

FIFA'S MINIMUM STANDARD REQUIREMENT FOR PROFESSIONAL FOOTBALL CONTRACT: ASSESSING NIGERIA'S COMPLIANCE

OGECHUKWU MIRIAM AKINSULORE* &
ADEDYOIN OLUSEGUN AKINSULORE**

ABSTRACT

Football contracts, when unmonitored, are often between parties of unequal status and capacity. The financial and organizational strength of clubs are often leveraged to the advantage of the football clubs while footballers only have their skills set as a bargaining chip –a skill that is open to competition from other football players seeking for a contract of employment for the limited space in the club. The tension that emanates between the business interest of a club and the skill-based interest of a player can often be centrifugal. The interest of the former is naturally profit oriented based on the commodification of footballer's skills. The latter, on the other hand, is in pursuit of sporting glory and the fulfillment of a passion and less of the commercial intentment of profiteering. To avoid unconscionable contractual terms in professional football contract, FIFA provides a template for the minimum standards applicable to this type of contract. This minimum standard encompasses dual obligatory requirements expected to be fulfilled by the clubs and the professional footballer respectively. The methodology adopted in this work is largely doctrinal wherein analysis of terms contained in contracts of professional footballers in Nigeria, England and Estonia is undertaken. Information from in-depth interviews conducted is also analyzed. It finds that adherence to the FIFA's minimum standard appears to be the norm in European contracts as against that of Nigeria. It also finds that the contractual loopholes in the Nigerian contract signed by professional football players allow for manipulation by the club on performance of their obligation to the footballer. It recommends, among others, a need for a more rigorous assessment by the Nigerian Football Federation of football contracts in its repository to avoid unfavorable contracts to players that are inconsistent with the FIFA's minimum standards.

Keywords: Contract, Professional Footballer, Rights, Obligations, Clubs

1.0 INTRODUCTION

Contract is a basic feature of business.¹ Sports, specifically football, is a big business where contracts are made between different parties which could be between football clubs and sports-wear makers or television broadcasting stations or with professional footballers. For the business of football to run efficiently, a clear cut statement of the obligations of parties to the contract is a *sine qua non* for the effective and efficient management of such a trade. Contracts between football clubs and their professional football players are *sui generis*² as this type of contract is regulated by FIFA on all its member federations. This contract stipulates a minimum standard that parties to a football contract must adhere to, such that no party, especially the professional footballer, is unduly shortchanged in their quest to achieve success in their chosen profession.³ Beyond the footballer's quest for sporting glory are rights accruing not just as a human being, but as a professional footballer. There are loud complaints by observers of the Nigerian professional football league that FIFA's minimum standard requirement appears not to operate in Nigeria. Football players signed by club are either not put on a contract⁴ or where they are, players cannot enforce them for opacity.⁵ This is the issue that has informed this study.

The methodological approach adopted in this study is largely doctrinal, comprising analysis of legal issues and concepts pertaining to football. Additionally, the study undertakes the analysis of the terms in three contract agreements from the Nigerian National League,⁶ English Premier

* LL.B (UNN) LL.M (Ife), Senior Associate, Legal Hedges Chambers Ile-Ife and Post-graduate candidate, Faculty of Law Obafemi Awolowo University Ile-Ife Nigeria. E-mail: nkwontaoge@gmail.com.

** B.A, LL.B, LL.M (Ife), Department of Public Law Obafemi Awolowo University Ile-Ife, e-mail: adakinsulore@oauife.edu.ng GSM N0: +2348035772954 (Corresponding Author).

¹See Fried, *Contract as Promise* (2ndedn OUP 2015); See also Ewan Mckendrick, *Contract Law* (12thedn Palmgrave 2017).

²Suren Gomtsian and Annemarie Balvert and Branislav Hock and Oguz Kirman, 'Between the Green Pitch and the Red Tape: The Private Legal Order of FIFA' (2018) 43 *Yale J Int'l L* 85; See also Steven A. Bank, 'FIFA, Forced Arbitration, and the U.S. Soccer Lawsuits' (2020) 30 *Journal of Legal Aspects of Sport* 1.

³FIFA Professional Football Player Contract Minimum Requirement 2008.

⁴See Tana Aiyejina, 'How Club Officials, Agents, Refs Defraud Nigerian Footballers,' (Lagos, *Punch Newspapers*, December 20, 2016) < <https://www.punch.com/club-officials-refs-defraud-nigerian-footballers/> > accessed April 9, 2020.

⁵See Special Report, 'Wanted: Antidote to Ailing Nigerian Football Clubs,' (Lagos, The Nation Newspaper, March 20, 2020) < <https://www.thenationonline.ng/wanted-antidote-to-ailing-nigerian-football-clubs> > accessed April 9, 2020.

⁶Contract Agreement and Registration Form for Professional Footballers (Prepared and Issued by Nigerian National League) 2011/2012 between a professional footballer (name withheld) and Prime Football Club, Osogbo Osun State, Nigeria.

League,⁷ and Estonian League.⁸ The aim of the analysis is to ascertain how these contracts have met FIFA's minimum standard requirement for professional football contract. Furthermore, an in-depth interview was also conducted with two Nigerian professional footballers and one football coach to elicit information as to the nature of the football contract they signed with their clubs.⁹ The paper is divided into five sections. After the introduction, the second section identifies and discusses some rights that have unique interpretation for the professional footballer. The third section analyzes three contracts and the terms contained in each of these contracts so as to assess their compliance with FIFA's minimum requirements for professional footballer's contract. The fourth section discusses the contractual milieu for a professional footballer playing for his national team. The fifth section comprises the conclusion.

2.0 PROFESSIONAL FOOTBALLER AND SOME ACRUING RIGHTS

Carter notes that notwithstanding earlier assumptions,¹⁰ sport is now a business.¹¹ This has been validated by the huge sums of money being transacted daily in sporting activities worldwide.¹² The increasingly predominant view is that sports, as a significant economic activity, is suitable for regulation, whether it be internal or external. The most compelling definition of sports law, which this study agrees with, is that sports law is an independent field of law and comprises a systematic set of regulations in the field of sporting activities. Also, the definition on sports law as a science is that sports is a system of legal concepts, organizations,

⁷Premiere League Contract Agreement between Chelsea UvT and Michele Colucci 2008/2009. (England)

⁸Professional Football Player Contract Sample (Estonia)

⁹In depth interview was conducted with Garba Mohammed, a professional football player and former vice-captain signed to Abia Warriors of Aba Nigeria, on player's contractual terms (Interviewed 11: 05a.m on 22 August 2019). Also an In-depth interview was conducted with Abiodun Ebire, an Ex-International Goal Keeper for the Nigerian Golden Eaglet for the year 2000. He is currently the Obafemi Awolowo University Goalkeeper and a Masters student at the Department of Kinesiology, Health Education and Recreation, Obafemi Awolowo University, on the nature of player's contract with clubs. (Interviewed 12: 25pm, 22nd August 2019). Another in depth interview was conducted with a former Knight Football Club Ile-Ife Coach, Olabode Kayode Babalola, an NSI certified Coach terms of players contract. (Interviewed 2: 15 pm, 4th August 2019).

¹⁰ Scholars such as Weiler and Roberts, Cozillio and Levinstien are of the view that sports law is nothing more than an amalgamation of various substantive areas of law that are relevant in the sports context. It is the application to sport situations of disciplines such as contract law, administrative law, intellectual property law and employment. Wiestart and Lowell express the opinion that there is no such thing as sports law but that there are many areas in which sports related problems required a specially focused analysis, there being legal doctrines which apply in sports area and nowhere else. See Paul C. Weiler and Gary F. Roberts, *Sports and the Law: Text, Cases, Problems* (2nd ed, West Group 2001) 140; Micheal J Cozillio, Mark S. Levinstien, Micheal Dimino and Gabe Friedman, *Sports Law: Cases and Material* (2nd ed, Carolina Academic Press 2007) 1; John C. Wiestart and Cym H. Lowell, *The Law of Sports* (Bobs- Merrill company 1979) 1- 1154.

¹¹*ibid*

¹²Darren Heitner, 'Sports Industry to Reach \$73.5 Billion by 2019' 19 October (2015) <<https://forbes.com/sites/darrenheitner/2015/10/19/sports-industry-to-reach-73-5-billion-by-2019/#218c43a21b4b>> (accessed 19th December, 2019).

activities, athletes, infrastructure and legal proceedings related to civil rights in sports and performing sports activities.¹³

The nascent nature of sports law makes it one of the most evolving areas of law in the world. Often times, concepts in contract, labor, tort, property, women and human rights tend to be given different interpretations when it comes to sports. The reason for this is the unique nature of sports. The ever changing trend in sports, puts sports law as an exception to dated principles of law. Callihan .J in *Woods v Multi-sports pvt.ltd.* examined the nature of the law and its interaction with sports succinctly observed: “the law cannot operate with regards to sports in the same way as other activities.”¹⁴ This does not mean that there are different rights for sportsmen and women, or their rights are not similar to the rights of any other human being. What it simply means is that some modification to laid down principles of law is required in order to accommodate the peculiar nature of sports.

To illustrate this point is the issue of assumption of risk which is usually put up as a defense to negligent acts arising from sporting accidents.¹⁵ The courts are usually persuaded by this argument because injuries cannot be taken away from sports, especially in contact sports like football.¹⁶ Another example is the monopolistic structure of sporting bodies which is not subject to interference from national governments or courts.¹⁷ Some of these rights with unique application to professional footballers include contractual rights, labor rights, human rights, intellectual property rights etc.¹⁸

2.1. Labor Rights

The employment right of a professional football player is sacrosanct and should not be tampered with. This is because the difference between a professional and an amateur football player is the ability to ply trade from one football club to another for a fee. The right to freedom

¹³Lazar Nanev,'Sports Law as an Independent Branch of Law' (2013) 2 *Balkan Social Science Review* 168, 169.

¹⁴ (2002) 208 CLR 460

¹⁵ Assumption of risk simply means that a professional sports man is aware of the inherent risk involved in a particular sport and is in acceptance of such risk when he decides to engage in the sport. Therefore he cannot be heard to complain when an injury occurs. See U K Ani, P O Ibikunle,C O Akosile& U Useh, *The UEFA model in identification of types, severity and mechanism of injuries among professional footballers in the Nigerian Premier League*, 27 (1) SAJSM12 (2015).

¹⁶*Ibid.*

¹⁷Jack Anderson,'An Accident of History: Why the Decisions of Sports Governing Bodies are not Amenable to Judicial Review' (2006) *Common Law World Review* 173-196.

¹⁸OgechukwuAkinsulore, 'Legal Regime for the Protection of the Rights of Professional Footballers in Nigeria' (2020) 45, being an unpublished M.Phil thesis submitted to the Post-Graduate College, Obafemi Awolowo University Ile-Ife Nigeria.

of movement,¹⁹ though a fundamental human right, is entwined with the professional football players' labor rights. A professional football player must be mobile at all times and any restriction on his mobility must be due to his legal obligations to his current employer. Where a professional footballer owes no legal duty to a club by way of an existing contract, he can move from one club to another without hindrance.²⁰ In most countries of the world, the labor rights of a professional football player is protected by the national labor laws of that country²¹ and as such they can form unions.²²

It is not in all countries that players are recognized as employees under State laws. In countries like Slovakia and England, they are regarded as self-employed persons whose services are engaged either by the country or by a club.²³ The essence of this distinction is the availability of protection for an employee under the Labor Act of a country. There is also to be considered the ease of seeking redress under civil or criminal codes of the state for a self-employed player who may only have remedy under the civil codes of the state, specifically for breach of contract.²⁴

The labour rights of a professional football player are also important in determining the type of equitable remedies available to him/her.²⁵ Since football is a show business, it is the skill of a footballer and the stage –to showcase these skills– that is the most important part of his business. Therefore, due to the instability in the profession and the high risk of injury during his career, he is prone to movement from one club to another as a way of gaining visibility, playtime in the

¹⁹Section 41 of the 1999 Constitution of Nigeria Cap 23 LFN 2004; see also Joel Antonio Alonso, 'Managing Labour Mobility: A Missing Pillar of Global Governance' (2015) *CDP Background Paper NO.26*, 3.

²⁰ Historically, a professional football player did not have the right to move from one club to another even at the expiration of his contract with his current club without the consent, fulfillment of stringent conditions and eventual release from the club. But the European Court of Justice in the *Bosman Case* laid the issue of ease of player's mobility to rest. See *URBSFA v Jean-Marc Bosman* [1996] All ER (EC) 97 (ECJ and Advocate General Lenz). Case C-415/93; See also P. E. Morris; S. Morrow; P. M. Spink, 'EC Law and Professional Football: Bosman and Its Implications' (1996) 59 *Mod. L. Rev.* 893

²¹ An employee under labour law can terminate his contract of employment at any time provided they pay compensation. Due to the specific nature of sports, this may not be applicable because once a player is still registered with one club; he cannot enter into the employ of another club until the end of the football season or at the termination of his contract with his former club. See Tomas Gabris, 'Behaviour Clauses in Sports: Basic Rights of Sportsmen' (2010) Being a thesis submitted to the School of Law Tilburg University, 17.

²²The International Federation of Professional Footballers (FIFPRO) is the World Representative organisation of all Professional Footballers with over 65,000 members from 63 countries. It was formed in 1965 and is headquartered at Hoofddorp Netherlands. See FIFPRO <<https://www.fifpro.org>> accessed 30th August 2019.

²³Gabris (n 20) 20.

²⁴*ibid*

²⁵See Kenneth Mould, 'The Suitability of the remedy of Specific performance to Breach of a Player's Contract with Specific Reference to Mapoe and Santos cases' (2011) 14 (1) *PER/PELJ* 191-324.

club and better consideration for his skills.²⁶ Roderick, in describing this situation, asserts that professional footballers' work histories is rife with instability and is usually short-termed. Players quickly understand the uncertain nature of the business and they also understand that there is excess supply of quality labour compared to the demand for players. This is also within the reality of the ease of injury and ageing in the game.²⁷ A combination of all these issues makes for the tight protection of the labour rights of the professional football player. Currently, the elite football clubs in Europe are plagued by the refusal of players to renew their employment contracts or simply want the remainder of their contracts to be bought by a prospective club.²⁸

Migration of professional footballers to other countries also has effects on the business of football. The mobility of players has led to mass exodus of highly skilled football talents from the African continent. The increase in migration of highly skilled football players is well documented by Poli. He points out that some of the reasons for the increase in migration from the continent are the search for new markets, the lack of structure and coordination in African football leagues and the continued links with the country's colonial masters.²⁹ The advantages of migration include exposure of African footballers to elite clubs and better salaries which elevate them from the clutches of poverty. Furthermore, the migration of football players from their locale of origin to other countries leads to cultural diffusion between countries of the world and more development in the game of football.³⁰ The downside to migration of footballers from the African continent is the exploitation of these migrant footballers, the drain of talented players from the local leagues and an overall decay in the development of football in the African continent.³¹

²⁶ John Towney & James Monks, *Monopsony and salary suppression: the Case of Major League Soccer in the United States*, 56 (1) THE AMERICAN ECONOMIST 21 (2011).

²⁷ Martin Roderick, 'A very Precarious Profession: Uncertainty in the working lives of Professional Footballers' (2006) 20 (2) *Work, Employment and Society* 245-246.

²⁸ See Alejandro Alcazar, 'Bale to Frustrate Real Madrid by Sitting out the Remainder of his Contract' 9 June 2019 <<https://www.sport-english.com/en/news/real-madrid/-bale-to-frustrate-real-madrid-by-sitting-out-the-remainder-of-his-contract-7469514>> accessed 30th August 2019.

²⁹ Raffaele Poli, 'Migration and Trade of African Football players : Historic, Geographical and Cultural Aspects' (2006) 41 (3) *African Spectrum* 394.

³⁰ Tien-Chin Tan and Alan Bairner, 'Globalization and Chinese Sports Policy: the Case of Elite Football in The People's Republic of China' (2012) 203 *The China Quarterly* 582.

³¹ Paul Darby, 'Gains versus Drains: Football Academies and the Export of Highly Skilled labour' (2012) 18 (2) *The Brown Journal of World Affairs* 266-269.

2.2. Contractual Rights

Once a person is of legal age, he or she can enter a valid contract.³² A contract is valid where there is an offer, an acceptance, consideration is passed and there is consensus ad idem between parties. Further, for a contract to be valid, there must be full disclosure of the terms of the contract by both parties. Once this is fulfilled, the contract becomes binding on all parties. The law believes in the sanctity of all valid contracts and it is enshrined in the Latin maxim *pacta sunt servanda*. Without a valid contract, a professional footballer remains an amateur. There are standard contracts which professional football players usually sign, although the actual terms may differ from one player to another, depending on the negotiation between the player and the club. The contract could be restrictive or liberal in content depending on the jurisdiction it is entered into.

Many top-flight clubs in Europe have been known to have standard contracts which can be easily reviewed by either FIFA or other football governing bodies.³³ The purpose of a properly drafted contract is to gather information about both parties. It is through a contract that some peculiarities of a player can be revealed.³⁴ It is through a contract that a player becomes aware of the club's needs and the kind of players it requires. It could be an attacker, a defender or a midfielder, depending on the clubs immediate or strategic needs.³⁵ Player obligations include training, meetings, matches, photo shoots and commercials for the club. All of these are a necessary aspect of the contract and failure to abide by the terms of the contract can lead to severe consequences including monetary loss.³⁶

A unique aspect of most contracts for a professional football player is the inclusion of behavioral or moral clauses. These aspects of the contract regulate the conduct of the player whether on or off the field of play. The issue of behaviour is not merely misconduct but also all

³²Legal age in Nigeria is 18 years old. See S. 277 Nigerian Child Rights Act 2003 Cap C50 LFN 2004.

³³ On the other hand, smaller clubs and other countries like Eastern European countries, African countries and south American countries are known to have poorly crafted contracts, which can be tricky to navigate or susceptible to a lot of manipulation. See Davide Bonazzi, 'The World cup: What Makes a Country good at Football?' June 9 2018 <<https://www.economist.com/international/2018/06/09/what-makes-a-country-good-at-football>> accessed 30th August 2019.

³⁴ Nacho Fernandez, the Real Madrid defender is a diabetic footballer who requires special diet and medication to regulate his blood sugar. See 'The Real Madrid Player with Type 1 Diabetes' (2017) <www.insulinnation.com> accessed 25th, July 2019.

³⁵See Michael Conlin and Patrick M. Emerson, 'Multi-Dimensional Separating Equilibria and Moral Hazard: An Empirical Study of the National Football League Contract Negotiations,' (2003) 85(3) *Review of Economics and Statistics* 760.

³⁶Eberhard Feess and Gerd Muehlheusser, 'The Impact of Transfer Fee on Professional Sports: An Analysis of the New Transfer System for European Football,' (2003) 105(1) *The Scandinavian Journal of Economics* 140.

conduct which is detrimental, counterproductive, deviant, anti-social or even mere dishonesty.³⁷ The reason clubs/employers insert these clauses is in order to ensure that the players, through their conduct, either in private or public, do not bring the company name to disrepute. The law generally recognizes these restrictions especially if it involves celebrities and persons who are popular and are endorsed as brand ambassadors.³⁸ These behavioral clauses are well used in the USA.³⁹ Daniel is of the opinion that in order to safeguard corporate endorsees, contractual provisions have been toughened with moral clauses.⁴⁰ This is because in recent times, it is younger athletes, who are extremely wealthy with little moral compunction, that are now involved in professional sports. Also, athletes increasingly come under greater scrutiny in their everyday life with the advent of the television and the internet. Privacy is no longer intact and once a professional footballer is caught doing something wrong, news of such happening spread like wild fire within a short period of time. Moreover, it is important that athlete's behaviour be put under close monitoring considering the financial implication for the club a player is representing if there is a negative moral action attributable to the athlete.⁴¹

Moral clauses, while only a sentence or two, usually cover several broad issues. It could refer to acts which impugn the morality of athletes such as drug use or alcohol taking which may bring such an athlete to disrepute in the eye of the public.⁴² The use of such broad language is prudent on the part of the club or company. This is because it covers potential damaging acts which may not be fully described if all the misconduct or misbehavior is clearly spelt out in the terms of the contract. At the base of it all is the protection of the financial interest of the company from public ridicule and financial ruin.

The question is, will these contractual terms as discussed above not amount to a violation of an athlete's right to privacy? It is our opinion that it is an issue of choice for the player involved. If he loves the game and wants the additional benefits, it should be an easy choice to make in this instance. Moreover, many of these restrictions on the private lives of an athlete are actions which

³⁷Gabris (n 20) 24.

³⁸*Ibid*, 25

³⁹See Daniel Auerbach, 'Moral Clauses as Corporate Protection in Athlete Endorsement Contract,' (2005) 3(1) *De Paul Journal of Sports Law* 1.

⁴⁰*Ibid*.

⁴¹See Nike Endorsement Commitment, Reebok Endorsement Commitment (2004) *Sports Business Journal* 32; See also Tunde Eludini, 'Okocha Seals New Endorsement Deal' (*Premium Times*, 28 February 2018) <www.premiumtimesng.com> accessed 20th July 2019.

⁴²Robert Freeman, 'Morals Clause for Multi-Media Product Incorporating Celebrity Likeness,' (2002) 19 (8) *E-Commerce Law and Strategy* 3.

are generally abhorred by the public such as drunkenness, sexual assault, tax evasion and generally conducts which are unbecoming. Therefore, it should not be a difficult choice to make for a reasonable player. Strict adherence to these terms may be hard for the young sportsmen but the protection of the company's reputation and the guidance of the moral turpitude of these young and often wealthy sportsmen outweigh the negatives for them.

3.0 TERMS OF CONTRACT BETWEEN PROFESSIONAL FOOTBALLERS AND CLUB

The contract of every professional football player who is a registered member of a national association must be in tandem with the FIFA Professional Football Player Contract Minimum Requirement.⁴³ These minimum requirements are a guide aimed at covering the most basic, critical, and requisite obligations of contracting parties although additions and modifications can be made to meet the needs of the participants. The provisions of the guidelines for the minimum requirement for professional football contracts can be summarized as:

- In general, all national laws (in particular mandatory provisions), collective bargaining agreement (CBA)⁴⁴ and all regulations, decisions, and statutes of FIFA, the Confederation (CAF), the Football Associations and the Professional Leagues are binding on the contracting parties. For a contract to be valid, it must be in writing, signed by both parties and in the case of a minor the parent or guardian must append their signatures to the contract.⁴⁵

All signatories to the contract must each receive a copy of the contract and a copy must be forwarded for registration with the member Association.⁴⁶ The name, address, date of birth, nationality and in the case of a minor, the name of the parent or guardian must be clearly stated in the agreement.⁴⁷ The full name, address and registration number of the club must be provided for in the agreement as well.⁴⁸ There must be a definite commencement and termination date in the terms of the contract. In addition, the equal rights of the both parties to elongate or terminate

⁴³See FIFA Professional Football Player Contract Minimum Requirement 2008.

⁴⁴Paragraph 12 FIFA Professional Football Player Contract Minimum Requirement 2008. An example of a collective bargaining agreement in the Nigerian Premier League is the minimum payment of the sum of 150,000 naira for player salaries by all Nigerian Premier League clubs.

⁴⁵Para.1 FIFA Professional Football Player Contract Minimum Requirement 2008. Under the Nigerian Professional Football League Framework and Rules (NPFL) 2016/2017 all contracts between players and clubs must be notarized by a notary public in order for the contract to be deemed valid. See Rule 9 (9.49)

⁴⁶ Para.1 FIFA Professional Football Player Contract Minimum Requirement 2008,

⁴⁷ Para.1 FIFA Professional Football Player Contract Minimum Requirement 2008

⁴⁸ Para.1 FIFA Professional Football Player Contract Minimum Requirement 2008

the agreement at an earlier date based on sporting just cause shall be clearly defined.⁴⁹The club's obligation and the responsibilities of the players shall be clearly outlined in the contract.⁵⁰

Agreement on player's image rights and the extent of its usage shall be made explicit. The possibility of loaning out the player to other clubs shall also be stated.⁵¹ There must be outlined, in clear terms, the appropriate channels for complaint, discipline, and the player must be well schooled in the grievance and discipline structure of the club. Consequently, a player who contravenes the rules of the club shall be sanctioned and a range of punishment may be imposed on the offending player. The player is entitled to appeal and be accompanied by the club captain or union representative in his appearance before the disciplinary panel or the appeal panel.⁵²The parties shall comply with all anti-doping regulations relevant to the football bodies. Anyone who contravenes this rule shall be referred to the disciplinary committee of the relevant football association.⁵³ If a player is found guilty of doping practices, the club reserves the right to also take disciplinary measures against an erring football player.⁵⁴

The dispute resolution mechanism between both parties must be clearly stipulated and subject to national legislation, dispute regarding an employment contract is to be submitted to arbitration under member association statutes or to the Court of Arbitration for Sports (CAS).⁵⁵The regulations governing football, especially the Code of Ethics from FIFA, Confederations, National Associations and the League Management is binding on all contracts of employment between players and clubs.⁵⁶ In addition, clauses indicating the applicable laws in the event of conflict between parties, applicable law, jurisdiction, confidentiality of the agreement may be added by the parties.⁵⁷

The minimum requirement for a professional football player contract as provided for by FIFA is a guideline which must be adhered to by members of the international federation. This is because these guidelines are made for ease, clarity, uniformity, fairness in response to the rapid development in the way and manner football contracts are drawn up around the world between

⁴⁹ Para.1 FIFA Professional Football Player Contract Minimum Requirement 2008

⁵⁰ Para.4 and 5 FIFA Professional Football Player Contract Minimum Requirement 2008

⁵¹ Para.6 and 7 FIFA Professional Football Player Contract Minimum Requirement 2008

⁵² Para.8 (8.1-8.4) FIFA Professional Football Player Contract Minimum Requirement 2008

⁵³ In Nigeria the NFF Disciplinary Committee is the commission in charge of hearing disciplinary and sundry matters pertaining to professional footballers in Nigeria.

⁵⁴ Para.9 (9.1-9.4) FIFA Professional Football Player Contract Minimum Requirement 2008

⁵⁵ Para.10 (10.1-10.2) FIFA Professional Football Player Contract Minimum Requirement 2008

⁵⁶ Para.11 FIFA Professional Football Player Contract Minimum Requirement 2008

⁵⁷ Para.13 FIFA Professional Football Player Contract Minimum Requirement 2008

interested parties. Three contracts were analyzed in this work. These are an executed contract agreement made in Nigeria, an unexecuted contract in England and a sample contract in Estonia with the aim of ascertaining conformity with the FIFA minimum requirement for professional football player contract.

The authors' ability to access a valid professional football agreement in Nigeria was a bit of a daunting task due to the fact that all the footballers that were interviewed claimed that they do not have copies of their contracts with the club.⁵⁸ The reaction of the clubs was often to oppose the player's retention of a copy of the contract.⁵⁹ The sample of the Nigerian professional football player contract analyzed in this research, is an actual executed contract and it provides some insights into the standard contract usually procured by the professional footballer in Nigeria. This difficulty in getting a sample of this executed contract, it is opined, aligns with the players' claims of not having access to a copy of the contract signed. This fact is also corroborated by a professional stakeholder in the football business in the state where the research was carried out.⁶⁰

The Nigerian National League Contract Agreement and Registration Form for Professional Footballers is prepared and issued by the Nigerian National League to clubs under the League.⁶¹ The agreement is divided into twenty one paragraphs, comprising headings such as appointment and duties of players, player transfer, training, compensation, absence for illness, disciplinary code and procedure, dispute resolution mechanism.⁶²

⁵⁸ In depth interview with Garba Mohammed, a professional football player and former vice-captain signed to Abia Warriors of Aba Nigeria categorically mentioned that clubs oppose the idea of contract retention by the player in order to avoid being called to account on the terms of the signed contract. (Interviewed 11. 05a.m on 22 August 2019).⁵⁸ See also an In-depth interview conducted with AbiodunEbire, an Ex-International Goal Keeper for the Nigerian Golden Eaglet for the year 2000. He is currently the Obafemi Awolowo University Goalkeeper and a Masters student at the Department of Kinesiology, Health Education and Recreation, Obafemi Awolowo University. He reiterated what Garba Mohammed said and added that clubs in Nigeria were usually wary of players who demanded for a copy of their signed contracts and usually tagged them as trouble makers who wanted to put the club in trouble. (Interviewed 12: 25pm, 22nd August 2019).

⁵⁹ Why this is so can only be an educated guess at the thoughts of club officials, who may think that if players have a copy of the signed agreement, the players may be able to compel the club to fulfill the obligations owed to the player or the player may get the services of a lawyer to scrutinize the contract and may be sue on behalf of his client for the adverse terms in the contract. If there is no copy, fewer questions can be asked by either the footballer or interloping third parties (Legal Practitioners).

⁶⁰ Researchers leveraged on Coach OlabodeKayodeBabalola's access to the Osun State Football Association to get a copy of this executed contract that was analysed in this study. Information from an in depth interview with a former Knight Football Club Ile-Ife Coach, OlabodeKayodeBabalola, an NSI certified Coach.(Interviewed 2. 15 pm, 4th August 2019).

⁶¹ The Nigerian National League Contract Agreement and Registration Form for Professional Footballers 2011/2012 is prepared and issued by the Nigerian National League hereinafter called the NNL contract of Agreement.

⁶² See Para.1 to 21 of the NNL contract agreement

The Estonian professional football player club contract⁶³ is divided into 17 paragraphs comprising provisions such as definition of terms, effective terms of contract, obligation of club, obligation of player, doping, gambling, disciplinary rule, procedure for resolving disputes etc. The sample contract of the English Premier League⁶⁴ contains 21 paragraphs which includes appointment of player and duration of contract, duties and obligations of the player, remuneration and expenses, obligations of the club, injury and illness, disciplinary procedure, termination by the club, grievance procedure etc.

A look at all the contracts show that they make provisions for similar subjects, albeit different wordings. These provisions are also in line with the FIFA minimum standard requirement for a professional football player contract especially as it concerns the player's obligation to the club. Under the minimum standard requirement, the players' duties to the club include playing matches to the best of their ability. The player must take part fully in training and match preparations and obey the instructions of his superior (club officials and coaches). He owes the club a duty to keep up a healthy life style and maintain a high standard of fitness, obey club rules and attend the functions of the club whether sporting or commercial, learn and comply with the laws of the game, behave appropriately towards match officials and the people involved in practice and matches.⁶⁵ He is to refrain from participating in dangerous activities which are not covered by the clubs insurance or are unknown to the club prior to entering the contract, take good care of club properties and return them to the club at the termination of the contract, undergo regular medical checkups and treatment as requested by the team doctor and ensure that he does not tarnish the image of the club (by making damaging media statements about the club). A player shall not engage in gambling or other related activities. He must adhere to the rules of any association, professional league, players union, statutes, regulations, including the code of ethics, decisions of FIFA, Confederation, or any anti-discrimination policy of the club.⁶⁶

The obligations of the player to the club have been modified in some of the sample contract to include other things which were not specifically provided for in the FIFA's minimum standard

⁶³ See sample of a standard contract under the Estonian Football Association

⁶⁴ The contract is between Chelsea UVT and Michele Colucci, *IPMALL LAW* (2019) <<http://www.ipmall.law.unh.edu>> accessed 3 August 2019.

⁶⁵ These persons include referees, coaches, managers, lines-men, ball boys, trainers, physiotherapists and doctors and all those referred to as back room staffs of the team.

⁶⁶ Para.5 FIFA Professional Football Player Contract Minimum Requirement 2008

requirement.⁶⁷ This is one of the characteristics of the FIFA regulation as it allows for flexibility in the terms of contract to fit the purposes of a particular association while ensuring that a lesser standard is not employed by associations and clubs.

The duties the club owes the football player include setting out concisely in the contract the amount to be paid to the player, the currency for payments and the due date to fulfill these financial obligations. Related financial obligations such as match bonuses, medical and health insurance, refund of expenses incurred by the player is also set out clearly.⁶⁸ The contract must make room for major changes in the revenue of the club –such as promotion or relegation of the club– and govern the impact of such changes. The club must ensure the continued non-football education of young players (mandatory formal school) in order to prepare them for a life outside football (a second career after retirement). It must also ensure the payment of tax according to national laws which must be agreed upon by both parties. The paid leave and holidays of the player must be clearly provided for. The club must ensure that it makes provision for the protection of the human rights of the player (nondiscrimination and free speech). The club's policy on health and safety, which includes the provision of insurance cover and mandatory health and fitness checkups, must be defined in the contract. The keeping of proper medical records concerning injuries suffered by the player must be kept confidential by a responsible team doctor, and the club respects the statutes, rules, decisions, code of ethics and regulations of FIFA, confederation, member Association and where applicable, the professional league.

In the Nigerian (NNL) contract of employment, this essential aspect of the contract, i.e. the duties of clubs to its players, is conspicuously absent. In the Estonian and English football employment contract this aspect is not only present but there are additional obligations placed on the club for the benefit of the player.⁶⁹ The absence of this essential provision in the NNL contract of employment has several implications. Firstly, it falls below the standard requirement of FIFA and this may render the contract voidable upon challenge. Secondly, it casts a pall of

⁶⁷ See para.8 (8.1.4, 8.1.15, 8.1.16, 8.1.17 and 8.1.18) Estonian football contract. See also para.3.1 (3.1.5) and 3.2 (3.2.2, 3.2.3 and 3.2.4) English Premier League contract; the NNL contract of employment follows the FIFA regulation on the obligations of a player to the club see Para. 3 (3.1-3.4)

⁶⁸ The NFF stopped the practice of payment of sign-on fees after due consultation with club owners and they adopted the monthly salary payment scheme instead because many clubs may pay the sign-on fees but are unable to meet up with other financial obligations owed to the professional football player. See AderonkeOgunleye, 'Nigerian Premier League Players to Earn above #150,000 says Isaac Danladi' 20 January 2014 <https://www.premiumtimesng.com/sports/153696-nigeria-premier-league-players-earn-n-150000-monthly-danladi.html> accessed 26th August 2019.

⁶⁹ See para.7.1 (7.1.1, 7.1.5, 7.1.8 and 7.1.10) of the Estonian football contract and para.6.1 (6.1.2, 6.1.4, 6.1.5, 6.1.7, 6.1.9 and 6.2.1) of the English Premier League contract.

irresponsibility on the club as the absence of the clubs obligation can be interpreted to mean that the club does not want to take up necessary minimum obligations towards the player. Thirdly, it could be perceived as an unconscionable practice on the part of the club as they are exploiting the position of strength to the detriment of the player and in utter disregard of FIFA rules.

Apart from this fundamental defect in the contract term of the NNL contract, there are other terms in the contract which place a lot of burden on the player without a commensurate responsibility being placed on the club. Furthermore, there is the absence of clear provisions on the payment of salaries to a player while injured or ill in the Nigerian contract.⁷⁰ This absence gives room for the club to deny players' salary or wages during the period of illness. This has led to player's reluctance in informing the club of their illness or injuries on time but would rather prefer other self-help means for quick recovery.⁷¹ Furthermore, the failure of the clubs to avail the player with a copy of the contract agreement is a clear violation of the FIFA minimum standard requirement.⁷² In the NNL contract only the provision of basic salary is mentioned. The payment of other financial obligations by the club such as bonuses, allowances, insurance benefit, medical and pension benefits was not provided included in the contract. The effect of this could be manipulation and embezzlement of the funds meant for football players⁷³ by the club management; and even nonpayment of these minimal fees by Nigerian clubs.⁷⁴

The FIFA Regulation on the Status and Transfer of Players is another very important document to be considered on the issue of player contract between professional football players and clubs.⁷⁵ Under this regulation, the eligibility of a player to enter into a valid contract with a club is determined by his proper registration with a member association and in Nigeria, this will be the NFF.⁷⁶ A player may only be registered with one club at a time⁷⁷, can only register with a

⁷⁰See Para.8.1 (8.1.10-8.1.12) of the Estonian football contract and Para.7 and 8 of the English Premier League contract.

⁷¹Ebire stated that apart from the fact that players employ self-help means to treat themselves of any injury or ailment, if a player's injury persists for more than one season, he is cut loose from the team by the club without remuneration or care. Hence, injured players look for expeditious means to get treatment in fear of untimely excision from the club. See Ebire (n 58).

⁷² Para.1 (1.2) FIFA Professional Football Player Contract Minimum Requirement 2008

⁷³ See Sahara News 'Management of Kano Pillars Football Club Accused of Embezzlement' October 07, 2016 <https://saharareporters.com/2016/10/07/management-kano-pillars-football-club-accused-embezzlement> accessed 3rd September 2019.

⁷⁴ See Punch Editorial 'Nigerian League Resumes with Unanswered Questions' February 20, 2016 <https://punchng.com/nigerian-league-resumes-with-unanswered-questions/> accessed 26th August 2019.

⁷⁵ See. Regulations on the Status and Transfer of Players 2018

⁷⁶ Rule 2 Regulations on the Status and Transfer of Players 2018

⁷⁷ Ibid, Rule 5 (2)

maximum of three clubs in one season and over this period, the player may play official matches for two clubs only.⁷⁸ On the issue of termination of contract, a contract between a club and a player during the course of the season cannot be terminated unilaterally by any of the parties.⁷⁹ The only ground for the termination of a contract by a professional football player is for sporting just cause.⁸⁰ Sporting just cause is to be determined on a case by case basis.⁸¹ Where a contract is terminated by a player without just cause, he may be sanctioned and made to pay compensation. In the case where a club is found to have induced a player to terminate his contract, the club would be banned from registering new players for two consecutive registration periods, whether nationally or internationally.⁸²

There are some special provisions under the regulation, on the status and transfer of the player which may render a contract between a player and a club invalid if it is not given due consideration by the contracting parties. If a contract between a professional football player and a club is brokered by an intermediary, the intermediary must be mentioned in the contract.⁸³ An agreement between a club and a player must not exceed five years and cannot be less than one season.⁸⁴ A player is free to enter into a new contract with another club at the expiration of his contract with his previous club or six months before his contract is due to expire, although the former club must be informed in writing by the new club of its intention to take on the professional football player as a member of its club before the parties can enter into negotiations.⁸⁵

Finally, the provisions of the minimum requirements for a player's contract made by FIFA are the yardstick for measuring all contracts between clubs and professional football players. It contains the essential conditions needed in a contract but this is not all that can be added in a contract as it has been highlighted in the work. However, the Nigeria assessed-contract has not measured up to this minimum standard. Furthermore, terms such as rules on doping, match

⁷⁸ Ibid, Rule 5 (3), under the NPFL Framework and Rules a player can only register with a maximum of two clubs in one season. see Rule 9 (9.88) NPFL Framework and Rules 2016/2017

⁷⁹ Rule 16 Regulations on the Status and Transfer of Players 2018

⁸⁰ Ibid, Rule 15

⁸¹ An example of a sporting just cause is a situation where an established professional in the course of the season appears in less than ten percent of the clubs official matches, he may end the contract before hand on the basis of sporting just cause see Rule 15 Regulations on the Status and Transfer of Players 2018

⁸² Rule 17 (1,3 and 4) Regulations on the Status and Transfer of Players 2018

⁸³ Ibid, Rule 18 (1)

⁸⁴ Ibid, Rule 18 (2)

⁸⁵ Ibid, Rule 18 (3)

fixing, insurance are conspicuously omitted in the sample of the Nigerian football contract assessed.

4.0 PLAYING FOR THE COUNTRY AND THE TERMS OF AGREEMENT

Playing for one's country is a function of nationality, and FIFA's regulations prohibit any agreement between a club and a professional footballer that prevent, restrict or disqualifies a footballer from representing his country.⁸⁶ In-depth interviews with Nigerian professional football players reveal that there are no formalized contractual agreements between professional footballers and the country.⁸⁷ This may be inferred by the fact that the Nigerian Football Association (NFA) Act makes it a condition precedent that any player who signs a contract with a club, whether home or foreign, must have a clause inserted in the agreement stipulating immediate release if such a player is called up for national duty.⁸⁸ Therefore, getting the players to play for the country is not a problem. Problem arises when government reneges on the promise to pay match bonuses and other welfare packages. This naturally causes a lot of rancor and umbrage is taken by players to such an extent that Nigeria players often times take extreme measures to press home their demands for what is due to them from the NFF.⁸⁹

The saga of non-payment of bonuses, allowances and prize money seem to be a recurrent theme at every level of professional football in Nigeria. It seems like a plague that has refused to leave the country's football scene.⁹⁰ In 2019, the Nigerian junior national football team embarked on a sit-in protest in Poland over unpaid bonuses. This event was followed closely by the refusal of the Super Falcons, Nigeria's female national team, to leave their hotel in France at the 2019 FIFA Women's World Cup until all outstanding bonuses were paid by the NFF after being eliminated at the round of sixteen by the German female national team.⁹¹

⁸⁶ See FIFA Regulations on Status and Transfer of Players 2018 Annexe I Para 1 (Principles for Men's Football) and 1(b) (Principles for Women's Football).

⁸⁷ Ebire, (n. 58)

⁸⁸ S. 10 (a) NFA Act. See also Rule 15 of the Nigerian Professional Football League (NPFL) Framework and Rules 2016/2017.

⁸⁹ In 2016, the women of the Super Falcons protested outside the National Assembly to demand unpaid bonuses for winning the Women's Africa Cup of Nations. See Sodiq Oyeleke, 'Nigerians Back Falcon's Protest against Unpaid Bonuses,' (Lagos, Punch Newspapers) June 24th, 2019 <<https://punchng.com/nigerians-back-falcons-protest-against-unpaid-bonuses/>> accessed 23rd, August 2019.

⁹⁰ See AFCON update, 'Nigerian Super Eagles Players Refuse to Train over Pay Row,' June 25, 2019 <<https://africanquarters.com/afcon-update-nigerian-super=eagle-players-refuse-to-train-over-pay-row/>> accessed 23rd August 2019.

⁹¹ Sport News, 'Falcons Protest Unpaid Bonuses, REFUSE TO Leave Hotel' (Lagos, Vanguard Newspapers 23 June 2019) <<http://www.vanguardngr.com/2019/06/falcons-protest-unpaid-bonuses-refuses-to-leave-hotel/>> accessed 17 April 2020.

A way of curbing the issue of unpaid bonuses and allowances to professional players that have played for Nigeria in international competitions is the necessity for transparency in the finances of the NFF. This is because it seems that there is no clear cut audit of the income, revenue and expenditure of the NFF, even with the involvement of the financial derivative company acting as the financial consultant of the football federation.⁹²

Another issue plaguing the call-up to the national team is the problem of bribes. Allegations of bribes demanded and paid to coaches in order for some players to be given a spot on the national team to represent Nigeria has since fouled the game of football in the country.⁹³ Through the payment of bribes to the coaches, undeserving athletes are placed on the team. Apart from bribe taking, the NFF and the coaches prefer to call-up foreign based Nigerian players for the national team, leaving the home-based players out of the team. True, the foreign based players may be better trained due to the kind of facilities they have access to in other countries but the hunger and passion to win for the country may not be very high. The home-based players, on the other hand, appear to be more passionate and driven to success and thus, are likely to strive harder to win.⁹⁴

5.0 CONCLUSION

A professional football contract that meets the FIFA's minimum standard requirement is characterized by a dual obligatory feature which contains the obligation of the footballer to his club and vice versa. The finding in this study is that the European contract studied, had features that meet and even exceed the FIFA's minimum standard. The Nigerian contract, however, falls short on the minimum standard as it did not contain terms highlighting the club's obligation to the player. This gives room for manipulation by the club on performance of their obligation to the football players. Sadly, from the interview carried out, players do not have copies of their contract so as to allow for clarity on the parties' obligations. It is, therefore, suggested that the NFF, should proceed to a serious in-house assessment of the copies of footballer's contract

⁹²See Ade Adesemoju, 'NFF President Pinnick, Four others Charged with \$8,400, N4b Fraud (Lagos, Punch Newspapers) May 8, 2019 <<https://punchng.com/Amaju-Pinnick=Four-Others-Charged-With-8400=N4bn-Fraud/>>accessed 23rd August 2019.

⁹³See 'NFF to Investigate Bribery Case against Super Eagles Coach,' 26 June 2018 <<https://www.pulse.ng/sports/football/salisu-yusuf-nff-to-investigate-bribery-case-against-super-eagles-coach/>; See also 'Football Agents Bribe Nigerian Coaches to Invite Players,' (Lagos, Punch Newspapers) 23 December 2016<<https://punchng.com/football-agents-bribe-nigerian-coaches-to-invite-players/>> accessed 23rd August 2019.

⁹⁴It should be noted that majority of the players for the Nigerian team that qualified for the World Cup held in the USA in 1994 were home based and the team has so far been adjudged the best Super Eagles that have ever played in the world cup for Nigeria till date. See The Nigeria Squad World Cup 1994 USA <<https://www.worldfootball.net/team>>accessed 25th August 2019.

statutorily deposited at their state chapters. This is to ensure that professional football contracts meet FIFA's minimum standard. This in-house assessment should occur regularly and it must involve the entire contract entered into in all the tiers of professional football in the country. Furthermore, the NFF should make provisions for random sampling of professional football players' contract copy to ensure that the player's copy tallies with the one deposited in the Football Association's repository. Any violation of the minimum standard by the club should be met with stringent penalties. To achieve this, there is a need for amendment to the NFA Act and the NPFL Framework and Rules to ensure adherence by the clubs to the FIFA's Minimum Standard Requirement for Professional Football Contract. The strength of this work lies in its methodology which allows for assessment of information elicited from interviews and a doctrinal methodology that employs analysis of terms in a number of heterogeneous contracts.

