

A NEW TRANSFER MARKET: COURT OF JUSTICE VS. FIFA

written by Yannick Lauwers | January 27, 2025



With the opening of the winter transfer window on January 1, 2025, the recent ruling by the Court of Justice of the European Union on October 4, 2024, will have a concrete impact on international football. This groundbreaking ruling significantly alters the foundations of the current football transfer system. It challenges FIFA's strict rules on contract breaches and transfers, subjecting them to the critical scrutiny of European law. For players, clubs, and legal professionals, this ruling represents a revolution in the landscape of international transfers.

Background of the Dispute

The case originated from a dispute between French footballer Lassana Diarra and his former club, Lokomotiv Moscow. In 2013, Diarra transferred from Anzhi Makhachkala to Lokomotiv Moscow and signed a four-year contract. After a conflict over a proposed salary reduction, the club unilaterally terminated the contract and claimed compensation of 20 million euros under Article 17 of the FIFA Regulations on the Status and Transfer of Players (FIFA RSTP). Article 17 imposes strict sanctions for unilateral contract breaches, including financial claims against the player and his new club, sporting sanctions such as suspensions, and the refusal to issue the International Transfer Certificate (ITC), which is necessary to complete a transfer.

The impact of these sanctions was immediately evident. Despite interest from the Belgian club Sporting Charleroi, the club refrained from signing Diarra due to the risk of fines and sporting sanctions. The dispute led to a preliminary question being referred to the Court of Justice, examining whether FIFA's rules violated Article 45 TFEU (free movement of workers) and Article 101 TFEU (competition law).

Court Analysis

The Court of Justice ruled that FIFA's regulations constitute a dual violation of European law. Firstly, they hinder the free movement of workers by discouraging players from terminating their contracts and deterring new clubs from signing these players.

The Court acknowledged that contractual stability and the integrity of competitions are legitimate objectives but found that FIFA's regulations go beyond what is necessary to achieve these goals. The joint liability of the new club for compensation was deemed disproportionate, as was the presumption that the club had induced the player to breach his contract. The refusal to issue the International Transfer Certificate was also dismissed as an excessive impediment to the labor mobility of players.

Secondly, the Court found that FIFA's rules also violate competition law. By imposing heavy sanctions on clubs wishing to sign players with ongoing contracts, these regulations create a situation comparable to a "non-poaching" agreement. This restricts access to what the Court described as "essential resources" - in this case, professional footballers - and significantly limits competition between clubs in the transfer market. The Court classified the regulations as anti-competitive in nature and therefore in violation of Article 101 TFEU.

Consequences of the Ruling

The consequences of this ruling are far-reaching. For players, it means greater freedom to terminate their contracts without fear of heavy sanctions. However, they remain subject to national labor laws, such as the obligation to pay severance compensation. In Belgium, this compensation is limited, which gives players a stronger negotiating position and is likely to lead to higher wages. For major clubs in top leagues, the ruling offers new opportunities to attract players at lower costs.

At the same time, the ruling presents challenges for smaller clubs in training leagues, such as Belgium and the Netherlands. These clubs may rely less on high transfer fees for their talents, putting their revenue model under pressure.

From a legal perspective, the ruling has a major impact. Pending disputes regarding compensation claims based on Article 17 of the FIFA RSTP will need to

be reconsidered in light of this ruling. Moreover, the ruling requires FIFA to thoroughly reform its rules, which could have implications beyond the European Union.

This ruling marks a milestone in the football landscape. It confirms that international sports regulations, no matter how important, remain subordinate to European law. For players and major clubs, it opens new opportunities, while smaller clubs and training leagues must rethink their models. At the same time, this ruling provides legal professionals with new guidance in the complex relationship between sports regulations and European law.

Conclusion

The ruling of the Court of Justice of October 4, 2024, has fundamentally changed the international football transfer system. The Court ruled that FIFA's rules on contract breaches and transfers hinder both the free movement of workers and competition and are therefore in violation of European law. By rejecting heavy financial and sporting sanctions, players now have greater freedom to terminate their contracts, and a fairer playing field is created for clubs.

Players can now terminate their contracts more easily without disproportionate sanctions. Although national labor laws, such as severance payments, still apply, the financial burden is significantly lower than under the previous FIFA rules. This provides players with more freedom of movement within Europe and strengthens their negotiating position.

For clubs, especially in top leagues, the ruling means lower costs when attracting talented players. However, the business model of smaller clubs in training leagues, such as Belgium and the Netherlands, is under pressure. With lower financial barriers, major clubs can more easily sign young talents, threatening the economic stability of smaller clubs.

The ruling forces FIFA to revise its rules, leading to legal uncertainty. Pending disputes regarding transfers and compensation claims will need to be reassessed, and the broader implications of this ruling for the global transfer system remain unclear. At the same time, it offers opportunities for legal challenges against other restrictive sports regulations.

While the ruling advances the protection of players' rights and promotes fair competition, it exacerbates the inequality between wealthy and less financially powerful clubs. This could further disrupt the competitive balance in football and increase the dominance of top clubs.

The ruling underscores that international sports regulations must comply with European law. It serves as a warning to sports federations to keep their regulations proportionate and legally valid. The coming years will be crucial in determining how this ruling is interpreted outside the EU and whether it initiates a broader reform of the transfer system.

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