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## **The Legal System of Players’ Intermediaries in the Light of the Algerian Football Federation Regulation**

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### **Abstract:**

As a link between players and sports clubs, a sports intermediary is an important person in the field of Football, as it plays a key role to arrange for contracts. The players’ representation contracts were of great importance that pushes the FIFA to issue new regulations for football intermediaries rather than for player’s agents. Therefore, this prompted the Algerian Football Federation (FAF) to enact regulations in cooperation with players’ intermediaries based on the new requirements of FIFA.

The aim of our study is to identify the regulations of players’ intermediaries issued by the Algerian Football Federation so that we can determine who the intermediary is and what are the terms and conditions that govern him.

**Keywords:** Legal System; Players’ Intermediaries; Regulation; Algerian Football Federation.

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## **1. INTRODUCTION**

Intermediaries play a very important role in football that is why FIFA has regulated the profession by establishing legal rules for control. Intermediaries operate according to the rules of federation and no one can be an intermediary unless the legal requirements are met in which the West has enacted special laws. (Kasri, 2015, p.12)

It is known that the importance of using the intermediary during the negotiating phase of the contract clauses of the sportsman was brought to the attention by the American Charles C.PYLE , who in 1925 negotiated for the first time in sports history on behalf of the player Red GRANGE to play for the Bears de Chicago for \$100,000 when another American sportsman did again in 1967. (Balkhir, 2014, pp.70-71)

Players' agents of Algerian origin also have contributed to the emergence and development of player agent activity in France, such as: Alain MIGLIACCIO, by managing the most famous players like: Laurent BLANC, Eric CANTONA, Jean-Christophe DEVAUX, Alain ROCHE, Tony VAIRELLES and other players like : Zinedine ZIDANE and Franc RIBERY.

The sports agent is a mainstay of the football system, particularly in the field of the movement of professional players from one club to another, as they control the transfer market and commission. (Othman, 2016-2017, p. 11).

Among the countries that have attached great importance to football is Algeria, which was established after independence to regulate and conduct this sport. (Bousalah, 2018, p.40). This happened by issuing regulations and stipulating conditions for the movement of professional players between other clubs.(Messaouden et al., 2019, p.235).

According to the official website of the Algerian Football Federation (FAF), by the Players' Organic Law Commission (CSJ) that the regulations regarding cooperation with players' intermediaries will enter into force on Sunday, January 3rd, 2021.

It is clarified that the aim of our study is to clarify what is stated in the Regulation on Cooperation with intermediaries issued by the Algerian Football Federation so that we can know who is the intermediary and what the terms and conditions governing him are. Therefore, the following question was raised : **What are the legal terms and conditions governing players' intermediaries according to the Algerian Football Federation regulations ?**

## **2. Objectives of the study**

The objectives of the study are to identify the legal provisions governing intermediaries, in addition to identifying the legal nature of the players' representation contracts according to the Algerian Football Federation regulations.

## **3. Significance of the study**

The importance of studying the legal regulation of players' intermediaries is due to its scientific and practical importance in the field of sports in general and football in particular. Hence, the cognitive value of this research is in the area of legal knowledge, especially with the few studies taken on this subject.

## **4. The methodology**

In this research, we relied on the analytical approach in order to capture the subject in various aspects.

## **5. Intermediaries**

### **5.1 Definition of intermediary**

Before referring to the definition of an intermediary, we will examine the players' agents systems, where FIFA regulations define a player agent as " a natural person who, in return for money, provides players to clubs after negotiating, renegotiating a contract, or by submitting a club to another club, in order to conclude a transfer agreement in accordance with the provisions laid down of these regulations" (Abo Fatouh, 2018, p.41)

The players' agents system has several flaws that led FIFA to eliminate it and replace it with another system, and one such disadvantages is the requirement to pass the tests.

Moreover, the Algerian legislature did not address the definition of a player's agent, but merely referred to it in article 66, paragraph 1, of Act No. 13-05 of 31 July 2013 on the organization and development of physical and sports activities, which provides that : « A sportsman or a group of sportsmen can hire their representative called 'the player agent' to take advantage of his services for a fee in accordance with the laws and regulations in force. »The Algerian legislature has made no provisions for regulating the activities of players' agents. While leaving the competent authorities (regulators) to take decision. For that purpose, the Algerian Football Federation approved the Regulation on Cooperation with players' intermediaries by defining the intermediary as a natural or legal person who wishes to carry out activities in Algeria and registered with the National Football Federation. Thus, Article 1 of the above-mentioned regulation provides that only intermediaries registered with the National Football Federation may

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represent players, clubs and/or coaches in the conduct of activities. Therefore, through what we have said, the intermediary can be defined as a natural or legal person representing players and/or clubs in negotiations with the aim of concluding an employment contract or representing clubs in negotiations with a view to concluding a transfer, loan or renewal agreement for a in exchange for money.

### **5.2 Conditions for acquiring the status of a sports intermediary**

The fact that the intermediary is a natural or legal person, we intended to provide a brief definition of legal personality, in which it is defined as the power to acquire rights and assume obligations, which are two types : the natural personality i.e. the natural person, which is a human being, and legal personality, i.e. which is the legal or moral person, which is a group of persons and funds aimed at achieving a particular purpose.

Both FIFA and the continental and local federations require that a natural or legal person to acquire the status of intermediary to obtain a license from the competent authority. Under Article 2, paragraph 1, of the Regulation on Cooperation with Player Intermediaries, the registration of a natural person as an intermediary is requires :

- Written request.
- Two (02) photos
- A copy of the national identity card or passport
- Birth certificate
- Certificate of case law
- Certificate of educational level (at least secondary level)
- Copy of the commercial register or approval by a lawyer
- Certificate of subscription in the insurance policy guaranteeing coverage of the intermediary's professional liability (professional errors)
- A signed declaration by the intermediary
- Registration rights estimated at 30000 DA to be paid annually.

After filing the file, the Federation conducts an ethical investigation before registering the intermediary.

In the case of a legal person, he is registered under the following conditions :

- Written request
- A copy of the commercial register and statute
- Certificate of subscription in the insurance policy guaranteeing coverage of the intermediary's professional liability (professional errors)

- A signed declaration by the intermediary
- Registration fees estimated at 50000 DA per year, plus 30000 DA to be paid annually in the case of a natural person acting on behalf of a legal person.

The deficiencies in the players' agent system prompted FIFA to abolish the agent system, and to determine the system of intermediaries. It was no longer necessary to successfully pass examinations by the qualifying associations for the practice of an intermediary. (Abo Fatouh, 2018, p. 43).

### **5.3 The intermediary wage**

One of the most important rights deriving from the legal status of the sports intermediary is to receive payment for the services he provides to both the player and the club. For this case, the wage of the intermediary is calculated on the basis of the total income of the player for the duration of the contract if the representation contract is concluded with the player, but if the event of a contract is with the club, the club must pay the amount agreed upon after the representation contract is signed (this payment can be made in several instalments). Hence, the intermediary wage is calculated on the basis of total income over the contract and not exceeding 10% of the total amount of the player receives. The total wage for representing the club in any agreement may not exceed 10% of the transfer fee paid in connection with the concerned player. In a sense, under a prior agreement between him and the party he contracted under the representation contract, the intermediary is entitled to be paid for the rendered services.

## **6. Representation contract**

### **6.1. Player representation contract definition**

A player representation contract can be defined as "an agreement between a natural or legal person called an intermediary and another person, the club or player, whereby the first party has the right to represent the second party in the conclusion of a transfer or secondment agreement." (Abo Fatouh, 2018, p. 44).

So the representation contract is a contract concluded between the intermediary (natural or legal person) and the player or club with the intention of transferring, secondment or renewing. For that, the representation contract must contain the following elements under the penalty of non-acceptance : (Regulation 3/3)

- Parties' full information
- The nature of the deal
- The period of carrying the intermediation activity shall not exceed 02 years (renewable) ; whether the intermediation activity is exclusive

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- Intermediary wage
- The terms and conditions of intermediary wage
- Conditions for the completion of the contract (representation contract)
- Any provision relating to applicable law in force (FAF regulations, FIFA regulations, Algerian law)
- Any arbitration clause (Algerian Court of Sports Disputes Resolution).

All parties involved in the representation contract must deposit the contract with the Algerian Football Federation within 10 days after the conclusion of the representation contract. As well as, intermediaries are forbidden to offer benefits in any form in exchange for signing a representation contract for the player (players are prohibited from accepting any advantage). Therefore, a written representation contract must explicitly include the percentage of commission that the intermediary will receive after the deal is completed for the player or club, as confirmed in Article 5 in both the representation contract model (intermediary-player) and (intermediary-club).

### **6.2. The legal nature of the representation contract (intermediary and player or club).**

As mentioned above, the Algerian legislature did not refer to the definition of agent but merely referred to it in article 66 of Act No. 13-05 cited above.

- **Sports intermediary contract is consensual:** A consensual contract is one that is sufficient for mere agreement without requiring that such agreement be emptied in a particular form or following certain procedures. A consensual contract is created by the convergence of two wills. An examination of the rules governing the contracts of players' intermediaries in the regulations on cooperation with intermediaries issued by the Algerian Football Federation shows that intermediaries 'contracts are consensual I t is noticed that Article 3, paragraph 1 of the aforesaid regulation, after notice of registration of the intermediary, the representation contract concluded with the player, coach or club mentioned in the intermediary's declaration at the time of registration must be submitted to the Algerian Football Federation within 10 days at most.

- **Sports intermediary contract is formal:** is the contract required in addition to the mutual agreement element is a certain formality (Filali, 2010, p.67). In terms of regulations, the representation contract between the intermediary and the player or club is a formal one, as the Algerian Football Federation has committed a specific form to both the contract of representation (intermediary-player) and the contract of representation (intermediary-club). Accordingly, when concluding a

representation contract, the Federation obliged the Contracting Parties to state a set of data, namely, information concerning the intermediary and the player, the subject matter of the contract, the duration of the contract, the wage of the intermediary, the means of payment, the general terms of payment, the conditions of termination of the contract, and the signature of the parties (player and intermediary).

- **Sports intermediary contract is both sides binding:** The Algerian legislature defined a binding contract on both sides under article 55 of the Algerian Civil Code, which provides that " once the two contracts have exchanged obligations with each other, the parties shall be bound by a contract " Hence, a binding contract on both sides is one that creates reciprocal obligations. The contract which is between the intermediary and the other party (player, club or coach) is binding on both sides, resulting in reciprocal obligation for each contractor. By extrapolating the legal rules governing intermediaries, we find that the contract of representation that brings together the intermediary and the player or club is binding on both sides, where the intermediary is obliged to represent the player while the player or club is obliged to pay for intermediary services.

- **Sports intermediary contract is so-called:** the so-called contract is the one whose name, definition and regulation are taken over by the legislature (Filali, 2010, p. 75).

In our definition of a so-called contract, it is clear that the intermediary's contract is one of those that are regulated by special rules issued by international bodies (FIFA), in addition to those issued by the Algerian Football Federation (Regulation on Cooperation with Intermediaries). In addition to what we have said, the legislature called the contract concluded between the intermediary and the player, club or coach a "representation contract" as stated in article 3. of the regulation on cooperation with intermediaries.

- **Sports intermediary is temporary :** a temporary contract or extended contract is one in which the element of time is essential, by which the obligations of the contractor or the place of contract are measured, so that the obligations of the contractors are always time-bound (Filali, 2010, pp.69-70)

Although international and national regulations on working with intermediaries emphasize that the name of the players' intermediary is written in each representation, and that the intermediary is paid for each representation, in our view this does not mean that the contracts of the intermediaries are immediate. Rather. We believe that it remains a temporary contract where both the intermediary and the player or club agree to continue the representation contract

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for a certain period. These regulations have determined that the representation contract is valid for a maximum two years and may be extended. (Abo Fatouh, 2018, p. 46)

### **6.3. Obligations of the representation contract parties**

#### **6.3.1. Intermediary obligations**

Under the representation contract that combines the intermediary and the other party, whether he/ she is a player or a sports club, it entails a number of obligations or duties primarily taking on the task of negotiating for the player or the sports club in order to obtain the best offers. The intermediary is obliged to :

- Compliance with federal laws and regulations in which the intermediary is obliged to respect the regulations and decisions issued by the responsible bodies ; he is obliged to respect the laws and regulations of FAF, CAF and FIFA.
- Refrain from any conduct that would harm the interests of the FAF, its members or football in general.
- Provide information on the updating requested files.
- Refrain from any conduct that would cause the player to prematurely his employment contract prematurely or to no longer respect the obligations arising from it.
- In the case of a legal person, it must be ascertained that the signature of the his representative is contained in the intermediary contract in accordance with the Regulation on Cooperation with the players' Intermediaries.
- Respect the applicable legislation.
- Provide a list of all natural people registered as intermediaries, who are legally authorized to carry out activities in the name and on behalf of the registered legal person.
- Compliance with the Code of Professional Conduct: Although the system of players' agents has been abolished and replaced by the system of intermediaries, we believe that the intermediary must abide by the code of professional conduct, namely that he must conduct his activities carefully and conduct his profession and other business in a manner that respects and values his profession (Abo Fatouh, 2018, p. 52).

#### **6.3.2. Obligations of the player or club**

The contract of representation entails the player or club obligations to pay the intermediary wage.

- The wage of the intermediary in the case of representing the player : Article 7 of the Regulation on Cooperation with Intermediaries issued by the Algerian



Football Federation stipulates that the wage of the intermediary shall be calculated when concluding a representation contract of a player, coach or club on the basis of the total raw income of the player for the entire duration of the contract. As well as, the second paragraph of the same article states that the intermediary wage is calculated on the basis of total income for the duration of the contract up to 10% of the total amount received by the player.

- The wage of the intermediary in the case of representing the club: the total wage here in any transfer agreement may not exceed 10% of the transfer fee paid in connection with the players' transfer. After concluding a representation contract with the club, the intermediary enters into negotiations in favour of the latter, with the aim of concluding a transfer contract; the intermediary receives a sum not exceeding 10% of the amount that the player gains when moving from a club to another.

### **6.3.3. Penalties (sanctions)**

The type of penalties imposed on intermediaries varies from country to another in the event that the regulations of FIFA or Continental Federation are not applied. The Algerian Football Federation can punish any party under its jurisdiction for violating the applicable regulations and laws, therefore ; any violation by the intermediary of the regulations in force shall be subject to the following penalties by the competent authorities :

- Reprimand
- Fines (general penalty)
- Prescribed fines and regulatory penalties
- Suspension of registration and/or prohibition of registration
- Alternative procedures decided by the Federation
- Disqualification of licenses

The administrative decision of the Federal Authority concerning the penalty imposed on the intermediary shall be appealed to the Algerian court for the settlement of sports disputes within 21 days after notification. In addition to that, the Algerian Football Federation is obliged to publish all disciplinary sanctions against the intermediary and to inform FIFA accordingly. Thus, the FIFA Disciplinary Committee decides to extend the penalty at the international level in accordance with the FIFA discipline law.

## **7. CONCLUSION**

Under the act No. 13-05 of July 31st, 2013 on the organisation and development of physical and sports activities, the Algerian legislature has merely recognized the activity of the sports agent (Manager) under the terms of article 66, leaving the scope for the competent authorities of the Algerian Football Federation in order to regulate the work of previous players' agents and current intermediaries.

This study was addressed in terms of the definition of the intermediary and the conditions for his registration at the level of national federation, as well as the definition of the representation contract that combines the intermediary with the player or club and shows its legal nature. In addition to addressing their obligations.

The study concluded the following results:

- FIFA abolished the system of agents and replaced it with intermediaries, i.e. creating a new system of contracting players or clubs that does not involve passing tests.
- The intermediary wage must not exceed 10%.
- The legal term of the contract to represent a player or club intermediary is two years renewable.
- Any dispute over the representation contract brought on the Algerian Court for the Resolution of Sports Disputes.

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