

SPORTS LAW AND POLICY CENTRE

www.slpc.eu

Version 1.0

SURVEY ON CORONAVIRUS AND ITS IMPACT ON FOOTBALL

Edited by Michele Colucci¹

Introduction

This survey is based on a questionnaire sent to international leading sports lawyers and academics from the following 13 countries: *Argentina, Belgium, Brazil, China, Croatia, England, France, Germany, Italy, The Netherlands, Portugal, Romania, and Spain.*

The information therein contained is at full disposal of those who wish to draw some conclusions on the impact of the Coronavirus pandemic on the football world and on the measures that Governments, Federations, and clubs have adopted so far.

The survey will be updated on a weekly basis in order to provide a complete overview of the latest measures against the pandemic.

Brussels, 20 April 2020

Michele Colucci

¹ EU civil servant and Member of the FIFA Dispute Resolution Chamber. Email: info@colucci.eu

ARGENTINA

By Ariel Reck²

1. What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?) , championship over?

In Argentina, the football championship is suspended. In first division, the championship ended just before the suspension and the first round of a "league Cup" was played (with one team River Plate refusing to play his match). This situation already led to discussion about the possibility to end the season, eliminate relegation and only agree on the promotion of the 2 best teams of the 2nd division (with the same system for each division).

In other sports, amateur or semi-professional, the season was either suspended (basketball) or terminated with no champion (as in Volleyball)

2. What are the specific measures taken by :

- a. **The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)**
- b. **The Federation and/or the League (common funding? Others?)**
- c. **Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?**

a.- Just a few days ago, April 9, the government issued a decree to help clubs by reducing or deferring the payment of social security taxes for clubs with less than 100 employee. For clubs with more employees they can sign up to a procedure that grants them financial aid applicable to all employees except the football players.

b.- The Argentine Federation is still receiving and distributing TV rights despite no games being played. Also Conmebol made an advance payment of 60% of the prize money for the clubs laying in the current stage of Copa Libertadores and Copa Sudamericana (this is 1.8 million for Copa Libertadores 3 million for the groupstage) and apron 200.000 usd for Copa Sudamericana Clubs.

c.- No position yet, but the Argentine Federation is preparing a protocol for the return to training and to play. In principle, as other federation. Training in small groups and then games behind closed doors.

3.- How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)

² Sports Lawyer.

In football clubs are still obliged to pay full salary unless an agreement is reached with the players. A few clubs already reached such agreement. Each case is different but in general terms a combination of reduction and deferral is agreed and the "cut" differs depending on the income each player receives. Higher salaries are taking the biggest cuts and deferrals.

In other sports, like basketball, foreign players have been released due to the impossibility to pay.

4. Do they negotiate with the single individual players?

In general, negotiation occurs inside each club with the captains of each team, representing the players. Once an agreement is reached, every player signs it.

5. Is there any negotiation and decision taken at collective level between trade unions and clubs/leagues/federations?

No decision or agreement was reached at collective level. The Secretary General of the Union pronounced himself against a reduction in general terms, arguing the majority of players receive a low salary already. That's why agreements are dealt inside each club directly.

6. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

In general terms, force majeure affects the validity of contracts and suspension of salary or termination with a reduced compensation is possible. However when the pandemic started, the government issued a decree prohibiting unjustified dismissal of workers in all areas. Still, the national labor law admits agreements between employers and employees to suspend or reduce work and compensation, and that's the pathway clubs are taking.

7. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

No reaction yet. the Federation is preparing a medical protocol for the return to training and there is not yet a decision about the extension of the previous season or the imitation of a new sea

Belgium

By Sébastien Ledure³

1. ***What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?), championship over?***

The Pro League (1st and 2nd division) has followed the Federal Government's lockdown measures as decided on March 12, 2020 and immediately suspended its competition (just before the 30th and last round of the regular season and the subsequent playoffs). The Pro League's Board has issued a recommendation for the general assembly -to be voted next April 24th- whereby the 2019-2020 competition will not be resumed, current ranking maintained and decisions with respect to relegation, European cup qualification and 2020-21 competition format referred to an ad hoc task force. UEFA has apparently shown its discontent with the competition's possible cancellation, but reports say that the Pro League would nonetheless follow its Board's recommendation. Professional teams have all ceased practices, though some teams are looking to pick up training in small groups.

Regarding amateur football (women's, youth and men's football as of 3rd division), the Royal Belgian Football Association ('RBFA') has put an end to all competitions for the remainder of the 2019-2020 season and validated March 12, 2020 rankings for the determination of promotion and relegation of teams.

2. ***What are the specific measures taken by :***
 - a. ***The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)***
 - b. ***The Federation and/or the League (common funding? Others?)***
 - c. ***Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?***

a. On April 15th, Federal Government has ordered an extension of the lockdown until May 3rd with a forecast of possible, slow and very gradual deconfinement afterwards. In any event, mass public events (such as i.e. football games with a stadium audience) are not allowed until August 31, 2020 at least. Belgian social security offers the possibility for all employers (including football teams) to have their workers apply for a temporary unemployment allowance. This allowance is being paid by the state administration (through unions or dedicated payroll agencies) directly to the workers and amount to 70% of their monthly gross salary. However, for players earning more than € 2.352,21 gross per month and coaches earning more than € 2.754,76 per month, the allowances are capped at respectively € 1.646,55 and € 1.928,33 per month (i.e. 70%). Belgian government has decided to increase this usual allowance with an additional and exceptional "COVID-19" supplement of € 5,63 per day.

b. Besides measures on cancellation of games and team practices, no specific measures have been taken by the RBFA or the Pro League. There is no specific compensation fund created by the Pro League, the RBFA or another entity to provide financial or material support to players, coaches or club employees affected by the COVID-19 crisis. On the contrary, Pro League advised its clubs not to call upon the abovementioned temporary unemployment allowances, as those clubs already

³ Sébastien Ledure, managing partner sports law boutique Cresta in Brussels (Belgium) - www.crestafirm.com – s.ledure@crestafirm.com

benefit from important reductions on their tax and social security contributions. For amateur clubs however, the RBFA decided not to claim the usual club contributions (i.e. some kind of tax) for the second quarter of 2020.

c. There is no specific association of sports doctors. General guidelines on sports exercise by the Federal Government apply, allowing e.g. to work out individually or to go out for a jogging or a bike ride with no more than one companion and with respect of social distancing (1,5m).

3. *How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)*

Professional clubs can roughly be divided in 4 categories:

- a. Clubs continuing to fully honour contracts towards players and staff, meaning that salaries and benefits are granted in full.
- b. Clubs suspending all payment of player and staff wages, referring everybody to the system of unemployment allowance (cf. supra). Often teams allow that contractual benefits such as car and housing put at the players' and staff's disposal are maintained.
- c. Clubs agreeing with players and staff to amend their employment agreement and lowering the monthly salary on a temporary basis. Witnessed examples range from a single, one-month salary waiver to a 50% reduction of the gross monthly salary. Instalments of signing fees are usually not renegotiated.
- d. Clubs paying a forfeited monthly supplement on top of the unemployment allowance.

4. *Do they negotiate with the single individual players?*

There is no mechanism of mandatory collective negotiation. At their own level, teams try to propose solutions for the entire group of players and coaches. However, not all players accept the proposed terms.

5. *Is there any negotiation and decision taken at collective level between trade unions and clubs/leagues/federations?*

The main players union is active in every club through a designated player representative and tries to participate in the discussions with the club's management in order to reach a collective deal. At this point, no formal collective talks have been launched at the level of the national joint committee for sports.

6. *What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)*

Clubs rely on general principles of civil law for them to invoke the suspension of the employment agreement, i.e. *Force Majeure* being a situation which requires an unpredictable and irresistible event that is not due to the parties' behavior. Since case law qualifies the "irresistible" event as the absolute impossibility to pursue the execution of contract obligations -note : an event that renders the execution of a contractual obligation more difficult yet not impossible, doesn't qualify as a *Force Majeure* event--, this criterium is *in casu* satisfied by reference to the *factum principis* or "fait du

prince”, being the decision of a superior authority (in case the Federal Government) not to allow any public gatherings and events.

The consequence thereof is the suspension of the employment agreement, meaning that reciprocal obligations have temporarily ceased : clubs are no longer required to pay salaries and players/coaches are no longer required to perform services. This also entails that clubs are actually not entitled to impose individual training schemes on their players.

As such, the temporary suspension of the employment agreement does not entitle the players and coaches to use this event as triggering event for contract termination. Obviously, usual contract termination options under Belgian employment law (being the general Act of July 3, 1978 on employment contracts and the more specific Act of February 24, 1978 on paid sportsmen) still apply.

Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

Not yet.

BRAZIL

By Stefano Malvestio and Vitor Hugo Almeida⁴

1. What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games) championship over?

Brazil is a Federal state where the season runs following the calendar year (starts in January and ends in December). In the first part of the season, State championships are played (for instance those of the States of Sao Paulo, Rio de Janeiro and so on – all organized by the respective football federations).

When the coronavirus crisis started, and the lockdown measures were adopted, clubs were playing their “state championship”, which have all been suspended now, following decisions adopted by the competent local football federations.

At a nation-wide level, the Brazilian Football Confederation (CBF) also determined the suspension of all competitions, such as the Brazilian Cup, which had already started.

The national championship (“Brasileirão”), which was scheduled to start in early May will probably be delayed as well, even more taking into account that all First and Second Division clubs have granted (anticipated) holidays to their players, reason why all trainings sessions are now suspended.

After a meeting of the National Club Committee held on April 14, most of the clubs decided to extend their players’ holidays until April 30, except from Flamengo and Vasco, whom are awaiting the result of a study which analyses the possibility of a return of Rio de Janeiro’s State Championship behind closed doors at the end of May, with training sessions scheduled to return, in principle, on April 21.

2. What are the specific measures taken by :
 - a. The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)
 - b. The Federation and/or the League (common funding? Others?)
 - c. Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?
- a. The federal government issued a Provisional Measure⁵ (nr. 936/2020) which allows the companies, under specific conditions, to reduce their employees wages and work

⁴ Lawyers at Bichara e Motta Advogados.

hours from 25% to 70% for up to 90 days and to suspend the employment contracts for up to 60 days.

Workers temporarily put under those conditions are entitled to receive a government aid proportional to their monthly salaries during the period of suspension or salary reduction and also have their employment post guaranteed for the same period.

However, it is debated if this Provisional Measure applies to professional football players, since their employment contracts are regulated by a specific legislation (“Lei Pelé”).

Besides that, the Federal Senate passed a law, that now is pending approval from the Chamber of Deputies, that aims to extend to players, coaching staff, referees and other sports professionals - who do not have a formal employment and whose monthly family income does not exceed three minimum wages - the possibility of requesting a government aid of 600 Reais (approximately 120 dollars) - that is already being paid to informal workers.

In addition to this, the validity of some aspects of this Provisional Measure, such as the mandatory participation of the trade unions in the negotiations of individual agreements, are currently subject to a decision from the Supreme Court.

- b. The Brazilian Football Confederation (CBF) announced the implementation of a fund of 19 millions Reais (approximately 4 millions US Dollars) targeted for third and fourth division clubs and women football. Added to this, as mentioned by Ariel, CONMEBOL anticipated 60% (sixty per cent) of the prize money of its competitions for the clubs playing the Copa Libertadores and the Copa Sulamericana.
 - c. No formal decision has been taken yet. However, CBF and the state federations are organizing meetings with the participation of the clubs’ medical staffs in order to establish a medical protocol for the return of the activities, which will probably include frequent tests on players and coaching staff and matches behind closed doors.
3. **How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)**

In Brazil, clubs reacted in a variety of different manners, which reflects a situation characterized by a certain legal uncertainty and the absence of a collective bargaining agreement.

For this, most of the clubs are still paying full salaries for their players. Others, such as São Paulo and Atlético Mineiro have unilaterally reduced them.

⁵ A provisional measure is a legal act in Brazil through which the President of Brazil can enact laws without approval by the National Congress. There are two requirements for a provisional measure to be used: urgency and relevance of the matter to be regulated.

Finally, other clubs such as Fortaleza and Fluminense were able to reach an agreement with their employees for the reduction or postponement of the payment of the salaries until when normal activities are resumed.

Most of the Brazilian clubs are already struggling financially and probably will not be able to honor their commitments in the next few months if this situation persists.

4. Do they negotiate with the single individual players?

Usually, these negotiations are realized through collective negotiation with the full squad and/or the captains.

The final agreement must be however accepted and signed individually by all players.

5. Is there any negotiation and decision taken at collective level between trade unions and clubs/leagues/federations?

There is a negotiation underway between the clubs and the union of the player and coaches, with no agreement yet, despite several rounds of negotiations.

Clubs initially proposed a wage reduction of up to 50% for the period that the competitions were suspended. After a first denial from the players' union, the clubs then proposed a 25% wage reduction, in addition to the anticipation of twenty days of the player's holidays.

This proposal was also rejected by the players union, who did not accept any salary reduction and proposed the anticipation of thirty days of holidays instead of twenty, while also maintaining the club's obligation to pay the one-third extra holiday pay provided in the Federal Constitution together with April salary.

In addition to this, the players union also proposed that CBF should be the guarantor of any agreement signed between clubs and players, being responsible for the payment in case of non-compliance by the clubs.

Due to these difficulties of reaching a nation-wide collective agreement with the player union, many clubs are choosing to negotiate directly with their employees at a club level.

6. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

Article 503 of the Brazilian Consolidation of Labor Laws (CLT), which was originally enacted in 1943, provides that: *"In case of force majeure or of duly proven loss, a general reduction of the wages of the employees of the undertaking shall be*

permitted, in proportion to the wages of each employee; nevertheless, the reduction shall not exceed twenty-five per cent., and the minimum wage applicable in the region shall be observed."

However, art. 7 lit. VI of the Federal Constitution, establishes the principle that salaries cannot be reduced, except when established in collective bargaining agreement.

In this regard, the prevailing opinion in the legal doctrine is that the abovementioned art. 543 of the CLT was implicitly revoked by the Federal Constitution, a legal source of a higher rank and, as such, cannot apply to the current situation.

7. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

No official reaction yet.

CHINA
By Shaun Dong⁶

1. What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?), championship over?

At present, the start date of the new season of all levels of Chinese football leagues has been postponed. Marathon and other large-scale sports activities will not resume in a short time. Football clubs can organize closed training activities on their own, and there is no policy to cancel professional leagues.

2. What are the specific measures taken by :The Government (unemployment benefits foreseen for workers in general ? Other specific measures?) The Federation and/or the League (common funding? Others?)

The Chinese Football Association (CFA) has not yet introduced relevant policies on the issue of player wages (the CFA is likely to issue guidance salary reduction).

No. Moreover China has not yet established a League for clubs. At present, the Chinese Super League (CSL) is run by CSL Co., Ltd., whose shareholders are the Chinese Football Association and 16 professional clubs.

3. Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?

Currently there is no Association of sports doctors in China.

⁶ Director of the China Sports Law Centre.

4. How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)

The situation varies among clubs. As far as we know, there are clubs that suspend salary payment, but in some clubs, the annual salary of their players (except for game bonuses) has not been affected. However, in the future, the club may take into account CFA guidelines and take certain measures to reduce salary based on consultations with players.

5. Do they negotiate with the single individual players?

Since China has not yet established a nationwide player union, the club needs to negotiate with each player and follow the guidance of the CFA's upcoming salary reduction policy.

6. Is there any negotiation and decision taken at collecting level between trade unions and clubs/leagues/federations?

Not yet.

7. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much

It seems like difficult to answer because the legal status of footballers in China is not yet clear. In my opinion, from the perspective of Chinese labor law, clubs are encouraged to negotiate with players. From the perspective of Chinese contract law, it may refer to the principle of change of circumstances in conjunction with the principle of fairness.

CROATIA

by Vanja Smokvina⁷

What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?), championship over?

In Croatia, all sports competitions are suspended for all leagues and competitions. Only in basketball the championship has been declared over without a champion being announced.

2. What are the specific measures taken by :

- a. ***The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)***
- b. ***The Federation and/or the League (common funding? Others?)***
- c. ***Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?***

a .- The government after the amendments of the Sports Act (passed in the Croatian Parliament on 17th April 2020) secures the minimum wage (3.250,00 HRK cca €433,00 for March and 4.000,00 HRK cca € 533,00 since 1st of April) for those sport officials, administration and coaches who are in a labour relationship. For the whole Croatian sport there are project that we are speaking about 3.000 persons in total. Athletes (professional or course) in general, except a small number of around 15 employment contracts only in football, are in a self-employed status without labour and social law protection so will not benefit the minimum wage state aid.

b.- The are no common funding by the Federations except in football where the clubs received a part of their TV rights (which were due to be paid) which are in general very modest. For the whole season the First Croatian Football Division (i.e. the Croatian Premier League) the 10 football clubs share in total 15 million HRK (cca €2 million). The Croatian Football Federation and the first division clubs are hoping the UEFA solidarity payments will be paid earlier than it was planned.

c.- No position has been taken. Everybody follow the National Epidemiologists rules – the National Crisis Management Committee.

3.- How clubs are currently tacking the salary issue (suspension of payment of salary (for how long)? No payment at all?)

⁷ Vice-Dean for Professional Study Affairs, Assistant Professor, Department: Labour and Social Law Faculty of Law, University of Rijeka, Croatia.

In football clubs are trying to reach an agreement with players. Each case is different but in general terms a combination of reduction and deferral is agreed and the "cut" differs depending on the income each player receives, mostly because it is a percentage cut (33% or 25% immediately with more cut to follow). For instance, according to clubs officials and players in the media the situation is as follows:

Dinamo Zagreb – for the next 6 months the players accepted to be paid 33% of their “salaries”, 33 % in the period of 6 months after the re-start of the season while 33% they will not receive in the next 6 months.

Rijeka - the players accepted to be paid 33% of their “salaries”, 33 % in the period of 6-16 months depending on the club financial situation while 33% they will not receive in the next 6 months.

Hajduk Split – players will receive 40% of the “salary”, the next 40% will receive after the anti-pandemic measures will be abolished or in the end in the next 6 months while for the remaining 20% the players accepted to not be paid

Osijek – the players receive 50% of their “salaries”, the following 25% will receive when the season will re-start and for the remaining 25% the players accepted to not be paid

4. Do they negotiate with the single individual players?

In general, mostly negotiation occurs inside each club with the captains of each team and other players representing the players. Once an agreement is reached, every player signs it.

5. Is there any negotiation and decision taken at collective level between trade unions and clubs/leagues/federations?

No decision or agreement was reached at collective level since in Croatia professional athletes do not have the status of workers (just a small number does) so there are no collective agreements in force. The social dialogue although quite often used, in this case was not performed because the Croatian Football Federation is making amendments unilaterally without consultations with the Players Association (a FIFPro member).

6. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

In general terms, force majeure affects the validity of contracts and suspension of salary or termination with a reduced compensation is possible, but after bargaining between the club and the player. Since players are mostly self-employed and do have a civil law contract accordingly the Civil Obligations Act is applied.⁸

Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

The Croatian Football Federation has published the FIFA guidelines on its official webpage and social medias. The Executive Committee is preparing various variables for the restart of the season and the Executive Committee has approved the amendments of the Regulations on the status of players and registrations on 15th April 2020 which deals with the Coronavirus situation.

⁸ Civil Obligations Act; Variation or Termination of Contract in Case of Change of Circumstances
Requirements for Termination
Article 369

(1) Should, after entering into a contract, extraordinary circumstances arise, that it was impossible to foresee at the time of entering into a contract, making it excessively onerous for one party to perform or if under such circumstances a party would suffer an excessive loss as a result of the performance, it may request variation or even termination of the contract.

(2) Variation or termination of a contract may not be requested by a contracting party invoking the change of circumstances if that party was obliged to take into consideration such circumstances at the time of entering into a contract or if it could have avoided or overcome them.

(3) A party requesting variation or termination of the contract may not invoke a change of circumstances that occurred after the expiry of the time limit for performance of the obligation.

(4) Where a party requests termination of a contract, the contract shall not be terminated if the other contracting party offers or agrees to an equitable change in the relevant provisions of the contract.

(5) Where a court declares termination of a contract, the court shall, at the request of the other party, oblige the party applying for the cancellation, to compensate the other party with an equitable amount for the damage suffered due to the termination.

ENGLAND

By Tiran Gunawardena⁹

1.

What is the current status of the championships in your country(professional and amateur categories)? Suspension of any sports activity (training and/or games?) , championship over?

In England, all professional football leagues are presently suspended up to 30 April 2020, including training and matches. This will certainly be extended further given the government has just confirmed a 3 week extension to the nation-wide lockdown. All amateur football is also presently suspended to the same date. In the meantime, most professional players will be on personal training programs given to them by their clubs.

With respect to the main professional leagues (i.e. Premier League, Championship, League One and League Two), no decision has yet been made as to how to determine the league seasons if no further matches are played. The FA has taken the decision to cancel all the seasons for the leagues below the National League (i.e. 8th division and below), and expunge the results (i.e. it will be as if the season never happened). Legal action has been mooted.

It's worth noting that the decision about the Premier League's season will be made by the Premier League Board (on behalf of the 20 member clubs), and the decision regarding the Championship, League One and League Two will be made by the English Football League ("EFL" - on behalf of its member clubs). Due to the structure of English football, those decisions will not be taken by the national association (i.e. The FA). However, The FA will certainly be involved in discussions/negotiations with both the Premier League and EFL.

2. ***What are the specific measures taken by :***

a. ***The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)***

⁹ Senior Associate (Australian Qualified) for Mills & Reeve LLP. Tiran specialises in international and domestic sports arbitration, with significant experience with proceedings before the Court of Arbitration for Sport (CAS) and regulatory matters in sport. He is dual qualified as an Australian solicitor and chartered accountant. Tiran was recognised by Who's Who Legal as a leading sports lawyer in the UK in 2018 and 2019.

The Government has introduced a 'Job Retention Scheme' (the "Scheme") for all employees in the UK, under which a company can furlough employees and apply for a grant from the Government that covers 80% of their usual monthly wage costs, up to a maximum of £2,500 a month. The Scheme has been designed to avoid mass redundancies across the UK. Football clubs are entitled to apply for the scheme – although politicians have used this as an opportunity to argue that footballers shouldn't be put on the Scheme even if they're entitled to be. Employers are entitled to 'top up' the furloughed salary to 100% if they wish.

The employment status of players don't change while they're furloughed, but the players/employees are not permitted to do any work in any capacity for their employer. As players are currently at home and unable to play football in any event, in practical terms there is no difference (training at home is permitted while on furlough).

You would likely have seen in the press that some Premier League clubs have sought to furlough their non-playing staff, which has been a PR disaster. Liverpool and Tottenham Hotspur initially took the decision to furlough their non-playing staff, despite their respective owners being billionaires and their players earning hundreds of thousands of pounds a week. The negative publicity forced those two clubs to reverse their decision. Newcastle United furloughed all non-playing staff and have refused to reverse that decision despite the negative publicity.

Non playing staff and also players lower down the English football pyramid have been furloughed. Clubs have made individual decisions as to whether to 'top up' furloughed players' salaries to 100%.

b. The Federation and/or the League (common funding? Others?)

The Premier League has advanced funds of £125m to the EFL and National League. The EFL has created a £50m relief fund, under which clubs will receive a grant and also be eligible to apply for interest free loans. Further measures will undoubtedly be required over the next few months.

c. Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?

There is no association of sports doctors that make any decisions which are binding on the football leagues.

3. How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)

In short, there is no common approach.

The financial situation of English football clubs varies significantly from the top of the Premier League (e.g. Manchester City / Liverpool / Manchester United) down to the Championship and below. There is even quite a big disparity between clubs in the Championship. So it is all but impossible for there to be a 'one size fits all' solution.

Some clubs are continuing to pay salary and benefits in full but are using the Scheme for financial assistance. Other clubs are asking players to defer a fixed percentage of their salary and/or benefits to a later date, so they can deal with cash flow issues resulting from the suspension of professional football. Other clubs are asking players to take a temporary pay cut to salary and benefits. The size of the cut varies from club to club but some are asking players to cut their salary to what the club can recoup from HMRC under the Scheme (i.e. 80% of salary up to £2,500 per month).

Anecdotally, we are aware of some clubs aggressively pushing players to accept pay cuts/deferrals on the basis of financial difficulty, but are also simultaneously being linked in the press with new players in the transfer market. Their players are therefore refusing to take pay cuts/deferrals. At the top of the Premier League, although the players are on high salaries there is a reluctance to accept pay cuts/deferrals if the owners are wealthy billionaires. For example, Manchester United is owned by the Glazer family with a reported wealth of approx. \$5bn. So instead of taking pay cuts/deferrals to benefit the Glazer family, the players are donating 30% of their wages to the National Health Service. We may see players at other wealthy clubs follow suit.

Lower down the football pyramid (mainly in the Championship), as many players are refusing to accept pay cuts / significant wage deferrals or the like clubs have mooted some radical/controversial solutions - including league wide group administration or a £6k/week salary cap to try and force players' hands. Whether such measures will be pursued (if they are even legal) remains to be seen. However, it does reveal the desperation of the situation. It is predicted that dozens of clubs in the EFL could potentially face administration/insolvency in the next few months if things continue like this.

4. Do they negotiate with the single individual players?

Yes. As noted above, the PFA have been attempting to negotiate with clubs on behalf of players however individual clubs are pursuing negotiations with their players depending on its own financial situation.

5. Is there any negotiation and decision taken at collective level between trade unions and clubs/leagues/federations?

See the answers to 3 and 4 above. We understand that Premier League clubs are liaising with each other and similarly EFL clubs are also liaising with each other. There is also constant dialogue between the leagues, The FA, and the players' union (PFA). However, there are no 'collective decisions' being made per se, as it is up to each individual club and player to determine how it will proceed.

6. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

The terms of an employment agreement can only be changed by mutual agreement. An employer who imposes a contractual change (such as suspension of wages, wage cuts or deferrals) without the employee's express or implied agreement will be in breach of contract and the original terms of the contract will remain in place.

The Premier League and EFL standard contracts (collectively bargained between the leagues and PFA) do not contain a force majeure clause. The common law doctrine of frustration is rarely applied, particularly in an employment context. Ordinarily, it is unlikely that employment contracts are frustrated because this would require the position to be so fundamentally different to that envisaged that performance becomes impossible. However, it is possible that where a government instruction (or, indeed, other circumstances) prevent an employer from providing work to its employees, and prevents the employees from performing the work, employment contracts may be frustrated. Unfortunately, it is too soon to tell whether this will apply during the Covid-19 pandemic and it will remain a fact-specific question in any event. As far as we are aware, no club has sought to rely on force majeure and/or frustration as yet.

In practice, if a club unilaterally imposes a pay cut/deferral etc. players could choose to terminate the contract. However, filing a claim for losses would take some time and the player will also likely not be able to join another club until football resumes. So he could be

without an income for quite some time if he chooses to terminate. So the player would need to strongly consider his financial situation before making such a decision.

7. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

No official reaction. However, it is clear that some of FIFA's recommendations cannot be enforced under English law.

For example, FIFA has proposed that expiring contracts (due to expire on 30 June 2020) are "extended until such time that the season actually does end." However, as per question 6 above that cannot be unilaterally imposed by clubs on players under English employment law. If a player wishes to become a free agent on 30 June 2020 when his contract is set to expire, then he will be entitled to do so. Whether it makes financial sense for him to do so is a different question.

FRANCE

By Jean-Michel MARMAYOU¹⁰

1. What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?), championship over?

In France, on March 2020 the President of the Republic announced a general containment measure for the population. As a consequence, the Government prohibited "any gathering, meeting or activity bringing together simultaneously more than 100 people in an enclosed or open environment [...]" on the territory of the Republic.

This ban, initially planned until 15 April 2020 has been recently extended until May 11, 2020.

As of March 13, 2020, the LFP's Board of Directors announced the suspension of the Ligue 1 and Ligue 2 professional championships.

Of the 38 days of matches planned only 28 were played. it should be noted that the match of the 28th day RC STRASBOURG / PSG did not take place.

For now, the Professional Football League has not decided to put an end to the championship because it hopes to resume the competition at the end of the confinement. Several scenarios are under study depending on the date of deconfinement but in any case, it has been decided that the 2019-2020 season will end no matter what happens on July 25 so that the 2020-2021 season can start on 23 August 2020.

With regard to the amateur categories, on 16 April 2020 the French Federation decided to:

-stop definitively all the championships on the date of 13 March 2020;

- freeze the results of the rankings acquired at the time of the stop according to the number of points obtained / number of games played in order to neutralize the effect of the matches carried over

- limit the number of clubs relegated to one per group but fix the number of promoted clubs according to the relevant competition's regulations. No decision has yet been made for the 3rd Division Men's Championships and the 1st Division Women's Championship which should follow the same scenario as that which will be decided for the Ligue 1 and League 2 championships.

¹⁰ Maître de conférences HDR, Droit privé et sciences criminelles.
Directeur du Centre de droit du sport, Aix en Provence Marseille.

If the professional championships do not go to their end, there will be no “saison blanche” (white season).

2.What are the specific measures taken by :

The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)

The Government has facilitated the use of a partial unemployment scheme and it has extended even to professional football. In practice, the club compensates its players (and more generally all its employees) at 70% of their gross remuneration (approximately 84% net). Then the State reimburses the Club, up to a limit of 4,850 euros per employee.

The savings are significant for non-sports personnel but much less for players. In fact, the employer will only be reimbursed a marginal part of the salary due to the players.

Nevertheless, by putting the players on a partial unemployment scheme considerably alleviates club finances.

Infact, the compensation paid to the players is not subject to social charges.

Finally, the French government has also set up a bank loan guarantee mechanism for all companies. The clubs therefore negotiate state-guaranteed loans with their banks.

a. The Federation and/or the League (common funding? Others?)

The terms of a collective solution are under discussion and will depend on the possibility of a continuation of the championship and especially on the payment of TV rights by broadcasters.

b. Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?

N/A

3.- How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)

They currently apply the above mention partial unemployment benefits and try to negotiate wage cuts with their players.

5. Do they negotiate with the single individual players?

French law requires clubs to negotiate individually. They can always try to negotiate at collective level but it is each employment contract which is legally binding. A player cannot be obliged to accept a salary cut even if all his teammates have accepted you.

6. Is there any negotiation and decision taken at collecting level between trade unions and clubs/leagues/federations?

There were negotiations with the players' union (UNFP - national union of professional footballers) which resulted in declarations of principle which do not prevail on each employment contract:

- reduce wages by 30% during the crisis;*
- reimbursement of wage cuts after the crisis.*

7. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

The employment contracts of professional footballers are framed by law and specifically articles L.222-2-3 and following of the Sports Code as well as by the Labor Code. These are fixed-term employment contracts known as "specific fixed-term contracts". They can only end for the causes that the law provides for:

- Agreement of the parties*
- Serious misconduct*
- Inaptitude of the employee*
- Signing of an open-ended employment contract*
- major force: the COVID 19 crisis may constitute a case of force majeure but to cause a permanent breach of the employment contract it is necessary that the impossibility of work be final (go at least until the end of the contract) . However, the crisis will necessarily be temporary and force majeure can at best only lead to a "suspension" (partial unemployment).*

8. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

No official reaction. In any event, the FIFA guidelines recognize the pre-eminence of national law and government decisions. The LFP and the FFF are obliged to take into account the decisions taken by the French government first.

GERMANY
By Philipp S. Fischinger¹¹

Question 1: What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?) , championship over?

All soccer/sport championships games on professional and amateur level are interrupted right now, so far until April 30, 2020. Championships are not over, neither on the professional level nor the amateur categories. At least for the First Division (Bundesliga) and Second Division (2. Bundesliga), the federations have plans to continue in May (in order to benefit from TV transfer fees). The amateur leagues might be cancelled but nothing has been decided right now. Probably on April 23, an extraordinary general meeting of the "DFL" (Deutsche Fußball Liga) will take place in order to decide about resuming championship games.

Team training on club grounds was interrupted for about 2-3 weeks and players underwent individual, technically monitored training plans at home. Slowly and within the boundaries set by the respective health authorities professional clubs slowly start team training on club grounds again these days, mostly in small groups up to 4-7 players. As far as amateur teams are concerned, team training is still suspended.

Question 2: What are the specific measures taken by :

- a. **The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)**
- b. **The Federation and/or the League (common funding? Others?)**
- c. **Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?**

a) *Under certain circumstances, employers in Germany can order the so called "Kurzarbeit" (short-time work) for up to 12 months. Even a reduction to "Kurzarbeit Null" (reduction to zero) is possible. Thus, the employer does not have to pay wages anymore. As a compensation, employees affected by such a measure are receiving "Kurzarbeitergeld" (short-time allowance) by the governance that amounts 60 or 67 % of the last net income. The Kurzarbeitergeld is also available for sport clubs. However, as the Kurzarbeitergeld cannot exceed € 4623 per month net of tax, it is rather uninteresting for top earners as the income loss is extremely high.*

b) *There are a lot of rumours but right now it is hard to tell what exactly is going to happen. E.g., the Frankfurter Allgemeine Zeit reports alleged plans by the DFL with the Japanese investment bank Nomura and/or hedgefonds like KKR and Apollo about interim credits for clubs that struggle financially. The Deutsche Fußball Liga seems to have a reserve fonds 50 Million Euro for time of crisis, however, I couldn't find any information on specific plans how to use that money right now. Fritz Keller, president of the DFB (Deutsche Fußball*

¹¹ Lehrstuhl für Bürgerliches Recht, Arbeitsrecht, Handels- und Wirtschaftsrecht sowie Sportrecht
Universität Mannheim

Bund), announced in a press release that the regional associations will receive subsidies: 12 Million Euro from the DFB to the regional associations that, normally, is paid over a period of 12 months, is now available immediately to the full extent. There has been an initiative by Bayern Munich, Bayer Leverkusen, Borussia Dortmund and RB Leipzig to forgo 20 Million Euro and give it to clubs that are in need of money. However, it seems to be unclear where this money shall come from exactly, to whom it shall be distributed to and on what ratio of distribution. There are also private initiatives by Joshua Kimmich and Leon Goretzka that raised in total 4 Million Euro so far to help smaller clubs.

c) The DFL established a “Task Force Sportmedizin/Sonderspielbetrieb” in March 2020 with the goal to ascertain if a continuation of championship games seems to be justifiable from a medical point of view and to recommend specific measures to prevent the spread of the virus. As one of the members is my sister-in-law I know that the Task Force is in the process of finalizing its work and will publish its findings probably next week.

Question3: How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)

As far as one can tell from newspapers this issue is approached very differently. Some clubs (e.g. Eintracht Frankfurt) ordered Kurzarbeit (for there “normal” employees). In many cases players agreed to temporary wage reductions, e.g. 20 % (Bayern Munich, Eintracht Frankfurt) or 10-20 % (Borussia Dortmund).

Questions 4 and 5: Do they negotiate with the single individual players? Is there any negotiation and decision taken at collecting level between trade unions and clubs/leagues/federations?

Although there exists a player’s union (“Vereinigung der Vertragsspieler”, VDV), collective bargaining agreements and agreements with works council are virtually non-existing in German soccer. Therefore all the negotiations have to take place between the clubs and the individual players.

Question 6: What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

Termination of contract: If a club decides to reduce the number of players it wants to employ it can terminate contracts with “surplus” players. However, this is very difficult and hardly realistic.

Dismissal with the option of altered conditions of employment: In Germany it is possible to terminate but at the same time offer the continuation of the contract with altered condition (eg. reduced wages). However, such a termination with the goal of wage reductions is possible only under extrem conditions (it must be the last measure for the employer to avoid insolvency).

Suspension of salary is not possible under German law without the consent of the employee.

Cut of salary: While the season is on hold, the clubs don’t have to pay premiums (e.g. for playing in a game [Einsatzprämie] or for winning games [Siegprämie]). If they have to pay the base salary is, right now, under debate among German scholars. I am of the opinion that the clubs still have to pay base salary and expect the courts to decide accordingly.

Question 7: Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

No

ITALY

By Salvatore Civale¹²

- 1. What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games) , championship over?**

In Italy at moment all sports activities (trainings and games) are suspended, included the tournaments organised by the Italian Football Association (FIGC). Recently, the Ministry of Sport has announced the possibility to resume the trainings of professionals from 4 May on, upon improvement of safety policies. The season for some youth competitions has been declared over.

- 2. What are the specific measures taken by :**

- a) The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)**

Workers who stay at home because of the virus Covid-19 receive a compensation of different amount on the basis of their status. In addition to the central Government, the local authority in each Region apply further compensation to help the affected population.

- b) The Federation and/or the League (common funding? Others?)**

No concrete actions in this respect from the Federation, apart the organization of specific committees to tackle the problem and find a solution. The League has proposed a common approach of all the Clubs to the pay cut, with 4 months deduction in case of early cancellation of the championship of Serie A and 2 months deductions in case of postponement and conclusion of the season. Other stakeholders are open to the dialogue.

- c) Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?**

The Association of sports doctors has provided its negative opinion on the opportunity to continue the sports activities during the months of March and April. The Federation is not

¹² President of the Italian Association of Sports Lawyers (AIAS), Managing Partner of Civale Law Firm.

bound by the opinion of this Association and, actually, it preferred to create a specific Medical Committee to establish the protocol to follow when the training will resume.

3. How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)

It seems that all clubs are suspending the payment of the salaries due from March while negotiations at central level (League and trade union) are pending.

4. Do they negotiate with the single individual players?

Clubs are negotiating with all players and of course, it will be necessary to proceed in writing by signing, player by player a specific agreement.

5. Is there any negotiation and decision taken at collective level between trade unions and clubs/leagues/federations?

Nothing at moment, just a dialogue between Leagues and Trade Unions

6. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

Only the Clubs can take a unilateral decision, due to force majeure, with an impact on the employment contract.

According to Italian Law if the obligation cannot be performed due to force majeure, the latter represents a cause of termination. Surely, the Clubs will aim to adopt the same measures for all Players and they will try to avoid the loss of assets as well as the decrease of the value of the possible transfers fees of the Players. It is more realistic, in case an agreement is not reached between the Players and the Club, that a unilateral pay cut will be applied by the Clubs. In that a case, the risk of litigations is very high.

7. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

Not yet.

THE NETHERLANDS

By Laurens Korbee and Kevin van den Oetelaar¹³

1. What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?), championship over?

Both professional football leagues (i.e. the 'Eredivisie' (Dutch premier league) and the first division) matches are suspended until at least 1 June 2020. This also applies to regular training sessions.

The amateur leagues have all been cancelled. No final score has been drawn up, nor promotion or relegation will take place.

2. What are the specific measures taken by :

- a. The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)**
- b. The Federation and/or the League (common funding? Others?)**
- c. Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?**

A) Since 6 April, the government issued a decree for all businesses that have to deal with a revenue decrease of at least 20% over three consecutive months. If all of the conditions of this (emergency) measure are met, the government reimburses up to a maximum of 90% of the company's wage bill, depending on the loss of turnover (the so-called 'NOW-regulation'). This measure however only applies to salaries up to € 9.538,- per month and for this reason, the NOW-regulation does not fully cover the company's wage bill for several professional football clubs.

B) An emergency fund of 11 million euros has been set up by the Royal Netherlands Football Association (KNVB), Dutch internationals and the ING bank (main sponsor KNVB) which will be shared 50/50 between the professional clubs and the amateur clubs. The professional clubs still receive their share regarding the TV rights, despite the fact that no games are being played.

The KNVB will furthermore accelerate provision of funds and the suspend of the repayments on the loans that some clubs have with the association for six months.

C) Not that we know of. However, the KNVB is reviewing the possibilities to resume the professional league matches without an audience.

3. How clubs are currently tacking the salary issue (suspension of payment of salary (for how long)? No payment at all?)

Clubs are still paying the salaries of their employees. In fact, this is one of the requirements to apply for the NOW regulation. Furthermore, the professional football clubs, the players unions, and the

¹³ Legal Counsels of the Royal Netherlands Football Association (KNVB).

employers' organization (the FBO) are investigating the possibility to postpone the payment of the holiday allowance and a cut on salary.

4. Do they negotiate with the single individual players?

As far as we know, clubs do not yet negotiate with individual players about any suspension of salary payments. In any event, discussion first takes place at a collective level (see hereinafter). Possible negotiations between clubs and individual players may take place after it becomes clear whether the current football season shall be finished or definitively terminated.

5. Is there any negotiation and decision taken at collective level between trade unions and clubs/leagues/federations?

The FBO is currently discussing with the players' unions regarding measures that could be taken at collective level. In fact, some specific measures, such as the short-time extension of employment contracts in case the current season shall be extended, can only be taken at collective level, since the Collective Labour Agreement for Professional Contract Players should therefore be amended. Whether or not, and which, decisions should be taken at a collective level depends however on the (extension of) measures that the Dutch government shall take on short notice.

6. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

It is not possible to unilaterally terminate an employment contract in case of the existence of *force majeure*. In the matter at hand, suspension of salary is not legitimate and besides, a part of a club's company's wage bill may be covered by the government. A lawful reduction of the salary can be an *ultimum remedium* in the event that negotiations on both collective and individual level do not lead to a fruitful solution. In short, according to the Dutch Civil Code, a unilateral reduction of an employer's salary is only legitimate in case certain strict criteria have been met. It is not clear yet whether and when an appeal to this Article of the Dutch Civil Code may succeed.

7. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

No, not yet.

PORTUGAL
By Rui Botica Santos¹⁴

1. *What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?), championship over?*

*All football competitions have been suspended. A majority of the players are on personal training programs given to them by their clubs.
The idea is to finish the pending championships and if necessary, to extend the original deadlines. If necessary, the clubs will play additional matches per week.*

2. *What are the specific measures taken by:*
 - a. *The Government (unemployment benefits foreseen for workers in general? Other specific measures?)*
 - b. *The Federation and/or the League (common funding? Others?)*
 - c. *Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?*

2.
 - a. *For the protection and maintenance of employment contracts the Portuguese Government issued the Decree Law n.º 10G/2020 of 26 March 2020 with a simplified lay off regime which entails exceptional measures for the companies which face a situation of crises caused by the COVID-19.
The applicability of simplified lay off regime to football clubs is polemic because it results in the allowance for the companies to reduce or suspend the labour activity. Its applicability is not polemic with regards to the club's employees which have contracts of non-sporting nature. But when it comes to players and coaches, this regime would result in the suspension of their labour contract. The suspension of the labour contract discharges the employee from providing their services, which means, in the case of a football player, that they could restrain from training if football clubs choose the simplified lay off to tackle the salary issues.
However, as the plan is of the return of competitions the football players must keep their physical form and go through a rigorous daily physical plan. So, it does not*

¹⁴ Partner of Coelho Ribeiro & Associados (CRA), CAS Arbitrator

make sense to invoke the suspension of the labour contract when the players are still providing their services to the club by preparing for a return to action;

b. To face the COVID-19, the Portuguese Football Federation has created a support fund to the associations and to the football and futsal clubs which take part in its national non -professional competitions. FPF has also suspended all disciplinary proceedings as well as has prorogated the execution of fines to the following season. The TV rights are still being distributed; some football clubs have even been able to receive such payments in advance.

The Liga Portugal has also implemented an Economical support plan with additional measures, one of them being the prorogation of deadline to provide the requirements needed for the licensing of the professional competitions, amongst others which aim to immediately help the treasury of the sports company.

c. No specific position has been taken yet. According to its statement the return of the competitions is conditioned by the evolution of the pandemic, and although the predictions are positive, football will follow the instructions of the Portuguese national health authority (DGS).

3. *How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)*

The big 3 of Benfica, Porto and Sporting Lisbon are in talks with their players with a view to having them take pay cuts for the next 3 months. The rest of the clubs are yet to take an official position although we expect them to follow suit. However, some clubs like Belenenses SAD are considering a lay off.

4. *Do they negotiate with the single individual players?*

Yes, although the Portuguese players union has come out to publicly criticize some of the measures being contemplated by the clubs.

5. *Is there any negotiation and decision taken at collecting level between trade unions and clubs/leagues/federations?*

The trade unions do not seem to have been directly engaged although they have raised their public opinion. I believe they will ultimately be involved in any talks. For the time being it seems to be talks between the players and their respective clubs. The federation and the league are closely monitoring the developments and we expect them to play an active role.

6. *What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the*

salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

In Portugal is applicable the principle of impossibility of salary reduction. A salary reduction is only possible either if the employee agrees or if there is a reduction of the working period where the reduction of the salary becomes proportionate.

In force majeure situations, pursuant to the labour code, it is possible the temporary closing of activity and the employee in these situations is entitled to 75% of his salary. Adding to this, in order to face the COVID-19 the government has issued different decree laws to cover the different relevant situations like the simplified lay-off regime specified in point. 2a) above, where the employee is entitled to 2/3 of their normal gross remuneration. This financial support has the duration of 1 month with the possibility of extension up to a maximum of 3 months.

7. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

The Portuguese Football Federation has always worked together with FIFA and I believe they will take these guidelines into account for the good of Portuguese football.

ROMANIA

By Adrian STÂNGACIU¹⁵

2. **What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?) , championship over?**

All football competitions (in fact all sports competitions) are suspended. The Romanian Football Federation was the first Romanian sports federation to decide the suspension of the competitions at all levels, even before¹⁶ the state of emergency was instated by the Presidential Decree no.195/16.03.2020.

The working group involving all the stakeholders (players union, league, clubs competing in the Romanian first, second and third Division) decided that May 16 can be considered the first date when the competitions can be resumed¹⁷. Due to the fact that the state of emergency has been prolonged until May 14, this scenario it is not valid anymore. However, the sure thing is that everybody involved in professional football competitions consider necessary to resume the championships at a later stage, whenever this will be possible.

On the other hands, the Suceava Football County Association decided to end all the competitions organized by it, including the 4-th League due to the situation in the Suceava County (one of the most affected regions in Romania by coronavirus).

With regard to other sports, only the Romanian Volleyball Federation decided to end the championships and to declare as champions the teams that were ranked first at the moment when the championship was suspended.

3. **What are the specific measures taken by :**
- a. **The Government (unemployment benefits foreseen for workers in general ? Other specific measures?)**

¹⁵ Head of the Romanian Football Federation Legal Department and member of the UEFA Legal Committee. He is specialized in sports law disputes acting also as President of the Disciplinary Committee of the Romanian Tennis Federation and member of the Appeal Committee of the Romanian Handball Federation. He is also acting as president or member of several Romanian Football Federation Committees (i.e Legal, Antidoping etc).

¹⁶ Please see The Emergency Committee Decision of 12.03.2020 available at: <https://www.frf.ro/comunicari/comunicate-frf/hotararea-comitetului-de-urgenta-din-12-martie-2020/> and the Decision of the Emergency Committee of 17.03.2020 available at: <https://www.frf.ro/comunicari/comunicate-frf/hotararea-comitetului-de-urgenta-din-17-martie-2020/>

¹⁷ Available at: <https://www.frf.ro/featured/prima-concluzie-a-grupului-de-lucru-format-de-frf-competitiile-interne-nu-se-pot-relua-mai-devreme-de-16-mai-2020/>

The Labour Ministry recommended that during the state of emergency the employment contract shall not be terminated, although no legal provision in this respect was issued.

On 18.03.2020, The Government issued the Emergency Ordinance no. 30/2020 stating that during the state of emergency, for the period of temporary suspension of the individual employment contract, at the initiative of the employer, according to art. 52 paragraph (1) lit. c) of Law no. 53/2003 - The Labor Code, the allowances received by the employees are set at 75% of the basic salary, but not more than 75% of the gross average wage stipulated by the Law of the state social insurance budget for 2020 no. 6/2020 (i.e. approximately 850 euros gross; app. 500 euros net). Such amounts will be paid by the authorities from the unemployment insurance budget.

With regard to sporting activity contracts¹⁸, the Government applied a similar provision in the mentioned law, respectively During the period of emergency established by Decree no. 195/2020 regarding the establishment of the state of emergency in the territory of Romania, for the period of temporary suspension of the contract of sporting activity, at the initiative of the sports structure, as a result of the effects produced by the coronavirus SARS-CoV-2, the players will be entitled to an allowance of 75% of the remuneration, but not more than 75% of the gross average wage stipulated by the Law of the state social insurance budget for 2020 no. . 6/2020 (i.e. the same amount as mentioned above, app. 850 euros gross; app. 500 euros net). The allowance is borne by the state budget.

It is clear that such an amount it is not very interesting in cases of the players in the First League.

On March 30, the Government issued a new Emergency Ordinance adding to the provisions with regard to sporting activity contracts mentioned in GEO 30/2020 a new paragraph allowing the clubs to negotiate with the players in order to pay more than the allowance mentioned above. (in addition to the allowance provided for the players, the sports structures have the possibility to negotiate and jointly determine the payment of other compensatory allowances granted by the sports structure to compensate for the diminution of the financial consideration.)

Also, with regard to the employment contracts, the Government stated in the GEO 32/2020 that the amount provided in the GEO 30/2020 may be supplemented by the employer up to 75% of the wages mentioned in the contracted only in case the budget of the employer with regard to salaries allows.

It is clear that, in case of litigations, irrespective if regard to sporting activities contracts or employment contracts, there will be a lot of discussions to be made after 30.03.2020 when the Government Emergency Ordinance no. 32/2020 entered in force.

b. The Federation and/or the League (common funding? Others?)

No concrete measures at this time, except postponing deadlines for the first and the second league licensing process for the next season.

¹⁸ Only a limited number of players and officials are concluded an employment contract, most of them signed sporting activity contracts (civil contracts).

- c. ***Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?***

There is no decision taken by the Romanian Football Federation Medical Committee binding on the football competitions at this moment. Before the season will resume, the Medical Committee will issue a set of instructions in order to be applied by all the clubs when an official game has to be organized.

4. ***How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)***

It seems that the clubs can be placed in three categories:

Negotiating with the players in order to reduce the remuneration due for several months.

Paying all the wages as provided by the contract between the parties¹⁹.

(the majority) Applying the legal provisions allowing them to unilaterally suspend the contract during the state of emergency (i.e. until May 14 for the time being).

5. ***Do they negotiate with the single individual players?***

Only a small number of clubs decided to negotiate and to reach an agreement with any single player (i.e. FC Viitorul²⁰), most of them just imposed the legal provisions that allow the clubs to unilaterally suspend the player's contracts.

6. ***Is there any negotiation and decision taken at collecting level between trade unions and clubs/leagues/federations?***

No. At first, when the state of emergency was instated (starting with March 16, 2020), the federation, the league and the player's union made several public statements²¹ urging all the parties involved in football to act rationally and to show solidarity between all of them. However, after several clubs decided to unilaterally suspend the players contracts, any agreement became impossible to be implemented.

7. ***What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of***

¹⁹ <https://liga2.prosport.ro/seria-1/echipa-din-liga-2-care-nu-ia-in-calcul-reducerea-salariilor-jucatorilor-in-aceasta-perioada-de-criza-daca-esti-conducator-faci-rost-de-bani-vinzi-ceva-si-platesti-19128959>

²⁰ Info available at: <https://www.digisport.ro/fotbal/liga-1/mentalitate-de-campion-reactia-unui-jucator-de-la-viitorul-dupa-ce-i-a-fost-redus-salariul-825945>

²¹ One of them available at: <https://www.frf.ro/comunicari/comunicate-frf/apel-la-solidaritate-la-adresa-tuturor-membrilor-familiei-fotbalului-romanesc/>

the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

In the present circumstances, most of the clubs applied the legal provisions in force during the state of emergency (see the answer at question 2 letter a above, GEO 32/2020).

Theoretically, as the players are considered service providers and also the draft²² of the sporting activities issued by the Romanian authorities contains a force majeure clause such a clause can be applied in order to terminate a contract. However it is not clear if such an approach will succeed in front of judicial bodies and/or civil courts.

Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

The FIFA Guidelines were published on the RFF official website²³ and also a working group²⁴ involving all the relevant stakeholders was established in order to analyze and to draft the provisions applicable with regard to contracts, transfers and how the matches shall be organized in the present context. The first e-meeting of the working group is scheduled to take place after the Easter Holiday in Romania (i.e. after April 20, 2020).

However is worth mentioning that it will not be possible (even if the federation, the league and the players union agree that this is the right thing to do) to extend the contracts that have to expire at any date before the actual end of the season. The extension can be reached only by mutual agreement between the parties (player and club).

²² The draft can be found here <https://lege5.ro/Gratuit/ge3dkmrtgm2a/ordinul-nr-631-890-2017-privind-aprobarea-modelului-cadru-al-contratului-de-activitate-sportiva>

²³ Available at: <https://www.frf.ro/featured/noi-recomandari-fifa-privind-contractele-jucatorilor-si-perioada-de-transferuri/>

²⁴ Available at: <https://www.frf.ro/comunicari/comunicate-frf/grup-de-lucru-creat-de-frf-pentru-norme-speciale-dedicate-acestei-perioade-in-roaf-si-rstif/>

SPAIN

By Josep Francesc Vandellos Alamilla²⁵

1. What is the current status of the championships in your country (professional and amateur categories)? Suspension of any sports activity (training and/or games?) , championship over?

On 14 March 2020, the Spanish Government passed the Royal Decree 463/2020²⁶, of March 14, declaring the state of alarm for the management of the health crisis situation caused by COVID-19. Article 10 par. 3 of the Royal Decree 463/2020 suspended inter alia the opening to the public of premises and establishments in which sports activities take place²⁷. The Royal Decree establishes also severe restrictions to the freedom of movement of the population but expressly allows commuting to the place of work, and so being vague as to whether professional sports clubs can continue training or not. Therefore, even if clubs could be entitled to call their players for training, as a general rule, they have all suspended all of their activities.

When it comes to football, the RFEF the first national organization to react against the risks derived from the COVID-19 pandemic, even before the Government. On 11 March 2020 the RFEF²⁸ suspended all non-professional football, women's football and futsal competitions of state level for two weeks.

A day after, on 12 March 2020²⁹, LaLiga followed through and decided to postpone also the two next fixtures in the calendar on the basis of the Royal Decree 664/1997 on the protection of workers against risks related to exposure to biological agents at work.

Subsequently, in view of the evolution of the situation, on 23 March 2020³⁰, the Delegate Committee of the Royal Spanish Football Federation (RFEF) announced the suspension until the Government of Spain consider it is appropriate to re-start them without any risk for the health of footballers, coaching staff, club's employees and

²⁵ Sports lawyer. He sits as member of the Editorial Board of LawInSport and Football Legal and is an arbitrator at Sport Resolutions UK. He is also the Academic Director of the Global Master in Sports Management and Legal Skills ISDE-FC Barcelona (on-line ed.).

²⁶ Available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-3692

²⁷ On 10 April 2020, the state of alarm was extended for a second time, until 26 April 2020 by means of the Royal Decree 487/2020. Available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-4413

²⁸ See: <https://rfe.es/noticias/comision-delegada-rfef-aprueba-suspension-todos-partidos-futbol-y-futbol-sala-masculino-y>

²⁹ Available at: <https://www.laliga.com/noticias/laliga-acuerda-la-suspension-de-la-competicion>

³⁰ Available at: <https://www.rfef.es/noticias/rfef-aprueba-suspension-todas-competiciones-no-profesionales-que-autoridades-consideren-que>

fans. The RFEF requested at the same time to all of the territorial football associations to adopt the same measure concerning regional competitions.

The exact same decision was adopted the same day with LaLiga with regards to the indefinite suspension of all professional competitions.

The ACB (professional basketball league) also suspended all activities as from 16 March 2020³¹. So did the ASOBAL league (handball professional league) on 11 March 2020³². Similarly, other sporting events like marathons, tennis tournaments, motorsports have been postponed.

2. What are the specific measures taken by :

a) The Government (unemployment benefits foreseen for workers in general? Other specific measures?)

On 17 March 2020, the Spanish Government approved the Royal Decree-Law 8/2020, on extraordinary urgent measures to face the economic and social impact of COVID-19³³ with the objective to establish mechanisms to ensure that employment contracts are maintained during the health crisis situation. For the purposes of suspending contracts or reducing working hours and expediting the processing of employment regulation procedures; duly proven losses incurred as a result of COVID-19 will be considered to be based on force majeure motives.

Likewise, on 27 March 2020, the Spanish Government also approved the Royal Decree-Law 9/2020³⁴, adopting complementary measures in employment matters in order to mitigate the effects derived from COVID-19. Amongst these measures for instance article 5 establishes the interruption of the duration of fixed-term contracts during the period of suspension; or the speed-up of the proceedings to apply for unemployment benefits.

b) The Federation and/or the League (common funding? Others?)

On the RFEF announced a preferential treasury advance aid of 4.000.000 Euro on the occasion of COVID-19³⁵ addressed to non-professional clubs and futsal clubs of national category with professional football players in their teams. These grants are meant to help clubs paying the salaries of players and coaches of their first teams.

c) Is there any specific position taken by the Association of sports doctors? If yes, are the federations bound by such a decision?

³¹ Available at: <https://www.acb.com/articulo/ver/152987-suspension-temporal-de-la-liga-endesa-hasta-el-24-de-abril.html>

³² Available at: <https://asobal.es/noticia.php?id=6508>

³³ Available at: <https://www.boe.es/boe/dias/2020/03/18/pdfs/BOE-A-2020-3824.pdf>

³⁴ Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2020-4152&p=20200328&tn=1#a5>

³⁵ Available at: <https://www.rfef.es/federacion/concursos/convocatoria-ayudas-avance-tesoreria-preferencial-motivo-del-covid-19>

On 15 March 2020 the AEPSAD (Asociación Española de Protección de la Salud en el Deporte), the SMD (Sociedad Española de Medicina del Deporte) and the General Counsel of Official the Professional Associations of Doctors of Spain (CGCOM) issued joint recommendations related to the trainings of athletes during the state of alarm³⁶. The Spanish sports Federations are not bound by these recommendations.

On 11 April 2020, the AFE (Spanish Footballers trade union) also released medical guidelines for the return to competition³⁷.

3. How clubs are currently tackling the salary issue (suspension of payment of salary (for how long)? No payment at all?)

Most sports clubs with professional athletes are relying on the so-called ERTes (the acronym of “expediente de regulación temporal de empleo”) consisting of a request submitted by employers to temporarily regulate work. ERTes allow employers either to adapt employment contracts by e.g. reducing the working hours and the remuneration of employees (min. 10% max. 70%); either to suspend employment contracts on a temporary basis during periods of turmoil, due to objective economic or technical causes; or due to situations that amount to force majeure.

Currently, around 20 clubs in the two divisions of professional football in Spain (amongst which FC Barcelona, RCD Espanyol, Atletico de Madrid) have filed ERTes to confront the crisis generated by the COVID-19 pandemic. Many other football clubs have proceeded similarly in lower tier divisions.

In cases of suspension of employment contracts, employees will receive the unemployment allowance and possibly, if negotiated it with the employer, other complements. E.g. in the case of FC Barcelona, players will continue to receive 30% of their salaries during the period of ERTE, plus the legal unemployment allowance , which amounts to 70% of the regulatory base salary during the first six months and 50% starting from the seventh month. It is important to note, that the unemployment allowance will be limited to the economic thresholds established by law, so circa 1.000 euro per month maximum regardless of the monthly salary of the employee.

4. Do they negotiate with the single individual players?

An ERTE, when based in force majeure (and not on objective criteria such as economic causes), is a measure undertaken individually by each employer without having to negotiate with the employees and their representatives.

However, nothing impedes clubs to enter into directly with players, or players voluntarily waiving part of their remuneration, as is the case of the players of Atlético Club of Bilbao³⁸.

³⁶ Available at: http://www.femede.es/documentos/Recomendaciones_entrenamiento-COVID.pdf

³⁷ Available at: <https://www.afe-futbol.com/web/noticia-detalle/consideraciones-sanitarias-por-la-covid-19-para-la-vuelta-a-la-competicion>

³⁸ See <https://iusport.com/art/104743/el-athletic-club-y-la-plantilla-acuerdan-una-rebaja-salarial>

5. Is there any negotiation and decision taken at collecting level between trade unions and clubs/leagues/federations?

To this date there is no decision taken at a collective level between player's associations, clubs, leagues or federations, although negotiations are being held³⁹.

Remarkably, on 20 April 2020 the Supreme Sports Council (Consejo Superior de Deportes) announced⁴⁰ an agreement with the RFEF and LaLiga for the return to trainings in professional football, which -for the time being- will remain subject to the evolution of the pandemic and to the decisions of the Ministry of Health. Through this agreement the parties also committed to invest part of the media revenue generated by football to other Olympic and Paralympic federate sports; and also to create a 10 million-euro fund to help the most vulnerable athletes, while inviting the football player's association (AFE) and other associations to join.

The parties will also draft a code of conduct for football applicable to all officials, directors and other stakeholders that will serve as a reference to other professional sports and commit to collaborate in a coordinated manner to strengthen the reputation of Spain as a safe country for sport internationally.

6. What are the legal and contractual principles in your country at the basis of any decision taken by the Federation/leagues/clubs with regard to the suspension of the salaries due to an event of force majeure like the coronavirus (ex. Termination of the contract? Suspension of the salary? cut of the salary and for how much?)

The legal and contractual principles in Spain at the basis of the suspension, modification or termination of employment contracts are strictly based in those set forth in employment national law, the dispositions of which are of mandatory nature. The hierarchy of sources of labour law established by the Statutes of Workers places the law and regulations at the top of the pyramid, followed by collective bargaining agreements, the pact between the parties and customary law and professional practices at the bottom. A basic pillar of employment law is the general prohibition for employees to waive legally recognized rights.

7. Is there any official reaction at national level to the FIFA guidelines on Coronavirus?

Nor the RFEF nor LaLiga have adopted to this date a specific position with regards to the FIFA guidelines on COVID-19. However, both organizations have expressed their will to follow the FIFA recommendations and their preference for competitions to be finished by extending the current season and for contracts to be extended accordingly. For that purpose, the RFEF plans to release this same week an official position adhering to the definition of "season" in the FIFA RSTP.

³⁹ See <https://www.lavanguardia.com/deportes/20200406/48346215694/david-aganzo-afe-liga-csd-recorte-de-salarios-calendario.html>

⁴⁰ See: <https://www.csd.gob.es/es/el-csd-laliga-y-la-rfef-pactan-el-futuro-retorno-del-futbol-y-un-rescate-al-deporte-y-los-deportistas>

