



THE ECONOMIC RIGHTS OF PLAYERS

Preamble

- I. The **World Players Association** (World Players) exists to promote the dignity of the player and the humanity of sport.
- II. World Players has a three-part goal in the pursuit of this vision. First, the human rights of everyone involved in the delivery of sport must be protected, respected and, where needed, upheld. Second, the same must be true for the players. Third, the impact of sport must be positive, including in sporting, economic, environmental and cultural terms.¹
- III. The position of the player in sport is unique. The player is both the labour and the product that makes sport possible. This contribution makes the economic activity of sport possible, be it where sport is conducted for profit or on a not-for-profit basis to fund its activities and development. Today's global sports industry is estimated to be worth USD\$600 – 700 billion.²
- IV. Yet, the economic rights of players to earn a basic income, have costs incurred in the performance of work paid for, or share fairly in the wealth they help generate are often limited or even denied, commonly placing players in precarious economic circumstances.

RECALLING:

- V. Article 7 of the *Universal Declaration of Player Rights* (UDPR) that states, "Every player has the right to share fairly in the economic activity and wealth of his or her sport which players have helped generate;" and

- VI. Article 8(1) of the UDPR that states, “Every player has the right to just and favourable remuneration and conditions of work, including a minimum wage, fair hours of work, rest, leisure, the protection of wages, the certainty of a secure contract and the protection of his or her status as a worker within the employment relationship.”

ACCORDINGLY:

- VII. This policy sets out **five key requirements** that sport must comply with to embed the economic rights of players into their activities and business relationships.

I. RECOGNISE SPORT’S DUTY TO PROTECT AND RESPECT PLAYER ECONOMIC RIGHTS

1. The “protect, respect, remedy” framework of the *United Nations Guiding Principles on Business and Human Rights* (UNGP’s) defines the responsibility of business enterprises such as Sports Governing Bodies (SGBs) to respect internationally recognised human rights.
2. The responsibility includes internationally recognised human rights expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s (ILO) Declaration on Fundamental Principles and Rights at Work. Internationally recognised human rights, therefore, include economic rights.³
3. The ILO defines decent work as that which is “productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration...”⁴ Decent work, therefore, is something that players aspire for.

II. IDENTIFY THE SALIENT RISKS TO PLAYER ECONOMIC RIGHTS

1. Sport must proactively identify the salient economic rights risks its governance, regulatory activities and business relationships may have on a player. These risks include where a player is:
 - a) deprived “the protection (he or she is) due”⁵ in contractual relationships that:
 - i) demand work and performance without pay;
 - ii) curtail the enjoyment of the player’s personality rights;
 - iii) impose the costs of participation on the player; and
 - iv) impose liability and the risk of participation on the player in a variety of means, including the imposition of the cost of insurance, the imposition of exclusion

and limitation of liability clauses or excluding players from the protection of insurance coverage;

- b) denied their contractual entitlements where terms are either not respected or are unenforceable for a variety of reasons including legal, economic, practical, political or cultural factors;
 - c) denied the ability to earn a living wage;
 - d) denied the ability to exploit his or her personality rights at the most critical moments and periods of his or her career;⁶
 - e) denied of their status as a worker, through disguised employment relationships;
 - f) subjected to sports specific laws and regulations that purposively exempt a player from:
 - i) workers' compensation laws;
 - ii) minimum wage laws, or industry standards on pay and working conditions; and
 - iii) being recognised as a worker or employee under national law.
2. The severity and impact of these risks are heightened in relation to certain vulnerable groups, such as women who face discrimination including in relation to the value of their economic rights.
3. The severity and impact of these risks are further heightened where there is institutional corruption, which in turn can produce an environment that exposes a player to the undesirable elements of sport.⁷

III. ACKNOWLEDGE THE CENTRALITY OF PLAYER ECONOMIC RIGHTS TO THE BUSINESS AND ACTIVITY OF SPORT

1. Sport must acknowledge that the basis of its revenue and wealth is generated through the commercial exploitation of a player's economic rights. In the context of the business and activity of sport, these include:
- a) Labour and performance: A player is entitled to be remunerated for his or her labour and performance where work is performed pursuant to the instructions or control of sport, or where his or her performance in an event or competition generates revenue for the benefit of sport; and
 - b) Name, image, reputation and likeness: The use and exploitation of a player's name, image, reputation and likeness of a player by sport generates significant revenue, including through:
 - i) media and broadcasting;
 - ii) commercial partnerships and sponsorship;
 - iii) merchandising;

- iv) sports-betting;
 - v) data; and
 - vi) the development of sport.
2. Where sport generates wealth from these rights, a player is entitled, like any other worker, to “claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate.”⁸
 3. This requirement is reflected in the economic and labour terms of Collective Bargaining Agreements (CBAs) across many professional team sports, which address matters such as minimum wages, the cost of work and performance, commercial payments, the bearing of risk, and revenue sharing.⁹ CBAs play a critical role in protecting a player’s economic rights by ensuring “respect for the fundamental and labour rights of sportspeople and the economic nature of sport.”¹⁰

IV. CONDUCT ONGOING PLAYER ECONOMIC RIGHTS DUE DILIGENCE

1. Sport must undertake ongoing due diligence of its governance, regulatory and contractual activities and relationships to identify whether they adequately protect a player’s economic rights, and the impact these may have on his or her livelihood, economic circumstances and financial wellbeing.

V. ADDRESS NEGATIVE PLAYER ECONOMIC RIGHTS IMPACTS

1. *Promote freedom of association*

It must be clearly communicated that all players have the right to freedom of association in the establishment of representative bodies of their own choosing. Regulated and controlled representation from within sporting organisations is not a substitute for independent, player driven representation. The right to freedom of association exists irrespective of a formal employment relationship.

2. *Embed fundamental international labour standards in sport*

Sport must govern itself in a manner which meets the requirements of the ILO’s core conventions. Adherence to these critically ensures the enabling rights necessary for players to have their economic rights protected, respected and fulfilled. Where sport specific regulation, or national law, conflicts with these standards, the higher level of protection must be guaranteed.

3. Review existing laws and regulations

Government must review and identify sport specific laws, that deprive players of their economic rights. Where such laws exist, sport must work with player associations to implement measures that ensure a player receives at least the same level of protection afforded to an ordinary worker under national law.

4. Respect each player's status as a worker or employee

Sport often seeks to disguise a player's true status as a worker or employee.¹¹ The ILO's *Employment Relationship Recommendation* details the factors to consider in determining whether a player is in disguised employment:

- a) the level of control sport exercises over the player;
- b) integration of the player into a sport's activities;
- c) who the player's work is performed for the benefit of;
- d) autonomy over the player's working hours and place of work, which will include training and competition schedules;
- e) provision and limitations on the equipment, uniform, and materials necessary for the player's participation in sport; and
- f) remuneration, or other benefits in kind made to the player including food, lodging, and transport.¹²

5. Provide guidance and training

Sport must develop training and guidance to identify and prevent the denial of a player's economic rights. It should be easily accessible and will be best delivered via customised training programs from player associations to administrators, officials and arbitrators responsible for the enforcement of standards and agreements.

6. Provide access to an effective remedy

Where the economic rights of players have been violated, mechanisms must be established to provide for effective remedy, including through the establishment of sports specific dispute resolution chambers.

Adopted:

World Players Association

3rd World Assembly

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Attachment 1: Selected sample of the salient risks to a player’s economic rights

Research	Key findings
<p>Expert Group on Match Fixing, European Commission, 2014-2017.</p>	<p><i>“There are numerous causes for match fixing...the ease and speed of global communication, coupled with deficiencies in the governance of sporting bodies (institutional corruption, late or non-payment of wages, absence of contract, training alone), have been the main drivers.”</i></p> <p><i>“Prevention also must entail the setting up of good governance structures to avoid institutional corruption as well as promoting quality working conditions for players (i.e. fair and punctual payments, contractual stability).”</i></p>
<p>International Cricket Structural Review 2016, FICA, 2016.</p>	<ul style="list-style-type: none"> • Players around the world frequently do not receive their full contractual entitlements. • Players’ rights are not protected adequately around the world and current recourse in cases of dispute is not adequate. • Player contracts are often unbalanced, and do not afford players adequate protections, taking advantage of the relative strength/weakness of negotiating parties.
<p>Global Employment Report, FIFPro, December 2016</p>	<ul style="list-style-type: none"> • 41% of players had delayed payments. • 29% of transferred players moved against their will. • 22% of players are aware of forced training. • 9% of players suffer from violence, 8% from discrimination and 16% harassment. • 72% had not completed education beyond high school, with 10% not even beyond primary. • 17.2% of players who play for clubs abroad have experienced racism, xenophobia or other forms of discrimination.

<p>Global Employment Report: working conditions in professional women's football, FIFPro, December 2017.</p>	<ul style="list-style-type: none"> • 49.5% of respondents are not paid by their clubs, and most of those paid receive low wages. • More than 60% of paid players take home less than \$600 a month, only a tiny few make more than \$4,000 a month. 37% are paid late. • Only 53% of players say they have a written contract with their club, and of these, 15% do not know what type of contract they have. At national level, only 9% of capped players say they have a written contract. • 66% of respondents say they are disappointed with the prize money in women's football tournaments. The prizes for men's and women's events are not equal, in both absolute terms and in terms of revenue share.
<p>Open letter - Players Position in German Federal Cartel Office Proceedings (Rule 40 § 3), German Players Commission, 23 May 2018.</p>	<p><i>“Players worldwide, with various socio-economic conditions prepare for almost a lifetime to participate at the Olympic Games. The National Olympic Committee of each country sends their Olympic Team and thus every single player to the Games. The participation of each player depends on submitting to the rules of the International Olympic Committee (IOC), the Olympic Charter. By signing, uncontradicted, a Players’ Agreement with their National Olympic Committee, a player has almost no alternative to negotiate. With its Rule 40 §3, the Olympic Charter restricts the Players who participate in the Olympic Games as much as possible... <u>By submitting to the IOC Charter and thus under Rule 40 §3, it is only marginally possible for Players worldwide to advertise with partners and sponsors in the economically most important phase of their sporting career...</u>”</i></p>
<p>Global Women's Survey, International Rugby Players, August 2018.</p>	<p><i>“42% of players say they can live off their income from Rugby although this standard of living is categorised as “surviving” rather than living.</i></p> <p><i>60% of those receiving income from their participation in rugby are also supplementing their income with another job...”</i></p>

Attachment 2: Revenue Sharing and Minimum Wages and Conditions of Employment Under Selected Collective Bargaining Agreements

Sport	Status of SGB	Revenue sharing device	% revenue shared with players	Minimum wage
Australian cricket	Not for profit national SGB	CBA: 2017 Cricket Australia Memorandum of Understanding (not publicly available)	27.5 – 30% ¹³	AUD\$278,100 for Cricket Australia contracted male players, AUD\$66,243 for state contracted players ¹⁴
Australian Football League (“AFL”)	Not for profit SGB	CBA: 2017 AFL Collective Bargaining Agreement (“AFL CBA”), “Schedule A – Financial Review”	28% of AFL revenues and 11.2% of club revenues above forecasts ¹⁵	AUD\$100,000 for fully listed players, AUD\$71,500 for rookie listed players
National Basketball Association (“NBA”)	Professional sports league with private ownership	CBA; 2017 NBA Collective Bargaining Agreement (“NBA CBA”), Art. VII – “Basketball Related Income, Salary Cap, Minimum Team Salary, and Escrow Arrangement”	49% of “Basketball Related Income”	USD\$815,615, NBA CBA – Exhibit C-1

Sport	Status of SGB	Revenue sharing device	% revenue shared with players	Minimum wage
National Football League (“NFL”)	Professional sports league with private ownership	CBA; 2011 NFL Collective Bargaining Agreement (“NFL CBA”), Art. 12 – “Revenue Accounting and Calculation of the Salary Cap”	Between 47-48.5% of “All Revenues”	USD\$480,000, NFL CBA – Article 26
National Hockey League (“NHL”)	Professional sports league with private ownership	CBA; 2012 NHL Collective Bargaining Agreement (“NHL CBA”), Art 50 – “Team Payroll System”	50% of “Hockey Related Revenues”	USD\$650,000, NHL CBA – Article 11
New Zealand Rugby	Not for profit national SGB	CBA; 2016 New Zealand Rugby Collective Employment Agreement (“NZR CBA”), Part 2 – “NZRU Player Generated Revenue and the Player Payment Pool”	36.56% of “New Zealand Rugby Union Player Generated Revenue”	NZD\$75,000, NZR CBA – Article 55

¹ The three-part goal of World Players embraces all athletes as well as players in professional team sports, and this policy is to be interpreted accordingly.

² KPMG, *The Business of Sports*, (Sept, 2016) <https://assets.kpmg.com/content/dam/kpmg/in/pdf/2016/09/the-business-of-sports.pdf>, 8

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- ³ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html> [accessed 12 November 2018]
- ⁴ ILO, *Decent Work Agenda* (Retrieved Oct. 22, 2018) <http://www.ilo.org/global/topics/decent-work/lang--en/index.html>
- ⁵ ILO, *Employment Relationship Recommendation*, 2006 (No. 198).
- ⁶ Refer, for example, to paragraph III(1)(b) of this Policy.
- ⁷ Refer Attachment 1.
- ⁸ *International Labour Organization Declaration on Fundamental Principles and Rights at Work and Its Follow-Up 1998*, p 1
- ⁹ Refer Attachment 2.
- ¹⁰ *European Parliament, Report on an integrated approach to Sport Policy: good governance, accessibility and integrity (2016/2143(INI))*, (2016), para 32
- ¹¹ See Case of *Vanessa Sahinovic* BvWG W145 2128879-1, 10.03.2017.
- ¹² ILO, *Employment Relationship Recommendation*, above note 4.
- ¹³ B Dabscheck, 'An in depth analysis of 2017 Australian Cricket Pay Dispute', *Lawinsport*, 18 August 2017, available online at - <https://www.lawinsport.com/articles/item/an-in-depth-analysis-of-the-2017-australian-cricket-pay-dispute>
- ¹⁴ S Chalkley – Roden, 'Cricket Australia reaches pay deal with players' association after bitter standoff', *ABC News*, 3 August 2017 - <http://www.abc.net.au/news/2017-08-03/cricket-australia-reaches-pay-deal-with-players/8765040>
- ¹⁵ 'AFL's revenue-sharing deal draws envious looks from NRL and cricket players', *The Guardian*, 21 June 2017 - <https://www.theguardian.com/sport/2017/jun/21/afls-revenue-sharing-deal-draws-envious-looks-from-nrl-and-cricket-players>