

Trends and Developments

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The Latest Trends in Portuguese Sports Law

The most visible trends and developments involving the sports market in Portugal concern the organisation of sports clubs, commercialisation of sports events, combating violence and discrimination in sports, sports integrity, career support for athletes, women's sports, esports and the activities of football agents.

Organisation of sports clubs: a new legal regime for sports companies

The Portuguese government has overhauled the legal framework for sports companies in response to a wave of insolvencies and dissolutions that impacted roughly 20% of established companies and even led to the demise of historic clubs. This new regime aims to strengthen

regulations and make the sector more appealing to investors.

In this context, Law No 39/2023 was published on 4 August 2023, establishing the new legal regime for sports companies and repealing the regime previously in force (Decree-Law No 10/2013 of 25 January). The main changes resulting from the new law are as follows:

- the possibility of sports companies to adopt the legal form of limited liability companies, in which the founding club may have a majority stake and more than one private partner;
- the prohibition of mergers of sports companies with different founding clubs unless there is a merger between said clubs;

- the reinforcement of the provisions concerning independence and conflict of interest policies for directors and managers of sports companies;
- the recognition that sporting achievements and trophies won by the sports company are awarded to the founding sports club, if it retains this status on the date of the dissolution or insolvency of the sports company;
- the introduction of gender quotas in management and supervisory bodies;
- the application to all sports companies of the measures to combat money laundering and the financing of terrorism, provided for in Law 83/2017;
- the introduction of new publicity principles, such as the obligation of the sports companies to publish on their website the articles of association and accounts for the last three years;
- the creation of a regime of administrative offences for non-compliance with the duties and obligations enshrined; and
- the obligation of the sports companies to create a whistleblowing channel.

The changes imposed by the new legal framework for sports companies are largely aimed at promoting a balance between the founding club and the qualified investors in sports companies, imposing transparent conduct on them and thus making the latter more credible.

Commercialisation of sports events

Like other members of the European Union and the World Trade Organization, the Portuguese jurisdiction allows for the exploitation of patents, trade marks, merchandising, copyrights, broadcasting rights, sponsorship and image rights.

The owner of the above-mentioned rights varies depending on the type of sport in question. For example, in futsal and hockey, the respec-

tive sports federations are the exclusive owners of the merchandising, copyrights, broadcasting rights, sponsorship and image rights of all matches played in the various competitions. Therefore, the commercialisation of these rights is undertaken by the sports federations, which can transfer or license the rights through written agreements.

Conversely, in football, the ownership of television and multimedia broadcasting rights for matches in the first and second national leagues for men's football belongs to the sports clubs or sports companies who participate in these competitions. Although currently Portuguese sports clubs in professional competitions sell these rights individually, as of the 2028/2029 sports season, such rights will have to be jointly sold in terms to be defined by the Portuguese Football Federation by the end of the 2025/2026 sports season, subject to approval by the Portuguese Competition Authority, as set out in Decree-Law No 22-B/2021 of 22 March.

Following the entry into force of Decree-Law No 22-B/2021, the Portuguese League created *Liga Centralização*, an entity whose main purpose is to analyse and define a proposal for a future model involving the centralised sale of television and media rights.

The option for a centralised marketing model for television and media rights is justified by the fact that the individualised marketing model currently adopted in Portugal allegedly promotes greater discrepancy between the various clubs in the League, insofar as it channels the majority of revenue to larger clubs which, due to their larger fanbase, receive larger bids for the marketing of their rights, to the disadvantage of smaller clubs.

The shift towards a centralised marketing model for TV and media rights, while potentially less

appealing to larger clubs, aligns with the practices of major European leagues and is anticipated to financially benefit clubs across the first and second leagues, regardless of their size. This model promotes a more equitable distribution of TV revenue, enabling smaller clubs to enhance their investment in team development. This increased financial capability is expected to foster greater internal competitiveness within the league, thereby making the competition more enthralling and potentially boosting other revenue streams.

Based on the experiences in other countries, this transition to a centralised marketing model is expected to also benefit sports channels and fans as it will enable a wider range of sports content to be made available more regularly, in line with consumer preferences.

Combating violence and discrimination in sports

Violence in sports is a phenomenon that cuts across the various sports and the various levels of competition and can affect not only the physical integrity of athletes and fans, but also the role of sport as a vehicle for social inclusion. For this reason, preventing and combating violence in sport has been defined as a national priority.

In this context, Law No 40/2023 was published on 10 August 2023, reinforcing the mechanisms for combating violence in sport, amending the regime provided for in Law No 39/2009 of 30 July. The most important changes introduced by the new legal framework are as follows:

- a simplification of the requirements regarding the adoption of safety regulations and the use of public spaces, maintaining the obligation to adopt these regulations only for sports facilities with greater capacity and consequently greater risk;

- modification of the role of the security manager, providing for specific requirements that the security manager must meet, such as having completed mandatory education;
- more detailed rules on support from promoters of sporting events to organised groups of fans, requiring promoters of sporting events to register organised groups of fans with the competent authority;
- criminalisation of support for organised supporters' groups not registered with the competent authority and the granting of support not declared in the protocols sent to the competent authority;
- the introduction of mandatory provisions for accommodating people with disabilities at sporting venues;
- an obligation for sports promoters to ensure that data from their video surveillance systems is available in optimal condition;
- strengthening the powers of security forces at sporting events; and
- a new provision holding clubs accountable for the behaviour of their visiting fans.

Law No 40/2023 of 10 August introduces several important changes to the legal framework for combating violence, racism, xenophobia and intolerance at sporting events, but it is not without its critics, namely because of its limited focus on effectively holding the perpetrators of violence in sport to account, instead focusing its action almost exclusively on clubs, sports companies, promoters and organisers of sports event.

Sports integrity

Manipulation of sports results is a growing concern worldwide, especially as the turnover of land-based and online sports betting grows. In Portugal, this turnover has been around EUR200 million euros in each of the last two years,

becoming a growing threat to the integrity of sports competitions.

With this in mind, 2024 began with the publication of Law No 14/2024 of 19 January, which establishes the legal framework for the integrity of sports and the fight against anti-sporting conduct.

Regarding match fixing and the manipulation of sports results, Law No 14/2024 of 19 January establishes that the use of means that aim to artificially alter the results of sports events is considered a criminal offence punishable by imprisonment for up to eight years.

Match fixing may also lead to the application of ancillary penalties, such as suspension from sports competitions for up to three years, privation of the right to receive public grants and a prohibition on performing sporting duties for up to five years.

Mandatory reporting is also imposed whenever sports agents become aware of or suspect anti-sporting conduct contrary to the values of truth, fairness and correctness and are likely to fraudulently alter a sports competition or its result. They must immediately report such conduct to the Public Prosecutor's Office.

Law No 14/2024 of 19 January also stipulates the creation of a platform to monitor the manipulation of evidence, with experts appointed by the Attorney General's Office, the Judiciary Police, the Portuguese Olympic Committee and the Portuguese Football Federation, among others, handing over co-ordination to the director anti-corruption unit of the Judiciary Police.

Career support for athletes

The activity of professional athletes has specific characteristics compared to the common

employment relationship. Recognising these characteristics, Portugal has approved two important laws concerning (i) accidents at work; and (ii) post-career support.

Accidents at work

Professional athletes face uniquely demanding careers. The physical toll they endure often leads to shorter average durations compared to other professions. In recognition of these specific circumstances, Law No 48/2023 of 22 August, established a distinct legal framework. This framework specifically addresses work-related accidents for professional athletes, and the most relevant provisions are as follows:

- an obligation for athletes to explicitly consent at the time of contracting to the provision of all medical examinations, relevant to risk assessment, carried out by the employer's medical services to the insurer's medical services;
- the establishment of upper limits for compensation in cases of temporary partial incapacity;
- a detailed distinction of annual pension ceilings, which vary according to the degree of disability and the athlete's age;
- the introduction of a new bracket for death pensions; and
- a provision for athletes to request a review of their incapacity within a decade following their clinical discharge.

These provisions reflect a significant shift towards recognising the distinct nature of athletic careers and the need for specialised legal protection in this field. The changes aim to balance the recognition of the increasing career length of athletes with the inherent physical demands and risks of their profession, ensuring more robust and responsive support structures.

Post-career support

On 19 January 2024, Portugal approved Law No 13/2024, which establishes support measures for Olympic, Paralympic, Deaflympic and high-performance athletes after the end of their careers, such as:

- creation of a public employment quota system in central, regional and local administration services and bodies;
- creation of a temporary reintegration grant, to be awarded for a maximum period of 36 months;
- the employment agreements of athletes who have been part of the high-performance system for at least eight years, consecutively or intermittently, will be treated on a par with employment agreements entered into with young people starting their first job (which have benefits in terms of social security contributions);
- the creation of a special access system to higher education for high-performance athletes within three years of retiring from their sports careers.

These measures collectively reflect a growing awareness and response from the Portuguese legislator to the challenges athletes face at the end of their sports careers. By providing structured support in employment, education, and financial assistance, the law aims to ensure a smoother and more secure transition for athletes into their post-sports lives..

Women's sports

Women's sports have developed and grown over recent years in Portugal, especially volleyball, futsal and football.

Regarding football, the Portuguese national team has qualified for the women's World Cup for the first time in 2023. This reflects not only the

growing quality of athletes, but also the growing investment of the Portuguese sports federation and of sports companies.

In a significant move, Portuguese legislation now permits sports clubs to establish or own share capital in more than one sports company when these companies are dedicated to the same sport but differ in gender. Typically, a sports club is restricted from setting up or holding share capital in multiple sports companies with the same sporting focus. This change serves as an incentive for investment in women's teams.

Another critical measure is the introduction of gender quotas, mandating that sports companies ensure a minimum representation of 33.3% for each gender in their management and supervisory bodies. While these quotas do not apply to current mandates, they will be enforced for future renewals and replacements.

Esports

The esports landscape in Portugal has seen remarkable growth in recent years, marked by the emergence of numerous players, clubs, coaches, event organisers, specialised media, several enthusiast communities, and several national and international competitions and events. In fact, Portuguese players are ranked 22nd in terms of esports earnings.

Portugal was one of the first countries to have a football federation to embrace an esports section in 2017. The esports section of the Portuguese Football Federation includes teams licensed for online competitions and clubs specifically created for such competitions.

In 2018, one of the first esports associations in Portugal, the Portuguese Federation of Electronic Sports (*Federação Portuguesa de Desportos Eletrónicos*, or FPDE), was created.

Entities such as EGN esports and LPLOL – which are promoters of competitions and games – have been instrumental in aggregating players and promoting esports. EGN is a club that promotes competitions based on several games (LoL, Counter Strike, FIFA). It promotes the participation of teams in tournaments and the training of players. LPLOL is the Portuguese League of League of Legends and it promotes competitions of this specific game and exercises sporting jurisdiction over the participating teams.

Although the economy of esports has been exponentially developing in Portugal, it is still a severely underregulated sector of the sports industry.

Activities of football agents

On 1 October 2023, the new FIFA Football Agent Regulations (FFAR) became fully effective worldwide. In compliance with the obligation to adapt its national regulation accordingly, the Portuguese Football Federation has approved new domestic Football Agent Regulations, that essentially transpose the measures imposed by the FFAR to domestic transactions.

The FFAR attracted much criticism from football agents worldwide, namely related to the limitations concerning dual representation, service fee caps, reporting obligations and mandatory license requirements to practise agent activities.

This criticism has led to legal action against FIFA to suspend the application of the FFAR in several European countries, such as Germany and Spain.

To comply with the German injunction, FIFA would have to suspend the implementation of the FFAR for any transfer which had a link to the European Union. Recognising that this

would create a situation of unequal legal standards within the international transfer system, in particular between Europe and the rest of the world, FIFA decided on the worldwide temporary suspension of the FFAR rules affected by the German court decision, until the European Court of Justice renders a final decision on the pending procedures concerning the FFAR.

Therefore, currently the following provisions of the FFAR are suspended worldwide:

- the service fee cap (Article 15, paragraphs 1-4);
- the rules concerning service fee payments (Article 14, paragraphs 6, 8 and 11);
- the client pays rule (Article 14, paragraphs 2 and 10);
- the rules regarding the timing of service fee payments (Article 14, paragraphs 7 and 12);
- the prohibition of double representation (Article 12, paragraphs 8-10);
- the reporting obligations (Article 16, paragraphs 2 h), j), k) and 4);
- the rules regarding disclosure and publication (Article 19);
- the submission rule (Article 4, paragraph 2; Article 16, paragraph 2 b); Article 3, paragraphs 2 c) and d); Article 20; and Article 21); and
- the rule that service fee payments must be made via the FIFA Clearing House (Article 14, paragraph 13).

Following FIFA's decision to partially suspend the application of the FFAR, the Portuguese Football Federation has also decided to suspend the application of the provisions of its internal Regulations that are affected by the German injunction.