

Updates to Article 17 FIFA RSTP

On 4 October 2024, the European Court of Justice (“**CJEU**”) delivered a significant judgment in the case of Lassana Diarra, which potentially has wide reaching implications for FIFA’s transfer system.

This brief note aims to analyse the practical impact of the judgment on professional clubs and players, and provide an explanation of the measures adopted by FIFA as a response to the judgement.

The ‘Diarra Case’

The Diarra case involved a club unilaterally terminating the player’s contract following alleged breaches of contract, with the FIFA Dispute Resolution Chamber (“**DRC**”) holding Diarra liable to pay the club compensation. As a consequence new clubs were reluctant to sign him due to the joint and several liability implications, such as the automatic presumption that the new club would also be liable to pay compensation to the old club for inducing the player’s breach, stemming from Article 17 par. 2 of the FIFA Regulations on the Status and Transfer of Players (“**RSTP**”).

On 4 October 2024, the CJEU issued its decision in the case of Diarra, holding that certain aspects of the FIFA transfer rules, contained within the RSTP, were incompatible with European Union (“**EU**”) laws, principally those of freedom of movement and competition law. In particular, the decision contested the joint and several liability imposed by Article 17 par. 2 of the RSTP.

FIFA’s Response

Via Circular Letter 1900¹, FIFA, on 19 October 2025, announced a global consultation on the RSTP, seeking to involve member associations and other stakeholders to gather views on the calculation of compensation for a unilateral breach of contract and the application of the principle of strict liability. On 25 November 2024 FIFA temporarily suspended with immediate effect, “*any disciplinary measures against players and coaches related to the enforcement of financial entitlements awarded based on Article 17,*” as well as “*any disciplinary measure against clubs based on the joint and several liability foreseen in Article 17 par. 2,*” of the RSTP.

¹ Available [here](#).

Following the notification of suspension, FIFA provided an interim framework, which came into force on 1 January 2025.

The FIFA RSTP has long provided a contract may be terminated by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions) where there is just cause. Following FIFA's amendment, the latest edition of the RSTP now defines 'just cause' as a situation whereby a party can no longer reasonably and in good faith continue the contractual relationship. Examples of 'just cause', include serious breaches of a contract *i.e.*, non-payment of salary, unjustified exclusion / suspension, or misconduct *e.g.*, doping, violence or transfer-related. That being said, the FIFA Football Tribunal (the "FT") will analyse each case's individual circumstances to determine whether 'just cause', exists.

The most significant reform is in respect of the calculation of compensation to be awarded against the party in breach. Following FIFA's amendment to Article 17 par. 1, this calculation is now based on the 'positive interest' principle, which seeks to determine an amount that places the affected party in the position that it would have been in if the employment relationship had been performed properly *i.e.*, had the contract not been breached. The amendment now considers: the actual damage suffered by the non-breaching party; the unique facts and circumstances of the case, and the applicable national laws. This amendment limits uncertainty but a party claiming a loss must prove and quantify its losses.

Previously, as mentioned above, the automatic presumption that the new club were involved in making the player breach the contract and therefore, the new club were also liable to pay compensation to the old club, has since been removed. This removal was made following criticism of the CJEU in the Diarra case, with the new amendment completely reversing this assumption, as now the old club must provide clear evidence to demonstrate that the new club induced the breach. The amendment ensures that the joint and several liability principle is applied only on real evidence of inducement and that the burden of proving this lies with the claiming party. The same principle applies in respect of coaches in regard to breaches of contracts.

In respect of possible consequences for parties found to have induced a breach contracts as per Article 17 par. 4, sporting sanctions can still be imposed upon the new club. In particular, the imposition of a registration ban for up to two consecutive registration periods. Such a sanction is, however, now dependent on the evidence provided by the claimant club. This amendment protects clubs from unjustified sanctions, but also ensure that any sanctions imposed are aligned with the level of inducement and maintains procedural correctness necessary for contractual integrity.

Finally, in relation to International Transfer Certificates (“ITC”), associations can no longer withhold a player’s ITC when it is requested for an international transfer. ITCs will be mandatorily issued within 72 hours of a request. A player will be automatically registered if the association providing the ITC fails to comply, and FIFA will intervene when necessary.

For FT proceedings, the principle changes concern a duty to collaborate and new evidentiary request procedures. Parties involved in a dispute pertaining to Article 17, must demonstrate transparency by providing the requested evidence as well as being aware of the consequences for non-compliance. Importantly, as the new framework applies from 1 January 2025, it shall apply both to cases pending before the FT and to any new cases brought to the FT after this date.

In summary:

- The new interim framework pertinent for Article 17 of the RSTP came into force from 1 January 2025;
- The updated definition of termination with ‘just cause’, allows for necessary premature termination without consequences when the employment relationship cannot continue;
- Compensation is now calculated using the ‘positive interest’ principle, ensuring awards that reflect the seriousness of the breach and leave the affected party in their previous position, prior to the breach occurring;
- Joint and several liability is now only imposed upon the new club if the old club can prove to FIFA’s satisfaction that there was inducement to breach a contract;
- The issuing of the ITC must happen within 72 hours of a request; and
- Evidentiary compliance is emphasised between parties found to be in dispute, allowing the FT to render fair, transparent and evidence-based resolutions.

What does this mean?

These amendments are not FIFA’s final position in respect of the consequences of the Diarra ruling. The interim regulatory framework is intended to be superseded by future regulations. FIFA’s Chief Legal & Compliance Officer, Emilio García Silvero, stated on the implementation of the interim framework that his goal is for a permanent solution, supported by all football stakeholders, to be in place before July 2025. This was reinforced at the FIFA Football Law Annual Review in February 2025.

Until a permanent solution is implemented, Clubs should consider the following points while operating under the interim framework:

- Clear contractual provisions in respect of breach of contract *i.e.*, stipulating monetary amounts to be paid for breach of contract;
- If agents/players approach a club about a player who has terminated their contract, keep detailed records;
- Be responsive and transparent with FIFA, as from now on a failure to comply with disclosure requests will be viewed negatively.

What have we seen from the 2025 January Transfer Window?

Most importantly, we are not yet aware of any club or player seeking to properly test what is undoubtedly a loosening of restrictions on movement of players. We have certainly not seen a reduction in the volume of transfer activity taking place during the January 2025 registration period compared to previous years.

What has been noticeable is the increase in movement of young players, especially within Europe, in particular for our main areas of work, the United Kingdom to Italy and vice versa, but there is nothing to suggest that this is due to the modification of Article 17.

The biggest takeaway was clubs being more proactive in adding clauses such as buy-out, termination or penalty clauses within their employment contracts, giving the impression that clubs are seeking additional protections in the employment relationship between the club and the player.

The transfer window indicated an initial attempt by clubs to take matters into their own hands, by establishing at the contractual level some type of control over how clubs can maintain a sense of influence regarding the structure and nature of the employment relationship between the club and player. This demonstrates that clubs are not panicking in light of FIFA's decision to introduce the interim framework. They are taking a practical approach in light of the potential consequences.

So far, it appears that FIFA's decision has not negatively impacted the relationship between clubs and players, nor has the balance of power moved further towards players as was initially predicted, yet the summer registration period may include further challenges, given the stated aim of FIFA to have a permanent solution in place by such time.

Perhaps it is intriguing to note that, almost two decades ago, Andy Webster was the first player to successfully invoke Article 17 of the FIFA RSTP after unilaterally terminating his contract with his then employer, Heart of Midlothian FC. Per the CAS ruling which the matter culminated in, Webster only had to pay to his former club the remaining-value of his contract

and faced no sporting sanctions as the breach of the contract was committed outside the so-called protected period. The relevant CAS Panel applied the principle of the specificity of sport and argued that it is in the interest of football that solutions to compensation be based on uniform criteria rather than on provisions of national law that may vary considerably from country to country.

Just as the Webster ruling was being hailed as “the new Bosman ruling”, in its award, in the case of the player Francelino Matuzalem, CAS came to the opposite conclusion and applied the principle of the so-called “positive interest” (similar, *mutatis mutandis*, to the Diarra ruling), in order to “... compensate the injured party for the damage suffered because of the breach (...) of the contract”. Was the Matuzalem ruling now to become “the new Bosman ruling”, then?

The answer is, of course, no. Both the Webster and the Matuzalem rulings were followed by dozens of others, in which different principles were applied, ultimately without the football industry suffering the impact of each of these, albeit as Diarra involves the intervention of the European Courts, it may embolden others to attempt to test how updated regulations will be interpreted.

For now, it can be said that despite the initial fears expressed as to the consequences of modifying Article 17, amid the claims that the Diarra ruling will come to be regarded as a new ‘Bosman’, the transfer market has remained functional and intact, with clubs and players comporting themselves in a business-as-usual fashion.

Only time will tell whether the impact of the Diarra ruling may be considered on a par with that of the Bosman ruling. Experience, however, suggests that the industry has developed antibodies, so to speak, to protect the system from the impact of similar decisions and that such rulings are seldom definitive.

Edinburgh, 3 March 2025