

'Third-party ownership' of football players

Third-party ownership (TPO) has been much debated in recent years. While some see it as a legitimate means to finance clubs, others highlight ethical and moral issues regarding the treatment of players and the integrity of competition. FIFA's decision to ban TPO use as of May 2015 has reignited the controversy and triggered legal challenges before the European Commission.

What is third party ownership?

Third-party ownership, also known as third-party investment in players, commonly [refers](#) to an agreement whereby a third party provides a club (or player) with money in return for a percentage of a specific player's future transfer fee (i.e. the sum paid by a club to another club for signing a player still under contract, as compensation for early termination of that contract). Third parties can take a variety of forms, including investment funds, companies, private investors and individuals with business interests in football, such as players' agents. TPO deals are [common](#) in South America, where the practice originates, particularly in [Brazil](#) and Argentina. A 2013 [study](#) commissioned by the European Club Association (ECA) showed that in Europe, TPO practice is highly concentrated in certain countries: Portugal; parts of central and eastern Europe (Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia, Albania, Bulgaria, Romania, Hungary, Slovenia, and Montenegro); and Spain. TPO has been prohibited for some time by the English, French and Polish football leagues.

Pros and cons

Defenders of TPO, such as the Association of Spanish Football Clubs ([La Liga](#)), argue that third-party investment is a much-needed and legitimate source of external funding for clubs, and that it helps small/medium-sized clubs preserve competitiveness vis-à-vis bigger and wealthier rivals, since it enables them to sign players they could otherwise not afford (the third party bears part of the financial burden and is supposed to share the risk such an investment involves). **Opponents**, including European football's governing body, [UEFA](#), as well as the world footballers' union, [FIFPRO](#), are concerned about player freedom, suggesting that players will be pressured to transfer, as that is in the investors' inherent interest, and will lose control of their sporting career. Critics point to potential conflicts of interest in the event that the same fund or company 'owns' multiple footballers playing in competing teams, with a threat to the game's integrity. The opacity of the TPO practice and of the third-party structures involved also raises concerns.

Regulatory approach

In December 2014, the world football governing body, [FIFA](#), decided to ban TPO use in football as of 1 May 2015 ([Article 18 ter](#) of the Regulations on the status and transfer of players). The Spanish and Portuguese leagues swiftly lodged a [complaint](#) with the European Commission, arguing that this ban infringes EU competition rules and regulations on free movement of labour and capital. In turn, UEFA and FIFPRO launched a joint [legal action](#) with the Commission, asking it to endorse FIFA's decision and to outlaw third-party ownership. Many [question](#) whether proper regulation of the TPO practice would be preferable to a complete ban. Measures suggested to tackle the risks associated with TPO include imposing a requirement for complete transparency (both about the investors involved and the TPO arrangements), a cap on the amount invested or on the remuneration for the investor; and prohibiting clauses jeopardising clubs' independence and autonomy in decision-making. Some advocate a [holistic](#) approach to the problem, and a reform of the existing transfer system, which in its current form mostly [benefits](#) the wealthiest clubs.

Despite its limited competence in sport (Article 165 TFEU excludes binding measures), the EU can (and does) intervene in sports regulation on the basis of its competences in areas such as the single market and competition policy, since sport as an economic activity must comply with EU law. The [Bosman](#) case is an example.