

# **THIRD-PARTY OWNERSHIP OF PLAYERS' ECONOMIC RIGHTS**

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# EXECUTIVE SUMMARY

## A. INTRODUCTION

The report contains an overview of the present status of Third-Party Ownership (TPO) in FIFA's member associations.

At a worldwide level, the issue is regulated by Article 18bis of the FIFA Regulations on the Status and Transfer of Players (RSTP; *"Third-party influence on clubs"*).

This provision disallows clubs from entering into contracts liable to jeopardise their independence and freedom of decision concerning the employment of players and their possible transfer to other clubs.

## B. STUDY

FIFA instructed CIES to *"conduct a study and map the legal practices and the regulations in place on the question of third-party ownership of players' economic rights among FIFA's member associations by means of a set of questions established jointly by FIFA and the CIES"* and *"submit to FIFA an analysis (report) on the basis of the answers provided by the member associations"*.

To collect the necessary information for the implementation of the mandate, FIFA sent a questionnaire, together with Circular No 1335, to all its members. 106 member associations out of 209 have completed and returned the questionnaire.

## C. RESULTS

### C.1. Scale of the phenomenon

TPO concerns relatively few national associations, in particular those where professional football is quite well developed or whose players traditionally move to more attractive professional leagues.

The answers to the questionnaire provide little information on the scale of the phenomenon in the regions where it exists. Norway, Croatia and Panama, which keep a register, have recorded 20 %, 12 % and 0.01 % respectively of players concerned. The Danish association estimates that TPO could concern 15 to 20 players in its leagues, while the Japanese federation indicated that the phenomenon mainly concerns Brazilian players. It cannot also be excluded that in certain countries, TPO may exist covertly, without the knowledge of the national association.

There are few other estimates. In the context of a survey<sup>1</sup> conducted by Raffaele Poli and Giambattista Rossi (2010) in collaboration with the CIES Football Observatory on players' agents domiciled in the five biggest European football markets (England, Spain, Italy, Germany and France), 15 % of the respondents admitted having owned shares of players' transfer rights during their career.

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<sup>1</sup> [http://www.football-observatory.com/IMG/pdf/report\\_agents\\_2012-2.pdf](http://www.football-observatory.com/IMG/pdf/report_agents_2012-2.pdf)



## **C.2. Article 18bis RSTP**

The associations which have taken over the exact wording of Article 18bis RSTP in their internal regulations or where it is directly applicable represent 86.5 % of respondents (83 associations out of 96 valid answers).

Three associations have specific rules prohibiting TPO, according to their regulations and/or national laws (England, France, Colombia). The English FA has the most detailed set of rules in that matter. If an English club wishes to register a player who is subject to third-party ownership, it must arrange to buy out the third party. Clubs must comply with specific requirements concerning such buy outs. Non-compliance may lead to disciplinary action.

Five associations (Argentina, Chile, Uruguay, Italy, South Africa) stated restricting TPO in the sense that they only allow clubs – and not other third parties, companies or private investors – to hold players' economic rights.

One association (Poland) has specific rules, which are more restrictive than Article 18bis RSTP. The association's interpretation of these rules is that they would allow a former club – but no other third parties - to hold a part of a player's economic rights.

There is a measure of uncertainty regarding the associations' interpretation of Article 18bis RSTP. While certain answers show that the respondents interpret this article as prohibiting TPO (for example: Ukraine), there is no way of knowing how that rule is interpreted by the associations that simply indicated they had taken over Article 18bis RSTP or allow it to have direct application. Some of those associations may well share the view of those who expressed their position in this respect. An additional survey could be undertaken to clarify the practice of member associations with respect to Article 18bis RSTP.

## **C.3. TPO registration systems**

Generally, member associations do not have any registration systems for the players concerned or the third parties owning players' economic rights. There are only three exceptions (Croatia, Norway, Panama), but pursuant to UEFA club licensing regulations, and starting from the 2013/2014 season, European associations might obtain from their clubs the names of the players whose economic rights are held by third parties and the percentage of such ownership, but not the identity of the third party owners.

## **D. COMMENTS AND SUGGESTIONS FROM MEMBER ASSOCIATIONS**

Several member associations indicate that the problem does not concern them, either because only amateurs play in their competitions or because there are no known TPO cases on their territory.

The English, French, Bulgarian and Serbian associations propose that TPO be prohibited throughout FIFA territory. The main arguments are that this practice threatens the integrity of the game, that TPO may distort fair competition between clubs, that a general prohibition of TPO would avoid huge amounts being paid to third parties instead of being injected directly into the football system and that TPO encourages the escalation of transfer fees to the detriment of the game's main stakeholders. The association of Japan mentions that if the practice spread to local players, especially the younger ones, it could well have a direct or indirect influence on the clubs' youth development environment.

For the Portuguese federation, TPO transparency is assured, for clubs listed on the stock-exchange, by the publication of the corresponding data and the third-party owners have no right to impose any given line of sports conduct on a player or his club.

In Brazil, the CBF considers that not only is TPO permitted by virtue of national law, but that national law requires associations, their members and third parties to accept it.

The Austrian federation explains that overly severe restrictions of contractual freedom might be deemed contrary to its national law.

Several member associations expressed the wish to be appropriately informed by FIFA about the TPO issues, the stakes involved and the possible measures they might adopt (for example: Cayman Islands, Qatar, Malawi, Moldova, Trinidad and Tobago).

## **E. CONCLUSIONS**

The main findings of the survey are:

- a) many associations do not feel concerned by the TPO issue, either because of the amateur status of their players or because their environment does not encourage the development of this type of practice;
- b) a large majority of member associations has taken over Article 18bis RSTP without modification or let it apply directly;
- c) a few associations – including the English and French ones – prohibit TPO by virtue of their own regulations, based on national law or by a restrictive application of Article 18bis RSTP;
- d) some associations restrict to clubs – the club holding the sporting rights and other clubs - the possibility to hold players' economic rights;
- e) very few associations have established systems for registering the players and third parties concerned. European federations might, however, start collecting data on the players whose economic rights are held by third parties as of the licensing process for the 2013-2014 season;
- f) reliable information on the scale of the phenomenon is rare and it is therefore impossible for the time being to estimate its global significance (an additional study based for example on a survey of the players could shed more light in this regard). Nevertheless, it is clear that the practice exists – in one form or another – and is concentrated in certain regions, logically those where the economic stakes are the highest.