THE *DIARRA* CASE: THE PAST, THE PRESENT AND THE FUTURE

by *Frans M. de Weger*[*]

1. Introduction

In this contribution, the author, since 2021 Chairperson of the Dispute Resolution Chamber of the FIFA Football Tribunal ("FIFA DRC"), the decision-making body within FIFA dealing with employment-related disputes between players and clubs at international level, examines the judgment delivered on 4 October 2024 by the European Court of Justice in the *Diarra* case.[1] The ruling arose from a lawsuit brought by former French international football player Lassana Diarra against FIFA and the Royal Belgian Football Association ("KBVB"). The Court held that certain provisions from FIFA's transfer regulations conflict with European law, more specifically with the free movement of workers and competition law. This contribution focuses on the potential implications of the ruling on the future jurisprudence of the FIFA DRC, assessed through the lens of the *Interim Regulatory Framework* ("IRF"), the new legal framework that governs the FIFA DRC proceedings since 1 January 2025.[2]

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[1] ECJ, judgement of 4 October 2024, *BZ v. FIFA and URBSFA*, Case C-650/22, ECLI:EU:C:2024:824.

[2] In accordance with Article 29 of the RSTP (January 2025 edition), the January 2025 edition of said regulations is applicable to the matter at hand as to the substance.

Comparisons with the well-known *Bosman* case of 1995,[3] where the European Court of Justice held that players should be able to transfer freely to a new club after the end of their contracts without any obligation to pay a transfer fee, emerged quickly. The *Diarra* judgement likewise received considerable media attention, with dubbing it the "new Bosman", since it was also found in the *Diarra* ruling that certain provisions of FIFA's transfer regulations were not compatible with European law.

In this contribution, the author will not assess whether the *Diarra* case will ultimately have the same transformative impact on international professional football as the *Bosman* ruling once had. That really remains uncertain. It is beyond any doubt that *Bosman*, handed down thirty years ago, was – and still is – rightfully regarded as *the* landmark judgment in international sports law, having reshaped both the international and national football landscape from that point onward.[4] At the same time, it is equally clear that the *Diarra* case will also have its mark, particularly on the jurisprudence of the FIFA DRC, let alone because shortly after and in response to the *Diarra* ruling, FIFA adopted the IRF as the new legal framework announced via a decision of the Bureau of the FIFA Council on 22 December 2024.

As Chairperson of the FIFA DRC, the author was initially invited to comment on the new line of jurisprudence of the FIFA DRC emerging after *Diarra*. However, at the time of writing this chapter, this remains premature: no "post-*Diarra*" decisions have been published yet. The focus of this chapter will therefore be on the effects the *Diarra* case will have on the future jurisprudence of the FIFA DRC, but through the lens of the IRF.[5] Before doing so, the author will first go back to 2014 when the *Diarra* saga started and will shortly outline the earlier proceedings before the FIFA DRC, the Court of Arbitration for Sport ("CAS") and the Belgian courts, before addressing the most important provisions under the IRF and concluding with final reflections on the future of the jurisprudence of the FIFA DRC.

2. Proceedings Before the FIFA DRC, the CAS and the Belgian Courts

On 20 August 2013, Diarra signed a four-year employment contract with the Russian club Lokomotiv Moscow. One year later, on 22 August 2014, Lokomotiv unilaterally terminated the contract with Diarra. The club claimed that the player had seriously violated his contractual obligations under the employment agreement multiple times by being absent from two group training sessions and a club-related

[3] ECJ, judgement of 15 December 1995, *URBSFA/Jean-Marc Bosman*, case C-415/93, ECLI:EU:C:1995:463.

[4] See, among others, C. Drolet, "*Extra Time: Are the new FIFA transfer rules doomed?*", *The International Sports Law Journal*, 1-2, 2006, and A. Wise, B.V. Meyer, *International Sports Law and Business*, Vol. 2. Kluwer Law International, 1997.

[5] In accordance with Article 29 of the RSTP (January 2015 edition), applicable to the substance of the dispute.

event without its permission. Furthermore, the club alleged that Diarra subsequently, for an uninterrupted period of more than two months, again without its permission, was absent from the club despite repeated written requests from the club's side urging him to return.

Shortly after the unilateral termination of the contract, in September 2014, the club initiated proceedings before the FIFA DRC. Before the FIFA DRC, the club requested compensation from the player in the amount of EUR 20,000,000. Diarra, on the other hand, filed a counterclaim against the Russian club seeking payment of bonuses and outstanding wages, as well as financial compensation equal to the salary still due to him between August 2014 and 30 June 2017.

On 10 April 2015, the FIFA DRC rendered its decision, sentencing Diarra to pay compensation to his former employer under Article 17, paragraph 1, RSTP. The player's counterclaim was entirely rejected. Although the FIFA DRC acknowledged that the residual value of the remaining contract duration in this case amounted to EUR 16,588,600, it determined there was no justification for awarding that amount. Instead, the DRC found it more reasonable to factor in the previous transfer fee paid by Lokomotiv to the Russian club Anzhi Makhachkala amounting to EUR 14,000,000. Since Diarra had repeatedly breached his contractual obligations, the FIFA DRC concluded that he was liable to pay EUR 10,500,000 (equal to the portion of the transfer fee to Anzhi that had not yet been amortized and far less than the residual value of this contract of the afore-mentioned amount of EUR 16,588.600).

A notable aspect of this case was the FIFA DRC's finding that Article 17(2) of the RSTP did not apply (next to the fact that sporting sanctions were also not imposed whilst the FIFA DRC could have done so based on the previous RSTP as the breach by the player took place within the Protected Period). That provision stated that the new club of a player is automatically jointly and severally liable for the compensation due by the player to its former club.[6] For completeness: the application of this "jointly and severally liability rule" did not require any involvement from the new club in the unlawful breach of contract by the player.[7] The former Article 17, paragraph 2, established an objective liability and did not require the new club to be considered the instigator of the breach. In the *Diarra* case, the FIFA DRC noticed that Diarra had not joined a new club between the breach and the issuance of the judgment.[8] Under these circumstances,

[6] FIFA DRC, *FC Lokomotiv Moscow v. Lassana Diarra*, dated 10 April 2015, case no. 04151519.
[7] CAS 2008/A/1568, *M. & Football Club Wil 1900 v. FIFA & Club PFC Naftex AC Bourgas*, 24 December 2008; CAS 2008/A/1677, *Alexis Enam v. Club Al Ittihad Tripoli*, dated 20 May 2009; CAS 2013/A/3309, *FC Dynamo Kyiv v. Gerson Alencar de Lima Júnior & SC Braga*, 22 January 2015; CAS 2013/A/3149, *Avaí FC v. FIFA & Bursaspor Club Association & Marcelo Rodrigues*, 13 May 2014; CAS 2014/A/3739 & 3749, *Jonathan Mensah & Evian Thonon Gaillard FC v. Fédération Internationale de Football Association (FIFA) & Udinese Calcio S.p.A.*, 16 July 2015; CAS 2016/A/4843, *Hamzeh Salameh & Nafit Mesan FC v. SAFA Sporting Club & FIFA*, 24 November 2017.
[8] FIFA DRC, *FC Lokomotiv Moscow v. Lassana Diarra*, 10 April 2015, paragraph 98.

the FIFA DRC ruled and found it reasonable that if the player were to sign with a new club, that new club could not be held jointly and severally liable for the compensation due.[9]

In February 2015, *i.e*. *before* the FIFA DRC took the decision and while Article 17, paragraph 2, was still in force, the Belgian football club Charleroi made an offer to sign Diarra. However, the offer was conditional on obtaining the required International Transfer Certificate ("ITC"). Additionally, due to the potential liability under Article 17, paragraph 2, RSTP and for sake of clarity, Charleroi insisted on a guarantee from FIFA and the KBVB that the new club would not be held jointly liable for any compensation Diarra might owe to its former club Lokomotiv Moscow. However, neither FIFA nor the KBVB provided such a guarantee, leading Charleroi to withdraw the offer.

It was not until July 2015 – i.e. *after* the FIFA DRC had issued its ruling and Article 17, paragraph 2, was officially deactivated by the Chamber – that Diarra found a new employer and signed a contract with the French club Olympique Marseille. In the meantime, the player had appealed the FIFA DRC decision before the CAS, but however without any success. As a matter of fact, the player's claims were rejected and the initial ruling of the FIFA DRC was upheld in appeal on all points by the CAS, set out in its award that was issued on 16 May 2016.[10]

In addition to the CAS proceedings, the footballer also filed a civil lawsuit against FIFA and the KBVB before the Commercial Court of Hainaut (Charleroi division in the Walloon region), seeking compensation for damages resulting from his inability to find a new employer and the withdrawal of interest by the Belgian club Charleroi. Specifically, the player claimed EUR 6,000,000 for lost income.

More specifically, Diarra argued that the joint and several liability outlined in Article 17(2) of the RSTP was incompatible with European law, particularly with the free movement of workers enshrined in Article 45 of the Treaty on the Functioning of the European Union ("TFEU").[11] Diarra claimed that this FIFA provision (Article 17, paragraph 2, RSTP) deterred potential new employers from signing him, thereby restricting his free movement. The player succeeded in making that case before the national court.

In fact, in its judgment dated 19 January 2017, the Commercial Court of Hainaut ruled that FIFA's interpretation of Article 17(2) – and its application by the KBVB – was unlawful, as it violated the principle of free movement of workers (Article 45 TFEU). The Belgian court ordered FIFA and the KBVB to pay Diarra EUR 60,001 for damages. The Belgian court focused its decision on how FIFA (and the KBVB) had interpreted Article 17(2) of the RSTP. It referred to the legislative history of the RSTP and, in particular, to the agreement between the European Commission and FIFA. The court emphasized that when a club terminates

[9] *CAS 2015/A/4094*, *Lassana Diarra v. FC Lokomotiv Moscow*, 27 May 2016, paragraph 83.
[10] Ibid. See also the detailed description of the case in the article by O.D. Bellia, in *Yearbook of International Sports Arbitration 2016*, T.M.C. ASSER PRESS, The Hague.
[11] Court of Charleroi, case no. A/16/00141, dated 19 January 2017.

a player's contract, that player must have the opportunity to sign with a new employer without any restrictions on its free movement.[12] The court also referenced the *Mutu* case,[13] in which the CAS had previously ruled that the FIFA DRC's interpretation – extending Article 17(2) to players dismissed by their clubs for misconduct – was inconsistent with European law and the *Bosman* ruling.[14] According to the Belgian court, in first instance, this effectively amounted to requiring a new club to pay a transfer fee for a player who no longer had an active player contract.[15]

The saga did not end there as FIFA subsequently appealed the decision of the Commercial Court of Hainaut before the Court of Appeal of Mons. During this appeal, several parties joined the proceedings, including the international players' union FIFPro, its European division FIFPro Europe, and the French players' union UNFP. In the course of this higher appeal, the Court of Appeal of Mons submitted two preliminary questions to the European Court of Justice. Specifically, the court asked whether certain provisions of the RSTP were incompatible with Article 45 TFEU and Article 101 TFEU.

As already noted, Article 45 TFEU concerns the free movement of workers while Article 101 TFEU prohibits agreements and decisions made by associations of undertakings that might adversely affect trade between member states and which aim to or result in the prevention, restriction, or distortion of competition within the internal market. The provisions from the RSTP potentially in conflict included Article 9.1 and Article 8.2.7 of Annex 3 of the FIFA RSTP which stated that an ITC needs not be issued by FIFA while a contractual dispute is ongoing, and Article 17. The latter is the central backbone provision upon which FIFA's transfer regulations are built and can be seen as its main core.

More specifically, the question concerned the potential conflict with three specific subsections. First, Article 17, paragraph 1, RSTP, which outlines the method for calculating compensation in cases of unlawful breach of contract. Second, paragraph 2, which sets out the automatic joint and several liability for new clubs, as previously discussed. And third, Article 17, paragraph 4, which stipulates that new clubs may be subject to sporting sanctions if they are found to have induced a breach of contract – something which, barring evidence to the contrary, is generally presumed if a new club signs a player who has unlawfully terminated his previous employment contract with its club.

The following two preliminary questions were referred to the European Court of Justice.

Are Articles 45 and 101 TFEU to be interpreted as precluding:

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[12] Ibid, paragraph 28.

[13] CAS 2013/A/3365 & 3366, *Juventus FC v. Chelsea FC & Livorno Calcio S.p.A v. Chelsea FC*, 21 January 2015.

[14] Court of Charleroi, case no. A/16/00141, 19 January 2017, paragraph 28.

[15] Ibid. See also the description of this case in the article by A. Rigozzi, *Yearbook of International Sports Arbitration 2016*, T.M.C. ASSER PRESS, The Hague.

– the principle that the player and the club wishing to employ him (or her) are jointly and severally liable in respect of the compensation due to the club whose contract with the player has been terminated without just cause, as stipulated in Article 17, paragraph 2, RSTP, in conjunction with the sporting sanctions provided for in Article 17, paragraph 4 of those regulations and the financial sanctions provided for in Article 17, paragraph 1;

– The possibility for the national football association to which the player's former club belongs not to deliver the ITC required if the player is to be employed by a new club, where there is a dispute between that former club and the player (Article 9, paragraph 1, RSTP and Article 8.2.7 of Annex 3 to the RSTP)?

On 30 April 2024, Advocate General M. Szpunar of the European Court of Justice issued his advisory opinion. He argued that these provisions of the RSTP – Articles 9 and 17, specifically paragraphs 1, 2 and 4 – were incompatible with European law, in particular with the Articles 45 and 101 TFEU.[16]

3. The Judgment of the European Court of Justice

In its judgement, the European Court of Justice ruled that the aforementioned provisions of the RSTP violated European law, specifically the European principles of free movement of workers and competition law.[17]

First, the Court emphasized that insofar as the practice of sport constitutes an economic activity, it falls within the scope of European Union law applicable to sport-related matters.[18] Only specific rules that are adopted purely for non-economic reasons and relate exclusively to matters of importance to sport as such should be considered outside the scope of economic activity. However, the FIFA rules under scrutiny in this case do not fall within such exceptions and have a direct impact on player employment. Therefore, they fall squarely within the purview of Articles 45 and 101 of the TFEU.

Free movement of workers

When addressing Article 45 of the TFEU, the European Court of Justice emphasized that Article 45 prohibits any measure – whether based on nationality or applicable regardless of nationality – that could disadvantage EU citizens seeking to engage in economic activity in a member state other than their country of origin, by preventing or discouraging them from leaving their home country.

In its further analysis of Article 45 of the TFEU, the European Court of Justice concluded that Article 9.1 (and Article 8.2.7 of Annex 3 RSTP) and

[16] See the opinion of Advocate General M. Szpunar, 30 April 2024, Case C-650/22, ECLI:EU:C:2024:375.

[17] ECJ, 4 October 2024, *BZ v. FIFA and URBSFA*, Case C-650/22, ECLI:EU:C:2024:824.

[18] See ECJ, judgement of 21 December 2023, *European Superleague Company SL/FIFA and UEFA,* case C-333/21.

paragraphs 1, 2 and 3 of Article 17 could negatively affect professional footballers residing or working in their country of origin and who wish to carry out economic activities by signing with a new club established in another EU member state, particularly in cases where the employment contract with the former club is unilaterally terminated – either legitimately or not – due to a reason the former club claims or threatens to claim is unjustified.

More specifically, the Court ruled that these provisions are of such a nature that they significantly, either in fact – as in *Diarra*'s case – or at least potentially, deprive any player in such a situation of the possibility of receiving firm and unconditional offers of employment from clubs in other member states. Acceptance of such offers would require players to exercise their freedom of movement by leaving their country of origin. In practice, according to the Court, the existence of these FIFA rules and their combined effect result in substantial legal risks (Article 17, paragraph 2, RSTP), unpredictable and potentially very high financial risks (Article 17, paragraph 1, RSTP) as well as significant sporting risks for the clubs involved (Article 17, paragraph 4, RSTP), which, taken together, clearly deter clubs from hiring such players.

With respect to the issuance of the ITC in light of Article 45 TFEU, the Court held that RSTP provisions restricting a player's ability to obtain an ITC could impair their capacity to engage in professional activities in other EU member states, thereby undermining their potential recruitment by clubs in those EU states. In short, these rules may therefore also hinder free movement of workers.

The Court then examined whether there were legitimate reasons to justify such restrictions, such as serving an overriding public interest and adhering to the principle of proportionality, as argued by FIFA and KBVB. While the final determination of whether the regulations comply with these criteria falls to the referring Court of Appeal of Mons, the European Court of Justice noted that ensuring the regularity of inter-club football competitions by maintaining a certain degree of stability in staffing – and thus continuity in related contracts – can indeed be considered a legitimate public interest.

However, the Court judged that these specific rules appear, in many respects, to go beyond – or in some cases far beyond – what is necessary to achieve that objective. This is particularly problematic, so was found by the European Court of Justice, considering their extensive, combined application over prolonged periods to players whose careers are relatively short. Such circumstances could significantly hinder their career progression, and even prematurely end some players' careers.

Ultimately, and noting that its view was subject to final verification by the Belgian court as the final say is in their hands, the European Court of Justice found no adequate justification for the rules.

Competition Law

With respect to the analysis concerning Article 101(1) TFEU, the Court pointed out that this provision prohibits all agreements between undertakings, decisions by associations of undertakings, and concerted practices that may affect trade between member states and which have as their object or effect the prevention, restriction, or distortion of competition within the internal market. The Court's investigation focuses primarily on conduct that aims to or results in the restriction of competition.

When analyzing the case on this aspect, the European Court of Justice highlights that a combined reading of the RSTP provisions in question shows that they significantly and systematically limit competition between clubs, even though the ability to recruit players is an essential parameter of competition within professional inter-club football. In practice, this restriction enables each club to retain its players as long as the contract, or sequence of contracts, remains in force – or until the club decides to terminate the contract or transfer the player to another club in exchange for a transfer fee.

The Court decided that FIFA's rules – which impose restrictions on player recruitment – are not justified by football's economic or organizational characteristics. These provisions hinder cross-border recruitment of players and artificially segment the market, thereby harming competition between clubs. The European Court of Justice likens these rules to a general and permanent prohibition on signing players under active contracts, which impairs club access to talent. This substantially restricts competition within the EU and should be deemed a "restriction by object." Given this classification, the Court indicates that it was thus not necessary to examine the actual effects of such practices.

However, such practices might still qualify for an exemption under Article 101(3) TFEU. As the Court states again, it is up to the Belgian court to assess whether the four cumulative conditions of that provision have been met. Nonetheless, the European Court of Justice also comments on the possible exemption under Article 101(3) TFEU: the practice in question must not impose restrictions on participating undertakings that are not essential to achieving efficiency gains. At this point, the Court specifies that the referring judge must consider that the RSTP rules are characterized by a mix of elements – many of which are discretionary and/or disproportionate. Moreover, it must be considered that these rules involve a general, drastic, and lasting restriction on cross-border competition between professional football clubs through unilateral recruitment of top players. Neither of these two aspects – taken in isolation – should lead to the conclusion that the rules in question are indispensable for achieving efficiency gains, even if such gains were demonstrated.

Regarding Article 101 TFEU, the European Court of Justice ultimately concluded that the RSTP provisions in question constitute a decision by an association of undertakings, which is prohibited under Article 101(1) TFEU and can only qualify for an exemption under Article 101(3) if compelling arguments and evidence show that all required conditions are met. In light of the Court's

remarks, obtaining such an exemption under the current circumstances appears to be (too) complicated.

4. The Practical Meaning of the Diarra Judgment

First, to avoid misunderstanding, the author wishes to note that the European Court of Justice referred the case back to the Court of Appeal of Mons. In other words, and for a better understanding, the last word is to the Belgian court which will deliver the final judgment (not leaving unmentioned that it could be followed by an appeal before the highest supreme court (*Cour de Cassation*).[19] So, the final determination on the incompatibility with EU law is now left to the Belgian court. Still, important legal key markers have been set by the European Court of Justice in the *Diarra* ruling.

Following the ruling of 4 October 2024, the European Court of Justice finally concluded that certain provisions of the RSTP are inconsistent with European law – more precisely, that the aforementioned provisions (Articles 9 and 8.2.7 of Annex 3 RSTP and paragraphs 1, 2, and 4 of Article 17) are not in conformity with European law, especially Articles 45 (free movement of workers) and 101 TFEU (competition law). The *Diarra* ruling contains critical considerations in relation to specific elements of the regulatory framework concerning contractual stability and the procedure related to the issuance and delivery of an ITC. The *Diarra* ruling basically concerns Article 17, which is the core and life blood of the RSTP, and Annex 3 to the RSTP and, not to forget, also indirectly affects Annex 2 to the RSTP (the provisions in relation to coaches[20]).

More specifically, the Court does not permit *automatic* financial and sporting sanctions to be imposed on a new club when a player who has committed contractual breach is signed (Article 17, paragraphs 2 and 4). The same applies to the sanction that no ITC will be issued if a contractual dispute exists between the player and their former club (Article 9 and Article 8.2.7 of Annex 3 RSTP). In addition, more clarity must be provided regarding how financial compensation is calculated when a player is liable to its former club for terminating a player contract "without just cause" (Article 17, paragraph 1, RSTP). The amount of compensation cannot be highly unpredictable, so found the European Court of Justice.

Practically speaking, the European Court of Justice has now determined that players were hindered by the RSTP provisions from transferring mid-contract from one club to another due to the potential risks and far-reaching consequences – both financial and sporting – for players and their prospective new clubs when it was established that a contract was unilaterally terminated without just cause. While the European Court of Justice acknowledges that certain rules may be

[19] See also S. Bastianon and M. Colucci, '*The evolution of FIFA transfer football regulations: challenges, opportunities, and innovative approaches in the wake of the Diarra judgment'*, *Rivista di Diritto ed Economia dello Sport*, 2024, 38.

[20] This issue will not be further addressed, as the present contribution concerns the FIFA DRC. Disputes between coaches and clubs fall under the competence of the FIFA Players' Status Chamber.

justified – for example, to promote contractual stability and safeguard the integrity of football competitions – it concludes that the above-mentioned provisions do not comply with European law.

It was for this reason, and so in a direct response to the *Diarra* ruling, that FIFA adopted the IRF: a temporary set of rules governing player transfers to align the RSTP with EU law, particularly regarding free movement and competition. By way of context, the said framework amended the above provisions, more specifically the calculation of compensation payable in the event of a breach of contract by a player or coach, the burden of proof in relation to joint and several liability for compensation payable for a breach of contract, the burden of proof in relation to an inducement to breach a contract (and the related sporting sanction against the new club of a player); and the procedure regarding the issuance of an ITC. Further, the IRF also contains a more detailed definition of "just cause" and provides clarifications in relation to the burden of proof and evidentiary requests, by introducing amendments to the corresponding article of the Procedural Rules Governing the Football Tribunal ("Procedural Rules"). In the next paragraph, the amendments will be discussed.

5. The Interim Regulatory Framework (IRF)

5.1 Introductory Remarks

When highlighting a few important differences between "Bosman" and "Diarra", it is to be noted that after the Bosman ruling, FIFA's entire transfer regulation was overhauled, resulting in a completely new set of rules in 2001. This new set of rules, which laid the foundation for subsequent editions of the RSTP, including the edition with the provisions that were under attack in "Diarra", was the result of intense negotiations between FIFA and the European Commission, largely due to the strong involvement of then European Commissioner Mario Monti, therefore also known as the "Monti-rules".[21] As follows from the European Commission's press release back then, dated 5 June 2002, "*FIFA has now adopted new rules which are agreed by FIFpro, the main players' Union and which follow the principles acceptable to the Commission*". The 2001 RSTP aimed to balance, on the one hand, FIFA's sport-specific needs and, on the other hand, the necessity of aligning the transfer system with European Law.[22] This happened only six years after the judgment by the Court in the *Bosman* case.[23]

[21] C. Drolet, "*Extra Time: Are the new FIFA transfer rules doomed?*", *The International Sports Law Journal*,1-2, 2006.

[22] See also the press release by Mario Monti dated 5 June 2002, 'Statement IP-02-824', in which he emphasizes this balance.

[23] C. Drolet, "*Extra Time: Are the new FIFA transfer rules doomed?*", *The International Sports Law Journal*, 1- 2, 2006. This new transfer regulation, which laid the foundation for the current system, was the result of intense negotiations between FIFA and the European Commission, largely due to the strong involvement of then European Commissioner Mario Monti. Because of this, the new regulations were informally referred to as the "Monti rules".

The *Diarra* ruling, however, did not only *not* call into question the RSTP *in its entirety* as it centered to certain (key) provisions that were not compliant with European law, but FIFA also reacted very quickly after the *Diarra* ruling was issued, being aware of the pressing need for stability and regulatory clarity. In fact, it was already three months after the *Diarra* ruling that the FIFA Council adopted the interim regulatory framework on 22 December 2024. At the same time, and for the sake of clarity, it is a *temporary* framework as not only follows from its title, but also derives from the very detailed document issued by FIFA, called "Explanatory Notes". From the latter document it can be derived that the IRF will apply until the broader discussions on a new, long-term, robust and globally uniform regulatory framework for professional football, through an open, objective, transparent and non-discriminatory process are concluded. Although is to be expected that certain provisions included in the IRF will also be reflected in a new version of the RSTP, FIFA wanted to avoid creating a vacuum during which period it was not clear how to proceed after "Diarra" as FIFA saw the need of urgency for stakeholders to have clarity about the applicable regulatory framework in upcoming registration periods, in relation to both contractual stability and the execution of international player transfers.

In this paragraph, the author will discuss the amendments made in the RSTP after the *Diarra* ruling. Being the Chairperson of the FIFA DRC, and having in mind that "post-Diarra decisions" have not been published yet, as set out before, the author is forced to act with some reluctance in expressing his view (mainly because of pending and future cases before the FIFA DRC). At some points, when addressing the amended provisions, the author feels however free to share some further thoughts in order to make practitioners aware of the importance of certain considerations under the new framework as the IRF, without any doubt, as set out, will have its effect on the future cases before the FIFA DRC.

5.2 The Amendments in the IRF

5.2.1 The Notion of Just Cause

To begin with, FIFA provided more clarity on the concept of "just cause" as the European Court of Justice noted that this concept was not precisely defined in the regulations itself. In response to this critical finding, the IRF now provides for a general definition of the concept of "just cause" by means of the new Article 14, paragraph 1, RSTP: "[a] *contract may be terminated by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions) where there is just cause. In general, just cause shall exist in any circumstance in which a party can no longer reasonably and in good faith be expected to continue a contractual relationship*".

Although it is now added that just cause shall exist in any circumstance in which a party can no longer reasonably and in good faith be expected to continue

a contractual relationship, the author wishes to stress that this codification reflects established FIFA DRC jurisprudence and will *de facto* not represent a change in practice. In fact, as also follows from the Explanatory Notes document, this amendment will provide for more clarity and predictability and will lay more emphasis on the fact-specific approach of the FIFA DRC when determining whether or not there is just cause in a particular case.

Generally, which are standard considerations by the FIFA DRC in its decisions when assessing the existence of a just cause, a premature termination may be issued only in circumstances in which it can no longer, reasonably and in good faith, be expected from the party issuing the termination to continue the respective contractual relationship. In this context, it must be taken into account, as is in line with established jurisprudence of the FIFA DRC, that the termination of a contract should always be an action of last resort, having regard to the individual facts and circumstances of each case. This will not be any different after "Diarra". Hence, if there are more lenient measures which can be taken by a party to assure the other party's fulfilment of contractual duties, such measures must be taken before terminating a contract. Put differently, as will be consistently held by the FIFA DRC, a premature termination of an employment contract should always be – also after *Diarra* – an *ultima ratio* measure.

In this regard, and having in mind that the principle of contractual stability remained unaffected by the *Diarra* ruling, the author finds it genuinely fair that under a fixed-term employment contract both parties (player and club) have a similar and mutual interest and expectation that the term will be respected, subject to termination by mutual consent or the existence of just cause. In this respect, further reference is made to the doctrine of *pacta sunt servanda*, which in essence means that agreements must be respected by parties in good faith which is a fundamental principle of contractual stability and contract law. When a player and a club sign an employment contract both parties are fully entitled to assume that both sides will comply with their contractual obligations towards each other. If a different approach was adopted, this would mean disregarding such an essential principle. To avoid any misunderstanding and without making any difference between player and club interests, respect to honor obligations under contracts should be key to both players and clubs. Again, just cause to terminate a contract will only exist when the circumstances are as such that a party can no longer reasonably and in good faith be expected to continue a contractual relationship.

5.2.2 The International Transfer Certificate

A more direct amendment is related to the "ITC articles" (the Articles 9 and 8.2.7 of Annex 3 RSTP that were under attack and) that were also revised. The European Court of Justice was critical as these former provisions prevented players from pursuing their economic activity in any member state other than their member

state of origin.[24] It now follows from the IRF that when the association of a player's new club requests an ITC, the association of the former club must now issue the ITC within a period of 72 hours. The author wishes to add that it was already practice for many years that ITC's were issued very shortly after requests were made, also if the former association did not cooperate on this. In other words, in practice, which should not be left unmentioned, a contractual dispute between a player and a former club has never been a reason for an ITC not to be issued, which was however not reflected in the previous "ITC"-provisions. With these new changes, this is now also officially amended in line with the requirements after the "Diarra" ruling.

5.2.3 Article 17

Compensation (Article 17 paragraph 1)

The backbone provision in the RSTP is Article 17. As to this specific provision, the *Diarra* judgment also contains critical considerations in relation to some of the calculation criteria under this provision. The most substantial amendments in the IRF are related to this provision, which specifies how the compensation payable in the event of a breach of contract shall be calculated, which was reflected in the first paragraph of the provision. The relevant part of the former Article 17, paragraph 1, RSTP read as follows:

> "*In all cases, the party in breach shall pay compensation. Subject to the provisions of article 20 and Annexe 4 in relation to training compensation, and unless otherwise provided for in the contract, compensation for the breach shall be calculated with due consideration for the law of the country concerned, the specificity of sport, and any other objective criteria. These criteria shall include, in particular, the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period*".

The new Article 17, paragraph 1, RSTP now reads as follows:

> "*In all cases, the party that has suffered as a result of a breach of contract by the counterparty shall be entitled to receive compensation. Subject to the provisions of article 20 and Annexe 4 in relation to training compensation, and unless otherwise provided for in the contract, compensation for the breach shall be calculated taking into account the damage suffered, according to the 'positive interest' principle, having*

[24] ECJ, 4 October 2024, *BZ v. FIFA and URBSFA*, Case C-650/22, ECLI:EU:C:2024:824, paragraph 93.

regard to the individual facts and circumstances of each case, and with due consideration for the law of the country concerned".

To start with, and to avoid any misunderstanding, the author notes that players and clubs, also after "Diarra", remain free to contractually agree on the amount of compensation that shall be payable in the event of a breach of contract, subject to the requirements and a review by the FIFA DRC based on existing jurisprudence. In other words, before addressing how the principle of positive interest, which is now laid down in the new Article 17, paragraph 1, would apply to a case, the FIFA DRC will first of all clarify as to whether the contract contains a provision by means of which the parties had beforehand agreed upon an amount of compensation payable by the contractual parties in the event of breach of contract. Only if no such compensation clause is included in the contract at the basis of the matter at stake, the compensation will be assessed in application of the first paragraph of Article 17 RSTP.

FIFA has, as follows from the new provision, removed all previously listed elements that were mentioned in the former provision that were used in calculating damages and that were heavily criticized by the European Court of Justice. Instead, FIFA has returned to and now falls back on a more general provision stating that compensation for unilateral breach "without just cause" will be determined according to the "positive interest principle", meaning the injured party must be placed in the financial position it would have been in had the contract been properly fulfilled. The positive interest principle is also the longstanding method used in the international sports arbitration of the CAS.[25]

When specifically dealing with potential compensation to be paid by the player to the club in the event of a breach of contract and in consideration for the damage suffered by the club in such situation, which came into play in the *Diarra* case, as said before, the FIFA DRC will now thus be guided by the positive interest principle. The author wishes to make clear that per Article 13 paragraph 5 of the Procedural Rules, the onus is on the club that claims damage to quantify, substantiate and prove that damage that it allegedly suffered as a result of a breach of a contract by the player. The FIFA DRC will analyze each of the amounts claimed as damage by the club when assessing compensation and will thus attach much value to the principle of burden of proof.

As set out above, the *Diarra* ruling contains critical considerations in relation to some of the calculation criteria under the previous Article 17, paragraph 1. Here, the author, while mindful of his role as Chairperson of the FIFA DRC and the need for judicial restraint in relation to pending cases, will address a number of these criteria in order to provide practitioners with some guidance for future proceedings.

[25] CAS 2015/A/4552 & 4553, *CA Velez/Mauro Zarate v. Lazio SpA*; CAS 2021/A/7757, *Club de Fútbol Pachuca v. Santos Futebol Clube & FIFA*; and CAS 2021/A/7762, *Christian Alberto Cueva Bravo v. Santos Futebol Clube & FIFA*.

First, the European Court of Justice was critical as to the failure to take real account of national law in FIFA proceedings, which is still a factor to be considered within the overall calculation as per the "positive interest" principle.[26]

Although this reference already existed in the old provision, more attention will now be given to national law. This already in itself underscores the importance of including proper choice-of-law clauses in contracts making reference to a particular national law, something both players and clubs must now become more aware of should they wish the FIFA DRC to take national law into consideration.

Be that as it may, the author observes that should a party wish the FIFA DRC to take the law of the country concerned into account as a factor within the overall calculation as per the "*positive interest*" principle – a practice that did not happen that often in FIFA DRC proceedings prior to the *Diarra* judgement – that party shall have the burden of demonstrating the relevance of a that national law, its exact content and also to what precise effect it should be considered by the FIFA DRC.

This makes sense to the author. In its jurisprudence, the FIFA DRC needs to strike the right balance between, on the one hand, a uniform case law and application of FIFA regulations in order to set uniform standards for the football industry, which provides transparent and predictable criteria, *inter alia,* for the calculation of compensation for breach of contract, and, on the other hand, giving due consideration for the law of the country concerned when calculating compensation under Article 17, paragraph 1, RSTP.

Indeed, the balance between uniformity by means of a globally uniformed application of FIFA regulations (which is a significant advantage when addressing decisions-making bodies, such as the FIFA DRC, in international sports, let alone for legal certainty) and, at the same time, consideration for the law of the country concerned, is a serious challenge. However, noting that the FIFA DRC itself is not in a position to have exact and reliable knowledge of the legislation of up to 211 FIFA member associations, the burden to demonstrate (1) the relevance (applicability) of a particular national law, (2) its exact content, and (3) to what precise effect the national law should be considered must be on the party invoking such national law.

The author does not want to leave unmentioned either, and wishes to add, that not all national laws will be more beneficial for players. In fact, the RSTP provides for several provisions that are in the benefit of players. During the years, many provisions have been included in the RSTP that protect players' interest, such as the expedited proceedings under Article 12bis, the addition of a (second) paragraph to Article 14, 14bis, to name a few, and not to forget provisions that are included to specifically protect interests of minors, such as the prohibition to conclude contracts for longer than three years. Against this background, it should not be

[26] An amendment has also been made to the rules applicable to disputes involving coaches, more specifically Article 6 paragraph 2 d) of Annexe 2 to the RSTP.

forgotten that not under all national laws players can benefit from the same level of labour protection as is provided by the RSTP, let alone that the application of various national laws will affect the uniformity of the jurisprudence of the FIFA DRC.[27]

Be that as it may, and returning to the elements that are removed from the previous provision, the European Court was also critical as to the element of the "specificity of sport" as this lended in itself, in reality, so found the Court, to discretionary implementation. From the IRF it follows that this criterion is no longer one of the criteria used to determine compensation under Article 17 of the RSTP. To avoid misunderstanding, it should be emphasized that the specificity of sport was never intended to constitute as standalone head of damage; it was only a correcting factor to either increase or decrease the payable compensation in a given set of circumstances. Anyway, such correcting factor is no longer foreseen in the IRF and will therefore not be applied in the future cases.

Also other elements, the so-called '*other objective criteria*' in the previous Article 17 paragraph 1, RSTP, were criticized and did not return in the new Article 17, paragraph 1. As to the remuneration and other benefits due to the player concerned under the employment contract subsequently concluded by him with a new club was found problematic. In fact, so found the European Court of Justice, this remuneration and benefits relate to an employment relationship subsequent to the employment relationship which was terminated, so that these elements must be regarded as extraneous to that employment relationship and its costs.[28] By the same token, also as to the fees and expenses paid or incurred by the former club (amortized over the term of the contract), the European Court of Justice was critical and considered that such costs seem to be particularly excessive. In fact, so was decided by the European Court, these costs were negotiated exclusively by other persons and in their own interests, such as clubs involved in the transfer or the third parties who intervened in this context. In other words, these elements have been removed and do not find legal basis in the RSTP anymore.

Jointly Liability (Article 17 paragraph 2)

The automatic joint liability of the new club under the previous Article 17, paragraph 2, RSTP has been removed. New clubs will therefore no longer be automatically subject to financial sanctions. However, joint liability may still apply – which possibility was also acknowledged in the ruling as the European Court of Justice did not oppose to this principle *per se* – if it can be demonstrated that the

[27] See also S. Bastianon and M. Colucci, "*The evolution of FIFA transfer football regulations: challenges, opportunities, and innovative approaches in the wake of the Diarra judgment*", *Rivista di Diritto ed Economia Dello Sport*, 2024, 19.

[28] Not to be confused with the so-called *Mitigated Compensation* principle under Article 17, paragraph 1 sub ii), of the RSTP which is still allowed.

new club induced the player to breach the contract. Put differently, if the new club actively encouraged a breach, the new club can be held liable for the payment of compensation.

The new Article 17, paragraph 2, RSTP reads as follows:

"*Entitlement to compensation cannot be assigned to a third party. A player's new club shall be held jointly liable to pay compensation if, having regard to the individual facts and circumstances of each case, it can be established that the new club induced the player to breach their contract*".

It must be kept in mind that all decisions of the FIFA DRC on joint and several liability will be rendered with full regard to the individual facts and circumstances of a case, which was also part of the message of the European Court of Justice in terms of having a more fact-specific approach. The automatic application of joint liability and several liability (as well as the presumption of inducement in relation to sporting sanctions, which will be discussed later) does not sufficiently take into account the facts of each and every case. The IRF reverses the burden of proof in relation to the joint and several liability on the claiming club.

In this context, and with the introduction of the IRF, a new paragraph 6 has been added to Article 13 of the Procedural Rules from which it follows that parties have the duty to collaborate to establish the facts and shall respond in good faith to any evidentiary request from a chamber, the FIFA general secretariat or a party. In other words, and to give full adherence to the more fact-specific approach, there is this possibility to make such evidentiary request which should not be overlooked and can be highly relevant in light of the burden of proof in relation to the jointly liability. If such request is made by a party it must be demonstrated, similar as in CAS proceedings, that the evidence requested is likely to exist and is relevant (this to avoid fishing expeditions). Evidentiary requests have to be specific.[29] At the same time, the party's reaction or absence of it, may lead to the situation that the FIFA DRC will draw adverse inferences to an evidentiary request. Again, the author wishes to draw the practitioners' attention to this legal tool which might be of much assistance in succeeding in claims.

For example, if a player breaches his contract and joins a new club and the former club takes the position that the medical examination took place one day after the breach in order to strengthen its position that the new club induced the player to breach his contract, the former club can request for documentation showing when the medical examination took place. If the document seems likely to exist and is relevant to establish, which must be assessed depending on the particular circumstances of the case, adverse inferences can then be drawn from the new club's reaction. On the contrary, and again only as an example for a better understanding of this provision, when a former club requests all the WhatsApp correspondence of a sports director of the past 16 weeks, despite its relevance,

[29] It is for the parties to submit such request as the FIFA DRC does not establish the facts *ex officio*.

under these circumstances, it is likely that such request will not be considered specific enough.[30]

To further tip the hand a little in relation to the existence of an 'inducement' under the IRF, and without delving into too much detail, the indicators under the previous FIFA DRC and CAS jurisprudence might still be helpful here, such as contacts between the player and the new club before the breach occurred, press reports and publicly available information, but also the lack of diligence might play a role in the establishment by the FIFA DRC of 'inducement'.[31] In this context, the author brings in mind that FIFA will also always be able to rely on TMS to obtain more information.

On a side (and more personal) note, the author does believe that the European Court of Justice, following the Advocate General's opinion, presented a somewhat one-sided portrayal of Article 17, paragraph 2, RSTP – which is central to the *Diarra* case. The European Court stressed that the former provision, especially in combination with Article 17, paragraphs 1 and 4, RSTP, has a deterrent effect on new clubs. This is not denied. However, at the same time, the author submits that the European Court of Justice overlooked the other effects of Article 17, paragraph 2, RSTP. In fact, back then it was also introduced to relieve financial pressure on players by making the new club jointly liable for any compensation owed by the player as the original debtor,[32] next to also helping claiming clubs to ensure and extend recoverability of damages. The author acknowledges that automatic liability is a sweeping measure and that a relevant factor for applying the "jointly and severally liability rule" could be whether the new club played any role in the unlawful breach, which was already noted by the author in a 2020 publication,[33] but still finds that the European Court did not pay sufficient attention to the beneficial side for players of the former provision.[34] In fact, if any compensation has to be paid by a player to a club for the breach of a

[30] These examples are provided solely to illustrate the new provision and do not reflect the Chairperson's position on such requests. Their acceptance will always depend on the specific circumstances of each case.

[31] See, *inter alia*, CAS 2013/A/3091 *FC Nantes v. FIFA & Al Nasr Sports Club*, CAS 2013/A/3092 *Ismaël Bangoura v. Al Nasr Sports Club & FIFA* and CAS 2013/A/3093 *Al Nasr Sports Club v. Ismaël Bangoura & FC Nantes*, award of 2 July 2013; and CAS 2024/A/10441 *Jairon Andrés Charcopa Cabezas v. FC Lugano & FIFA*, CAS 2024/A/10442 *Liga Deportiva Universitaria de Quito (L.D.U.) v. FC Lugano & FIFA*. See also *FIFA Commentary* (third edition), 215-216.

[32] *FIFA Commentary* (third edition), 204.

[33] See F.M. de Weger and C.F.W. de Jong, "*Liability of (New) Clubs under FIFA RSTP*", *Tijdschrift voor Sport en Recht,* 2020-3/4.

[34] Especially in the context of the debate on the concept of anti-competitive 'object' and anti-competitive 'effect'. After the European Court of Justice found that competition was distorted *by its very nature*, it was no longer necessary – given the Court's recent approach in sports-related cases – to assess whether the conduct, under the so-called "Wouters doctrine," might nonetheless be classified as a restriction or abuse of competition. Restrictions "*by object*" must be interpreted narrowly, as also follows from the *Diarra* ruling (paragraph 126). Since the *Diarra* judgment established that competition was restricted *by its very nature*, there is now *de facto* less scope for justifications to be invoked, leaving only the exemption provided under Article 101(3) TFEU on

contract, the player is, in principle, the only party responsible for making the payment and there will be, in principle, no new club as co-debtor anymore.[35] In other words, the loss of Article 17 paragraph 2 will thus come along with more financial pressure on the player when dealing with compensation to be paid to clubs.[36]

Sporting sanctions (Article 17 paragraph 4)

A similar approach as the jointly liability concept, as set out above, is now more or less also provided for in relation to sporting sanctions in the IRF under the new version of Article 17, paragraph 4. Sporting penalties may still be imposed as long as it is demonstrated that the new club induced the player to breach the contract (as opposed to the presumption rule that existed under the former Article 17, paragraph 2).

The new Article 17, paragraph 4, RSTP reads as follows:

> "*A sporting sanction shall be imposed (i) on any club found to be in breach of contract during the protected period or (ii) on a player's new club if, having regard to the individual facts and circumstances of each case, it can be established that the new club induced the player to breach the contract during the protected period. The club shall be banned from registering any new players, either nationally or internationally, for two entire and consecutive registration periods. The club shall be able to register new players, either nationally or internationally, only as of the next registration period following the complete serving of the relevant sporting sanction. In particular, it may not make use of the exceptions stipulated in article 6 paragraph 3 of these regulations in order to register players at an earlier stage*".

It is clear from the above provision that any club found to be in breach of contract can only be faced with sporting sanctions if there was a breach during the protected period. Also here, and again similar as with the jointly liability, full regard will be given by the FIFA DRC to the specific circumstances of the case and it is the claiming club that must demonstrate that there was inducement by the new club.

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the table. See also B. Van Rompuy and A. Vermeersch, "*Game changers? EU Competition Law and Sport Following the Judgments of the Court of Justice in ESL, ISU and Royal Antwerp*", *VSZ 2024, no. 2*. They argue that the main shift resulting from the three sports rulings delivered on 21 December 2023, namely *European Superleague Company SL/FIFA and UEFA*; *International Skating Union / European Commission*; *UL and NV Royal Antwerp Football Club/VZW Royal Belgian Football Association and UEFA* – is that the so-called "Wouters doctrine" may now only be invoked when it is evident that a sporting rule or practice does *not* aim to distort competition, but may do so unintentionally.

[35] This covers situations where the FIFA DRC has to decide on the joint liability of the new club while the player is already under contract with such new club (as opposed to the situation that the player has no new club yet); also in such cases, the new club is not obliged under the IRF anymore to assist the player in making the payment.

[36] It can create the effect that players might be even more reluctant to terminate contracts.

Also here, the new paragraph 6 of Article 13 of the Procedural Rules can be of help as the parties have the duty to collaborate to establish the facts of the case and should respond in good faith to any evidentiary request from a chamber, the FIFA general secretariat or a party. The author wishes to recall that this new legal instrument might be of much assistance for the parties in succeeding in a claim and further refers to his comments made previously regarding the jointly and severally liability of new clubs.

6. *Concluding remarks*

There is little doubt that the *Diarra* ruling will shape the future jurisprudence of the FIFA DRC, not least because of the IRF, which has amended the provisions challenged before the European Court of Justice. In fact, FIFA reacted quickly to the critical findings by means of the new legal framework of the IRF: *automatic* financial and sporting sanctions on a new club when a player breaches contract have been removed; also, ITC's will be issued (better to say will continue to be issued) irrespective of pending contractual disputes; and, financial compensation for breach of contract is now calculated in accordance with the guiding principle of "positive interest". By means of these amendments, the problematic elements, as identified by the European Court of Justice in the *Diarra* ruling, have been eliminated.

At the same time, certain principles remain unaffected by "Diarra". These include the legitimacy of ensuring compliance with rules through sporting sanctions – provided they are transparent, objective, non-discriminatory and proportionate criteria – and the protection of contractual stability. FIFA may still legitimately seek to preserve, to a certain extent, as explicitly follows from the ruling, the stability of the composition of clubs' pool of players during a given season, for example by prohibiting the unilateral termination of employment contracts mid-season or within the same year, as is also reflected in Article 16 of the RSTP.

It remains difficult to predict in detail how developments will unfold in the aftermath of *Diarra*. One may reasonably expect, however, that parties will be more inclined to contractually agree in advance the amount of compensation that shall be payable in the event of a breach, since such arrangements remain permissible. In this way, they retain a measure of control, to a certain extent, over the consequences of premature contract termination. Likewise, greater attention is likely to be given to the inclusion of choice-of-law clauses in employment contracts, allowing parties, to a certain extent, additional control over the applicable legal framework. That said, as no decisions of the FIFA DRC have been issued yet after "Diarra" (at the time of writing this chapter), it remains to be seen how the FIFA DRC will apply the provisions under the new legal framework of the IRF in its future proceedings.

In any event, it is clear to the author, specifically looking at the IRF and its future implications, that the factual circumstances of each and every case will

become even more decisive in light of the *Diarra* ruling, not only regarding the existence of just cause, but above all in determining the amount of compensation due and in assessing whether "inducement" under paragraphs 2 and 4 of Article 17 of the RSTP has occurred. As such, to establish the relevant facts, the IRF introduces an additional legal tool in the form of evidentiary requests, while also reversing the burden of proof with respect to 'inducement' under paragraphs 2 and 4 of Article 17. Also, when the FIFA DRC analyses the amounts claimed by a club as damages for the breach of the contract, the burden of proof will be a key aspect in its cases.

In more general terms and as said before, not only as to Article 17 paragraph 1 but also in relation to the other amended provisions, its precise interpretation by the FIFA DRC will inevitably take shape through its case law. In particular, as to Article 17(1), now redrafted in more general terms, will require careful application, especially as to which heads of damages will be recognized under "positive interest". Over time, practice will show how this principle is applied by the FIFA DRC in concrete cases.

In view of future expectations, it should not be forgotten that the FIFA DRC decisions remain subject to appeal before the CAS. In other words, even if a consistent line develops within the FIFA DRC relatively quickly, it will still be necessary to observe and take good note of how the CAS will respond in its appeal cases, an additional stage that will require time. For now, however, it is clear to the author: the FIFA DRC will carry the primary responsibility of giving further clarity to the football industry.

Building on this responsibility, it is of paramount importance to provide the relevant parties with clarity through a consistent line after *Diarra*. One of the key values to protect is precisely this consistency: ensuring a clear and predictable line in the future decisions that guarantees legal certainty, equality and uniformity. The author is fully aware that each case turns on its own specific circumstances, even more decisive after "*Diarra*", as set out before, and that outcomes can never be predicted with absolute certainty. Nevertheless, parties and practitioners alike must be able to rely, as much as possible, on consistent approaches by judges in relation to basic fundamental legal principles and doctrines, enabling lawyers to provide informed advice and set realistic expectations for their clients.

In this context, it should be recalled that the FIFA DRC is not an official arbitral tribunal under national or international arbitration law, but rather an intra-association body established within FIFA's regulatory framework. The FIFA DRC was specifically created and designed to respond to the specific needs of the football industry, providing swift resolution of cases (decisions are generally rendered within several months), low costs (even no costs if a player is party in the proceedings) and high expertise among the members of the FIFA DRC (experienced judges with high level knowledge of football law). Moreover, and to give further note of the relevance of the FIFA DRC, its decisions have effects across all 211 FIFA member associations. In this light, inconsistent case law would

generate serious uncertainty for the industry as a whole. This is why, now under the IRF, a uniform and predictable line of jurisprudence is important, also to preserve trust in FIFA's dispute resolution system

To conclude, it remains to be seen how the FIFA DRC will integrate national laws into its decision-making process after *Diarra*. While such consideration is inevitable, it should not compromise the consistency of the FIFA DRC's jurisprudence, which remains a cornerstone of legal certainty and predictability in international football disputes. It is however certain that national legal systems will play a more prominent role before the FIFA DRC. Therefore, and against this background, the present volume – bringing together contributions from leading experts on the diverse national laws governing the termination of contracts – represents a particularly valuable reference. Beyond enriching comparative knowledge, these insights provide a timely framework to reflect on how different jurisdictions address contractual stability in light of the important *Diarra* judgment of the European Court of Justice.