

Michele Colucci (ed.): The FIFA Regulations on Working with Intermediaries

Sports Law and Policy Centre, Issue I-2015, ISSN 2039-0416, 548 p., Euro 100

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The FIFA Regulations on Working with Intermediaries has got the first global review of its application since its adoption on April 1st 2015. The book is a collective work of international specialists, whose contributions have been edited by Professor Michele Colucci.

FIFA's adoption of the Regulations on Working with Intermediaries proved a landmark change in its approach to govern this sensitive category of professionals. This extraordinary reform has had a huge and lasting impact on the consolidated national rules dealing with agents/intermediaries.

The context was too challenging to ignore. Therefore, we thank the *Sports Law and Policy Centre* (<http://www.sportslawandpolicycentre.com>), which, under the leadership of Professor Michele Colucci, has published the first timely, global, nearly exhaustive review of both the new FIFA Regulations and their national implementations by the most influential football associations in Europe, Americas, Middle East and Asia.

The 2001 and 2008 FIFA Players' Agents Regulations provided the national associations with uniform, complete, binding rules to govern the agents' occupation. FIFA wanted to offer a permanent and detailed discipline of the agents' profession, covering the access to the profession, the selection to get a license as well as the administrative obligations indispensable to exercise legally the professional activities.

During the first 15 years of this century those Regulations on players' agents betrayed the ambition of retaining a big role for FIFA by enacting an expansive, intrusive,

global legislative policy in a financial and commercial domain, away from the more traditional football pitch sport rules. Global measures were enacted to govern a global phenomenon in view of providing clearer and more uniform rules in a rather anarchical, international area, which could become source of opaque practices and limited means for ensuring transparency.

Fourteen years after the introduction of the FIFA Players' Agents Regulations and the 2008 amendment, FIFA decided to dramatically change its policy. From an expansive policy and a frontline responsibility in these matters, it withdrew to a quiet, cautious legislative safe zone with a limited workload and reduced responsibility.

We have received no information about the reasons of this remarkable turnaround; though the change reveals much about FIFA's will to downgrade its involvement and responsibility in a huge and complex matter, where it has found it hard to monitor its own rules and the national implementations. That is maybe why FIFA decided to revise the legislative approach and step back, leaving the national associations with a bigger responsibility to edict detailed national rules to govern the intermediaries' activities. This is what we can easily infer from a first comparison between the old and new regulations. The new text has lost the ambition to govern in detail the agents' professional occupation.

The new FIFA Regulations aim to provide simple guidelines to the national associations' binding rules on the intermediaries' activities. These guidelines are so loose, or at least they have been so interpreted by the national associations, that their implementations vary too much in certain cases, with a negative impact on the uniformity and coherence. The obvious result is a great variety of national rules and practices in this substantial and sensitive domain.

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This is one among many of the good reasons why this collective work edited by Michele Colucci is worth reading and studying. This book, in fact, provides the reader with a snapshot of this paramount change of strategy, which has obviously put a huge burden on the national associations, the clubs, footballers and the agents, who have undergone three successive regulations adopted by FIFA in 15 years with all the changes of rules and procedures they required.

As mentioned before, we ignore the reasons for the radical turnaround of this policy strategy. However, we might advance one or two arguments, which could have the potential of explaining that change. Maybe, after 15 years of application of the previous regulations, FIFA has just recognized the shortage of staff and structures to effectively manage and monitor the agents' professions and their activities all over the world in view of ensuring the due transparency and the sound financial balance of the clubs.

Hence, the coherent change of strategy and the right approach of transferring to the national associations the detailed regulation and daily monitoring of the intermediaries activities.

The change could also be the result of the sometimes difficult, tense and acrimonious relationships between FIFA and national associations, leagues and clubs, in particular regarding the financial aspects of the footballers' sport career movements and promotional activities and investment funds involvement.

Whatever the reasons, from now on we have to deal with the consequences of this radical reform brought in by the new FIFA Regulations on Working with Intermediaries.

First, we alert the unexperienced reader that those regulations are in reality only legal recommendations to which the national associations may or may not adapt accordingly, or legally adapt only partially and to the extent they consider appropriate to their needs and targets. This is the essential legal data not to neglect if the lawyer wants to make reasonable sense of the national variations implementing the same FIFA rules.

Second, the agents become intermediaries. We can only imagine that the new definition is due to FIFA's purpose to "diminish" the status of the professional agents as known till now. To the same effect goes the complete opening of the intermediary's activities to everyone who is able to exercise it, provided he or she enjoys an impeccable reputation. With the title of agent, the license has vanished too.

Third, with the transfer of the regulating and monitoring burden to the national associations, FIFA puts an end to the agents' profession as regulated at FIFA level and governed by its services. Indeed, instead of just transferring its own missions to the national associations, FIFA has willingly proceeded to dismantling the same professional guild, it set up in 2001.

So the FIFA Regulations on Working with Intermediaries raise both political and legal questions. These questions surely have a huge impact on the running of the football machine, though they have no easy and uniform solutions in view of providing a smooth legal framework to the intermediaries or agents, who have acquired a substantial and apparently irreversible role to play in connecting players and clubs. Herewith, we highlight the merits which make this book a must read.

First, the book is timely in delivering a strongly needed analysis of those regulations. If I am not mistaken, it is the first nearly complete review published.

Second, it goes beyond a collection of national reviews of the local implementations of FIFA rules. Indeed, some excellent specialists comment on the regulations in view of detecting the scope and the depth of the reform from the objective point of view of a neutral specialist, which is followed by the opinions held by the representatives of the stakeholders such as the European Football Agents Association (EFAA), the European Professional Football Leagues (EPFL), and the International Federation of Professional Footballers (FIFPro). This way, each stakeholder had the chance to provide the reader with its own view of the reform with positive, negative or neutral comments on the possible impact on the football activities.

Third, the reviews of the regulations allow the reader to better define their study's targets and duly appreciate the substantial elements underlined in the 32 national reviews of the local implementations. Here, we have another factor which upgrades the importance of this book further.

Fourth, although the 32 reviews obviously do not cover all the countries which are FIFA Members, they have the huge value of being the reports of the most important national football associations with the most meaningful stake in this sport worldwide. That is why we may define this collection of the national implementations as nearly exhaustive. Moreover, every national review has been skillfully drafted by a high level specialist who is worldwide renown. So the reader is served with first rate reporting.

Fifth, the national reports are followed by a conclusive, first ever made, comparative analysis of those national implementing regulations. This is the chapter which raises some intriguing and stimulating questions about the scope and value of the FIFA Regulations, the impact of the national implementation on the six main matters of the regulations, which is worth mentioning one by one in the following list:

- Access to the profession;
- Transparency, built upon the complex framework given by the registration process, with the intermediary declaration and the representation contract;

- Remuneration;
- Disclosure and publication of data;
- Disciplinary sanctions;
- Dispute resolution.

The most remarkable conclusion of this comparative analysis is that the FIFA Regulations (because they are in fact, simple recommendations) have been implemented by the 32 national associations according to the local sport policy priorities and legal practices but without any coordination. The lack of consensus among the national associations for a common interpretation of the FIFA rules has invariably brought in an unhelpful, often stark difference in disciplining those six matters at the national level.

These differences imply a regulatory and financial downside for the clubs, the players and the same intermediaries, who are supposed to be effectively governed by the new rules.

Indeed, one of the open questions raised by Colucci in the comparative chapter concerns the plausible difficulty to which the football's stakeholders are confronted when they are obliged to deal with these painstaking different national rules and procedures covering the intermediaries' activities.

Furthermore, we have to make a special mention of a simple but complete and very useful comparative table on the national rules regulating those six matters (page 525 onwards). The reader will easily check the national disciplines dealing with registration, remuneration, minors, dispute settlement and dual representation in a half page devoted to each of the 32 countries.

We believe that the authors of this extraordinary effort faced a huge challenge in a short timeframe but they finally yielded an excellent work. The analysis is vast, deeply comparative and multidimensional. It has the big merit of raising the outstanding legal issues dealing with the potential and actual problems and daring to suggest practical appropriate solutions. The experienced and careful approach of the editor is shown also in the cautious stance taken about the overall target of this work. He is keen in underlining that the book does not have the ambition to be the final word in this sensitive field, where so many huge and contrasting interests meet and often fight. This work aims to reasonably promote a long waited academic and political debate on the legal, institutional, and sport issues of utmost relevance for the future of the football and its stakeholders.