



Universität Augsburg  
Juristische Fakultät

# Transfer markets in sport and esports law

Date: 11 September 2026, 2.00 am (Beijing Time)

Venue: Beihang University, Beijing, China /  
Beihang University

Duration: approximately 90 minutes, including time for discussion

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# Agenda

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- 1** Introduction – Differences & Salary Cap
- 2** US system (in the NBA)
- 3** European system (in the DFL)
- 4** Implications under employment law
- 5** Transfer agreement
- 6** Association law
- 7** Money and agents
- 8** Legal remedies and limits on association autonomy

Introduction –  
Differences &  
Salary Cap

01



# Transfer market

## Two systems

There are different systems governing how players change clubs in sports and esports leagues.

The legal structures vary considerably, as the legal relationships differ.

This is illustrated by the two most popular transfer market systems.



# Salary cap



## Salary Cap: A salary budget with rules

A league sets a limit on the total eligible player salaries per team – to ensure fairer competition and financial stability.

ELIGIBLE TEAM SALARIES

CAP LIMIT

Salary spent

Cap Space

Cap space = cap limit – counted salaries

### 01 • HARD CAP

#### Fixed upper limit

This limit must not be exceeded. New contracts are only possible if budget becomes available.

### 02 • SOFT CAP

#### Limit with exceptions

Certain rules allow the limit to be exceeded – for example, to extend the contracts of the club's own players.

### 03 • LUXURY TAX

#### Exceeding the limit incurs a charge

Above a certain threshold, the team pays additional levies; this curbs excessive spending.



# Differences

## Europe vs. USA

In European football, registration rights are often transferred in exchange for money. In the NBA, it is primarily contracts and draft rights that are traded.

### Europe: Transfer market

Club A → Transfer fee → Club B

The player then signs a new contract.

### NBA: regulated labour market

**Contract + draft picks ⇔ Contract + draft picks**

No free transfer: the Collective Bargaining Agreement and the salary cap set limits.

**Key point: In the NBA, the contract is part of the trade.**

US system (in the NBA)

02



# Five ways for a player to change teams

In the NBA

**01**

**TRADE**

**02**

**FREE AGENCY**

**03**

**DRAFT**

**04**

**WAIVER /  
BUYOUT**

**05**

**SIGN-AND-  
TRADE**

*These mechanisms address different issues: strengthening the squad immediately, developing talent, terminating contracts or complying with salary rules.*



# Trade

When a player is under contract

**01**

Trade

TEAM A  
Star player  
€€€ high-value  
contract

Contract + player

Player + picks

TEAM B  
Role-player  
+ 2 draft picks



# Free agency

When a player's contract has expired

## 02

Free agency

### Unrestricted free agent

In principle, the player can sign for any team — provided the team can pay him in accordance with the rules.

### Restricted Free Agent

Another team may make an offer. The player's current team can match it and retain the player.

**Contract options affect the timing: Player Option · Team Option · Early Termination Option**

The difference lies in who ultimately has control.

**Even a 'free' player faces a regulated salary market.**

# Draft



For new players

## 03

Draft

Draft Lottery

Two draft rounds

Retain picks as assets

1

determines the order  
of the early picks

2

Teams select  
player rights

3

retain, use  
or trade

**Why picks are valuable**

**They defer sporting opportunities to the future and give teams affordable access to young players.**



# Waiver and Buyout

An existing contract is terminated or released for other teams to take over

## 04

**Waiver /  
Buyout**

### Waiver / Buyout

1. The team releases the player
2. Other teams may take over the contract
3. If no team claims him, he becomes a free agent

In a buyout, both parties agree to terminate the contract early.



# SIGN-AND-TRADE

An existing contract is terminated or released for other teams to take over

## 05

SIGN-AND-TRADE

### Sign-and-Trade

1. The current team extends the contract
2. The contract is traded on immediately
3. The player must agree

Useful if a direct transfer would be blocked by the salary cap.

# Overview

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**A** A contract expires; the player signs as a free agent with another team.

**FREE AGENCY**

**B** A team trades a player and two future draft picks.

**TRADE**

**C** A team terminates a contract early; no other team takes him on.

**BUYOUT / WAIVER**

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**Three steps to check: contract status • consideration • salary rules**

European system  
(in the DFL)

03



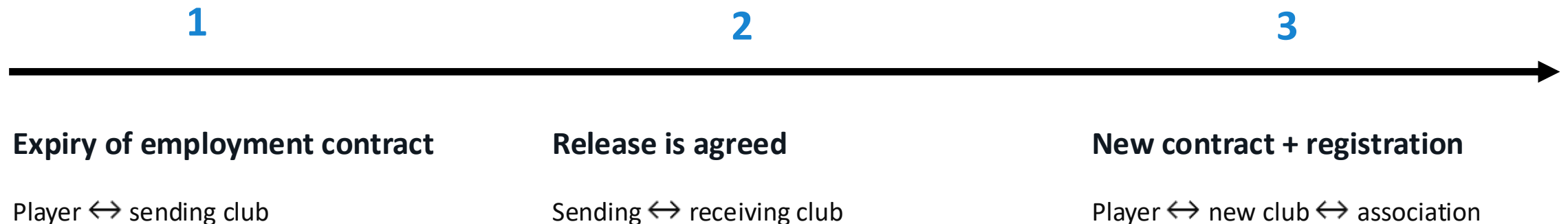
# How the German transfer market works

## Contracts, eligibility to play and association regulations

In the German and European football transfer market system, people always talk about ‘buying’ a player.

You cannot actually buy people; it is a figure of speech, meaning that you sign a player to play for the new club.

A player’s transfer from one club to another involves three steps:

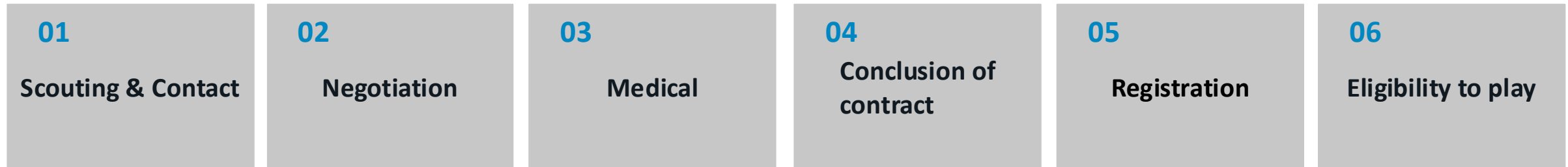


***The transfer fee typically compensates the former club for agreeing to the early termination of the contract.***

# Market logic



## Typical transfer



Typical conditions: consent from all parties involved · documents submitted on time · passed medical · international clearance (ITC)

At the same time, checks relating to financial matters, employment law and association regulations are carried out.



# Four basic forms – with different contractual mechanisms

The starting point and the 'goal' are decisive

- |           |                                       |                                                                                                           |
|-----------|---------------------------------------|-----------------------------------------------------------------------------------------------------------|
| <b>01</b> | <b>Permanent transfer</b>             | Existing contract is terminated; new employment contract; often involves a transfer fee.                  |
| <b>02</b> | <b>Transfer without a release fee</b> | The existing contract ends; no fee is payable for early release.                                          |
| <b>03</b> | <b>Loan (temporary transfer)</b>      | Temporary change of registration; contractual arrangements are agreed between the parties.                |
| <b>04</b> | <b>Commitment without a contract</b>  | New employment contract; registration only in accordance with the applicable transfer windows/exceptions. |



# Sources of law

State law takes precedence over the two privately agreed arrangements

## STATE / EU LAW

German Civil Code (BGB), Part-Time and Fixed-Term Employment Act (TzBfG), labour law · Articles 45 and 101 TFEU · mandatory law sets limits

## ASSOCIATION LAW

FIFA RSTP/FFAR · DFB Rules of the Game · DFL Player Licensing Regulations

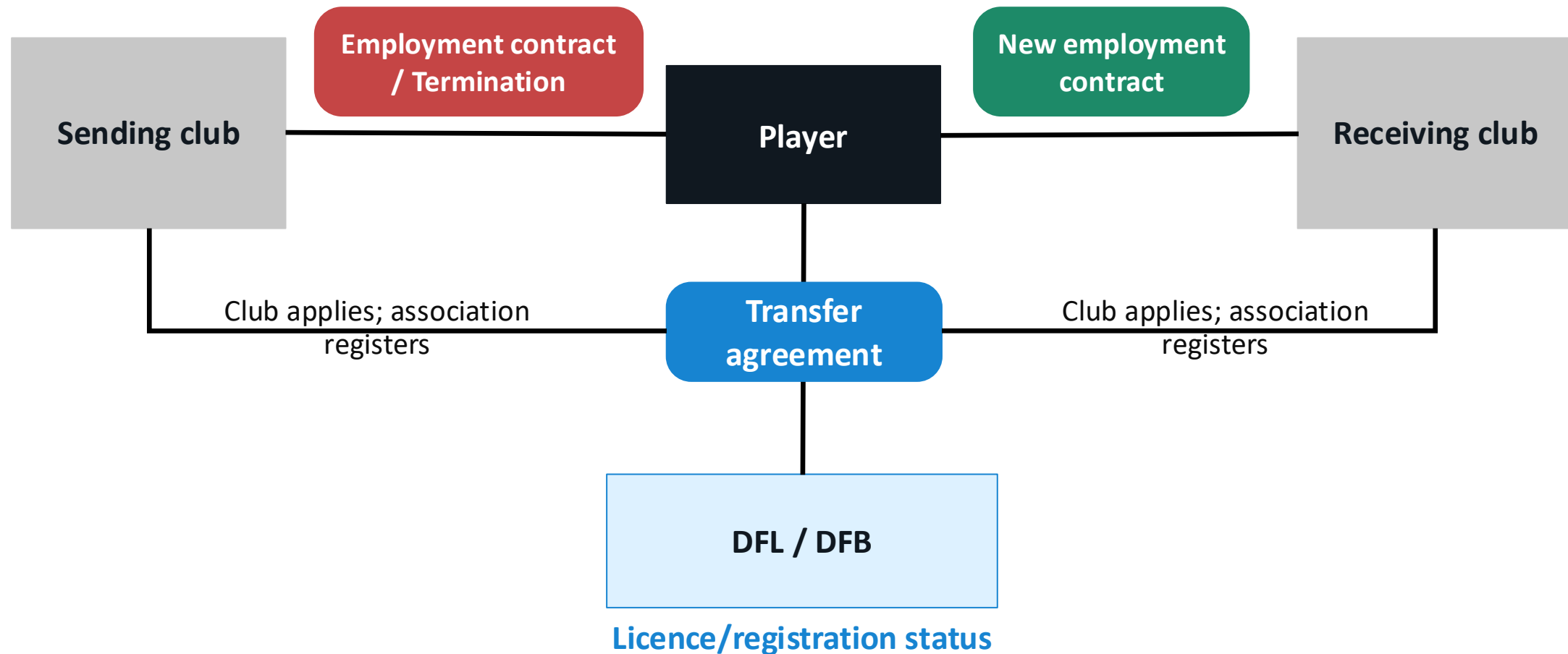
## CONTRACT LAW

Employment contract · Transfer agreement · Termination · Agency contract



# Legal Relationships

## Overview



*Agent(s): Agency agreement with player and/or club; check for conflicts of interest and remuneration separately.*

Implications for  
employment law

04



# Employment contract I

An employment contract is generally not affected by a transfer announcement

As long as the employment contract remains in force ...

- Obligations regarding employment and remuneration continue to apply (Section 611a(1), (2) of the German Civil Code (BGB))
- Ordinary termination is usually excluded in the case of fixed-term contracts (Section 15(4) of the TzBfG)
- Unilateral termination is only permitted in accordance with the law or the contract – high risk of litigation (Section 626 of the German Civil Code (BGB))

## Typical practical scenario

**Termination agreement between player and former club**

linked to the terms of the transfer agreement  
and the player's signing for the new club

**Key point: Eligibility to play under association rules and the employment relationship must be assessed separately.**



# Employment contract II

## Fixed-term employment contract

**Section 611a(1) of the German Civil Code (BGB)**

**Work subject to instructions,  
work subject to external control**

Training · Games · Media obligations  
in return for a basic salary, bonuses and  
fringe benefits

### Fixed-term contract

**BAG 16 January 2018 – 7 AZR 312/16, NJW 2018, 1992**

**Regularly objectively justified by the ‘nature of the work’ (Section 14(1), second sentence, No. 4 of the TzBfG).**

Content of the ‘new’ employment contract: Contractual options, deployment clauses, breach of contract, remuneration and image rights remain subject to separate scrutiny.



# Standard procedure for terminating an employment contract

## In sport and esports

Forms of termination:

### ➤ Termination

– *Excluded pursuant to Section 15(4) of the TzBfG*

– extraordinary

### ➤ fixed-term contract (TzBfG)

*Standard case*

### ➤ condition subsequent (TzBfG)

*never*

### ➤ Termination agreement

*Funds for transfers*

### ➤ Court-approved settlement

*never*

### ➤ Judgment of dissolution pursuant to §§ 9, 10 KSchG

*never*

### ➤ Contestation (Note: invalid employment relationship)

*never*

### ➤ Death of the employee (consequence of § 613, sentence 1 BGB)

*hopefully never*

Transfer agreement

05



# Transfer agreement between the clubs

Covers release, money and risk

## Scope of services

- Consent to early termination
- Cooperation on registration/ITC
- Documents and deadlines

## Content of the consideration

- Fixed transfer fee
- Bonuses / share of resale proceeds
- Payment schedule & security

## Hedging the risk through

- Medical / Conditions precedent
- Warranties & Indemnities
- Failure to register

**Legal nature: typically an atypical/sui generis contract – the specific content is decisive, not the term ‘transfer’.**

Association law

06



# Association law

A transfer agreement is binding, BUT association law (registration) determines eligibility to play

**1** Contracts validly  
terminated /  
concluded

**2** Application and  
supporting documents  
submitted on time

**3** Playing permit /  
licence granted

**4** Eligible to play in  
competitions

Transfer windows depend on the seasons (e.g. in football with the DFB: summer window 1 July–31 August · winter window 1 January–31 January)

**Always check that deadlines  
are up to date for the current  
season**

*International transfers complicate the process, as the associations are involved  
(TMS and transfer certificate are also required)*

*→ without correct international registration: no eligibility to play*

Money and consultants

07



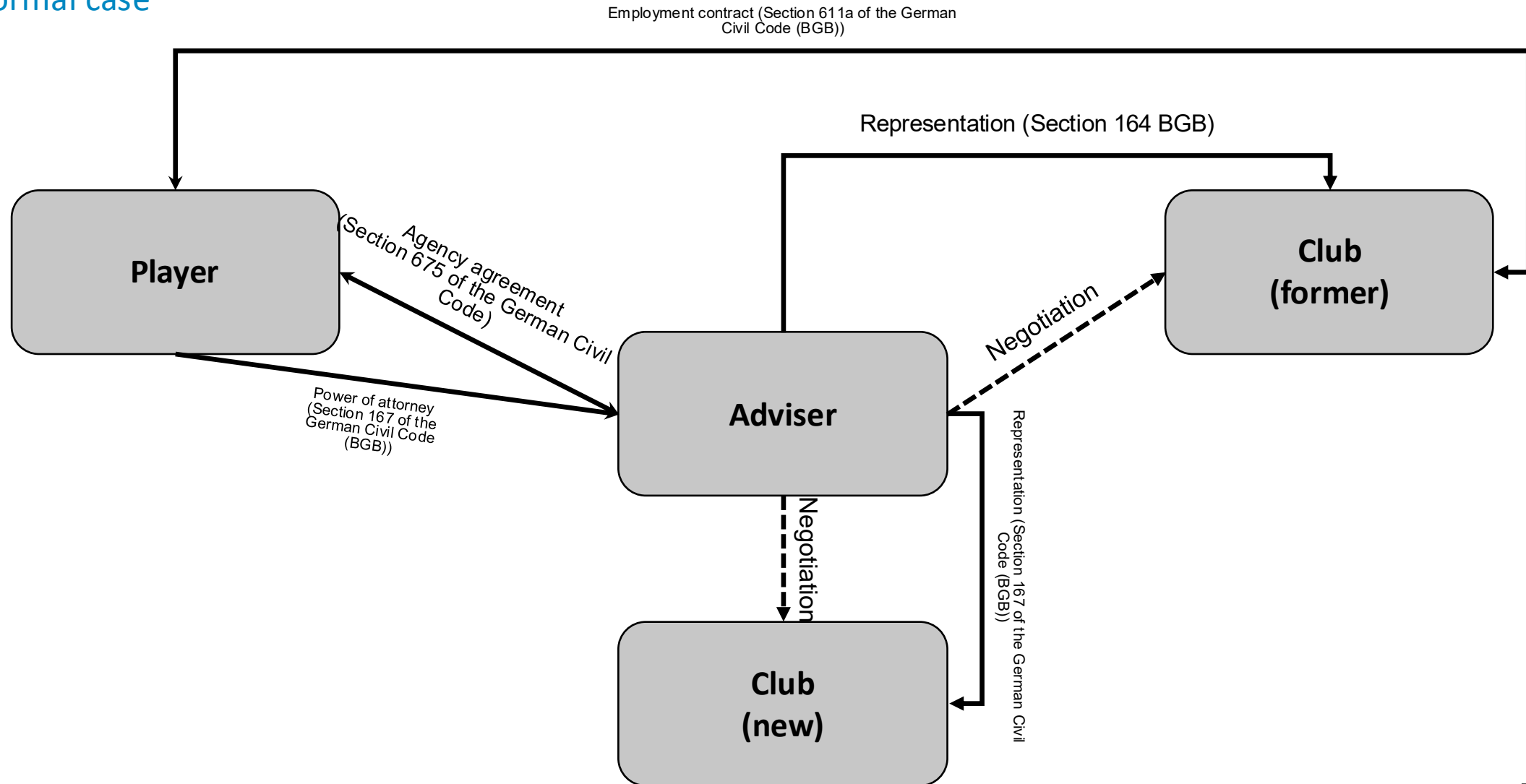
# Cash flow

| What                    | Who?                                       | Where is this regulated, and what is its purpose? |
|-------------------------|--------------------------------------------|---------------------------------------------------|
| Transfer fee            | New club → old club                        | Release/transfer agreement                        |
| Signing-on fee          | Club → Player                              | Incentive for signing a contract                  |
| Agent's fee             | Client → Agent                             | Brokerage/consultancy services                    |
| Training compensation   | Club → Training clubs                      | Professionalisation / specific transfers          |
| Solidarity contribution | Share of the transfer fee → training clubs | Paid international transfer                       |



# The role of agents (advisers)

## Normal case





# The role of agents (advisers)

## Possible deviations

- The adviser may (also) have been granted a contract for the management of affairs by one or both clubs.
- For their part, the adviser will have a solicitor who advises them on matters relating to the club under a contract.
- this has nothing to do with the relationship with the association at first, but the agent may also 'take care' of that

The agent earns their fee either as a fixed sum for their services or (more commonly) as a percentage of the transfer fee or signing-on fee.

### IMPORTANT:

- Check on whose behalf the agent is acting.
- As regards remuneration, check who is liable to pay. Due date, basis of assessment, tax
- Exercise caution in cases of multiple representation (consent & transparency)

Legal remedies and limits  
to the autonomy of  
associations

08



# Legal Remedies

The choice of court depends on which legal relationships are involved

| Court                                         | Parties                               | Subject matter                                                     |
|-----------------------------------------------|---------------------------------------|--------------------------------------------------------------------|
| <b>Employment tribunal</b>                    | Player ↔ national club                | Wages · Employment · Fixed-term contracts · Termination            |
| <b>Ordinary courts / Arbitration tribunal</b> | Association ↔ Club / Agent agreements | Transfer fees · Bonuses · Interpretation · Liability               |
| <b>FIFA Football Tribunal</b>                 | International football disputes       | DRC · Players' Status Chamber · Agents Chamber                     |
| <b>Association courts / CAS</b>               | Sanctions and association decisions   | Internal legal remedies; CAS depending on the relevant regulations |

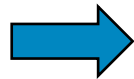


# Limits on the autonomy of associations' statutes

## EU law examines the proportionality of transfer rules

ECJ ruling for Europe on the conflict between workers' rights and the autonomy of sports federations:

**1995 · BOSMAN**  
(ECJ, 15 December 1995 –  
C-415/93; NJW 1996, 505)



**No severance pay upon termination of contract that impedes the free movement of workers within the EU; nationality clauses are restricted.**

**2024 · DIARRA**  
(ECJ, 4 October 2024 –  
C-650/22; NJW 2025, 1187)



**Certain FIFA consequences of terminating a contract without just cause infringe the free movement of workers and competition.**