

EUROPEAN FOOTBALL AND THE COVID-19 PANDEMIC – ITS IMPACT ON COMPETITIONS, CLUBS AND PLAYER CONTRACTS

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Received: 13 June 2020

Accepted: 22 Oct 2021

Published: 15 March 2022

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Abstract

European football, like all major sport around the world, was heavily impacted by the COVID-19 pandemic. All national leagues in Europe had to suspend their 2019-20 seasons, though most were eventually able to complete them by extending the seasons beyond their usual finishing dates. However, these resumed fixtures had to be played in empty stadiums, as were most matches in the 2020-21 seasons. This article considers how these problems were dealt with by investigating the three key areas of competitions, the clubs and player contracts. UEFA, and the governing bodies of the various national leagues, demonstrated flexibility and adaptability in running the competitions which was crucial to their successful completion. The clubs suffered from loss of revenue due to reduced broadcasting rights and gate receipts but did obtain some financial assistance from a variety of sources. Player contracts had to be dealt with on a more individual basis depending on the law applicable to them and the negotiations between the individual clubs and their players, although there were national agreements in some countries. In the circumstances, European football appears to have survived the COVID-19 pandemic reasonably well, although the recent advent of the Omnicron variant indicates that the problems may not be over yet.

Keywords: *European Football Covid Pandemic*

INTRODUCTION

The COVID-19 pandemic has caused considerable disruption since its onset in early 2020. Sport not being spared, with the governing body of European football, Union of European Football Associations (UEFA), being one of many sporting bodies forced to adjust competition schedules, and deal with the financial consequences of matches being cancelled or played without spectators. Even matches in the 2020/21 season were largely conducted without spectators in all European leagues and UEFA competitions, although by July 2021, a full Wembley Stadium was able to watch the postponed European Championship Final between Italy and England.

This paper examined how COVID-19 affected European football by firstly examining its impact on the leagues and UEFA competitions, and in doing so will question how effective UEFA was in responding to the pandemic. It will then examine the impact on the main stakeholders in European football, namely the clubs and the players.

IMPACT ON LEAGUES AND UEFA COMPETITIONS

UEFA acted quickly and decisively when the pandemic first appeared. At a meeting on 17 March 2020, it was agreed the 2020 European Championships would be postponed until the summer of 2021. A goal was also set to complete national and UEFA competitions where possible by 30 June 2020 (Gonzales, 2020). While many leagues were terminated early, four of the top five national leagues in Europe eventually completed their 2019–20 seasons. This enabled them to fulfil broadcasting rights, a significant outcome given this revenue accounts for 53% of the total income for clubs in the English Premier League (EPL); 42% for clubs in Spain's La Liga, 34% for clubs in Division 1 of the German Bundesliga, 47% for clubs in Italy's Serie A, and 37% for clubs in the French Ligue One (UEFA, 2017 at 68). However, while all remaining 92 EPL games were broadcast live, the broadcasters demanded a rebate of approximately £340 million which represented about one half of the £762 million that was outstanding (Young, 2020 at 5). In Germany broadcasters agreed to an up-front payment of a third of the agreed sum due for outstanding games, and then pay the remaining two-thirds after each game. Of the five top European football countries, only France did not restart its competitions due to government directions with French television agreeing to pay for matches already televised, but at reduced rates. The French Ligue was then forced to take out a state-guaranteed loan of around €224m to make up for this shortfall (LawinSport, 2020A at 4).

UEFA's priority had been to complete the national leagues, and once these were concluded, it began the task of completing its own competitions. The four outstanding games from the round of 16 were completed between 5–8 August. The Champions League and Europa League quarter-finals, semi-finals and final were then played in a single-leg format in mid-August in Lisbon and the North Rhine-Westphalia region of Germany, respectively (UEFA, 2020). Players were tested before each game with there being a total ban on spectators. Thus, UEFA was flexible in its approach by, firstly, changing competition rules, and then relocating the competitions to designated geographical areas. This lessened the chances of players becoming infected, protecting both them and the competitions.

After the successful completion of the 2019–20 season, preparations were made for an almost immediate turn-around to start the 2020–21 season. UEFA’s Executive Committee approved its *Return to Play Protocol* in July 2020 which stated all matches would be played behind closed doors until further notice, and established the framework for sanitary, hygiene-testing and operational arrangements that would apply to all UEFA matches. (LawinSport, 2020B at 20). The Protocol was then amended in September 2020 to include, inter alia, a tightening of entry procedures to stadiums to include team and official temperature checks, and a requirement that clubs undertook a detailed contact tracing programme. (LawinSport, 2020B at 21). On 1 October 2020, in order to assist in the safe return of spectators to matches, UEFA approved its *Minimum Health and Hygiene Requirements for the Return of Spectators*. This defined the minimum requirements national associations and clubs needed to implement to resume UEFA matches in the presence of at least a limited number of spectators. (LawinSport, 2020B at 21).

Thus, UEFA was able to successfully complete both the 2019-20 and 2020-21 seasons. However, reduced revenue from the lack of spectators and reduced broadcasting rights in many leagues, meant UEFA also had to address the financial impact of the pandemic. In April 2020 it approved amendments to its regulations to allow member associations to access payments of up to €400,000 for the 2019/20 season, and €2.4 million for the 2020/21 season. (LawinSport, 2020B at 21). UEFA also approved the immediate release of €70 million in club benefit payments, allocated to clubs for allowing their players to participate in the UEFA Nations League, with a further €130 million being distributed among the clubs for releasing players for the postponed 2020 European Championships. (LawinSport, 2020B at 22).

UEFA had introduced Financial Fair Play Regulations (FFPR) in 2010 with these being designed to bring financial stability to European football by requiring clubs to break even, if they wished to play in UEFA’s competitions. Since COVID-19 had a major impact on club revenues, this breakeven requirement needed to be addressed by UEFA. It established an Emergency Working Group on Legal, Regulatory and Financial Matters with body producing an Addendum to the FFPR which was adopted by the UEFA Executive Committee on 18 June 2020. The objective of the Addendum was to provide clubs with flexibility in relation to the satisfaction of their transfer and salary obligations. It therefore permitted clubs to adjust the breakeven calculations to account for COVID-19 related loss of revenue by, for example, being able to postpone for one season the assessment of the financial year ending in 2020 in order to facilitate compliance with the FFPR (Ivanov, 2020).

Overall, it is suggested that UEFA has done a commendable job in ensuring the continuity of European football during the pandemic. This was achieved by being flexible in how it conducted its competitions, by providing financial assistance to the clubs, and by amending its FFPR to provide clubs some financial latitude.

THE IMPACT ON CLUBS

Not surprisingly, the pandemic’s impact on the clubs was considerable, though it varied depending on what level they competed at, with the impact being considerably greater in the lower tier leagues due to lower, or total lack of, broadcasting rights. It was for this reason that in Germany top-tier clubs, Bayern Munich, Bayer Leverkusen, Borussia Dortmund and RB

Leipzig created a €20 million solidarity fund from their earnings in UEFA competitions ‘to help German clubs in the top two tiers’ (The Guardian, 2020A). Players contracted to leading Italian club, Juventus, agreed to forego four months of wages, amounting to €90 million, to assist their club (The Guardian, 2020B).

Even between clubs competing in the same league there were clear differences in the financial impact of the pandemic. In 2020 many EPL clubs, including Southampton, West Ham United, Sheffield United, Aston Villa and Watford, sought wage deferral agreements with their players. Arsenal meanwhile negotiated a 12.5% wage cut with its players for a one-year period from April 2020 to March 2021 (Mokbel, 2020). These negotiations followed an attempt to reach a collective agreement among the EPL clubs for a 30% pay cut for all players, which was strongly opposed by the Professional Footballer’s Association (Steinberg, 2020). Manchester United, however, did not need to request its players to take pay cuts or, defer their wages, which was a reflection of its comparative wealth (Fordham, 2020).

Clubs in the second tier Championship League were more vulnerable as clubs still had high player salaries but did not have the EPL’s large broadcasting revenue to offset it. Since the clubs in this league made combined losses of £650 million for the 2018–19 season it also meant many did not have the cash reserves to meet revenue shortfalls (Hughes, 2020). While efforts were made to find a centrally agreed approach to resolve player wages, this failed, leaving clubs to reach their own arrangements with the players (Nixon, 2020). However, the Championship clubs did agree to a salary cap of £18 million being introduced for the 2021–22 season (Keegan 2020). The position of clubs in the two lowest divisions of English football was even worse because gate receipts are their main source of income, with both League One and League Two clubs voting to end their 2019–20 seasons early. Initially it was decided to introduce salary caps for the 2020-21 season of £2.5 million and £1.5 million respectively, but these were withdrawn after the Professional Footballers’ Association challenged them, claiming they were ‘unlawful and unenforceable.’ An independent arbitration panel subsequently held introduction of the caps was in breach of the professional Football Negotiating and Consultative Committee’s Constitution (Sporting Life, 2021).

However, with the COVID-19 pandemic having repercussions extending beyond football, government funding schemes were available in many European countries. In France, for instance, the clubs compensated the players at 70% of their gross revenue, with the state reimbursing the club to a limit of €4,850 per employee per month. (LawinSport 2020A, at 19). In Germany, employers had the right to reduce a player’s pay to zero, with the player receiving a payment from the government of up to €4,623 per month. (LawinSport 2020A, at 22). In England the government introduced a job retention scheme allowing employers to place employees on leave with the government paying employees 80% of their wages, up to a sum of £2500 per month. (LawinSport 2020A, at 14). Many other European countries including Italy, Spain, Portugal, Belgium and the Netherlands had similar schemes in place (LawinSport 2020A, at 4).

Some national federations were able to provide assistance to clubs, with the EPL providing fund of £125 million to the lower three divisions of English football. The German Football Association negotiated funding from private institutions for clubs in need and the Deutsche Fussball Liga provided a €50 million relief fund. (LawinSport 2020A, at 4). The French Federation of Football did not provide any direct financial assistance, but its football

clubs were able to access ‘state-guaranteed loans with their respective banks.’ (LawinSport 2020A, at 19). In Spain, the Royal Spanish Football Federation organised a €4 million treasury advance aid ‘to help clubs paying the salaries of players and coaches of their first teams’ (LawinSport, 2020A at 29).

Thus, the financial impact of the pandemic on European football clubs was considerable due to lost revenue from reduced broadcasting rights, and matches being cancelled or having to be played behind closed doors. However, there were packages available from various sources to provide at least some financial assistance. Since it is player salaries that are the main financial commitment for the clubs, it was inevitable that there were potential ramifications in regard to player contracts.

THE IMPACT ON PLAYER CONTRACTS

The difficulties associated with COVID-19 raised issues as to whether the playing contracts could be performed. In this situation it may be possible to raise the defence of force majeure. Force majeure usually applies ‘to exclude liability where a party’s failure to perform is caused by forces beyond its control’ (*Davis Contractors Ltd v Fareham Urban District Council*, 1956). At common law, force majeure does not arise automatically, and a clause needs to be inserted in the contract for it to apply. Since English football did not have one, a force majeure clause did not apply. However, the common law does provide a possible alternative remedy in the doctrine of frustration. Frustration will apply to a contract where performance becomes impossible or radically different from what was envisaged by the original agreement, due to no fault of the parties (*Morgan v Manser*, 1948). It is unusual for employment contracts to be frustrated because this would require the situation to be so completely different to that anticipated that performance as agreed becomes impossible (*FC Shepherd & Co Ltd v Boblee Thorl GmbH*, 1962). Frustration also depends on the anticipated duration of the delay and how this relates to the length of the contract. The anticipated delay to football in England was only short-term, and thus COVID-19 only delayed performance of the player contracts, rather than having frustrated them.

In civil law jurisdictions, the availability of force majeure is usually contained in legislation so it can apply to contracts which do not specifically refer to it. However, its use in civil law jurisdictions normally only provides for suspension or modification of a contract, rather than its termination. It is, therefore, necessary to consider the particular law in the relevant country to determine its effect.

In France football contracts are framed by law pursuant to the Sports Code as well as the Labour Code and are known as ‘specific fixed-term contracts.’ One of the grounds for termination is force majeure and this might apply to the COVID-19 pandemic, particularly as, in France, the 2019–20 season was cancelled after a government decree banning sporting events. However, the crisis could only be considered temporary, as shown by the fact the 2020–21 season was completed in France. Thus, force majeure could only lead, at best, to a suspension of employment. Spanish law allows for clubs to use the ERTE (*expediente de regulacion temporal de empleo*), which is contained in the Statute of Workers and applies in situations of force majeure. The ERTE allows the employer to request either a temporary modification of the contract reducing the working hours and salary by a minimum of 10% to a

maximum of 70%, or to temporarily suspend the employment contract (LawinSport, 2020A at 30). Under German law, suspension of a player's salary is not allowable, although bonuses for playing or winning a game could be suspended. In the Netherlands, a change of salary is only possible as a final option, and only if negotiations at both the collective and individual levels have tried but failed to elicit agreement. Belgium law provides for force majeure clauses to allow suspension, but not termination of an employment contract (LawinSport, 2020A at 9).

A pandemic was not something clubs would have considered when the present player contracts were being negotiated. This meant they did not contain clauses covering situations where matches were not be played, or took place without spectators, to take into account reduced revenue. When the pandemic hit, the players were, understandably, initially reluctant to deviate from their contracts and agree to a reduction in wages. As mentioned, some clubs, such as Arsenal, negotiated a deferment of a percentage of the player's wages. (Mokbel, 2020). Players in the Bundesliga and Serie A meanwhile agreed to 20% and 33% reductions respectively while in the Spanish La Liga players and coaches at Barcelona and Atletico Madrid, agreed to 70% cuts (Beresford, 2020). Players contracted to leading Italian club, Juventus, agreed to forego four months of wages, amounting to €90 million, to assist their club (The Guardian, 2020B). France's Ligue One meanwhile introduced a sliding scale which started at a 20% reduction but rose to 50% for those earning more than €100,000 a month (Sportsstar, 2020).

However, players could, and in some cases did, stand by the terms of their contracts, with one such term being the refusal to extend their contracts beyond 30 June 2020 contractual deadline to play in the backlog of fixtures needed to complete the elongated season. Lyle Walker of Championship side, Charlton Athletic, for instance took this approach. The reason was that he hoped to secure a contract with a major club for the following season and did not want to jeopardise his chances by injuring himself in matches played after the expiration of his contract (Banks, 2020).

It is suggested that one of the long-term impacts of COVID-19 on sport is that clubs may have to consider the inclusion of a clause in future player contracts which provides for a percentage reduction in wages, if for unforeseen circumstances, matches have to be cancelled, or played without revenue-generating spectators. The difficulty with such a clause would be agreeing to a rate of reduction that would be acceptable to both clubs and players. While players in some leagues agreed to as much as a 70% reduction during COVID-19, it is unlikely many players would agree to such a figure being inserted into future contracts. The French sliding scale could perhaps be the solution, leading to a clause that incorporates a figure of around 20% for lower wages and up to 50% for the highest ones.

CONCLUSION

COVID-19 has had significant impact on European football, not only in the 2019/20 season, but also the 20/21 season. UEFA acted swiftly at the advent of the pandemic, and by willing to be flexible and adaptable, was able to complete its competitions in both seasons. Most of the European national leagues were able to complete their 2019/20 competitions, and all of them, the 2020/21 competitions, reflecting that the national governing bodies were also willing to be flexible in how they operated. The fact that the postponed 2020 European Championships were

successfully held in June and July 2021, the final being played in a spectator full Wembley Stadium, suggests European football may have successfully negotiated the COVID-19 pandemic. However, the fact EPL club, Arsenal, had to withdraw from its pre-season tour of the US due to COVID-19 problems and the recent advent of the Omnicron variant indicates the problems may not yet be over.

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