

A Necessary Update--The Amendments to the FIFA Eligibility Rules

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1. Introduction

What is the biggest dream of a football fan? Notwithstanding the predominance of club competitions in the last decades, the first answer in the social imaginary would still be to represent the national team of his/her own country in international competitions, such as the FIFA World Cup – or the AFC Cup/UEFA Euro Cup.

Throughout the 20th century, a football player only needed to hold the citizenship of a country in order to play for its representative teams.¹ Then, starting from 2004, the legal framework on this issue has become more sophisticated, as FIFA implemented new rules within its Statutes (see Section III of the FIFA Regulations Governing the Application of the Statutes – “*Eligibility Rules*”) aimed at, *inter alia*, strengthen the connection between the player and the country he wishes to play for.²

In 2019, after several requests from member associations, FIFA set-up a Working Group (“WG”) tasked with the update of the Eligibility Rules to clarify its content, codify jurisprudence on the matter, as well as to include some additional exceptions to the change of association by a player. The proposal from the WG was passed to the FIFA Council in February 2020, and the latter forwarded those amendments (“Proposal”) to the FIFA Congress – held via video-conference on 18 September 2020 – and finally approved winning 193 of the 194 valid ballots.

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1 Representative teams means all the categories of a national team of a certain football association (e.g. U-17, U-19,U-20, A team, etc. of the Chinese Football Association - “CFA”)

2 The first important amendments to the Eligibility Rules were made in 2004, in an attempt to regulate common practices of some countries in order to naturalize foreign players without any connection whatsoever to the country of the respective association.

Bearing this in mind, this contribution will address some general concepts on eligibility to play for representative teams, relevant amendments proposed, as well as the effects they may have on international football, considering the trend on naturalization of football players worldwide.

Unless specified otherwise, in this contribution we will refer to articles of the eventual new version of the Eligibility Rules, based on the content of the Proposal.

2. The Eligibility Rules and the Approved Amendments

A. Article 5 - Principles³

The general principle of eligibility to play for a representative team is set in Article 5.1, which establishes that any player holding a permanent nationality that is not dependent on residence is eligible to play for the representative team of that country.

Then the Proposal introduces a new provision, Article 5.2, where it is clarified that a player “holds a nationality” if through the relevant national law he has (a) automatically received the nationality without any administrative process (e.g. from birth), or (b) acquired it through a naturalization process.

In essence, the aim of these two provisions is to guarantee that the eligible players have some solid connection with the country they wish to represent.

On the other hand, Article 5.3 set that in case a player has played an official match for a national association, regardless of the category (youth categories included), he may not be able to play for a different national association. However, there are some exceptions to this rule, which will be explained below more in detail (see Article 9 below).

Besides, the Proposal include a new important provision, Article 5.4, whereby it is clarified that:

- i. A player “*lived on the territory of the relevant association*” in case he has been physically present on the territory of that association for the time set in the respective provision (see Articles 6 to 9 below);
- ii. Such period would not be interrupted by: “(i) *short absences abroad for personal reasons*, (ii) *holidays abroad during the football off-season*, (iii) *medical treatment or rehabilitation abroad following injury or illness*, or (iv) *travel abroad as a result of football employment*”;⁴ and that

³ All the requests for eligibility or change of association are governed by the FIFA Rules Governing the Procedures of the Players’ Status Committee and the Dispute Resolution Chamber (“*Procedural Rules*”).

⁴ However, as per Article 5.5, it is further required that unless there are exceptional circumstances, the player must be physically present in the territory of the association at least 183 days during 12 months period in order to comply with that requirement.

- iii. Such period would be interrupted where: (i) a player is transferred to a club affiliated to a different association (i.e. international loans or permanent transfers), or (ii) if a player is absent from the territory for any reason not mentioned above.

These new amendments intend to replace and clarify the content of the old Eligibility Rules, whereas it was mentioned in several provisions that a player should have “*lived continuously*”⁵ on the territory of the relevant association. Such concept led to uncertainty in some cases, as it was not clear under the Rules whether a temporary absence of a player from the country for different reasons would interrupt the “physical presence” or not.

B. Article 6 - Nationality entitling players to represent more than one association

This provision regulates the case of some particular nationalities under which a player may be eligible to represent more than one association. This is the case of players from the United Kingdom, who are grouped under the so-called four “British nations” (i.e. nationals of England, Wales, Scotland and Northern Ireland).

For those players, however, apart from holding one of those nationalities (or double nationality by birth) and complying with Article 5 above, they shall also fulfill at least one of the conditions set in Article 6.1 in order to play in an international match for one of those associations:

- a) to be born on the territory of the relevant association;
- b) his biological parents were born on the territory of the relevant association;
- c) his biological grandparents were born on the territory of the relevant association;
- d) he has lived on the territory of the relevant association for at least five years.⁶

Then, Article 6.2 provides the option to those associations that share the same nationality to reach an agreement and delete item d) completely, or amend it for a longer time limit.⁷

Therefore, players with British nationality (nationals of England, Wales, Scotland or Northern Ireland) could be eligible to play for the English national team regardless of their specific “nationality” (e.g. Scotland national), if complying with the criteria of Article 5 and they are also, for instance, descendant of an individual born in England as per Article 6.1.⁸

C. Article 7 - Acquisition of a new nationality

Article 7 sets the conditions for a player who assumes a new nationality under the general principles of Article 5 and wishes to play for the representative team of the new association. The conditions are

⁵ Cfr. Articles 6 and 7 items d) of the current Eligibility Rules.

⁶ This provision has been amended by the Proposal setting a longer period, as the current version requires players to have lived on the territory of the association for at least two years.

⁷ Such agreements must be approved by the FIFA Council in order to be effective. For instance, the “British nations” had reached agreement to delete item d).

⁸ Or the player has lived continuously in England for at least five years.

substantially the same of Article 6, apart for item d) for which the Proposal introduces the new following scenarios:

“d) He has lived on the territory of the relevant association:

- i. for players that began living on the territory before the age of 10: at least three years;*
- ii. for players that began living on the territory between the age of 10 and 18: at least five years;*
- iii. for players that began living on the territory from the age of 18: at least five years.”⁹*

As mentioned above, the Proposal replaced the concept of “*lived continuously*” with that of “physical presence” during certain period of time as well, specifying at Article 5 the cases when such physical presence is interrupted or not.

Then, the new Article 7.2 introduces further requirements for those players who intend to acquire a new nationality based on physical presence on the territory between the age of 10 and 18. These players must: (a) prove that they moved to such territory for other reasons than playing for its representative teams and that, (b) they receive approval of their request for eligibility by the FIFA Player’s Status Committee (“PSC”).

In substance, by means of this reform of Article 7, we understand that FIFA wants to distinguish between player of different ages, making it easier for young players who moved very young to another country - and then acquired the nationality of such country – to play for its representative teams. Then the other amendment concerning the purpose of the move to the new country clearly recalls the requirements included in the regulations regarding the transfer of minors (i.e. Article 19 FIFA RSTP).

D. Article 8 - Stateless individuals

The Proposal introduces this provision for the first time, addressed to those players who (a) do not hold any nationality; and (b) due to the national law of the country of their domicile, will never be granted the nationality of such country.

In those cases, such players may be declared eligible by the PSC¹⁰ to play for the representative team of the association concerned, provided that (a) they have lived on the territory of such association for at least five years, and (b) they can prove that the move to such country was not for the purpose to play for its representative teams.

This provision is keeping up the Eligibility Rules with the times, as in practice would permit many individuals, who are for instance refugees in a country where they are not legally able to obtain its nationality, to play for the representative teams of the country they are - long-term - resident of.

⁹ We can mention the examples of Elkeson and Aloisio, who have been approved by FIFA in order to represent the CFA national team in international competitions since, apart from complying with Article 5, they have been physically present in Mainland China for at least five years.

¹⁰ Upon submitting request for eligibility via the relevant association.

E. Article 9 - Change of association

The new Article 9 of the Proposal (current Article 8), regulates the change of association by a football player, setting a clear list of circumstances in which such change may be granted.

As a matter of fact, it represents a list of exceptions to the rule enshrined in Article 5.3, clarifying in which cases a player can change association despite having participated in official international competitions with a representative team of his current association.

The Proposal amends the current version of Article 8 almost in its entirety, by largely expanding the number of scenarios where a player could change his association. By doing so, FIFA intends to ease some restrictions on change of association for the so called “cap-tied”¹¹ players, who have only participated with the youth categories of a national team, or who have participated few occasions with the “A” team.¹²

The renowned case of Munir El Haddadi, among others, perhaps was the triggering factor of this amendment. In this case, the player born in Spain from Moroccan parents, after having played only 13 minutes with Spain in the Qualifying rounds of the UEFA EURO 2016¹³, requested to change his current association in order to represent Morocco. However, his application was dismissed by FIFA as he did not comply with the current exception.¹⁴

In essence, the current exception is set in provision 8.1 which states that a player who complies with the above-mentioned scenarios (i.e. Articles 5-7) may, only once, request a change association if:

“(a) he has not played a match (either in full or in part) in an official competition at “A” international level for his current association, and at the time of his first full or partial appearance in an international match in an official competition for his current association, he already had the nationality of the representative team for which he wishes to play.”¹⁵

Based on the rule above, nowadays a player cannot change of association if he has been already fielded during an official senior international match, such as the FIFA World Cup or UEFA Cup (including qualification phases), as it was in the case of Munir.

For that reason, the Proposal introduces the following new exceptions with the aim of providing options to change of association for those cap-tied players, bound to their associations after being barely fielded by their representative teams. In this sense, the new Article 9 would permit players to request, only once, to change of association in the following scenarios¹⁶:

¹¹ Under the so called cap-tying practice of some national associations, who try to lock players into playing only for their representative teams.

¹² The “A” team of a football association is the senior football team of that respective association.

¹³ This was the only time the player was fielded in official competitions with the Spanish national team.

¹⁴ Munir was never fielded again by the Spanish national team in official competitions.

¹⁵ In addition, letter b) of the same provision states that a player “is not permitted to play for his new association in any competition in which he has already played for his previous association.”

¹⁶ The change of association may be made in any kind of football (e.g. Eleven-a-side football, futsal, etc.).

Scenario 1

- i. The player was fielded in a match in an official competition at any level (excluding “A” international level) for his current association; and
- ii. At the moment he was fielded for the first time in an official competition for his current association he held the nationality of the new association that he wishes to represent.

Practical example: Player A, of Italian/Argentinean nationality since birth, was fielded in the Sub-21 UEFA Euro Cup Qualifiers by the Italian Sub-21 team. Player A will be able to represent the Argentinean representative teams.

Scenario 2

- i. The player was fielded in a match in an official competition at any level (excluding “A” international level) for his current association;
- ii. At the moment he was fielded for the first time in an official competition for his current association he did not hold the nationality of the new association that he wishes to represent;
- iii. At the moment he was fielded for the last time in an official competition for his current association he had not turned 21 years old; and
- iv. He meets any of the requirement set in Article 6 or 7.

Practical example: Player A, of Italian nationality, was fielded in the Sub-20 UEFA Euro Cup Qualifiers by the Italian Sub-20 team, at the age of 19. Then, after such participation, he acquired Chinese nationality on a permanent basis(e.g. by proving that his biological parent or grandmother or grandfather was born on the territory of China). Player A will be able to represent the Chinese representative teams.

Scenario 3

- i. The player was fielded in a match in an official competition at “A” international level for his current association;
- ii. At the moment he was fielded for the first time in an official competition for his current association he held the nationality of the new association that he wishes to represent;
- iii. At the moment he was fielded for the last time in an official competition for his current association he had not turned 21 years old; and
- iv. He was fielded in no more than 3 matches at “A” international level (both friendly and official matches) for his current association;
- v. At least 3 years have passed since being fielded for his last match at “A” international level (both friendly and official matches) for his current association; and
- vi. He has never participated at “A” international level in the final tournaments of FIFA WC or a confederation competition.

Practical example: Player A, of Italian/Argentinean nationality since birth, was only fielded with 20 years old in the FIFA WC Qualifiers once, and then twice in friendly matches by the Italian “A” team. After 3 years from his last match with the Italian national team, Player A will be able to represent the Argentinean representative teams..¹⁷

¹⁷ However, as per the new Article 9.3 below, the player could not be able to participate in the FIFA WC with Argentina

Scenario 4

- i. The player wishes to represent an association that was admitted to FIFA membership after he was fielded in his first match in an official competition at any level for his current association;
- ii. He was never fielded in a match in an official competition at any level for his current association after the association he wishes to represent was admitted to FIFA;
- iii. When he was fielded for his first match in an official competition at any level for his current association, the player:
 - held the nationality of the association he wishes to represent; or
 - obtained the nationality of the association he wishes to represent shortly after the country was recognized by the majority of members of the UN; and
- iv. He meets any of the requirement set in Article 6 or 7.

This scenario in practice could be applied for instance to player of Kosovar nationality, after Kosovo national association became a member of FIFA in 2016.

Scenario 5

- i. The player was fielded in a match in an official competition at “A” international level for his current association;
- ii. He permanently loses his nationality without consent or against his will due to a decision from a government authority; and
- iii. He holds the nationality of the association he wishes to represent.

Moreover, new Article 9.3 (previous 8.1 b.) establishes that a player would not be permitted to play for his new association in any competition where he has played before with his previous association.

Finally, there is an exception by means of which a player (a) who changed of association and (b) was not fielded in a match in any competition (official or unofficial) by the new association, may request a change of association to his previous association, provided that he still holds the nationality of such association.¹⁸

3. Conclusions

With the Proposal being approved by the 70th FIFA Congress, it represents a huge change in the field of eligibility to represent national teams. On one hand, certain amendments attempt to eliminate situations of uncertainty due to the wording of the Eligibility Rules, which were addressed in the case law of the last decade. On the other hand, the Proposal represents a much needed update of the legal framework on this matter, in such a way that the regulations would keep up with the fast pace of the globalization process during the 21st century.

since he had previously participated with Italy (neither any other official competition where he has played with Italy).

¹⁸ As per Article 9, any player that request change of association in relation to the scenarios above shall submit via the relevant association a request to the FIFA PSC. Furthermore, a player when files a request to change of association is not eligible to participate for any representative team until the request has been decided.

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