement with local communities and groups in conflict and post-conflict settings.
- e) Ensure that a gender-responsive approach is used to develop heightened human rights due diligence and in grievance, remedy and transitional justice mechanisms.
- f) Actively participate in truth and reconciliation processes and provide reparations and guarantees of non-repetition as part of their commitment to building peace.

International Proceedings

On 19 July 2024, the International Court of Justice issued an [Advisory Opinion](#) on the “Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem”. The International Court of Justice declared Israel's presence in the Occupied Palestinian Territory (OPT) unlawful under both *jus ad bellum* and *jus in bello* perspectives, also recognizing violations of racial segregation and apartheid prohibitions. The Court affirmed, inter alia:

“The sustained abuse by Israel of its position as an occupying Power, through annexation and an assertion of permanent control over the Occupied Palestinian Territory and continued frustration of the right of the Palestinian people to self-determination, violates fundamental principles of international law and renders Israel’s presence in the Occupied Palestinian Territory unlawful”; that “this illegality relates to the entirety of the Palestinian territory occupied by Israel in 1967”; and that “this is the territorial unit across which Israel has imposed policies and practices to fragment and frustrate the ability of the Palestinian people to exercise its right to self-determination, and over large swathes of which it has extended Israeli sovereignty in violation of international law”.

The ICJ also unequivocally affirmed that “occupation cannot transfer or confer sovereign title to the occupying Power over the territory that it occupies”, reaffirming that “the occupation of a territory is to be a temporary, de facto situation, whereby the occupying Power can neither claim possession nor exert its sovereignty over the territory it occupies”. It is to be noted that the Court explicitly affirmed that Israel’s security concerns cannot override the prohibition of the acquisition of territory by force, a peremptory norm.

The International Court of Justice mandates Israel to terminate its occupation, dismantle settlements, provide reparations to Palestinian victims, and facilitate the return of displaced people.