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The Bosman Revolution: The Case of Soccer in Sweden by Michael Fenton

■ Introduction

In many ways, European integration is limited – Europe is still bounded by state borders¹. In contrast, soccer is becoming dramatically integrated. For example, an Italian 'Serie A' game could, in theory, be played by eleven French and eleven Germans, with the entire French and German World Cup teams forming the opposing teams. In fact, Arsenal (London) played several games with no English players. Even a Spanish League (FC Barcelona) team once played with eight Dutch players. This was the result of the 'Bosman Revolution,' a decision of the European Court of Justice that equated all EU citizens on the playing field regardless of the country or club to which they belong. As a consequence, the pressure to obtain EU citizenship has been so strong that forgery and corruption have erupted in wild forms. The globalization experienced by the sport and its business environment has been so intense that in the future referees may have to check notarized passports instead of the shoes of substitute players. European football after the Bosman case has changed, possibly too much for some. In fact, if the trend holds, all citizens of the world may be free to play for any EU team.

In view of the above, this is a special essay that does not claim to reflect the standard of academic scholarship. Although it is led by a basic honesty, it is inspired by impressions and opinion, not by scientific objectivity. It is based on the conviction that in an ever-changing world, certain fundamentals remain, or should. In the modern or post-modern world, one can trade cars, transfer to another school, or move to another house, state, country or province. People may switch religions and faiths. Political parties and ideologies can be exchanged. One can split with the spouse of many years. Married or unmarried persons can adopt the children of other parentage and disenfranchise their original ones. But no one would ever dare to change the soccer team of preference. Fans are supposed to be faithful to the same team from the cradle to the grave. In any event, soccer teams, especially in this regional and global integration era, are the ultimate sign of personal, regional, and national identity. After the 'Bosman revolution' and its influence on the evolution of European integration, this dogma is in danger.

■ The Issue

In December 1995, the European Court of Justice (ECJ) ruled in a case between a soccer player (Jean-Marc Bosman) and his club RC Liege that the club had violated Mr. Bosman's rights to move to another club by imposing a large transfer fee, even though Mr. Bosman's contract had expired. The Bosman case is the most famous sports case in Europe; it was so controversial that the European Union (EU) changed the transfer rules of European soccer. Most importantly, it also stated that professional soccer is an economic activity and therefore has to be regulated by the EU.² For soccer, the EU changed two important rules: (1) the transfer rule, and (2) no limit on the number of players from EU Member State countries.³ As soon as the EU changed the rules there were massive protests, especially from the soccer community. They claimed that the economics and labor laws formulated by the EU cannot be applied to soccer. Representatives from the International Federation of Football Associations, (FIFA) argued that the new rules will be the end of soccer, as we know it. The European Union of Football Associations (UEFA), which is the governing body of European soccer, claimed that the small soccer clubs will not survive and it will put the rich clubs in an even more advantaged position.

¹John McCormick, *The European Union*, Boulder, CO, Westview, 1999, p. 161.

²The European Union Court of Justice interpretation of the Bosman case. Found at: http://europa.eu.int/sport/key_files/circ/b_bosman_en.html

³The nationality clauses of UEFA (the governing body of European soccer) rules had previously restricted soccer clubs to no more than 3 foreign players on the field at the same time and a maximum of 5 foreign players in the club. Anyone who was not a citizen of the country he/she was playing in was considered a foreigner. This rule was known as the "3+2 rule" and its stated purpose was to preserve the national identity of the teams.

■ Description: The Bosman Case

The Bosman case involved a dispute between a soccer player and his club. The player was Jean Marc Bosman and his club was RC Liege, both from Belgium. Mr. Bosman's contract had ended (1991) and he was up for renegotiations. RC Liege thought that Bosman was not worth his salary of 120,000 Belgian Francs (BFR) and they wanted him to take a pay cut of 90,000 BFR. The new salary offer of 30,000 BFR was equal to the Belgium league minimum. Bosman refused the offer from RC Liege. As a result, Bosman was put on the transfer list with a price tag of 11,743,000 BFR. Bosman contacted the French division 2 club US Dunkerque. They were willing to offer Bosman a one-year contract with a salary of 100,000 BFR a month plus a signing bonus of 900,000 BFR. The two soccer clubs agreed on a one-year temporary contract for 1,200,000 BFR and an option to buy Bosman after the first year for 4,800,000 BFR. The contract would have been valid as soon as the French national soccer association had received the receipt from RC Liege. However, RC Liege had second thoughts about the solvency of US Dunkerque, so RC Liege never requested the necessary papers for transfer.⁴

According to the UEFA's transfer rules both clubs must conclude separate contracts, but only US Dunkerque turned over the papers to the French soccer association. In addition, RC Liege suspended Bosman so they would not be forced to pay his salary. Bosman could not play soccer that season and received no income, so he sued RC Liege for lost wages. The case was first brought to a Belgian court. After a series of court proceedings the Bosman case was referred to the Court of Appeal in Liege. The Liege court referred the case to the European Court of Justice (ECJ). The verdict from the European Court of Justice had implications for the whole European soccer community. Soccer players were now free to leave their clubs after their contracts had expired and clubs were not allowed to ask for compensation. Conditions for clubs also changed in that they were now allowed to buy as many foreign players as they wished.

The ruling initially affected only the countries who are members of the EU. However, since it would be impractical to have two sets of rules, one for Europe and one for the rest of the world, FIFA changed their rules as well. Soon after the ECJ's ruling, soccer players started to use the new rules to their advantage—leaving their clubs without compensation. People within the international soccer community started to make up doomsday scenarios on how the ruling would be the death of amateur soccer. Indeed, it can be argued that the ruling has affected predominantly the smaller clubs. However, the EU proclaims the new rules will have positive effects for soccer and make it more competitive. In contrast, the soccer community thinks it will dramatically change the sport and have bad effects, especially on amateur soccer.⁵

■ The European Court of Justice Verdict in the Bosman Case

Mr. Bosman took RC Liege to court on the grounds that the transfer system had prevented him from seeking employment in another club. Mr. Bosman's attorneys argued that the transfer system and the nationality clauses were not compatible with the Treaty of Rome. The Treaty established rules for competition and free movement on labor.⁶ On December 15, 1995, the European Court of Justice ruled,

“According to Article 48, the European Economic Community (EEC) Treaty precludes the application of rules laid down by sporting associations, under which a professional football player, who is a citizen of one Member State, may not, on the expiry of his contract with a club, be employed by a club of another Member State unless the latter club has paid to the former a transfer, training, or development fee.”⁷

In the case of the nationality clause, the ECJ ruled according to Article 48 of the EEC Treaty of Rome,

“The Treaty precludes the application of rules laid down by a sporting association under which, in matches in competitions which they organize, football clubs may field only a limited number of professional players who are citizens of other Member States.”⁸

“The direct effect of article 48 of the EEC Treaty cannot be relied upon in support of claims relating to a fee in respect of transfer, training, or development which has already been paid, or is still payable under an obligation which arose before the date of this judgment, except by those who have brought court proceedings or raised an equivalent claim under the applicable national law before that date.”⁹

The result of the EU's ruling in the Bosman case is that the transfer fee for players with expired contracts was aborted and clubs may not ask for such a development fee of any kind. In addition, clubs could use as many foreign players as they wish as long as they come from any of the EU Member States. The court also ruled that no player would be allowed to use these changes to file suit retroactively.

⁴The European Commission. Sports and Free Movement. Found at: http://www.europa.eu.int/comm/sport/key_files/circ/b_bosman_en.html

⁵For the text of the ruling: European Court of Justice, December 15, 1995, and Carl Otto Lenz, “Conclusions de l'Avocat Général M. Carl Otto Lenz - Affaire C- 415/93”, Tribunal de Justicia de Comunidades Europeas. 20 septiembre 1995. Among the juridical commentaries, see the one authored by Jean-Louis Dupont, attorney for Jean Marie Bosman: “Deporte profesional y ordenamiento jurídico comunitario después del caso Bosman”, Revista de Instituciones Europeas, vol. 23-2, 1996, pp. 487-504. Among the early juridical analysis, see Andrew L. Lee, “Comment: The Bosman case: protection freedom of movement

■ What Did Bosman Change? The Case of Sweden

Economic Data

The sale of soccer players from Sweden to European clubs had a total value of \$15 million in 1998 and \$9.5 million in 1999. Seventy seven percent of Swedish soccer players were sold to European clubs and twenty three percent went to domestic clubs. About thirty percent of the budget for Swedish soccer clubs came from selling players. The sale of players went down from thirty percent in 1998 to nineteen percent in 1999. The total number of soccer transfers in Sweden is around 1000 / year. The total number of professional player transfers in Europe is about 1000-2000 per year.¹⁰

Exporters and Importers

The three top exporters of soccer players in Sweden are AIK Stockholm, Helsingborgs IF, and Trelleborgs FF. These clubs alone stood for sixty percent of the sales of soccer players. Most of the players from Sweden got sold to clubs in England, Scotland, Germany, and Italy. The total amount the Swedish soccer clubs earned in 1999 from selling players was \$9.1 million. That is 19.4% of the total income of \$47 million. This means that without the sale of players to other clubs, the amount would have been \$37.9 million.¹¹

Club	Assets in millions \$	Player Transfers \$	End Result in 1999 \$
AIK Stockholm	7.71	-0.12	1.76
Djurgårdens IF FF	0.42	0.37	0.17
IF Elfsborg	0.55	0.07	-0.42
IFK Göteborg	8.03	-0.15	-0.97
Halmstads BK	2.82	-0.02	-0.83
Hammarby IF FF	1.19	-0.07	0.01
Helsingborgs IF	1.88	1.07	0.16
Kalmar FF	0.41	-0.13	0.31
Malmö FF	1.61	-0.26	-0.13
IFK Norrköping	1.27	1.63	0.05
Trelleborgs FF	1.27	-0.01	1.06
Västra Frölunda IF	0.24	-0.01	-0.05
Örebro SK FK	1.00	0.07	-0.51
Örgryte IS	2.14	0.36	-0.35

Source: Svenska Fotbolls Förbundet

■ The Affect of the EU's laws on Swedish Soccer

The European Court of Justice ruling in the Bosman case changed the nature of Swedish soccer and how the soccer clubs in Sweden run their business. Prior to the Bosman ruling, European soccer was already divided up between 'good' and 'bad' soccer countries. However, after the ruling this gap increased considerably. The A-clubs, such as Barcelona (Spain), Real Madrid (Spain), Bayern Munich (Germany), Manchester United (England) and Lazio (Italy) have even formed an elite organization called the G-14. The G-14 is an exclusive club of A-club teams in Europe. The G-14 has even considered forming a private, independent soccer league similar to Major League Soccer (MLS) in the US.¹² The members would play each other and other clubs would not be able to compete against these super clubs. If this super league were to develop there would be no Swedish or Nordic teams participating. A super league would be a sad development for the Scandinavian soccer fans. They would see their best players bought by these teams, but not be able to see them play. Further, to have amazing soccer players sitting on the bench or playing on the B-team is a waste of talent and the G-14 are robbing other clubs from having good players. That rich clubs are buying the best players is nothing new, but at least the Scandinavian teams can play against these clubs in the UEFA tournaments.

in European football," *Fordham International Law Journal*, February 1996, 19, 1255. In the context of the Spanish legal profession, for a review of the juridical consequences, see the studies of Juan de Dios Crespo Pérez, "El caso Bosman: sus consecuencias", *Revista General de Derecho*, 622-623, 1996.

⁶The European Commission. Sports and Free Movement. Found at: http://www.europa.eu.int/comm/sport/key_files/circ/b_bosman_en.html

⁷The European Union Court of Justice interpretation of the Bosman case. Found at: http://europa.eu.int/sport/key_files/circ/b_bosman_en.html

⁸Ibid.

⁹Ibid.

¹⁰Riksidrotts Förbundet. Found at <http://www.svenskidrott.se/rf/omrf.htm>

¹¹Svenska Fotbollsforbundet. Found at: <http://www.svenskfotboll.se>

¹²Murray, Bill. *The World's Game: A History of Soccer*. University of Illinois Press, Chicago, 1998, pp. 111-115.

Swedish soccer clubs have always been disadvantaged against the continental clubs because Sweden is a much smaller market; the sponsors can make more money at larger European clubs. However, Sweden has something that other clubs in Europe do not have— professional players with strong feelings for a particular club.¹³ The Swedish soccer clubs wanted the players to feel like they were part of a large family, not just another soccer player. As a result, the players developed emotional attachments for their clubs. This proved to be a good weapon against the soccer corporations on continental Europe. As a matter of fact, Sweden did pretty well against European clubs in the 1980s and early 1990s. IFK Gothenburg won the UEFA cup twice and they had great success in the Champions League in the early 1990s where they beat some of the top clubs in Europe.¹⁴ However, the Swedish clubs have not done well since the Bosman ruling. Some of the games played against top clubs have bordered on embarrassment. Perhaps one of the main reasons is that the rich clubs can now buy as many foreign players as they want, and as the Swedish league *Alsvenskan* is ranked much lower in comparison to other leagues in Europe, talented players from Sweden are cheap in comparison to other European players.

Another reason as to why Swedish soccer clubs not have done well in the last 12 years is due to the high price on good and established players. Swedish soccer clubs cannot, due to their weak economies, afford to buy good soccer players or even keep their own players. European soccer is a 'Catch-22' phenomenon in which clubs with strong economies can buy high price talent that help them win big championships and make more money. The larger sponsors are also much likelier to invest in good teams with good players.¹⁵ The phenomena can be compared to the New York Yankees in Major League Baseball. The New York Yankees have won more championships than any other baseball team in America. The main reason why the Yankees are a top team year after year is because the Yankees make much more in comparison to other professional baseball teams. The Yankees buy the best baseball players in the world year after year, and as long as there is no change in the rules they will keep on winning. However, in the last few years, there are only a handful of baseball teams that make money, the rest are losing.¹⁶ In order to help the other teams with smaller markets, Major League Baseball is in the process of formulating new rules to help other teams be competitive and make baseball a more interesting sport to watch.¹⁷

The money the small soccer clubs make by selling a player can have great effects on the small clubs' economy. Trollättan FK is a small club in Sweden that was lucky to have a great player by the name of Håkan Mild. He was sold to another Swedish club (IFK Gothenburg) for a small sum of money, but in the contract it stated that if Håkan Mild got sold to another club, Trollättans FK would get a share of the money. Håkan Mild was so good that after making it to the Swedish national team, he was discovered by Servette FC in Spain. The Spanish club paid a large sum to IFK Gothenburg and Trollättans FK got \$50,000.¹⁸ From this money they bought a new club house for the soccer community in Trollhättan. Bo Björkenstam, Trollhättan FK's President, said that "The money we got from Håkan was very important for our club. It enabled us to build a new club house that we can use to foster young talented players." Mr. Björkenstam commented further, "Clubs must benefit from raising and investing in young talented players. If they do not receive anything back, then clubs will spend less money on youth activities and that will not be good for Swedish soccer."¹⁹ Other Swedish clubs who have sold players have used the money to balance their budget, build new soccer fields, and offer additional skill development for young soccer players.

The economy of the Swedish soccer clubs has been greatly affected by the Bosman case. In an attempt to keep a decent standard and to close the gap between the larger and smaller clubs, the Swedish clubs in the 1990s invested heavily in new players. The clubs also tried to become more professional by hiring full time staff. Unfortunately, the Swedish soccer clubs were not prepared to handle the new professionalism due to lack of experience. Many were lacking basic business skills, such as managing, marketing, and accounting skills. The inexperience of the Swedish soccer clubs led them to make poor investment decisions on young players, expenses, and how much income the club would likely receive. In the 1990s, many of the elite clubs ran huge budget deficits and some were even threatened by bankruptcy.²⁰

One such bankruptcy case is Västerås SK (VSK) in Sweden. VSK is the best soccer club in the city of Västerås which has a population of about 120,000. VSK is playing in the second division (Super Ligan). Although VSK was winning games, economically VSK was doing very poorly. They currently have a negative balance of \$500,000.²¹ The Swedish tax agencies would have bankrupted the club at the end of the season (October 30, 2000). Luckily, the club was bailed out by the city of Västerås and its local businesses. A bankruptcy would have been a tragic event for the city of Västerås. Not only would the soccer fans have been without a team, but the junior, girl, and boy teams that VSK manages also would have been without a club team. VSK would have been forced to start over at the lowest level in Sweden (Division 6). To start over would have taken the

¹³Jonsson, Birger. Varsteras SK. Found at: http://www.vskfotboll.nu/etta_fr.html

¹⁴Ibid.

¹⁵Jonsson, Birger. Varsteras SK. Found at: http://www.vskfotboll.nu/etta_fr.html

¹⁶Bodley, Hal. "On Baseball." Found at: http://www.usatoday.com/sports/baseball/columnist/bodley/2003-08-04-bodley_x.htm

¹⁷Ibid.

¹⁸Ripinski, Marek. AJN. Found at: http://www.comwell.se/cybertown/AJN/news/n_index.html

¹⁹Ibid.

²⁰Riksidrotts Förbundet. Found at <http://www.svenskidrott.se/rf/omrf.htm>

²¹Svenska Fotbollsforbundet. Found at: <http://www.svenskfotboll.se>

²²Ibid.

club at least 5 years to return to their current level, but most likely they would never have made it back due to the loss in market shares.

VSK is just one of many Swedish clubs struggling with their finances. About half of all clubs in the highest division are running a budget deficit and have been forced to reconstruct their economies drastically. To counter the economic situation among Sweden's elite soccer clubs, the Swedish Soccer Association is in the process of introducing new licenses that the clubs must obtain if they want to play in Allsvenskan. In order to get the license the clubs must have their finances in good standing. If the rules were enforced today, only seven of the sixteen division 2 clubs and nine of fourteen clubs in Allsvenskan would be eligible for the new license.²²

■ Conclusions

The general assessment provides a panorama of mixed feelings. In the first place, we must accept that globalization and the force of European integration have radically transformed the nature of the game into a business. The current trend is unstoppable. There is a chance that federations and governments will be able to go back to a restrictive policy regarding the roster's composition of the most important clubs on earth. They will be competing for the best players, supported by attendance and revenues from television rights and endorsements. National leagues and tournaments will probably be restructured. There will always be the possibility that the most powerful teams (an expanded group of G-14) will form their own Champions League, but this is doubtful because they will not be able to fill the rest of the season, unless there is a clear understanding with the rest of the clubs, relegated to their respective "premier" national leagues.

Secondly, with a majority of "foreign" players, the most important teams will be pressured to keep delivering results. Team identity will be equalized to winning. The new variable is victory. This will be the only justification for the globalization of the roster and the resulting loss of city, regional, or national identity.

A consequence of the loss of national and regional identity in the clubs has been a resurgence of the value given to the national teams, as expressed in recent World Cups. Significantly, this issue has enlarged the number of people who now follow the tournament. Sociological and political commentaries have expanded the parameters of analysis. Experts do not consider this trend as negative due to its ability to rein in violence or nationalism beyond the sport's limits—football loyalty may serve to channel and tame otherwise dangerous nationalistic feelings.²³ In addition, TV audiences and attendance have seen a substantial increase of women who, during the season, do not have a special inclination to watch the games.²⁴

It remains to be seen if future generations will be able to combine the changing loyalty of fans in the urban franchises of the United States (a model looming over the horizon of European soccer) and the uncertain success on the field. Victory, especially absolute victory, is something that only a few can obtain each season. There is no way to know if fans in Europe, where residency mobility cannot be compared with that in the United States, will be able to sustain losing teams populated by foreign stars for an extended period of time. As in all development and growth, the question rests on the sustainability of victory and determination over defeat.

²³Reding, Vivian. Speech to the European Parliament. Strasbourg, September 7, 2000. Found at: http://europa.eu.int/rapid/start/cgi/gusten.ksh?p_action.gettxt=gt&doc.../290/0/RAPID/&lg=E

²⁴Murray, Bill. *The World's Game: A History of Soccer*. University of Illinois Press, Chicago, 1998. pp 2-8.

■ Works Cited

Bodley, Hal. "On Baseball." Found at: http://www.usatoday.com/sports/baseball/columnist/bodley/2003-08-04-bodley_x.htm

Dupont, Jean-Louis. "Deporte profesional y ordenamiento jurídico comunitario después del caso Bosman," *Revista de Instituciones Europeas*, vol. 23-2, 1996, pp. 487-504.

Crespo Pérez, Juan de Dios, "El caso Bosman: sus consecuencias", *Revista General de Derecho*, 622-623, 1996.

Jonsson, Birger. Varsteras SK. Found at: http://www.vskfotboll.nu/etta_fr.html

Lee, Andrew L. "Comment: The Bosman case: protection freedom of movement in European football," *Fordham International Law Journal*, February 1996, 19, 1255.

Lenz, Carl Otto. "Conclusions de l'Avocat Général M. Carl Otto Lenz - Affaire C- 415/93," *Tribunal de Justicia de las Comunidades Europeas*. 20 septiembre 1995.

McCormick, John. *The European Union*, Boulder, CO, Westview, 1999.

Murray, Bill. *The World's Game: A History of Soccer*. University of Illinois Press, Chicago, 1998.

The European Union Court of Justice interpretation of the Bosman case. Found at: http://europa.eu.int/sport/key_files/circ/b_bosman_en.html

The European Commission. Sports and Free Movement. Found at: http://www.europa.eu.int/comm/sport/key_files/circ/b_bosman_en.html

Reding, Vivian. Speech to the European Parliament. Strasbourg, September 7, 2000. Found at: http://europa.eu.int/rapid/start/cgi/gusten.ksh?p_action.gettxt=gt&doc.../290/0/RAPID/&lg=E

Riksidrotts Förbundet. Found at <http://www.svenskidrott.se/rf/omrf.htm>

Ripinski, Marek. AJN. Found at: http://www.comwell.se/cybertown/AJN/news/n_index.html

Svenska Fotbollsforbundet. Found at: <http://www.svenskfotboll.se>