

DEFINITION OF PLAYER’S STATUS AND ITS IMPACT ON THE ECONOMIC VALUE OF FOOTBALL PLAYER EMPLOYMENT CONTRACTS

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Abstract. *From an economic perspective football player employment contracts have always been crucial, as players can make profits for their clubs and themselves by plying their trade in the football industry. Recently some of the scholars have been working on this topic. The definition of a player and its importance in establishing him as professional or amateur will determine whether football players gets remunerated for his service as a professional. This paper covers some of the most important research works on the given issue, mainly examining the definition of a football player and its potential impact on the employment contracts of football players.*

Based on their social status and income they make football players can be differentiated as “football stars”, “average players”, but sometimes they may also be qualified as “amateur” and “professional” players depending on their talent and ability. It is essential for a player to acquire and maintain professional status in order to be eligible for compensation for training expenses. FIFA RSTP provides for definitions on what exactly means being amateur and professional players. Football players are regarded either amateurs or professionals. It is clearly expressed in Art.2 of the FIFA RSTP, “a professional is a player who has a written contract with a club and is paid more for his footballing activity than the expenses he effectively incurs.¹ If either of the above mentioned requirements are not met, a player cannot be considered a professional, and the rest of the players are considered to be amateurs.”

The fact that a player is registered within the association is not necessary in determining the status of a player, as the employment relations between a player and a club will only be based on the contractual relationships not the registration at the association concerned. As stated in Art.5 para 1 FIFA RSTP, in order to participate in any organized football, a player has to be registered electronically and possess FIFA ID.² However, the concept of maintaining contractual stability constitutes that only duly signed employment contracts will impose legally binding obligations on the parties.

National associations’ regulations can also be referred to in terms of the player's "professional" status, however national associations' regulations contain remarkably similar provisions to those found in the FIFA RSTP. However, that does not mean that this superiority applies only to international transfers, it also to national transfers. Pursuant to Art. 1 para. 3, litt. a) and 26 para. 3 RSTP, it is compulsory for all the national federations literally transpose Art. 2 RSTP, which includes the worldwide mandatory definition of “professionals” and

¹ FIFA Regulations on the Status and Transfer of Players June 2020 Edition (including COVID-19 temporary amendments) (p.11) available online at <https://resources.fifa.com/image/upload/regulations-on-the-status-and-transfer-of-players-march-2020.pdf?cloudid=pljykaliyao8b1hv3mnp> (last visited April 20 2022)

² Ibid, 12

"amateurs."³ National legislation of Uzbekistan does not provide for clear definitions on "professional athlete", there are some terms given to the "professional sport" but not professional athlete. Law of the Republic of Uzbekistan "On physical education and sports" explicitly establishes the definition of "professional sport" as "professional sports is part of the organization and conduct of sports competitions, in which athletes receive a reward and (or) salary for participating and preparing for them as their main activity".⁴ Another example, the definition of "professional sports" has been included in the Article 60 of the Ecuadorian Law of August 4, 2010, "On sports, physical education and recreation", and it reads "professional sport includes activities that are rewarded and that are legally developed by sports organizations that search for and select talented athletes of high achievements".⁵ A similar norm contains the Article 55 of the Law of the Republic of Belarus on Physical Culture and Sports. And according to the previously mentioned law "professional sport" is defined as "professional sport is a part of sport that includes entrepreneurial, labor and other activities not prohibited by law, aimed at achieving high sports results and related to receiving rewards (income) from organizing sports events and (or) participating in them".⁶

When the distinctions and definitions between professional and amateur athletes are compared, it becomes noticeable that few other countries' laws provide a precise understanding of what a professional sport is.

Most foreign countries' laws, on the other hand, have specific provisions that are related to amateur sports, which are found in the majority of cases. For instance, Article 19 of the Latvian Law (ed. of 09.07.2021) "On sports" of 24.10.2002, contains the definition of a professional athlete, according to which "a professional athlete is an individual who, on the basis of an employment contract and for an agreed remuneration, prepares for and participates in sports events."⁷ On the other hand, part 3 of Article 7 of the Law of the Autonomous Community of Madrid (Spain) of 12/28/1994 No. 15/1994 "On sports in the Autonomous Community of Madrid", stipulates "professional athletes are those who directly or indirectly receive basic wages for participating in sports."⁸ As defined in section 4 of Article 1 of the Hungarian Law of 2004 "On Sports, "a professional athlete is one who competes in sports activities professionally for the purpose of earning income. All other athletes are amateurs." One feature that distinguishes the Hungarian Law "On Sports" from those of other nations is that it contains a definition of amateur athletes, albeit in a restrictive sense. According to subparagraph 13 of paragraph 1 of the Additional Provisions of the Bulgarian Law "On Physical Education and Sports", "Amateur athletes" are persons who carry out systematic training and competition activities, and for them this is not their main profession and/or do not receive remuneration for this activities."⁹ An amateur athlete is defined in Article 1 of Moroccan Law No. 30-09 "On Physical Culture and Sports" as "any athlete who does sports on a non-

³ CAS 2015/A/4148 & 4149 & 4150 Sheffield Wednesday FC v. Louletano Desportos Clube & Internacional Clube de Almancil & Associação Académica de Coimbra, 17 February 2016 available online at: <https://jurisprudence.tas-cas.org/Shared%20Documents/4148,%204149,%204150.pdf> (last visited April 22 2022)

⁴ Law of the Republic of Uzbekistan "On physical education and sports, available online at: [O'RQ-394-con 04.09.2015. "Jismoniy tarbiya va sport to'g'risida"gi O'zbekiston Respublikasi Qonuniga o'zgartish va qo'shimchalar kiritish haqida \(lex.uz\)](https://lex.uz) (last visited April 22 2022)

⁵ Article 60 of the Ecuadorian Law of August 4, 2010, "On sports, physical education and recreation", available online at [LEY DEL DEPORTE. EDUCACIÓN FÍSICA Y RECREACIÓN - 11 DE AGOSTO DE 2010 \(todaunavida.gob.ec\)](http://leydeldeporte.gob.ec) (last visited April 25 2022)

⁶ Article 55 of the Law of the Republic of Belarus on Physical Culture and Sports, available online at: <https://etalonline.by/webnpa/text.asp?RN=H11800092> (last visited April 22 2022)

⁷ Article 19 of the Latvian Law (ed. of 09.07.2021) "On sports" of 24.10.2002, available online at: [Sporta likums \(likumi.lv\)](http://likumi.lv) (last visited April 22 2022)

⁸ part 3 of Article 7 of the Law of the Autonomous Community of Madrid (Spain) of 12/28/1994 No. 15/1994 "On sports in the Autonomous Community of Madrid", available online at: [Ley 15/1994, de 28 de diciembre, del Deporte de la Comunidad de Madrid. \(boe.es\)](http://boe.es) (last visited April 22 2022)

⁹ The Law on Physical Education and Sports of Bulgaria, available online at: [Lex.bg - Закони, правилници, конституция, кодекси, държавен вестник, правилници по прилагане](http://lex.bg) (last visited April 22 2022)

professional basis."¹⁰ However, the Law of the Republic of Moldova of 25.03.1999 No. 330-XIV (ed. of 2016) "On Physical culture and sports" states "amateur athletes do not receive income from sports. Sports scholarships and allowances, daily allowances paid to trips, allocations for food, medicines and stimulants, as well as sports bonuses are not considered income".¹¹

By introducing the sentence "on a non-professional basis", lawmakers must have meant athletes who do not perform for a fixed salary or profit, but rather for leisure reasons.

Some sports law scholars have also contributed to the advancement of the legal status of football players, particularly in the broader context of athletes. A. Tukmanov offered expert insight in his dissertation, which was quite similar to the definitions given above, stating:

"A professional football player is an athlete of a professional football team, for whom sports are the main activity, and who receives, in accordance with an employment contract with a sports professional club, a salary for preparing for sports competitions and for participating in them".¹² O. Shevchenko notes that with the definition of the concept of a professional athlete it should be understood as an individual who has entered into an employment relationship, for whom sports are the main activity, which is part of a professional sports organization for sports, appropriately registered, included in the official register of license holders and has received a license.¹³ The only distinction between the two definitions described above is the remuneration that an athlete may receive for his training and participation in professional sports.

Nonetheless, it should be noted that various gaps exist in Uzbekistan's national law governing the status of professional sports athletes, which must be addressed. As can be observed that the law of the Republic of Uzbekistan "On physical education and sports and other legislative acts do not give a specific definition on the concept of professional athletes".

One of the main criteria for assessing a player as a "professional" is whether the amount of money paid in wages is "more" than the expenses effectively incurred by the player. There is no concrete measure or amount defined in FIFA Regulations. In this regard, how the calculation of the amount should be done? Is it just much more? or just a little more? It is clear that the FIFA regulations do not stipulate a minimum wage. The player may still be considered a non-amateur (professional), even if he agrees to perform low-wage services.¹⁴ Additionally, a player can be regarded a professional even though his salary is significantly less than the average salary in their country, or an amateur even if his salary surpasses the country's minimum wage.¹⁵ The only aspect that matters is if the player's earnings surpass the player's effectively incurred expenses; the expenses to be evaluated and compared are not those related to the player's general cost of living, but those particularly and effectively incurred for his club football activities. While determining whether transfer compensation is due or not, it is crucial to differentiate between amateur and professional players, as training compensation is only payable when a player is deemed to be a professional.

FIFA DRC encourages that a player's status should be taken into account when evaluating an employment contract, regardless of any categorization used in the contract or by the member association involved. Considering that the Article 2 of the FIFA RSTP Regulations

¹⁰ **Loi n 30-09 relative à l'éducation physique et aux sports, (Moroccan Law of N 30-09 on physical education and sports) available online at: [Loi n° 30-09 promulguée par le dahir n° 1-10-150 du 13 ramadan 1431 \(24 août 2010\) relative à l'éducation physique et aux sports. \(mmsp.gov.ma\)](#) (last visited April 25 2022)**

¹¹ Part 8 of Article 16 of the Law of the Republic of Moldova dated 03/25/1999 No. 330-XIV (ed. of 2016) "On Physical Culture and sports" available online at: [Закон о физической культуре и спорте N 330-XIV от 25.03.99 | ЗАКОНЫ | Национальная касса социального страхования \(cnas.md\)](#) (last visited April 25 2022)

¹² Tukmanov, S.A. Features of the labor law status of a professional football player, candidate of legal sciences dissertation, available online at: [Особенности трудового статуса профессионального футболиста \(dslib.net\)](#) (last visited April 25 2022)

¹³ Shevchenko O. A. Features of the legal regulation of the employment of professional athletes, available online at: [Microsoft Word - Шевченко Ольга Александровна Особенности правового регулирования труда профессиональных спортсменов.doc \(sportscrime.ru\)](#) (last visited April 25 2022)

¹⁴ FIFA Commentary on the RSTP, 2021, Art. 2 explanation, (p.22) available online at: [Commentary-on-the-FIFA-Regulations-on-the-Status-and-Transfer-of-Players-Edition-2021.pdf](#) (last visited April 25 2022)

¹⁵ FIFA Commentary on the RSTP, 2021, Art. 2 explanation, (p.22-23) available online at: [Commentary-on-the-FIFA-Regulations-on-the-Status-and-Transfer-of-Players-Edition-2021.pdf](#) (last visited April 25 2022)

is mandatory at the national level, any conflicting national regulations are consequently irrelevant to a player's status. In a case Ref.nr.18-02527 of 06.02.2020, the FIFA DRC confirmed the "professional status" of a female player registered as an amateur in Italy. The Dispute Resolution Chamber determined that when assessing a player's status, the criteria set out in Article 2 paragraph 2 of the FIFA Regulations on the Status and Transfers of Players shall take precedence over any agreement between the parties containing contradictory provisions. In this dispute, the parties asserted that their agreement should be classified as an "agreement on reimbursement of costs for amateur sports activity," and that this fact does not establish their relationship as one of employment.¹⁶ Even so, the FIFA deciding body concluded that the player meets the conditions set out in Article 2 para. 2 of the FIFA RSTP and that the female player must be considered as a "professional player."¹⁷

Oftentimes, a minimum wage agreed upon at the national football association level may exceed the amount expected to be incurred by a player throughout his early career stages. In a CAS case of 15 February 2017, CAS 2016/A/4603 SC Dinamo 1948 v. FC Internazionale Milano SpA, sole arbitrator established a Romanian player "at the age of 16 – was paid a minimum wage defined by the AIC (Italian Footballer's Association) (i.e. EUR 14,086 a year), and it is established that the player received more for his footballing activity than the expenses he effectively incurred".¹⁸ Therefore, the sole arbitrator declared that the contract signed by the player and his club on 3 July 2013 was a professional contract.¹⁹ It demonstrates that the player was earning more than he was spending, and thus meets the description of a professional player within the meaning of Article 2 of RSTP. However, it was noted that in some specific circumstances, monthly remuneration via so-called "scholarship agreements" resulted in some distinct approaches. For comparison purposes, the Court of Arbitration for Sport (CAS) has found that a player's monthly remuneration in the range of £400 British Pounds (GBP) exceeded the costs that were actually incurred by the player.²⁰ Based on that CAS ruling, it is reasonable to conclude that any player who engages in a scholarship agreement that provides for remuneration at or above that level will acquire professional status. In contrast to that CAS award, a different approach has been adopted in a case involving Belgian and Portuguese football clubs (CAS 2014/A/3659 & 3660 & 3661 KSV Cercle Brugge v. Clube Linda-A-Velha & Club Uniao Desportiva e Recreativa de Alges & Sport Club Praiense).²¹ Sole arbitrator ruled that the "the monthly flat-rate of EUR 400 reflects the average football-related costs of the Player in the season 2011 / 2012. Hence, the amount of EUR 400 does not constitute a salary or remuneration but only a refund for football-related costs".²² In that particular example, the player was only paid €400 per month for his expenses, with no further benefits such as allowances for accommodation, transport, and food at the club. Nevertheless Portugal has a different system of "Sports Training Agreements", that indicates if a player receives EUR 250 per month in wages plus including food and accommodation then he is considered a professional player.

The status of players can be vital in maintaining contractual stability in employment relations between players and clubs. In transfer relations, only those clubs who registered players under professional status would be entitled to receive the transfer fees. Under the circumstances, if other big clubs tap one of the players of any club up and he secretly agrees the terms with a new club, then the former club can claim for compensation that its player

¹⁶ Football: the DRC confirmed the "professional status" of a female player engaged as an amateur in Italy (DRC Ref.nr.18-02527)(06.02.2020), *Newsletter Sports Law and Policy Centre*. (n.d.). available online at: http://www.sportslawandpolicycentre.com/newsletter/1_2020/ (last visited April 25 2022)

¹⁷ Ibid,

¹⁸ CAS 2016/A/4603 SC Dinamo 1948 v. FC Internazionale Milano SpA, award of 15 February 2017, available online at: [TAS xxx \(tas-cas.org\)](https://tas-cas.org/) (last visited April 25 2022)

¹⁹ Ibid,

²⁰ FIFA Commentary on the RSTP, 2021, Art. 2 explanation, (p.22-23) available online at: [Commentary-on-the-FIFA-Regulations-on-the-Status-and-Transfer-of-Players-Edition-2021.pdf](#) (last visited April 25 2022)

²¹ CAS 2014/A/3659 & 3660 & 3661 KSV Cercle Brugge v. Clube Linda-A-Velha & Club Uniao Desportiva e Recreativa de Alges & Sport Club Praiense, award of 11 May 2015, available online at: [TAS xxx \(tas-cas.org\)](https://tas-cas.org/) (last visited April 25 2022)

²² Ibid,

breached his employment contract without just cause. However, in the case of amateurs this rule does not work even if the amateur player acquires a professional status in his new club.²³

Conclusion

Relying on the research results, the author asserts that the economic aspects of football player employment contracts are of a great importance. Some of the factors that can be considered as integral part of the employment contracts of football players, that can make a great impact on the economic value of player employment contracts such as status of players, transfer of players, training compensation, solidarity payments, and image rights.

National associations' regulations can also be referred to in terms of the player's "professional" status, however national associations' regulations contain remarkably similar provisions to those found in the FIFA RSTP. However, that does not mean that this superiority applies only to international transfers, it also to national transfers. Pursuant to Art. 1 para. 3, litt. a) and 26 para. 3 RSTP, it is compulsory for all the national federations literally transpose Art. 2 RSTP, which includes the worldwide mandatory definition of "professionals" and "amateurs."

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According to research findings, the Law of the Republic of Uzbekistan "On physical education and sports" does not provide any definition of professional and amateur football players. Nevertheless, by referring to FIFA RSTP, definition of the professional football player could be established, but it still does give complete meaning to what professional player is. According to RSTP one of the main criteria for assessing a player as a "professional" is whether the amount of money paid in wages is "more" than the expenses effectively incurred by the player. There is no concrete measure or amount defined in FIFA Regulations.

Article 15 of FIFA RSTP and UFA RSTP do not stipulate any complete definition of "established professional", same time law of Uzbekistan "On physical culture and sports does not include a provision on "professional athlete" let alone "professional football player". Taking into account, we suggest inserting into the laws of Uzbekistan and regulations of Uzbekistan Football Association certain norms, which establish full definition of "established professional" and "professional player" and "amateurs".

Labour law of Uzbekistan cannot offer legal definition on professional football players and their employment. It would also play significant role to develop definitions if it was included as a separate chapter and articles which could be devoted for football players` status whether its amateurs or professionals.

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