

EELA Conference 2025

SPORT AND EMPLOYMENT LAW:

From Bosman to Diarra – free movement of workers and FIFA/UEFA rules



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1: Introduction

- . Sports law represents a cutting-edge intersection of employment law, competition law, and free movement principles
- . The Diarra case (October 2024) is the most significant ruling on football transfers since Bosman
- . Employment lawyers have valuable perspective to bring to sports law challenges

2: Bosman Case, (C-415/93) 1995

- Player's contract expired, Belgian club demanded transfer fee for move to French club
- CJEU ruled: Transfer fees for out-of-contract players violated freedom of movement
- Result: Players gained freedom to move between clubs at end of contracts without transfer fee
- Evolution: FIFA developed new transfer system with different rules about contract stability





3: Diarra Case - Facts

- French international Lassana Diarra (formerly of Chelsea, Arsenal, Real Madrid)
- 2013: Signed 4-year contract with Lokomotiv Moscow
- 2014: Dispute over salary reduction; Diarra left, club terminated contract
- FIFA's Dispute Resolution Chamber ordered Diarra to pay €10.5 million compensation
- Belgian club Charleroi wanted to sign him but was deterred by FIFA's joint liability rules
- FIFA refused to issue International Transfer Certificate during dispute

4: FIFA Rules Challenged

- . Article 17 of FIFA's Regulations on Status and Transfer of Players (RSTP):
 - Player who terminates contract without just cause must pay compensation
 - Any new club signing such a player is jointly and severally liable for payment
 - Creates effective "no-poach" situation deterring new clubs from signing player
- . Article 9: International Transfer Certificate withheld during contractual disputes

5: CJEU Judgment Case C-650/22, October 4, 2024

- FIFA rules restrict freedom of movement (Article 45 TFEU):
 - Financial penalties and registration restrictions deter clubs from hiring players
 - "No-poach" effect deemed unlawful under EU competition law
- Violate competition law (Article 101 TFEU):
 - Create de facto collusion among clubs against signing players in disputes
- Disproportionate to legitimate objective of contractual stability
- "Traditional contract law mechanisms" are sufficient without additional sporting sanctions

6: Implications and Future

- FIFA must revise transfer regulations, particularly joint liability provisions
- Players gain more mobility and negotiating power
- Clubs must rely more on standard contract law remedies
- Could extend to other sports with similar transfer systems
- Demonstrates that sports must respect fundamental EU legal principles
- Parallel to Royal Antwerp case on home-grown player rules

7. The Panel

- ***Nick De Marco KC, Blackstone Chambers, England (session leader)***
- ***Dr Antoine Duval, Senior Researcher at the Asser Institute, France***
- ***Hermine Voute, member of supervisory board of AFC Ajax, Netherlands***
- ***Saverio Paolo Spera, Sp.in law (formerly in-house counsel at FIFA), Switzerland 7 years exp 2017-24 FIFA***