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Advocate General's Opinion in Case C-650/22 | FIFA

AG Szpunar: Some FIFA rules on transfer of players may prove to be contrary to EU law

These rules are of restrictive nature and may only be justified in specific circumstances

A former professional footballer is challenging the rules governing contractual relations between players and clubs. The rules in question, entitled 'Regulations on the Status and Transfer of Players' (RSTP), were adopted by the Fédération Internationale de Football Association (FIFA) – an association responsible for organising football competitions at world level.

These rules that are implemented both by FIFA and by its member national football associations apply, among other things, to a situation where there is a dispute between a player and a club as to a termination of a contract without just cause. In such cases, that player and any club wishing to employ him are jointly and severally liable for any compensation due to his former club. The player and the new club are also liable to sporting and financial sanctions in case of non-compliance. Furthermore, the association to which the player's former club belongs may refuse to deliver an International Transfer Certificate to the new association where the player's new club is registered as long as the dispute with the former club is standing.

The professional football player had signed for the Russian football club Lokomotiv Moscow only to see that contract terminated by this club one year later for an alleged breach "and termination of contract without just cause". Lokomotiv Moscow applied to the FIFA Dispute Resolution Chamber for compensation and the player submitted a counterclaim seeking compensation of unpaid wages. The player claims that the search for a new club proved to be difficult because, under the RSTP, any new club would be held jointly and severally liable with himself to pay any compensation due to Lokomotiv Moscow. He claims that a potential deal with Belgian club Sporting du Pays de Charleroi fell through because of the RSTP conditions and he sued FIFA and URBSFA (the governing body for Belgian football) before a Belgian court for damages and loss of earnings of €6 million.

In today's Opinion, Advocate General Maciej Szpunar proposes that the Court should reply to the questions referred by the Belgian Court by finding that **the FIFA rules governing contractual relations between players and clubs may prove to be contrary to the European rules on competition and freedom of movement of persons.**

He finds **that there can be no doubt as to the restrictive nature of the RSTP with regard to freedom of movement.** These provisions are such as to discourage and dissuade clubs from hiring the player for fear of financial risk. The sporting sanctions faced by clubs hiring the player can effectively prevent a player from exercising his or her profession with a club located in another Member State.

Concerning competition rules, Advocate General Szpunar finds that, by their very nature, the RSTP limit the possibility for players to switch clubs and, conversely, for (new) clubs to hire players, in a situation where a player has terminated his or her contract without just cause. In so doing, **the RSTP, by limiting clubs' ability to recruit players, necessarily affect competition between clubs on the market for the acquisition of professional**

players.

The restrictions to competition may only be justified in the eventuality that they have as their effect the restriction of competition between clubs and if they are proven to be necessary for the pursuit of one or more objectives that are legitimate and strictly necessary for that purpose. Similarly, the restrictions to free movement of workers can be justified if it is shown that it is possible not to apply the rule on joint and several liability where it is established that the new club was not involved in the premature and unjustified termination of the player's contract. The rules on the delivery of the international transfer certificate could be justified where it can be proven that effective, genuine and expeditious provisional measures can be taken in a situation where there has been a mere allegation that a player has not complied with terms of the contract leading to its termination by the club.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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