

IMPLICATIONS AND CONSEQUENCES OF THE BOSMAN RULING: THE CASE OF THE GREEK BASKETBALL LEAGUE

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SUMMARY

The European Court's decision at the end of 1995, which granted athletes the same freedom of movement as all other professionals within the European Union (EU), changed once and for all the face of sport in Europe. The EU, acting as a supranational organization, changed the rules of the market. The Bosman ruling – named after the Belgian footballer that brought the case to the Court – has since had an immense impact at every level of the industry. Not only have the players from all member states acquired the right to move freely and enjoy the same privileges of domestic citizens, but also the long established transfer process was seriously questioned. The Bosman ruling also declared that the transfer fee that clubs had to pay for out of contract players was against Community legislation, creating significant results for the financial planning of the clubs and raising questions for their future survival. Apart from the economic consequences of the ruling, an important aspect of the case was the affection it had on the sporting/cultural side of the industry. For centuries sport has been a basic element of the European society and represents a great deal more than just a form of entertainment. This relationship was put in jeopardy after the ruling allowed the clubs to have as many foreign players as they wish, thus altering their identity. Some argue that this ruling is only peripheral to sport and is a part of the major dispute within the EU: What is the level of integration that the member states have to reach? This study examined the general implications and consequences of the Bosman ruling for the industry, at every level that is affected. The theory was then applied – through primary research – to the Greek Basketball league, confirming the theory only in part and revealing once more the controversial face of this ruling.

Key words: Bosman ruling, Greek Basketball League, European Court of Justice, sport

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ÖZET

BOSMAN KARARININ SONUÇLARI: YUNAN BASKETBOL LİĞİ ÖRNEĞİ

Avrupa Mahkemesinin 1995 sonunda Avrupa Birliği (AB) içinde diğer mesleklerde olduğu gibi sporculara da serbest dolaşım hakkının tanınması yönündeki kararı Avrupa'da sporun görünümünü tamamen değiştirdi. AB, uluslar üstü bir kuruluş şeklinde hareketle, pazarın kurallarını değiştirdi. Davayı mahkemeye getiren Belçikalı futbolcunun adıyla anılan Bosman Kararının o günden bu yana spor endüstrisinin her alanında büyük etkisi oldu. Sadece oyuncuların üye ülkelerde serbest dolaşım hakkı kazanıp o ülke yurttaşlarıyla aynı ayrıcalıkları edinmeleriyle kalınmayıp, aynı zamanda öteden beri uygulana gelen transfer süreçleri de ciddi şekilde sorgulandı. Bosman Kararı kulüplerin kontratları biten oyunculara ödemeleri gereken transfer ücretlerinin AB kanunlarına aykırı olduğunu da açıkladı. Bu da kulüplerin finansal planlamaları konusunda anlamlı sonuçlara neden olup gelecekleri hakkında sorular yarattı. Kararın ekonomik sonuçları yanı sıra, davanın önemli bir yönü de endüstrinin sportif/kültürel yanına olan etkisiydi. Spor yüzyıllardır Avrupa toplumunun temel bir ögesi olmuş ve bir eğlence türünden çok daha fazlasını içermektedir. Bu ilişki, kararın kulüplere istedikleri kadar yabancı oyuncu bulundurma hakkını tanıyıp kimliklerini değiştirmelerine neden olmasıyla tehlikeye atılmıştır. Kimileri bu kararın sadece spor için geçerli olup AB içindeki temel bir sorunun parçası olduğunu ileri sürmüşlerdir: Üye ülkelerin ulaşmaları gereken entegrasyon düzeyi ne olmalıdır? Bu çalışma Bosman Kararının spor endüstrisindeki genel yansıma ve sonuçlarını etkilenen her alanda incelemektedir. Daha sonra kuramın Yunan Basketbol Ligine uyarlaması yapıлып kısmen geçerli olduğu kanıtlanmakta, bir kez daha kararın çelişkili yönleri ortaya konmaktadır.

Anahtar sözcükler: *Bosman kanunu, Yunan Basketbol Ligi, Avrupa Adalet Mahkemesi, spor*

INTRODUCTION

The Bosman ruling changed once and for all the face of professional sports inside the European Union. The case of the Belgian footballer that went to the European Court of Justice (ECJ), arguing his right to move from one club to another without the existence of a transfer fee, since his contract had already expired, altered the laws of transfer markets in professional sports.

Sport – as an economic activity – has always been a controversial issue and the Bosman ruling did nothing less but to create further

discussion. Was this decision by the ECJ going to widen the gap between rich and poor clubs? Was the national identity of sports going to be abolished by the influx of a large number of “foreign” (EU citizens) players? How would the peculiar economics of sports react to such a vast alteration of its laws and regulations that for years have been followed?

Our purpose is to apply the Bosman ruling and its implications and consequences to the case of the Greek Basketball League. In order to do so, there will be a short analysis of the theoretical results of the Bosman ruling, before trying to apply it to the Greek Basketball League and examine whether it is actually confirmed.

THE BOSMAN RULING

In essence, what Jean-Marc Bosman, a minor Belgian footballer, achieved was far more than what he expected. He took his case to the ECJ, arguing that since his contract was over, he was available to move freely to any club he wanted, without his new employer having to pay a transfer fee to the previous one.

The decision, as it was announced in 1995 after almost five years of procedures, not only confirmed this (thus abolishing one of the main parameters of the existing transfer system), but also stated that any limitations regarding the number of players holding an EU passport were totally against the EU’s regulations and especially the ex Article 58 of the Treaty of Rome (1957) that granted absolute freedom of movement for the Union’s workforce.

At once, the two most basic regulations of the transfer system ceased to exist. The clubs didn’t have to pay fees for out of contract players and there was no quota on how many players from the EU a club could sign. UEFA (Union of European Football Associations) tried hard to convince the ECJ that the effects of such a decision would be catastrophic for sports and especially football, but the ECJ decided on a basis of economic facts and the freedom of competition, rather than seeing sports as a cultural activity, closely connected with each country’s traditions.

THEORETICAL EFFECTS OF THE RULING

The effects created through the Bosman ruling in theory can be divided into two main categories. On one hand there is the economic aspect of the case and on the other the sporting/cultural outcomes,

resulting from this decision. Also, there are the sporting/cultural consequences of the Bosman ruling, which are more difficult to measure, but are none the less as important. Table 1 summarizes the effects and provides positive and negative arguments following the new development.

Table 1. Summary of the ruling's effects

Development caused by the Bosman ruling (BR)	Positive effect	Negative effect
Abolition of transfer fee	Freedom of mobility for professional athletes	Loss of income for small clubs Demotivation of clubs in investing in youth development programmes
Higher salaries	Economic stability for professional athletes	Financial burden for clubs Lower division players get reduced salaries
Longer contracts	Employment security	Club held "prisoners" by athletes Demotivation of athletes, who "sit" on their contracts
Abolition of foreign players' quota	Employment opportunities in new markets	Loss of clubs' identity Loss of traditional relationship between fans and clubs Wider gap between: small and big clubs, weak and strong European leagues Problematic talent development
Applicability of BR to 3 rd countries citizens		Invasion of cheap foreign labour

a. Effects for the players

In general, the economic results are not the same for athletes and professional clubs and have to be distinguished. The players benefit from the ruling, since their bargaining power increases (more options of employment, chance of moving to bigger markets, etc.). This results in their income increase, something that also occurred when the North America sport market deregulated back in 1981. In professional baseball, the average salary rose from \$44,700 USD in 1975 (the last year before the deregulation) to \$371,200 in 1985, while the same thing happened in professional basketball, ice hockey and American football leagues (5). In Europe as well, since 1998 Deloitte and Touche produced statistics that revealed a 40% increase in players' salaries for the English Football Premier League, something that was attributed to the Bosman ruling and the influx of foreign players (4).

Moreover, the clubs feel the need to sign their key players for more years than before, since the latter can go on a free transfer at the expiration of their contract. This allows the players to ask for increased wages in order to commit themselves for a longer period of time and obviously increases their sense of security under a long, unbreakable contract.

b. Effects for the clubs

The consequences for the clubs are very different, almost opposite to the ones of the players. The higher salaries have pushed the clubs' financial conditions to their limits and there are quite a few alarming examples of traditional clubs that went almost bankrupt due to financial reasons in the recent years, with the example of football club Leeds United to be the most characteristic.

Moreover, the Bosman case increased the difficulty observed in professional sports to redistribute the generated income. Under recent developments, the clubs are free to negotiate their broadcasting rights on their own, so instead of having a collective agreement that would distribute appropriately the amount of money to all clubs, now the "big boys" take the vast amount of the TV income, leaving the small clubs struggling to survive (3). Deprived from their two main sources of income (transfer fees and broadcasting rights), the long-term prospect of small, local clubs seems less than optimistic.

Another aspect of the Bosman ruling affects youth development projects of the clubs. They are obviously much more reluctant to invest in these programmes, since they know they have no means of holding on to their talents. The cost of developing a young player over the years is far greater than signing a Bosman player and clubs will tend more and more to seek this solution.

c. Cultural/sporting effects

Apart from the financial consequences, the Bosman ruling has had a tremendous impact on the cultural and sporting aspect of professional sports in Europe. The long-lasting relationship between the fans and the clubs, a bond that goes far beyond sports and expresses the socio-cultural elements of each society, is seriously endangered. The reasons behind this development are two. First of all, the fans (the customers in the sports market) find more and more difficult to associate themselves with huge-earning players, who often are seen as

“mercenaries”. The people paying the tickets have a special bond with their club and expect nothing less from the players, no matter how well-known they are or not (6). Commitment in professional sports is really difficult to be found nowadays and this seriously affects the fan base.

More importantly, the clubs tend to lose their domestic identity by signing more foreign players than ever. FC Chelsea was the first club to field 11 non-English players in a domestic championship match, arising serious criticism about how well this team can express the fans’ feelings and the club’s traditions (6). The same effect was apparent in the Greek Basketball League at the end of the 90’s, when the uncontrollable invasion of Bosman players of medium quality caused a dramatic fall of interest for the sport (2).

Finally, Bosman ruling’s future results are not yet easily identified, as the enlargement of the European Union (which now constitutes of 25 countries, with many more walking the accession path) and the third country agreements that the EU has signed are bound to increase the number of countries that this ruling can be applied. Moreover, a possible application of this judgement to amateur sports can create further troubles for domestic/local sporting activities.

APPLICATION OF THE BOSMAN RULING TO THE GREEK BASKETBALL LEAGUE

The Greek Basketball League faced a tremendous boom in the middle of the 90’s. The Greek clubs dominated the European competitions, high profile players from the USA agreed to play in Greece, TV rights rose sky high, and the fans’ interest reached its top. But the fall came very soon and abruptly, creating almost a panic attack. Most of the analysts pointed to the Bosman decision and the outrageous number of EU players that came to Greece, creating multi-ethnic teams, with no local feel. How true was that?

Until a certain point, this reflected the reality and confirmed the theory. The clubs didn’t manage to use their “freedom” wisely and ended up with an “army of mercenaries”, signing an unprecedented number of foreign players in their quest for glory and trophies. This declined the interest of the traditional Greek fan, very keen on identifying himself with local heroes. Moreover, this policy widened the gap between big and small clubs, as the rich ones managed to pick the best players from

all over Europe, making it almost impossible for the rest to compete. The championship race became predictable and subsequently the interest fell dramatically. The abolition of the transfer fee did exactly what it was supposed to: create financial problems to smaller clubs that were used to sell their star players and finance their future. They now had to turn to other sources of financing themselves, something they were obviously not prepared to do.

At the same time, the other theoretical effects of the Bosman ruling were not confirmed. For example, instead of observing longer contracts and higher salaries, the result was quite the opposite. The clubs followed a policy of signing one year contracts, since they were almost certain that any player could be replaced and preferred to keep them “hungry”, rather than providing the safety net of a long-term contract. Similarly, the salaries didn’t change as much, as the battle for a place in the roster of a top club, drove the players into a competition among themselves, in order to secure their status.

As for the third country nationals, Greece became one of the first countries in Europe that acknowledged that the Bosman ruling applies also to the countries that have association agreements with the EU. Long before Poland joined the EU, Adam Wojcik was allowed to play in the Greek league under the Bosman status, since the agreement between the two parties (signed December 16th, 1993) stated that “workers of Polish nationality, legally employed in a territory of a member state... shall be free from any discrimination based on nationality” (1).

CONCLUSION

The Bosman ruling is without doubt a controversial decision of the ECJ, one that the effects will be better evaluated after 20 or 30 years. The application of the theory to the Greek Basketball League revealed that some aspects were totally confirmed (invasion of foreign labour, financial problems from the abolition of transfer fees, disappointment of fan base because of multinational teams). At the same time, other core results that in theory would be apparent (longer contracts, higher salaries) never prevailed, proving that sports is indeed a peculiar market that sometimes works on its own unique standards, and does not follow the strict laws of economic activity.

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