

## UEFA and the European Union, from confrontation to co-operation?\*

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*The governance structures of football have evolved overtime relatively independent of public authorities. The so-called pyramid of European football has been traditionally formed by the game's world-wide governing body (FIFA) at the apex, the continental governing body (UEFA) in the middle and the national football associations, national football leagues and clubs at the bottom. This structure, however, has been challenged in the last two decades by a combination of massive commercialisation of the game, EU decisions aimed at liberalising football as a market-place, and the new demands of the stakeholders involved in the governance of professional football.*

*This paper investigates the relationship between UEFA, as European football's governing body, and the EU. It assesses the evolution of UEFA as a football governing body since the Bosman ruling (1995) until current initiatives such as the rules on locally-trained players. The paper focuses especially on the interaction between UEFA and the EU in the regulation of the footballers' market, one of the most contentious interventions of European institutions in football. I argue that UEFA's attitude towards the EU has changed completely in the last ten years. Whilst the EU was seen as a threat for UEFA in 1995, it is now considered a 'long term strategic partner'. Three reasons can be identified for UEFA's evolution. First, a pragmatic necessity to adapt to the application of EU law to football. Second, a change of the organisation's philosophy. UEFA has modified slightly its core beliefs and policy objectives, focusing more in its public duty of taking care of football as a whole, not just the professional competitions. Third, a strategic vision to preserve its own position within the governance structures of football. This paper draws almost entirely on empirical research conducted through elite interviews and the review of official documents.*

**This is work in progress.**

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In December 1995 the President of UEFA, Lennart Johansson, considered that the EU was trying ‘to kill club football in Europe’ (Thomsen 1995). European Commissioner Karel van Miert replied that ‘if they want war, it will be war’ (Hopquin 1995). A dozen or years later UEFA and the European Commission join forces to celebrate through a football game the 50<sup>th</sup> anniversary of the Treaty of Rome (European Commission 2007), the European Parliament supports UEFA as governing body to protect football’s future, and UEFA describes the relation with the EU as ‘crucial’ for the organisation (UEFA 2007: 2). Very different pictures in just over a decade. What has changed?

Football authorities have traditionally been hostile to any sort of external regulation, be that by governments or by the courts. This was also the case when the European Court of Justice and the Commission got involved in the regulation of the professional footballer’s market as a result of their duties to adjudicate in freedom of movement and competition policy issues. However, whereas other football bodies such as FIFA or the English Premier League remain rather sceptic of any involvement with the European Union, UEFA seems to be happy to engage with the EU. This paper examines the evolution of the relationship between UEFA and the European institutions in the context of the regulation of the players’ market, from the Bosman case in 1995 to UEFA’s rules on locally-trained players in 2005. The regulation of the players’ labour market was the first major incursion of the EU in football-related matters and it still remains a controversial issue for many whether the Bosman case has *destroyed* football or not. This particular case presents the perfect opportunity to analyse the evolution of the EU’s policy on football and the consequences that such a policy has had for UEFA.

The paper is in this occasion written from UEFA’s perspective. That is to say, the objective is to understand the organisation’s adaptation to the politics of the EU, nor to explain the evolution of the EU’s policy towards sport, football or UEFA. In doing that, the paper is just a first step in the process towards a wider analysis of the role of non-institutional actors in the EU policy-making process, which the case of football is a very good example of. The paper draws on empirical research carried over the last 18 months. It consists of a combination of archival research and 40 semi-structured interviews with EU officials and policy-makers and representatives from the main football organisations in the continent. The archival research covers three types of documents: Newspaper reports, European institutions’ official documents and UEFA publications and internal documents. The paper is divided in four sections. It *kicks-off* with a brief description of UEFA, its status and duties. It then goes on to explain when and how did UEFA and the EU got to know each other. Thirdly, the paper explains how UEFA was caught *off-side* by the ECJ’s ruling in the Bosman case and finally it presents the transformation of UEFA through the recent rules on locally-trained players.

### **What is UEFA?**

UEFA is the governing body of football in Europe, with a current membership of 53 national Football Associations (FAs). It was founded in 1954 by 28 European national FAs that felt their interests were not being served by FIFA structures (UEFA 2004a).

UEFA is a politically and religiously neutral society ‘entered in the register of companies under the terms of Art. 60 et seq. of the Swiss Civil Code’, whose headquarters shall be in Switzerland<sup>1</sup> (currently in the House of European Football in

Nyon, near Geneva). UEFA is, like FIFA, a confederation of national Football Associations:

*Membership of UEFA is open to national football associations situated in the continent of Europe, based in a country which is recognised by the United Nations as an independent state, and which are responsible for the organisation and implementation of football-related matters in the territory of their country<sup>2</sup>.*

National FAs are required to comply with and to enforce UEFA statutes and regulations in their jurisdiction<sup>3</sup>; they are also required to observe minimum standards of internal democracy, having a freely elected executive body<sup>4</sup>. UEFA argues that ‘separation of powers is an important principle for the effective functioning’ of the organisation, thus having an internal organisation with separate executive, legislative and judiciary (UEFA 2005a: 12). UEFA’s organs are the congress, the executive committee, the chief executive and the organs for the administration of justice<sup>5</sup>. The congress is the supreme controlling organ of UEFA<sup>6</sup>, where all national FAs are represented under the principle *one member-one vote*<sup>7</sup>. In addition to the formal decision-making organs, UEFA has also a network of consultative bodies with the aim of informing the consultation and deliberations prior to the adoption of decisions<sup>8</sup>; these are committees, expert panels and working groups. Among these consultative bodies, it is of special interest for the analysis of this thesis the executive committee’s working group on the European Union, chaired until this year by UEFA’s vice-president Per Omdal, which informs the strategic decisions on EU matters. The working group on the European Union used to meet regularly and it is considered as one of the main structural changes of UEFA to adapt to the new external environment created by the interest of European institutions in football (Interview 5: Brussels, 17 May 2006). The future of this Executive Committee working group is still unclear after Michel Platini’s victory at UEFA’s presidential elections last January.

UEFA’s position in the pyramidal structure of football governance is often attacked by those in the lower levels, especially the top professional clubs and the national professional football leagues. Recognising the importance of football clubs and national leagues for the future of the game, UEFA is trying to find formulas to incorporate these stakeholders to the decision-making process through the European Club Forum or signing a memorandum of understanding with the association of European professional football leagues. However, this is only on a pure consultative base, therefore falling short of the ambitions of the leagues and clubs, whose aim is to have representation in the executive committee or the congress (Interview 25: London, 10 July 2006; Interview 36: Nyon (Switzerland), 15 February 2007). Indeed, the recommendations of the *Independent European Sport Review*, a project launched by the UK presidency of the European Union in 2005 and backed by the sports ministers of the Member States, highlight the necessity of giving statutory recognition to the representatives of clubs and leagues in order to improve UEFA’s internal democracy (Arnaut 2006; García 2006).

UEFA is probably the football organisation that has clashed more often with European law. Therefore, it is somehow striking that, despite all the problems it was having with EC law, UEFA did not decide to open a representative office in Brussels until April 2003. The Head of the office, Jonathan Hill, acknowledges that UEFA should probably

have taken this decision much earlier and lists among the factors causing this delay the inherent difficulties for change in a large organisation such as UEFA and the fact that there was little representation of Sport in Brussels (Interview 5: Brussels, 17 May 2006).

UEFA's image within the European institutions used to be tremendously negative, especially during the late 1980s and early 1990s. A fact that, to some extent, has even been acknowledged by the Head of UEFA's EU Representative Office, Jonathan Hill. However, the empirical evidence gathered in the interviews demonstrates that this situation has changed completely in the last five years. The image of UEFA within EU institutions is now positive and the organisation is now happy to proactively engage with the EU.

### ***How did UEFA learn about the EU?***

The first point of friction between European football's governing body and the European institutions was related to the employment conditions of professional and semi-professional footballers. Footballers are employed by clubs to form part of their squads in different competitions. However, the control structures of football have traditionally positioned players rigidly at the bottom of clubs' hierarchy (Tomlinson 1983: 173). The relationship between club and player is somehow different to that of any other worker and their company due to the particular organisational structures of football. Clubs have to register their players with their respective national FA or national league to participate in the national championships, as they have to do with UEFA if they participate in European cups. These governing bodies regulate and decide which players can be registered to play in the competitions they organise, thus having a certain amount of power over the players that any given club can hire. The regulation of the players' market used to rely on two sets of norms: the so-called transfer system and nationality quotas. The transfer system regulates the circumstances under which a player can move from one club to another. Nationality quotas fix the maximum number of non-selectable<sup>9</sup> players that a club can field in any given game. The transfer system was said to protect the small clubs that dedicate their resources to train and educate young players, so the richest clubs could not just *steal* the players once they had finished their grass-roots education (Roderick 2006: 116). Nationality quotas, on the other hand, were said to be in place to ensure the quality of national teams and to maintain the identification of the supporters with their club alive.

The transfer system has been historically challenged by football players as illegal, especially those provisions that restricted footballers from changing clubs even at the end of their contract unless a 'transfer fee' was paid. George Eastham, a football player for Newcastle United, successfully challenged in Court the English transfer system in 1963 (McArdle 2000: 25-27; Greenfield and Osborn 2001: 79-82). In the early 1970s, football governing bodies started to worry about the movements surrounding the transfer system, sharing their opinions and/or fears in occasions when they got together, such as UEFA congresses or meeting of the UEFA Executive Committee (Interview 28: Nyon (Switzerland), 6 February 2007). The application of national civil law to the rules regulating the transfer market, as in Eastham, was not their only concern. The (then) enlarging European Community was also a source of anxiety and, mostly, confusion for the governing bodies. The legality of the transfer system and the possible impact of

European law on football regulations came to UEFA Executive Committee's table in the early 1970s, when the European football confederation decided, in the view of the latest developments, to commission a report on the future of the transfer system to a panel of legal experts (UEFA 1973). The report, presented to the Executive Committee in December 1973, analysed the legal situation of the regulations relating to players' contracts under the application of both national and European law. The report correctly identified nationality quotas and the transfer system as possible points of conflict with EC law (UEFA 1973: 29, 60) and it even warned, somehow prophetically, about possible threats to the *status-quo* in the future:

*It will come a moment in which individuals will start to claim their rights under EC law for free movement and employment. The professional players will then have a tendency to invoke free movement to attack the international structure of football (UEFA 1973: 5)*

However, the report went on to conclude that the transfer system was safe and it could resist challenges under European law (UEFA 1973: 70) and that national FAs from countries outside the EC had nothing to worry about the application of European law (UEFA 1973: 61). Only to be proven wrong in their legal analysis by the ECJ.

It took only three years for the European Court of Justice to be faced with the case of *Gaetano Donà v. Mario Mantero* (Case C-13/76, ECR [1976] 1333, hereinafter *Donà*). In a preliminary ruling, the Court decided that nationality quotas as enforced by national football federations were discriminatory, thus illegal under EC law. The ECJ's decision in *Donà* could have been a severe blow for nationality quotas in club football competitions. The ruling did contain still some ambiguities, later solved in *Bosman*, as to which football rules were subject to the application of European law and which were not (European Commission 1996a), but it was very clear about the unlawful restrictions imposed by nationality quotas in professional football. However, the reaction of other EU institutions and football authorities was rather slow and nationality quotas remained in place for 20 more years.

UEFA was able to get its way in the aftermath of *Donà* by convincing in 1978 commissioner D'Avignon that they were committed to lift progressively nationality quotas. However, it was not until 1991 that UEFA introduced the so-called 3+2 rules, allowing for a minimum of three non-selectable players to be fielded at the same time in any given game, plus two 'assimilated players'. This was branded as a 'gentlemen's agreement' and UEFA had the conviction that it was a stable and durable agreement (Interview 35: Nyon (Switzerland), 15 February 2007). It is disconcerting, to say the least, how the Commission acceded to such an agreement in the light of the ECJ's ruling in *Donà*. It is still more surprising UEFA's believe that such an arrangement could resist legal scrutiny under EC law. By the time of the 3+2 agreement UEFA was relatively used to deal with Brussels. They had hired a law firm to represent their interests before the Commission, but UEFA was just reactive to the Commission's requirements, rather than engaging with European institutions on a regular basis. In any case, the future of the 3+2 rule and the relationship between UEFA and the EU was about to be transformed when on 15 December 1995 the European Court of Justice handed down its decision on the *Bosman* case.

## ***Bosman shakes it all***

Jean-Marc Bosman was a virtually unknown Belgian footballer of rather modest talent. Despite having played for the Belgian Under-21 national team, he could not be said to be a star. When his contract with Belgian club RC Liège expired in June 1990 the player agreed terms with French club Dunkerque. The transfer was only pending of the international transfer certificate, which the Belgian FA should issue on payment of the agreed transfer fee by Dukerque. However, RC Liège asked for the transfer certificate not to be issued because they doubted of the French club's solvency. Moreover, Liège put Bosman on the suspended players' list, so he will not be allowed to play for Liège, nor to move to France. Bosman decided to take legal actions against his club and the Belgian FA. Finally, the legal proceedings were taken to the ECJ for a preliminary ruling on the legality of the international transfer system and the nationality quotas.

In *Jean-Marc Bosman v. Union Royale Belge des Sociétés de Football Association* (Case C-415/93, ECR [1995] I-4921, hereinafter *Bosman*) The Court ruled that football's transfer system was in breach of article 39 EC since it asked for a compulsory transfer fee to be paid by the *buyer* club to the *seller*, even when a player was at the end of his contract. Moreover, the ECJ observed that the same article also precludes 'the application of rules laid down by sporting associations under which, in matches in competitions which they organise, football clubs may field only a limited number of professional players who are nationals of other Member States' (*Bosman*: Operative part of the judgement, paragraph 2). Even if the legal reasoning of the Court was not surprising given the precedents, there is a point that might deserve attention. It refers to the strong terms in which the ruling was delivered. There is a sense throughout the ruling of a Court tremendously assertive, dismissing rather quickly the arguments put forward by the football authorities and probably not happy with the Commission's reaction to Donà. This can be especially seen when the ECJ refers to the 3+2 gentleman's agreement: 'Except where such powers are expressly conferred upon it, the Commission may not give guarantees concerning the compatibility of specific practices with the Treaty and in no circumstances does it have the power to authorise practices which are contrary to the Treaty' (*Bosman*: Para. 16)

The judgement of the ECJ in *Bosman* received unprecedented media attention, which could only add some sort of theatrical effect to the bitter reactions by football authorities. For the governing bodies, especially UEFA, the ruling was an attack on football. It was considered 'nothing short of a disaster' (Johansson 1995), a decision taken 'by people that do not know anything about football' (Gerhard Aigner, then UEFA General Secretary, quoted in *El País* 1996). UEFA president, Lennart Johansson, was adamant to accuse the European Union of 'trying to destroy club football' (Thomsen 1995). Most of this feeling was caused by the Court's refusal to allow any transitional period in which the transfer system and nationality quotas could have been phased off gradually. Indeed, the ECJ was again very assertive to remind football authorities that no transitional period could be contemplated, especially in the case of nationality quotas, which had already been ruled as illegal in *Walrave* and *Donà* some 20 years before *Bosman* (*Bosman*: para. 141-142). UEFA, at the time, could only see the Court's ruling as a ferocious attack to football, and some people still resent the Court nowadays:

*At the time, in 1995, [the ruling] was an attack because it did not give even time until the end of the season. This was careless and an attack on football. I*

*will remain in that. In the meantime, I think it is now visible to everyone what developments we have had in the professional side of football. How can we keep it under control?* (Interview 28: Nyon (Switzerland), 6 February 2007).

Football authorities were shocked by the far reaching consequences of the ruling and the assertive stance of the Court (Interview 5; Brussels 17 March 2006), although one would always wonder how was this possible given the pre-Bosman building up. In a somehow naïve attempt to escape from the effects of the ruling, FIFA and UEFA published a joint statement on 22 December 1995 in which they declared their view that the Bosman ruling had no effect on European club competitions, as the clubs were representing their country; two days earlier UEFA had sent a letter to the European Commission requesting some time to study the consequences of the ruling (Hopquin 1995).

The reluctance of UEFA and FIFA to accept the outcome of the judgement infuriated the Commission, which found in the ruling a new impetus to bring football into line with European law. The Commission took a proactive approach, with the Competition Policy DG and its commissioner, Karel van Miert, taking the leading role in the pursuit of football authorities. Van Miert warned that UEFA had to evolve ‘whether they like it or not’ (quoted in Hopquin 1995).

UEFA started to realise the importance of the Bosman ruling and had no other option but to lift nationality quotas completely. The UEFA Executive Committee meeting in London on 19 February 1996 decided to scrap the 3+2 rule with immediate effect (Goodbody 1996), although the clubs still involved in UEFA competitions agreed to respect the 3+2 rule until the end of the season in order not to distort competition (UEFA 1998: 3). The international transfer system, which was regulated by FIFA rather than by UEFA, took longer to be transformed, though. It was in the negotiations between the Commission and FIFA to enforce the Bosman ruling in respect to the transfer system when UEFA emerged as a broker of the agreement. All UEFA officials interviewed in this research, without exception, have heralded the negotiations on the reform of the international transfer system as one of the most important turning points in the organisation’s relationship with the EU.

### ***Building bridges: The international transfer system***

The international transfer system was also declared unlawful by the ECJ in *Bosman* (para. 100), so the Commission as guardian of the Treaties had to ensure that football was complying with the ruling. Whereas the nationality clauses were lifted almost immediately, the transfer system was not changed, although FIFA and UEFA informed the Commission that these rules would no longer apply to players who changed clubs at the end of their contracts to play in a different country within the EEA (European Commission 1996b). Unhappy with this informal arrangement, the Commission wrote to FIFA and UEFA on 27 June 1996 informing that two particular issues in which the Court had not ruled in *Bosman* posed problems in the light of article 81 EC (European Commission 1996b). In reply, FIFA and UEFA informed the Commission that they did not plan to take into account aspects that were not covered in the *Bosman* judgement. The Commission notified the governing bodies that in that case it would have no other option but to start formal infringement proceedings (European Commission 1996b;

Parrish 2003: 140). Frustrated with the lack of action by the governing bodies, the Commission sent a formal statement of objections on 14 December 1998 (Reding 2000: 2; European Commission 2002: 1).

On reception of the Commission's communication, FIFA decided that it should conduct the negotiations with the Commission on its own, without any assistance from UEFA (Interview 28: Nyon (Switzerland), 6 February 2007). Probably not a wise decision, because one could think that UEFA can be a natural interlocutor when dealing with the European Union. FIFA's choice, though, reflects the difficult relationship that the two governing bodies enjoy. Be that as it may, FIFA took on its own the task of transforming the international transfer system. During 1999 and most part of 2000 FIFA held talks with FIFPro as representative of the players<sup>10</sup>, but it did not present any formal alternative to the transfer system challenged by the Commission (Reding 2000: 2). The Commission's response to the governing bodies' inaction came in the summer of 2000, one and a half years after issuing the statement of objections. The Commission gave FIFA and UEFA a firm deadline of 31 October 2000 to come with proposals to amend the international transfer system, threatening with a formal decision to enforce changes and, if the case might be, imposing fines (Parrish 2003: 141).

The new threat from the Commission and the revelations about the alleged talks between FIFA and FIFPro sparked a reaction from UEFA, which considered that FIFPro's skilful relations with the Commission were driving FIFA to agree on a totally unacceptable liberalisation of the players' market (Interview 29: Nyon (Switzerland) 8 February 2007; Prime Minister's Office 2000). In a rather heated Executive Committee meeting, UEFA members voiced their fury at FIFA's management of the issue (Interview 29: Nyon (Switzerland) 8 February 2007). Thus, UEFA decided it should take a leading role in the negotiations with the Commission:

*We believe that a constructive and positive dialogue with the EC is both possible and necessary. We accept that change is inevitable but the form and pace of that change must be subject to a much wider dialogue than that conducted so far by FIFA with the world of professional football. (UEFA 2000a)*

At the initiative of UEFA, a *Transfer Task Force* with the participation of FIFA, UEFA, the players unions and European professional leagues was set up, under the chairmanship of Per Omdal, UEFA vice-president in charge of the relations with the EU. The Task Force was entrusted with leading the negotiations with the Commission (UEFA 2000b), although to get to that point it first had to achieve internal agreement, something that proved to be rather difficult. UEFA and FIFA, keen to meet the Commission's deadline of 31<sup>st</sup> October 2000, held several meetings of the Task Force. As the deadline approached it was increasingly clear that FIFPro was unhappy with the outcome of the talks, especially regarding the minimum duration of players' contracts (Bose 2000b). However, the governing bodies and the leagues reached an agreement on 27 October 2000, which was sent to the Commission as a formal proposal despite FIFPro's disagreement (Bose 2000a).

In 2000, with the new year, the negotiations towards a final settlement gathered even more pace. The Commission seemed to be willing to close the dossier as soon as possible, proposing a meeting at the highest level between the commissioners



responsible for the negotiations and the presidents of FIFA and UEFA (L'Equipe 2001). That meeting, held in Brussels on 14 February 2001 paved the way for a final agreement, which arrived in March 2001 and was formalised in an exchange of letters between Mario Monti and Sepp Blatter, President of FIFA (European Commission 2001b).

The agreement represented a sensible compromise between the initial positions of the two parts, although it has been widely interpreted as extremely beneficial for the governing bodies<sup>11</sup> (Parrish 2003: 147). For UEFA the settlement over the international transfer system represents a turning point in its relations with the European Union<sup>12</sup>. UEFA senior officials consider that those negotiations with the Commission were beneficial in three important points. First, they helped in developing a learning curve of mutual understanding between the Commission and football. Football authorities learned the way in which the EU works. On the other hand, UEFA felt that, as the negotiations went on, the Commission showed an increasing understanding of the special structures of football in need of protection from over-commercialisation. Second, the large number of meetings 'to think until it hurts' served to cement some personal relationships that enhanced mutual understanding. Third, the content of the final agreement was considered so positive that UEFA realised it was not that difficult to find common solutions with the Commission in football-related issues (Interview 28: Nyon (Switzerland), 6 February 2007; Interview 29: Nyon (Switzerland), 8 February 2007; Interview 35: Nyon (Switzerland), 15 February 2007).

In the case of UEFA we can also recognise an evolution that facilitated the agreement. The old diatribes against the EU for attacking football let place to a much more favourable approach in which the governing body showed a willingness to respect EU law and to engage in dialogue with European institutions. At the time of these negotiations on the transfer system (2000-2001), UEFA's evolution was pragmatic and reactive. One would say that it was even reluctant. There was no other option and a solution had to be found (Interview 29: Nyon (Switzerland) 8 February 2007). Since then, UEFA has gone even further to develop a new strategy of engagement with European institutions that is more proactive (Interview 5: Brussels, 16 May 2006), as we will see in the next section.

### **UEFA's rules on locally-trained players: A new beginning?**

In February 1996, straight after the Bosman ruling, UEFA started to consider the idea of regulations aimed at encouraging the training of young players by clubs. The idea, labelled then as a 'home grown players regulations' was that teams in club competitions would consist of a minimum number of players who have been trained and educated within the domestic FA, although they would not have to be from the same nationality (Goodbody 1996). Two months later, in April 1996, UEFA presented the idea to the European Commission. Karel van Miert was quick to dismiss the home grown players initiative, without even giving it great consideration (L'Equipe 1996). Almost a decade later, in February 2005, UEFA Executive Committee adopted a regulation on 'locally-trained players' (UEFA 2005b), which was later ratified by the UEFA Congress meeting in Tallinn (Estonia) in April 2005 (UEFA 2005c). The new rules on locally-trained players follow a similar idea to the 1996 proposals with the objective to encourage training of youth players by clubs, but the European Commission has been

far more sympathetic to the initiative this time around (Interview 13: Brussels, 12 May 2006; Interview 23: Brussels 20 June 2006). Even more, the European Parliament has expressed its unreserved political support to these rules (European Parliament 2007) What has changed in ten years?

UEFA was smart enough not to close the door that opened with the negotiations on the international transfer system. UEFA has cultivated since then the contacts with different Commission's DGs, the European Parliament and the national governments. UEFA has also evolved as an organisation, up to the point of being now happy to proactively engage with the European Union in policies other than football, such as fight against racism or programmes against obesity (UEFA 2007: 2-3; Interview 29: Nyon (Switzerland), 8 February 2007). The EU is now increasingly seen as a 'long-term strategic partner for UEFA' (Interview 5: Brussels, 16 May 2006). In that frame of mind, UEFA senior officials started to think around late 2003/early 2004 on the possibility of making a strong political case for a rule that would encourage football clubs to actively train new young talents.

Basically, these rules establish that clubs participating in European competitions are required to register a maximum of 25 players in their A List, their top squad. From the beginning of this season, six of those 25 players should be 'locally trained', a number that will rise to 8 from the beginning of next season. These locally-trained players may be either 'club-trained' or 'association trained'. The former are defined as those players that have been registered for 3 seasons/years with the club between the age of 15 and 21. The latter are defined as players that have been registered for 3 seasons/years *with the club or with other clubs affiliated to the same national Association* between the age of 15 and 21 (my emphasis). In both cases, the nationality of the player is not relevant.

UEFA devised a dialogue/lobbying strategy to introduce the new ideas on locally-trained players to European institutions that comprised contacts at all levels, from the high politics of the national leaders, Commissioners and MEPs to the more technical of officials in DG Competition, DG Employment and Social Affairs and DG Education and Culture (Interview 5: Brussels 16 May 2007). In summer 2004 UEFA made public a first set of ideas on the subject of locally-trained players (UEFA 2004b), which were presented to the Commission and the European Parliament later in autumn that year (Chaplin 2005; Interview 5: Brussels 16 May 2007).

UEFA wanted to involve the European institutions in the process as much as possible from the very beginning. The governing body recognised the necessity to adopt a proactive strategy in which the EU institutions would play an important role in providing both expertise and, should the case arise, political support. The reasons for engaging with the Commission and the European Parliament are a mixture of pragmatism and some change of philosophy. On the one hand, UEFA prefers now to include the dialogue with EU institutions in the consultation process, not just to wait for legal challenges, as it happened with Bosman or the investigations on the transfer system. But, on the other hand, UEFA now sees itself increasingly as an organisation that has a duty to co-operate with public authorities in the promotion and development of policies through football (Interview 5: Brussels 5 May 2006; Interview 35: Nyon (Switzerland), 15 February 2007; UEFA 2005a). UEFA has cleverly framed the rules on locally-trained players not as a regulation of the footballers' market, but as an attempt to contribute to the training and education of young people through football. This falls

within that vision of UEFA going beyond the pure regulation of competitions, but taking care also of its wide responsibility to the game and to society. The main idea of the message is that if professional clubs are obliged to field more locally-trained players, then they will invest more money on football academies, which in turn will benefit local communities. This, of course, can be conceptualised as an *irresistible message* from the part of UEFA. An idea dressed with social and cultural values which is certainly easier to accept than to reject, even if one may have doubts about its legality.

The strategy of UEFA, therefore, has been threefold. First, to frame the rules on locally-trained players as an *irresistible message* that combines elements of public policy and competitive balance in football. UEFA has been very careful to avoid any reference to players' nationality throughout. Second, to follow a wide internal process of consultation that included all the main affected stakeholders within football. Third, to intensify the political efforts to explain and generate backing for the proposals both at high and low politics level in Brussels. And the result has been rather interesting.

The rules on locally-trained players have been in place since the beginning of the season 2006-2007 and there has been very little dissent. UEFA has apparently succeeded in framing and winning the political debate on locally-trained players, both inside and outside football.

The clearest message in support of the rules has come from the European Parliament:

*[The European Parliament] Expresses its clear support for the UEFA measures to encourage the education of young players by requiring a minimum number of home-grown players in a professional club's squad and by placing a limit on the size of the squads; believes that such incentive measures are proportionate and calls on professional clubs to strictly implement this rule. (European Parliament 2007: para. 34)*

The European Commission has not endorsed formally the rules of locally-trained players, although it has expressed its political support to the objectives that UEFA tries to achieve. Of course, that falls short of ensuring the legality of the rules, as UEFA should be aware by now after the experience of the 3+2 rule. European Commission officials are of the opinion that the initiative on locally-trained players is welcome:

*We have, in principle, a positive reaction to the rules. I think it is an initiative whose argumentation I understand. I share the values and the worries that are behind such rules. My concern is whether this movement can be effective in correcting some of these problems football is facing or not. I actually think it is going to be difficult, I hope they can prove me wrong (Interview 13: Brussels, 12 May 2006).*

More importantly, people working in the Commission have appreciated being informed by UEFA and included in the consultation process: 'This is a very positive approach from UEFA that we are really happy to work with' (Interview 23: Brussels 20 June 2006). Yet, all the positive *political noises* from the Commission are for the moment individual interventions, either at high or low political level within the Commission. The official position of the Commission as an institution is that it is in the process of evaluating the compatibility of the rules with Community law, which will be done 'with

a view to striking the right balance between the need to comply with Community law and the autonomy of sports' (European Commission 2006). But no outcome of this evaluation has been made public. Having said that, even without an official position as such, the Commission's mood is certainly far more receptive towards UEFA than Karel van Miert's rebuff in 1996.

Despite some internal opposition, mainly by English clubs (see Wallace 2005; Hughes 2005), as things stand the rules on locally trained players have now been in place since the beginning of the 2006-2007 season and certainly no major dissent has been voiced. It seems that UEFA has been able to adapt quite cleverly to the new environment created by the intervention of European institutions in the regulation of the players' market. However, there is no total legal certainty about the legality of the rules *vis-à-vis* European law. Indeed, it has been argued that the rules could be considered an unjustified obstacle to the freedom of movement for workers, hence failing to comply with article 39 EC (Miettinen and Parrish 2007). Be that as it may, it is not this paper's objective to enter into that debate. From our point of view, it is remarkable how UEFA has improved its political stance in Brussels and intervened again in a players market that seemed to go into complete liberalisation after *Bosman*. On the other hand, it is also interesting to note that political support does not *buy*, at least for the moment, exemption from EC law.

## Conclusions

The interventions of European institutions on the players market have seen the emergence of UEFA as a natural partner in dialogue for European institutions. In its 1999 Helsinki Report on Sport, the European Commission called for a 'partnership' between public authorities and sports governing bodies at all levels, from the local and regional to the international (European Commission 1999). The compromise was that public authorities would work hand in hand with governing bodies if they could achieve decent standards of internal democracy and transparency. UEFA might be rising to that position, although it has taken quite a long time. In 1995, *Bosman* made UEFA realise the importance of the EU for the organisation. The subsequent negotiations on the international transfer system between the governing body and the Commission facilitated a change of mentality and strategy towards the EU that was probably long overdue. In the last years UEFA has not only changed its policy towards the EU. It has also been transformed completely as an organisation. It has opened itself to public authorities and it is willing to act as a governing body for the whole game, not just as an organiser of club competitions. UEFA has learnt to change both its strategy and its message.

In 2000, an internal audit carried by UEFA in co-operation with a consultancy overhauled the internal structure of the organisation to make it more efficient and transparent. It was called Project FORCE (UEFA 2000c). The old policy-making machine composed by dozens of specialist groups was reduced to just 11 standing committees. More importantly, the administration was also transformed with a business-like structure headed by a Chief Executive Officer and a panel of 8 senior directors. A new generation of young and prepared officials joined these top managerial positions in the organisation under the leadership of Gerhard Aigner and, later on, Lars Christer Olson. They also had a much more direct input in the formulation of UEFA policies,

although formally they were following the political guidelines set by the executive committee.

The structural changes have been accompanied with a re-definition of policies and policy preferences. UEFA's strategic vision for the organisation and the game as a whole was set up in *Vision Europe* (UEFA 2005a). *Vision Europe* is the first strategic document in UEFA's history, where the organisation explains its goals and priorities for the future. Drafted by the Head of Professional Football Services, Alex Phillips, in close collaboration with the CEO, Lars Christer Olsson (Interview 34: Nyon (Switzerland), 12 February 2007), *Vision Europe* is a honest and decent attempt to position UEFA as a modern and transparent governing body in 21<sup>st</sup> century's football. It is also an interesting intellectual exercise with references to concepts such as globalisation, federalism and subsidiarity that for many come as a surprise in an organisation that has been traditionally reluctant to adapt to a changing environment. UEFA recognises in *Vision Europe* the necessity for modernisation and a better dialogue with EU institutions (UEFA 2005a: 30-31).

The breath of fresh air introduced by those young professionals in UEFA is also reflected in the eagerness they now engage with the European Union. UEFA is relatively happy to collaborate with the European Union, its loathed enemy of the past (Interview 5: Brussels, 17 May 2006; Interview 35: Nyon (Switzerland), 15 February 2007). In 2003 UEFA opened a representative office in Brussels, whose work has been highly praised by MEPs and Commission officials alike. The work of the UEFA Communication and Public Affairs Division, which the Brussels office is a part of, has also been aimed at convincing UEFA internally of the need to change the negative vision of the EU. Lars Christer Olsson, UEFA CEO between 2004 and January 2007, led this change of policy internally within UEFA. He was especially supportive of the new vision of UEFA and the European Union as partners, because 'there is no other way forward' (Interview 29: Nyon (Switzerland), 8 February 2007).

It would be foolish and slightly naïve to attribute the changes in UEFA only to the interventions of European institutions. Indeed, like any other organisation UEFA has had to adapt to a new environment in a highly globalised market. The commercialisation of professional football in the last two decades has transformed the game into a sort of entertainment industry. The traditional pyramid of European football is now a much more crowded environment and the power of UEFA is contested especially by the richest clubs and leagues (Holt 2006: 19-37, 2007: 52-53). UEFA has had to adapt both to keep pace with the modernisation of football and to maintain its central role as governing body. Engaging with public authorities, such as the EU, UEFA is for the moment able to assert its authority in the pyramid of governance of football, hence surviving the turbulent times that started in 1995 with *Bosman*. UEFA has positioned itself as a reliable partner to the political authorities that want to preserve, somehow, the soul of the game from the excesses of commercialisation.

But, is that enough? It is certainly legitimate to ask why UEFA has taken so long to transform its structures and policies. A cynical observer could even question the motives of UEFA's repositioning. Football authorities would have avoided most of the regulatory interventions of the EU by adapting their rules to the new realities of the single market long time ago. And they will avoid any future problems, such as the pending Charleroi case, if they realise once and for all that there is no way around the

application of EU law. There is no denial that initially UEFA decided to abandon its *crusade* with the EU simply for pragmatic reasons: ‘We had no other option. We had to adapt to a new reality that was imposed and to live with it in the best way possible’ (Interview 28: Nyon (Switzerland), 6 February 2007). Despite a clear component of fight for survival in the modern governance of football, recent developments might suggest that UEFA has certainly evolved. They are trying to ‘earn’ their specificity; to fulfil their part of the agreement as suggested in the Commission’s *Helsinki Report on Sport* (European Commission 1999). The counter-argument would be that initiatives such as the rules on locally-trained players or the *Independent European Sport Review* are just very good lobbying strategies to regain some of the ground lost after Bosman, but not real philosophical changes of the organisation. There are certainly still problems of representation that UEFA has to address, an issue covered in depth by Wyn Grant’s paper in this panel. UEFA’s response to these and other challenges will measure the real position of the governing body and define its relation with the EU for the years to come.

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<sup>1</sup> *UEFA Statutes*, Art. 1. Edition 2006, available on the internet <http://www.uefa.com/newsfiles/19081.pdf>, [Accessed 25-7-2006].

<sup>2</sup> *UEFA Statutes*, Art. 5.

<sup>3</sup> *UEFA Statutes*, Art. 7 (3).

<sup>4</sup> *UEFA Statutes*, Art. 7 (5).

<sup>5</sup> *UEFA Statutes*, Art. 11.

<sup>6</sup> *UEFA Statutes*, Art. 12 (1).

<sup>7</sup> *UEFA Statutes*, Art. 18 (1).

<sup>8</sup> *UEFA Statutes*, Arts. 35 and 38.

<sup>9</sup> Non-selectable players are those that cannot play for the national team of the country in which the team is based. David Beckham, for example, would be a non-selectable player at Real Madrid, as he cannot for Spain. The definition of what constitutes a non selectable player varies through Europe though (Lanfranchi and Taylor 2001).

<sup>10</sup> In March 2000 it emerged that FIFA and FIFPro had been secretly negotiating a new revolutionary transfer system in which football players would sign their first professional contract with the club in which they were educated, but from then on contracts would be very short (maybe one season) and no transfer fees (or a very small fee) should be paid if the player wanted to change clubs (Porret 2000).

<sup>11</sup> This interpretation is further reinforced when taking into account FIFPro’s frontal rejection of the agreement. FIFPro threatened to take legal action before national courts, although they never got to that point (Parrish 2003: 148).

<sup>12</sup> Parallel to the international transfer system negotiations, UEFA and the European Commission were also engaged in talks about the legality of UEFA’s regulation on the broadcasting of live football. Chapter 5 examines in detail this case. Although they were two different dossiers, the negotiations were held at the same time. UEFA and the Commission cleared UEFA broadcasting regulations, without need of a formal decision, just a month after the deal on the transfer system (European Commission 2001a). UEFA was also extremely happy with the outcome of the negotiations in the case of the broadcasting regulation. By reaching positive agreements with the Commission in two important issues, UEFA started to think more positively about its relations with European institutions. All UEFA officials interviewed in the research conducting to this thesis agreed, without exception, that the swift and positive resolution of these two dossiers within just one month could be seen as the beginning of a new strategy of UEFA towards the EU.

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