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Review article

<https://doi.org/10.31784/zvr.12.1.15>

Received: 23. 11. 2023.

Accepted: 11. 4. 2024.

THE LEGAL AND ECONOMIC ASPECTS OF TRANSFERS OF FOOTBALL PLAYERS IN THE EUROPEAN UNION

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ABSTRACT

The paper presents legal and economic aspects of the transfers of football players. Transfer rules in sports are problematic because they may result in unbalanced competition, social and financial fraud, disproportionate restrictions on the freedom of movement of players, excessive transfer fees and discrimination on the basis of nationality. The aim of the paper is to synthesize relevant knowledge and provide an overview of relevant regulatory framework regarding the player transfers in the European Union. The free movement of people and sports professionals is a key component of player transfers, and in order to confirm this, three prominent cases which shaped the transfer system were studied: the Bosman case, the Lehtonen case, the Bernard case and the Royal Antwerp case. Court ruled that sport is to be included to the list of activities covered by the Community Law as it qualified as an economic activity, particularly where it generates a profit or a paid service. Accomplished legal freedoms of players resulted in accompanying economic benefits, hence paper portrays economic aspects of transfers as well and chronologically analyses transfer market.

Key words: transfer of football players, transfer fee, case law, freedom of movement, European Union

1. INTRODUCTION

Transfers of players have a crucial role in professional football. Each season clubs work to improve their teams and on-field performances by keeping their top players, transferring players from other clubs that are deemed overabundant or having reached peak value, and recruiting new players. The significance of transfers within the European Union has grown since the Court of Justice of the European Union Bosman decision in 1996, and they are now an essential component of any club's core operations.

A complex and restrictive set of regulations exist at the national, European and international levels. Likewise, sports governing bodies, such as FIFA (International Association Football Federation) and UEFA (The Union of European Football Associations), have a number of restrictive rules for the transfer of athletes. In order to encourage more transfers in a global context, sport regulations are widely recognisable and relevant, and international sports organizations have a significant impact in the process. The key distinction from other industries is the degree of autonomy given to sports regulating organizations in the self-regulation of their operations. Bearing in mind the degree of autonomy, the main source of rights and obligations between football players and clubs is the contract of transfer. Contract of transfer regulates rights and obligations between contracting parties and it must be concluded within the given regulatory framework.

As defined by the European Commission, sport is defined as “all forms of physical activity which, through casual or organised participation, aim at expressing or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels” (European Sports Charter, chapter 10). Football is a team sport, so evaluating an individual football player's performance is difficult. Furthermore, different people have different perspectives on a player's performance and it is why values of players fluctuate considerably and football clubs are not in consensus on how to measure the price of their assets. Hence, football transfers function according to market rules and the player is valued as much as the interested party is willing to pay. Price of players also depends on many factors such as talent, age, potential, position, contractual situation, salary, injury record, performance, international experience, image, the financial strength of the selling club, the level of their current league and many others (Geey, 2019). Several parties act as stakeholders in the transfer process: the club that is interested in the player, the club that the player plays for, the player and the player's agent, as well as other intermediaries involved in the process.

The aim of the paper is to synthesize knowledge regarding the legal and regulatory framework of transfer of football players. Authors conducted a distinctive and thorough assessment of relevant legal and economic aspects of transfers of football players. A method of study is case study. Several prominent cases that influenced the regulatory framework of the transfers of football players are presented and discussed. The research question that authors aim to answer is what are the economic aspects of legal regulation in sport and transfer of players, given that sport has emerged from pure physical activity to an economic activity as well throughout the years.

The paper is structured as following. Second section provides definition and classification of transfers. Third section gives a chronological overview of transfer market development. Fourth section outlines legal aspects of transfers with special emphasis on prominent cases that shaped today's regulatory framework. Fifth section proceeds with economic aspects of transfers. Final section gives concluding remarks.

2. DEFINITION AND CLASSIFICATION OF TRANSFERS

The term transfer mainly refers to the legal arrangement and regulations that bind a player and a club. The notion of transfer does not necessarily imply the economic value of an exchange between a player and a club. Any time a player switches clubs, it is referred to as a transfer. Consequently, a transfer needs not to result in a financial transaction. Transfers can be classified as transfer without indemnities and transfer with indemnities. Transfer without indemnities relates to players out of contract who are older than 23 years. A transfer is essentially defined as the administrative recognition that a player's registration is shifting from one club to another. Without such formal registration, the player will be unable to participate in a championship (European Commission, January 2013). According to the FIFA Global Transfer Report (2022) the vast majority of all transfers (85.9%) did not involve payment of transfer fees (Fédération Internationale de Football Association, 2022).

A transfer is described as a three-way agreement between the player, the Transferor Club, and the Transferee Club on the transfer operations: changing the player's registration from one professional club to another, contractual conversations between the two clubs, and final payment. There are several types of transfers with indemnities, such as (1) transfer out of contract, (2) transfer for early termination of contract, (3) loan transfer and (4) exchange transfer (KEA EUROPEAN AFFAIRS & CDES The Centre for the Law and Economics of Sport, January 2013, p. 21). Transfer out of contract relates to an agreement between a player, no longer under contract with any club, and a club that allows the player to be registered for this new club. The recruiting club is not required to pay transfer fees; however, if the player is under the age of 23, the transferee club is required to pay training compensation to teams that participated in the player's development and training. Transfer for early termination of contract is an agreement between professional player, the club player is leaving and the club player is joining whereby the Transferor Club agrees to early termination of the fixed term employment contract entered into with the Player, the Transferee Club agrees to pay a transfer fee to the Transferor Club as compensation for such early termination of the contract, the Transferee Club agrees to pay solidarity and/or training compensation to the clubs that have contributed to the player's education and training, and the Player agrees to leave the Transferor Club for the duration of the contract (European Commission, January 2013). A transfer for early contract termination can also result in incentives owing to conditional transfer compensation (often clauses are put in the contract). There are clauses providing a split of the financial risks between the contractual parties, for example. It can include a profit surplus for the transferor club based on the player's or transferee club's athletic performance - the buying club must pay the transferor club a set amount if the player scores a certain number

of goals or plays a certain number of matches in a given season (European Commission, January 2013). Loan transfer represents a situation when a player moves temporarily from one club to another while still under contract with his previous team. Loans include free loans with no financial indemnities, loans with financial indemnities, and loans with the promise of future transfer. Any such loan is subject to the same restrictions that apply to player transfers, including training compensation and the solidarity mechanism (European Commission, January 2013). Exchange transfers which refer to a transaction involving an exchange of existing players' contracts, can lead to the payment of transfer fees between the two clubs (European Commission, January 2013).

Financial transaction typically occurs when a player transfers to another club while still bound to another team (i.e. transfer for early contract termination). The term transfer indemnity explains the economic and monetary components of the transfer process. There are two kinds of financial indemnities for transfers: (1) transfer fee which represents a fee for contract termination without cause and (2) in the case of loan and exchange transfers, fee for compensating clubs for the player's training (FIFA, n.d.). Sport transfer rules differ from typical employment norms as they restrict players' freedom to shift from one employer to another. Transfer laws limit free movement of players in order to preserve a fair and balanced competition. Sport, particularly football, is one of the few economic industries that have such broad labour law exemptions. Transfer regulations in sports are scrutinized by EU institutions for their conformance with EU legislation on free movement of employees and/or competition law. Transfer rules in sports are problematic because they may result in unbalanced competition, social and financial fraud, disproportionate restrictions on the freedom of movement of players, excessive transfer fees and discrimination on the basis of nationality (European Commission, January 2013).

It is critical to distinguish between national transfer rules and international transfer rules. The transfer of players between clubs in the same association (national transfer) is governed by special regulations established by the relevant national association. Transfers of players between clubs in different national associations are governed by international organizations such as FIFA (European Commission, January 2013). Such international transfer rules are critical for establishing global competitive criteria. These help to organize global competitions and foster international sporting interactions.

3. HISTORY OF TRANSFERS IN EUROPE

The Football Association of England introduced the concept of a transfer for the first time in 1885, when it introduced procedures for registration of players (Tomlinson, 2010). Prior to this, players had a strong bargaining position that enabled them to shift between clubs at any time. The registration system, which was intended to safeguard smaller clubs by prohibiting player transfers, instead gave rise to the "bought and sold" phenomena and the transfer market because the club was thought to be entitled to payment for losing the player.

Professional players in England were engaged on one-year contracts with minimum and maximum salary parameters until 1959. When the contract expires, the club has three options: retain the player by giving a minimum salary, transfer the player to another club for an agreed-upon transfer fee, or revoke the player's registration, allowing the player to become a free agent (European Commission, January 2013). The club possessed complete hiring authority over its players. Throughout the 1960s and 1970s, the Player's Union questioned the transfer restrictions, finding them to be too restrictive. Even though players were given some contractual flexibility, their prior teams were nonetheless entitled to compensation for out-of-contract players. The English High Court ruled in 1963 that the "retain and transfer" scheme was an unreasonable restraint of trade. France prohibited all forms of compensation when a player's contract expired in 1969. A similar thing happened in Germany in 1979 (European Commission, January 2013).

The transfer market was sometimes referred to as "a slave market" because players could not freely go to another club even if they were out of contract. Transfer market as such was revolutionized in 1995, due to the intervention of the Court of Justice of the European Union in the Bosman case. Bosman provided a chance for the European Court to recognize the unique characteristics of sport and evaluate its scope in relation to EU law. It also standardized transfer restrictions that were previously in place in EU countries. The decision gave athletes the opportunity to adapt to a significant shift in recruitment trends. The influence of Bosman was felt globally, since it increased player mobility and strengthened their bargaining situations with the clubs. While the Bosman ruling was a European legal decision, its effects were felt globally. European clubs started signing more players from outside the EU, as they could no longer demand fees for EU players without contracts. This led to a global transfer market where players from all over the world could move more freely. It also compelled international sport governing bodies such as FIFA to evaluate transfer rules and make them comply with EU competition, nationality (no discrimination) and free movement of people legislation. In 2001, the European Commission and international football associations reached an informal agreement on the issue of transfers (KEA EUROPEAN AFFAIRS & CDES The Centre for the Law and Economics of Sport, January 2013). This agreement influenced parts of FIFA's transfer rules (Colucci and Hendrickx, 2014).

Football employment agreements should define a specific time frame (the beginning and conclusion dates should be specified) and, like any other commercial agreement, an amount of payment for the services executed by the athlete/coach. In football contracts, this reflects the athletes' salaries, which are calculated on a weekly or a monthly basis and are usually supplemented by certain additional benefits, such as a special bonus related to the achievement of the club's goals or based on the athlete's appearances. A properly prepared contract must also include all of the player's rights and responsibilities. In particular, they apply to matches, training and meetings, and injuries among other things, and are in line with the norms and other rules of the club and superior sports organizations. The agreement may also regard the player's rights to conclude a contract or negotiate a transfer with the club's prior consent. These obligations bind both employer and employee and are outlined in the

Autonomous Agreement regarding Minimum Requirements for Standard Player Contracts in the Professional Football Sector, which was signed in April 2012 by UEFA, ECA (European Club Association), EPFL (European Professional Football Leagues), and FIFPRO (International Federation of Professional Footballers), among others, and serves as a model for the rest of the world's clubs and associations, as well as making provisions for the inclusion of other clauses (ECA *et al.*, 19.04.2012).

4. LEGAL ASPECTS OF TRANSFERS

4.1 European Union internal market and free movement of workers

The right of workers and independent professionals to migrate freely is protected by European law. Free movement is viewed as being essential to the single market's integration and is a fundamental freedom enjoyed by EU citizens as a right. Article 45(1) Treaty on the Functioning of the European Union (TFEU) stipulates (European Commission, 9.05.2008.): *"1. Freedom of movement for workers shall be secured within the Union. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member states as regards employment, remuneration and other conditions of work and employment."* The ECJ has worked to abolish restrictive practices in several economic sectors by interpreting the free movement principles. Professional sports are not any different. The Court has ruled that the commercial sides of sport are subject to EC law. The ECJ emphasized that sport is a subject of Community law only if it represents economic activity in light of Art. 2 TEC and when this activity has the character of a paid employment or paid services, it falls under Art. 45-49 TFEU or Art. 59-66 TEC (Siekmann *et al.*, 2013). It has looked at hiring procedures that restrict athletes' freedom of movement within the EU. The Bosman case, which is the most well-known instance, prompted a reform of the European football transfer system (Duval and Van Rompuy, 2016). In other cases, the legitimacy of potentially limiting restrictions like transfer deadlines, national quotas, and the rejection of foreign coaching degrees has been discussed. The Court has also shown sensitivity to sports issues by restricting its intervention to the economic aspects of sport, whereas in all other respects, EC law will uphold sport's autonomy.

The EU can take actions to support the promotion of European sport while respecting its unique nature, voluntary structures, and social and educational purposes (European Commission, 2008). These actions assist, coordinate, and add to national activity. A key principle of EU law and a regulation with immediate effect is free movement of workers. Any deviation from a basic principle must fall within the parameters established by the Treaty itself. This requires considering the unique nature of sport, which is now acknowledged by Article 165 TFEU, in the context of sports. The unique nature of sport, nevertheless, cannot be an argument for imposing a broad exception to the application of the free movement laws to sporting events (Pijetlovic, 2015). The fundamental rules of the EU must only be deviated from in limited circumstances.

4.2 Dispute resolution

Player transfers in team sports are mostly managed by the laws established by international, continental, or national sports authorities that define the conditions – in form and in substance – in which an amateur or professional player can change clubs. The rules in question may, in particular, provide for: (i) the specific formalities to be completed by the player, the former club and the new club (a request for prior authorisation from the federation or league concerned, authorisation from the former club, etc.), (ii) the transfer windows outside which players cannot, without exception, change club, (iii) the limitations relating to the number of licensed or contracted players in the same club, (iv) the limitations relating to the nationality of players who can be recruited or who play in competitions by the club (nationality clauses) and (v) the financial conditions (registration fees, training or pre-training fees, compensation relating to early termination of the employment contract following a transfer agreement between clubs or to the unilateral termination by one or other of the parties involved etc.) (European Commission, January 2013). Whenever the laws limit either the individual freedom of players (contractual freedom, freedom of mobility, and freedom to work if a professional player is involved, for example) or the freedom of clubs (freedom to recruit), there is a considerable danger of litigation.

Sports federation regulations typically include internal dispute resolution processes. Once internal channels have been exhausted, the parties have the option, i.e. the right, to take their disagreement to a court (civil or administrative) or possibly an arbitration body. It is important to state that parties that have right to come before a chamber are member associations, clubs affiliated to member association, players, coaches and football or match agents licensed by FIFA (Fédération Internationale de Football Association, 2021). This alternative conflict resolution process has a lot of advantages.

Because of the overlap between sport rules and state or international law, determining which law applies to sports conflicts can be difficult. The general premise is that regulations derived from private sources must be compliant with the legal system of the state in which the federations are registered. Because these regulations must align with state legal systems, resolving internal disputes within sports federations becomes less challenging. This is because disputes can be addressed within the framework of applicable state law, providing a clear legal context for resolving conflicts or issues within the organization.

A number of sports federations recognize the Court of Arbitration for Sport (CAS) as the Court of Appeal for decisions made by their internal bodies as a last resort. As a result, this institution has earned the title of Supreme Court of World Sport. Following an agreement made in 2001 between FIFA, UEFA, and the European Commission, FIFA recognized the CAS's jurisdiction. All FIFA internal decisions relating international transfers can thus be appealed to the CAS.

4. 3 Transfer rules before Bosman case

In most cases, the transfer fee was determined by the trading. For the most part, official regulations were unnecessary, but there were many of them for the few occasions when no consensus could be achieved. Only in circumstances of an expired contract could an official ruling be enforced, because the club that had the player under contract could keep the player otherwise and did not have to sell him regardless of what the other club offered (Welch, 2016). As a result, the UEFA was only entitled in circumstances of contract expiration. The clubs could only claim money for the player in particular circumstances, specifically when an attempt was made to keep the athlete. The club was required to offer the player a new contract that included a minimum wage of 30.000 Belgian francs. Clubs may then claim that they had to pay for the player's training and development and that as a result, compensation was required. If the two teams could not reach an agreement, UEFA may step in and announce a fee that the new club would have to pay if they wanted to sign the player. The charge was determined by the player's age and the amount of gross income produced. If the clubs refused to recognize the UEFA verdict, the player was still technically a member of his previous club.

In the case of a player transfer from one country to another, the new team required an official agreement declaring that all financial commitments, including a transfer fee had been settled. Otherwise, the player could not play for the new club, and if no agreement could be made, the player may be suspended for up to two years, or until an agreement could be reached. After two years, the player was granted amateur status and permitted to play again.

4. 4 Case law of Court of Justice of the European Union

4. 4. 1 The Bosman case

The Bosman case laid the foundation for today's professional sports, especially football. This case is actually the answer of the EU Court to the question of a Belgian court. Namely, Belgian RFC Liege football player Jean-Marc Bosman reported his club because in 1990, after the expiration of his contract with the club, it prevented him from going to the French club USL Dunkerque. At that time the parent club could request compensation for its player even after the expiration of the valid contract. Thus, after his contract with the club expired, Bosman did not accept a new contract because of the lower salary offered and was placed on the transfer list (O'Leary, 2017). After USL Dunkerque was interested in him and offered him better terms, Bosman only needed to get his club's permission to leave. However, Liege and Dunkerque failed to agree on compensation, so Bosman was forced to stay at the club. In addition to discrimination when finding a new club due to compensation, Bosman also disputed the FIFA rule that limited the number of professional players - citizens of another EU country who appeared in national competitions (European Court, 15.12.1995).

The procedure in accordance with EC Competition laws was coupled with a preliminary referral to the ECJ, via a national Court. Mr. Bosman complained to the Commission about the sport transfer rules, citing art. 81/82, but his complaint was ignored as irrelevant. Furthermore,

the case, which began only involving the player and his club and was taken before a Belgian court in August 1990, gained a bigger political dimension (Duval and Rompuy, 2016). The global professional players' union supported Mr. Bosman, but UEFA and the Belgian football organization intervened quickly and favoured the club. Invoking articles 39, 81, and 82, a preliminary reference was brought to the Court of Luxembourg regarding unfair regulations based on nationality in professional club recruitment. The questions posed by the Cour d'Appel de Liège were as follows:

"Are Articles 39, 81 and 82 of the EC Treaty to be interpreted as:

- a) prohibiting a football club from requiring and receiving payment of a sum of money upon the engagement of one of its players who has come to the end of his contract by a new employing club?
- b) prohibiting the national and international sporting associations or federations from including in their respective regulations provisions restricting access of foreign players from the European Community to the competitions which they organize?" (Morris, Morrow and Spink, 1996).

In response to procedural concerns raised during the procedure, the ECJ confirmed that sport legislation was essentially governed by Community Law. First, the ECJ agreed that, because of their organizational nature, sporting rules could be exempted from rigorous application of community norms and a social component that falls beyond the scope of the EC Treaty. Despite acknowledging the fundamentally non-economic nature of sport activities, the Court confirmed its competence to judge whether professional and semi-professional sporting activities are in accordance with Community Law. Finally, sport was included to the list of activities covered by the Community Law insofar as it qualified as an economic activity, particularly where it generates a profit or a paid service, as it does for professional or semi-professional athletes. Second, private parties are allowed to participate in sports conflicts by using Community Law principles that have a direct horizontal influence, such as Art. 39, which concerns employee freedom of movement, and Art. 81 and 82, which discuss ethical competitiveness (European Court, 15.12.1995).

In the decision, the court also established that seeking compensation for the player after the contract expires is not in accordance with EU law and the EC Treaty and that it is discriminatory because it directly limits the player in finding employment, or in this case, a new club. Also, the court found that the EC Treaty excludes the application of rules that limit the number of professional players from EU countries, as this directly violates the principles of non-discrimination on the basis of nationality. Due to the decision in the Bosman case, sports organizations had to stop using rules that limit the number of professional players who are nationals of other countries because it was discrimination on the basis of nationality, which is inadmissible under the EC Treaty.

Taken as a whole, the Bosman case did not dismiss the social importance of sport or criticize its organizational structures. However, it significantly questioned sport's legal independence in context of European integration, compromising the football establishment's self-assurance

and benefits. In fact, the Court ruled that the use of transfer restrictions and national quotas imposed by sporting associations for professional footballers who are citizens of one member state when their contract expires is prohibited by Art. 39 EC, which guarantees workers' freedom of movement within the EU. According to the ECJ, such requirements are likely to limit players' post-contractual freedom of movement. The ECJ did not identify a solution to the major legal complexity issue at hand (the overlap between freedom of movement and fair competition) (Van den Bogaert, 2005).

4. 4. 2 Other prominent cases

When discussing the transfer deadline requirements (windows), one of the prominent cases was Lehtonen's decision (European Court, 2000). The Court of Justice of the European Union ruled in *Jyri Lehtonen and Others v Fédération Royale Belge des Sociétés de Basket-ball ASBL* on the application of EU competition rules to the movement of professional basketball players from one Member State to another. Mr. Lehtonen was a Finnish basketball player whose Belgian team was fined for his participation in the Belgian basketball championship in 1996 on the basis that the International Basketball Federation rules on player transfers throughout Europe were violated. These rules restrict European clubs from competing in national championships for international players who have previously played in another European country and were moved after February 28. However, players from non-European clubs can still be transferred and play after that date. The club claimed that Mr. Lehtonen was a worker under the Treaty and that the limitations restricted his ability to free movement. The case was examined by the Tribunal de Premiere Instance in Brussels, which referred it to the ECJ for a ruling on whether rules of a sports federation prohibiting a club from fielding a player in a competition if he has been engaged after a specific time frame are compatible with the principle of free movement for workers. The Court ruled that the restrictions prohibiting Belgian teams from playing basketball players transferred from other Member States after a certain date are an obstacle to workers' freedom of movement. However, the Court went on to say that this could be justified on non-economic grounds - imposing transfer deadlines could be designed to minimize competition distortion - as long as it does not go beyond what is necessary to achieve that goal. It is up to the national court to determine if that last criterion is met.

In terms of rules on financial compensation for training of young players, the most important case is *Olympique Lyonnais v Olivier Bernard and Newcastle United FC* from 2010 (European Court, 16.03.2010). In the Bernard case the Court had to assess the compatibility of a sporting organization's system aimed at ensuring compensation to a club that provided training for young players. The system may discourage players from freely moving. It can, however, be justified on the grounds that it supports the recruitment and training of new players by paying training fees to a club. The system must ensure that the damages awarded are proportional to the real expenses of the training (proportionality test). Payments should be based on actual training expenditures rather than damage to the training club. There are those who believe that the case justifies FIFA Annex 4, which provides for financial reimbursement to clubs that

contribute to the training of football players when a player signs his first contract and then all subsequent contracts until the age of 23. Furthermore, FIFA rules state that for players above the age of 23, a 5% fee will be charged on the value of the transfer, with the money generated going to training clubs. The Bernard decision confirms FIFA rules governing training compensation.

One of most recent cases was the Royal Antwerp case. In the Case Royal Antwerp Football Club C-680/21, The CJEU reaffirmed that sports governing bodies (and their regulations) are subject to EU competition laws concerning economic activities, such as organizing competitions and commercializing broadcasting rights. These rulings offer crucial insights into applying EU competition regulations to sports regulations. Specifically, regulations granting sports governing bodies the power to authorize competitions that could rival their own competitions are likely to breach EU competition laws if the framework providing these authorization powers grants the bodies excessive discretion in decision-making and the consequences of non-authorization hinder the effective establishment of competing tournaments.

The judgment involving the Antwerp Football Club dealt with a series of UEFA regulations mandating that football clubs participating in UEFA interclub competitions must include a minimum of eight “home-grown players” out of a squad of 25. Similarly, the Belgian Football Association (URBSFA) had enacted comparable regulations for professional football clubs partaking in domestic leagues. Both sets of regulations defined “home-grown players” as those who, regardless of nationality, have undergone football training with their club or another club within the same national association for at least three years between the ages of 15 and 21. A professional player and the Royal Antwerp Football Club challenged these regulations before a Belgian court, which sought the CJEU’s interpretative opinion through a preliminary ruling request. The CJEU determined that the regulations concerning “home-grown players” appear, on the surface, to contravene Article 45 TFEU regarding the free movement of workers and are likely to lead to indirect discrimination based on nationality, to the detriment of football players from other Member States.

The implications of these judgements are far-reaching. Sports governing bodies will need to review their existing regulations to ensure compliance with EU competition laws, and endeavours to establish “breakaway” competitions (like the Super League) are likely to gain renewed momentum. And last but not less important practical implications for the Super League and beyond, it means that the judgement has significant practical implications, particularly for initiatives like the Super League, and extend beyond the realm of sports. They prompt a re-evaluation of the compliance of existing rules with EU competition laws and are likely to invigorate efforts to establish breakaway competitions. Sports governing bodies will now face heightened pressure to understand the regulations governing their operations. Consequently, they would benefit from conducting an internal assessment, particularly regarding their authorization procedures for third-party competitions. These procedures must adhere to standards of transparency, objectivity, precision, and non-discrimination.

5. ECONOMIC ASPECTS OF TRANSFERS

The modern football transfer system, established under the Regulations on the Status and Transfer of Players (RSTP), aims to protect contractual stability, encourage training, foster solidarity between elite and grassroots football, protect minors, maintain competitive balance, and ensure the regularity of sporting competitions. These regulations impose conditions and compensation for unilateral terminations of contracts, ensuring the freedom of players to move between clubs (Fédération Internationale de Football Association, 2022). Since transfers may result in transfer fees, they bear economic effects for all parties involved.

In terms of transfer fees and global number of financial transactions, the transfer of player markets has seen a remarkable increase. Major economic drivers of this trend include the rise in TV rights deals, where football is exploited as a premium product in TV bundles. Another factor is the evolution of football marketing and merchandising, with clubs becoming highly valued global brands. Accordingly, football clubs became quite attractive to high net worth private investors. The economic factors have intensified due to increased internationalisation of football, the significant marketing investment required to establish worldwide brands, as well as international TV rights sales. Another component of football's internationalisation is the growing activity on the transfer market of additional countries (e.g. China, USA and Saudi Arabia).

As a result of Bosman decision, the number of foreign players in European Big Five leagues increased (European Commission, January 2013). The Big Five refers to the association football markets of England, Germany, Spain, Italy and France. Over the last 28 seasons the market experienced three successful periods. Firstly, from 1995 to 2002, the market experienced rapid expansion in both volume and value of transfers. This time period saw an increase in player-related costs (transfer fees and salaries). The objective of most European clubs during this period was plainly to effect profitable financial operations in the transfer market by taking advantage of the inflation that was prevalent at the time. The market then reverted to some degree of routine from 2002 to 2011. Although the total volume of transfer fees had not decreased, the bursting of the speculative bubble brought a stop to the inflation associated with transfer operations. To be sure, the transfer market reached a new high during the end of the 2000s (2007-2009), owing to the strategy of some stakeholders who were eager to develop a successful squad swiftly through massive investment in talent. Third period started in 2012 with slow revitalization of the market after the global financial crisis of 2008, and lasted until 2019. According to FIFA Global Transfer Report the amount spent by clubs in 2019 equalled USD 7.35 billion (Fédération Internationale de Football Association, 2022).

The resale of players makes a significant capital gain for clubs due to the high concentration of talents in the top European championships. While the football transfer market is witnessing a surge in activity, both in Europe and globally, there is a noticeable lack of effective pricing models for determining the transfer value. The question arises regarding the determination of transfer fees and the significant factors influencing them. Franceschi *et al.* (2023) conducted a systematic review of the determinants of football players' valuation and compiled 471 variables included in reviewed empirical papers, and categorized them into six groups: (i) clubs' characteristics (financial, status, performance), (ii) time (seasons, years, months), (iii)

labour (employment contract of the player, market design, other valuations), (iv) performance (player's performance, minutes, trophies), (v) player's characteristics (individual characteristic, career) and (vi) popularity (social media, press, internet searches). Moreover, football clubs are exploring novel methods to assess the potential profitability of player transfers, aiming to mitigate the risk of unsuccessful investments in players. Užík, Warias and Glova (2022) have proposed a model that calculates a player's value considering factors such as performance, age, the number of merchandise customers, and playing position. The merchandising potential of a player contributes to offsetting his transfer price and can be utilized in negotiations. Depken and Globan (2020) found that clubs in English football pay larger transfer fee premiums compared to clubs in the other four top leagues, and empirically demonstrated that increase in English premiums is causally linked to television contracts with domestic and international broadcasters. Due to the increased impact of transfers on financial performance of a football club, it becomes crucial to advance transfer decision making as to enhance both the financial stability and sporting success of the clubs.

The reliance of an increasing number of teams, especially in the top divisions, on transfer-market money shows the existing professional football economic system's vulnerability. In an era of increasing income disparity, the existence of an increasing number of teams is dependent on the money earned by the transfer of their finest players. This scenario is both financially risky and competitively limiting.

Transfer fees have become a sensitive subject in professional sports in recent years, particularly in modern football, where the largest transfer fees in history have been paid. The misbalance in financial resources between European teams has caused a disparity in the transfer market, resulting in an unfair allocation of power. To address this issue, UEFA introduced the Club Licensing and Financial Fair Play CL/FFP IT Solution Toolkit (CL/FFP IT Solution) to promote financial transparency and preserve the sustainability of European club football in the long run (UEFA, 2021). The break-even requirement, which seeks to ensure that clubs function solely on the revenue they generate, is the cornerstone of the CL/FFP IT Solution. It was designed to address the trend of wealthy individuals investing vast sums of money in clubs to acquire high-profile players, which had contributed to transfer market inflation. However, the CL/FFP IT Solution has been widely criticized, with some suggesting that they are too weak. The need that clubs function on revenue advantages larger clubs with established brands and consistent money from sponsorships, TV rights, and competition awards. These clubs have higher budgets and can be more active in the transfer market. Meanwhile, smaller clubs lack the same revenue streams and cannot rely on external investors to contribute funds due to concerns about the break-even outcome (Ivanov, 2021). This mismatch prevents smaller teams from acquiring competitive power and establishing parity with larger clubs, generating worries about the sport's economic stability as well as the ethical implications of such transactions. Although investing in player transfers can have some positive effects on sports, such as supporting local growth and society football projects, there are concerns that large-scale transactions may cause clubs to prioritize short-term success and immediate gratification over long-term planning and sustainability. Some argue that such investment could have a negative long-term impact on the overall health of the sport.

6. CONCLUSION

Today, sport in general and football especially, have become more international than ever before, with players being free to select their employers and no longer restricted by discriminatory rules. The possibility to switch teams without paying a fee at the end of a contract has accelerated this growth. More and more foreign players compete in European football leagues, indicating that football has become more international.

Sports regulations are exempt from EU competition rules only when they are specific to sports and non-economic in nature, such as rules concerning player safety or the non-economic aspects of game rules.

The cases stated in the paper changed football and, more generally, sport throughout Europe. The feature made evident by the Bosman case, despite previous instances pointing in this direction, is that sport is an element of European law, at least inasmuch as it is an economic activity. Essential prerequisite for transfers of football players is free movement of persons and sport professionals, which is guaranteed through workers' rights to freely move, as it was covered with Bosman case. The influence of Bosman was felt globally, since it increased player mobility and strengthened their bargaining situations with the clubs. It also compelled international sporting groups such as FIFA to evaluate transfer rules and make them comply with EU competition, nationality (no discrimination) and free movement of people legislation. Other prominent cases, such as Bernard and Lehtonen had an influence on implementation of compensation for youth development and the scheme of transfer windows. The ruling on recent case of Royal Antwerp supported that sports regulations are exempt from EU competition rules only when they are specific to sports and non-economic in nature, such as rules concerning player safety or the non-economic aspects of game rules.

A number of clubs today, especially in the top divisions, rely on the transfer-market money which shows the existing professional football economic system's vulnerability. This scenario is both financially risky and competitively limiting. Furthermore, transfer market nowadays is at the turning point due to increase of investments from clubs from Saudi Arabia and it yet remains to be seen how UEFA will confront, will they manage to stimulate this threat and preserve the main role in the market. Also UEFA needs to deal with huge disparity among European clubs because Financial Fair Play still did not fully deliver the result. Football governing bodies should constantly work on improving the regulatory framework of the transfers of football players according to the market changes.

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Pregledni rad

<https://doi.org/10.31784/zvr.12.1.15>

Datum primitka rada: 23. 11. 2023.

Datum prihvaćanja rada: 11. 4. 2024.

PRAVNI I EKONOMSKI ASPEKTI TRANSFERA NOGOMETAŠA U EUROPSKOJ UNIJI

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SAŽETAK

U radu su prikazani pravni i ekonomski aspekti transfera nogometaša. Pravila o transferima u sportu su problematična jer mogu rezultirati neuravnoteženim natjecanjem, društvenim i financijskim prijevarama, nerazmjernim ograničenjima slobode kretanja igrača, previsokim naknadama za transfere i diskriminacijom na temelju nacionalnosti. Cilj rada je sintetizirati relevantna znanja i dati pregled relevantnog regulatornog okvira koji se odnosi na transfere igrača u Europskoj uniji. Slobodno kretanje ljudi i sportskih profesionalaca ključna je komponenta transfera igrača, a kako bismo to potvrdili, proučavana su tri istaknuta slučaja koja su oblikovala sustav transfera: slučaj Bosman, slučaj Lehtonen, slučaj Bernard i slučaj Royal Antwerp. Sud je presudio da se sport treba uključiti na popis aktivnosti obuhvaćenih pravom Zajednice budući da se kvalificirao kao gospodarska djelatnost, posebno ako stvara dobit ili plaćenu uslugu. Ostvarene zakonske slobode igrača rezultirale su i popratnim ekonomskim koristima, stoga se u radu prikazuju i ekonomski aspekti transfera te se kronološki analizira tržište transfera.

Ključne riječi: transfer nogometaša, naknada za transfer, sudska praksa, sloboda kretanja, Europska unija

