



EUROPEAN COMMISSION  
DG Employment, Social Affairs and Inclusion

Employment and Social Legislation, Social Dialogue  
**Social dialogue, Industrial Relations**

Brussels, 30 August 2013

## **Sectoral Social Dialogue Committee on Professional Football**

### **Minutes of the Working Group Meeting "Contractual Stability and Respect of Contracts"**

**21 March 2013**

#### **1. Adoption of the agenda and of the minutes of last meeting**

Mr Bell (UEFA) was designated as chairman of the working group which met for the first time. The agenda was adopted with changes in the order of items.

#### **2. Study "The Economic and Legal Aspects of Transfers of Players"**

Mr Primault and Ms Bourzat-Alaphilippe from CDES presented the results of the study carried out by the consortium KEA-CDES<sup>1</sup>. The leader of the consortium, KEA, was not available today. By way of introduction, CDES pointed out that the study did not cover the topic of agents directly. The main points raised after the presentation (see slide presentation) were related to the methodology behind the "national economic mapping" (importing and exporting countries and the economic impact of these flows of sports talent) – UEFA, FIFPro, ECA and EPFL all considered that the analysis of the direct impact was too narrow and did not reflect the whole picture, for instance the redistribution effect of transfer fees. ECA questioned the definition of "bigger clubs" and stressed that the objective of the transfer system in their opinion had never been to come to a competitive balance between clubs. EPFL agreed with the latter statement and considered it unfair to look only at the transfer market as a matter of fact it would be necessary to take into consideration other factors such as the mechanisms set up at national level to redistribute the revenues, the FIFA Solidarity Mechanism etc. FIFPro deplored that the agents received between 28 % of the fees paid by clubs according to the FIFA TMS study and even more (e.g. 10 % of the players salary) directly from the players. Another aspect which was discussed in more detail was the early termination of contracts and the approach followed by the Court of Arbitration for Sport (CAS). FIFPro considered that the approach of CAS following the Matuzalem case (CAS 2008/A/1519-1520) was in breach with the 2001 Agreement.

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<sup>1</sup> [http://ec.europa.eu/sport/news/20130207-study-on-transfers\\_en.htm](http://ec.europa.eu/sport/news/20130207-study-on-transfers_en.htm) and [http://europa.eu/rapid/press-release\\_IP-13-95\\_en.htm](http://europa.eu/rapid/press-release_IP-13-95_en.htm)

After this first exchange of views, FIFPro's Legal Department shared their detailed comments on the study (see slide presentation made by Mr van Megen). FIFPro's main point of critique was the fact that the CAS did not really respect EU labour law.

### **3. Preparation of the work programme 2013-2014**

The chair suggested identifying together which points could be concretely addressed by the social partners.

ECA's main objective was to deal with the respect of contracts and not contractual stability. However, according to ECA, the study did not contain any concrete recommendations on respect of contracts; the analysis of the topics related to the respect of contracts forming the basis for work to be done in the working group.

As such, ECA expressed that the working group should continue dealing with respect of contracts within the scope set out at the plenary meeting on 19 April 2012. Alternatively that the working group could be renamed and could discuss certain other topics mentioned in the study. Only four items could be discussed in the clubs' view: minors, loaning of players, squad size limits, buyout clauses. However, since the objective of competitive balance in the opinion of ECA was not part of the 2001 Agreement, it should not be discussed in the social dialogue.

EPFL reinforced their criticism related to the wrong assumptions with regard to the objective of the transfer system. The clubs questioned FIFPro's assertion according to which the current transfer system was not for the benefit of players. FIFPro stressed that it was important to get an objective knowledge of the system and its possible counterproductive effects. The players did not reject the study's recommendations at the first reading; these should be carefully assessed. FIFPro's wish list comprised: finding an agreement on internal sanctions for players and clubs) to ensure the respect of contracts; changing the current transfer system and providing joint recommendations for that purpose. For FIFPro, the four items suggested by ECA were acceptable; one should also add the aspect of third party ownership.

FIFPro stated the opinion that there are legal issues with the current transfer system and the procedures of CAS:

- EU law can be set aside by CAS even in cases with EU citizens (players) in labour related disputes with companies (clubs) within the EU territory.
- Training compensation levels are now much higher than foreseen in the 2001-solution established between the EU Commission and FIFA. Levels of the training compensation and the standardisation of the compensation are detrimental for the free movement of players up until the age of 23. The results of the Bernard case from the ECJ are not yet implemented.
- Compensation for the breach of contracts is not in compliance with EU law and does not ensure the respect of contracts.

ECA considered that the scope of the working group and/or the points on the agenda of the working group should be discussed at the steering committee while EPFL agreed and doubted that the EU social dialogue was the appropriate place to discuss FIFA rules. Ms Durst (DG EMPL) referred to the different instruments available to the social partners of which joint opinions addressed to third parties was one. It was up to the social partners to

decide whether there would be an added value to come to such a joint expression or recommendation.

It was agreed to discuss this further in the steering committee meeting of 24 April 2013 with a view to finding an agreement on the subjects to be discussed in the working group. A telephone conference would be held before that date (lead person: Mr Øland from FIFPro).

#### 4. Next meeting

The next meeting of this working group will be held on 16 May 2013. Subject to the Commission's imminent approval, the meeting will be hosted by FIFPro in Amsterdam. The Commission representative stressed that the organisation outside of Brussels would be an exception and was only acceptable if the overall costs for the Commission were not higher compared to a meeting in Brussels.

#### Participants

<p><b>Employers (4 ♂, 0 ♀)</b></p> <p><u>ECA</u> Mr Frommer Mr Lambrecht</p> <p><u>EPFL</u> Mr Pifarotti (IT) Mr Stincardini (IT)</p>	<p><b>Workers (6 ♂, 0 ♀)</b></p> <p><u>FIFPro</u> Mr Bär-Hoffmann Mr Boeykens (BE) Mr Øland Mr Schwab (observer) Mr Stefanovic (SI) Mr van Megen</p>
<p><b>European Commission</b></p> <p>Ms Durst (DG EMPL) Mr Raviglione (DG EAC)</p>	<p><b>Others</b></p> <p><u>UEFA</u> Mr Bell Mr Grafström</p> <p><u>CDES</u> Ms Bourzat-Alaphilippe Mr Primault</p>