

Contractual Stability In Professional Football

SANDEEP

B.A L.L.B, DEPARTMENT OF LAW ,M.D.U ,ROHTAK ,HARYANA , INDIA

EMAIL: sandeepnimawat07@gmail.com

ABSTRACT

In this paper, the author considers the problem of harmonizing the contractual stability of professional football players and their freedom of movement as workers. After analysis of the concepts of international mobility of professional football players and in particular their limitations in regard to players' transfer on the part of FIFA, the author points out the most commonly occurring problems which are related to defining player status, the option of one sided player contract extension and one sided contract termination, and in this sense provides solutions.

KEYWORDS - Football, FIFA, Player, Professional, contractual

RESEARCH METHODOLOGY

This research is a type of doctrinal method. In this research the researcher has used the secondary data which is available already. The researcher has used various text books, commentaries, journals, online material etc to conduct this research.

INTRODUCTION

Contemporary football is caught between two very powerful concepts: the freedom of movement of players on the one side and contractual stability on the other. International migration has been part of football from the beginning and is still part of modern football. 1 Although migration is not new phenomenon, an increase in the international mobility of professional footballers can be observed in the last years. The increasing international mobility of footballers has direct effects on the contractual situation with their employing club, thus it is very important to mention that the contractual and organizational dynamics of football have changed dramatically in the years since the European Court of Justice deliver ruling in its landmark case Bosman, which heralded an increasing jurisdiction of professional football which has been, and is, generated by an increasing commoditization of the sport. Bosman remains pivotal to the emergence of a football „industry“ in a number of European countries. Football has been transformed from a semi-commercialised activity to the ruthless business operation. Today, the traditional stakeholders in football- clubs, players, sports administrators, supporters and the wider local communities from which they come – fight over destiny of the game with the new men in football ranging from football agents to rich benefactors.

INTERNATIONAL MOBILITY OF FOOTBALL PLAYERS

International migration has been part of football from the beginning. After the standardisation of the rules of the game in the second half of the 19. century, the British played a vital role in the diffusion of football throughout the world. At the turn of the century, clubs like FC Barcelona,

AC Milan or FC Internazionale were founded on the initiative of migrant tradesmen forming a society of players from different nationalities such as British, German, Swiss, French, Italian etc. 7 Football players have, in fact, always been „on the move“. 8 Even before the legalisation of professionalism in 1885. Scottish players were recruited by English clubs. 9 Later in the 1920s and 1930s, at the time when Uruguay succeeded at the Olympics in Paris and Amsterdam and also won the first official World Cup ever played, the first remarkable intercontinental migration pattern between South America and Southern Europe emerged. Expatriate players had a chance to present themselves in international tournaments for the first time and thereby attracted the interests of European clubs. 10 Movement of players should not be isolated from general migratory trends and patterns. Furthermore, we should identify three sets of determinants for migration: economic, cultural and institutional or structural. Economic pressure in the home country and high salaries abroad were, most often, the decisive „push and pull“factors to initiate the movement of players. Yet the cultural and even institutional aspects may not be underestimated.

RESTRAINTS ON PLAYERS MOBILITY

Football holds a considerable social and educational importance in Europe, being part of European tradition by engaging all kinds of people (spectators, supporters, sponsors, trainers to young-, semi-professional and professional players. Players transfers, sales of gadgets, souvenirs and tickets, matches, sponsorship deals, sales of broadcasting rights, player salaries and member fees are all examples of economic activities within the football sphere which all carry economic implications. Hence, it leaves no doubt that sport and economic overlap. FIFA and UEFA raise

their voices concerning the „specificity of sports“or the „special characteristics of sports”. According to their view sport should be considered as unique because of its special characteristics and therefore entitled to immunity from any legal control. Others find sports in no way different from any other economic activity and should therefore fall under EU law.

LEGAL CONTEXT

Organized football can only achieve uniformity, equality and certainty on a worldwide scale if a variety of fundamental principles and basic rules are applied to every party involved. FIFA was created in 1904. in order to achieve these goals. 26 This international governing body of football aims to improve the game not only in relation to the rules on the field but also off the field. The national football association, as members of FIFA, should entirely comply with the FIFA Regulations on the Status and Transfer of Players (further: FIFA Regulations) and the verdict made by the Dispute Resolution Chamber (DRC) 27and the Court of Arbitration for Sports (CAS) 28. National associations should also take every possible precaution in order to ensure that their members, clubs and players also comply with these regulations. The main aim of FIFA Regulations is to protect the rights of players and club and to safeguard the principle of maintenance of contractual stability between professional football players and clubs which is of fundamental importance in order to have an efficient transfer system and to maintain competitive balance.

CONCLUSION

Contemporary football is caught between two very powerful concepts: the freedom of movement of players on the one side and the contractual stability on the other. As it was shown in this research project, freedom of movement is the consequence of many social, cultural and political developments which have caused an increase in international mobility of players in recent past. Professional footballers are rather “special” as their value to the clubs goes far beyond comparison to that of regular workers. Naturally, clubs must finance the acquisition and maintenance of such ‘assets’ as to compete in an industry which shows very diverging trend between big and small. Many clubs from mid and smaller leagues see the income from transfer fee as an essential part of their overall revenues. This holds particularly true for countries outside of Europe where the ‘big three’ income streams (match day, commercial and broadcasting) are not that pronounced and where many talented players are trained. It is needless to say that these clubs are keen to see their players in a stable contractual relationship. The international governing body FIFA attempts to provide a universal guideline on how to deal with contractual stability and international mobility. One major challenge is diversity of national regulations in sports which has internationalized rapidly. In DRC and CAS sentences in cases of unilateral breach of contract the keyword „specificity of sport“ has been abundantly used to justify some decisions made. It is certainly not easy to defend the actual transfer system in light of certain interferences with public and private law. But, the strategy of many clubs is based on transfer activity, which actually implies the movement of the players. Most importantly, this should be regulated in a uniform manner as not to damage certain clubs more then others. As the football

industry is on its way to become increasingly professionalized, especially at the top end, smaller clubs should also have some means by which they can at least claim a financial compensation for their sporting losses. To conclude, unless players are given an absolute right to terminate their contracts unilaterally, such is the situation in any standard employment relation, any legal mechanism to secure some degree of contract stability will result in some form of transfer system, albeit an informal one, if players under contract are to be able to move to other clubs.

REFERENCE

1. Statutes i. FIFA Statute, 2015
- ii. FIFA Regulations on the status and transfer of players 2010
2. Books i. Andrew Jennings: Foul! The secret world of football.
- ii. DE WEGER, F., The Jurisprudence of the FIFA Dispute Resolution Chamber. The Hague: T.M.C. Asser Press, 2008
- iii. LANFRANCHI, P., TAYLOR, M., Moving with the ball: the migration of professional footballers, Oxford: Berg, 2001.
- iv. MASON, T., The origins and diffusion of football: rugby and association football in Britain, Management, law and humanities of sports, 9.ed., Leicester: De Montfort University, 2008.
- v. MAGUIRE, J., BALE, J., Sports labour migration in the global arena, London: Taylor & Francis, 1994.
3. Articles/Research paper
- i. Diego F.R. Compaire (Italy/Argentina), Gerardo Planàs R.A. (Paraguay), Stefan-Eric Wildemann (Germany); Contractual stability in professional football.
- ii. CAIGER, A., O'LEARY, J., The end of affair: The Anelka Doctrine – The problem of contract stability in English professional football, in: CAIGER & GARDINER, 2000.197-217.
- iii. The European sports Law and Policy bulletin, issue 1-2011, Contractual stability in Football.

iii. The Centre of Law and Economics of Sports, European affairs, The Economic and Legal aspects of Transfer of players.

iv. FRICK, B., Globalisation and factor mobility: the impact of „Bosman ruling“ on player migration in professional soccer, Journal of Sports Economics, 10(1), p.88-106.