



Why the transfer system should be abolished

Wil van Megen

Play the Game 25-29 October 2015, Aarhus, Denmark

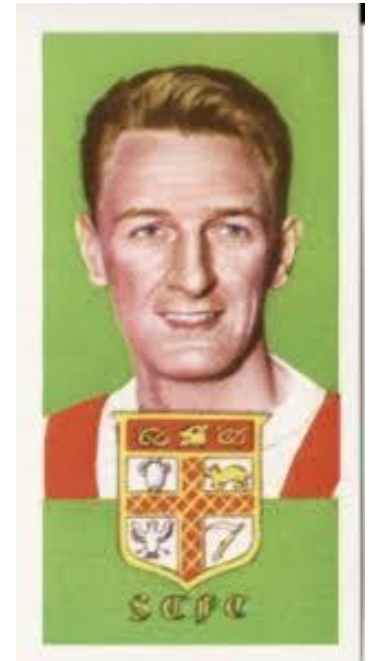
Transfer System ?

- No move to another job (club) without permission of club
- Even after expiration of the contract
- Consequences :
- came into existence more than 100 years ago in England
- From the start it was criticized: trading human being,



CONCRETE STEPS ?

- Concrete steps : Jimmy Hill
- George Eastham 1964
- Outcome for England : end of retainer system



THE EUROPEAN UNION

1957

Economic cooperation

Freedom of trade , services and labour

Including legal framework



What about sports ?

- Sports autonomy :

The big change

- 1974 :Walrave : EU law applies if



The break through

1995 the Bosman ruling

- Challenging the system
- Professional athlete is a worker /workers' rights
- Conclusion: end of transfer system

Who needs to act ?

1. UEFA-FIFA ?
2. 2001 informal agreement with European Commission
3. Specificities of sport : protected period /windows etc
4. Role of FIFPro?



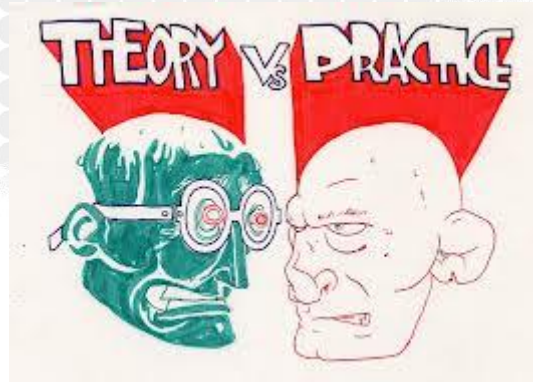
FIFA RSTP

- Application ? How and where ?
- Bueno Rodriguez



FIFA RSTP vs 2001 agreement

Do the RSTP reflect the 2001 agreement/ EU law principles ?



Problems in football:

-overdue payables

Re : FIFPro Blackbook 2012

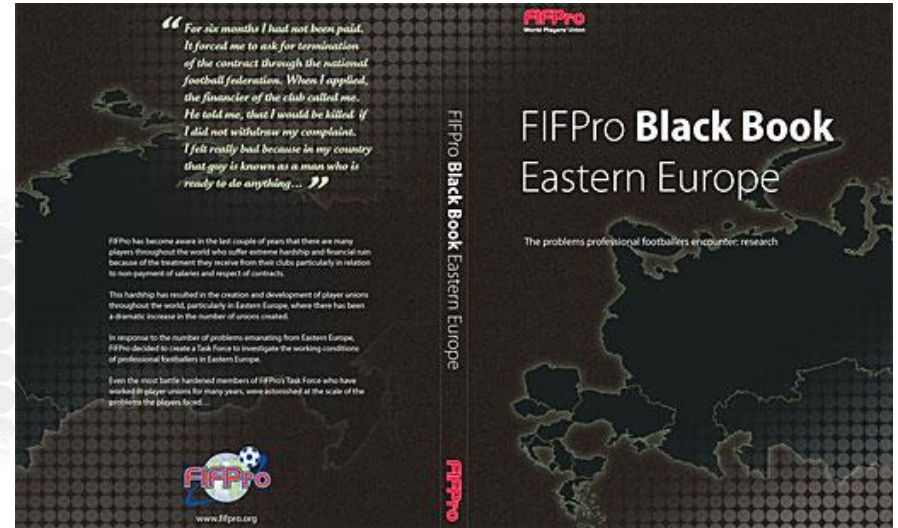
-lack of labour law protection

-trafficking of minors

-TPO

-Match fixing

-role of agents /intermediaries



Minors

-Not only kids from Africa

-Western Europe: Chelsea; Barcelona

Measures : player passport (12 and up)

FIFPro: 10up

TMS -monitoring

Prohibition international transfer U18

Exceptions ?



Exceptions ?

1. Border area
2. Parents move
3. EU: U16

U16 > Chelsea: tube drivers
Acuna Caballero



Other measures?

No fees for intermediaries

Circumvented / not enforced

Czech republic :10 year old player

TPO : alternative money flows

Impact mispercepted ?

Are kids better off ?

Barcelona argument

-what about other clubs ?

Barca ban

Laos affair



Outside of football

Problem not taken seriously :

- National bureau on Child Trafficking

 - parents' thing

- within football > FIFA =single market model

- Enforcement> toolbox –sanctions

Can set an example for the rest of the world /other industries

Dispute resolution

Our problems with dispute resolution

FIFA DRC- NDRC's

CAS (EU matters)



Too much problems caused by the system

1. -protective for clubs /abusive
2. -transfer system is only in football

Mechanisms to cope with problems ?

-participation in UEFA/FIFA?

-Social Dialogue with ECA/EPFL ?

>2012 agreement on MRSC = European CBA



implementation min requirements

1. -labour contracts
2. -repetition of protected period
3. -overdue payables > 30 days rule
4. -new rules on intermediaries

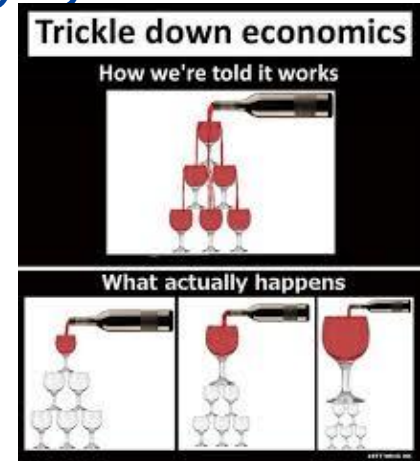
14 year struggle

1. NO cooperation
2. NO progress
3. ☒ FIFPro Expert Working group: 23 reasons why system fails players

Conclusion : we can do without the transfer system !

Vs:

ECA: system works ; trickling down effect



How to achieve our goal ?

Court cases ?

Complaint EU Commission

3 departments : employment/sports/ competition

Free movement (Bosman)

Freedom of trade or

Human rights



FIFPro Strategy

- Competition law
- Strongest department
- Direct approach of private enterprises possible
- Can football survive without ?
- Look at the other sports
- Look where football is going now (richer clubs richer)
- We need competitive sport/respect of players' rights
- Players are human beings –not assets



Questions ?

FIFPro conference : Legal legends and the future of sports law

14-15 December

Amsterdam

