

Dr. Vitus Derungs

Insolvency of Football Clubs and Sporting Succession

Financial Claim Proceedings before FIFA
and the Court of Arbitration for Sport



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The economic collapse of football clubs occurs time and again. Some clubs manage to save themselves by means of financial restructuring measures, others are dissolved and disappear from the scene, and still others resurrect as new clubs, often with colours, crest and a name that are very similar to the dissolved club – so-called “sporting successors”.

Financial claim proceedings against insolvent football clubs and sporting successors before the bodies of FIFA and the Court of Arbitration for Sport (CAS) raise various complex legal issues. Recently adopted FIFA regulations address some of these issues, others have been answered by the case law of FIFA and CAS over the last decade.

This book provides legal practitioners with a conclusive overview of the current legal situation concerning financial claim proceedings against insolvent football clubs and sporting successors before FIFA and CAS.

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Abbreviations

Art.	Article
CAS	Court of Arbitration for Sport
FDC	FIFA Disciplinary Code
FIFA	Fédération Internationale de Football Association
FIFA AC	FIFA Agents Chamber
FIFA DC	FIFA Disciplinary Committee
FIFA DRC	FIFA Dispute Resolution Chamber
FIFA PSC	FIFA Players' Status Chamber
FIFA FT	FIFA Football Tribunal
lit.	litera
p.	page
Para.	Paragraph
RSTP	Regulations on the Status and Transfer of Players
SCO	Swiss Code of Obligations
SDEBA	Swiss Debt Enforcement and Bankruptcy Act
SFT	Swiss Federal Tribunal
TAS	Tribunal Arbitral du Sport
UNCITRAL	United Nations Commission on International Trade Law

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1. Introduction

1.1. General remarks

Financial planning for football clubs is a highly challenging matter. Reserves are rarely formed, since clubs do not live on financial profit but on sporting success. Thus, whenever possible, available funds are immediately reinvested in the club's first team, in order to be as competitive as possible in the ongoing competition. 1

With such a tight calculation, however, a lack of success or unexpected events can quickly throw the entire financial plan into disarray. Unfortunately, the Covid-19 pandemic showed this all too well. As a result of sudden revenue shortfalls, clubs around the world had been forced to restructure their financing. The same can also happen in the event of a lack of sporting success, for example if sporting targets and related revenues are not achieved, or if a club is relegated to a lower league. Finally, also the sudden and unforeseen exit of an investor can put a football club in dire financial straits. 2

In such a financially strained environment, therefore, economic collapse of football clubs occurs time and again. Some clubs manage to save themselves by means of financial restructuring measures, others are dissolved and disappear from the scene, and still others resurrect as new clubs, not infrequently with colours, crest and a name that are very similar to the dissolved club. 3

Financial claim proceedings against insolvent football clubs and sporting successors before FIFA and CAS raise various complex legal issues. Recently adopted FIFA regulations address some of these issues, others have been answered by the case law of FIFA and CAS over the last decade. Many questions have remained unanswered so far though and are thus open to a legal debate. 4

The aim of this book is to present a comprehensive overview of the current legal situation concerning financial claim proceedings against insolvent football clubs and sporting successors before FIFA and CAS based on the applicable regulations and the case law. Thereby, legal practitioners will be provided with a conclusive guide of what must be considered in financial claim proceedings against insolvent football clubs, both in classifying and understanding a specific case as well as in taking the appropriate legal measures to successfully pursue a claim. 5