

Cours de 4<sup>ème</sup> année Sport  
Amos  
M1

Sports Agents  
and  
Contract Law



### **Session 3 – Becoming an Agent: Registration and agent profile**

Registration as a sports agent

Athlete Attorney

Sports agent profiles

The missions of the Athletic Agent

The qualities of the Athletic Agent

Session 3 - Devenir un agent: inscription et profil d'agent

Inscription en tant qu'agent sportif

Avocat mandataire de sportifs

Les profils d'agents sportifs

Les missions de l'Agent sportif

Les qualités de l'Agent sportif

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**TITLE I - SPORTS AGENT****CHAPTER I: INTRODUCTORY REMARKS**

Section 1: Sports Agent Activity

Section 2: Legislative developments

**Section 1: Sports Agent Activity**

In general, intermediary activity consists in "putting in touch two or more persons with a view to concluding an agreement". In principle, the function of the agent is defined in a written contract in which he must, in particular, with a view to the conclusion of a working relationship, put in contact an athlete and a sports group, or a show organization. As such, he participates in the placement of athletes looking for work with various players in the sports market.

According to Article L.222-7 of the Sports Code, the activity of sports agent is defined as "the activity consisting in linking, for remuneration, the parties interested in the conclusion of a contract relating to the paid exercise of a sports or training activity, that is to say the conclusion of a contract of employment for the purpose of the paid exercise of a sports or training activity".

All activities of the sports agent are outside the scope of this article. Article L. 222-7 of the Sports Code concerns exclusively the intermediary actions of the agent whose purpose lies in the conclusion of an athlete transfer contract, an employment contract between an athlete and an athlete. club or a service agreement between an organizer of a sports event and an athlete, as is the case, for example, in athletics. The mission of the agent, within the meaning of Article L. 222-7 of the Sports Code, is an activity of brokerage, exclusive representation.

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The text does not cover the case of the intervention of an agent for the conclusion of contracts for the management of all the rights of the athlete (image contracts, sponsorship, wealth management, etc.). These last activities are therefore free.

**Section 2: Legislative developments**

Sports agent activity is a profession that has experienced several legislative changes. The latest development was made by the law of 1 March 2017. Article 12 of the law of 1 March 2017 provides in particular that the federations that have formed a professional league create a body empowered to seize disciplinary bodies and whose mission is to ensure financial control of the activity of sports agents. Thus, the sports agents are required to communicate to the body any information or any document necessary for the accomplishment of its missions.

**ESSENTIAL**

The French definition of the activity of sports agent does not include the fact of intervening for the conclusion of a contract relating to the entirety of the rights of the athlete. Only mediation actions whose purpose is the conclusion of an athlete transfer contract, an

employment contract between an athlete and a club or a service agreement binding an organizer of a sports car a sporting event and an athlete.

The law of 1 March 2017 to preserve the ethics of sport, to strengthen the regulation and transparency of professional sports and to improve the competitiveness of clubs contains provisions relating to sports agents.

## **CHAPTER II: CONDITIONS OF ACCESS TO THE PROFESSION**

### **Section 1: Regulations**

- A - The FIFA regulations
- B - The link between FIFA regulations and French law
- C - French regulations

### **Section 2: Incompatibilities and Disabilities**

- A - Incompatibilities
- B - Disabilities
- C - Disciplinary and penal sanctions

### **Section 3: Examination of the Sports Agent License**

- A - The organization of the examination
- B - The examination procedure
- C - The dispensation

## **Section 1: Regulations**

### **A - The FIFA regulations**

#### **1. The old system**

Previously, prior federal authorization was required.

This federal prior authorization materialized, for the sports agents as for the artistic agents, by the attribution of a license. Only when it was issued to them by order of the Minister of Labor, it was conferred to the first by decision of the national sports federation solicited.

The granting of a federal sports agent license has its roots in the regulation of the International Federation of Football Association (FIFA). This regulation, while indicating that national federations must respect their national legislation and international treaties, required by the FIFA Statutes and Regulations that the players' agent hold a license issued by the competent national federation (example : the FFF).

#### **2. The current system**

In 2014, FIFA adopted a new regulation on collaboration with intermediaries that redesigned the player agent system. This regulation notably acts and mainly the suppression of the requirement of holding a license.

An in-depth reform of the player agent system was decided at the 2009 FIFA Congress, in order to address some of the shortcomings identified in licensing and to increase transparency. Following a consultation process, FIFA drafted a new regulation that was adopted on June 11, 2014 before coming into force on April 1, 2015. The new text no longer regulates access to the activity but establishes a general framework for controlling the activity of intermediaries

in the services provided to players and clubs for the conclusion of employment contracts and transfer agreements between two clubs.

This is a common foundation that national federations are allowed to strengthen.

The FIFA rules concern the use of the services of an intermediary by players or clubs in order to conclude a work contract between a player and a club or a transfer contract between two clubs. Coaches are not specifically targeted by the device.

According to the FIFA regulations, a registration system for intermediaries for each operation must be set up by each national federation.

Intermediaries must at least fill in an "intermediary declaration" by which they adhere to the statutes and regulations of FIFA, confederations and national federations in the exercise of their activity. This declaration will be submitted to the national federation concerned. Before the intermediary can be registered, the federation "must at least have considered that the reputation of the intermediary is irreproachable" or that the individuals representing the legal person involved in the transaction have an irreproachable reputation "according to the FIFA regulations. This notion is particularly vague and could leave the federations a discretion almost discretionary, making the registration, seemingly flexible, more severe than the system of incompatibilities in France.

Intermediaries, natural or legal persons, must conclude a performance contract with the player / club before starting their activities and this contract must be filed with the relevant national federation at the time of registration of the intermediary. This contract must mention the nature of the legal relationship binding the parties (example: service, advice, mediation, etc.).

It will be up to the players and the clubs to communicate to their federation all the details concerning the remuneration agreed with the intermediary.

The regulation recommends but does not require the intermediary's remuneration to be limited to 3% of the player's basic gross income or transfer indemnity. The remuneration due to an intermediary is calculated on the basis of the total gross income of the player over the entire duration of the contract.

The federations will have to publish at the end of March of each year the names of all the registered intermediaries and the details of the transactions carried out during the previous year. They will also have to publish the total amount of remunerations paid to intermediaries by showing the cumulative total of the payments made by players and the cumulative totals club by club.

Clubs and players should ensure that no conflict of interest exists. No conflict of interest will be engaged if the intermediary discloses it in writing and obtains the written consent of the parties involved before the commencement of the negotiations.

The double mandate is allowed provided that the player and the club who wish to use the services of the same intermediary in the same transaction have given their written consent before the start of the negotiations, indicated in writing the party who will take his charge the remuneration of the intermediary and informed the federation concerned.

## **B - The link between FIFA regulations and French law**



As a member of FIFA, the French Football Federation (FFF) must apply the private regulations of FIFA, but can not depart from the obligations of French law, which is intended to govern the activity of sports agent on the French territory. French law prevails over the regulation of FIFA which is private.

To date, the exercise of the activity of sports agent of football in France remains conditioned to the holding of a license or an authorization of exercise on the territory.

The obligations provided for by the FIFA Regulation, such as the signing of an intermediary's declaration or the publication of the amount of the commissions on the one hand and the mechanisms contrary to French law (example: practice of double mandate) on the other will not be applicable on French territory.

The ability of a state to enact laws in its territory can not be impeded. Thus, the French laws can not be the object of modification coming from an organism having no power on the State. This is why the French legislator categorically refused to adopt the regulations issued by FIFA through the directive of 1 April 2015.

## **C - French regulations**

The activity defined by article L.222-7 of the Sport Code may only be exercised by a natural person holding a sports agent's license. Legal persons are deprived of the possibility of holding a license. However, for the exercise of his profession, the sports agent is authorized to form a company or to be a company agent.

The license is issued, suspended and withdrawn by the delegated federation in the relevant discipline. The federation monitors the activity of sports agents and publishes each year the list of sports agents authorized to practice in its discipline, as well as the sanctions it has pronounced against them.

## **Section 2: Incompatibilities and Disabilities**

### **A - Incompatibilities**

Article L.222-9 of the Sports Code prohibits the issue or the holding of a license to any person:

➤ ☐ Who, directly or indirectly, performs volunteer or paid functions of management or sports training:

Either in an association or a company employing sportsmen against remuneration or organizing sports events Either in a sports federation or an organ that it has constituted, or if it has been brought to exercise one of these functions in the past year

➤ ☐ Who has been, during the past year, a shareholder or associate of a company employing sportsmen for remuneration or organizing sports events?

➤ ☐ Who has been the subject of a disciplinary sanction related to a breach of the rules of ethics, morality and sports deontology

➤ ☐ Who has been an agent of an association or a society employing athletes for remuneration or organizing sports events

- ☐ Who has been the agent of a sports federation or body that it has constituted

In addition, an officer who ceases his or her activity for the direct or indirect legal or professional performance, in a voluntary or paid capacity, of management or athletic training in a club, must observe a 1-year waiting period. from the cessation of his activity as an agent. In addition, an agent who ceases his activity must also observe a waiting period of 1 year if he wishes to become a shareholder or associate of a company employing sportsmen for remuneration or organizing sports events. These incompatibilities are extended to agents of sports agents who, moreover, can not be appointed by more than one agent or more than one sports agent company at a time.

### **B - Disabilities**

Article L.222-11 of the Sports Code prohibits the issue or the holding of a license to any person convicted by law for having been the author of acts constituting acts contrary to honor, probity and morality.

Also affected by these disabilities are those who are subject to personal bankruptcy and various prohibition or forfeiture measures provided for in the French Commercial Code.

The law of 1 March 2017 adds a hypothesis of incapacity by completing article L.222-11 of the Sport Code. Thus, no one can obtain or hold a sporting agent license if he has been the subject of a conviction for an offense under Article 1741 of the General Tax Code, ie a tax fraud.

### **C - Disciplinary and penal sanctions**

The license issued to a sports agent who subsequently becomes incompatible shall be suspended immediately by the sports agents' commission of the federation concerned. In case of incapacity affecting the license holder, it is immediately withdrawn.

The fact of exercising the activity of sports agent without having obtained the license, or in disregard of the rules enacting incompatibilities and incapacities, is punished with two years of imprisonment and a 30 000 € fine.

The amount of the fine may, in certain cases, be increased up to twice the amount unduly received.

These sanctions may be accompanied by a temporary or permanent ban on exercising the profession of sports agent.

## **Section 3: Examination of the Sports Agent License**

### **A - The organization of the examination**

Each delegated federation referred to by an order of the Minister in charge of sports, has the obligation to set up a commission of sports agents as well as to appoint a delegate to sports agents. The French National Olympic and Sports Committee is also responsible for setting up an inter-federal committee of sports agents, including a member of the sports agents commission of each federation.

Each of these federal commissions participates, along with the inter-federal commission of the sports agents in the organization of the examination of the license of sports agent. The federal commission concerned has jurisdiction to issue, suspend and withdraw the license; as well as to impose disciplinary sanctions against its holder.

### **B - The examination procedure**

The examination of the sport agent license includes two tests:

- ☐ The first allows to assess the aptitude of the candidate to practice the profession by ensuring that he possesses knowledge useful to this exercise, in particular in social, fiscal, contractual, insurance and related to the physical activities and sports .
- ☐ The second is to assess the candidate's knowledge of the regulations of the discipline concerned

Only candidates who have been admitted or exempted from the first test may take the second test. The result shall be forwarded to the sports agents' commission of the relevant discipline, with the latter's responsibility to notify each candidate.

Article R.222-18 of the Sport Code also provides that candidates who are postponed to the second test are exempted from the first test at the next examination session.

### **C - The dispensation**

A sports agent who regularly holds a license issued by a delegated federation is exempted from the first test comprising the examination. Each federation may also provide for the dispensation of all or part of the examination in consideration of the qualifications justified by the candidate concerned. These dispensation cases must be provided for by the regulations of the sports agents of the relevant discipline.

## **ESSENTIAL**

Since 1 April 2015, FIFA has put in place a general framework for controlling the activity of intermediaries. They must complete an "intermediary declaration" by which they adhere to the FIFA Statutes and Regulations, the Confederations and the National Federations in the exercise of their activity.

Conversely, in France, this regulation is not applied because the French law which is superior to it provides for a different regime.

The activity defined by article L.222-7 of the Sport Code can only be exercised by a natural person holding a sporting agent license. Legal persons are deprived of the possibility of holding a license.

In order to enter the sporting agent profession, the candidate must pass an exam consisting of two tests. The first, organized by the CNOSF concerns general legal knowledge while the second is organized by the federation of the concerned discipline and is about the specific federal regulatory knowledge.

Beyond the examination, a person may not hold or be granted the sports agent's license if he has incompatibilities or disabilities such as a conviction for tax evasion or a previous professional activity in conflict of interest.

### **CHAPTER III: THE EXERCISE OF THE ACTIVITY BY A FOREIGN NATIONAL**

Section 1: The national of an EU or EEA Member State

A - The permanent exercise of the activity in France

B - The temporary and occasional exercise of the activity in

France

C - Common provisions

Section 2: The national of a third State

Section 3: The specific case of football

#### **Section 1: The national of an EU or EEA Member State**

Les articles L.222-15 et L.222-15-1 du Code du sport organisent l'activité d'agent sportif pour les ressortissants des États membres de l'UE ou de l'EEE.

##### **A - The permanent exercise of the activity in France**

###### **1. For the national of a State in which the profession of agent is regulated**

Agent activity may be exercised in France when the national of a Member State of the EU (European Union) or the EEA (European Economic Area: Germany, Austria, Belgium, Bulgaria, Cyprus, Croatia, Denmark, Spain, Estonia, Finland, France, Greece, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Czech Republic, Romania, Slovakia, United Kingdom, Slovenia, Sweden) in which the profession is regulated is qualified to practice it in its State of origin.

###### **2. For nationals of a State in which the profession of agent is not regulated**

A national of a Member State of the EU or EEA in which the profession of agent is not regulated may exercise the activity of an agent if he has practiced in the last 10 years, during the less than 1 year full-time or for an equivalent period part-time, the agent activity in his State of origin.

In addition, the national must hold one or more certificates of competency or a certificate of qualification issued by the competent authority of his State of origin.

Previously 2 years, the duration of activity of agent on the territory of the State of origin was reduced to 1 year full-time and to a duration equivalent to 1 year for a part-time, as explained above, by the order of December 22, 2016.

##### **B - The temporary and occasional exercise of the activity in France**

The temporary and occasional exercise of the activity of agent in France is allowed to the nationals of the Member States of the EU or the EEE legally established in one of the concerned States.

However, where neither the activity nor the training is regulated in the State of origin, the national must have at least 1 year full-time or a total equivalent period of part-time of the 10 years preceding its exercise on French territory.

The deadlines set out above are also the result of an amendment by the order of 22 December 2016.

## **C - Common provisions**

### **1. A statement**

Prior to the exercise of the activity of agent in France, on a temporary and occasional basis or not, the nationals of the member states of the EU or the EEE must declare their activity with the competent delegated federation.

The terms of this declaration are defined in articles R.222-22 to R.222-30 of the Sport Code..

### **2. The case of the presentation agreement**

The law of 1 March 2017 created Article L.222-15-1 which organizes the presentation agreement.

Thus, a national of a Member State of the EU or EEA who has been authorized to exercise the activity of agent in his country of origin may conclude an agreement with a French sports agent in view of the conclusion a contract relating to the paid exercise of a sports or training activity, or which provides for the conclusion of a contract of employment for the purpose of the remunerated exercise of a sports or training activity.

The article specifies that this convention of presentation is limited to only one during the same sports season.

In addition, the agreement must be sent to the competent delegate federation.

## **Section 2: The national of a third State**

Article L.222-16 of the Sports Code governs the situation of nationals of third States.

The third State is the State which is not a member of the EU or the EEA.

Unless he holds a license obtained in France, the national of a third State must conclude an agreement with a sports agent authorized in France. The object of this agreement is the presentation of an interested party to the conclusion of a contract relating to the paid exercise of a sports or training activity, or which provides for the conclusion of an employment contract with the object of the paid exercise of a sports activity or training. It must be sent to the delegated federation concerned.

A sports agent established in a State where taxation is not transparent in the eyes of the French Administration (list of "tax havens" set by ministerial decree) can not be exercised in France. The agreements concluded with such an agent will be void.

### **Section 3: The specific case of football**

As foreign intermediaries will no longer be licensed as a result of the FIFA directive of 1 April 2015, the F.F.F. had to make adjustments with regard to Community nationals.

Thus, those who had obtained before 1 April 2015 a sports agent license in an EU or EEA country or a temporary authorization and occasional authorization to carry on business in France will continue to be able to practice in France.

The others must, to perform their service in France, justify the exercise of a full-time sports intermediary activity for 1 year during the previous 10 years in order to obtain the F.F.F. an equivalence.

Finally, extra-community intermediaries must always sign a presentation agreement with a sports agent licensed to the F.F.F.

That being so, the F.F.F. as sports agents licensed in France will have to comply with the rules set by FIFA compatible with the French legislation that will complement it.

### **ESSENTIAL**

The exercise of the activity of agent on the French territory is subjected to different conditions according to the situation of the foreign national.

First, there is the national of an EU or EEA Member State.

For an activity exercised permanently, there are two possible situations:

- If the profession is regulated in the State concerned, it is sufficient for the national to be qualified
- If the profession is not regulated in the State concerned, the national must provide proof of the duration of the practice and of certificates or training certificates.

For the activity exercised temporarily and occasionally, if the profession is regulated the exercise is free and conversely, the national must also justify a period of exercise. Secondly, there is the national of a third State. In this situation, the national who does not hold a license must enter into an agreement with a French sports agent.

The order of December 22, 2016 and the law of March 1, 2017 have amended the provisions relating to nationals wishing to exercise the activity of sports agent on the French territory as stated above. Their provisions are therefore likely to be the subject of questions under consideration

## **CHAPTER IV: SPORTS AGENT CONTRACT**

## Section 1: The Legal Nature of the Sports Agent Contract

A - Brokerage

B - The mandate

## Section 2: The Legal Regime of Sports Agent Contracts

A - The contract relating to the sports activity of a minor

B - The remuneration of the sports intermediary

C - The obligation of transmission

### **Section 1: The Legal Nature of the Sports Agent Contract**

The activity of sports agents is divided between the search for contractual partners for the engagement of an athlete by a club or by a sports event organizer and the negotiation of contracts relating to image and image management, sportsman's heritage. The agreements concluded on the occasion of the activity of agent raise the question of their legal nature, especially as the definition of the activity as stated by the article L.222-7 of the Sport Code allows to evoke the qualification of a brokerage contract or mandate.

#### **A - Brokerage**

With a brokerage agreement, the agent merely brings the parties interested in the conclusion of a contract without actually intervening in its conclusion.

The agent, acting as a broker, undertakes to seek a co-contractor for his client, ie the club, the event organizer, or the player.

He does not have the power to engage his client who remains free not to contract.

He must provide him with the exact and precise information on the transaction to be concluded and the adviser on the advisability of the said transaction.

He must give an account of his mission and can not be held responsible for the insolvency of the contracting party that occurred after the conclusion of the contract, nor for the unfavorable character of the transaction concluded by his client.

On the other hand, he commits his contractual liability to his client if he commits, in the exercise of his mission, a fault that is prejudicial to him.

The revocation of the broker in a fixed-term relationship requires the demonstration, by his client, of a serious behavior of the agent.

#### **B - The mandate**

Conversely, in the presence of a mandate, the agent acts in the name and on behalf of his client.

The agent becomes an agent when his client gives him the power to perform a legal act on his behalf and on his behalf. The agent must fulfill his mission as long as he remains responsible for it and is liable for damages that may result from his non-performance.

The execution must be fair and diligent, which prohibits the agent from acting in his personal interest. On the contrary, it must use its power of initiative and its duty to advise in the best interest of its client's sporting and financial interests. The agent is also required to report on his management to his principal.



The principal has the power to revoke the mandate at any time and not any means. The simple loss of confidence allows a unilateral termination of the contract, without formality. The revocation of the mandate can not, on its own, entitle the agent to compensation.

## **Section 2: The Legal Regime of Sports Agent Contracts**

The sports agent contract is first and foremost a contract subject to the general law provided for by the Civil Code (see the law of contract). However, it is also a specific contract governed by the Sport Code.

### **A - The contract relating to the sports activity of a minor**

The exercise of the activity of sports agent in relation to a minor athlete is regulated by article L.222-5 of the Sport Code. It is provided that the performance of the agent may not give rise to any remuneration or compensation, or to the granting of any benefit to the benefit of a natural or legal person. The penalty for non-compliance is the nullity of the agreement.

Article L.222-6 of the Sport Code also provides for criminal sanctions, including a fine of € 7,500 increased to € 15,000 and 6 months imprisonment in case of recidivism..

### **B - The remuneration of the sports intermediary**

The first paragraph of Article L. 222-17 of the Sports Code lays down the rule of the prohibition of dual mandate. An agent can not represent both a player and his home club to negotiate the employment contract that will unite them.

In its second paragraph, Article L. 222-17 of the Sports Code requires the conclusion of a written contract between the agent and the athlete he represents and partially regulates the content.

The contract must specify in particular:

- • The amount of the sports agent's remuneration that can not exceed 10% of the amount of the contract concluded by the parties he has related
- • The debtor of the remuneration, who may be the athlete or the co-contractor of the latter

Article L. 222-17 of the Sports Code also authorizes the federations to set a remuneration ceiling of less than 10%. Non-compliance with these provisions is sanctioned by the nullity of the contract as well as by penal sanctions of fine.

### **C - The obligation of transmission**

The delegated federations and, if need be, the leagues which they have constituted, are invested by the law of a contractual police mission:

- • They ensure that the contracts concluded by the agents to whom they have issued a license preserve the interests of athletes, coaches and the discipline concerned
- • They also ensure that these contracts comply with Articles L.222-7 to L.222-17 of the Sports Code



- • They must lay down rules requiring the communication of contracts concluded by sports agents, as well as the prohibition for their licensees and for clubs to use the services of a non-licensed agent
- • They must provide for penalties for non-compliance with these provisions

The sports agent is also obliged to communicate annually to the delegate to the sports agents of his / her home federation the information and accounting documents relating to his activity. For this purpose, it is obligatory for sports agents to transmit

- ☐ the competent federation:
- • The information and accounting documents relating to their activity as a sports agent, as well as, on request, any element necessary for the control of their activity
- • Within one month of their signature, the contracts concluded with sportsmen or sports groups by which they put in contact the interested parties to the conclusion of a contract of employment, transfer or performance of service

Amendments to the contracts mentioned above, as well as documents relating to their termination

### ESSENTIAL

With brokerage, the agent merely brings the parties interested in the conclusion of a contract without intervening in his conclusion.

In the presence of a mandate, the agent acts in the name and on behalf of his client.

The exercise of the activity of sports agent in relation to a minor athlete is regulated by article L.222-5 of the Sport Code. It is provided that the performance of the agent may not give rise to any remuneration or indemnity, or to the granting of any benefit.

Article L.222-17 of the Sports Code lays down the rule of the prohibition of dual mandate. In addition, it provides that the amount of the sports agent's remuneration may not exceed 10% of the amount of the contract concluded by the parties he has brought into contact. But the article allows the federations to set a salary ceiling of less than 10%.

**SPORTS AGENT OR SPORTS REPRESENTATIVE (LAWYER)**

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Sports Agent or Sports Lawyer? Two activities to differentiate ...

Indeed, the very essence of sports agent activity is to "match" the interested parties (player, coach, club, sports organizations) to the conclusion of a contract relating to the paid exercise of a sports activity. That of the lawyer is to defend the interests of his client. As a sport agent, he attends, represents and negotiates on behalf of one of the parties involved in the conclusion of such a contract.

Let's first review the legal and sporting definitions of the sports agent profession, and then come back to the Act of 28 March 2011, which expressly authorizes lawyers to act as a sports representative.

**The sports agent ...**

The French law thus defines the activity of sports agent:

"The activity consisting in relating, for remuneration, the parties interested in the conclusion of a contract relating to the paid exercise of a sports or training activity, or which provides for the conclusion of a contract of work relating to the paid exercise of a sports or training activity may only be performed by a natural person holding a sports agent's license.

The license is issued, suspended and withdrawn, according to the discipline concerned, by the competent delegate federation. This one controls annually the activity of the sports agents.

Each competent delegate federation publishes the list of sports agents authorized to practice in its discipline and the penalties imposed pursuant to Article L. 222-19 against agents, licensees and associations and affiliated companies. "

(article L.222-7 of the Sport Code)

As regards the International Sports Regulations, the FIFA (International Federation of Football Associations) qualifies as a player agent the "natural person whose activity consists, in accordance with the following provisions, of relating a player and a club for a fee the conclusion or renewal of an employment contract or two clubs with a view to the conclusion of a transfer contract "(FIFA Players Agents Regulations, 2008 version).

For the FIBA (International Basketball Federation), a player's agent is "a person whose (remunerated) steps allow the realization of an international transfer of players or coaches or contribute to it" (Fiba Internal Regulations, Book 1, General provisions).

In other words ... will be qualified sports agent who the activity, which is to report, against payment, several parties between them (player, coach, clubs, sports organizations) for the paid exercise by an athlete or coach of a sports activity.

To perform this activity, even occasionally, the agent must be a holder of a sports agent license issued by the Federation of the discipline concerned.

### **And the lawyer ...**

In fact, it is generally accepted that the lawyer, in the practice of his profession, is entitled to represent and negotiate on behalf of his sporting clients, without being required to hold a sports agent license.

Thus, Fifa expressly states: "A lawyer legally entitled to practice in accordance with the rules in force in his country of residence may represent a player or a club when negotiating a transfer or a contract of employment." (Article 4 of the Fifa Sports Agents Regulations, version 2008).

### **However, is the legal profession compatible with the exercise of the activity of sports agent?**

In 2009, the Bar Association of the Paris Bar (thus only concerning Parisian lawyers) adopted the following provision:

"The sports agent"

Created by decision of the Council of the Order dated March 17, 2009 (Bull Bar of Paris, March 20, 2009, n ° 10); Modified by Council Decision of July 6, 2009 (Bull Bar of Paris, July 17, 2009, No. 25)

Before exercising the activity of sports agent, the lawyer must make the declaration to the bâtonnier.

It is held within the order a register of sports agents lawyers.

In his activity of sports agent, the lawyer remains bound to respect the essential principles and the rules of the conflict of interest. "(Article P.6.2.0.3 of the Rules of Procedure)

According to the Bulletin of the Paris Bar of May 29, 2012, it is stated that the Council of the Order voted to modify article P. 6.2.0.3 and replaced the term "sports agent" by "sports representative lawyer", in accordance with the Law of March 28, 2011 (see our article of May 31, 2012).

Then, according to the article 4 of the Law n ° 2011-331 of March 28th, 2011, the legislator adopted the following provisions:

I. - The same law is thus amended:

1 ° After article 6 bis, an article 6 ter is inserted as follows:

"Art. 6 ter. - The lawyers may, within the framework of their own regulations, represent, as agent, one of the parties interested in the conclusion of one of the contracts mentioned in the first paragraph of Article L. 222- 7 of the Sport Code.

"Failure by a lawyer exercising the activity referred to in the first paragraph of the obligations resulting from the last paragraph of Articles 10 and 66-5 of this Act and the second paragraph of Article L. 222-5 of the Code of sport is liable to the penalties provided for in the first paragraph of Article L. 222-20 of the same Code. The amount of the fine may be increased beyond 30 000 € up to twice the amount unduly received in violation of the last paragraph of article 10 of this law.

"Violations of the remuneration rules mentioned in the first paragraph of Article L. 222-5 of the Sports Code are punishable by a fine of € 7,500. "

2 ° Article 10 is completed by a paragraph as follows:

"In the mandate given to a lawyer for the conclusion of one of the contracts mentioned in the first paragraph of Article L. 222-7 of the Sports Code, the amount of his fees, which may not exceed 10%, is specified. the amount of this contract. When, for the conclusion of such a contract, several lawyers intervene or a lawyer intervenes with the assistance of a sports agent, the total amount of their remuneration may not exceed 10% of the amount of this contract. A lawyer acting as an agent of one of the parties interested in the conclusion of such a contract may only be remunerated by his client. "

3 ° Article 66-5 is completed by a paragraph as follows:

"This article does not preclude the obligation for a lawyer to communicate the contracts mentioned in Article L. 222-7 of the Sport Code and the contract by which he is mandated to represent one of the parties interested in the conclusion of one of these contracts to the delegated sports federations and, where applicable, to the professional leagues they have formed, under the conditions set out in Article L. 222-18 of the same Code. "

II. - After Article L. 222-19 of the Sports Code, an article L. 222-19-1 is inserted as follows:

"Art. L. 222-19-1. - When the competent delegated federation finds that a lawyer, acting as agent of one of the parties interested in the conclusion of one of the contracts mentioned in the first paragraph of Article L. 222-7, has breached the obligations concerning the content and the communication of these contracts as well as the mandate it has received, it informs the president of the bar to which the lawyer is registered who appreciates the need to institute disciplinary proceedings under the conditions provided by the texts. which govern the profession of lawyer. ' "

### **... athlete's representative**

Also, under the Law of March 28, 2011, the lawyer is not qualified "sports agent", but " athlete's representative ".

During the debates (meeting of December 8, 2010) before the Senate of article 4 of the Law of March 28, 2011, Mr. Laurent Béteille, Rapporteur, indicated:

"(...) The initial text of the draft law governing the profession of sports agent made the activities of lawyer and sports agent incompatible, and finally this incompatibility was lifted in the final text. It was necessary to specify the conditions under which lawyers could

intervene in the conclusion of contracts relating to the paid exercise of a sports or training activity.

The chosen device allows a lawyer to act as an agent of the athlete, coach or club, without having to obtain a sports agent license. Indeed, it can be considered that the lawyer has sufficient qualifications to perform such an activity, without having to obtain a license, which would add nothing. (...) "

Mr. Michel Mercier, Minister of Justice, Minister of Justice and Freedoms, added:

"(...) The exercise of this activity by the lawyers assumes that it is done as an agent and not as a sports agent, because the status of sports agent, including the obligation to have a license and to be subject to the discipline of the sports federations, is contrary to the essential principles of the profession of lawyer. (...) The text, as it appears from the work of the commission, leads to a balanced system, which allows the athletes the possibility of choosing between the attorney and the sports agent. (...) ".

### **What differences ...**

To a question asked by Mrs. Maryse Joissains-Masini, Deputy of Bouches du Rhône, the Minister of Justice, Minister of Justice and Freedoms, clarified according to ministerial response published in the Official Journal of 1 February 2011:

"Article 1 bis of the bill to modernize judicial or legal professions and certain regulated professions, the purpose of which is to enable lawyers to exercise, in that capacity, activities similar to those reserved for sports agents, was introduced by the Law Commission of the National Assembly and adopted by the deputies at first reading on June 30, 2010 and by the Senate on December 8, 2010. The clarifications in this text are necessary. on the one hand, if it falls within the remit of a lawyer, to represent, under a warrant, the interests of an athlete or a club, the activity of bringing the parties into interested in the conclusion of a contract for the exercise of a sports activity, which characterizes the activity of sports agent, constitutes, on the other hand, a brokerage activity, by commercial nature and, as such, prohibited to On the other hand, these provisions are in keeping with the moralization of the sporting environment, which has guided the work of the Parliament during the examination of the draft law governing the sporting agent profession. Thus, it was in order to further regulate the conditions under which contracts are concluded for the paid exercise of a sporting activity that the choice was made to subject lawyers to the same obligations as those imposed on sports agents. except for holding a license. The system, as adopted by the Senate, is perfectly balanced in that it retains the principles attached to the legal profession while guaranteeing the moralization of sport through the submission of lawyers to the limitation of their remuneration. 10% of the amount of the contract with the club and the obligation to forward all contracts to the sports federations. If the federation detects an abuse, it will inform the president who will, if necessary, institute disciplinary proceedings. "

On reading this answer, the linking would therefore be a brokerage transaction, which is by nature a commercial act. Linking is therefore, by its very nature, a sports agent activity and is, a priori, incompatible with the prohibition on lawyers having, in the usual way, "commercial activities" (Art. 111 of Decree No. 91-1197 of 27 November 1991 organizing the legal profession).

**The lawyer does not solicit business.**

As for the brokerage transaction, this one "(...) is part of a brokerage contract having as partners a principal and a broker, to which is added a broker-third-party relationship, the whole to allow the realization of the brokerage contract, ie the conclusion of a contract between the principal and his / her third party (Ph.D. Devesa, The brokerage operation, 1993, Litec, n ° 57) .The broker is a a simple intermediary who simply puts the parties who use his services in contact with each other, he lets them contract directly if they so wish, he does not intervene in the act, he does not deal with the operation himself and he does not does not represent his clients (Le Tourneau, op.cit.) When the rapprochement took place, it disappears (Cass, req 16 June 1902, S. 1903. 1. 38.) "(Yves Rousseau , Labor Law Directory, Ed ° Dalloz, Employment Agencies, April 2006, §149).

In short, after the mediation operation that may be the responsibility of the sports agent, the negotiation and conclusion of the contract may be the responsibility of the lawyer, agent of the athlete.

Lastly, it should be noted that in its Practical Guide for Real Estate Lawyers, the National Bar Council states that the lawyer may have an intermediation activity, provided that it is performed "incidentally":

(...) This position corresponds to the case law which, in order to recognize its civilian character, requires that the act of intermediation which can undeniably be part of the mission, be incidental to the legal provision of the drafting of an act ( ...) or advice (...).

(...) For case law, the intermediation activity remains civil if it is incidental to a legal mission of advice or drafting of an act; intermediation could not therefore be a separate activity from a more comprehensive legal service. (...)

The application of this theory therefore assumes that intermediation remains the accessory to the necessarily more global relationship between the lawyer and his client.

Moreover, and whereas the French law fixes the activity of sporting agent to the only contracts relating to the paid exercise of a sporting activity, the lawyer is not limited to his only role of sports representative defined by the Law of March 28, 2011.

As a lawyer, the latter may also advise, assist and represent his sports clients in order to conclude other contracts than those relating to the paid exercise of a sports activity (picture contract, sponsorship , ...) and defend them before all sports, administrative and judicial, national and international jurisdictions.

However, once the relationship is made, how to choose between sports agent and attorney lawyer?

Once again, the parliamentary debates of the Law of March 28, 2011 allow to bring some elements of reflection.

Télécharger les pièces jointes :

- [Loi du 28 mars 2011](#) (219 Téléchargements)
- [Séance du Sénat du 08.12.2010](#)(229 Téléchargements)
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## **SPORTS REPRESENTATIVE LAWYER OR AGENT, WHAT DIFFERENCES?**

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"The sports attorney seeks to build trust with the athlete in order to best defend his interests. "

**W**hen the fate gets involved ... At the attorney sports lawyer **Badou Sambague Traore**, defense has always been his main goal.

Former international Malian hopefuls, Badou Sambague Traore also wore the jersey of Pacy-sur-Eure and Red Star. As a training advocate, he has not lost the course by brilliantly obtaining his diplomas ... of sports law attorney.

He has become a sports agent and is now involved in supporting the careers of talented sportsmen and, above all, in defending their interests, whatever the situation. Agentfootball.fr spoke with Master Badou Sambague, who manages in particular the nascent and so promising career of Rennais Ousmane Dembelé.



Badou Sambague, formerly a hopeful of Malian football, now a sports lawyer.

### **What is the role of a sports agent lawyer?**

"Since 2006, the sports attorney has been involved with sportsmen and coaches, particularly for negotiations with clubs, drafting of contractual documents and coaching during their careers. He also intervenes to manage the contractual aspects with the sponsors and potential partners. The lawyer has a positioning based on the advice of his client and above all, his primary interest is the defense of his client in strict compliance with its ethical principles. We have heavy responsibilities vis-à-vis the sports actors we assist. "

### **What are the differences between a lawyer and an agent?**

"The biggest difference lies in the fact that the role of the sports attorney is primarily to be an independent advisor. We defend exclusively our client. As a general rule, when a player is assisted by an agent, the agent first tries not to compromise his relationship with the club. Sports agents are in permanent contact with the clubs. On the contrary, the sports attorney seeks to build trust with the athlete in order to best defend his interests. In this case, it is sometimes necessary to tell the player that it is not possible or not possible with a particular club by stating the reasons. Our discussions do not necessarily lead to a transfer. Nothing is left to chance and we intervene in the sole interest of our client.

### **How many players do you have in your wallet?**

"Today, I attend some fifteen athletes, not just footballers (in motorsports too). Legally, here too unlike agents, it is difficult to name them, I have a duty of confidentiality. Besides, the contracts deposited with the federations do not appear on the websites of the latter. The players / sportsmen are not a showcase for the lawyers but we take care nevertheless to the image that they send back. The attitude must be good because advising is also knowing how to say no.

"I think for a player in a difficult situation, it is better to have a sports agent because he will make the approach to the clubs. "



**What is the advantage for an athlete to choose a lawyer rather than an agent?**

"We first practice our profession as a lawyer. We therefore have this faculty and exclusivity in terms of legal advice (proofreading of contracts and securing legal aspects). As I indicated, we are also present to negotiate the contracts with the sponsors and we assist the sportsmen within the framework of the creation of legal structures, like the companies of image, and on various legal axes as the right of work, family law, taxation etc ... ".

**So, what choice does the player have to make to accompany him during his career?**

"I think that for a player in a difficult situation, it is better to have a sports agent because it will make the approach to clubs. As an attorney sportsman, I am in fact very often asked by the clubs with regard to the quality of the players that I have to accompany. Naturally, I have a network that has been built through my career but also the players I attend daily. But my primary role is not to solicit clubs for players. For an excellent player, a sports attorney is the right solution. "

**Agentfootball.fr warmly thanks the founder of BSLAWYER, Master Badou Sambague Traoré for his availability and his kindness.**

**Donnez-nous votre avis en laissant un commentaire ci-dessous.**

**AGENT SPORTIFAVOCAT MANDATAIRE SPORTIFRELATION**

**PROFESSIONNELLE**

## **PROFESSION: SPORTS AGENT - CONTRIBUTION TO A THEORY OF PROFESSIONAL MODELS**

(Source Thèse de doctorat - Adriana Sekulovic – PARTIE III- le terrain des agents sportifs Chapitre VII)

**Mis à jour au 02/01/2019**

### **CHAPTER VII- INDIVIDUAL COURSES, PLURAL CAREERS, COMPLEX RELATIONSHIPS AND PROFESSIONAL STRUGGLES**

#### **7.1 Learning the job from the field: the self-educated sports agent**

Motivated by the passion of sport, very often, the first learnings of the trade of sports agent result from the individual initiatives. Individuals develop and sharpen their knowledge and skills during interaction processes with actors in the occupational group they wish to belong to. While some individuals begin their introduction to the profession in contact with their peers, others remain distant from individuals already settled on the professional market. Apprenticeship can be defined as the process of acquiring the practices, skills, competencies, cultural values or attitudes necessary to perform the activity in question. We observe in many sports agents predispositions to self-training. By forming self, the sports agent builds a professional identity considered authentic, resulting from the personal choices associated with motivation, envy, commitment, pleasure, and the initial journey. This approach is essential in the construction of a vocational approach to the apprentice sports agent. It is considered as a strong sign of the commitment of the individual in his individualized identity construction, without referring to a collective model, yet decisive in the construction of the professional trajectory.

"I did not become a sports agent overnight, even if things were done spontaneously. Little by little, I started talking to footballers about their career choices and they came to me more and more for advice. After, football practices, I did not know anything, I learned everything on the job. It must be said that to begin I worked with another agent. It is while observing it that I formed myself ". 217

The interviews carried out as part of our study suggest that the requirement of an institutionalized and organized training approach is not made necessary to the extent that know-how is acquired in action and in exchange with the peers or any other actor involved in the activity of sports agent. Formal or academic training does not find its application here because the acquisition of knowledge and skills takes place by interaction, spontaneously. This does not mean that the learning process takes place without constraints, but rather that they are overwhelmed by individual determination and in vivo solutions. The apprenticeship 218 of sports agent focuses on informal means and forms of learning to introduce the individual to "a professional habitus". Respondents refer to internships with experienced agents as the main form of learning. Learning by doing and its effects are internalized as the individual assesses his or her degree of involvement in the activity by comparison with the degree of commitment to his or her initial professional activity. The existence of a strong attachment to the initial activity orients considerably the direction of the professional trajectory of the sports agent. Thus, a lawyer introduced to the profession of sports agent will privilege his identity as a lawyer compared to the nascent sports agent. His initial training as a lawyer will allow him to move more quickly through the various stages of informal apprenticeship as a sports agent because he will find similarities to his initial activity.

*"We lawyers, we still have a great advantage over all those who land in the middle without any legal background. Certainly, they have networks, contacts, but we know the law, and then we also know how to "baratinate". I am a lawyer first, and then I quickly found similarities*

*between what I do as a lawyer and what I do when I defend the interests of the guys I represent. I also think that you can handle more things than agents who were footballers before becoming agents. And clubs, I think they respect us more. » 219*

We meet with the interviewed sports agents a wide variety of training approaches. This heterogeneity of the learning modalities essentially depends on the diversity of the initial courses of the individuals wishing to exercise the profession of sports agent. However, learning by and for skills, although very informal, seems to stand out as the most followed training model. The valorization of a logic of competence, strongly influenced by the individual biographical trajectory, is essential in the absence of organized and institutionalized forms of training. The recognition of professional skills inevitably involves the appropriation of the habitus of the sports agent. When the individual encounters difficulties in accessing the places where the profession is practiced, as they can not refer to professional solidarity schemes, which do not exist in this professional field, they must mobilize their own relational networks to integrate the professional environment.

The phases of apprenticeship and the practice of the profession seem to intersect. It should be noted that the processes of learning and training privileged in the construction of the sports agent career are weakly institutionalized. This situation is explained, on the one hand, by the lack of formal training and by the inefficiency of existing training, on the other hand.

*"I am, first and foremost, a big fan of football. As I did not become a footballer, I thought that being a sports agent would bring me closer to this environment. The problem is that I had no contact in the community. I learned about how to become a sports agent and decided to prepare the sports agent license. I did a private diploma preparation course, paid for my taste, and I did a good job of reviewing. Of course, I had the exam handily, but in fact it did not help me. Without contacts in the middle to find customers, we do not move. I did several internships with reputable agents. It is clear that I learned a lot by watching them work, but I did not invest money in the sports agent diploma to find myself agent secretary. Sometimes I feel like I'm lying to myself when I say I'm a sports agent. »220*

For the majority of the sports agents interviewed, training for the sporting agent profession takes place quite late in their biographical trajectory. The interviewees recognize that the profession of sports agent does not require any specific academic qualification, reputation being the main criterion of professional "success". In this sense, the concept of "reputation" as an essential component of the professional habitus illustrates the attribution of a qualification that justifies the place of the individual in the occupational group. The reputation criterion is all the more legitimate as it is recognized as such by the entire professional group.

Although very weakly institutionalized, sports agent activity is based on an organized, codified, rationalized and informal functioning. The certification of members of this occupational group requires the recognition of specific skills and representative of the values associated with the group. Subjective professional qualification is granted on the basis of the skills expected of the individual, the degree of appropriation of values, norms and codes of the occupational group but also of the "familiarity" that the individual has with modes of internal operations of the group. The construction of the professional route of the sports agent is presented as a quest motivated by the idealization of the activity of sports agent. The quest involves an approach, a very personal initiative, commitments, including that of creating links with individuals already settled in the profession. It reflects a projection of the individual in the construction of his self-fulfillment and self-realization. If the individual considers this experience as negative, he may precipitately decide to leave the activity.

The learning models encountered are essentially characterized by their "originality". The professional trajectory is constructed as an initiatory journey during which the individual must construct and define his identity by referring to a personal system of values and norms supposed to reveal his professional potential. We observe in all the interviewees an

indisputed, voluntary and complete adherence to the doxa 221 of the sports agent of which they have very precise conceptions even before belonging to this professional group. If it is appropriate to accept that the established hierarchy, that is to say the distribution of the shares of the market, with its balance of power, its privileges and its injustices, can be imposed so easily, on the other hand it is very surprising to see that the most fraudulent practices are tolerated and appear to be legitimate and even "innate".

"I initially had trouble with some arrangements. I had crises of conscience, I wondered what I risked if I was caught with money on my account that I had not declared or which did not belong to me. And then, it happened to me quickly. I admit, I took a liking to it. I consoled myself by saying that everyone was doing the same. The worst thing is that it became innate, I set up illegal financial montages as if it was the most natural thing to do. »222

While the individual remains largely autonomous in the construction of his career path, this autonomy is very relative considering the impact that confirmed agents have on the initiatory journey of newcomers. The apprentice agent is on the lookout for opportunities and opportunities that would bring coherence to the approach that aims for a gradual construction of the career. The different stages of the career trajectory respond to evolving strategies that depend on the individual's positioning and the maneuvering room available to him at specific points in the trajectory. The "self-taught" sports agent only appropriates the skills and knowledge of the professional group, but also participates in the development of new knowledge and specific skills.

Self-training is presented as a direct and immediate relationship to the sporting agent's activity, illustrating the individual's desire to build his knowledge, his skills and his relational networks, in an authentic way. Self-learning is a personal process of building identity through the appropriation of skills acquisition and skills specific to the target occupational group. Learning the job in the field disrupts the relationship between the time of vocational training and that of employment, the training and employment moments can be confused. This situation leads the sports agents to modify their relation to the work compared to their previous experiences. We observe a series of breaks between entities generally confused in previous work activities, the most significant being the separation between work, employment and capital. The relational networks of the sports agent are the means of his work; his know-how represents his capital, his job being the result of the division between the work undertaken and the capital mobilized. In other words, it is the individuals whose relational networks are the most influential and whose specific skills are the most recognized that have the least difficulty in building the career of a sports agent. The logic of competence is fundamental in this occupational group where the individual is recognized and integrated for what he knows how to do in the concrete exercise of the sports agent activity. During the interviews, the sports agents interviewed, with the exception of the lawyers, rarely refer to their initial qualification, although about 70% of the interviewees hold a university degree at the baccalaureate level and above. The high level of study is not one of the criteria recognized and valued by the occupational group. The professional attributes valued by the sports agent profession are out of step with the work values defended by other professional groups.

The sports agent is built on the model of the "self-made-man". The claimed autodidaxis refers to the stereotype of the self-entrepreneur who asserts himself in a break with the dominant norms of the world of work. Sports agents build their careers around a "myth of reputation" in which "networks", "opportunity", "trust", "vocation", "encounter" occupy a prominent place. We observe in the sports agent a "fundamental adherence to the game, the Illusio, recognition of the game and the utility of the game, belief in the value of the game and its stake that found all donations" of meaning and values 223. "The belief that the individual gives to the singularity of his career can enclose him in an illusion of the success of the course he is building. Thanks to this illusion he is able not only to collect the failures but also to justify

them.

The sports agent must constantly inform himself, invest his time, make efforts, in order to acquire enough specific capital to become a respected member of the group and be able to reproduce the exchanges observed. The trajectory of the sports agents interviewed, marked by ups and downs, fluctuates considerably without this professional instability leading individuals to consider a definitive exit from the occupational group. The relative successes achieved in certain areas or in certain career stages are a factor in the extent of the failures which nevertheless mark the career of sports agents.

## **7.2 Atypical profiles**

### **7.2.1 Athlete agent definition, profiles and trajectories**

It should be thought that the definitions of the sports agent as set out in the sports regulations and adopted by our societies, are intrinsically linked to the specific conditions that led to their introduction. The choice of terminology used reflects the particular context in which the agent operates. As has been pointed out in the first part of this thesis, at the international level, many sports do not have regulations governing the exercise of the activity of sports agents, while individuals carry out activities related to those of sports agent. In order to account for the visibility of the agents present in these sports who do not require legal authorization to be able to exercise, it is advisable, as a first step, to proceed to a rapid analysis of the different profiles of agents encountered, before secondly, to look at the classification, by field of competence, of the services likely to be offered by agents. The different components of the typologies are not exclusive and an agent can be associated with several configurations. The typologies were developed from analyzes of data collected from sports agents encountered in this thesis. The main objective of this approach is to see how the sports agent can be defined not from a functionalist and normative approach but rather from a moral and professional autonomy which is that of the agents exercising outside the legal frameworks to which are subject to the dismissed agents. Drawing the outline of the different profiles of the sports agent is like reconstructing the actors' previous tracks. Any individual wishing to pursue an activity that can be assimilated to that of sports agent apprehends the latter from the idea of a career construction and in particular in terms of access to the profession and the conditions of exercise thereof.

If we consider the sporting agent from his previous socio-professional trajectories, it is possible to distinguish five categories of sports agents: the former sporting agent, the influential agent, the occasional agent, the coaching agent and the parent agent. Since previous courses undeniably influence the construction of a sports agent's career, empirical evidence tends to show that they very often determine the career orientation of the sports agent interviewed.

### **7.2.2 The former sport agent**

"Former athlete" agent refers to high level athletes who at the end of their career engage in sports intermediary activities. At the end of their sporting career, many people are considering starting a career as a sports agent. Their experience and knowledge of the sports environment are all assets that facilitate their entry into the market of sports agents. However, the analysis of the empirical data shows that the former athlete's agent career is very tied to the end of his sports career. It is according to the way in which the end of his sporting career took place that the former athlete builds the beginning of his sports agent activity.

First, the end of a sports career, especially when it is rich in performance, inevitably leads to a challenge of the individual 224, on the one hand, and constitutes a challenge *"for all*



*psychological dimensions and social constructed and evaluated from the sporting practice and performance production " 225, of the same individual, on the other hand. Between the moment when the individual puts an end to his sporting career and a professional conversion that could be described as "successful", the athlete goes through a (professional) transition period during which he is particularly attentive to the various opportunities that arise. are available to him through the networks and relationships he / she has been able to develop during his sporting experience.*

*"I have had a lot of success in my life as a footballer. When we've been the teen idol for more than a decade, it's hard to wake up one morning and say we're not doing what made us famous. Towards the end of my career, a few months before the end of my last contract, my agent suggested that I work with him as an agent. Since he was the only agent I ever had and trusted him, I thought why not, and then it made me feel like I was still a gambler somewhere. My agent said that I needed to take advantage of my reputation and my football status to take on new clients. I also tried to pass the agent exam, but hey it was not even worth it, it was too hard, all these laws that are useless in fact, (...) I work without a license, I use my agent's license and his assistant's license. »226*

If during the transitional period, the Athlete considers the exercise of the activity of sports agent as a positive and rewarding experience, then he may consider building a career as a sports agent. This construction requires a personal commitment that ultimately very few former athletes are willing to consent. From the analysis of the empirical data, it emerges that the transition from the status of professional sportsman to that of the sports intermediary becomes for some individuals revealing a deep identity crisis. The transition from "sports ground" to "backstage" is dotted with contradictions, disruptions, uncertainties and hesitations. This process is understood as a more or less dynamic transaction between a "positive" starting identity that is that of a sports "star" and a "stigmatized", uncertain, and under construction professional identity that is that of a sports agent. . Identity "reshuffling" from simple readjustments to more elaborate questioning is a crucial moment, the outcome of which will decide the degree of involvement of the former sportsman in the sports agent trade. The empirical evidence 261 tend to confirm a more structuring and more voluntary commitment of individuals whose sporting career took place in sports with low financial stakes, such as athletics or handball. In athletics, about 20% of licensed agents are former athletes. On the other hand, the commitment to the activity of sports agent turns out to be particularly hesitant and incomplete for sportsmen from high-profile professional sports. While sports practice is synonymous with significant financial gains accumulated throughout the sporting career and a very enviable social status, the exercise of the sporting agent profession appears particularly unstable, making the individual 'a status of' star 'to that of a simple' anonymous'.

*"As a former athlete, I know what the needs and expectations of my clients are. I had success as an athlete and at the beginning of my sporting agent career, I had a little trouble accepting this change. I was no longer in the spotlight, my ego took a hit, but it quickly settled. I like what I do, and then, to a certain extent, it's like I've never stopped being an athlete. I travel with my athletes, I attend all athletics meetings. »227*

We also observed very early exits of the activity of sports agent and in particular among the footballers questioned. When asked about the reasons for the sudden abandonment of the sporting agent's career, the athletes put forward five determining criteria: "the precocious and preconceived entry into the market of the sports agents", the "presentation of better professional opportunities The "first failures leading to professional disillusionment", the "lack of personal commitment to the activity of sports agent" and "the identity shock caused by the loss of the status of professional sportsman".

Finally, the sporting agent profession can be a solution to meet the desire for voluntary career

changes. When this desire is accompanied by a desire for commitment and progressive construction of the new career, here that of sports agent, the individual can consider a successful conversion. 262

### **7.2.3 The influential agent of networks**

The agent "influential man of networks" is characterized above all by the social capital he holds within the sports industry. His knowledge of the "sporting world" and the links that bind him to certain sporting decision-makers make him an indispensable player in negotiations that can prove difficult. It is present in sports where the financial interests are high and the stakes numerous, that is to say in tennis, football, boxing or motorsport. He is rarely a licensee and readily describes himself as an "advisor" or "matchmaker" in that his main role is to connect individuals who do not know each other personally but who may be required framework of contractual relations involving athletes. Overall, the influential network man personally holds market shares in a segment of the sports market which gives him both personal and professional legitimacy. Lawyer, sports leader or main shareholder of a company specialized in sports communication, to mention only these examples, the "influential man of networks", can be likened to a sports agent in the sense that his intervention brings to negotiation a moderator sufficiently influential to guide the course of the latter. Empirical evidence shows that the influential influencer is primarily involved in the area of sponsorship contracts or image rights. As for his remuneration, it should be thought that the influential influential agent does not receive an agent commission for each of his interventions. In most situations of this kind, the individual is rewarded symbolically often in the form of direct or indirect benefits in relation to his or her initial professional activity.

### **7.2.4 The casual agent**

The notion of occasional agent refers to individuals who, without considering a career as a sports agent, are led, at times, to play the role of sports intermediary and to be remunerated as such. The casual agent seems to be present in the majority of professional sports. We have used the term "occasional agent" because this is how people in this category are defined. Licensed or practicing outside the formal environment, the casual agent is characterized by a strong specific capital based on peer recognition of his or her unique individual skills. It is solicited in situations where the actors involved can not agree on a number of points during the negotiations. Thus, the casual agent is presented as a moderator whose intervention would allow the various parties involved in the negotiations to break the impasse in which they seem to be. He considers his involvement in sports negotiations as a source of additional income obtained through independent and sporadic activity.

The casual agent usually leads a successful career in sport-related fields such as the media or sports governance, which may partly explain his intermittent sporting agent status and his reluctance to engage fully in the exercise of the sporting agent profession. It collects a commission for its participation in contractual negotiations, very often a fixed price negotiated in advance and independent of the outcome of the "talks". In addition, we observe in this type of intermediary a broader professional autonomy than that enjoyed by individuals engaged full time in the exercise of the profession of sports agent. It seems that the higher the professional stakes, the more professionals are inclined to concede "sacrifices" in order to keep their share of the market. Thus, for fear of losing a client, an agent may have to accept a significant drop in his commission. Conversely, the casual agent being paid for his consulting services in the form of fixed fees, no other contractual relationship linking him to the various actors, he escaped many constraints imposed by this occupational group. For the club structure, its specific capital and particularly its relational networks are decisive assets in the process of calling on the occasional agent.

### **7.2.5 The coaching agent**

The agent-trainer is a category of poorly known agent. However, empirical evidence shows that in all sports, there are many coaches who at one point had to play the role of sports agent, and for some to be paid for it. This configuration is present first and foremost in football, boxing, athletics or amateur Olympic sports, such as gymnastics or combat sports. Very often, the collaboration between the coach and the athlete settles gradually and spontaneously. The dominance of the coaching agent in some individual sports has invited us to take a closer look at the relationship between the athlete and his coach in order to understand the underlying reasons for the coach's commitment to coaching, sports agent activity. More precisely, the aim is to highlight the mechanisms and processes by which sportsmen and especially the youngest of them are placed under the yoke of a figure of the sports authority: the coach. If the authority of the coach seems more and more challenged in sports such as football or tennis, where the latter is often blamed for poor sports results, he remains an emblematic figure of the sports authority. During our investigation, three mechanisms leading to coach-led collaboration were identified.

In the first mechanism, the domination ratio, however subtle, and the influence that the coach can exert on the sports choices of the "trained" play a decisive role in the construction of common attachment which leads to a relationship, driven-agent. In concrete terms, these are situations in which the athlete quickly achieves high-level sports performances, thus exposing himself to various requests that he feels he can not handle alone. Faced with this increase in its market value, difficult to estimate by the athlete himself, the latter turns to his closest entourage to seek advice. It should be remembered that, as a first step, the Athlete consults with his / her coach, whom he or she considers to be his / her mentor, to ask if he or she could recommend a Sports Agent. It is, in general, at this point, that the coach proposes to the trainee to become his agent. For the coaches interviewed, this is the transition from the status of the coach to that of the coach-manager. We encounter this first mechanism mainly in sports disciplines such as boxing, gymnastics or the nation.

In the second mechanism, the coach is at the origin of the construction of the agent-player relationship. These are situations in which the coach has to solicit an athlete he has coached in the past to ask him to join the sports structure he coaches. If the athlete accepts this proposal, the agent receives a commission for his intervention in the transfer. For example, some footballers, for example, follow their coach club trainer club throughout their career. The interviewees evoke a mutual attachment that sets in under the effect of common interests and resulting sporting results.

Finally, the third mechanism highlights an identity and professional crisis of the coach which leads him to consider a "professional change of course", which can result in a commitment to the activity of sports agent. Very often, they are former athletes, who at the end of their career, to begin their professional reconversion, oscillate between the profession of coach and that of sports intermediary. If they engage in one, they do not give up the other. Thus, they alternate between coach and sports agent according to the opportunities available to them.

The transition from the coaching profession to that of a sports agent, or the concomitance of these two professional activities, highlights some aspects of interprofessional mobility in sport.

### **7.2.6 The parent agent**

All sports governing bodies have provided in their regulations for athletes to use a member of their family to represent their interests. This model of sports agent, long present in professional sports, seems today not widespread, less and less sportsmen choosing to be represented by a sports agent with whom they are related. The recurrence of this model is



related to the degree of professionalization of the sports disciplines and to the level of individual sporting success. If the "family solution" is favored at the beginning of the sports career, the sporting success very often requires that the athlete uses a "professional" to compensate for the lack of specific skills of the parent who defended their interests until then. For the majority of athletes, the change takes place with the approval of the parent and without affecting the quality of family relations, although it is not uncommon for this event to be at the origin of family conflicts or even family breakdowns. "Before my son became who he is today, I was in charge of managing his career. I was doing pretty well, I was organizing our trips, in fact at the time the whole family followed him when he went to tournaments, I paid his trainer, I negotiated with sponsors, (...). But as soon as he began to win, I quickly became overwhelmed by events. To do too much his agent, I became less and less his father. I soon realized that it was in everyone's interest that I stop mingling with the business side of his career. At the same time, I did not want to withdraw completely. It was out of the question to put his career in the hands of one man. So, we have set up a team of very competent people who today manage its contracts, its image, its investments, etc. And I supervise everything, or rather I am everything, without intervening because they are entirely trusted. 228

Thus, the configuration "agent-relatives" by its reassuring and paternalistic aspects acts positively on the identity building process of the young athlete. However, it raises the question of the need for specific skills in that the profession of sports agent values professional skills difficult to negotiate. On closer inspection, the terms sportsman and parent sometimes cover two groups driven by different goals. While the agent frequently defends both the interests of the club structure and those of the athlete, the parent, in general, the father, the brother or the uncle of the player, represents, for his part, exclusively the interests of the -this. And yet, when sports success is at the rendezvous, many kinship agents prefer to pass the torch to individuals with significant experience in the management of high-level sports careers. Only kinship agents who themselves have been high-level athletes seem to succeed in effectively managing their loved one's career, certainly because of their knowledge of the sporting world and the mechanisms that dominate it.

It is by focusing on individual trajectories that we can understand the preponderance of certain models and in certain sports. The different models are not exclusive. When an individual they correspond to specific moments of his individual trajectory. The authenticity of the personal and professional trajectories of sports agents is based on the creation and preservation of an authentic professional space, in which their autonomy of action is protected. The transition from one model to another and the coexistence of several models are accompanied by constructions of different values according to the reference groups and the membership groups of each sports agent. We wanted to expose these atypical profiles to reflect the diversity of the initial trajectories of respondents.

### **7.2.7 The Agent State**

A priori, the idea that the state can serve as a sports agent seems to concern exclusively so-called totalitarian states. However, our empirical data suggest that many states have directly (Ministry of Sports) or indirectly (national or international federation, club, sports leader, etc.) assumed the role of sports agent and represented the interests of athletes, including the opportunity of international competitions. As has been mentioned several times in this thesis, until the 1980s, the state and sports institutions have emerged as the inevitable sports intermediaries in the context of international transfers or when it comes to authorizing athletes to take part in international competitions. With the professionalization of sport, many states and sports institutions are forced to begin the process of social and professional recognition of the activity of sports agent, the intermediation activity becoming exclusively reserved for sports agents.

However, some states continue to manage the career of their athletes which is not without problems. The Cuban State, for example, has for a very long time been involved in the management of sports careers. It was not until the early 2000s, and to stop the exodus of its best athletes that the Cuban regime allows athletes to use a sports agent. Thus, today, some of the most successful Cuban athletes still living in Cuba are represented by American sports agents. Met, on April 15, 2012, as part of our research, G.A. former Cuban sportsman, now exiled, brings his testimony.

*"It was pretty simple. A state agent negotiated all my contracts, from bonuses at competitions to sponsorship contracts. "*

Asked about the financial management of his career, visibly upset he answers:

*"The real question is, what left me the state. ? Mostly about 20% and the 80% went to the state to cover supposedly the expenses invested in my career. Today things have changed, athletes have agents who take 20% of their earnings and help them conceal their income at the same time. "*

State interference in the athlete's career is particularly problematic in the absence of a convergence of interests between the two parties. The state is more specifically represented by an official assigned to each sportsman as a direct manager of his sports career. When a discord arises between the athlete and the state, the sportsman is very often in such a position of weakness and vulnerability or even fear that he eventually give in to the demands made against him.

It is difficult to say exactly what the scale of this sport representation model is in 2012. On the other hand, the data collected as part of our research suggest the existence of this model in China. We met Chinese sportsmen in California, in January 2012. Having completed their physical preparation for the Olympic Games in London with EL physical therapist and American physical trainer of Spanish origin, they are accompanied by a Chinese delegation composed of a dozen of people who follow them in their slightest movements. At the end of a training session we approach D.S. to ask him some questions about the "management" of his sports career. We feel immediately embarrassed, he finally concedes that he does not have "agent like other athletes", the state taking care entirely of the management of his career. We insist on having more details to which he answers: "In fact if, I have an individual manager, it is just that he is paid by the State, like me I am paid by the State. I do not pay for it myself, that's why I said that I did not have an agent like the others.

"Realizing that the athletes will not provide explicit answers to our questions, we decide to turn to the American physical trainer who has been working with Chinese sportsmen for several years and is more inclined to talk about the Chinese state's interference in the professional background of his athletes, among the athletes he prepares is LX, the first Chinese athlete to be crowned Olympic champion in athletics in a race generally dominated by African-Americans, believing that the analysis of the career of LX would be rich in lessons on the control of sports trajectories by the Chinese government, we focus, in the first interview with EL our questioning on this athlete. In total, we met EL six times, between November 2011 and September 2012. At our first meeting, he begins by describing the structure put in place by the Chinese government and the a Chinese athletics federation round the person of L.X.

"His entourage is made up of six to ten people, but his" bodyguards ", that is to say, individuals who travel all the time with him and make all the decisions concerning him, are four people more than me. same: the trainer, the manager, the masseur and the interpreter, all employees of the State. With these four travel mostly two to four representatives of the state and / or the national federation, a representative of his sports equipment supplier, plus one or two assistants and this time two journalists from the national television also came with them. " In other words, the athlete is never left alone, his social life is strictly controlled, he is forbidden to have a little grandmother, to perform any manipulation on LX, the physical therapist / physical trainer must present the details to the manager assigned by the state and

obtain his agreement, which may seem surprising since the manager does not have medical training or physical trainer. The goal of EL's training programs is to allow the athlete to win an Olympic gold medal and everything seemed to go in this direction until three weeks before the London Olympics when the athlete starts to compete. to complain of foot pain. As suggested by the European doctors visited, the pain is certainly caused by a recent change in his racing spikes, the new spikes being specially created for him by his sports equipment supplier.

The American giant intends to make profitable this new product and therefore, it is excluded that the athlete can run to the Olympic Games (J.O.) in other points. Three weeks before the beginning of the year, the ghost of Beijing 2008 and J.O. begins to haunt the group. In 2008, suffering from a similar injury, in front of his audience, L.X. was eliminated in the first qualifying round. Seeing no improvement, despite the care provided, E.L. suggests the manager to ignore the J.O., let the athlete rest to better return the next year. The latter refuses categorically, the athlete will go to the Olympics and he informs the physio that as a last-minute treatment a Chinese doctor will practice two injections of cortisone on the athlete, a few days before the Olympics The physiotherapist also tells us that since the beginning of the "crisis", the manager, senior state official, makes all the decisions concerning the athlete completely obscuring the opinions of the coach and the rest of the group.

*"I warned them that if they started injections of cortisone three days before the competition it will weaken the tendon and inevitably lead to Achilles tendon rupture. Then, of course, for me, it's also an ethical question, tell me, which health professional will allow an athlete to participate in a high-level competition the day after an injection of steroids into the tendon? "*

It is, according to the manager, in the interest of the State that the athlete shows up in his lane for the first qualifying round. However, this seems to be also in the interest of the manager, hence his insistence, because he expected a promotion of high importance. He had been promised that he would be appointed director of the Regional Sports Center, the place where many Olympians, including L.X., live and train, provided, of course, that L.X. to J.O. is not a total failure. So for the manager, the athlete has to participate. If his Achilles tendon is loose, people will have pity on him and failure will not be absolute. The physiotherapist said that everyone was instructed not to discuss the injury with anyone, the athlete being announced as perfectly healthy, ready to conquer the Olympic title. Alas, it was not the case, his tendon Achilles having broken a few steps in the race, as predicted the physical trainer.

*"After this happened, I was the first to accompany L.X. in the medical room of the stadium. The British doctors who examined him could only confirm what I already knew, complete rupture of the Achilles tendon. They also asked us if the athlete was injured at the start of the race and more generally what type of treatment he had received lately. And while I was going to answer these questions by telling the truth, the manager interrupts me and tells the doctors, do not listen to him, he does not know what he's talking about, then turns to me and tells me that is now an affair that does not concern me and that I must leave the room. So I'm looking at L.X. and he says in English that I can stay. "*

If E.L. could stay with L.X. in the medical room of the stadium, however, it was banned from the London hospital where L.X. underwent surgery a few days later Many Chinese media were posted in front of the hospital, the manager did not want to take the risk that the physio gives a version of the events at odds with the official version concocted by the government. All communication with the physio was broken, whereas a few weeks before they saw in him the "Messiah".

*"The only person who answered my messages, no it was even she who contacted me because she needed a service, it is the representative of the sports equipment manufacturer. Her message was a threat even though I do not think English is her first language, so she did not realize how serious she was. Basically she told me that I had to accept my share of responsibility in the case, that I had to stop working with the Chinese sportsmen and especially that I had a family and that I had to think of her. Knowing that she is in daily*

*contact with the other members of the group, I can only conclude that these remarks also reflect the position of others. Finally, I still thought that after spending years working together, L.X. could have, at least, answered one of my SMS, unless they control his mobile too. "*

The analysis of the trajectory of L.X. highlights the tangibility of the relationship between the state and the sportsman. The State-Agent represents and defends the "interests of the State" which when they coincide with those of the sportsman do not cause controversy. However, if their interests diverge, it is necessary to think that as vague as this term is, the interest of the State will be privileged.

We will now look at the different components of the sports agent "trade" from the following question: what does the sports agent do?

### **7.3 The profession**

#### **7.3.1 Multiple professional tasks**

Before putting our eyes on the different profiles of sports agent, we wish to emphasize that the definitions, analyzes, observations, typologies of this part have been realized, in an exploratory aim, from data essentially qualitative. The configurations analyzed and the typology proposed are in no way representative of all the sports agents present in all sports work markets. The typological approach while presenting "ideal types", ie schematized models of sports agents whose study highlights the recurring and significant character of the work of the sports agent and the main functions that it fulfills in the daily exercise of its activity. The abstract profiles that follow while corresponding to the social realities observed during our investigation, are not based on sufficient quantitative data that would attest to the statistical representativeness of the types presented. They aspire to clarify and deepen the current state of knowledge of the sports agent profession

One of the objectives of this thesis is to put into perspective the means that make it possible to account for the "fields" of the profession of sports agent as professional tasks associated with each of them, in the division of labor, inequalities protection of these fields against inter-professional competition attacks and border shifts between them. Being interested in the professional tasks performed by individuals in the same occupation, whether in their main activity or their complementary activity, is to question who does what, when and how in this occupational group .

As part of the work of Abbott (Abbott, 1988) described in Chapter III of this thesis, our approach aims to demonstrate how the professional duties of a sports agent result from both the competition that drives them and forces outside the profession, such as shifts in demand, political interventions, technical changes, economic and social conditions or other cyclical changes. In addition, the presentation of the various professional tasks performed by the sports agent reveals the unequal power of professionals to seize fields of action and to protect them from attacks by competing professions. We observe a certain monopoly in the execution of the professional tasks which is based, at the same time, on a legitimated relational and technical competence. Each professional task is based on the recognition of a specific skill, that is, a knowledge that is legitimate and required in the exercise of the activity. The sports agent builds his professional identity and his career from the characteristics of the work he does and no longer according to the status of work as it may be in other professions. By dissociating the sports agent profession from the sporting megastructures that encircle it and by focusing on the relationship that binds sports agents to their fields of activity and competence, we better discern the differentiation of sports agent profiles according to the contents of work, knowledge and skills they mobilize in the daily practice of their agent activity.

### 7.3.2 Agent-Counselor

The agent-advisor seems to be present in all sports activities. His main role is to guide the athlete in the choices he has to make during his career. It generally exercises in a short time horizon and limited to the achievement of a specific mission. His intervention is not a priori for the promotion of the athlete's career. The number of sportsmen with whom he works varies considerably because he rarely represents the interests of the sportsman or sports employers in the medium or long term, contenting himself with ad hoc assignments. He can work for years for a limited number of sponsors or provide his consulting services to many sponsors simultaneously. The agent-counselors interviewed, to self-designate, prefer to use the term *impresario* to differentiate them from the intermediate agents, whom they call managers. Licensed or practicing without having legal authorization, the agent-counselor is an insider of the sporting world which makes it legitimate in the eyes of the sportsman. When he is not close to the athlete, parent, coach, or sports leader, he is often recommended to the athlete by a teammate. The agent-advisor rarely provides long-term follow-up but rather ad hoc assignments. This is essentially advice offered before the signing of a contract while the athlete is in a dilemma. For example, many footballers say they use an advisor to help them make the "right decision". The use of the agent-counselor is also present in circuit sports such as athletics, boxing, golf or tennis. If he is not the athlete's "official" agent, the agent-counselor provides the athlete with additional information that the "official" agent is unable to provide. In these cases, very often, he works in collaboration with the athlete's "official" agent. They pool their respective skills, to constitute effective resources that will allow them to maintain a monopoly in the accomplishment of professional tasks.

The professional duties performed by the advising officer, through their consultative and intangible nature, remain difficult to identify and analyze. Thus, it is from the speech of the interviewees that he proceeds to reconstruct the work of the agent-advisor. Although he vehemently claims his status as a counselor, highly valued within the profession, he is nonetheless a negotiator, a decision-maker who sees in the claim of this status the assurance of the validation of his authority and the justification privileges that are provided by the same status.

As for the remuneration of the agent-advisor, we observe a certain heterogeneity of the terms of his remuneration. Some are remunerated on commission for each intervention and conclusion of contract, others in the form of fees or fixed salaries determined in advance, others to the commission for a series of missions limited in time, others to more continuous way in a salary framework (official advisor within a club).

### 7.3.3 Intermediary agent

The intermediate agent, the most active category in professional sports, refers to the role of mediator occupied by the agent in the context of a tripartite player-agent-club relationship. It intervenes in the connection between, at least, two parts and represents the interests of one of them. The activity of the intermediary agent is to connect sportsmen and their potential employers, as well as to negotiate the terms of this contractual relationship. These two aspects of the work activity should not be considered separately because they are assumed by the same individual although they correspond to distinct temporal sequences and involve skills, know-how, stakeholders and issues. different. Unlike the artistic intermediary, for example, and in particular the casting director who does not negotiate the work contracts of the chosen actors, the sports intermediary is distinguished by his almost automatic commitment in these two dimensions of his activity.

The contract binding the different parties can be written, in the form of a contract of mediation, or tacit, based essentially on the oral commitment of the main stakeholders.



Political and sports leaders are keen to limit the role of the sports agent to that of an intermediary. He is present in all sports. The role of the sports agent-intermediary does not stop at the simple putting in relation of the different parts. He is a matchmaker, an intercessor, a hunter, an impresario. Thus, the intermediate agent is built by the infinities of interest that he develops and the intermediation function he performs.

The work of intermediation begins when a contract of employment is established or negotiated by a paid intermediary. Intermediation may be a one-off assignment in the context of an isolated mission or may result in a medium or long-term relationship between the athlete and his representative. The terms of the exercise of the activity vary considerably depending on whether it is a simple occasional contractual negotiation or the constant accompaniment of an entire sports career and the management of all aspects of the sport. -this. The intermediate agent works in a labor market characterized by assignments in a fixed temporality determined in advance. The interviews suggest that the intermediate agents build their career by projecting themselves into the medium and long-term perspectives from taking into account the short and successive missions they reconstitute in a series of events marking the individual trajectory and supposed to enhance the sports agent and participate in the development of his career. Intermediary work when confined to a sporting event or contract negotiation is focused at each new event and bargaining on the promotion and development of a single product and in a unique way. This approach is in contrast with that of focusing intermediation on the athlete himself, that is to say on the construction of his career and the consolidation of its market value. Thus, the career of the intermediary sports agent and de facto that of the sportsman appear as the result of a series of missions or successive products more or less successful.

In return for his services, an intermediary receives a fee, usually a commission calculated as a percentage of the transfer amount earned or a percentage of the athlete's earnings, which is most often paid by the athlete's employer rather than by the athlete's employer. sportsman himself. Since the commission for individuals holding a sports agent license is capped at 10%, that of informal agents is freely determined in the context of contractual negotiations.

The interviews revealed a combination of activities in the same sports sector, and we observe in only one interviewee a specialization on the only intermediation activity. In this case, it is the agent's assistants who manage the other aspects of his clients' careers. Thus, the sports-intermediary agent seems to illustrate the most popular sports agent postures. It is in the exercise of the intermediation activity that the conditions of the manufacture of the professional habitus are formed.

#### **7.3.4 Organizing Agent / Promoter**

The organizing agent is distinguished by its involvement in the organization of events or sports competitions. The sports agent is asked by the sports directors to participate in the creation of a sporting event and especially when it has important relational networks. The analysis of this intermediary figure can not be read without considering the way in which the interaction situations between the various sports agent activities are articulated. If each ideal type of sports agent brings together a series of features that reveal a specific way of investing the function, the traits that characterize the organizing agent appear as an extension of the intermediate agent figure. It is because of his intermediary activity that a sports agent acquires specific skills that enable him to perform efficient organizational tasks. The successful management of a sporting event relies, to a large extent, on a "link economy", the sports leaders entrust the execution of these tasks to sports agents who benefit from significant experience in the "emotional" management of sports events. relationships based on relational affinities and personal interests.

Very often, the sports agent agrees to organize a sporting event on the mere presentation of a project whose content is rarely specified. The first step in his work is to transform the vague

demand, formulated by the sports decision-makers, into a concrete, precise, detailed and quickly operational project. He must then develop a program that articulates the sports event project and the communication and promotion project around the event. For the sports agent, it is to bring together a group of top athletes, including some of its customers, under the same banner and despite the competition that exists between them. In addition, we observe a positional shift of the organizing agent insofar as he is led to negotiate the terms of the participation of the various sportsmen in the event during the talks with his fellow sports agents. The organizing agent thus plays a crucial role in the circulation and quality of information, one of its main functions being to facilitate transactions. The structure that employs the organizing agent expects him to help lower the costs of these transactions, in particular by reducing negotiation deadlines and reaching agreements on the participation of athletes in the event which ensure the satisfaction of the participants. interests of all parties involved. The organizer must succeed in reconciling and harmonizing potentially divergent interests while avoiding a balance of forces. The high degree of mutual understanding between sports agents, sportsmen, sports executives and journalists makes it possible to reduce expenses related to the circulation of information, to achieve economies of scale and thus to lower organizational costs.

The organizing agent is present in most sports disciplines and more particularly in athletics, cycling, boxing and football. In athletics, the involvement of sports agents in the organization of meetings is not without problems. It raises the question of a relative monopoly power that some organizing agents can acquire in certain market segments. Thus, in France, a single agent, who is also the organizer of most international meetings in France, represents the interests of about 75% of French high-level athletes. The agent in question was, from the beginning of the 1980s, one of the first sports agents to work in Europe. This early entry into the profession while the market was in full development allowed him to participate in the structuring of the same market. The state of the professional field at the moment of entering the trade determines the subsequent individual trajectories. At the moment when this agent settles on the professional athletics market, the competition is weak, essentially international, the power of the sports federations is questioned and the high-level athletes looking for a representative are numerous. . Taking advantage of this situation, the agent in question quickly managed to monopolize the confidence of the market. This monopoly situation is a boon for the agent in question, who tries to adopt rational behavior in order to safeguard his dominant position. The athletes met during our investigation denounce the practices of this agent that they unanimously accuse of "abuse of dominant position" and "illegal practices".

According to them, if a top French athlete does not collaborate with the agent in question, the latter will "close the doors of all meetings he organizes", unless there is such a request for the athlete in question that it exceeds the shortfall of the organizing agent. Thus, he can not refuse a runway to an athlete whose performances exceed those of the other entries, unless they pretend to disagree financially on the amount of the stamp requested by the athlete for his participation. On the other hand, when the sports performance of the athlete places him hardly at the same level as the rest of the competitors, the organizing agent can easily justify his refusal to grant him a corridor.

Similarly, if the organizing agent is remunerated by the organizers of the sports event for his event organization work, he also receives a commission for the participation of his athletes in the meeting. The influence of the organizing agent is such that he holds not only a quasi-monopoly of the intermediation work in athletics but also that of placement of the athletes in the meetings of which he is the organizer. With regard to the placement of athletes, the organizing agent seems to favor his athletes as well as those whose interests are represented by sports agents with whom he maintains relations based on a convergence of mutual interests. Interdependence relations operate on the various slopes of which the sports agent is the linchpin.

In boxing, for example, the organizing agent is not really responsible for the logistics of the organization of the fighting. His role is essentially to promote the event and prepare boxers to tackle the fight in the best conditions.

The economic imperatives of profitability, cost restrictions and the optimization of allocated resources lead the organizers of sports events to call on sports agents whose specific skills and relational networks are assets that guarantee greater efficiency in the management and organization of sporting events.

### **7.3.5 Spokesman**

The athlete's image can be promoted by his "official" agent or be entrusted to a communication professional. In fact, very few professional sportspeople turn to independent press officers. This approach is based on specific expectations formulated in specific situations. Very often, it is a question of putting in place a crisis communication when the image of the athlete has abruptly deteriorated following the particular events brought to the attention of the public like doping, scandal of mores or other conflicts involving the athlete.

The spokesperson is mainly responsible for promoting the athlete's image and the management of public and media relations. In sporting disciplines where transfers do not exist, the spokesperson is obliged to devote the majority of his time to the management of the athlete's image. This can also be true for "transfer" sports like football, rugby or basketball. The sports agent operates in a market that operates in the economy by projects limited in time, and outside periods of transfer it may be necessary to spend most of his time promoting the image of the athlete. The optimization of the athlete's image is in the process of becoming an essential element of the agent-player relationship. This aspect of the sports agent activity is particularly relevant in the accompaniment of professional sportsmen evolving at the highest national and international level. More than a third of the revenues of top athletes from advertising or sponsorship contracts, they must "cultivate" their image, synonymous with additional income.

The spokesperson is actively involved in the development of the press relations that are essential to the promotion of the image of the athlete as they allow to establish a relationship of trust, esteem and exchange between the athlete, the agent sports and journalists who are the most significant vectors of information transmission to different audiences. Interdependencies have been observed between sports agents and journalists. This interdependence is based on the combined interests that unite and shape the arrangements that characterize this type of relationship. There exists between these actors socially constructed and organized arrangements in the form of various strategies to achieve symbolic and specific exchange of capital. In concrete terms, the sports agent is an informant who informs the journalist about the indoor sports environment by providing him with specific information likely to interest the general public. In return, the journalist undertakes to promote, through his articles, a positive image of the athletes represented by the informant agent. These privileged links are built on the belief in the common interest of mutually serving each other.

Further analysis of the spokesperson figure would further illustrate the interrelationships between sport and the media, one being vital to the survival of the other.

### **7.3.6 Asset Manager**

Beyond his involvement in managing the sporting career of the individuals he represents, the sports agent is sometimes involved in the management of his clients' assets. When the player-agent relationship is based on the confidence that the athlete places in his agent, the athlete can entrust him with the management of his patrimony. It is rare for the sports agent to have sufficient skills to deal personally with aspects of this management. As a result, he prefers to speak to professionals in wealth management and consulting. Interviewed agents say they



work in collaboration with specialized firms in this type of service. In concrete terms, it is with the sport agent that wealth managers define investment and asset management strategies for the athlete. While the sportsman is very little involved in the process of implementing the global strategies to be adopted, he actively participates in the selection of investments that the manager will make on his behalf. The sports agent orients his client's choices by exposing the main characteristics of the proposed investments, particularly in terms of risks, taxation and performance of the selected products.

The sport agent seldom receives separate compensation for its wealth management advisor function, which is integrated into its range of activities. On the other hand, it is not uncommon to see the sports agent and the sportsman invest jointly in sports-related projects, such as the opening of a football or tennis school.

In this configuration, the sporting agent's main role is to help the professional athlete effectively prepare for his sporting retirement by ensuring that at least a portion of the athlete's earnings during his career are invested in the investments. profitable financials. Unfortunately, many sports professionals who, in the absence of wealth management advice during their sporting career, find themselves in a precarious financial situation once their career is over.

### **7.3.7 Lawyer Agent**

Given the high level of some commissions, the Athlete may prefer to go to a lawyer to help him negotiate his professional contracts. The use of a lawyer is present in all sports activities. Athletes say they prefer to work with a lawyer to the extent that his skills are required as a guarantee of legitimacy. Athletes also insist on the irreproachable ethics of lawyers, who, unlike sports agents, are very little exposed to situations where they represent both the interests of the sportsman and the club.

In addition, many sports federations grant the lawyer the right to exercise the activity of sports agent without needing a license or specific approval. In other words, it is difficult to estimate accurately the number of lawyers who provide sports agent services. Among the professional duties performed by the sport agent, we often find contractual negotiation and legal advice services that are usually within the scope of the lawyer's intervention. Similarly, it is not uncommon for sports agents, especially former athletes, to "outsource" these tasks to lawyers, since they feel that they are not competent to guarantee their clients this type of assistance. benefits. The derogatory system enjoyed by lawyers in certain sporting disciplines or in certain countries is justified in view of the fine line between brokerage services, which consist exclusively in connecting an athlete and his future employer, and the benefits of a mandate, which usually involve the negotiation of the terms of the employment contract between these two parties. As a result, F.I.B.A. and F.I.F.A. provide in their respective regulations for the exclusion of lawyers from the compulsory license scheme.

Many players in the sports world agree that, on the one hand, the exercise of the sports agent activity by the lawyer is made legitimate by their legal skills and that this situation contributes to a certain moralization sought after by the profession, on the other hand. However, the special status enjoyed by the lawyer is far from unanimous. The exemption granted to the lawyer in international regulations discriminates against sports agents who are subject to the license requirement. Moreover, the derogatory regime granted to the lawyer allows him to escape the control of his activity by the sports authorities.

In addition, it should be emphasized that there is no harmonization of the status of lawyers between states and different sports bodies. Some countries, such as France 229, forbid lawyers to engage in any commercial activity and therefore that of a sports agent, while others, like Portugal, require lawyers to hold a license to practice the profession. sports agent activity.

As regards the exercise of the activity of sports agent by lawyers, three cases were observed. In application of specific regulations, the exercise of the activity of sports agent by lawyers is subject to the holding of a license or other form of legal authorization. The exercise of the activity of sports agent is prohibited to lawyers because of incompatibility between the profession of lawyer and that of sports agent. In the absence of regulations requiring lawyers to hold a license, or in accordance with regulations providing for a special exemption for them, they are authorized to exercise the activity of sports agent.

The obligation of the lawyer to possess a license or a legal authorization to be able to exercise the activity of sports agent raises also the question of the compatibility between the particular rules of exercise and control of the profession of sports agent and the special rules of practice and control of the legal profession. The question arises of how to reconcile the simultaneous exercise of these two professions and to accept that in case of fault committed in the management of his activity of sports agent, the lawyer falls within the disciplinary power of the competent sporting authority then that he is also subordinated to the regulatory power of his professional order. In addition, requiring a lawyer to communicate to the relevant sports authority mandates signed with athletes or clubs may be in contradiction with the ethical principles to which the sports agent is subject, particularly with regard to professional secrecy. Some sports agents-lawyers met during the investigation believe that if more lawyers engage in the exercise of the activity of sports agent, the sportsmen would turn away other profiles of sports agents for to be ultimately represented exclusively by lawyers. To a logic of competence would be added that of profitability insofar as, the lawyer is generally remunerated by the hour unlike the sports agent non lawyer who is remunerated to the commission which corresponds to about 10% of the amount. total negotiated contract.

Each of these categories, apart from the specific frameworks defined by national legislators or sports bodies, refers to specific situations, but it is possible to highlight the most common trends. Of course, these categories are not exclusive and an agent can perform several functions at once. The interest of the previous categorization lies in the highlighting of the different functions that the sports agent is led to occupy in the exercise of its activities.

In summary, the sporting agent's definition of a sports agent is that of an economic regulator and whose main role is to moderate the information asymmetry that may exist in the context of a direct and effective confrontation between supply and demand. Its existence can not be justified outside the tripartite player-agent-buyer relationship (club or other commercial entity). However, while taking into account the social reality in which the sports agent operates and the conditions that lead him to adapt his activity to the specific needs of his clients, it is necessary to propose a definition of the sports agent capable of illustrating the set of different figures of the agent. The typology of sports agents presented in this thesis is an exploratory approach that is not intended to account for the representativeness of the various figures analyzed. This is the synthesis of a long investigation on a category of professionals little studied until then, for which the bibliography, so the elements of comparison, are almost non-existent. Our goal was to bring out the different logics, provisions and modality of the work of the sports agent while formulating hypotheses as to their different classifications in ideal-typical models.

## **7.4 The sports agent and the weight of the ethical question**

### **7.4.1 Ethical problems posed by a "unloved" profession**

What is implied under the generic term "sports agent" refers to a set of representations, discourses, images and cases each carrying complex and multiple issues that contribute to the

construction of the myth of the sports agent. The latter fascinates and annoys at the same time, attracting a sufficiently diversified range of accusations, criticisms or other condemnations which contribute to maintain the mystery which surrounds it. First of all, who is the sports agent?

During the process of professionalization of the sport, the intervention of the intermediaries in the organization and the management of the nascent sports organizations does not cause any protests to the extent that their contribution, the remuneration and therefore the professionalization of the sportsmen were perceived like a solution and not a problem. On the other hand, the arrival of financial funds and the possibility of intra-club transfers, starting in the 1930s, will produce the opposite effect. The evolution of the athlete's status, as a result of the greater flexibility of transfers, and the professionalization of individual sports make the use of athletes by intermediaries legitimate or even inevitable.

Ethical problems arise when individual actions have a positive or negative impact on others. Ethical excesses observed in the exercise of the profession of sports agent are not the exclusive work of sports agents, insofar as they imply a complicity between different actors. The sporting agent profession has emerged as an organized system of beliefs and practices, some of which are indicative of acts contrary to sports ethics as defined by sports governance. Ethical concerns come mainly from the forms of deviance found in the functioning of the transfer market. Before exploring some aspects of the ethical question, it is necessary to present schematically the most common dysfunctions related to the transfer market.

- Problems caused by double representation and conflict of interest situations
- Problems in the protection of athletes, including the problems related to the lack of transparency with regard to the athlete during negotiations conducted by the sports agent.
- Problems with the "trafficking" and exploitation for economic purposes of young sportsmen from developing countries and sometimes even young sportsmen playing in the amateur leagues of the member countries of the European Union.
- Problems in the protection of minors, in particular direct prospecting aimed at the parents of minors.
- Problems with illegal financial activities, especially in the context of transactions carried out during transfers of athletes.

The nature of the ethical issues raised by placement in professional sports calls for solutions that are public policy. Sports federations do not seem to have enough resources to fight against these practices or to effectively punish public order offenses, particularly in the area of financial crime and trafficking in athletes. However, several recent initiatives by sports federations such as the creation of licensing systems for professional clubs or the implementation of the Transfer Matching System will certainly help, in the long run, to strengthen the control and transparency of financial flows in sport. We will now look at the sports agent's ethics in football.

#### **7.4.2 Normative ethics imposed by sporting bodies. The football example**

The term sports agent is imposed with the first official regulations, set up both by the political authorities and sports authorities who prefer it to its many synonyms. The multiplicity of names used, ranging from intermediary to manager through impresario or advise, reveals, on the one hand, mistrust and lack of esteem that aroused the activity and the legal vagueness that surrounds it. 'somewhere else. .

The figure of sports agent is present in football since the creation of the first competitions and transfers between clubs. His visibility was very limited, and his role reduced to that of a wise counselor who was asked to intervene in difficult situations. In this context, we can even speak of a certain professionalization of the sports agent profession. The passage from the term profession to that of the profession implies a strict definition and regulation of the roles,

duties and responsibilities of the individual performing the profession in question what will bring the first legislation. The term profession, as we have already pointed out, seems to retain here its old meaning, that which refers to a very limited number of professions considered prestigious and requiring extraordinary human skills. The sports intermediary becomes a profession with the consideration by the competent authorities, by means of regulations concerning him, of the activities carried out by him. It is the social recognition of the activities of the intermediary that formalizes the profession of sports agent.

The ethical concern clearly appears from the first interventions in the management and regulation of the activity. Like Marc Aurèle, who faces the financial speculation of the lanistes responds by the norm, the competent authorities and especially FIFA, alerted by the financial flows generated by the transfers, are forced to impose on the modern sports agent a specific framework. The vast regulation that is gradually being put in place around the person of sports agent, against the backdrop of the defense of the image of sport, judged strongly tarnished by some "unscrupulous" agents, is similar to an ethics of (professional) accountability, which scarcely conceals a real desire for disempowerment on the part of international bodies. However, the responsibility of the sports agent can not be done without a sense of solidarity, without the idea of belonging to a united community.

#### **7.4.3 The uncertainty of the ethical requirement. Code of ethics, morality, ethics?**

The Code of Ethics, which is an essential element of the profession, is conceived as an enumeration of the rules governing its operation while dictating the conduct to be adopted by the agent in the exercise of his professional activities. The code is included in the annex of the FIFA regulations and is based on all the rights and duties of the agents stipulated by it, to ultimately draw the outline of an ethics of the sports agent. In this perspective, the ethics of the agent is limited to accommodate some large moral values "normalized" and in which the code draws its sources. A guide to good and evil, morality, by its classification of "good" and "bad" values, in the form of a code of ethics, eclipses the profound crisis of the foundations of ethics. Pillars of this ethic of professional responsibility, (professional) conscience, sincerity, respect, transparency or even objectivity erect the code of ethics in dyadic form authorized-forbidden and morality in dyadic form well-evil, ranging up to to erase their antagonism. If the agent perceives the code of ethics as an enumeration of what is permitted or not allowed, he sees in morality an opportunity for governance to bear on him categorical judgments. Thus, if he can not be a responsible agent, he is obligatorily a guilty agent.

"This ethical question that we are continually rehashed, by being brandished at the slightest incident, begins to exasperate us. To read the press or to listen to politicians and sometimes even the presidents of sports clubs, next to us, even Pablo Escobar would be an angel. The so-called code of ethics to which we want to submit ourselves is nothing more than a list of things to do or not to do. You tell me it's the principle of this type of regulation. It is clear from this code that FIFA's unspoken objective, of course, is to show the sports agent once again. Do you think that FIFA or UEFA executives are subject to a code of ethics? I highly doubt it. Anyway, in case of conflict with the players or club presidents, it is always the agent who is designated as the ideal culprit. And why is there no code of ethics for club presidents who fund transfers? We can not do anything to change this negative image of the sports agent. So, we just make our bulot. I want to be responsible, but give me the means. 230

The ethics of responsibility is also based on the license and the mandate, as official certificates of legal authorization to exercise the activity. Imposed by political and sports decision-makers, licenses and mandates illustrate the first marks of a moral division of labor, namely, a distribution of different expectations and moral functions between several categories of individuals present in sport. Those who hold the license are legally entitled to

perform certain tasks, on behalf of the athlete, to whom they are bound by a warrant. The mandate specifies not only the nature of the relationship between the parties involved but, in most transfers, it is also the only written and legal record of the link between these parties. It constitutes, a priori, the proof of a delimitation of the social and ethical functions, establishing limits between the domains of actions and distributing, finally, powers and responsibilities of the actors in these domains. The signature of the mandate by the footballers, whose agent represents the interests, and the presentation of all the mandates by the latter to the legal services of the competent sports federation, are extremely important insofar as they guarantee him a guarantee of legal protection, in case of conflicts with the players in question.

However, this ethic of liability applies, therefore, exclusively to agents who are in possession, on the one hand, of a right to practice through the license and, on the other hand, a warrant listed for each footballer they represent. However, the investigations conducted with sports agents show that some of them exercise the activity in the absence of an official license and / or mandates. Of course, each profession considers, in a more or less relativistic way, certain types of responsibilities and functions, and these situations raise the question of a widespread challenge to the two essential elements of the legitimacy of the profession, namely the mandate and the license. . To this must be added a challenge on the part of these "ghost agents", the exclusive competence granted to the competent sports federation and to the public authorities in matters of regulation of the activity.

#### **7.4.4 The ethical training of the sports agent**

The previous observation leads us to abandon the ethics of professional responsibility and to consider the ethical question from an ethics of the individual moral conscience. In the functionalist approach, which is the one adopted by sports bodies, morality is presented as a collective morality situated at the level of the individual capacity to take the right or the wrong decision, in other words to follow the code of ethics or to discard it. Ethics, or more precisely, the ethics of responsibility is inseparable from morality, and we could use both terms interchangeably, since the ethic of responsibility corresponds, in reality, to a imposed morality which is rendered, legitimate and official, by political intervention.

This process makes the ethical experience particularly rigid and removes its subjective dimension suggesting that there can be no individual contribution to ethical reflection. This raises the issue of moral autonomy for both licensed and unlicensed agents. It seems that we can better understand the scope of this question and the very nature of the sports agent's ethics, based on an analysis of the way in which the principle of individual moral conscience is presented by sports agents. This principle is imposed on the sports agent as he builds his career. It should be thought that the less time people spend fulfilling the requirements of a formal career, the more likely they are to look for ways that are neither structurally organized nor legally defined to move up the ladder. The individual moral conscience appears in the formal or informal sports agent, with the conviction that it can not exist outside the tripartite player-agent-club relationship. This observation inevitably forces him to carry out a moral self-examination to find out what can make him attractive to his potential clients. Apart from a speech tinged with a form of ethics that would be universal and meet the expectations of the groups he wants to seduce, the sports agent builds his career on the principle of reputation. This approach sometimes encourages not only the primacy of self-interest over the moral obligation, but also the development of an ethics based on the accumulation of wealth where the terms and contours of the negotiation of the transfer amounts violate the larger ones. ethical principles generally shared by all actors. The agents justify these ethical deviations by the fragility of their status, suspended at the good will of the sportsmen who do not hesitate to change agent or to solicit several at the same time if the expected result does not live up to their expectations. The professional uncertainty reinforces the role of reputation in the construction of the quarry.



The sportsmen admit to choose their agent according to particular criteria. In addition to the traits that specifically determine the social position of an agent such as the quality and success of the athletes he represents, a series of values and principles contribute to the making of his career. The principle of reputation, essential to this production, is accompanied by the values of rumor, trust, honor and respect. These values replace the technical skills of the formal positions. The rumor that is generally considered pejoratively, while carrying hasty stigmatization, takes here a rewarding dimension. The rumors surrounding the agent fascinate and bring him some professional legitimacy. Trust, meanwhile, proceeds essentially from the value that the principal, footballer or club, gives to the reputation of the agent. However, some constituents are linked to the agent by personal links, which facilitates the establishment of trust, sometimes absolute. Honor presents itself as the main characteristic of a personal ethic and refers to the deep feeling of duty, according to a conception that is specific to the agent or group in which it evolves. Respect appears in the tripartite relationship as the effort and commitment of each actor not to deliberately interfere with the feelings and interests of others.

Because of the mobility of the actors, the initial choice of the agent is essentially based on the subjective information available to the principal. The emergence of the individual moral conscience is expressed by the agent's ability to mobilize ethical references sufficiently shared and approved by the principal, so as to create a form of cohesion that leads to a relationship of mutual trust and respect. between the agent (agent) and the mandator (footballer or club). We will consider that, just as he can integrate egocentric behavior into his vision of ethics, the sports agent, in order to remain legitimate, must impose a personal code of ethics, lived as a continual aspiration for good, which is tantamount to accepting and considering the ethical decision from the ends and values in which the agent sees sources of good.

#### **7.4.5 The ethical dilemma**

If it seems tangible that the consciousness of good and duty remains present in the sports agent, the ethics it imposes is based only on its persuasive force. The agent draws this force of persuasion in the knowledge and the anticipation of the situations that are presented to him. The apparent autonomy of action that characterizes the sports agent can, in the context of the tripartite relationship, be transformed into its opposite and lead to particularly restrictive forms of interdependence. The uncertainty related to the speculative nature of its activity and the presence of fierce competition, risk, at any time, to weaken its position. In order to protect himself from external threats, be they structural, functional or cyclical, the agent constantly creates techniques that allow him to reinforce the ties that bind him to his clients.

One of these techniques, in particular, is indicative of the breadth of the ethical question in that, on its own, it highlights the relevance of the ethical problem. This is the conflict of interest, or more precisely, the widespread technique of defending, in the context of a transfer, both the interests of the athlete and those of the club. This type of situation is justified by the fact that, even when the agent is mandated by the player, it is the club that pays its commission, which is a practice prohibited by most existing regulations. The dilemma, or the ethical problem, arises when two duties of the same nature confront one another. The ethical contradiction seems obvious in these configurations. How could the same person be objectively capable of representing with integrity and impartiality the competing interests of both parties in a single negotiation? How to both allow the club to pay less and the player to win more? Can the agent do it without compromising the interests of one of the two parties, unless both are compromised?

It must then take into consideration the individual ethical purpose and question what it involves in the negotiation. It is hard to imagine an agent agreeing to reduce the amount of his commission to one of the two parts of the negotiation, and yet that happens. When this happens, the agent says he wants to strengthen the relationship of trust that unites him to the



party he represents, and privilege a long-term approach because by putting the interests of others before his he eclipses the issue of ethical uncertainty. Even in cases where the purpose criteria are based on ethical complexity, the officer must make decisions that involve at least two of the three parts of the negotiation. It is not an independent entity and may, provided it accepts the terms of distribution of powers between the parties, become the ethical moderator of the negotiation by guaranteeing each party an equivalent representation. In this sense, the ethics of the sports agent resembles an ethic of understanding. A "good agent" is one who manages to satisfy all parties while mastering the art of selling. The ethic of the arrangement supposes that at each new negotiation it makes the bet of a lasting collaboration based on good mutual intentions.

The sports agent's ethics is not an ethic of perfection or charity. Nor is it a universal ethic applicable to all individuals who perform this activity. The ethical variants we have exposed are not exclusive.

The agent can adhere to the foundations of the normative ethics imposed by the legislator while practicing an ethic of the arrangement. He conceives of ethics in the form of all that he authorizes himself to build his career and to evolve in a restricted and closed environment and whose access passes through an entrance fee. For the sports agent, making ethical concessions is the payment of this fee and gives him the opportunity to prove himself. This quasi-ritual passage when it is successfully accomplished, namely the satisfaction of the parties involved, gives it a professional legitimacy without which it can not exist.

### **Notes :**

217 Extrait d'entretien réalisé avec D.R., le 24 juin 2008.

218 Nous préférons utiliser ici le terme « métier » plutôt que celui de « profession » pour rendre compte de la pratique effective de l'activité dont la notion de « métier » rend compte alors que celle de « profession » illustre davantage le statut professionnel de l'agent sportif que la pratique de l'activité elle-même.

219 Extrait d'entretien réalisé avec J-P. M., le 18 mars 2009.

220 Extrait d'entretien réalisé avec L.B, le 11 août 2009.

221 On définit la doxa comme l'ensemble des croyances ou des pratiques sociales d'un groupe social qui sont considérées comme normales, comme allant de soi et ne devant pas faire l'objet de remise en question par les membres du groupe.

222 Extrait d'entretien réalisé avec S.V. le 10 septembre 2009.

223 P.Bourdieu, 1998 (1992), *Les règles de l'art. Genèse et structure du champ littéraire*, Paris, Seuil, p.288.

224 B. D. MCPerson, *Retirement from professional sport: The process and problems of occupational and psychological adjustment*. *Sociology Symposium*, 30, 1980, 126-143.

225 B.Gearing, *Narratives of identity among former professional footballers in the United Kingdom*. *Journal of Aging Studies*, 13(1), 1999, 43-58. 260

226 Extrait d'entretien, réalisé avec C. K. le 13 mars 2010.

227 Extrait d'entretien réalisé avec T.C., le 4 juillet 2007.

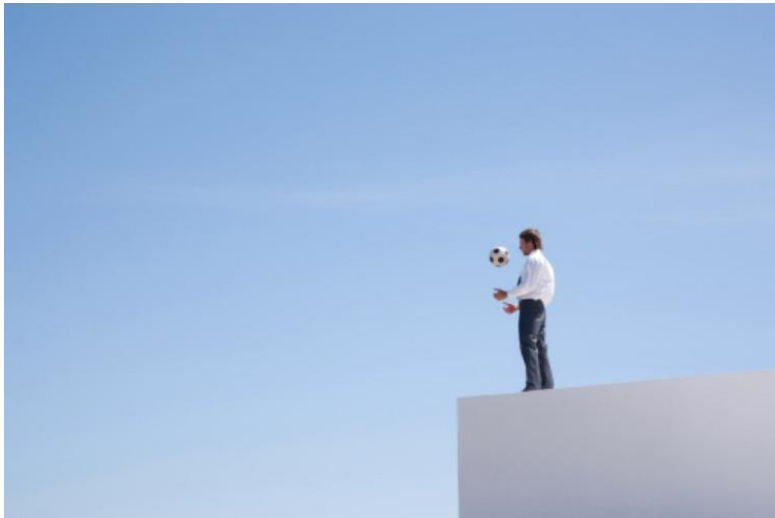
228 Extrait d'entretien, réalisé avec S.D. le 14 avril 2008.

229 Sur l'incompatibilité entre l'activité d'avocat et celle d'agent sportif, voir J.-M Marmayou , *L'avocat peut-il être agent sportif ?*, Dalloz 2007, *Chron.* p. 746 et s.

230 Extrait d'entretien, réalisé avec D.B. le 4 mai 2008.

## THE 5 MAIN QUALITIES OF A SPORTS AGENT

S'AMÉLIORER ZOOM SUR... UN COMMENTAIRE



"To be an agent is to be patient. A player's career is built over time, yours too. "

**Y**ou have decided, you want to become a sports agent? Or are you parents of a young talent and you do not know who to choose to support the career of your offspring? Or, are you a player and you need someone who knows how to advise you correctly in your choices? Do not panic we will set from the first to the fifth quality of a football player agent.

We are not going to get you the moon but Agentfootball.fr has listed for you the main qualities that must have an agent. You can get an idea of the profile that is emerging and see for yourself if you are likely to become a good agent or not. And if you miss some points, it will be time to improve!



The sense of relational, one of the main qualities that must have a good sports agent.

### **1 - The first quality of a sports agent, empathy.**

If this quality is not innate to you, drop right away the job of agent. A sports agent must listen to his player, understand what he feels, know how to put himself in his place to anticipate his reactions, his needs, his doubts.

A player is not just a "number" among others, we are in the human and all the emotional dimension that accompanies it. Impossible, therefore, to give good advice and to accompany a career if you are not able to show empathy.

This kind of quality is noticeable from the first meeting, it is easy enough to quickly spot an agent who is only there for his own benefit. And above all, we can hardly cheat on this point..

## **2 - The second quality of a sports agent, the relationship.**

The main working tool of the sports agent is his network, his address book. If you do not have one, do not worry, you can now start building it. And it extends in all areas of football: players, coaches, leaders, educators, trainers, journalists, agents, recruiters, players close etc ... And we forget about it. A strong sense of the relationship is therefore a primordial quality in an agent.

Like a salesman who prospects and walks all day long, the sports agent can not be introverted. He must be open to all discussions, get to know each other, meet as many people as possible and above all, he must be able to maintain his contacts on a daily basis, not just by phone. If you are associative and do not like human contact, drop that job right away. For the shy, however, nothing is lost. Instead, follow our advice from a previous article (read the article: How to overcome his shyness?)

## **3 - The third quality of a sports agent, patience.**

Once your license is in your pocket, if you think that a player, pro and with a certain market value, will fall into your arms in your first days under the status of sports agent ... Both go play lotto, you will have more of chances. The license is like having a driver's license, but without the car. We do not acquire players simply by presenting our license, those who say you are the opposite are dreamers.

To live on income generated by the trade of agent, you will have to show you patient. Your foals may not bring you money for two or three years. Of course, some young agents, brought on by the beginner's luck or because they already have a good network, can make a transfer quickly after obtaining the license.

On another scale, soliciting a player and convincing him to trust you will also take a little time. It is a long process. Being a sports agent means being patient. A player's career is built over time, yours too.

" To live happy, live hidden "

## **4 - The fourth quality of a sports agent, rigor.**

Whether it is checking the terms of a contract or carrying out negotiations, the sporting agent must be very strict. Every detail counts and the right to the error is minimal or nonexistent. We can make the same observation in the daily organization. Unless you have targeted only the players in your department (we advise you anyway ...), it is likely that travel (in France and abroad) are an integral part of your life. The players need an agent who is present, as

confirmed by the different interviews conducted on agentfootball.fr. The train and the plane will quickly become your best friends. And again, we are not talking about prospecting on land ...

Then, the sports agent must obviously be very rigorous in his behavior with the players. If he does not know how to answer the questions (never forget that a player relies heavily on his agent on a daily basis), if he is difficult to reach or if he gives the impression of being scattered, he will have little chances to win the trust of players and therefore fewer opportunities to expand his portfolio.

### **5 - The fifth and ultimate quality of a sports agent, discretion.**

**"To live happily, let's live in hiding," says the famous saying. This is true also for agents.**

Nothing prevents you from having journalists in your circle of relations, it is even rather advised to get along with some of them. On the other hand, exposing oneself to the media, talking about oneself rather than one's players, or giving too much information about one's daily life is not the main activity of a sports agent. The most effective agents are often the least known.

One can obviously exchange with the media, evoke contacts between a player and a club, it allows to feed the heading mercato. But here too, be careful not to go too far: a player announced in ten different clubs loses all credibility in the eyes of clubs. And it is proven that the most effective transactions are those that have been conducted in all discretion. The sports agent must stay in the shadows, it's better for everyone. It is above all a part of the job that must be accepted.

**AND YOU, HAVE YOU MADE FOR SPORTS AGENT?**

**Donnez-nous votre avis en laissant un commentaire ci-dessous.**

**AGENT SPORTIF CONSEILS DÉVELOPPEMENT**

**PERSONNEL RELATION AGENT SPORTIF ET**

**JOUEUR RELATION PROFESSIONNELLE**

## SPORTS MANAGER / SPORT OFFICER

Source : <http://www.communique-presse-jeu.com/ads/quest-ce-quun-agent-sportif-de-joueurs/>

Source : <http://www.lepetitjuriste.fr/conseils-et-orientation/agent-sportif-un-metier-de-reve/>

### **Sports agent, a dream job?**

Little known to law students, the profession of sports agent responds to a real need, by the effect of the professionalization of sports competitions and the development of sport-show. The sports agent job covers several aspects that need to be studied.

### **What is hiding behind the profession of player agent so that it appeals as much sports fans?**

To this question, many answer that it is the attraction for easy money which explains this craze for this profession, because it is true that the big sports agents (about 3% of the agents) especially in the football, have annual income that can have many zeros.

But the reality is quite different since to become a player agent, it is above all a lot of work to make known players and clubs, the small microcosm of professional sports.

And the constitution of the address book is far from the only task that falls to a serious sports agent since the very essence of the profession is to act as an intermediary between a player and a sports club.

Legally speaking, the player is represented by his agent who acts on his behalf as a proxy.

During the sports season, the sports agent is therefore listening to the player. If he follows his performance, possibly negotiating for him advertising contracts, he must also be a confidant always present to listen and booster if necessary.

For players of very high level, the sports agent can even be led to manage all the non-sports player. Thus, the administrative as well as the financial management of the sportsman's heritage may fall to him.

More generally, the sports agents then call on financial specialists who are part of their network to help them so that the services offered to the player give him full satisfaction.

But where the sports agent must be at the top, it is to advise the player about his sporting career and the contracts he signed with his employer.

It is also to the agent that of course the negotiation of the contract on all points, whether the duration of the collaboration, the fixed salary, bonuses and the various benefits in kind available to the player.

Of course, these negotiations must be in line with the expectations of the player, which is not the prerogative of all sports agents today, some preferring that their player pays them a lot thanks to a lucrative contract.

Indeed, sports agents being commissioned to the tune of 10% of the salary of the player, these professionals, rather than thinking about the real construction of a sports career over 15 years, are rather focused on the lure of gain for most .

Finally, a sports agent also has the mission to attend a maximum of meetings to discover the nuggets of tomorrow and to convince them as soon as possible to choose them to manage their careers.

As you understand, the job of a sports agent is a multi-faceted profession.

It can be a real vocation for sports enthusiasts with good legal knowledge, and willing to invest a lot of time to build a network without earning money ..., at least initially.

## **What is a sports agent, players?**

In the sporting world, there are clubs, players but also sports agents more often referred to as agents of players.

Often these are those thanks to who succeeds or because of whom a transfer fails. However, the profession is little known and it is difficult to know what really is the job of sports agent.

Also, it is to answer all your questions that we propose you this article in which you will find a maximum of information on the profession of sports agent.

It should be known that each year, the number of candidates for the examination of agent of sport does not cease growing.

Requiring sharp legal knowledge and a perfect mastery of the sports regulations in force, passing the exam is not easy and the results prove it because each year, they are only a handful to be delivered the precious sesame that is the license of sports agent.

Yet, despite the difficulty of getting there, the job of sports agent is dreaming of many candidates.

According to Article L.222-7 of the French Sports Code, all natural or legal persons, "exercising on an occasional or usual basis, for remuneration", are engaged in one or more of the following activities:

- ☐ putting interested parties in touch with the conclusion of a contract relating to the paid exercise of a sports activity;
- ☐ negotiation and conclusion of contracts (image contracts, sponsorship contracts, advertising contracts for the professional sportsman, etc.);
- ☐ management of the professional sportsman's assets.

The agent must therefore, in order to conclude an employment relationship, put in contact an athlete and a sports group, or a show organization. The player agent's main working tool is his address book (this is why some former high-level athletes are converted into sports agents). Indeed, the sports agent must have a great knowledge of the world of sport, but that's not all. He must be a very good negotiator with an excellent sense of contact.

## **The status of the sports agent.**



In France, to become a sports agent, you need to obtain an authorization (a license) from sporting authorities (article L. 222-6 of the Sports Code provides for the issuance for a period of 3 years of the license by one or more delegated federations in the sports discipline (s) in which the sports agent intervenes). However, one does not become a sports agent so simply.

The issue of the license is subject to the condition of passing a fairly complex examination including a so-called "general" test which concerns the legal knowledge (sometimes advanced) of the candidate, and a test called "specific" specific to each sport, organized by the national federations and which concerns the knowledge of sports rules [1].

### **Sports agent activity.**

The sports agent acts as an intermediary, which consists of "putting two or more persons in touch with a view to concluding an agreement" [2]. These sports agents are most often invested by athletes, but also by sports groups, investigative missions and negotiations with their potential contractual partners.

Indeed, in most cases, athletes do not have the skills to handle their affairs seriously. We then speak of assistantship of the sportsman (the agents will release the sportsmen from their material constraints, by means of conventions known as "cocooning", by acting as intermediary in the conclusion of their contracts and by procuring them legal, financial and tax services).

### **The remuneration of the sports agent.**

Selon l'article L. 222-10 du Code du sport, la rémunération « *ne peut excéder 10 % du montant du contrat conclu* ». En pratique, la moyenne tourne autour de 6/7% du montant du contrat conclu. Ainsi par exemple, en se basant sur une rémunération de 10% du salaire d'un sportif, si un footballeur professionnel conclut, avec un club, un contrat de travail d'une durée de quatre ans pour une rémunération annuelle fixée à 800 000 euros, la commission maximale de son agent s'élève à 320 000 euros (10 % du salaire annuel sur deux ans), dont le débiteur ne peut être que le joueur lui-même.

De plus, selon une jurisprudence constante, les tribunaux ont le pouvoir de diminuer les honoraires des mandataires, agents d'affaires et courtiers lorsqu'ils les jugent excessifs [4]. Par voie de conséquence, le juge aura la possibilité de réduire la commission d'un agent sportif qu'il estime disproportionnée au regard de la prestation réalisée, même si son montant n'excède pas le plafond légal de 10 % du contrat conclu.

Enfin, s'agissant des intermédiaires intervenant au profit des sportifs mineurs, et dans un souci de protection des intérêts de ces derniers, les dispositions de l'article L. 222-5 du Code du sport interdisent toute forme de rétribution. Dans la pratique, le sportif mineur se fera

contacté avant sa majorité mais il appartiendra aux représentants légaux de ce dernier de signer le contrat entre l'agent et le sportif mineur (l'interdiction de rémunération devra dès lors figurer dans le contrat, sous peine de nullité).

In concrete terms, the job of a sports agent is difficult to grasp, since it includes many aspects: detecting new talents, finding career plans for clients, knowing the market and the value of athletes, etc.

Without pretending to be exhaustive, the main activities of the sports agent are as follows: he will initially advise and guide the athlete in his career choices. Then he will play the role of mediator in a tripartite relationship (athlete / agent / club or event organizer) representing the interests of one of these parties. Above all, he has the opportunity to manage the image of the athlete. Finally, and in parallel with its main activities, the sports agent can become a perfect manager of the athlete's heritage.

Finally, we should be interested in the recent law of March 28, 2011, called modernization of judicial or legal professions, which came to extend the scope of activity of the lawyer. The lawyer may, from now on, act as a sports representative and therefore represent any interested party to the conclusion of a contract relating to the paid exercise of a sports activity or providing for the conclusion of a contract of employment having the same object. In addition, the sports representative lawyer does not need to hold a professional license since his status as an agent will be governed by the regulations specific to lawyers. However, unlike the sports agent, the sports representative will not be able to prospect and go find new talent. Deontologically, this is not possible and it is the customers who will come to him, not the other way around.



## **THE ACTIVITIES OF THE SPORTS OFFICER, THE SPORTS ADVISOR, THE MISSIONS IN THE SPORTS CAREER MANAGEMENT**

Mis à jour au 30/12/2018

All the activities of a sports agent or a sports consultant and the more specific missions of the career management of an athlete.

### **CHAPTER I: THE ACTORS**

#### **Section 1: Sports Agent or Player Agent Licensed**

Sports Agent / Sport Advisor / Lawyer

Regulated activity

Federation license

Activity L222-7 of the Sport Code

Represent a sportsman / coach / Club / Organizer

By a mandate agreement (acts in the name and on behalf)

By a brokerage contract (connection)

Attention to minors: no remuneration, forbidden clause

Remuneration: 10% maximum

Contract: salary / benefit

#### **Section 2: Athlete Attorney**

L'Avocat, mandataire du sportif

28 Octobre 2013

Droitdusport.com

After long - and sometimes heated - debates, it is now accepted that any lawyer can intervene as agent of sportsmen, without it having to obtain beforehand the license of sports agent. Thierry Chiron, lawyer registered at the Dijon Bar regularly intervenes on issues related to the law of sport, decrypts this new regulation. And highlights the points likely, in practice, to pose a problem ...



The law n ° 2011-331 of March 28, 2011 known as modernization of the legal and judicial professions comes to set up a rigorous framework for the exercise by the lawyer of an activity as agent of sportsmen.

It creates a special mandate for the lawyer whose obligations are going to be practically similar to those imposed on the sports agent.

Adapting the law n ° 71-1130 of December 31, 1971 which regulates the profession of lawyer, the law of March 28, 2011 circumvents most incompatibilities which existed between

the activity of lawyer and that of sporting agent that the The doctrine had made it clear (see, in particular, Jean-Michel Marmayou, Can the lawyer be a sports agent ?, D. 2007, 746).

It nevertheless leaves a number of gray areas that will create some practical difficulties of application.

### **A- The mandate**

By stating that the lawyer may represent as agent the parties interested in the conclusion of a contract, either relating to the paid exercise of a sports activity or training, or which provides for the conclusion of a contract of work for the remunerated exercise of a sports activity or training, the law is not innovative (see L. n ° 2011-331, March 28, 2011, art 4, I-1 °). It is the very essence of the legal profession to represent his client as an agent.

The important point is that the law specifies that this representation takes place within the framework of the regulations specific to the lawyer, which means that unlike the sports agent who must obtain a professional license to intervene under the mentioned above, the lawyer is exempted from obtaining this authorization. His status is enough.

On the other hand, the law lacks details as to the scope of the mandate, as much for the diligences that are authorized to the lawyer, as for the sports contracts that it can concern.

As a first step, the law is limited to a representation mandate that is to say the possibility of passing an act in the name and on behalf of the athlete, coach or club. But even if the law does not say so, it is not conceivable that the mission of assistance with a view to concluding the contracts enumerated by the law does not fall within its scope. Who can do the least? But once the negotiation is complete, what about the drafting of the acts? In the case of separate assistance and representation, we believe, however, that it contributes to the conclusion of the contract and must therefore be considered as also covered by the new scheme. Otherwise, its effectiveness would be almost zero.

Secondly, as regards sports contracts covered by the mandate, the legal enumeration undeniably refers to the transfer contract and the employment contract. The image contract is obviously not affected by the law.

More delicate is the question of the "research mandate", a common sporting practice by which the steps to find a club to an athlete take place. There is indeed a difficulty because this research operation is the essence of the activity that the law confers on the sports agent, namely "to bring into contact" parties interested in a sports contract (cf. C. sport, article L. 222-7).

And traditionally, linking or mediation is a brokerage act, that is to say, a legal act of commerce (see C.com, art L. 110-1), which is prohibited by law. lawyer.

However, the text of the law seems broad enough to allow this type of mandate to the lawyer. If this reading of the law is retained, it leads to say that the sports activity of the lawyer and that of the agent are now fully competitive.

Finally, the mandate will be written. Even if the law does not specify it, the obligation of communication of the mandate to the Sports Federation or to the Professional League necessarily supposes a writing. But this is only the application of the traditional ethics of the lawyer (see D. n ° 2005-790, 12 July 2005, art 8

; National Rules of Procedure of the profession of lawyer, art. 6. 4).

### **B- Professional secrecy**

The law devotes a new exemption from professional secrecy to align the obligations of the lawyer with those of sports agents. It is expected that the lawyer will have to communicate the mandate signed with his client and the contract for which he is mandated to the relevant Sports Federation or, if applicable, to the Professional League (see L. n ° 2011-331, 28 March 2011, article 4, I-3 °). This breach of secrecy is justified by the need to verify that the interests of athletes are preserved.

Although the communication of the mandate given to the lawyer may be considered to be an infringement of professional secrecy, on the other hand, as far as the sports contract itself is concerned, its transmission to the federal authorities is usual, most of the time for the purposes of probate . The obligation could therefore have been borne by the sportsman or the club without having to create a new exception to professional secrecy, which does not really seem to be one.

### **C- The honorary**

The singular contribution of the new law is to disregard the principle of free fixing of the lawyer's fees to submit his remuneration for the sporting mandate to the same rules as those imposed on sports agents (C. sport, art L. 222-17).

As a result, on the one hand, the lawyer can not charge any fees when he represents the interests of a minor athlete (see L. n ° 2011-331, 28 March 2001, article 4, I- 1 °); on the other hand, for contracts not involving minor athletes, the amount of fees is capped at 10% of the amount of the contracts - that the lawyer intervenes alone, with another lawyer or in collaboration with an agent (cf. L. No. 2011-331, March 28, 2001, article 4, I-2 °).

This device calls for some comments before pointing out the gaps.

First of all, the image contract is not concerned by the ceiling of the fees, which remain free for this type of contract.

Then, in the case of two contracts (a transfer contract and a labor contract for example), the law seems to allow the calculation of the contract fee. The cap should therefore be made for each type of contract independently of each other, even if ultimately they contribute to the same operation.

Concerning the questions that the deficiencies of the law induce, in the first place, one will wonder about the base of the fees.

Capping the fee to the contract amount means a fee calculated on the gross remuneration or on the remuneration net of expenses (or net of taxes)? Are signature, attendance and match bonuses included in the calculation of the honorarium? What about benefits in kind? If they seem to us to be included in the amount of the contract, it will sometimes be difficult to evaluate and therefore check whether the cap rate is respected. The lawyer will have to be attentive to these difficulties.

Secondly, the law does not specify whether the ceiling of 10% is HT or TTC. The difference between a pre-tax price and a tax-inclusive price is not negligible for the athlete who does not

recover VAT. For the club, the incidence is lower because it recovers at least a portion of the tax as a partial tax liability.

Thirdly, on a practical level, the mandate must indicate the amount of fees (see L. No. 2011-331, March 28, 2001, article 4, I-2 °). However, by hypothesis the mandate is signed before the negotiation of the contract, and at this moment, we do not know the result of the negotiation. It will therefore be practically impossible to indicate the amount of fees in the mandate. To try to answer the wish of the legislator, it will thus be necessary to draw up a clause of fees envisaging either a fixed amount, or an amount in the past time which can be added a fee proportional to the amount of the contract, but by capping in any event to 10% the final fee. Adjustments could therefore be made if the calculation showed a fee exceeding the legal limit.

Fourthly, the law requires that the athlete's attorney-at-law be paid only by his client, unlike the sports agent who can be paid by the other party's counterparty (cf. C. sport, art. L. 222-17). This is to forget that the lawyer can be the sole drafter of the contract if that is the wish of the parties. In this case, it is common for the writing fees to be shared between the parties. This practice should therefore no longer be possible in sports mandates.

Finally, we will wait with curiosity for the first tax decisions when the fees are disputed. Indeed, the President of the Order who taxes the fees in case of dispute will be confronted with a new device that sets itself the ceiling not to exceed. Will a reduction in fees below 10% be considered? The question is asked.

#### **D- The sanctions**

The law finally includes all its prescriptions with a repressive component (see L. n ° 2011-331, 28 March 2001, article 4, I-1 °), almost equivalent to that implemented for sports agents (cf. C. sport, article L. 220-20). In fact, the lawyer's lack of knowledge of the obligations governing his activity as sportsman is punished for two reasons.

On the disciplinary level, the Federation may inform the President of the Order when he finds that the lawyer has failed to fulfill obligations regarding the content and communication of contracts (see L. n ° 2011-331, 28 March 2001, article 4, II). The text does not speak of the Professional League as it does for the communication of contracts. It is supposed that this oversight will be repaired through the Federation which will denounce the facts found by the League which depends on it.

Once seized, the President retains a discretion that will or will not lead to disciplinary proceedings. The agent remains subject to the disciplinary power of the Federation which granted him his professional license.

On the criminal side, the law imposes relatively heavy penalties. The lawyer as the agent who ignores his obligations relating to the communication of the mandate and sports contracts, on the one hand, to the ceiling of his fees, on the other hand, incurs penalties of 2 years of imprisonment and 30 000 € fine. If the invoiced fees are higher than 10% of the contract amount, the fine may be greater than 30 000 € up to twice the sums improperly collected.

The law also sanctions the infringements of the rules of remuneration of the minor athletes (cf C. trav., Article L. 7124-9 by reference of C. sport, art L. 222-5) by a fine of 7 500 euros . In the latter case, it should be noted that the offense is punishable by a 6-month imprisonment



and a fine of € 15,000 for the sports agent (see C. sport, article L. 222-6). that nothing is provided for the lawyer in this hypothesis.

Finally, the civil penalty for the athlete's breaches of the content of the mandate and the ceiling on his remuneration will be highlighted. The law states that any agreement that does not comply with the legal provisions is deemed null and unwritten (see C. sport, article L. 222-17). This penalty is not provided for the warrants signed by the lawyer, which is probably an oversight of the legislator.

However, caution must be exercised, especially if the lawyer acts in collaboration with a sports agent, as this inter-professionalism may result in a nullity that is provided for one affects the validity of the mandate signed by the other.

Thierry CHIRON

Lawyer at the Court of Dijon Legion Company Tips Burgundy  
Member of the Sports Law Laboratory

### **Section 3: The intermediary, the manager, the sports advisor**

### **Section 4: the specificity of football: the FIFA intermediary**

## **CHAPTER II: MISSIONS**

Missions

Sportsman management

Qualities: patience / empathy, listening to expectations rigor / honesty / discretion / work / anticipating / planning / advising / technical skills / knowledge / persuasiveness /

Relationship / network / contact: constant development / address book

Club, President, general manager, sports director, coach, recruiter, scout.

Club: transfer (purchase / sale)

Phases:

Observation/

Prospecting /

Discussion / information /

Proposal/

Negotiation /

Finalization: contractual

Work contract / service

Salary / remuneration

Premiums / benefits in kind (accommodation / hotel / vehicle / driver / taxi)

Assistance / advice / management

Assistance / Administrative Advice / Insurance

Legal assistance / advice

Tax assistance / advice

Assistance / advice / Asset and financial management

Technical assistance and advice

Training / physical / mental preparation /

Dietary advice / counseling / spa / wellness / lifestyle / physiotherapy / osthéo

Commercial

Sponsors / sponsorship / patron / sales image and name



Financial support

Marketing / Communication

Image Management

Media training

Press relation

Social networks - privacy / public

Non-profit action

Conciergerie and all services to the person

Family management: parents and friends

Sport culture

## THE MINORS

### HERITAGE MANAGEMENT

Documents to insert:

02 UFF Specific heritage approach

### RECONVERSION

Reconversion project

Documents to insert:

03 The difficult reconversion of top athletes

04 The day they ceased to be top athletes

05 Florian Maurice a successful reconversion

06 Gava



## **DEFINITIONS**

Mis à jour au 11/10/2018

