Legal Legends in sport and the future of sports law

14-15 December 2015
Amsterdam

FIFPro Sports Law Congress
In 1964, George Eastham partly won his legal action against his club Newcastle United. He went to court because the so-called retain-and-transfer system, which was then in place in Britain, did allow clubs to keep a player's registration even after his contract had run out and without being obliged to pay him. The British High Court ruled that the retain-and-transfer system was unreasonable. This led to a reform of the British transfer market, resulting in 'fairer' terms for players looking to re-sign with their clubs, and the creation of an arbitration committee for transfers.

In 1995, Jean-Marc Bosman won his legal action against his club RC Liège and the Belgian FA at the European Court of Justice, which granted him freedom of movement and allowed him to leave the club without any financial compensation after he had served his entire contract. His case created a precedent. As a consequence, all professional footballers (and other athletes) are free to join any club after seeing out their contracts.
Introduction
Legal Legends in sport and the future of sports law

For two reasons, 15 December 2015 is a special day for FIFPro. Firstly it marks our anniversary, as 15 December 1965 is the day that representatives of professional footballers’ associations from England, France, Italy, the Netherlands and Scotland established the worldwide players’ union, 50 years ago in a small Paris room.

Secondly it marks the day of the Bosman ruling on 15 December 1995, exactly 20 years ago. The European Court of Justice delivered its now famous Bosman judgment, which stated that this Belgian football player was free to join any other club on a free transfer after his contract with his previous club had expired. The ruling was not restricted to football players, but was beneficial to all athletes.

The Bosman judgment triggered a fundamental upheaval of the transfer system. Another consequence was that restrictions on foreign players were abandoned within the EU which paved the way for football to become a more global game.

The Bosman ruling prompted a reaction from football’s governing bodies, as various of the game’s stakeholders perceived the ruling as a serious threat. As a result, FIFA introduced new Regulations on the Status and Transfer of Players (RSTP), which are still in place. Next to that football welcomed new judicial institutions such as the FIFA Dispute Resolution Chamber and the use of the services of the Court of Arbitration for Sport in football related cases.

In the twenty years since the Bosman ruling football has created a new reality, which is a complex reality to many followers of the game. The current combination of regulations, legislation and jurisprudence requires an extraordinary level of understanding by legal experts within the business, more specifically by all representatives fighting for the rights of their players.

Celebrating both the FIFPro and the Bosman ruling anniversary, FIFPro wants to pay tribute to all current and former football players and other athletes who took legal action to fight the powers in football and other sports, for their own benefit, and also for the benefit of others, often putting their own careers at risk.

These Legal Legends, as we call them, are the focus of attention of this FIFPro Legal Conference. We once again hope that their efforts will help improve the rights of many of their peers in sports.
In 1974, Bruno Walrave won a legal action against the World cycling federation (UCI), as well as the Dutch and Spanish cycling federations. In 1973, these organisations had altered regulations, and defined that both the cyclist and his pacer should have the same nationality. As a consequence Dutchman Walrave and German Horst Gnas (the 1971 and 1972 World Champions) could not partner anymore, and would therefore be limited in carrying out their profession. On 12 December 1974, the European Court of Justice ruled in favour of Bruno, although it added that the rule for equal nationalities was valid for World championships. The Walrave case was the first case in which the ECJ decided that EU law applied to sports as long as it is an economic activity. This affected the autonomy of sports enormously and paved the way for the Bosman case.

In 2000, Jyri Lehtonen started legal action at the European Court of Justice against the legality of transfer windows. His registration for Belgian basketball club Castors Braine had failed because the transfer took place after the designated period for transfers for players from outside the European Union. The Court decided that transfer windows create an obstacle to freedom of movement, as they limit a player’s chances of being employed, in this case especially for non-EU citizens. Jyri’s case created a precedent, as identical transfer windows now apply to all players regardless of their nationality.
Program Monday

MONDAY, 14 DECEMBER 2015

11.15 – 12.00    Registration RAI

12.00 – 12.30  

Networking lunch

12.30 – 12.45    Welcome and opening of conference

12.45 – 13.05    Introduction of the “Legal legends”

13.05 – 13.50    David Feher – Union tools for negotiation

13.50 – 15.05  

Session 1: From Eastham to Bosman – Historic cases and their impact

1. FIFPro Legal – A short historic context
2. Q/A: Jean-Marc Bosman and George Eastham
3. Juan de Dios Crespo – Landmark decisions post Bosman
4. Carlos Gonzalez Puche – Transfer rules in South America post Bosman

15.05 – 15.25  

Coffee Break

15.25 – 15.45    Q/A: Jyri Lehtonen, Bruno Walrave and David Meca Medina

15.45 – 17.10  

Session 2: From Bosman to the future – reforming the football industry

1. Jonas Baer-Hoffmann – FIFPro’s challenge to the transfer system
2. Stefan Kesenne – Football without a transfer system? An economic perspective
3. Panel discussion: Pieter Paepe, Wil van Megen, Jonas Baer-Hoffmann

17.10 – 17.35  

Coffee break

17.35 – 19.05  

Session 3: Player rights’ abuses and dispute resolution

1. Q/A: Zahir Belounis and Igor Strelkov
2. Elvis Majani – Breaches of contracts in African football
3. Jady Hassim – FIFPro Black Book Asia
4. Gianpaolo Monteneri – Founding and landmark cases in the FIFA DRC

19.05 – 19.10    Closing words Day 1

19.10

END
Program Tuesday

TUESDAY, 15 DECEMBER 2015

09.00 – 09.10 Opening Day 2

09.10 – 10.35 Session 4: EU Law and the Autonomy of Sport

1. Q/A: Claudia Pechstein
2. Marco van der Harst: EU law and CAS
3. Stefaan van den Bogaert – The future of the mobility of sportsmen in the EU
4. Richard Parrish – Legal boundaries of the autonomy and specificity of sport

Panel discussion

10.35 – 10.45 Q/A Olivier Bernard

10.45 – 11.10 Coffee break

11.10 – 11.40 Marko Ilešič – Does Sports Law exist?

11.40 – 12.30 Session 5: Integrity of the football industry

1. Nick De Marco – Impact of the new FIFA regulations on intermediaries
2. Jack Anderson – Match-fixing in football

12.30 – 13.25 Networking lunch

13.25 – 14.55 Session 6: The governance of sport

1. Sylvia Schenk – Governance concerns in FIFA, confederations and federations
2. Anna Rissel – The role of clubs in sports governance
3. Brendan Schwab – The role of athletes in sport governance

Panel discussion

14.55 Closing words

15.00 END
Olivier Bernard fought against the French transfer system that required a player to accept a contract offered by the club he was trained at. If a player refused to sign with this club, he had to pay compensation to the club. On 16th March 2010, the European Court of Justice issued a ruling and ended Bernard’s nine-year long legal battle. In short, the French system could not be maintained anymore. Next to that, the European Court decided that compensation to be paid for the costs of training must be strictly related to the real costs and may not exceed them.

Claudia Pechstein

Since 2009, Claudia Pechstein is in a legal battle in ordinary German courts to defend her innocence in a doping case and her right to a fair and impartial legal procedure. Currently her case is at the German Federal Court of Justice, after the German Court of Appeal already questioned the impartiality of CAS, and the validity of the clause in all ISU contracts that CAS is to rule on all arbitration cases. The German Court found that the International Skating Union (ISU) abused its dominant position by unilaterally imposing such clauses on its athletes. If Claudia is successful too at the German Federal Court of Justice, then her case should help install an arbitration system which respects the rights of all athletes.
Speakers

Jack Anderson

Jack Anderson is a Professor of Law at Queen’s University, Belfast, Northern Ireland. Jack has published widely on the topics of sports law, including books such as The Legality of Boxing (2007), Modern Sports Law (2010) and Landmark Cases in Sports Law (2013).

Jack is Editor-in-Chief of the International Sports Law Journal, the leading periodical in the area.

Jack has lectured internationally on the topic sports law including at the US National Sports Law Institute, the Australian National University, University of Cambridge, German Sports University, and the China University of Political Science and Law. He has delivered workshops relating to sports law for Interpol, FIFA and the World Rugby Board.

A Fellow of the Chartered Institute of Arbitrators (FCI Arb), Jack is also a member of a number of sports dispute resolution tribunals in the UK and Ireland.

Jonas Baer-Hoffmann

Jonas Baer-Hoffmann is the Director Policy for FIFPro Division Europe.

Jonas has worked for domestic and international player union bodies since 2007, including the German basketball players union, EU Athletes and since 2012 for FIFPro. He is experienced in the representation of athletes in domestic collective negotiations, in the European Social Dialogue Committee and other international negotiation forums.

Jonas has also represented the voice of athletes towards the European public authorities and together with FIFPro’s Legal Department he is coordinating the current EU complaint against the football transfer system. He has been closely involved in the improvement of labour standards of football players in Europe via the implementation of the Autonomous Agreement on Minimum Requirements on Standard Player Contracts.

Jonas played basketball at a semi-professional level in Germany.
Juan de Dios Crespo

Juan de Dios Crespo is owner of law firm Ruiz Huerta & Crespo. He has a master’s degree in international sports law, LL.M. (H.C.).

Juan was an external lawyer of the Spanish Football League from 2000 to 2010. He was a legal advisor to football clubs, players, agents, federations and leagues, and has acted as a lawyer in more than 300 Court of Arbitration for Sport cases. He is an Arbitrator of the European Court of Arbitration of the European Handball Federation and Latin American Sports Law Association.

Juan is a professor in several master’s degree courses in sports law run by FIFA-CIES, University of Valencia-Law School, ISDE, and the University of Lleida.

Juan has published more than 100 articles on sports law and (co-) written 13 sports law books.

Nick De Marco

Nick De Marco is a junior barrister in sports law in the UK. He acts for sports organisations in commercial cases and disciplinary hearings and advises them on possible challenges to regulations. He works on claims including the interpretation of footballer contracts and transfer fees.

Nick is an expert in the dynamics of sports arbitration and was involved in leading cases, before FIFA and the Court of Arbitration for Sport.

An acknowledged expert in doping, Nick is an independent reviewer for UK Anti-Doping.

Nick was a Director of Queens Park Rangers (2007). He regularly advises the Association of Football Agents and is a leading expert in the regulation of and commercial disputes involving agents and intermediaries. He has been involved in leading cases concerning Third Party Ownership, Financial Fair Play and Agents.
David Feher - co-chair of the sports practice at Winston & Strawn LLP - is one of US’s leading sports lawyers with extensive experience in complex litigations, negotiations and arbitrations involving contract, intellectual property, antitrust and international issues.

David has been outside counsel for the NFL Players Association and the NBA Players Association and is one of their prime negotiators of collective bargaining agreements and antitrust settlements.

David represented clients in prominent sports lawsuits and arbitrations, including the Freeman McNeil and Reggie White antitrust cases that led to player free agency in the NFL, the Patrick Ewing class action in the NBA, the currently pending Jenkins v. NCAA antitrust action challenging restrictions on competition for player services in basketball and American football, Oscar Pistorius’ successful effort to overturn his ban against competing in IAAF and Olympic track events and Caster Semenya’s successful eligibility dispute with the IAAF.

Carlos Gonzalez Puche has been a lawyer in the fields of criminal law, commercial law and sports law since 1986. He has studied in the Universidad Externado de Colombia.

Carlos is a also former professional footballer, who played at Colombian clubs Millonarios, América and Cúcuta.

Carlos is founder and Executive Director of the Colombian professional football player’s association Acolfutpro. Since March 2010, he has been a member of the FIFPro Division America Executive Committee, and he has been Division America’s legal director since 2008.

Carlos is also a member of the FIFPro Regulations and Articles Committee.

Since 2013, Carlos has acted as an arbitrator for the FIFA Dispute Resolution Chamber.
Marco van der Harst

Marco van der Harst LL.M. is a researcher and Ph.D. Candidate in international and European sports law at the T.M.C. Asser Instituut in The Hague, the Netherlands. His research focuses primarily on the private law enforcement of EU competition law (i.e. public policy exception) regarding the unchartered territory of national courts’ enforcement proceedings of foreign arbitral awards rendered by the Court of Arbitration for Sport.

Marco is working on two publications “What is the impact of national law and EU law to a sports governing body’s right of autonomy?” and “The Enforcement of CAS Arbitral Awards by National Courts and the Effective Protection of EU Law”.

Jady Zaidi Hassim

Jady Hassim obtained his bachelor’s degree in Law-LL.B (Hons) and later Masters in Comparative Law from the International Islamic University Malaysia. In 2010 he completed his Ph.D (Sports Law) from the National University Malaysia (UKM). His doctoral thesis explored the legal status of professional footballers and the roles of players’ association with particular focus on the FA of Malaysia.

Jady is currently working as a Senior Lecturer at UKM. He is also an Engagement Expert at Policy and Strategic Planning with the Ministry of Youth & Sports, Malaysia and a Certified Mediator of the Malaysian Mediation Centre, Malaysia BAR Council. He authored An Introduction to Sports Law in Malaysia: Legal Guidelines for Sportspersons and Sports Administrators (LexisNexis, 2005).

Jady coordinated the research for the soon to be published FIFPro Black Book Asia, concerning the abuse of players’ rights in various countries in Asia and Oceania.
Marko Ilešič

Marko Ilešič has been a judge at the Court of Justice of the European Union in Luxembourg since 2004 and President of its Second Chamber. He was a professor of civil, commercial and private international law and Dean of the Faculty of Law at the University of Ljubljana.

He is the author of several legal publications on law and sports.

In Yugoslavia and Slovenia he has held various judicial functions at the Labour Court, the Sports Court and at different arbitration courts. He was also an arbitrator at the International Chamber of Commerce in Paris. He was president of the Union of Slovenian lawyers and is a member of several international legal associations.

Marko Ilešič was also President of the Football Associations of Yugoslavia and Slovenia and a judge on the Board of Appeals of UEFA and FIFA.

Stefan Kesenne

Stefan Kesenne is an Emeritus Professor at the University of Antwerp and the University of Leuven in Belgium, where he teaches Sports Economics. He has also taught Sports Economics at KEDGE in Marseille.

Stefan published in many reviewed international journals, such as the Journal of Sports Economics, the International Journal of Sports Finance, the European sports Management Quarterly, the Journal of Sports Management (US), the Journal of Cultural Economics, the European Economic Journal and the Journal of Industrial Economics.

Stefan is the author of the well-known academic textbook “The Economic Theory of Professional Team Sports”.

Stefan was the economic advisor of Jean-Marc Bosman’s lawyers.

Stefan is a member of the CIES scientific committee at Neuchatel University. He is a founding member of the board of directors of the European Sports Economist Association. He has been Vice President of the International Association of Sports Economics since 2003.
Elvis Majani

Elvis Majani is the founder and Lead Consultant of the Center for Sports Law in Kenya. He is an Advocate of the High Court with vast experience in sports law and commercial law. He is the legal counsel for the Kenya Footballers Welfare Association (KEFWA), and previously worked as an ad-hoc judge with the Kenya Basketball Federation.

Elvis is renowned in the fields of sports integrity, governance, arbitration, with focus on player rights, player empowerment, and employment contracts in football.

Elvis has been active in legal representation of athletes and represented football players involved in contractual disputes with their employers, notably in the precedent setting Eugene Asike case.


Elvis is passionate about creating awareness on the rights of athletes in Africa.

Gianpaolo Monteneri

Gianpaolo Monteneri is a Swiss expert in the field of international sports and football law. Gianpaolo joined FIFA as Head of the Players’ Status Department and worked there for eight years. He headed a team of international lawyers in charge of investigating commercial and labour disputes involving mostly clubs, federations, players, coaches and agents.

In 2005, Gianpaolo left FIFA to establish Monteneri Sports Law, which under his leadership has developed into a renowned international sports law firm. He has represented clients in more than 100 procedures before the Court of Arbitration for Sport, a large number of procedures before the FIFA Players’ Status Committee and Dispute Resolution Chamber, as well as before the FIFA and UEFA Disciplinary Committees.
Richard Parrish

Professor Richard Parrish is the Director of the Centre for Sports Law Research at Edge Hill University, UK. He is a member of the European Commission’s High Level Expert Group on Sports Diplomacy and was a member of the European Commission’s Group of Independent Sports Experts (2010). He was also Specialist Adviser to the House of Lords Inquiry into Grassroots Sport and the European Union (2010/11).

Richard has authored a number of influential reports for the European Parliament and the European Commission, including the main reports into nationality discrimination in Olympic sports and European football. He has also acted as expert adviser for the European Commission’s TAIEX programme on the approximation of European laws relevant to sport.

Richard is author of two sports law monographs and three edited books. He is Honorary Chair of the Association for the Study of Sport & the European Union (Sport&EU).

Anna Rissel

Anna Lisa Rissel works as in-house legal counsel for FC Bayern Munich advising the football and basketball department. Anna is particularly specialized on labor law in respect to players and coaches as well as on legal aspects related to sponsorship contracts.

Before Anna joined the FC Bayern Munich legal team in 2013, she studied law in Cologne and worked for two years as an associate for Martens Lawyers, a boutique sports law firm in Munich.

Since 2012, Anna has been acting as lecturer for sports law at the Technical University of Munich (TUM).
Sylvia Schenk

Sylvia Schenk is a lawyer in Frankfurt on Main, Germany. She worked as a judge at the Labor Court of Offenbach (1979 - 1989) and as a City Councilor in Frankfurt (1989 - 2001).

Sylvia has been German Champion and Olympic athlete in 800m running 1972 and served as a volunteer in national and international sport organisations since 1975. From 2001 – 2004 she was president of German Cycling and from 2000 – 2005 she was a member of the Management Committee of the International Cycling Union UCI.

From 2007 – 2010 Sylvia was Chair of Transparency Germany and from 2006 - 2014 she was Senior Advisor for Sport of Transparency International, now chairing the Working Group Sport of Transparency Germany. She is a board member of the German Olympic Academy and an arbitrator at the Court of Arbitration for Sports (CAS) in Lausanne.

Brendan Schwab

Australian lawyer Brendan Schwab is the Head of UNI World Athletes, the global collective of 85,000 athletes through major player associations including FIFPro and bodies representing among others cricketers, rugby players, basketball players, baseball players and hockey players.

Brendan has over 20 years of experience in the collective representation of professional athletes and the player union movement. In Australia, he was a former Chief Executive of Professional Footballers Australia, and played a key role in the professionalisation of the football industry. As General Secretary of the AAA, the peak body for eight major player associations, he helped pioneer the development of the player union movement.

Brendan acted as FIFPro Vice President, Board member and Chairman of FIFPro Division Asia/Oceania. He was a member of the FIFA Dispute Resolution Chamber. Brendan still represents FIFPro on the FIFA Players’ Status Committee, which played a role in the prohibition on third party ownership.
Stefaan Van den Bogaert

Stefaan Van den Bogaert is Professor in European law and Director of the Europa Institute at Leiden Law School, the Netherlands. Stefaan is also visiting Professor in European Sports Law at the University of Brussels. He is fellow at the Graduate School of legal studies at Leiden Law School, member of the Ius Commune Research School and member of the editorial committee of the Maastricht Journal of European and Comparative Law.

He holds an LL.M. in European and Commercial Law (first class) from Cambridge University and obtained a Ph.D in Law at the European University Institute in Florence with a thesis on the regulation of the mobility of sportsmen in the European Union in the post-Bosman era.

Stefaan’s main research interests are EU internal market law, EU competition law, EU institutional law and sport.

Igor Strelkov

Igor Strelkov fought against the practice of training alone. In 2011, he objected to the order issued by his club FC Krylia Sovetov to daily train for at least three hours in the cold Russian winter while the rest of the team was at training camp in Turkey and Spain. Igor wanted to train with the rest of the team. He took his case to CAS, which in February 2012 ordered that Igor could not be forced to train separately, stating it is a basic player’s right to train with the squad. Following his case, the Russian FA decided to adopt new regulations, recognizing training alone as a substantial infringement on the labour agreement.
In 2013, Zahir Belounis was finally able to leave Qatar after being trapped in the Gulf state due to the kafala sponsorship system. He had not received his salary since July 2011, but was unable to leave the country as the club held his visa (and that of his family). Zahir would only retrieve it if he terminated his contract and signed a document that stated that the club owed him nothing. He refused. In November 2013, after pressure of among others FIFPro, Zahir was released by his club and allowed to return to his home country France.

Spanish long-distance swimmer David Meca Medina was banned for four years by the sport’s ruling body FINA in 1999 after testing positive for nandrolone. He appealed before CAS, which reduced the ban to two years. Meca Medina filed a complaint to the European Commission, saying the rules adopted by the International Olympic Committee on doping controls were incompatible with European Union rules on competition and freedom to provide services. The European Court of Justice ruled that any activity that takes the form of paid employment for professional or semi-professional sportsmen was covered under EU law. Since this ruling any sporting rule that restricts competition needs to show that it is not more far-reaching than its immediate objective. FIFPro’s complaint regarding the transfer system is partly based on the Meca Medina judgement.
FIFPro is the worldwide representative organisation for all professional football players; more than 65,000 footballers in total. Founded on December 15, 1965, FIFPro has 58 members, 2 candidate members and 5 observers.

The mission ‘FIFPro supports players’ and our mission statement ‘FIFPro is the exclusive collective voice of the world’s professional footballers’ are key principles. These are the two guiding principles that underpin FIFPro’s activities.

**Major issues**
As the representative organisation for all professional players, FIFPro takes a stand on major issues in today’s football, including Transfer Regulations, Respect of Contracts, Non-Payment of Salaries, Match-fixing, Agents, Artificial Pitches, Players’ Health and Safety, Protection of Minors, Education, Doping and Unilateral Options.

**Legal**
The primary task of players’ associations is legal support of their members. A continuous exchange of knowledge takes place between the FIFPro Legal Department and legal experts of national players’ associations, creating a legal network which watches over players’ rights in the best possible way and negotiates these rights whenever necessary. Among the most important achievements are the Bosman ruling, the Webster ruling and the minimum requirements for players’ contracts.

**Legal action against FIFA Transfer Regulations**
On 18 September, FIFPro filed legal action against FIFA, in the form of a competition law complaint lodged with the Directorate-General for Competition of the European Commission in Brussels, challenging the global transfer market system governed by FIFA’s regulations considered as being anti-competitive, unjustified and illegal.

By targeting FIFA’s Regulations on the Status and Transfer of Players (RSTP), FIFPro has asked the European Commission to explore the critical argument that the transfer regulations prevent clubs from fairly competing on the market to acquire sporting talent, harming the interests of players, small and medium sized professional teams and their supporters. FIFPro states the transfer system in its current form can no longer be justified or protected by the so-called ‘specificity of sport’.
Date
14 and 15 December 2015

Target Audience
The FIFPro Legal Conference is normally designed for FIFPro members. However, in the special occasion of the celebration of FIFPro’s 50th Anniversary, we have opened spaces for lawyers, legal counsels and policy-makers in sports, who wish to be a part of this unique event.

Attendance Fee
Fee: € 300
This fee includes study materials and lunches both days.

The fee does not cover (international) travel costs, domestic travel to and from airports etc., (hotel) accommodation, insurance or other expenses.

Enrolment
1. For registration please send an email to: legalcongress@fifpro.org. A confirmation letter and payment details will be sent to you by email. Registration is completed once the payment has been received.
2. The deadline for registration is 30 November 2015
3. FIFPro cannot be held responsible for the non-arrival of registration information. If confirmation of registration is not confirmed within 5 working days of submitting, please contact: alexandra@fifpro.org
4. FIFPro reserves the right to withhold registration.

Fee and Payment Conditions
1. The fee for the two day Legal Conference is €300.
2. The fee includes participation and lunches both days.
3. The full payment must be made within 3 days after receipt of the confirmation e-mail.
4. Participants are responsible for the cost of all travel, accommodation, evening meals, and if applicable, any visa charges and medical insurance.

Cancellation Policy
1. Cancellations will only be accepted when your request for cancellation is submitted by e-mail to: legalcongress@fifpro.org
2. For cancellations after 30/11/15, no refund of the fee will be provided.
3. For cancellations before 30/11/15, a fee of €50 will be charged with. The remaining sum will be refunded.
4. FIFPro reserves the right to cancel the Conference. In the event that such action is necessary, registrants will be informed.
5. In the event that FIFPro cancels the Conference, the full sum paid will be reimbursed.

Liability
1. FIFPro cannot be held liable for personal injuries or for loss and/or damage to the personal belongings of participants either during or as a result of their participation in the programme.

Contact
For more information or questions, please contact: legalcongress@fifpro.org.