

REGULATION OF THE REALITY JURIDICAL-SPORTIVE OF THE FOOTBALL PLAYERS' AGENTS IN BRAZIL AND IN EUROPE

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Abstract

It is crucial that high-performance sports support its participants legally, whether it's a player, a coach or a manager (M. J. Carvalho, 2010). Ever since the effects produced by the "Bosman Judgement", which ended with the reserve clause in Europe, allowing players to be transferred from one club to another in the end of their work contracts without the payment of any financial compensation to the previous club (Amado, 2002; Feess & Muehlheusser, 2003), it was observed an increase of the free circulation of players within the continent, and so these athletes felt the necessity of being assisted by people able to negotiate the terms and conditions of a future work contract with a new employee club. This upcoming need lead the appearance of a huge variety of individuals to the football scenario, mostly of them without any specific preparation, but attracted by promising financial results. For this reason, in 1995, FIFA regulated this profession and started to license these managers, or so-called football players' agents, and subordinated them to its established rules on the Players' Agents Regulations. However, in 2001, this activity suffered a major revision, in which FIFA determined that all licenses would be issued by each national association. As the agents' career is now supported by each of the national legislations around the globe, this paper aims an evaluation on a legislative level in countries which have the major football leagues, but adding a comparative component as of the Brazilian legislation, land of great tradition in football. For this, it was used the following seven countries: Greece, Spain, France, Italy, Portugal and, of course, Brazil. Therefore, in Greece and Spain the legislator chose not to cause any mismatch and these nations adopted FIFA's text integrally. In France, the profession is regulated by their own Agents' Regulation, of which text is in accordance with

FIFA's, where the agent is any person that get interested parties closer in order to celebrate a contract related to a paid sport activity (A. D. Carvalho, 2003). In Italy, agents have their own regulation, and it is prohibited to celebrate contracts without the presence of a "procuratore sportivo", which must be, mandatorily, a lawyer (A. D. Carvalho, 2003). The Portuguese law has the agent on Law nb. 28/98, calling them "sports businessman", and defining them as those individuals or legal entity properly authorized by the appropriate entities, representing one side in the celebration of a sport contract. Finally, in Brazil the agents do not have a unique regulation and are self-employed, with the career ruled by the Consolidation of Work Laws (CLT, in Portuguese) and with influence of the Law nb. 9.615/98, the "Pele Law" (Aidar & Leoncini, 2002). Despite all these ruling and regulations, the discussions regarding this professional activity have not yet reached a final solution, and have constantly being worldwide debated, mainly in Europe by the European Football Agents Association (EFAA), European Club Association (ECA), FIFPRO, UEFA and FIFA.

This present work intends to make an analysis and comparison of the sport and juridical policies regarding football players' agents, from the main European countries relating them to the policies applied for these professionals in Brazil, in order to verify if in these countries they are supported by law and if they have common legislation to the well-known football market of Brazil. Furthermore, it also intends to demonstrate the current related legislation in all the countries mentioned, by linking them to the main football laws established by FIFA.

The collection of data in the academic level was done in the databases of the Faculty of Sport of the University of Porto (EBSCO, Scopus and Academic Search), in the official documents from the mentioned entities and also in the national and international legislation of these countries. The data was analyzed by reviewing local legislation, analyzing scientific articles and interpreting official documents, and also by using content analysis with the assistance of NVivo 9 program.

The results indicate that all analyzed countries are concerned in improving the legal process of their football, although with slightly changes in regards to the FIFA legislation. Another relevant part of the study was to point out the concern of the legislators in supporting their athletes in order to promote the national sports within the legality and always allied to the regulations from FIFA. The results yet show that Brazil and Europe have distinct realities regarding players' agents, but all studied countries aim that the practical application in football complies with the framework law board from each nation.

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