

The logo features the text 'FIFPro' in a bold, stylized font. The letters are filled with red and outlined with a thick blue border. The 'F' and 'P' are particularly prominent. The text is set against a background of a halftone dot pattern that tapers off to the left.

FIFPro

World Players' Union



Players under TPO and fundamental rights

Wil van Megen 29 November 2017

Intro: What is a club ?

1. Originally : group of enthusiastic people forming an entity to perform a sport
2. Association – with players being members and a board (democratically elected)
3. In order to have a competition we need a federation
4. Internationally – confederation
5. Global level – governing body > pyramid model

Still the case for amateur sports

Professional sports ?

Clubs are no longer associations but commercial entities: Ltd's etc

Q: What happened with the players' position in this relation?

- No longer club members /no direct say in club policy

Club leadership no longer subject to democratic principles (Ajax ?)

Position of players in professional clubs

At best:

-workers/employees > influence by captains/ players' council

-limitations because of commercial value of the game

> Materialized in :

-transfer system (pre-Bosman) : prohibited by ECJ



Did prohibition transfer system change much ?

After Bosman:

FIFA RSTP 2001 > approved by EC and stakeholders including players (FIFPro)

All good intentions, but practice is different

RSTP contains specificities of sport to protect the football contract
in addition to labour law principles

But :One way alley



Outcome for players

- Players are degraded to assets (example Romania)
 - >deprived from various fundamental rights
- Club owners or others decide whether a player has to change clubs
- No real options for players to decide : only top 1% (Neymar)
- What happens if a player does not agree ?



No real consent

If a player does not consent to be “sold” or sign a new contract ?

-excluded from regular team training > training alone

-removed from 1st squad/put on the stand without perspective

-case law : Webster/Iaquinta/De Beule/Leerdam, Van Rijn, etc

-just cause for termination?



I Agree

Other options used by clubs

Regular practice in some countries : stop of salary payments

If player terminates for just cause > extra problems

Which are?

Long judicial process or risk of suspension during/after trial
(10 year career)

Result ?



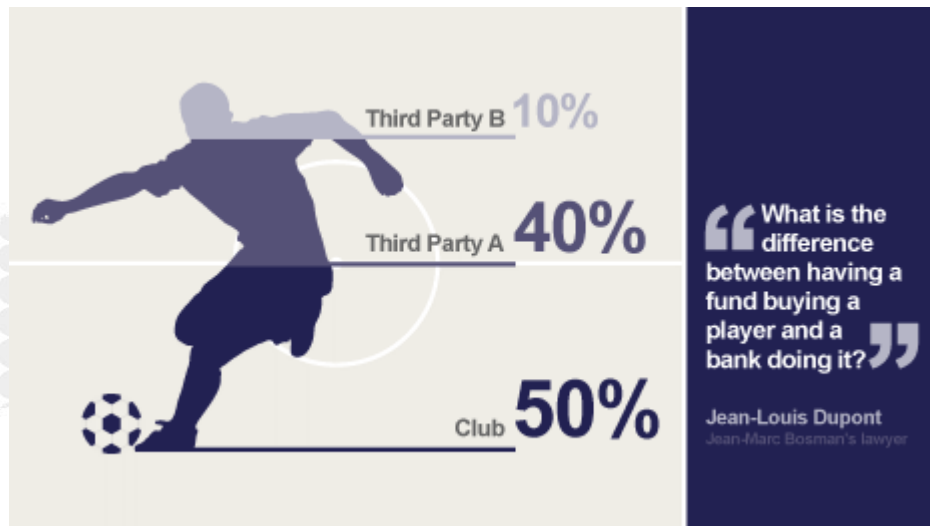
Outside the club

Can this get any worse?

Yes: TPO!

What is TPO ?

Mainly 2 different forms



“What is the difference between having a fund buying a player and a bank doing it?”

Jean-Louis Dupont
Jean-Marc Bosman's lawyer

In practice

TPO can be successful : Atletico

But only possible when player contracts are prematurely terminated

Also : catastrophic > Sporting

Football Leaks reveal:

Rojo/Labyad case

FC Twente

Hardly any risk for the investors



Practice of TPO

What happens in practice?

What do we know ?

If external investors propose a new club for player >

No way of refusal .Why ?

Can a player refuse?



Role/position of the club

Club ownership is moving away from traditional club leadership

Man City; PSG ; Chelsea

At least some transparency/financial fair play

Not with TPO

Who are TPO investors ?



Measures in football world

Trigger for action : Tevez/Mascherano case

Prohibition on TPO: FIFA RSTP art. 18 ter:

1.No club or player shall enter into an agreement with a third party whereby a third party is being entitled to participate, either in full or in part, in compensation payable in relation to the future transfer of a player from one club to another, or is being assigned any rights in relation to a future transfer or transfer compensation.

2.The interdiction as per paragraph 1 comes into force on 1 May 2015.

3.Agreements covered by paragraph 1 which predate 1 May 2015 may continue to be in place until their contractual expiration. However, their duration may not be extended.

First TPI (18 bis)

Prohibition challenged by Doyen (complaint EC)

Countered by UEFA/FIFPro



National level

Belgium > Doyen/Seraing vs URBSFA/UEFA/FIFA and FIFPro
Regarding case Seraing sanctioned by FIFA (confirmed by CAS)

1st instance : Court of Liege
-not admissible

2nd instance : appeal court Brussels > ruling planned for 18 January 2018

- Possible outcomes :*
- 1. no jurisdiction*
 - 2. wait for outcome criminal claim FIFPro*
 - 3. claim is admissible (could go either way)*



Criminal complaint ?

New element: criminal complaint against Doyen/Seraing

For intermediary activities in labour contracts without license

In Belgium : crime



Spain and Portugal

Leagues first joined Doyen/Seraing claims but later started domestic action against FIFA prohibition

-why ?

-economic reasons

Notion ?



LaLiga



**LIGA
PORTUGAL**

FIFPro point of view regarding TPO

Simple view:

FIFPro: you cannot make human beings subject to trade

Communis opinion: But players are rich !? Why care ?

➤ *Image problem. Effects?*

No interest from fundamental rights specialists

Muhren case ECHR 3-5-1983 ,9322/81

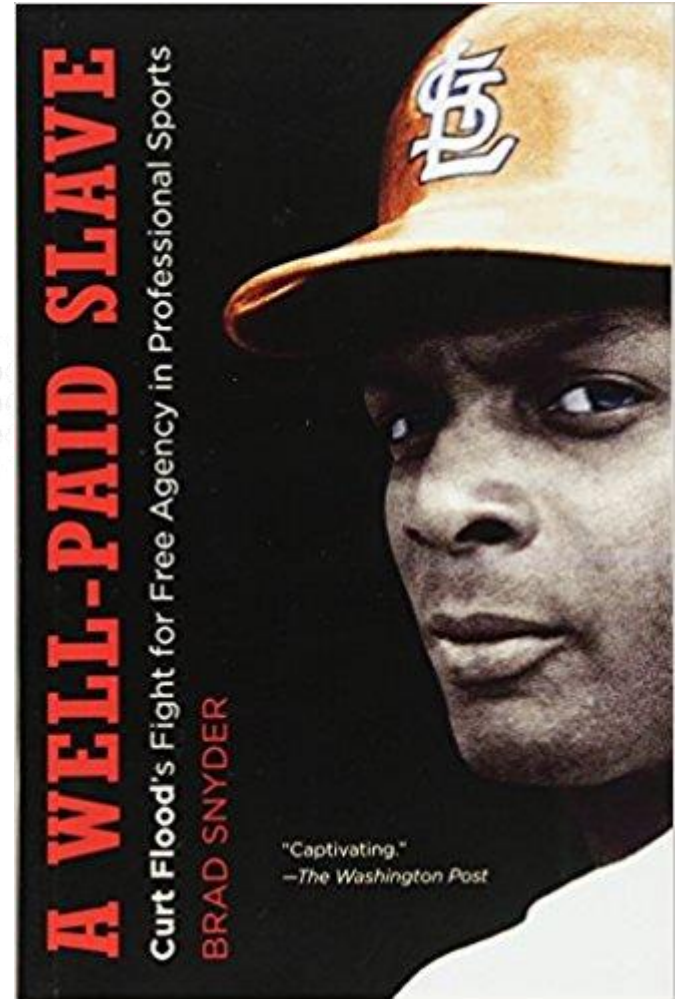


Are players rich ?

Only the top 1% of all 70,000 professionals is rich
(from these top players almost 100% loose their money in 7 years)

Even the top layer: considered as serfs
Money cannot be a justification for that !
Disrespect for human dignity

Curt Flood biography :



What to do ?

Time to pay more attention to human rights aspects in sport

UEFA (Infantino quote)

A start has been made with mega-sports events

HRW/SRA –does good work

But there is a lot to do on the athletes' level too.

Wake up call for specialists.





Thank you