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Edinburgh Sports Conference 2019: Interview with Paolo Lombardi

Player Transfer | Community | United Kingdom of Great Britain and Northern Ireland, International



 by Football Legal

Following an acclaimed inaugural event in 2017, the Edinburgh Sports Conference returns. This year's edition will be dedicated to “*The Future of Football Transfers and Players’ Agents*”. Interview with Paolo Lombardi, Managing Director of Lombardi Associates, which he founded in 2010.

The Edinburgh Sports Conference returns on 5th and 6th September 2019. Why have you decided to hold this second edition? What are the objectives?

The first edition of The Edinburgh Sports Conference was held in 2017. Having no experience in organising conferences or events, we were unsure how everything would work out. However, we managed to secure very high-level speakers and this helped in attracting around 150 delegates from all over the world. We received such positive feedback about the event and this is essentially why we decided to organise another event this year.

There are an increasing number of conferences appearing in the sports law sector and we made the conscious decision that our conference has to adhere to criteria that we believe are important. The conference price, travel costs, time away from the office, etc all add up, and we want delegates to have a really worthwhile learning and networking experience. For example, in the selection of speakers, we believe it is important that speakers representing regulators such as FIFA and UEFA are selected. **This ensures that the delegates are receiving interpretations of regulations directly, and they are not “filtered” through the voice of a lawyer or practitioner.** Delegates then have the opportunity to interact formally in the question and answer session or informally during the networking.

Another area which we think differentiates our conference is the inclusion of in-house lawyers and director-level individuals working within clubs as speakers. This creates a more interesting dynamic and allows a real understanding of the issues that the clubs face, which may get lost when you have only lawyers in practice in the room. It also means that the delegate cohort includes a larger variety of industry stakeholders than you normally find at conferences who can all offer valid contributions.

Because we wanted to keep the conference fresh and worthwhile for our delegates, we also made the decision to stage the conference every two years. This ensures that we can concentrate on the most relevant topics and can, hopefully, contribute in a significant way to the industry narrative.

This year's edition will be dedicated to “The Future of Football Transfers and Players’ Agents”. Why have you chosen to tackle these specific topics?

Last September, FIFA, in conjunction with key stakeholders, met to discuss specific areas of concern in the industry. There was an overall understanding that it was vital to increase transparency in the transfer system. Primarily this meant reviewing key areas such as the integrity of football transfers and related payments, the role and regulation of agents/intermediaries, and the use of player loan transfers. It is therefore likely that these issues will be addressed through amendments or redrafts to the FIFA regulations.

In addition, UEFA’s Financial Fair Play Regulations have now been with us for around nine years since they were first introduced, and it is around five years since the break-even element was implemented. We have seen some clubs being investigated for alleged breaches and some clubs being sanctioned.

The overriding aim of the UEFA Regulations is competitive balance and due to the huge transfer value of some players, transfer policy has a serious impact on a club’s financials.

There has never been a more pertinent time, therefore, to discuss the future of the transfer market and of players’ agents.

From a more personal perspective and as a leading sports law specialist, what are your thoughts about the upcoming FIFA regulatory reforms?

There were of course already some significant regulatory changes in June 2018 with the introduction of new provisions in the RSTP under article 14 (terminating a contract with just cause due to abusive conduct), article 14bis (a player terminating a contract with just cause due to outstanding salaries), article 17 par. 1 (calculation of compensation due for breach of contract), and article 18 par. 6 (prohibiting contractual clauses granting clubs “grace periods” to pay players).

Although significant, the majority of the amendments simply represented a natural evolution, as they enshrined principles that had already been established through the consistent jurisprudence of the FIFA decision-making bodies for quite some time.

However, on the back of the recent “white paper” on the transfer system by the FIFA Football Stakeholder Committee, we are expecting some major changes to be made to the regulatory framework within the next year.

The current RSTP have been in existence since 2001, of course with a few changes along the way, but with essentially the same structure. Amongst other things, the regulations were implemented with the key ideas of contractual stability, the maintenance of competitive balance through the redistribution of wealth through the solidarity mechanism and training compensation, and the protection against the exploitation of minors.

Since then, the football industry has changed significantly, most obviously in terms of wealth and the balance between the very wealthy and the less wealthy clubs. The transfer market is now worth billions of USD. **The issues that are most often raised include the lack of transparency and ease for a club claiming what is due in terms of solidarity and training compensation, contractual instability with players, overdue payables from clubs, competitive balance and the financial gap between rich clubs and smaller clubs, and the growing influence of agents, which can lead to conflicts of interest when an agent represents multiple parties in the same transfer.**

I don't think many would be in disagreement that these are very real problems for clubs and other stakeholders. The issue that FIFA, and indeed any regulator or organisation designing regulations have, is that people will always look for the loophole and the market will always evolve. It is impossible to future-proof!

Nevertheless, there is certainly a need for reform. Clubs' spending on agents fees is of particular concern, as it rises year on year, which effectively takes a lot of money out of football. This is in contrast to payments made to training clubs through training compensation and solidarity contributions, which are designed to keep money within football but actually represent a fraction of the amounts being paid to agents.

In 2015, FIFA obviously felt that the previous agents regulations were not working when they were replaced with the Intermediary regulations. This was essentially a de-regulation and a move towards the regulation of a transaction (fitting with the TMS) rather than the regulation of the whole market.

It is widely expected that FIFA will reverse its position and re-regulate agents, and address issues such as a cap on commissions, removing conflicts of interest through ensuring agents can only act for one-party, and a re-introduction of licensing. It will be very interesting to examine how any forthcoming agent regulations will differ from the original ones.

There have also been issues identified in the current transfer market relating to loan transfers, such as richer clubs hoarding players, loan transfers being abused through bridge transfers, and loans which are made contrary to the overriding aims behind the loan transfer system: that of training and developing a player. It is expected that FIFA will introduce new regulations relating to loan transfers in order to combat these issues, and again it will be interesting to see how they are implemented in practice and the impact that they have on the current transfer system.

In addition to the reform of the loan system and the re-regulation of agents, other interesting measures which may be introduced by FIFA include a clearing house for international transfers (which already exists in certain countries at national level) and electronic transfer systems (similar to TMS for international transfers) being used at national level for domestic transfers. I expect that the clearing house will initially be tested on solidarity contribution payments before it can be applied to agents' fees or transfer payments.

It is unclear whether all of the likely measures will produce the results that FIFA are hoping for. The interests of all stakeholders must be balanced in order to maintain a fair system, which of course is a very difficult task and compromises must be found between the interests of clubs, players, leagues, national associations and supporters. It is however FIFA's responsibility to address the current issues and hopefully the upcoming reform will have the necessary positive impact.

Many renowned speakers have already confirmed their presence at the 2nd edition of the Edinburgh Sports Conference. Could you tell us who will be there and why you have invited them?

As noted previously, we believe it is important to hear directly from regulators. We therefore have **Emilio Garcia**, the Chief Legal Officer at FIFA opening proceedings to give, hopefully, an insight into the direction and depth of the potential FIFA Regulatory reforms. We are also delighted to be joined again by **Kimberly Morris**, the Head of FIFA TMS Integrity & Compliance. In 2017, we received a good overview about the system and where it can capture information. As a tool it must be key in increasing the regulation of international transfers. Hopefully Kimberly will be able to share with us how well the TMS is meeting its aims and how it can develop. Rather excitingly the conference is just after the end of the summer transfer period, so delegates should get an exclusive insight into the summer figures. **Michele Bernasconi**, one of the most prominent CAS arbitrators, will lead our delegates through the latest case law which is shaping the direction in which we are moving. Our last key note will be delivered by **Andrea Traverso** on UEFA's Financial Fair Play Regulations and the impact the Regulations are having on European football and potentially on clubs' transfer policies.

We aim to have panels which give an in-depth discussion and analysis of the key issues such as transfers and the role of the agent, and financial fair play. We will have cross sectional panels including **Ornella Desiree Bellia** (European Leagues), **Omar Ongaro** (FIFA), **Marcos Motta** (Bichara e Motta, Member EFAA), **Patrick Stewart** (Manchester United),

Alessandro Zarbano (Genoa CFC), **Leeann Dempster** (Hibernian FC), **Neil Doncaster** (SPFL) and some of our speakers above will also contribute to the panels too.

Lastly, and rather excitingly, we have secured two industry heavyweights who have both made worldwide headlines; **Neymar Santos Senior** and **Fabio Capello**. Neymar Senior, the manager of his son Neymar Junior, is well known to be the mastermind behind his son's career, including his record-breaking transfer to Paris Saint-Germain. Fabio Capello, extremely successful former player and manager, will bring his unrivalled insight into the football industry, particularly from a manager's perspective. We will be having "in conversation with" style sessions with Mr Neymar and Mr Capello to give the delegates an opportunity to interact as much as possible.

Football Legal is Media Partner of Edinburgh Sports Conference 2019. Can you explain why you have decided to enter into this partnership?

Football Legal is simply a superb resource and we were pleased to be associated with you. The daily briefings always provide a good and timely insight into current news items. The website itself is very easy to navigate and it gives the user access to regulation updates, across all key bodies and in date order. It also offers reviews of important cases by industry experts. And of course, there are the biannual Football Legal journals which provide an in-depth look at issues from around the world.

More information: <https://edinsportsconf.co.uk/>