

Summary of the discussions

NDRC Mission – Pilot Project

in Bratislava, Slovakia

on 24 April 2019 at 09:00

Present: Jozef Kliment, Lukas Pitek – SFZ; Jan Mucha, Jozef Tokos, Peter Lukasek – UFP; Roy Vermeer – FIFPro; Erika Montemor, Imen Larabi – FIFA (Players' Status); Nicolas Crettex – FIFA (Professional Football).

Absent: League's/Clubs' Representatives

Duration: 09:00-14:00

I. OPENING REMARKS

II. AGENDA

1. NDRC Project's Milestones
2. NDRC Current Situation's Deadlock
3. Open Floor Discussion
4. Proposals
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I. OPENING REMARKS

The General Secretary, Jozef Kliment, opened the meeting and welcomed the participants. The Head of Legal Department, Lukas Pitek, second his General Secretary's message.

FIFA's Players' Status and Professional Football Departments:

- Thanked the Slovak FA for accepting to and for hosting the NDRC Mission
- Re-emphasised the importance of un-blocking the project in light of the upcoming Slovak FA's General Assembly (taking place on 27 June 2019).
- Highlighted the objective of the day's meeting, namely a set of proposals and action plan to be followed until the aforementioned General Assembly.

FIFPro welcomed the Slovak FA's willingness to find a solution to the impasse regarding the NDRC mission and thanked FIFA for setting up the meeting.

UFP, Slovakian Players' Union, extended their gratitude to the international stakeholders for their presence and intentions to help.

General remarks that were brought up during the opening statements:

1. The League's/Clubs' representative cancelled their participation to the meeting due to business-related reasons. They would send instead a representative from Legal Department to take part in the discussions.
2. All stakeholders were reminded that ECA, from the beginning, had informed that they would not be able to attend the meeting, but that the mission counted with their blessing.
3. All stakeholders were equally informed that UEFA was informed/aware of the visit, and expecting a summary of the discussions upon concluding the discussions.

II. AGENDA

1. NDRC Project's Milestones

The Slovak FA provided a contextual summary of the most important milestones achieved in regards to the NDRC Pilot Project thus far. The presentation went over key dates and amendments to existing articles within the Slovak NDRC Regulations. The following timeline serves as a summary:

- June 2014: Dispute Resolution Chamber is established
- January 2016: Act on Sport (National Legislation) becomes effective
- June 2017: 1st NDRC Pilot Project (Kick-off visit)
- December 2017: Amendments to NDRC Regulations Passed
- April 2019: 2nd NDRC Pilot Project visit (Mission)

Dispute Resolution Chamber is established – Additional Information: some of the most essential articles of the regulations, at that point in time, were:

- Composition of the Chamber (art. 5.1). “The body consists of a president, a Vice-President, six members representing the clubs of which (Four members represent Union of League Clubs, and Two members represent amateur clubs), and six members representing the players and coaches (four members represent professional and amateur players, and Two members represent coaches).”
- Appointment of President and Vice-President (art. 6.1). “The President and Vice-President of the Chamber is elected and removed by the SFZ Conference. The President and Vice-President of the Chamber is nominated by the clubs and players. If a candidate nominated by the clubs is elected President of the Chamber, the Vice-Chairman shall be elected from among the candidates nominated by the players, and conversely, if a candidate nominated by the players is elected President of the Chamber, the Vice-Chairman shall be elected from among the candidates nominated by the clubs.”
- Appeals (art. 36). “The decision of the Chamber cannot be appealed. The decisions of the Chambers shall be subject to examination by the Appeals Board under Article 60 (8) (a) of the SFZ Statutes.”
- Fees and schedule of fees (art. 37). “A fee paid pursuant to these Rules of Procedure is SFZ’s income and it is used primarily to support the operation of the Chamber and the educational and publishing activities related to the activities of the Chamber.”

Act on Sport – Additional Information:

- Art. 19: “The National Sports Federation establishes its bodies and ensures its activity according to the following rules...the highest authority shall elect the members of the highest executive bodies, the chairman and vice-chairman of the disciplinary bodies, the dispute resolution bodies, the licensing authorities and the supervisory bodies, unless they are directly elected by the members of the national sports federation.”
- Art. 19 is reflected in SFZ’s Statutes through Art. 40, which reads as follows: “The Conference is the highest authority in the SFZ, and it makes the most serious decisions in Slovak football. ”

1st NDRC Pilot Project – Additional Information: FIFA’s visit reviewed the existing DRC regulations and proposed a set future steps. Amongst the articles that needed revision, the following were the most relevant ones:

- Appointment of President and Vice-President (art. 6). It states that the SFZ conference elects the President and the Vice-President, which shall be a candidate either nominated by the clubs or by the players. From a legal point of view, the principle of equal influence appears not to be respected, since players and clubs might not have equal influence on the appointment of the President and the Vice-President. A recommendation was made to the stakeholders to jointly find a solution to ensure that clubs and players have equal influence on the candidates for President and Vice-President, while respecting the applicable national law.

- Appeal (art. 36). It was advised to establish the possibility to appeal the decisions and to change the apparent contradiction between the non-possibility to appeal and the fact that the decisions are subject to examination. In line with this recommendation, FIFA reminded that the Appeal Body should also be compliant with the principle of equal representation.
- Fees and schedule of fees (art. 37). Players raised the issue of the costs of the NDRC proceedings and FIFA agreed that these cannot hinder the access to justice. To move forward, stakeholder agreed that no obstruction to justice can result from the imposition of fees, and that the administration fees in place would be reviewed.

Amendments to NDRC Regulations Passed – Additional Information

After FIFA's 1st visit, the new set of NDRC Regulations changed the composition and structure of the chamber, created a new nomination system for the President and Vice-President, and established an appeal option. However, these changes were not all agreed with the national stakeholders. The following points cover the aforementioned changes in more detail:

- Composition of the Chamber (art. 5.1). The body will now consist of a president, a Vice-President, 8 members representing the clubs (six members represent Union of League Clubs, and two members represent amateur clubs), and eight members representing the players (six members represent professional football players, and two members represent amateur football players). These 16 representatives make up the Plenary Board of the DRC.
- Appointment of President and Vice-President (art. 6.1). "The President of the chamber and Vice-President of the Chamber are elected and recalled by the SFZ General Assembly. The candidates for President and Vice-President of the Chamber are proposed by the Chamber's Plenary Body. The candidate who received at least 6 votes of the members of the Chamber representing clubs and at least 6 votes of the members of the Chamber representing players may be proposed to become the President or Vice-President of the Chamber. Each member of the Chamber has one vote when proposing the President or Vice-President of the Chamber." In order for a President or Vice-President to be nominated to the General Assembly, it must secure at least 12 votes from the plenary board (6 of players and 6 of clubs).
- Appeals (art. 36a). "The appeals against decisions of the Chamber shall be decided by the Board of Appeals, acting as an authority of second instance." The President of the Chamber shall act as the Chairman of the Board of Appeals if the first instance decision was taken by the Vice-President of the Chamber acting as Head of the Senate, and conversely, the Vice-President of the Chamber shall act as the Chairman of the Board of Appeals if the first instance decision was taken by the President of the Chamber acting as Head of the Senate.

2. NDRC Current Situation's Deadlock

The Slovak FA exposed the reasons behind the project's deadlock situation. Acknowledging the amendments implemented by SFZ, the following 2 points are at the centre of the deadlock:

- The election of the Chairman and Vice-Chairman
- Fees/Cost of the proceedings

3. Open Floor Discussion

The open floor discussion provided a space for all the parties to discuss the points about the current NDRC Regulations that were not in agreement between the parties, namely the appointment system of Chairman and Vice-chairman and the costs of the proceedings.

Appointment System Chairman and Vice-chairman:

The SZF reiterated that the current appointment system, as is, correctly works as it respects the equal influence principle of NDRC as well as the national law of the country. The FA, used this discussion space to further mention that failing to appoint the figures of President and Vice-President did not mean a system that did not work, simply that the parts were nominating candidates who simply could not get the majority voting requirement needed. Referring to the suggestion of FIFPro that the Union of League Clubs and the UFP should agree together on the candidates for the President and the Vice-President of the NDRC, the SFZ cited a number of issues which would not allow for the UFP and the Union of League Club to do so, namely:

- i. Amateur clubs and amateur players would in this scenario have no influence on the appointment on the President and Vice-President of the NDRC and the amateur clubs would therefore vote against it in the SFZ General Assembly.
- ii. The Union of League Clubs would apparently not agree with this proposal

The UFP mentioned how the current system did not provide reliability, as there is no equal representation of Players to Clubs in the General Assembly and it is ultimately the General Assembly which elects and removes the President and the Vice-President. The Players only have 1 out of 87 votes in the General Assembly and their influence is therefore merely symbolic. Additionally, UFP pointed out that out of the 87 delegates that conform the GA, 58 of them represent the amateur reality of Slovakia's footballing landscape. As such, even if the ratification of President and Vice-President from this body is more of a symbolic action, UFP expressed, it leaves the decision in the hands of those that might not completely understand the professional football reality of the country (something important to mention since 95% of the cases handled by the NDRC are related to professional football). UFP concluded their point of view by saying the election system of the clubs/players' representatives was completely democratic, but that the creation of the Plenary Board in conjunction with the approval process of the General Assembly took away the democratic part of the entire nomination/election process for President and Vice-President. This derives from an earlier incident whereby the UFP had been informed that the candidate they had proposed for a different function would not be voted in by the SFZ General Assembly.

FIFPro outlined that the SFZ's argumentation in relation to amateur clubs and amateur players does not appear to be legitimate; an NDRC should in principle only deal with employment-related disputes between professional players and professional clubs and those are the parties – as the users of the system - which should therefore agree on the appointment of the President and Vice-President of the NDRC. FIFPro further mentioned that a simple amendment of art. 6 of the NDRC

Regulations would solve the impasse. As to the position of the Union of League Clubs, the meeting was not attended by the League / Clubs which was a repetition of the previous meeting in June 2017. Regardless of the foregoing, FIFPro did not find it credible that the Union of League Clubs would be against a system in which the UFP and the Union of League Clubs would together agree upon a President and Vice-President of the NDRC. There are no credible arguments against such an appointment process. Finally, FIFPro put forward that the SFZ – as a member association of FIFA – has a statutory obligation to provide for independent arbitration.

Costs of the Proceedings

SFZ mentioned that, just as all their other bodies have, the NDRC is no exception to the rule of having a fee. The FA argued that for a question of consistency with the other bodies and to avoid the NDRC being overwhelmed by many unjustified submissions/claims, a fee was needed.

FIFPro mentioned art. 3 (Procedural Cost) of the NDRC Standard Regulations, which states that “Proceedings before the NDRC are free of charge.” As such, the costs of the proceedings should not be up for debate. FIFPro further outlined that the SFZ wants players and clubs to submit to arbitration and that it can therefore not be that a player who was not been paid his salaries for several months, must first pay a fee to the SFZ to have his claim heard. This would effectively obstruct the player’s access to justice. In addition, FIFPro held that the SFZ’s fear that it would be overwhelmed with claims if no fee would be requested is unjustified considering that players do not file claim just for the sake of it. Reference was made to proceedings in front of the FIFA DRC – which are free of costs – and where there is no wave of unjustified claims.

UFP elaborated on the fee structure by mentioning that there are actually two fees being charged: one for filing a claim and one when asking for the grounds of the decision. UFP further mentioned that they have been willing to compromise on this point, by offering to transfer the cost of the proceeding to the end of the proceedings (whenever a decision is rendered). A joint proposal was made, FIFPro-UFP, to have labour disputes be free of charge, and to have other disputes related to training compensation to have a cost attached to it. The proposal alluded to the similar existing reality at FIFA, where the DRC takes on labour disputes (free of charge) and the Players’ Status Committee (PSC) takes on other cases, with a fee attached to it.

The Slovakian FA called the meeting to an end and mentioned that it would have to discuss internally the proposal, but no commitment was made.

Standard Players’ Contract

No time was devoted to this specific item. It was considered prudent to stop the conversation at the cost of the proceedings, to avoid further tensions.

4. Proposals – Appointment System

After the open floor discussion, three proposals were brought forward to the table regarding the appointment system of Chairman and Vice-Chairman: one from the Slovak FA, one from the Slovak Players' Union, and one from the League's/Clubs.

Proposal #1 – Slovak FA

The association proposed to keep the current set of NDRC Regulations, respecting the actual appointment system of the Chairman and Vice Chairman of the body as it is today. The FA encouraged to follow the existing appointment process and, if necessary, make changes to the system after having had a 1st successful 'try-out' with the appointment of Chairman and Vice Chairman as contemplated under the current rules.

The local Players' Union objected Proposal #1, arguing that the current appointment system did not work because of: SFZ's General Assembly's Composition and politics, and a proven record of failed attempts to assign a Chairman and Vice Chairman. UFP also objected to the proposition of having changes implemented afterwards because the terms for Chairman and Vice Chairman were of 5 years and the independence of the persons for said functions is fundamental, not a topic one can experiment with for a few years.

Proposal #2 – UFP

The Players' Union proposed two options for the appointment system of Chairman and Vice Chairman. In option one, the nomination of Chairman and Vice chairman is to be done by consensus between the members of the clubs and players' professional unions' representatives, i.e. the Union of League Clubs and the UFP, with the Chairman and Vice Chairman to be ratified by the General Assembly as a package. In option two, to be used only if option one proved to be unsuccessful, the nomination of Chairman and Vice-chairman would happen by direct voting, meaning that it would go through the electronic system (the same tool currently being used by the both parties' members to appoint the arbitrators of the Plenary Board). Both the clubs as well as the players would then vote for one candidate and this candidate should thereafter obtain also the consensus of the other parties' representative body. In both options, a) the ratification by the General Assembly would have to be as package deal of Chairman and Vice Chairman, b) the nomination of Chairman and Vice-chairman would skip the Plenary Board.

The Slovak FA objected Proposal #2, especially the option #2 of direct voting, in case a consensus (option 1) was not reached. The FA argued that under this method the principle of equal representation would not be respected, as there is a significant higher number of professional football players compared to that of clubs. The FA further noted that with the vote of only the representatives of the professional clubs and professional players, the amateurs would not get a say in the nomination of the President and Vice-President, which the FA did not approve.

FIFA communicated very clearly that under proposal #2, the amended regulations should only go for one option. Contemplating both options in the regulations would open the door for all kind of scenarios, complicating even further the situation. As to the objection to the Slovak FA, FIFA commented that it could be possible, given the importance of amateur football in Slovakia, to have the NDRC chamber with a President and Vice-President from professional football and a President and Vice-President from amateur football. Related to the aforementioned point, FIFA added that amateur football players have no contractual employment obligations to their clubs and, as such, FIFA did not see what kind of disputes could eventually arrive to the NDRC. In light of this, amateur football should not be a reason to object to the proposals that were being discussed in the meeting.

FIFPro added that a straightforward amendment to art. 6 of the NDRC Regulations would be sufficient to reflect that the candidates for the President and Vice-President of the Chamber are agreed upon and proposed by the representative bodies of the players and the clubs, i.e. the UFP and the Union of League Clubs together. This would be the simplest solution. The SFZ's objections that the amateur clubs/players have no say in this and that therefore it would not 'survive' the SFZ General Assembly can easily be circumvented by establishing two Chambers: one for professional football and one for amateur football. Alternatively, the amateur clubs and amateur players could choose their own President and Vice-President whom will only deal with claims related to amateur disputes. Reference was made to the SFZ's statements at the start of the meeting that more than 95% of the cases are concerning professional football and FIFPro underlined that it is therefore only logical that the representatives of professional football are making these decisions.

Proposal #3 – League/Clubs

In a statement read by the league's representative – who left afterwards and did not participate in the discussions -, the clubs proposed two options for the appointment system of Chairman and Vice Chairman. In option one, the nominated Chairman and Vice-chairman have to come mandatorily from within the 16 arbitrators comprising the Plenary Board (no further information was given as to how the nomination should be done). In option two, the nomination of the Chairman and Vice-chairman is to be made by consensus between the representatives of the clubs and players, with the Chairman and Vice Chairman to be ratified by the General Assembly. This option is the same to the one proposed by the Slovak Players' Union, with the difference that no reference was made to the ratification of Chairman and Vice Chairman as a package by the General Assembly.

All the parties present manifested the discomfort towards the way the League/Clubs manifested their proposal which, due to their absence, prevented a real discussion from taking place. FIFA, FIFPro and UFP expressed their surprise regarding proposal #2 (option 1) being "rejected" in a telephone call between the UFP and the SFZ, especially because it is the 2nd option in proposal #3, and the common denominator in proposal #2 (players' union) and proposal #3 (league/clubs).

FIFA Message

While recognizing the reality of national legislation, FIFA also referred to its NDRC Standard Regulations by specifically mentioning art. 3 (composition) which states that "The NDRC shall be composed of the following members, who shall serve a four-year renewable mandate: a) a chairman and a deputy chairman chosen by consensus..." In line with this article, FIFA re-emphasized that the appointment of Chairman and Vice-Chairman should always be done by consensus. In addition, it was highlighted that the appointment by consensus, further ratified by the General Assembly, would be in line with the applicable national law.

From a Project Management point of view, it was further emphasized that a successful project would be one where all national stakeholders agreed to the regulations, in addition to being approved by the ExeCo. It was also mentioned that the transfer of funds would only happen if both of these conditions were met. Moreover, it was indicated to the stakeholders that failure to find a solution and successfully complete the NDRC project would entail that the NDRC of Slovakia, in its current form, did not comply with the minimum procedural requirements and would not be considered as an independent arbitration tribunal guaranteeing fair proceedings and respecting the principle of equal representation of players and clubs.

5. Timeline

No consensus was reached during the meeting but the parties were urged to still consider the upcoming General Assembly (June 27) as the window by which further talks, actions and amendments should happen. More specifically, if such window were to be respected, the following steps should be taking place:

- 1st and 2nd week May: national stakeholder meet and draft amendments to existing regulations
- 3rd week May: international stakeholders review amended regulations
- 4th week May: regulations are voted and approved by SFZ's ExCo
- 27 June: General Assembly formally ratifies President and Vice-President

In parallel to the ideal timeline just mentioned, Clubs and Players' side should maintain discussions to make sure that by the time the General Assembly comes, they have reached a nomination of President and Vice-President.

Before concluding the meeting, both FIFA and FIFPro voiced and echoed the idea that even if the NDRC project was a responsibility of the national stakeholders (and that talks still needed to take place), the fact of asking for their presence in Slovakia meant that they were ready to listen/follow their recommendations. It was disappointing to learn that the international stakeholders had been invited to a meeting in Slovakia without the SFZ bringing any proposals to the table as to how to end the deadlock; it must have been anticipated by the SFZ that by insisting on the application of the current set of rules, no solution would have been found. It was additionally mentioned that, if no changes to the status quo were to happen, the project would need to be escalated to possibly consider sanctions and/or further actions.

III. NEXT MEETING

No meetings were agreed for the future. International stakeholders were under agreement that no mission should take place again, unless a commitment to changes happened there and then.