

How to EASE social dialogue between sports professionals and their employers

They are the men and women who each weekend run out on to the world's football stadiums, basketball courts, baseball diamonds and athletics arenas. But are the world's professional sportsmen and women also workers?

05/01/2011

sports

They are the men and women who each weekend run out on to the world's football stadiums, basketball courts, baseball diamonds and athletics arenas. But are the world's professional sportsmen and women also workers? Andrew Bibby, a London-based journalist, reports on recent attempts to regulate the employer–employee relationship for some two million people working in sport in the European Union.

The performances of the world's professional sportsmen and women will be cheered (or booed) by their fans, written up by sports journalists and commented on by television pundits. The really talented will become celebrities, global brands in their own right. On the back of their sporting prowess rests a multi-billion-dollar business, built upon ticket sales, TV rights and commercial sponsorship.

Many wouldn't see the world's professional sportsmen and women as workers. But employment law also relates to sport, according to Walter Palmer, General Secretary of the European Elite Athletes Association (EU Athletes). He has no doubt at all that professional sportspeople are indeed workers. "It's something that has to be recognized, and dealt with," he maintains.

Walter Palmer himself has reason to know the issues well: he is a former professional basketball player, having played both in the American NBA league and in European professional basketball. In addition to his role at EU Athletes, he also works closely with the union federation UNI Europa, which has recently decided to establish a dedicated unit for the sports sector. "We need to regulate the employer–employee dynamic and relationship in sport," he says succinctly.

EASE's creation in 2003 was in response to a particular need, that of ensuring social regulation in Europe in the sports sector

It's a view that is shared on the employers' side by the European Association of Sport Employers (EASE), originally established when the French employer organization CoSMoS (Conseil Social du Mouvement Sportif) came together with similar bodies in other European Member States.

"EASE's creation in 2003 was in response to a particular need, that of ensuring social regulation in Europe in the sports sector," says EASE's Executive Manager Emilie Coconnier. "We can say that, as part of the process of professionalization that is taking place in sport, there is an increasingly clear 'employer consciousness' developing."

EASE has worked closely with UNI Europa since 2006 and the two organizations have signed joint agreements on, among other things, health and safety in sport and minimum contract terms. Their relationship has now been taken a stage further, with the agreement by the European Union to accept EASE and UNI Europa as social partners for a formal social dialogue committee, initially established on a two-year test phase basis. The idea that social dialogue – regular meetings between employers' and workers' bodies, more commonly associated with industries such as banking, postal services and shipbuilding – can also operate in the sports sector may come as a surprise to some, although in fact social dialogue already operates in football, where the football professionals' union FIFPRO is in social partnership with two employers' bodies, EPFL and ECA.

European social dialogue in sport

According to Emilie Coconnier, European social dialogue is a natural extension of the national social dialogue in sport that already operates in countries such as France. "It's a tool that can find solutions to problems that can't be regulated at national level," she says. In turn, it can also help develop social dialogue in countries without such a tradition. She talks among other things of the opportunities to increase job mobility among those working in sport in Europe.

The new social dialogue between EASE and UNI Europa has had to tackle the sometimes tricky definition of "sport", an industry which includes an enormous range of businesses, including fitness clubs, trainers, event promoters, sporting goods manufacturers, regulators, retailers and the sports media as well as the athletes themselves.

In total, around two million people work in sport in the European Union alone, according to one survey. EASE and UNI Europa have agreed to establish three parallel areas for discussion, one covering professional sport, one for active leisure (activities such as fitness, winter sports and sailing) and one focusing on not-for-profit sport. Although distinct, the three areas are socially and economically linked, and will all be covered through the new social dialogue.

Perception of super-rich stars is misleading

There have been suggestions from some quarters that the professional side of sport is somehow removed from traditional employment concerns. Walter Palmer rejects this notion of the "specificity of sport", however. He warns that the usual public perception of professional athletes as super-rich megastars can be misleading. He points to a recent survey across Europe carried out by the European Basketball Players Association (UBE), which found that many players were on relatively modest salaries: 226 players out of 483 earned less than 30,000 euros a year, and only 140 earned 60,000 euros or above.

The same UBE survey also makes it clear that professional athletes have many of the same workplace concerns as other people. Health and safety (an early focus for the EASE/UNI Europa dialogue) is one of these. UBE reports that "a very high proportion of respondents reported that professional basketball is hard physical work" and that 49 per cent of those surveyed felt that playing basketball was a risk to their health. Perhaps unsurprisingly, these concerns were much greater for older players (those aged 26 or older), especially as their relatively short working lives as basketball players could be curtailed by injury. Older players were also much more likely to report that their work was causing them stress.

Sportsmen and women share with workers in the media and entertainment industries a concern over the exploitation of intellectual property (IP) rights. As Walter Palmer points out, professional athletes are often forced to give up or assign their image and IP rights in order to be allowed to compete, sometimes (as in relations with the Olympic movement) from a position of effective individual powerlessness.

EU Athletes and UNI Europa have called for individual athletes' rights to be better protected: "It should be remembered that sportsmen and women, as citizens and employees, have rights to their image and reputation, data resulting from their individual performances on the playing field and the intellectual property resulting from such performances. These rights are the valuable commercial and moral property of athletes and require effective enforcement," according to a statement put out by the two organizations last year.

Contentious anti-doping measures

In some areas of their employment, however, professional sportspeople in a wide range of disciplines have their own particular issues which need addressing. One of these is anti-doping. Whilst both

employers' and players' organizations are committed to drug-free sport, the actual way in which anti-doping measures are undertaken is more contentious. Many professional sportsmen and women are required to undertake "whereabouts reporting", so that drug-testing officers undertaking random tests know where to find them at any time of the year. This can involve filling in a time slot in advance every few months, hour by hour for every day of the year, identifying exactly where they will be.

Anti-doping rules should conform to the law, and not the other way round

For Walter Palmer, there are privacy and civil liberties issues here which are not necessarily being properly addressed. "The enforcement of anti-doping rules must be proportional and balanced. Anti-doping rules should conform to the law, and not the other way round," he says, calling on WADA, the World Anti-Doping Agency, to engage more in dialogue with independent players' unions.

ILO Conventions apply to the sports sector

For EASE and UNI Europa, the ILO's international Conventions apply to the sports sector as much as to any other. In a joint statement issued in December 2008, they called for the development of collective bargaining and social dialogue at national (and eventually European) level. They also called for specific minimum requirements in all professional players' employment contracts, including details of treatment of intellectual property rights for images.

These issues are increasingly being addressed at national level. In the Netherlands, for example, the Dutch Employers' Association for the Sports Industry (Werkgevers Organisatie in de Sport, WOS) has worked with the Dutch athletes' union NL Sporter in a 2009 study A world to win: Professionalization of the employment relationships for professional athletes in the Netherlands. The study suggests that Dutch sports organizations lack expertise in the area of employment relationships, that professional athletes lack expertise themselves in this area, and that – outside football – professional athletes are not well organized. The study also calls for more attention to the need for a safety net for talented young athletes who fail to turn professional, as well as to the importance of helping sports professionals find employment opportunities once their career is over.

The Dutch report also identifies particular problems in the social security position of athletes, including their ability to access unemployment benefits. This is an issue also identified by the European Basketball Players Association, which points out that social security procedures in many countries fail to take into account the short span of a top-level sporting career and the high risk of injury.

The development of European social dialogue is one sign of the rapid pace of change in relation to sport and employment issues. Another is the recent creation of the European Professional Sport People's Forum, which brings EU Athletes and UNI Europa together with the European professional footballers' union FIFPRO. But changes are not limited to Europe. UNI Europa's parent organization, UNI Global Union, is now taking active steps to establish a UNI Sport Global Union, linking players' unions worldwide. A first global conference being arranged by UNI is likely to be held in Geneva later in 2011.