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***Promoting and Supporting Good Governance in the
European Football Agents Industry***

National Association Intermediary Regulations

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Authors

Professor Richard Parrish (Edge Hill University, UK)

Dr Andrea Cattaneo (Edge Hill University, UK)

Professor Johan Lindholm (University of Umeå, Sweden)

Professor Jürgen Mittag (German Sport University, Germany)

Professor Carmen Perez-Gonzalez (Universidad Carlos III de Madrid, Spain)

Professor Vanja Smokvina (University of Rijeka, Faculty of Law, Croatia)

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1.

Introduction

The project, ‘*Promoting and Supporting Good Governance in the European Football Agents Industry*’ received financial support from the EU’s Erasmus+ Programme (Collaborative Partnerships). The project commenced in January 2018 and concluded in December 2019. We are grateful for the support provided by the Erasmus+ Programme.

In our Final Report published at www.ehu.ac.uk/eufootball we present findings regarding the operation of the 2015 FIFA Regulations on Working with Intermediaries (RWWI), particularly in relation to the implementation of the regulations at national association level across the territory of the EU. In this regard, our Final Report presents a comprehensive picture of how intermediary regulations have historically developed and how the 2015 RWWI have operated across the territory of the EU, encompassing 31 national associations.

Our study supports key private stakeholders and public policymakers by providing evidence-based options and recommendations in terms of future regulatory initiatives in the sector informed by principles of good governance. The content of our Final Report has been informed by primary research undertaken by the research team, a national expert questionnaire, a stakeholder survey and discussions held in a series of stakeholder workshops held throughout Europe, known as Multiple Sports Events – MSEs.

In order to improve the readability of our Final Report, we only provided a summary of the content of our national association reports which details the intermediary regulations in the 31 national football associations surveyed. These reports are provided in full in this report. We consider these national association reports to be accurate as of August 2018.

We owe gratitude to our national experts for providing details of the national association intermediary regulations. They are listed in Appendix 1.

2.

Background and Context

The following Report presents the results of the investigation on the implementation of RWWI 2015 in the 31 national associations within the EU territory. The analysis of the regulations adopted by national associations are presented in alphabetical order.

The reports aim at highlighting common features, best practices and criticalities within the various national implementations of the 2015 RWWI.

By way of background information, the sums invested in the transfer market for the top 5 football leagues in Europe have increased since a combined figure of €1.5 Billion in 2010, to a consolidated sum of €3.8 Billion in 2015.

Since the introduction of FIFA RWWI, the sum further increased to €5.9 Billion in 2017.¹

Fig. 1: Transfer fees invested by 5 big-leagues clubs, € Billion (2010-2017)



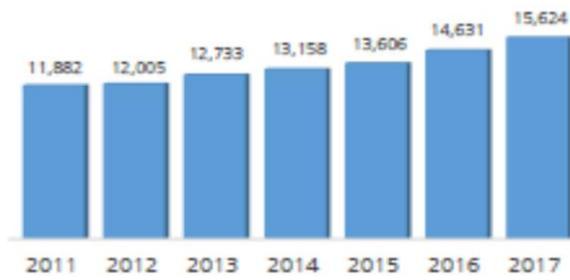
Source: CIES, Football Analytics, Football Observatory 2017/18 Season

Similarly, the number of international transfers by year has also increased from 11,882 in 2011, to 13,606 in 2015 and 15,624 in 2017.²

¹ Football Analytics, The CIES Football Observatory, 2017/18 Season.

² FIFA TMS, 2018.

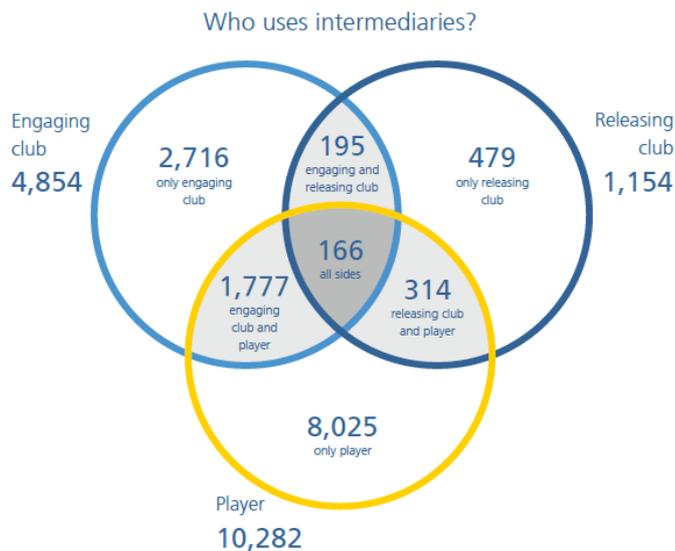
Fig. 2: Total number of International Transfers per year



Source: FIFA TMS, 2018

As shown in the figure bellow, since 2013 the players are those who mostly use the services of the intermediaries, while the releasing clubs are those who rarely use the services of the intermediaries. According to the FIFA TMS, only in 166 transfers all three sides (player, engaging club and releasing club) used the services of the same intermediary.³

Fig.3: Number of international transfers with Intermediaries since 2013



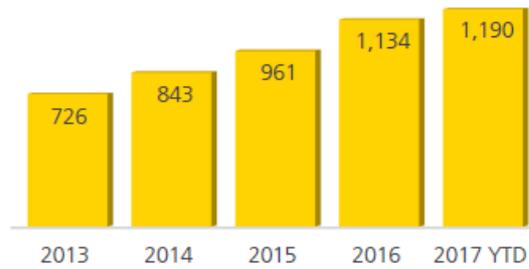
Source: FIFA TMS, 2017

Amongst these transfers, those involving intermediaries representing the releasing club increased from 961 in 2015 to 1190 in 2017.⁴

³ Intermediaries in International Transfers, 2017 Edition, Period Jan 2013-Nov 2017 (FIFA TMS 2017), p. 2. Accessed at: https://www.fifatms.com/wp-content/uploads/dlm_uploads/2017/12/Intermediaries-2017.pdf

⁴ FIFA TMS, 2017.

Fig. 4 Number of Transfers with Intermediaries representing the engaging club



Source: FIFA TMS, 2017

From 2013 to 2017, the total remuneration of intermediaries was \$1.89 Billion, with 97.2% of this sum paid by clubs members of UEFA Associations.

The total sums of remuneration paid has increased from 2015 (\$297 Million) to 2017 (\$446 Million).

It is observed that the number of transactions involving an intermediary representing players is instead consistent, with a marginal increase from 1,917 in 2015 to 2,246 in 2017.

AUSTRIA

National legal requirements regulating agents

There is no specific law dedicated to regulating sports intermediaries in Austria. The provisions of general laws (AMFG, MaklerG, HVertrG, GewO) apply to intermediaries in the sector. For an elaboration on the scope of general law provisions to football intermediaries see Reisinger, 2010 (in German). Art.5 para. 3 AMFG states that, for sportsmen, the intermediary fee is limited to 10% of the total gross earnings of the sportsmen. This limit applies if the intermediary acts for a player and will be paid by them. No plans to amend the provisions are reported.

Consultation at national level regarding implementation of RWWI

Currently, no information is available considering consultation procedures.

Definition of intermediary

The definition of an intermediary in Austria follows that contained in the 2015 RWWI. “Intermediary in the sense of this regulation is any natural or legal person who for a fee or for free represents players and or clubs in negotiations with regard to the conclusion of a professional player’s contract or clubs in negotiations with regard to the conclusion of transfer agreements.”

Registration requirements

For transparency reasons, the ÖFB (Austrian FA) maintains a published intermediary register. Intermediaries have to be registered every time they are involved in a transaction. To register, clubs and players that make use of the services of an intermediary must supply the intermediary declaration. The ÖFB and its members can request further information and documents.

After a successful transaction, the player that makes use of the services of an intermediary must ensure that the club with whom the employment contract was concluded supplies the intermediary declaration and all other required documents to the federation (regional federation or Austrian Bundesliga Federation) responsible for the registration. The same procedure is applied for renegotiations of the employment contract. The regional federations are only involved to a very small degree. Most registrations are done at the Austrian Bundesliga as most intermediaries work with professional players from the first and second league.

After the conclusion of the respective transaction, a club that makes use of the services of an intermediary must supply the intermediary declaration and all other required documents at the federation responsible for the registration. If the club that passes on a player made use of the services of an intermediary, the club has to hand in the intermediary declaration and all other required documents at the respective federation responsible for the registration.

Before the registration of an intermediary, the federation responsible for the registration has to make sure that the respective intermediary has an impeccable reputation which is only indicated by a self-declaration included in the intermediary declaration. No certificate of good conduct or the same has to be supplied. If the intermediary is a legal person, the federation has

to make sure that the natural persons that represent the legal person in the transaction process have an impeccable reputation.

The federation has to make sure that the intermediary, while executing his or her service, does not have a contractual relationship with the league, federations, confederations or the FIFA, which could lead to a conflict of interest. Intermediaries may not – explicitly or implicitly – suggest that they sustain relations to leagues, federations, confederations or the FIFA. Signing the intermediary declaration (attached to the regulation) fulfils the duties as illustrated in § 1-3. The attached declarations are mandatory. The representation contract has to be deposited with the responsible federation. The federation must transmit the contract to the ÖFB upon request.

Impeccable reputation

Before the registration of an intermediary, the federation responsible for the registration has to make sure that the respective intermediary has an impeccable reputation, which is only indicated by a self-declaration included in the intermediary declaration. No certificate of good conduct has to be supplied. If the intermediary is a legal person, the federation has to make sure that the natural persons that represent the legal person in the transaction process have an impeccable reputation.

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Representation contract

Clubs and players have to disclose within the representation contract the nature of the legal relationship they have with the intermediary. The main points of the legal representation have to be written down prior to the start of the representation by the intermediary. The following minimum requirements have to be disclosed in the representation contract: Name of the parties; Date of Birth of the player; Scope of the services; Duration of the representation; Remuneration/fee; Terms of payment; Date of signature; Termination of the contract; Signatures of the parties (if the player is underage, that of the legal guardian).

The current version differs from the previous one of 2001. In the previous version, the contract was limited to a period of two years but could be extended. Also, the regulations stated that, if the intermediary and the player could not agree on the amount of remuneration, the intermediary was entitled to 5% of the basic salary which the player received due to the work contract that was negotiated by the intermediary.

Disclosure and publication

Clubs and/or players are obliged to disclose the following:

- All remunerations and payments paid or to be paid to the intermediary
- All contracts and agreements (upon request)

In case of an international transfer agreement or employment contract, all named contracts are to be attached. Clubs and players must make sure that each transfer agreement includes the name and signature of the intermediary. In the respective documents connected to the transaction, it must be noted whether an intermediary was employed or not.

The ÖFB must publish the names of all registered intermediaries and individual transactions of the last 12 months linked to the respective intermediary by the end of March, e.g. on the website. The ÖFB also has to publish the total amount of payments that the players and clubs made. This has to be done as a total sum and as a figure for each club.

Payments to intermediaries

The remuneration of the intermediary is calculated based on the gross salary of the player for the entire period covered by the contract. Clubs that make use of the services of an intermediary pay a lump sum that is agreed upon before the conclusion of the transaction. The remuneration may be oriented at the transfer sum. Instalments are possible.

In accordance with the decisive national regulations and the mandatory national and international law provisions, players and clubs can follow these recommendations as thresholds:

- The total remuneration per transaction, which is owed to an intermediary based on the representation of a player, should not be more than 3% of the gross salary of the player for the entire period covered by the contract.
- The total remuneration per transaction, which is owed to an intermediary based on the representation of a club in negotiating a work contract with a player, should not be more than 3% of the gross salary of the player for the entire period covered by the contract.
- The total remuneration per transaction, which is owed to an intermediary based on the representation of a club in negotiating a transfer agreement, should not be more than 3% of the transfer fee which is paid for the transfer of the player.

Clubs have to make sure that payments between clubs that are linked to a transfer (like transfer compensations, education compensations, etc.) are not received by the intermediary. Subrogation is forbidden.

The intermediary's client must pay all payments for his services. Officials in the sense of § 3 Para 6, 7 and 8 of the ÖFB-Rechtspflegeordnung are not allowed to receive any kind of payment from an intermediary. An official who violates this provision will be subject to disciplinary sanctions.

For the season 2017/2018, a total sum of €1,743,201 was paid to intermediaries. The ÖFB publishes the payments of each club to intermediaries as well as statistics on the number of transactions that each registered intermediary was involved in.

Minors

Clubs and/or players who make use of the services of an intermediary in negotiating a work contract and/or transfer agreement are not allowed to make payments to the intermediary if the player is underage according to point 11 of the definitions of the FIFA regulations. If the player is underage, his legal guardian has to sign the representation contract. The self-declaration attached to the intermediary declaration includes the passage: “In accordance with §7 Para. 7, I commit to not receive any payment from a party if the player in the sense of point 11 of the definitions of the FIFA regulations is underage”.

Conflicts of interest (e.g. dual representation)

Before players and/or clubs employ an intermediary, they have to – “by reasonable means” – make sure that there is no conflict of interest, neither for the player/club nor for the intermediary. Reasonable means is not further defined. A conflict of interest is deemed not to exist if the intermediary discloses in written form every factual or possible conflict of interest that s/he has with another party involved in or affected by the transaction and if s/he received express written consent from all involved parties before the beginning of the negotiations. Dual representation is possible. If a player and a club seek to employ the same intermediary (under the conditions of No. 2), both parties have to express their consent and have to confirm the terms and conditions of payment for the intermediary in written form. The parties inform the DFB on this agreement and hand in all decisive documents for the registration process.

Dispute resolution including key arbitration and state court cases

The national regulation does not state procedures for dispute resolution. However, clubs, players and intermediaries are subject to the sanctioning mechanisms of the football federation. In Austria no cases of arbitration are known.

Sanctions

The supervisory-committee of the responsible federation can, upon proposal of the ÖFB committee for intermediaries and/or of the federations (ÖFB/LV), impose sanctions against persons that violate the provisions of the regulations according to the ÖFB-Rechtspflegeordnung. The local responsibility of the supervisory-committee is based on:

- For clubs: the affiliation to a federation
- For players: the eligibility to play for a club in a federation
- For intermediaries: first, the affiliation of the club to which the intermediary offered his/her services, then, the eligibility to play of the player, and lastly the place of residence of the intermediary.

In doubt, the committee for intermediaries decides the local responsibility. This decision is final. The ÖFB reports to the FIFA on all decisions for sanctioning intermediaries. FIFA decides whether the decision and the validity of the sanction will be expanded to the worldwide football community in accordance with the FIFA disciplinary regulations.

National collective body of agents

In 2014, the FOOTBALL AGENT PLATFORM AUSTRIA was founded. Unfortunately, no further information about the organization can be found.

Opinion of national expert

The 2015 RWWI diminished good governance significantly. First, transparency could not be increased as hoped and indeed, the opposite is true. With the abolition of the licensing system and by not incentivising registration under the new system, more unregistered intermediaries are on the market, which cannot be regulated at all. Administrative costs increased for everybody: The federation (especially the Austrian Bundesliga) undertake huge administrative tasks to register the intermediaries for every single transaction, because preliminary registration does not exist; the intermediaries have to be aware of all national settings and requirements for international transfers. Hence, it is more effective to break the rules than abide by them.

BELGIUM

National legal requirements regulating agents

Intermediaries are regulated in Belgium by Regulations on the collaboration with intermediaries (hereinafter, “the Belgian Regulations”), which are attached as Annex 11 to the Federal Regulations 2017/2018 of the Royal Belgian Football Association (hereinafter, “RBFA”). The responsibility for its implementation was initially transferred from the RBFA to Pro League. However, due to the workload that registrations implied, the RBFA took back the responsibility in February 2017.

Although there is no specific legislation adopted in Belgium to regulate the profession, the *Royal decree rendering mandatory the collective bargaining agreement of 15 February 2015* adopted within the national sport joint committee in relation to work conditions and salary contains a provision that obliges the parties to call on intermediaries that comply with the relevant regulations. In practice, most agreements with agents are formally a mandate contract regulated by Articles 1984 to 1990 of the Belgian Civil Code with certain specificities imposed by the Belgian Regulations. Intermediaries are also subject to regional decrees on private employment agencies.

Consultation at national level regarding implementation of RWWI

The RBFA organised a comprehensive information session to which all intermediaries registered at the time were invited to attend. After presenting the new system envisaged, the RBFA held smaller meetings with certain groups in order to analyse their concerns on a case-by-case basis or in a more tailored manner. These meetings led to amendments of the provisions regulating the representation contract (see below). The major concern was that intermediaries were reluctant to register and argued that it was no longer legally required.

Definition of intermediary

The definition included in the Belgian Regulations seems consistent with the FIFA RWWI 2015.

Article 1.1 of the Belgian Regulations defines intermediaries as physical or legal persons that exercise “the Activities” in Belgium and that, pursuant to Article 3, are registered within the RBFA.

Article 1.2 describes the Activities mentioned in the previous paragraph as:

- 1) each activity where a physical or legal person that represents –either for free or against remuneration– football players and/or the club in the framework of negotiations aimed at concluding, extending or renewing an employment contract within a Belgian club; or that represents the clubs in negotiations aimed at concluding a transfer agreement with a Belgian club (“mediation”).
- 2) assistance and counselling to players and /or clubs, as long as such counselling was preceded by a mediation made directly or indirectly by the intermediary himself.

Article 1.3 defines transaction as the conclusion, extension or renewal of an employment contract and/or the conclusion of a transfer agreement.

The main differences from previous definitions are: (i) the term “agent” is substituted by “intermediary”; (ii) not only physical but also legal persons may act as intermediaries; (iii) there is no longer a need to take an examination, but they need to register within the RBFA.

Registration requirements

Registration is regulated in Article 4. In order to act as intermediary and to exercise the Activities in Belgium, it is mandatory to obtain prior registration with the RBFA. However, as an exception, it is possible to register within 10 days of concluding a transaction.

The following documentation shall be submitted before the RBFA in either Dutch, French or English:

- a) Intermediary Declaration duly filled in and signed. This may be downloaded from the following link: <http://www.belgianfootball.be/fr/réglement-pour-intermédiaires> (FR)
<http://www.belgianfootball.be/nl/examen-nationale-licentie-spelersmakelaar> (NL)
- b) A criminal records certificate from the country of residence of the applicant. There are two models depending on whether the certificate is standard or also covers a statement indicating that the person may work with children.
- c) A copy of the ID card or passport.
- d) Receipt of the subscription of an insurance policy covering the professional liability of the intermediary.

For legal persons applying for registration, only letters a) and d) are required. In addition, they must submit proof on the registration of the company in the country where its registered office is located. For the registration of each individual working for one of these companies who will exercise the activities in Belgium, the documents listed in a) to d) must be also submitted.

A €500 annual fee is also requested for each individual registered.

Registration as an intermediary is not compatible with the status of Official, that is, managers, members of commissions, referees, assistants to referees, coaches, trainers; together with technical, medical or administrative persons within FIFA or a national association or club (Article 1.6 of the Belgian Regulations).

In the regions of Brussels and Wallonia, there is an extra requirement of registering within the regional government whereas in Flanders this requirement was abolished in 2010. Although the Flemish government does not require registration, they may do some checks ex post to control the activity of agents.

Impeccable reputation

Article 4 of the Belgian Regulations provides that Registration is automatically rejected in the following cases:

- a) The criminal records certificate shows a final conviction (in the sense that no appeal is possible) for a felony or a financial crime (such as corruption or match fixing) in the 5 years preceding the application;
- b) There is a final decision issued by FIFA or by another association that prevents the intermediary from registering due to issues related to corruption or match fixing.
- c) The criminal records certificate shows a final conviction for a crime with regard to a minor.

Legal persons will see their registration rejected as well if any of the physical persons acting on their behalf find themselves in one of these three scenarios. The decision of rejection may be appealed before the Belgian Arbitration Court of Sport (hereinafter, "CBAS") within 7 days of its notification

Representation contract

Article 5 on Representation Contract was amended in spring 2015. The Representation Contract shall contain at least the following aspects pursuant to the Belgian Regulations:

- Complete contact details of the parties;
- The Intermediation Activity;
- The duration of the Intermediation Activity which can only be agreed for a maximum of 3 years, without prejudice to renewals or extensions;
- Whether the Intermediation Activity is offered on an exclusive basis or not;
- The remuneration of the Intermediary;
- Conditions and structure of remuneration;
- Termination clause and conditions;
- Applicable law (the RBFA Regulations, the FIFA Regulations and, alternatively, Belgian Law);
- Arbitration clause (CBAS).

The parties entering a Representation Contract shall inform the RBFA in written form within 10 days from the signature. The same obligation applies for any early termination, renewal or amendment. It is strictly forbidden for the intermediary to offer the player or his family any type of advantage in exchange of a Representation Contract and for the player to accept it.

Disclosure and publication

Article 7 of the Belgian Regulations provides for the following:

The Article is established without prejudice to laws applicable to the protection of privacy and personal data. The RBFA publishes a list of registered intermediaries on its web at the end of March every year. Intermediaries, players and/or clubs shall communicate to the RBFA the Representation Contract. By its part, the RBFA may only publish the names of the parties and the duration of such agreement. Upon request from the RBFA and only for the purposes of ensuring the correct application of the Regulations or for transmitting the information to the FIFA TMS; players and/or clubs are obliged to communicate full information on remuneration, of any nature, to an intermediary. Together with the list of registered intermediaries, the RBFA publishes the total amount received by intermediaries in Belgium and the total amount of transfer fees received and paid in Belgium.

The latest data published, which covers the period 1/4/2016 to 31/3/2017 show the following amounts:

Competition	Payments to Intermediaries	Transfer fees paid	Transfer fees received
Jupiler Pro League	23,493,040.17	87,793,980.44	119,545,364.36
Proximus League	1,301,910.02	1,393,340.40	4,508,843.85
Total Professional Football	24,794,950.19	89,187,320.44	124,054,208.21

By way of comparison, the Premier League reached £174 million in the period covering from February 2016 to January 2017.

Payment to intermediaries

Article 8 on Payments to Intermediaries establishes that:

- the remuneration to an intermediary by a player shall be calculated on the basis of the player gross income for the duration of his/her his employment contract.
- the remuneration to an intermediary by a club shall be a lump sum agreed before the conclusion of the transaction; which can be paid by instalments if the parties agree so.

The Belgian Regulations recommends to cap remunerations at 3% of either the player's gross income for the duration of his contract or 3% of the transfer fee in question. However, no sanction may be imposed if the parties agree on a higher percentage. Only aggregated data on payments is published by the RBFA. It is therefore difficult to know if the 3% recommended cap has been followed.

Payments among clubs may never be made via intermediaries (Article 8.4). Players may authorise clubs in writing to remunerate their intermediaries on their behalf (Article 8.6). Intermediaries shall not be remunerated in the framework of contracts or transfers related to minors (Article 8.8).

Minors

The RBFA has only adopted the minimum requirements established by FIFA for the protection of minors. In order to represent minors, the intermediary must submit a specific criminal records certificate proving that he may work with minors (Article 4.1.2). Any final convictions of any type in relation to minors is classified as automatic rejection of the registration application (Article 4.1.6.c)). In addition, intermediaries shall not be remunerated for their intervention in negotiations related to employment contracts or transfers of minors. This provision applies also to the parents of the minor in question (Article 8.8).

Conflicts of interest (e.g. dual representation)

Conflicts of interest are addressed in Article 9 of the Belgian Regulations. Before hiring an intermediary, both players and clubs shall make their best efforts so as to avoid any conflict of interest. As said, the status of Official is not compatible with registering as intermediary.

It is considered that no conflict of interest is present if the intermediary: (i) discloses in writing all potential or actual conflicts of interest that may arise with one of the parties, considering the transaction, the representation contract or the common interests; and (ii) the parties grant written authorisation prior to initiating the negotiations. In this sense, if both the club and the player wish to be represented by the same intermediary, they must provide their written authorisation and inform the RBFA accordingly.

Dispute resolution including key arbitration and state court cases

Disputes are solved before the CBAS. There is only one relevant precedent in relation to intermediaries in Belgium which was solved before the CBAS. The case involved Michy Batshuayi Atunga, who played for Standard Liège during season 2013/2014, against his intermediary Christophe Henrotay. The underlying facts were an early termination of the contract on the grounds that the intermediary would not have complied with his essential contractual obligations on a systematic basis and would have manipulated the player and his family.

The CBAS did not consider that the intermediary had put in place a strategy aimed at satisfying his own interests. In its view, it is among the normal tasks entrusted to an intermediary to engage in prospection activities and it could not be proved that the rumours about a transfer of the player in the press came from any disclosure made by the intermediary. In addition, the CBAS did not see a conflict of interest or any potential manipulation from the fact that the intermediary in question signed a parallel agreement with the parents of the player, even though it made a remark on the inappropriateness of certain clauses but considered itself incompetent to assess them for the purposes of the dispute at stake.

The intermediary, who had been granted a remuneration of 10% by the initial representation contract, was finally awarded €81,300 for damages resulting from a unilateral termination of the contract.

Sanctions

Sanctions are described in Article 10 of the Belgian Regulations. Infringements to the Regulations are sanctioned by the competent federal authorities pursuant to article 1901(4) of

the 2017/2018 RBFA Federal Regulations: Sanctions include a Reprimand, Blame, a Fine, more Regulated fines and sanctions, Suspension of registration and/or prohibition of registration and Alternative sanctions, to be decided by the federal authority. Pursuant to Article A266 of the 2017/2018 RBFA Federal Regulations, the Commission for Control is the competent body for imposing these sanctions. The decision may be appealed before the CBAS within 7 days from notification. Appeals have suspensive effect.

National collective body of agents

There was an association founded in 2003. However, it was not very representative and nowadays seems not to be active.

Opinion of national expert

There are no major disputes in Belgium and no plans to amend the current regulation, which may be an indication that the quality of services could have increased. In parallel, the number of registered intermediaries has increased exponentially which poses a risk in terms of control over the quality. As a general remark though, de-regularisation of a professional activity often leads to a decrease in the protection of more vulnerable parties if such de-regularisation is not accompanied by tighter monitorisation and enforcement.

In this sense, and regarding licensing, the national expert recalls that FIFA has stated that with the previous system only 25% to 30% of the transfers were carried out by licensed intermediaries and among the transactions that were effectively negotiated by licensed intermediaries, there was still some lack of transparency. The abolition of an exam has clearly encouraged people to become intermediaries; this is shown by the exponential increase in the number. If this is not accompanied by appropriate control and enforcement, abuses will still take place. Intermediaries are supposed to be in possession of certain knowledge and skills in order to advise their clients. Although an exam does not ensure higher standards, I am unsure that the best way to approach such problematic is to de-regulate the market.

Regarding remuneration of intermediaries, data published by the RFBA for the last relevant period show a considerably high total turnover for a professional league which is outside the major ones; especially as far as transfer fees received are concerned. This is easily explained by the fact that most top Belgian players have contracts with foreign clubs. According to this data and bearing in mind that the current list published has roughly 360 registered intermediaries, this would give an average of over €65,000 as gross income per intermediary per year, which is a rather decent annual salary in Belgium. Obviously, this observation is made without prejudice to the fact that remuneration among intermediaries may vary considerably and that they need to face certain costs such as registration fees and the subscription of an insurance policy.

Sanctions seem also appropriate. However, it is rather unclear how they are applied, in the sense that the Regulation does not include which type of behaviour deserves which type of sanction from the ones listed in Article 10 of the national Regulations.

The national expert proposes the following changes in order to improve the regulation of intermediaries:

- a) Since the abolition of the 2008 FIFA Regulations and the system of licences, intermediaries are only required to register. An examination is no longer necessary. Although this a step towards flexibility, intermediaries are expected to be acquainted with a wide range of technical knowledge from Labour and Contract Law to negotiating skills, languages. An idea could be to undergo trainings or some sort of voluntary formation.
- b) Also, on top of the 2015 FIFA RWWI, it may be useful to explore if additional guidelines or some sort of soft law could ensure more coherence among national associations. A comparative assessment needs to be carried out with respect to other jurisdictions, especially for the ones hosting the major leagues so as to properly consider if the de-regulation of the profession at international level has effectively led to higher standards or not.
- c) On the other hand, a clean criminal record does not guarantee that the intermediary will act in the interest of the player or club and that there will not be abuses. Enforcement shall accompany the regulation on intermediaries and sanctions shall be clear and sufficiently dissuasive.
- d) As for the 3% recommended cap, as long as this is merely a recommendation which is not legally binding, the sector will systematically disregard this percentage. However, setting a mandatory percentage would most certainly amount to an infringement of EU Competition Law so it is difficult to address this aspect.

BULGARIA

National legal requirements regulating agents

In 2008, a new article 35d was inserted in the Law on Physical Education and Sports (LPES) with the purpose to provide special regulation of the third parties who act as intermediaries in cases of negotiations for acquisition or transfer of competition rights. This new article served a very important role because, in this way, the activity of the intermediaries in sport was demarcated in terms of its legal regulation from the general provisions applicable to the job placement brokers and, consequently, the application of some disadvantageous legal provisions and requirements were avoided.

The current version of Article 35d of the LPES, following the amendments in 2010 reads as follows:

“A third person may mediate when negotiating the acquisition or transfer of competition rights if he/she complies with the following conditions:

1. is registered as a trader;
2. has concluded a contract with a sports club or a natural person wishing to acquire the status of an athlete or to change his/her club affiliation;
3. is entered in the register of persons engaged in mediation with the respective licensed sports federation.

(2) Licensed sports federations shall adopt rules concerning the register of the persons referred to in Paragraph (1).

(3) In addition to a person pursuant to Paragraph (1), an athlete may be represented at negotiations for acquisition or transfer of competition rights by:

1. a lawyer;
2. a parent or spouse”

Currently, there is a draft of a new Law on Physical Education and Sport.

Consultation at national level regarding implementation of RWWI

On 25 October 2014, the Bulgarian Association of Football Agents (BAFA) was founded. The founders of BAFA were the former licensed players’ agents, who, following the deregulation of this matter from FIFA, decided to initiate the process of regulation by the FA and the implementation of the FIFA RWWI. BAFA organized several working meetings with football agents in order to prepare a draft of regulations to be presented to the FA. Later, three meetings were held between BAFA representatives and the FA. After the adoption of the FA Regulations in July 2015, BAFA made further recommendations and it is expected that they will be taken into account by the FA and inserted in the summer of 2018 into the Bulgarian Football Union Rules on the Activity of Football Agents (RAFA).

Definition of intermediary

The additional provisions of the RAFA define "football agent" as an individual or legal person who for reward is representing a player or coach before a club with the objective to negotiate and renegotiate an employment contract or is representing a club before another club with the

objective of concluding a transfer agreement (direct or by assignment of competition rights) within the FA or by the FA to another football Association and vice versa in accordance with the requirements of these Rules. It is noteworthy that in this definition the case of representation of clubs in negotiations with a view to concluding an employment contract with a player or a coach is omitted, which constitutes a difference compared to the definition of intermediary in the 2015 RWWI.

However, on the basis of article 5 of the RAFA the possibility of representation is actually included in the scope of the activity of a football agent. Pursuant to article 5 of the RAFA the Football Agent has the right to conclude a contract for performing the following activities: to represent the interests of the player, club or coach; to negotiate on their behalf with another player, club or coach; to discuss the terms and conditions of a potential contract with them, and to mediate in negotiations for the acquisition or transfer of competition rights.

Football agents have the general power to represent and negotiate on behalf of players, clubs and coaches and are not limited to any specific types of contract being employment or transfer contract. It should be noted that the last (fourth) right of the football agent as listed in article 5 of the RAFA is actually in full compliance with the definition of “intermediary” both under the 2015 RWWI and the article 35 d of the LPES. This is so because acquisition of competition rights under Bulgarian law can happen only by way of conclusion of employment contract and registration of the player with the BFU. Therefore, both cases of negotiations between a player and a club with a view to concluding employment contract and between clubs with a view to concluding a transfer agreement are covered by the last right of the football agent as described in article 5 of the RAFA.

Registration requirements

Any Bulgarian or foreign individual or legal person who wishes to work as a football agent must be registered with the FA under the procedure defined in the RAFA. In cases where such agent acts only as an intermediary in the context of article 35 d of the LPES, RAFA specify that he must be registered as a trader. Every applicant must meet the requirements set out in Annex 2 to RAFA during each registration period. These are:

1. For Bulgarian citizens or EU citizens:
 - a) Application for registration (free text) to the FA’s Commission for the Football Agents;
 - b) Declaration form that the applicant is not an official within the meaning of item 11 of the definitions of FIFA Statute, and that is familiar with and will comply with the FA Statute, the Statute of the Court of Arbitration at the FA, and the regulations of the FA;
 - c) Certificate of conviction;
 - d) A copy of the diploma of secondary education and a certificate for three years length of service;
 - e) A copy of the diploma of graduated higher education with a master's degree;

f) Receipt for payment of a fee in the amount of BGN 250,00

2. For foreigners with or without permanent residence in the Republic of Bulgaria:

Application for registration to the FA's Commission for the Football Agents;

- a) Declaration form that the applicant is not an official within the meaning of item 11 of the definitions of FIFA Statute, and that is familiar with and will comply with the FA Statute, the Statute of the Court of Arbitration at the FA, and the regulations of the FA;
- b) Certificate of conviction: * For applicant – citizen of a country with which the Republic of Bulgaria has a contract for legal assistance – shall be needed a translated copy by a sworn and certified translator. ** For applicant – citizen of a country with which the Republic of Bulgaria has no contract for legal assistance – shall be needed a translated copy with enclosed apostille according the Convention de La Haye;
- c) A copy of the diploma of secondary education (secondary school /college) * For applicant – citizen of a country with which the Republic of Bulgaria has a contract for legal assistance – shall be needed a translated copy by a sworn and certified translator. ** For applicant – citizen of a country with which the Republic of Bulgaria has no contract for legal assistance – shall be needed a translated copy with enclosed apostille according the Convention de La Haye;
- d) Certificate for three years length of service or graduated higher education with master's degree;
- e) Proof for payment of lump sum fee in the amount of BGN 250,00 for the documents' consideration and taking decision on the submitted Application to the Commission for the Football Agents.

3. For lawyers:

- a) Application for registration to the FA's Commission for the Football Agents;
- b) Declaration form that the applicant is not an official within the meaning of item 11 of the definitions of FIFA Statute, and that is familiar with and will comply with the FA Statute, the Statute of the Court of Arbitration at the FA, and the regulations of the FA;
- c) A copy of the Lawyer's card, certified true copy or certificate of membership in a Bar Association;
- d) Proof for payment of fee in the amount of BGN 250,00 for the documents' consideration and taking decision on the submitted Application to the Commission for the Football Agents. A foreign lawyer shall be registered under the procedure for a Bulgarian lawyer and he/she is subject to the mandatory requirements for foreign nationals about the preparation and submission of the Application and the Declaration.

4. For legal entities:

- a) Application for registration to the FA's Commission for the Football Agents;

- b) Certificate of presence or absence of insolvency proceedings and liquidation;
- c) Proof for payment of fee in the amount of BGN 250,00 for the documents' consideration and taking decision on the submitted Application to the Commission for the Football Agents.

The registration is valid for one year. An individual who wants to register as a football agent shall submit an Application to the FA Commission on Football Agents (CFA). Article 20 and the following from the RAFA describe the registration process. A decision on the Application shall be taken by the CFA. The meeting of the CFA is valid if more than half of all members are present, and the application is approved if voted by more than half of the members present. In the event of even numbers of vote, the vote of the Chairman of the Commission is decisive. CFA decision is subject to appeal before the FA Court of Arbitration within 14 days from the date of receipt of the written notice.

Pursuant to article 18 an individual can be entered in the Register when he/she has completed secondary education and have at least 3 years of service. These constitute additional requirements for the purpose of the registration. An individual who has completed higher education with degree "Master" can be entered in the Register without any requirement for length of service. For the moment there are no additional qualifications and requirements for the agents in order to obtain some status of certified intermediaries. However, BAFA is researching the option to introduce such requirements and provide certificates for those agents who meet them.

Impeccable Reputation

The RAFA only requires clean criminal records as a condition for the registration, which, in our opinion, cannot satisfy the requirement that the intermediary has an impeccable reputation. That is why one of the recommendations of BAFA to be considered for the amendments in the summer of 2018 is that BAFA, as a branch organisation, must be consulted in order to certify the impeccable reputation of the applicant and provide recommendation for his registration by the CFA before the registration will be made.

Representation Contract

Pursuant to the RAFA, the representation agreement should include the entire agreement between the parties and all the statutory requisites of the standard representation contract as mentioned in Annex No1 to the RAFA. The parties may also agree other conditions as far as these are in accordance with the statutory requirements of the standard representation contract and with the requirements of the RAFA. Pursuant to article 14.1 of the Regulations, the representation contract with a player or coach shall have a term of three years. Under the licensing system previously in force, the term was of two years. Furthermore, only natural persons could qualify as agents under the previous system, and therefore be parties to the Representation Contract.

Disclosure and Publication

Currently, there are no requirements in the RAFA obliging the agents to disclose any information to the FA, including payments. This provision may be introduced with the

envisaged amendments of the RAFA in the summer of 2018 in order to comply with the obligations under the FIFA RWWI 2015.

Payments to intermediaries

Pursuant to RAFA, the agreed compensation of the football agent in the Representation Contract, signed with a player or a coach, cannot exceed 7% of the gross monthly salary of the player or the coach and/or transfer fee under the transaction. Where negotiated a higher compensation than 7%, any dispute between the parties on remuneration is considered under the general procedure. Pursuant to article 30 of the RAFA, the remuneration of a football agent in a transaction in which he/she was hired by the club is freely negotiated between the parties. The absence of requirements for disclosure of information from the agents to the FA in the current version of RAFA leads to lack of transparency of the financial transactions involving intermediaries.

Minors

Pursuant to the RAFA, the football agent is prohibited from concluding a Representation Contract with a minor player before the age of sixteen. From this moment, the agent is allowed to sign a Representation Contract with a minor player, which must be additionally signed by the player's parent or guardian. The Representation Contract with minor player shall have notarization for the signatures of the parties and shall be for a period lasting until the 18th birthday of the player. Furthermore, article 23, par.1 of the RAFA specifies that the minor player and the club where he/she is registered shall owe no compensation to the football agent.

Conflicts of Interest

A player, coach or official in a club cannot register as a football agent. A football agent who has acquired the status of a player, coach or official is immediately suspending his/her activities and is deleted from the Register.

Pursuant to article 3 of the RAFA, a football agent cannot perform any intermediary activity in favour of a person who is different from the player, coach or club that is committed to act with unless this is not expressly stated in the agreement for the specific transaction. Therefore, the RAFA allows the agents to provide dual representation but requires this to be clear and agreed on in the respective contract.

It must be noted that pursuant to the general definition of the commercial mediation under the Law on Commerce, an intermediary is every merchant who mediates with the purpose of concluding a deal by occupation. Therefore, football agents qualify as commercial intermediaries under the said provision of the Law on Commerce. Consequently, all general provisions on the commercial intermediaries in the said law shall apply to football agents as far as they do not contradict the special provisions concerning the sport mediation in article 35 d of the LPES. Pursuant to article 51 of the Law on Commerce, the commercial intermediary is entitled to remuneration which shall be due by one or both parties in accordance with their agreement. If there is no agreement, the usual consideration for this kind of activity shall be due to the intermediary by both parties. It is evident that under Bulgarian law in case of mediation the intermediary may be remunerated for his/her services from both parties and this would not constitute dual representation and would not be considered as a situation of conflict

of interests. The fact that the 2015 RWWI also defined football agents as intermediaries seems to support this conclusion.

Dispute resolution including key arbitration and state court cases

Disputes between registered football agents and players, coaches or clubs, as well as between agents are heard and decided by the CFA acting as a first instance body. The decision of the CFA is subject to appeal before the FA Court of Arbitration within 14 days from the date of its notification in writing. In case of failure to enforce a final decision of the CFA concerning football agents, the interested party may apply to the Disciplinary Committee of the FA and the CFA to impose an additional sanction. Pursuant to article 32 of the RAFA, disputes between registered FA football agents and players and coaches from foreign clubs, and between registered football agents and foreign clubs are resolved in accordance with the adopted rules in the Representation Contract as well as under the rules and regulations of the associations where the player, the coach or the club is registered. In case of such disputes they are also subject to the laws in force in the country of registration of players, coaches and clubs.

The FA dispute resolution bodies, being either CFA or the FA Court of Arbitration, have not decided any cases related to football agents since the adoption of the FA Regulations in July 2015. To our knowledge, there is currently a case of a Dutch intermediary against a Bulgarian club pending before the Sofia Regional Court, which has not been decided at the time of writing.

Sanctions

The CFA is competent to impose sanctions on a football agent, player, coach or club who violates the RAFA or other provisions of the FA. For admitted or performed violations under the RAFA, the football agent may be sanctioned as follows:

1. A fine in the amount to BGN 10.000.00;
2. Cancellation of the football agent from the Register of Football Agents of the FA for one year;
3. Permanent cancellation of the football agent from the Register of Football Agents of the FA;
4. Ban on participation in any activity related to football. The above listed sanctions may be applied individually or cumulatively. The registration of the football agent is deleted in case he/she systematically or seriously infringes the statutes and regulations of FIFA, UEFA or the FA.

National Collective Body of Agents

Bulgarian Association of Football Agents (BAFA) was founded on 25 October 2014 by former licensed players' agents.

Opinion of national expert

In the expert's opinion, the quality of the services provided by intermediaries has decreased since the introduction of the 2015 RWWI. An intermediary does not need to subscribe an

insurance, provide a bank guarantee, or pass an exam anymore. An Intermediary may be even a company with a registered capital of €1. It is difficult to evaluate the sufficiency of the system of sanction. In the absence of any duty to disclose and publish sanctions and their enforcement, it is almost impossible for the FA to monitor the compliance of the intermediaries with the FA Regulations. Moreover, the legitimacy of such sanctioning is in question as under national law the FA has the power and the obligation to operate the register of the intermediaries and adopt rules regarding the said register. However, the FA is not entitled to regulate the activity of football agents or to sanction them, as they are not members of the FA.

CROATIA

National legal requirements regulating agents

The Sports Act has a provision on Intermediaries in Art. 12 but it does not use the term “Intermediary”, instead employing the term “manager”. A sport manager is defined as a person who, according to the rules of the national federation, is authorized to perform the task of mediating the transfer of athletes from one sports club to another.

Since the intermediary-client relationship is as a civil law one, their contract is regulated by the Act on Obligations. The contract between the intermediary and the client is defined as a contract in which the intermediary takes the obligation to get in the relationship with the client a person with whom he could negotiate a conclusion of a contract, while the client has the obligation to pay the remuneration in case the contract is being concluded. When it is stipulated that the intermediary will have the right to remuneration even though the contract is not concluded, the provisions on the contract for services will be applied.

The Central State Office for Sport has drafted the New Sports Act (in the first phase of the legislative process at the moment of writing) in which the Sports Act article should be named properly.

Consultation at national level regarding implementation of RWWI

No consultation has been made with the Players Union (there is no League Association nor Intermediaries’ Association).

Definition of intermediary

An “Intermediary” is “a natural or legal person who, for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement”, while a “Client” is “a player or a club who has a written representation contract with an Intermediary”.

Registration requirements

Intermediaries must be registered with the FA every time they are individually involved in a specific transaction: this includes any conclusion of the contract of employment between a player and a club member of the FA and/or conclusion of a transfer agreement between two clubs, out of which at least one is a club member of the Croatian FA. Anyone who wishes to represent players or clubs on transfers or contract negotiations will have to register as an intermediary and will be subject to the same rules. This provision applies also to relatives of the players, individuals based overseas and lawyers.

Following the conclusion of the relevant transaction, a player engaging the services of an intermediary must submit to the FA the following documents:

- the Intermediary Declaration set in Annex 2 (in the event the intermediary is a natural person) or Annex 3 (in the event the intermediary is a legal person);

- the representation agreement signed between the player and the intermediary, the relevant transfer agreement or the relevant contract of employment and;
- the relevant certificate, not older than 3 months, issued by the competent State Court (municipal courts) which states that against the intermediary has not been initiated any criminal proceeding. The Court Certificate is part of the process of determining the impeccable reputation, and it is a way through which the FA went beyond the minimum requirements set by the FIFA Regulations. In the event the intermediary has been engaged by a club, which is a member of the Croatian FA, the club will have to submit the previously mentioned documentation.

The aforementioned notification by players and clubs must be made each time any activity, i.e. relevant transaction takes place. The player must sign a declaration in Annex 5 each time he/she engage an Intermediary. In this way the player gives his/her consent to the treatment of his/her personal data for the FIFA TMS about the work performed by the Intermediaries.

Impeccable reputation

The first document important for proving the impeccable reputation is the Intermediary Declaration which should be signed by the intermediary. The intermediary must also submit a certificate, not older than 3 months, issued by the competent State court (municipal courts) stating that there are no criminal proceedings against the intermediary. If the intermediary is a legal person, then the certificate is needed for the legal person and for the legal representatives of that legal entity. The intermediary contracted by a club and/or a player shall not have a contractual relationship with leagues, associations, confederations or FIFA that could lead to a potential conflict of interest. Intermediaries are precluded from implying, directly or indirectly, that such a contractual relationship with leagues, associations, confederations or FIFA exists in connection with their activities.

In Annex 2 (Declaration for a natural person) the intermediary declares that he/she has an impeccable reputation and confirms that no criminal sentence has ever been imposed upon him/her for a crime with intent, punishable by imprisonment for a term exceeding six months; the Declaration for the legal person has one further statement, declaring that the legal person represented by the individual has an impeccable reputation and in particular confirm that no criminal sentence has ever been imposed upon it.

The Croatian version of the Declaration differs from the model used by FIFA in its point 11, which reads as follows: I consent, pursuant to article 9 paragraph 2 of the FIFA Regulations on Working with Intermediaries, to the association concerned publishing details of any disciplinary sanctions taken against me and informing FIFA accordingly. The FA Regulations have not implemented this article.

Representation Contract

The intermediary may perform its services in representing players or clubs only with a duly signed written representation contract. The relevant Croatia law (Act on Obligations) is applied for the conclusion and contract termination, along with the FA Regulations. The representation agreement must contain the following minimum details: the names of the parties, the scope of the legal relationship (services, consultancy, players employment and other legal forms), the

contents of the services provided, the duration of the legal relationship, the remuneration due to the intermediary, the general terms of payment, the date of conclusion, the termination provisions and the signatures of the parties. The maximum duration of a representation contract with a player is two years and may not be tacitly or automatically extended. For any further relationship of a maximum of two years, a new contract of representation should be concluded. The player/club and the intermediary each must receive one copy of the contract while one copy has to be forwarded and deposited with the FA. The FA Regulations do not deprive the right of the client to conclude the employment contract or transfer agreement without the help of an intermediary. There is no obligation that the player may have just one Intermediary (no exclusivity).

Disclosure and publication

Players and/or clubs are required to:

- disclose to the FA the full details of any and all agreed remunerations or payments of whatsoever nature that they have made or that are to be made to an intermediary.
- upon request of the FA, disclose to the competent bodies of the FA, confederations and FIFA, all contracts, agreements and records with intermediaries in connection with activities in relation to these provisions, for the purpose of their investigations.
- shall in particular reach agreements with the intermediaries to ensure that there are no obstacles to the disclosure of the above-mentioned information and documents. In case of registration of the employment contract or the transfer agreement, the relevant representation contracts should be attached
- shall ensure that any transfer agreement or employment contract concluded by using the services of an intermediary bears the name and signature of such intermediary. In the event that a player and/or a club have not used the services of an intermediary in their negotiations, the pertinent documentation lodged within the scope of the respective transaction shall contain a specific disclosure of this fact.

The FA shall:

- make publicly available at the end of March of every calendar year, on their official website, the names of all intermediaries they have registered as well as each transaction in which they were involved
- shall also publish the total amount of all remunerations or payments actually made to intermediaries by their registered players and by each of their affiliated clubs, as the consolidated total figure for all players and clubs. The FA has not included in their Regulations a provision stating that “Associations may also make available to their registered players and affiliated clubs any information relating to transactions that have been found to be in breach of these provisions that is of relevance for the pertinent irregularities.” (FIFA Regulations, Art. 6(4)). The reason is that the FA considers that they do not have supervision upon all transactions and with the new intermediary system it was more appropriate not to implement such provision.

Payments to intermediaries

The amount of remuneration due to an intermediary who has been engaged to act on a player's behalf shall be calculated on the basis of the player's basic gross income for the entire duration of the contract. Clubs that engage the services of an intermediary shall remunerate him by payment of a lump sum agreed prior to the conclusion of the relevant transaction, and if agreed, such a payment may be made in instalments. Any payment for the services of an intermediary shall be made exclusively by the client of the intermediary to the intermediary. The club and the player may agree to depart from this rule. With the written consent of the player, the contract may state that the club makes the payment on the player's behalf, and such a payment shall be in accordance with the terms agreed between the player and the intermediary.

Officials (as defined in point 13 of the Definitions section of the FIFA Statutes: any board member, committee member, referee and assistant referee, coach, trainer and any other person responsible for technical, medical and administrative matters in FIFA, a confederation, a member association, a league or a club as well as all other persons obliged to comply with the FIFA Statutes except players and intermediaries) are prohibited from accepting any payment related to Intermediary services or by the Intermediary.

In the first edition of the FA Regulation in 2015 there was a cap of 10%.

Minors

If the player is a minor, the player's legal guardian(s) shall also sign the representation contract in compliance with Croatian law (Family Act) and the contract should be validated before a notary. The new Family Act intervenes on this matter. Article 101 states that the representation of a child/minor where an agreement or contract is concluded between a minor child and a natural or legal persons that will dispose over the child's future ownership rights regarding the child's sports, art or similar activities is valid if the parent who represent the child/minor has the written approval of the other parent and the State Court approval in an extra-judicial proceedings. This replaces the obligation previously existing of a Centre for Social Welfare approval, requiring an approval by the ordinary court in an extra-judicial contentious proceedings, although it is not completely clear if such an approval is needed.

Conflicts of interest (e.g. dual representation)

Prior to engaging the services of an intermediary, players and/or clubs shall use reasonable endeavours to ensure that no conflicts of interest exist or are likely to exist either for the players and/or clubs or for the intermediaries. No conflict of interest would be deemed to exist if the intermediary discloses in writing any actual or potential conflict of interest he might have with one of the other parties involved in the matter, in relation to a transaction, representation contract or shared interests, and if he obtains the express written consent of all the other parties involved prior to the start of the relevant negotiations.

If a player and a club wish to engage the services of the same intermediary within the scope of the same transaction, the player and the club concerned shall give their express written consent prior to the start of the relevant negotiations, and shall confirm in writing which party (player and/or club) will remunerate the intermediary. The parties are free to agree that every party will pay a part of the remuneration to the intermediary. The parties shall inform the FA of any

such agreement and accordingly submit it with all the aforementioned written documents within the registration process.

Dispute resolution including key arbitration and state court cases

Neither the Arbitration of the FA nor the Arbitration court of the FA hears disputes involving intermediaries. This means that such disputes should be brought before ordinary courts or some other arbitration tribunal determined by the arbitration clause, but not before the FA. According to the FA Regulations, the Committee for working with intermediaries is regulated as a supervisory body and is responsible for the application of the Regulations, registration of intermediaries and contracts in which they were involved.

Sanctions

The FA withholds the registration of the intermediary who does not abide by the rules laid down in the FA Regulations and the registration of the negotiated contracts. As the registration of intermediaries falls under the jurisdiction of the FA, any breach of the regulations will amount to misconduct under the FA Disciplinary regulations. The aforementioned regulations set out in detail the procedure for dealing with a charge of misconduct. The sanctions, according to the Art. 93 of the FA Disciplinary regulations (Rule for respect of obligations in general) could be, for the player: warning, reprimand and suspension for 2-6 matches; while for the club: warning, reprimand and fine.

National collective body of agents

There is no collective body representing Football Intermediaries in Croatia.

Opinion of national expert

The FA is of the opinion that the new system is less transparent than the pre-2015 system. This is mainly due to the lack of a licencing or examination system testing the knowledge of the candidate. A harmonised approach across EU could significantly improve the system. The last available data on the number of intermediaries before the Implementation of the RWWI is from 2013 – 43 agents. The examination pass rate was 70%.

CYPRUS

National legal requirements regulating agents

Agents/Intermediaries are not regulated under national law

Consultation at national level regarding implementation of RWWI

No consultation has been undertaken prior to the implementation of RWWI

Definition of intermediary

According to the Cyprus Football Association (FA) Regulations, an intermediary is: “A natural or legal person who, for a fee or free of charge, represents players and/or coaches and/or clubs or any other legal entity which is a member of the FA in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement.”

The FA Regulations are, for the most part, a direct translation of the guidelines issued in the FIFA RWWI. As a result, the definition is indeed consistent with the one given in the 2015 RWWI. What differs, is that the CFA extended the definition of an intermediary to cover coaches as well, something not provided in the FIFA guidelines.

Registration requirements

According to the FA Regulations, intermediaries are obliged to register each time they are involved in a transaction. Clubs, players and coaches who use intermediary services, have to submit to the FA the relevant representation agreement as well as the intermediary declaration. The FA has the right to request further documentation. This procedure is also followed in cases of contract renegotiation.

The FA needs to be satisfied that the intermediary applying for registration is of impeccable reputation. Legal intermediaries will only be registered through natural persons, duly authorised to act as their representatives.

An intermediary is not allowed to register if he has any contractual relationship with associations, confederations members of FIFA or FIFA that could lead to a potential conflict of interest. For this reason, the FA requires the submission of an Intermediary declaration, as Annexes 1 and 2 of the regulations.

In order for an intermediary to be registered, apart from the above documentation s/he will also have to pay a registration fee, currently at €170.

Impeccable reputation

This requirement is satisfied by a simple submission of the Intermediary Declaration for both legal and natural persons, as per annexes 1 and 2 of the regulations. There are no other requirements and no monitoring as to whether the intermediary involved is indeed of an impeccable reputation.

Representation contract

There are no specific national laws concerning intermediary representation contracts. These transactions fall under the national contract law. According to FA Regulations, the following need to be specified:

Nature of rendered intermediary service, e.g. consultancy, job placement, etc.; names of the parties; duration; agreed remuneration; payment terms; conclusion date; termination provisions; signatures; if minor involved, his legal guardians need to also sign.

A standard representation contract is attached to the regulations as Annex 3. It must be noted that despite the fact the regulations do not stipulate a maximum duration for a representation contract, the sample attached to the regulations as Annex 3 caps its duration to a maximum of 2 years. There have not been any previous versions of an intermediary representation contract.

Disclosure and publication

Clubs, players and coaches are obliged to disclose to the FA all payments made or to be made to intermediaries. In case an intermediary is involved in an employment contract or a transfer agreement, his/her name must be mentioned in the contract. At the end of March each year, the FA publishes in its website the names of all intermediaries registered during the previous calendar year as well as the single transactions in which they were involved. In addition, the FA publishes the total amount of all remunerations or payments actually made to intermediaries by their registered players, coaches and by each of the member club of the FA. The figures to be published are the consolidated total figure for all players, the consolidated total figure for all coaches and the consolidated total figure of each member club of the FA.

Payments to intermediaries

The remuneration of intermediaries is not regulated by national law. As far as the FA Regulations are concerned, a cap of 3% is fixed. When an intermediary has been involved in the conclusion of an employment contract for a player or a coach, his remuneration cannot exceed 3% of the player/coach's gross income for the whole duration of his employment (excluding benefits such as accommodation, provision of vehicle, etc.). In cases where the intermediary was involved in the conclusion of a transfer agreement, his remuneration cannot exceed 3% of the transfer fee.

Payments like transfer compensation, training compensation or solidarity contribution are prohibited to be made to or by intermediaries. Intermediaries cannot be entitled to any remuneration for a future transfer fee either.

Intermediaries can only be paid by their clients unless there is a written consent from their client, after a transaction is concluded, for the other side, e.g. club to pay for the intermediary's services.

Officials are not allowed to receive any payment from intermediaries because they facilitated a transaction.

It is the author's opinion that the 3% cap has led to a significant number of transactions being concluded without being registered. This is because the practice in Cyprus has been that the intermediary or agent would be paid an amount around 10% of the player's total income. As can be understood, capping an intermediary's commission to 3% resulted in having many transactions being concluded without being registered with the FA.

Minors

It is prohibited to pay an intermediary if the transaction involved a minor.

Conflicts of interest (e.g. dual representation)

Before using the services of an intermediary, players, coaches and clubs must use all reasonable endeavours to make sure that there is no conflict of interest concerning the chosen intermediary. If there is any conflict of interest, the intermediary needs to disclose it prior to the beginning of negotiations and he is also obliged to obtain a written consent from all parties involved. It is permitted for both parties in a transaction to use the same intermediary provided they agree to this in writing prior to the beginning of the negotiations and provided they agree which party is going to pay for the intermediary's services. Any such agreement must be submitted to the FA.

Dispute resolution including key arbitration and state court cases

Disputes are heard by the National Dispute Resolution Chamber (NDRC) and are being resolved following the procedural regulations of the NDRC, which are quite similar to those of the FIFA DRC, i.e. conducted in writing. In order to file a claim, an administrative fee needs to be paid, depending on the claim and its nature. An appeal against the decision of the NDRC can be filed before the Appeals Body of the NDRC. A further appeal may be filed before the CAS.

Only one case has been decided so far from the NDRC. The intermediary's claim was rejected because, according to the NDRC, there was an arbitration clause for exclusive jurisdiction of CAS and as a result the NDRC was not competent to hear the dispute. There have not been any sanctions imposed so far. There have not been any cases decided by national courts.

Sanctions

The NDRC is also competent to impose the following sanctions on intermediaries, players, coaches or clubs in breach of the regulations:

Warning, criticism; Penalty and/or award damages; Suspension of the intermediary's license; Cancellation of the intermediary's license; Revocation of decision of CFA for refusal of registration of the intermediary.

The FA shall inform FIFA for any sanctions imposed on intermediaries and FIFA might decide to extend the sanctions to international level.

National collective body of agents

No collective body representing intermediaries in Cyprus

Opinion of national expert

Before the implementation of the regulations, there were many individuals acting as players' agents, even though they were not licenced. Today, despite not needing to be registered, many intermediaries are still acting without following the regulations and without disclosing their services to the FA. This is mainly because the regulations cap the commission to 3% and, as a result, very few intermediaries accept to be paid a maximum of 3%.

The intermediary regulations diminished good governance. They can be easily circumvented and as, said above, the majority of intermediaries, clubs, coaches and players do not follow the regulations.

Concerning important transactions, with large amounts, the intermediaries prefer to insert an arbitration clause for CAS to protect their interests instead of leaving before the NDRC. This is mainly because of the commission cap but also because foreign intermediaries do not want to have a dispute heard before a foreign country's NDRC. What is more, FIFA must find a way to assure that decisions issued by NDRCs can be executed in case a party is no longer within the jurisdiction of the NDRC issuing the decision.

CZECH REPUBLIC

National legal requirements regulating agents

There is no legal regulation currently in force that would regulate activities of football intermediaries in the Czech Republic. Only general provisions of the Act n. 89/2012 Coll., Civil Code, particularly in relation to the contracts and obligations, apply as far as contracts between players/teams and intermediaries are concerned. No plans are known to amend the above provisions. Court cases with regard to intermediaries are not known.

Consultation at national level regarding implementation of RWWI

A special Committee was established in order to prepare a draft of the Intermediary Code and the Code was finally adopted by the Executive Committee of the FACR.

Definition of intermediary

The Czech regulation does not define intermediaries in a way as the RWWI and most other national regulations do. The registration requirements, however, provide insight into the definition of an intermediary in Czech (see below).

Registration requirements

In order to perform intermediary activities, a natural person or a legal person must acquire a licence of the registered intermediary on the basis of his registration in the electronic information system. A natural person applying for the registration within the meaning of paragraph 1 is obliged:

- to deliver to the Committee for Activities of Intermediaries a signed application for registration in accordance with exhibit 1 of the Intermediary Code;
- to attach to the relevant application under letter a) a duly signed declaration in accordance with exhibit 2 of the Intermediary Code;
- to attach to said application under letter a) proof of its impeccable reputation in the form of an original extract from Criminal Records or a similar document issued by the EU/EEA country, of which the relevant applicant is a state citizen, not older than 15 days as of the date of filing the application for registration;
- to successfully pass the intermediary exam under Section 5 of the Intermediary Code;
- to demonstrate entering into the insurance against professional liability under Section 6 of the Intermediary Code by delivering a copy of the relevant insurance policy to the Committee for Activities of Intermediaries.

With upholding the licensing system including an intermediary exam, the conditions for becoming a registered intermediary in the Czech Republic are more stringent than conditions stemming from the 2015 RWWI.

Further, natural and legal persons could be registered as Intermediaries. Natural persons must fulfil the following conditions: s/he has an impeccable reputation; s/he is 18 years old; s/he has full legal capacity; s/he is member of the Czech Football Association; and s/he is a state citizen of the EU/EEA country who received a permit to the permanent residence in the territory of the Czech Republic.

Legal persons must fulfil these conditions: it has impeccable reputation; it is a member of FACR; it has a registered office in the territory of the EU/EEA country.

Impeccable reputation

Any person wishing to become an intermediary has to have impeccable reputation. This term is not expressly defined in the Intermediary Code, but some guidance as to the meaning of this term can be found in Exhibit 2 (Exhibit 3 for legal persons) to the Intermediary Code, the declaration of intermediary that includes item no. 3 under which the applicant declares that he has an “impeccable reputation, namely confirms that he has never been sentenced for financial or violent criminal act”.

Furthermore, we can imply from paragraph 4, section 2, letter c) of the Intermediary Code, that any person wishing to become a registered intermediary must present the evidence for his/her impeccable reputation, being it an extract from Criminal Records or a similar document issued by the EU/EEA country, of which the relevant applicant is a state citizen, not older than 15 days as of the date of filing the application for registration.

Representation contract

Under Section 7 of the Intermediary Code, a registered intermediary and a player and/or a club are obliged to enter into an agreement on representation before the start of the provision of intermediary activities with effect no later than from the date of start of providing intermediary activities. Said agreement on representation must be in writing and must contain at least the following elements:

the exact definition of contractual parties; the specification of the subject of contractual relationship; the fee pertaining to the registered intermediary and payment conditions; the provision whether it is entered into as an exclusive or a non-exclusive agreement; the time for which it is entered into, stating the start and end agreed of the provision of intermediary activities; conditions of a premature termination of its effect; date of its entering into force; a valid arbitration clause on the basis of which disputes will be resolved in accordance with the Articles of Association of FACR and internal regulations of FACR issued on their basis; signatures of contractual parties.

An agreement on representation may be entered into for three years at maximum. A copy of each agreement on representation between a registered intermediary and a player must be inserted in the electronic information system. There have not been any significant amendments in comparison with the previous versions of the Intermediary Code.

Disclosure and publication

Section 10 of the Intermediary Code states that players and clubs are obliged to disclose to the Committee for Activities of Intermediaries the information on fees agreed to the benefit of

registered intermediaries. In relation to players, the obligation under paragraph 1 is deemed to be fulfilled at the time of registering an agreement on representation in the electronic information system, and in relation to clubs, at the time of sending the whole amount paid by the club to the benefit of all registered intermediaries in the previous calendar year by the end of February of each calendar year. In the event of examining activities of a registered intermediary by state authorities, players and clubs are also obliged to disclose to the relevant bodies of FACR, UEFA, and FIFA all agreements, arrangements, and reports made between them and registered intermediaries for purposes of their investigation.

FACR is obliged to disclose at the portal the current list of all registered intermediaries, including their registration numbers issued under Section 4 (7) of the Intermediary Code, as well as, separately, persons who, as registered intermediaries, were imposed legally effective disciplinary sanction of prohibition to perform said office; however, in relation to whom, the rights and obligations are not affected that follow from agreements on representation entered into before the time of a legal effect of a decision imposing said sanction.

Payments to intermediaries

The amount of remuneration pertaining to a registered intermediary, who was engaged in acting for a player, is calculated on the basis of the agreed basic gross income of a player for the whole time of duration of a player's agreement. Clubs that used services of a registered intermediary must pay him a one-off remuneration the amount of which was agreed before entering into the relevant transaction. The remuneration may be paid in instalments if parties so agreed. Clubs are obliged to ensure that payments that must be made by one club to the benefit of the other club in relation to a transfer, such as payments of transfer fees, training compensations, solidarity contributions, were not paid to registered intermediaries, and that such payments are not made through registered intermediaries.

Minors

Under Section 7 (4) or (5) of the Intermediary Code, it is applicable that an agreement on representation must not be entered into with a player who is not 15 years old. If a player who is not 18 years old is a contractual party, the relevant agreement on representation must be entered into by his legal representative or a guardian as well; every such an agreement on representation must contain the whole name, a date of birth or a birth number and the address of residence of a legal representative or a guardian of a player. Players and/or clubs using services of a registered intermediary within a transaction must not make any payments to such a registered intermediary if the relevant player is younger than 16 years.

Conflicts of interest (e.g. dual representation)

Prior to the start of using services of a registered intermediary, parties of an agreement on representation must make reasonable efforts to ensure that no conflict of interests exists or is threatened, not in relation to players and/or clubs or registered intermediaries. A conflict of interest is deemed not to exist if a registered intermediary informs participating parties in writing of any factual or threatened conflict of interests that could be established in relation to him and either participating party in relation to a transaction, an agreement on representation, or a joint interest, despite the above, he obtains the express consent of all participating parties to perform intermediary activities. If a player and a club and/or clubs wish to use services of the same registered intermediary within the same transaction under conditions stated in

paragraph 2, they are obliged to provide such express written consent before the start of negotiations and they must agree in writing to the manner of payment of remuneration to a registered intermediary. A registered intermediary must not have any contractual relationship with FACR, UEFA, or FIFA that could lead to the potential conflict of interests.

Dispute resolution including key arbitration and state court cases

Under article 17 section 7 of the Articles of Association of FACR the Panel of Arbitrators of FACR decides, apart from other matters, (i) disputes from written agreements between registered intermediaries and players if they are agreements registered by FACR and (ii) disputes from written agreements between registered intermediaries and member clubs if they are agreements registered by FACR.

Sanctions

Breaching provisions of the Intermediary Code has disciplinary consequences according to the Disciplinary Code of FACR (also for intermediaries, as they are members of the FACR). FACR is entitled to inform FIFA of all measures adopted in relation to registered intermediaries. The Disciplinary Committee of FIFA will subsequently decide in accordance with the wording of the FIFA Disciplinary Code on the extension of sanctions world-wide.

Under Section 69b of the Disciplinary Code of FACR, it is applicable that: A person who permits breaching the Intermediary Code by using services of a person who in conflict with Section 12 (1) (a) or Section 13 (1) (a) of the Intermediary Code is not a registered intermediary or uses services of another registered intermediary in conflict with Section 12 (1) (b) or Section 13 (1) (b) of the Intermediary Code will be punished with a pecuniary penalty up to CZK 500,000, and if it is a player, with activities beneficiary to football as well. With the same penalty and potentially the prohibition of performing the office for the time up to five years, will also be punished a registered intermediary who:

- provides services to the benefit of a player or a club without an authorization by the Intermediary Code, or who, in conflict with Section 11 (8) of the Intermediary Code, directly or indirectly conducts acts affecting legitimate interests of another intermediary;
- provides services to the benefit of a player or a club, although it is excluded by the prohibition of conflict of interests under the Intermediary Code;
- enters into a contractual relationship with FACR, UEFA, or FIFA in conflict with the Intermediary Code or does not observe regulations of FACR, UEFA, or FIFA.

A person who permits the breach of the Intermediary Code by non-performing a payment in accordance with Section 9 of the Intermediary Code will be punished with a pecuniary penalty up to CZK 500,000.

A person who permits breaching of the Intermediary Code by non-delivery to FACR the information, agreements, or other documents that is obliged to deliver to FACR not even within an additional term provided by FACR for such a purpose will be punished with a pecuniary penalty up to CZK 10,000 and upon a repeated breach of the Intermediary Code within two years with a pecuniary penalty up to CZK 50,000 and potentially with the prohibition of

performing the office up to one year. With the same penalty will be punished a registered intermediary who does not remedy his fault while fulfilling his obligation related to his professional liability insurance not even with an additional term provided by FACR.

A club that permits breaching of the Intermediary Code by encouraging a player to breach his agreement with a registered intermediary will be punished with a penalty up to CZK 500,000.

National collective body of agents

Football Agents are associated in the association called Czech Football Agents Association (in Czech: Asociace fotbalových agentů, z.s.). The purpose of the Association is the defence of rights and economic interests of its members and the effort to improve the position of registered intermediaries not only in the Czech Republic. In particular, the Association is defending rights and interests of its members in relation to the Association and third parties, for this purpose, it is cooperating with other organisations, namely FACR and the European Football Agents Association (EFAA).

A member of the Association may be only a natural person who has impeccable reputation or a legal entity registered by FACR as the “Registered Intermediary of FACR” in accordance with the wording of the Intermediary Code of FACR who agrees to the Articles of Association of the Association and who is adopted as a member by the Board of Directors of the Association.

The Association has the following bodies: (i) a General Assembly (composed of all founding members – natural persons), (ii) the Board of Directors (the executive body), it manages activities of the Association, it has three members – Chairman and two Vice-Chairmen, (iii) Chairman (a statutory body) represents the Association and acts on its behalf, and (iv) a Control Commission – the control body of the economic management of the Association.

Opinion of national expert

There are significant similarities between the former regulations and the current ones in Czech Republic. Hence, the 2015 RWVI did not change too much in this regard. The new regulations have brought tighter control and supervision of the transactions relating to transfer of football players and intermediaries are required to conduct more rigorously than before as they are under higher standard of scrutiny. Also, more transparency is warranted as all contracts have to be published in the FACR electronic information system. Sanctions can be considered appropriate; however current enforcement of the rules is insufficient.

DENMARK

National legal requirements regulating intermediaries

Football intermediaries are not specifically regulated under Danish law. Provided that a representation agreement or the relationship between a football intermediary and a club or player falls within the scope of Danish law, the general provisions of Danish legislation will be applicable, for instance to determine whether a valid agreement can be assumed to exist. There are currently no plans to amend the national legal regulation.

Consultation at national level regarding implementation of RWWI

The Danish Football Association (DBU) first implemented its intermediary regulations following the 2015 RWWI with effect from 1 April 2015 – Circular no 95-2015. In connection with the preparation of Circular no 95 in 2015, DBU chose to continue to respect the principles that provided the basis for the former regulations on agents, one result of which was that the Danish regulations turned out more comprehensive than the 2015 RWWI. Prior to the preparation of Circular no 95, DBU held meetings with a wide circle of licensed football agents for the purpose of receiving their proposals and critical comments. This feedback was later, to a certain extent, taken into account in the preparation of Circular no 95, and the final draft circular was not sent for consultation prior to its implementation.

With effect from 4 September 2016, Circular no 95 was replaced by Circular 105 – 2016. By Circular 105, the term intermediary was amended to football agent. With (partial) effect from 8 October 2017, Circular no 105 was replaced by Circular 108 – 2017. DBU held meetings with a number of registered football agents before preparing Circular no 108. Finally, with effect from 2 February 2018, Circular 108 was replaced by Circular 113, which is the current set of regulations (hereinafter “DBU Regulation 2018”). There are no current plans for further amendments.

The main amendments occurred in connection with the implementation of Circular no 108, the content of which still applies under the regulations of Circular no 113. First, in view of the ambition of DBU to ensure greater transparency, it was decided to publish certain types of information in future. Second, a waiting period was introduced to mitigate the risk of tax avoidance, and the regulations on agent identification were inserted. Finally, DBU tightened the regulations for the protection of minors, for instance by laying down rules to the effect that only DBU-certified football agents should in future be entitled to provide advice to these young players.

Definition of intermediary

According to Article 1 DBU Regulation “[a] football agent is a person who, for money or free of charge, represents a player and/or a club in the negotiation and conclusion of a player contract, including a loan agreement, or represents a club in the negotiation and conclusion of a transfer agreement. A person can engage in football agent activity either as a sole trader or a company.” The definition of a football agent in the DBU Regulations does not substantially differ from the definition of an intermediary in the 2015 RWWI. While the DBU Regulation’s definition, unlike the 2015 RWWI’s, explicitly mentions “loan agreement”, the 2015 RWWI covers the negotiation and conclusions of loan agreements.

Registration requirements

According to Article 4 DBU Regulation 2018, natural persons, whether working individually or under the auspices of a company, are eligible for registration if they are “legally competent, have no criminal record and have an impeccable reputation”. According to Article 5, a registered intermediary must pay DKK 5,000 for initial registration and an annual renewal fee of DKK 3,000. Additionally, the intermediary must pay a fee of DKK 1,000-2,000 per representation agreement depending on which division the represented player plays (all amounts excl. VAT).

A registered intermediary may additionally and voluntarily apply to become a certified intermediary by taking DBU’s test. The cost for taking the exam is DKK 2,000 and the test must be retaken every five years. A certified agent must also have liability insurance meeting certain requirements. In addition to being able to market themselves as DBU certified agents, only certified intermediaries are entitled to represent players or clubs in the negotiation and conclusion of player contracts or transfer agreements when the player is over the age of 15, but under the age of 18 (Articles 15–17 DBU Regulation).

Impeccable reputation

On receipt of the application for registration, DBU first and foremost reviews the certificate of criminal record that shall be attached to the application. Additionally, DBU performs a general public records search checking the applicant’s track record to verify that no information is available to show that the applicant does not have an impeccable reputation. Furthermore, DBU is constantly attentive to any information disclosed on registered football agents to be capable of considering whether these agents still fulfil the relevant requirements.

Representation contract

Players and clubs are only allowed to enter into representation agreements with intermediaries who are already registered with DBU or submit an application for registration no later than on signing the representation agreement. According to Article 6 DBU Regulation 2018, the parties must use and sign one of DBU’s standard representation agreements, one for player representation and one for club representation. A representation agreement must state the remuneration and can have a term of maximum 24 months. Special rules apply to minors.

Disclosure and publication

When a representation agreement has been signed, all parties are responsible for ensuring that it is submitted to DBU for registration. Furthermore, and if so requested by DBU, UEFA or FIFA, the football agent must submit other relevant material as well. Based on the information thus received, the DBU publish “the names of the DBU registered football agents on its website, including any association with a football agent company[,] the term of the representation agreements concluded by the DBU registered football agents with clubs affiliated with DBU and players registered in clubs affiliated with DBU[,] the player contracts and transfer agreements which were concluded in the past calendar year with the assistance of each individual DBU registered football agent, as well as the players and clubs involved [and] the total consolidated amount of all payments due to football agents from all players and

individual clubs.” (Article 4 DBU Regulation 2018) DBU will also publish the names of football agents terminating their activity, for whatever reason, on its website.

Payments to intermediaries

According to Article 14 DBU Regulation 2018, only intermediaries that assisted in the conclusion of a transfer agreement or player contract are entitled to remuneration. If representing a player, the intermediary’s remuneration “is only calculable as a percentage of the player's gross basic income for the entire duration of the contract.” If representing a club, the intermediary’s remuneration “must only be agreed as a fixed amount.” DBU recommends parties to comply with the fee recommended in 2015 RWWI, but the national expert comments that the recommendation “that the total amount of remuneration paid by the player or the club should not exceed 3% of the total eventual transfer fee is found to be not widely applicable in the Danish market.” Special rules apply to minors.

Minors

To ensure that minors receive high-quality advice, only certified intermediaries may represent players under the age of 18 and Article 17 DBU Regulation 2018 prohibit intermediaries from approaching players earlier for the purpose of entering into a representation agreement after the player has achieved a particular age. Also, intermediaries may not accept a fee for assisting in the conclusion of transfer agreement or player contract concerning a minor player.

Furthermore, DBU Regulation contains special rules regarding representation agreements with minor players. A representation agreement with a player under the age of 18 must be signed by one of the player’s guardians to have “legal effect” and is always terminable subject to a maximum notice period of 3 months. A representation agreement with a player under the age of 15 “will have no legal effect.”

Conflicts of interest

According to Article 8 DBU Regulation 2018, a registered intermediary may only represent one of the parties in the negotiation of a player contract or a transfer agreement and must not have a representation agreement or shared interests with any of the other parties involved. The intermediary must give advance written notice of any potential or actual conflicts of interest and after receiving such notice the parties may consent in writing to the intermediary’s participation. The parties may similarly consent to dual representation.

Additionally, as a precaution against tax avoidance by arranging for a club to conclude a representation agreement with the player’s agent and thereby make the club pay the costs, Circular no 108 amended the DBU Regulation to include two sections:

7.2 For a period of six months after termination of the representation agreement with the player, howsoever caused, a football agent who represents or has represented a player is not entitled -whether directly or indirectly via other persons employed or affiliated with the same football agency business - to represent a club in connection with the conclusion of a player contract with the same player.

7.3 For a period of six months after termination of the representation agreement with the club, howsoever caused, a football agent who represents or has represented a club

in the conclusion of a contract with a specific player is not entitled - whether directly or indirectly via other persons employed or affiliated with the same football agency business - to conclude a representation agreement with the same player with whom the agent negotiated on behalf of the club.

Furthermore, and with a view to preventing circumvention of the regulations set out in clauses 7.2 and 7.3, the following was inserted in the regulations:

6.1.1 The expression "act as a football agent for a player", see clause 6.7. cf. clause 2, also includes - in addition to the negotiation and conclusion of player contracts - statements in the media, including social media, on behalf of the player, promotion of the player on the football agent's website and similar activities.

6.1.2 The expression "act as a football agent for a club", see clause 6.1. cf. clause 2. also includes - in addition to the negotiation and conclusion of a player contracts and transfer agreements - statements in the media, including social media, on behalf of the club, promotion of the club's players or the club on the football agent's website and similar activities.

Dispute resolution including key arbitration and state court cases

DBU is responsible for enforcing DBU Regulation 2018 and make decisions about sanctions. Such sanctions are subject to appeal to DBU's Disciplinary Committee (Articles 19-21 DBU Regulation 2018).

Civil disputes involving intermediaries to arbitration shall be resolved by the ordinary courts of Denmark unless the parties agree to arbitration, including arbitration by the DBU's arbitration tribunal (Article 22 DBU Regulation 2018).

Very few cases have been decided under the auspices of DBU in recent years, and the cases have primarily involved the imposition of quite modest sanctions for non-compliance with the regulations prohibiting agents to approach minors. As a consequence of reports in the media and for other reasons, various investigations into the tax aspects of representation agreements and transfers have also been launched. These investigations have not yet resulted in actual cases, including disciplinary cases, whereas, as stated above, DBU has introduced a number of new regulations with a view to countering the risk of undue tax avoidance associated with representation agreements and transfers.

Sanctions

A player that fails to comply with the DBU Regulation may be sanctioned through one or several of disapproval or reprimand, fine or ban (Article 11 DBU Regulation 2018). A club that fails to comply with the DBU Regulation may be sanctioned through one or several of disapproval or reprimand, fine, a temporary ban on concluding and extending player contracts, a temporary ban on national and international club transfers and exclusion from participation in national and international tournaments (Article 13 DBU Regulation 2018).

National collective body of intermediaries

Danish intermediaries are not currently represented by a collective body.

Opinion of national expert

The national expert is of the view that the Danish system generally functions well. The national regulations provide strong incentives for players and clubs to work with registered intermediaries and for intermediaries to make sure they remain registered. Experienced intermediaries provide a clear added-value for a reasonable remuneration and generally maintain a high level of professionalism.

Views on the consequences of the 2015 regulation differ. While the current system does not, in the expert's opinion, offer the same quality assurances as the pre-2015 system, experienced intermediaries experience a greater degree of regulation and Danish intermediaries experience that they are more strictly regulated than some of their European counterparts.

Following 2015 RWWI, Denmark has seen a significant increase in registered intermediaries, from 45 to 188. The expert is doubtful whether the increased competition among intermediaries has always benefited the players' interests. The expert also believes improvement efforts should be aimed at these newer intermediaries who have limited experienced, participating only in a few transactions, the quality of whose services can be questioned, and some of whom are likely to violate the regulations.

ENGLAND

National legal requirements regulating agents

UK Common Law on Agency applies to intermediaries, requiring them to observe duty of care and skills, obey instructions and avoid conflict of interests. A number of legislative measures apply to the work of intermediaries: the Fraud Act 2006, the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2010 and the Bribery Act 2010. The main objectives of this set of legislation is to guarantee minimum requirements and impose criminal responsibility on offenders.

Consultation at national level regarding implementation of RWWI

No evidence of consultation process can be found on the FA website.

Definition of intermediary

Any natural or legal person who carries out or seeks to carry out Intermediary Activity and has registered with The Football Association in accordance with the FA Regulations. Intermediary activity is defined as acting in any way and at any time, either directly or indirectly, for or on behalf of a Player or a Club in relation to any matter relating to a Transaction. This includes, but is not limited to, entering into a Representation Contract with a Player or a Club. The definition seems to be broad enough to cover activities that go beyond the mere conclusion of the contract, such as negotiations on image rights, but also acting as a consultant for the club.

Registration requirements

Any natural or legal person who wishes to act as an Intermediary shall register with The Association. The registration lasts for 1 year. In order to register with the FA, the intermediary must demonstrate an impeccable reputation. The intermediary will be charged £500 (+VAT) for the first registration period (this initial registration fee will be waived for those individuals who were FA Licensed Agents as at 31st of March 2015). This registration will need to be renewed and maintained in order to continue conducting Intermediary Activity and The FA will charge £250 (+VAT) for every annual renewal.

Impeccable reputation

The FA applies a Test of Good Character and Reputation to assess the impeccable reputation of the applicant. The test lists a series of disqualifying conditions, including any unspent conviction for a violent/financial/dishonest crime, any sporting sanction suspending the applicant from participating in sport, any suspension or disqualification by a professional body and being required to notify personal information to the Police under the Sexual Offences Act 2003. The intermediaries must confirm they continue to meet those criteria every time they carry out Intermediary activity in relation to a Transaction.

Representation contract

The Regulations establish rules for the representation contract. The Representation Contract must contain the entire agreement between the parties in relation to the Intermediary Activity,

and shall, at a minimum, contain all Obligatory Terms of the relevant Standard Representation Contract. The contract must be lodged with the FA within 10 days from being executed. An Intermediary can only enter into a Representation Contract with a Player for a maximum duration of two years. Further rules regulate the conclusion of a contract with a minor.

Disclosure and publication

The FA is entitled to publish the name and registration number of every Intermediary and association (legal person) s/he is connected with, as well as a list of every transaction in which an intermediary is involved and the total consolidated amount paid by players and clubs to intermediaries. The FA is also entitled to publish any decision made pursuant to the Regulations including the name and other relevant details of the intermediary in respect of whom a disciplinary decision has been made. Players, Clubs, Club Officials or Managers and Intermediaries must disclose to the FA any contractual agreement or other arrangement whether formal or informal that exists between any Player, Club, Club Official or Manager and any Intermediary.

Payments to intermediaries

An Intermediary may be remunerated by the Club or the Player for whom he acts, in accordance with the terms of the Representation Contract.

Players may discharge their obligation by a direct payment, or the club may, after specific request in writing from the player, make deductions in periodic instalments from a Player's net salary in favour of the Intermediary. Where the Intermediary and the Player agree in the Representation Contract that a commission (lump sum or instalments) is to be paid in respect of a Transaction, this is calculated on the basis of the Player's Basic Gross Income as set out in the employment contract concluded by the Player. Where the Intermediary and the Player agree periodic instalments and the relevant Player's employment contract lasts longer than the Representation Contract, the Intermediary is entitled to the agreed instalments after expiry of the Representation Contract, until the Player's employment contract expires or, if earlier, until the Player signs a new employment contract without the involvement of that Intermediary.

Any payment made to any person in relation to any intermediary activity for or on behalf of the club must be made by the club only and fully recorded in the accounting records of the Club. Clubs must ensure that any payment made to another club as compensation payment, solidarity payment or training compensation payment or any other payment related to a transaction is made to the club only.

The FA recommends that Players, Clubs and Intermediaries adopt the following benchmark when setting the remuneration for intermediary activity: The total amount of remuneration per Transaction due to Intermediaries engaged by the club or the player should not exceed 3% of the Player's Basic Gross Income for the entire duration of the relevant employment contract, or 3% of the eventual transfer if the intermediary has been engaged by the club to conclude a transfer agreement.

Finally, all the payments made by a club to an intermediary in relation to a transaction (with the exception of salary deductions) must be made via The FA clearing house.

Minors

An Intermediary applying to deal with Minors shall be required to satisfy The Association of his suitability. An Intermediary cannot enter into a Representation Contract with a Minor unless this is countersigned by the Minor's parent or legal guardian with parental responsibility. Prior to entering into a Representation Contract with a Minor or with a Club in respect of a Minor, an Intermediary must obtain from The Association additional authorisation to deal with Minors. The authorisation is valid for 3 years. A legal person registering as an Intermediary cannot apply to deal with Minors.

Players and/or Clubs that engage the services of an Intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such Intermediary if the Player concerned is a Minor.

Conflicts of interest (e.g. dual representation)

The general principle is that an intermediary can only act for one party to a transaction, and that he/she cannot have interests in a club, or the economic rights of a player. The intermediary can act for both parties only if:

- a) The Intermediary has a pre-existing Representation Contract with one party to the Transaction and the Representation Contract has been lodged with The Association; and
- b) The Intermediary obtains all parties' prior written consent to him providing services to any other party to the Transaction; and
- c) Once the Intermediary and the other party(ies) have agreed terms, the Intermediary must inform all parties of the full particulars of the proposed arrangements including, without limitation, the proposed fee (if any) to be paid by all parties to the Intermediary; and
- d) All parties are given the reasonable opportunity to take independent legal advice and/or, in the case of a Player, to take advice from the Professional Footballers' Association prior to providing written consent; and
- e) Having been given such opportunity, all parties provide their express written consent for the Intermediary to enter into a Representation Contract with the other party(ies).

In absence of prior written consent, the intermediary cannot provide service and/or receive payment for the relevant transaction.

Intermediaries are prohibited from having an interest (5% ownership being in a position enabling it to exercise any influence over the affairs of the entity) in a club. Similarly, a Player, Club, Club Official and Manager shall not have any interest in an Intermediary's organisation. An Intermediary must not have, either directly or indirectly, any interest of any nature whatsoever in relation to a registration right or an economic right (TPO).

Intermediaries are prohibited from offering any consideration to players or clubs as a result or in return for a transaction or in return for the promotion of the services of the intermediary.

Players, Clubs, Club Officials and Managers are prohibited from accepting such offers or receiving such consideration

Dispute resolution including key arbitration and state court cases

Any breach of the Regulations is dealt with as a Misconduct under FA rules and any charge is determined by a Regulatory Commission of The Association.

The FA and the Court have established that disputes involving intermediaries may be heard by the sporting tribunals, as by registering with the FA the intermediary voluntarily accepts to refer disputes to the sporting tribunal and waive the jurisdiction of the court. The Court has also established that when an intermediary deals with minors, special care must be taken in protecting his/her interests, and his/her weakness in negotiating with the intermediary the terms of the representation agreement.

In the event of a breach of a representation agreement induced by another intermediary, the Court has stated that the first intermediary may seek compensation for a deal – in which he/she was involved – concluded by the other intermediary, but only if the first can demonstrate a real chance that the third party would have signed the deal with him/her.

The lack of a dispute resolution system specifically designed for intermediaries and accessible to them is perceived as one of the weaknesses of the Regulations.

Sanctions

In the event the intermediary does no longer fulfil the requirements necessary for registration, the FA can suspend or revoke the registration. Further disciplinary sanction may be imposed under Rule E1(b) of the FA Regulations, applicable to every individual affiliated with the Federation. Sanctions can range from a fine to a suspension to a permanent ban.

National collective body of agents

In England, the collective body representing intermediaries is the Association of Football Agents (AFA). Members have to abide to the Code of Conduct of the Association. The AFA lodged a complaint with the European Commission (subsequently withdrawn) regarding Regulation 7(3) and Regulation 7(8) of the FIFA Regulations on Working with Intermediaries which come into force on 1 April 2015.

Opinion of National Experts

The English Regulations prescribe a system that aims at guaranteeing transparency in any transaction involving an intermediary, as exemplified by the requirement to process any payment through the FA clearing house. However, the perception is that the 3% cap is not followed in practice. A stricter cap would be detrimental, as it would drive all the payments out of the system and the control. A further criticism must be made in relation to the dispute resolution system. There is the perception that, in the absence of a specific dispute resolution body available to intermediaries, there is little room for protection of the intermediaries and their services. This, combined with the absence of a licensing system and educational requirement, has affected the image of the category and of the quality of the service they offer.

ESTONIA

National legal requirements regulating agents

Football intermediaries are not specifically regulated under Estonian law, nor are there currently any plans to create such national legal regulation.

Consultation at national level regarding implementation of RWWI

The Board of Directors of the Estonian Football Federation (Eesti Jalpalli Liit, henceforth “EJL”) approved the Guidance on Working with Intermediaries (Vahendajaga töötamise juhend, henceforth “EJL Regulation 2015”) on 31 March 2015 and it was published on the website of Estonian Football Federation on 6 April 2015. EJL Regulation 2015 was principally an implementation of the mandatory elements of RWWI 2015, there are no indications of controversies, and no significant consultation process was employed, according to EJL because of the near-absence of players’ agents actions. EJL has some, although yet-to-be-specified plans to amend the national regulation.

Definition of intermediary

The definition in EJL Regulation 2015 is identical to the one in RWWI 2015.

Registration requirements

Any intermediary involved in a transaction for the conclusion of either an employment contract or an interclub transfer agreement must be registered with the EJL (Articles 2(1) and 3(3) EJL Regulation 2015). The player or club who retains the services of an intermediary in a transaction shall, within 14 days, submit (i) an Intermediary Declaration, (ii) an agreement entered into with the intermediary, and (iii) additional documents as required by EJL. Information on intermediaries and transactions effected through them are entered in the Intermediary Register and published (Article 4 EJL Regulation 2015). Before registering an intermediary, EJL must satisfy itself that the intermediary has an impeccable reputation and “not any contractual relationship with any other league, national football association, football federation or FIFA.” (Articles 5(1) and 5(2) EJL Regulation 2015).

Impeccable reputation

EJL Regulation 2015 does not clarify the meaning of “impeccable reputation” and simply provides that “the checks... are carried out by the EJL.” (Article 5(3))

Representation contract

Players and clubs shall enter into a representation contract before the intermediary commences activities that, at least, specifies the names of the parties, the scope of services, the duration of the legal relationship, the remuneration due to the intermediary, the general terms of payment, the date of conclusion, the termination provisions, and the signatures of the parties (Article 6 EJL Regulation 2015).

Disclosure and publication

Players and clubs shall disclose to EJL all agreements made with and remuneration paid to intermediaries and disclose all transactions entered into with the involvement of intermediaries (Article 7 EJL Regulation 2015).

According to Article 4(1)EJL Regulation 2015, EJL publishes information on the Intermediaries and Transactions effected through them on its website. However, the national expert notes that no such register can be found on the website. They shall also disclose the total amount paid by the clubs to intermediaries and identify each transfer in which the intermediaries were involved (Article 7(3)).

The national expert notes that in 2015 there were no transfers with intermediaries registered with EJL. In 2016 and 2017, EJL identified one such transfer in each year, but provided no amount paid to intermediary in the box intended for that information. The number of transactions involving intermediaries (1–3 per year) has largely remained unchanged before and after the implementation of the regulation.

Payments to intermediaries

EJL Regulation 2015 incorporates the remuneration recommendations found in RWWI 2015 (Article 8).

Minors

If the player is a minor, at least one of the player's parents or the player's legal guardian shall also sign the representation contract (Article 6 EJL Regulation 2015). Also, players and clubs are prohibited from paying an intermediary involved in a transaction concerning a minor player (Article 8(8) EJL Regulation 2015). Minors are also, more generally, protected by national legislation through the Child Protection Act.

Conflicts of interest

As discussed above, registered intermediaries may not have “any contractual relationship with any other league, national football association, football federation or FIFA.” (Article 5(2) EJL Regulation 2015) Also, “players and clubs are prohibited from engaging as intermediaries officials as defined in point 11 of the Definitions section of the FIFA Statutes: any board member of FIFA, a confederation, a member association, a league or a club, commission or committee member, referee and assistant referee, coach, trainer and any other person responsible for technical, medical and administrative matters of those bodies.” (Article 3(4) EJL Regulation 2015)

Before engaging the services of an intermediary, players and clubs shall use reasonable endeavours to ensure that the intermediary has no conflicts of interest or that no such conflict is likely to exist. If the intermediary, in writing, discloses any actual or potential conflict of interest and all parties give written consent, no conflicts of interest is deemed to exist. A player and a club may engage the same intermediary provided initial written consent, a written agreement on who shall remunerate the intermediary, and that EJL is informed (Article 9 EJL Regulation 2015).

Dispute resolution including key arbitration and state court cases

According to Article 10 EJL Regulation 2015, sanctions for breaches of the Regulation shall be imposed by the EJL Disciplinary Body in accordance with the EJL Disciplinary Regulation. The Disciplinary Body shall also have the right to determine conditions for compensation of damage caused (Article 7(4) EJL Disciplinary Regulation). No cases concerning intermediaries have been decided by the national courts or dispute resolution bodies.

Sanctions

EJL Disciplinary Body may impose one or several (Article 7(2) EJL Disciplinary Regulation) of the following sanctions on a club: (1) warning; (2) reprimand; (3) financial penalty; (4) annulment of the result of a match; (5) registering the game as lost; (6) obligation to replay the match; (7) deduction of points in the current or future competition; (8) playing the game in whole or in part without spectators; (9) transferring the match to another stadium; (10) withholding the fees paid through EJL; (11) prohibition to register new players; (12) prohibition or restrictions to enter new players to the competition; (13) prohibition to register players from other football associations (ban on transfer); (14) expulsion from current or future competitions; (15) withdrawal of title and / or prize; (16) annulment of the license; (17) relegation to a lower league (Article 8 EJL Disciplinary Regulation).

On a violating player, the EJL Disciplinary Body may impose one or several (Article 7.2 EJL Disciplinary Regulations) of the following (relevant) sanctions: (1) warning; (2) reprimand; (3) financial penalty; (4) game ban for a specified number of matches, or for specified or unspecified period of time. The Disciplinary Board can also order the player to carry out work that is beneficial for the football community (Article 11).

National collective body of agents

There is no football agent/intermediaries union in Estonia.

Opinion of national expert

There are very few active intermediaries active in Estonia (5) and very few transactions involving intermediaries carried out in Estonia. This makes the systematic review and regulation of intermediaries a low priority. It also provides a limited basis for evaluation of measures taken. Harmonization measures may, on one hand, be effective for a nation where there are few active intermediaries but may, on the other hand, be ill-fitting.

FINLAND

National legal requirements regulating intermediaries

Football intermediaries are not specifically regulated under Finnish law, other than applicable general provisions of national contract law. There are currently no plans to amend the national legal regulation.

Consultation at national level regarding implementation of RWWI

The Finnish FA (FAF) implemented 2015 RWWI in national regulation on 1 July 2015 (“FAF Regulation 2015”). The key rationale for the FAF regulations is that players and clubs have to act with due diligence when selecting and engaging process of intermediaries. The above-mentioned means that players and clubs have to use reasonable endeavours to ensure that the intermediaries sign the relevant Intermediary Declaration and the representation contract concluded between the parties. They have not since been amended, nor are there any plans for amendments. While no official consultations took place, the subject was unofficially discussed within the FAF network.

Definition of intermediary

In full consistency with the FIFA definition, Article 1 FAF regulation 2015 defines an intermediary as a natural or legal person who, for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement.

Registration requirements

Intermediaries must have an impeccable reputation and be registered with the FAF every year. This includes making a yearly registration payment of €100.

Impeccable reputation

FAF considers to have complied with its obligations under Article 4(1–3) 2015 RWWI if it has obtained a duly signed Intermediary Declaration from the intermediary concerned. The representation contract that the intermediary concludes with a player and / or a club has to be deposited with FAF when the registration of the intermediary takes place. Based on the above-mentioned documents, FAF can evaluate whether an intermediary has an impeccable reputation. Additionally, FAF can use its international connections to have more information if needed in concrete cases.

Representation contract

According to Article 5 FAF Regulation 2015, clubs and players have to specify in the representation contract the nature of the legal relationship they have with their intermediaries, e.g. whether the intermediary’s activities constitute a service, a consultancy, a job placement or any other legal relationship.

Based on the above-mentioned provision, the main points of the legal relationship entered into between a player or club and an intermediary have to be recorded in writing prior to the intermediary commencing his activities. The representation contract must contain the following minimum details: the names of the parties, the scope of services, the duration of the legal relationship, the remuneration due to the intermediary, the general terms of payment, the date of conclusion, the termination provisions and the signatures of the parties.

FAF Regulation 2015 does not regulate the representation contract term. However, certain requirements may follow from national legislation, for example, labour or contract law.

Disclosure and publication

Players and clubs are required to disclose to FAF the full details of any and all agreed remunerations or payments of whatsoever nature that they have made or that are to be made to an intermediary. Additionally, under Article 4(5) FAF Regulations 2015, players and clubs must upon request disclose to the competent bodies of the leagues, associations, confederations and FIFA all contracts, agreements and records with intermediaries in connection with activities in relation to these provisions, for the purpose of their investigations. Players and clubs must also reach agreements with intermediaries to ensure that there are no obstacles to the disclosure of the above-mentioned information and documents.

The Intermediary Declaration and the representation contract have to be attached to the transfer agreement or the employment contract, as the case may be, for the purpose of registration of the player and submitted to FAF. Clubs or players have to ensure that any transfer agreement or employment contract concluded with the services of an intermediary bears the name and signature of such intermediary. In the event that a player or a club have not used the services of an intermediary in their negotiations, the pertinent documentation lodged within the scope of the respective transaction shall contain a specific disclosure of this fact.

At the end of March every year, FAF publishes the names of all intermediaries they have registered as well as every single transaction they were involved in on its official website. In addition, FAF publishes the total amount of all remunerations or payments actually made to intermediaries by their registered players and by each of their affiliated clubs. The figures to be published are the consolidated total figure for all players and the individual clubs' consolidated total figure.

FAF may also make available to their registered players and affiliated clubs any information relating to transactions that have been found to be in breach of these provisions that is of relevance for the pertinent irregularities.

Payments to intermediaries

According to Article 7 FAF Regulation 2015, the amount of remuneration due to an intermediary who has been engaged to act on a player's behalf shall be calculated on the basis of the player's basic gross income for the entire duration of the contract. Clubs that engage the services of an intermediary have to remunerate him by payment of a lump sum agreed prior to the conclusion of the relevant transaction. If agreed, such a payment may be made in instalments.

While taking into account the relevant national regulations and any mandatory provisions of national and international laws, FAF Regulation 2015 encourages players and clubs to use the 2015 RWWI 3%-level as a benchmark.

Clubs have an obligation to ensure that payments to be made by one club to another club in connection with a transfer, such as transfer compensation, training compensation or solidarity contributions, are not paid to intermediaries and that the payment is not made by intermediaries. This includes, but is not limited to, owning any interest in any transfer compensation or future transfer fee of a player. The assignment of claims is also prohibited.

Subject to Articles 7(6) and 8 FAF Regulation 2015, any payment for the services of an intermediary shall be made exclusively by the client of the intermediary to the intermediary.

After the conclusion of the relevant transaction and subject to the club's agreement, the player may give his written consent for the club to pay the intermediary on his behalf. The payment made on behalf of the player shall be in accordance with the terms of payment agreed between the player and the intermediary.

Officials are prohibited from receiving any payment from an intermediary of all or part of the fees paid to that intermediary in a transaction. Any official who contravenes the above shall be subject to disciplinary sanctions.

Minors

If the player is a minor, the player's legal guardian(s) has to also sign the representation contract. Also, no remuneration may be paid to an intermediary when clubs and players engage the intermediary when negotiating an employment contract or a transfer agreement concerning a minor player.

Conflicts of interest

Prior to engaging the services of an intermediary, players and clubs have to use reasonable endeavours to ensure that no conflicts of interest exist. No conflict of interest is deemed to exist if the intermediary discloses in writing any actual or potential conflict of interest he might have with one of the other parties involved in the matter, in relation to a transaction, representation contract or shared interests, and if he obtains the express written consent of all the other parties involved prior to the start of the relevant negotiations.

Players and clubs may engage the services of the same intermediary as long as they give prior written consent, in writing agree which party will remunerate the intermediary and inform FAF, including submitting the aforementioned written documents as part of the registration process (cf. Articles 3–4 FAF Regulation 2015).

Dispute resolution including key arbitration and state court cases

The FAF Disciplinary Committee has jurisdiction to deal with all matters concerning infringements of the FAF regulations in accordance with the FAF Disciplinary Code. FAF will publish and inform FIFA of any disciplinary sanctions taken against any intermediary. The FIFA Disciplinary Committee will then decide on the possibility of extending of the sanction to have worldwide effect in accordance with the FIFA Disciplinary Code. Decisions by FAF

not to accept an Intermediary Declaration or to register an intermediary can be appealed to the FAF Sports Operations Committee by the intermediary or the concerned player or club. There is no relevant case law.

Sanctions

Failure to comply with FAF Regulation 2015 can result in any of the very wide range of sanctions provided in the FAF Disciplinary Code, including financial payments, and suspension up till eight matches or for a certain period of time.

National collective body of intermediaries

Finnish intermediaries are not currently represented by a collective body.

Opinion of national expert

According to the national expert, FAF Regulation 2015 generally works well, contains sufficient sanctions, and guarantees transparency of financial transactions involving intermediaries. Intermediary remuneration in Finland is reasonable. While the previous system ensured greater expertise, there has been no discernible reduction in service quality after 2015. While one can question whether individual players and clubs are sufficiently aware of their duties, there is no evidence of this actually being a problem. Nevertheless, the expert suggests that enhanced international co-operation among national FA's regarding the application of national regulations, e.g. in the form of a database, would be very useful. The number of unlicensed intermediaries operating in Finland has decreased following the implementation of 2015 RWI, but the football intermediary business in Finland is generally quite limited.

FRANCE

National legal requirements regulating agents

In France, the job placement business is regulated and in principle reserved to authorised public or semi-public bodies (Art. L. 5311-1 et s., C. trav.). For private individuals to become involved in the placement of sports persons, the authorities had to regulate the profession of the sports agent by adopting a special text that derogates from public law (CA Montpellier, 28 Feb. 1996, Juris-Data no 1996-034119 having qualified the sports agent's business as "operator of a job placement business"). They did so in 1984 with the Article 15-2 of the Law n°84-610 (16 July 1984).

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

Sports associations have been awarded considerable powers by the Code du Sport. This has resulted in the FFF issuing specific regulations applicable to sports agents. These regulations reiterated the main principles of the law while adding certain technical details. They are published on the FFF website (www.fff.fr).

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

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

In domestic matters, the law on agents is obviously a public order law. However, silence reigns when the issue concerns a cross-border matter. Therefore, the lawyer has to choose between alternatives. On the one hand the issue can be resolved by applying "conflict-of-laws" principles that consist in designating the applicable law, with priority given to the choice expressed by the parties; alternatively, the choice is made by the application of a specific international agreement; as a further alternative, a territoriality criterion may apply, such as the domicile of a debtor. On the other hand, the "conflict-of-laws" principles may be excluded by considering that French law is, within the meaning of private international law, a "public order law", that is to say, "a law which requires compliance in order to protect the political, social or economic organisation of the country".

A majority view considers the system to have the characteristics of a public order law that will apply when the agents' intervention involves a sportsperson crossing a French border in one direction or the other, no matter what the nationality and the domicile of the agent and the

sportsperson (E. LOQUIN et G. SIMON, note under Cass. 1re civ., 18 July 2000, JDI 2001, p.97. – E. LOQUIN, « L'internationalisation des contrats sportifs », in *Les contrats des sportifs. L'exemple du football professionnel* (dir. G. SIMON), PUF, 2003, 33. – A. PINNA, « La prestation internationale de service d'agent sportif », *RD aff. int.* 2005-3, 333. – F. RIZZO, *Agents des sportifs et groupements sportifs*, Encyclopédie droitdusport.com, étude no 272).

However, this view is not altogether shared by the rare but contradictory court rulings on this issue. The Paris court (TGI Paris, 4e ch., 1re sect., 11 September 2007, RG no 04/12068) considered that "enacted with a view to regulating the social protection of a sports agent, French legislation has the characteristics of a protective and social law". According to a first ruling, the Aix en Provence Court considered that the French system was a public order law (CA Aix, 28 May 1998) before changing its opinion in a second ruling (CA Aix, September 2006, JCP G 2006, II, 10202, note F. RIZZO). The Court of Cassation (Cass. 1e civ., 18 July 2000, Dr. et patr. 2001, n°91, 40, note F. RIZZO; JDI 2001, 97, note E. LOQUIN et G. SIMON) did not consider that the French system was a "public order law" within the meaning of private international law and even accepted implicitly that the parties were able to choose the law applicable to their contract.

In the national expert's opinion, the successive reforms of the French domestic law are indicative of the will of the French legislature to ensure that this legislation is of a public order nature. At a pinch, the French law could be compartmentalised: that is to say, only certain of these stipulations would be of a public order nature. In any event, it is to be hoped that the next reform will provide definitive clarification on this difficulty by incorporating clear stipulations in the Code du Sport.

In practical terms, the view which favours its qualification as a public order law is in favour of extensive international application of French law. Therefore, its vocation would be for it to apply not only to agents domiciled in France but also those domiciled abroad but whose business involves some connection with the French legal system.

Consultation at national level regarding implementation of RWWI

The question has no object in France. There are at least four reasons why the new FIFA regulations will not apply in France. Besides, the FFF has written to the FIFA informing it that the new regulations would not be applicable on French territory.

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

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

Definition of intermediary

Under Article L.222-7 of the Code du Sport, "the profession that consists in bringing together, for payment of a remuneration, the parties interested in signing a contract under which a person will be paid to practice a [professional] sport or training activity, or concerning the signature of an employment contract for a paid sport or training activity can only be exercised by an individual holding a sports agent's license." Therefore, within the meaning of the Code du Sport, the agent acts as an intermediary whose role is to bring together two future contracting partners. The person may be either acting only as a broker, or as an agent for one of the parties under an agency agreement that mentions this "bringing together" aspect. However, simple advice given to the parties interested in signing a sports contract is not covered by the sports laws and therefore does not require that the person holds a licence to act as an agent.

However, the law does not define its field of application based solely on the criteria of the agreement under which the agent is appointed. It also takes account of the nature of the operation in which the agent is participating. In fact, this operation consists in the placement of a person in employment: the agent's role is to "place" the sportsperson or trainer so that he may practice his sport or exercise his profession. This notion of placement is envisaged very pragmatically if a direct placement is being sought, it will covers all the associated contractual transactions, both the contract and any pre-contract agreements (such as promise of employment, preference pact, etc.), transfer agreements (transfers, loans, transfer promises : Cass. 1re civ., 18 July. 2000, Dr. et patr. 2001, n°91, 40, note F. RIZZO ; JDI 2001, 97, note E. LOQUIN et G. SIMON) and contracts of collaboration between sports agents (CA Aix, 21 sept. 2006, JCP G 2006, II, 10202, note F. RIZZO, reforming T. com Grasse, 7 June 2004, Cah. dr. sport n°1, 2005, 105, note F. RIZZO.) Therefore, an unlicensed operator whose role is to simply introduce contracting partners, and receive a "finder's fee", should be considered someone who is illegally exercising the business of sport's agent.

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

Since law 2011-331 dated 28 March 2011 modernising the legal profession "a lawyer may, in the context of his/her own specific regulations, act as an "mandataire" representing one of the parties with an interest in signing one of the contracts stipulated in the first sub-paragraph of Article L. 222-7 of the Code du Sport" (J.-M. MARMAYOU, « L'avocat peut-il être agent sportif? », D. 2007, chron., 746. – J. Bérenger, « La conception de l'avocat mandataire de sportif ou agent sportif en Méditerranée », Cah. dr. sport n°38, 2014, 11).

Lawyers are not authorised to be sports agents per se. Indeed, the term "mandataire" has been used intentionally by the legislator in order to exclude any relationship that would not involve "legal representation" in the strictest sense. Although lawyers may act as "mandataire" (without a license), it is precisely because they can intervene only as "mandataire" but not as broker ("agent" in French language) or as a "family office", two fundamentally commercial activities. Hence, the lawyer is unable to carry out the usual tasks of a sports agent whose role is not so

much to represent the interests of his principal but to find a contracting partner. Unlike a sports agent, the lawyer's involvement cannot be limited to proposing the name of a client to a club. He will be required to obtain signature of a proper "agency agreement" (contrat de mandat) to be able to execute purely legal acts on behalf of his client.

When registered with his Bar Council as a "mandataire sportif", the lawyer may seek the payment of a proportional fee up to a maximum cap of 10%, like the licensed sports agent (Although in France, a lawyer is subject to the rule of ethics that prohibits full quota litis: art. 10, L. 71-1130, 31 December 1971). However, he will be required to observe the same obligations of transparency. He will have to communicate the employment or transfer contracts for which he was appointed. Should he not comply with the Code du Sport's stipulations regarding his remuneration, the lawyer will be exposed to the same legal penalties as those applicable to licensed sports agents. On the other hand, it has to be clearly understood that the lawyer is unable to submit fully to FFF discipline, the only recourse available to the latter in case of difficulty being to seize the Chairman of the Bar Association.

Registration requirements

According to Article L.222-7 of the Code du Sport, the sports agent has to obtain a licence issued by the FFF Sports Agents Commission. This licence is issued after a written examination held once a year, including a general paper (legal) and a specific test on the rules of football.

The procedures for awarding, suspending or withdrawing the licence are defined by decree (Art. R.222-10 and s., C. du Sport). The licence is for an unlimited period. Provision is made for automatic suspension of the licence for incompatibility or ineligibility (Art. R.222-12, C. du Sport). The Code allows the agent to seek the interruption of his licence, for instance to carry out incompatible functions. By temporarily interrupting his activities he will not lose the right to practice. However, he will continue to be subject to the disciplinary authority of the Sports Agents Commission.

Until 2011, the agent had to be "able to prove at any time the existence of an insurance contract covering his professional civil liability" (former Art R.222-20). The Code du Sport no longer includes this requirement. It is difficult to say whether this is an oversight. What is certain is that the FFF does not hold the legislative competence needed to include the signature of an insurance contract in its regulations without the backing of a specific law. Therefore, it limits itself to recommending that such an insurance be taken out.

Concerning nationals from a European Union member state or a state signatory of the EEA agreement, the Code du Sport distinguishes between the freedom of establishment and the freedom to exercise a profession. In both cases, (i) adequate knowledge of the French language must be demonstrated in order to ensure the legal protection of sports persons and trainers; (ii) a declaration must be made to the competent delegated association; (iii) a special licence is required notwithstanding any different qualifying conditions.

In order to set up in business in France, the foreign agent has to demonstrate that either s/he holds a foreign sports agent's license obtained in a State that regulates the profession or, when the country in question does not regulate the profession, proof of at least two years' activity as a sports agent during the previous 10 years, associated with proof of an equivalent qualification. Should there be a substantial difference between the level of qualification required in the country of origin and that required in France, the federal commission will take into account the

candidate's experience and, if appropriate, impose on him a compensatory measure that may be either a test of aptitude or a course of adaptation.

In order to exercise his business in France without a business establishment, the foreign agent will also have to obtain a special licence by highlighting either a foreign authorisation to exercise his business or at least two years' activity during the previous 10 years. The Code du Sport requires that the applicant provide proof of his professional qualifications but contains no provision for an exam by the sports association's commission. The latter does not therefore have the means for observing a substantial difference of level such as may be the case of when the candidate applies to set up a business.

On this point, the new FIFA regulations have complicated the FFF's task. Indeed, European nationals who are registered before other FAs have no difficulty obtaining recognition of an equivalence. If this licence were to disappear, the FFF would have to address the problem of the former holders of the FIFA licence (it has already stated that in this case it would easily grant an equivalence) and any newcomers on the market who, unable to present a licence, would be subjected to tighter checks on their skills and experience. The FFF has already stated that the simple fact of being registered as an agent with a foreign association would be insufficient to justify an equivalent qualification.

Non-EU nationals are not allowed to exercise directly whether occasionally or otherwise, the profession of sports agent in France, except by obtaining the French licence. This system is extremely restrictive for non-EU workers who are reluctant to take the legally required examinations in order to place just one sports person. However, since 2010 a system called "postulation" [acting for a client] has existed. Non-EU nationals who do not hold a French licence have to sign a "convention de presentation" [presentation agreement] with an agent holding the French licence so that the latter may place the sports person in employment. This agreement, which forms the legal grounds for the payment of a foreign intermediary, has to be communicated by the sports agent to the FFF.

The sports agent is able to form a company in order to exercise his profession. In this case, he may not be associated either with a club, the FFF or the LFP [French professional football league], nor with currently exercising football coaches or players. In addition, the officers, partners or shareholders in the company will be subject to the incapacities and ineligibilities that apply to sports agents.

In order to exercise his profession, the agent may also choose to be the simple servant (employee) of a company. In any event, the sports agent will only be able to exercise his profession through or on behalf of a single company.

Although the Code du Sport refers to the agent's servants by imposing on them the same conditions of integrity, it is silent regarding their status. At the most one may consider that the employee or servant cannot alone perform the same tasks as a duly licensed sports agent. Indeed, as Article L.222-7 of the Code reserves the "bringing together..." to licenced agents, the employees' tasks are confined to administrative work, to the supervision of players or clubs and the cocooning of sports persons, which may represent the bulk of the sport agency's work and therefore the largest remuneration.

Moreover, an employee is inhibited from being the servant of more than one sports agent and article R.222-31 of the Code du Sport requires licensed agents to communicate the "documents relative" to their servants to the FFF.

Impeccable reputation

Impeccable reputation is stated by law governing the issue of the incapacities and ineligibilities. To avoid any adverse or ambiguous effect, the agent is not allowed to exercise, directly or indirectly or on a paid or voluntary basis, the management or coaching of a sports person in an FFF or LFP club (the question arises as to whether this expression also covers "general managers" or "sports manager"). Neither is he allowed to be a partner or a shareholder in a club. These restrictions apply when the agent has taken on these functions in the past year (art. L.222-9 & L.222-10, C. sport). This "waiting period" is reversible insofar as the agent is prohibited from retraining immediately in the aforesaid activities and functions. The expression "in the past year" covers a period of 12 months preceding the date on which the application for a licence is filed and during which the agent shall not have exercised any sporting functions (TGI Nanterre, 11 September 2009, LPA 30 March 2010, n°63, 4, obs. J.-M. Marmayou). Even without a waiting period, no-one working as an employee of an FFF or LFP club will be permitted to act as a sports agent.

The law also sets out certain conditions of integrity that prohibit access to the profession, for instance, to persons responsible for "acts giving rise to a criminal conviction that are contrary to the honour, probity or rules of morality". This wording that led to the abandonment of the blacklist system has the added benefit of strengthening the system of ineligibilities. Persons affected by personal bankruptcy or a ban on management are similarly prevented from exercising the profession. In this respect, the FFF may obtain communication of the person's criminal record.

The disabilities and incapacities stipulated by the Code du Sport cover individual agents, their employees, partners, directors and servants of a company formed by the agent in order to exercise his profession.

Representation contract

When we analyse the sports agency contracts more closely (counterpart finder, bringing together the contracting parties, negotiations), the question arises as to the classification of the sports agency contract since the agent intervenes either as a job broker, his normal profession, or as an agent under an agency agreement, which is rare.

When acting as a job broker, the agent seeks a contracting party for his client (this may be a club, a player or a coach). He does not have the authority to make a commitment on behalf of his client who is free not to pursue a negotiation through to contract signature. He is required to supply exact and accurate information on the proposed contract (deadlines, procedures, etc.), occasionally advise him on the opportunity (Cass. 1re civ., 28 October 1980, no 79-12.501, Bull. civ. I, n°275), and report on his intervention by sending him a letter of confirmation as soon as he has found a counterpart willing to contract. The job broker is not liable either for the insolvency of the third party that may occur after signature of the contract, nor the unfavourable nature of an agreement signed by his client. Thus, a sports person cannot make a claim against his agent for the non-payment of his salary by his new employer. Similarly, the club cannot claim the liability of a job broker on the grounds that the player recruited through

his intervention did not have the skills required by the coach (CA Nancy, 1 June 2011, LPA 15 May 2012, no 97, 97, obs. J.-M. Marmayou). However, the job broker does incur contractual liability if, when exercising his duties, he commits acts of misconduct that are prejudicial to his client: for instance, when the job broker convinces his client to sign with a notoriously insolvent club. Likewise, the intermediary may engage his tortious liability with regard to a third party when a contract has been signed with a notably insolvent client.

In accordance with general contract law, early unilateral termination of a brokerage contract signed for a specific term requires that the client has evidence of the agent's serious misconduct. The intermediary becomes an agent ("mandataire") when his client grants him the authority to perform a legal act in his name and on his behalf. Although rarely encountered in practice, a sportsperson may entrust the agent with the signature of a contract of employment with a club. Under French "public order" law on agency agreements, the agent has to carry out his instructions as long as the contract remains valid and be liable for any damages that may result from its non-execution (article 1991, Civil Code). The contract must be executed diligently and in good faith, which prevents the agent from acting in his own interests. More generally, the agent has to apply initiative and give advice on the best sports and financial interests of his principal ("mandant"). Therefore, he is not required to sign a proposed contract if a more attractive offer has been received. Finally, pursuant to Article 1999 of the Civil Code, the agent has an obligation to report on his management to his principal.

Under Article 2004 of the Civil Code, the principal has the right to revoke the mandate at any time and by any means, even when it is for a fixed term. The mutual confidence that is inherent in this type of contract allows unilateral termination without any formality. Moreover, revocation alone cannot give rise to any compensation. This can only apply if the appointed agent were to demonstrate the existence of prejudicial wrongful termination or ignorance of a particular clause: irrevocability clause, exclusivity clause, indemnity clause, ... (cf. J.-M. Marmayou, « Révocation fautive de l'agent par son joueur », note under TGI Saint-Étienne, 26 January 2006, no 02/02934, Cah. dr. sport n°3, 2006, 100).

Is the sports agency contracts a "mutual interest" contract? Certain parties have sought this definition before the French courts due to a belief that a "mutual interest" agency contract cannot be revoked. This belief is incorrect. In actual fact, the principle of immediately effective ad nutum revocation (i.e. whenever and without justification) persists even in the case of a "mutual interest" contract (Ex multis: Cass. 1re civ. 2 October 2001, n°99-15938, Bull. civ. I, n°239). This term simply has the effect of placing an obligation on the revoking party to compensate the other party; but this compensation may be set aside when there are just reasons for the revocation (Cass. com., 14 mars 1995, Bull. civ. IV, no 83). Above all, this terminology is not appropriate to agency agreements when the agent is negotiating an employment contract on behalf of a sportsperson. Firstly, because the contract is almost never an agency contract. And then because the term "mutual interest" assumes that both partners are working together to build up a "common customer base", which cannot be applied to the placement of players in employment.

Disclosure and publication

Agents' transparency obligations are the following. The sports agent has to comply with various reporting obligations. Within a period of one month from signature, he has to communicate to the sport's delegate a copy of the sports agency contracts and the employment, promise of employment, transfer contracts, in the negotiations in which he took part. He must also give

information on the contract of "postulation" and all the contracts signed with a minor. Riders for extensions, modifications and all documents concerning the termination of all these agreements shall also be communicated. The information is then compared with the information communicated by the clubs.

Moreover, the agent has to communicate annually the accounting information concerning his business to the sports agents' delegates. When requested, the agent shall communicate all necessary information required to check his professional activity, and in particular documents concerning his company structure and his employees.

In order to ensure that these transparency obligations are effective, the Code du Sport stipulates that "the sports agent's fees [...] may only be paid after communication of the contract referred to in the second subparagraph of Article L.222-17 to the appropriate sport's federation delegate". Furthermore, although the sports agents' commission has no authority to declare void a contract that would be in breach of the law, it may impose disciplinary fines of up to €1500 in addition to the temporary suspension or permanent withdrawal of the licence to practice.

These transparency measures are cumbersome but considered sufficient by the French public authorities which do not consider it necessary to publish the details of each transaction (a trade secret) or inform the public on the cumulative total amount due to all the players and the cumulated total for each club. Therefore, without special authority under French law, the FFF is unable to impose the publication obligation stipulated by clause 6 of the new FIFA regulations, which therefore will continue to be ignored in France.

Nor does the Code du Sport grant the sports associations the powers to impose mandatory clauses in contracts between the agent and his principal. Although they are required to check the contents of the contracts and denounce any stipulations that are contrary to the law, this is a legal obligation and they cannot prohibit certain clauses, and even less so limit the duration of the contracts or prohibit their tacit renewal. Even so, the new FFF agents' regulations, like the former FIFA regulations, still ban sports agency contracts with a term exceeding two years or with a clause for tacit renewal.

Since the n°2017-261 law of 1st March 2017, the agent has to communicate to the DNCG (Direction nationale du contrôle de gestion) which is the financial control body of the clubs, their financial documents. The new law does not specify the list of documents to communicate.

Payments to intermediaries

French law sets a cap on the remuneration of sports agents at "10% of the amount of the contract signed by the parties it has brought together". When the agent's intervention results in the signature of an employment contract, he can claim up to 10% of the gross earnings received by the sportsperson (or coach) throughout the duration of the contract of employment with his new employer. When it consists in negotiating an increase in the gross earnings of a sportsperson or a coach, the amount of the fee is calculated solely on the difference (Art. A. 222-6, C. sport). Lastly, when the agent brings a transfer contract to fruition, his remuneration is calculated as a percentage of the pre-tax amount of the transfer contract. In the case of several agents, this amount of 10% is a total amount that the agents will have to share, whether intervening for either of the parties (Art. L. 222-17, C. sport).

Since law 2012-158 dated 1 February 2012, delegated sports associations may set a cap which is less than 10%. The FFF therefore has the legal freedom to implement the FIFA recommendations of a maximum rate of 3%.

However, in a legal context that is dominated by the principles of free enterprise, open and competitive markets and freedom to set prices, the validity of such a system that gives a private organisation the right to determine by itself the conditions of access to a market is doubtful. What would be said if the cap set by the FFF did not allow new entrants the right to exercise their profession of sports agent in a cost-effective manner. Questions are already being asked as to the legitimacy of the state's regulation of the price for this service and not too much need to be added to the unnecessary and disproportionate nature of the means already taken for this to be seen as the state acting in a moralising role. And this is without mentioning that the FFF has clubs and players (the principals of agents) among its members, which could be easily seen as difficult-to-justify price fixing (cartel: J.-M. Marmayou, « Le plafonnement de la rémunération des agents sportifs », *Cah. dr. sport* no 27, 2012, 58). Moreover, it should be noted that the FFF used this opportunity in May 2012 to reduce the cap to 6%. Seized by several sports agents' unions, the French Council of State had initially excluded ruling the annulment on this measure in interim proceedings on the grounds of a lack of urgency (CE, ord. réf., 27 July 2012, no 3661328, *Union des agents sportifs du football et autres*, *Cah. dr. sport* n°29, 2012, 77, note F. Colin ; LPA 10 June 2013, n°115, 18, obs. J.-M. Marmayou). It then refused to communicate a priority question of constitutionality concerning the compliance of this new rule with the principles of free enterprise, open and competitive markets and the freedom of trade and industry (CE 29 Oct. 2012, n°361327, *Cah. dr. sport* n°30, 2013, 65, note F. Colin ; LPA 10 June 2013, n°115, 18, obs. J.-M. Marmayou). Finally, the Council of State ruled in favour of the agents, but on the form and not on the substance, on the grounds of two purely external legal grounds (CE, 10 June 2013, n°361327, *Cah. dr. sport* n°32, 2013, 170, note J.-M. Marmayou ; LPA 24 June 2014, n°125, 5, obs. J.-M. Marmayou). Since then, the FFF has not repeated the experience and the legal cap remains at 10%.

French law requires that the payment of the commission only take place after communication to the FFF of the sports agency contract and the contract signed through the intervention of the agent. Payment of the commission to an agent is also based on the intermediary having effectively provided a service. The onus for demonstrating that the success of his intervention was due to his efforts lies with the agent (Cass. 1re civ., 8 February 2005, n°02-12859, *Cah. dr. sport* n°3, 2006, 108, note N. Bône. – CA Paris, 27 June 2008, RG n°06/05754. – CA Nancy, 20 January 2011, n°09/01288. – CA Aix, 1 October 2013, RG n°12/19834), even when holding an exclusive agency agreement. The fact remains that the principal who prevents his agent, to whom he granted exclusivity of representation, from successfully executing his functions, is at fault and must repair the prejudice caused, if necessary by the application of penal clause (CA Aix, 7 March 2013, RG n°12/03571, LPA 24 June 2014, n°125, 5, obs. J.-M. Marmayou. – CA Douai, 21 January 2013, RG n°12/03411, *Cah. dr. sport* n°32, 150, note J.-M. Marmayou; LPA 10 June 2013, n°115, 19, obs. J.-M. Marmayou. – CA Orléans, 3 June 2013, RG n°12/02461, *Cah. dr. sport* n°32, 157, note J.-M. Marmayou).

Minors

To protect the interests of minors, Article L.222-5 of the Code du Sport prohibits any form of payment or compensation in favour of an intermediary. This ban also applies to licence agents, clubs, all individuals, persons or entities acting in the name of or on behalf of a minor. When acting on behalf of a minor, the agent must abide by a principle of non-remuneration for his

services when the agent deals with not only the contract of employment but also image contracts, product endorsements, etc. Failure to mention the non-remunerated nature of the service in the agreement and non-compliance will run the risk of the entire contract being declared void.

Conflicts of interest (e.g. dual representation)

According to Article L.222-17 of the Code du Sport, "the sports agent can only act on behalf of the parties to the contracts stipulated in article L.222-7. (...) Any agreement contrary to the provisions of this article shall be deemed void and unwritten". This prohibition is more restrictive than the new FIFA regulations that allow dual task agency contracts, provided the contracting parties are in agreement (Art. 8.3, FIFA RWWI). However, the FFF has decided to retain the more restrictive view adopted by French law.

Even so, the legitimacy of this restriction is questionable (J.-M. Marmayou et F. Rizzo, « L'agent sportif au centre des intérêts », *Cah. dr. sport* n°32, 2013, 37). First, the sports agent, in his capacity of broker, is acting necessarily to the benefit of both the parties that he brings together. Then, job placement is subjected to the principle that the costs are borne fully by the employer with no payment due from the employee (Cf. Art. 7, Conv. OIT no C181 (1997) on Private Employment Agencies. – Code of conduct (27 nov. 2006) from CIETT – International confederation of private employment agencies. – Art. L. 5321-3, French C. trav. – Art. L. 7121-13, C. trav. – Art. 29, Charter of fundamental rights of the EU : « Everyone has the right of access to a free placement service »). Finally, public order law on agency agreements has failed to set up a restriction on dual representation as a general principle (Quite the contrary: the Court of Cassation has ruled in the field of insurance: C. of Cassation, 11 April. 1860, DP 1860. 1. 240, and of real estate: C. of Cassation 1st civ., 13 May 1998, no 96-17374. – C of Cass. 1st civ., 22 October 1996, Bull. civ. I, no 358. – C of Cass. 1st civ., 16 March 1999, no 96-17909, of transport, of the stock-market, etc., that an intermediary represents both of the two parties that it brings together. This is considered approved doctrine: O. Padé, « Le mandat double. De la nécessaire transparence dans la double représentation », *RJ com.* 2002, 339. – P. Pétel, *Les obligations du mandataire*, Litec, 1988, no 221. – P. Pétel, *Le contrat de mandat*, Dalloz, 1994, 55).

Some would argue that this restriction on the dual mandate can be explained by the notion that an agent should not agree to represent two persons with opposing interests. The risk of seeing one party prioritised at the expense of the other would be too high with, for instance, preference being given to the party having committed to paying the highest commission. In actual fact, and regardless of the person paying his remuneration, the agent's payment will always be based on the salary paid to the employee and it is hardly imaginable that he would not do his utmost to defend the interests of the player. In addition, and above and beyond the adverse effects of the system that does not encourage the transparency of the placement and transfer of sports persons, one has to be aware that the role of the duly mandated sports agent does not lead him to encounter conflicting interests that should be restricted. He is the referee managing the opposing interests of the two parties that he is bringing together.

Nevertheless, the remuneration of the sports agent may, by agreement between the parties to a job placement transaction, be totally or partly paid by the club. On this point, the FFF regulations are consistent with the FIFA regulations. In this case, which involves the signature of a tripartite agreement for "novative delegation" (*délégation novatoire*), the agent has to give a receipt for the payment received from the club. By doing so, club pays a player's debt and it

can be said in some way contributes an additional salary. The sum is therefore subject to social charges and taxation on the player's income. This is why in practice clubs and players are "tempted" to conceal the reality of their relationships with agents.

A breach of this restriction on dual mandates exposes the contract that formalises the dual mission to an action for nullity, time-barred after five years (Art. L. 222-17, C. sport. – ex. : CA Paris 4 April 2013, RG n°10/21622. – TGI Saint-Etienne, 10 December 2014, RG n°11/02811, Cah. dr. sport n°39, 2015, 69, note J.-M. Marmayou). The proof of the dual mandate may be reported by press cuttings (CA Rennes, 28 October 2014, RG n°13/00915, LPA 25-26 May 2015, n°103-104, 18, obs. J.-M. Marmayou). Conversely, the contract signed through the intermediation of an agent, even with dual mandate, should not be voided (CA Toulouse, 21 March 2014, RG n°12/03034, Melle B. c/. asso. TMB). As to the retroactivity of any potential invalidity, it has to satisfy public law principles in involving reciprocal refunds. These may be rearranged or set aside under the legal principles of *nemo auditur propriam turpitudinem allegans* and *in pari causa turpitudinis cessat repetitio* (CA Rennes, 28 October 2014, RG n°13/00915, LPA 25-26 May 2015, n°103-104, 18, obs. J.-M. Marmayou).

A breach of the ban on dual mandates also exposes the agent and any eventual accomplices to a two-year prison sentence and €30,000 fine (Art. L. 222-20, C. sport), and stipulates that the amount of the fine may be increased above €30,000 up to double the amounts unduly paid.

Dispute resolution including key arbitration and state court cases

In any event, the disputes between an agent and his principal do not come within the scope of the sports federation's disciplinary powers (TGI Saint-Étienne, 26 January 2005, Cah. dr. sport no 3, 2006, 100, note J.-M. Marmayou) unless specifically stipulated in a special clause designating the competence of the sports federation (but in practice this is never the case).

A kind of pre-litigation mechanism, involving the creation of sports agent commissions is to be found in dedicated professional sports federations. These commissions have been assigned a conciliation role in disputes arising between agents and their contractors, that is to say athletes, coaches, sports groups or organisers of competitions. Even so, almost all disputes between agents and their clients concerning financial matters are heard before the courts and in the case of disciplinary matters (such as compliance by agents with the control of their activities by a Federation), a truly disciplinary procedure is implemented. It should also be noted in this respect that the 2010 reform has changed the composition of these sports agents' commissions hearing disciplinary matters. Indeed, this commission may not include representatives of agents, representatives of clubs or sports coaches. This reflects the principle of impartiality that is fundamental to all sound justice.

It should also be noted that disputes between agents and their customers can be handled by arbitration before the Arbitration Chamber of sports CNOSF, if the agency agreement contains an arbitration clause which, in practice, is rare.

No significant decision has been rendered in France on the issue of football agents. The reason is simple: the clear majority of disputes handled before the state courts are of a contractual nature.

A number of these concern the existence of a sports agent's license: the litigation is probative and has no particularity. The others concern the question of unilateral rupture prematurely the

sports agency contract. The problem is then a question of interpretation of the contract without specificity.

Sanctions

Civil sanctions. - The Code du Sport does not stipulate civil penalties for breaches of Articles L.222-9 to L.222-15. Therefore, no provision is made for a contract signed by a non-licensed agent being considered void. Nor is there any provision for a contract (for employment, a transfer or recruitment) signed by the intervention of an agent without a French sports association's licence being void (CA Toulouse, 21 March 2014, RG n°12/03034, Melle B. c/. asso. TMB). Even so, it is tempting to consider as void any breach of the provisions regarding the obligation to hold a French sports' association licence or relative to the incapacities and ineligibilities (J.-M. Marmayou, note under CA Aix, 18 February 2005, Cah. dr. sport n°2, 2005, 105 & CA Colmar, 20 September 2005, Cah. dr. sport n°3, 2006, 91) because it could exist nullities without text. This is the ruling adopted by the Toulouse court (CA Toulouse, 13 September 2011, Cah. dr. sport n°26, 2011, 112, note J.-M. Marmayou). Even if one agrees with this interpretation, a ruling by the Court of Cassation should be awaited since we already know that in a more sensitive field it has refused to declare the nullity of a loan agreement due to the lender illegally practicing the profession of banker (Cass. com., 3 dec. 2002, n°00-16957, Bull. civ. IV, n°182, 209).

Criminal sanctions - Exercising the profession of a sports agent without holding the sport agent's license or in breach of a decision to suspend or withdraw this licence (E. g. : Cass. crim., 27 February 2013, n°11-88189), or the second subparagraph of Article L.222-5 (that prohibits payment of a commission when acting on behalf of a minor), or Articles L.222-9 to L.222-17, is punishable by a two-year prison term and €30,000 fine; a fine that can be increased up to twice the sums unduly received. Article L.222-21 enables the judge to accompany the main penalties with a temporary or definitive ban on exercising the profession of sports agent.

Disciplinary penalties – It is for the sports agents' federal commission to decide on the disciplinary action applicable to an agent who has acted in breach of the stipulations of articles L.222-5, L.222-7 to L.222-18, R.222-20, R.222-31 and R.222-32 or the stipulations of the regulations issued by the sports' federations (It can also punish clubs and players).

Article R.222-38 of the Code du Sport lays down the sanctions. These may be a fixed term suspension or a suspended sentence, the decision being taken by the Federation in question when it observes an omission or fault by an agent. It may take the form of a simple warning, a financial penalty that may not exceed the amount of the fines stipulated for "class 5 offences" (intentionally violent acts leading to an incapacity to work of up to eight days), temporary suspension, withdrawal of the licence, and include a prohibition on obtaining a new licence for a period of up to 5 years.

In any event, the disputes between an agent and his principal do not come within the scope of the sports federation's disciplinary powers (TGI Saint-Étienne, 26 January 2005, Cah. dr. sport no 3, 2006, 100, note J.-M. Marmayou) unless specifically stipulated in a special clause designating the competence of the sports federation (but in practice this is never the case).

Disciplinary procedure. - The disciplinary procedures are initiated by the sports agents' delegate who examines the case by hearing the arguments of both parties in compliance with adversarial principles. He has to communicate his grievances to the accused person who then has to be summoned to the hearing. This person then has to answer by a specific deadline and

may consult the entire file before the hearing. He may be represented by a lawyer or assisted by one or more persons of his choice. He may request that persons of this choice be heard. The representatives of agents, clubs, coaches or sports persons may not sit on the sports agents' commission when deciding on disciplinary matters. The disciplinary panel is a restricted panel, more consistent with the principle of impartiality and independence in force for such bodies. Although the hearings may be public or in camera, the commission's deliberations take place in camera without the presence of the accused, his defendants, any persons present at the hearing, or the sports agents' delegate. Its ruling takes the form of a motivated decision that is notified to the person concerned.

Appeals against rulings by the sports agents' commission must first undergo a conciliation procedure before the CNOSF. Only afterwards will appeals before the Administrative Court with territorial jurisdiction review the full dispute (“plein contentieux”).

National collective body of agents

Two unions of agents must be reported:

- the national union of sports agents [Syndicat national des agents sportifs] (<https://www.facebook.com/syndicatdesagentsdejoueurs/>)
- and the union of the agents of football [Union des agents du football] (no website)

The activities of these unions are weak. This can be summarized as representation in the sports agents' commission (federation's bodies).

It can also be summed up as invitations for the benefit of their presidents when the Sports Ministry or the CNOSF addresses the issues related to sports agents.

Opinion of national expert

The national expert considers that more deregulation -no special state law, no private regulation- would be positive. He explains that if we take a step back to review this question, we realize that in absolute terms there are not that many agents in Europe, their activity is not risky, the world of football needs the agents, they exercise their business in a competitive environment without asymmetry that should be corrected, and it has no impact on the sporting competition. And although they would like us to believe this, in fact it is only a smokescreen.

A player does not always change club because the agent has put the prospect of greener grass to him. But perhaps because the player, unfaithful to his advisers, is no more faithful to his employer and it may also be because his first employer has failed to maintain the grass as green as a neighbouring club employer. And it is not clear how the agent could be held responsible for competitive tension on the employment market of sporting talent. It is an undisputable fact that talent is rare and the clubs are willing to pay dearly for it. This only means that the financial decisions lie with the clubs, not the middlemen who set up the relations with such talents, even if these intermediaries are involved in the negotiations. It would be good thing for clubs to assume the financial decisions they make without attempting to identify the agent as a sacrificial victim of their own mediocrity.

Regarding intermediaries' payment, the national experts think that only actors can say if this service is worth the price paid. The remuneration of a service such as sports intermediaries must be freely determined by the interplay of supply and demand, especially if it requires that payment be made by the employer. In his opinion, the idea of capping the price of the intermediaries' services is faulty. Indeed, a price cap on this type of service down to a level that would not allow the agent to cover his costs on certain transactions, can only lead to a decline in the quality of service. A decline that is all the more substantial as a player's salary decreases. It should not be thought that all football players in Europe have huge salaries, quite the contrary in the case of all those in the lower divisions. Finally, he thinks that the question of the remuneration of intermediaries' fees should be treated differently and argues that 1997 ILO Convention 181 on private employment agencies and other ILO Conventions set out the principle of employee placement services free of charge. He also recalls that Article 29 of the EU Charter of Fundamental Rights confers on this "free of charge" principle a fundamental workers' right: "Everyone has the right of access to a free placement service". In his opinion, a free placement service is a principle from which there can be no derogation unless this is in the interests of the employee in question.

Once the placement has been completed, and when the employee has accepted by a binding and clear consent to pay all or part of the placement agent's remuneration, it has to be assumed that he has realised that it is in his interest to do so. However, when the FIFA Regulations, or a law, let it to be understood that the remuneration automatically constitutes a debt on the assets of a sportsperson who appoints an agent to find him a contract, the interests of the sportsperson can no longer be assumed. Even less so when practice demonstrates the contrary: sports persons refuse to bear the costs relating to their placement.

It would be preferable if the rules governing sports agents resembled those applicable to the business of artists' agents, and mentioned that the agent's commission will be paid by the employer.

The view that sportspersons can largely afford the costs of their investment and must therefore bear the burden of the remuneration of their agent will certainly be opposed. However, those who put forward this argument only consider sportspersons to be the biggest stars, those who have the largest salaries. But the vast majority of sportsmen and sportswomen, who use an agent, are those with the greatest need (lower division footballers) and earn far from huge salaries. They have relatively short careers and it would significantly reduce their income if the costs of their placement were to be charged to them as a matter of principle. The sportsperson in general should be considered an employee like any other and deserves the same protection, and possibly even greater protection.

GERMANY

National legal requirements regulating agents

Football agents are not regulated as a specific occupation in national German law. However, laws on general intermediaries and brokers also apply to football agents and have been subject to several court decisions on the regional and national level. Relevant for the regulation of intermediaries are the Sozialgesetzbuch III (Volume 3 social security statute book) §§ 35, 296, 297. Worth noticing is Section 301 which installs a fee limit for brokerage to 14% of the annual salary of the brokered sportsmen. Other general law provisions as well as DFB regulations refer to intermediaries in football, too.

Consultation at national level regarding implementation of RWVI

The DFB and the German Football League (DFL) consulted the German Football Player Agents Association (DFVV) before formulating the new regulations.

Definition of intermediary

“Intermediary in the sense of this regulation is any natural or legal person who for a fee or for free represents players and or clubs in negotiations with regard to the conclusion of a professional player’s contract or clubs in negotiations with regard to the conclusion of transfer agreements.”

Registration requirements

Intermediaries have to be registered in the DFB register every time they are involved in the conclusion of a contract between player and club or between clubs. Responsibility for the registration lies either with the player or the club, depending on who makes use of the services of the intermediary. Intermediaries have the duty to support the process in accordance with the intermediary declaration. After the conclusion of a contract, any player (or club) who entitles an intermediary has to hand in to the DFB central administration:

- The intermediary declaration for natural or legal persons
- The representation contract
- A certificate of good conduct (if available to the player)
- A proof of the paid registration fee (€500) (if available to the player)
- (the same documents have to be handed in for renegotiations (extension or changes of the contracts).

The DFB offers a so called preliminary registration procedure. Every natural or legal person that intends to provide services as an intermediary in a defined season may make use of a preliminary registration at the DFB central administration from after the second transfer period of the previous season. The following documents have to be handed in:

- The intermediary declaration for natural or legal persons
- A certificate of good conduct
- A proof of the paid registration fee (€500)

If an intermediary is preliminarily registered, the player or the club does not have to register the intermediary in case of conclusion of a contract; only the intermediary declaration and the representation contract have to be handed in for every transaction.

The DFB-website lists an additional document to be handed in for the (preliminary) registration of intermediaries: a (preliminary) registration form of an intermediary under §3 (§4). All documents must be send to the DFB central administration via e-mail.

Impeccable reputation

A certificate of good conduct has to be handed in. § 4.3 provides that with the handing in of the required documents and if “there are no other reasons against the recognition of the natural or legal person” the person is preliminarily registered as intermediary; however, “other reasons” are not further specified by the regulation.

Representation contract

Clubs and players have to disclose in the representation contract the nature of the legal relationship they have with the intermediary. The main points of the legal representation have to be written down prior to the start of the representation by the intermediary. The following minimum requirements have to be disclosed in the representation contract:

- Name of the parties
- Scope of the services
- Duration of the representation
- Remuneration/fee
- Terms of payment
- Date of signature
- Termination of the contract
- Signatures of the parties (if the player is underage, that of the legal guardian)

Disclosure and publication

Upon request, clubs and/or players are obliged to disclose the following:

- All remunerations and payments paid or to be paid to the intermediary
- All contracts and agreements

The DFB publishes all names of registered intermediaries including all single transactions linked to the respective intermediary on their website. The sum of payments to intermediaries is published annually on the website

Payments to intermediaries

The remuneration of the intermediary is calculated based on the gross salary of the player for the entire period covered by the contract (the 3% threshold is not included in the regulation of the DFB). Clubs that make use of the services of an intermediary pay a lump sum that is agreed upon before the conclusion of the transaction. The remuneration may be oriented at the transfer sum. Installments are possible.

Furthermore, clubs have to make sure that payments between clubs that are linked to a transfer (like transfer compensations, education compensations, etc.) are not received by the intermediary. Subrogation is forbidden. The intermediary's client must pay all payments for his services.

After the conclusion of the transaction and given the agreement of the club, the player can authorize the club to pay the intermediary in his name. The payment in the name of the player must be realized following the conditions agreed upon by the player and the intermediary.

Officials as listed under point 11 in paragraph "definitions" of FIFA statutes are not allowed to receive any kind of payment or other benefits from an intermediary that he himself received for the transaction. Violation of this is unfair behavior.

Players and/or clubs that make use of the services of an intermediary are not allowed to make payments to the intermediary if the respective player is underage. The payment can be made after correct and lawful conduct and invoicing. The invoice has to include a concrete service and must refer to the representation contract. Cash payment of a provision is prohibited. The intermediary is not allowed to receive cash payments.

In 2016, the DFB published the individual payments of all professional clubs in the first and second German Bundesliga, but changed its publication policy in 2017.

League	1	2	3	Women's League	total
2016	€ 127,730,633	€ 16,037,337	-		€ 143,767,970
2017	€ 146,780,464	€ 18,649,020	€ 2,657,949		€ 168,087,614
2018	€ 197,750,840	€ 14,139,624	€ 2,951,932	€ 238,932	€ 215,081,328

Since no figures are available for the years before 2016, it is not possible to make a statement on the development of intermediary payments since the introduction of the RWWI.

Minors

Players and/or Clubs that make use of an intermediary may not make payments to the intermediary if the respective player is underage (younger than 18). As for all legal contracts, the legal guardians have to sign the representation contract if the player is underage.

Conflicts of interest (e.g. dual representation)

Before players and/or clubs employ an intermediary, they have to – "by reasonable means" – make sure that there are no conflicts of interest, neither for the player/club nor for the intermediary. (Reasonable means are not further specified.) A conflict of interest is deemed not to exist if the intermediary discloses in written form every factual or possible conflict of interest that he has with another party involved in or affected by the transaction. And if he received a concrete written allowance from all involved parties before the beginning of the negotiations.

If a player and a club seek to employ the same intermediary (under the conditions of No. 2), both parties have to express their consent and have to confirm the terms and conditions of

payment for the intermediary in written form. The parties inform the DFB on this agreement and hand in all decisive documents for the registration process.

Dual representation may be interpreted as a conflict of interest per se by 8.1 but is possible under the conditions of 8.2 and the written consent of both parties (8.3).

Dispute resolution including key arbitration and state court cases

The regulation does not specify dispute resolution mechanisms or bodies responsible for such. Still, it states that: Violations against the regulations are considered unfair behaviour in the sense of the common regulations of the DFB (Statute §44).

Therefore, all violations are subject to the judiciary bodies and sanctioning mechanisms of the DFB and its member organizations. This rule is arbitrary: While players and clubs, as members of the DFB, are subject to the sanctioning mechanisms of the DFB, intermediaries neither are members nor is the DFB allowed to require that they submit to the regulations of the DFB in order to register as intermediary (Judgement of the LG Frankfurt/Main). However, the current intermediary declaration states in section 1. that the intermediary acknowledges the FIFA and DFB rules and statutes. As of today, there has been no case of breaching the DFB regulation on working with intermediaries.

The DFB publishes all decisions for sanctioning intermediaries and reports to FIFA on the matter. FIFA decides whether the decision and the validity of the sanction will be expanded to the worldwide football community in accordance with the FIFA disciplinary regulations.

Sanctions

The sanctions are derived from the common regulations of the DFB (Statute §44). Clubs and players are subject to the sanctioning mechanisms. With the intermediary declaration, intermediaries declare that they will abide with FIFA and DFB statutes and regulations. Hence, from this declaration, they are also subject to the sanctioning mechanisms of the DFB. However, the judgement of LG Frankfurt/Main (29 April 2015) puts this procedure into doubt, as it prohibits the DFB from adopting a registration system which requires the intermediary to abide to the said statutes and regulations. Yet, the current declaration is into force and – theoretically – intermediaries are subject to sanctioning of the DFB.

Permitted sanctions according to §44 DFB Statutes are:

- Warning
- Referral
- Fine up to €100,00 against a player and apart up to €250,000
- Ban against a single person
- Time-limited prohibition to exercise certain functions
- Suspension for official matches
- Forfeiture of points
- Relegation to a lower league
- Time-limited ban to register ne players nationally and internationally

National collective body of agents

The Deutsche Fußballspieler-Vermittler Vereinigung (DFVV – German Football Player Agents Association) was founded in 2007, paralleling the foundation of the European Football Agents Associations to collectively represent the interests of German intermediaries.

Goal of the DFVV is to keep the high standard of professionalism, transparency and the control by the federations of licensed intermediaries. DFVV is recognized by the DFB and DFL (since 2016), as well as by the VDV, the association of professional football players.

All intermediaries that are licensed by the DFB or that are licensed by other national federations but are German citizens or that reside in Germany without being a citizen but hold a license can become members of the association. Currently, there are more than 75 members. The organization is located in Frankfurt, the administration offices are in Duisburg.

Opinion of national expert

The quality of the services as well as transparency has decreased since the introduction of the 2015 RWVI. The national expert stated that the goal of FIFA, to increase transparency by abandoning the failing licensing system (argument: 70% of all transactions were undertaken by non-registered and licensed intermediaries) was not reached at all. Instead, abandoning the licensing system decreased the quality of services and the transparency. According to the expert, it has become even harder to tell who is representing whom and how much is being paid for the individual services, even when DFB is publishing a list of all registered intermediaries and the sum of all transaction sums per league.

GREECE

National legal requirements regulating agents

The operation of football agents/intermediaries is primarily governed by the pertinent Hellenic national football association's (FA) Regulation, which follows closely the FIFA's RWWI text. Second to the above regulation, is the num. 237/2002 Joint Ministerial Decision, under the heading "Terms and conditions of practicing the profession of intermediaries of sports contracts". The Decision specifically provides that, regarding the conditions and the procedure of obtaining a license for football intermediaries, FIFA's rules override. The Decision's provisions apply where there is no relevant mention from the association's regulation, most importantly the disclosure of the contracts to the competent tax authorities and the determination of sanctions.

Even more general is art. 90 par. 5 of the Greek Sports Law, act. Num. 2725/1999, which stipulates that the athletes that come from contractual agreements with intermediaries cannot exceed 20% of the total players of each club. This section of the regulation also includes as the sole prerequisite for the termination of the representation contract on behalf of the athletes, a written declaration addressed to the intermediary by the athlete.

Finally, in a complimentary mode and mostly for reasons of interpretation of the representation contracts, the Greek Civil Code applies. Although ar. 5 par. 1 of the association's regulation holds that the counterparties freely specify the legal nature of the contract between them and the intermediary, it is more consistent with the Greek Law to reason that the contract falls under the clauses of brokerage (ar. 703 and forth, Civil Code). Greece follows a civil law legal system, thus statutory law prevails. Judicial precedent on disputes regarding agents is scant.

Consultation at national level regarding implementation of RWWI

Due to the fact that the time frame allowed by FIFA to implement the RWWI was tight, the FA did not follow an extensive consultation process. State authorities did not take part in the process and since there is no collective body for intermediaries in Greece, they were not officially represented either. Law experts employed by the FA were competent for the implementation. No disputes were risen during the procedure.

Definition of intermediary

The definition of the intermediaries in the Greek regulation matches properly FIFA's definition (2015 RWWI). It determines the intermediary as a natural or legal person, who for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement.

The definition used in the 2008 Regulations described the intermediary as a natural person exclusively who suggests players to clubs with the expectation of negotiating an employment contract or creates a connection between two clubs with a view to conclude a transfer agreement in accordance with the regulation. According to this, only natural persons were able to obtain intermediary status. Also, no reference was made for free of charge services.

Intermediaries can now represent both clubs and players, in the same negotiation. Finally, no license is required in order to practice.

It is also worth noting that a Greek term corresponding to the term “manager” was frequently used in the national legal order.

Registration requirements

The FA has established an intermediary registration system (register) which has to be publicized (art. 3). The intermediaries are obliged to register each time they operate a transaction. The clubs and the players have to submit to the FA at least the Intermediary declaration form when they use services of intermediaries. After the transaction is done, each player/club must submit to the FA at least the Intermediary declaration if the services of an intermediary have been used. The same applies if the player renegotiates an employment agreement. If a club released a player and uses services of an intermediary it must submit to the FA a copy of the Intermediary declaration. In any occasion, the FA has the right to ask for more information/documents.

Requirements that have to be fulfilled for registration are:

1. the above mentioned Intermediary declaration form,
2. a registration fee of €2.000,00,
3. an Enhanced Criminal Record Check (in case of a legal person, of all the legal representatives), which offers proof that the referent person has never been convicted for white collar crimes, crimes relating to proprietary rights, crimes relating to fraud, falsification and forgery of documents, and crimes of violent nature,
4. a certificate of not being in state of insolvency or having filed for it,
5. a copy of identity card or a valid passport of the intermediary (in case of legal person of all the legal representatives)

Additionally, legal persons must provide a certificate of corporate modifications made and the charters of incorporation-representation.

Impeccable reputation

The specific term is unprecedented in the Greek legal order. The FA in par. 3 of Annex 1 of its Regulations, defines it as never having been convicted for white collar crimes, crimes relating to proprietary rights, crimes relating to fraud, falsification and forgery of documents, and crimes of violent nature. In case of a legal person, the prerequisites must apply to its legal representatives.

The definition does not seem to deviate much from conditions required in similar cases of the Greek legal system (for example, for doing business with the State). A notable difference though is that it lacks precision, since it only mentions categories of crimes, despite the fact that other regulations offer a specific list. Further, more often than not it is required that the

crimes are committed while in professional practice. A final judgment for the conviction should also be explicitly required.

Representation contract

The essential content of a representation contract is restricted to the names of the parties, the scope of the services, the duration of the legal relationship, the remuneration due to the intermediary, the general terms of payment, the date of contract, the termination provisions and the signature of the parties. What is more, the clubs and the players have to specify the nature of the legal relationship, for example if it constitutes a service, consultancy, representation etc. Every new representation contract that is deposited in the FA from a registered intermediary, must necessarily come with a contract representation fee of €200,00 for professional players and €100,00 for amateur (adults and minors) players.

The previous version of the regulation set a maximum length of two years. Also, termination provisions were not included. The current one does not include any provision on the duration of the representation contracts.

It may be observed that ar. 7 of the num. 237/2002 Joint Ministerial Decision provides that contracts involving minors are not allowed, with the reservation of otherwise mentioned by the regulations of the pertinent federations.

Apart from that, as already stated, ar. 90 par. 5 of the Greek Sports Law, act. Num. 2725/1999, stipulates that the athletes that come from deals with intermediaries cannot exceed 20% of the total players of each club, and sets as the unique prerequisite for the termination of the representation contract on behalf of the athletes, a written declaration addressed to the intermediary. No notice is required.

Finally, in a complimentary mode and mostly for reasons of interpretation of the contracts, the Greek Civil Code is applied, most appropriately the clauses of brokerage (ar. 703 and forth, Civil Code).

Disclosure and publication

According to FA Regulations, clubs and players are now obliged to disclose to the FA the full data of every agreed payment of any nature done or intended to be done. Also, upon request, they must disclose to the national leagues, the FA and FIFA any other information, including contracts, agreements and files about the intermediaries which are related to the regulation for the intermediaries and for the purpose of investigations. All the above mentioned information must be attached to the transfer contract or to the employment agreement between the two parties. Clubs and players must ensure that any transfer contract or employment agreement concluded with the services of an intermediary bears the name and signature of the intermediary. If the clubs or players did not engage with an intermediary during negotiations, they should declare the fact with the relevant documents that are submitted for the specific deal.

To avoid any setbacks on the disclosure and publication of the data and documents, clubs and players must sign special agreements with the intermediaries in order to guarantee the implementation.

The FA is mandated to publish on its website, each year by the end of March, the names of the registered intermediaries and every single deal they have conducted during the year, and publish the total amount of payments and remunerations made to intermediaries from enrolled players and clubs that belong to the FA. Also the FA is entitled to make available to its athletes and clubs any information relating to transactions that have been found to be in breach of the regulation's provisions.

Last but not least, according to par. 2 ar. 6 of the num. 237/2002 Joint Ministerial Decision, the contracts must be disclosed to the competent tax authorities.

Payments to intermediaries

Art. 7 FA Regulations: Par. 1: The intermediary's remuneration, when engaged to act on players' behalf, is calculated on the basis of the player's basic gross income as it results from the relevant employment contract and for the entire duration of the contract.

Par. 2 If a club uses the services of an intermediary, remuneration is by way of a lump sum agreed prior to the conclusion of the relevant transaction. If agreed, remuneration in instalments is possible as well.

Par. 3 The payments to the intermediaries also follow the next rules:

- a) The full remuneration to an intermediary for a contract when engaged to act on a players' behalf, cannot be more than the 8% of the player's basic income as it results from the relevant employment contract and for the entire duration of the contract.
- b) The full remuneration to an intermediary for a contract when engaged to act on a club's behalf in order to conclude an employment contract, cannot be more than the 8% of this player's basic income for the relevant employment contract and for the entire duration of the contract.
- c) The full remuneration to an intermediary for a contract when engaged to act on a club's behalf in order to conclude a transfer, cannot be more than the 8% of the gross amount of the transfer.

Par. 4: Clubs must ensure that payments made by one club to another in connection with a transfer, such as the transfer compensation, training compensation or solidarity contributions, are not paid to intermediaries and that the payment is not made by intermediaries.

Par. 5: All payments for the services of an intermediary must be made only by the client of the intermediary to the intermediary.

Par. 6: After the completion of the contract and if the club agrees, the player can give his written permission so the club pays the intermediary on behalf of him. If the payment is made by the player, it should be done according to the terms governing the payment that were agreed between the two parties.

Although actionable conduct, which may originate from an intermediary quid pro quo relationship or other conflicts of interest for the national association and international association officials, may be addressed to a large extent by national laws (for example,

corruption and bribery criminal offences), it is definitely favourable to set the record straight from the beginning, allowing also the association to deal with such misconducts in conformity to its inherent regulations.

On the other hand, the rules under discussion still do not address the main issue that plagues transparency, to wit black market activity and the fact that the authorities have no tools to counter it.

Minors

The issue of protecting minors is addressed in two points. First in Art. 5 par. 2 it is declared that if the player is a minor, the player's legal guardian/s must also sign the representation contract in compliance with the national law of the country in which the player is registered.

Secondly Art. 7 par. 8 states that players and/or clubs that engage the services of an intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such intermediary if the player concerned is a minor. It is worth noting that ar. 7 of the num. 237/2002 Joint Ministerial Decision provides that contracts involving minors are not allowed, with the reservation of otherwise mentioned by the regulations of the pertinent federations.

Moreover, according to ar. 127 - 136 Civil Code, every minor (under 18 years of age) has limited legal capacity and, in order to make employment agreements, needs to be at least 15 and have the consent of their legal guardian.

Conflicts of interest (e.g. dual representation)

FA Regulations: Par. 1: Prior to engaging the services of an intermediary, players and/or clubs shall use reasonable endeavours to ensure that no conflicts of interest exist or are likely to exist either for the players and/or clubs or for the intermediaries.

Par. 2: No conflict of interest would be deemed to exist if the intermediary discloses in writing any actual or potential conflict of interest he might have with one of the other parties involved in the matter, in relation to a transaction, representation contract or shared interests, and if he obtains the express written consent of all the other parties involved prior to the start of the relevant negotiations.

Par. 3: If a player and a club wish to engage the services of the same intermediary within the scope of the same transaction under the conditions established in paragraph 2 above, the player and the club concerned shall give their express written consent prior to the start of the relevant negotiations, and shall confirm in writing which party (player and/or club) will remunerate the intermediary. The parties shall inform the relevant association of any such agreement and accordingly submit all the aforementioned written documents within the registration process (cf. articles 3 and 4 of the regulation).

All officials, members of the Board of the FA, member of committees, referees and assistant referees, coaches, trainers and every person is responsible for technical, medical and administrative issues in the association, club, or any other legal entity, are prohibited to receive

any payment from an intermediary, either the full payment or some of it. If that occurs, the official will receive disciplinary sanction.

Dispute resolution including key arbitration and state court cases

Disputes involving intermediaries are resolved at first instance from the FA's Financial dispute resolution committee, according to Art. 1 of the rules of procedure for dispute resolution of FA. The committee's judgments can be appealed in front of the national association's arbitral tribunal, which is ruled by article 5g of arbitral tribunal regulation. The FA Ethics committee, as described at the article 2f of the Ethics regulation, is also responsible for the disciplinary control and penalization of intermediaries. The FA is obliged to publish accordingly and to inform FIFA of any disciplinary sanctions taken against any intermediary. The FIFA Disciplinary Committee may decide on the extension of the sanction to have worldwide effect in accordance with the FIFA Disciplinary Code.

Pursuant to Art. 63 of the FA's Statute, intermediaries are prohibited to submit disputes to the regular courts. Every dispute must be solved under the jurisdiction of FA as its statute nominates. However, civil law courts are not excluded from their competence. A party can resort a contract dispute to courts, although it may be sanctioned by the association.

Sanctions

Intermediaries fall within the scope of the penalties provided for in the statute of FA, the disciplinary regulation and the ethic regulation of the national association.

Intermediaries can be punished for any breach and non-compliance with the FA's Statute (Art. 61 of the FA Statutes, Art. 25 of the Ethic regulation), non-compliance with the general principles (Art. 13 of the ethic regulation), forgery and document distortion (Art. 17 of the Ethic regulation), conflict of interest (Art. 19 of the Ethic regulation), active or passive bribery (Art. 21 of the Ethic regulation), defamation of the game (Art. 24 of the Ethic regulation, Art. 18 of Disciplinary regulation), threatening (Art. 19 of Disciplinary regulation), violence (Art. 20 of Disciplinary regulation), betting (Art. 28 of the Ethic regulation), distortion or manipulation of football games (Art. 27, 29 & 31 of the Ethic regulation).

In particular, according to the above referred legal rules, the possible sanctions for the intermediaries, whether they are individuals or legal persons, can be: Warning; Reprimand; Social work; Financial penalty (the range of penalties is between €500 and €120.000 depending on which of the above-mentioned articles has been breached); Ban on attending sports meetings; Ban on participation in any kind of activity related to football.

National collective body of agents

There is no collective body representing the agents.

Opinion of national expert

Besides the fact that, according to observers of the market, the new rules have augmented black market, there is no other palpable evidence to lead to the conclusion that things have changed since the implementation of the current regulation, regarding the quality of the services. An unregulated market is always prone to low quality.

In conclusion, good governance has declined, and the regulations are indeed easy to circumvent. Establishing a sustainable regulatory framework seems to be the main issue.

At first, allowing dual representation and legal persons to act as intermediaries, are measures that reflect reality, and favour the goal of good governance. In that direction, probably increasing the fee rate to 10%, which is established in the market, could be of use. Although remuneration of intermediaries, as stated above, can be considered disproportionate, this may be a good interim measure to enhance registration, which continues to appear in low rates.

Complementary to alleviating the written procedures, a minimal license obtaining process should be added, in order to build up the association's control of the intermediaries.

Serious concerns ought to be expressed regarding the law cited in par. 4 ar. 1 of the RWWI that stipulates that non-compliance does not affect the validity of the agreements. Taking into account the circumstances in Greece, contract parties will carefully consider turning a blind eye to the procedures, if they know that they will not be able to claim their demands in front of the competent judicial bodies. Absolute nullity seems to be more fit for serving the objectives of the regulation.

Finally, the privacy issues that the regulation faces must be comprehensively resolved.

HUNGARY

National legal requirements regulating agents

The Act I of 2004 (amended several times) on Sports contains only one Article [11 (1)] on this topic. The representation contract shall be concluded only between the player (a professional athlete) and the intermediary. Any agreement that gives anyone else financial advantage, money or fee relating to the transaction is invalid. In fact, the Hungarian law does not provide other details beyond this exclusivity that was introduced into the Act only in 2009 (through the Act LVI of 2009). In addition, only the Hungarian Football Association passed rules on mediation activities. Judicial case law is not available. There are currently no plans to amend the existing provisions.

Consultation at national level regarding implementation of RWWI

The Association agreed with the clubs and the League before adopting the rules, and some criticism due to the lack of consultation appeared in the sports media. Professional Football Federation has also developed a sample contract for mediation, but this was not included in the KSZ.

Definition of intermediary

“A natural or legal person who represents – free of charge or for remuneration - players and / or sports organizations in negotiations for the purpose of concluding a contract or a transfer agreement.” Under the KSZ and wider domestic legal environment, a natural person or a legal person may also engage in mediation activities

Registration requirements

The following conditions must be fulfilled:

The applicant must undertake to enforce compliance with the RWWI and FIFA rules of domestic sports law. This means that he must comply not only the requirements of the RWWI, but higher moral expectations as well. At the same time, there is no code of ethics for the intermediaries, which should be adhered to, although the HFA adopted a Code of Ethics in 2013 but its implementation does not extend to intermediaries;

- the required infrastructure (office, tax number, telephone, bank account) is available;
- s/he is absent from public affairs and has not received a conviction in a criminal case;
- adult age, right to act, and as a legal entity among its court this activity is indicated.
- The yearly administration fee 50 000 HUF + VAT shall be paid;
- an intermediary being on the list must pay a special fee for actual transaction of a mediator contract (fee for setting up a contract or transfer agreement within 30 days by invoice, its sum is 20,000 HUF + 27% VAT, approx. €100).

- Registration as intermediary will take place despite ongoing sport disciplinary procedures or punishments that have been imposed against the applicant. The HFA classifies the mediator as a sport expert, so it is possible for him to be sanctioned (Act on Sport, Art.77.§ p point).

In order to register, the intermediary must fill out and submit the certificate certifying the payment of the registration fee and the registration form found in Appendix 4. of the KSZ and the intermediary declaration found in Appendices 1 and 2 of the KSZ electronically or by post. With the registration, the concerned person becomes an intermediary.

The Government Decree on the Qualification of Workers in Sport (No. 157 of 2004, May 18) is not applicable to this job, and there is no specific requirement in the legislation on business. There is no qualification requirement for intermediaries including pedagogic or sports field.

The Hungarian Football Association's other bylaws (such as Regulation on Register, Transfer and Over-transfer) contain indirect conditions on intermediaries using sample-contracts by the national football clubs.

Impeccable reputation

The registered intermediary becomes unworthy, consequently excluded from the registration, if - inter alia:

- against the natural person intermediary in the cause of any kind of illegal influence, a criminal procedure was initiated because of a public prosecuted, intended crime with its reasonable suspicion or the person was fully sentenced;
- a liquidation procedure was initiated against the legal person intermediary;
- the football player, sports organization can submit a claim against that intermediary, with whom he had a contractual relationship one year before the declaration if the breach of any regulation is rendered on a proper reason or the breach of the impeccable reputation has occurred. If the Transfer and Dispute Settlement Committee of the Hungarian Football Association declares the truth of the reasons, then the intermediary loses his impeccable reputation and will be cancelled from the registration system of the Hungarian Football Association as a result of its initiated procedure based on a proper reason;
- accepting any payment without an existing representation contract and intermediary declaration;
- a public prosecuted, premeditated criminal procedure has been initiated on suspicion of illegally influencing of the result or events of a football match in any manner or he was sentenced finally (until his exemption), and who stands under the effect of a six months long or longer final disciplinary punishment as a sports expert or a football player (during the effect of the suspension); finally sentenced by the court with a public prosecuted crime;

The list of intermediaries who lose their impeccable reputation is published on the website of the HFA. A certificate of good conduct is not required for the registration.

Representation contract

The representation contract is written down according to the KSZ:

- the details of the legal relationship between the football player and/or sports organization have to be documented in writing before the commencing of the intermediary activity. The representation contract has to contain the following minimal details: the name of the parties, the scope of service, the period of the legal relationship, the fee of the intermediary, the general conditions of the payment, the date of the conclusion of contract, the conditions of termination and the signature of the parties. In the contract it especially has to be marked who pays the fee of the intermediary, the type of his fee and those conditions, with which the payment becomes due. The sample appeared in Appendix 3, as minimum requirements have to be applied with that it was sold to the parties with the fact that the parties can also agree in others as well;
- both sides of the representation contract bound with the football players have to be certified with the signatures of both contracted parties and the contracts have to contain the clause related to the items of the football player, which have to be confirmed by the football player with his signature and the date of acceptance, its location. In the lack of the above mentioned, the representation contract cannot be registered by the HFA;
- the duration of the contract is limited to a maximum of two years, with no possible automatic extension or renewal;
- If the parties have agreed otherwise, the intermediary has to submit to the HFA five days after the signature electronically or by post. The representation contract has to be submitted in English or in Hungarian.

Disclosure and publication

The KSZ requires disclosure and publication of some information: Accordingly, the HFA must publish on its official website the name of every registered intermediary and the number of the conclusion of contracts and transfer and over-transfer agreements, in which an intermediary took part. In practice, this list is not available. Moreover, the HFA annually publishes the whole amount of every remuneration or payment, which was paid for the registered intermediary by the players and sports organizations, based on a representation contract. This list can be found on its homepage.

Payments to intermediaries

Between March 31, 2016 and March 31, 2017, all payments made by sports organizations to registered intermediaries amount to HUF 223 537 888 (without VAT), while in the same period all payments are made on the basis of representative contracts with footballers for 301 160 771 HUF. In addition to the global/ yearly figures, there is no data on the individual intermediaries' fee publicly.

There is no sanction for the over-payment of the intermediaries. The recommendation of the HFA is that the intermediaries do not agree to more than 3% of the monthly wages with the represented clients.

The HFA will receive 1% of the transaction fee and 4% of the transaction fee will be paid into the Fund for Retirement Education. This will be paid by the receiving/host club for the transfer. The Act on Sport regulates only the cost of transfer [Art.11 (3)] but in silence on the fee for intermediary. Consequently, the HFA may regulate this proportion.

Minors

The intermediary cannot conclude a representation contract with a football player who is under 18 years of age. According to Art.8 (5) in the KSZ the representation contract cannot be applied on football player under the age of 18. However, the Art. 5 (7) of the Act on Sport allows one club to pass an amateur athlete's right to play (license). This is done free of charge, but it is still possible to request the intermediary fee. This is a very special rule, because in this way an amateur athlete also has a license under Hungarian law. However, there is no specific provision for transferring amateur athletes.

Conflicts of interest (e.g. dual representation)

There is a conflict of interest on the grounds of KSZ and the domestic legal environment if:

- multiple representation: in a transaction the same intermediary cannot represent two clubs or the club and the player simultaneously. If the intermediary operates as a mediator, then in a transaction he can get a fee from just one party, which has to be certified in a declaration;
- insider information: the intermediary formerly has been a manager, official leader or athlete in a club and then becomes an intermediary, and for a period of time he cannot intermediate to his former club; job loyalty when included in an individual employment contract.

Dispute resolution including key arbitration and state court cases

A complaint can be submitted to the HFA for the incorrect/unlawful intermediary's activity. The Dispute Settlement Committee acts at first instance and the appeal is decided by the Presidency of HFA. A short version of the decisions is placed on the HFA website, but not archived. No cases have been decided yet.

Sanctions

A disciplinary procedure may be initiated after a deliberate violation of the KSZ committed by sports organizations and/or players. Disciplinary proceedings are conducted by the HFA Disciplinary Committee.

- Penalties against players: written warning, fines, disqualification (exclusion for a specified period of time);
- Sanctions against sports organizations: fines, withdrawal of the right to a transfer for a specified period, penalty point deduction.

The KSZ is listening to what sanction may be applied to the intermediary if s/he is dealing with a complaint in a dispute. Compensation (compensation for immaterial damages) based on the domestic legal environment (primarily the Civil Code), the declaration of the infringement and the prohibition of further violations.

National collective body of agents

No collective body exists

Opinion of national expert

The consulted experts are sceptical about an increase in quality of the services since the inception of the 2015 RWWI. Also, RWWI did not make the market segment more transparent, as it is very easy to neglect the rules when the club, player and intermediary have a contract for other activities (e.g. managing or coaching contract). Since there is no qualification requirement, there is no possibility to guarantee for the quality of intermediary services; also sanctioning is nearly impossible.

ITALY

National legal requirements regulating agents

The Italian system adopts a hand-on approach, regulating various aspects of sport. The latest legislation on intermediaries was adopted with an act of the Government – the Italian Budget Act for 2018 entered into force on the 1st January 2018. Amongst other things, this provision establishes a register for intermediaries with the National Olympic Committee (NOC). Only NOC registered intermediaries will be allowed to register with the National Sporting Federations, including the FA (FIGC). Another important change is the introduction of a test for intermediaries who want to be registered.

Consultation at national level regarding implementation of RWWI

The AIACS – Association of Italian Agents has been in contact with the FA to offer collaboration in the adoption of the regulations. While there was no formal cooperation in the activity, an informal consultation process was undertaken.

Definition of intermediary

The peculiarity of the Italian system is the use of a definition slightly different from the translation of the RWWI. Indeed, in order to avoid confusion with other brokers regulated within the Italian system (such as financial intermediaries), the football intermediaries are called Procuratori Sportivi.

This is defined as the person or the legal entity who, on a permanent basis or occasionally, assists or represents a sports club and/or a player under a specific contract and with no regard to his professional qualification.

In the definition used before the RWWI, the FA made a clear distinction between agents and qualified lawyers (avvocato), whereby the latter were excluded from the duty to register as an intermediary.

Registration requirements

The FA Regulations set two main conditions that apply to the Italian intermediaries:

- the parties involved in the transaction must sign the relevant representation agreement and
- the intermediary must be registered prior to enter into the transaction process. According to article 4, any person legally residing in Italy may register as an intermediary. Both natural and legal persons must be registered, as well as each contract of representation.

The Regulations establish also that the intermediary must pay an annual registration fee of €500, and €150 for each individual representation contract. The registration is valid for one year, and there are no provisions on renewal.

Along with the registration, the intermediary must also file a signed declaration in which he commits to be bound by FIFA and FA statutes and respect law provisions, submits himself to the jurisdiction of FIFA and FA, declare that he has no conflict of interest, consent to the treatment of personal data, consent to the publication of any sanctions taken against him.

According to a further provision of the Intermediaries Committee (Commissione Procuratori Sportivi) an intermediary not resident in Italy can register if he is duly registered with another FA by submitting the representation contract, the declaration above, evidence of his registration with another FA and that costs have been paid.

The new Italian Budget Act for 2018 has established that the intermediary must register with the Italian NOC before being able to register with the FA. To register with the NOC, an EU citizen that has not been convicted, and that has at least a secondary school diploma can apply for a test, composed by two parts. The General test, which will take place in September 2018 for the first time, will assess knowledge of sports law, civil law and administrative law. Once this has been passed, the candidate can take the Special test. This, to be held in December 2018 within each National Sports Federation (NSF), will assess the knowledge of the regulations of the FA on transfer and registration of players. Only once these two tests have been passed, the intermediary can apply to register with the FA.

In order to register, the intermediary must pay a fee of € 250. It is not clear if this fee replaces the fee provided for in the 2015 FA Regulations. The registration has a validity of one year and can be renewed. A further registration fee will have to be paid. The intermediary must also attend training course and updates that are established by the individual NSF. EU citizens that are registered sporting intermediary in another Member States may apply to be registered with the NOC and will simply have to pay € 250.

Impeccable reputation

According to FA Regulations, which do not explicitly mention “impeccable reputation”, the intermediary must state in his Declaration (filed with the registration) that he has: full legal capacity and no criminal record for match-fixing; no previous criminal conviction; no lifetime ban and no unspent disciplinary conviction. On its website, the FA offers a sample copy of the declaration that must be signed by the intermediary prior to registration.

Representation contract

According to Art. 5, the Representation contract must be signed by all the parties and submitted to the FA. The contract must mention the details of the parties, the object of the mandate, its duration, the statement of absence of conflicts of interest and it may include an arbitration clause or the court competent in the event of a dispute. The contract must also include the details related to remuneration. The representation contract cannot be longer than two years.

Once this contract has been signed, the intermediary has the exclusive right to represent the player, who is forbidden from signing other representation contracts during the length of the first contract. However, the contract may stipulate a joint representation to more individuals. During the length of the contract, the parties are obliged to observe confidentiality on information learned.

Further rules apply when the player is a minor. In this event, the representation contract must be signed by his parents or guardian/legal representative. On its website, the FA offers a sample copy of a representation contract.

Disclosure and publication

According to Article 8 (Transparency) clubs and players must communicate before the 31st of December of each year the remuneration paid to intermediaries for their services. In turn, the FA publishes each year before the 31st of March a list of the transactions occurred the year before and the aggregate payments made for their activity. Each year the FA publishes the list of intermediaries registered and the transactions in which they are involved.

Payments to intermediaries

Intermediaries can be paid with a lump sum or with a percentage of the value of the transaction in which he was involved. The FA recommends that the payment amount to a maximum of 3% of the transfer fee (if the intermediary works for the club) or of the players' gross salary for the duration of the contract (if representing the player). In the event that the intermediary represents both player and club, the representation contract must state who is paying for the service and how the intermediaries will be remunerated. In the FA Regulations there is no provision specifically regulating the payment for representation of minors. There is however a prohibition of payment to intermediaries for contracts of player providing for minimum salary and in case of registration of amateur players.

Minors

The representation contract involving a minor must be signed by his parent or his guardian/legal representative. While there is no explicit prohibition of payment to intermediaries for transactions involving minors, there is a prohibition for transactions involving amateur players. Within the Italian system, minors are often amateurs. It appears that there are no other provisions related to the representation of minors.

Conflicts of interest (e.g. dual representation)

In Article 3 of the FA Regs (principles), a number of individuals are prohibited from registering as intermediaries. These are: any member, manager, player or technical staff member and anyone who hold offices or relationship with any FA member.

Furthermore, Article 7 deals with Conflicts of Interest. An intermediary can represent both the club and the player in a transaction only if this is apparent from the representation contract and the parties have previously given their explicit consent in writing. In this regard, the intermediary must sign a representation contract with all the parties represented in the transaction. There is therefore the possibility for the intermediary to represent more than one party in the negotiation.

As mentioned before, the representation contract can indicate that the player is represented jointly by more than one individual. However, the player can have only one valid representation contract at a time.

The intermediary is also prohibited from having any direct or indirect interest in the transfer of a player from one club to another, or any participation in any economic rights relating to the transfer of a player (TPO).

Clubs are also prohibited from paying to the intermediary any sum related to solidarity payments or training compensation, or any other remuneration paid in connection with a transfer.

Conflict of interest is also regulated by national law on trust and mandate: Article 1394 of the Civil Code establish a conflict of interest any time in the negotiation of a contract the agent may profit, even indirectly, to detriment of the represented party.

Dispute resolution including key arbitration and state court cases

The FA has created an Intermediary Committee with specific competence over disputes involving registered intermediaries. The Committee is competent over any violation of the Regulations as well as any violations of the FA, FIFA and UEFA rules committed by the intermediary. Furthermore, the Committee is also competent to hear complaints from intermediaries whose application to register has been rejected. The Committee can act upon request of any interested party or by its own initiative. The decisions of the Committee can be appealed against before the FA Federal Court of Appeal, whose decision is definitive. It is interesting to note that clubs and players are instead subject to the FA disciplinary code and proceedings, even in relation to conduct taken in the context of their relationship with the intermediary.

An area of interest where disputes have been decided is the ability of non-registered lawyers to represent a player in his negotiation with a club. The CNF (National Council for Lawyers) has adopted an Opinion (75/2015) stating that an Italian qualified lawyer is entitled to represent his client even without being registered with the FA, provided that the correct documentations are used when signing the contract. It must be remembered in this regard that, before the introduction of the 2015 FIFA RWII, the FA Regulations exempted qualified lawyers from being registered as intermediaries.

However, the Italian Supreme Court (Corte di Cassazione) has in the Judgment 18807/2015 established that when a lawyer acts as intermediary without being registered, the representation contract, although formally valid under national law, must be considered null as it breaches the rules on forms and procedures required by the FA to recognise the validity of said contract.

Finally, the Intermediary Committee has adopted a decision on the possibility of imposing sanctions on lawyers that were not registered as intermediaries (C.U. n. 13 28 March 2018). As the lawyer is not registered, he is not bound by the regulations and he has not waived the jurisdiction of the Court.

While a qualified lawyer not registered with the FA can advise the player in regard to his relationship with the club, the Intermediary Committee has no competence over him. However, according to the Judgement of the Corte di Cassazione n. 15934/2012, the relevant Committee can communicate to the National Council for Lawyers or the Law Society (Ordine degli Avvocati) any conduct of the qualified lawyer that may breach the deontological code or the Federal rules.

Sanctions

The FA Regulations establish the sanctions for intermediaries violating the FA Regulations, and also the FA, FIFA and UEFA rules. The sanctions range from suspension of a maximum of 1 year, to the striking off from the register and prohibition of any further registration if the intermediary has committed violations for a cumulative sanction higher than 3 years' suspension over 5 years of registration. The sanctions adopted by the FA are then communicated to FIFA in order to extend their validity at international level. There is however no mention of the rules FIFA would follow to give worldwide publicity to the disciplinary sanction against the intermediary.

National collective body of agents

In Italy, there is a collective body called AIACS – Italian Association of Football Agents. While this is not formally a Union, its objective is to represent and protect the professional nature of the activity, against negative information and statements put forward by the press or by FA members. It also carries out lobbying activity with other stakeholders and institutions to discuss issues of common interest. In order to become a member, the intermediary must pay an annual registration fee.

Opinion of national expert

The perception is that the quality of the services provided by intermediaries has decreased since the introduction of the FIFA Regulations and the FA Regulations. Allowing anyone to register as an intermediary, without any test to assess knowledge and suitability, has opened up the profession to individuals lacking competence and knowledge. This may be considered as one of the reasons for the intervention of the Italian Government, with the introduction of a two parts test to be passed in order to become a sport intermediary. The sanctions provided for in the FA Regulations are appropriate.

There appears to be little attention over the protection of minors. In particular, the intermediary does not have to satisfy any further requirement in order to represent a minor, apart from obtaining the signature of his parents.

It is suggested that a better approach would follow a harmonisation of rules from the European Union, which could regulate the activity of intermediaries on the internal market.

LATVIA

National legal requirements regulating intermediaries

There are no relevant national legal regulations of intermediaries.

Consultation at national level regarding implementation of RWWI

On the basis of 2015 RWWI, the Latvian Football Federation (LFF) adopted the Rules of Operation of Intermediaries of Players and Football Clubs (LFF Regulation 2015) in October 2015. No parties outside the LFF were consulted. LFF is currently in process of amending the rules to allow for an increase in remuneration that is expected to be completed within 1–2 years.

Definition of intermediary

LFF Regulation 2015 defines an intermediary as a person who with or without remuneration represents the player and/or the football club in regards to the conclusion of the employment agreement, including transfer agreement, and in case of representation of the club takes part in the conclusion of the transfer agreement. LFF Regulation 2015 gives a broad definition of “representation” that covers not only participation in negotiations, but also more generally acts on behalf or in the interests of a player or club. While the 2015 RWWI names both natural and legal persons as intermediary, LFF Regulation 2015 focus only on natural persons as intermediary.

Registration requirements

In accordance with Article 4 LFF Regulation 2015, a person may be registered as an intermediary by submitting to LFF a filled declaration and CV. A person may be registered as an intermediary only if he has no criminal convictions and an impeccable reputation. If the applicant’s activities are organized via a legal entity, all persons of this entity shall have an impeccable reputation under the discretion of LFF. Intermediaries must be registered with LFF yearly, which include paying a yearly registration fee of €100. A registered intermediary shall also obtain the professional civil liability insurance policy and submit the copy thereof to the LFF. The minimum sum of the professional civil liability insurance policy shall be €50.000 and its term of validity shall be at least 24 months.

Impeccable reputation

LFF has discretion in determining what constitutes impeccable reputation, but it includes whether the applicant has been subject to any LFF decisions for breaking LFF’s provisions. According to Article 4(1) LFF Regulation 2015, an applicant must submit a declaration of not being criminally convicted and having an impeccable reputation. LFF Regulation 2015 is broader than 2015 RWWI in this regard as it covers other criminal conviction than for financial or violent crimes. Due to the stable and limited number of intermediaries, checking applicants’ “football past” is in practice simple.

Representation contract

In accordance with Article 8(3) LFF Regulation 2015, an intermediary must register a representation contract with LFF within 10 days of its signing. Parties typically use the LFF draft representation contract which stipulate requisites of the parties, general rules, registration of the intermediary, term of the agreement and terms for cancellation, amount of representation, duties of the intermediary and the player, rules for amending the agreement, confidentiality clause and a dispute resolution clause. Representation contracts have a maximum term of 2 years and may only be prolonged by concluding and registering a new contract with LFF. Remuneration to the intermediary and procedure of payment thereof shall be clearly stipulated in the representation contract. Remuneration to the intermediary shall be paid only by the player or the club, which is one of the parties to the representation contract concluded.

Disclosure and publication

Article 8(5) LFF Regulation 2015 stipulates that upon the request of LFF, FIFA and UEFA the intermediary shall submit the financial documents reflecting the financial indicators and information of his activity as an intermediary.

According to Articles 10(5) and 12(5) LFF Regulation 2015, in case of the conclusion between an intermediary and a player or club an agreement in addition to the representation contract, including an agreement on the intermediary's remuneration, the player or club shall ensure that it is registered with LFF.

In accordance with Articles 4(5) and 4(6) LFF Regulation 2015, LFF shall publish the names of registered intermediaries on its website. LFF shall on a regular basis publish concluded agreements between players or clubs and intermediaries. The Declaration submitted by intermediaries to LFF when applying for the registration contain an acknowledgement that LFF has the right of access to all information and documentation about his activities as an intermediary, including remuneration received for the work of an intermediary, and other financial indicators, as well as LFF has the right to publish the intermediary's name and concluded agreements on its website.

Payments to intermediaries

Article 14 LFF Regulation 2015 regulates intermediary remuneration. The intermediary has the right to receive the remuneration for the conclusion of the player's employment agreement or transfer agreement only if he has been directly involved in the intermediary activities, in accordance with the provisions of the representation agreement. The remuneration may be stipulated as a percentage payment of player's income within the entire term of validity of the employment agreement, including salary, as well as other stipulated payments, which the player shall receive in accordance with the conclusion of the employment agreement. The remuneration, when representing the club, shall be stipulated as a precise single payment and shall be stipulated in the representation agreement, concluded before the conclusion of corresponding transfer agreement.

Article 14(3) LFF Regulation 2015 encourage players and clubs to use the 2015 RWWI 3%-level as a benchmark.

All payments in connection with a transfer, such as transfer compensation, training compensation, solidarity contributions, and income from future transfers, shall be made by the club itself and this duty cannot be delegated to intermediaries. The payments cannot be diverted for the receipt by the third persons. With the player's consent, the football club is allowed to make payment of remuneration to the intermediary from the salary, or the other payments provided for the player.

Minors

Article 3(4) LFF Regulation 2015 stipulates that if the player is a minor, at least one of the player's legal guardians shall also participate in the negotiations concerning conclusion of the player's contract. The legal guardian does not have to be registered as an intermediary.

In accordance with Article 6(5) LFF Regulation 2015, the representation contracts may be concluded with players who have reached the age of 15. Representation agreements concluded with players younger than 18 years are in force only if the agreement is also signed by at least one of the player's legal guardian. Such contracts must also, in accordance with Article 6(6) LFF Regulation 2015, include a clause stating that the contract may be terminated at any time, having informed the other party of it in writing at least 60 days in advance.

In accordance with Article 14(7) LFF Regulation 2015, an intermediary shall not receive any kind of remuneration for representing players who have not reached 18 years. This rule is applicable to the conclusion of transfer agreement, as well as to the conclusion of employment agreement.

Conflicts of interest

According to LFF Regulation 2015, registered intermediaries must inform players and clubs of any possible conflicts of interests and before proceeding receive both parties written consent (Article 8(2)(3)). Dual representation is allowed as long as the parties agree on this in writing, agree on who shall pay the intermediary's remuneration, and inform the LLF (Article 8(2)(4)). Intermediaries are also prohibited from engaging in negotiations with a player urging the player to terminate or breach obligations under a valid employment contract (Article 8(2)(1) LFF Regulation 2015).

In accordance with Article 3(3) LFF Regulation 2015, clubs are prohibited from the registration of any officials as an intermediary, these being board members, referees, referee's assistants, coaches, and other persons included in the administrative, technical or medical staff of the football club. The club's officials shall receive no remuneration from the player or another club for the negotiations and/or promoting the conclusion of player's or transfer agreement.

Finally, when applying to become an intermediary the applicant shall submit a Declaration, acknowledging that he/she is not holding and is not planning to hold, within the nearest future, the status of an official person in an organization stipulated above, and that the applicant does not "have employment relations, or other liabilities, or financial interests with respect to UEFA, FIFA, national federations, confederations, football clubs, or any other organisations legally related to foregoing organisations."

Dispute resolution including key arbitration and state court cases

Disputes concerning the rights and duties of the intermediary and its remuneration and the duties of players and clubs, including disciplinary sanctions, shall, where the respondent is a person subjected to LFF jurisdiction, be resolved by the LFF Disciplinary Committee. All complaints regarding activity of intermediaries, shall be submitted no later than six months from the occurrence of event that the complaint concerns. LFF shall be entitled independently to perform acquisition of information and examination of issue concerning possible violations with respect to activity of intermediaries, and Regulations.

All civil disputes between an LFF-registered intermediary, on the one hand, and a player or club, on the other hand, shall be resolved by the courts of general jurisdiction in accordance with regulatory enactments of the Republic of Latvia.

There is no relevant case law.

Sanctions

If a registered intermediary breaches the representation contract, LFF Regulation 2015 or other regulatory enactments of LFF, UEFA or FIFA, LFF shall be entitled to impose the following disciplinary sanctions: (i) Warning, (ii) fine from 100 up to €3.000 and (iii) suspension or cancellation of the intermediary's license. LFF is obliged to publish accordingly and to inform FIFA of any disciplinary sanctions taken against any intermediary. The FIFA will then decide on the extension of the sanction to have worldwide effect.

If a player breaches the representation contract, LFF Regulation 2015 or other regulatory enactments of LFF, UEFA or FIFA, LFF shall be entitled to impose the following disciplinary sanctions: (i) Warning, (ii) fine from 100 up to €3.000, (iii) prohibition to use intermediary's services, and (iv) prohibition to participate in competitions organised by the LFF.

If a club breaches the representation contract, LFF Regulation 2015 or other regulatory enactments of LFF, UEFA or FIFA, LFF shall be entitled to impose the following disciplinary sanctions: (i) Warning, (ii) fine from 100 up to €3.000, (iii) prohibition to conclude, or to prolong players' employment contracts, (iv) prohibition to register new players and (v) exclusion from competitions organised by LFF.

National collective body of agents

Latvian intermediaries are not currently represented by a collective body.

Opinion of national expert opinions

According to the national expert, LFF Regulation 2015 generally works well and contains sufficient sanctions. The Latvian football market is small with relatively few transactions, limited sum of employment/transfer agreements and consequently a limited market and remuneration for intermediaries. As a result, there are few active intermediaries in Latvia and only one fulltime football intermediary.

Because of these market conditions the introduction of 2015 RWWI has had limited impact. The number of intermediaries has been low in Latvia and has even decreased somewhat after the introduction of 2015 RWWI, which makes it easy to vet and keep track of intermediaries. The expert notes that the implementation of 2015 RWWI has caused some uncertainty regarding LFF's obligations and rights, for example on LFF's rights to be involved in activities of international intermediaries and resolution of disputes if such intermediaries are involved. On the other hand, LFF would like to have more support from FIFA, in order to implement the 2015 RWWI, e.g. the criteria for registration of intermediaries and examination of their applications.

LITHUANIA

National legal requirements regulating intermediaries

The principal legal act governing sports in Lithuania is the Act on Physical Education and Sport of the Republic of Lithuania (1995) (hereinafter “the Law on Sport”). The Law on Sport lays down the principles of physical education and sport, regulates the competence of state and municipal institutions, governs the organization of physical education and sport, sets the competence of non-governmental physical education and sports organizations in the development of physical education and sport, training of athletes, development of a system of competitions, regulates activities of physical education and sports specialists, establishes the basis of the development of professional sport, lays down principles of the organisation of sports competitions and events, sets the requirements for sports facilities.

The Law on Sport does not provide any definition of “sports agent” or “intermediary”. However, Article 39 of the Law on Sport provides provisions on “representation of professional athletes”. No definition of “representative of professional athletes” is established, however said provision sets forth certain rules on the activity. Article 39(2) of the Law on Sport states that professional athletes may be represented by legal persons (subject to insurance of their civil liability) established in the Republic of Lithuania or any other member state of the European Union or the European Economic Area. As well as this, professional athletes can be represented by natural persons (subject to insurance of their civil liability) engaged in individual activity. Article 39(3) of the Law on Sport states that regulations of certain sport may govern representation of professional athletes further. Article 39(4) of the Law on Sport requires a written agreement between a representative and professional athlete. It should be underlined that said requirements are applied for representation of professional athletes only. However, according to Article 39(5), non-professional athletes may engage services of representatives as well. No more specific legal provisions related to activities of representation of athletes (or sport agent/intermediary) are provided.

Thus, the Law on Sport sets minimum requirements for activity of representatives of professional athletes regardless of the sport. However, there is no state control on such activity. Therefore, activity of representatives of athletes is a responsibility of sports federations mostly. The Law on Sport is a subject of permanent discussions and amendment projects, mostly related to financial matters and state financing of sport. A project for a new edition of Law on Sport was registered on 30 November 2016 in the Parliament of Lithuania. In accordance to said project, it was suggested that all provisions of the Law on Sport related to professional sport, including provisions of the Law on Sport governing activity of representation of athletes (Article 39), should be deleted. However, such project was not confirmed. Work revising the Law on Sport is currently on-going and a new version may be adopted in the fall of 2018.

Consultation at national level regarding implementation of RWWI

The Lithuanian Football Federation (LFF) implemented its intermediary regulations following adoption of 2015 RWWI by introducing the LFF Regulations on Working with Intermediaries on 21 April 2015 (LFF Regulations 2015). They have not been amended and there are no plans to amend them. The LFF Regulations were drafted by the LFF and confirmed by the LFF Executive Committee without any particular external consultation procedures, only internal

discussion and considerations took place. In introducing LFF Regulation 2015 the LFF's main and basic purpose was to comply with 2015 RWWI.

Definition of intermediary

In accordance with Article 2(1)(5) LFF Regulation 2015, an intermediary is defined as a natural or legal person who represents players and/or clubs in negotiations with a view to concluding an employment contract and/or represents clubs in negotiations with a view to concluding a player transfer agreement, except for the attorneys-at-law who represent players and/or clubs in relevant negotiations by providing legal services in accordance to legal service agreement concluded in compliance with the requirements stipulated by the Laws of the Republic of Lithuania. The definition is consistent with 2015 RWWI's with the only difference being that LFF Regulation 2015 specifically underlines that an attorney-at-law acting in accordance to legal services agreement shall not be considered an intermediary.

Registration requirements

LFF Regulation 2015 does not require the permanent or preceding registration of intermediaries, only that intermediaries are registered upon their involvement in a conclusion of either employment contract or player transfer agreement (Article 4(1)).

In accordance to Article 4(3) LFF Regulations, a ground for registration of intermediary is submission of Intermediary Declaration by the club and player engaging the services of an intermediary with a view to concluding employment contract and/or player transfer agreement to the LFF. In accordance to Article 4(4) LFF Regulations, the player who had engaged an intermediary for purposes of conclusion of employment contract (or amendment of such contract), immediately after conclusion of employment contract (or amendment of such contract) has to submit the LFF an original counterpart of duly filled Intermediary Declaration (the form of the Intermediary Declaration is attached to the LFF Regulations as annex 1), copy of relevant representation agreement (concluded by intermediary and a player with respect to relevant employment contract and/or player transfer agreement) as well as any other document required by the LFF. In accordance to Article 4(5) LFF Regulations, the club which had engaged an intermediary for purposes of conclusion of employment contract (or amendment of such contract) and/or player transfer agreement immediately after conclusion of employment contract (or amendment of such contract) and/or player transfer agreement has to submit the LFF an original counterpart of duly filled Intermediary Declaration (the form of the Intermediary Declaration is attached to the LFF Regulations as annex 1), copy of relevant representation agreement (concluded by intermediary and a club with respect to relevant employment contract and/or player transfer agreement) as well as any other document required by the LFF. Players and clubs are requested to inform the LFF upon the termination of legal relationship with the intermediary (Article 4(6) of the LFF Regulations). The registration of intermediaries is carried out by help of specific electronic online platform managed by the LFF, FIS (Article 4(2) LFF Regulations).

The LFF Regulations provide no additional qualifications and requirements for intermediaries, except for the requirement of impeccable reputation of an intermediary. In accordance to Article 3(7) LFF Regulations, club and players must make sure that they shall engage intermediaries with an impeccable reputation only. Such requirement is set by the 2015 RWWI (Articles 4(1) and 4(2) 2015 RWWI) as a minimal standard thus the LFF had to comply with it and implement it accordingly.

There are no registration fees.

Impeccable reputation

In accordance to Article 3(7) LFF Regulation 2015, club and players must make sure that they are engaging intermediaries with an impeccable reputation. The LFF Regulations provide no definition of impeccable reputation. The Intermediary Declaration includes a declaration of intermediary identical to the one in 2015 RWWI.

The LFF Regulations provide no measures whatsoever on how requirement of impeccable reputation is fulfilled. To the expert's best knowledge, LFF does not examine authenticity of the data provided in Intermediary Declaration. Therefore, players and clubs are responsible to carry out a due diligence on the facts laid down in the Intermediary Declaration.

Representation contract

The main conditions of the legal relationship entered into between a player and/or club and an intermediary have to be included in writing prior to the intermediary commencing relevant activities. In accordance to Article 5(3) LFF Regulations, the representation agreement must contain following minimum details: (1) names of the parties; (2) scope of services provided by the intermediary to a player and/or a club; (3) duration of activity/provision of services; (4) remuneration of the intermediary as well as terms of payment; (5) date of conclusion of an agreement; (6) provisions on termination of agreement; (7) signatures of the parties (in case a party is a minor, his parents or guardians are required to sign the agreement too).

Article 5(4) LFF Regulations provides that terms of representation agreement cannot contradict requirements of the FIFA and the LFF. A copy of representation agreement has to be submitted to the LFF by a club or a player in the events laid down by the LFF Regulations (Article 5(5)). In accordance to Article 5(6) LFF Regulations, clubs and players are required to inform the LFF in written on any amendment of legal relationship deriving from concluded representation agreement which has to be submitted to the LFF within 7 days as from such amendments. In case such amendment had occurred before submitting of the representation agreement to the LFF, relevant information shall have to be provided to the LFF together with the representation agreement.

No other additional requirements are set by the LFF Regulations or national laws on representation agreement between players, clubs and intermediaries. Besides, the LFF Regulations have never been amended therefore the initial requirements for representation contract remained identical.

Disclosure and publication

Article 6(1) LFF Regulations provides that players and clubs, if required by the LFF, have to disclose to LFF the full details of any and all agreed and/or actually made payments of any nature to intermediaries. As well as this, players and clubs are required to disclose information on any agreements and/or other documents which were concluded and/or signed with the intermediaries and/or related to activity and/or services which were and/or are rendered by intermediary in favour of a club or a player. All relevant documents have to be submitted to

the LFF upon submission of employment contract and/or player transfer agreement and registration of a player at a club (Article 6(1) LFF Regulations).

Article 6(3) of the LFF Regulations requires clubs and players to make sure that names of intermediaries which were engaged with a view to conclude employment contract and/or player transfer agreement are specified in all employment contracts and/or player transfer agreements and that intermediaries are in fact signatories of such agreements. In accordance to Article 6(4) of the LFF Regulations, when no intermediary was actually involved in transaction, the parties to employment contract and/or player transfer agreement are required to specifically indicate this in the corresponding agreement.

Payments to intermediaries

In accordance to the LFF Regulations, when the intermediary is engaged against the payment by a player, an amount of remuneration payable to the intermediary shall be calculated on the basis of the player's basic gross income for the entire duration of an employment contract (Article 7(1) LFF Regulations). In accordance to Article 7(2) LFF Regulations, when the intermediary is engaged against the payment by a club, a predetermined lump sum (which can be paid by instalments) has to be paid to the intermediary by a club. In accordance to Article 7(3) LFF Regulations, the clubs are required to make sure that remuneration payable to the intermediary is not related in any manner to the transfer compensation received by the club, training compensation, solidary contribution payment or any other payments received by the club in connection to the transfer of a player.

In accordance to Article 7(4) LFF Regulations, it is required that remuneration to the intermediary is paid directly by a client (a player or a club) directly to the intermediary. As an exception to said rule, in accordance to Article 7(5) LFF Regulations, a club may pay to the intermediary engaged by a player on behalf of such player subject to request of a player concerned. Official persons are not allowed to receive any part of payment from the intermediary related to activity of such intermediary (Article 7(6) LFF Regulations). The LFF Regulations does not, however, limit the amount of remuneration of the intermediary.

Minors

The LFF Regulations permit minor player to engage the intermediary. It is required that parents or legal guardians have co-signed the representation agreement with the intermediary (Article 5(3) LFF Regulations). As well as this, in accordance to Article 7(7) LFF Regulations, players and/or clubs that engage services of an intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such intermediary if the player concerned is a minor. The Intermediary Declaration form (Annex 1 to the LFF Regulations) includes confirmation of an intermediary that he/she shall not accept payment from any party if the player concerned is a minor. No additional requirements are provided by national law.

Conflicts of interest

Clubs and/or players are required to make all efforts to ensure that situation of conflict of interests is prevented in their relationship (Article 8(1) LFF Regulations). In accordance to Article 8(2) LFF Regulations, an event shall not be deemed as a situation of conflict of interest when the intermediary discloses in writing any actual or potential conflict of interest he might

have with any of the parties engaged in relationship deriving from employment contract and/or player transfer agreement and if he obtains the explicit written consent of all other parties involved prior to the start of the relevant negotiation.

Dual representation is permitted. In accordance to Article 8(3) LFF Regulations, if a player and a club wish to engage the same Intermediary within the scope of conclusion of the same employment contract, a player and a club concerned shall submit their explicit written consent. A player and a club concerned shall agree in written on which party will be responsible for payment of remuneration. No additional requirements are set by national law.

Dispute resolution including key arbitration and state court cases

The LFF Regulations provide no provisions whatsoever on resolution of disputes involving intermediaries. The competence of LFF disciplinary and dispute resolution bodies is governed by the LFF Disciplinary Code. In accordance to Article 54(1)(b), the LFF Appeals Committee is competent to hear disputes provided in Article 26 of the LFF Player Transfer Regulations. Article 26(1) LFF Transfer Regulations states that the LFF Appeals Committee is competent to hear disputes deriving from employment contracts and other issues which are in essence related to sports (employment) activities. Term 'other issues' is not defined by the LFF Player Transfer Regulations. However, taking the systematic approach to the LFF Player Transfer Regulations, it is reasonable to assume that such issues are related to fields governed by the LFF Player Transfer Regulations (such as contractual matters between clubs, players or coaches, disputes between clubs related to player transfer agreements, training compensations and solidarity mechanism). Thus, only disputes related to mentioned issues can be forwarded to the LFF Appeals Committee. Therefore, it can be concluded that the LFF bodies would not resolve a dispute involving intermediary.

Since the LFF is not competent to hear civil disputes involving intermediaries, such disputes should be referred to national courts or courts of arbitration subject to existence of arbitration agreement.

So far, no disputes have been heard before the LFF dispute resolution bodies or courts whatsoever involving intermediaries and deriving from the LFF Regulations. There is no information suggesting that any disciplinary case related to potential breach of the LFF Regulations has been examined by the LFF disciplinary bodies.

The jurisprudence of Lithuanian courts in the field of athlete representation generally is very modest. Most cases are related to basketball and overdue payments. A particular issue analysed by the courts is related to the nature of legal relationship between an athlete and his/her representative. Lithuanian courts do not maintain a single position: some consider representation agreements as an agreement of services (3 November 2011 ruling of the Lithuanian Court of Appeals in a civil case No 2A-1011/2011 or 3 November 2011 ruling of the Lithuanian Court of Appeals in a civil case No. 2A-1072/2011), others consider representation agreements as commercial representation (29 December 2014 ruling of the Lithuanian Court of Appeals in civil case No 2T-96/2014). Different wording of agreement may bring a different approach of the courts in respect to various elements (ability to terminate the agreement prematurely, right to commission payment after termination, etc.).

Sanctions

In accordance to Article 11(2) LFF Regulations, sanctions stipulated in the LFF Disciplinary Code shall be applied in case of breach of the LFF Regulations. The LFF Disciplinary Code, however, provides no specific regulation or sanction related to breach of the LFF Regulations. However, Article 4(4) LFF Disciplinary Code provides general rule obliging all participants (including players and clubs) to comply with LFF rules and regulations. Therefore, it may be deemed that in case of a breach of the LFF Regulations, Article 4(4) LFF Disciplinary Code could be invoked by LFF disciplinary bodies as a material ground for application of potential sanction.

As mentioned above, the LFF Disciplinary Code provides no specific sanctions applicable for breaches of the LFF Regulations. Therefore, in the event of breach of the LFF Disciplinary Code, LFF disciplinary bodies would possess a discretion to apply any sanction provided in the LFF Disciplinary Code subject the principles of sanction application laid down in the LFF Regulations. There is no information suggesting that any disciplinary procedure related to potential breach of the LFF Regulations has been conducted by the LFF disciplinary bodies therefore it is not possible to indicate the range of sanctions LFF is keen to apply for the breach of the LFF Regulations.

National collective body of agents

There is no collective body representing football agents or intermediaries in Lithuania.

Opinion of national expert

There is no available evidence to assess the change of the quality of services of intermediaries since introduction of the 2015 RWWI. However, cancellation of a system of licensed agents could have potentially reduced the level of intermediaries due to the fact that level of knowledge and professionalism of a person willing to conduct intermediary activity is no longer controlled at any extent. However, it should be noted that one of the reasons to support the introduction of the 2015 RWWI was an indication presented by the FIFA that only 25 to 30 percent of international transfers were concluded through licensed agents. Therefore, it can be suggested that even before the introduction of the 2015 RWWI a major part of international transactions was carried out through unlicensed representatives (whose knowledge was not subject to any control). This leads to a conclusion that there could be no sufficient change in the level of services of intermediaries after the introduction of the RWWI 2015.

Because the relevant rules do not set out specific sanctions for breach of LFF Regulation 2015 and no disciplinary procedures for breach have been carried out, it is unknown what sanctions may follow and, consequently, whether they are appropriate and sufficient.

In my opinion the LFF had no concept which can be defined as good governance of intermediaries before the implementation of the 2015 RWWI and such concept is barely existent within the LFF Regulations. Before the implementation of the 2015 RWWI and after its implementation the activities of agents/intermediaries were and still are not considered as important by the LFF. Therefore, limited efforts have been pulled to improve or set any standards for the governance.

Before the introduction of the 2015 RWWI, the FIFA Player's Agents Regulations were in legal power. In accordance to said regulations, the LFF had a duty to inter alia issue license to players, conduct examination procedures, control if agents comply with civil liability insurance requirements, register agents and manage a list of registered agents. Therefore, LFF governed activities of agents in order to comply with the FIFA Player's Agents Regulations; however no particular extra efforts were taken to expand governance of players' agent activities beyond obligations of national associations set by the FIFA.

In accordance to current 2015 RWWI and the LFF Regulations, there is basically no good governance of intermediaries. The LFF is only responsible for registration of transactions subject that such data is submitted by a player or a club. Therefore, it can be concluded that the general level of national governance of is barely existent.

In my opinion the FIFA Agent Regulations even before implementation were circumventable since massive use of a non-licensed agents was one of the major reason behind cancelation of old agent system. However, the current system which governs activities of a representative of a player at lower extent, is clearly more circumventable. It is very hard for the LFF to control if a player or a club uses a certain intermediary since they can simply not indicate him or her in a transaction and the LFF has simply no power to investigate such facts. Besides, only clubs and agents have certain duties, thus intermediaries are not motivated to actually 'appear' in a transaction. It may be assessed that only very few transactions involving intermediaries are disclosed and therefore the LFF Regulations are far from reaching its purpose.

The national expert notes that issues relating to intermediaries' activities is not of major importance to LFF. While data is limited and uncertain, it is the expert's opinion that there were few registered or licensed intermediaries before and after 2015. However, the expert notes that parties may not reliably disclose information on the involvement of intermediaries.

According to the expert, it is very difficult to ensure that all intermediaries are of impeccable reputation as there is no definition of an impeccable reputation and as well as this there are no decent measures or requirements to control the authenticity of declared facts by intermediary in the Intermediary Declaration.

In the expert's opinion, the LFF Regulations provide rules which are in theory capable of ensuring decent level of transparency of financial transactions involving intermediaries. However, it is reasonable to assume that there is a decent number of unreported transactions involving intermediaries which results in situation where financial matters of such transactions are not observed.

With assumption that this question relates to possible improvement of the LFF Regulations, first of all I would raise a general question on what the LFF is willing to achieve with the LFF Regulations and what are the basic policy/strategy of the LFF in terms of intermediaries. As mentioned on couple occasions before, the LFF has no particular interest in terms of governance of intermediaries due to alleged insignificance of such activities in Lithuania. The formation of general strategy and approach should be a priority and only then further recommendations could be addressed.

However, in the national expert's opinion, there are ways by which the current LFF Regulations could be improved:

First, LFF should amend their regulations and make sure that LFF dispute resolution bodies are competent to hear disputes involving intermediary. One of the main benefits of the old FIFA players' agent system was the fact that player agents could participate in FIFA's dispute resolution system. It ensured that an agent could defend his rights against players and clubs (as well as players and clubs against an agent) by help the FIFA dispute resolution bodies which is very comfortable considering that most of football transactions includes international element. Currently, the LFF dispute resolution bodies would not hear a dispute involving an intermediary which potentially discourages intermediaries to actually appear on transactions (which leads to further issues, such as circumventing the LFF Regulations, lack of transparency, etc.).

Secondly, subject to the first recommendation (introduction of resolution of dispute involving intermediary at LFF level), the LFF should also consider introducing a rule suggesting that dispute resolution bodies would only consider representation agreements or other documents which were submitted to the LFF in compliance of the LFF Regulations. It would encourage the parties to comply with the LFF Regulations and submit all necessary documents if they want that their rights are protected in case of a dispute.

Thirdly, the LFF should make clear what sanctions are applicable for the breach of the LFF Regulations.

Finally, the LFF could take more efforts to control the impeccable reputation, requiring certain documents proving that the intermediary is of impeccable reputation. For example, a document from competent state authority proving that the intermediary had not been convicted of certain criminal activities.

A harmonized approach should, in the expert's opinion, be adopted across the EU or at the FIFA level. The retain of discretion at national level may not only lead to very different approach to the same matters from association to association (which actually happened as from introduction of the 2015 RWWI and implementation of different versions of national regulations) but in general may create a situation when possibility of an intermediary to provide services in other country is diminished or limited which is against the EU law.

LUXEMBOURG

National legal requirements regulating agents

Intermediaries are not specifically regulated under national law. This is, there is no specific legislation adopted in Luxembourg aiming to regulate this profession. Intermediaries are not mentioned in the 2005 Act on Sport. Besides that, we have to take into account that ordinary law (Civil or Commercial law) may apply.

Consultation at national level regarding implementation of RWWI

No data available

Definition of intermediary

An intermediary is defined in art. 1 of the FLF Regulations on Working with Intermediaries as the natural or legal person:

1. Anyone who exercises “the activities” in Luxembourg.
2. Anyone who has been registered before the FLF or before any other national association as intermediary.

“The activities”, also defined in art. 1, refers to any activity aiming to conclude, extend or renew an employment contract or a contract for services, or to negotiate a transfer agreement.

Registration requirements

According to art. 3 of the national Regulations each intermediary engaged in a transaction should register within the FLF and file each representation contract according to art. 4 of the Regulations. A legal person may register as intermediary only by means of a natural person who is already registered as an intermediary.

The registration will be valid for the remainder of the season and must be done at the latest 10 days after the conclusion of a transaction. If the registration of the intermediary is made after the conclusion of a transaction, the player and/or the club must deposit, in addition to the Representation Contract, a Declaration signed by the intermediary.

The following documentation shall be submitted by a natural person before the FLF in a language accepted by the national association:

- a) Intermediary Declaration.
- b) A criminal record or an equivalent document from the country of residence if the person concerned does not resides in Luxembourg.
- c) A copy of his/her ID card or passport.
- d) A Declaration of honour that he/she has not been convicted of an offence concerning youth protection, sporting regulations, doping or match fixing, money laundering legislation and any financial offenses including bankruptcy.

Legal persons should submit, besides the said documentation, proof on the registration of the company in the country where its registered office is located.

A €500 annual fee is also requested for each individual registered.

Registration as an intermediary is not compatible with the status of Official, that is, managers, members of commissions, referees, assistants to referees, couches, trainers; together with technical, medical or administrative persons within FIFA or a national association or club (Article 1 of the national Regulations).

Impeccable reputation

The National Regulations do not contain a specific provision regulating impeccable reputation. As said, natural and legal persons must submit, as a registration requirement, a Declaration of honour that he/she has not been convicted of an offence concerning youth protection, sporting regulations, doping or match fixing, money laundering legislation and any financial offenses including bankruptcy.

Representation contract

Art. 4 of the national Regulations refers to Representation Contract. According to this provision, each Representation Contract concluded by an intermediary with a player and/or club should be submitted before the FLF at the moment of the intermediary's registration. The parties entering a Representation Contract shall inform the FLF in writing within 10 days from the signature. The same obligation applies for any early termination, renewal or amendment.

Art. 4 establishes that it is prohibited that the intermediary offers the player or his family any type of remuneration in exchange of a Representation Contract and for the player to accept it. It adds that if the case of minor players, their legal guardians must also sign the Representation contract.

Disclosure and publication

According to article 7 of the national association Regulations, when clubs and players do not resort to the services of an intermediary, the transaction in question must include a specific clause indicating that fact.

The players and/or clubs shall inform the FLF about any remuneration or any payment of any nature whatsoever made or planned to be made to an intermediary.

By end of March of each year, the FLF publishes on its website the list of registered intermediaries, as well as the details of the transactions in which they were involved. The FLF also publishes the total amount of remuneration or payments made to intermediaries by their registered players and their affiliated clubs.

Payments to intermediaries

According to art. 6 of the national association Regulations, the amount of remuneration due to an intermediary who has been engaged to act on a player's behalf shall be calculated on the

basis of the player's basic gross income for the entire duration of the contract. The article does not explain how clubs that engage the services of an intermediary shall remunerate him/her. It establishes that clubs must ensure that payments made from one club to another as part of a transfer fee are not paid to intermediaries.

As a recommendation, art. 6 establishes that the total amount of remuneration per transaction due to intermediaries should not exceed 3% of the player's basic gross income or the 3% of the eventual transfer fee paid in connection with the relevant transfer of the player.

Any payment for the services of an intermediary shall be made exclusively by the client of the intermediary to the intermediary.

After the conclusion of the relevant transaction and subject to the club's agreement, the player may give his/her written consent for the club to pay the intermediary on his/her behalf. The payment made on behalf of the player shall be in accordance with the terms of payment agreed between the player and the intermediary.

Officials, as defined by art. 1 of the national association regulations, are prohibited from receiving any payment from an intermediary of all or part of the fees paid to that intermediary in a transaction. Any official who contravenes the above shall be subject to disciplinary sanctions according to disciplinary FLF Regulations (Règlement FLF sur les procédures devant les Tribunaux internes et sur les peines). The assignment of claims is also prohibited.

Minors

According to art. 4 of the national association Regulations, intermediaries shall not be remunerated for their intervention in negotiations related to employment contracts or transfers of minors. This provision applies also to the parents of the minor in question. As said, registration requirements include the submission of a Declaration of honour that the intermediary has not been convicted for an offence concerning minor's rights violations.

Conflicts of interest (e.g. dual representation)

Conflicts of interest provisions are contained in art. 8 of the national association Regulations. According to this:

- 1) Registration as an intermediary is not compatible with the status of Official.
- 2) Prior to engaging the services of an intermediary, players and/or clubs shall ensure that no conflicts of interest exist for the players and/or clubs or for the intermediary.
- 3) If a player and a club wish to engage the services of the same intermediary within the scope of the same transaction, the player and the club concerned shall give their express written consent prior to the start of the relevant negotiations, and shall confirm in writing which party/ies (the player and/or the club) will remunerate the intermediary. The parties shall inform the FLF of any such agreement and accordingly submit all the written documents mentioned in art. 3 of the national association regulations.

Dispute resolution including key arbitration and state court cases

According to art. 9 of the national association Regulations, violations of the provisions of the regulations shall be considered a breach of art. 102 of the Regulations on proceedings before internal courts and on sanctions (Règlement sur les procédures devant les Tribunaux internes et sur les peines). This art. refers to the sanctions that shall apply special infractions. Art. 9 of the national association Regulations adds that these infractions shall be brought before the FLF internal bodies. According to the Regulations on proceedings before internal courts and on sanctions, these bodies are: The Federal Court; The Court of Appeal.

Sanctions

Sanctions are described in art. 9 of the national Regulations:

- 1) First infraction: The registration shall be invalidated.
- 2) Second infraction: The registration shall be invalidated and the intermediary shall not be able to register within the FLP for a period of 1 to 3 years.
- 3) Third infraction: The registration shall be invalidated and the intermediary shall not be able to register within the FLP for a period of 3 to 10 years.
- 4) Fourth infraction: The registration shall be invalidated the intermediary shall not be able to register within the FLP for a period of more than 10 years.

According to this article, these sanctions may be accompanied by a fine or other sanction provided by the FLF Regulations.

Art. 56 of the FLF Regulations on proceedings before internal courts and on sanctions describes two kinds of sanctions: sporting sanctions and pecuniary sanctions. The sporting sanctions are not applicable to intermediaries. In addition, fines may be imposed in the amount of minimum of €5 and a maximum of €750. The amount is set each year by the FLF General Assembly. Besides that, art. 9 of the national association Regulations establishes that the FLF will inform FIFA of any disciplinary action adopted against an Intermediary. The FIFA Disciplinary Committee will then decide on the eventual extension of the sanction worldwide in accordance with the FIFA Disciplinary Code.

National collective body of agents

Football agents/intermediaries are not represented by a collective body within Luxembourg.

Opinion of national expert

No data available

MALTA

National legal requirements regulating agents

No data

Consultation at national level regarding implementation of RWWI

No data

Definition of intermediary

The intermediary is a natural or legal person who, for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement.

Registration requirements

Application to act as an intermediary:

FA Regs Art. 3

(i) Any physical person, being either Maltese citizen or a permanent resident of Malta, provided he has lived constantly in Malta for at least two years, or a legal person, duly registered with the Malta Financial Services Authority, and wishing to act as an intermediary, shall send a written application to the Association.

(ii) The applicant, being a physical person, must possess those educational requirements as established in Annex A of these regulations and the application must be accompanied by those documents mentioned in Annex A. In the case of a legal person, such legal person must file with the FA those documents mentioned in Annex A. Provided that any physical person who shall act as an intermediary on behalf of a legal person shall be registered as an intermediary with the Association as a physical person.

(iii) The applicant, being either a physical person or legal person, must have an impeccable reputation as otherwise his application will be disregarded.

(vi) An applicant may not, under any circumstances, hold a position with FIFA, a confederation, a national association, a club or any organisation connected with these institutions.

(viii) If the application is acceptable, the Secretariat of the FA shall register the applicant as an Intermediary.

An intermediary registered with the FA is required to pay an annual fee of €500, to the FA: The first payment shall be made with the application and shall cover the period of 2 years, commencing from the date when the intermediary is informed that his application has been accepted.

Annex A:

A PHYSICAL PERSON: Basic Conditions Required: An education at ordinary level. Proficiency in the English language (spoken and written). A basic knowledge of the Malta FA

Statute; FIFA and UEFA Statutes; of Maltese Civil Law dealing with Persons and Obligations in General; of Maltese Labour, Social Security and Taxation Laws.

A sound knowledge of the Malta FA rules and regulations dealing with Member Clubs and with registered players; Malta FA Regulations Regarding Working With Intermediaries; of the FIFA Regulations for the Status and Transfers of Players.

Documents Required: All documents can be submitted as a verified true copy by an advocate, notary public or legal procurator having the warrant to exercise such profession in the Republic of Malta. An official birth certificate. An authenticated copy of the applicant's Maltese Identity Card, or National Passport. A Secondary School Leaving Certificate attesting that the applicant has completed Form Five (V) or equivalent. A recent Police Conduct Certificate from the person's country of residence. A declaration by the applicant that he has never been found guilty by a Maltese Court or a foreign court of a criminal offence and that he is not currently undergoing any criminal proceedings anywhere. A recent utility bill attesting the address of the person. A letter of recommendation by the bank in which the person holds his main bank account.

LEGAL PERSONS: Just a certificate of good standing issued by the relevant legal registering authority. A letter of recommendation by the bank in which the person holds his main bank account.

The Intermediary shall be registered with the FA for an unlimited period and shall be authorised to carry out transactions on a worldwide basis. As soon as the intermediary has received confirmation of his registration with the FA, he will be entitled to use the following designation in business relations after his name: "Intermediary Registered with the Malta Football Association". Intermediaries must be registered in the relevant registration system every time they are individually involved in a specific transaction. Within the scope of the above-mentioned registration system, clubs and players who engage the services of an intermediary are required to submit at least the Intermediary Declaration in accordance with annexes B and/or C of these regulations. The FA may request further information and/or documentation. Following the conclusion of the relevant transaction, a player engaging the services of an intermediary must submit to the association of the club with which he signed his employment contract at least the Intermediary Declaration and any other documentation required by the association. In case of renegotiation of an employment contract, a player engaging the services of an intermediary must also provide the association of his current club with the same documentation.

Following the conclusion of the relevant transaction, a club engaging the services of an intermediary must submit to the association of the club with which the player in question is to be registered at least the Intermediary Declaration and any other documentation required by the association. If the releasing club engaged the services of an intermediary, that club shall also submit a copy of the Intermediary Declaration to its association. (vii) The aforementioned notification by players and clubs must be made each time any activity within the scope of Article 1(i) of these regulations takes place.

Impeccable reputation

By signing the Intermediary Declaration, the intermediary confirms s/he holds impeccable reputation. For the purpose of Registration, according to Annex A of the FA Regulations, the Intermediary must submit a recent Police Conduct Certificate from the person's country of

residence. The intermediary must further submit a declaration by the applicant that he has never been found guilty by a Maltese Court or a foreign court of a criminal offence and that he is not currently undergoing any criminal proceedings anywhere.

Representation contract

An intermediary may represent or take care of the interests of a player or a club only if he has concluded a written contract with the player or club. Such a contract shall be limited to a period not exceeding two years but may be renewed in writing at the express request of both parties. It may not be tacitly prolonged. Clubs and players shall specify in the relevant representation contract the nature of the legal relationship they have with their intermediaries, for example, whether the intermediary's activities constitute a service, a consultancy, a job placement or any other legal relationship.

The main points of the legal relationship entered into between a player and/or club and an intermediary shall be recorded in writing prior to the intermediary commencing his activities. The representation contract must contain the following minimum details: the names of the parties, the scope of services, the duration of the legal relationship, the remuneration due to the intermediary, the general terms of payment, the date of conclusion, the termination provisions and the signatures of the parties. If the player is a minor, the player's legal guardian/s shall also sign the representation contract in compliance with the national law of the country in which the player is domiciled. The contract shall explicitly mention who is responsible for paying the intermediary fee, the type of fee and the prerequisite terms for the payment of the fee. The representation contract shall be issued in quadruple and duly signed by both parties. The player or the club shall keep the first copy and the intermediary the second. The intermediary registered with the MFA shall send the third and fourth copies to the FA, or the national association to which the player or club belongs, for registration within fourteen (14) days of their having been signed. The FA shall keep a register of the contracts being received. Copies of the contracts shall be sent to FIFA upon request.

Disclosure and publication

FA Regulations: Players and/or clubs are required to disclose to the FA the full details of any and all agreed remunerations or payments of whatsoever nature that they have made or that are to be made to an intermediary. In addition, players and/or clubs shall, upon request, with the exception of the representation contract, the disclosure of which is mandatory, disclose to the competent bodies of the leagues, associations, confederations and FIFA, all contracts, agreements and records with intermediaries in connection with activities in relation to these provisions, for the purpose of their investigations. Players and/or clubs shall in particular reach agreements with the intermediaries to ensure that there are no obstacles to the disclosure of the above-mentioned information and documents.

All above-mentioned contracts shall be attached to the transfer agreement or the employment contract, as the case may be, for the purpose of registration of the player. Clubs or players shall ensure that any transfer agreement or employment contract concluded with the services of an intermediary bears the name and signature of such intermediary. In the event that a player and/or a club have not used the services of an intermediary in their negotiations, the pertinent documentation lodged within the scope of the respective transaction shall contain a specific disclosure of this fact. (iii) The FA shall make publicly available at the end of March of every calendar year the names of all intermediaries they have registered as well as the single

transactions in which they were involved. In addition, the FA shall also publish the total amount of all remunerations or payments actually made to intermediaries by its registered players and by each of its affiliated clubs. The figures to be published are the consolidated total figure for all players and the individual clubs' consolidated total figure. (iv) The FA may also make available to its registered players and affiliated clubs any information relating to transactions that have been found to be in breach of these provisions that is of relevance for the pertinent irregularities. (v) The FA shall publish the names of those intermediaries who have terminated their activities and notify FIFA and UEFA immediately.

Payments to intermediaries

The amount of remuneration due to an intermediary who has been engaged to act on a player's behalf is calculated on the basis of the player's annual basic gross income (i.e. excluding other benefits such as a car, a flat, point premiums and/or any kind of bonus or privilege) that the intermediary has negotiated for him for the entire duration of the player's contract. The intermediary and the player shall decide in advance whether the player will remunerate the intermediary with a lump sum payment at the start of the employment contract that the intermediary has negotiated for the player or whether he will pay annual instalments at the end of a contractual year.

If the intermediary and the player do not decide on a lump sum payment and the player's employment contract negotiated by the intermediary on his behalf lasts longer than the representation contract between the intermediary and the player, the intermediary is entitled to annual remuneration even after expiry of the representation contract. This entitlement lasts until the player's employment contract expires or as soon as the player signs a new employment contract without the help of the same intermediary. The total amount of remuneration per transaction due to the intermediary who has been engaged to act on the player's behalf shall not exceed 3% of the player's basic gross income for the entire duration of the player's contract. The total amount of remuneration per transaction due to the intermediary who has been engaged to act on a club's behalf, in order to conclude an employment contract with a player should not exceed 3% of the player's eventual basic gross income for the entire duration of the player's contract. The total amount of remuneration per transaction due to the intermediary who has been engaged to act on the club's behalf in order to conclude a transfer agreement shall not exceed 3% of the eventual transfer fee paid in connection with the relevant transfer of the player.

An intermediary who has been contracted by a club shall be remunerated for his services by payment of a lump sum that has been agreed upon in advance. Clubs shall ensure that payments to be made by one club to another club in connection with a transfer, such as transfer compensation, training compensation or solidarity contributions, are not paid to intermediaries and that the payment is not made by intermediaries. This includes, but is not limited to, owning any interest in any transfer compensation or future transfer value of a player. The assignment of claims is also prohibited. Subject to sub-article (viii) and Article 9 below, any payment for the services of an intermediary shall be made exclusively by the client of the intermediary to the intermediary. After the conclusion of the relevant transaction and subject to the club's agreement, the player may give his written consent for the club to pay the intermediary on his behalf. The payment made on behalf of the player shall be in accordance with the terms of payment agreed between the player and the intermediary. Officials, as defined in Article 11 of the Definitions section of the FIFA Statutes, are prohibited from receiving any payment from an intermediary of all or part of the fees paid to that intermediary in a transaction. Any official

who contravenes the above shall be subject to disciplinary sanctions. Players and/or clubs that engage the services of an intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such intermediary if the player concerned is a minor.

Minors

If the player is a minor, the player's legal guardian/s shall also sign the representation contract in compliance with the national law of the country in which the player is domiciled. Players and/or clubs that engage the services of an intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such intermediary if the player concerned is a minor.

Conflicts of interest (e.g. dual representation)

Prior to engaging the services of an intermediary, players and/or clubs shall use reasonable endeavours to ensure that no conflicts of interest exist or are likely to exist either for the players and/or clubs or for the intermediaries.

No conflict of interest would be deemed to exist if the intermediary discloses in writing any actual or potential conflict of interest he might have with one of the other parties involved in the matter, in relation to a transaction, representation contract or shared interests, and if he obtains the express written consent of all the other parties involved prior to the start of the relevant negotiations. If a player and a club wish to engage the services of the same intermediary within the scope of the same transaction, the player and the club concerned shall give their express written consent prior to the start of the relevant negotiations, and shall confirm in writing which party (player and/or club) will remunerate the intermediary. The parties shall inform the FA of any such agreement and accordingly submit all the aforementioned written documents within the registration process.

Dispute resolution including key arbitration and state court cases

(i) In the event of disputes between an intermediary and a player, a club and/or another intermediary, all of whom are registered with the FA, the competent body to deal with such disputes is the Complaints Board of the Association.

The Complaints Board shall deal with the case and take a decision. The rules governing the Complaints Board, including the right of appeal from decisions of the Complaints Board shall apply.

Any other complaint not covered by sub-article (i) above shall be submitted to the FIFA Players' Status Committee.

Sanctions

An Intermediary registered with the FA who abuses the rights accorded to him, or contravenes any of the duties stipulated in these regulations, shall be liable to sanctions from the Control and Disciplinary Board of the Association. The following sanctions may be pronounced by the FA or by FIFA: a caution, censure, or warning; a fine; suspension of the registration as an intermediary; withdrawal of the registration as an intermediary.

The sanctions may be imposed cumulatively. FIFA shall have the right to direct the FA to mandatorily withdraw the registration of an intermediary.

If a player engages the services of a non-registered intermediary the Disciplinary Board of the Association may punish him with: a) with a caution, censure or warning; b) with a maximum fine of €7.000; c) with a disciplinary suspension of up to twelve (12) months. These sanctions may be imposed cumulatively.

If a club engages the services of a non-registered intermediary the Disciplinary Board of the Association may punish him with: a) a caution, censure or warning; b) suspension of any or all of its committee members or the members of the board of directors, as the case may be, for up to twelve (12) months; c) a fine of a maximum of €13,000; d) a ban on any national and/or international players' transfers for at least 3 months; e) a ban on any kind of national and/or international football activity. The sanctions may be imposed cumulatively. In addition, any transaction which a club makes in contravention of the above-mentioned articles will be declared null and void.

National collective body of agents

No data (probably no collective body)

Opinion of national expert opinions

No data

NETHERLANDS

National legal requirements regulating agents

The Regulation on Intermediaries (KNVB RI) of the Dutch Football Association (KNVB) contains a general reference to domestic legislation. The Placement of Personnel by Intermediaries Act (the “WAADI”) applies to any form of employment mediation, including the activity of intermediaries. Furthermore, registered intermediaries must receive a Certificate of Conduct by the Dutch State Secretary for Security and Justice.

Consultation at national level regarding implementation of RWWI

The Dutch Football Federation established a working group prior to the entry into force of the first edition of the KNVB RI, comprised of the KNVB itself, the collective body representing the interests of intermediaries (Pro Agent), the collective body representing the interests of football clubs (FBO), the collective bodies representing the interests of players (VVCS and ProProf), the body representing the interests of the first league (ECV), and a number of individual football clubs.

Definition of intermediary

A natural person who or a legal entity which, at a fee or otherwise, represents or wishes to represent players and/or clubs during negotiations with regard to the conclusion of player contracts and/or agreements with regard to the transfer of players and who is registered as such with the KNVB, in accordance with these regulations.

Registration requirements

Before a natural or legal person can be registered as an intermediary, the natural person (or the natural person representing the legal person) must provide a fully completed and signed intermediary statement; a copy of a valid passport and/or valid ID card; and c. an original certificate of good conduct as provided in the Persons Database of the Dutch government or in the register of the Dutch Chamber of Commerce, or a similar document in the country where the natural person and/or legal entity is registered, subject to approval by the board for the purpose of representing players and/or clubs. Intermediaries are registered for one year, and the registration is renewable at any time. The KNVB charges intermediary registration costs for every registration. The current registration fee is €544,50 (€450, excl. 21% VAT).

Although not regulated in the KNVB RI, the KNVB has implemented a system of certified organisations of intermediaries. Intermediaries as such are thus not certified on an individual basis, but an organisation of intermediaries to which they are affiliated can be. The reason for implementation of the certificate is to guarantee the quality and reliability of intermediaries in order to protect players and clubs. In order for the organisation to be certified, intermediaries must attend at least one “knowledge meeting” each year, and they must have a professional liability insurance. The organisation must have implemented a code of conduct and provide legal support to the intermediaries affiliated to it. Only organisation with at least 25 affiliated intermediaries can be registered. And the organisation must have an independent compliance committee that surveys the compliance of the affiliated intermediaries with the preconditions and duties applicable. Only KNVB-registered intermediaries may be affiliated to the organisation.

Impeccable reputation

In order for an intermediary to be registered with the KNVB a Certificate of Conduct needs to be provided. Such Certificate of Conduct is issued by the Dutch State Secretary for Security and Justice. By issuing a Certificate of Conduct it is declared that the applicant did not commit any criminal offences that are relevant to the performance of his or her duties.

Additionally, in order to be registered as intermediary by the KNVB, intermediaries are required to sign an “intermediary statement”. By signing such statement, intermediaries declare, inter alia, that they have an “unblemished reputation”.

Representation contract

The representation agreement must be in writing. The KNVB made a representation agreement template available on its website. This provides also the minimum standard and elements that must be present in the representation contract. The term of the representation agreement may not be longer than two years and any extension may also not be longer than two years. An extension must be made in writing, and implicit extensions are not permitted. The representation agreement may not contain any terms that are contrary to the law, Statutes or regulations of the KNVB, UEFA and/or FIFA, and/or decisions of one of their bodies.

Disclosure and publication

According to the Dutch Regulations, an intermediary must provide all information requested by the KNVB, UEFA and/or FIFA and/or one or more of their competent bodies; the intermediary shall ensure that his name and signature are affixed to each employment contract and/or agreement regarding the transfer of a player, which will have to state the fee paid to the intermediary for the negotiations of the agreement. Furthermore, the representation agreement concluded between the intermediary and the player or the club shall be enclosed as an annex to the employment contract and is to be registered with the KNVB. Should no intermediary have been involved, this must also be explicitly mentioned. The Federation publishes annually the name of all the intermediaries registered and the list of transactions in which they were involved in the preceding year. The KNVB publishes also the total sum paid during the year to KNVB registered intermediaries by KNVB affiliated clubs with regard to players registered with the KNVB.

Payments to intermediaries

The representation agreement shall contain the financial arrangements. In case no financial arrangements have been made between an intermediary and a club, the intermediary is entitled to an annual commission of 3% over the player’s gross annual salary. In respect of the commission of an intermediary representing a player, the commission must be calculated on the basis of the gross annual salary of the player over the entire duration of his employment contract. If a club has concluded a contract through the activity of the intermediary, the club (and not the player) must remunerate the intermediary for his/her activity. In respect of the commission of an intermediary representing a club, the commission shall be a fixed amount agreed upon prior to the negotiations regarding the conclusion of an employment contract and/or a transfer agreement. With the written consent of the club, such amount may be paid in instalments.

Minors

Commission related to an intermediary activity undertaken for the conclusion of a player contract and/or the agreement with regard to the transfer of a minor player, can only be paid as from the moment the player has turned 18 years of age.

Conflicts of interest (e.g. dual representation)

A player cannot be represented by more than one intermediary during the negotiations on the conclusion of a player contract and/or an agreement with regard to the transfer of this player. If, during the negotiations the intermediary engages another intermediary and/or collaborates with one or more intermediaries other than those employed by the same legal entity-intermediary, the agreements set out in this paragraph must be documented and submitted to the KNVB.

If, during the negotiations the player and the club wish to be represented by the same intermediary, the player and the club must grant written permission to that end prior to those negotiations and document whether or not the intermediary is paid a fee on behalf of the player and/or club. The player and/or club must submit the agreements and/or documents referred to in this paragraph to the KNVB.

Dispute resolution including key arbitration and state court cases

The Regulations establish that disputes between intermediaries and members of the KNVB, as well as disputes among intermediaries will be settled by arbitration to the exclusion of the civil court, with due observance of the relevant provisions in the Arbitration Regulations. The wording is vague as to whether Arbitration refers exclusively to the Arbitration Committee of KVN B or any arbitration.

One recent arbitral award issued by the Arbitration Tribunal of the KNVB is of particular interest in respect of the activities of intermediaries, in particular in respect of validity of certain types of clauses and the termination rights.

On 3 September 2015, Alkan (intermediary) and Kongolo (player) signed a 2 year contract for representation, in which no clause for exclusive representation was included and in which the possibility of early termination was not excluded. Alkan argued that the parties signed a second representation contract on the same date as the first representation contract – a further elaboration of the first representation contract. The second representation contract contained an exclusivity clause, according to which Kongolo could be represented only by Alkan, therewith excluding the possibility for Kongolo to represent himself, and the possibility to terminate the contract before its natural end. Kongolo argued that the second representation contract was forged, and that it was entered into under the influence of error.

The Tribunal held that exclusion of the player's possibility to represent himself is contradictory to the Regulations; furthermore, the second contract contained provisions that significantly differed from what was established in the first agreement. As only the first contract was forwarded to the KNVB for registration, the intermediary failed to ensure transparency with a view to ensuring that representation contracts do not contain provisions that are in conflict with the applicable legislation.

Sanctions

The only sanction provided for in the KNVB RI in respect of intermediaries is the termination of an intermediary's registration. In this event, the intermediary cannot be registered again by the KNVB within the first 5 years of such termination, subject to the assessment of the board of the KNVB.

This sanction will be imposed in the following cases: if an intermediary fails to observe the rules, regulations and decision of the KNVB, UEFA and/or FIFA; when an intermediary has been convicted without appeal by a disciplinary body of the KNVB, an association affiliated with FIFA, the UEFA and/or FIFA for violating legislation; when an intermediary is placed under guardianship or under protective guardianship; when an intermediary has been granted an irrevocable suspension of payment; when an intermediary has been declared bankrupt under an irrevocable court judgement; when the statutory debt management scheme has been declared applicable to the intermediary; and/or when the intermediary has been convicted without appeal under criminal law for committing a crime.

Since KNVB-registered intermediaries are subject to the Disciplinary Regulations of the KNVB by signing the intermediary declaration, further sanctions may be imposed, ranging from a reprimand to a maximum fine of €34.000 for natural persons

National collective body of agents

Football intermediaries in the Netherlands are collectively represented by Pro Agent. The membership of Pro Agent includes direct advice, participation to workshops, access to an international network, defending the interest of intermediaries, legal advice, tax advice, financial advice.

Opinion of national expert

The national expert submits that it is difficult to assess the quality of the services offered by intermediaries and the appropriateness of the remuneration they receive, as there is no statistical information readily available on commissions paid to intermediaries by clubs in individual transactions. According to the UEFA Club Licensing Benchmarking Report, the average commission paid by Dutch clubs is 12%, which is 1% below the European average. This percentage may justify the conclusion that intermediaries in the Netherlands are more than appropriately remunerated.

The disciplinary sanctions provided for in the KVN B Regulations do not appear to have been drafted with the possible sanctioning of intermediaries in mind. While the maximum pecuniary sanction of €34.000 seems rather low, the most severe sanction (termination of membership) means that the range probably serves its purpose. The national expert considers that it would be worthwhile to specifically set out in the KNVB RI that if a disciplinary measure is imposed on an intermediary, the KNVB has the right/duty to request FIFA to extend such sanction to an international level, to ensure greater effectiveness and prevent a sanctioned intermediary – particularly the more internationally operating intermediaries – from shifting his/her businesses to other countries.

The expert considers that the good governance of intermediaries has diminished. This is due to the opening of the market to operators, without any specific warranties, such as a professional liability insurance and a knowledge test in place, and without any international disciplinary regime being applicable and the loss of FIFA's direct sanctioning power. In this regard, the system would be improved with a knowledge test as a precondition for registration and a mandatory professional liability insurance which would provide certain warranties for clubs and players.

Greater clarity on the norms regulating conflict of interests would also benefit the system, as well as the regulation of agreements granting intermediaries a commission in case of future transfer of the player. Furthermore, a system of international sanctioning that would impose disciplinary measure both at domestic and international level is needed.

A more harmonised approach would better serve the interests of football. Key principles to be set out in the domestic regulations could be mandatory, but national associations should be afforded a certain discretion regarding issues of minor importance, in particular in order to comply with domestic legislation. However, the football market is international in nature and not solely European, therefore the EU may not be the most appropriate forum to regulate the sector. A more harmonised approach should therefore be set by FIFA, which would have greater enforcement power.

Although an exam should probably not fully restrict the market of intermediaries, a high-level exam would certainly ensure that licensed intermediaries at least have a certain knowledge of the most important regulations and domestic laws, and importantly, ethical rules.

The licensing of groups of intermediaries in the Netherlands could be used at international level. However, it is possible that high level intermediaries will remain outside the system as they may not need the service of the group.

NORTHERN IRELAND

National legal requirements regulating agents

UK Common Law and legislation applies in Northern Ireland: UK Common Law on Agency applies to intermediaries, requiring them to observe duty of care and skill, obey instructions and avoid conflict of interests. A number of legislative measures apply to the work of intermediaries: the Fraud Act 2006, the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2010 and the Bribery Act 2010. The main objectives of this set of legislation is to guarantee minimum requirements and impose criminal responsibility on offenders.

Consultation at national level regarding implementation of RWWI

A new Regulations was adopted by the Irish FA in June 2018. However, there is no sign that any formal consultation was undertaken before the adoption of such Regulations.

Definition of intermediary

Any person or persons who carries out an Intermediary Activity – meaning acting, for or on behalf of a Player or Club in relation to a Transaction - and has completed the relevant Intermediary Declaration Form.

Registration requirements

Whenever an Intermediary is involved in a Transaction he/she shall be registered in accordance with the Intermediary Regulations. The Intermediary must sign and register the intermediary Declaration, in which he/she confirms that he holds an impeccable reputation and that he accepts the jurisdiction of the Irish FA. The Regulations do not mention any specific requirements.

Impeccable reputation

The Regulations do not mention the requisite of impeccable reputation. It is assumed that the FIFA RWWI applies in this context, as the Irish FA Regulations refer to them in the introduction. The only mention can be found in Annex II, which provides a sample of the Intermediary Declaration. In this regard, by signing and registering the Declaration, the Intermediary states that he holds an impeccable reputation and in particular confirm that no criminal sentence has ever been imposed upon him for a financial or violent crime. Furthermore, clubs and players shall act with the appropriate level of due diligence in the selection and engaging of Intermediaries who are acting for them. However, this only means that clubs and players shall use reasonable endeavours to ensure that Intermediaries sign the appropriate Intermediary Declaration Form.

Representation contract

Clubs and Intermediaries, and players and intermediaries, shall ensure that a Representation Contract exists between the represented party and the intermediary prior to such Intermediary carrying out any Intermediary Activity. Within the representation contract, Clubs and Players

shall specify at least certain minimum information, such as the scope of the services provided, and the nature of the legal relationship they have with their Intermediary and other details e.g. names, duration of the contract, remuneration, general terms of payment, the termination provisions, signature of the parties, etc. The Representation Contract must be registered with the FA.

Disclosure and publication

Players and Clubs are required to disclose full details of remunerations paid to Intermediaries. The lists of registered intermediaries as well as the transactions in which they have been involved and the total remunerations made to intermediaries are published on the website of the Northern Ireland FA.

Payments to intermediaries

An Intermediary may be remunerated by the Club or the Player for whom he / she acts, in accordance with the terms of the registered Representation contract or the relevant paperwork submitted to the Irish FA for the Transaction. The Irish FA recommends that the remuneration follows the 3% benchmark. It should not exceed 3% of the Player's Basic Gross Income for the entire duration of the Player's contract, or 3% of the eventual transfer fee if acting on behalf of the club.

Minors

In the event that the Player is a Minor, the Player's legal guardian(s) shall also sign the Representation Contract. Players and/or Clubs that engage the services of an Intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such Intermediary if the player concerned is a Minor.

Conflicts of interest (e.g. dual representation)

As a general rule, conflicts of interest shall be avoided. However, the 2018 Regulations provide for the possibility of disclosure, in writing, of any potential conflict of interest by the Intermediary. A FIFA official cannot act as an Intermediary. An Intermediary and a Club or Player, as the case may be, must have entered into a Representation Contract prior to such Intermediary carrying out any Intermediary Activity. Dual Representation is allowed if, prior to the start of the relevant negotiations, written agreement is obtained by all the parties concerned, in particular the clubs and the player.

Dispute resolution including key arbitration and state court cases

Any breach of the Intermediary Regulations shall be referred to the Irish FA's Dispute Resolution Body who will have the jurisdiction to deal with any such alleged breach and to impose sanctions in accordance with the Rules of the Association

Sanctions

The 2018 Regulations state that the Irish FA is responsible for imposing sanctions on any party under its jurisdiction. Therefore, the intermediary falls under the jurisdiction of the FA. The

Regulations, however, do not mention any specific sanctions. It has to be assumed that the sanctions are those listed under the Rules of the Association.

The Irish FA will publish any disciplinary sanctions issued in this regard, including the name and any other relevant information relating to an Intermediary against whom a decision has been made, and pass such information to FIFA which can then decide whether to give the sanctions worldwide effect.

National collective body of agents

In Northern Ireland there is no collective body representing agents. However, there is a UK body – the Association of Football Agents – based in England.

Opinion of national expert

The Regulations of intermediaries in Northern Ireland are limited in scope and mainly replicating the FIFA RWWI. Of particular relevance is the absence of any particular requirement for registering as an intermediary, apart from a self-declaration confirming the impeccable reputation of the candidate.

The market for agents in Northern Ireland is extremely limited in size. The number of registered agents reflect this, and it is likely that most of the intermediaries are registered with the English FA. This affects the transparency of the system. While the list of registered intermediaries is published on the IFA website, the Regulations are not available. The lack of information available on a number of aspects confirms the lack of transparency. It may be believed that there is no real need for greater transparency as the regulations are not necessarily applied.

POLAND

National legal requirements regulating intermediaries

There is no specific regulation under Polish national law governing football intermediaries. However, there are civil law regulations that apply to agents and other intermediaries in the Polish Civil Code, such as rules governing power of attorney, including, depending on the circumstances, regulations governing particular type of actors. There are currently no plans to amend the national legal regulation.

Consultation at national level regarding implementation of RWWI

The Polish FA (PZPN) adopted its regulations implementing the 2015 RWWI in March 2015 (Resolution nr III/42, hereinafter “PZPN Regulation 2015”). The regulation was subsequently amended in August 2017 (Resolution nr III/42 with amendments in Resolution nr VIII/143, hereinafter “PZPN Regulation 2017”). No additional amendments are currently planned. The PZPN Regulations were adopted without general public consultations, although after consultations with clubs and, to a lesser extent, intermediaries and players.

The changes made in 2017 sought to increase efficacy and transparency of agreements and to make intermediary requirements more precise. The following changes in the resolution have been made:

- Intermediary registration procedure has been reformed and described in a more detailed way (amendments to Articles 4(3) and 4(7)),
- Intermediaries functioning as a legal entity are allowed to represent players who are minors (removal of Article 6(5)),
- PZPN has changed the list of information to be published on website and committed to publish on its website: (1) list of intermediaries registered by the PZPN, (2) list of transactions conducted by those intermediaries in the last 12 months, (3) list of the combined fees earned by the intermediaries from the following clubs, (4) collective amount submitted by the club to the players (amendments to Article 9(1)).

Definition of intermediary

The definition of “intermediary” in PZPN Regulation 2017 is very similar to the definition stated in 2015 RWWI (Article 1(5)).

Registration requirements

According to Article 4(3) PZPN Regulation 2017, an application to become a registered intermediary shall contain (i) an Intermediary Declaration, consisting of a legal declarations of will and knowledge, covering with its range such critical issue as not having conflict of interest and not hold function with a football association, FIFA or other governing body, (ii) confirmation that the declaration is sent by registered mail, (iii) confirmation of payment of an obligatory registration payment of 1,000 PLN (~ €235), and (iv) confirmation of civil liability insurance. While PZPN states in the official documents that the insurance rate shall be negotiated by PZPN and published, the amount of the rate was not published on the official

pages. However, due to the information presented in the official documents the amount is fixed. The intermediary must also possess an impeccable reputation. No requirements are made beyond what follows from RWWI 2015.

Impeccable reputation

Any natural person that applies to become an intermediary, must state that he has not been convicted with a final and an appealable judgement for any crime committed with intent or fiscal crime committed with intent which is subject to public prosecution ex officio (unless the record was expunged), and must have not been punished with disqualification in the period covered by the intermediary's declaration or with disqualification for corruption in sport. In case of intermediaries who are legal persons or other organization units, the above-described requirements must be met by persons authorized to represent those entities, e.g. members of the board of directors.

Representation contract

Title XXIII of the Polish Civil Code (art. 758 et seq.) governs agency contracts and makes some mandatory requirements, whereas others can be deviated from through contract. According to Article 6(1) PZPN Regulation 2017, intermediary agreements must contain "first and last names or names of the parties, scope of services provided, term of the contract (with the date of commencement of services and their completion), the amount of remuneration determined for the implementation of intermediation, manner of its payment, provisions relating to termination or expiration of the contract and the signatures of the parties." Additionally, PZNP advises in informal documents, e.g. that intermediary agreements should be signed for a period of one football season.

Disclosure and publication

The following information requires disclosure and publication:

- Information concerning possible conflict of interest (Articles 3(3)–3(5)),
- A person acting on the behalf of the legal person signing an intermediary contract (Article 6(2)),
- Clubs and players shall inform PZPN on every action performed by the intermediary intending to conclude any agreement between the client and intermediary (Articles 5(2)–5(5)), and
- Clubs and players shall provide every documentation related to the matter of any contract signed with an intermediary and documentation relating to any transaction conducted with the help of an intermediary or resulting in the creation of an obligation of payment to intermediary (Articles 8(1)–8(5)).

Furthermore, in connection to registration, the following information must be provided to the PZPN:

- Information containing in the Appendix 1 & 2 (declarations, attachment 1 Citations, p. 3) described above,

- Agreement of professional insurance liability policy of the intermediary, (Article 4(3)),
- Intermediary agreement,
- Any action that precedes conclusion, negotiation or signing of a contract with the contribution of the intermediary,
- Intermediary must especially publish the information concerning sides of the above described actions.

Also, all disciplinary sanctions imposed will be published by PZPN. Finally, PZPN will annually publish (i) a list of intermediaries registered by the PZPN, (ii) a list of transactions conducted by those intermediaries in the last 12 months, (iii) a list of the combined fees earned by the intermediaries from the following clubs, and (iv) the total amount paid by the club to the players.

Payments to intermediaries

The Polish Civil Code regulates the agency contract in specific provisions only if the provisions have not been changed or regulated through contract. The basic provisions on the matter of remuneration in agency contract state that the agent can demand remuneration for actions that resulted in conducting an agreement. The amount of remuneration shall be related to the main contract or amounts of contracts and shall be decided due to the standards in the exemplary market on which the agency contract was concluded (arts. 758(1) and 761 § 1 CC).

The main regulations in the PZPN Regulation states that an intermediary can be remunerated only by the club or player with whom he or she signed the intermediary agreement. However, a player can authorise a club to pay an intermediary directly out of his or her remuneration from the club, but only if this is provided for in the player's contract along with the precise amount to be paid.

In case of an intermediary who acts on behalf of a player, the fee amount should be determined based on the players' basic remuneration throughout the period covered by the contract negotiated with the intermediary's participation. Article 7(3) PZPN Regulation 2017 recommends that the total amount of the fee payable to the intermediary for a single transaction should not be greater than 3% of the player's basic remuneration during the term of the contract, when the intermediary's services were provided in transferring the player out. Furthermore, intermediaries cannot participate in the payment of transfer sums and other payments relating to player transfers.

Minors

An intermediary agreement can only be entered into with a player who is at least 15 years old or who in accordance with PZPN regulations has received his or her first professional contract offer (Article 6(3) PZPN Regulation 2017). Additionally, according to Article 6(4) PZPN Regulation 2017, any intermediary agreement with a minor player must also be signed by his or her legal guardians, as required by Polish law (art. 10 § 1 CC). Finally, it is also prohibited for a player, who has not attained legal age, or for a club to pay any fees to a player who has

not attained legal age, and to incur any obligations to pay any such fees in the future (Article 7(11) PZPN Regulation 2017).

Conflicts of interest

According to PZPN Regulation 2017, the existence of a conflict of interest is defined as when the intermediary could realize his personal interests or economic gains in negotiation or execution of the transaction, at the expense of the interests of the club, player, football or public interest (Article 3(2)) – for each transaction. A conflict of interest can be ruled out when the intermediary discloses in writing, to all entities involved in the transaction all his actual or potential conflict of interests, which exist or may exist between him and other entities involved in a given transaction, and receives – before the negotiations have started – an express written consent from all entities involved in a given transaction for the intermediary to participate in that transaction. Furthermore, in a case where a player and a club wish to engage the services of the same intermediary, both parties must give their written consents and specify which party will be responsible for paying the intermediary and inform PZPN of this.

Dispute resolution including key arbitration and state court cases

According to Article 10(7) PZPN Regulation 2017, all contractual disputes relating to intermediaries shall be resolved by the Arbitration Court of the PZPN (Piłkarski Sąd Polubowny przy PZPN). Parties can also give the Arbitration Court jurisdiction by agreement. All the disciplinary actions are regulated by the Disciplinary Regulation of PZPN. Article 121 of that regulation provides a legal basis for the following disciplinary organs to take actions, depending on the matter and the scale of the disciplinary offence and the parties involved:

- Board of directors or other disciplinary body inside the club, in case of the inside club disputes,
- Locally competent Disciplinary commission acting at Voivodship PZPN branch, in case of the lower divisions of polish league games,
- Special Disciplinary commission regulating 3rd division of polish league, on the matter of issues concerning 3rd division games,
- Appropriate Commission acting on behalf of Ekstraklasa S.A. on the matter of issues concerning highest division games,
- PZPN Disciplinary Commission (Komisja Dyscyplinarna Polskiego Związku Piłki Nożnej), in all the cases which were not reserved for the other disciplinary bodies, or reserved only for hereby commission under art. 124 PZPN Disciplinary Regulation.

However, all the civil claims arising from those actions can be pursued in front of the Arbitrary Court of the PZPN.

Depending on the case, there are several organs within PZPN that can deal with the matter, including jurisdiction organs such as Disciplinary Commission (Komisja Dyscyplinarna), Chamber of the Sport Dispute Resolution Affairs (Izba ds. Rozwiązywania Sporów Sportowych), Highest Appeal Committee (Najwyższa Komisja Odwoławcza), Arbitrary Court at PZPN (Piłkarski Sąd Polubowny), Commission for Club Licence (Komisja ds. Licencji

Klubowych) and Appeal Commission for Club Licence (Komisja Odwoławcza ds.Licencji Klubowych).

There is at least one case where an intermediary was disqualified for 5 seasons for unethical conduct, but because the Arbitration Court's decisions are not public, access to detailed information is limited.

Most decided cases concern procedural issues, in particular relating to the Arbitration Court of the PZPN. In a recent case, the Polish Highest Court of Justice in the judgment from 28th of March 2017 (II CSK 444/16), have stated that the usage of the limitation clause arising from the article 5 CC ("principles of social coexistence"), is justified to restrain the payment of the intermediary fee arising from the footballers' transfer, in case of the negligence of the intermediary.

Sanctions

In accordance with the Disciplinary Regulations of PZPN, disciplinary sanctions include (i) reprimand, (ii) fine, (iii) temporary prohibition from participation in football related activities, and (iv) suspension. Additionally, clubs can be sanctioned with a transfer ban.

In line with Article 99 of the PZPN Disciplinary Regulations, any intermediary who abuses the received authorization, specified in the PZPN or FIFA regulations, or fails to fulfil the duties specified in those regulations with respect to starting, performing or stopping the activities of an intermediary, is subject to punishment in form of (i) a reprimand, (ii) financial penalty of not less than 5.000 PLN, and (iii) a temporary prohibition from participation in any activities related to football.

PZPN Disciplinary Regulations provide that anyone operating as intermediary without authorization, in particular without registration in line with PZPN regulation, is subject to (i) a financial penalty of not less than 20.000 PLN and (ii) a temporary prohibition in any activities related to football.

Moreover, PZPN Regulation 2017 provides that a violating intermediary can be sanctioned with (i) disqualification for two seasons if the intermediary acted or concluded an intermediary deal without registration or (ii) disqualification for five seasons or permanently if the intermediary was undertaking further actions without registration or again concluding an intermediary agreement without registration.

National collective body of agents

There is no organisation representing agents or intermediaries working on the football market in Poland.

Opinion of national expert

According to the national expert, the previous, license-based system was both practically problematic, e.g. unlicensed attorneys' ability to function as intermediaries, and problematic under Polish law, problems that the current system resolves. To the expert's understanding, a change was necessary due to the contradiction between the FA's regulations and national and

European Union law, as only Polish law, not PZPN regulation, can limit the freedom of business activity in Poland.

The number of intermediaries and amount of transactions has increased steadily, year by year, since 2015 but this has not, in the national expert's opinion, lead to a clear decline in the quality of intermediary services. The expert describes the Polish market of football transactions as a rising market that deals with problems that are typical of such rising markets. The expert describes a multi-tiered market where there is a top-layer of consisting of a small number of intermediaries that mostly represent footballers playing in the Polish premier league and abroad and that are well-compensated for their services. Below this is a larger number of intermediaries that represent fewer or less successful clients, that do not earn as much, and that often work part-time as intermediaries. Finally, there is a group of intermediaries that have private or unofficial relations with their clients and that are difficult to evaluate. While it is difficult to measure, the expert believes that there are a quite significant number of unregistered intermediaries that are particularly active in transactions in the lower Polish football divisions. Lack of transparency regarding and information about such unofficial intermediaries are the most serious issues.

Increased effort should be spent to encourage small intermediaries to be registered in smaller football markets, like Poland, rather than to concentrate on bigger transactions and imposing sanctions on players, including decreasing registration formalities.

The expert advocates increased centralized regulation of basic issues, particularly by FIFA, with room for national deviations with regard to details. This should be coupled with increased co-operation between public and sport bodies on both the national, European, and international level. For example, increased cooperation between regulatory bodies and tax authorities in order to prevent repeat offenders from entering the market and to trace actual cash flow. This would help increase transparency while providing national FA's to develop tools that are appropriate for resolving local problems, such as issues relating to developing markets.

The expert raises several issues relating to enforcement. While the regulations provide sufficient sanctions, they are not executed efficiently enough, especially with regard to intermediaries, in particular with regard to the final execution of disciplinary sanction. Many of the obligations under the regulations rest with the intermediaries' clients and failure to comply with the regulation will lead to them being sanctioned. Therefore, the system, which seeks to promote transparency and efficiency as well as protect the weakest party, the player, might easily sanction the weaker party and protect the status quo. The expert also suggests that the list of available sanctions should be enlarged and adapted to the current problems of the market. One suggestion is to emphasize "soft sanctions", such as official warnings.

Finally, the expert advocates a reformation of the Arbitration Court of the PZPN, including reforming basic rules, increasing the number of arbitrators, and increasing transparency.

PORTUGAL

National legal requirements regulating agents

Intermediaries are regulated under the Portuguese Regulations on Working with Intermediaries, adopted by the Portuguese Football Federation (FPF) on the 1st of April 2015, which applies to the intermediaries and to all players and clubs affiliated with the FPF, the Portuguese League of Professional Football (LPFP) and the district and regional football associations.

The Law of Physical Activity and Sport (2007) and the Law that regulates employment and contractual matters in Portuguese sports (2017) also regulate the activities of sport agents, for all sport disciplines, including the intermediaries as what refers to football.

Finally, sport agents are included in the list of sport stakeholders that are under the scope of application of the Legal Regimen of Penal Liability for Anti-sport behaviours (2007, revised in 2017).

There are no public statements regarding any plans to amend the current provisions.

Consultation at national level regarding implementation of RWWI

The Regulations were adopted by the Board of the FPF, a competence provided at the law (article 41, paragraph 2, sub-paragraph a) of the Legal Regime of the Sports Associations, approved by Decree-Law No 248-B/2008, of 31st December, as amended by Decree-Law No 93/2014, of 23rd June.)

Definition of intermediary

An Intermediary is defined as a natural or legal person who, with legal capacity therefor, upon remuneration or free of charges, represents the player or the club in negotiations, with a view to the signature of a sports employment contract or a transfer contract.

This definition is similar to the FIFA's definition, and differs from the previous definitions namely (i) by including legal persons; (ii) by providing the possibility of an intervention free of charge; (iii) by enlarging the scope of the activity, from someone who introduces players to clubs/two clubs to one another to someone who acts on a representation basis.

Registration requirements

Registration of Intermediaries:

- Only the natural or legal persons registered with the FPF may exercise the activity as an Intermediary;
- The Intermediary must previously request his registration whenever he participates in a transaction;

- The registration of an Intermediary may be requested for a sports season and the relevant testifying document shall be issued;
- The registered Intermediary may use, in the exercise of his activity, the designation of “Intermediary registered with the FPF”;
- The Intermediary cannot, under any circumstance, use the marks, logos or any other distinctive signs of the FPF.

Requirements for registration:

The Intermediary must attach the following documents to his registration or renewal request:

- a) Copy of civil and fiscal identification documents;
- b) Declaration of Intermediary, as per model attached to these Regulations;
- c) Affidavit containing the declaration of the non-existence of contractual relations with leagues, associations, confederations or with FIFA which may lead to any conflict of interest;
- d) Updated criminal record;
- e) Copy of the policy of third party liability insurance adequate to the exercise of the activity, covering liability for damages up to an amount of €50.000,00;
- f) Declaration of the non-existence of a situation of insolvency;
- g) Certificate testifying that the tax obligations are fulfilled, issued by the relevant authorities.

The following persons are considered prevented from exercising the activity as Intermediary:

- a) Anyone of irreproachable repute;
 - b) Anyone who has been convicted for crimes practiced in the domain of the legislation on violence, racism and xenophobia in Sport, within five years after serving the penalty, unless if a different sanction has been applied by judicial decision;
 - c) Anyone who has been convicted for crimes practiced in the domain of doping or for behaviours likely to affect the truth, loyalty and fairness of the competition and its results in the sports activity, within five years after serving the penalty, unless a different sanction has been applied by judicial decision;
 - d) Anyone who has been convicted for any crimes punishable with imprisonment for more than three years, within five years after serving the penalty, unless a different sanction has been applied by judicial decision;
- All the documents shall be written in Portuguese;

- If the Intermediary is a legal person, the registration shall only be accepted if there is a representative registered as an Intermediary;
- For the registration or registration renewal a fee of €1.000 shall be due.

Impeccable reputation

An Intermediary Committee was set up with the competence to issue, at any time, binding opinions as a matter of regular procedure or upon request of any interested party:

- a) On the integrity of the applicants to become an Intermediary;
- b) On the integrity of intermediaries, in which case the cancellation of the registration may occur.

That Intermediary Committee is composed of:

- a) Two members appointed by the FPF, one of them being the Chairman;
- b) One member appointed by the Portuguese League of Professional Football;
- c) One member appointed by the Professional Football Players National Union;
- d) One member appointed by the National Associations of Football Agents.

The Committee shall meet and decide provided that at least the majority of its members is present and the Chairman has casting vote in case of a tie.

The decision on the integrity must be taken by two thirds of the members of the Committee, taking into consideration, in particular, the disciplinary, professional and sporting record of the applicant or the Intermediary.

Representation contract

The representation contract is concluded in four copies and each party keeps one, the FPF keeps another one and the LPFP another one, in the cases the contracts are related to players or clubs participating in their competitions and must contain at least the following data:

- a) Identification of the parties, including the Intermediary's registration number;
- b) Description of the scope the nature of the services to be provided being specified;
- c) Duration of the legal relationship, which cannot be over two years and cannot contain a clause for automatic renewal (this is provided both by the FPF regulations and by the law);
- d) Remuneration of the Intermediary for the activity carried out by him;
- e) Payment conditions;
- f) Date of signature;
- g) Termination clauses, if any;

- h) Signatures of the parties, and the signature of the player must be made in presence of the public notary, in case the player is a party of the contract, and it must be specially mentioned that a copy of the contract has been delivered to him.

The Intermediary shall deliver the representation contract he has concluded with a player or with a club at the FPF for registration and it cannot under no circumstance be delivered after the registration of the transaction.

The player, the club and the Intermediary immediately inform the FPF of any transfer of the contractual position, early termination, subcontract, alteration or any situation affecting the representation contract registered, within ten days as from the fact that led to the alteration and the transferee must be registered.

Disclosure and publication

The player and the club shall provide the FPF with full information on any remunerations or payments agreed, of any nature whatsoever, they had made or are to make to an Intermediary. Upon request of the FPF, the player or the club must disclose all the contracts, agreements and registrations involving an Intermediary which are related to employment or transfer contracts. The player and the club must conclude agreements with the Intermediary, in order to guarantee that there are no obstacles to the disclosure of the information and documents.

All the above-mentioned contracts must be attached to the transfer contract or the sports employment contract, as the case may be, for purposes of registration of the player.

The club or the player must ensure that any transfer contract or employment contract concluded using the services of an Intermediary contains the name and signatures of such Intermediary and his number of registration at the FPF.

In case a player or a club has not use the services of any intermediary in its negotiations, the relevant documentation concerning the transaction must contain a specific clause indicating that fact.

Each year, at the end of March, the FPF makes public on its official website the names of all the intermediaries it has registered, as well as the transactions object of intermediation, and the total amount of all the remunerations or payments made by the players and its affiliated clubs. Such amounts must be consolidated and their publication shall be made separately per club and for the totality of the players.

The FPF shall also provide to the registered players and affiliated clubs any information concerning the transactions which are in breach of these provisions and which are relevant for the irregularities in question.

Payment to intermediaries

The regime provided by the FPF Regulations is the following:

The amount of the remuneration due to an Intermediary hired to act on behalf of the player shall be calculated based on the gross income corresponding to the term of the contract.

A club hiring the services of an Intermediary must agree the remuneration before the transaction is made and the payment can be made in a lump sum or in instalments.

Unless it is agreed otherwise and mentioned in a written clause of the initial contract, the total amount of the remuneration per transaction due to the Intermediary cannot exceed:

- a) As to the Intermediary who has been hired to act on behalf of a player, 5% of the gross income of the player corresponding to the term of the employment contract;
- b) As to the Intermediary who has been hired to act on behalf of a club, for purposes of conclusion of an employment contract with a player, 5% of the gross income of the player corresponding to the term of the employment contract;
- c) As to the Intermediary who has been hired to act on behalf of a club, for purposes of conclusion of a transfer contract with a player, 5% of potential transfer fee paid in relation to the player's transfer, with the possibility of the potential remuneration being subject to future conditions.

The club must ensure that the payments due to another club concerning a transfer, in particular for compensation, training or solidarity contribution, are not made to the Intermediary nor by the Intermediary himself. Any payments for the services provided by an Intermediary shall be made exclusively by the player or the club and the transfer of credits is forbidden.

After completion of the transaction, the player may give his written consent to the club for it to make the payment to the Intermediary on its behalf. The payment made on behalf of the player must be in accordance with the payment conditions agreed between the player and the Intermediary.

As to the percentage of the commission to be paid to the intermediary it must be added that the law caps the maximum commission chargeable by an intermediary to a player at 10% of the player's income and states that an intermediary's right to the commission is subject to his representation contract with the player remaining in force (a different regimen, though, comparing with the one adopted by the Federation).

Minors

The Intermediary cannot act on behalf of players who are minors – this is both provided by the FPF Regulations and by the law. A representation contract entered into with a minor must be signed by the minor's legal representatives.

Conflicts of interest

Before hiring the services of an Intermediary, the player and the club must use their best efforts to ensure that, in relation to all of them, there is no conflict of interest and that there is no risk of there being conflict of interest in the future.

The mandatory 'Intermediary Declaration for natural persons', annexes to the Regulations, and mandatory, contains several declarations through which the intermediaries declare having no sort of conflict of interests.

Further to the law, the following persons or bodies are prohibited from acting or exercising the activities of an intermediary: (i) Clubs; (ii) Sports companies; (iii) Sports officials and administrators; (iv) Referees, coaches, doctors and physio.

Dual representation is prohibited by art. 5.3 of the national association Regulations.

Dispute resolution including key arbitration and state court cases

The Disciplinary Committee of the FPF is the first (federal) instance body competent to impose disciplinary sanctions regarding intermediaries.

The parties to the representation contract can voluntarily refer a dispute arising from the interpretation and/or validity of such contract to the Portuguese Court of Arbitration for Sport ('Tribunal Arbitral do Desporto'), a jurisdictional entity that is independent from the public administration sports bodies and the bodies that make up the sports system with specific power to administer justice in relation to disputes arising from the sports legal system or related to the practice of sports.

Depending on the nature of the disputes at stake some state courts can also intervene to solve disputes involving intermediaries (e.g. criminal or administrative courts).

The case law regarding intermediaries comprises just a few cases, mainly applying the previous regulation, deciding essentially the following:

- A contract signed between a player and an intermediary not registered within the national football association is not valid (either considered legally inexistent or null and void).
- The legal nature of the contract signed between a player and an intermediary is of a mandate.

Sanctions

The FPF is responsible for the imposition of sanctions to any of the parties who is in breach of the provisions of the Regulations, but the Regulations do not contain the applicable infringements.

The applicable infringements are enshrined in the FPF Disciplinary Regulation and the list of sanctions can be systematized as follows:

- a) Reprimands.
- b) Fines (maximum around €2.040).
- c) Bans of registration (and simultaneous cancellation of the registration), from 2 to 10 football seasons.

National collective body of agents

Intermediaries are represented by the ‘National Association of Sport Agents’ (Associação Nacional dos Agentes do Futebol - ANAF), whose members are registered intermediaries. Apart from representing their members, ANAF is focused on training both the current intermediaries and those who want to become an intermediary. ANAF is member of the National Sport Council, a consultative body of the member of the Portuguese Government responsible for sport. ANAF’s website (only available in Portuguese) is the following: <http://www.anaf.pt/>

Opinion of national expert

The national expert considers that the quality of the services provided by intermediaries has not substantially changed since the introduction of the 2015 RWWI. He thinks that the new regime makes it easier to access the activity of intermediary. The previous regime was more demanding (trying to assure the knowledge/preparation/skills of the candidates) despite the differences regarding the level of difficulty of the exams – for example, several Portuguese citizens preferred to do their exams at some national football associations of the former Portuguese colonies, considered to have easier exams.

Regarding remuneration, and bearing in mind that FIFA recommends a commission of 3% and that according to the Portuguese regimen the cap is 10%, he considers that the remuneration is adequate if not a good one.

Regarding harmonization at EU level, he considers that national approach creates great disparities between different countries (national football associations) and a possible harmonised approach through the EU, certainly by means of a Directive, will only achieve an harmonization among 28 countries (national football associations). The best scenario would be to have a single/unified regime applicable to the 211 national football associations affiliated to FIFA. In other words, in his opinion, regulation should be at a worldwide level in view to achieve a universal scope and content as well as to ensure equality so that FIFA should reassume such regulation.

REPUBLIC OF IRELAND

National legal requirements regulating agents

No specific legislation or instances of judicial focus on the area. Regulation is governed by general principles of the law of agency and the law of contract without any significant judicial decision on the matter. Ireland is however a member state of the European Union and accordingly any EU level legal interventions will have direct effect in Ireland.

Consultation at national level regarding implementation of RWWI

No formal consultation process took place. Existing agents and perspective agents were informed.

Definition of intermediary

The definition in the FAI regulations is copied directly from the 2015 RWWI almost verbatim save for an extremely minor difference in sentence construction and accordingly is absolutely consistent with the FIFA definition.

Registration requirements

Anyone conducting intermediary activity within the jurisdiction of the FAI only must be registered with the FAI. The intermediary must have an impeccable reputation and must have no contractual relationship with any football league, body or association that could potentially lead to a conflict of interest. Intermediaries must be covered by valid professional indemnity insurance with a minimum coverage of €100.000. Furthermore, intermediaries must pay a registration fee of €350, and provide proof of Garda (Police) Vetting clearance, proof of completion of an approved course for the protection of children in sport and a Tax Clearance Certificate issued by the Irish Revenue Service which confirms that the application is fully tax compliant. Finally, the intermediary must also provide two character references in order to be registered.

Impeccable reputation

The FAI requires two valid character references for each intermediary, however there is no definition as to what a valid character reference is. All intermediaries must be properly vetted by the Gardaí (Irish Police Service). This process involves background checks to determine if a person is fit to work with children or vulnerable adults. Any criminal offence “likely to negatively impact” an intermediary can cause an intermediary to be removed. All intermediaries must submit evidence of being tax compliant and sign the declaration confirming that they have never been convicted of a financial or violent crime.

Representation contract

The Regulations do not include any provisions on the representation contract.

Disclosure and publication

The FAI Regulations require the disclosure and publication of all details of “single transactions” and total remuneration. Furthermore, the Regulations allow the FAI to publish information relating to transactions that have been found to breach the provisions of FAI Regulations.

Payments to intermediaries

The relevant FAI regulation (FAI Reg 7) is transposed directly from the FIFA RWWI Reg 7 verbatim with no change whatsoever, including the 3% cap recommendation. There is no governing national law which regulates these payments save for general legal provisions which would govern any payment in any transaction e.g. taxation, law of contract, law of agency, etc.

Minors

Minors are protected firstly by ensuring that every intermediary has been vetted by the Gardaí (Irish Police) to work with children and vulnerable adults. Furthermore, every intermediary must undertake specific training in child protection in sport as part of an approved course and must provide evidence of having completed this course. All Intermediaries are subject the FAI Child Welfare Policy and any matters involving minors may be referred to the FAI’s Child Welfare Officer in the first instance and then onwards to the FAI’s Disciplinary bodies.

Conflicts of interest (e.g. dual representation)

The relevant FAI regulation (FAI Reg 8) is transposed directly from the FIFA RWWI Reg 8 verbatim with no change whatsoever.

Dispute resolution including key arbitration and state court cases

Disputes under the FAI Regulations may be resolved either by the Competitions Director or by the FAI Disciplinary Bodies where appropriate (FAI Reg 9.1) where a complaint is made. No cases have been reported.

Sanctions

FAI Reg 10 provides for a broad range of sanctions. Any party under the FAI’s jurisdiction can be subject to these sanctions. A number of Intermediary specific sanctions also exist: suspension of a specific activity; suspension of registration; removal of registration; the provision of any documentation and/or information required by the FAI. The FAI may publish the details of any sanction and forward them to FIFA in order to assess if a worldwide sanction needs to be imposed.

National collective body of agents

AFA is the primary representative body for licensed player agents in the United Kingdom and the Republic of Ireland.

Opinion of national expert opinions

Any comment on the quality of the services provided by intermediaries in Ireland is difficult due to the limited number of registered intermediaries and transactions occurred. Given the small nature of the league and the tiny volume of transactions it is not possible for any intermediary registered under the FAI Reg to be making a living from working as an intermediary. While the Regulations encourage appropriate remuneration however, the very limited level of services formally provided may justify a low level of remuneration.

On paper, the system designed by the FAI Regulations is quite comprehensive and would encourage good governance and achieves its aim. In practice however only one intermediary is currently registered with the FAI. Former Irish licenced agents have tended to register as intermediaries in England, making the FAI Regulations rather useless where zero transactions have been reported.

The national expert suggests EU/EEA harmonisation of regulations, and specifically a common EU/EEA registration system. While FIFA have effectively devolved the implementation of the RWWI to National Associations the operation of different systems within a common market can make matters extremely complicated and problematic.

Although the previous system had its well-publicised problems the requirement of a licence did ensure a certain level of understanding of regulations and quality of candidate. The loss of an exam is regrettable particularly when international transfers can have complex issues around the status of minors, training compensation and solidarity.

Finally, Brexit may pose significant challenges, as most of the Irish internationals play in the UK, and their status may change after the UK withdrawal from the EU.

ROMANIA

National legal requirements regulating agents

Generally, the agency contract is regulated by the provisions of art. 2096 – art. 2102 of the Romanian Civil Law that came into force on October the 1st, 2011. According to this normative, the agency contract is that contract “by which the intermediary engages to the client to put them in connection with a third party with a view to concluding a contract” (art. 2096). This convention is regulated by disposition norms, which means that the parties are fully free to derogate from the provision, to the extent allowed by the law and common sense.

The main characteristics of the agency contract, such as it is regulated by the civil legislation, are:

- the intermediary is not considered employed by the intermediated parties, being independent from them when executing their obligations;
- the intermediary has the right to remuneration from the client only if the intermediated contract is concluded as a consequence of their intermediation;
- in the absence of agreement between the parties or of certain special legal provisions, the intermediary has the right to remuneration in compliance with the previous practices agreed between the parties or with the protocol existing among the professionals for this type of contracts;
- the intermediary is entitled to reimburse the expenses incurred for the intermediation, if expressly stipulated so by the contract;
- if the intermediation was done by several intermediaries, each is entitled to an equal quota from the remuneration globally established, unless the contract stipulates differently;
- the intermediary and the client as well have the obligation to information: the intermediary has the obligation to notify the third party with all the information concerning the advantages and opportunity of the intermediated contract and the client has the obligation to notify the intermediary if the intermediated contract was concluded within 15 days from the date of its conclusion;
- the intermediary may represent the intermediated parties upon the conclusion of the contract only if especially authorized to this purpose.

As can be noticed, the agency contract is regulated by supplementary norms that can be derogated, with the agreement of the parties. In this respect, the activity of the intermediaries in the football sector is regulated by the Agents Regulations adopted by the Romanian Football Federation in 2015.

Currently, since 2011, there are no projects to amend the provisions of the Romanian Civil Law.

Consultation at national level regarding implementation of RWWI

The Romanian Football Federation did not launch any public consultation procedure before implementing 2015 RWWI. To our knowledge, there were no controversies regarding the adoption of the Regulations concerning the Intermediaries. These regulations were unanimously adopted in the meeting of the Executive Committee of the Romanian Football Federation on April 23rd, 2015, and the decision of the Executive Committee was not subsequently legally contested.

Definition of intermediary

According to the Intermediaries Regulations adopted by the Romanian Football Federation, the intermediary is defined as “any natural person or legal entity organized as a trading company, to perform an intermediary activity and being registered with FRF in compliance with Addenda 2 and 3 of these Regulations”.

Under the rule of the previous regulations, the player agent was defined as being “the natural person putting in connection, in exchange for a commission, players and clubs with a view to negotiate or re-negotiate a work contract / civil contracts or putting in connection two clubs with a view to conclude a transfer agreement, in compliance with the dispositions stipulated in these regulations”.

As it is noticeable, the current regulations extended the area of intermediaries, including legal entities as well. Moreover, the current regulations refer to the intermediary activity, whereas the former regulations described this activity in the very definition of the player agent – putting in connection two clubs or a player and a club with a view to concluding a transfer agreement in exchange for a commission.

Another novelty in the current definition is the express requirement of registering the intermediary with FRF in compliance with addenda 2 and 3 of the Regulations.

The FRF definition is complying with the FIFA definition, yet, we can see that the FIFA definition is more comprehensive in the sense that it describes the intermediary activity, similar to what the former FRF regulations did in its previous version.

Registration requirements

The registration of intermediaries shall be done in compliance with the provisions contained in Addendum 2 of the Regulations concerning the Intermediaries adopted by FRF on April 23rd, 2015. It rules that “Any natural person or legal entity intending to act as intermediary shall register with FRF. The registration and/or registration renewal of the intermediaries shall begin every January and shall stand valid for a 12-month period”.

The registration file shall contain:

- written request;
- valid identification record of the natural person or legal entity, as case may be;
- written statement such as stipulated at point 4 of this addendum;
- copy of the identification card / registration certificate (CUI);

- registration fee payment receipt.

By the written statement, drafted in compliance with point 4 of the addendum, the applicant shall confirm their “consent to observe the statuses, regulations, directives and decisions of the competent bodies of FIFA and of FRF, as well as the jurisdiction of the CAS at Lausanne”.

As far as the conditions to be met by the applicant are concerned, Addendum 2 rules that:

- a club’s official, a coach or a player cannot be registered as intermediaries (such as it is defined in the FRF Status and Regulations);
- the applicant “must make proof of an impeccable reputation”.

Yet, the Regulations concerning the intermediaries admit the right of other persons to perform intermediation activities, without being compelled to register with FRF and observe the provisions of the Regulations. Thus, art.3 point 2 of the Regulations rules that “a legally authorized natural person practicing law in compliance with the legislation in force in the country of residence can represent a player or a club during the negotiations of a transfer or of a work / civil contract”. Furthermore, art. 3 point 4 stipulates: “The activity of these excepted natural persons having the quality of lawyers is not regulated by these Regulations”. These norms give the possibility to certain natural persons, qualified as lawyers, to perform sport intermediation activities, without being registered with FRF and without using the standard intermediation contract.

Impeccable reputation

The requirement for “impeccable reputation” is stipulated among the conditions imposed in Addendum 2 of the Regulations. This norm also explains the meaning of “impeccable reputation”. Thus, “it is considered that applicants have an impeccable reputation if they were never convicted for financial or violent crimes. In this respect, the applicant has the obligation to submit, together with the registration request, an up-dated identification record, issued by at the most 15 days prior to the submission date.” It can be noticed that this regulation is a verbatim transcription of the 2015 RWWI adopted by FIFA.

Representation contract

Unlike the previous regulations, the current Regulations specify the fact that a Representation contract can be concluded for one single transaction. Thus, art. 5 point 10 of the Regulations rules that “An intermediary can sign with a Client a Representation contract for one single transaction. Upon the conclusion of the transaction, the Contract ceases as of right”. In the former regulations, art. 19 point 3 ruled that “The Representation Contract is valid for a maximum duration of 2 years. This can be extended for another 2 year period, by a new written contract concluded only when the term stipulated in the previous contract elapsed, being unable to concomitantly register two contracts with subsequent periods. The contract cannot be tacitly or automatically extended”. Thus, the current regulations restrict the object of a Representation contract to one single transaction, clearly specified in its clauses, renouncing the modality of concluding the contract for a determined period without taking into consideration the number of transactions that could have been done in that period.

Another novelty is represented by the mandatory character of using the application form contained in Addendum no 4 of the Regulations. This contract shall contain all the agreements between the parties regarding the intermediary activity, and it must contain at least all the mandatory provisions in the Standard Representation contract. The parties are free to also insert other contractual terms, only if they are in compliance with the mandatory provisions of the Standard Representation contract of these Regulations and with the provisions of the FIFA Regulations concerning the modality of working with the Intermediaries.

If the parties are using another type / form of contract, this shall not be registered in the records of FRF and shall not be opposable to third parties. Also, signing a Representation contract on an application form different than that issued by FRF represents a breach of the Regulations and shall be sanctioned with the exclusion from the list of intermediaries for the respective intermediary activity, and a penalty of 50,000 lei (approx. €10.700) for the other signatory parties.

All the parties to the Representation contract are obliged to send to FRF copies of all the Representation contracts they are involved in. The Representation contracts must be registered with FRF within 30 days from their signature or at the latest before the date of transferring the player / the contract is registered with the competent authority.

Any contractual provision breaching the obligations and provisions of the FIFA Regulations regarding the modality of working with the Intermediaries is strictly forbidden. In this case, FRF has the competence to notify the parties with regard to any breaching, the parties having the obligation to amend the notified clause. Non-observance of the obligation to amend the clause represents breaching of the current Regulations, distinct from the first irregularity.

All the parties of the Representation contract have the obligation to inform FRF, in written, of or any event that can affect the validity of the Representation contract (except for the expiration of the contract), within 30 days from the occurrence of the respective event.

If a player concludes a Representation contract with an Intermediary, the club has the obligation to discuss with the Intermediary for any transfer concerning the respective player, except for the case when the player sends a written request to the club, expressly stipulating the contrary. The player has the obligation to send this written notification to the Intermediary as well before the transaction takes place.

Disclosure and publication

Making public the data concerning the activity of the intermediaries is regulated by art. 7 of the Regulations, under the title of “Publicity to Third Parties”. This article rules that:

- “FRF shall publish the name and registration number of all intermediaries and, if case be, the name of all intermediation Companies (legal entities registered as Intermediaries) on a list on the official FRF site that shall be periodically updated”.
- “FRF has the right to publish, in any way and at any time deemed necessary, a list of all performed transactions, under the services of an Intermediary”.
- “FRF has the right to publish, in any way and at any time deemed necessary, the total consolidated amounts representing payments made to the players / coaches / clubs’

officials Intermediaries and the total consolidated amounts representing payments made by the clubs o the Intermediaries”.

- “FRF has the right to publish any decision in connection with these Regulations, in any way and whenever deemed necessary, including the name or any other relevant information referring to an Intermediary that was disciplinarily sanctioned, including if a registration was suspended or withdrawn”.

Payments to intermediaries

The Romanian Civil Law leaves it to the choice of the parties to establish the remuneration in the case of the Representation contract: “in the absence of an agreement of the parties or of certain special provisions, the intermediary has the right to a remuneration in compliance with the practices previously established between the parties or with the practices existing among the professionals for this type of contracts”. Consequently, the remuneration of the intermediaries is established by the standard Representation contract supplied by FRF. In this regard, a restriction is constituted by art. 10 of the Regulations concerning the intermediaries: “As a recommendation, the Client and Intermediary can use the following references:

- The total remuneration of the intermediary for a transaction where they represented a player / coach / club official shall not exceed 3% of the player’s gross income, for the entire duration of the respective contract.
- The total remuneration of the intermediary for a transaction where they represented a club for concluding a contract with a player / coach / club official shall not exceed 3% of the player’s gross income, for the entire duration of the respective contract.
- Taking into account the provisions of art. 8 (conflict of interests), the total remuneration of an intermediary for a transaction where they represented a club with a view to transferring a player shall not exceed 3% of the transfer fee effectively paid for the transfer of the player”.

However, observing the principle of autonomy of will of the parties, this restriction is imposed only “as recommendation”, and thus, it does not represent an imperative norm. And thus, the conclusion that the remuneration of the intermediaries can exceed the above-mentioned quantum, without affecting the validity of the Representation contract, is valid.

Other conditions concerning the remuneration of the intermediaries are:

- When an Intermediary engages to represent a Client, this fulfils their obligations of payment according to the provisions of the Representation contract registered with FRF only in one or several of these versions:
- The Client pays directly to the Intermediary; and/or
- When the player/coach/club official sends a written notification to the club, the club may deduct from the periodically net paid salary to the player / coach / club official an amount to cover the obligations assumed by the Client in the Representation contract registered with FRF.

- When the Intermediary and the player / coach / club official mutually agree on the provisions of the Representation contract that a commission (a lump sum or deferred payments) shall be paid to perform a certain transfer, the commission shall be calculated based on the gross income of the player / coach / club official, in compliance with the provisions of the contract concluded following the services supplied by the Intermediary.
- If the player / coach / club official and the Intermediary consented to deferred payments, the Intermediary has the right to receive the due amounts until the end of the contract or up to when the player / coach / club official signs a new contract, without requesting the services of the Intermediary.
- The fee owed by a club to an Intermediary for the intermediation services supplied shall be established as a lump sum previously consented upon.
- All payments or remunerations of any kind made to any person in connection with the intermediary activity performed for or on behalf of a club must be fully registered in the books of the club.
- An Intermediary or an intermediation Company cannot direct transfer the intermediary remuneration to a person that was not involved in the transaction.
- A club that must pay to another club solidarity contributions and/or training and promotion compensations and/or any other payment deemed afferent to the transfer, has the obligation to directly make the payment to the beneficiary club. Clubs are forbidden to pay any amounts to a person that was not involved in the transaction.
- An intermediary is forbidden to accept the payment of a commission if the transaction targeted the negotiation of a work or transfer contract of a minor player.

FRF does not publish the remunerations due to each intermediary for each transaction, but the consolidated sum, referring to all the transactions performed in a certain period of time. Thus, from April the 1st, 2015 up to March the 31st, 2016, at national level, 21 transactions were performed for an amount of €110,500, from April the 1st, 2016 up to March the 31st, 2017, 19 transactions were performed for the amount of €320,800, and from April the 1st, 2017 up to March the 31st, 2018, 32 transactions were performed for the amount of €1,182,900. As an extrapolation of these data, we could say that the remunerations paid to the intermediaries follow an ascending trend.

Minors

The FRF 2016 Regulations on Intermediaries contains norms regarding the protection of the minors. Art. 5 point 8 of the Regulations rules that “It is forbidden for an Intermediary to approach, directly or indirectly, or conclude a contract with regard to the intermediary activity of a player before January the 1st of his 16th year”. Consequently, the minors up to 16 cannot have the quality of clients within the intermediary activity. Furthermore, “An intermediary is forbidden to accept payment of commission when the transaction targeted the negotiation of a work or transfer contract of a minor player”. Thus, the intermediary activity of a minor between 16 and 18 can only be done free of charge.

Conflicts of interest (e.g. dual representation)

Conflict of interests, as dual representation, is regulated by the provisions of art. 8 of the Regulations concerning the intermediaries. Thus, it rules that:

- An intermediary can represent only one of the parties of a transaction, except for the case when the intermediary and the other parties involved fully comply with the conditions regarding dual / multiple representation stipulated at paragraphs 2 and 3 below. These conditions must also be fulfilled, prior to any situation in which two or several registered intermediaries are to represent more than just one part of the transaction.
- the intermediary who concluded a Representation contract with one of the parties of a transaction (“the first party”) and the relative Representation contract were registered with FRF by observing the conditions stipulated at art. 3 of the Regulations; alternatively, the Intermediary concluded a sub-contracting agreement in connection with the first party by observing the conditions at art. 3, paragraph 6 of the Regulations; and
- the intermediary receives the written consent of all parties with a view to representing any of the parties of the transaction (“the other party/ parties”); and
- once the intermediary and the other party/parties consented to the terms and conditions (but prior to having concluded a representation contract), the intermediary must inform in written all the parties involved, of all the details of the agreements proposed, including but not limited to the remuneration payable to the intermediary by the parties; and
- all parties are given the reasonable possibility of accessing to independent legal advice and/or in the case of a player, to request advice from the players’ union, prior to expressing their written consent; and
- after having been given this possibility, all the parties give their express consent, in written, that the Intermediary conclude a Representation contract with another party / other parties under the terms and conditions proposed.
- when any of the parties does not give their express consent, in written, in compliance with the above conditions, the Intermediary is forbidden to supply the services to another party / other parties or receive any remuneration from the other party / parties for the respective transaction, and the other party / parties is / are forbidden to benefit from the services of the Intermediary or make payments to the Intermediary for the respective transaction. The Intermediary may continue to represent only the first party in the respective transaction and be paid for these services in compliance with art. 4 of the Regulations and with the terms and conditions of the afferent Representation contract.

Thus, dual representation is allowed, on condition that all parties involved in the transaction accept it and observe the provisions of the Regulations, above quoted. The national legislation

adopted the same solution that stipulates the sanction of relative nullity (referring to which, the interested party could renounce) regarding double representation.

As far as the conflict of interests under different disguise is concerned, this is regulated by the regulations. Thus:

- an intermediary or an intermediation company cannot hold shares or positions within a football club. Similarly, a club, player, coach or club official cannot hold shares or positions in an intermediation company or an interest in the activity of an Intermediary.
- an intermediary must have no interest of any kind in connection with the right of registration of a player. This includes, without being limited to having any interest in a transfer indemnity or any future transfer value of a player. This does not prevent the intermediary acting exclusively for a club in a transaction to be remunerated in relation to the total sum of the transfer indemnity engendered by that transaction;
- an intermediary must not give, offer or attempt to offer any benefit of any kind, to any club, coach or player to facilitate access to players. It is also forbidden to promote the services of the Intermediary to the players in connection with any transactions or in exchange for any benefit, service, favour or any kind of preferential treatment regarding the club's players. Clubs, coaches, club officials as well as players are forbidden to accept such offers to receive such benefits;
- an intermediary must not give, offer or attempt to offer any benefits of any kind to a player (or any family member of that player) in connection with concluding an intermediation Contract with that Intermediary. Players are forbidden to accept such offers or to receive such benefits.

Dispute resolution including key arbitration and state court cases

To register as FRF Intermediary, an individual must submit a statement by which he fully consents to the Status of the Romanian Football Federation and to the FRF Regulations in the context of performing as an intermediary. The intermediary also declare that all litigations engendered or in connection with this activity shall be submitted to the FRF or FIFA, and as a last resort to the CAS at Lausanne. Thus, the litigations engendered by the intermediary activity shall be submitted to the competent FRF Discipline and Ethics commission or FIFA dispute resolution chamber, as case may be, and after submitted to CAS.

Sanctions

Art. 9 of the Regulations states that “any breaching of the present Regulations is deemed as disciplinary deviation. Any disciplinary deviation shall be subject to the FRF Regulations and shall be ascertained by the competent commission within the Federation”.

Sanctions are grouped depending on their addressee, as following:

Against the intermediaries, the following sanctions can be adopted:

- blame or warning – that can be ruled by the FRF Discipline and Ethics Commission;

- sports penalty of minimum 5,000 lei – set / ruled by the FRF Discipline and Ethics Commission;
- banned to participate to any football connected activity – that can be ruled by the FRF Discipline and Ethics Commission.

Against the players, coaches or club officials, as Clients, the following sanctions can be ruled:

- blame or warning – that can be ruled by the FRF Discipline and Ethics Commission;
- sports penalty of minimum 5,000 lei – set / ruled by the FRF Discipline and Ethics Commission;
- suspension for a number of matches - set / ruled by the FRF Discipline and Ethics Commission;
- ban from participating to any football connected activity – that can be ruled by the FRF Discipline and Ethics Commission.

Against clubs, as Clients, the following sanctions can be ruled:

- blame or warning – that can be ruled by the FRF Discipline and Ethics Commission;
- sports penalty of minimum 10,000 lei – set / ruled by the FRF Discipline and Ethics Commission;
- interdiction to perform transfers - set / ruled by the FRF Discipline and Ethics Commission;
- deduction of points - set / ruled by the FRF Discipline and Ethics Commission;
- demotion to a lower league - set / ruled by the FRF Discipline and Ethics Commission;

National collective body of agents

No existing collective body

Opinion of national expert

The increase in payments for intermediary services indicates an increase in service quality. Sanctions are not equally efficient for clubs, players and intermediaries. The regulations allows for lawyers to conduct intermediary services without being registered and being subject to the regulation. The provisions of the Regulations can be improved at least under the aspect of keeping the record of these persons.

SCOTLAND

National legal requirements regulating agents

UK Common Law and legislation applies to Scotland. There is currently no such statutory mechanism available to football agents/intermediaries and therefore the common law must be relied upon, much of which is relevant across the UK. Many activities carried out by a football agent will be caught under the common law definition of agency. The common law both provides special powers to agents as well as imposing special duties that they must adhere to.

Consultation at national level regarding implementation of RWWI

No evidence of any consultation process adopted by the Scottish FA prior to implementing the 2015 RWWI.

Definition of intermediary

“Any person or persons who carries out an Intermediary Activity and has completed the relevant Intermediary Declaration Form”. It should be noted that a FIFA intermediary cannot act as an intermediary. An intermediary activity is defined as “acting, for or on behalf of a Player or Club in relation to a Transaction.” The Scottish FA describes a “Transaction” as either a) concluding an employment agreement between a Player and a Club and/or b) concluding a transfer agreement between two Clubs or c) concluding an Amateur or an Amateur Age Group 10-17 registration between a Player and a Club.

Registration requirements

An Intermediary must be registered each time he/she is involved in a transaction. Specific Intermediary Declaration forms must be completed and lodged prior to the registration of the transaction (2.2). If the Intermediary is acting for a Player, the form must be delivered to the Club responsible for the registration of the Transaction, as soon as possible, and prior to the registration of the Transaction by the Club. In the event, that all required Intermediary Declaration Forms have not been submitted to the Scottish FA, the Transaction will not be registered. An Intermediary Declaration Form must be accompanied by the appropriate Representation Contract at the time of lodging with the Scottish FA.

Impeccable reputation

Intermediaries are required to declare, in writing, at the point of each registration that they have an impeccable reputation and in particular confirm that no criminal sentence has ever been imposed upon the individual for a financial or violent crime. This is done via the Intermediary Declaration Form. The Scottish FA are entitled to carry out their own checks to verify the information contained in the declaration form.

Representation contract

The representation contract must include the names of the parties to the Representation Contract; the nature of the legal relationship between the parties of the Representation Contract and the scope of the services provided by the Intermediary under the Representation Contract;

the remuneration due to the Intermediary under the Representation Contract together with the general terms of payment of such remuneration; the duration of the legal relationship between the parties of the Representation Contract and the termination provisions of the Representation Contract; the signature of the parties to the Representation Contract. As opposed to the Regulations of the English FA, the Scottish Regulations do not stipulate a maximum duration for Representative Contracts and therefore, parties are free to negotiate their own length of contract.

Disclosure and publication

The Scottish FA publishes for every Intermediary a list of each Transaction in which said Intermediary has been involved. The list is to be published by the Scottish FA by the end of March and will cover the period from 1 February of the previous year to 31 January of that year. The Scottish FA also publishes the total consolidated amount of all payments made by all Players to Intermediaries as well as the Clubs' consolidated figure. However, The Scottish FA does not publish the list of registered intermediaries. This has to be specifically requested. The Scottish FA only publishes a breakdown of intermediary transactions and consolidated figures, at the end of March each year.

Payments to intermediaries

The amount of remuneration paid to an Intermediary engaged to act on a Player's behalf, shall be calculated on the basis of the Player's Basic Gross Income for the entire duration of the Player's contract. For Intermediaries engaged by a Club, the Club shall remunerate the Intermediary by payment of a lump sum agreed prior to the conclusion of the relevant Transaction. Payments may also be made by way of instalments. The Scottish FA has recommended that the payment to intermediaries should not exceed 3% of the Player's Basic Gross Income (or eventual transfer fee if in relation to transfer agreement) for the entire duration of the Player's relevant employment contract.

Minors

The legal guardian of the minor must be involved in any contract negotiations, and must sign the representation contract. A representation contract involving a minor can be terminated with no more than 3 months notice. Intermediaries are forbidden from receiving payment from either Players and/or clubs upon concluding a transfer agreement and/or employment contract where a minor is concerned.

Conflicts of interest (e.g. dual representation)

Clubs and Players must use all reasonable endeavours to investigate potential conflicts and ensure that none exist. It is said that there will be no conflict in the event that the intermediary discloses, in writing, an actual or potential conflict and obtains the prior written consent of all parties involved in the transaction (this would cover the example where the intermediary is representing more than one party to the transaction).

Dispute resolution including key arbitration and state court cases

There is a specific dispute resolution procedure to resolve national disputes involving intermediaries, via arbitration. An arbitrator is appointed by the parties involved in the dispute

from the list of Intermediary Members. Alternatively, if the parties are unable to agree on an arbitrator, one will be appointed by the Secretary. There have been no cases involving Intermediaries in Scotland investigated by either national associations, independent dispute resolution body or Scottish courts

Sanctions

Any breach of the Intermediary Regulations shall be referred to the Compliance Officer who may refer the matter to the Judicial Panel. The Judicial Panel will have jurisdiction to deal with any such alleged breach and to impose sanctions in relation to it as prescribed within the Judicial Panel Protocol. Sanctions can include a fine or ban.

National collective body of agents

No collective body in Scotland representing Football Agents/Intermediaries.

Opinion of national expert

Since the introduction of the 2015 RWWI, the quality of services has decreased as a result of any person being able to represent a player, without having to demonstrate any evidence of the technical skills to negotiate contracts and act in the best interests of players. This is also the general consensus across Europe and also evidenced in the latest European Commission report.

In regard to remuneration, the recommended percentage for commission is 3% but this is not mandatory. Agents, players and clubs are free to negotiate their own percentage for commission. In Scotland, for example, a number of clubs that are not in the top flight refuse to pay agent fees at all which can be extremely frustrating for intermediaries. Salaries for the majority of players are low and this is an argument in favour of disregarding the recommendation. However, the practice of not paying a commission may give rise to conflict of interests, in situation in which intermediaries decide to facilitate the transfer of a player to a club paying the commission.

The range of sanctions is wide, but there is not enough evidence to show that they are enforced effectively.

The Regulations can easily be circumvented. Despite the prohibition of payments for the representation of minors, Intermediaries can draft clauses into Representation Contracts that allows them to receive backdated commission once the minor turns 18. Ultimately, the implementation of the 2015 RWWI at national association level has not improved the governance of intermediaries.

The national expert considers that the Regulations should be amended by introducing maximum contract lengths of two years. This would also provide protection for players under the age of 18. Furthermore, a better fit and proper test could be introduced at the start of each new season. Intermediaries who wish to be registered with the National Association would have to submit a disclosure certificate that confirms convictions that would be reviewed every year. This should be extended also to legal persons, which must demonstrate that any natural person acting on their behalf has passed the fit and proper test.

National associations are best placed to regulate their own markets as each jurisdiction faces different market forces and challenges. However, it must be noted that many national associations may not have sufficient resources to regularly police intermediaries and the activities that they undertake.

SLOVAKIA

National legal requirements regulating agents

The Act on Sports no. 440/2015 Coll. does not regulate agents or intermediaries in any way. There is no case law on the activity of intermediaries (or previous agents) in football sector either. Hence, there is no legal regulation of the work of intermediaries in Slovakia at all. The original draft of the Act on Sports planned that intermediaries would fall at least under the rules on employment recruiting, but in the very end this was not accepted – due to the specificities of sports employment (not being an actual labour contract under the Labour Code), the work of agents/intermediaries does not fall under the Employment Act.

Consultation at national level regarding implementation of RWWI

The Slovakian FA (SFA) has its own legislative committee and a separate legal department, which were tasked with preparing the draft of the implementing Directive. Besides sticking to the original FIFA rules, neighbouring football associations in Central and Eastern Europe were consulted on the issues of cross-border recognition of intermediaries. Consultations were also undertaken with respect to former football agents. There were no disputes, only a misunderstanding as to the remuneration of the intermediaries – 3% is not an obligatory amount of remuneration, but only a fall-back rule for the case the intermediary does not specify a different mechanism for calculating his remuneration.

Definition of intermediary

For the purposes of the Directive, intermediaries are any natural or legal persons registered in accordance with the Directive, who, for remuneration or free of charge,

- represent a player and/or a club in negotiations and provide other services designed to conclusion, modification or termination of contracts between players and clubs, of which at least one is a member of the SFA,
- represent a club in negotiations and provide other services which aim to conclude a contract on the transfer of a player, or
- provide consultancy services not leading to conclusion, modification or termination of contracts between players and clubs.

The definition is at first sight somewhat broader than in the FIFA Regulations, mainly due to the inclusion of letter c) – considering as intermediaries also those who provide consultancy services to the clubs or players. Still, albeit not mentioned in the definition of an intermediary in the FIFA Regulations, Article 5 of the FIFA Regulations provides for the possibility that the representation contract includes also a provision on consultancy services within the scope of intermediary activities.

With regard to internal SFA norms, under the Directive, an intermediary is deemed to be a sports expert within the meaning of Article 2 letter r) of the SFA Statutes. At the same time, the Directive provides that the activity of an intermediary may not be performed by any official

or employee of the SFA (as defined in the SFA Statutes). The latter rule is in line with the FIFA Regulations, Article 2(4).

Registration requirements

According to Article 4 of the Directive, a natural or a legal person wishing to pursue the profession of an intermediary must be registered under this Directive before taking up the activity. The fee for registration as an intermediary is €100.

The SFA Registry registers a natural person or a legal person wishing to carry out business as an intermediary at its written request, after completion of a personal interview pursuant to the Directive. The application for registration is to be accompanied by:

- a copy of an identity document;
- a certificate of integrity;
- a document proving that the applicant has no arrears in payment of taxes, duties or tariffs, and that he is not under any bankruptcy proceedings, restructuring proceedings, enforcement proceedings and is not in liquidation;
- in case of an applicant being a legal entity, an extract from the Commercial Registry or another registry, which clearly shows the basic information on the legal person, for example business name, seat, identification number, legal form, object of business activity, the statutory authority, the authority with powers of control;
- an Intermediary Declaration as attached in Annex no. 1 to the Directive.

The Declaration to be submitted by an applicant is very similar in case of natural persons and legal persons and it basically copies the FIFA Intermediary Declaration. The major deviation consists only in that the Slovakian Declaration includes also an explicit submission of an intermediary to the disciplinary competences of the SFA and to jurisdiction of the SFA Dispute Resolution Chamber with respect to any potential disputes arising under this Directive and any disputes concerning the activities of the intermediary.

Upon filing an application with all the annexes as mentioned supra, including the Declaration, a personal interview is to be attended by the applicant in order to be registered as an intermediary by the SFA.

The interviews with applicants for registration take place at the premises of the SFA at least twice a year, in March and in September of each calendar year. The SFA establishes a committee for this purpose, composed of representatives of the SFA. The personal interview should cover the issues of:

- regulations of the SFA, UEFA, and FIFA,
- personality rights and law of contracts,
- moral aspects of intermediary activities.

The personal interview with a legal entity must be attended by a person representing the legal entity, who is older than 18 years, authorized to represent or act on behalf of the legal entity under the applicable law, and who will participate in the activities as an intermediary.

The SFA evaluates each application for registration by the applicants-natural persons and grants the registration provided that:

- the applicant is older than 18 years of age,
- the applicant has completed secondary education or proves in a personal interview he has at least five years of experience as a football player or as an official or any similar experience in sports management,
- the applicant attached to the application all the requested documents,
- the applicant attended the personal interview, and
- the applicant met all conditions laid down in the Directive.

Similarly, the SFA grants the registration to the applicant-legal entity, provided that:

- the applicant attached to the application all the requested documents,
- the person older than 18 years who is authorized to represent the legal person under the applicable law and who will participate in the implementation of intermediary activities attended the personal interview and submitted formal certificates of training or experience and met all other conditions laid down in the Directive.

If the registration is granted, the SFA registers the intermediary and the intermediary is assigned a registration number. The intermediary will be enlisted as an 'SFA registered intermediary' in a separate registry maintained by the SFA, being published also on the website of the SFA. The intermediary shall also be entitled to use the designation of being an 'SFA registered intermediary'. After registration, the SFA registered intermediary is obliged to immediately notify the SFA of any changes in the registered data or in the prerequisites for registering, if applicable.

The SFA shall reject an application for registration in writing, if:

- the applicant does not meet the standards of personal integrity,
- the application for registration and its appendices do not contain the required information,
- the applicant did not participate in the personal interview,
- the applicant does not meet the conditions laid down in the Directive.

A new application for registration cannot be filed before six months from the moment of rejection of the previous application for registration.

Impeccable reputation

According to Article 4(4) and (5) of the Directive, an applicant-natural person proves his integrity by an extract from the system of criminal records not older than three months. Such a document is required to be submitted also by a foreign national through a representation office of his State of origin in the Slovak Republic. If such an office does not exist in the Slovak Republic, the applicant submits a certificate of integrity issued for that purpose by a competent authority of the State of which the applicant is a citizen.

In case of an applicant-legal person, the integrity is to be demonstrated by a person representing a statutory body of the legal person, or persons who are members of the statutory body of the legal entity, and also other persons authorized to act on behalf of or for the legal person, persons who are members of the body with control function within the legal person, and persons that within the internal organizational structure of the legal person are to be involved in implementing the intermediary activities.

The SFA shall maintain on its website, and continually update, the list of intermediaries to whom the registration was revoked or suspended under the Directive, stating the reason thereof, including the reason of the loss of impeccable reputation.

The application for registration is to be accompanied by:

- a certificate of integrity;
- a document proving that the applicant has no arrears in payment of taxes, duties or tariffs, and that he is not under any bankruptcy proceedings, restructuring proceedings, enforcement proceedings and is not in liquidation;
- an Intermediary Declaration as attached in Annex no. 1 to the Directive.

Representation contract

In line with the FIFA Regulations (Article 5), the representation contract must contain at least:

- the designation of parties (in case of a natural person: name, surname, date of birth, place of residence, number of identity card (ID card) or passport number, citizenship; in case of a legal person: the business name, seat, identification number, and a statutory body),
- the legal nature and the range of services contracted,
- the duration of the contract,
- the fee, payable to the intermediary,
- the general terms of payment,
- the date of signing the contract,
- the provisions on termination of the contract,

- the signatures of the parties.

If a player is a minor, the representation contract must be signed by a legal guardian of the player.

The representation contract may be concluded for a maximum of two years from the date of its signing by both parties and the extension can take place only once, in a written form, for a maximum of further two years, whereby such an amendment cannot be concluded earlier than six months before the expiry of the previous contract. This exceeds the rules laid down in the FIFA Regulations and was introduced partially following the model of previous SFA rules on players' agents.

The contract and the supplements must be submitted to the SFA Registry for registration within 15 days of their signing. The SFA Registry registers the representation contract or its supplement within 15 days of delivery of the representation contract or its supplement, if they comply with the terms of the Directive and the information contained therein is accurate and complete. In case any of the conditions for registration is not met, the SFA Registry refuses to register the representation contract or its supplement.

Players and clubs are also obliged to ensure that each and every contract on a player's transfer or any players' contract which was concluded using the services of an intermediary includes the name and signature of the intermediary. Should the player or the club have not used the services of an intermediary, this must be stated in the contract as well.

Disclosure and publication

With the aim of exerting control over the actual activities of intermediaries, Article 6 of the Directive (in line with Article 6 of the FIFA Regulations) additionally introduces an obligation for a player and a club to reveal to the SFA upon request full details of any agreed remuneration or charges of any nature that have been remitted or are to be remitted to an intermediary on the basis of a representation contract. A player or a club is obliged to provide to the competent authorities of the SFA, leagues, national associations, confederations and FIFA, any contracts, agreements and records relating to the activities of intermediaries, for examination and investigation. These documents will subsequently be annexed to the registered contract. Players and clubs are obliged to act so as to avoid any obstacles to reveal such information and documents (i.e. not to agree on protection of trade secrets in this respect, or on imposing contractual penalties for disclosing the information).

Players and clubs are also obliged to ensure that each and every contract on a player's transfer or any players' contract which was concluded using the services of an intermediary includes the name and signature of the intermediary. Should the player or the club have not used the services of an intermediary, this must be stated in the contract as well.

The SFA is to publish on its website and keep up to date a list of all registered intermediaries, including their registration numbers and a list of intermediaries to whom the registration was revoked or suspended under the Directive, stating the reason thereof and the relevant provision of the Directive.

The SFA is also required to make publicly available on its website at the end of March of each calendar year the names of all registered intermediaries and individual transactions in which those intermediaries were involved in the previous calendar year. The SFZ is also to disclose the total amount paid to all registered intermediaries by all clubs and all the players in the relevant period. The published amount is the total consolidated amount that all the players and clubs paid to all registered intermediaries during the period.

Finally, the SFA Registry is also obliged to provide any member of the SFA – upon his request – any available information on intermediaries and transactions that were not in accordance with this Directive together with reference to the provisions of the Directive that had been breached, if the applicant proves his legal interest in the matter at issue.

Payments to intermediaries

The amount of remuneration due to an intermediary who represents a player is to be calculated based on underlying gross remuneration that the player is entitled for the entire duration of his player's contract concluded between the player and a club.

Unless an intermediary agrees in a representation contract with a player or a club otherwise, a recommended amount of remuneration for an intermediary (in accordance with the FIFA Regulations) is:

- 3% of the gross basic remuneration of the player for the entire duration of his player's contract,
- 3% of the transfer fee paid for the player.

An intermediary who represents a club is to be paid a lump-sum payment by the club, the amount of which shall be agreed before the relevant transaction. The remuneration may be paid in instalments.

If a player or a club use the services of an intermediary in the transfer of a minor player younger than 15 years, or when concluding a representation contract with a minor player younger than 15 years of age, it is forbidden that the intermediary receives any remuneration.

Any payment for the services of an intermediary must be paid exclusively by the client of the intermediary to the intermediary himself, unless the Directive provides otherwise. A club cannot make any payment to another club (be it a transfer fee, training compensation or a solidarity payment) through an intermediary. However, a player and a club may agree in writing that the club will pay the remuneration of an intermediary on behalf of the player. Such a payment should nevertheless be in accordance with the fee arrangements agreed between the player and the intermediary in the representation contract.

Finally, the Directive takes over the FIFA Regulations rule that an official or employee of the SFA must not accept any payment from the intermediary from the remuneration due to the intermediary – in order to prevent any doubts of bribery.

Minors

A major deviation is to be seen mainly in allowing the intermediaries to be remunerated for working with minor players between the age of 15 to 18, which is not allowed under the FIFA Regulations. The prohibition was namely perceived as a disproportionate interference with the free market principles. Citing the Directive, under Art. 7, if a player or a club use the services of an intermediary in the transfer of a minor player younger than 15 years, or when concluding a representation contract with a minor player under 15 years of age, it is forbidden that the intermediary receives any remuneration. This deliberately evades the principle laid down in the FIFA Regulations taking into account the usual contractual practise within professional football in Slovakia, claiming the FIFA rule would be a disproportionate restriction of the intermediary activities. Still, the intermediary undertakes in the Declaration not to accept any payments from any party in respect of a minor player younger than 15 years. If a player is a minor, the representation contract must be signed by a legal guardian of the player.

Conflicts of interest (e.g. dual representation)

Article 8 of the Directive addresses the issue of conflict of interests, following closely the model of Article 8 of the FIFA Regulations. Before engaging an intermediary, a player or a club must undertake all that is fair to require from them to prevent any conflicts of interest, for example in the event that the intermediary should act as an intermediary for both the player and the club in the same transaction.

However, even in such a case the conflict of interest is not present if the intermediary informs the club and the player of all existing or potential conflicts of interest in respect of the transaction, in respect of the representation contract, or in respect of other related transactions. In such case, the intermediary is to obtain an express written consent of all parties concerned before the start of the respective negotiations.

Additionally, if the player and the club intend to use services of the same intermediary in the same transaction, a representation contract with such an intermediary must be concluded besides the written consent, before the start of the respective negotiations. The player and the club shall then submit the relevant documents to the SFA Registry along with the registration of the relevant contract.

In the Declaration, the intermediary is also to confirm that he holds no position as an official within the SFA or FIFA, and that he shall not hold such a position in the foreseeable future, further that he meets the standards of personal integrity, no penalty or protective measure was imposed on him for any crime, and that he is in no contractual relationship with leagues, national associations (SFA), confederations (UEFA) or FIFA, which could lead to a conflict of interest.

Dispute resolution including key arbitration and state court cases

Within their Intermediary Declaration, the applicant submits himself to the disciplinary powers of the SFA and to the jurisdiction of the SFA Dispute Resolution Chamber with respect to any breach of the Directive or with respect to any dispute arising from the Directive. In case any disputes should arise from a contract concluded between an intermediary and a player or a club under the Directive, these disputes fall under the competence of the Dispute Resolution Chamber of the SFA, as specified in the Regulations on the SFA Dispute Resolution Chamber.

Sanctions

Under Article 9 of the Directive, any breach of obligations laid down in the Directive is a disciplinary offense for which the Disciplinary Committee of the SFA imposes a disciplinary sanction as specified in the SFA Disciplinary Rules. The SFA is thereby obliged to inform the FIFA on imposing any disciplinary sanction upon an intermediary in relation to infringements of this Directive. The FIFA Disciplinary Committee will then decide on whether the disciplinary sanction is to be extended to the whole world. The latter principle is taken over from the Article 9 of the FIFA Regulations.

Applicable sanctions under the SFA Disciplinary Rules include: warning, reprimand, fine (in case of natural persons up to €2.000, in case of legal persons up to €50.000), and suspension from sporting activities.

As a specific offense regulated in the Directive, a use of a document in the proceedings under this Directive with the knowledge that it is falsified or incomplete, or concealing any document important for assessing compliance with the Directive, is a serious breach of obligations under the Directive.

The SFA is to publish on its website and keep up to date, a list of all registered intermediaries, including their registration numbers and a list of intermediaries to whom the registration was revoked or suspended under the Directive, stating the reason thereof and the relevant provision of the Directive. Furthermore, a special list of intermediaries who breached the Directive is to be drawn and published.

National collective body of agents

No existing collective body in Slovakia

Opinion of national expert

The 2015 RWWI do not seem to have changed much in the practice of intermediaries in Slovakia. Sanctions can be considered appropriate, even though they have not yet been applied. The exception in the form of being represented by a family member or by an attorney need to be seen sceptically, as their activities do not fall under the rules on intermediaries at all. Otherwise, the professional intermediaries in Slovakia try to follow the Directive and the respective SFA bodies do indeed control the representation contracts submitted to the SFA under the Directive, returning back those which do not conform to the rules set in Directive. A slight improvement might hence be visible.

SLOVENIA

National legal requirements regulating agents

No state acts or legislation reported.

Consultation at national level regarding implementation of RWWI

The Players' Union was consulted but more formally than "with a good aim" for the first implementation. Their suggestions were implemented but cosmetically and nothing significantly was accepted. Now, there are formally meetings going on in which the Players Union is being consulted for the amendment of the FA Regulations.

Definition of intermediary

The intermediary is a natural or legal person who, for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement. In the same art. 2 of the FA Regulations there is also the definition of the Agent as natural person, who in conformity with the FA Regulations, has a licence to provide services of an agent.

Registration requirements

The player or the club is in charge of registering the Intermediary for every single transaction and must provide the Intermediary declaration, the agreement with the annexes to it, and the data such as: name and surname of the players/club name, specification of the relationship – contract and the date when it was signed and state the remuneration and all the payment given to the Intermediary. The FA Regulations are not applied towards relatives, brother/sister or legal representatives in case that give their help without a right to be paid.

Impeccable reputation

By signing the Intermediary Declaration, the intermediary has to prove that he has not been convicted for criminal offence for violent behaviour, criminal offences against property or criminal offences against economic activity; nor has been initiated a criminal proceeding against him.

Representation contract

The contract must be in a written form and include all the regular contents of the contract. The clubs and players shall specify in the relevant representation contract the nature of the legal relationship they have with their intermediaries (employment contract, transfer agreement or some other service).

Disclosure and publication

The FA make publicly available on 31st March of every calendar year, on their official website, the names of all intermediaries they have registered as well as the single transactions in which they were involved. They also publish the total amount of all remunerations or payments

actually made to intermediaries by their registered players and by each of their affiliated clubs, as the consolidated total figure for all players and the individual clubs' consolidated total figure.

Payments to intermediaries

The amount of remuneration due to an intermediary who has been engaged to act on a player's behalf shall be calculated on the basis of the player's basic gross income for the entire duration of the contract (excluded car and accommodation). Clubs that engage the services of an intermediary shall remunerate him by payment of a lump sum agreed prior to the conclusion of the relevant transaction, and if agreed, such a payment may be made in instalments. Any payment for the services of an intermediary shall be made exclusively by the client of the intermediary to the intermediary, and the only exception is in case it is prescribed by the contract with the club and with a written consent of the player who wishes the club to make the payment on player's behalf, and such a payment shall be in accordance with the terms of payment agreed between the player and the intermediary. If the parties have not determined the fee, it is presumed that the agreed fee is 3%.

Minors

For minors, the contract must be additionally signed by the player's legal representative. The regulations establish that no remuneration is due in the event the intermediary activity involves a minor.

Conflicts of interest (e.g. dual representation)

According to FA Regulations Art. 4. no conflict of interests would be deemed to exist if the intermediary discloses in writing any actual or potential conflict of interest he might have with one of the other parties involved in the matter, in relation to a transaction, representation contract or shared interests, and if he obtains the express written consent of all the other parties involved prior to the start of the relevant negotiations. If a player and a club wish to engage the services of the same intermediary within the scope of the same transaction under the conditions established above, the player and the club concerned shall give their express written consent prior to the start of the relevant negotiations, and shall confirm in writing which party (player and/or club) will remunerate the intermediary.

Dispute resolution including key arbitration and state court cases

The FA has no competence over intermediaries. Disputes must be heard by ordinary tribunals. With the amendments of the Regulations which are being discussed at the time of writing, the National FA bodies (the Arbitration body) will have the competence to decide the matters. There is no data about the cases.

Sanctions

As the FA has no competence over intermediaries, sanctions are applied only to players, clubs and officials according to the FA Disciplinary Regulations.

National collective body of agents

There is no collective body representing agents in Slovenia.

Opinion of national expert

The quality of the services offered by intermediaries has decreased like in numerous Eastern European countries where the Intermediaries are being a very important factor for running a club since some Intermediaries control some key players who actually control the top clubs. There are however problems with providing data, especially by players to the FA. The sanctions are insufficient since the Intermediaries are not members nor in competence of the SFA. The new regulation has diminished the good governance.

SPAIN

National legal requirements regulating agents

In Spain, there is not a specific state legislation on football agents. This does not include sports legislation adopted at regional level. There are 17 Autonomous Communities in Spain and the 17 Regional Parliaments have adopted a regional Act on sports. None of them covers the activity of football intermediaries. Regarding the regulation of sports, the following relevant national legislations have to be considered:

1. Royal Decree 1006/1985, on the special labour status of professional athletes.
2. Act 10/1990, on sports.
3. Royal Decree 1835/1991, on Spanish Sports Federations and registration of sports associations.
4. Act 19/2007, against violence, racism, xenophobia and intolerance in sports.
5. Act 3/2013, on protection of athletes' health and fight against doping in sports.

This legislation does not regulate sports agent's activities. One of the main problems we find when trying to identify Spanish legislation on sports agents is the determination of the legal nature of the activity. Identifying the kind of contract regulating agent's activity is not easy.

The lack of a specific regulation forces us to analyse the different existing contractual possibilities. Furthermore, it has to be taken into account that there is a growing number of judicial cases in Spain regarding agent's activities. This case law is essential regarding the task of determining the legal nature of agent's activities. There are three possibilities: The representation contract; The mediation contract; The agency contract.

The contractual relationship will be regulated by the Spanish Civil Code (or the Commercial Code if the activity is going to be performed by a company).

Besides that, we have to consider that according to art. 1255 of the Spanish Civil Code, 'the contracting parties may establish any covenants, clauses and conditions deemed convenient, provided that they are not contrary to the laws, to moral or to public policy'. This means that these representation, mediation or agency contractual relationship can be deeply modified by the parties by including agreed covenants, clauses and conditions. Thus, each case should be examined on an individual basis. As a consequence of these, Spanish courts have reached different conclusions about the legal nature of this relationship.

A new General Act on Sports will be adopted in the following months. However, the new legislation will not contain any provisions on intermediaries. There is neither any plan of adopting specific state legislation aiming to regulate intermediaries' activities nor doing so at regional level.

Consultation at national level regarding implementation of RWWI

In the case of Spain, the Royal Spanish Football Federation (hereinafter, RFEF) carried out only an internal consultation process. No external stakeholder participated in this process.

Definition of intermediary

The RFEF Regulations on Working with Intermediaries defines ‘intermediary’ as “a natural or legal person who, for a fee or free of charge, represents players and/or clubs in negotiations with a view to concluding an employment contract or represents clubs in negotiations with a view to concluding a transfer agreement”. Thus, the Spanish Regulations reproduces exactly the definition contained in 2015 RWWI.

Previous definition of football agents was contained in 2008 RFEF Regulations, adopted after the approval of 2008 FIFA Regulations. There are two main differences between the two definitions: the 2008 definition referred only to natural persons and it covered only football agents’ activities if they were performed for a fee.

Registration requirements

Registration requirements and procedure are established in arts. 3 and 4 of the Spanish Regulations. According to article 3:

1. Both natural and legal persons can be registered as Intermediaries. Nevertheless, in the case of legal persons, both the entity and its representatives will be registered and only the latter can sign the contracts and conduct negotiations related to the Regulations.
2. The first step shall be the registration of the intermediaries according to art. 4 of the Regulations. Only registered intermediaries will be able to register their operations before the RFEF. Thus, the intermediaries’ registration should take place before the conclusion of the specific transaction.
3. The intermediary, or the representative of a legal entity acting as intermediary, has to have an impeccable reputation.
4. Besides that, the intermediary hired by the club or by the player cannot maintain any contractual relationship with Leagues, associations, confederations or FIFA if that relationship can create a conflict of interest. He/she cannot lead to believe that such a relationship exists either.
5. The activities that fall under the scope of application of the representation contract cannot be delegated, ceded, subcontracted, rented, or subject to any kind of disposal. This restriction is not contained in RWWI.
6. The RFEF retain competence to cancel the registration of an intermediary if he/she infringes the Spanish Regulations.
7. The RFEF will provide for an updated list of authorized intermediaries.

8. Each intermediary will get a registration number provided by the RFEF. This registration number shall be conferred as a personal, non-transferable number and will be published at the RFEF website.

According to art. 4, describing registration procedure:

1. The candidate should address an application to the General Secretary of the RFEF.
2. Only if this application is considered admissible, the RFEF will call the applicant to a personal interview. This interview shall be aimed to determine if the applicant seems competent/capable of giving advice to clubs or players.
3. If after the personal interview the applicant is considered competent/capable, the RFEF will require the applicant to fulfil the following requirements in order to proceed to the registration:
 - a) Copy of the applicant's identity card or passport. In the case of legal persons, the representative shall hand over a power of attorney.
 - b) Two pictures.
 - c) Her/his CV, specifying her/his sports related professional experience.
 - d) The applicant should fulfil also the impeccable reputation requirement.
 - e) The payment of an annual fee. In the case of legal persons, the fee shall be paid for each representative. The amount of the fee was decided by the RFEF in 2015 (€861. The fee will be automatically indexed to the price index on an annual basis).
 - f) If a natural person had obtained a license under the previous system (contained in the 2008 Regulation) the license should be returned to the RFEF.
 - g) The applicant should sign the Code of Ethics contained in Annex 3 of the Regulations. This Code requires that intermediaries carry out their activities with dignity and professionalism.

Impeccable reputation

Impeccable reputation requirement is defined in art. 4.3.d) of the Spanish Regulations. According to this provision, the applicant should show that he/she has an impeccable reputation if they sign and attach to the application the Intermediary Declaration contained in Annexes 1 (natural persons) and 2 (legal persons) to the Regulation. According to this Declaration, the applicant:

1. Accepts that while performing his/her activities as intermediaries he/she will accomplish national and international relevant legislation and national and FIFA regulations.
2. Declares that he/she is not an Official according to FIFA rules.

3. Declares that he/she enjoys impeccable reputation and that has not been convicted of any violent or economic offences.
4. Declares that he/she has not any contractual relationship with leagues, associations or confederations likely to run into a conflict of interest.
5. Declares that, according to art. 7.4 of RWWI, he/she shall not accept any payments to be made by one club to another club in connection with a transfer, such as transfer compensation, training compensation or solidarity contributions.
6. Declares that, according to art. 7.8 of RWWI, he/she shall not accept any payment from a player or a club if the player concerned is a minor.
7. Declares that he/she shall not get directly or indirectly involved in any activity regarding lotteries, betting or gambling.
8. According to art. 6.1 of RWWI, he/she gives his/her consent for the disclosure made by the association of the full details of any and all agreed remunerations or payments of whatsoever nature that they have made or that are to be made to him/her.
9. According to art. 6.1. of RWWI, he/she gives his/her consent for the disclosure by leagues, associations, confederations and FIFA of all contracts, agreements and records with intermediaries -or any third party participating in the negotiations under his/her responsibility in connection with their activities for the purpose of their investigations. Some authors (de Dios Crespo and Ripoll González, 2016) have highlighted the controversial nature arising from this obligation. In their opinion, and taking into account that the abovementioned third party could include intermediary's lawyer, they maintain that "this kind of consent is a clear attempt against one of the basic principles of a lawyer's activity, the obligation of professional secrecy".
10. According to art. 6.3 of RWWI, he/she gives his/her consent for the conservation and processing of any relevant information in order to be published.
11. According to art. 9.2 of RWWI, he/she consent the publication of any disciplinary sanction taken against him/her.
12. Finally, the intermediary declares that he/she fully knows and accepts that the declaration can be made available to the members of the competent organs of the national association.

In our opinion, these requirements are enough to provide proof of impeccable reputation.

Representation contract

Representation contract is regulated by art. 7.4 and 8 of the Spanish Regulations. According to these provisions:

1. The representation contract is mandatory. An intermediary will be able to represent a player or a club only if he/she has subscribed a representation contract with the player/club.
2. The representation contract should be detailed enough. In this sense, the contract shall specify the legal nature of the relationship agreed between the intermediary and the club/player.
3. The minimum required elements to be included in the representation contract, signed by the parties, shall be:
 - The name of the parties.
 - The scope of the agreed services provided by the intermediary.
 - The length of the contractual relationship.
 - The amount to be paid to the intermediary.
 - The general conditions regarding the payment.
 - The starting date of the contractual relationship.
 - Termination clauses.
4. Three original copies of the representation contract shall be signed. If the intermediary is registered in a foreign federation a fourth copy shall be signed. All the copies shall be sent by the intermediary to the RFEF within the following ten days after the signature.
5. Any further amendment to the contract shall also be registered with the RFEF.
6. As said (see question no. 10), the activities that fall under the scope of application of the representation contract cannot be delegated, ceded, subcontracted, rented, or subject to any kind of disposal.
7. Previous versions of the representation contract requirements were adapted to previous FIFA Regulations on football agents.

Disclosure and publication

Disclosure and publication requirements are contained in Art. 9 of the RFEF Regulations. The following information must be disclosed:

- a) The full details of any and all agreed remunerations or payments of whatsoever nature they the players/clubs have made or are going to make to an intermediary. This information has to be disclosed before the end of the year. The RFEF shall publish in its website by the end of March of the following year the list of registered intermediaries and the transactions in which they were involved. In addition, the RFEF shall also publish the total amount of all remunerations or payments actually made to intermediaries by players and clubs. The figures to be published will be the consolidated total figure for all players and the individual club's consolidated total figure.

- b) All contracts, agreements and records with intermediaries in connection with activities related to this provision, for the purposes of investigation. This information should be disclosed under request of the competent bodies of the national association (with the exception of the representation contract).

Payments to intermediaries

Art. 10 of the RFEF Regulations reproduces sections 1, 2, 4, 5, 6, 7 and 8 of art. 7 of the RWWI. Thus, the only difference regarding remuneration of intermediaries is that the Spanish association regulation has not adopted any of the benchmarks included in art. 7.3 of the RWWI. According to art. 10:

- a) The remuneration of an Intermediary shall be calculated taking into account players' eventual basic gross income. The art. does not establish any limit in this regard.
- b) Regarding how the payment shall be made, the Spanish Regulation admits two possibilities:
- The payment can be a fixed sum agreed by the parties.
 - The payment may be made in instalments.
- c) Clubs shall ensure that payments to be made by one club to another club in connection with a transfer, such as transfer compensation, training compensation or solidarity contributions, are not paid to intermediaries and that the payment is not made by intermediaries. This principle includes, but is not limited to, owning any interest in any transfer compensation or future transfer value of a player. The assignment of claims is also prohibited.
- d) Any payment made for the services of an intermediary shall be made only by the client of the intermediary to the intermediary. Regarding this obligation, the parties (player, club or intermediary) have to identify who shall make the payment.
- e) After concluding the specific transaction, and only if the club agrees, the player can give his/her consent for the club to pay the intermediary on his/her behalf. The payment made on behalf of the player shall be in accordance with the terms agreed between the player and the intermediary.

Officials are prohibited from receiving any payment from an intermediary of all or part of the fees paid to that intermediary in a transaction. Every official acting in breach of this prohibition shall be subject to disciplinary measures.

Since 2015, following the instructions of the Spanish Treasury, payments to intermediaries should be made by the players, as part of their salaries (<https://iusport.com/not/11783/intermediarios-e-impuestos-en-el-pago-de-comisiones/>). This has been confirmed by the Spain 'Audiencia Nacional' Court in its judgment of October 9th 2016. Nevertheless, in practice payment are often assumed by the clubs.

We consider that the provisions regarding financial transactions involving intermediaries:

- a) Are effective enough to guarantee transparency when the parties follow the provisions
- b) Are not applicable when the parties decide to act outside the framework created by the regulations. Since there is no accurate information available about the percentage of transactions via intermediaries that are not registered, it is difficult to draw conclusion on the transparency of the whole system.
- c) Serious doubts remain about the effectiveness of the prohibition of remunerating intermediaries when the player is a minor.

Minors

Art. 10.7 of the Spanish Regulations, following art. 7.8 of RWWI, establishes that players and/or clubs that engage the services of an intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such intermediary if the player concerned is a minor.

In our opinion, this prohibition:

- a) Can have the effect of dissuading intermediaries to offer their services to these players under 18 depriving them of their professional advice.
- b) Can stimulate that player under 18 resorts to non-registered intermediaries' services.

Besides that, we have to take into account that minor athletes are protected in Spain by national and international legislation aimed to guarantee children's rights.

First, we have to consider art. 39 of the Spanish Constitution. According to this, public authorities are obliged to ensure social, economic and legal protection of the family, especially of minors, pursuant to the international agreements that safeguard their rights.

Among these treaties the following should be quoted:

- a) At UN level, the Convention on the Rights of the Child, dated 20th November 1989, ratified by Spain on 30th November 1990 and its Optional Protocols.
- b) On the other hand, two European Conventions (adopted in the framework of the Council of Europe) are applicable:
 - The European Convention on protection of children against sexual exploitation and abuse, made in Lanzarote on 25th October 2007, ratified by on 22nd July 2010.
 - The European Convention on Exercise of the Rights of Children, made in Strasbourg on 25th January 1996, ratified by Spain on 11th November 2014.

Basic State specific law is the Organic Law 1/1996 of 15 January 1996 on the legal protection of minors. This Organic Law and the relevant provisions of the Spanish Civil Code constitute

the main normative framework concerning children rights in Spain. The Organic Law has been recently amended by both the Organic Law 8/2015 of 22 July, on the modification of the system for the protection of children and adolescents, and Law 26/2015 of 28 July, on modification of the system for the protection of children and adolescents.

Besides that, the Autonomous Communities have also adopted specific legislation on the protection of children rights.

Regarding protection against trafficking and exploitation, it has to be taken into account that art. 177 bis of the Spanish Criminal Code refers to the use of children for exploitation even if the means included in the definition (violence, intimidation or deception, abuse of situation of superiority or the need or vulnerability of the victim, giving or receiving of payments or benefits to achieve the consent of a person having control over the victim) have not been used. This is consistent with the International treaties (for instance, the 2000 Palermo Protocol) ratified by Spain. Also, the penalties to the offenders increase in the case of child victims. These penalties could be up to 12 years of imprisonment if the victim is under-age.

Regarding foreign minors, the interministerial agreement for the approval of the Framework Protocol on certain actions related to unaccompanied foreign children (adopted the 22nd of July 2014) has to be mentioned.

Conflict of interest (e.g. dual representation)

Art. 12 of the national association Regulations reproduces art. 8 of RWWI. National Regulations does not add any additional measure to avoid or prevent a conflict of interest. Besides that, we believe that the inclusion in the provision of indeterminate legal terms ('shall use reasonable endeavors') makes it difficult to determine if the player, clubs or intermediaries have breached the rule.

Dispute resolution including key arbitration and state court cases

According to art. 14 of the Spanish association Regulations, the Jurisdictional Committee of the RFEF will be the body in charge of solving the economic disputes arising out of the execution of the representation contracts signed between and intermediary and a player/club. The Jurisdictional Committee does not have disciplinary competences. Since the intermediaries are not members of the RFEF, any non-economic dispute involving an intermediary should be brought before ordinary Courts.

The competence of the Jurisdictional Committee shall be subject:

- a) To the previous registration of the concrete transaction before the RFEF.
- b) To the previous, voluntary, clear and undoubted declaration, made by the parties and contained in the representation contract, accepting the competence of the Committee.
- c) To the observance by the parties of the RFEF Regulations on working with intermediaries.

Besides that, the Jurisdictional Committee can decline to exercise jurisdiction if any of the parties in the economic controversy decides to place it before ordinary Courts.

Finally, it has to be underlined that the Jurisdictional Committee shall not be competent for solving any controversy arising out of a representation contract signed by a minor player.

We can deduct from the above mentioned provisions that (i) non-economic disputes arising out of the contractual relationship between an intermediary and a player/club, and (ii) all disputes arising out of a representation contract signed by a minor player, must be brought before Spanish ordinary Courts.

- (1) The resolutions adopted by the Jurisdictional Committee are not published. Following an interview with Prof. Carretero Lestón, member of the Jurisdictional Committee, these experts have known that the disputes that this Committee solve regarding intermediaries are related to amount claims. During 2017, the Jurisdiction Committee resolved around 80 disputes. Most of them were related to amount claims that involved intermediaries.
- (2) One key case is the Zubiaurre case (judgment of the Supreme Court -Tribunal Supremo- 9/2015, of 21 January 2015). The Supreme Court of Spain resolved in this Judgment the dispute between a player, Iván Zubiaurre Urrutia, and his agent. Zubiaurre was transferred from Real Sociedad to Athletic Club de Bilbao in 2005. Both the player and his agent understood that the contract between Zubiaurre and Real Sociedad expired on 30 June 2005, and they decided to accept an offer from Athletic Club de Bilbao. Since Real Sociedad understood that the contract could be unilaterally extended, the dispute was brought before the ordinary Court. In 2006, both the Athletic Club de Bilbao and the player were condemned to pay €5.000.000 to Real Sociedad. In its judgment of 2015, the Supreme Court condemned the players' former agent to pay him a compensation for damages of €2.829.029,67. The judgment clarified, from a legal point of view, some aspects of the relationship between a player and his/her agent. According to the Supreme Court, agents have the right to be paid only if his/her concrete intervention successfully leads to the conclusion of a contract. If the contract is concluded, but this conclusion is not due to his/her mediation, the intermediary is not entitled to any remuneration.

Sanctions

The RFEF Regulations on Working with Intermediaries does not establish a disciplinary framework defining the sanctions that shall be imposed on any party by the violation of the Regulation. Art. 15 of the Regulation refers to the “association disciplinary framework currently in force”. This is the RFEF Disciplinary Code. However, neither this Disciplinary Code nor the Statutes apply to intermediaries, since they are not members of the RFEF.

National collective body of agents

Football agents are represented in Spain by the ‘Asociacion Española de Agentes de Futbolistas’ (Spanish Association of Football Agents). This association was established in 1995. The Association goals are, among others:

1. The incorporation of agents to the RFEF.
2. The adoption of a Spanish regulation covering agents' activity.
3. The official recognition of the activity by the National Sports Council.
4. The establishment of a mechanism for guaranteeing agents' remuneration.
5. Conducting an image campaign aimed to improve the image of agents' activity.
6. Providing ongoing training for agents.
7. The incorporation of the Association to the EFAA.

In order to become a member, an application should be submitted online (the application form available at <http://www.agentesdefutbolistas.com/asociate.aspx>). The applicant should be an adult (minors cannot apply) and pay a fee. Other requirements are not applicable any more. In this sense, we can read on the website that the applicant should have a license issued by the RFEF. This is an obvious reference to the previous system. However, the website has not been updated. Information is available at <http://www.agentesdefutbolistas.com/>

Opinion of national expert

In Spain, there is no available data regarding the perceived quality of intermediaries' services. It is difficult to affirm if this quality has increased or not since the adoption of 2015 RWWI. Neither surveys about the satisfaction of the stakeholders, nor official assessments have been made.

Regarding remuneration, we have to take into account that Spanish Regulations has not followed FIFA's recommendation contained in art. 7.3. of 2015 RWWI aimed to limit the total amount of remuneration per transaction due to intermediaries to the 3% of the players' total basic gross income (art. 10.1 of Spanish Regulation). Consequently, the remuneration to be paid to the intermediary shall be agreed upon by the parties.

Regarding sanctions, national experts consider that the Spanish sanction system is both insufficient and inadequate. As said, since the intermediaries are not member of the national association, the RFEF does not provide for a specific sanction framework, and the Spanish association general code does not refer to the specific problems arising from intermediaries' activities. They are not applicable to intermediaries.

Proposed changes by national experts are the following:

1. Improving training for football agents.
2. A better coordination with EU framework regarding the recognition of professional qualifications and regulated professions.
3. In our opinion, a harmonised approach should be adopted across the EU through European Union legislation.

SWEDEN

National legal requirements regulating agents

There is no specific regulation of football intermediaries under Swedish law, besides general provisions governing the contractual aspects of intermediaries in general, and no plans to implement such regulations.

Consultation at national level regarding implementation of RWWI

The RWWI 2015 was first implemented by Svenska Fotbollförbundet (“the SvFF”) through its Intermediaries Regulation (“Reglemente för förmedlare”) that were adopted on December 11, 2014 and entered into force on January 1, 2015 (SvFF Regulation 2015). SvFF Regulation 2015 was essentially just a translation of the RWWI 2015 and closely followed the RWWI 2015, both structurally and substantially. It contained few distinguishing features and thus, like the RWWI 2015, focused primarily on control through transparency. SvFF Regulation 2015 was implemented without substantive changes on a trial basis with the intention to review and possibly modify later on. Its adoption involved no significant dialogue or multi-party process. SvFF Regulation 2015 was amended on December 14, 2017 and entered into force on June 15, 2018 (SvFF Regulation 2018). There are a number of important differences between SvFF Regulation 2015 and SvFF Regulation 2018, many of which are inspired by the Danish FA’s (DBU’s) regulation on working with intermediaries. This includes, in particular, the following:

- Registered Intermediaries: With the exception of lawyers who are bar members (“advokat”) and in some situations legal guardians, only those who have been pre-registered as intermediaries by the SvFF (Registered Intermediaries) are authorized to carry out intermediary assignments (Articles 2(2) and 3(2) SvFF Regulation 2018) and registration can be revoked (Article 10(1) SvFF Regulation 2018). This is in practice essentially a return to the licensing system.
- Certified Intermediaries: Intermediaries may additionally and voluntarily undergo the SvFF’s intermediary training program to become a Certified Intermediary. Repeated training every three years is required to maintain certification (Article 5 SvFF Regulation 2018).
- Enhanced Protection of Minors: No representation contract may be entered with someone under 15 and only Certified Intermediaries may represent players under 18 (Articles 6(3)–6(4) SvFF Regulation 2018).
- Expanded Scope: The definition of intermediary is expanded to include not only those who assist in player transfer negotiations but also those who introduces parties for the purpose of initiating or facilitation a player transfer (Article 1(7) SvFF Regulation 2018).
- Standardized Terms: Before intermediary assignment commences, a written, standardized representation agreement, provided by the SvFF, must be concluded. The contract period may not exceed two years (Article 6(1) SvFF Regulation 2018).

The reformation process that resulted in SvFF Regulation 2018 was more extensive and involved a broad range of actors. The SvFF wrote a first draft that was then communicated in writing with e.g. clubs, regional governing bodies, Swedish police, and the Swedish football players' union ("Spelarförbundet") who were invited to provide input. Involvement by intermediaries was more limited, at least in part due to the absence of a representative organization. Following and as a result of the written stage, a working group was formed consisting of representatives of the SvFF, representative of Svensk Elitfotboll (SEF) (the organisation for football clubs in Sweden's highest divisions of men's and women's football), and four General Managers. This working group produced the proposal that became SvFF Regulation 2018.

No further modifications are currently planned. However, the process for formulating a standard representation contract is still under way.

Definition of intermediary

SvFF Regulation 2015 used the same definition of intermediary as the RWWI 2015 (Article 6(1) SvFF Regulation 2015). SvFF Regulation 2018 expands this definition to also include those who without participating in negotiations introduce parties to each other for the purpose of initiating or facilitation a player transfer (Article 1(7) SvFF Regulation 2018). This extends the protection provided by the RWWI 2015 in a way that is compatible with the RWWI 2015's status as a minimum-standards-regulation (Article 1.4 RWWI 2015).

Registration requirements

SvFF Regulation 2018 contains an exception from the registration requirements for lawyers who are bar members ("advokat") (Article 2(6)) and for legal guardians who in some situations may represent a minor player. Anyone else who seeks to work as an intermediary for a player must be registered by the SvFF (Registered Intermediary) and this must, as a general rule, occur before a representation contract is entered into or intermediary assignments are commenced (Articles 2(2) and 3(2) SvFF Regulation 2018). A football club can be represented by a non-registered intermediary as long as the intermediary has applied for registration prior to entering into a representation contract (Article 3(2) SvFF Regulation 2018).

In order to be registered as an intermediary the applicant must first pay a 15 000 SEK (ca €1, 500) application fee (Article 4(2) SvFF Regulation 2018). This needs to be renewed each year. The applicant shall be registered if he or she (i) has an impeccable reputation, (ii) has not been convicted for an economic, sexual, or violent crime, (iii) is independent of football's national and international governing bodies, and (iv) have liability insurance with specified coverage (Articles 4(3)–4(5) SvFF Regulation 2018).

These conditions are considered to have been fulfilled if the applicant submits (i) an Intermediary Declaration and (ii) a clean excerpt from the national criminal register or "equivalent certification" (Article 4(6) SvFF Regulation 2018). It can in this context be noted that additional means for ensuring compliance with requirements 3 and 4 above can be conceived. However, this was not the main focus of the revision process.

Registered Intermediaries may additionally and voluntarily undergo the SvFF's intermediary training program to become a Certified Intermediary. In order to maintain the status of Certified Intermediary the intermediary needs to undergo repeated training every three years (Article 5

SvFF Regulation 2018). The cost for attending is 10,000 SEK (~ €1.000). The right for intermediaries to present themselves as Certified Intermediaries is intended to be used as market high-quality services. The SvFF will also list Certified Intermediaries separately on its website. This is intended to provide an incentive for intermediaries to undergo continued training. Additionally, only Certified Intermediaries may represent players that are less than 18 years old (Articles 6(4) SvFF Regulation 2018).

Impeccable reputation

SvFF Regulation 2018 is written in such a way that the requirement of having an Impeccable Reputation is closely associated with the requirement of not having being convicted of certain crimes (Article 4(3) SvFF Regulation 2018). Relatedly, SvFF Regulation 2018 can and should reasonably be understood as that a clean excerpt from the national criminal register or “equivalent certification” is sufficient to show an Impeccable Reputation, “unless information to the contrary comes to light” (Article 4(6) SvFF Regulation 2018). It is unclear how such information would be discovered or if any particular procedures will be in place for uncovering such information. In this manner, the enforcement of the requirement of Impeccable Reputation under the RFF 2018 particularly focuses on the absence of criminal behaviour.

Representation contract

Swedish law makes no specific requirements of a representation contract unless it also includes a power of attorney for the intermediary to enter into agreements on behalf of the represented party.

In accordance with RWWI 2015, SvFF Regulation 2018 provides that (i) a representation contract must be entered into before the intermediary assignment commences, (ii) that it must be in writing, (iii) that it must contain certain minimum requirements, and (iv) that a legal guardian must sign for a minor player (Articles 6(1) and 6(5)). Additionally, SvFF Regulation 2018 provides (v) that the contracted period may not extend beyond two years (Article 6(1)). More notably, it provides (vi) that the representation contract must comply with the terms contained in a Standard Contract to be developed by the SvFF and that conflicting terms are invalid (Article 6(1)). The Standard Contract is not yet available and the substantive content of these terms can thus not currently be ascertained. The use of a Standard Contract aims to ensure equal, effective, and foreseeable terms as well as ensure a minimum level of protection.

Representation agreements must be registered with the SvFF for each transaction who charges clubs a 1,000 SEK (~ €100) registration fee per agreement.

Disclosure and publication

SvFF Regulation 2018’s rules on disclosure and publication (Articles 7(1) and 7(2)) is a direct translation of Articles 6(1) and 6(2) RWWI 2015.

Payments to intermediaries

SvFF Regulation 2018 contains a translated version of Article 7(3) RWWI 2015 that recommends, but does not mandate, that intermediary remuneration is set at 3% (Article 8(3) SvFF Regulation 2018). There is a perception among stakeholders that a stricter, mandated remuneration would violate EU law.

Swedish law contains no specific limitations on intermediary remuneration but any agreed upon remuneration can be lowered or set aside if it is grossly disproportional. This is more likely to be the case in a player-intermediary relationship than in a club-intermediary relationship (§ 36 of the Contracts Act).

There are no indications that a lack of transparency concerning remuneration to intermediaries has been a problem in Sweden.

Minors

While Swedish law contains many provisions seeking to protect the rights and interests of minors it contains no provisions specifically targeting these situations.

Following the RWWI 2015, SvFF Regulation 2018 provides (i) that a legal guardian must enter a representation contract on behalf of a minor player (Article 5(2)) and (ii) that no remuneration may be paid in a transaction concerning a minor player (Article 8(8)).

Additionally, no representation contract may be entered with a player younger than 15 years and only Certified Intermediaries may represent minor players (Articles 6(3)–6(4) SvFF Regulation 2018). However, with deviation from the general rule, a minor may be represented by a non-registered intermediary guardian in contract negotiations with a club (Article 2(5) SvFF Regulation 2018).

Conflicts of interest

SvFF Regulation 2018's rule on conflicts of interest (Article (9)) is a direct translation of Article 8 RWWI 2015. Thus, intermediaries must declare any conflict of interests and received written acceptance. Dual representation is possible subject to written consent.

Dispute resolution including key arbitration and state court cases

All disputes between intermediaries and players or clubs are to be resolved by the Arbitration Tribunal of the SvFF and are subject to a two-year period of limitation (Article 11 SvFF Regulation 2018). Disciplinary sanctions are heard by the Disciplinary Board of the SvFF with the possibility of appeal to the Disciplinary Board of the RF (Article 10(3) SvFF Regulation 2018).

Swedish courts have made no decisions regarding either the RFF 2015 or the RFF 2018 and the decisions of the Arbitration Tribunal of the SvFF are not publicly available.

The first and seemingly only disciplinary action taken for violating the SvFF Regulation 2015 was decided by the Disciplinary Board of the SvFF on May 2, 2017, in Disciplinary Case 2017:45. The case concerned a Swedish football club, AIK Fotboll, who in January 2017 transferred a then minor player to a German football club, Borussia Dortmund. It was known and declared in TMS that intermediary remuneration was to be provided in conjunction with the transfer, in direct contravention to the ban on such remuneration in cases involving minor players (Article 7(8) SvFF Regulation 2015, now Article 8(8) SvFF Regulation 2018). The fact that the transfer had been registered was found irrelevant for the issue of sanctioning as the ban was considered "absolute". In determining the appropriate fine, the board considered it

aggravating that the violated rule sought to protect minors. It also considered that the fine ought to be proportionate in relation to the transfer amount, which was substantial. The fact that AIK had been transparent and forthcoming, however, called for a reduced amount. On a balance of these considerations the board found that a fine of 350 000 SEK, out of a maximum of 500 000 SEK, was appropriate.

Sanctions

First, an intermediary that fails to comply with the requirements of the RFF 2018 may be deregistered (Article 10(1) SvFF Regulation 2018). Second, additionally, a player, club, or intermediary that fails to comply with the requirements of SvFF Regulation 2018 is subject to the disciplinary rules laid down in Chapter 14 of the Statutes of the Swedish Sport Confederation (“Riksidrottsförbundet” or “RF”) (Article 10(2)) This includes being issued a warning (Ch. 14 Sec. 14 of the Statutes of the RF) or a maximum fine of SEK 50,000 (~€5,000) for physical persons and SEK 500,000 (~€50,000) for legal persons (Ch. 14 Sec. 15 of the Statute of the RF and Sec. 53 of the Statute of the SvFF). Third and finally, SvFF Regulation 2018 suggests that a violating representation contract may under certain circumstances be invalid. However, the legal force of this is questionable.

National collective body of agents

An association for the organization of football agents, FSF, was formed in 1997. However, the organization was subsequently dissolved and no organized form of football agent cooperation currently exists.

Opinion of national expert

The national expert summarises the development that led up to the national regulations being amended. In 2016 and 2017, Swedish media reported that criminal organizations and individuals with serious criminal records were getting increasingly involved in Swedish football, including in the employment and transfer of players and in match-fixing. These findings were also confirmed by a special task force within the Swedish police. The process of revising the SvFF Regulation 2015 in 2017 can to a great extent be understood as a reaction to these events, which in turn was viewed as a result of the abolishment of the licensing system with the RWWI 2015. Thus, while the SvFF Regulation 2018 continues to promote transparency it is characterized by increased control motivated by the interest of combatting criminal and unethical behaviour and, more generally, promoting integrity in football.

The expert notes that there appears to be a large consensus that the RWWI 2015, and in particular the abandonment of licensing, caused a lack of control of the sector that was harmful on a general scale. Several independent media investigations have revealed that the introduction of the 2015 RWWI resulted in a significant influx of criminal elements and a “chaotic” situation. This view has been corroborated by the SvFF and the Swedish police.

Prior to the RWWI 2015 and SvFF Regulation 2015 there were circa 50 licensed football agents in Sweden. After this, there is no reliable data on active agents. Club reports on transactions involving intermediaries to the SvFF provides no clear support that the number of intermediaries has changed dramatically. However, there is possibly failures to report and it is a commonly held view that the number of intermediaries involved has increased. Similarly, there are no clear indications that the implementation of RWWI 2015 per se resulted in a

reduced quality of intermediary services. However, amendments introduced with SvFF Regulation 2018, particularly the establishment of Licensed Intermediaries coupled with requirements of reoccurring training, seeks to increase the quality of services and could indicate that there is at least a perceived problem with the quality of services currently offered.

The available sanctions are, in the expert's opinion, sufficient, in particular to ensure football club compliance. Given the economy of Swedish football clubs, the likely fines for violations are quite severe. The active involvement of football clubs in the development of SvFF Regulation 2018 is also likely to strengthen compliance.

Finally, the expert notes that the requirement that parties use a Standard Contract is potentially problematic. There are no clear limitations on what terms the SvFF may include in the Standard Contract nor any description of the procedure used to formulate such a Standard Contract, including in particular regarding the input of players and other stakeholders. It is also highly questionable whether the SvFF through SvFF Regulation 2018 can govern the legal validity of a representation contract, including for grounds that it is incompatible with the Standard Contract. The expert argues that for reasons of transparency, protection of certainty and expectations, and enhancement of legitimate rulemaking the terms that are to be included in the standard representation contract and in effect become mandatory should be laid down in the regulation itself.

WALES

National legal requirements regulating agents

UK Common Law and legislation applies in Wales. UK Common Law on Agency applies to intermediaries, requiring them to observe duty of care and skill, obey instructions and avoid conflict of interests. A number of legislative measures apply to the work of intermediaries: the Fraud Act 2006, the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2010 and the Bribery Act 2010. The main objectives of this set of legislation is to guarantee minimum requirements and impose criminal responsibility on offenders.

Consultation at national level regarding implementation of RWWI

No formal consultation was undertaken before the adoption of the regulation.

Definition of intermediary

Any natural or legal person who carries out Intermediary Activity and has registered with the FAW. Intermediary activity is defined as acting in any way and at any time either, directly or indirectly, for or on behalf of a Player or a Club in relation to any matter relating to a Transaction.

Registration requirements

Any natural or legal person who wishes to act as an Intermediary shall register with the FAW. The registration lasts for 1 year. Intermediaries are required to pay a fee of £500 or any other fee that may be prescribed by the FAW from time to time, and £250 or any other fee prescribed by the FAW from time to time in order to renew that Registration. Intermediaries will be required to satisfy the FAW of their impeccable reputation before such Registration will be approved.

Impeccable reputation

The FAW Regulation on Intermediaries does not provide a definition of “Impeccable Reputation”. It requires intermediaries to satisfy the FAW of their impeccable reputation and to communicate any change in that regard. The only further requirement is mentioned in relation to minors. In this case, the registered intermediary must pass an Enhanced DBS check for Regulated Activity.

Representation contract

The Regulations establish rules for the Representation Contract. The Representation Contract must contain the entire agreement between the parties in relation to the Intermediary Activity, and shall, at a minimum, contain all Obligatory Terms of the relevant Standard Representation Contract. The contract must be lodged with the FAW within 10 days from being executed. All parties to a Representation Contract must inform the FAW in writing of any early termination, novation, variation or other events that affects the validity or status of a Representation Contract (except natural expiration) within ten (10) Business Days of such event.

Disclosure and publication

Any remuneration made to an intermediary must be recorded in the accounting record of the club. The FAW however publishes annually a list of the registered intermediaries and a list of the transactions in which they have been involved, including any payment received. A Player, Club, Club Official or Manager must disclose to the FAW any arrangement whether formal or informal that exists between any Player, Club, Club Official or Manager and any Intermediary – the same duty is imposed on the intermediary.

Payments to intermediaries

An Intermediary may be remunerated by the Club or the Player for whom he acts, in accordance with the terms of the Representation Contract between the parties. Parties can agree to payments in instalments or lump sum. Where the parties agree to a commission, the Representation contract must mention how this payment must be made. The player can discharge his obligation to pay – directly; or he may request in writing to the club to make deductions from his net salary to pay the intermediary. Where the Intermediary and the Player agree in the Representation Contract that a commission (lump sum or instalments) is to be paid in respect of a Transaction, this shall be calculated on the basis of the Player's Basic Gross Income agreed in said transaction. The intermediary and the player can agree period instalments related to a player's employment contract that last longer than the representation contract. In this event, the Intermediary is entitled to the agreed instalments after expiry of the Representation Contract, until the Player's employment contract expires or, if earlier, until the Player signs a new employment contract without the involvement of that Intermediary.

Payments made by a club to an intermediary must be recorded in the club's account record.

An intermediary is not entitled to any payment in relation to Solidarity Payment and/or any Domestic or International Training Compensation, save when the Governing Bodies consents to it. The intermediary cannot pass payment received from the club or the player to third parties (save the autonomy of the organisation for legal persons).

The FAW recommends the benchmark for payment to intermediaries which should not exceed 3% of the Player's basic gross income for the relevant employment contract.

Minors

Prior to entering into a Representation Contract with a Minor or with a Club in respect of a Minor, an Intermediary must obtain permission from the FAW to deal with Minors, which shall include the Intermediary undertaking an Enhanced DBS check for Regulated Activity to the satisfaction of the FAW. This authorisation can be applied for by an Intermediary when registering with the FAW or at any point after his Registration and is valid for 3 years subject to the Intermediary being registered for 3 years.

Only a natural person registering as an Intermediary can register to work with Minors.

No payment can be made to the intermediary if the transaction involves a minor.

Conflicts of interest (e.g. dual representation)

The general principle is that an intermediary can only act for one party to a transaction, and that he/she cannot have interests in a club, or the economic rights of a player. The intermediary can act for both parties only if a) The Intermediary has a pre-existing Representation Contract with one party to the Transaction and the Representation Contract has been lodged with The Association; and b) The Intermediary obtains all parties' prior written consent to him providing services to any other party to the Transaction; and c) Once the Intermediary and the other party(ies) have agreed terms, the Intermediary must inform all parties of the full particulars of the proposed arrangements including, without limitation, the proposed fee (if any) to be paid by all parties to the Intermediary; and d) All parties are given the reasonable opportunity to take independent legal advice and/or, in the case of a Player, to take advice from the Professional Footballers' Association prior to providing written consent; and e) Having been given such opportunity, all parties provide their express written consent for the Intermediary to enter into a Representation Contract with the other party(ies).

In absence of prior written consent, the intermediary cannot provide service and/or receive payment for the relevant transaction.

Intermediaries are prohibited from having an interest (5% ownership, being in a position enabling it to exercise any influence over the affairs of the entity) in a club. Similarly a Player, Club, Club Official and Manager shall not have any interest in an Intermediary's organisation. An Intermediary must not have, either directly or indirectly, any interest of any nature whatsoever in relation to a registration right or an economic right (TPO) of a player.

Intermediaries are prohibited from offering any consideration to players or clubs as a result or in return for a transaction or in return for the promotion of the services of the intermediary. Players, Clubs, Club Officials and Managers are prohibited from accepting such offers or receiving such consideration.

Dispute resolution including key arbitration and state court cases

Any breach or allegation of the Regulations on intermediaries is dealt with by the Judicial Bodies of the FAW in accordance with Section E of the FAW Rules. The judicial bodies have jurisdiction over any dispute between intermediaries and clubs/players and on any request for a review made under the Agent Regulations by an applicant for Registration, or to review the suspension of the Registration. As the FAW Rules apply in this instance, the dispute can be heard by a Disciplinary Panel, and the Appeal Panel. As Wales follows the English common law, the precedents decided in England apply to Welsh courts as well.

Sanctions

In the event the intermediary does no longer fulfil the requirements necessary for registration, the FAW can suspend or revoke the registration. Further disciplinary sanction may be imposed under Section E of the FAW rules, applicable to every individual affiliated with the Federation. Sanctions can range from a fine to a suspension to a permanent ban.

National collective body of agents

No collective body in Wales representing Football Agents/Intermediaries. However, the AFA, based in England, aims to represent intermediaries in the UK.

Opinion of national expert

The assessment of the quality of the service provided by intermediaries in Wales is affected by the very limited number of intermediaries registered with the FAW. Only one transaction involving a registered intermediary has occurred (or has been registered) in the period from 31/01/2017 to 17/04/2018. Similarly, there is not enough information available on the level of remuneration. Of course, the limited size of the league and the consequent need for intermediary activity may justify a limited level of remuneration. Only one intermediary is currently registered with the FAW. It is likely that Welsh intermediaries have decided to register in England. Although the league and the demand for intermediary activity in Wales may be limited, this does not fully explain how only one intermediary is registered with the FAW.

7.

***2015 RWWI: National Implementation - Country Reports
Summary***

Country	National law (Specific to agents)	Registration Cost	Impeccable Reputation	Agent Remuneration	Intermediary Activity with a Minor	Conflicts of Interest	Dispute Resolution	National Collective Body
Austria	No	None	Intermediary self- declaration	Calculated on the basis of the agreed basic gross income; 3% threshold as recommendation	Allowed but no remuneration for players under 18	Parties must make reasonable effort to make sure that no conflicts of interest exist Dual representation allowed with prior written consent of the parties.	No specific regulation for dispute resolution - only sanctioning mechanisms; ÖFB Committee for intermediaries and supervisory committee impose imposing sanctions and settle disputes	None
Belgium	No	€500 Annual Fee	Registration is automatically rejected if: a. The criminal records certificate shows a final conviction for a	Follows RWWI National Regulation recommends to cap remunerations at 3% of either the player's total turnover throughout	Intermediaries shall not be remunerated for their intervention in negotiations related to employment contracts or transfers of minors	Art. 9 of National association regulations incorporates art. 8 of FIFA regulations	Disputes are solved before the Belgian Arbitration Court of Sport	Not Active

			<p>felony or a financial crime in the last 5 years;</p> <p>b. There is a final decision issued by FIFA or by another association preventing the intermediary from registering due to corruption or match fixing.</p> <p>c. The criminal records certificate shows a final conviction for a crime against a minor</p>	the whole duration of his contract or 3% of the transfer fee				
Bulgaria	Yes	BGN 250 (€125) for 1 year	At the moment the FA Regs. do not meet this requirement and only requires clean criminal records as a condition for the registration	The agreed compensation cannot exceed 7% of the gross monthly salary of the player/coach and/or transfer fee under the transaction. The remuneration of a football agent in a transaction in	Intermediaries are prohibited from concluding a contract with a player before the age of 16. After that age, the contract must be additionally signed by the player's parent or guardian. Intermediaries cannot be	The Regulations incorporate art. 8 of FIFA regulations. Dual representation is allowed. Under Bulgarian law in case of mediation the intermediary may be remunerated for his/her services from both parties	Commission of Football Agents acting as a first instance body. The decision of the CFA can be appealed before the BFU Court of Arbitration	Bulgarian Association of Football Agents (BAFA)

				which he/she was hired by the club is freely negotiated between the parties.	remunerated for the activity undertaken on behalf of a minor.	and this would not constitute dual representation.		
Croatia	Yes	None	Intermediary self-declaration + Court statement that against the intermediary has not been initiated any criminal proceeding.	No determined % cap.	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract in compliance with the Family Act and the contract should be validated before a notary.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes must be taken to Ordinary courts. The FA has no jurisdiction.	None
Cyprus	No	€170	Intermediary self-declaration	3% cap fixed calculated on gross annual income of players (excluding benefits)	No fee can be paid to intermediaries representing minors.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes to be heard by the National Dispute Resolution Chamber (NDRC). Appeal before the Appeals body of the NDRC.	None
Czech	No	None	Impeccable reputation must be proven by an extract from the Criminal Records	Calculated on the basis of the agreed basic gross income; no threshold or recommendation	No representation and contracting of players younger than 15 years. No payments for players younger than 16 years.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior	Disputes are heard by a Panel of Arbitrators of FACR	Czech Football Agents Association (member of the EFAA)

						written consent of the parties.		
Denmark	No	~€670 and ~€400 per year (excl. VAT)	Intermediary self-declaration + clean criminal record	Recommendation to cap remunerations at 3% of either the player's total turnover throughout the whole duration of his contract or 3% of the transfer fee	Intermediaries must be certified to represent minors. Intermediaries shall not be remunerated for their intervention in negotiations related to employment contracts or transfers of minors, and any contract must be signed by a parent or legal guardian.	Parties must make reasonable effort to make sure that no conflicts of interest exist Dual representation allowed with prior written consent of the parties.	Disputes to be heard by FA bodies + Ordinary courts by default	None
England	No	£500 (+VAT) + £250 (+VAT) for every annual renewal.	Test of Good Character and Reputation	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer. All payments to be made via The FA clearing house.	1. Representation agreements must be countersigned by the Minor's parent or legal guardian with parental responsibility. 2. The intermediary must obtain specific authorisation from the FA prior to enter into a contract with a minor (3 yrs validity). 3. A legal person cannot represent Minors.	Dual representation allowed if parties have given prior written consent. Parties must be informed of all the details – including intermediary fee – and must have the opportunity to have legal advice. Intermediaries cannot have any interest in club or economic rights of the player. No consideration to be given to	Breaches of the Regulations to be treated as Misconduct under FA Regs. Special consideration to the status of a minor, knowledge and understanding. Disputes are referred to arbitration.	Association of Football Agents (AFA).

					4. Intermediary cannot be paid.	players/clubs to influence their decision.		
Estonia	No	None	Intermediary self- declaration	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	Parties must make reasonable effort to make sure that no conflicts of interest exist Dual representation allowed with prior written consent of the parties.	Disputes to be heard by the FA bodies	No
Finland	No	€100 per year	Intermediary self-declaration	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	Parties must make reasonable effort to make sure that no conflicts of interest exist Dual representation allowed with prior written consent of the parties.	Disputes to be heard by the FA bodies	No
France	Yes	None	Impeccable reputation is stated by law governing the issue of the incapacities and ineligibilities. The law also sets out certain conditions of integrity	French law sets a cap on the remuneration of sports agents at "10% of the amount of the contract signed by the parties it has brought together"	Article L.222-5 of the Code du Sport prohibits any form of payment or compensation in favour of an intermediary representing a minor.	Dual representation is prohibited by Art. L.222-17 of the Sports Code	Disputes involving intermediaries are out of the jurisdiction of the FA. -Pre-litigation mechanism in dedicated professional sports federations. -Almost all disputes between agents and their	1) National union of sports agents [Syndicat national des agents sportifs] 2) Union of the agents of football [Union des agents du football]

							clients concerning financial matters are heard before ordinary Courts.	
Germany	No	€500	Certificate of good conduct	Calculated on the basis of the agreed basic gross income; no threshold or recommendation	No representation fee for players under 18 years	Parties must make reasonable effort to make sure that no conflicts of interest exist Dual representation allowed with prior written consent of the parties.	No specific regulation for dispute resolution - only sanctioning mechanisms; DFB bodies are responsible for imposing sanctions and settling disputes	DFVV – German Football Player Agents Association
Greece	Yes	€2000 Registration fee + €200 for every new representation contract with a professional player (100€ for amateurs - adults, minors)	Intermediary self-Declaration + declaration that he/she has never been convicted for white collar crimes, crimes relating to proprietary rights, crimes relating to fraud, falsification and forgery of documents, and crimes of violent nature.	8% cap calculated on the basis of the transfer value (if the intermediary works for the club) or of the players' gross salary of the player (if representing the player).	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	Parties must make reasonable effort to make sure that no conflicts of interest exist Dual representation allowed with prior written consent of the parties.	Disputes are heard by FA Financial Dispute Resolution Committee. Appeals are heard by the FA Arbitral Tribunal. The FA Ethics Committee is responsible for sanctioning intermediaries.	None

Hungary	Yes	HUF 50,000 (~€156) + HUF 20,000 for each transaction	List of disqualifying conditions. No certificate of good conduct required.	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract. HFA will receive 1% of the transaction fee and 4% of the transaction fee will be paid into the Fund for Retirement Education	No representation contract with players under 18 years	No dual representation allowed	Dispute are heard by the Dispute Settlement Committee	None
Italy	Yes	NOC Registration + FA Annual registration fee of €500, and €150 for each individual representation contract.	Intermediary self-declaration.	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	No provision specifically regulating the payment for representation of minors, but no payment can be made if the transaction involves amateur players. The representation contract involving a minor must be signed by his parent or his guardian/legal representative.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties. The representation contract can indicate that the player is represented jointly by more than one individual.	Disputes involving intermediaries are heard by the Intermediary Committee. Appeals are heard by the FA Federal Court of Appeal, whose decision is definitive.	AIACS – Italian Association of Football Agents.

Latvia	No	€100 per year	Intermediary self-declaration.	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes to be heard by FA bodies + ordinary courts	None
Lithuania	Yes	None	Intermediary self-declaration.	None	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes to be heard by FA bodies	None
Luxembourg	No	€500 annual fee	Natural and legal persons must submit a Declaration of honour	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	Intermediaries shall not be remunerated for their intervention in negotiations related to minors. It Applies also to the parents of the minor	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes involving intermediaries are heard by the FLF internal bodies (the Federal Court and the Court of Appeal).	None
Malta	N/A	Registration fee €500. The first payment is made with the application and covers the	Intermediary self-declaration + a recent Police Conduct Certificate from the person's	3% cap fixed calculated on gross annual income of players (excluding benefits)	No fee in case of minors.	Parties must make reasonable effort to make sure that no conflicts of interest exist.	Disputes are heard by the FA Complaints Board of the Association (or for non MFA	N/A

		period of two (2) years	country of residence and a declaration by the applicant that he has never been found guilty by a Maltese Court or a foreign court of a criminal offence and that he is not currently undergoing any criminal proceedings anywhere.			Dual representation allowed with prior written consent of the parties.	members FIFA PSC)	
Netherlands	No	€ 450 + 21% VAT	Certificate of Conduct issued by the Dutch State Secretary for Security and Justice, declaring that the applicant did not commit any criminal offences that are relevant to the performance of his or her duties.	In case no financial arrangements have been made, the intermediary is entitled to an annual commission of 3% over the player's gross annual salary.	Representation of a minor can only be paid as from the moment the player became 18 years of age.	Dual representation allowed with prior written consent of the parties. Parties must document details of intermediary fee.	Disputes between intermediaries and members of the KNVB, and disputes among intermediaries to be settled by Arbitration to the exclusion of civil courts.	Pro Agent.
Northern Ireland	No	N/A	Intermediary self-declaration	Recommended cap of 3% of the	No fee can be paid to intermediaries	Dual representation allowed with prior	Intermediaries are subject to the	Association of Football

				Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	written consent of the parties.	jurisdiction of Irish FA and the Irish FA's Dispute Resolution Body.	Agents (AFA).
Poland	No	N/A	Intermediary self-declaration	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	Dual representation allowed with prior written consent of the parties.	Disputes are referred to Arbitration	None
Portugal	No	€1000 annual fee	An Intermediary Committee decides on Intermediary's Integrity. Decision is taken by two thirds of the members of the Committee, taking into consideration, in particular, the disciplinary, professional and sporting record of the applicant.	Unless it is agreed otherwise and mentioned in a written clause of the initial contract, remuneration cap is fixed at 5%	Intermediaries cannot act on behalf of minor players. Contracts entered into force with a minor must be signed by the minor's legal representative	Parties must make reasonable effort to make sure that no conflicts of interest exist.	Disputes are heard by the FPF Disciplinary Committee Parties can voluntarily refer to the Portuguese Court of Arbitration for Sport Ordinary Courts may be competent depending on the nature of the dispute	National Association of Sport Agents - ANAF

Republic of Ireland	No	€350 Registration Fee	2 valid character references + All intermediaries must be properly vetted by the Gardaí (Irish Police)	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	The intermediary must be vetted by the Gardaí (Irish Police) to work with children and vulnerable adults. Intermediary must undergo mandatory training on child protection in sport. Any breach of FAI Child welfare policy is heard by FAI Disciplinary bodies.	Dual representation allowed with prior written consent of the parties. Parties must document details of intermediary fee.	Disputes under the FAI Regs may be resolved either by the Competitions Director or by the FAI Disciplinary Bodies.	Association of Football Agents (AFA).
Romania	No	Yes, determined by the executive Committee	Updated identification record (i.e. certificate of good conduct)	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	It is forbidden to approach, directly or indirectly, or conclude a contract with players under 16 years; No intermediary fee for players under 18	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes are heard by the FRF Discipline and Ethics commission	None
Scotland	No	N/A	Intermediary self-declaration	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer.	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract. The minor can give a 3 months notice period to terminate	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes are referred to Arbitration. Specific dispute resolution procedure applies. The arbitrator is appointed by the parties involved in the dispute from the list of	N/A

					representation contract.		Intermediary Members	
Slovakia	No	€100	Extract from the system of criminal records Register for suspended and revoked intermediaries	Recommended cap of 3% of the Player's Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer. The rate in practice is about 10%	No representation fee for players under 15 years	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes are referred to SFA Dispute Resolution Chamber responsible for all disputes.	None
Slovenia	No	€420	Intermediary self-declaration + Statement that has no criminal record.	No determined % cap. Only 3% if the parties have not determined the fee.	No fee can be paid to intermediaries representing minors. If the player is a minor, the player's legal guardian(s) shall also sign the representation contract.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	FA has no jurisdiction over disputes involving intermediaries. Disputes must be referred to ordinary courts.	None
Spain	No	€861 annual fee	Intermediary self-declaration	Not mentioned in the regulations. No limit under Spanish ordinary Law	Intermediaries shall not be remunerated for their intervention in negotiations related to minors	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Economic disputes involving intermediaries are heard by the Jurisdictional Committee of the RSFA. Non-economic disputes and all disputes arising out of a representation contract signed by	Asociacion Española de Agentes de Futbolistas' (Spanish Association of Football Agents)

							a minor must be brought before ordinary Courts.	
Sweden	No	~ €1.500 per year	Excerpt from the national criminal register or “equivalent certification”.	Recommended cap of 3% of the Player’s Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer	No fee can be paid to intermediaries representing minors. If the player is a minor, the player’s legal guardian(s) shall also sign the representation contract. No representation contract may be entered with a player younger than 15 years and only Certified Intermediaries may represent minors	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties.	Disputes involving intermediaries are heard by the Arbitration Tribunal of the SvFF. Disciplinary sanctions are issued by the Disciplinary Board of the SvFF with the possibility of appeal to the Disciplinary Board of the RF (Swedish Sports Confederations).	None
Wales	No	£500 + £250 for every annual renewal.	No definition – candidate must satisfy the FAW of his impeccable reputation and to communicate any change in that regard.	Recommended cap of 3% of the Player’s Basic Gross Income for the entire duration of the contract, or 3% of the value of the transfer. Payments made by a club to an intermediary must be recorded in the	Intermediary must obtain permission from the FAW to deal with Minors, including Enhanced DBS check for Regulated Activity (3 yrs validity). A legal person cannot represent Minors. Intermediary cannot be paid.	Parties must make reasonable effort to make sure that no conflicts of interest exist. Dual representation allowed with prior written consent of the parties. Parties must be informed of all the details – including intermediary fee –	Any breach of the Regulations is dealt with by the Judicial Bodies of the FAW in accordance with Section E of the FAW Rules. Disputes involving intermediaries and clubs/players are referred to arbitration.	Association of Football Agents (AFA)

				club's account record.		and must have the opportunity to have legal advice. Intermediaries cannot have any interest in club or economic rights of the player. No consideration to be given to players/clubs to influence their decision.		
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Appendix I

List of National Experts

In compiling this Interim Report, the research team drafted a questionnaire for distribution to national experts with knowledge of the intermediary regulations in force within their territory (national association) of expertise. Below is a list of the experts who assisted us with this report.

Austria - Maximilian Seltmann
Belgium - Sara Moya Izquierdo
Bulgaria – Boris Kolev, Elena Todorovska
Croatia – Vanja Smokvina
Cyprus – Loizos Hadjidemetriou & Associates LLC
Czech Republic - Jiří Janák
Denmark - Lars Hilliger
England – Andrea Cattaneo
Estonia - Katarina Pijetlovic
Finland - Antti Aine
France - Jean-Michel Marmayou
Germany - Maximilian Seltmann
Greece - Konstantinos Papastergiou, Athanasios Glavinas
Hungary - András Nemes
Italy – Andrea Cattaneo
Latvia - Sergei Petrov
Lithuania - Martynas Kalvelis
Luxembourg – Maria Carmen Perez Gonzalez
Malta – Vanja Smokvina
Netherlands - Dennis Koolaard
Northern Ireland - Andrea Cattaneo
Poland - Michał Bieniak
Portugal - Alexandre Miguel Mestre
Republic of Ireland - Seán Ó Conaill
Romania - Geanina Tatu
Scotland - Laura McCallum
Slovakia - Tomáš Gábris
Slovenia - Vanja Smokvina
Spain - Maria Carmen Perez Gonzalez and Alberto Palomar Olmeda
Sweden - Johan Lindholm
Wales - Andrea Cattaneo

