



EU Conference on Sports Agents

Organised by the European Commission

Brussels, 9 – 10 November 2011

Final Report

Opening and welcome speeches

Androulla Vassiliou, European Commissioner responsible for Education, Culture, Multilingualism, Youth and Sport, opened the conference by stressing the important role of the Commission in facilitating the dialogue among stakeholders in order to provide a platform for the exchange of good practices. Ms Vassiliou's speech was followed by keynote speeches addressed to the audience by MEP **Ivo Belet** and by **Jacek Foks** as representative of the Polish EU Presidency. Mr Belet highlighted the sections on sports agents included in the draft Parliament Resolution on the European Dimension in Sport that would be voted on 10 November by the CULT Committee of the Parliament. Mr Foks focused his intervention on possible threats to the integrity of sport in connection with the activities of sports agents and on the need to address these issues at EU level.

First Session: The regulation of the activities of sports agents

Marco Villiger from FIFA gave an overview of the development of the FIFA regulations addressing the activities of sports agents. He outlined the state of play regarding the envisaged overhaul of the current regulatory system, rejecting the notion expressed by other stakeholders that the new approach would lead to a deregulation of the sector. Mr Villiger explained that the shortcomings of the current regulations, in which only 25-30 % of transfers are managed by official FIFA licensed agents, called for a new regulatory system. He underlined that the envisaged regulatory framework was the result of a long consultation process with the key stakeholders under the leadership of FIFA. The new regulatory proposal would be sent to the FIFA Congress in 2012 for a final vote.

Building on the introduction to FIFA's regulatory framework, **Alexandre Husting** from KEA European Affairs and **Laurent Hanoteaux** from the French Ministry of Sports completed the overview of the existing legal and regulatory frameworks. Mr Husting presented the key findings regarding the legal frameworks applicable to the activities of agents as identified by the independent study on sports agents in the EU, carried out by KEA on behalf of the European Commission. Mr Hanoteaux gave an insight into the specific regulatory approach in France, which is one of the few countries where a specific regulatory framework for sports agents is in place.



Second session: Presentation of the main findings of the independent study on Sport Agents in the EU

Philippe Kern from KEA European Affairs delivered an overview of the main findings of the study on sport agents in the EU. The study identified no significant obstacle to the free movement of services provided by agents in the Internal Market. However, the study stressed several ethical concerns connected with the activities of sports agents. In the Q&A session that followed Mr Kern's intervention, the comparison between the EU and the US concerning sports agents, the planned overhaul of FIFA's system and the issue of money laundering were discussed with the audience.

First panel discussion: General position of stakeholders on the topic of the conference

The panel discussion was moderated by **Gregory Paulger**, Director for Youth and Sport at the European Commission. All stakeholders on the panel were asked to deliver an opening statement at the beginning.

Emanuel Macedo de Medeiros, representing EPFL, emphasised that the problems concerning the activities of sports agents were not new and that the stakeholders had seen various modifications in the regulatory framework over the past years. According to him, the current situation posed a threat to the integrity of sport and therefore a robust framework was needed to address the challenges in this field. Mr de Medeiros noted that transparency issues were central to any new regulatory framework. Coherent registration mechanisms, the publication of payments and of representation contracts as well as a fully fledged clearinghouse system could contribute to more transparency in the field. In his concluding remarks he stressed that calling for self-regulation created a great amount of responsibility for all sport stakeholders.

Rob Jansen from EFAA criticised the fact that the position of the agents themselves had not been sufficiently taken into account throughout the consultation process organised by FIFA. Whereas Mr Jansen stressed that the agents wanted to regulate their own profession, he also highlighted that this could only be done successfully if the concerns and best practices of agents were considered by the other stakeholders.

Michele Centenaro from ECA highlighted that the current system did not work effectively due to a lack of consistency. He agreed that any discussion on a new framework should involve representatives of the agents. ECA favoured self-regulation through the establishment of simple and enforceable rules. Mr Centenaro noted that the fees for agents had to be reasonable, that agents should be paid by the club or the player (but not both), and that fees for minors should not be allowed.



Philippe Piat from FIFPro expressed considerable concern on behalf of the players with regard to conflicts of interest among agents, in situations where multiple agreements existed with more than one party at the negotiation table. He recognised that players needed advice due to the complexities of the business but stressed that it should be entirely up to the player how and by whom he would like to be represented. Therefore a regulatory framework without a distinctive licensing system as envisaged by FIFA was favoured by FIFPro.

In the following debate Mr **Jansen** opposed the perception that a deregulation of the sector would benefit the players. Instead he advocated for a stronger framework which would contribute to more transparency and lead to the professionalisation of agents' activities and therefore to better services for players. With regard to the protection of minors, raised especially by Mr **Centenaro**, Mr **Jansen** stressed that it was not the agent who created the demand for young players on the market but rather it was the clubs who wanted to sign ever younger players. In this context the agent acted therefore as an interlocutor and facilitator for the clubs. EFAA expressed its willingness to negotiate the limitation of fees and other issues, but stressed that it needed to be accepted as a relevant stakeholder.

Third session: Other sports

The second day of the conference started with a presentation by **Zoran Radovic** who introduced on behalf of FIBA the development and state of play in the current regulatory regime of players' agents in international basketball. Mr Radovic emphasised the close cooperation between FIBA and the players' agents and the importance of the voluntary Basketball Arbitral Tribunal (BAT) which ensures contractual stability between clubs, players, and agents.

Walter Palmer, the representative of EU Athletes, agreed with the positive impact of the BAT system. He highlighted the difficulty for young athletes to pick the right agents, stressing that a qualification or licensing scheme would provide athletes with a minimum reference framework on how to choose an agent. He underlined the value of standard contracts which are negotiated under Collective Bargaining Agreements (CBA) in order to ensure a high standard with regard to the contractual basis. Mr Palmer said that the social partners should be at the centre of any solution regarding the activities of agents.

Dejan Vidicki gave, as a professional basketball agent, a detailed perspective on the actual work of agents. He remarked that the relationships between the professional agents and FIBA had developed from rather negative attitudes to a collaborative and supportive partnership under the new regulatory framework. The FIBA licensing scheme notably recognised and protected the profession of agents as an important part of the business. He concluded that while the FIBA regulations helped protect the position of agents, the BAT system ensured the stability of contractual relationships between the different stakeholders.



Antonio Maceiras, a former manager of leading Spanish basketball clubs (Real Madrid, CF Barcelona), underlined the necessity of players' agents in the sport business. He highlighted that from a club's perspective it is much better that an agent negotiates the details of a contract on behalf of the club or the player, in order to safeguard a positive relationship between the contractual parties. He agreed with Mr Vidicki that agents offer much more than just contractual negotiations, notably career advice and assistance outside purely sporting matters. An educational system for agents was therefore important to ensure quality within the profession.

The topics discussed in the ensuing debate included the possible potential conflicts between FIBA's BAT and national labour law provisions and the issue of caps on agents' fees established by the NBA. The panel concluded that the collaborative spirit established between all stakeholders and the recognition of mutual interests resulted in a very stable and positive regulatory framework for agents under the umbrella of FIBA.

Fourth session: possible solutions

Guido de Jongh from CEN (European Committee for Standardisation) opened the last panel discussion with a presentation introducing CEN's services and offering to the stakeholders an alternative model to develop European and international standards for sports agents within the framework of CEN.

Omar Ongaro from FIFA explained that the difficult position of FIFA, as a regulator, was due to the necessity of taking into account the divergent views of all stakeholders. In this regard, the only existing common ground between all stakeholders was that there needed to be an overhaul of the existing regulatory scheme. With regard to the previous discussion on other sports, he highlighted that regional regulatory frameworks, as they are implemented in the case of basketball, were no way forward for FIFA as only an inclusive global approach would be acceptable. Considering the "cultural division" between FIFPro and EFAA, Mr Ongaro stressed that an inclusive approach as was the case in basketball did not seem feasible in football at the moment. Therefore he confirmed that FIFA would go ahead with its draft proposal as planned in order to reach a better situation with regard to the simplicity of the system, transparency issues and the protection of minors.

Roberto Branco Martins expressed on behalf of EFAA that both the standardisation model proposed by CEN and the Social Dialogue Committee could be a way forward to possible future solutions. However, he reminded that EFAA could not be part of the Social Dialogue Committee yet due to a lack of recognition. Therefore he urged participants once again to take the views and experience of the professional agents into account in order to reach a sustainable and feasible solution for a future regulatory framework. He recognised the need for a global approach in football but argued that a European approach should be pursued in case there was no possibility for an adequate regulatory framework at the global level.



Theo van Seggelen replied on behalf of FIFPro and pointed out that if the main problem of the current system was the limited possibility of enforcement, a stronger regulatory system would face even more severe enforcement problems. Furthermore he noted that FIFPro had at present limited confidence in EFAA as there were central questions with regard to best practice within the organisation itself as well as regarding the question whom EFAA actually represented.

Daniel Lorenz, representing the legal department of FC Porto, referred to some good practices such as the clearinghouse set up by the English FA and FIFA's TMS. In his view the remuneration of agents differs according to the work done in every transfer and should therefore be kept flexible, possibly in the range of 5% to 10% of the value of the transaction. Furthermore there was a need that sports agents only represented one party in the negotiation. Fees should not be paid to agents in case of transfers of minors.

Darren Bailey of the English FA said that the implementation of a new regulatory framework posed an important test for the sport movement. He highlighted that there was the possibility that if the sport movement failed to regulate itself, other actors would step in. Given the difficulty of the task he pleaded for a wider discussion on the issues at stake, suggesting that minimum standards should be implemented at the global level, followed later on by a more sophisticated system after thorough discussions. He pointed out that good practices did exist, such as the clearinghouse system, the public disclosure requirement and the fit and proper person test in England.

Holger Hieronymus expressed on behalf of the DFL appreciation for the positive achievements in FIBA's collaborative approach with the professional agents to establish a sustainable regulatory framework in basketball. He explained that even if the stakeholders faced a different situation in professional football, there was a need to include the agents in any future solution to reach a sustainable agreement.

In the discussion that followed, a representative of the German Ice-Hockey League presented the system in place for licensing agents in this sport - a system based on the FIBA model which might be extended to the EU and worldwide. Mr de Jongh pointed out that CEN was ready to bring together in the near future the stakeholders who were interested in pursuing the standardisation approach; his proposal was generally welcomed by the stakeholders.



Future prospects

Alasdair Bell noted on behalf of UEFA that the regulation of sports agents in football was a FIFA regulatory matter. He stressed that for any solution in this area, the enforcement of the rules played a central part and that public-private partnerships might be considered in this respect. Regarding the different types of possible EU action, he expressed doubts about whether a directive or a recommendation could be adequate mechanisms in order to tackle the problems at stake. Also with regard to the CEN model he noted that the enforcement issues remained problematic. Finally Mr Bell reminded that the Social Dialogue had been a valuable tool for professional football in the past and could be used in the context of discussions on agents in future.

Gregory Paulger closed the conference by highlighting that, although the European Commission recognised the right of self-regulation by the sports movement, an internal market directive could not be ruled out if serious problems regarding the free provision of services or of establishment came to light. A Recommendation on the basis of Article 165 TFEU was also a possibility as a way of bringing the different approaches in the Member States closer together. Referring to the substantive problems to be addressed with a view to some form of standardisation, approximation or harmonisation, he mentioned the transparency of financial transactions, the level of fees, the protection of minors and dual agency issues among those on which the conference had provided valuable input. With regard to the CEN framework, he noted that this model could provide not just a useful platform for further consultation but also an opportunity for European and international standardisation in the field of sports agents. He concluded by saying that the conference organised by the Commission had marked a starting point for ongoing discussions on the important matters at stake, pointing out that an inclusive dialogue among all stakeholders was needed and mentioning the future work to be carried out by the Expert Group on Good Governance reporting to the Council Working Party on Sport.