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The Resolution of Sports Disputes and the Return To the Past

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1. Whoever, like us, has lived in the national legal sports environment for the past twenty-five years, particularly in the context of federative sports, got used to listening to claims for "new sports justice", for more "celerity", more "specialization", more "transparency" in what concerns the decisions adopted by sports federation bodies with the competence to solve such issues.

At the national level in the time-period between 1990 and 1 October 2015 in general terms the system worked according to the following model:

- Disciplinary disputes (not strictly sporting): discipline council, appeal before the justice council and, subsequently, appeal before the administrative courts;
- Disciplinary disputes (strictly sporting): discipline council and further appeal before the justice council;
- Disputes in strictly sporting matters (but not disciplinary): discipline council and further appeal before the justice council;
- Disputes in private matters: arbitration and judicial courts;
- Disputes in private labour matters: arbitration[2] and labour courts.

2. The date mentioned above – 1 October 2015 – represents the moment when the Portuguese Court of Arbitration for Sport (TAD) initiated its activities (already functioning according to the legal framework for Sports Federations' reform of 2014).

From that moment – of hope for many sports operators, but not so for others – a new level was reached.

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2 To highlight, in what concerns football, the Joint Arbitral Committee (CAP), instance of institutionalized arbitration in labour matters between clubs and sports companies and professional athletes. Please see the Collective Employment Agreement between the Portuguese Professional Football League and the Professional Football Players' Union (*Boletim do Trabalho e Emprego*, 1.ª série, no. 33, of 8 September 1999, Article 55 and Annex II, as amended).

CAP's legitimacy was based on Article 30 (1) of Law no. 28/98, 26 June (amended by Law no. 114/9, 3 August), which established a new legal framework for sports practitioners' employment contracts and for sports training contracts, and repealed Decree-law no. 305/95, 18 November. That rule, as we will see further, was expressly repealed when the Portuguese Court of Arbitration for Sport initiated its activities.

Hence, briefly and in general terms, we started to function in the following framework:

- Disciplinary disputes (**not strictly sporting**): discipline council, appeal before the Portuguese Court of Arbitration for Sport and, further, appeal before TAD's chamber of appeals or before the administrative courts;
- Disciplinary disputes (**strictly sporting**): discipline council and further appeal before the justice council;
- Disputes **in strictly sporting matters** (but not disciplinary): discipline council and further appeal before the justice council;
- Disputes **in private matters**: arbitration – including the Court of Arbitration for Sport – and judicial courts;
- Disputes **in private labour matters**: arbitration – including TAD – and labour courts.

3. Without analysing so many other issues that surround TAD and focusing only on the models, what happened, we would say almost immediately, was:

- The near "disappearance" (in quantity and in quality) of the disciplinary issues from the orbit of the Justice Council, which was replaced by the Portuguese Court of Arbitration for Sport (because of the establishment of mandatory arbitration);
- The Discipline Council got the last word in terms of disciplinary matters, and due to that became, in a certain way[3], the quintessential disciplinary body in sports federations;
- The "death" of labour arbitration carried out by CAP[4];

3 Very relevant, however, in terms of the quantity and nature of the issues with which it deals.

4 Law no. 74/2013, 6 September (that establishes TAD and approves the respective law) foreseen in Article 3(3) (transitional rule) that the arbitral commissions to which exclusive or prior competence was assigned, pursuant to Article 30 of Law no. 28/98, 26 June, as amended by Law no. 114/99, 3 August, were kept operational until 31 July 2015, and from that moment on their competence was transferred to TAD. On the other hand, Article 4 ("Repealing rule"), paragraph a), expressly repealed Article 30 of Law no. 28/98, 26 June. Article 7 of TAD's Law on voluntary arbitration in labour matters states the following:

'1 – The provisions of the previous article shall be applied to any disputes emerging from sports employment contracts concluded between athletes or coaches and agents or sports bodies, and the regularity and legality of the dismissal can be assessed.

2 – According to the provisions of the previous number TAD *is assigned with the arbitral powers of the joint arbitral committees*, set forth in Law no. 29/98, of 26 June.' (emphasis added)

On the other hand, Article 2 of Law no. 33/2014, 16 June (first amendment to Law no. 74/2013, 6 September, that establishes TAD and approves its respective law) amended the transitional rule referred to above, as follows:

'3 – 'The arbitral committees assigned with exclusive or prior competence, pursuant to Article 30 of Law no. 28/98, 26 June, as amended by Law no. 114/99, 3 August, function until 31 July 2016, and from that date on their arbitral powers are transferred to TAD.'

- The preservation, almost in the same conditions, of the access to state courts, regardless the nature the dispute.

That means that, in prototype, the system has changed, but it did not change that much.

There were some replacements, one or another contract was terminated and there were also two psychological lashes.

However, the "game thread" is basically the same and the results, in abstract, can be the same as the ones previously reached with another coach and original players.

4.1. And what have we observed during these 18 months?

It is not possible to have a totally precise record and, therefore, we should warn you that this is only a feeling we have had during the course of the "season".
Let us focus in two aspects: resolution of disciplinary issues and labour arbitration.

In both the issues, although for different reasons, there was a period in which the players "were learning" the message of a new coach[5].

After that moment, in our view, a second period began.

In the context of mandatory arbitration, the appeals before administrative courts increased significantly[6]. There are eight known appeals. On the other hand, we have no knowledge of any appeal from the arbitral college before the appeal chamber.

In other words, when the parties appeal an initial arbitral decision, in the context of mandatory arbitration, they tend to return to the previous path – the one of the administrative courts – and not to insist on the arbitration path in the framework of the appeal.

4.2. On the other hand, in the context of institutionalized labour arbitration, we have observed recently to some a resurrection that can only be understood by the fact that the immediately concerned sports operators – the Portuguese League (LPFP) and the Professional Football Players' Union (SJPF) – never agreed with the extinction of the Joint Arbitral Committee.

That can be understood, but it can hardly be found a legally valid solution considering the provisions of Law no. 74/2013 and Article 7 of the TAD's Law. Therefore, as a result of the recent collective labour agreement entered into between the LPFP and the SJPF, the rules of its Annex II – concerning the Joint Arbitral Committee– were significantly amended.

However, the competence for recognition of termination of sports labour contracts (the so-called "sports just

5 Sometimes this is that period when positive results come almost immediately and with some importance to the recovery on the league table.

6 It must be recalled that in the celebration speech of the one year anniversary of the Portuguese Court of Arbitration for Sport, its Chairman stated that until then there was only a record of one appeal before the state courts.

cause") was maintained with the above referred arbitration (committees).

But that is not the solution of the current legislation. Further, that also does not seem to be the solution for reform in Law no. 28/98, still pending in the Portuguese Parliament[7].

5. This unpretentious analysis leads us to a series of sports disputes resolution models.

And, after all, with TAD "taking the field", little or nothing changed compared to the previous model[9]; there is instead a strong desire to return to the past in what concerns labour arbitration.

If this data is confirmed in the near future, and regardless of other legitimate analysis of TAD's work, what may actually remain is a feeling of maintenance of the *status quo*, of "legislative make-up", without real sense of innovation of the model.

If that was already possible to observe, to some extent, in the context of an abstract analysis of the rules, it seems now to become much clearer in face of the concrete enforcement of the norms.

Therefore, it will afterwards be only a matter of costs and benefits, which should be considered, in the first place, at the level of State and parties' costs.

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7 Both Legislative Proposals (no. 168/XIII/1.ª – PSD (Social Democratic Party) – and no. 297/XIII/1.ª – PS (Socialist Party) do not contain a renovation of the joint arbitral committee's legitimacy and, on the other hand, both of them contain a solution regarding the "sports just cause" that coherently does not follow the path of arbitration.

8 In what concerns voluntary arbitration in private matters, there is record of only one pending action, curiously opposing two Brazilian entities.

TAD – 2015 to 2017 – The Issues With the Closed List of Arbitrators

Francisco Cortez

Manuel Ponces Magalhães

The Arbitral Tribunal for Sport (Tribunal Arbitral do Desporto or TAD) was created in 2013, with the approval of Law no. 74/2013, 6 September (LTAD), and began its activity on the 1st October 2015. As in CAS (*Tribunal Arbitral du Sport*), in the TAD the system of "closed list" is in force, that is, one can only exercise the function of arbitrator if he appears on that list, which in the case of TAD corresponds to a "closed list" of 40 arbitrators, composed of 'jurists of recognized suitability and competence and personalities of proven scientific, professional or technical qualification in the field of sport', chosen every four years by the Sports Arbitration Council (*Conselho de Arbitragem Desportiva* or CAD), on the basis of proposals submitted to it by sports federations and leagues, socio-professional organizations and representative associations of sports agents, by the Olympic Committee, among others, and in accordance with stablished criteria for curricular evaluation (academic qualification, personal and professional experience and personal interview).

Above all, in the launch phase of the TAD, the "closed list" system is usually justified by the need to ensure that the arbitrators have specific expertise and experience in the matters concerned, in order to ensure equality between the parties, speed of proceedings and the production of coherent, consistent and recognized case law. However, an imbalance in the list occurs when it is composed mainly of arbitrators proposed by the federations and only a small number by the athletes and other agents. There is also a risk to the independence of the arbitrators caused by a repetition of nominations to the various arbitral proceedings – the same arbitrator appointed by the same party in several cases. There is the difficultly in renewing the panel of arbitrators usually appointed as well as risks associated with this solution.

In the current list of 40 TAD arbitrators, 24 were proposed by federations or similar entities, 34 are men and only six women, and the average age is 50 years old.

And what happened since October 2015? Arbitral proceedings were filed in the TAD, of which only four were of voluntary arbitrations, the remaining 57 arbitration proceedings were necessary. Eleven precautionary measures were ordered and 43 decisions were handed down in less than two years. A remarkable early life accomplishment for TAD.

On the downside, though, when looking at the nominations, there is worrying tendency for the repetition of nominations. Of the 40 arbitrators, only 24 were called in to intervene, one of whom was appointed 16 times, one of the arbitrators 14 times, another two nine times and one of the arbitrators was appointed eight times – a total of 56 appointments, that is, almost half of the total appointments went to the same five arbitrators. There are 16 of the 40 arbitrators who have never been named[9].

[9] According to the information available on the TAD website (www.tribunalarbitraldesporto.pt) on 10.05.2017. The actual number of appointments is higher, but the identity of the arbitrators will only be known with the publication of the decisions.

Of the 40 arbitrators only 24 were called in to intervene, one of whom was appointed 16 times, one of the arbitrators 14 times, another two nine times and one of the arbitrators was appointed eight times – a total of 56 appointments, that is, almost half of the total appointments went to the same five arbitrators

As for the parties involved in the litigation, the Portuguese Football Federation (FPF) is the main litigant party in the TAD. It took part in 54 arbitration proceedings (44 if we do not count on precautionary measures), followed by Sporting Clube de Portugal (13), Futebol Clube do Porto (12) and Sport Lisboa e Benfica (7). Finally, in more than 65% of the cases the clubs opposed the federations. In 87% of them, one of the parties was the FPF, the presence of individual athletes being practically non-existent.

Of the 40 TAD arbitrators, 10 do not have their respective *curriculum vitae* published on the TAD website, and none indicate the entity that, under the law, submitted its name to the CAD to perform the role of arbitrator in the TAD. It is accepted that this information is not known by the arbitrators themselves – as it should be in the name of transparency, even if this implies an amendment to the law – but if it is, it cannot fail to be disclosed, especially if the entity concerned has a direct or indirect interest in the case (Article 25, paragraph 3, of the LTAD and article 13 of the LAV).

Analysis to the 2017 "Deloitte Football Money League" Report

Pedro Verde Pinho

The "Deloitte Football Money League" (DFML) is in its 20th edition – having been published for the first time in 1997 relative to the 1996/97 season. It proposes to analyse and trace the relative profile of the financial performance of the football clubs that can generate more revenue in the following categories: *i)* matchday revenue including ticket and "corporate hospitality sales", *ii)* broadcast revenue relating to domestic leagues, cups and European club competitions, and *iii)* commercial revenue – sponsorship, merchandising, and revenue from other commercial operations; transfer fees are not included.

It should be noted that in the 20th edition of the DFML the combined revenue of the 20 clubs in the world with the highest revenue (Top 20) surpassed for the first time 7 billion euros having reached the 7.4 billion euro mark. Deserving special emphasis is the fact that the 600 million euro revenue barrier – never before reached – was surpassed by the three clubs that occupy the top spots of the Money League: Manchester United with a revenue of 689 million euros, FC Barcelona with 620.2 million euros, and Real Madrid with 620.1 million euros. This year's revenue represents an increase of 12% relative to the previous year's revenue – which was 6.6 billion euros. 49% of the increase was due to broadcasting revenue, 42% to commercial revenue, and 9% to matchday revenue.

DFML's Top 20 has always been occupied by European clubs with the dominance of the "big five" European leagues. This edition includes eight English clubs, four Italian, four German, three Spanish and one French. More noticeable this year was Russia's FK Zenit, that as in the previous edition, is the only club out of the "big five" European leagues to appear in the Top 20. 2014 was the last year where two "non-big five" clubs appeared in the Top 20 (Galatasaray SK and Fenerbahçe SK). Despite the predominance of the European leagues – particularly the "big five" –, this edition of the DFML took into consideration some trends visible in non-European leagues and analysed the possibility of a non-European club to feature in the DFML in the future. This report considers that the Chinese league (Chinese Super League), which has registered enormous growth, having attracted some of the best players and coaches of present times, has a high probability of being included in a forthcoming edition of the DFML, followed by the Brazilian (*Brasileirão – Série A*) and the North-American (Major League Soccer – MLS) leagues.

With its unprecedented victory in the Premier League, Leicester City FC occupies the 20th position in the Top 20 with 172.1 million euros of revenue and the only new entrant. Its domestic broadcasting revenue of 126.6 million euros, corresponding to 74% of its revenue and an increase of 23% compared to the previous year, was particularly relevant in its achievement. After 11 years of Spanish dominance, Manchester United, which has always been the best positioned English club and has only once been out of the Top 3, regained the top position of the DFML, essentially due to its positioning as a leading sports brand. However, the Premier League's scenario may change in the near future.

In the 20th edition of the DFML – published in 2017, regarding the 2015/2016 season – the combined revenue of the 20 clubs in the world with the highest revenue (Top20) surpassed for the first time 7 billion euros having reached the 7.4 billion euros mark. This represents a revenue increase of 12% relative to the previous year, being 49% of this increase due to broadcasting revenue, 42% to commercial revenue, and 9% to matchday revenue

Even with the execution of the new broadcasting contracts, which began in 2016/2017 and are more advantageous to the respective clubs, the uncertainties brought by "Brexit" and its repercussion in the value of the pound may have a strong impact on the value of the revenue obtained by the clubs which compete in the Premier League. In the 2015/2016 season Manchester United secured 515 million pounds in revenue which corresponded to the 689 million euros in the report at the average exchange rate for the year ending on 30 June 2016 at £ 1 = € 1,3371. Revenue of at least 530 million pounds for the present season (2016/2017) has been projected. If, for example, the current season's accounting ended on the 15 June, the 530 million pounds would only amount to 642.4 million euros at the average exchange rate for the year ending 15 June of 2016 at £ 1 = € 1,2121. This means that even though we face a 15 million pound increase in revenue from one season to the other this rate corresponds to a decrease in value of the pound sterling against the euro of 6.76343%. With this example we aim to demonstrate that if the pound continues to devaluate, the revenue value in euros of the English football clubs will significantly decrease, endangering the Premier League's top position in the DFML's Top 20.

We cannot fail to observe that, as a consequence of the recent collective selling of the broadcasting rights of the Spanish clubs, it is highly likely that *La Liga* will overtake *Bundesliga* as the second highest revenue generating league, and if the value of the collective selling of the broadcasting rights increases, more Spanish clubs will figure in the Top 20.

These two broadcasting rights deals (*La Liga* and Premier League), which might allow for a global Top 20 revenue of over 8 billion euros in the 2018 DFML, may make it difficult for AC Milan and Internazionale to sustain their position in the Top 20.

No less important is the fact that, after a year of absence, Sport Lisboa e Benfica is the only Portuguese club to be mentioned in the DFML, appearing in the 27th position of the Top 30 with revenue of 152.1 million euros in the last edition in which it had appeared (2015).

Match-Fixing: New Trends Beyond the Safeguard of the Integrity of Sports

Nuno Igreja Matos

Considering the many definitions of match-fixing that were put forward by organizations such as the United Nations (UN) and the Council of Europe, it is possible to identify as a common feature the adoption of a deliberate strategy to fix the score of a match, whether through an agreement or by tampering with competitive conditions, with the aim of reducing or removing the uncertainty that characterizes all sporting events, in order to obtain an advantage. This broad definition is intended to cover sports individuals and legal persons active in the sports sector, namely all the entities dedicated to the organization or participation in sports competitions or to the agency of players. Such wide scope was also embraced by the Portuguese legislator through a provision establishing the criminal responsibility of these legal entities under Law no. 50/2007, 31 August.

Facing a proliferation of match-fixing incidents – there were cases registered in Portuguese, German and Italian football, as well as others in motor-racing competitions, basketball and snooker – the States' reaction was unequivocal, with federations and leagues now working together with the States and security forces in the fight against match-fixing. One example of this is the new Law no. 13/2017, 2 May. As laid down in that law, the goal is clear: to prevent and prosecute all behaviours which affect 'the truth, loyalty and righteousness of sports competition and its results'.

With this new law, the legislator not only increases the penalties defined for the sporting crimes laid down in Law no. 50/2007, but also introduces new crimes – the crime of "betting fraud" and of "improper offer or receipt of an advantage". Moreover, the Decree establishes the temporary suspension from competition and the provisory exclusion from receiving public subsidies or incentives as pre-trial measures.

Betting fraud and other temptations

Due to the difficulties that it raises, the relation between match-fixing and the betting world is one of the main reasons for the current constraints implemented to fight match-fixing. As an example of such relation, "Operation VETO", carried out by Europol in 2013, reported suspicions of match-fixing in hundreds of matches connected with criminal syndicates active in the sports betting world.

The repression of betting fraud was also targeted by new Law no. 13/2017, 2 May, not only through the introduction of the mentioned "betting fraud" crime, but also by an amendment to the gambling and online betting legal framework that introduced a prohibition to all sporting bets on youth league events.

If the sports competition world could once be isolated and regulated only at the level of the respective federation/league, the growing economic and social value of sports – more appealing to betting and money laundering schemes – require regulations not only centered on sports, but also on the repression of organized crime.

Punishing match-fixing

The most intense and problematic regulations concern the issue of sanctioning sports fraud. On the one hand, the disciplinary regulations created and applied by the Federations already punish individuals and clubs that participate in match-fixing schemes (an example can be found in the "betting fraud" offence, under Article 58 of the Portuguese Football Federation's Disciplinary Regulation).

On the other hand, the existence of a legal framework for crime in sports (Law no. 50/2007) shows the importance the Portuguese State attributes to sports integrity and to the need to punish the infiltration of criminal schemes in the sports world. Under this law, typical match-fixing behaviour can be punished as corruption crimes (Articles 8 and 9) and as an influence peddling crime (Article 10).

However, even though match-fixing is severely penalised under such law, the mentioned crimes, by punishing acts 'aimed to change or rig the outcome of the result of a match', give rise to interpretative doubts. This is because the crimes are designed to punish the simple risk of match-fixing happening, an option which generates uncertainty concerning the range of behaviours that fall under these offences and in respect to the kind of compliance systems the clubs can implement in order to reduce their responsibility

The only thing certain is that any sports criminal procedure will demand a comprehensive knowledge of all sporting regulations and criminal law principles, since only after analysing all the duties and rules applicable to the clubs and sports, individuals will be possible to grasp the substance of the mentioned sports crimes. Without such knowledge, criminal responsibility may be at risk of becoming an automatic responsibility, that indistinctly punishes tactical or strategic options that, if still reprehensible under the ethics of sport, should nevertheless be excluded from any criminal relevance.

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Legislation, Case Law and Other Developments Relevant to Sports Law – May 2017[10]

Dzhamil Oda

Tiago Coelho Magalhães

I. Relevant Legislation

Law no. 13/2017, 2 May, introducing the second amendment to the criminal liability framework for behaviour affecting the truth, loyalty and correctness of competition and its result in sports activity, approved by Law no. 50/2007, 31 of August, and the first amendment to the legal framework of online gambling and betting and of the exploitation and practice of sports betting at the territorial base level.

II. Case Law[11]

1. Supreme Court of Justice

Ruling of 12 May 2016
Case no. 108/09.7TBVRM.L1.S1
Rapporteur: Fernanda Isabel Pereira

Football is played between two teams. It has as its main purpose the game. Injuries may occur due to negligence in competing for the ball or in kicking it. Physical contact is frequent and it may even involve some violence connected to the competitiveness of the game, but if injuries are not harsh and the respective cause does not surpass recklessness, such injuries are socially tolerable.

If the seriousness of an injury caused to an appellant is not a factor in determining the hazardousness of a sports activity, one must conclude that football does not fall under Article 493 (2) of the Portuguese Civil Code (CC), which means that football is not a dangerous activity.

Considering that the appellant did not plea nor demonstrate that the injuries he suffered were caused by noncompliance by his team with security rules that the latter must have complied with or by any event the appellant may have prevented, the relevant damages are not imputable to the appellant. Such consideration would go beyond the case of strict liability admissible by law.

In sports, the consent of the injured party (Article 340 CC) as cause for the exclusion of liability always requires that the injury, regarding its severity, is located within the normal risk of a sports activity; otherwise consent is null (Article 81 (1) of CC).

Ruling of 19 January 2017
Case no. 613/15.6T8PVZ.P1.S1
Rapporteur: António Silva Gonçalves

A football player is deemed to terminate unilaterally a representation contract with his agent without just cause, when, after having terminated the contract, he signs a new representation contract with another person and does not comply with the clause pursuant to which he undertook not to conclude any sports employment contract or other related to his activity or his valorisation as a professional football player. Hence, a player has the obligation to compensate the relevant player's agent in the amount stated in the contract as a penalty clause by not complying with his contractual obligations.

10 The selection of legislation, case law and other developments was made considering the subjective relevance that was attributed by the authors of this publication, and it covers the time between 1 January 2016 and 2 May 2017.

11 The decisions of the Portuguese Higher Courts, Portuguese Court of Arbitration for Sport and the Court of Arbitration for Sport of Lausanne identified in the text are available at www.dgsi.pt, www.tribunalarbitraldesporto.pt and www.tas-cas.org, respectively.

2. Lisbon Court of Appeal

Ruling of 29 June 2016
Case no. 69/14.0TTBRR.L1-4)
Rapporteur: Eduardo Azevedo

A clause contained in an employment contract termination agreement which states that, in case of transfer, an athlete commits himself to deliver to the sports club that employed him until that moment, part of the transference amount means that the transference must be onerous. In this context, the court seems to point out that, in this kind of situation, a payment is due to the club that subscribed the said clause only in case there is a further transference involving a payment between the acquiring club and the selling club.

Ruling of 16 March 2017
Case no. 10145/14.8T8LSB.L1-6
Rapporteur: Eduardo Petersen Silva

A contract entered into between a football club and a player's agent who is not registered in the Portuguese Football Federation is legally inexistent in the framework of Law no. 28/98, 26 June, and the Portuguese Football Federation's relevant rules that apply 2008 FIFA Players' Agents Regulations. The same solution is applicable to the case of a national player's agent who has obtained his license in a foreign country in which he did not reside for at least the last two years. The abuse of rights cannot be relied on against the legal inexistence of the contract.

3. Porto Court of Appeal

Ruling of 7 April 2016
Case no. 335/10.4TTOAZ.P1
Rapporteur: Maria José Costa Pinto

Athletes that practice sports under a formal framework and do not have an employment contract are required to have insurance that covers the risk of personal accidents related to sports activity for all the athletes registered in federations with the status of public entity, namely non-professional sports practitioners.

Labour courts are competent for hearing cases related to civil and labour liability in the context of a case where a junior amateur football player that suffered a labour accident sues the insurance company under an insurance contract for personal accidents related with sports activities entered into pursuant to Decree-law no. 146/93. Legal provisions that foresee minimum coverage for mandatory sports insurance form a set of imperative rules that limit the freedom in determining the substance of the contract.

Furthermore, in cases where sports insurance contracts concluded pursuant to Decree-law no. 143/93 do not foresee compensation for moral damages, do not render those contracts as not compliant with legal requirements. If the insurance policy does not expressly include compensation for moral damages, the definition of "permanent disability" therein contained only includes material damages and the criteria provided in the insurance policy for compensation for "permanent disability" are purely arithmetic – multiplication of the permanent

partial disability by the amount of guaranteed capital by the policy – leading to iniquitous interpretative results if deemed that the guaranteed capital includes the compensation for non-material damages. One must conclude that a relevant sports insurance contract does not include non-material damages eventually suffered by the insured person as a consequence of an accident in the context of a sports activity.

Lastly, Decree-law no. 352/2007, 23 October, is mandatory; therefore, the disabilities in the context of labour and civil law must be necessarily determined according to the tables provided for in the said Decree-law, in order to impede parties freely setting other forms of calculating devaluation and respective percentages for the purposes of physical damage compensation.

4. South Administrative Central Court

Ruling of 21 April 2016
Case no. 12983/16
Rapporteur: Conceição Silvestre

In the context of an injunction, the proof that the plaintiff, *in casu* a football professional player, has ingested a forbidden substance does not allow concluding that the disciplinary decision imposing sanctions is legally irreprehensible and, as a consequence, the legal action is groundless. In this situation, if the effects of the punitive decision are not suspended, and therefore the plaintiff does not obtain a favourable decision in the main proceedings, the burdensome consequences related to the disciplinary sanction are deemed to have already been consummated.

Additionally, 'the correct enforcement of the regulatory law related to discipline and combat against doping in Portuguese sports' is not a qualified, specific and concrete public interest that may justify the injunction is not granted.

5. Portuguese Court of Arbitration for Sport (TAD)

Ruling of 7 April 2017
Case no. 10A/2017 (Interlocutory injunction)

In the context of an injunction procedure filed by a futsal player to suspend a disciplinary decision adopted by the Discipline Council of the Portuguese Football Federation (PFF) TAD realised that the Justice Council of the PFF has also rendered a decision on the same matter and facts following the appeal by the player also before this judicial body.

TAD has considered that the Justice Council of the PFF should have declared itself incompetent to decide the said appeal and that it should have renounced it. Furthermore, the court highlighted that, *in casu* there is no conflict of jurisdiction or competence, as there are not involved two State authorities or two courts of the same or different jurisdiction (Article 109 of the Portuguese Civil Procedure Code). According to TAD, this situation is one in which a body of a private legal person (even though the said legal person has the status of a public entity) has declared itself competent to decide a case that a court – the Court of Arbitration for Sport – deems to be competent to decide. Hence, a ruling by the Justice Council of the PFF does not exclude TAD's competence, as far as the

principle of the right to appeal decisions of federative bodies before State Courts is respected (Article 4 (1) and (3) of the TAD's Law).

Ruling of 2 March 2017
Case no. 30/2016

In the context of the appeal of a decision adopted by the Discipline Council of the PFF, TAD considered that the statement by a sports manager in a comment about a referee, mentioning that 'he had stolen 3 penalties from Benfica last season', offends the referee's personal honour. The court also ascertained that such statement also attributes to the referee the practice of illegal actions. Hence, TAD deemed that said statement goes beyond the plaintiff's right to criticize a referee's conduct.

Additionally, the Court of Arbitration has emphasized that in order to determine whether an offence to honour is committed there is no need to ascertain if the addressee of the statement felt offended, considering that the offence at issue has an objective rather than a subjective nature.

Lastly, the Court reduced the judicial costs of the injunction procedure that preceded the main proceedings by 50%, taking into account that 'if the parties were double charged in similar amounts in the injunction and also in the main legal action, the final amount of costs would be obviously excessive and disproportional in light of the services rendered and the concrete procedure's costs (retributive justice), and it also would violate the right of access to justice, as it would not take into account the type of the procedure, respective complexity (or absence of), procedural behaviour of the parties, among other values'.

6. CAS (Court of Arbitration for Sport of Lausanne)

Ruling of 21 November 2016
Case CAS 2016/A/4650 Klubi Sportiv Skenderbeu v. UEFA

According to CAS' decision, Klubi Sportiv Skenderbeu, an Albanese professional football club, was involved, at least indirectly, in match-fixing activities in 2015. At issue was the objective of influencing the outcome of several matches at the Albanese and international level. Having concluded that the Club was involved in such activities, UEFA declared the Club ineligible to participate in any European competition organised by UEFA for one sporting season (2016/17), in respect for Article 50 (3) of the UEFA Statutes.

CAS confirmed UEFA's decision, finding that, once it was proven that the Club had at least indirectly engaged in match-fixing activities, the sanction of banning from participating, for the sporting season of 2016/17, in any European competition organised by UEFA is not an illegal, disproportionate or otherwise contrary to public policy decision. CAS has also highlighted that even the Club has agreed with application of the sanction at issue by signing the Admission Form.

Ruling of 9 March 2017
Case TAS 2016/A/4490 RFC Seraing v. UEFA

CAS confirmed the validity of Articles 18bis ("Third-party influence on clubs") and 18ter ("Third-party ownership of players' economic rights") of FIFA Regulations on the Statues and Transfer of Players under European Law (*maxime* freedom of movement, competition law and human rights) and Swiss law. However, the Court of Arbitration considered that the sanction imposed by FIFA on RFC Seraing Club was too severe and therefore reduced the duration of the sanction, *in casu* the ban on recruitment from four to three consecutive registration periods.

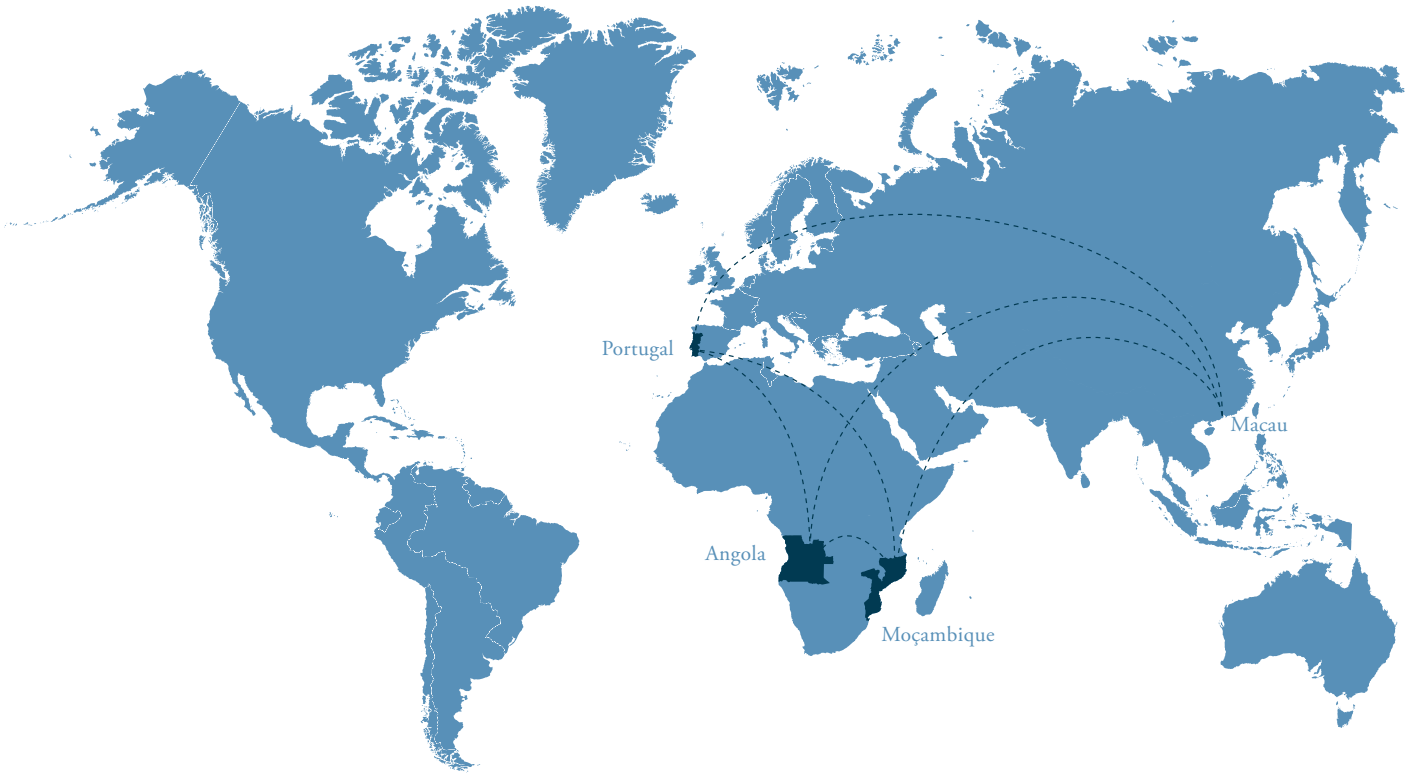
III. Other Developments Relevant for Sports

1. Resolution of the Portuguese Parliament no. 112/2016 – this resolution recommends that the Government adopt stimulus measures for university sports, namely through the increase of funding, the conclusion of programme contracts in order to support the University Sports Academic Federation and the allocation of additional budget to the University Students Unions. The resolution also recommends extending school insurance to sports activities, ensuring the inclusion of coverages and minimum amounts established for sports practice and the inclusion in a university's application forms a field related to the applicant's sports habits, which is intended to better customize the sports that are offered by universities in light of each student's sports profile.

2. Two legislative proposals aimed at introducing new legal frameworks for sports employment contracts and sports training contracts, thus replacing the current legal framework contained in Law no. 28/98, of 26 of June (as amended), are under discussion: Legislative Proposal 168/XIII and Legislative Proposal 297/XIII.

MLGTS Sports Team in Major International Football Transfers

Paulo Rendeiro with Jorge Mendes, Valdir Cardoso and João Camacho, the player Bernardo Silva and Manchester City's representatives.



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