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**THE FIFA REGULATIONS ON WORKING WITH INTERMEDIARIES**

**IMPLEMENTATION AT NATIONAL LEVEL**

*Michele Colucci (ed.)*

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TEASER

Issue I-2015

ISSN 2039-0416

**THE FIFA REGULATIONS ON  
WORKING WITH INTERMEDIARIES  
IMPLEMENTATION AT NATIONAL  
LEVEL**

*Michele Colucci (ed.)*

G.L. Acosta Perez, B. Al Hamidani, S. Alobeidli, L. Andreotti Paulo de Oliveira, K. Antoniou, M. Auletta, O.D. Bellia, M. Bieniak, R. Branco Martins, S. Civale, M. Colucci, P.G. Correia, J.D.D. Crespo Pérez, K. Damjanovic, R. de Buen Rodriguez, D. Demirel, I. Elizarova, T. Gábriš, T. Giannikos, C. Giraldo, H. González Mullin, L. Hadjidemetriou, F. Hendrickx, M. Hristova, V. Iveta, D. Koolaard, O. Knudsen, P. Lombardi, D. Lowen, Y. Mabuchi, K. Machnikowski, J.M. Marmayou, T. Matsumoto, E. Mazzilli, M. Procházka, E. Ripoll González, V. Smokvina, A. Soldner, A. Sotir, G. Tatu, L. Tettamanti, M. Vanhegen, W. van Megen, F. Vásquez Rivera, T. Yamazaki.



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## INTRODUCTION

On 1 April 2015 the new FIFA landmark regulations on intermediaries entered into force.

They define the intermediary as “*a natural or legal person who, for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract, or represents clubs in negotiations with a view to concluding a transfer agreement*”.

Now, anyone with a “self-certified” impeccable reputation and no conflict of interest qualifies as an intermediary.

Targeting the commonly recognised need of upgrading the transparency in transfer of players and intermediaries’ activities, FIFA has established a new registration procedure. Clubs and players are obliged to submit to their association the relevant documents related to the activities of their intermediaries. In doing so, the latter are registered by the national associations every time they have assisted clubs and players in concluding a transaction.

This radical change in FIFA’s approach focuses more on monitoring the transaction activities rather than the formalities of the access to the profession.

In doing so, the FIFA regulations aim to better protect the integrity of football and the interests of sports stakeholders. Indeed, footballers engage intermediaries in order to wrangle for the best contracts while clubs’ managers rely on them to get the best players at the best conditions.

In this new legal context, the FIFA rules set minimum standards to be implemented by the national associations, which are free to adopt even stricter requirements, if they wish so.

Eventually, differing implementation of national regulations leads to a great variety of different measures for each national association in governing the exercise, the remuneration and the monitoring of the same intermediary activity.

Therefore, those who are interested in transferring a player to a given country are obliged to know the regulations of the relevant national association.

This book offers an in-depth analysis of the FIFA regulations which is followed by 32 country reports.

A comparative analysis reviews the sources and the impact of the national discrepancies on sports stakeholders.

Finally, it highlights the best national practices as an added value for the benefit of all FIFA national Associations.

Brussels, 15 November 2015

*Michele Colucci*

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## THE FIFA REGULATIONS ON WORKING WITH INTERMEDIARIES

by *Paolo Lombardi\**

### 1. Introduction

The FIFA Regulations on Working with Intermediaries replace the FIFA Players’ Agents Regulations (2008) (“Agents Regulations”). This was the last set of rules through which FIFA had regulated the activities of Players’ Agents since their official recognition in the early 1990’s. The need for reform in this area has long been understood, not least of all by FIFA itself. In this chapter, I will briefly look at the FIFA Players’ Agents Regulations, and explore FIFA’s understanding of the need for reform. There will be a detailed review of the Regulations on Working with Intermediaries (“Intermediaries Regulations”), putting them into the context of the current international football industry, and I will conclude with an examination of the main issues coming from the Intermediaries Regulations. It should be noted, however, that at the time of writing, the new regime has been in force for a mere six months. Although all aspects can and will be discussed, many practical outcomes, such as dispute resolution, essentially remain untested.

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## 2. The FIFA Players' Agents Regulations

### 2.1 *Becoming a Players' Agent*

“Players’ agent: a natural person who, for a fee, introduces players to clubs with a view to negotiating or renegotiating an employment contract, or introduces two clubs to one another with a view to concluding a transfer agreement, in compliance with the provisions set forth in these regulations”.<sup>1</sup>

From this statement, several things are immediately clear. An Agent could only have been a natural person, acting player to club (representing the player in the negotiation of an employment contract), or club to club (assisting a club to conclude a transfer agreement). As is extrapolated further on in the Agents Regulations, an agent’s work was solely based on transfer-related activities, and the Agents Regulations did not cover any other type of work such as image rights, services to coaches or managers or such like. A corporate entity could not act as an agent, however a corporate entity could support a Licensed Agent to assist in administration.

To become a Licensed Players’ Agent it was necessary for an individual to firstly apply to the relevant association in which they resided, showing themselves to be a person with an “impeccable reputation”.<sup>2</sup> The individual could not simultaneously hold any position at an Association, Confederation, League, or at FIFA.<sup>3</sup> If these basic prerequisite were satisfied, the individual then had to pass an exam, set partly by FIFA, for questions relating to the FIFA Statutes and Regulations, and partly by the association, for questions relating to national subjects. The exam was administered by the association, although minimum pass marks were set by FIFA. Additionally, the individual had to take out appropriate insurance (or provide a bank guarantee) and this was subject to control by the association. Once all these steps had been undertaken, the licence was issued, and the name entered onto a Licensed Players’ Agent register.

The Agents Regulations allowed for certain “exempt Individuals” to represent players without being a licensed players’ agent. These were either the parents, siblings or spouse of a player, or a legally authorised practising lawyer, and any activity undertaken by them would fall outside of the scope of FIFA.<sup>4</sup>

### 2.2 *Representation Contract*<sup>5</sup>

Only upon the conclusion of a representation contract, was an agent properly permitted to represent a party in negotiations. The contract had to be a written

<sup>1</sup> FIFA Players’ Agents Regulations (2008), Definitions.

<sup>2</sup> FIFA Players’ Agents Regulations (2008) define this to be someone who had never had a criminal sentence for a financial or violent crime passed against them.

<sup>3</sup> FIFA Players’ Agents Regulations (2008), Article 6.

<sup>4</sup> FIFA Players’ Agents Regulations (2008), Article 4.

<sup>5</sup> FIFA Players’ Agents Regulations (2008), Article 19.

mandate and could last for up to two years, with any renewal of the contract effective only with a further written mandate being signed by all parties. An agent was allowed to represent a minor, with the parents or guardians additionally required to sign the mandate.

Crucially, the Agents Regulations stipulated that all conflicts of interest were to be avoided, and under no circumstances could a players’ agent represent more than one party to the relevant transaction. The constant jurisprudence of the FIFA Players’ Status Committee<sup>6</sup> is adamant in indicating that Article 19 par. 8 of the Agents Regulations was enacted in order to ensure that a players’ agent is not remunerated twice for the services he renders in the same transaction.

### 2.3 *Remuneration*<sup>7</sup>

Also included in the representation contract were the details of the agent’s remuneration. For the representation of a player, the remuneration was calculated with direct reference to the annual basic gross salary, including any fixed remuneration. The amounts could be paid in a lump sum, or in instalments over the course of the playing contract (even if this was longer than the representation contract). If the amount had not been specified in the contract, the Regulations allowed for a default amount of 3% of the basic salary to be paid to the agent.

An agent representing a club would have the remuneration agreed in advance and would be paid in a lump sum.

### 2.4 *Rights and Obligations of Players and Clubs*

Under the obsolete Agents Regulations, both the Players and the Clubs, when engaging representation service, were obliged to ensure that the individual engaged was a fully licensed players’ agent.<sup>8</sup> They also were to ensure that the name of the agent was noted in the employment contract or transfer agreement. If no agent has been used, the agreement should have noted this explicitly.<sup>9</sup>

The relevant provision of the Agents Regulations clearly provided for the crucial element of proof: while if the agent’s name and signature appear in the contract it cannot be denied that the agent took part in the relevant negotiation, if there is no mention of the agent in the relevant contract the activity may hardly be proven. “The omission of the players’ agent’s name and/or his signature in a contract rather speaks for his non-involvement in a particular transaction”.<sup>10</sup>

The now obsolete Regulations also set forth a prohibition for agents from contacting (“tapping-up”) players under an exclusive representation contract with

<sup>6</sup> Cf. *inter alia* decision number 712988 under www.fifa.com.

<sup>7</sup> FIFA Players’ Agents Regulations (2008), Article 20.

<sup>8</sup> FIFA Players’ Agents Regulations (2008), Article 27.3.

<sup>9</sup> FIFA Players’ Agents Regulations (2008), Article 28.

<sup>10</sup> Decision of the FIFA Players’ Status Committee no. 03143842 dated 19<sup>th</sup> March 2014, par. 13, from www.fifa.com.



## FIFA REGULATIONS ON WORKING WITH INTERMEDIARIES. ANALYSIS FROM THE PERSPECTIVE OF THE CLUBS

by Ornella Desirée Bellia\*

### 1. Introduction

The new FIFA Regulations on Working with Intermediaries (hereafter the “FIFA Regulations”) is probably the most important recent change to the FIFA regulatory framework. The main objective of the new Regulations consists in setting up a more transparent system, whereby players and clubs are able to choose any parties as intermediaries, as far as certain minimum requirements are met. Therefore the new system aims to seek a broader control over individuals who represent players and/or clubs in the negotiations of employment contracts and transfer agreements, but also to control the activity itself rather than the access to such activity.

Thus, for the sake of transparency, a registration system for intermediaries is set up at national level, where intermediaries shall be registered each time a player or club engages his services. As the old licensing system ceased to exist, being replaced by the registration system, the mandatory procedure to become an intermediary is now much simpler than before.<sup>1</sup>

In the aforementioned registration process, clubs play an active role as several duties are to be carried out by them when signing a representation contract with an intermediary.<sup>2</sup>

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<sup>1</sup> According to the FIFA Regulations the applicant does not have to pass an examination, nor has to conclude professional liability insurance or provide a bank guarantee for a minimum amount of CHF 100,000. In implementing their own regulations, some National Associations have maintained the prerequisite to pass an exam (Mexico) or an interview (Spain); several associations have maintained the prerequisite to have a professional liability insurance (e.g. Brazil, Mexico, Portugal).

<sup>2</sup> It shall be noted that in practice, even in those cases where the intermediary is engaged exclusively by the player, it is unlikely that the latter will put in place all the commitments required by the new rules, for the simple reason that he has neither the expertise nor the willingness to do so. Players engage intermediaries in order to receive their assistance during the negotiations and in administrative activities associated with football transactions. Thus, in practice it is the acquiring club that takes care of those activities rather than the player.

TEASER

Clubs engaging the services of an intermediary have to:

- i) act with due diligence, ensuring that the intermediary has filled in and signed the so-called *intermediary declaration*,<sup>3</sup>
- ii) submit such a declaration to the relevant association, i.e. the association where the player is to be registered, or to the previous association in the event the club engaging the services is the releasing club,<sup>4</sup>
- iii) disclose to their respective association the full details of any and all agreed remuneration or payments of whatsoever nature that they have made or that are to be made to the intermediary.<sup>5</sup>

In addition to the foregoing, clubs have a general obligation to ensure that any transfer agreement or employment contract concluded bears the name and signature of such intermediaries, if any. Therefore, in the case that no intermediaries have been involved in the negotiations, clubs have to ensure that the relevant documentation contains a specific disclosure of this fact.<sup>6</sup> For the sake of completeness, it shall be noted that on occasion of international transfers, specific information in this respect also has to be uploaded onto the FIFA Transfer Matching System (TMS).

Furthermore, when signing a representation contract, the club has to specify the nature of the services offered by the intermediary for each specific transaction: for instance, consultancy in view of concluding a transfer agreement or an employment contract, or any other kind of services.

Last but not least, clubs must declare whether the intermediary acts exclusively on behalf of the club itself or also on behalf of the player, as a specific duty of disclosure is provided in the latter case. In fact, the FIFA Regulations introduced the possibility for clubs and players to engage the services of the same intermediary for the same transaction. The dual representation, which was forbidden and sanctioned in the previous system, is now allowed as long as both the club and the player give their express written consent prior to the start of the relevant negotiations and specify who will remunerate the intermediary for his professional services.<sup>7</sup>

### 2. Pros and cons of the new Regulations with a focus on the clubs' perspective

As already pointed out, the new regulations provide a much simpler process for those wishing to carry out intermediary activities, since the applicant no longer has to pass an examination, nor has to conclude a professional liability insurance or provide a bank guarantee.<sup>8</sup>

<sup>3</sup> Art. 2.2 FIFA Regulations.

<sup>4</sup> Art. 3.2 FIFA Regulations.

<sup>5</sup> Art. 6.1 FIFA Regulations.

<sup>6</sup> Art. 6.2 FIFA Regulations.

<sup>7</sup> Art. 8.3 FIFA Regulations.

<sup>8</sup> As mentioned above, in implementing their own regulations according to Art. 1.2 FIFA Regulations, several National Associations have maintained some prerequisites, such as the obligation to make an

However, at the time of writing, i.e. after the end of the first transfer window under the new regulations, it appears that, while the new rules have facilitated the access to the profession for those wishing to conduct intermediary activities, the bureaucratic activities of football clubs may have been burdened, particularly on occasion of those transfers conducted with the services of foreign intermediaries.

As it will be explained in the following paragraph, the system appears now particularly fragmented due to the discrepancies existing between national regulations and FIFA Regulations. Indeed, National Associations have been entitled to go beyond the minimum standards/requirements established by the FIFA regulatory framework<sup>9</sup> and have had wide autonomy in the implementation of their own rules. Such a “de-internationalisation” has led to a system where international transactions may be complicated due to several factors explained below.

In addition to the foregoing, the new system has brought more commitments and liability on clubs (and players). It is interesting to note that, while the previous Regulations governed the activities, duties and responsibilities of agents, the new rules regulate the activities, duties and responsibilities of clubs and players in their relationship with intermediaries, rather than the intermediary's activity itself.

The different wording in the titles of the Regulations - the previous and the current ones - is quite eloquent in this respect.<sup>10</sup>

a) *Registration with the national associations*

According to the new FIFA Regulations “*Intermediaries must be registered in the relevant registration system every time they are individually involved in a specific transaction*”.<sup>11</sup>

Therefore, in principle, intermediaries have to be registered with the association where they carry out their activities from time to time, irrespective of the fact that they have already been registered in the association of their own country or in any other association.

However, it shall be noted that depending on the relevant national regulations, the legal conditions to be registered with a national association may vary.<sup>12</sup> For example, in Italy foreign intermediaries cannot be registered with the FIGC,<sup>13</sup> since one of the pre-requisites for such a registration is to be legally resident

interview (Spain) or pass an exam (Mexico), and/or conclude professional liability insurance.

<sup>9</sup> Art. 1.3 FIFA Regulations.

<sup>10</sup> FIFA could have opted for titles such as “Intermediaries’ Regulations” or “Regulations for Intermediaries’ Activity”, rather than “Regulations on Working with Intermediaries”. The title reflects the content of the Regulations, which has as direct subjects clubs, players and associations, rather than the Intermediaries. It shall be noted that the previous Regulations were entitled “Players’ Agents Regulations” rather than “Regulations on Working with Players’ Agents”.

<sup>11</sup> Art. 3.1 FIFA Regulations.

<sup>12</sup> It is worth reminding that, according to art. 2 of the FIFA Regulations, each Association is required to implement and enforce these minimum standards/requirements. In particular, the associations have the right to go beyond the minimum standards/requirements provided by the FIFA Regulations.

<sup>13</sup> Federazione Italiana Gioco Calcio.

## THE FIFA REGULATIONS ON INTERMEDIARIES. THE PLAYERS’ POINT OF VIEW

by *Wil van Megen*\*

### 1. Introduction

When speaking about agents/intermediaries with club representatives it regularly appears that they are considered as an unavoidable evil. Agents are described as greedy people taking too much money out of football. In fact not many people empathize with football agents. However, it is those same clubs, paying the fees they describe as exceptional. In the end it is always a matter of budget. Do the transfer sum, the player's remuneration and the fee for the agent/intermediary fit into the budget?

In fact this means that the more the intermediary receives, the less the player earns. The point is that players don't always realize this and presume that their representatives are paid by the club and not – indirectly – by themselves. On the other hand, it is true that players need someone to negotiate the best possible result for them at a reasonable price.

FIFA started to regulate agents' activities back in 1996. By introducing the regulations in 2001, FIFA introduced a sophisticated framework for agents' activities in football. A free service of FIFA for agents to collect unpaid fees was part of the package.

The system seemed to function to a certain extent and was updated on several occasions. In October 2007 the FIFA Executive Committee decided to increase the standard of players' agents with new criteria. One of these criteria was the renewal of the license every five years in combination with a new exam for each agent.

The new criteria triggered a group of, mainly Belgian, agents to take action against these changes. According to their lawyers this decision was illegal. They argued that a private organization was not allowed to regulate a profession – only a government could do so. A court case was prepared in order to have preliminary questions for the ECJ.<sup>1</sup>

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<sup>1</sup> [www.espnfc.com/story/514392/des-agents-de-joueurs-attaquent-la-fifa-pour-abus-de-pouvoir](http://www.espnfc.com/story/514392/des-agents-de-joueurs-attaquent-la-fifa-pour-abus-de-pouvoir).

Before this, in 2005, we had the Piau-case before the ECJ in which FIFA strongly defended the Agents' Regulations.<sup>2</sup> Piau complained about the FIFA Regulations on Agents, on the grounds of competition law, as he felt that those rules included unjustified restrictions on trade, like the exam and the financial deposit. He also argued that FIFA abused its dominant position and that the Regulations infringed the freedom of movement of services regarding players' agents.

After the European Commission rejected the complaint, the case ended up in the Court of First Instance.

It is important to notice that the Court stated that FIFA is an association of undertakings within the meaning of Article 101(1) TFEU and therefore is subject to EU competition law. The work of agents is an economic activity that falls under EU-law and so were the FIFA Regulations regarding agents.

The Court ruled that the Commission was right in rejecting the complaint, because there was sufficient justification for the system since the measures were proportionate and necessary, keeping in mind the specific demands of the industry.

The initiative of the Belgian group, in combination with the implications of the Piau-case, triggered the process for the new regulations. Looking at the considerations of the Court, we can assume that the new Regulations also fall within the scope of Article 101(1) TFEU.

## 2. Relevant regulations

FIFA delegated the authorization of making regulations to the national Federations. The FA's will set their own regulations based on the FIFA Regulations on Working with Intermediaries.

According to the International Trade Union of Football Players (from henceforth FIFPro) the system needed improvement on five main issues:

- Regulation of agents' remuneration, since a substantial number of payments were extremely disproportionate in relation to the work performed;
- Protection of minors;
- Conflict of interest by representing both parties (club and player);
- Prevention of tapping up contracted players;
- Lack of professional competence.

These points match, more or less, a resolution by MEP Doris Pack on behalf of the Committee on Culture and Education on 18 March 2010.<sup>3</sup>

Participation in the FIFA Working Group on Intermediaries gave FIFPro a possibility for direct influence on the new system.

By regulating the activity, rather than the profession, FIFA tried to prevent

<sup>2</sup> Case T-193/02 Piau v Commission [2005] ECR II-0209. <sup>1</sup> Case T-193/02 Piau v Commission [2005] ECR II-0209.

<sup>3</sup> MOTION FOR A RESOLUTION 18.3.2010 B7 0000/2010 further to Question for Oral Answer B7 0000/2010. pursuant to Rule 115(5) of the Rules of Procedure on players' agents in sports.

Piau-like cases. The efforts of the working group resulted in a set of minimum requirements for intermediary activities.

When we look at these requirements, we see that the first step is registration instead of licensing. The new regulations require registration of the representation contract, by the national federation, as well as every transaction (art. 2.3 and art. 3.1).

The fact that intermediaries can be either natural persons as legal persons might lead to problems in case the regulations are violated. Legal entities can turn into "hiding places" for less respectable activities. An infringement of regulations can only be performed by persons. If the intermediary is a legal person the people involved in intermediary activities must also qualify as an intermediary. The question is what to do in case of sanctions. Does a sanction against a legal person affect only the legal person itself or also the people involved or only the person who violated the regulations? Also the liability in case of mistakes can be problematic, especially now that there is no longer a requirement for liability insurance. The person violating the regulations can hide behind a bankrupt legal entity if things go wrong – neither the FIFA requirement, that the individuals representing the legal entity within the scope of the transaction in question have an impeccable reputation, nor the Intermediary Declaration for legal persons will help here. The single recommendation of the English FA in the Declarations, Acknowledgments and Consents for Legal Persons regarding insurance needs strengthening, as a recommendation cannot be enforced.

## 3. Remuneration

Looking at the figures of the FIFA TMS system there were indications that agents took out much more money than the recommended 5% fee of the first year of the player's contract.<sup>4</sup>

The aim of the new regulations is to provide a better balance in intermediaries' fees. The system now applies, not only to the former players' agents, but to all who represent players and/or clubs in negotiations with a view to concluding an employment contract.

According to TMS, only 25-30 % of transfers were managed by official FIFA licensed agents.<sup>5</sup> In order to cover every form of representation of players, the exceptions for relatives and lawyers as representatives were excluded. Each transaction needs registration with a mandatory mention of the details of the intermediary involved.

Regarding the remuneration, there is a strong recommendation to limit the remuneration to 3% of the fixed income of the player for the entire duration of the contract. It needs to be seen whether this recommendation can be maintained,

<sup>4</sup> <http://ec.europa.eu/sport/library/documents/xg-gg-201307-final-rpt.pdf>.

<sup>5</sup> <http://ec.europa.eu/sport/library/studies/final-report-eu-conference-sports-agents.pdf>.

## THE IMPLEMENTATION OF THE FIFA REGULATIONS IN ENGLAND

by Daniel Lowen\*

### 1. Introduction

The implementation of FIFA's Regulations on Working with Intermediaries (the "FIFA Regulations") on 1 April 2015 signaled the biggest transformation of player and club representation in the history of professional football.

Whilst Article 1 of the FIFA Regulations requires national associations to implement and enforce its provisions, it expressly reserves associations' rights "to go beyond these minimum standards/requirements".<sup>1</sup>

On 5 February 2015, the English Football Association ("The FA") became one of the first national associations worldwide to publish its own supplemental regulations, the FA Regulations on Working with Intermediaries (the "Regulations"). This chapter examines briefly the national laws relevant to intermediaries' activities, provides an overview of the Regulations, its key principles and requirements, and assesses certain practical effects of the new regulatory regime in England.

### 2. Relevant national law

In England, intermediaries' activities are regulated in three ways: (i) by the common law, (ii) by UK legislation and (iii) by the Regulations and other relevant rules and regulations laid down by football's governing bodies. Whilst this chapter focuses on the third item (and in particular the Regulations), it is important to note the other regulatory strands, which together form the regulatory landscape that an intermediary is required to navigate.

#### 2.1 The common law

The common law definition of agency is:

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<sup>1</sup> The FIFA Regulations on Working with Intermediaries, Articles 1.2 and 1.3.

"the fiduciary relationship which exists between two persons, one of whom expressly or impliedly manifests assent that the other should act on his behalf so as to affect his relations with third parties, and the other of whom similarly manifests assent so to act or so acts pursuant to the manifestation".<sup>2</sup>

The common law duties to which an intermediary is subject when carrying out activities on a player's behalf are extremely broad and include (non-exhaustively) the duty to use due skill and care,<sup>3</sup> to act in accordance with the terms of appointment and not to exceed his or her express or implied authority, to obey the lawful instructions of the principal, not to put himself into a situation where his interests will conflict with those of his principal<sup>4</sup> and, as was highlighted in *Imageview Management Ltd v Jack*,<sup>5</sup> a high profile case between a player and his agent, not to make a secret profit.<sup>6</sup> The 2009 case underlined the high standards imposed upon agents (i.e. intermediaries) by the common law (in addition to the requirements of any regulations laid down by football's governing bodies). As stated by Lord Justice Jacob in the Court of Appeal in that case, "The law imposes on agents high standards. Footballers' agents are not exempt from these. An agent's own personal interests come entirely second to the interests of his client... An undisclosed but realistic possibility of a conflict of interest is a breach of [an agent's] duty of good faith...".

<sup>2</sup> B. Bowstead and FMB Reynolds, *Bowstead & Reynolds On Agency* 19<sup>th</sup> ed, United Kingdom, Sweet and Maxwell, 2010.

<sup>3</sup> *Beal v South Devon Ry Co* (1864) 3 H&C 337.

<sup>4</sup> *Aberdeen Railway v Blaikie Bros [1854] 1 Macq 461*.

<sup>5</sup> *Imageview Management Ltd v Jack [2009] EWCA Civ 63*.

<sup>6</sup> The agent of Kelvin Jack, a Trinidad and Tobago international goalkeeper, negotiated his client's contract of employment with Dundee United FC. A commission of 10% was agreed, calculated with reference to the player's gross salary. Unbeknown to the player, the agent negotiated a side agreement with the club under which the club would pay £3,000 for the agent's efforts in obtaining the player's work permit. When the player subsequently found out about the side agreement, he ceased paying the commission to the agent. The agent sued the player for unpaid commission and the player counterclaimed not only for the secret profit paid under the agent's side deal with the club, but also for all of the commission already paid to the agent. The Court of Appeal found in favour of the player and the agent's commission was forfeit – the player did not have to pay any further commission and was entitled to repayment of all of the fees paid by him to the agent. Furthermore, the £3,000 fee paid by the club to the agent under the side deal was a secret profit made by the agent acting as a fiduciary and, as such, it was recoverable by the player. The Court reasoned that in the circumstances, the agent had clearly used his connection with the player to obtain a benefit for himself. There had been a clear conflict of interest (it was preferable for the agent to move the player to Dundee United FC as opposed to any other club, in view of his side agreement with Dundee United FC, and the more that was paid to the agent, the less there might be available to be paid to the player), and the agent had acted in breach of his fiduciary duties to the player. The case was a salutary lesson for agents and highlighted the need under common law for agents or intermediaries to disclose to his or her principal any and all commission he or she may earn – if they allow themselves to be in a position where there is a real possibility of their interests conflicting with those of their principal, they risk losing not only any secret profit but also their legitimately received commission.



## 2.2 UK legislation

There is no UK legislation that directly regulates the activities of players' representatives. There are, however, various statutes which impact upon and constrain the conduct of intermediaries in certain ways.

The Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 set minimum standards of conduct for employment agencies and employment businesses which provide services for the purposes of finding employment for workers and supplying potential employees to employers. The legislation imposes various obligations on employment agents, many of which overlap with the common law duties imposed upon intermediaries. For example, offering workers financial benefits or benefits in kind to use the intermediary's services is prohibited<sup>7</sup> and there is an obligation to disclose to the principal at the outset of the relationship details of fees payable, who will pay the fees and the services for which fees will be payable.<sup>8</sup> However, to the author's knowledge, an intermediary (or, previously, licensed agent) has yet to be charged with a breach of the Act or the Regulations.

The Bribery Act 2010 (the 'Bribery Act') is a piece of legislation of which all intermediaries should be aware, as it established two criminal offences:

- a) Bribing another person – an intermediary will be guilty of an offence if they offer or give a financial or other advantage with the intention of inducing another person to perform a public or commercial function or activity improperly or reward that person for doing so;<sup>9</sup> and
- b) Being bribed – an intermediary will be guilty of an offence if they receive a financial or other advantage intending that a public or commercial function or activity should be performed improperly as a result.

Under s. 4 of the Bribery Act, improper performance is performance or non-performance which breaches expectations of good faith or impartiality or breaches a position of trust. The penalties under s. 11 of the Bribery Act are potentially serious – an unlimited fine or imprisonment for up to 10 years.

If an intermediary pays or accepts payment from a third party in relation to the duties he carries out for his principal (the player), including payments to or from individuals at a club in connection with a player transfer,<sup>10</sup> that will in theory constitute an offence under the Bribery Act.<sup>11</sup>

The more sizeable player agencies, some of which employ or engage a considerable number of intermediaries, should be aware of the provisions of s. 7 of the Bribery Act under which a commercial organisation will itself be guilty of an

<sup>7</sup> Employment Agencies Act 1973, s. 6.

<sup>8</sup> Conduct of Employment Agencies and Employment Businesses Regulations 2003, Regulation 13.

<sup>9</sup> Bribery Act 2010, s. 1.

<sup>10</sup> Excluding, of course, remuneration payable to the intermediary in accordance with a representation contract and/or Transaction documentation.

<sup>11</sup> Such payments (or gifts) are traditionally known in the football industry as 'bungs' (a much-discussed topic in football).

## THE IMPLEMENTATION OF THE FIFA REGULATIONS IN FRANCE

by Jean-Michel Marmayou\*

### 1. Introduction

Let it be said from the outset: there are at least four reasons why the new FIFA regulations will not apply in France.<sup>1</sup>

Firstly, because France has long had very strict regulations governing the profession of sports intermediaries. These regulations cover all sports and the decision has been taken not to waive them just for football. The second reason is because the FIFA regulations cannot have a direct application in French law as they emanate from a private association governed by Swiss law.<sup>2</sup> Furthermore, the FIFA regulations themselves state in their Article 1.2 that "*associations are required to implement and enforce at least these minimum standards/requirements in accordance with the duties assigned in these regulations, subject to the mandatory laws and any other mandatory national legislative norms applicable to the associations. [...]*". And in their Article 1.3 "*The right of associations to go beyond these minimum standards/requirements is preserved.*" Lastly, French law, that the French football association (Fédération Française de Football – FFF) is required to apply, is broadly in line with the "*minimum standards/requirements*" set out in the new FIFA regulations.

And finally, there are only three real difficulties: the requirement for the domestic football associations to publish the details of each transaction and the cumulated amount of the sums paid to the agents by the clubs, the equivalence of

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<sup>1</sup> The FFF has written to the FIFA informing it that the new regulations would not be applicable on French territory.

<sup>2</sup> CA Metz, 30 June 2011, Cah. dr. sport n° 25, 2011, 120, note J.-M. MARMAYOU. – CE, 8 nov. 2006, n° 289702. – CE, 2 February 2006, n° 289701. – TGI Saint-Étienne, 26 January 2005, Cah. dr. sport n° 3, 2006, 100, note J.-M. MARMAYOU. – CA Aix, 17 April 2002, Bull. Aix 2002/2, 88, note F. RIZZO – CA Metz, 20 March 2002, Rev. jur. éco. sport 2003, n° 66, 50.



qualifications, and the cap on commissions.

[Although the English version of the FIFA regulations uses the term “intermediary”, this paper will use the more familiar term of “sports agent”].

## 2. Relevant national law

In France, the job placement business is regulated and in principle reserved to authorised public or semi-public bodies.<sup>3</sup> For private individuals to become involved in the placement of sports persons, the authorities had to<sup>4</sup> regulate the profession of the sports agent by adopting a special text that derogates from public law. They did so in 1984.<sup>5</sup>

Current French law relating to sports agents is set out in Articles L.222-5 to L.222-22, R.222-1 to R.222-42 and A.222-1 to A.222-6 of the *Code du Sport* [codified Sport Laws].<sup>6</sup> These Articles result from several modifications and reforms over the years, the last of which was law 2010-626 dated 9 June 2010.

Sports associations have been awarded considerable powers by the *Code du Sport*. This has resulted in the FFF issuing specific regulations applicable to sports agents. These regulations reiterated the main principles of the law while adding certain technical details. They are published on the FFF website.<sup>7</sup>

## 3. Principles et definitions

The principles of French law governing sports agents are fairly simple. The law fixes the criteria that limit its application. And in those cases where it has to apply, it requires that the agent (i) hold an official licence to operate a business as a sports agent (the conditions for obtaining which are very strictly detailed); (ii) comply with certain good practice rules; (iii) submit to the disciplinary procedures of the sports association.

## 4. The sports agent's role

*Scope* - Under Article L.222-7 of the *Code du Sport*, “the profession that consists in bringing together, for payment of a remuneration, the parties interested in signing a contract under which a person will be paid to practice a [professional] sport or training activity, or concerning the signature of an employment contract for a paid sport or training activity can only be exercised by an individual holding a sports agent's license.” Therefore, within the meaning of the *Code du*

<sup>3</sup> Art. L. 5311-1 et s., C. trav.

<sup>4</sup> CA Montpellier, 28 Feb. 1996, *Juris-Data* n° 1996-034119 having qualified the sports agent's business as “operator of a job placement business”.

<sup>5</sup> Art. 15-2, loi n°84-610, 16 July 1984.

<sup>6</sup> www.legifrance.gouv.fr.

<sup>7</sup> www.fff.fr.

*Sport*, the agent acts as an intermediary whose role is to bring together two future contracting partners. The person may be either acting only as a broker, or as an agent for one of the parties under an agency agreement that mentions this “bringing together” aspect. A simple advice given to the parties interested in signing a sports contract is not covered by the sports laws and therefore does not require that the person hold a licence to act as an agent.

However, the law does not define its field of application based solely on the criteria of the agreement under which the agent is appointed. It also takes account of the nature of the operation in which the agent is participating. In fact, this operation consists in the placement of a person in employment: the agent's role is to “place” the sportsperson or trainer so that he may practice his sport or exercise his profession. This notion of placement is envisaged very pragmatically if a direct placement is being sought, it will cover all the associated contractual transactions, both the contract and any pre-contract agreements (such as promise of employment, preference pact, etc.), transfer agreements (transfers, loans, transfer promises)<sup>8</sup> and contracts of collaboration between sports agents.<sup>9</sup>

On the other hand, Article L.222-7 of the *Code du Sport* does not apply to the actions by an intermediary leading to the signature of image contracts, endorsements or even wealth management. In such cases, the intermediary is not subject to the *Code du Sport* and does not require a licence to exercise his profession.

*International scope* - The agent's business often includes an international aspect due to the nationality of the agent, the sportsperson or the club for whom he is acting (currently or in the future). This international dimension raises the question of the territoriality of the French system relating to sports agents. Moreover, France is one of the few countries<sup>10</sup> to have adopted rigorous legislation in this field and questions have to be asked as to its possible classification as a public order law. In other words, should French law routinely take priority over foreign law?

In domestic matters, the law on agents is obviously a public order law. However, silence reigns when the issue concerns a cross-border matter. Therefore, the lawyer has to choose between alternatives. On the one hand the issue can be resolved by applying “conflict-of-laws” principles that consist in designating the applicable law, with priority given to the choice expressed by the parties; alternatively, the choice is made by the application of a specific international agreement; as a further alternative, a territoriality criterion may apply, such as the domicile of a

<sup>8</sup> Cass. 1<sup>re</sup> civ., 18 July 2000, Dr. et patr. 2001, n°91, 40, note F. RIZZO ; JDI 2001, 97, note E. LOQUIN et G. SIMON.

<sup>9</sup> CA Aix, 21 sept. 2006, JCP G 2006, II, 10202, note F. RIZZO, reforming T. com Grasse, 7 June 2004, Cah. dr. sport n°1, 2005, 105, note F. RIZZO. Therefore, an unlicensed operator whose role is to simply introduce contracting partners (and receive a “finder's fee”) should be considered someone who is illegally exercising the business of sport's agent.

<sup>10</sup> C.R. SIEKMAN et alii, *Player's agent worldwide legal aspects*, T.M.C Asser Press, 2007. – KEA KEA & alii, *Sports agents in the European Union*, Study conducted in 2009 for the European Commission. (<http://ec.europa.eu>).

## THE IMPLEMENTATION OF THE FIFA REGULATIONS IN ITALY

by Salvatore Civile\* and Michele Colucci\*\*

### 1. Introduction

On 26 March 2015, the Italian Football Association issued the new Regulations (hereafter “the FIGC Regulations”) regarding the services of the intermediary,<sup>1</sup> so implementing the relevant FIFA Regulations.

The FIGC Regulations have deeply reformed the previous statute under which the acquisition of a licence was an essential requirement to provide professional services as an “Agent”.

In order to get a licence the applicant had to pass an exam, take out a professional liability insurance and accept a “Code of Conduct”, which imposes on the agents duties of transparency, impartiality and respect for the relevant sports laws and regulations.

Moreover, the applicant had to meet some eligibility criteria and comply with strict conflicts of interest's rules. Only a fully licensed agent was legally entitled to provide the intermediation services to players and clubs.

However, the same FIGC Regulations did equate to the agents those lawyers and player's relatives (parent, brother or spouse) who usually act on behalf of the players.

Finally, albeit not a FIGC member, the Agent was subject to its disciplinary rules in order to ensure full compliance with the relevant FIFA and FIGC Regulation.

### 2. Principles and definitions

A first observation concerns the terminology adopted by the FIGC.

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<sup>1</sup> FIGC, C.U. 190/A, “Regolamento per i servizi di procuratore sportivo”, available on [www.figc.it](http://www.figc.it).

Although, the new regulations aim to implement the new FIFA rules on intermediaries in Italy, none of its articles and annexes refer to agents or to intermediaries. The FIGC legislator prefers rather using the term “*procuratori sportivi*” in order to have a clear cut distinction of this category of sport professionals from any other existing type of working intermediaries in Italy.<sup>2</sup>

So, the “*Procuratore Sportivo*” is defined as “*the person or the legal entity who, on a permanent basis or occasionally, assists or represents a sports club and/or a player<sup>3</sup> ( ... ), under a specific contract, with no regard to his/her professional qualification and to his/her relationship with the athletes represented*”.

Clubs and players<sup>4</sup> can rely on the services of a “*Procuratore Sportivo*” in order to deal with an employment agreement’s or transfer agreement’s activities,<sup>5</sup> provided that the following two conditions are fulfilled:

- the parties sign the relevant representation agreement enclosed with the Regulations;
- the *Procuratore Sportivo* or intermediary is registered to the “*Register of intermediaries*” established by the FIGC.

As a *caveat* to avoid conflicts of interest, the FIGC Regulations strictly inhibits the access to the intermediary's profession/occupation to any member, manager, player or technical staff member, and in any case to all those who hold offices or have business relationships with any other part of the FIGC or its affiliates.

It is important to stress the “*temporary validity*” of the FIGC Regulations which will be amended by FIGC after one year of their coming into force. In fact, the one year validity aims to verify the pros/cons of this regulation so that any improving measures may be adopted, if necessary, according to an effective timeline.

### 3. The registration

Pursuant to the new FIGC Regulations, natural persons must sign a declaration covering the principles provided by FIFA’s declaration model.

Representatives of legal persons need to sign the same declaration, listing the names of all its shareholders, while expressly identifying the person/s acting as an intermediary within the company.

<sup>2</sup> M. Lai “*Dagli Agenti di Calciatori ai Procuratori Sportivi: la nuova disciplina in materia di intermediari nel calcio professionistico*”, Rivista di Diritto ed Economia dello Sport 1/2015, SLPC, 79-103.

<sup>3</sup> The word “*Player*” means not only a professional footballer who has already been registered by a club with a professional contract, but also a player who signs/concludes a professional contract for the first time. A *Procuratore Sportivo* will then assist a player in signing his first employment contract, as governed by the Italian Law n. 91/1981.

<sup>4</sup> The Regulations, as indeed required by FIFA, concerns only the Representation Agreement that a *Procuratore Sportivo* concludes with a club or a player. It is not applicable for coaches, assistant-coaches or physical trainers.

<sup>5</sup> Although the definition of club in article 1 refers to a club affiliated to the FIGC, the activities of a *Procuratore Sportivo* may also involve a transfer of a player from or to a club based in foreign countries.

The Italian registration procedure is stricter and more complicated than the FIFA one.<sup>6</sup>

Any person, legally resident in Italy, is entitled to apply to the FIGC to register as *Procuratore Sportivo*. The payment of a registration fee (500 euros) and the deposit of a mandate, namely a “*Contratto di rappresentanza*”, are also required. The registration is valid for one year and can be renewed.

In order to be registered, the intermediary shall meet the minimum requirements of the “*impeccable reputation*” test:

- full legal capacity and no criminal records for match fixing,
- no criminal record for felony crimes,
- no lifetime ban from sport and no unspent disciplinary sanctions.

The registration is accompanied by a declaration “*Dichiarazione delle persone fisiche o giuridiche*” which mirrors, in part, the FIFA declaration. The *Procuratore Sportivo* is required to:

- Agree to be bound by the FIFA and FIGC’ statutes and regulations;
- Agree to voluntarily submit himself/herself to the disciplinary jurisdictions of both FIGC and FIFA;
- Declare that he has no contractual relationship with leagues, associations, confederations or FIFA that could lead to a potential conflict of interest;
- Consent for the association to process his/her personal data, publish on the website, or in the official communication, the mandates received and even the publication of the payments received for the services as intermediary;
- Authorize the national association and the leagues to discover all relevant information and documentation from any source, including the public administration, the intermediary himself or third parties, in order to verify the truth of his/her declarations and the fairness of his/her actions (“*correttezza del suo operato*”);
- Authorize to publish disciplinary sanctions, in his/her regard, given by the relevant sports judicial bodies;
- Respect and comply with any mandatory provisions of applicable national and international laws, including in particular those relating to job placements when carrying out his/her activities as an intermediary;
- Declare that he has an impeccable reputation and, in particular, confirm that no criminal sentence has ever been imposed upon him/her for a financial or violent crime.

The FIGC Regulations require two types of registration:

- one for the natural person or the company, as *Procuratore Sportivo*, who will be able to perform the activity;
- one for each contract of representation.<sup>7</sup>

For the deposit of each individual representation contract, the FIGC Regulations require the payment of an additional sum, as administrative costs,

<sup>6</sup> Art. 4 FIGC Regulations.

<sup>7</sup> As provided by article 5 of the FIGC Regulations.

## FIFA REGULATIONS ON WORKING WITH INTERMEDIARIES A COMPARATIVE ANALYSIS

by *Michele Colucci*\*

### 1. Introduction

The FIFA Regulations on Working with Intermediaries aim to better protect the integrity of football as well as the interests of its stakeholders, and thus to meet the requirements of good governance and financial responsibility.

FIFA has deeply revised its regulatory strategy passing on responsibilities to the member associations which must implement some minimum standards.

Moreover FIFA addresses itself directly to players and clubs in order to upgrade the safeguard of their rights and entitlements rather than governing the legal and organisational aspects of the category of professionals, the intermediaries, who are traditionally not considered as parties of the international football community.

This revolutionary change of approach looks like a cautious retreat within the more familiar regulatory scope covering the traditional stakeholders.

In doing so, FIFA offers a new definition of intermediary covering also legal persons. It requires associations to set up a new registration system of the intermediaries and their activities (Art. 3 FIFA regulations), and virtually opens the profession to anyone with a “self-certified” impeccable reputation, meaning that he has not been sentenced with a financial or criminal offence during the last years.

More importantly, the focus of the Regulations has shifted from agents’ access to the profession to the monitoring of the obligations of players and clubs while working with the intermediaries. They must act with due diligence when choosing an intermediary and they are responsible for the obligations concerning the signing and submission to the national association of the relevant requested documents, *in primis* the representation contract and the intermediary declaration (Art. 2 FIFA regulations).

On this basis, the main target of the FIFA reform is to provide maximum transparency to players’ employment and transfer negotiations, so as to comply

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with both legal and ethical requirements (preamble FIFA regulations).

In order to achieve this, FIFA rules set some minimum standards to be implemented by the 209 national associations, which remain free to adopt stricter criteria, subject to the ordinary laws applicable to the associations (Art. 1, paragraphs 2 and 3).

In this regard, in some countries (**Argentina, Belgium, Cyprus, Czech Republic, England**), intermediaries in football are not explicitly regulated under national law. However they do not fall completely outside the scope of ordinary law.

Indeed, the relevant ordinary law provisions dealing with matters such as employment and social security law, tax law, and so on, duly apply to their activities.

The legal framework can be even more complicated in federal states like **Belgium, Switzerland** and **UAE** where multiple regional laws apply.

In **France**, the strict ordinary rules governing the profession of intermediaries prevail in principle over the FIFA rules. The same principle applies in those countries where superior public order law, which protects the political, social, or economic organisations and interests of the relevant country, is pre-eminent over any other source of law.

Therefore, devolution in favour of the national associations rather than de-regulation, seems to be a more appropriate definition of the new FIFA policy. Indeed, FIFA has willingly limited the scope of its own intervention in this field.

By relinquishing a detailed regulatory perspective, FIFA has privileged a “functionalist” approach: the intermediary is not recognised as a registered professional but he acquires sports law relevance only when carrying out activities linked to the negotiations leading to a transfer or employment contract of a player.

Out of these activities, the profession of intermediary has a limited or no relevance to FIFA. If the profession of agent/intermediary still survives, it is exclusively up to the national associations to deal with.

The agents are definitively doomed for the international federation of football. FIFA’s intervention in relation to intermediaries is limited to extending at international level the scope of those national sanctions concerning intermediaries’ malpractices.

## 2. Access to the profession

FIFA receded from any attempt to regulate the access to the profession of intermediaries at global level.

In principle, they are not required to pass a FIFA selection any more, nor do they need to have a professional liability insurance nor provide a bank guarantee.

However, the FIFA aloofness can live smoothly with the more regulatory approach of some national associations. In fact, the access to the profession of intermediary has been regulated in different ways at national level. Some federations have kept the condition to pass an exam (**Czech Republic, Denmark** (only for the optional category of “*certified intermediaries*”), **France** and **Ukraine** (in the

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latter, only for the so-called “*permanent intermediaries*”), or an interview (**Argentina, Slovak Republic** and **Spain**), or both an exam and an interview (**Mexico**).

With regard to the interview, we share the concern and the perplexity expressed by some authors about its subjectivity’s pitfalls. However we believe that a final judgment must be made after a period of application of the national rules when we will be able to count on a congruous number of relevant cases to review and envisage possible trends.

Several other associations have maintained the prerequisite to have a professional liability insurance (**Argentina, Brazil, Czech Republic, Mexico, Paraguay, Portugal**), or a proof of tax compliance (**Belgium, Mexico, Portugal, Slovak Republic**) and social security obligations (**Belgium** and **Portugal**).

Some associations require foreigners to have residence in their country (**Argentina, Paraguay, Turkey**) or to have a work permit (**Mexico**).

In **France**, intermediaries, both French and foreign need to have a licence issued by the Federation after having passed an exam. Furthermore, foreign intermediaries, including EU citizens, need a special licence after showing an adequate knowledge of the French language and proof of their professional experience in the field. The French system is even more restrictive for non-EU nationals, who must obtain a French licence or, alternatively, they are obliged to work in partnership with an agent holding the French licence.

Yet **Switzerland** stands out because of its own institutional situation. Intermediaries need an authorisation from the cantonal employment office in which they reside or have their seat, if legal persons. They also need to get an authorisation from the *Economic State Secretariat* in order to place a Swiss player abroad or a foreigner in Switzerland. Moreover, non-resident foreign intermediaries cannot be registered with the Swiss registry of commerce and therefore they are obliged to co-operate with a Swiss intermediary. This means, that unlike in France, the foreign intermediary has no other choice than to go for partnership with a local agent.

In the **UAE**, the national federation requires intermediaries to be “licensed” by the government via the economic department in the relevant emirate.

## 3. More transparency

Transparency is achieved through several means, namely:

- 1) a new registration procedure,
- 2) a declaration on intermediaries,
- 3) a detailed representation contract,
- 4) the disclosure of all relevant documents to the national association.

The noteworthy point for more transparency is provided by the last paragraph of Article 6 of the new regulations.

In fact, clubs and players are obliged to disclose to the competent bodies



of the leagues, associations, confederations and FIFA, all contracts, agreements and records with intermediaries in connection with their activities. In this regard, players and clubs have to agree with the intermediaries on eliminating all hindrances to fully disclose the above-mentioned information and documents. Moreover, such documents “shall be attached to the transfer agreement or the employment contract, for the purpose of registration of the player”.

Any omission of showing the above documents shall lead to sanctions on clubs and players without rendering null and void the registration or the transfer of the player.

In any case, the “faulty parties” are subject to sanction which may vary from association to association thanks to their autonomy in implementing the FIFA rules.

The paradoxical outcome will be that the same omission could be treated as an infringement by a national federation while another one might ignore it or just consider it as a misdemeanour and, therefore, not sanction it. The question remains whether such contradictory decisions taken by the national associations are compatible with the legal certainty and uniformity the international sports stakeholders look for.

Unique in the reviewed national regulations are the FFU rules (**Ukraine**). In fact, everybody under the FIFA and/or the FFU jurisdiction, who is aware of any transfer or employment transaction which infringes the FFU Regulations, shall notify the FFU accordingly. In that regard, any omission of such reporting shall be subject to disciplinary sanctions.

This provision is of substantial relevance for promoting whistleblowing and, therefore, to guarantee transparency in football.

It is up to the other football associations to adopt a similar rule as best practice to further FIFA’s political objective of more transparency.

### 3.1 The registration process

According to article 3 of the FIFA regulations, every time the intermediaries are involved in a specific transaction leading to the transfer or an employment of a player, they must register with the relevant national association.

They must do so, irrespective of the fact that they have already been registered in the association of their own country or in any other association.

The responsibility for the registration of intermediaries lies not with the intermediaries themselves but rather with the players and clubs engaging their services.

Furthermore, the national association bears the responsibility to keep track of and monitor each intermediary’s activity as well as each transaction they have made.

In this regard, depending on the relevant national rules, the legal proceedings for registering with a national association may greatly vary.

## COMPARATIVE TABLE

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
<i>Argentina</i>	Dual registration: - yearly registration per intermediary, and - per transaction.  USD 500 (460 euros) (annual registration)  USD 1000 (920 euros) (first registration)  No Fee per transaction	AFA Regulations do not contain any recommendation or benchmark in this field.  Parties are free to agree the amount of remuneration	No remuneration.	The AFA Dispute Resolution Body, although officially foreseen in the regulations, has not been established.  According to the new provisions, it is not competent in cases where the parties have referred their disputes to ordinary courts.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties’ written consent
<i>Belgium</i>		No cap but the following conditions apply:  <b>Flemish Region</b> - The commission should be calculated on the basis of the estimated yearly total gross salary of the paid sportsman, for the total duration of the contract.  <b>Walloon Region</b> - The remuneration is calculated on the basis of either a percentage of the total gross salary of the		The Belgian Court of Arbitration for sport may take on disputes related to players agents, if the parties so agree in the contract.  The ordinary labour courts are competent over employment related disputes while ordinary civil courts have jurisdiction on civil and commercial issues concerning intermediaries.	

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		sportsman or as a lump sum.  <b>Brussels Region</b>  - The remuneration is calculated on the basis of either a percentage of the total gross salary of the sportsman or a lump sum.			
<b>Brazil</b>	Yearly registration Fee: 500 euros	The CBF <u>recommends</u> that  A. For the signing of employment agreement: - should <b>not exceed 3%</b> of the player's basic gross income for the entire duration of the relevant employment contract  B. For the signing of a transfer agreement: - should <b>not exceed 3%</b> of the transfer fee  <b>Lump sum</b> admitted	No remuneration if the player is not a professional <u>and</u> under 18	The CBF Dispute Resolutions Committee is responsible for reviewing any breach of the provisions of the National Regulations on the Activities of Intermediaries.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent
<b>Bulgaria</b>	Registration per year A. 250 BGN (127 euros)	B. The contractual remuneration to a football agent, employed by a player or coach, <u>shall not exceed 7%</u> of the gross	No remuneration	The Commission of football intermediaries of the Bulgarian Football Union deals with the disputes.  Its decision is	No

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		yearly salary if player as a client ( <b>mandatory</b> ) a player or a coach and/or the transfer fee of the transaction.  C. The remuneration to a football agent, employed by a club, is freely negotiated between the parties.		subject to appeal before the Court of Arbitration at the Bulgarian Football Union.	
<b>Colombia</b>	<i>Double registration.</i> A. For natural persons: five minimum wage salaries for the 2015 period. (Approx USD 1073) (986 euros) B. For legal entities: seven minimum wage salaries for the 2015 period. (Approx USD1.503) (1381 euros).	The CFF <u>recommends</u> that: For the signing of employment agreement: should <b>not exceed 3%</b> of the player's basic gross income for the entire duration of the relevant employment contract  B. For the signing of a transfer agreement: should <b>not exceed 3%</b> of the transfer fee	No remuneration	The Players' Status Committee of the Colombian Football Federation is competent to deal with intermediaries' matters.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent
<b>Croatia</b>	Registration per transaction  No registration fee	A. For the signing of employment agreement: <b>should not exceed 10%</b> of the basic and total income as established in the employment	No remuneration	The CFF Committee for Working with Intermediaries deals with any dispute related to technical or procedural matters.  The CFF Court of Arbitration has no	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		agreement  B. For the signing of a transfer agreement: <b>should not exceed 10%</b> of the transfer value		jurisdiction on Intermediaries	
<i>Cyprus</i>	Registration per transaction 100 euros per transaction	It is <u>mandatory</u> to pay: A. For an employment agreement: - <b>Max 3%</b> of the basic and total gross salary as established in the employment agreement  B. For a transfer agreement:  - <b>Max 3%</b> of the transfer value	No payment	1. National Dispute Resolution Chamber (NDRC), as per art 22(b) FIFA RSTP  or  2. Civil Court	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent
<i>Czech Republic</i>	Registration per year 100,000 CZK (roughly 3700 EUR).	<b>No limits to remuneration.</b> The CIR only states that the remuneration of an Intermediary acting on the player's behalf shall be calculated on the basis of the player's basic gross income for the entire duration of the contract. Clubs engaging an Intermediary remunerate him with lump sum agreed prior the transaction and payable if agreed, in instalments.	YES, if the minor is older than 16 years	The Arbitration Body of the Czech FA has jurisdiction on disputes between intermediaries and clubs/players	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
<i>Denmark</i>	Dual registration:  First registration fee: 670 Euro (5.000 DKK)- Renewal fee each year: 402 Euro (3.000 DKK)-  Registration of representation contract: 201 Euro (1.500 DKK)	The DBU <u>recommends</u> that: A. For the signing of employment agreement: - should <b>not exceed 3%</b> of the player's basic gross income for duration of the contract  B. For the signing of a transfer agreement: - should <b>not exceed 3%</b> of the 1 transfer fee paid	No remuneration	Disciplinary Disputes are within the competence of its internal disciplinary bodies in first, second and even third instance.  Contractual disputes are within the jurisdiction of ordinary courts if no arbitration is agreed between the parties.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent
<i>England</i>	Registration per year The fee payable upon registration (whether for a natural or legal person) is £500 + VAT (695 euros + VAT) and each time the registration is renewed annually a renewal fee of £250 (+ VAT) (347 euros + VAT) will be payable.	The FA <u>recommends</u> : A. If an intermediary is engaged by a player, the remuneration should not exceed <b>3%</b> of the player's basic gross income for the duration of employment contract. B. If an intermediary is engaged by a club to conclude an employment contract with a player, remuneration should not exceed <b>3%</b> of the player's basic gross income for the duration of the contract. C. If an	No remuneration	Disputes involving intermediaries (for example between two or more intermediaries, or between an intermediary and a player or club), shall be resolved by arbitration  Subject to the aforesaid arbitration stipulation, the parties are required to submit to the exclusive jurisdiction of the courts of England and Wales any matter which is not reserved to arbitration under the Rules of The FA.	YES, if parties:  - are informed of the full details of the proposed arrangements - are given a reasonable opportunity to take independent legal advice - have given their written consent

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		intermediary is engaged by a club in order to conclude a transfer agreement, the remuneration should not exceed 3% of the transfer compensation paid for the transfer of the player.			
<b>France</b>	<p><b>License full exercise:</b> License for unlimited period Fee: 400 € (change every year)</p> <p><b>License free establishment</b> only for EU and EEA people License for unlimited period Fee: 200 €</p> <p><b>License free exercise</b> only for EU and EEA people License for limited period: 1 year. No fee</p>	<p>A. For the signing of employment agreement: <b>10%</b> (shared if several agents) of the basic and total gross salary as established in the employment agreement</p> <p>B. For the signing of a transfer value: <b>10%</b> (shared if several agents) of the transfer value</p>	No remuneration	<p>A. Disciplinary disputes: First instance before the federal commission on sports agents. Appeal must first undergo a conciliation procedure before the CNOSF. Only afterwards they can be lodged before the Administrative Court.</p> <p>B. Employment and Economic Disputes : 1. Ordinary judge or 2. Sports or Ordinary Arbitration Panel, or Sole Arbitrator.</p>	No, prohibited by ordinary law (Code du Sport)
<b>Germany</b>	<p>Registration per transaction</p> <p>Pre-registration (per year) but still the intermediary</p>	<p>A. Player as a client in relation to his employment agreement: <b>14%</b> of the first year's gross base salary independent</p>	No remuneration <b>BUT</b> , after the intervention of an ordinary tribunal, intermediaries are entitled to	<p>A. Disciplinary disputes: They are under the jurisdiction of the DFB bodies.</p> <p>B. Contractual disputes:</p>	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
	<p>needs to be registered for each transaction</p> <p>Registration Fee is EUR 500</p>	<p>from the factual contract term</p> <p>B. Club as a client: <b>No strict limitation;</b> this applies to employment and transfer agreements</p>	remuneration if the minor is party of a Licensed Player contract (Bundesliga 1 and 2)	Civil courts or – if parties agree – arbitration bodies are competent bodies.	
<b>Greece</b>	Registration per transaction	<p>A maximum of 3% <u>could</u> be charged with an indication that the National Federation will raise it to around 10%. Nevertheless, in view of the lack of any consequences, for remunerations exceeding this level, is not clear what exactly purposes serves the setting of a maximum percentage</p>		The current Regulations do not include any provision for dispute settlement. Given the fact, that the previous Regulations, which provided for disputes to be resolved through the internal dispute resolution system of the National Federation are no longer in place, any dispute between an intermediary and a player or a club actually could be resolved either through the civil courts or , in case that the parties have agreed – through arbitration.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent
<b>Italy</b>	<p>Dual registration:</p> <p>- per intermediary (500 euros)</p> <p>- per transaction (150 euros)</p>	<p>As a way of <u>recommendation</u>, the remuneration of an intermediary should be as follows :</p> <p>A. For the signing of employment agreement: <b>3%</b> of the basic and total gross</p>	No specific provision. Nevertheless intermediaries cannot be remunerated for services provided to amateur players who often are minors	<p>1. Sports or Ordinary Arbitration Panel, or Sole Arbitrator, or</p> <p>2. Ordinary Judge</p>	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		salary as established in the employment agreement  B. For the signing of a transfer value: <b>3%</b> of the transfer value			
<b>Japan</b>	Double registration:  - First registration 100,000 JPY (770 euros)  - Annual Fee: 30,000 JPY (230 euros)  No Fee per individual transaction	JFA <u>recommends</u> :  A. For the signing of employment agreement: should <b>not exceed 3%</b> of the player's basic gross income for the entire duration of the relevant employment contract  B. For the signing of a transfer agreement: should <b>not exceed 3%</b> of the eventual transfer fee paid	No remuneration. It is prohibited both to represent and to contact minors	1. Disciplinary matters: JFA Disciplinary Committee  2. Contractual matters: JFA Arbitration Committee, or Ordinary Court	NO, even with written consent of the parties
<b>Mexico</b>	Per intermediary  No registration fee, but fee in order to pass the exam and must be renewed every year	It is <u>recommended</u> : A. For the signing of employment agreement acting both on behalf of the player and the club:  3% of the <b>annual</b> gross income of the player.  B. For the	No remuneration	1. Conciliation and Resolution Chamber of the FMF, or  2. Ordinary Judge	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		signing of a transfer value:  <b>3%</b> of the transfer fee.			
<b>Netherlands</b>	Yearly Registration per intermediary. Fee: 450 euros, excl. 21%VAT)	A. For intermediaries representing a player:  <b>No strict limitation of remuneration.</b> The calculation of the commission is to be made on the basis of <u>the agreed gross annual salary</u> , including a pro rata signing-on fee, excluding guaranteed or non-guaranteed premiums and/or bonuses of the player for the full term of the employment contract.  B. For intermediaries representing a club:  <b>No strict limitation of remuneration.</b> The intermediary shall be remunerated by payment of a <u>fixed amount</u> that is agreed upon prior to the negotiations on the conclusion of the employment contract or the transfer	No Remuneration	A. In respect of contractual matters, the Arbitration Committee of the KNVB is competent to the exclusion of civil courts.  B. In respect of disciplinary violations, the disciplinary committees of the KNVB are competent.	Yes, subject to four preconditions. The player and the club must i) grant written permission to that end ii) prior to those negotiations and iii) document whether or not the intermediary is paid a fee on behalf of the player and/or club. The player and/or club must iv) submit the agreements and/or documents referred to in this paragraph to the KNVB within the scope of the registration referred to in article 6.1 of these regulations [i.e. together with the intermediary agreement].

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		agreement. If a club and an intermediary have failed to reach an agreement about the amount of the fee payable to the intermediary, the club owes the intermediary an annual fee, for the full term of the player contract, of 3% of the gross annual salary agreed upon between the player and the club, including a pro rata signing-on fee, excluding guaranteed or non-guaranteed premiums and/or bonuses.			
<b>Paraguay</b>	Yearly registration per intermediary Fee: USD 2000 (1838 euros)	Obligation to pay 3 % of transfer fee or gross annual salary despite the fact that national ordinary law sets the limit to 10 % for intermediaries in general.	No remuneration		no federation provision but pursuant to ordinary law dual representation is not allowed
<b>Poland</b>	Yearly registration per intermediary	Same as FIFA, 3% as <u>recommendation</u> .		PZPN Football Arbitration Court	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent
<b>Portugal</b>	Registration with the Federation and	Intermediary and client (player or club) may freely	No representation of minors is	Conflict with client (player or club): a) If set	NO

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
	the League  Registration per transaction or per sports season  Registration fee (per transaction or per season): 1,000 euros	set, but in writing, the intermediary's remuneration; if the agreement does not address this issue, <u>the maximum limit imposed</u> on the parties is: a) For signing a sports employment agreement: 5% of the player's gross income for the period of duration of the employment agreement; b) For signing a transfer agreement: 5% of the transfer value	allowed. Therefore no remuneration	contractually, Ordinary Arbitration Panel or Sole Arbitrator, namely before the Portuguese Court of Arbitration for Sport (voluntary arbitration) or b) Ordinary Judge. Conflict with PFF: After using up all available remedies within PFF, Portuguese Court of Arbitration for Sport (necessary arbitration)	
<b>Qatar</b>	Yearly registration per Intermediary QAR 5,000 (1260 EUR) for Local and Foreign Intermediaries, QAR 10,000 (2520 EUR) for legal entities	Same as FIFA Regulations. In particular, as a <u>recommendation</u> , Players, Clubs and Intermediaries may adopt the following benchmark: a) The total amount of remuneration per transaction due to Intermediaries who have been engaged to act on a Player's behalf should not exceed three per cent (3%) of the Player's basic gross income for the entire duration of the relevant employment	No remuneration	Any judicial body/tribunal established or recognized by the QFA, shall be competent to deal with any disputes between an Intermediary, a Club and/or a Player. The competencies and procedures of such body/tribunal will be set out in the relevant regulations governing such body/tribunal. In any case, the QFA shall be entitled to mediate disputes arising of or related to the present Regulations.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent



Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		<p>contract;</p> <p>b) The total amount of remuneration per transaction due to intermediaries who have been engaged to act on a Club's behalf in order to conclude an employment contract with a Player should not exceed three per cent (3%) of the Player's eventual basic gross income for the entire duration of the relevant employment contract;</p> <p>c) The total amount of remuneration per transaction due to Intermediaries who have been engaged to act on a Club's behalf in order to conclude a transfer agreement should not exceed three per cent (3%) of the eventual transfer fee paid in connection with the relevant transfer of the Player.</p>			
<b>Romania</b>	Yearly registration per intermediary Fee: 1,500 euros	As a way of <u>recommendation</u> : A. For the signing of employment agreement:	No remuneration	National Chamber of Litigation Settlement of FRF	YES, if parties:  - are informed of the full details of the

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		<p>3% of the basic and total gross salary as established in the employment agreement</p> <p>B. For the signing of a transfer agreement: 3% of the transfer value</p>			<p>proposed arrangements - are given a reasonable opportunity to take independent legal advice - have given their written consent</p>
<b>Russia</b>	Per transaction No fee set in the Regulations	The parties <u>must pay 3%</u> from: - Transfer fee - Gross salary of the employment contract - The remaining gross value of the employment contract (in case the player leaves the club for free and the intermediary represents releasing club)	No remuneration	Sports arbitration court established by the autonomous noncommercial organization "Sports arbitration chamber" (Russia)  No appeal possible.	NO
<b>Saudi Arabia</b>	Dual registration:  -Per intermediary, and per transaction  - Annual fee 10,000 SAR (2450 euros)	A. The total amount of remuneration due to an intermediary who represents the <b>player</b> in negotiation <u>must not exceed 3%</u> of the total monthly income of the player for the entire duration of the player's employment contract.	No remuneration	The competent authority to hear the disputes between intermediaries, players and/or clubs in Saudi Arabia is Dispute Resolution Chamber at SAFF.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		B. The total amount of remuneration due to an intermediary who represents a <b>club</b> in a negotiation of transfer or loan contract of player <b>must not exceed 3%</b> of the total monthly income of the player for the entire duration of the player's employment contract			
<b>Serbia</b>	No registration fee	FAS decided to establish a <u>maximum limit</u> for intermediary's remuneration: 1. The total amount of remuneration per transaction due to intermediary who has been engaged to act on a player's behalf should not exceed three per cent (3%) of the player's basic gross income for the entire duration of the relevant employment contract.  2. The total amount of remuneration per transaction due to intermediary who has been engaged to act	No remuneration	Intermediaries, Players and Clubs must bring any potential dispute to Ordinary Courts.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
		on a club's behalf in order to conclude an employment contract with a player should not exceed three per cent (3%) of the player's eventual basic gross income for the entire duration of the relevant employment contract.  3. The total amount of remuneration per transaction due to intermediary who has been engaged to act on a club's behalf in order to conclude a transfer agreement should not exceed three per cent (3%) of the transfer value			
<b>Slovak Republic</b>	Registration of an intermediary Fee: 100 euros	As a way of recommendation: amount is 3% of the gross basic remuneration of the player for the entire duration of player's contract, or for the clubs 3% of the transfer fee paid for the player.	Remuneration is allowed if player is aged between 15 and 18 years!	SFA Dispute Resolution Chamber	YES, if: - conflict of interest is disclosed in advance, and - parties' written consent is obtained in advance
<b>Spain</b>	Dual registration: -Yearly registration per intermediary Fee: 860 euros	No specific provision on cap	No remuneration	Jurisdictional Committee only for economic-disputes	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
	- per Transaction				consent
<b>Switzerland</b>	per transaction No fee	A. Player as a client: <b>5%</b> of the first year's gross base salary  B. Club as a client: <b>No limits</b> both in employment agreements and transfer agreements	No remuneration	1. Disciplinary matters: ASF Commission of Control and Discipline  2. Contractual matters: Court of Arbitration for Sport – CAS	YES, (although not specified in the ASF regulations) if both parties were fully aware of the intermediary's dual representation.
<b>Turkey</b>	Double registration: Yearly registration per intermediary, and per transaction	TFF refers to FIFA's <b>3%</b> price cap <u>recommendation</u> but the remuneration can be decided freely in accordance with the principles of ordinary law.	No remuneration. There is even an explicit provision prohibiting to sign a contract with a player under 15.	The National Dispute Resolution Committee will settle any dispute arising from contractual agreements.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent
<b>UAE</b>	Double registration: Yearly registration per intermediary, and per transaction  Annual fee: 20, 000 AED (5000 euros)	A. For the signing of employment agreement: <b>Must not to exceed 3%</b> of the basic and total gross salary as established in the employment agreement  B. For the signing of a transfer agreement:  <b>Must not to exceed 3%</b> of the transfer value	No remuneration	The Players' Status & Transfer Committee (PSTC) is the competent body to hear any dispute between a club or player and a registered intermediary.	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written consent

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Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
<b>Ukraine</b>	Dual registration -per transaction -preliminary registration:  -- <i>Permanent Intermediary</i> (who will pass an exam)  No limits in time to act as intermediary Exam fee: UAH 20.000 (775 euros)  -- <i>Temporary Intermediary</i>  Permission to act as intermediary only for a specific transaction  For negotiating with the club of Premier league (1-tier) it is UAH 150'000 (5812 euros), club of the first league (2-tier) – UAH 100'000 (3875 euros) and for the second league (3-tier) – UAH 50'000 (1937 euros).	A cap is established: <b>a)</b> for the signing of employment agreement it is <b>10%</b> of the basic and total gross salary as established in the employment agreement; <b>b)</b> for the signing of a transfer agreement <b>10%</b> of the transfer value.  The parties may set a lower amount in the representation agreement, but anything agreed in excess of 10% will be considered invalid.	No remuneration	1. Control-Disciplinary Committee of the Football Federation of Ukraine (first instance) with a possibility of appeal to the Appeal Committee (second instance) and further to CAS (third instance); or  2. Direct reference to CAS (within ordinary arbitration proceedings)  If intermediary has failed to register a transaction at the FFU or to obtain the relevant permission from the FFU, he is not able to refer any disputes to the FFU.	YES, provided that the consent of both parties is given in advance and in writing
<b>Uruguay</b>	Yearly registration per intermediary Fee 1000 USD (920 euros) per natural	The Federation <u>recommends</u> :  A. For the signing of employment agreement:	No remuneration	Ordinary judge	YES, if: - conflict of interest is disclosed in advance, and - prior to the parties' written

Country	Registration	Remuneration	Minors	Dispute settlement	Dual representation
	person 2000 USD (1840 euros) per legal entity	should <b>not exceed 3%</b> of the player's basic gross income for the entire duration of the relevant employment contract  B. For the signing of a transfer agreement: should <b>not exceed 3%</b> of the eventual transfer fee paid			consent

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