FIFA's Principle of Contractual Stability Re-Examined: An Analysis Through the Lens of FIFA v BZ (2024)

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Abstract

This dissertation examines the impact of FIFA's principle of contractual stability on player mobility and employment in professional football. The research centres on the landmark judgment of the Court of Justice of the European Union in *FIFA v BZ* (2024) which exposed the asymmetrical and punitive operation of Article 17 of FIFA's Regulations on the Status and Transfer of Players (RSTP). The Court held that the measures were incompatible with Article 45 of the Treaty on the Functioning of the European Union.

Through adopting a doctrinal and critical methodology, this dissertation analyses the emergence and operation of contractual stability within the RSTP. It demonstrates that the cumulative effect of these rules extends beyond legitimate contractual regulations and operate as a systematic restraint on labour mobility, that privileges club interests.

Existing scholarship defends contractual stability as necessary for the regularity of competitions. However, it remains focused on elite European football and consequently underplays both the asymmetrical burdens imposed on players and the intensified harm experienced in lower leagues and economically weaker football markets. This research addresses that gap by situating contractual stability within football's historical pattern of player control and the current global labour market. It draws on empirical evidence from FIFPro's Global Employment Report 2016 and examines the role of FIFA's private legal order in embedding and enforcing these effects.

The dissertation concludes that contractual stability requires reorientation towards reciprocity and transparency.

TABLE OF CONTENTS

Abstract 0

Abbreviations 2

Chapter 1: Contractual Stability Within the Historical Development of Football 5

1.1 Early Restrictions on Player Mobility 5

1.2 The Establishment of FIFA 7

1.3 European Union Law in Football 8

1.4 Post-*Bosman* Landscape 10

Chapter 2: Contractual Stability and FIFA v BZ 11

2.1 History of the RSTP 11

2.2. Contractual Stability Under the RSTP 13

2.3 *FIFA v BZ (Diarra)*: Exposure of Contractual Stability in Practice 14

2.4 The CJEU's Rejection of Contractual Stability 16

2.5 Analysis 18

Chapter 3: FIFA's Objective Does Not Stand Up to Scrutiny 18

3.1 The Indeterminacy of Contractual Stability 19

3.2 An Asymmetrical System 20

3.2.1. Asymmetry in Termination Standards 22

3.3 Contractual Stability as a Barrier to Player Mobility and Employment 23

3.3.1 Compensation Criteria 23

3.3.2 De Facto Bans to Mobility 25

Chapter 4: Contractual Stability in Practice and Global Consequences 26

4.1. Contextualising Football's Global Labour Market 26

4.1.1 The Reality of Non-Elite Players 26

4.2 FIFA's Private Legal Order & Player Harm 28

4.3 The Importance and Limits of the EU in Football 30

Conclusion 32

Abbreviations

CAS	Court of Arbitration for Sport
CJEU	Court of Justice of the European Union
DRC	Dispute Resolution Chamber
EU	European Union
FIFA	*Fédération Internationale de Football Association*
FIFPro	*Fédération Internationale des Associations de Footballeurs Professionnels*
RSTP	Regulations on the Status and Transfer of Players
TFEU	Treaty on the Functioning of the European Union

Introduction

Professional football operates within a highly regulated employment market governed by a private transnational authority, the *Fédération Internationale de Football Association* (FIFA). FIFA regulates the international transfer system, which governs how players as employees move between employers, football clubs, worldwide.[1] Players, unlike standard workers, cannot freely move between employers by simply providing notice as they are bound by Chapter IV, "Maintenance of Contractual Stability" of FIFA's Regulations on the Status and Transfer of Players (RSTP).[2] FIFA present the principle of contractual stability as the cornerstone of this system, a neutral mechanism designed to ensure contractual certainty between players and clubs for the maintenance of team composition and the integrity of competitions.[3] For illustration, FIFA's Circular Letter 769 states that contractual stability "is of paramount importance in football, from the perspective of clubs, players and the public."[4]

This dissertation asks: How does FIFA's principle of contractual stability impact player mobility and their employment, through the lens of the Court of Justice of the European Union's (CJEU) ruling in *FIFA v BZ* (*Diarra*) (2024)?

The impacts of FIFA's contractual stability rules were exposed by the CJEU in *Diarra* (2024).[5] Following the premature termination of his contract, Lassana Diarra, a French footballer, was

[1] Raffaele Poli and others, 'Football Mobilities: A Global Player Transfer Market' in Joseph Maguire, Katie Liston and Mark Falcous (eds) *Handbook on Sport and Migration* (Edward Elgar 2024) 22; FIFA, 'Global Transfer Report 2024' (FIFA, January 2025) 5.
[2] Fédération Internationale de Football Association (FIFA), 'Regulations on the Status and Transfer of Players' (FIFA 2022) (RSTP 2022).
[3] FIFA, 'Commentary on the Regulations on the Status and Transfer of Players' (FIFA 2023), 122 (FIFA RSTP Commentary); Paul A Czarnota, 'FIFA Transfer Rules and Unilateral Termination Without "Just Cause" 2(1) Berkeley Journal of Entertainment & Sports Law 1, 7.
[4] FIFA, 'Circular Letter No 769: Revised Regulations for the Status and Transfer of Players' (23 August 2001) 10 < https://digitalhub.fifa.com/m/52905820e6b2bd01/original/dml3hvtpgzmjkbn5hixd-pdf.pdf> accessed 10 October 2025.
[5] Case-650/22 *Fédération Internationale de Football Association (FIFA) v BZ* EU:C:2024:824 (*FIFA v BZ*).

subjected to substantial financial liability and sanctions under the RSTP. Cumulatively, this excluded him from the labour market.[6] FIFA have consistently maintained that such consequences are inherent to contractual stability. However, the CJEU held that these rules are incompatible with Article 45 of the Treaty on the Functioning of the European Union (TFEU), which guarantees EU workers the right to free movement between Member States.

This dissertation uses *Diarra* as an analytical focal point to examine the operation of contractual stability within football's regulations. It demonstrates that the case exposes broader issues in FIFA's contractual stability framework, raising questions about whether contractual stability really operates reciprocally between contracting parties, or rather functions to systematically privilege club interests over labour mobility and player autonomy.

This research matters because the effects of contractual stability reflect a recurring historical pattern within football's governance, in which regulations disproportionately restrict player mobility and access to employment. Moreover, the impact of these rules extends beyond European Union (EU) law and elite European football. FIFA's rules apply uniformly across vastly unequal labour markets, meaning that the burden imposed by contractual stability is often felt most acutely by players in lower leagues and economically weaker jurisdictions.

This dissertation proceeds in four chapters. Chapter One situates contractual stability within the historical development of football's labour market. Chapter Two examines the entrenchment of contractual stability in the RSTP and the CJEU's intervention in *Diarra* (2024). Chapter Three demonstrates that FIFA's principle of contractual stability does not

[6] Subhrajit Chanda and Animesh A Bordoloi, 'Breaking Boundaries: The Diarra Case and Its Ripple Effects on FIFA Regulations and Player Transfers' (2024) 5(1) Journal of Sports Law, Policy and Governance 1.

withstand critical scrutiny. Chapter Four explores the global implications of this model, with focus on FIFA's private legal order and the role of EU law in football.

Chapter 1: Contractual Stability Within the Historical Development of Football

FIFA's principle of contractual stability is neither a neutral nor a novel development. The principle reflects a modern reformulation of a historical pattern in which football's governance has restricted player mobility and their rights to protect club interests, with meaningful reform only occurring through external legal intervention.

1.1 Early Restrictions on Player Mobility

The origins of contractual stability can be traced to the earliest forms of football regulation, where mechanisms governing player movement were designed primarily to preserve club control rather than protect contractual relationships. Following the professionalisation of football in England in 1885, the Football Association and the Football League introduced the transfer-and-retain system to regulate player movement.[7] Under this system, clubs retained extensive control over player mobility by preserving a player's registration after the expiry of their contract. As a result, players were unable to register for another club unless their existing club agreed to release or transfer their registration, despite the absence of any continuing contractual obligations.[8]

The restrictive nature of this system was exposed in *Eastham v Newcastle United* (1963).[9] Following the expiration of his contract, Newcastle United retained Eastham's registration

[7] David McArdle, *From Boot Money to Bosman: Football, Society and The Law* (Cavendish 2000) 18-21.
[8] Peter J Sloane, 'The Labour Market in Professional Football' (1969) 7(2) British Journal of Industrial Relations 181,184; Mark O'Neill, 'The History of the Football Transfer System' (*Sport and the Law: Mark's Musings,* 19 July 2024)< https://www.sportlawmusings.com/post/the-history-of-the-football-transfer-system>accessed 12 October 2025.
[9] *Eastham v Newcastle United Football Club* [1964] Ch 413.

under the transfer-and-retain system.[10] Although Eastham was no longer contractually bound to Newcastle, the club's retention of his registration meant that he remained tied to them for registration purposes. Any club wishing to employ him as a professional footballer was required to negotiate a transfer and pay a fee to Newcastle, even though Eastham's contractual obligations had ended. As a result, he was effectively prevented from freely joining another club and securing alternative employment within professional football. Eastham therefore challenged the legality of the transfer-and-retain system before the English Chancery Division. This represented the first judicial intervention in which football's private regulations were subject to external legal scrutiny.

Wilberforce J. held that the retain system constituted an unreasonable restraint on trade.[11] In his reasoning, he explicitly recognised the asymmetry of power within the system, observing that it operated as an "employers' system" in which "employers were vastly more organised than employees."[12] This early judicial recognition highlights that restrictions on player mobility have been embedded within football's regulatory framework since the professionalisation of the game, serving club interests rather than neutrally governing the employment relationship between player and club. Further, *Eastham* marks the beginning of a recurring pattern in which reform within football's internal affairs only occurs when players invoke external legal fora to challenge the onerous rules governing player mobility.

The early transfer-and-retain system established the imbalance that persists in the modern RSTP where player mobility continues to be unduly restricted, albeit reframed under the

[10] Michael P Furmston, 'Retain and Transfer System Offside' (1964) 27(2) The Modern Law Review 210, 211.
[11] ibid, 439.
[12] Ibid, 438.

rhetoric of contractual stability.[13] As football governance became internationalised through FIFA, these restrictions were entrenched within its regulatory framework and reconfigured to operate through contractual enforcement and sanctions for breach rather than registration control, but they continue to produce the same practical effect of limiting player mobility.

1.2 The Establishment of FIFA

FIFA controls player movement globally through a hierarchical system.[14] At the apex, FIFA formulates binding regulations governing player registration, transfer and contractual relations.[15] Confederations, national associations and clubs must comply and implement these rules to partake in organised football.[16] Therefore, players, as structurally disadvantaged participants in the system, can only pursue a professional career in football if they submit to FIFA's monopoly. The multi-billion-dollar nature of the football industry has granted FIFA the power to exercise regulatory authority that significantly constrains players' freedom of movement.[17]

FIFA was originally established in 1904 to coordinate international football matches.[18] However, by 1953,[19] FIFA codified the first set of rules governing cross-border player

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[13] Siyabonga P Hadebe, 'Dismantling Lex Sportiva: How the Diarra Doctrine and a Class Action Are Affirming Footballers' Labour Rights' (Proceedings of the Rijeka Doctoral Conference, Faculty of Law, University of Rijeka, 2025) 3 (Conference Paper) < https://ssrn.com/abstract=5917002> accessed 2 January 2026.

[14] Richard Bush and Andrew Smith, 'Institutions' in Nick De Marco KC (eds) *Football and the Law* (Bloomsbury Professional 2022) 15-16.

[15] FIFA RSTP (n 2) art 1.

[16] FIFA, 'FIFA Statues: Regulations Governing the Application of the Statues; Standing Order of the Congress' (May 2024) art 11(2), art 22(3)(a) (FIFA Statute).

[17] Erdenedalai Batmunkh, 'Role of Football in International Business and Economy' (2021) 1 Management Science and Business Decisions 39.

[18] Tom Bason, Paul Salisbury and Simon Gerard, 'FIFA' in Simon Chadwick and others (eds) *Routledge Handbook of Football Business and Management* (Routledge 2018) 423.

[19] Case C-415/93 *Union royale belge des sociétés de football association ASBL v Jean-Marc Bosman, Royal club liégeois SA v Jean-Marc Bosman and others and Union des associations européennes de football (UEFA) v Jean-Marc Bosman* EU:C:1995:293, [1995] ECR- I-04921, Opinion of AG Lenz, para 20.

movement, exporting the logic of restricting player movement internationally.[20] National systems varied but the unifying principle remained consistent: clubs retained disproportionate control over player mobility through post-contract compensatory fees.[21] The centralisation of regulatory autonomy in FIFA and its adverse implications on footballers as workers prompted intervention from EU law.

1.3 European Union Law in Football

FIFA's free reigning autonomy within football exists only within the limits imposed by European Union law. [22] European football occupies the economic and commercial epicentre of the global game with many of the world's most commercially significant clubs, leagues, players and competitions based in Europe. This creates a strong incentive for FIFA to tailor its rules to the realities of European football, as its regulations must remain capable of governing the part of the football industry in which much of the global game's financial activity is concentrated. Consequently, FIFA cannot realistically develop and enforce its rules without accounting for the EU legal framework in which European football operates.

Sports law, therefore, emerges from the interaction between internally generated sporting rules and their external juridification by EU internal market law.[23] Article 45 of the TFEU guarantees the free movement of workers within the Union and prohibits unjustified restrictions on mobility.[24] Importantly, professional footballers fall within the scope of this protection as workers, meaning that sporting regulations cannot be considered immune from EU law simply

[20] Michael P Furmston, 'Retain and Transfer System Offside' (1964) 27(2) The Modern Law Review 210, 211.
[21] Borja García, 'He was not Alone: Bosman in Context' in Antoine Duval and Ben Van Rompuy (eds) *The Legacy of Bosman: Revisiting the Relationship between EU Law and Sport* (Springer 2016) 16.
[22] Floris de Witte and Jan Zglinski, 'The Idea of Europe in Football' (2022) 1 European Law Open 286, 298.
[23] Richard Parrish, 'The Birth of European Union Sports Law' (2003) 2(2) Entertainment and Sports Law Journal 20, 21-23.
[24] Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C 326/49, art 45.

because they are created by private sporting bodies. Where football regulations restrict a player's ability to move between clubs, they may constitute an obstacle to free movement requiring legal justification. This establishes a tension between football's self-regulation and EU market principles.

The CJEU first confirmed in *Walrave and Koch* (1974) that professional sporting activity falls within the scope of EU law as it constitutes economic activity when performed for remuneration. Professional footballers are therefore 'workers' under Article 45 and are entitled to the protections against restrictions on their movement.[25] It was reinforced in *Meca-Medina* (2006), that "the mere fact that rules are purely sporting in nature does not have the effect of removing them from the scope of the Treaty."[26] Therefore, FIFA cannot rely on the illusory phenomenon of the 'sporting exception' to resist the oversight of EU law; its rules must be proportional.[27]

The CJEU first exposed FIFA's restrictive transfer system in *Union Royale Belge des Sociétés de Football Association ASBL v Jean-Marc Bosman* (1995) (*Bosman*).[28] Bosman was prevented from pursuing employment with another club due to the imposition of post-contract transfer fees.[29] The CJEU held that this constituted an unjustifiable restriction on the free

[25] ibid.
[26] Case-519/04 *David Meca-Medina and Igor Majcen vs Commission* EU:C:2006:492 [2006] ECR I-6991 para 27.
[27] Robert Siekmann, 'The Specificity of Sport: Sporting Exceptions in EU Law' (2012) 49 Zb Radova 697, 724.
[28] Antoine Duval, 'The FIFA Regulations on the Status and Transfer of Players: Transnational Law-Making in the Shadow of Bosman' in Antoine Duval and Ben Van Rompuy (eds) *The Legacy of Bosman: Revisiting the Relationship between EU law and Sport* (Springer 2016) 85.
[29] Stephen Weatherill, *Principles and Practice in EU Sports Law* (OUP 2017) 142-143.

movement of workers, insofar as it impeded players' ability to take up employment in another Member State.[30]

The judgment, therefore, curtailed one manifestation of the control, but did not eliminate the underlying objective and thus prompted the reconfiguration of regulations to pursue stability through contractual means. This shift provides the backdrop for the emergence of the principle of contractual stability and the resulting barriers to Diarra's free movement in *FIFA v BZ* (2024).

1.4 Post-*Bosman* Landscape

Following *Bosman*, post-contract transfer fees could no longer be used to control player mobility.[31] This strengthened players' bargaining power by removing clubs' residual control over access to future employment and facilitated increased cross-border mobility. For clubs, however, the judgment destabilised the economic logic that underpinned player retention. Where previously value could be secured through post-contract compensation, clubs now faced the risk of losing players without financial return.

In response, contractual practices across Europe adapted rapidly. Clubs relied on longer fixed-term contracts and incorporated unilateral extension clauses to prolong their control over players' registrations.[32] These adaptations functioned to preserve clubs' economic leverage notwithstanding the formal expansion of player mobility rights.

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[30] Case-415/93 *Union royale belge des sociétés de football association ASBL v Jean-Marc Bosman, Royal club liégeois SA v Jean-Marc Bosman and others and Union des associations européennes de football (UEFA) v Jean-Marc Bosman* EU:C:1995:463 [1995] I-04921, para 114.

[31] Stephen Weatherill, *Principles and Practice in EU Sports Law* (n 29) 308-309.

[32] ibid 309-310; Stefano Bastianon and Michele Colucci, 'The Evolution of FIFA Transfer Football Regulations: Challenges, Opportunites and Innovative Approaches in the Wake of the Diarra Judgment' (2024) 20 Rivista Di Diritto Ed Economia Dello Sport 1, 4.

It is within this post-*Bosman* environment that FIFA formulated the principle of contractual stability. Although presented as a safeguard for contractual certainty and the stable organisation of competitions, the practical function of this doctrine was to restore some of the control that clubs had lost under *Bosman*. Contractual stability is therefore not a novel principle, but a continuation of the entrenched system of football's governing bodies (FGBs) restricting player mobility for the benefit of clubs, reshaped in response to external legal restraint.

This historical continuity provides the basis for Chapter 2's analysis of how contractual stability operates through the RSTP, demonstrating why the system exposed in *Diarra* is not an aberration, but the latest manifestation of FGBs restricting player mobility.

Chapter 2: Contractual Stability and FIFA v BZ

Building on the historical foundations, this chapter examines how FIFA's principle of contractual stability emerged and is operationalised through the RSTP.

2.1 History of the RSTP

Post-*Bosman*, clubs reactively urged FIFA to establish a uniform set of regulations that would restore their financial security in the transfer market.[33] FIFA and UEFA commenced negotiations with the European Commission to agree on rules that would comply with EU law and curb increased player mobility.[34] Negotiations culminated in a political agreement in 2001.[35] The resulting agreement did not represent an equal compromise so much as a retreat by the Commission and a settlement secured largely on FIFA's terms, illustrating another

[33] Espen Auberg, 'History of FIFA Transfer Regulations' (*EA Sports Law*, 17 March 2024)< https://www.easportslaw.com/news/history-of-fifa-transfer-regulations-rstp>accessed 28 October 2025.
[34] Richard Parrish, *Sports Law and Policy in the European Union* (MUP 2003) 138.
[35] European Commission, 'Outcomes of the Discussions Between the Commission and FIFA/ UEFA on FIFA Regulations on International Football Transfers' IP/01/314 (Press Release, 5 March 2001).

example of FIFA using its institutional power to resist external legal constraint.[36] The agreement permitted financial compensation and sporting sanctions to be employed where contracts were terminated without just cause.[37]

Importantly, the Commission's endorsement was non-binding; thus, even at this point, it was unclear whether these new rules genuinely complied with EU law.[38] The EU tolerated certain deterrent mechanisms in principle, but it did not endorse the disproportionate way FIFA subsequently implemented them. In particular, the agreement did not envisage the extension of joint and several liability for new clubs, nor the systematic refusal to issue International Transfer Certificates during contractual disputes. FIFA nevertheless incorporated both features into the RSTP, extending the reach of contractual stability beyond what had been politically accepted by the EU. [39]

Opposition from the *Fédération Internationale des Associations de Footballeurs Professionnels* (FIFPro) underscored the discontent with this proposed system. The global players' union criticised the agreement for restricting players' ability to terminate contracts and for treating footballers differently from other EU workers.[40] This highlights that FIFA's contractual stability rules have been viewed as harmful from the outset by those whom it affects most: players. FIFPro ultimately capitulated to the settlement.[41] This acquiescence reflects the limited influence of player representation within football which has allowed FIFA to shape rules that marginalise players' interests.

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[36] Borja Garcia, 'The 2001 Informal Agreement on the International Transfer System' (2019) Sports Law and Policy Centre 1, 5.
[37] European Commission (n 35).
[38] Borja Garcia (n 36) 5-6.
[39] Ibid.
[40] Richard Parrish (n 34) 145,148; James G Irving, 'Red Card: The Battle over European Football's Transfer System' (2002) 56 U Miami L Rev 667, 715.
[41] European Commission. 'Commission Closes Investigations into FIFA Regulations on International Football Transfers' IP/02/824 (Press Release, 5 June 2002).

The resulting RSTP 2001 institutionalised contractual stability as the organising principle of the international transfer system.[42] Understanding how this principle is operationalised within the RSTP is essential before assessing its legal effects in *Diarra*.

2.2. Contractual Stability Under the RSTP

The rules governing contractual stability can be found in Chapter IV of FIFA's RSTP.[43] These provisions govern the termination of employment contracts, the consequences of unilateral termination and the conditions under which players may register with new clubs.

Article 13 establishes the foundational rule that a contract between a player and a club may only be terminated by mutual agreement. This reflects the broader contractual principle of *pacta sunt servanda*, whereby parties are generally bound by the agreements they have entered into. Articles 14 provides a narrow exception to this principle and provides that a contract may be terminated by one party if there is "just cause". This exception is not defined nor elaborated upon and thus most unilaterally terminated contracts will be considered to be "without just cause". Article 17 regulates the consequences of unilateral contract termination without just cause.

If a player terminates their contract and thus is in breach, Article 17(1) provides that they are liable to pay compensation, which is calculable with regard to, "the law of the country concerned, the specificity of the sport and any other objective criteria". This provision imposes financial consequences for premature termination. Article 17(2) provides that when that player seeks to join a new club, that is a new employer, the new club will be held jointly and severally liable for the payment of the compensation. In addition to this, Article 17(4) imposes a

[42] Omar Onargo, 'Maintenance of Contractual Stability Between Professional Football Players and Clubs – The FIFA Regulations on the Status and Transfer of Players and the Relevant Case Law of the Dispute Resolution Chamber' in Michele Colucci (ed) *Contractual Stability and Termination in Football* (European Sports Law and Policy Bulletin (2) 2025) 36.
[43] FIFA RSTP (n 2).

rebuttable presumption that the new club induced the player to breach their contract and as a result a sporting sanction is imposed on the club which prohibits them from registering new players for two registration periods (that is two transfer windows).

The regime goes further as the RSTP also governs the administrative conditions for players to transfer to clubs in different countries through the International Transfer Certificates (ITCs) system. The general rule is that pursuant to Article 9(1) and Article 8.1 of Annexe 3, a player can only register with a new association once their ITC has been issued by their former association. However, during a contractual dispute concerning unilateral termination, Article 8.2(7) of Annexe 3 prohibits the issuance of an ITC. Therefore, if a player terminates their contract the rules also prevent them from registering with a new club until the dispute is resolved.

Although framed as neutral provisions which apply to both a breaching player or club, the provisions are not equal. Specifically, Article 17(2), 17 (4) and the witholding of an ITC are only capable of sanctioning a player. Therefore, the cumulative effect of these provisions on players not only impedes their right to free movement but also disproportionately harms players in contrast to clubs, as exposed by the CJEU in *Diarra*.

2.3 FIFA *v BZ (Diarra)*: Exposure of Contractual Stability in Practice

The dispute in *FIFA v BZ* (2024) provides the starkest illustration of how contractual stability operates in practice to disproportionately harm player mobility.

In 2013, BZ (Diarra), a French professional player, entered a 4-year contract with Lokomotiv Moscow. One year into the contract, the club unilaterally terminated, alleging it was on the

grounds of the player's conduct.[44] The club's allegation of 'just cause' termination triggered the application of the RSTP rules and Diarra was automatically assumed to have terminated 'without just cause'. [45] In proceedings before FIFA's Dispute Resolution Chamber (DRC), Lokomotiv sought compensation under Article 17(1) RSTP, claiming that the termination was attributable to the player.[46] The DRC accepted this and ordered Diarra to pay €10.5 million in compensation. This was subsequently upheld by the Court of Arbitration for Sport (CAS).[47]

Following this, Diarra was precluded from accepting a conditional offer from Sporting Charleroi, owing to the club's reluctance to incur joint and several liability for the compensation and the administrative inability to register him without an ITC. [48] Cumulatively, the rules excluded him from the labour market for 15 months.[49]

Diarra subsequently initiated proceedings against FIFA and the Belgian FA before the Belgian courts seeking damages for loss of income, arguing that FIFA's rules violated EU law.[50] The Belgian Court of Appeal referred the question to the CJEU.[51]

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[44] Ornella Desirée Bellia, 'CAS 2015/A/ 4094, Lassana Diarra v FC Lokomotiv Moscow, Award of 27 May 2016' in Antoine Duval and Antonio Rigozzi (eds) *Yearbook of International Sports Arbitration 2016* (Springer 2018) 318-319; *FIFA v BZ* (n 5) para 22.
[45] Mark James, 'The Diarra Case' (2024) 24 The International Sports Law Journal 205.
[46] Ornella Desirée Bellia (n 43) 319.
[47] ibid 320.
[48] *FIFA v BZ* (n 5) para 25-26.
[49] Frank Hendrickx, 'Transfers in Professional Football and *Diarra* Case' (2025) 11 International Labour Rights Case Law 249, 250.
[50] Sînziana Ianc and Aurélien Hömann, 'Certain FIFA Transfer Rules Contrary to EU Law: Case C-650/22 *FIFA v BZ'* 16(5) Journal of European Competition Law & Practice 364; Jasper Wauters and Nikolas Hertel, 'ECJ Decision in the Diarra Case: Some of FIFA's Players Transfer Rules are Incompatible with EU Law' (*White & Case*, 10 October 2024)> https://www.whitecase.com/insight-alert/ecj-decision-diarra-case-some-fifas-players-transfer-rules-are-incompatible-eu-law< accessed 10 November 2025.
[51] Treaty on the Functioning of the European Union (n 23) art 267.

2.4 The CJEU's Rejection of Contractual Stability

The Court approached the case in three stages: it first identified whether the rules amounted to a restriction on free movement under Article 45 TFEU, then examined FIFA's claimed justifications, and finally assessed whether the measures were proportionate to the objective of ensuring the regularity of competitions.

(i) Restriction on Free Movement

The CJEU first held that the combined operations of the RSTP articles amounted to a restriction on the free movement of workers under Article 45 TFEU.[52] The rules were found to deter players from terminating contracts and to dissuade prospective clubs from employing them, thereby directly impeding players' ability to access employment in another Member State.[53]

(ii) FIFA's Claimed Legitimate Objectives

Having established a restriction, the Court examined FIFA's justifications. FIFA relied on three purported legitimate objectives: (i) maintaining contractual stability, (ii) ensuring the regularity of competitions, and (iii) remarkably, protecting players.[54]

The Court accepted, in principle, that sporting bodies may pursue objectives related to the organisation and regularity of competitions, consistent with its reasoning in *Superleague* (2023).[55]

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[52] *FIFA v BZ* (n 5) para 94; Case-680/21 *UL and SA Royal Antwerp Football Club v Union royale belge des sociétés de football association ASBL* EU:C:2023:1010.
[53] ibid paras 91-93.
[54] ibid para 98.
[55] ibid 100-101; Case-333/21 *European Superleague Company, SL v Fédération internationale de football association (FIFA) and Union of European Football Associations (UEFA*) EU:C:2023:1011, para 143.

However, it rejected FIFA's attempt to elevate contractual stability into an autonomous justification capable of legitimising restrictions on player mobility.[56] Fundamentally, the Court reframed contractual stability as a subsidiary consideration that may only operate insofar as it genuinely serves stable team composition for competitions. [57]

The Court further dismissed FIFA's attempt to justify these rules as necessary to protect players. It blatantly observed that player protection is not within FIFA's objectives and that the rules, in effect, do not serve that purpose. [58]

(iii) Proportionality and the Court's Rejection of the Rules

The Court then assessed whether the contested rules were proportionate to the accepted objective of ensuring the regularity of competitions, concluding they were not and some "went far beyond what was necessary".[59]

It scrutinised the compensation model under Article 17(1) for its reliance on indeterminate criteria and the resulting excessive financial liability, recognising the intent to redress clubs' financial interests to the detriment of players.[60]

Secondly, Article 17(2) was criticised for imposing automatic joint and several liability on new clubs without any assessment of their actual conduct, undermining proportionality and legal certainty.[61]

[56] ibid para 102.
[57] Ibid para 102.
[58] Ibid Para 99.
[59] ibid para 104
[60] ibid paras 105-107
[61] ibid para 108.

Thirdy, Article 17(4) was held to be manifestly disproportionate due to its automatic presumption of inducement and inflexible sporting sanctions, imposed without regard for the circumstances of each case.[62]

Finally, Article 8.2(7) of Annex 3 was found to "manifestly infringe on the principle of proportionality" because the non-issuance of an ITC operates as an absolute barrier to employment, irrespective of fault or context.[63]

2.5 Analysis

The Court also demonstrated a sympathetic approach towards players. It acknowledged the vulnerability of professional footballers, emphasising the short duration of their careers and the potentially severe consequences of exclusion from the market.[64] In doing so, it employed notably emphatic terminology, such as "significant", "potentially very high" and "major".[65]

The Court's analysis therefore exposed fundamental tensions within FIFA's contractual stability model, which although presented as a neutral mechanism, operates in ways that detrimentally affects player mobility. The CJEU was confined to assessing the compatibility of the RSTP with EU law, but its reasoning reveals broader issues and effects of contractual stability that warrant further critical examination. These issues are addressed in Chapter 3.

Chapter 3: FIFA's Objective Does Not Stand Up to Scrutiny

Building on the CJEU's judicial critique in *Diarra,* this chapter examines FIFA's reliance on contractual stability as a justification for restricting player mobility. It demonstrates that contractual stability is conceptually indeterminate, asymmetrically applied and incapable of

[62] ibid paras109-110
[63] ibid para 112
[64] ibid para 104
[65] ibid.

operating in a proportionate or reciprocal manner, producing effects that impede players' mobility and access to employment.

3.1 The Indeterminacy of Contractual Stability

Despite FIFA's repeated reliance on contractual stability, neither the RSTP nor its commentary provide any definition of the concept. Its contents, scope and limits are entirely unspecified. As a result, contractual stability cannot operate as a legal standard capable of constraining FIFA's regulatory discretion or guiding the interpretation of the rules by the DRC or CAS. This has enabled FIFA, for over two decades, to justify far-reaching restrictions on players by reference to an undefined principle, undermining fundamental requirements of legal certainty and transparency, that are expected of a body exercising regulatory authority over employment relations.[66]

I purport that, in the context of employment regulation and in the absence of any authoritative definition, contractual stability can only coherently be understood as a reciprocal relationship between employer and employee, in which both parties enjoy equal certainty as to their rights and consequences of lawful termination.[67] Crucially, stability cannot be equated with contractual rigidity. [68] A system that operates asymmetrically by effectively trapping one party does not promote true stability as it undermines freedom of contract, a foundational principle of contract law.[69]

[66] Sahiba Gill and others, 'Whose Game? FIFA, Corruption and the Challenge of Global Governance' (2019) 30(3) The European Journal of International Law 1041, 1045.
[67] Hanoch Dagan and Michael Heller, 'Freedom of Contracts' (2013) Columbia Law and Economics Working Paper No. 458, 18 <https://ssrn.com/abstract=2325254> accessed 12 November 2025.
[68] Onargo (n 41) 33.
[69] Larry A DiMatteo, *Principles of Contract Law and Theor*y (Edward Elgar 2023) 58.

The analysis that follows demonstrates that, FIFA's rules do not uphold contractual stability as a reciprocal principle but instead deploy it to prioritise club interests while disproportionately affecting player mobility.

3.2 An Asymmetrical System

In principle, post-*Bosman,* players can move freely when their contract expires. However, in practice, many players never reach that point. Players' careers are inherently short, averaging less than 20 years,[70] with most players retiring in their early thirties.[71] As contracts may last up to 5 years,[72] players are therefore bound to their employer for a significant portion of their career. During this period, clubs also retain a structural advantage and can transfer the player to secure a fee before the contract expires or rely on unilateral extension options. Players, already have little control over their mobility and the contractual stability rules only intensify this.[73]

FIFA's contractual stability rules operate within this in an asymmetrical manner, imposing greater burdens on players in temporal effect and severity of consequences. Clubs face limited deterrence and minimal impacts when they terminate contracts unilaterally.[74] Players, however, are subject to the punitive effects of contractual stability at all stages: they constrain their

[70] António S Ribeiro and Francisco Lima, 'Football Players' Career and Wage Profiles' (2019) 51 Applied Economics 76, 81.
[71] No Ezequiel Rey and others, 'No Sport for Old Players: A Longitudinal Study of Aging Effects on Match Performance' (2022) 25 Journal of Science and Medicine in Sport 535.
[72] FIFA RSTP (n 2) art 18(2).
[73] FIFPRO, 'The Lassana Diarra Judgement Explained: What Does It Mean for Footballers?' (*FIFPRO*, 22 May 2025) < https://www.fifpro.org/en/articles/2025/05/the-lassana-diarra-judgement-explained-what-does-it-mean-for-footballers> accessed 28 October 2025.
[74] Wil van Megen, 'Contractual Stability from a Player's Perspective' in Michele Colucci (ed) *Contractual Stability and Termination in Football* (European Sports Law and Policy Bulletin (2) 2025) 118.

autonomy during the contract operating as a form of entrapment and impose disproportionate consequences following termination.[75]

This asymmetry is reinforced in practice. When clubs are subject to the effects of contractual stability rules the impacts are negligible. For example, in 2010, Chelsea FC were sanctioned under Article 17(2) and (4) RSTP for the presumed inducement of Gaël Kakuta.[76] In reality, the club avoided any real consequence: the sanction was overturned by the CAS and the compensation payment was resolved through a negotiated settlement.[77] By contrast, when players are subject to the rules, the rules impose substantial financial liability that can be personally ruinous and carry sanctions capable of ending careers. *Diarra* makes these effects visible, but most players remain invisible, lacking the financial, legal and reputational resources required to challenge FIFA's rules.[78] Empirical data reinforces this imbalance as approximately 95% of employment-related disputes before FIFA concern breaches by clubs.[79]

This undermines FIFA's claim that contractual stability operates to protect both clubs and players.

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[75] Houben Robby, 'FIFA Transfer System Rules in Front of the Court' (*Verfassungsblog.de*, 18 March 2024) 3 > https://verfassungsblog.de/transfer-system-rules/< accessed 1 January 2026.
[76] Jamie Horner, 'Gael Kakuta, Chelsea Football Club, the Transfer Embargo and Implications' (*LawInSport)* >https://www.lawinsport.com/component/content/article?id=92:gael-kakuta-chelsea-football-club-the-transfer-embargo-and-the-implications&catid=21 <accessed 2 December 2025; Owen Gibson, 'Chelsea Banned by FIFA From Signing Players Till 2011 Over Gaël Kakuta' (*The Guardian*, 3 September 2009) > https://www.theguardian.com/football/2009/sep/03/chelsea-fifa-transfer-ban-gael-kakuta< accessed 3 December 2025.
[77] Owen Gibson, 'Chelsea Transfer Ban Lifted by Court of Arbitration for Sport' (*The Guardian*, 4 February 2010) >https://www.theguardian.com/football/2010/feb/04/chelsea-transfer-ban-lifted-gael-kakuta< accessed 3 December 2025.
[78] Chuenchanok Siriwat, 'Breaking the Contract: Exploring the Fallout of Unilateral Termination in Professional Football – Insights from FIFA Dispute resolution Chamber Cases involving Thai League Clubs' (2024) 18 Asian Sport Management Review 85, 89.
[79] FIFPRO (n 72).

3.2.1. Asymmetry in Termination Standards

The narrow exception that permits termination without consequence under Article 14 does not operate reciprocally between clubs and players. FIFA provides no definition of 'just cause' thus the threshold is determined on a discretionary analysis by FIFA's own arbitrating bodies.[80] This indeterminacy generates legal uncertainty for players and deters termination even in untenable employment relationships, given the risk that an unsuccessful claim will trigger the severe consequences attached to termination without just cause under Article 17.

By contrast, clubs benefit from the flexibility of an undefined standard. This is illustrated by *Diarra*. Lokomotiv relied on ordinary disciplinary allegations such as Diarra's absence from training sessions and a team dinner to establish 'just cause'. Diarra adduced substantial counterevidence indicating a mutual intention to facilitate his transfer, supported by his exclusion from pre-season training in Spain. He also produced medical evidence from two doctors confirming depression, claimed allegations of coercive medical oversight and evidence of the club's failure to pay his wages.[81] Notwithstanding this, the DRC and the CAS both upheld that Lokomotiv had just cause.

This showcases that clubs face a comparatively lower threshold for establishing just cause, while players must overcome an ambiguous evidentiary standard to rebut the claim.

Moreover, the structure of Article 14 produces an inversion of responsibility: once a club successfully invokes just cause, the player is exposed to the punitive consequences of Article 17 despite not having initiated the termination. [82] Therefore, Article 14 fails to account for the

[80] FIFA RSTP Commentary (n 3) 128-129.
[81] Ornella Desirée Bellia (n 43) 319, 324.
[82] FIFA RSTP Commentary (n 3) 128.

individual circumstances of the employment relationship and operates to transfer the risk of termination almost entirely onto the player.

3.3 Contractual Stability as a Barrier to Player Mobility and Employment

3.3.1 Compensation Criteria

FIFA and CAS consistently maintain that compensation under Article 17(1) is necessary to deter premature termination.[83] At an abstract level, the imposition of financial consequences for breach is a familiar feature of contract law and, in principle, promotes compliance.[84] However, the method for calculating compensation is incompatible with this logic. First, it applies to clubs and players in materially different ways, undermining the reciprocity required for genuine contractual stability.[85] Second, its effects extend beyond deterrence and actively suppress players' rights to free movement and access to employment.

When clubs unilaterally terminate, the amount owed is limited to the residual value of the contract, a quantifiable amount that can be anticipated and managed in advance.[86] This significantly weakens any deterrent effect and means that clubs effectively retain freedom to choose to terminate.[87]

By contrast, the compensation model is fundamentally different and more severe when applied to players for three main reasons.

Firstly, compensation is calculated with reference to the "positive interest" principle, as introduced in the *Matuzalem* (2008) case.[88] This intends to put clubs in the financial position it

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[83] CAS 2008/A/ 1519 *FC Shakhtar Donetsk v. Matuzalem Francelino da Silva & Real Zaragoza SAD & FIFA* (19 May 2009) para 34 (CAS 2008/A/1519 Matuzalem).
[84] R Samantha Cotton, 'Remedies for Breach of Contract' [1999] Practical Law UK Articles 1.
[85] Dachi Peradze, 'Critique of Player Inducement Liability in the FIFA Regulatory Framework' (Master's Thesis, New Vision University 2025) 31 < https://ssrn.com/abstract=5923964>accessed 8 January 2026.
[86] Stefano Bastianon and Michele Colucci (n 32) 27.
[87] Will ven Megen (n 73) 121.
[88] CAS 2008/A/1519 *Matuzalem* (n 82) 40-42.

would have occupied had the contract been fully performed. This disproportionately holds players personally liable for the club's investment risks.[89] Figures such as the amortised transfer fee are included despite bearing no causal relation to the player's actual conduct or breach.[90] Financial liability that bears no reasonable relationship to the harm caused ceases to function as enforcement and instead operates as coercion.[91]

Secondly, the criteria confer an unrestrained discretion on the DRC and CAS when calculating. In particular, the requirement to give "due consideration" to the "law of the country concerned" has virtually never been incorporated in calculations.[92] Liability is instead calculated primarily with reference to FIFA's own regulations and subsidiarily, Swiss law.[93] This is a position acknowledged by FIFA itself, which seeks to justify it on the basis that it ensures "traceable jurisprudence".[94] However, consistency achieved through the exclusion of external legal standards does not ensure legal certainty for players who are deprived of the protections ordinarily afforded under national employment laws. In this context, the formal inclusion of this criterion is difficult to justify, as its persistent non-application suggests that it functions to obscure the asymmetrical operation of contractual stability.

Thirdly, reference to the "specificity of the sport" increases the unpredictability in calculations. It is undefined in the RSTP and applied through highly subjective assessments by DRC and CAS panels. In *Matuzalem,* reliance on this criterion resulted in additional €600,000 being

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[89] Richard Parrish, 'Contractual Stability: The Case Law of the Court of Arbitration' in Michele Colucci (ed) *Contractual Stability and Termination in Football* (European Sports Law and Policy Bulletin (2) 2025) 83.
[90] FIFA v BZ (n 5) para 107; Paul A Czarnota (n 5) 38.
[91] Practical Law, 'Punitive Damages' (Glossary, Item 6-501-5593) > https://uk.practicallaw.thomsonreuters.com/6-501-5593?transitionType=Default&contextData=(sc.Default)&firstPage=true< accessed 23 December 2025.
[92] FIFA RSTP Commentary (n 3) 178.
[93] FIFA RSTP Commentary (n 3) 178; Omar Onargo, 'Compensation Under Article 17 of FIFA Regulations on the Status and Transfer of Players' in Bjorn Hessert, Chui Ling Goh and Jack Anderson (eds*) Elgar Concise Encyclopaedia of Sports Law* (Edward Elgar 2025) 70.
[94] FIFA RSTP Commentary (n 3) 178.

added to the award, notwithstanding the absence of clear justification.[95] This is exacerbated by the limited publication of DRC decisions, which prevents scrutiny of how and when this criterion is applied and undermines any claim to consistency.

3.3.2 De Facto Bans to Mobility

Beyond compensation, contractual stability produces *de facto* bans on players' access to future employment. Under Article 17(2), the the joint and several liability provision effectively reinstates the pre-*Bosman* system as it requires the new club to pay the former club compensation for a player who is, in fact, out of contract.[96] When combined with the automatic presumption of inducement, this shifts the financial and sporting risk onto prospective employers, utilising economic deterrence to prevent player mobility as no rational employer will assume such exposure.

This exclusionary effect is compounded by the mandatory withholding of the ITC which operates as an absolute barrier to player mobility. Therefore, it goes beyond penalising the player or discouraging prospective clubs: it suspends a player's career *sine die.*[97]

Crucially, the combined operation of these provisions' functions *ex ante* rather than *ex post*. Clubs are deterred from offering players employment before liability has even been established. This distinguishes contractual stability from conventional employment enforcement which operates only after liability has been determined.

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[95] CAS 2008/A/1519 Matuzalem (n 82) 132; Stephen Sampson and Peter Limbert, 'Matuzalem – The CAS Increase FIFA DRC Award on FIFA Article 17 Case' (*LawInSport*) > https://www.lawinsport.com/component/content/article?id=143:matuzalem-the-cas-increases-fifa-drc-award-on-fifa-article-17-case< accessed 27 December 2025.

[96] Stefano Bastianon and Michele Colucci (n 32) 32.

[97] Josep F Vandellós, 'Refusal to Delivery the ITC in International Transfers of football Players and Free Movement of Workers within the EU' (*LawInSport,* 27 August 2014) > https://www.lawinsport.com/topics/item/refusal-to-delivery-the-itc-in-international-transfers-of-football-players-and-free-movement-of-workers-within-the-eu-entry-b<a https://www.lawinsport.com/topics/item/refusal-to-delivery-the-itc-in-international-transfers-of-football-players-and-free-movement-of-workers-within-the-eu-entry-b< accessed 16 December 2025.

This chapter has demonstrated that FIFA's reliance on contractual stability cannot withstand legal scrutiny. As Valloni and Pachman observe, there is no justification for a system in which a player may "become a slave to his former club for the rest of his life".[98] The analysis must now turn to why this matters globally.

Chapter 4: Contractual Stability in Practice and Global Consequences

As demonstrated, FIFA's principle of contractual stability is not a neutral tool. It is therefore necessary to situate its operation within the realities of the global football labour market. This chapter examines how contractual stability entrenches inequality through FIFA's private legal order and considers the significance of judicial intervention by the CJEU.

4.1. Contextualising Football's Global Labour Market

The consequences of FIFA's rules extend beyond a handful of high-profile disputes. FIFA's rules apply across 211 member associations on 6 continents, encompassing labour markets with vastly different levels of economic development and working conditions.[99] Contractual stability therefore operates within an uneven global market, producing effects that are often invisible.

4.1.1 The Reality of Non-Elite Players

Transfer law discourse is commonly framed around elite players, yet 97.9% of the global

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[98] Lucien Valloni and Thilo Pachmann, 'Landmark *Matuzalem* Ruling Has Major Consequences for FIFA Regulations' (*Pachmann Law,* 10 May 2012) 2. >https://pachmann.law/wpcontent/uploads/2022/02/THP_Landmark_iMatuzalemi_ruling_has_major_consequences_for_FIFA_regulations.pdf< accessed 27 November 2025.

[99] FIFA, 'Professional Football Report 2023: Men's Football' (FIFA, 2023) 104 > https://digitalhub.fifa.com/m/2a5dc95026d9cf8a/original/FIFA-Professional-Football-Report-2023.pdf< accessed 10 October 2025; BBC News, 'Abuse and Poor Pay – The Reality of African Footballers' (*BBC News,* 29 November 2016) > https://www.bbc.co.uk/news/world-africa-38129536=< accessed 4 December 2025.

football workforce do not play in the top European leagues nor earn comparable wages.[100] As former Secretary General of FIFPro, Theo van Seggelen encapsulates, "not every footballer has three different cars in three different colours".[101] In fact, the lived reality of most professional players is far removed from this stereotype. For many players, employment conditions are characterised by instability, which cannot be reconciled with FIFA's disproportionate enforcement of contractual stability.

FIFPro's Global Employment Report (2016) reveals that 45% of players globally earn less than $1000 per month, with 41% of players experiencing delayed wages.[102] Instability extends beyond remuneration to coercive employment practices. Over 6% of players report being forced to train alone, a tactic used by clubs to pressure players into accepting contract renewals or unwanted transfers.[103] In some jurisdictions, contractual protections are virtually non-existent: in Congo, 89.1% of players lack a written contract.[104] Player mobility is further constrained by entrenched power imbalances. Across global leagues, 29% of players report being forced to join clubs against their will.[105] These conditions illustrate that for many players structural insecurity is imposed by the club and directly rebuts FIFA's claim that Article 17 is necessary to prevent instability caused by opportunistic player behaviour. As Roger Blanpain

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[100] FIFPRO, '2016 FIFPRO Global Employment Report: Working Conditions in Professional Football' 2, 6 > https://media.fifpro.org/media/4eslemz2/working-conditions-in-professional-football.pdf<accessed 18 October 2025; Raffaele Poli and others, 'Team Demographics in 48 Leagues Worldwide' (*CIES Football Observatory Monthly Report 89*, November 2023) >https://football-observatory.com/MonthlyReport89#:~:text=Superliga%20(DEN),26.2%20players//< accessed 18 October 2025.

[101] As cited by: Nick Ames, 'Low Wages, Threats, Late Payment – The Life of Football's Non-Elite Players' (*The Guardian,* 28 November 2016) > https://www.theguardian.com/football/2016/nov/28/fifpro-low-salaries-withheld-payments-threats-footballers< accessed 18 October 2025.

[102] FIFPRO (n 99) 6-9 FIFPRO, 'UTA Arad: Players Reveal Contract Abuses and Unpaid Salaries at Romanian Liga 1 Club' (*FIFPRO,* 10 September 2025) > https://www.fifpro.org/en/articles/2025/09/uta-arad-players-reveal-contract-abuses-and-unpaid-salaries-at-romanian-liga-1-club< 20 October 2025.

[103] FIFPRO (n 99) 22.

[104] FIFPRO (n 99) 28-29.

[105] FIFPRO (n 99) 14.

states, such conditions approach forms of "modern slavery" underscoring the imbalance that the rules sustain.[106]

This vulnerability is intensified by the short nature of footballers' careers. Periods of enforced inactivity, such as the season-long exclusion experienced by Diarra, may irreversibly undermine a player's earning capacity, physical condition and future employability.[107] This risk is amplified in the lower leagues by the prevalence of short-term, low-wage contracts that require frequent renewal.[108] Players in these markets remain dependent on continuously securing subsequent engagements to sustain their career. Therefore, mobility is not a discretionary privilege but a necessity for survival.[109]

Based on this empirical evidence, FIFA's RSTP rules do not remedy labour market instability but exacerbate it. The magnitude and indeterminacy of the financial and sporting consequences attached to termination can operate to potentially either trap players in abusive employment or ruin their careers. This dynamic entrenches broader global inequalities, as players in wealthier leagues have the resources to mitigate these risks while those in the lower leagues remain trapped in a cycle of vulnerability.

4.2 FIFA's Private Legal Order & Player Harm

The effects of contractual stability must also be considered in the context in which it is enforced. FIFA operates a closed legal system in which it simultaneously acts as rule-maker,

[106] As cited by: Simon Gardiner and Roger Welch, 'Bosman-There and Back Again: The Legitimacy of Playing Quotes Under European Union Sports Law' (2011) 17(6) European Law Journal 1, 7.
[107] Martin Roderick, 'A Very Precarious Profession: Uncertainty in the Working Lives of Professional Footballers' (2006) 20(2) Work Employment and Society 245, 260-61.
[108] Ibid, 260-261; Ikechukwu Ejekwumadu, "Yet They Didn't Sign Me': The Production of Precarity in Amateur and Semi-Professional Football in Nigeria' (2024) 22(2) European Journal for Society 104, 114 - 115.
[109] António S Ribeiro and Francisco Lima (n 69) 76.

adjudicator and enforcer.[110] This concentration of power amplifies the harmful impacts identified in Chapter 3 and insulates them from scrutiny.

Employment disputes are channelled through FIFA's internal DRC, pursuant to Article 22(1)(a) RSTP. Although players formally retain the right to bring a claim before domestic courts, a concession secured only through EU pressure, the right is of limited practical value.[111] The requirement for an exclusive jurisdiction clause in the individual employment contract makes recourse to domestic courts largely theoretical. Most players are unlikely to possess either the legal knowledge or the necessary legal representation to negotiate and prospectively include such a clause in their contracts. Thus, FIFA's internal system remains the unavoidable forum for resolving disputes.

Appeals from the DRC lie only to the CAS,[112] recognised under Articles 49 and 50 of the FIFA Statute. Although formally an independent body, it reproduces the same restrictive effects insofar as, under Article R68 of the CAS Code and Article 49(2) of the FIFA Statute, it must apply FIFA's regulations in disputes. This excludes the extent to which CAS can meaningfully scrutinise the legality of FIFA's rules. CAS, therefore, operate as an extension of the private system, not an external restraint. This is evidenced by the fact that CAS only annuls approximately 5% of the DRC's decisions.[113]

The closed system amplifies player harm in two principal ways. First, it embeds contractual stability as the overriding objective within the dispute-resolution process itself. The DRC and CAS treat high compensation and sporting sanctions as legitimate tools of deterrence, rather

[110] Branislav Hock and Suren Gomtsian, 'Private Order Building: The State in the Roles of Civil Society and the Case of FIFA' (2018) 17 The International Sports Law Journal 186, 194.
[111] FIFA RSTP Commentary (n 3) 443, 446-447.
[112] Article 34 RSTP
[113] Frans de Weger, *The Jurisprudence of the FIFA Dispute Resolution Chamber* (2nd edn, Springer 2016) (Author's Note) xx.

than outcomes requiring justification.[114] This orientation is evident in their consistent expansive and disproportionate interpretations of Article 17, which elevates contractual stability above competing legal considerations such as EU free movement principles.[115] Therefore, players are required to litigate within a system that is pre-committed to enforcement, limiting the possibility of a genuinely balanced assessment of their mobility and employment rights.

Secondly, this is reinforced by the opacity of FIFA's adjudicatory practices. Decisions of the DRC, including its ruling in *Diarra*, are either unpublished, removed or released only in abbreviated form, making it impossible to scrutinise the legal methodology or identify consistency. [116] The lack of transparency has allowed arbitrary and club-centred interpretations of contractual stability to consolidate unchecked.

FIFA's private legal order, therefore, entrenches the disproportionate effects of contractual stability. This explains both the persistence of player harm and the necessity of EU judicial intervention to expose the incompatibility with free movement principles.

4.3 The Importance and Limits of the EU in Football

EU intervention is significant as it imposes external legal limits on FIFA's autonomy, where internal mechanisms are structurally incapable of doing so.[117] This is vital to address systemic injustices within the transfer system and compel reform for player mobility within the EU. In *Diarra* (2024) the CJEU asserted definitive authority over FIFA's insular regime, thus ensuring that the potent private regulator complies with accountability and proportionality.[118] For

[114] CAS 2008/A/1519 *Matuzalem* (n 82) para 34.
[115] Suren Gomtsian and others, 'Between the Green Pitch and the Red Tape: The Private Legal Order of FIFA' (2018) 43 Yale Journal of International Law 85,113.
[116] Frans de Weger (n 112) 105.
[117] Floris de Witte (n 21) 298.
[118] Siyabonga P Hadebe, 'Dismantling Lex Sportiva' (n 12) 15.

illustration, contractual stability was stripped of its status as a self-standing justification and its rules were subjected to proportionality review. This prevented FIFA from relying on an indeterminate objective to justify restrictions on player mobility and exposed the asymmetrical impact of the rules on players relative to clubs.[119] The *Bosman* judgment further illustrates the CJEU's capacity to compel meaningful reform. Lassana Diarra and Jean-Marc Bosman have been widely commended for using their resources to pursue reforms that strengthen the protection of players' employment rights worldwide. [120] As FIFPro have emphasised, the reforms following *Diarra* must strike a more equitable balance between "legitimate club interests and protecting players' individual rights and freedom of movement."[121]

However, the EU's capacity to check FIFA remains limited. EU intervention is reactive, depending upon individual players initiating complex and costly litigation before national courts and ultimately the CJEU.[122] Many players do not possess the means to do so, therefore EU law can only protect players when brought to its attention, which explains how FIFA's contractual stability system was able to operate with limited scrutiny for over two decades.

Moreover, the territorial scope of EU law is confined to Member States. Therefore, when intervention does occur, it risks producing a Eurocentric reform trajectory in which reforms only address European labour market concerns without resolving broader global inequalities.

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[119] FIFPRO, 'What the Lassana Diarra Ruling Means – And What Happens Next' (*FIFPRO,* 9 June 2025) > https://www.fifpro.org/en/articles/2025/06/what-the-lassana-diarra-ruling-means-and-what-happens-next< accessed 3 January 2026.

[120] FIFPRO, 'FIFPRO Statement: Decision of European Court of Justice' (*FIFPRO,* 4 October 2024) > https://www.fifpro.org/en/articles/2024/10/fifpro-statement-decision-of-european-court-of-justice>accessed 24 November 2025.

[121] Ibid.

[122] Borja Garcia, 'The Influence of the EU on the Governance of Football' in Hallgeir Gammelsæter and Benoit Senaux (eds) The Organisation and Governance of Top Football Across Europe (Routledge 2011) 32-33.

Therefore, EU intervention functions as a partial constraint on FIFA's autonomy rather than a full solution to the harms generated by contractual stability.

By contrast, a more comprehensive form of intervention would require a genuinely international framework capable of regulating FIFA's rules beyond the territorial limits of the European Union. Such a mechanism could take the form of a multilateral agreement between states, national football associations, and players' unions, establishing minimum standards for contractual fairness and freedom of movement applicable across jurisdictions. Unlike EU law, which is confined to the internal market, such an intervention would address the global nature of professional football by ensuring that regulatory constraints on player mobility are subject to consistent scrutiny regardless of where disputes arise. However, the feasibility of such a system remains limited given FIFA's status as a global entity, its entrenched autonomy and the absence of a single global legal authority capable of enforcing uniform labour standards in sport.

Conclusion

This dissertation has demonstrated that FIFA's principle of contractual stability, as examined through *FIFA v BZ* (2024), operates in a manner that disproportionately and asymmetrically restricts player mobility and access to employment. At the core, FIFA's principle does not operate as genuine stability as true contractual stability requires reciprocity, legal certainty and a balanced allocation of risk between employer and employee. Conversely, the principle secures stability primarily for clubs while exposing players to indeterminate and potentially career ending consequences. For a club, the loss of or inability to acquire an individual player represents one transaction within a broader financial and sporting structure. For the individual player, however, a single employment contract may represent a substantial proportion of their career earning potential. Restrictions on that player's ability to move between clubs can

therefore impose consequences that are disproportionately greater than those experienced by the club. The regulatory framework consequently places the heavier burden on the party with the narrower capacity to absorb it.

The analysis has showcased that contractual stability represents a continuation of football's historical approach to regulating player mobility. From the transfer-and-retain system examined in *Eastham* to the post-contract transfer restrictions invalidated in *Bosman*, football governance has repeatedly sought to preserve club control over player movement. *Diarra* therefore represents not an isolated failure of FIFA's regulation, but the latest judicial exposure of a longstanding tension between football's regulatory autonomy and players' employment rights. The CJEU's judgment was significant because it rejected the assumption that contractual stability could operate as an autonomous justification for restrictions on free movement. The Court's analysis demonstrated that the cumulative operation of compensation liability, joint and several liability, the presumption of inducement and ITC restrictions extended beyond legitimate deterrence and created substantial barriers to players accessing employment. In doing so, *Diarra* exposed the imbalance within a system which claims to protect both contracting parties but, in practice, places the greatest risks upon players.

The harms produced by this model are not confined to European law or elite European football. As FIFA's regulations apply across a globally unequal labour market, their consequences are felt most acutely by players operating in economically vulnerable environments, where mobility is often an essential for career survival rather than merely a matter of preference. A regulatory model that threatens exclusion from employment or financially ruinous liability risks reinforcing existing inequalities rather than promoting genuine contractual security.

Furthermore, FIFA's private legal order amplifies these concerns by concentrating regulatory, adjudicatory and enforcement authority within a closed system Although EU law plays a vital

corrective role, its intervention is reactive and territorially limited. As a result, it can constrain FIFA's autonomy only partially and intermittently.

Ultimately, genuine contractual stability requires more than preserving the enforceability of agreements; it requires a fair allocation of rights, obligations and risks between clubs and players. The significance of *Diarra* therefore extends beyond the immediate incompatibility of FIFA's rules with Article 45 TFEU: it exposes the need to reconsider how contractual stability is conceptualised within football governance. Future research should examine whether FIFA's revised RSTP framework genuinely addresses the imbalance identified in this dissertation or merely reconstructs contractual stability through alternative mechanisms. It should also consider how these rules operate beyond elite European football, particularly in less economically developed labour markets where players possess fewer resources to challenge regulatory restrictions. Without stronger player representation, particularly through FIFPRO, and sustained external scrutiny, contractual stability risks remaining a mechanism through which historical restrictions on player mobility are likely to be reproduced in new regulatory forms.[123]

[123] Stefano Bastianon and Michele Colucci (n 32) 47.