



Court of Justice of the European Union

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Press and Information

Olympique Lyonnais SASP v Olivier Bernard and Newcastle United FC

Judgment in Case C-325/08

Football clubs may seek compensation for the training of young players whom they have trained where those players wish to sign their first professional contract with a club in another Member State

The amount of that compensation is to be determined by taking account of the costs borne by the clubs in training both future professional players and those who will never play professionally

The Professional Football Charter of the Fédération française de football¹ contains rules applicable to the employment of football players in France. According to the Charter, 'joueurs espoir', are football players between the ages of 16 and 22 employed as trainees by a professional club under a fixed-term contract. At the end of his training, the Charter obliges a 'joueur espoir' to sign his first professional contract with the club that trained him, if the club requires him to do so.

In 1997, Olivier Bernard signed a 'joueur espoir' contract with Olympique Lyonnais for three seasons. Before that contract was due to expire, Olympique Lyonnais offered him a professional contract for one year. Mr Bernard refused to sign that contract and signed a professional contract with Newcastle United FC, an English football club.

Olympique Lyonnais sued Mr Bernard, seeking an award of damages against him and Newcastle United of € 53 357.16, equivalent to the salary which Mr Bernard would have received over one year if he had signed the contract offered by Olympique Lyonnais².

The Cour de cassation, before which a final appeal was brought, asked the Court of Justice whether the principle of freedom of movement for workers permitted the clubs which provided the training to prevent or discourage their 'joueurs espoir' from signing a professional contract with a football club in another Member State inasmuch as the signature of such a contract might give rise to an order to pay damages.

The Court states first that Mr Bernard's gainful employment constitutes an economic activity and, as such, is subject to European Union law. The Court notes that the Charter has the status of a national collective agreement aimed at regulating gainful employment and, as such, also falls within the scope of European Union law.

The Court then holds that the rules at issue, according to which a 'joueur espoir', at the end of his training period, is required, under pain of being sued for damages, to sign a professional contract with the club which trained him, is likely to discourage that player from exercising his right of free movement. Consequently, **those rules are a restriction on freedom of movement for workers.**

However, as the Court has already held in the *Bosman* case³, 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.

¹ The Charter as it stood at the material date in the main proceedings.

² At that time, the Charter contained no scheme for compensating the club which provided the training if the player, at the end of his training, refused to sign a professional contract with that club. In such a case, however, the club which provided the training could bring an action for damages against the 'joueur espoir' under the French Employment Code for breach of the contractual obligations flowing from the Charter.

In considering whether a system which restricts the freedom of movement of such players is suitable to ensure that the said objective is attained and does not go beyond what is necessary to attain it, account must be taken of the specific characteristics of sport in general, and football in particular, and of their social and educational function.

In the Court's view, the prospect of receiving training fees is likely to encourage football clubs to seek new talent and train young players.

The Court states that that a scheme providing for the payment of compensation for training where a young player, at the end of his training, signs a professional contract with a club other than the one which trained him can, in principle, be justified by the objective of encouraging the recruitment and training of young players. However, such a scheme must be capable of actually attaining that objective and be proportionate to it, taking due account of the costs borne by the clubs in training both future professional players and those who will never play professionally.

It follows that the principle of freedom of movement for workers does not preclude a scheme which, in order to attain the objective of encouraging the recruitment and training of young players, guarantees compensation to the club which provided the training if, at the end of his training period, a young player signs a professional contract with a club in another Member State, provided that the scheme is suitable to ensure the attainment of that objective and does not go beyond what is necessary to attain it.

With regard to the French scheme at issue in the main proceedings, the Court notes that it is characterised by the payment to the club which provided the training, not of compensation for training, but of damages, to which the player concerned would be liable for breach of his contractual obligations and the amount of which was unrelated to the real training costs incurred by the club. The damages in question were not calculated in relation to the training costs incurred by the club providing that training but in relation to the total loss suffered by the club. Therefore, the Court held **the French scheme went beyond what is necessary to encourage recruitment and training of young players and to fund those activities.**

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.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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³ Judgment of 15 December 1995 in Case C-415/93 *Bosman*.