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FIFA, IOC Subpoenas Could Signal Crackdown On Corruption

By Adam Rhodes

Law360 (February 2, 2018, 9:35 AM EST) -- On the heels of a partial win in the first FIFA corruption trial, New York prosecutors are reportedly deepening their probe into criminal conduct at international sports' highest rank, signaling a commitment to take the industry to task for previously lax ethics policies.

According to a Wednesday report by the New York Times, prosecutors in the Eastern District of New York — the same office that led the sprawling FIFA probe — issued grand jury subpoenas requesting additional information about some of the industries' largest governing bodies. FIFA, the International Olympic Committee and the United States Olympic Committee are among those organizations, though prosecutors are paying particular attention to the International Association of Athletics Federations, track and field's global governing body, according to the Times report.

The reported subpoenas come after prosecutors recently scored convictions against two former South American soccer chiefs in the first trial since they unveiled the probe into bribery and racketeering at FIFA **in 2015**.

In **late December**, Juan Angel Napout, the former president of the South American soccer confederation CONMEBOL, and Jose Maria Marin, a former Brazilian soccer federation president, were found guilty of racketeering conspiracy and other related charges for their roles in a bribery scheme involving marketing and media rights for international soccer tournaments.

Their fellow defendant Manuel Burga, the former president of the Peruvian soccer federation, **was acquitted** of the racketeering conspiracy charge he faced.

While the alleged subpoenas only kick off an investigation, Timothy Heaphy, the chair of Hunton & Williams LLP's white collar defense and internal investigations practice, told Law360 Thursday such a move wouldn't be made lightly.

"There's smoke there," he said.

"[Prosecutors] wouldn't have issued subpoenas if there wasn't information present, likely through the FIFA investigation, in the other events," said Heaphy, a former U.S. attorney for the Western District of Virginia. "Prosecutors don't issue subpoenas totally speculatively."

Kerry B. Harvey, a member at Dickinson Wright PLLC, echoed those sentiments.

"Given the background of that particular office with these sort of matters, they already

know a great deal about these organizations and I expect these organizations have reason to be concerned," the former U.S. attorney for the Eastern District of Kentucky said. "They have likely already uncovered information that is of great interest [and they] believe there's a lot of smoke and at least some fire."

While the Eastern District of New York refused to confirm or deny the existence of an investigation, in any case, an additional probe, even at this stage, could still send a clear message to governing bodies across the globe.

"It's clear that American law enforcement is focused on corruption in international sports," Heaphy said. "Entities need to be meticulous about enforcing their anti-corruption protocols."

Even if the investigation doesn't produce any criminal charges, the organizations, particularly the Olympic organizations, might not get off scot-free.

Mark Conrad, a law and ethics professor and director of the sports business concentration at Fordham University's Gabelli School of Business, said the reported subpoenas could be an even bigger bombshell than the initial FIFA probe was.

"If we are dealing with any tentacles of this going to the Cadillac of sports that is the IOC, it could affect the prestige of the IOC and [its] financial health," Conrad said. "If the prestige is affected, this could be at the very least very embarrassing."

Embarrassing at the least and explosive at most, Conrad said an investigation could be "a day of reckoning for international sports," an industry he said was rife with lax transparency, "less than ideal" governance and lackluster accountability.

Conrad echoed statements by Heaphy and Harvey, adding that even at an investigative phase like this, sports officials are likely not taking this lightly.

"The IOC [is] a little bit worried now. They may not be sleeping that easily," he said. "U.S. attorneys are pretty powerful and if they want to investigate, they can investigate. There is a reason why most international sports organizations are not based in the U.S."

The Times report is also the latest in a growing trend of sports industry scrutiny. On **Jan. 26**, a bipartisan U.S. House of Representatives committee opened an investigation into sex abuse in organized sports amid ongoing fallout over former USA Gymnastics team doctor Larry Nassar's sexual abuse conviction.

The **following day**, Michigan Attorney General Bill Schuette said a special prosecutor was leading an investigation "into systemic issues with sexual misconduct" at Michigan State University. Nassar, also a former MSU faculty member, was sentenced to 40 to 175 years in prison on **Jan. 24** after pleading guilty to multiple sexual abuse charges. More than 150 young women who say they were abused spoke at his dayslong sentencing hearing.

When asked about the alleged subpoenas, the USOC said in an email it hadn't seen any subpoena but said it would cooperate with any investigation. The IAAF similarly said it had not been contacted by investigators but would cooperate with any investigation.

FIFA in its own Thursday statement maintained that it was a victim of the corruption that landed several officials behind bars.

"As the U.S. Department of Justice has repeatedly recognized, FIFA is a victim of the alleged wrongdoing that has been at issue following the DOJ investigations, and as such it strongly supports and encourages the U.S. authorities' efforts to hold accountable those individuals who abused their positions and corrupted international football for their own

personal benefit," a FIFA spokesperson said, adding that the organization will continue to cooperate with authorities.

An IOC spokesperson also minimized the organization's involvement in any alleged wrongdoing without confirming or denying the existence of any subpoenas.

"These latest reports in the media do not appear to be related to the IOC and this is perhaps why we have not be contacted at all by the U.S. Justice authorities on this matter," the spokesperson said in an email. "The media reports appear rather to be related to IAAF awarding of world championships and Mr. Lamine Diack in his capacity as the former president of the IAAF. In this regard we are joined with the French justice authorities as 'partie civile' and continue to offer our full cooperation."

--Additional reporting by Zachary Zaggar and Sindhu Sundar. Editing by Rebecca Flanagan.