

European Union :

*Study on training of young sportsmen/women in Europe
Extension – Part II*

Home-grown players rule

April 2008





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INTRODUCTION

As agreed during our meeting of January 29, 2008, this part of the study was realised on the basis of the information that was gathered directly by the UEFA and the EPFL further to the questionnaires sent to national football associations, professional football leagues and to first division clubs in all Member States.

The UEFA and the EPFL were able to collect 20 out of the 30 questionnaires sent to national football associations, 15 out of the 18 questionnaires sent to football leagues and about 60 out of over 300 questionnaires sent to football clubs, which constitutes a sufficient and representative sample to realise this complementary study and to draft the following report.

Within this framework, please find hereinafter an overview of the identified criteria and conditions of accession of young players to training centres (I) and the criteria of accession of players to professional/ amateur competitions (II), to apprehend the contents of the home grown players rule set out by the UEFA and its compliance with European law (III).



I - FOOTBALL TRAINING CENTRES

A) Conditions and criteria of accession to training centres

This complementary study shows that conditions and criteria of accession to training centres for young football players may vary from one Member State to another.

Most of the time, conditions and criteria are related and combined. We identified the main following conditions and criteria:

- physical and sport criteria issued by national football associations,
- conditions and criteria issued by clubs,
- conditions and criteria related to education/school,
- criteria related to the travel distance to training centres.

1) Physical and sport criteria issued by national football associations

Physical and sport criteria naturally play an important role regarding the access of young players to training centres as only talented young players may succeed.

In Austria, players of the aged between 10 and 14 years are selected by scouts of the regional federations. Only the most talented players are allowed to join a training centre. The sport criteria taken into account are technique, speed, coordination and game. From the age of 15 to 19, the best players selected by the coaches and the staff attend a football academy.

In Belgium, at the age of 14, a talented young player can join the training centre of the Royal Belgian Football Association (RBFA) when he complies with the following criteria: winning mentality, self control, self-confidence, speed, insight in the game and ball and body control. These criteria are assessed by RBFA observers during specific tests.

In France, players must at least be 15 years old on December 31 of the previous season and enter into a training convention between with the training centre, directly or through their legal representatives, which must be approved by the professional league.



2) Conditions and criteria issued by football clubs

Many European football clubs organise trials to find talented players and to decide, in accordance with their own conditions and criteria, which young players may join their training centres. Moreover, most of the clubs benefit from a scout network.

In Belgium, there are no standard criteria that are valid for all professional clubs. The professional clubs youth directions decide which young player may join their training centres based on their own talent identification criteria.

In Bulgaria, young players who would like to train and play for Lokomotiv Sofia must cover physical and sports-technical tests during an entrance exam.

Concerning the Irish club, Drogheda United FC United, the two main conditions for a young player to join the training centre of the club are (i) parents' permission and (ii) medical compliance. There seems to be no restrictions regarding the nationality at a young age.

In Germany, to join a training centre, young players have to be members of the club which manages the training centre.

The Portuguese clubs, such as Braga, Boavista, Sporting SAD and Guimares, often organise trials. Young players may get access to their training centres if they comply with physical and sport criteria. Further, Sporting SAS, which prefers to recruit players aged between 8 and 15, benefits from a scout network that provides the club with the best players from several clubs in Portugal.

In Spain, only players who are inside the structure of a club and under observation have the possibility to join a particular training centre. The selection is based on physical and sport criteria.

3) Conditions and criteria related to education/school

In some Member States, young players have to honour their school obligations in order to be allowed to join a training centre. This is in line with the information gathered during our general study on the training of young sportsmen and women in Europe, according to which school is compulsory in all Member States until a certain age, which may vary between 15 and 18.



In the Czech Republic, to access to a training centre, there is no restriction regarding the nationality, but the transfer must be performed within the framework of the FIFA transfer regulations. The player has to be enrolled in a regular school in the Czech Republic and there must be an agreement of the parents or the legal adviser of the player on the conditions under which the young player will be trained.

In Finland, the FC TPS Turku emphasises that, beside talent and eagerness to train, young players have to respect their school duties.

In France, school is compulsory until the players reach the age of 16 and thereafter, players may pursue their educational training with their sport training if they so wish.

In Portugal, the law imposes that players comply with 9 years of basic studies before entering into a sport contract.

4) Conditions and criteria relating to medical aspects

As we already emphasised in our general study on the training of young sportsmen and women in Europe, due to the professionalisation of sports, there is a special need to protect young athletes by ensuring that high level training and intensive practise of sports do not represent a risk for their health.

In Greece, there is no limit for joining a training centre or a club but there is a need for parental approval. The training centre is furthermore obliged to provide medical services and life insurance for staff and athletes.

In Hungary, players may join training centres at an early stage at the age of 17 after medical examinations.

In Malta, there are no specific conditions except that each young football player must produce a medical certificate testifying that he is healthy enough to play football.

5) Criteria related to travel distance to training centres

In Italy, a child may join a training centre upon the age of 6; however, until the age of 16, a young player may only join training centres in the region where he lives with his parents. Exceptions may be



granted by the president of the Italian football association according to the educational and social needs of the player.

In the United Kingdom, the Football Association Charter for Quality introduced criteria and conditions regarding facilities and technical scripts. However, according to the football association, recently, these have rapidly deteriorated as two leagues restricted their sanctions or issued proper quality criteria.

The Premier League sets forth that, in addition to meeting national and international eligibility criteria, players must reside near their training centre, within the following travel time:

- U9-U11: inclusive 1 hour travel time,
- U12-U14: inclusive 1½ hour travel time.

The English Football League sets forth that all players have to sign a registration form and agree to a conduct for clubs, players and parents. Players must live within a 90-minute travel from the club (U12-U16) or a 60-minute travel (Under 12s and below).

B) Restrictions applicable to young players regarding their accession to a training centre due to their nationality

The accession to training centres all over Europe is mainly dependent on the conditions and criteria mentioned herein above in Section A. However, our study shows that a few restrictions to the accession of young players to training centres are based on nationality criteria.

In practice, the restrictions mainly concern the age of players, as in some Member States, young players are only allowed to join training centres in the region where they live.

Furthermore, FIFA regulations relating to football dated 5 July 2001, that strongly limit the transfers of players aged less than 18, are supposed to apply in the Member States.

1) Identification of restrictions regarding all foreign players (non-nationals)

In Belgium, players who wish to join the RBFA training centre must have the Belgian nationality.

In Italy, EU players and national players under 16 years old may only join a club based in the region where they live with their parents.



In Germany, regarding U16 - U19 teams, at least 12 players of the team must be eligible for a German national team.

In Portugal, further to the national football association, all foreign players must be over 18 years. It seems that this concerns all players who do not have the Portuguese nationality.

In Malta, the registration of foreign players with a football nursery is allowed in accordance with FIFA regulations. Further to the Maltese Football Association, are foreign players all players:

- (i) who are not citizens of the EU or of an EEA country;
- (ii) who are citizens of any other country but who do not enjoy a legal right to freedom of movement and/or legal right to work within the Republic of Malta.

In France, foreign players are divided up in three categories:

- Players of the EU and of the European Economic Area,
- “Malaja–Cotonou” players or players originating from countries having concluded an association or cooperation agreement with the EU,
- Players originating from other countries.

In France, in the “Pôles Espoirs” and the “Pôles France”¹, only French citizens are trained.

Further to the information provided by the French football association, restrictions relate, in compliance with FIFA regulations on the protection of minors, to the age of players.

According to the English Football League, there are no other restrictions for players joining a training centre than FIFA rules governing international transfers below the age of 18 (or 16 within EEA) and the national law for residency.

2) Identification of restrictions regarding non-EU players

The information regarding restrictions of non-EU players that was communicated to us can be divided up as follows:



- Member States without any specific regulation regarding non-EU players,
- Member States that assimilate non-EU players originating from countries that entered into an association agreement with the EU to EU players,
- Member States that issued restrictions taking into account the talent of the player or the rank of their national team in international competitions,
- Member States that apply FIFA transfer regulations.

a) Member States without any specific regulation regarding non-EU players

In Austria or Belgium, there seem to be no specific rules for players from countries outside the EU, such as Cotonou players.

In Greece, Italy (except for Swiss players) and Malta (except for EEA players), players originating from states that entered with the EU into an association agreement are treated like foreigners.

b) Member States that assimilate non-EU players originating from countries that entered into an association agreement with the EU to EU players

In Bulgaria, Denmark, Portugal, Slovenia Finland and Hungary, players from countries having concluded an association agreement with the EU are treated like EU citizens.

In Germany, players from specific countries have special advantages to obtain a residence or a work permit. These regulations are based on EU agreements with other countries. Further, there are bilateral agreements. In general, restrictions only apply to the highest youth leagues, for A-/B- Juniors. In the lower leagues, no difference is made between a German and a non-German player.

In Spain, players who originate from one of the countries having concluded an association agreement with Spain are allowed to play in national competitions only if a labour contract has been obtained by the player himself or by his parents. According the Spanish Professional League, foreign players, meaning non-EU players, are only allowed to participate in national competitions if they have joined the training centre before the age of 14.

¹ "Pôles" is the name given in France to training centres of high level sportsmen and sportswomen expected to represent France during international sport competitions. Pôles France welcome sportsmen and women of 12 years' old and more. Pôles Espoirs welcome sportsmen and women of less than 12 years old.



c) Member States that issued restrictions regarding the talent of players or the rank of their national team in international competitions

In France, a maximum of 4 players outside the European Union and the Cotonou Agreement are allowed to play in a club. It seems that all foreign players, no matter what kind of contract they enter into ("aspirant", "stagiaire", "apprentice", "elite" or "professional") are to be included in the this quota. Regarding Cotonou players, they have to justify a selection in the national team of their country of origin when they enter the French territory.

According the English Football Association, the only stipulation for players originating from a non EU country is that they should be regular players in their respective international teams so that, as a consequence, only top level players from such countries are allowed to join English clubs. The English Premier League specifies that players may register with clubs after their 16th birthday provided that they meet FIFA/UEFA requirements.

In England, only players holding an EU passport are entitled to free movement in England and may freely register and play. The sole current restriction to this rule concerns players coming from Bulgaria and Romania who still need to be granted a work permit before they may be hired as professional footballers by an English club (State regulation).

According to the Royal Netherlands Football Association, a non-EU player must have played in the highest competition of its home country: (i) Either the country has to be ranked in the top 40 of the FIFA World Ranking list at the moment the player applies for the permit, (ii) the player played in a match for the National Team, or another represented National Team, (iii) or the player has played in a match of the UEFA Cup or of the Champions League.

d) Member States that apply the FIFA transfer regulations / Exceptions

In Italy, non-EU players cannot join a professional team before they are 18. However, if a player moves away from his country with his family to come to Italy, he may join an Italian training centre as from the age of 16 years.

According to the English football club of Sunderland, non-EU players under 16 years cannot join the academy of the club unless their parents are moving into the area for reasons other than football.



C) Conditions of assimilation of non-national players to national players

In many Member States of the European Union, foreign players may be assimilated to national players if they comply with specific criteria.

We mainly identified the following criteria:

- the residence of the player,
- the age and place of registration within a football association,
- the time during which the player played in a country,
- the player's nationality.

1) Residence of the player

In Austria, a player is assimilated to a national player if he has his main residence in the country and if he was registered with the Austrian Football Association before the age of 17.

According to the French football association all non national players are treated as nationals as soon as they reside legally on the French territory.

2) Age and place of registration of the player

In Italy, foreign players are assimilated to national players if they have never been registered with any club in their home country or in any other one. If the registration with an Italian club is the first one in the player's career, he is permanently considered as a national player.

In Malta, a player is assimilated to a national player if he has been registering with a club of the Maltese Football Association for three years between the ages of 12 and 18.

3) Time period during which the player played in the country

In Belgium, a foreign player who has been having his development during three years in the same club is assimilated to a national player when he is playing official games in Belgian competitions.



In Germany, a young player from a non-EU country who has been playing during five consecutive years for a German club is assimilated to a EU player in the A and B Junior German Football Leagues (Bundesliga). In all other youth leagues, no difference is made between German or non German players.

Players who have been playing during five years in Finland are assimilated to national players. Those five years do not need to be successive.

4) Nationality of the player

In Bulgaria, Denmark, Finland, Portugal Slovenia and Hungary, all foreign players from states that entered with the EU into an association agreement (e.g. Cotonou Agreement) are treated as EU players.

According to the Greek Football Association, rules are about to change in Greece in order to treat EU players as native players.

The international agreements like "Cotonou" are fully accepted in Germany. Players from the signing countries are treated equally to citizens from EU Member States, provided that they have a residence or a work permit.

In Italy, according to the Football Association, at the professional level (players having entered into a contract), players originating from a country that entered into an association agreement with the EU are treated as EU players, but at youth level, they are treated as non-EU players. According to the Italian Football League, only Swiss players are treated as EU players, whatever their age is.

In England, in the event that a foreign player is granted the British or EU nationality, he may then play at amateur or professional level.

Finally, it has to be noted that the Polish League pointed out the fact that the number of players that may be assimilated to Polish players was very small due to the fact that players come to Poland after they are 18 and are thus not trained as young kids in Poland.



II - CRITERIA OF ACCESSION TO PROFESSIONAL/ AMATEUR COMPETITIONS

Regarding the status of football players, three main types of players can be distinguished: amateur, non amateur, professional players. In a simplified way, it can be said that professional players differ from amateur players in the sense that they enter into a professional contract with a club and that they play football as their profession and earn a living.

This is concordant with FIFA regulations on the status and transfer of players which set forth that “a professional is a player who has a written contract with a club and is paid more for his football activity than for the expenses he effectively incurs. All other players are considered to be amateurs”².

A) Conditions to obtain a player’s license

Our study shows that restrictions regarding amateur players are mainly linked to the general foreigner policies of the Member States as they are directly connected to the granting of residence and work permits.

Regarding professional football, it can be said that, in general, further to the granting of a work permit, football players obtain a professional football license by entering into a contract with a club.

1) Amateur players

In Austria, there are no amateur player licenses but just playing permissions granted according to FIFA regulations.

In Denmark, a player obtains an amateur player license as soon as he pays a member fee in a club.

In France, players have to provide a resident permit and an international transfer certificate.

In Germany, in the third, fourth and fifth-league levels, amateur players need to have a residence permit, which allows them to stay in Germany for the duration of the whole season. Below the fifth-league level, there are no general restrictions except that the players should not stay illegally in Germany.

² Article 2.2 of the FIFA regulations on the status and transfer of players (version October 2007).



The Hungarian football association indicated that the granting of an amateur player license depends on the regulations of amateur competitions, which are based on national and EU law.

In Italy, there are different procedures to grant an amateur player license to a foreigner. For EU citizens, the sole condition is that the qualification of “not professional” appears on the international transfer certificate.

For non-EU citizens, the player must submit:

- the international transfer certificate including the qualification of “not professional”,
- a certification release by the Italian Government stating that he is working or studying in Italy,
- a residence permit for a period of no less than one year and, at least, valid until the end of the current season,
- a certificate of residence in the same region (or at least in a boarding one) where the club he joins is based.

In the Netherlands, a work permit is necessary if a player is going to play as an amateur player for a professional football club. This rule applies to the situation where a non-EU player is going to play for the first or the second team or the highest youth teams of a professional football club. The work permit is issued by the Centre for Work and Income (CWI). It seems that a non-EU player, younger than 18, will almost never be granted a work permit.

Further to the Portuguese Football Association, the player must live in Portugal with his parents (in accordance with FIFA regulations).

In Spain, players can obtain a license to play in all amateur categories. However, any non-EU citizen who is older than 16 needs a work permit if he wishes to reside and work in Spain.

Regarding England, provided that a foreign player has been granted his international transfer certificate to register with an amateur club in England, there are no restrictions to the player’s ability to play at the amateur level in England.



2) Professional players

Regarding professional players, it can be said that they receive their professional player license when they enter into a labour agreement or a training contract.

In order to sign such contract, non-EU players generally need to have work and residence permits. Please refer to our study of the national and political frameworks preserving and promoting the training of young athletes regarding the different types of contracts young footballers may enter into.

a) Conditions inherent to all Member States

According to the information we were provided with, in almost all Member States, non-EU players need to be at least 18 and present a work/residence permit and an international transfer certificate before signing a contract with a professional football club:

In Bulgaria, every foreign player has the right to sign a contract with a Bulgarian professional football club if he is 18 years old and provides an international transfer certificate from his previous football association and a work permit from the employment agency.

In Finland, the club registers the player as a professional player after having received the international transfer certificate. The player obtains residence and work permits when he is able to provide a written contract.

In France, a player becomes a professional player by signing a work contract. Non-EU players have to provide specific documents, in particular a residence permit.

In Greece, players are allowed to obtain player's licences if they legally live in the country, have permanent job and residence.

In Malta, players need to register with a club according to the rules of the Maltese Football Association and FIFA regulations.

Further to the Polish League, foreign players may obtain a professional player license by fulfilling FIFA criteria (employment contract and international transfer certificate) and holding a work permit in the cases where it is required by law.



b) Additional conditions

In some Members States, there exist additional conditions:

In Austria, if a player and a professional club register the player to be a professional player, they also have to submit the player's contract. Regarding residence and work permits, in Austria there exist three different rules:

- Players of the "old 15" EU countries: players are treated like Austrian citizens;
- Players of the "new 12" EU countries: The State grants work permits of a duration of one year, afterwards, players have free access to the job market;
- Non-EU players: the player has to be registered as a "key employee" to obtain a residence and work permits for 18 months; afterwards, the player has free access to the job market.

In England and Northern Ireland, all players who wish to play at a semi-professional or professional level need an international transfer certificate and a work permit. With regards to the granting of the work permit, the Home Office, in conjunction with football authorities, which includes the Football Association, the Premier League, the Football League and the Professional Footballers' Association, set forth the following conditions:

1. The player must have played 75% of his country's competitive international games in the 2-year period prior to the work permit application.
2. The player's national team association must be in the top 70 of the FIFA average rankings over a 2-year period prior to the application.

In the event that a player does not meet these criteria, there is an opportunity for his application to be reviewed by a panel of experts made up of a representative of the Football Association, a representative of the Professional Footballers' Association, a representative of the League in which the club requesting the application plays and three independent football experts. The panel has to determine whether the player will make a significant contribution to the development of football at the highest level if they are to grant a work permit.

Further to the English Premier League, work permits will be issued to international players of the highest calibre, i.e. to players who are able to make significant contribution in football terms to the development of the UK game at the highest level (i.e. clubs of the Premier League and Football Leagues in England and Scotland, the Welsh Premier League and the Irish Premier League in Northern Ireland). To be eligible for a work permit, a player must have played for his country of origin



in at least 75% of its competitive “A Team” matches, having been available for selection and the player’s home country must be at or above the 70th place in the official FIFA average world rankings over the two years preceding the date of his application.

c) Financial resources

In some Member States, players need to testify of a sufficient income:

In Belgium, to obtain work and resident permits, a foreign player must provide a legalised medical certificate, - a certificate of qualification as a professional football player, a copy of the contract between the club and the player and a declaration of salary to testify of sufficient financial resources.

In Denmark, a player who provides a standard professional contract with a professional Danish club approved by the Danish Football Association including a guaranteed salary of more than Euro 2,500 per month is able to obtain residence and work permits as professional football player.

In Portugal, players receive a professional player license by signing a sport labour contract or a training contract with a Portuguese club which must be submitted to the Portuguese Football Association and the Portuguese Professional Football League and accepted in accordance with their regulations. In order to obtain work and residence permits, players must justify of a work contract and prove to be economically self-sustainable.

According to the Royal Netherlands Football Association, a non-EU player has to be granted a work permit if he wants to play professional football in the Netherlands. Two criteria have to be fulfilled:

- Income criteria for the season 2007/2008: € 194.250,- for players aged between 18 and 19 and € 388.500,- for players aged 20;
- Quality criteria: The player in question must have played in the highest competition of a country: (i) Either the country has to be ranked in the top 40 of the FIFA World Ranking list at the moment the player applies for the permit, (ii) the player played in a match for the National Team, or another represented National Team, (iii) or the player has played in a match of the UEFA Cup or of the Champions League.

In France, a non EU player has to provide, further to a resident permit and a medical certificate, documents testifying of sufficient financial resources.

d) Specific procedures



The Italian Football League informed us about a specific procedure relating to the application for residence and work permits issued by the Italian Olympic Committee:

- 1- The club that the player wishes to join has to submit to the Italian Football Federation a proposal of resident contract and a work permit request, and also send a copy of those documents to the local police authority.
- 2- The Italian Football Federation verifies if the conditions to register the player are met. If this is the case, it forwards both the proposal of resident contract and the work permit request to the Italian Olympic Committee.
- 3- The Italian Olympic Committee verifies if the quota of non-EU players is matched. If this is the case and if the local police authority gives its approval, it will issue the work permit. The work permit together with the proposal of resident contract will be forwarded to the competent local authority. The National Olympic Committee will inform the Italian Football Federation that the work permit has been issued. The Italian Football Federation will inform the club hereof and the same club will contact local authorities to schedule a meeting to sign the resident contract and to apply for the resident permit.

Further to the Spanish Football League, players who wish to obtain a professional license need the following documents:

- Labour contract with a professional club,
- International transfer certificate,
- Identity document and valid passport with a notarized acknowledgement of receipt from the Embassy of the country of origin of the player (except EU citizen or players from countries with which Spain has concluded an association agreement).

B) Team composition

In all Member States, non-EU players need to obtain residence and work permits before they can be hired by a club. Further, there are limits regarding the number of non-EU players that a club may field during a game, but such limitations are predominantly limited to professional football (B). In a few Member States, there also rules that limit the number of non-EU players that a club may hire (A).



1) Number of non EU professional players hired by a club / Number of non EU amateur players registered with a club

In Bulgaria and Greece, a maximum of five non-EU players may be hired by a professional club.

In France, the maximum of foreign players, non-EU players and non Cotonou players, is four players in the first league and two in the second league. Third level teams may hire and field three non-EU players.

In Italy, only one non-EU-player can be hired for the first team. For youth teams, there are no restrictions beside the one that a foreign player, until the age of 18, can only join a club if he moved to Italy with his family for reasons other than football and that he has a regular residence permit. Further to the Italian Football League, there is no limit regarding non-EU players that can be lined up but there is a limit in hiring new non-EU players:

- Serie A: a club can hire a non-EU player only if the latter replaces a non-EU player transferred abroad or a non-EU player whose contract expires on June 30.
- Serie B: no registration of non-EU players is possible.
- Exception: clubs promoted from Serie B to Serie A can hire non-EU players to reach the maximum number of three.

In, Germany, Austria, Belgium, Finland, Poland, Hungary (regarding amateur players), Portugal, Malta and Slovenia, there are no restrictions regarding the hiring of non-EU amateur or professional players.

However, in Germany, professional teams playing for the DFB Championship (DFB-Vereinspokal) are obliged to hire at least 12 players of German nationality. Furthermore, in application of UEFA regulations, regarding Season 2007/2008, each club has to have at least 6 home-grown players under contract and, regarding Season 2008/2009, at least 8 home-grown players under contract. A home-grown player is a player that played when he was between 15 and 21 years old during three years for a club of the German national football association. Regarding the third and fourth-league levels, a minimum number of four players under 23 years, which are eligible to play for German national teams need to be included in the match squad (=18 players).

In Poland, professional football teams may at least hire 8 nationals.

In Malta, since July 1, 2004, except as otherwise allowed in the regulations, players who are citizens of a Member State of the EU or of a EEA country or who are citizens of any other country, whether



they enjoy the legal right to freedom of movement within the Republic of Malta or not, and who, in accordance with FIFA regulations, are not qualified to represent the Maltese Football Association in a FIFA or UEFA competition for national teams, may only be engaged by clubs as full time professional players. If such players are registered or engaged as amateur or as part-time professional players, the registration of such players shall be held invalid.

In Spain, clubs of the first division can hire a maximum of three non-EU Players and clubs of the second division can hire a maximum of two non-EU players (all players who do not have their origin in one of the EU Member States or a state that entered into an association agreement with Spain).

The English Football Association does not impose any limit on the number of players, UK or foreign, who may be registered for an amateur football team within an amateur football league. The sole restrictions apply to professional clubs as stated above in section A.2 of this chapter.

2) Total of players that may be fielded during a match

2.1. Professional leagues

a) Non-EU players

According to the Bulgarian Football League, a maximum of five non-EU players may be fielded. Players from countries having entered into an association agreement with the EU are treated the same way as EU players.

In the Danish Professional League, clubs are not allowed to field more than three non-EU players.

In Finland, three non-EU players can appear on the match sheet and three non-EU players can play at the same time. This quota does neither apply to players who have been registered during five seasons in a club affiliated to the Finnish Football Association nor to citizens of UEFA member countries or citizens of countries which have concluded an association agreement with the EU.

In Greece, three non-EU players can appear on the match sheet and two non-EU players can play on the field.



According to the Italian Football League, there are no limits regarding the number of non-EU players that can be fielded but only limits regarding the number of non-EU players that can be hired by a club (see section above).

In Romania, non-EU players may be transferred and registered with a Romanian club and participate in national competitions under the following conditions:

- clubs of the first league (women and men): a maximum of five non-EU players may be fielded;
- clubs of the second league: a maximum of three non-EU players may be fielded;
- clubs of the third league and clubs participating in youth competition A and B: a maximum of two non-EU players may be fielded.

In Slovenia, one non-EU player can be fielded in the second or third leagues.

b) Foreign players

In Austria, further to the Austrian Football Association, at least 15 national players have to appear on the match report and the maximum of foreign³ players in a team is limited to three. However, regional federations are allowed to reduce this number. According to the Austrian Football League, there is no restriction in the first league and three foreign players are entitled to be fielded in the second league.

In the Czech Republic, a maximum of three foreign players can be fielded. Are foreign players, all players that do not have the Czech nationality.

c) Particular cases /no quota

In Belgium, professional clubs participating in the competitions of the URBSFA have to enrol on the match sheet:

- Season 2007/2008 : at least four players trained by a Belgian club,
- Season 2008/2009 : at least five players trained by a Belgian club,
- Season 2009/2010: at least six players trained by a Belgian club.

Are considered as trained by a Belgian club:

- Belgian players who played for at least three seasons for a Belgian club,

³ According to the Austrian Football Association, are foreign players all players who do not have the Austrian nationality, except assimilated players. Assimilated players are those who have their main residence in Austria and who have been registered with the Austrian Football Association before the age of 17.



- EU and EEA players having played before the age of 23 for at least three seasons for a Belgian club,
- Non-EEA players having played before the age of 23 for at least three seasons for a Belgian club.

In the event when the club would not be able to register a sufficient number of players trained in a Belgian club, it would not be allowed to replace them by other players and would have to designate a lower number of players on the match sheet.

In Poland, there are no “field restrictions” based on the nationality of players.

In Spain, upon Season 2008/09, there will be no limitation relating to the nationality of players. Currently, according to the Spanish Football Association, a club of the first division can field a maximum of three non-EU players and a club of the second division can field a maximum of two non-EU players.

In Sweden, there are no quotas regarding the amount of foreign players (non-EU or EU citizens). On the other hand, clubs playing in the two top-divisions (both men and women) need to have at least 7 players on the match sheet who have been registering with Swedish clubs for at least three years between the age 15-21 and at least 2 of those players have to participate in the game.

2.2. Amateur leagues

In Denmark, in principle, all players can be of foreign origin and there are teams fielding a majority of immigrants. There is no limit regarding the number of non-EU players in amateur leagues.

In Belgium, amateur clubs are bound to enrol on the match sheet of their first team at least two players under 21 on January 1 during the previous season.

In France, according to the French football association, a maximum of three non-EU players can be fielded regarding third level competitions and two non-EU players regarding national competitions for the 18 years old. There are non restrictions regarding other amateur competitions.

In Germany, non-EU amateur players may play only if they have a valid residence permit until the end of the relevant season. This regulation also applies to players of Member States that joined the EU on May 1, 2004 as long as the freedom of movement is not granted to such Member States. The number



of non-EU players on the players' list is limited to three players in the third, fourth and regional leagues. This rule does not apply to players of countries which entered into an association with the EU agreement

According to the Hungarian football association, the maximum number of players in an amateur football team playing within the amateur football league is 18. Furthermore, the number of national players in such amateur football teams depend on competitions regulations of county associations. In those competitions, Cotonou players are treated as EU players and there is no limit with regards to the number of non EU players that may be recruited by such leagues but a maximum of 3 players may be fielded.

In Portugal, there is no limit regarding foreign players. However, there must be ten locally trained players in the third and fourth divisions and twelve local trained players in regional competitions.

In Sweden, there are no quotas regarding the number of foreign players (neither regarding non-EU nor EU citizens).

In England, Northern Ireland and Scotland, there are no restrictions on the number of non-EU players who may be fielded during a match in the amateur football league.



III – THE “HOME-GROWN PLAYERS” RULE

The question raised by the European Commission within the framework of this complementary study was to identify the discriminations, whether direct (based on the nationality) or indirect, that may exist regarding the access of young football players to (i) competitions and (ii) training centres.

One of the applicable rules that may constitute a discrimination regarding the access of football players to competitions is the home-grown players rule. Such regulation was adopted by UEFA Executive Committee on February 2, 2005 and thereafter presented by UEFA to its 52 national member associations during its congress held in Tallin on April 21, 2005. The rule was adopted by such federations during such meeting.

A) Presentation of the home-grown players rule

1) Origin of the home grown-players rule

Football is the most practised sport in the Member States of the European Union and football clubs have an important social and educational role in their local communities, regions and countries. In such context, the nurturing of talents is almost as important for football as for society as a whole. Therefore, in the various European countries, clubs should be encouraged to maintain the training of young players.

Every expert recognizes that finance has over the years become more and more important in football but that football is above all a sport and not only a specific sector of economy. Therefore, it is commonly admitted that finance should not exclusively govern football.

UEFA had identified since a few years a certain number of issues which could threaten the future of European football. Those issues were notably:

- the lack of investment of professional football clubs in the players' training : this is especially the case of some of the richest European clubs which prefer hiring high level players at considerable prices to other clubs than ensuring their training;



- the reduction of competitive balance between European clubs involved in UEFA competitions : the richest European clubs may propose to young players more attractive salaries. Therefore, young talented players trained by other clubs do not benefit to their first team as they prefer to leave their training club considering the offers of the richest clubs;
- the hoarding of players in the richest clubs: in some clubs, the number of players hired is so high that many young talented players will never appear on the field during a given season. Apart from the consequences for the players themselves due to the fact that they do not play regularly and thus can hardly maintain their good level, this may create issues for national teams as recently shown in England where local players who do not play regularly in their clubs are not able to defend the chances of their national team in international competitions;
- As a result of the above, certain clubs which traditionally used to train their players now interrogate themselves on the continuation of this effort if once trained, the best players leave for the richest clubs. Training players generates high costs for those clubs and they absolutely need to receive a return on their investment, particularly through their results in national and European competitions. This objective cannot be achieved if the best players never join their first team. Furthermore, it has to be pointed out that the furtherance of this tradition of training is essential for young football players as during the first years of training, they also may continue their education in their original environment.

Within this context, in 2004, UEFA launched a consultation process and issued a set of proposals that was accepted by the majority of the members of the football family. The basis of the proposed solution was to introduce a rule under which clubs participating in UEFA competitions would need to include a minimum number of locally trained players in their team, whatever the nationality of such players, and a limit on the size of the teams.

2) Contents of the home-grown players' rule

The rule is inserted in the Champions League and UEFA Cup Regulations issued for each sport season by UEFA (see appendices 2 and 3 to our complementary study).



Regarding the 2007/2008 season, those rules are included in Articles 17 of UEFA Regulations for the Champions League⁴ and the UEFA Cup⁵. It must be noted that the presentation and the drafting of the rule are strictly the same in both regulations.

Such regulations set out that in order to be eligible to participate in UEFA club competitions, players must be registered with UEFA within the requested deadlines. Each club is responsible for submitting an A list of players ("List A") and a B list of players ("List B") duly signed to its national association for verification, validation and forwarding to UEFA. No club may have more than 25 players on List A during the season. As a minimum, places 20 to 25 on List A (six places) are reserved exclusively for "locally trained players" and no club may have more than three "association-trained players" listed in places 20 to 25 on List A. List A must specify the six players who qualify as being "locally trained", as well as whether they are "club-trained" or "association-trained". The clause refers to an annex to the documents where the various possible combinations that may be realised by clubs are set out.

UEFA regulations define the "locally trained player" as either a "club-trained player" or an "association-trained player". They also specify the meaning of "club-trained players" and "association-trained players".

According to UEFA regulations, a "club-trained player" is a player who, notwithstanding his nationality and age, has been registered with his current club for a period, continuous or not, of three entire seasons or of 36 months between the age of 15 and 21 and an "association-trained player" is a player who, notwithstanding his nationality and age, has been registered with a club or other clubs affiliated to the same national association as that of his current club for a period, continuous or not, of three entire seasons or of 36 months between the age of 15 and 21.

Those regulations specify that in the case where a club has less than six locally trained players in its team (i.e. on places 20 to 25 on List A), then the maximum number of players on List A shall be reduced accordingly and furthermore and that if a club lists a player in places 20 to 25 on List A who does not fulfil the conditions set out in Article 17, that player is not eligible to participate for the club in UEFA club competition(s) in question and the club is unable to replace him on List A.

For the 2008/2009 season, the number of six will be raised to eight.

⁴ Regulations of the UEFA Champions League 2007/2008, UEFA

⁵ Regulations of the UEFA Cup 2007/2008, UEFA



UEFA rules, and particularly the home-grown players rule, are not directly applicable to the players but are included in the regulations of the national associations. Those associations have the exclusive power to have the regulations enforced by the clubs and to govern the relationships between clubs and football players.

B) Enforceability of European law

The word “sport” is not mentioned in the Treaty of Rome executed in 1957, neither in the European Unique Act of 1986, nor in the revisions realised by the Treaty of Maastricht in 1992.

However, it has to be noted that sport was referred to for the first time at the Government Conference of Amsterdam of 1997 in the form of a declaration on sport: “(...) *The Conference emphasises the social significance of sport, in particular its role in forging identity and bringing people together. The Conference therefore calls on the bodies of the European Union to listen to sport associations when important questions affecting sport are at issue. In this connection, special consideration should be given to the particular characteristics of amateur sport*”⁶.

Another important document was adopted in 2000 after comprehensive discussions: the Declaration of Nice in 2000 but it was not incorporated in the Treaty and was solely adopted by the Council as a simple declaration.

Two articles of the draft Treaty establishing a European constitution of 2004 were dedicated to sports. In article I-16, paragraph 2, concerning “Areas of supporting, coordinating or complementary action”, the European Union was granted the competency to also implement such promotional activity for the field of sport. In article III-177 concerning “Education, Vocational Training, Youth and Sport”, the European Union furthermore recognized the autonomy and cultural diversity of the field of education and the field of culture as a whole and rejected all efforts of harmonisation in the above mentioned fields. The European Union also recognized for the above mentioned areas the principle of subsidiarity and emphasized the social function of sport and indicated the possibility to take up promotional activity in those fields. However, the draft Treaty establishing a constitution was not ratified by several Member States and thus did not enter into force.

The Treaty adopted by the heads of State and Government of the 27 Member States of the European Union in Lisbon on October 25, 2007 contains an article specifically dedicated to sport. Article 124 A of

⁶ Commission 1997a, 136)



the new Treaty stipulates that “The Union shall contribute to the promotion of European sporting issues while taking into account its specific nature, its structures based on voluntary activity and its social and educational function”.

The Lisbon Treaty having not yet been ratified by the Member States of the European Union, it may be considered that for the time being, the European institutions do not have any direct jurisdiction on sport and that therefore Member States should have an exclusive jurisdiction on it.

However, as we will expose herein below, sport is not excluded from the European legislation and case law as it is concerned by several provisions of the Treaty.

1) Economic aspect of sport

Over the years, the economic aspect of sport, particularly its commercial and professional exploitation, has considerably increased and many references are now made to the sport market as for any other economic sector.

As a consequence of their economic activities, the sport protagonists (athletes, associations, leagues, etc..) are subject to the regulations of the European Union, just like other protagonists in economic sectors provided that they participate to the economy as defined by the Treaty, i.e., as workers, employers or service suppliers.

The European Court of Justice acknowledged very soon, in 1974, that sport could be governed by European law as soon as it constituted an economic activity in the sense of article 2 of the Treaty⁷. Two years later, the Court specified that this was particularly the case of the activity of professional or semi-professional football players as soon as they carried out a salaried activity or rendered remunerated services⁸.

It has to be pointed out that as a consequence of the above interpretations of the Treaty by the European Court of Justice, amateur sport, whose protagonists are neither workers nor employers or service suppliers, does not fall within the scope of application of the Treaty.

⁷ Case C 36/74, Walrave & Koch v. Association Union Cycliste Internationale, ECR, 1405, § 4

⁸ Case C 13/76, Donà, ECR, 1333, § 12



2) Free movement of workers, free trade of services and right of establishment

The free movement of workers set forth in Article 39 of the Treaty is considered as one of the fundamental principles of the European Union and the European Court of Justice acknowledged several times that the provisions of the Treaty which guarantee this freedom are directly applicable. The same rule of direct applicability is also valid regarding the two other above mentioned principles set out in Article 49, 50 and 43 of the Treaty.

Under those provisions, every citizen of a country of the European Union has the right to perform economic activities under the same conditions in every Member State, either as a worker or as a self-employed person, just like the nationals of the Member State concerned. Services may be rendered by every citizen of the European Union in every Member State under the same conditions as those applying for the nationals of the respective Member State where the services are rendered. Furthermore, in order to facilitate the exercise of such rights, the Treaty sets out that the Commission may issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualification (article 47 of the Treaty).

The principles of free movement of workers, free trade of services and the right of establishment were applied to sport several times by the European Court of Justice.

In the Walrave case⁹, the European Court of Justice acknowledged that the labour conditions were governed in the various Member States both by statutory or regulatory provisions and by conventions and other acts entered into by private entities. Moreover, the Court concluded that if the purpose of Article 39 of the Treaty was limited to the acts issued by the public authority, some inequalities may arise from its application. In the famous Bosman case¹⁰, the European Court of Justice concluded that Article 39 of the Treaty applied to regulations issued by sport associations, such as URBSFA, FIFA and UEFA, which determine the conditions of exercise of a salaried activity for professional sportsmen.

⁹ Case C 36/74, Walrave & Koch v. Association Union Cycliste Internationale, ECR, 1405, § 4

¹⁰ Case C 415/93, ASBL v. Jean-Marc Bosman, ECR I - 4921.



The European Court of Justice extended the application of the principle of free movement of workers to professional sportsmen citizen of non EU countries which had signed an association or cooperation agreement with the European Union. The most famous illustrations of this extension are the Kolpak¹¹ and Simutenkov¹² cases.

3) Competition law

Competition regulations constitute another area of European law may apply to the sector of professional sport and particularly to professional football, due to its economic implications. The rules contained in the Treaty shall preserve a competitive market within the Member States and sanction any behaviour issuing undertakings that may restrain competition.

The European Court of Justice decided in 2005 that FIFA could be considered as an association of undertakings under articles 81 and 82 of the Treaty.

Further to the European Court of Justice¹³ *“since the national associations constitute associations of undertakings and also, by virtue of the economic activities that they pursue, undertakings, FIFA, an association grouping together national associations, also constitutes an association of undertakings within the meaning of Article 81 EC. That provision applies to associations in so far as their own activities or those of the undertakings belonging to them are calculated to produce the results to which it refers (Case 71/74 Frubo v Commission [1975] ECR 563, paragraph 30). The legal framework within which decisions are taken by undertakings and the classification given to that framework by the various national legal systems are irrelevant as far as the applicability of the Community rules on competition is concerned (Case 123/83 BNIC [1985] ECR 391, paragraph 17).”*

Article 81 of the Treaty

Under article 81 of the Treaty, are prohibited all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between the Member

¹¹ Case C 438/00, Kolpak, ECR I - 4135.

¹² Case C 265/03, Simutenkov, ECR I – 2579.

¹³ Case T 193/02 - Piau.



States and which have as purpose or effect the prevention, restriction or distortion of competition within the common market.

The regulations of UEFA, as decisions of an association of undertakings, contain mandatory provisions for all affiliated associations and clubs and set out the right to sanction all associations and clubs which do not abide by such regulations.

Further to article 81 paragraph 3, the provisions of paragraph 1 may, however, be declared inapplicable in the case where decisions made by associations of undertakings contribute to improve the production or distribution of goods or to promote technical or economic development, while allowing consumers to a fair share of the resulting benefit, and do not (a) impose on the undertakings concerned restrictions which are not indispensable for reaching these objectives, and (b) prevent such undertakings from eliminating competition in respect of a substantial part of the products in question.

UEFA home-grown players rule may have a substantial impact on the players' careers as it tends to organize football on the basis of strict criteria so as to ensure the achievement of accurate objectives. Therefore, said rule may be considered as affecting trade between the Member States and prevent competition within the common market due to fact that it may hinder clubs to hire players as they wish and that it may lead to the fact that specifically rich clubs may limit competition between themselves and other clubs through the acquisition of a big number young talented players.

The question that arises is whether the rule can be justified due to the fact that it will promote technical or economic progress, while allowing consumers a fair share of the resulting benefit and this without imposing restrictions which are not indispensable to the achievement of these objectives and without eliminating competition.

Regarding article 81 of the Treaty, UEFA home-grown players rule could be considered as decisions of associations of companies as it contains mandatory provisions to the attention of the football clubs participating in UEFA competitions and UEFA has the right to sanction clubs which would not comply with such regulations.

Moreover, this rule could be considered as allowing clubs to limit competition between them through the fact that the richest club may hire a huge number of talented young players at a very young age to by-pass it. In such a case, the rule might also be considered as affecting the commerce between the Member States due to the limitation of the players' mobility thus created.



Article 82 of the Treaty

Article 82 of the Treaty may find an application in the area of professional football further to the monopoly position of UEFA.

Article 82 prohibits any abuse by one or more undertakings of a dominant position within the Community or in a substantial part so far as it may affect trade between Member States.

Therefore, the question which may be raised is to know whether with adopting the home grown players rule, UEFA abuses its dominant position and whether that abuse may affect trade between the Member States.

Furthermore, article 82 of the Treaty could be find application if one considered that clubs are only performance agents of very strong associations which shall themselves be considered as companies in dominant position¹⁴.

*
* *

Therefore, the home grown players rule should obviously comply with the provisions of the European Treaty relating to the prohibition of discrimination (article 12 of the Treaty), the free movement of workers (article 39 of the Treaty), the right of establishment (article 43), the free trade of services (articles 49 and 50) and the competition regulations (articles 81 to 87 of the Treaty). Some provisions relating to employment and social policy may also have an incidence on sport and particularly on professional football as shown in our main study relating to the training of young sportsmen and women in Europe.

However, it must be pointed out that sport cannot be exclusively and merely considered as an economic system. The first main reason is that the basis of European sport is the amateur sport. The second reason is that sport is very different from any other economic system: whereas in other economic systems, companies fight against others, in sport protagonists need others if they wish to compete. Furthermore, the uncertainty of the result is much more substantial in the area of sport than in the other sectors of economy.

¹⁴ Decision of the Court of Appeals of Liège, October 1st, 1993, ASBL, SA Royal Club Liégeois, UEFA / Bosman



4) The specificity of sport

The specificity of sports is recognized by the European institutions since many years.

In 1999, the Parliamentary Assembly of the European Parliament re-affirmed the specificity of sport as well as its social, integrating, educative and cultural and recalled the European Charter on Sport and the European Code of Sport Ethics adopted by the Council of Europe in 1992. The European Parliament stated that sport was more than a commercial business as adversaries depend from each other.

Due to its specificity, the principle of non discrimination set forth in the Treaty may not be transferable as is to sport.

The European Court of Justice recognized for the first time the specificity of sport in the Dona case ¹⁵, stating that the provisions of the Treaty relating to the freedom of movement of persons do not oppose to regulations or practices in the area of sport which exclude foreign players from certain matches for non economic grounds, deriving from the nature and the specific framework of these matches and thus exclusively interesting sport itself, like matches between national teams of various countries. However, the Court added that this restriction to the scope of application of the provisions of the Treaty concerned should be limited to its own purpose and should not be invoked to exclude any sport activity from the scope of application of the Treaty.

The specificity of sport was also taken into account by the European Court of Justice in its ruling rendered in the Lehtonen case ¹⁶. The Court stated that the previous article 48 of the Treaty opposed to the application of regulations in a Member State by sport associations which imposed transfer periods limited in time, unless objective reasons, exclusively interesting sport itself or deriving from differences existing between the situation of players coming from an association which does not belong to the European zone and the situation of players coming from a national sport association which does not belong to such zone, do not justify a difference of treatment. In its ruling, the Court recognised that sport regulations which aim at ensuring the stability of the teams so as to guarantee the regularity of competitions and the integrity of championships shall be considered as legitimate,

¹⁵ Case C 13/76, Donà.

¹⁶ Case C 176/96, Lehtonen, ECR I - 2681.



although they constitute a constraint to the freedom of movement of players, as soon as the means used to reach the objective researched are proportionate.

The European Court of Justice also decided that regulations setting out a selection of players in view of their participation to qualifying championships have to be considered as inherent to the organisation of sport. The Court also stated that although those rules breached the principle of free trade of services which may be invoked by any athlete, these regulations had to be admitted as soon as the restrictions imposed by them remained proportionate to the objective researched¹⁷.

However, the specificity of sport is still not clearly defined as shown in the ruling rendered by the European Court of Justice in 2006 in the Meca-Medina case where the Court considered that anti-doping regulations, usually considered as being much more sporting more than economic rules, fell within the scope of the Treaty¹⁸.

A solution will probably be found in the application of the new European Treaty.

The European Commission also recognizes the specific nature of sport and this aspect was particularly emphasized during its discussions with FIFA regarding the regulations relating to players' transfers in 2001 and in the White Paper on Sport issued in July 2007.

Regarding the players' transfers, very early in the process, the Commission engaged discussions with football organizations so that the transfer system comply with European law and ensure the free movement of players taking into account the specificity of sport. A solution was found in March 2001 and the regulations went into force in August 2001.

In the White Paper on Sport of 2007, the Commission noted that the societal role of sport is essential and indicated that it wished to favour the role of sport in the education and training. The Commission underlined the necessity of the realisation of investments in the training of young sportsmen and specified that regulations imposing to teams a quota of locally trained players could be considered as complying with the principle of freedom of movement if they do not entail any direct discrimination based on nationality and if the potential discriminatory effects shall be considered as proportionate with the legitimate objective researched¹⁹.

¹⁷ Cases C 51/96 and C 191/97, Delège.

¹⁸ Case C 519/04, Meca-Medina & Majcen v. Commission, Judgement of July 18, 2006.

¹⁹ European Commission, White Paper on Sport, July 2007



The Commission is now often asked to adopt an interpretation so as to clarify the relationship between European law and “sport rules” which are not submitted to such law and the sectors in which European law may apply. The Commission is required to take into account the fact that the European Union has no direct jurisdiction on sport, the proportionality principle and the fact that some rules being pure sport rules and having no economic impact may not enter into the scope of the Treaty.

Regarding those last rules, the Commission of Legal Affairs of the European Parliament recently specified that the rules that govern the organisation and the good progress of sports competitions should not be considered as obstacles to European rules relating to the free movement of workers and to the free trade of services²⁰.

The European Parliament agrees with the European Commission that most challenges can be addressed through self-regulation respectful of good governance principles, provided that European law is respected, and calls on the Commission to take measures wherever it deems them appropriate²¹.

Finally, as regards specifically the theme of the training of young players, it should be reminded that sport training programs were already considered as an exception due to their specificity. By a decision rendered in April 25, 2001, the European Commission authorized the financing of the training centres of French professional sport clubs by public subsidies, thus instituting a derogation based to European law.

C) Compliance of the home-grown players rule with applicable European law

In order to know whether the home-grown player rule complies with applicable European law, it must be ascertained that the rule (i) does not contain any direct discrimination based on nationality which would prevent a young European football player from entering in the training centre base din another European country or from playing in the team of a club located in another European country and (ii) in the case where it could be considered as creating an indirect discrimination, is aiming at reaching a legitimate objective and is proportionate considering such objective.

²⁰ Draft advice of the Commission of Legal Affairs of the European Parliament to the intention of the Culture and Education Commission relating to the White Paper on Sport, dated February 12, 2008 (PE400.484v02-00).



1) The home-grown players rule does not contain any direct discrimination based on nationality

Contrarily to the rules sanctioned in the Bosman case²², the home-grown players rule only refers to the place of formation of the player, his nationality not being taken into consideration at all.

Therefore, any citizen of a Member State of the European Union may have access or be integrated in a training centre located in any other Member State whatsoever. May also be considered as a locally trained player under such rule, any non national player provided that he has been trained for three (non consecutive) years by the club or by a club of the same national association between the age of 15 and 21. For example, a Japanese young man could be considered as a locally trained player by a French club provided that between 15 and 21, he was trained three years by a French football club affiliated to the French national football association.

However, it must be noted that regarding direct discriminations based on nationality, the European Court of Justice also specified that regulations that would prevent or dissuade a citizen of any Member State from leaving his country of origin to exercise his freedom of movement is a restriction to such freedom even if such regulations are applicable independently from the nationality of the workers concerned²³

The home-grown players rule may not be considered as preventing any young player from leaving his country if he so wishes as only three years of training out of six are concerned by the rule. Furthermore, those three years may be performed in all clubs of a same national association.

It must also be pointed out that, in practice, a professional football player may exercise its activity very easily in Europe without having the status of home-grown player: Even during the season 2008/2009 where the rule will be applied at its maximum, teams participating to UEFA competitions will be allowed to count only eight home-grown players out of 25 players in their strengths. Therefore, the match sheet will have to mention only one home-grown player is 18 players are designated in it. Moreover, in the case where a club would not have any home-grown player, it would nevertheless be entitled to state 17 non home-grown players on the match sheet, which would not prevent the club

²¹ European Parliament – Commission on Culture and Education - Draft Report on the White Paper on Sport, dated November 26, 2007 (PE398.399v01-00).

²² C 415/93, ASBL v. Jean-Marc Bosman, ECR I - 4921.



from participating in the European competitions organised by UEFA or obtaining good results in such competitions.

2) The home-grown players rule may be considered as containing an indirect discrimination

In the case one would consider that the home-grown players rule contains an indirect discrimination, the rule could nevertheless be considered as not being prohibited by Article 39 of the Treaty in the case where it would pursue a legitimate objective compatible with the Treaty and would be supported by imperious general interest reasons. In such a case, it would moreover be necessary that the application of the rule be appropriate to guarantee the realisation of the objective concerned and do not go beyond what is necessary to reach the objective²⁴.

D) Justification of the home-grown players rule

The European Commission already stated its acceptance of limited and proportionate restrictions to the principle of free movement of workers in particular as regards the right to select national athletes for national team competitions²⁵ and the setting of deadline for transfers of players in team sports²⁶.

The European Court of Justice of the European Communities recognized, in the Bosman Case,²⁷ that taking into account the considerable social importance of sport activities and particularly football in the European Union, the objectives aiming at ensuring the preservation of a balance between clubs and at supporting the talents research and the training of young sportsmen are legitimate objectives but the Court also specified that as the participation to matches constituted the essential purpose of the activity of a professional football player, it was obvious that a rule limiting such activity would limit the opportunities of employment of such player.

In view of these cases, we will try to demonstrate that the home grown players rule is justified and proportionate in consideration for the legitimate objective researched by UEFA as explained above in the paragraph of our complementary study dedicated to the origin of the rule.

²³ Case C 10/90, Masgio, ECR I-1119, § 18 and 19.

²⁴ Case C 19/92, Kraus, ECR. I – 1663, § 16.

²⁵ Case C 13/76, Donà and case C 415/93, ASBL v. Jean-Marc Bosman, ECR I - 4921, § 87.

²⁶ Case C 176/96, Lehtonen, ECR I - 2681.

²⁷ Case C 415/93, ASBL v. Jean-Marc Bosman, ECR I - 4921, § 87.



1) The home-grown players rule does not apply to all competitions

This point has to be emphasised as, in previous cases brought before the European Court of Justice, the Court noted that the rules concerned were applicable to all competitions and therefore to the entire professional activity of the sportsmen involved.

This notably happened in the Lehtonen case²⁸ where the FIBA regulations relating to the transfers of players concerned were directly and fully applicable to all national federations.

In the Bosman case²⁹, the Court also noted that the offending rule applied to all official matches between clubs and entailed restrictions on the whole professional activity of the players.

This is not the case for the home-grown players rule, which does not apply to all competitions in which European football clubs may participate: The rule only applies to the European competitions organised by UEFA, i.e. the Champions League and the UEFA Cup.

It has to be noted that UEFA recommended that European federations have those rules integrated for their national championships but this is not compulsory and the rule seems to be applied only in a few Member States of the European Union. According to the recent information provided by UEFA, only 8 national associations out of 27 would strictly apply the home-grown players rule to their national championships. Therefore, the home grown players rule does not apply to the entire activity of European football players and only to part of it when their club qualifies to UEFA competitions.

Moreover, in practise, clubs joining the UEFA competitions annually and representing each European championship are at the most seven in the best football nations (Spain, Italy and England) and three for the majority of the countries involved in such competitions. In addition, it may be underlined that clubs qualifying for UEFA competitions from one year to another are very often the same clubs.

Therefore, the concrete application of the home-grown players is very limited with regards to European clubs and European professional football players.

²⁸ Case C 176/96, Lehtonen, ECR I - 2681.

²⁹ Case C 415/93, ASBL v. Jean-Marc Bosman, ECR I - 4921.



2) The home-grown players rule may ensure the preservation of the balance between clubs

As already mentioned hereinabove, the European Court of Justice also accepted limited restrictions to the fundamental principles set forth by the Treaty.

In the Bosman case³⁰, the Court stated that the rules issued by national football associations under which a professional football player, citizen of a Member State, upon expiration of his employment contract with a given club, could not be employed by a club located in another Member State unless the latter had paid to the first club a transfer, training or promotion indemnity restrained the application of the principle of freedom of movement of workers (at that time, article 48 of the Treaty), even if they were not different from the rules governing the players' transfers within a given Member State, as they prevented players from leaving their clubs even after the expiration of their employment contracts with such clubs. The Court added that these rules were not an adequate means to reach legitimate objectives, such as the wish to preserve the sport and financial balance between clubs and the support of the research of talents and of the training of young players as soon as:

- on the one hand, these rules did not prevent that the richest clubs employ the best players nor that the available financial resources be a decisive element in the sport competition and that the balance between clubs be considerably affected,
- on the other hand, the indemnities set out by such rules could be characterized by their uncertain and possible nature and were, in any case, independent from the real costs of training incurred by the clubs,
- and, finally, the same objectives could be reached in an also efficient manner by other means which did not constitute a restriction to the freedom of movement of workers.

A contrariwise interpretation of the reasoning of the European Court of Justice could lead to show that restrictions to the freedom of movement of workers could be accepted by the Court as soon as they

³⁰. Case C 415/93, ASBL v. Jean-Marc Bosman, ECR I - 4921, § 87.



prevent the richest European clubs to employ the best players and thus preserve the balance between European clubs.

Further, always in the Bosman case, the Court set forth that nationality clauses which would prevent the richest clubs from hiring the best foreign players were not appropriate to reach the objective aiming at preserving the sport balance as soon as there was no rule limiting the possibility for those clubs to recruit the best national players, which jeopardizes the balance in the same manner.

The position of the Court certainly applies to clubs playing at the European level but it seems difficult to apply it to other clubs as (i) the majority of the clubs engaged in the professional leagues of a given country have nearly the same financial capacities whereas many independent studies³¹ showed the huge difference existing between the main European championships. The average financial capacity of an English club engaged in the Premier League is much more important than the one of the best French or Belgian or Portuguese club. Therefore, the balance between European clubs is much more compromised from one country to another than inside the championship of a given country, even if the national balance is also threatened as in more and more national championships, a few clubs (nearly the same each year) fight for the first places of the championship. This trend is increased by the fact that the richest championships may also have their players benefit from an attractive taxation. Thus, the question may be raised to know whether a rule internal to each national championship would be the priority compared to a rule issued at the European level.

The home-grown player rule may preserve the balance in the competition as (i) many national associations require from clubs that they train young players, (ii) training clubs would thus be allowed to benefit from their training investments by having their players join their first team instead of losing them before they can play at that level and therefore lose the investment made on them, (iii) small clubs training talented players could access to European competitions, thus preserving the uncertainty of the sport result.

3) The home-grown players rule may support the training of young sportsmen

One of the main objectives of the rule when it was imagined by UEFA was to maintain the training of young football players both in small and big clubs.



Both small clubs and big clubs effectively invest in the training programs of young football players. The charge of this investment is substantial as the development of young sportsmen is a long process (five years are usually necessary in the area of football). Therefore, all clubs need a return on their investment. A system was imagined by FIFA regulations relating to the transfers of players, which is based on two aspects:

- No transfer of player shall occur before the player is 18;
- A transfer indemnity shall be paid to training clubs of a transferred player.

However, it appears that:

- within the European Union, transfers of young football players may occur as from 15 or 16 according to the countries concerned;
- the transfer indemnity does not prevent the richest clubs from recruiting many most talented players: they are so financially powerful through TV or media rights that paying transfer indemnities does not raise an issue for them and some of them even practise the hoarding of talented players. It is now recognised that some of the richest European clubs could even decide to stop training programs and exclusively buy their players.

The home-grown players rule may prevent the above mentioned drift as it will oblige the richest European clubs to have home-grown players and thus to (i) maintain training programs and (ii) provide young players with game time.

In parallel with the richest European clubs which start raising the question of the “make or buy” players, other clubs that were usually involved in training programs interrogate themselves on the opportunity to continue this investment. As an example, French clubs even exercised a pressure on the French football governing bodies to cancel the obligation of setting out training academies set forth in the Law of December 28, 1999. Some European clubs (Dutch and Finnish for example) already share their training centres in order to minimize their training costs and others think about it (In France, LOSC).

4) The home-grown players rule may preserve the dual career of young players

³¹ Ineumconsulting / Euromed, Annual Study on the Finances of Professional Football (2004, 2005, 2006 and 2007)



The home-grown players rule may allow young football players to stay as long as possible in their local environment, which is important for their personal stability and provide them with the chance to benefit from a dual career. Indeed, it may be easier for a young football player to pursue both educational and sport trainings in his country of origin, in his mother tongue and not too far from his family.

This is all the more important that many young football players present in training programs will not have access to a professional football career and will have to find another occupation once they will reach the age of 18.

An indirect effect of the home grown players rule may consist in increasing the chances of locally trained players to perform a dual career.

It has to be noted that the European Parliament recommends that Member States recognise the need to provide “dual career” training for young sportsmen and – women and to provide high quality training centres to safeguard their moral, educational and professional interests³².

E) Opinion and conclusion

The home-grown players rule does not contain any direct discrimination based on nationality but could be considered as creating indirect discrimination as one could consider that a restriction exists regarding the movement of young football players. However, the developments above show that this restriction is very theoretical.

In the case where the indirect discrimination would nevertheless be ascertained, it would be useful to refer to the Bosman case³³ where the European Court of Justice explicitly recognized three legitimate objectives which should be taken into account for each evaluation of rules issued by sport associations: the training of young players, the maintain of a certain financial balance between clubs and the preservation of the uncertainty of the results.

³² European Parliament – Commission on Culture and Education - Draft Report on the White Paper on Sport, dated November 26, 2007 (PE398.399v01-00).

³³ Case C 415/93, ASBL v. Jean-Marc Bosman, ECR I - 4921, § 87.



As previously demonstrated in this report, the home-grown players rule could be considered as reaching those three objectives and not going beyond what is necessary to reach them.

This opinion seems to be shared by the European Parliament, particularly in a report issued by its Culture Commission on April 3rd, 2008, drafted by Mr. Manolis Mavromatis. This report congratulates the White Paper on Sport issued by the European Commission in July 2007 and emphasizes on the role of sport in the society. The members of the Culture Commission require, particularly to the European Commission to comply with the specificity of sport and to draft accurate guidelines on the application of European law. They also invite the European Commission to recognise the lawfulness of measures favourable to the presence of a minimum number of locally trained players. This report was adopted in commission but should be submitted to the vote of the Parliament at the beginning of May 2008.

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Alternatives to the home grown players rule could be found:

-One was proposed by the President of FIFA, Mr. Sepp Blatter, and consists in imposing six local players and five foreign players maximum per team so as to better protect the birth of local talents. This solution is obviously a direct discrimination based on nationality and therefore breaches the Treaty. Therefore, Mr. Platini, President of UEFA recently announced that he would not support it.

- Another alternative could be to strictly apply FIFA regulations applicable to the transfers of players and prohibit any transfer before the players are 18. Within the territory of the European Union, the rule may be surrounded as soon as the player is 16. Therefore, talented players often live their country and their club at a very young age. The issue regarding this alternative is that it may breach the principle of freedom of movement of workers.

- In order to make the training clubs receiving a return on their investment, it has also been proposed to oblige the young player to sign his first professional contract with his training club. This regulation may breach the principles of freedom of movement of workers even if it may be justified by the preservation of the training system existing in most countries and clubs in Europe.

- Another way could consist in reviewing the FIFA indemnity system and including in the computation of the indemnity a part linked to the effective value of the player and /or the training centre when the player is sold. The difficulty of such modification, as for the previous indemnification system, would lie



in the determination of a fair indemnity. Furthermore, it would not prevent the richest clubs from hiring the most talented players.

- An idea could be found in the limitation of the number of players that a professional football club is entitled to hire. If the number of contracts was limited, the richest clubs could not anymore recruit so many young talents and the balance between clubs would be better preserved. Nevertheless, this type of rule may entail restrictions to the principle of freedom of movement and do not contribute to the preservation of the dual career if not accompanied by measures relating to the quality of sport and educational trainings.

- It could also be imagined to oblige professional football clubs to spend a minimum percentage of their turnover for training programs. Therefore, all clubs would be obliged to maintain training programs and the trend consisting for the richest clubs in buying instead of training would be stopped. However, this would not ensure the quality of training programs and measures should be taken to ascertain this aspect. These measures could be inspired from the UEFA license system and particularly to the quality criteria contained in the manual issued by such organization .

In any case, some measures should be taken to guarantee quality training for young football players, an opportunity for them to benefit from a dual career and at a larger level, to preserve the balance in the competitions.

As a conclusion of these developments, it appears that there is not a unique solution regarding the training of young European football players.

Reaching the legitimate objectives which are quality training for young players, their dual career and the preservation of the balance in the European competitions is a real challenge and it seems that the home-grown players rule and the other suggestions set forth above may not be efficient if they are enforced individually.

Perhaps a solution could be found in the combination of several rules or suggestions provided that it is in line with the fundamental principles of the Treaty, particularly the free movement of workers.