



FIFA's position on the Lassana Diarra case

Interview with FIFA Chief Legal & Compliance Officer Emilio García Silvero

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Interview with FIFA Chief Legal & Compliance Officer Emilio García Silvero, in which he explains FIFA's position on the Lassana Diarra case.

FIFA will open a global dialogue involving key stakeholders in relation to article 17 of the Regulations on the Status and Transfer of Players (RSTP).

Emilio García Silvero:

Q: What is the content of the decision of the European Court of Justice in the case of the player Lassana Diarra?

First, it puts into question whether the new club of a player can be held jointly and severally liable to pay the compensation owed by a player to the former club in circumstances where that player has terminated his contract without just cause. Second, it questions the basis on which such compensation is to be calculated. And third, it criticises the possibility that a club can object to the issuance of the International Transfer Certificate following a breach of contract. It's important to note that all these elements of the FIFA regulations on the status and transfer of players, including all the other material elements, were discussed and agreed by FIFA with the European Commission back in 2001 following a dialogue including footballing stakeholders that lasted approximately three years. The ruling in the (Lassana) Diarra case, issued over 20 years later, means that some of the elements of the settlement agreement with the European Commission will now have to be revisited in order to bring the FIFA RSTP [Regulations on the Status and Transfer of Players] into line with European law, as that law has now been interpreted by the European Court of Justice. Given the interval of over 20 years, and given the manner in which football has developed during this period, FIFA looks forward to developing its regulatory framework further, obviously taking into account views and input from all relevant and affected parties. FIFA sees the Diarra decision as an opportunity to keep modernising its regulatory framework, which has been one of the declared objectives of the FIFA President since 2016.

Q: Does this mean the end of today's transfer system as we know it?

The international transfer system consists of many elements: for example, rules concerning registration periods; the transfer and registration of players; the application of sporting sanctions in certain cases; training compensations and solidarity mechanisms to reward training clubs; the international transfer of minors; the dispute resolution system to protect players and clubs alike in case of a breach of contract anywhere around the world; the

protection of female players, coaches, national teams and much more. All these vital elements are basically unaffected by the Diarra ruling.

Q: Can FIFA still issue regulations concerning contracts between players and clubs?

The Diarra decision does not question FIFA's position as the world governing body of football and its legitimacy to regulate international football. Indeed, the decision confirms that it remains FIFA's responsibility to establish, protect and enforce a robust regulatory system for international football, in particular to safeguard the regulations and integrity of a sports competition. This includes rules related to the composition of teams, such as transfers, registration periods, contractual stability and many other important topics.

Q: Are players or clubs now free to terminate their contracts unilaterally?

The Diarra decision confirms the sanctity of contracts. Nobody, neither a club nor a player, can simply walk away from a valid contract. The Diarra decision addresses some important questions concerning the consequences of a breach of contract and the regulatory mechanisms which may be employed to deter a breach of contract. But it leaves no doubt that such regulatory mechanisms may be applied, in particular, to protect the regulations and integrity of sporting competitions.

Q: Does the Diarra decision mean the end of transfers or transfer fees?

As explained, the Diarra decision does not question that employment contracts between players and clubs must be respected. Consequently, if players wish to be released from a contract, there will be financial consequences. If a club wishes to engage a player under a valid contract, this will often still mean that the transfer fee needs to be paid.

Q: What is FIFA planning to do?

FIFA will now initiate a global dialogue with key stakeholders. Together with them, FIFA will determine what conclusions must be drawn from the Diarra decision and which changes are most appropriate and suitable to make to Article 17 of the FIFA RSTP. Among the topics for discussion are the parameters to calculate compensation for breach of contract, sanctions for breach of contract and a mechanism to issue the International Transfer Certificate. FIFA will always act in compliance with European law and it will make sure to maintain hand in hand with its stakeholders a modern, robust and valid regulatory framework for international football.