

EU Competition Law analysis of football transfer fees

Abstract:

In this master's thesis, I assess the compliance of the transfer fees used in football with EU Competition law. I submit that the transfer fee system in its current state is a decision of an association of undertakings that is not compliant with Article 101 TFEU due to the restriction it imposes on the player supply market. This restriction prevents small market clubs to recruit good players and compete with large market clubs. I argue that the restriction cannot be justified under the *Meca-Medina* framework since it does not achieve the alleged objectives. The system is not inherent in pursuit of improvement of competitive balance at all. Even though it is inherent to promotion of youth development, it goes beyond what is necessary, and as such is disproportionate to the restriction it causes. The system neither qualifies for the exception of Article 101(3) TFEU, since it does not result in any efficiencies. However, I suggest that the effects of the transfer fee system cannot be assessed in isolation, but rather in the context with other football regulation, especially revenue redistributive mechanisms and limits on spending. In this context, I found the transfer fee system to have an aggravating negative impact on competitive balance because. That is mainly a result of its interaction with the break-even requirement of the Financial Fair Play Regulation. I found other redistributive schemes not impactful enough to counter the negative effects on competitive balance. The football stakeholders should therefore attempt to reform the football system so that it is compliant with the requirements of the EU Competition law, as they would be likely held incompatible in their current state. The climate of necessity of football governance overhaul as a reaction to the impact caused by the Covid-19 pandemic provides a good opportunity for stakeholders to reform the system to be compliant with EU Competition law.