



GRATA
INTERNATIONAL

Local Knowledge
for Global Business

www.gratanet.com

#NEARFOOTBALL or What a Sports Lawyer Should Know

"Football is the most important of the least important things in life"

Arrigo Sacchi

As football develops and becomes more popular in Kazakhstan, the legal relationships and arrangements of the parties involved increasingly require compliance with legal formalities. A professional club, sportsman, coach and federations are guided by regulations approved by the international sports organisations and/or concluded contracts.

However, it must be noted that the main 'players' of doing business in sports area are not sportsmen. These are their agents, who in fact determine the near future of a football player. Agents become the so-called locomotives of business processes and provide the basic conditions for any cooperation between a club and the player.

As a result of such a tripartite cooperation, the following documents that govern further legal relations of the parties are signed:

- ▶ agency agreement;
- ▶ representation agreement with the provision of an intermediary declaration (when rendering agency services to a club/foreign players scouting);
- ▶ employment agreement between a player and a club.

Despite the agreements reached in these documents, in practice, there is a number of issues, which deserve special attention and shall be reflected in the concluded agreements in more detail.

First, when attracting foreign players to clubs, social adaptation of new players both in the club and in Kazakhstan as a whole goes hard. This can result in disputable situations for the agent and the club, which subsequently lead to commercial costs not stipulated in the agreement. In particular, a player may not be satisfied with the accommodation conditions provided thereto during the term of the employment agreement. In this case, one of the parties may incur additional expenses. Besides, there may be a linguistic barrier, which will also entail unintended costs. In this regard, the parties' obligations shall be more clearly and in more detail represented in the agreement. Moreover, it is also necessary to share the responsibility for social adaptation of foreign players. According to unofficial statistics, 80% of the attracted foreign players in the period from 2014-2017 could not stay and play for local clubs because of the difficulties with social adaptation.

Second, many clubs in Kazakhstan are financed by the state or quasi-state sector, which often affects the speed of decision-making and signing of relevant documents. In particular, this affects the engagement of a new foreign player to a football club within the transfer window^[1]. Transfer windows may not take place at the same time in different jurisdictions. There are only general FIFA restrictions: there can only be two transfer windows within a calendar year. The first window begins at the end of a football season and cannot exceed 12 weeks, while the second window opens in the middle of a football season and cannot exceed four weeks. In this regard, the transaction parties shall precondition their cooperation to formalise their agreements in the future.

Third, nowadays sports events are increasingly becoming shows with huge advertising campaigns. Such campaigns often use images of sportsmen or coaches. However, such a use of personal non-property rights is not always settled by the relevant documents. Pursuant to Article 145 of the Civil Code of the Republic of Kazakhstan, no one has the right to use the image of a

person without the consent of the latter. An employment agreement concluded between the parties shall provide for such a consent and condition that the salary includes remuneration for the image use. This will allow more effective advertising campaigns involving the required players or coaches.

Fourth, the mechanism for resolving labour disputes between a football club and a player in Kazakhstan is not clearly defined, as well as the competent authority to address such disputes. In such cases, the parties are at a crossroads: whether to follow the mechanism provided by the national labour legislation or to follow the path of FIFA international regulations. For this reason, the transaction parties are desirable to determine a clear procedure for resolving disputes in view the requirements of international organisations and the specifics of national legislation.

In conclusion, we would like to note that legal relations of the parties involved have a number of nuances that can be overlooked by a lawyer. We tried to outline here the main features relevant to football area. In general, a human factor shall be always taken into account when entering into transactions, since 'the subject of the agreement' are professional players.

[Download article](#)

Author: Liya Akzhanova, Counsel, GRATA International

[1] Transfer window is a period of calendar year, where football clubs are entitled to transfer players.

Байршил

КАЗАКСТАН