

Minor to Major: The Transfer of Youth Soccer Players

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As the acquisition of established talent becomes prohibitively expensive, football clubs are increasingly interested in acquiring younger football talent. FIFA has put in place safeguards for the transfer/registration of underage players (referred to as minors) by means of Article 19 of FIFA's Regulation on the Status and Transfer of Players ('RSTP').

This article will look at the current application and enforcement of Article 19, examining:

- (i) the introduction and amendment of Article 19;
- (ii) the exceptions available under it;
- (iii) enforcement and recent case law; and
- (iv) shortfalls and limitations.

A Stricter Approach

Article 19 was first introduced in the 2001 edition of the RSTP, restricting the international transfer of players in the 10 to 18 years of age bracket. A small number of exceptions to the general rule were provided, which allowed an international transfer of a minor in cases where:

- (i) the player's parents move to the country where the offering club is based for reasons unrelated to football;
- (ii) the player is aged 16-18 and the transfer is within the European Union or the European Economic Area; and
- (iii) the player's domicile is within 50 km of a national border and no further than 100 km from the club's headquarters.

The club needs to apply for exemption approval from FIFA's Status Committee, through their country's national football association, to register the player.

Additionally, Article 19 extends the restriction to players registering with a club for the first time (i.e. not a transfer), if the player is not a national in the country whose club with which they wish to register. The RSTP was drafted in accordance with previous negotiations between FIFA and the European Commission, thereby providing an impression of Article 19 operating in amenability with European law.

In 2009, RSTP was amended to include clubs who were not registered with their national association.

Additionally, in 2009 the 'Sub-Committee' was created, tasked with overseeing the enforcement of Article 19. All applications for international transfers and first registration of minors are now required to be assessed by the Sub-Committee and must be submitted through FIFA's Transfer Matching System. In the event that a submission is rejected by the Sub-Committee, an associated club can appeal to the Court of Arbitration for Sports ('CAS') within 21 days of receiving the grounds of the Sub-Committee's decision.

Challenges and Exceptions

The jurisprudence of both CAS and the Sub-Committee has allowed for the creation of additional exceptions to Article 19. For example, foreign minors who have been living for more than five consecutive years in the country in which they wish to register, as well as exchange students seeking to register for up to one year, have had their first-time registration approved. Other exceptional circumstances have been dealt with on a case-by-case basis by CAS, such as situations involving minor players seeking registration in a country where they are currently residing as refugees.

Ultimately, one of the biggest and most controversial challenges facing CAS is in relation to cases where a player's parents move to the country in which the new club is located and determining whether it is for 'reasons unrelated to football'. Famously, FC Barcelona brought Messi and his parents to Spain when he was 13 years old. This predated Article 19.

CAS has held that an aunt (or any similar relative) may not normally substitute a minor's parents in order to trigger this exception.

The Gulf region is interesting in that a huge percentage of the population are non-nationals, meaning that there are a large number of youth players whose parents have come to the region for non-football related reasons, i.e., they may be able to avail of the exception and successfully sign for a local club.

Enforcement

A number of recent cases involving European clubs have demonstrated the severity of sanctions, imposed in line with the FIFA Disciplinary Code, on violations of Article 19. One such case that received extensive media coverage involved FC Barcelona, which was brought before the disciplinary committee in 2013 for registering 10 minors in violation of the RSTP. The club received a transfer ban prohibiting it from signing any new players for two transfer windows; this ban was later upheld by CAS in 2014 upon appeal by the club. More recently, the FIFA Disciplinary Committee sanctioned Real Madrid and Atletico Madrid for breaching the RSTP following the conclusions of investigations concerning minor players involved with each club. Both clubs received a transfer ban restricting the registration of any national or international players for two transfer windows, commencing January 2017, with Real's ban being reduced by CAS to one transfer window, so it has now expired.

Shortfalls

Despite the strict enforcement and interpretation of Article 19, abusive transfer practices that fall outside the coverage of the RSTP's coverage still persist.

There has been concern that large groups of players who had just turned 18 were trafficked and sent to mass football trials in Europe, with the players left unattended and without a ticket to return home should they fail to be selected.

Moreover, despite FIFA lowering the minimum age limit for international transfer certificates from 12 to 10 years of age (following the 2013 FC Barcelona investigation), concern remains that the age threshold is still too high. It has been suggested that clubs will simply look to even younger players and there is some evidence of this; in 2013, Real Madrid and FC Barcelona signed nine year olds Takuhiro Nakai, from Japan, and Sandro Reyes, from the Philippines.

Coming of Age

The RSTP further provides that minor players cannot sign a professional contract with a term of more than three years. This means that when the contract term expires after the player's 18th birthday (so this moment cannot be later than the day before his 21st birthday) the player is free to sign with any club he may choose. The prior club cannot force the player to sign a new professional contract with itself. From the club's perspective, this provision may appear harsh, in that they have trained and developed the player and expended considerable time and money doing so; however, the club may be entitled to 'training

compensation'. Training compensation is paid according to a particular formula, to a player's training clubs, when he first signs a professional contract and each time he is transferred until the end of the season of his 23rd birthday.

Conclusion

The Neymar transfer brings us into uncharted waters as regards evaluating the worth of a player. The continued upward trajectory in transfer fees will lead to inevitable pressure on clubs to consider recruiting more cheaply by investing in youth players. However, it is not a free and open market due to the sensible restrictions FIFA has put in place. Yet, the opportunity to obtain an exemption for the transfer/registration of youth players is probably higher in the Gulf than any other area in the world due to the demographics and the exception where the player's parents move to the country for reasons unrelated to football. On the other hand, local football associations have quotas in place in relation to the number of foreign players allowed to play first team football. Ultimately, it is a matter for local football associations and their clubs to consider whether allowing a greater number of resident youth players aligns with their objectives.

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