

Study on the economic and legal aspects of transfers of players

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Objectives and scope of the study

Objectives

- To provide a comprehensive analysis of the legal aspects of the transfers of players (legal framework).
- To understand the economics of transfers and assess their weight at EU level.
- To explain how transfers actually work.
- To make recommendations regarding transfers in Europe.

Scope

- Focus on the system of **transfers of professional players** in team sports: football and basketball (especially football).
- The 27 countries of the EU.
- A more in-depth mapping for 9 countries: Belgium, England, France, Germany, Italy, Lithuania, Poland, Portugal and Spain

PLAN



PART 1 – LEGAL FRAMEWORK



PART 2 – ECONOMIC REALITY



PART 3 – ISSUES AND RECOMMENDATIONS

PART 1

LEGAL FRAMEWORK

A. Legal framework

1. Transfer rules in the EU

- **Two categories of regulation** have to be differentiated:
 - ✓ Sports bodies' regulations (private).
 - ✓ Public law and rules.
- They may be drawn up at the **national** or the **international** level.
- This diversity and complexity can raise the question of **how all these rules are compatible?** However, except in certain special circumstances, the study did not highlight major problems.

A. Legal framework

1. Transfer rules in the EU

➤ Sports bodies' regulations

→ The overall framework is **defined by the International Federations** (FIFA/FIBA)

→ It is **imposed on the National Federations**, which can nevertheless make specific provisions, if required.

A. Legal framework

1. Transfer rules in the EU

➤ **Public law and rules:**

→ There is **little impact made by national public law.**

→ On the other hand, **European law has a significant impact** on the development of regulations (the Bosman and Lethonen cases, etc.).

A. Legal framework

2. The agreement of 5th March 2001

- An agreement
 - ✓ **Negotiated** between the different stakeholders (EC, FIFA, UEFA, FIFPro).
 - ✓ Under the pressure of the EC.
 - ✓ Led to a radical **reform** of the transfer system in football.

- **Five important modifications:**
 - ✓ Contractual stability (transfer windows, duration of contract)
 - ✓ Youth development and protection of minors
 - ✓ Solidarity mechanism
 - ✓ Training compensation
 - ✓ Dispute resolution mechanism

PART 2

ECONOMIC REALITY

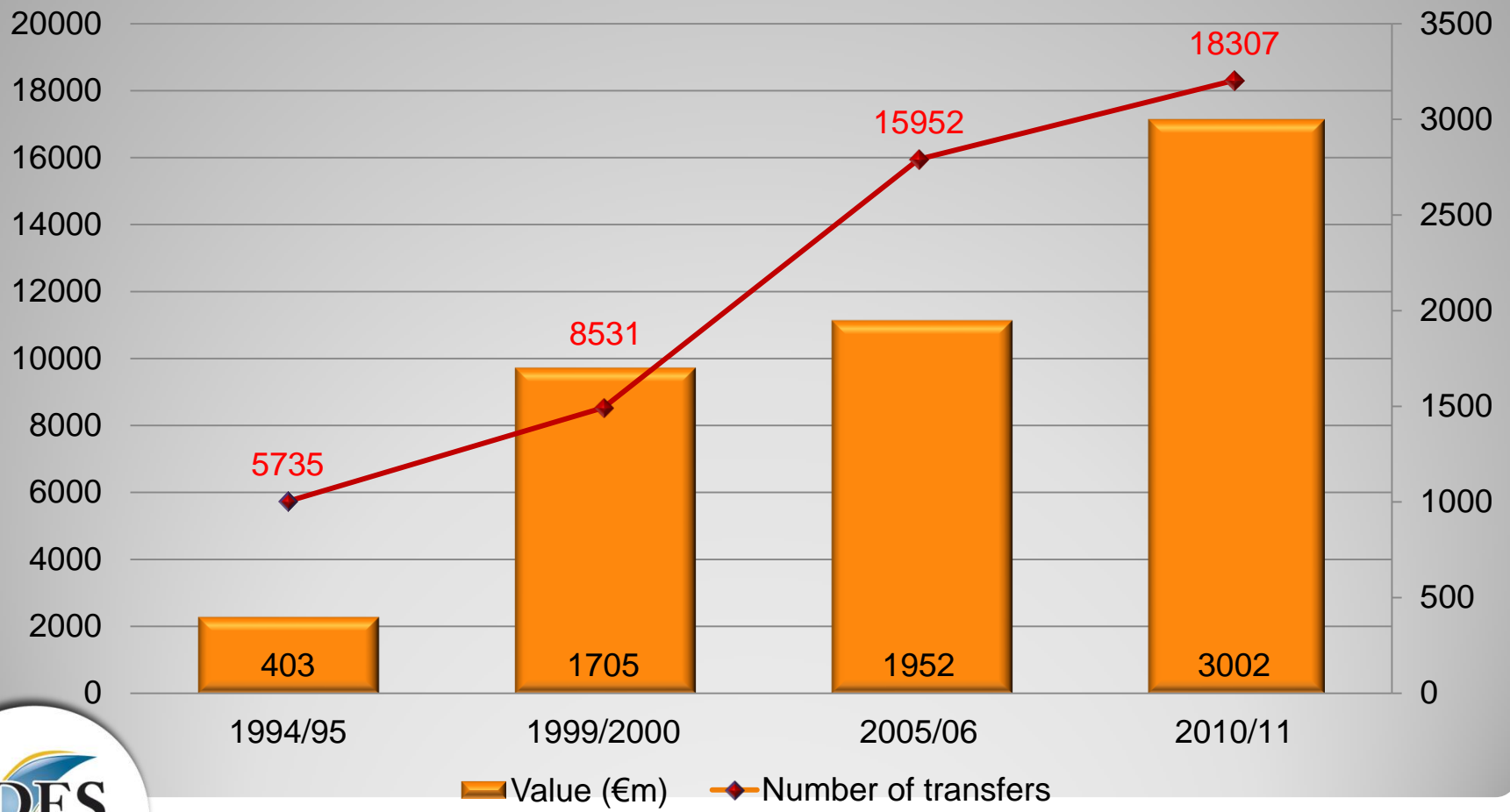
A. Transfer weight assessment

1. Football

- At the European level, an **exponential growth** in the number and value of transfers since the 1990s (liberalisation of the labour market and the explosion in revenue by professional clubs).
- The number of transfers has **multiplied** by 3.2; their value by 7.4 since 1995.
- The weight was estimated at **more than €3bn in 2010/11** at the European level (domestic transfers within EU countries and international transfers between EU countries).

A. Transfer weight assessment

Transfer weight in football



A. Transfer weight assessment

2. Basketball

- A completely different reality:
 - ✓ Contract rarely exceeds a sports season.
 - ✓ Then, very **few transfers fees**.
 - ✓ Contractual stability is less a problem than **squad instability** (high turnover).

- At the global level, a market whose weight is **€12m - €16m**, i.e. 6-7 times less than the transfer fee for just Cristiano Ronaldo (Manchester United → Real Madrid, €94m).

B. Characteristics of the market

Segmentation

- ✓ Higher primary market: the **market for stars**
 - ↳ **Players** in this segment are in **a position of strength** versus clubs (monopoly)
- ✓ Secondary market: the **foot-soldiers**
 - ↳ In this segment, **clubs** are more in a **position of strength** versus players (oligopsony)

This difference in situation has a strong impact on transfer conditions (fees and salaries, etc.) and on players controlling their careers.

B. Characteristics of the market

Concentration

A concentration in a:

- **Limited number of transfers:** for the Big-5 (England, Germany, France, Italy and Spain), 10% of the transfers made in 2010/11 as part of a breach of contract involving the payment of a fee, generated about 50% of all transfer fees paid by all clubs.
- **Limited number of clubs** (as illustrated below).

A strongly concentrated market :

The 20 wealthiest clubs (in 2012) were responsible for 33% of transfer expenditures

Real Madrid FC Barcelone Manchester United Bayern Munich Arsenal	8%	19%	33%
Chelsea AC Milan Internazionale Liverpool Schalke 04			
Tottenham Hotspur Manchester City Juventus Olympique de Marseille AS Roma Borussia Dortmund Olympique Lyonnais Hamburger SV Valencia Napoli			

Source: Deloitte Football Money League, CIES, CDES

PART 3

ISSUES AND RECOMMENDATIONS

A. ISSUES

5 major issues have been identified:

1. A very significant and **badly-controlled development** of the transfer market.
2. A **lack of transparency** in the market which makes many abuses possible (e.g. the development of third-party ownership).
3. A system which does not manage to fight effectively against **competitive imbalances**.
4. **Dispute resolution mechanisms** that could be improved.
5. A still **imperfect cooperation** between stakeholders

B. Issues

→ Should transfer fees be removed?

➤ Getting rid of transfer fees is **not a solution** because of the following consequences:

1. Redistributive effects would stop.
2. Training of youth talent could be less attractive.
3. More power for stars and major clubs; more precarious for players in the secondary segment.

➤ **Therefore, the system should be improved.**

B. Recommendations

How to improve the transfer system ? 5 lines of action:

1. **Limit** transfer fees.
2. Improve fair and balanced competition through better and **increased redistribution** between clubs, as well as **control** over financial transactions and accounting linked to transfers.
3. Improve governance through **transparency** and **fair dispute resolution mechanisms**.
4. Support **youth development and protection of minors**.
5. Develop **cooperation** with public authorities for better law and transfer rule enforcement.

Limit transfer fees

1. Limit excesses in transfer fees **after contract extension**. Such limit aims to avoid the possibility for clubs to extend the protected period with a view to trigger the payment of transfer fees. The system could provide for the transfer fee to be capped at 70% of the gross salary owed by the club to the player for the entire period of his contract;
2. Regulate the use of “**buy-out clauses**” to prevent abusive practices and to establish objective criteria.

Improve fair and balanced competition

1. Establish a “**fair play levy**” on transfer fees beyond a certain amount.
2. Better publicise the movement of players to **ensure that solidarity compensations are paid** to clubs and that the latter are aware of their rights in this respect;
3. Establish a **limit on the number of players** per club;
4. **Regulate the loan** transfer mechanism;
5. Address the **third-party ownership** issue
6. Support the implementation of **Financial Fair Play** (FFP) rules;
7. Address teams’ instability in basketball.

Improve governance of the transfer system

1. Extend the mission and impact of the **TMS** on three elements: monitoring, transparency and domestic transfers;
2. Make compulsory the publication online for each national federation of a standardised **annual report on transfers** with minimum information including name of parties and agents;
3. Make compulsory the **publication online of top European clubs' dealings on transfers**;
4. Improve dispute settlements by developing **national dispute resolution mechanisms**;
5. For basketball, improve the means of the **dispute commission of FIBA** as it is under resourced.

Promote youth development and protection of minors

1. Strong sanctions to ensure more **effective compliance with solidarity payments**;
2. **Increase the solidarity mechanism** percentage from 5 to 8% of every transfer fee;
3. **Harmonise conditions of entry of young players** from third countries into the EU;
4. **Improve rules on minors** in the context of the European social dialogue

Develop cooperation with public authorities

1. Use the existing **EU sectorial Social Dialogue Committee** in the Professional Football sector to consider rules on the following issues: protection of minors; excessive transfer fees; solidarity; fair and balanced competition; rules on non-EU players;
2. Improve and extend **law/rules enforcement**;
3. Establish within FIFA a **Clearing House and Transfer Compliance Unit** working with public authorities on law enforcement

Conclusion

- The transfer system is **only a part of business rules**
- To resolve the issues regarding transfers in Europe, only a **global approach** to regulation can be effective
- Three dimensions:
 - ✓ Sport
 - ✓ Finance
 - ✓ Labour market
- Any regulation should be **discussed** by international federations **with all stakeholders**

Thank you for your attention

Consult the full report on:
http://ec.europa.eu/sport/news/20130207-study-on-transfers_en.htm

