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Advocate General's Opinion in Case C-680/21 | Royal Antwerp Football Club

Football: according to Advocate General Szpunar the UEFA rules on home-grown players are partially incompatible with EU law

Systems in which home-grown players include not only those trained by the club at issue, but also those of other clubs in the same national league, are not compatible with free movement rules

As of the 2008/2009 season, the Union of European Football Associations (UEFA) has required football clubs to include a minimum of eight so-called home-grown players on the squad size limit list sheet that contains a maximum of 25 players. Home-grown players are defined as players who, regardless of their nationality, have been trained by their club or by another club in the same national league for at least three years between the ages of 15 and 21. Out of these eight players, four at least must have been trained by the club at issue.

On the basis of these rules, the *Union royale belge des sociétés de football association* (URBSFA) has adopted essentially similar regulations for football clubs participating in the professional football divisions. Contrary to the UEFA rules, however, the Belgian rules do not require that four out of eight home-grown players have been trained by the club at issue.

Before the Brussels Court of First Instance (French-speaking) (Belgium), UL (a professional football player) and Royal Antwerp (a professional football club) argue, in substance, that the UEFA and URBSFA rules on home-grown players infringe the freedom of movement for workers in the EU. According to them, those rules restrict the possibility for a professional football club to recruit players who do not meet the requirement of local or national roots, and to field them in a match. The same rules also restrict the possibility for a player to be recruited and fielded by a club in respect of which he cannot rely on such roots. The Belgian court has referred questions in that regard to the Court of Justice.

In today's Opinion, Advocate General Szpunar recalls first and foremost that sporting activities forming part of economic life fall within the scope of the fundamental freedoms of the Treaty.

He argues that the **rules on home-grown players are likely to create indirect discrimination against nationals of other Member States**. Indeed, it is a fact of life that the younger a player is, the more likely it is that that player resides in his place of origin. It is therefore necessarily players from other Member States who will be adversely affected by the contested rules. Though neutral in wording, the contested provisions place local players at an advantage over players from other Member States.

Such an indirect discrimination may, however, be justified: the Advocate General accepts the argument that the contested provisions are, by definition, suitable to attain the objective of training and recruiting young players. In regard to professional sport, the Advocate General recalls that the Court has, since the seminal *Bosman* case, already held that, in view of the considerable social importance of sporting activities and in particular football in the European Union, the objective of encouraging the recruitment and training of young players must be accepted as legitimate.

Yet, **the Advocate General has certain doubts regarding the general coherence of the contested provisions, as regards the definition of a home-grown player**. If, as is the case in both the UEFA and URBSFA rules, a home-grown player is not only a player trained by the club itself, but also one trained by another club in the national league, he wonders whether the contested provisions are in reality conducive to achieving the objective of clubs training young players.

These doubts obviously increase if the national league in question is a major one. If a club in a major national league can 'buy' up to half of home-grown players, the objective of encouraging that club to train young players would be frustrated.

As a result, while the Advocate General considers the requirement to include, on a relevant list, a predefined number of home-grown players justified, he fails to see the rationale – from a perspective of training – of extending the definition of a home-grown player to players outside of a given club, but inside the relevant national league.

The same considerations apply to the objective of improving the competitive balance of teams. If all clubs are obliged, through the contested measures, to train young players, then overall the competitive balance of teams is likely to increase. Again, this aim is frustrated to the extent that clubs can resort to home-grown players from other clubs in the same league.

The Advocate General therefore concludes that **the contested provisions are not coherent and therefore not suitable for achieving the objective of training young players: home-grown players should not include players emanating from other clubs than the club in question**.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

The full text of the Opinion is published on the CURIA website on the day of delivery.

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