

A Critical Review of the FIFA's Release of the Football Players from Ukraine under Annex 7 to Regulations on Status and Transfer of Players

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Abstract

Following Russia's invasion of Ukraine, FIFA has issued several regulations addressing the new reality for Ukrainian football. One of those regulations, known as Annex 7 to the Regulations on the Status and Transfer of Players (RSTP) 2022, suspended the contracts of foreign players and coaches with Ukrainian clubs. A measure to protect the players, Annex 7 nevertheless was created and delivered without prior consulting with the Ukrainian Association of Football (UAF) or its clubs. This paper takes a socio-legal approach to critically review Annex 7 through the lens of the existing regulations and applicable laws while also considering such important sports objectives as fairness, competitiveness, and contractual stability. The paper concludes that with Annex 7, FIFA failed to recognize the needs of UAF-affiliated clubs, increased uncertainty, and could have created an undesirable precedent for future conflicts with European football clubs. Several recommendations concerning Annex 7 specifically and the regulatory procedures for FIFA, in general, are made to address these issues.

Keywords: FIFA statutes, contract suspension, Swiss code of obligations, competition law, anti-discrimination

1. Introduction

On February 24, 2022, Russia invaded Ukraine which brought much turmoil to the state of affairs in Europe and had far-reaching consequences on a global scale. This act of aggression has received almost universal condemnation at both national and organizational levels. The major international sports governing bodies reacted with unprecedented resolve by stripping Russia and its ally Belarus of the right to host sports events and restricting participation for their national teams, clubs, and individual athletes (Lindholm, 2022). Along with these actions, sports organizations made it clear that the measures taken were in solidarity with Ukraine and were seen as one of the ways to end the conflict.

The Fédération Internationale de Football Association (FIFA) was not consistent in this regard. On February 27, 2022, it announced that both Russian and Belarusian national football teams and clubs would be allowed to continue participation in international competitions, although without home games and under neutral flags. However, after a boycott threat from the opponents of the Russian national team in the upcoming matches, FIFA changed its stance, banning Russia and its clubs from international matches and leagues altogether. UEFA followed suit by removing Russian clubs from the Europa League and also ending all sponsorship contracts with Russian businesses. Yet, the most controversial regulation was issued at the beginning of March under the title "Temporary Rules Addressing the Exceptional Situation Deriving from The War in Ukraine" otherwise known as Annex 7 to the Regulations on The Status and Transfer of Players (RSTP), or simply Annex 7 (Regulations on the Status and Transfer of Players, 2022). In effect, the Rules allowed for the free release of football players and coaches from both Russian and Ukrainian leagues.

In a series of lawsuits that followed, the Ukrainian side represented by FC Shakhtar Donetsk attempted to challenge the Annex 7 amendments as unlawful. However, the Court of Arbitration for Sports (CAS) has rejected all those claims. In a media release following the decision, the CAS Panel stated that the suspension of contracts was a result of "a legitimate objective" and within the powers granted to FIFA by law (Court of Arbitration for Sport, 2022). The CAS decision paints a mixed picture. On the one hand, FIFA's decision may be interpreted as a desire to offer players and coaches an opportunity to legally escape the zone of the military conflict. On the other hand,

Annex 7 omitted the interests of the Ukrainian clubs by offering no support or compensation for the players' exodus. This is especially surprising given the statement supplementing the amendments to Annex 7 where FIFA reiterated its "condemnation of the ongoing use of force by Russia in Ukraine" (FIFA, 2022).

This paper critically evaluates the new FIFA rules concerning players' transfers in the wake of the conflict in Ukraine. To the knowledge of the author, it is the first attempt to critically evaluate Annex 7 from both legal and social perspectives. The following research questions are formulated: 1) is Annex 7 to RSTP legally sound? and 2) is Annex 7 fair to all parties it attempted to cover? 3) what could be done to address the flaws of Annex 7?

2. Methodology

The study follows the socio-legal methodology to answer the research questions. This approach treats law as a component of the larger social structure and, therefore, asserts that it should be interpreted by taking the social context in account (Reza & Travers, 2005). As such, this methodology examines laws not only from the strictly legal perspective but also considers how they function in society and what effect they have on individuals and entities (McCrudden, 2010). The analysis of the social effects, therefore, effectively supplements and broadens purely legal analysis (Feenan, 2013). Applied to the context of the current study, the socio-legal methodology allows us to see the wider implications of Annex 7 from the perspective of football clubs, fair treatment, competition, and football in general. This, in turn, can offer broader avenues for understanding the implications of Annex 7 and its possible flaws.

The primary method used in the study is the analysis and interpretation of the legal texts. The specific bases for the analysis applicable to this paper included: 1) the text of Annex 7; 2) relevant provisions of Regulations on the Status and Transfer of Players (RSTP); 3) relevant FIFA Statutes; 4) the decisions of CAS; 5) Swiss Law to which FIFA is compliant; and 6) European Union's Competition Law. In addition to an examination of the legal soundness of Annex 7 in the context of applicable umbrella laws, an additional analysis of the social effects is provided through the effects of Annex 7 on the affected parties.

The paper proceeds as follows. First, Annex 7 is critically reviewed, and the apparent issues within the regulations are noted. After that, Annex 7 is examined from the legal perspective based on the applicable laws and regulations. Next, the social impact of Annex 7 is examined through the lens of fairness and equal consideration of all parties involved. The final section of the paper concludes and draws recommendations.

3. Amendments to FIFA RSTP 2022 (Annex 7)

FIFA Regulations on the Status and Transfer of Players (RSTP) is a set of rules and regulations established by FIFA to govern the transfer and registration of professional football players around the world. The RSTP provides a framework for the transfer of players between clubs, including the regulations on the role of agents and intermediaries, the protection of minors, and the procedures for resolving disputes related to player transfers. It also sets out the obligations of clubs and players about contracts, payments, and other related matters. The RSTP is a crucial document for the global football industry and, according to FIFA, is intended to ensure that transfers of players are conducted transparently and fairly.

In March 2022, the FIFA Council Bureau opted to make temporary amendments to the RSTP in response to the "exceptional situation deriving from the war in Ukraine" (Regulations on the Status and Transfer of Players, 2022, p. 93). The purpose of the amendments was to establish clear and legally binding guidelines on the status of players in Russia and Ukraine arising from the war in Ukraine. The changes were outlined in Annex 7 to the RSTP. The key regulation of Annex 7 is the no-consequence suspension of contracts between players and professional clubs in Ukraine and Russia. In effect, this meant that players and coaches were now free to leave the clubs in both countries and join clubs in other countries without triggering the breach of contract clause.

Several aspects of Annex 7 deserve attention for further analysis. First, FIFA applied different approaches to contract suspensions: with regards to clubs affiliated with the Ukrainian Association of Football (UAF), all contracts were automatically suspended whereas in Russia, an option was granted for players and coaches to unilaterally suspend their contracts with Russian clubs (Regulations on The Status and Transfer of Players, 2022, sec. 2-3). This, however, made little difference in practice since the suspension clause would be triggered predominantly by players who chose to move to other countries (Houston, 2022). Second, the rules applied to "a contract of an international dimension" (Regulations on The Status and Transfer of Players, 2022, sec. 2-3), which meant that they covered only foreign players. As such, FIFA did not offer the same kind of opportunity to domestic players which casts doubt on the principle of equality applied to players involved in the same leagues. Finally, and importantly, the amendments unequivocally stated that no compensation would be offered to the clubs whose players would decide to leave (Regulations on The Status and Transfer of Players, 2022, sec. 8). To sum up, the

amendments to RSTP 2022 Annex 7 allowed for free transfers of foreign players from Russian and Ukrainian clubs without any compensation for the clubs arising from the players' training, the need to find replacements for them, and without considerations of possible revenues for players' transfers or loans. In the aftermath, the Ukrainian clubs found themselves in a similar situation to the Russian clubs despite FIFA's claim that it condemned the Russian aggression. Annex 7 did not offer any additional means to support the UAF-affiliated clubs which continued to play in the international competitions after an exodus of some leading players.

4. Legal Challenges to Annex 7

4.1 Legal Grounds for Contract Suspension

FIFA derives its power to regulate football globally from the statutes it has established, which are binding on all its member associations. These statutes include provisions that give FIFA the authority to issue regulations and amendments related to various aspects of football, including player transfers and player contracts. In particular, Article 2 of the FIFA Statutes provides that FIFA has the power to enact regulations and provisions concerning the game of football. Further, Article 6 of the Statutes specifies that the Council has the right to regulate the matters concerning players' transfers and "questions relating to these matters." Further, FIFA's authority to issue amendments and new annexes to the RSTP is also derived from the agreements that its members sign when they join the organization. These agreements include provisions that require members to adhere to FIFA's regulations and to accept any changes or amendments made by FIFA to those regulations.

As it follows, technically, FIFA did have sufficient authority to issue the new transfer rules under Annex 7. However, there are no provisions in the Statutes as to when and under what circumstances such regulations could be issued. This distinction is important given that an immediate suspension of contracts was 1) unexpected by the clubs in Ukraine and 2) left the clubs at a disadvantage as they had no compensation for the players who left. Annex 7 then could be considered contradictory to the provisions under Article 6 of the Statutes which claims that the regulations should be issued with the goal of "the protection of representative teams." Further, the contracts of football players are also subject to domestic labor laws, while FIFA's actions concerning contracts are additionally subject to the Swiss Code of Obligations, which is established in Article 7.2 of the FIFA Statutes (FIFA Statutes, 2022). Neither the Labor Code of Ukraine nor the applicable articles of the Swiss Code of Obligations, however, provide legal grounds for suspending contracts in a manner established by Annex 7. Both codes have provisions for contract termination such as mutual agreement of the parties, expiration of the term of the contract, dismissal for cause, termination by the employer due to business reasons, and termination due to the employee's health condition or disability (The Labor Code of Ukraine, Article 36; Swiss Code of Obligations, Article 335 respectively). None of these could be effectively factored in as the reasons to justify the application of Annex 7.

Under Swiss law, either the employer or employee may terminate an employment contract without prior notice if there is a 'serious cause,' which refers to any circumstance that violates the principle of loyalty and trust in the employment relationship (Swiss Code of Obligations, Article 337, 2024). The determination of whether a "serious cause" exists is at the discretion of a judge and can be based on previous court decisions. Historically, however, examples of such causes mostly concerned the employer's side and involved cases such as employee criminal offenses, repeated failure to perform work or engaging in competition with the employer. On the employee's side, perhaps the strongest basis for Annex 7 could be linked to war being a 'force majeure' circumstance. While the Swiss Code of Obligations does not define 'force majeure', it is nevertheless used in case law and generally considered as circumstances beyond the party's control (Dos Santos & Denilson, 2023). However, unless a force majeure clause is clearly defined in the contract, contractual obligations can only be terminated due to force majeure if the event is directly linked to the impossibility or default of the contract (Swiss Code of Obligations, Article 119, 2024). This means that the specific performance in question must become impossible due to the force majeure event. Despite the military conflict, the UAF football events involving professional clubs continued at both national and international levels. As such, the direct link implied by Article 119 of the Code of Obligations was not fulfilled.

4.2 EU and Swiss Competition Law

EU competition law applies to football leagues and clubs in the same way as it does to any other industry or sector. This means that football leagues and clubs are subject to the rules and principles of EU competition law, which aim to promote fair competition, prevent anti-competitive practices, and protect consumers and businesses from unfair practices. These rules are espoused in Title VII of the Treaty on the Functioning of the European Union (TFEU). Importantly, the rules apply to both EU residents and non-residents operating within the EU market. Specifically, Title VII, Articles 101(d) and 102(c), prohibit the application of 'dissimilar conditions' to equivalent transactions for parties which would put them at a competitive disadvantage (Consolidated version of the Treaty

on the Functioning of the European Union, 2023).

FIFA's regulations on player transfers fall within the scope of sports law and governance, which is largely governed by private international law and the regulations of international sports organizations such as FIFA and UEFA. However, if FIFA's restrictions on Ukrainian clubs' access to the European transfer market were found to have been implemented in an anti-competitive manner, with the effect of restricting competition within the EU market, then it may potentially qualify as a violation of Title VII. In this regard, the key point of consideration would be whether Annex 7 limited access to the European football transfer market for the Ukrainian clubs. If this is the case, then it has violated the principles of leveling the competitive field by creating dissimilar conditions for Ukrainians in contrast to European clubs as outlined in TFEU Articles 101 and 102. Because Ukrainian clubs like Shakhtar continued playing in the European cups, Annex 7 substantially restricted their access to high-quality players unlike the continuing freedom of transfers for their rivals in the European competitions.

Similarly, Annex 7 could be deemed in violation of the Swiss competition law, to which FIFA is subject. The grounds for competitive practice under Swiss law are laid within the Federal Act on Cartels and Other Restraints of Competition (FACRC). Because FIFA, through its daughter organization UEFA, is the only body organizing and overseeing professional football competitions in Europe, it falls under the definition of 'dominant undertaking' within Article 4(2) of FACRC. According to Article 7, the actions of a dominant undertaking are subject to legal scrutiny if they hinder other entities' undertakings or place them at a disadvantage (Federal Act on Cartels and Other Restraints of Competition, 1995) By releasing players from contracts with the Ukrainian clubs, FIFA may have specifically acted in violation of Article 7 with 1) Article 7.2(b) of Annex 7, discriminating between trading partners in relation to conditions of trade; 2) Article 7.2(c) of Annex 7, imposing unfair conditions of trade; and 3) Article 7.2(g) of Annex 7, restricting the opportunity to purchase goods and services at the market conditions customary in the industry.

4.3 Possible Procedural and Material Flaws

Article 13 of the FIFA Statutes grants the member associations certain rights which include, among others, the right to participate in FIFA Congress meetings, draw up proposals, and exercise other relevant rights arising from FIFA regulations as is established by Article 13(a)(b)(g) of the Statutes. CAS has also recognized the fundamental rights of the member associations to express their views and opinions on matters directly and indirectly concerning them. Specifically, in *Michel Turk v FIM* (para. 84), it was established that the right to be heard is "fundamental" to due process and should be respected (*Michel Turk v FIM*, 2021). However, the changes applied in Annex 7 were made by FIFA in the absence of UAF representatives and without properly consulting with them. As such, the Ukrainian Football Federation and clubs were not allowed to review the proposed changes and either verbally or in written form opine on them. As it appears, their views ran contrary to the decisions made in Annex 7. For example, Sergei Palkin, Chief Executive of FC Shakhtar Donetsk, claimed that Annex 7 was adopted without 'any assessment of the situation and without consulting with the main affected parties', and the club had been seeking up to €50 million in damage compensation from FIFA due to the losses from potential transfer fees (Dixon, 2023). Therefore, the decision by FIFA to not involve the Ukrainian side in the decision-making regarding their clubs could be considered inconsistent with the due process principles outlined in the FIFA Statutes and recognized by the international court.

Another possible flaw in FIFA's decision to adopt Annex 7 is that it could the procedures have been economically discriminatory for the Ukrainian clubs. The non-discrimination principle is enshrined in both FIFA and UEFA Statutes, which are both applicable since Ukraine, as a European nation, participates in UEFA-organized competitions. Specifically, the FIFA Statutes 2022 Article 4 prohibits "any kind" of discrimination towards its members. The UEFA Statutes (Article 2.1(b)) also claim that one of the goals of the organization is to promote football in Europe "without any discrimination". They further establish in Article 7 that member associations "shall manage their affairs independently and with no undue influence from third parties" (FIFA Statutes, 2022). Similarly, the Swiss Civil Code, to which FIFA is subject, establishes in ATF 134 III 193 the rights of entities for 'economic development and fulfilment' (Swiss Civil Code, 1907). It can be argued that FIFA has adopted Annex 7 in a discriminatory manner by not allowing input from the UAF and Ukrainian clubs. It can be further argued that the outcomes of Annex 7 were discriminatory because the regulations deprived the Ukrainian clubs of an important source of revenue and competitiveness by allowing players to leave on a free basis.

5. Social Analysis: Protection of All Parties?

Regardless of the legal aspects concerning Annex 7, it seems that it has been developed first and foremost in the interests of foreign players who represented Ukrainian and Russian clubs. The Interpretative Note to Annex 7 acknowledged this in Section 2 (p. 1) by claiming that "the safety and well-being of players, coaches, and club

staff remains the primary concern.” This was reiterated several months later in Circular No. 1804. In the Circular, FIFA acknowledged that Annex 7 would likely lead to a high number of outgoing transfers from Ukraine resulting from the Russian invasion and the ongoing war (FIFA Circular no. 1804, 2022). However, it was emphasized that this was an unavoidable consequence of the situation in Ukraine, and Annex 7 was made to safeguard the interests of foreign players and coaches who were working there. While the Circular recognized the need to protect the “legitimate interests of the Ukrainian clubs,” the only action in this regard was the placement of a deadline for the destination clubs to follow transfer instructions, which was originally put as August 2022 and later extended (FIFA Circular no. 1804, 2022).

The willingness of FIFA to protect players and coaches while seemingly downplaying the interests of the Ukrainian clubs seems somewhat surprising. Neither the FIFA Statutes nor RSTP 2022 contain specific provisions obliging FIFA to promote the clubs’ interests. However, this could be derived from specific regulations and cases. For example, the FIFA Statutes Article 5 calls for promoting friendly relations in resolving disputes arising between football stakeholders while Article 6 establishes the protection for both players and teams in regulating the matters concerning players’ status and transfers. Further, both FIFA and CAS have taken a strict position concerning contractual stability and pre-contract agreements. Specifically, on the side of FIFA, this is recognized in Section IV of the FIFA RSTP 2022 and in FIFA Circular Letter 769 where contractual stability is regarded as ‘of paramount importance’ for football players, clubs, and the public in general (FIFA Circular Letter 769, 2001, p. 1). CAS, on the other hand, re-emphasized contractual stability several times such as in *M v Chelsea Football Club* (2005) and *Pyunik Yerevan v E., AFC Rapid Bucuresti & FIFA* (2008). This position underlines the importance of balancing the interests of clubs and players in matters related to transfers. It is apparent that in its decisions stemming from Annex 7, FIFA only acknowledged the difficulties with which the Ukrainian clubs would have to deal while neither taking a friendly approach to resolving the issue nor attempting to pursue the contractual stability principles.

Perhaps one reason that FIFA decided to ignore the interests of the Ukrainian clubs is that it did not consider Annex 7 in the long-term perspective. Indeed, the temporary nature of Annex 7 is emphasized in Annex 7 itself (p. 93) and the relevant documents, including Interpretative Note to Annex 7 2022 (p.1) and Circular no. 1804 (p. 1). This technically meant that the players leaving the Ukrainian clubs on suspended contracts would eventually return. However, with no visible end to the war soon, it seems that all relevant contracts may simply expire by the time FIFA decides to withdraw Annex 7. As such, the players released by Annex 7 would automatically become free agents with the ability to remain in their new clubs. It should be remembered that Ukrainian clubs like Shakhtar Donetsk continue to pay for the released players to their previous clubs within the existing contract obligations.

Finally, the absence of support for the Ukrainian clubs is surprising given that FIFA has been running a series of programs to support clubs in other circumstances. For example, FIFA takes an obligation to compensate the clubs for the losses related to injuries of the players released by clubs to participate in the matches for their national teams, which is established by the Club Protection Program 2018 (Technical Bulletin: FIFA Club Protection Program 2018, 2018). The program covers any kind of injury by a player from the moment s/he begins the journey to the place of training/match until midnight of return. As such, it covers time beyond the actual matches for the national team as well. FIFA also ran a special program to support member associations during the COVID-19 pandemic, and a substantial amount of the aid was directed to clubs’ support (FIFA Media Release: FIFA starts immediate financial support to member associations in response to COVID-19 impact, 2020).

The only aid to UAF by FIFA was about \$1 million which was provided in form of humanitarian supplies for the refugees, within a worldwide support campaign from various organizations (73rd FIFA Congress Notes, 2022). As such, no specific compensation was offered in view of possible departure of players based on Annex 7. With no special aid considered for the Ukrainian clubs during the war, the free release of players ran contrary to the existing practices of supporting clubs under unforeseen and damaging circumstances. Taken these aspects together, and given the freedom of movement for foreign players in Ukraine, there is a serious doubt that FIFA has acted with equal consideration for both players and clubs.

5.1 Adverse Implications of Annex 7

Despite being a ‘temporary’ measure, Annex 7 may have far-reaching consequences for the players, clubs, and the governance of football overall. First, it creates a strong precedent for similar actions in the future. FIFA has demonstrated that it could apply changes to football regulations in a swift manner and at the expense of clubs’ interests. The fact that the CAS has sided on the matter with FIFA creates a legal pathway to justify similar decisions in the future. The final court instance possible to challenge this is the Swiss Supreme Court. However, it should be noted that it only hears appeals based on limited grounds such as procedural issues, lack of jurisdiction, and violation of fundamental procedural rights. It does not act as an appellate court to re-examine the merits of a

case and will not overturn a decision made by the Court of Arbitration for Sport (CAS) because it may disagree with it. As such, despite the existing legal challenges to Annex 7 outlined above, its key provisions may stay and serve as a foundation for future actions by FIFA.

It is also clear that FIFA is ready to pursue a hardline approach regarding its decisions like Annex 7. As it was discussed above, the initial solution proposed by FIFA was likely based on an expectation of a fast end to the conflict. However, as the war dragged on, FIFA did not reconsider its major position regarding the situation with the Ukrainian clubs. Several alternatives were possible in this regard. For example, FIFA could have released the players exclusively on loan or at least provided the right for the Ukrainian clubs to return their players after the conflicts ended. FIFA could have established a supporting fund for the Ukrainian clubs similar to the one created during the COVID-19 pandemic since it would pursue the same goal of aiding clubs in extraordinary circumstances. The Ukrainian national league resumed in August 2022, but the games are played without spectators over safety and security concerns. The situation is similar to the one during the pandemic when the leagues continued at empty stadiums. It should be noted that stadium tickets represent a substantial part of clubs' revenues. This was considered by FIFA when providing aid during the pandemic but somehow ignored during the war in Ukraine. Any of these decisions would offer a much-needed relief for the clubs without infringing on the players' safety. However, FIFA followed through with its initial decision and only made technical changes to Annex 7 (see Circular 1804, p. 31) without any alternatives or additional measures to support UAF clubs such as those discussed above.

Another evident implication of Annex 7 is the loss of the Ukrainian clubs' competitiveness. The loss of some leading players by the clubs and the absence of access to the transfer market have been coupled with rising financial difficulties and uncertainties regarding the games (Panja, 2022). Under such conditions, maintaining the pre-war competitive level has been nearly impossible for the Ukrainian clubs. On the other hand, the promotion of competitiveness is implicit in FIFA's mission, as it seeks to develop and promote the game of football constantly and globally and that players, teams, and nations are allowed to compete at the highest level possible. Apparently, the Ukrainian clubs are being denied such an opportunity. It is not clear when, how, and to what extent the UAF-affiliated teams would be able to recover from the consequences of war without the continuous material support that FIFA has so far denied providing.

6. Conclusions

The war in Ukraine has seriously altered the European football landscape and challenged not only the way that many competitions are held but also the very principles of the governance of the game. Annex 7 to RSTP 2022 can hardly be considered an effective regulation to address these challenges. Understandably, it aimed to protect the players affiliated with the Ukrainian clubs by providing opportunities to escape the war and continue playing. However, this was done solely at the expense of the clubs with no due support or redeeming measures provided for the latter. In this way, Annex 7 failed to provide equal protection for the players and clubs.

This paper was the first of its kind to critically evaluate Annex 7 from the socio-legal perspective. It was demonstrated that Annex 7 has somewhat questionable legal foundations and that it may contradict the existing regulations, including those prescribed by the European Union and Swiss law. However, the complexity and scope of the legal challenges surrounding Annex 7 is probably wider. As the case goes to the Swiss Supreme Court, some difficult questions remain. First, to what extent can FIFA's decisions like contract suspensions in Annex 7 be sanctioned by the existing laws? Or does FIFA's power to apply regulations stem solely from the regulations and statutes it creates? If the latter is true, can meaningful legal oversight be applied at all? This is especially important given that FIFA had not consulted with the UAF or its clubs before issuing Annex 7. In other words, should FIFA in general be able to issue regulations for the stakeholders whose opinions and interests are neither heard nor considered? This could create a serious precedent granting too much power to an organization for which no meaningful alternatives exist. The issue is critical given that the structure and powers of the other sports governing bodies often resemble those of FIFA.

Much can be said about the negative consequences of Annex 7 for the Ukrainian clubs. The extraordinary circumstances in which the UAF-affiliated clubs found themselves, require actions of support to help football in Ukraine overcome the consequences of war. Stripping the clubs of their major assets – players – without due compensatory plan does more harm than good in this sense. It is logical then, that Annex 7 is being tested both legally and morally. While not challenging the decision to release players from contracts for their protection, the representative of Shakhtar Donetsk which continues battling Annex 7 in courts, claimed that the club seeks 'fairness and justice' for all stakeholders when such decisions are made (Note 1).

6.1 Recommended Actions

As it follows from the analysis, the most pressing issues related to Annex 7 are: a lack of fairness towards the

football clubs, high-level uncertainty, and a precedent for unilateral termination of contracts outside of the existing rules and regulations. FIFA can amend Annex 7 to address these issues. The following changes could be applied:

- *Setting up clear expiration conditions to Annex 7.* While it is not certain when the war in Ukraine eventually ends, the language of the document may refer to its logical conclusion such as an official truce between the countries. Setting the expiration condition should offer clarity for both clubs and players about the temporary nature of Annex 7;
- *Offering additional compensation for the UAF-affiliated football clubs.* Because under Annex 7 the clubs have little control over the movement of their players who are still under contract, they are prone to negative financial consequences as a result. To alleviate the negative impact, FIFA may offer full or partial indemnification to the clubs when they lose players without proper compensation.
- *Introducing flexible player release terms.* The most logical in this regard could be player loans with the subsequent buyout from the new clubs.

In addition, the very process of introducing regulations like Annex 7 could be amended. The following actions are proposed:

- Considering the interests of all parties potentially affected by new regulations and balancing these interests. FIFA was quick to protect the players and coaches from the consequences of being in a potential war zone. However, it failed to equally consider the interests of the clubs by providing fair compensation mechanisms. Consulting with the affected parties could be made a norm in the process to avoid such situations.
- Applying flexibility in the regulatory process. Regulations like Annex 7 are created for specific circumstances that alter the nature of the game of football and the parties involved. However, immediate actions may not be beneficial in the long term which means that such regulations should be reviewed and adapted to the changing circumstances to ensure the integrity of sport.

7. Study Limitations

The findings of this study should be considered with certain limitations. As a multidisciplinary approach, socio-legal research may not clearly set the boundaries of the legal and social analysis. In this regard, the findings of the study do not necessarily reflect the true interplay between the legal implications of Annex 7 and its true social impact. Because the study relied only on the existing document analysis (laws, regulations, cases), it may not necessarily reflect the perception of Annex 7 by the parties involved. Interviews with the representatives of FIFA, clubs, and players may offer a better approach and offer a clearer picture of where the parties' interests converge and diverge. Further, as with any qualitative research, this study may raise concerns about the generalizability of the findings. However, Annex 7 is a special type of regulation issued under extraordinary circumstances. Therefore, qualitative analysis could be a great starting point for researching similar types of regulation in the future. Beyond that, the findings of this study could lay the foundations for future policy development to promote the integrity of football governing bodies and ensure fairness in addition to the legal soundness of their regulatory decisions.

References

- 73rd FIFA Congress Notes. (2022, March 19). Retrieved from <https://www.fifa.com/social-impact/fifa-foundation/news/fifa-foundation-helps-victims-of-war-in-ukraine>
- Cahillane, L., & Schweppe, J. (2016). *Legal Research Methods: Principles and Practicalities*. Dublin: Clarus Press.
- Consolidated version of the Treaty on the Functioning of the European Union. (2023). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>
- Court of Arbitration for Sport. (2022). *CAS Media Release: Football Regulatory (FIFA RSTP)*. Retrieved from https://www.tas-cas.org/fileadmin/user_upload/CAS_Media_Release_9016_9017.pdf
- Dixon, E. (2023, February 15). *FIFA bringing Ukrainian clubs to bankruptcy', says Shakhtar Donetsk CEO*. Retrieved from https://www.sportspromedia.com/news/fifa-shakhtar-donetsk-sergei-palkin-ukraine-russia-invasion-war-player-contracts/?zephrosso_ott=MvTM21
- Dos Santos, C., & Denilson, R. (2023). Impact of Radical Changes of Circumstances on Contractual Relationships Under Swiss Law and English Law: Tomato-Tomato? *Business Law Review*, 9(2), 64-74.
- Federal Act on Cartels and Other Restraints of Competition*. (1995). Retrieved from https://www.fedlex.admin.ch/eli/cc/1996/546_546_546/en

- Feenan, D. (2013). *Exploring the 'Socio' of Socio-Legal Studies*. New York: Palgrave MacMillan. <https://doi.org/10.1007/978-1-137-31463-5>
- FIFA. (2022, March 7). *Media Release: FIFA adopts temporary employment and registration rules to address several issues in relation to war in Ukraine*. Retrieved from <https://www.fifa.com/about-fifa/organisation/fifa-council/media-releases/fifa-adopts-temporary-employment-and-registration-rules-to-address-several>
- FIFA Circular Letter 769*. (2001, August 24). Retrieved from <https://www.fifa.com/about-fifa/official-documents>
- FIFA Circular no. 1804*. (2022). Retrieved from <https://digitalhub.fifa.com/m/5c3615749b01013a/original/Circular-No-1804-Administrative-application-of-Annexe-7-to-the-Regulations-on-the-Status-and-Transfer-of-Players.pdf>
- FIFA Media Release: FIFA starts immediate financial support to member associations in response to COVID-19 impact*. (2020, April 24). Retrieved from <https://www.fifa.com/media-releases/fifa-starts-immediate-financial-support-to-member-associations-in-response-to-covid>
- FIFA Statutes*. (2022, May). Retrieved from https://digitalhub.fifa.com/m/3815fa68bd9f4ad8/original/FIFA_Statutes_2022-EN.pdf
- Houston, M. (2022, December 22). *Shakhtar-FIFA case being heard at Court of Arbitration for Sport over free release of players*. Retrieved from <https://www.insidethegames.biz/articles/1131914/shakhtar-fifa-case-at-cas>
- Lindholm, J. (2022). How Russia's invasion of Ukraine shook sports' foundation. *The International Sports Law Journal*, 22, 1-4. <https://doi.org/10.1007/s40318-022-00211-8>
- M v Chelsea Football Club, 2005/A/876 (CAS December 15, 2005).
- McCrudden, C. (2010). *Legal Theory and the Social Sciences*. London: Routledge.
- Michel Turk v FIM, 2020/A/7220 (CAS December 22, 2021).
- Panja, T. (2022, August 22). *There Is No Football Family': Broken Contracts Mar Soccer's Return in Ukraine*. Retrieved from <https://www.nytimes.com/2022/08/22/sports/soccer/ukraine-soccer-premier-league-returns.html>
- Pyunik Yerevan v E., AFC Rapid Bucuresti & FIFA, 2007/A/1359 (CAS May 26, 2008).
- (2022). *Regulations on the Status and Transfer of Players*. FIFA. Retrieved from <https://digitalhub.fifa.com/m/620d0240c40944ed/original/Regulations-on-the-Status-and-Transfer-of-Players-October-2022-edition.pdf>
- Reza, B., & Travers, M. (2005). *Theory and Method in Socio-Legal Research*. Oxford: Hart Publishing.
- Swiss Civil Code*. (1907). Retrieved from https://fedlex.data.admin.ch/filestore/fedlex.data.admin.ch/eli/cc/24/233_245_233/20180101/en/pdf-a/fedlex-data-admin-ch-eli-cc-24-233_245_233-20180101-en-pdf-a.pdf
- Swiss Code of Obligations, Article 337*. (2024). Retrieved from https://www.fedlex.admin.ch/eli/cc/27/317_321_377/en
- Technical Bulletin: FIFA Club Protection Program 2018*. (2018). Retrieved from <https://digitalhub.fifa.com/m/158afa2542843245/original/glo0iuj5tqwrmoax18rb-pdf.pdf>

Note

Note 1. T Panja (20 December, 2022) 'Fresh Off World Cup, FIFA Faces a Legal Challenge from Ukraine' The New York Times. Retrieved from <https://www.nytimes.com/2022/12/20/sports/soccer/ukraine-fifa.html>

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