



EUROPEAN COMMISSION
DG Employment, Social Affairs and Inclusion

Employment and Social Governance
Social dialogue

Brussels, 10 February 2017

Sectoral Social Dialogue Committee on Professional Football

DRAFT Minutes of the Plenary Meeting

17 November 2016

1. Welcome and adoption of the agenda

The meeting was chaired by Mr Zylberstein (UEFA).

In their introductory remarks the heads of all delegations stressed their commitment to social dialogue and their intention to invest further, so to improve the situation in the sector. Speakers indicated that they saw some progress towards a culture of dialogue in the sector. On behalf of EPFL Mr. Pangl stressed that he feared the decision taken on 26 August by the UEFA Executive Committee could have strong negative impact on smaller clubs. The chair intervened, explaining that this topic should not be part of the work of this Committee but that other fora were better placed, also indicating that one could come back to some more concrete points under later points of the agenda. This position was accepted by the members of the Committee.

The agenda for the meeting was approved.

The minutes of the previous plenary meeting were adopted with a change in point 3.

2. Working Group on Implementation of the Autonomous Agreement

2.1. The Implementation Process

In 2016 there were only two site visits, but other ways of promoting and monitoring the implementation of the autonomous agreement were used. Amongst those was a survey on the status of implementation which was sent out to national associations, clubs, leagues and trade unions. The responses give a good picture of the situation in almost all concerned countries. Positive conclusions being that there is (social) dialogue in the vast majority of them and that progress has been made with the standard contract requirement. The importance of dialogue with public authorities and of the systematic case-by-case approach was also highlighted.

The main reason for the still varying progress and some of the peculiarities was seen in a lack of shared will of the national stakeholders. Discussions with national authorities have helped to facilitate the transition from civil law to labour law employment contracts in some countries, whereas in other countries civil law contracts are still prevailing

because they provide possibilities to avoid/ reduce social security contributions and taxation. Further work is also needed to make NDRC's compliant with FIFA CL (circular letter) 1010 and with the requirements set out in Art. 12 of the autonomous agreement. Such work is made more difficult by a lack of incentives for the implementation of the autonomous agreement at national level.

Mr. Kasalo, Croatian trade union, and Mr. Svetina, Dinamo Zagreb, agreed on progress in social dialogue and in particular concerning the setting up of a compliant NDRC. They reasoned that complying with the tax and social security contributions required for labour law contracts would threaten competitiveness of professional football in many Central and Eastern European countries and in particular in Croatia. Both employers and players are seeking to discuss the issue with the public authorities.

For Slovakia Mr. Tokos (TU) informed that a new law on sports entered into force on 1.1.2016. This law meant a shift from self-employed players towards players with employment contracts. The remaining problem being a salary gap between amateur and professional contracts, implying that players could be an amateur for the national tax/ social security system, but a professional player according to the FIFA regulations. For the NDRC he acknowledged that it is working, however, the organisational arrangements do not guarantee parity between players on the one hand and clubs/ FA's on the other hand. Negotiations on these points are ongoing. European level social partners were invited to send a letter to the national stakeholders requesting them to comply with the FIFA rules.

FIFPro pointed out that in Slovakia work on the standard contract had begun before the union was set-up, thus meaning that the contract was not the result of negotiation between the social partners. This was seen as explaining some of the shortcomings and demonstrating the benefits of fully negotiated solutions. The situation also shows the need to look into the practical details and processes by which the agreement is implemented.

In Slovakia the government played an important role to facilitate the transition from self-employment to employment contracts by allowing professional players to only pay minimum social security contributions.

Mr. Øland (FIFPro) objected to the idea that the implementation of the agreement could be made dependent on national authorities reducing the wage gap for employed football-players. He also did not share the view that implementation of labour standards would lead to amateur football only in the Central and Eastern European countries, instead he explained that a stepwise implementation of labour standards would help develop the industry and encouraged the colleagues to continue working along this line.

The Russian representative of FIFPro highlighted the impartiality problems with the NDRC in Russia and suggested that players should have the opportunity to go to the FIFA DRC in case the NDRC does not fulfil the requirements laid out in FIFA CL 1010.

In comparing the situation in Russia and Croatia a significant difference between the countries was mentioned: 1) Countries where national stakeholders are not engaging in a substantial and constructive social dialogue: In those countries the European level should have stronger means to actually push and potentially even sanction the national stakeholders. 2) Countries, where national stakeholders are cooperating in good faith, but where support should be provided upon request and solutions which have been found should be respected to the largest possible extent.

In Romania: ongoing negotiations, but no progress – meaning that players still have no employment contracts, do not benefit from insurance and that the DRC seems to be not compliant with CL 1010. The trade union representative requested repeatedly, that the European level would need to threaten with sanctions; otherwise the situation was not likely to change.

Mr Oražem (NK Domzale, SL) stressed that with employment contracts about 30-40 % of the salary would go to taxes and social security, whereas self-employed could largely avoid these costs, thus claiming that a proper implementation of the agreement would depend on authorities, closing this wage gap. He explained that this was an essential part of the business model of the clubs, putting more pressure on the clubs would not help with the implementation and that the state provides for the possibility that players are employed on civil law contracts. Mr Stefanovic (FIFPro, SL) suggested a more nuanced picture concerning support received from the government however agreeing that further joint efforts could be useful.

Mr. Øland said that in the discussions between the members of the steering group which monitors the implementation of the agreement it was agreed that economic reasons such as tax-disadvantages or higher social security contributions linked to a shift to employment contracts, could not be considered a reason for not implementing the agreement.

Mr Centenaro highlighted that – to take into account subsidiarity considerations – the agreement foresees that the national stakeholders would agree on nationally suitable solutions. The discussants agreed that additional costs of employment contracts as compared with civil law contracts will also require sacrifices from the players. FIFPro representatives confirmed that they consider sustainability and enforcement of a contract as a valid argument to convince players to accept lower pay. Clubs doubted that this reasoning would be convincing in situations where clubs have an overall small budget. – Request to lobby the government.

Mr Stamatios (FIFPro Greece) reported that thanks to a good collaboration between all stakeholders it was possible to keep 34 professional footballclubs in Greece.

2.2. Report on recent country visits

Earlier the week a joint delegation of the EU-level social partners together with UEFA went for a 2nd country visit to Bosnia-Herzegowina. The situation has not changed much compared to the previous country visit about a year ago, however, a new leader of the trade union had been appointed and the partners at the country level were perceived as motivated to engage in social dialogue. In spite of a very high tax gap, the points in which the standard contract does not comply with the requirements laid out in the agreement do not seem crucial. An action plan is set up to arrive before 31.05.2017 at a new NDRC and a new standard contract, aligning the situation with the requirements of the agreement. On a positive note: the national stakeholders were interested in learning from others.

Mr Pangl (EPFL) took the report from Bosnia as a starting point to elaborate on the problematic situation of smaller professional clubs. For these around 700 clubs in Europe the economic situation has become more difficult over the last year and the upcoming new revenue distribution of UEFA would further aggravate the situation. He urged the members of the Committee to further look into these problems. Mr. Zylberstein

explained that in discussions with Bosnia it will be ensured that at least one non-ECA club will participate.

All parties reported quite positive from a second country visit to FYROM. The visit was considered as very timely. A players and a club association are about being set up, there is an overall commitment to social dialogue and FA, clubs and players are on a good path to develop an idea of a joint identity. On 9 June 2015 a mandatory standard players contract was approved, at national level there are still concerns about annexes or non-registered parallel contracts. There is progress on the NDRC. It was critically mentioned by FIFPro that it should be up to the players to decide whether they are represented by a players' association or a trade union in a decision making body.

2.3. Renewal of the Autonomous Agreement

The agreement was signed on 19.04.2012, with a deadline for implementation within 4 years. In September 2014 the parties agreed to extend the implementation deadline to 30.06.2017. Taking into account the progress but also the gaps a further extension to 19.04.2020 was agreed. FIFPro asked for a detailed implementation plan with realistic deadlines and consequences in case these deadlines are not respected, so to make further progress. ECA and EPFL agreed to develop an implementation plan.

The Commission suggested to distinguish between such prolongation and a true renewal which could be aimed at by 2020. FIFPro reiterated its previous wish for a renegotiation and expressed a desire to do so preferably rather soon, ECA appreciated that the Commission saw a longer-term future for the autonomous agreement and suggested to start discussions – in line with the provisions in the agreement – one year before expiry.

2.4. Next steps

The second round of visits will be continued. For six countries meetings are in preparation: Malta (already fixed date), Georgia, Poland, Romania, Serbia and Kazakhstan. Further country visits might be planned where necessary or useful.

Each visit should have four elements:

- an in-depth assessment of the national situation,
- strengthened assistance and guidance on the open issues,
- a tailor made action plan with strict deadlines and
- improved monitoring arrangements.

FIFPro confirmed the importance of systematic monitoring and EU level discussion to make sure that social partners at EU level have the same understanding.

The social partners agreed that in some countries it would be useful to involve the government (at a political level) in the country visits. Concretely for the upcoming visit in Malta UEFA was asked to do so when preparing the visit.

It evolved a discussion on the situation in Malta, whereby the club's representative stated that the situation is largely compliant with the minimum requirements, whereas the trade union side listed a number of open issues.

Notwithstanding the need for monitoring and deadlines, it was highlighted that during the visits sufficient attention should be paid to explain to the national representatives, why the agreement is actually good for the sector in the country.

To further support the implementation of the autonomous agreements, UEFA proposed to make compliance with the autonomous agreement a condition for receiving the full amount of the UEFA HatTrick payments. This proposal still needed endorsement by the HatTrick committee on 18 November and the UEFA executive committee. If accepted it would enter into force by the end of the season 2017/18. The EU level social partners welcomed this initiative.

The parties agreed that for the actual implementation a dialogue between the HatTrick and the Social Dialogue committee would be necessary. The partners also agreed that in a situation where the national partners undertook all they could (best endeavours), but failed to fully implement the agreement (e.g. because the government did not put in place necessary legislation), sanctions would not be appropriate.

3. Information from the Commission on sports-related initiatives

Ms. Szarka (DG Competition) explained the background to the so-called ISU (international skating union) case: In 2014 two Dutch speed skaters had launched a complaint against the eligibility rules of ISU. At the time of the complaint these rules foresaw a life-time ban for skaters from international skating events such as the Olympic Games/World Championships, if they participated in international speed skating events not organised by ISU. On 5 Oct 2015 the Commission decided to open a formal investigation. In June 2016 ISU had introduced more gradual sanctions (warning, temporary bans, while maintaining the possibility for a life-time ban). On 27 September 2016 the Commission sent a statement of objections to ISU. There the Commission raised concerns that the system of penalties set out by the ISU eligibility rules is still disproportionately punitive. ISU was expected to reply (the sending of a statement of objections does not prejudice the outcome of the investigation).

The Commission considers that the ISU rules on sanctions do not satisfy the Meca-Medina case and can therefore be assessed under Art. 101 TFEU and so far ISU has not presented convincing evidence that its eligibility rules could benefit from an exemption under Art. 101(3) TFEU. – Asked whether this could be transferred to specific situations in other sports Ms. Szarka responded, that she would not participate in such speculation.

Mr. Parmentier (DG Competition) explained the situation in basketball. In early February 2016 the Commission had received a complaint from Euroleague about FIBA. FIBA is the international governing body of basketball. Both Euroleague and FIBA organise European basketball leagues. Euroleague's complaint is that FIBA has adopted rules which prevent entities (leagues, clubs, players etc) from participating in competitions not recognised by FIBA. Euroleague invokes Art. 101 and 102 TFEU in its complaints and has called for interim measures, stating a risk of disappearance. In April 2016, also FIBA complained towards the Commission about Euroleague saying that Euroleague holds a monopoly for the first tier club competition and has acquired a dominant position in the 2nd tier competition. FIBA also invokes Art. 101 and 102 TFEU. It furthermore states that the Euroleague schedule is organised in a way to make it more difficult for players to play in national teams and hindering clubs to move between leagues. – For the time being nothing has been decided.

As a third ongoing competition case, the complaint against the companies holding the commercial rights in Formula 1 was presented. The complainants claim that Formula 1

grants a different (privileged) treatment to certain Teams as compared to others, thereby abusing its dominant position and putting other teams at a disadvantage.

Ramunas Linartas (DG EAC, Sports Unit) pointed out that DG EAC is these days evaluating the previous 3-year plan for sport and starting to prepare a new one. Asked whether the Commission was looking into the effects of the homegrown players rule as suggested in the previous study on the effects of the homegrown players rule, he indicated that the Commission is open to discuss further.

4. Working Group on 'Labour Market Regulations' Improving the system of intermediaries

Mr. Dewaele and de Jong gave a presentation on behalf of ECA (ppt). They stressed the need to discuss the role of agents/intermediaries in European level SD to arrive at a reasonably transparent and consistent situation across Europe. This should be to the advantage of clubs and players. A main reason for the perceived problems was seen in a lack of discussion and stakeholder involvement when setting up the rules.

ECA asked the plenary to endorse the proposed approach and give the task force the mandate to continue working on this topic.

EPFL and FIFPro signalled full support. FIFPro saw the need to have more rules for intermediaries/ agents but wondered, where the legal basis could come from and questioning whether it was realistic to expect that agents would voluntarily accept binding standards.

Upon request the Commission expressed general support for the topic, as it was a topic which is essential for the development of the sector and the working conditions in the sector. However, as it involves a third party which is not represented in the Committee it is important to liaise from an early stage already with other actors (e.g. agents but also DG EAC) and stay aware of the limitations of the dialogue. As a next step she suggested to further operationalise the topic.

Mr Centenaro confirmed that he sees it indeed as an ambitious and challenging undertaking for the Committee to take on that topic.

5. Calendar of meetings for 2017 and a.o.b.

Working group meetings will take place on 6/02/2017 and 11/09/2017. The plenary is scheduled for 16/11/2017.

Steering group meetings on 29 May in Stockholm and on 5 Oct (to prepare plenary) in Nyon, hosted by EPFL.

On behalf of FIFPro, Mr Barnes welcomed that the Clubs were well-represented, thus allowing to discuss the concrete problems with the implementation of the agreement. He stressed that the purpose of the meeting was to find joint solutions, as clubs, leagues and players needed each other.

No further points were raised.

Participants 17/11/2016

<p>Employers (13 ♂, 1 ♀)</p> <p><u>ECA</u> Mr Agathokleous (Apoel FC, CY) Mr Borg (Birkirkarafe, MT) Mr Centenaro (ECA) Mr de Jong (ECA) Mr Dewaele Mr Lambrecht (ECA) Mr Laskowski (Legia Warszawa, PL) Mr Oražem (NK Domzale, SL) Mr Pantovic (FK Crvena Zvezda, Serbia, observer) Mr Prochazka (AC Sparta Praha, CZ) Mr Svetina (Dinamo Zagreb, HR)</p> <p><u>EPFL</u> Ms Bellia (EPFL) Mr del Campo (ES) Mr Pangl (EPFL)</p>	<p>Workers (28 ♂, 2 ♀)</p> <p><u>FIFPro</u> Mr Bär-Hoffmann (FiFPro) Mr Barnes (England, UK) Mr Belebeyev (APF, Ukraine, observer) Mr Boeykens (ACV Sporta, BE) Mr Diaz Peramos (ES) Mr Erdős (HLSZ, HU) Mr Erlingmark (SFS, SE) Mr Evangelista (STPF, PT) Mr Gauci (FPA, MT) Mr Grosso (AIC, IT) Ms Haindlova (ČAFH, CZ) Ms Hristova (ABF, BG) Mr Hulubei (AFAN, RO) Mr Iacovazzo (SAFP, CH observer) Mr Juhola (JPY, FI) Mr Kasalo (CAFU, HR) Mr Kjumbev (SFM, Macedonia, observer) Mr Krsmanović (TVPPF, Montenegro, observer) Mr Krzeminski (PL) Mr Leonchenko (PSFT, Russia, observer) Mr Neofitides (CY) Mr Øland (DK) Mr Prudlo (VdF, AT) Mr Stamatios (GR) Mr Stefanovic (SI) Mr Tokoš (UFP, SK) Mr van Megen (NL) Mr Vermeer (FiFPro) Mr Walltin (NISO, Norway, observer) Mr Wishart (PFA Scotland, UK)</p>
<p>European Commission</p> <p>Ms Caspar (DG EMPL) Mr Linartas (DG EAC) Mr Parmentier (DG COMP) Ms Szarka (DG COMP)</p>	<p>UEFA</p> <p>Mr Zylberstein Mr Rigopoulos</p>