PLANET LABOR
EMPLOYMENT RELATIONS INTELLIGENCE

Study on the legal framework on employment contracts in 4 EU Member States (Germany, Spain, Great Britain and Italy) for sport workers not being professional sportsmen and -women.

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Synthesis of the study on labour relations

The biggest problem encountered when undertaking a comparative research in the sport sector is to determine the **definition of "sport worker".**

For this study, "*sport worker*" is defined "*a person neither being a professional player nor a professional trainer*". Under "*sport worker*" fall players, trainers/coaches, administrative staff and others employed by a club, association or commercial company, which is active in the sport sector. Whether or not the employer (the club, association or commercial company) is active in the professional sport sub-sector does not impact the classification of the employee.

Professional players and professional trainers, i.e. those who make their living from their activity in the professional sport sub-sector, are referred to as "*professional sportsmen and- women*".

In Spain and Italy, there are special laws for the first category, the "*professional sportsmen and –women*". For "*sport workers*", general law applies. In the other two countries, Germany and Great Britain, there are no such special laws and, general law applies for the whole sport sector, even though there are other forms of employment relations. In the four countries, other contractual relations exist, for example self-employment, which is however not in the scope of this study.

The fact that there are special laws does not solve all the problems. In Spain, they mainly concern sportsmen and –women (trainers and players), therefore involved in professional sports, but also employees performing their activity in amateur sports as long as their employer is considered as the organizer of sport events. Workers who are not subject to special laws are usually subject to general labour law, but they can also be self-employed, or if they perform their activity mostly for one employer only, "economically dependent workers", which grants them some labour law protection.

In Italy, in theory, special laws only cover sportsmen and –women (players, trainers, coaches) performing an activity within one of the professional sport federations. But the law can also apply to people defined as "professional sportsmen and –women " in the special law (meaning: having a continuous labour relation in exchange for remuneration) although working for amateur sports, e.g. as a trainer employed by a sport club who receives for this activity the lion's share of his income.

Besides, administrative staff – in all sport sub-sectors – are always subject to general labour law.

The break between special sport laws, when they apply to non-professional sportsmen and –women, and general law, is not absolutely clear. In Italy, for the termination of fixed-term contracts, general law applies even for workers subject to special laws.

In countries with no special laws, such as Great Britain or Germany, general labour law usually applies. However, not all workers are subject to these laws. In Germany, the labour relation sometimes goes through contracts of service, sub-contracting or honorary contracts. There has been some litigation over the transformation of contracts with self-employed workers into direct employment contracts. When the employment relation is subject to general labour law, it is often applied in a rather flexible way, especially regarding the use of fixed-term contracts and working time legislation.

In Great Britain, self-employed workers exist in the sport sector, as well as direct employment relations. There is, however, an intermediate category, "workers", which includes those who work for an employer even though they are not necessarily subject to his authority. The, "self-employed" are those who bring in their own equipment, are in charge of organizing and performing the work they have to do, bear at least some of the financial risks and are responsible for their insurance and contributions to social security. Workers are protected in terms of minimum wage, working time and vacations. Self-employed workers have rights in terms of health and safety.

Placing a worker in a defined category (sport workers, professional sportsmen and –women, self-employed) is difficult in all countries, except for professional sportsmen and -women working in the professional sport sub-sector, where the situation is determined by special laws in Italy and Spain.

In all four countries, **collective bargaining** does not seem very important to supervise the employment relations for employees in non-professional sports, even in countries where it is supposed to play a part (Spain, Italy). The best that can be found are forms of dialogue within the sports federations, which can lead to the adoption of employment contracts or codes of conduct.

In terms of **employment contract**, fixed-term prevails for trainers. General law either fully applies, as in Spain and Italy, for sport workers who are not subject to special laws, or with differences, as is the case in Germany. There the law specifies two situations where an employer can derogate from the general law and use a fixed-term contract. In addition to this flexibility granted by law, general law is increasingly less correctly applied. For sport workers subject to special laws (Spain, Italy), special provisions are included in these laws (even if these provisions sometimes relate to general law). The main clauses of the labour contract are up to the parties even if the latter are invited – rarely obliged – to follow standards defined by the sport federations (Germany), collective bargaining (Italy), or even the guidelines of the handbooks or codes of conduct defined by the federations (Great Britain). However, these special clauses mostly concern professional sportsmen and -women, but concern sometimes sport workers too.

General **working time legislation** applies to sport workers in Germany and Great Britain. In Germany, experts acknowledge that this right should be flexible for sports. Such flexibility does exist in British law. In Italy, employees who are not subject to special law are subject to general law. However, special laws do not set any rules in this area. In Spain, special laws define working time for professional sportsmen and -women and leave the others to be subject to general law. Since the 1993 Directive on Working Time (93/104/EC), when general law applies, it pretty much sets similar rules in all countries except for the British opt-out (possibility for an employer to ask an employee to work more than 48 hours a week).

Access to **vocational training** is supervised by law in Spain. It does not appear to be subject to legal provisions in the other countries.

Summary table

	Germany	Spain	Great Britain	Italy
Presence of specific legislation	No	Yes. Royal decree No. 1006/1985 on the special work relation of sportsmen- and women performing a sports activity (trainers, coaches, players).	No. General law applies to the employment relationship.	Yes. Law 91 of march 23, 1981 on employment relations of sportsmen- and women who work in one of the six professional sport federations.
Law applicable to the contract	General labour law applies but experts acknowledge that legal provisions are rarely or only partly applied. The two major problems concern massive appeal to fixed-term contracts and failure to mention working time, and dates for holidays.	General labour law applies for sport workers who are not considered by special law as performing a sport activity. To be covered by this special law (players, trainers, coaches,) sport workers have to get most of their income from their activity and do it for an employer who organizes sport events. It does not matter whether the employer is a professional or recreational sport club.	Sport workers have to follow guidelines in terms of employment, which are laid down by the sport federations in employee handbooks or codes of conduct. Their provisions are included in the employment contract. Sport workers may be employees, with a contract of employment, or self-employed who enjoy some labour protection, especially on working time.	Athletes, trainers, supervisory staff… with a continuous employment relation in exchange for remuneration, in the framework defined by the Italian National Olympic Committee, within one of the six professional sport federations, are considered as professional sportsmen and –women. Some people belonging to these categories but performing amateur sports may benefit from this special legislation. On the contrary, this law does not apply to administrative staff in professional or amateur sports.

	Germany	Spain	Great Britain	Italy
Role of collective agreements	No collective bargaining system. Dialogue between role-players in some federations (minimum wage framework for the employment relation, employment contract standards…).	Special law provides much space for collective agreements. In practice, there exist: 1 national collective agreement (gymnastics), a few regional collective agreements for some sports and only very few any company agreements.	However, for non-playing professionals there is little formal union representation or any collective bargaining.	Specific legislation on professional sports subjects the writing of an employment contract to collective bargaining. For employees excluded from the field of the special law, general law on collective bargaining applies. Several amateur sport federations apply the collective agreement of the Italian Olympic Committee for administrative staff.
Type of contract (permanent, fixed-term)	Common employment contract legislation applies but there are many different situations. Generally speaking, for trainers, the employment contract is a one-year fixed-term contract, which can be endlessly renewed.	For sport workers performing a sport activity under special legislation, the employment contract is a fixed-term contract. For other sport workers, the employer must sign an open-ended contract, except for habitual cases of appeal to fixed-term contracts. Sport seasons do not justify fixed-term contracts. Possibility to conclude "permanent-and-discontinuous contract". The contract of service is sometimes used, but risks the application of the law protecting economically dependent workers.	In terms of content, contracts will be commercially negotiated, but certain terms are industry practice. For example for football managers, standard contracts are used although they often look very different from standard employment contracts. These will usually be fixed term contracts.	For sport workers subject to the special law: the contract may be open-ended even though, in practice, it is often fixed-term. Standard contracts of employment agreed upon in collective agreements may determine an end to the contract corresponding to the end of the season. In theory, laws on fixed-term contracts do not apply to professional sports. A fixed-term contract may last up to 5 years. For other employees: subject to general law on permanent or fixed-term contracts.

	Germany	Spain	Great Britain	Italy
Questioning the contract at the end of the season	Activities linked to sports seasons usually lead to a one-year fixed-term contract.	The fixed-term contract of sport workers performing a sport activity (specific legislation) ends precisely the day the sport or competition season ends. For others, General law on dismissal applies.		General law applies for permanent and fixed-term contracts (even for sport workers subject to the special law). If the employer terminates the contract before the end, he has to pay the salaries owed until the end of the contract.
Termination of the contract	General law regulations on the termination of the employment relation apply. The contract may be terminated when the goals negotiated individually haven't been reached (maintaining the club in the league). A lost or suspended license for a long time is a ground for the termination of the contract.	General law regulations on the termination of the employment relation apply. For employees performing a sport activity (special law): 1/ the amount of compensation in the event of unfair dismissal must be determined in the contract or, if necessary, by a judge (two months' pay at least). 2/ if the employee ends the work relationship without a real and serious cause, he has to compensate the employer. The amount is defined via joint agreement or by a judge.	General law on the termination of the employment contract applies. There is a legal minimum notice period, which varies depending upon the duration of employment.	Usual laws on the end of the employment relationship do not apply to employees subject to the special law.

	Germany	Spain	Great Britain	Italy
General law clauses	Verbal agreements are very common. General law clauses that apply to sport workers: employer's and employee's name, starting date of employment, duration of the contract, work place, function, remuneration (wages, bonus…), , working time, over-time, paid leave, notice period, applicable collective agreement.	General law applicable to an employment contract: functions, remuneration (wages, bonus, planning…); working time.	General law clauses: Employer's and employee's name, starting date of employment, work place, remuneration (wages, bonus…), obligations and rights of both parties, working time, paid leave, sick-pay, pension scheme, notice period, function, applicable collective agreement.	General law clauses: remuneration, duration of the contract, working time, paid leaves, duties and rights of both parties.
Specific clauses which apply to sport workers	Contract models proposed by the German Olympic Federation (for trainer and manager) added to general clauses, mention of the duration of the contract's validity and conditions for extension. For trainers: holding a license (losing it is a ground for termination): bearing continuous training and traveling expenses.	Part-time work and the sport activity impose an irregular distribution of working time, which should be authorized via a collective agreement or a company agreement. Concerning specific contracts for sport workers performing a sport activity (specific law): mobility clauses, duration of the contract.	A few clauses are fixed by handbooks or codes of the sport federations. Special clauses: the qualification, which clarifies the technical and skills level required (+ clean police record to be able to supervise young people).	Trainers' duty to guarantee practice, to train the players and to ensure safety at the workplace.

	Germany	Spain	Great Britain	Italy
Specific clauses which mainly apply to professional sportsmen –and women but which could apply to sport workers too.	For trainers: bonuses and objectives:	Compensation for the employer in the event of early termination of the contract.	Result bonus (especially top-level football or rugby); right of personal portrayal; supervision of relations with the media; compensation in the event of sport workers' departure before the end of the contract, garden leave.	The trainer may also use the services and equipment he needs for practice and the obligation to apply the rules defined by the Olympic Committee and its federation.
Working time	General law is usually applicable but in practice, the duration, periodicity and working time are almost never defined in the employment contract.	For sport workers performing a sport activity (specific law), working time equals time they spend performing the mission for their employer: competition, training, technical seminars… For other sport workers, it is the time spent under the management of the employer.	Sport workers are subject to the Working Time Regulation 1998	General law does not cover employees subject to the special law, which does not have any provisions on this matter. Sport workers are subject to general law (decree No. 66 of April 8, 2003).
Maximum daily and weekly limits on working time	Daily limit: 8 hours with possibility to go up to 10 hours. Maximum weekly average: 48 hours. Minimum rest between two working days: 11 hours	Daily limit: 9 hours Maximum weekly average: 48 hours. Minimum rest between two working days: 12 hours. Weekly rest between two working weeks: 48 hours – which can be reduced to 36 hours for employees subject to special law.	Daily limit: 13 hours Maximum weekly limit: 48 hours, which can be exceeded if the employee agrees. Minimum resting time between two working days: 11 hours. 24 hours between two working weeks.	For sport workers subject to general law: daily limit: 13 hours Maximum weekly limit: 48 hours Minimum resting time between two working days: 11 hours

	Germany	Spain	Great Britain	Italy
Work on Sunday	Prohibited in general law but possible given the particular conditions for the performance of a job (trainer)	If, for reasons linked to the sport activity, the employer asks an employee to work on Sunday or a holiday, he must give an additional day off. Additional remuneration is not specified.	No legal provisions for work on Sunday (except for commerce). Work on Sunday can be defined in the handbook or the code as well as in the employment contract.	Sundays are usually days in which traditionally sport events take place: sport workers, in particular athletes and coaches, are not off. The only general rule in force, which is applicable to other sport workers, is the right to one day of rest every 7 days.
Paid leave	24 working days a year. Leave is defined by the employer according to the activity of the club and the competition agenda.	30 days a year agreed to with the employer. The employee may not unilaterally define his leave periods.	24 days a year (4.8 weeks) since October 1, 2007. 28 days (5.6 weeks) from April 2009.	The law imposes four weeks of paid leave. No special provision in the special legislation. Professional sport collective agreements usually plan 4 weeks to be taken in the summer when there are no competitions.
Access to vocational training	Continuous training can be paid for by the employer after individual bargaining. Only sport workers employed by federal, regional or public federations or organizations get continuous training paid.	All employees enjoy the right to access professional training as part of their employment relationship. Employers must pay monthly contributions to the State (professional training contributions are liquidated in the same document as social security contributions). The exact amount is 0.6% of gross salary pay by the employer. The employee pays an additional 0.1% of their gross salary.		As regards the professional sportsmen and -women, the sport federations pay for the occupational training of their employees (administrative staff, trainers, coaches, athletes, etc.) on a course-by-course basis.

Germany

By Thomas Schnee, journalist, correspondent in Berlin for Planet Labor.

In the sports sector, how do contractual relationships between non-playing staff (i.e. trainers and administrative staff) and employers work?

- What is the **law** applying to contracts between an employee and an employer in the sports sector?

The legislation covering contracts and work conditions in sport, whether professional or amateur, are the general provisions on employment rights contained in the German Civil Code *(Bürgerliches Gesetzbuch*) and the Law on Protection against Redundancy *(Kündigungsschutzgesetz)*, the latter of which however only applies to companies with more than 5 employees. According to experts, the problem is not so much the absence or lack of legal provisions, but more the fact that, in the world of sport, these are rarely applied, or not applied in full.

Generally speaking, the work patterns and uncertain financial situation of clubs and sports organisations poses a major problem for applying laws. The two greatest problems are the abusive use of fixed-term contracts and the absence of any defined working hours or dates when holidays are to be taken.

- What is the role of **collective agreements** signed between an employers' association and trade unions in this sector? Do some sports federations sign collective agreements for their employees?

The sports sector (both professional and amateur) knows no collective bargaining between social partners with regard to defining working conditions and wages of trainers and other staff of sports clubs. There is no trade union concerned with this type of staff. The legal and salary position of trainers varies greatly from one type of sport to another, and from one federation to another.

From case to case, a sort of "bargaining" may have taken place within a sports federation. This may define minimum requirements and offer employment contract templates to its affiliated clubs and organisations. This is generally the result of the work of an internal commission consisting of the interested parties.

The German Olympic Federation (DOSB) with its overall responsibility for national sports federations and the regional sports federation in the individual federal states has tried to fill this legal vacuum by offering contract templates for trainers and administrative staff of sports clubs, whatever their level. This does not prevent certain federations from defining and offering their own contract templates,which are possibly better "tailored" to individual situations. The German Federation of Football Teachers (BDFL), encompassing both professional and amateur football trainers, is offering this type of service. This is one model that could serve as an inspiration for employers.

In 2005, the German Minister of Home Affairs, responsible for sport, and the German Olympic Federation (DOSB) launched a "*Traineroffensive*" to "improve the situation of sports trainers" in Germany. The campaign objectives were: 1. to improve the image of the profession (with the public and the trainers themselves); 2. to improve wages and working conditions; 3. to increase the quality and availability of basic and advanced training courses.

With regard to the last two points, an in-depth study *(Berufsfeld Trainer)* was commissioned by the Institute for Sports Science at the University of Tübingen. The report will be finalised in 2009 and will serve as a base for working out proposals at a ministerial level and a national sports federation level. For the purposes of our study, the researchers from the Institute were interviewed by *Planet Labor*. The study's authors have identified 1812 trainers working at national level (A, B And C trainer licences, corresponding to the 1st, 2nd and 3rd divisions) in Olympic sports, 12.9% of whom are women. More than half of salaried trainers earn less than 3000 EUR (gross) per month. On average women trainers are earning some 1000 EUR per month less than their male colleagues.

- Is the **employment contract** an open-ended or fixed-term contract? Is it another type of contract? Does it end every season? Is the employer allowed to terminate it before it ends if it is a fixed-term contract?

The type of employment contract a trainer has depends on the nature of his links with his employer and the obligations imposed on him by the work relationship. Trainers employed by a professional or amateur club or a national or regional federation may have the status of a salaried employee or be self-employed. The definition of the contractual relation between the organisation and the individual varies according to the financial resources of the club or federation, as well as to the workload and working hours. If a employment contract does exist, this may specify the number of hours to be worked. More commonly it sets down work schedules and times when the trainer has to be present (training sessions, presence at matches, etc.)

In both amateur and professional sport, the majority of trainer contracts are fixed-term, often annually renewable.

The use of fixed-term contracts in sport is based on the general employment rights and, in particular, on the Law on Part-Time Work and Fixed-Term Contracts (*Gesetz über Teilzeitarbeit und befristete Arbeitsverträge – TzBfG*). This imposes a limit of three end-to-end fixed-term contracts with the same employee within a maximal period of two years. But it also provides dispensations for certain branches – including sport. The law foresees 8 reasons *(§ 14 Abs. 1 TzBfG)* not just for justifying the signing of such exceptional contracts, but also for renewing fixed-term contracts over and above the limits set by law. Two reasons apply to sport. One involves mental and physical attrition, the other the characteristics and constraints of work in a particular sector (*Eigenart der Arbeitsleistung*). For the world of sports the above-mentioned *TzBfG* justifies the use of fixed-term contracts outside the general provisions with two particular characteristics summed up under the term "specificity of the service provided": 1. "Erfolgsorientierung" or "performance-based contracts": sport is an activity "oriented towards and dependent on results" delivered in competitions; 2. "Branchenüblichkeit" or "customary in the branch": the customs prevalent in a whole sector can justify a recognised practice outside the general framework of the law. This is the case with sports – both professional and amateur – where working patterns are set by the nature of the work, meaning that they are automatically outside the general scope of the law. It is also a sector with a tradition of widely using fixed-term contracts.

The trainer may also sign a "personal service contract" (*Dienstvertrag - Par. 611 ff. BGB*). Such a contract relates to the sale of a personal service with or without an obligation to achieve certain results, in return for remuneration. In this case the trainer cannot be considered as a salaried employee. He can work for several different employers at once. In theory, he can make use of his time as he wants and may be employed for particular jobs (e.g. trainers hired as talent spotters by the German Football Federation). This is the case with tennis players, golf players, or high-level sportspersons who make use of personal trainers.
When the contract includes an obligation to achieve certain results (for example, the club must not be relegated), it is contract for a service with a specific result *(Werksvertrag)*.

Some 25% of trainers holding an A, B or C national licence (for the 1st, 2nd or 3rd division) are self-employed, invoicing their fees on the basis of an "*Honorarvertrag*". According to the authors of the *Berufsfeld Trainer* study, more than half of these trainers earn less than 400 EUR per month.

Numerous rulings by labour courts show that the border between a salaried and non-salaried status remains ill-defined and is often a bone of contention, especially when the trainer works not just for one employer in spite of his service contract. When there is no employment contract in due form, court decisions generally tend to go against trainers wishing to have their status as a salaried employee recognised. Certain federations, such as the Baden-Württemberg Handball Federation are offering basic contracts for trainers taken on as self-employed workers.

- What are the **main clauses** of an employment contract? Are there some specific clauses used in the sport sector?

According to numerous federations, the practice of spoken agreements remains widespread in the area of sport. As there is no official or negotiated legally-binding contract, we used the template contracts of the German Olympic Federation as our information source. These contracts foresee:

- A timeframe for the contract's validity (either fixed-term or open-ended)

For trainers:

- The tasks to be accomplished requiring the presence of the trainer,
- A clause governing contract renewal (often an implicit annual renewal unless explicitly terminated),
- The obligation for the trainer to hold a trainer's licence corresponding to the club's level. Loss of licence or long-term suspension are seen as reasons for contract termination.
- Bonuses and targets governing their payment (generally non-relegation or promotion).
- Reimbursement of any expenses associated with further training (for the trainer).
- The reimbursement of moving expenses.

- What are the **working hours** of employees in the sports sector? Daily and weekly limits? Do they work on Sundays? Does the legislation or a collective agreement allow differences between working time, on-duty time, etc.?

The duration, frequency and hours of work are not always specified in the employment contract (except in certain organisations belonging directly to the federal administration or state-funded). In many cases, just the tasks to be accomplished are specified.

Normally in such cases where working hours are not specified, they are by default governed by the Law on Working Hours (*Arbeitszeitgesetz*) which mirrors the 1993 EU Directive. Daily uninterrupted working hours are set here to a maximum of 8 hours with the possibility of extending this to ten hours provided that the 6-month daily average does not exceed 8 hours. The maximum weekly average is 48 hours. In addition, an 11-hour rest is required between two working days. Sunday working is also forbidden, with exceptions for certain professions requiring such. This is of course the case for sports trainers.

With its specific work patterns the world of sports – whether professional or amateur – does not come under the majority of provisions of this law. As noted by the specialist lawyers Christoph Wüterich and Markus Breucker, "training session and match schedules dictate the timetables of players and trainers. As such, sports practice is in notorious contradiction to the legal reality of the EU Directive and the federal laws governing working hours." (cf. *Das Arbeitsrecht im Sport*", Boorberg Verlag, 2006)

- How much **holiday** do employees get? Can they take them when they want? Are there specific rules for the sports sector?

In the absence of any clauses on the amount of paid holiday or any other individually negotiated clause, the legal minimum applies – 24 working days per year. Holidays are governed by the Federal Law on Holidays (*Bundesurlaubgesetz*). For part-time employees, the amount of holidays is calculated proportionally to the time worked. The dates when holidays are to be taken are fixed by the employer in accordance with the club's activities and match schedules. Here as well, German legislation provides for exceptions for sports, stating that holidays must in no way collide with the club's operations.

- What are the modalities for the **termination** of the contract?

In the absence of any special clauses negotiated between employer and employee (stating dates and or timeframes within which the contract can be terminated) the employment contract can be terminated in accordance with the general provisions foreseen by the law. Or in the case of a "personal service contract" (*Dienstvertrag*), if the individually negotiated targets are not achieved by one of the contract parties (e.g. relegation). This second case is however fairly seldom in amateur sport.

For salaried employee, the law's general provisions foresee that an open-ended employment contract can be terminated by resigning ("ordinary" resignation). Resignation must be tendered in written form. The employment then ceases four weeks after the end of the month in which the resignation letter was received. In such cases the employee does not need to state his grounds for resigning. With a fixed-term contract however, only an "extraordinary" resignation is possible, needing to be justified by an "important" reason making the relation between employee and employer untenable (e.g. sexual harassment, non-respect of contract clauses, etc.). In such cases, the employment ceases forthwith.

Generally speaking, the loss or suspension of a trainer's licence is a reason for termination in both professional and amateur sport.

- Do employees have access to **vocational training**? Is the employer required to pay for 'n' days vocational training or to set aside a fixed part of the club's or association's total wage budget for training?

Amateur clubs are under no obligation to guarantee their trainers access to vocational training. This is usually guaranteed by the Federation, not by the employer. It is even quite usual for a trainer to pay a nominal share of training expenses out of his open pocket. Within the "*Traineroffensive*" framework, certain federal and regional federations have raised the level of their subsidies provided to clubs for basic and advanced training. It is seldom for an employment contract to contain a clause obliging the employer to provide access to advanced vocational training and reimbursement of expenses, nor for there to be any obligation for a trainer to take part in training cycles. The important thing is that he does everything to keep his licence. Training courses on offer are mostly charged. Whether costs are reimbursed by the employer is the subject of individual negotiation. It is only employees of federal or regional state-controlled organisations or of public structures or structures recognised as being in the general interest of sports management or representation (*)[1] who benefit automatically from reimbursement.

[1] (*) i.e. the German Olympic Federation (DOSB), the sports federations of the individual German states affiliated to the DOSB, specialised sports federations (representing just one sport).

Spain

By Francisco Gómez Abelleira, professor at University Carlos III, correspondent in Madrid for Planet Labor.

How do contractual relationships between an employee (not a professional sport player or trainer, this time, but an employee (trainer, supervisor, administrative, for example), and his employer work in the sport sector?

- What is the **law** applying to contracts between an employee and an employer in the sports sector?

In the sport sector, two different kinds of employment relationships exist.

Special employees - Those who professionally practice a sport activity under the direction of someone else maintain a special employment relationship with their employers (clubs, federations, sport associations, etc.). The special employment relationship or special employment contract is a legal concept of the Spanish law, meaning that the relationship is of an employment nature but with a number of peculiarities. Thus, the special contract is regulated by a special regulation: the Royal Decree 1006/1985. In absence of specific provision in this regulation the general employment laws apply (non-peremptory legislation), among them the Employees' Statute of 1995.

> *Employees of this type are sportsmen and-women themselves but also trainers or coaches; case-law shows some doubts whether or not a physical or athletic trainer belongs in the special relationship.*

Common employees - On the other hand, these same clubs, federations, sport associations, etc. may establish general or common employment relationships with sport workers whose functions are not the practice of a sport activity. These other employment relationships are not regulated by the Royal Decree 1006/1985, but by the general employment laws (Employees' Statute of 1995 and other enactments).

Employees of this other kind are, for example, administrative staff, medical and sanitary staff and auxiliary and blue-collar employees not directly involved in the professional practice of sport.

It must be noted that some of these services may be rendered through contractual relationships other than an employment contract. This is the case with doctors or some other highly specialised professionals (lawyers, accountants, etc.), whose relationships with federations, clubs, etc. are often non-employment relationships: usually, civil contracts for services. In this case, though, a new law passed in 2007 (Ley 20/2007) regulates the service relationship between a client (the federation, club, etc.) and a professional (a self-employed) where the latter receives at least a minimum 75% of their professional revenue solely from the former (this is called an "economically dependent self-employed"). The law 20/2007 gives some additional protection to this kind of self-employed professionals.

The employer may be a non-professional club and still the employee (the trainer) may be a professional. In this case, the trainer is a special employee. Two requisites must be met: the trainer must be a professional, in the sense that s/he must earn a real salary and the employer must be either a club or a sport entity (sport association, federation, etc.) or an employer or commercial firm whose main purpose is to organize sport shows. The regulation does not require that the employer be a "professional" club: the "professional" is the employee.

- What is the role of **collective agreements** signed between an employers' association and trade unions in this sector? Do some sports federations sign collective agreements for their employees?

Collective agreements are, in theory, very important both for special and common employees. Nowadays many aspects of the employment relationship are given over by the laws and regulations to the collective autonomy of employers' and employees' associations. In the Royal Decree 1006/1985, regulating the special relationship, collective agreements are mentioned at least 11 times in just 21 articles. But where no collective bargaining agreement is applicable, the employers may typically try to reach "company agreements" in order to regulate some aspects of the employment relationships that the law does not regulate or that the law delegates in collective agreements or business-level agreements.

The number of collective agreements for sport federations is very low at all levels. As far as we know, the only *national* collective agreement signed by a Spanish Sport Federation is that of the Gymnastics Federation (1995). It may be interesting to underline that a collective agreement more than 12 years old is not a normal feature of collective agreements in Spain, that usually have a duration of 2 to 5 years. A few regional federations have signed regional collective agreements in sports such as football (Andalusia, Valencia, Castile-Leon, Catalonia), basketball (Castile-La Mancha), sailing (Andalusia), swimming (Madrid) and sport for disabled person (Valencia). The number of "company agreements" is very low too.

Since it affects a large number of employees, it is important to mention here the national collective agreement for undertakings, clubs, associations, partnerships, etc. whose purpose is to offer to the public services related with the practice of sport or exercise (gyms, swimming-pools, exercise equipment, etc.) or to organize sport events, celebrations and competitions. This collective agreement, signed in 2006, contains more than 50 articles, regulating an ample range of employment issues, such as: the change of place of work, types of employment contracts, working time, rest periods, holidays, different kinds of leave of absence, salary and compensation, professional categories and groups, disciplinary regime of employees, professional training, collective rights, health and safety, etc.

- Is the **employment contract** an open-ended or fixed-term contract? Is it another type of contract? Does it end every season? Is the employer allowed to terminate it before it ends if it is a fixed-term contract?

The employment contract of sport special employees (trainers, managers, coaches, etc.) is always a fixed-term contract. Its duration shall always be definite, either by reference to a precise date or by reference to a competition or season. Thus, if a contract is made for a season, it may be reconsidered at its end.

The legal framework for common employees (administrative staff, etc.) is the opposite: their contracts of employment must be of indefinite duration, unless a precise, clear and objective legal reason exists for establishing a fixed-term relationship. As a general rule, a sport season is not a legal reason for making fixed-term contracts. However, the Spanish employment law contemplates the possibility of making a special contract --called "permanent-and-discontinuous contract" ("contrato fijo-discontinuo" in Spanish)--, whose duration may be linked to the season's duration, provided that the employee is called again into employment by their employer at the beginning of every season. Thus, the employee is discontinued from employment when the season ends but s/he is a permanent employee in the sense that s/he is entitled to work again for their employer at the beginning of every new season. This kind of contract makes it possible for the federation or club that employs personnel to cut salary and other employment-related expenses during the time where there is no need to obtain services. The condition for this contract to be legal is that the no-work period lasts at least a couple of months and that there is a cyclical or rhythmical repetition of the scheme (work-period or season / no-work-period, out of season).

Where the contract is a fixed-term contract the employer may terminate it before it ends only if s/he has a legal cause for termination: either objective (redundancy) or disciplinary (serious infringement by the employee of their basic duties). If there is no legal reason for terminating a fixed-term contract before it ends, the termination is an "unfair dismissal", entitling the employee to perceive a compensation of 45 days of salary per year of employment with their employer, up to a maximum of 42 monthly payments. The employer may terminate the contract with no cause paying the established amount of compensation. Provided that s/he perceives the legal compensation, the employee will not file any complaint, unless s/he considers the dismissal as discriminatory or made in violation of fundamental rights: then the dismissal will be void and the employee holds the right to reinstatement.

- What are the **main clauses** of an employment contract? Are there some specific clauses used in the sport sector?

The main clauses in any contract of employment are the following:
1) Functions. The definition of functions is especially important in the case of managers, coaches and technical staff, since there may be a variety of tasks that may be object of debate, whether or not the employee must perform them, whether or not the employee may suffer an alteration in their functions, etc.

2) Salary. Gross salary must be fixed in the contract. It may contain a base payment, plus a number of complements, incentives, bonuses, etc. Some employee benefits may also be established in contract. It is getting common to establish perks such as company car, employer-paid preschool or day care, health insurance, allowances for lunch, etc.

3) Length and distribution of working time. Part-time contracts of employment are often used in this sector, and also in organisations where the level of activity does not allow for the employment of a full-time doctor, masseur, etc. In any case, since there may be an irregular or atypical distribution of working time, it is important to explicitly establish some duties such as the duty to work the weekends, etc. The irregular distribution of working time should in principle be agreed upon through a collective agreement or, at least, through a company agreement.

As to the special contract of a sport professional (remember that this concept includes trainers, coaches, etc.), some typical clauses are besides:
1) Mobility. It may be reasonable to include a clause establishing the duty of the employee to accept geographical mobility as part of their regular services. It is advisable to include the mobility clause for professional trainers in non-professional sport as well as in professional sport.
2) Duration. If the contract is for a special employee, the duration must be stated in the contract (a year, a season, etc.)

3) Termination. It is recommended to include the effects of termination by dismissal or by the will of the employee. Some employees may require including a clause establishing a higher rate of compensation in case of termination by the employer's will. Correspondingly the clubs or sport organisations, mainly in professional sports, may decide to include a clause protecting themselves against a premature termination by the employee's will: for instance, establishing a high compensation to be paid by the employee should he want to terminate the contract before its date of termination.

- What are the **working hours** of employees in the sports sector? Daily and weekly limits? Do they work on Sundays? Does the legislation or a collective agreement allow differences between working time, on-duty time, etc.?

The working time of the special employees (trainers, etc.) is the time in which they effectively render their services to the employer: competitions, training sessions, technical sessions, etc.

For any other employee, the concept of working time includes any time in which they find themselves under the direction of their employer.

Daily and weekly limits: Both special and common employees have the right to a daily rest of 12 hours between a working day and the next one. The maximum duration of a working day is 9 hours. (Under certain circumstances, overtime may be required as an extension of an ordinary working day).

The weekly rest period is, at least, an uninterrupted period of a day and a half for all employees. However, special employees may be required to waive the continuity of this period, because of sport-related reasons. In this case, the half-day may be enjoyed separately on any other day of the week. Due to immediate sport events, the employer may substitute an uninterrupted period of 36 hours for the day and a half period (this applies only to special employees, not to common employees). The general weekly rest period of a day and a half means that the employee is entitled to enjoy a continuous period of 48 hours between the end of a week and the beginning of the next working week: these 48 hours result from adding a daily rest period of 12 hours to the weekly rest period of 36 hours. When the special regulation for professional sport entitles the employer to substitute an uninterrupted period of 36 hours for the day and a half period, it means that between the end of a working week and the beginning of the next working week just 36 hours is enough, provided that there is a need due to an immediate sport event.

If work must be done for sport-related reasons, the employer may require the employee to work on Sundays or on any other national, regional or local festivity or public holiday. In this case, the employee is entitled to an alternative day of vacation. It is quite doubtful whether or not the employer must pay a bonus of 75% of the salary for work done in festivities or public holidays. According to some opinions, the legal provision in this sense is not currently in force.

- How much **holiday** do employees get? Can they take them when they want? Are there specific rules for the sports sector?

Annual holiday for any employee is a minimum period of 30 days. There is no legal restriction to divide these 30 days in a number of parts. However, article 8 of the International Labour Organization convention no 132 may be considered to reinforce the right of the employee to enjoy a part consisting of at least two uninterrupted weeks.

No employee may unilaterally fix his/her period of holidays. Individual or collective agreements control this aspect of the employment relationship. However, without any individual or collective agreement, the employer's criterion applies, without prejudice to the employee's right of appeal before a labour court.

There is no specific rule for the sport sector.

- What are the modalities for the **termination** of the contract?

Regular or common employees may be terminated by dismissal. Dismissals are basically of two types: objective (layoff) and disciplinary. Objective dismissals (based on economic, technological, organizational reasons that cause redundancies) require a letter of dismissal (or a collective procedure with information and consultation of employee representatives where the dismissal affects a minimum number of employees), a 30 day notice, and a minimum compensation of 20 days of salary per year of services, up to a maximum of 12 monthly payments.

Disciplinary dismissals (based on a serious infringement of the employee's duties) require a letter of dismissal.

Due to the real difficulties that employers face in court trials when trying to prove the objective or disciplinary cause, the most easy and practical way of dismissing nowadays in Spain consists of making the dismissal, recognising at the same time its unfairness, and making the deposit of the amount of legal compensation: 45 days of salary per year of services, up to a maximum of 45 monthly payments. This course of conduct avoids additional expense that commonly arises out of legal proceedings (salary during the whole duration of the proceedings, etc.).

The contract may also be terminated by the mutual agreement of both parties thereof.

Contracts may also be subject to a certain condition, so that if the condition does happen, the contract may be terminated by either party. Conditions must be legal and may not be abusive for the employee. Though this is a legal possibility, it is not usual in the sport sector.

Finally, contracts of employment may be terminated due to the will of the employee. The will of the employee may be of two kinds: free will (resignation), with no need to allege any legal cause (this applies even where the contract is of a fixed-term nature), and grounded will (constructive dismissal), provided that the employee proves that a serious infringement of his/her rights has occurred because of the employer's behaviour. In the latter case, the compensation of the unfair dismissal applies (45 days of salary etc.)

For special employees, the following specialties apply:
-The compensation for unfair dismissal must be fixed by contract or, in absence of provision therein, by the judge, its legal minimum amount being two monthly payments.
- In case that the employee terminates the contract without a fair cause, s/he must pay damages to the employer: if there is no agreement as to the exact amount of damages, the judge will establish it taking into account all the circumstances of the particular case. If the employee begins working for another employer within a year, the latter will be liable for the damages.

- Do employees have access to **vocational training**? Is the employer required to pay for 'n' days vocational training or to set aside a fixed part of the club's or association's total wage budget for training?

All employees enjoy the right to access professional training as part of their employment relationship. In the specific case of special employees this is especially important, since they have the right to get real occupation, meaning that they may demand to participate in any training, technical or physical preparation session, etc. planned by their employer.

As a consequence of this right, employers must:

1) Pay monthly contributions to the State (professional training contributions are liquidated in the same document as social security contributions). The exact amount is 0.6% of gross salary pay by the employer. The employee pays an additional 0.1% of their gross salary.

2) Allow employees to attend examinations and tests due in the course of their official studies (either professional or university studies). This leave of absence does not imply any deduction of earnings.

3) Allow employees to follow professional or academic studies. In this case, a very important part of the salary and social security contributions may be paid by the State. The maximum duration of this paid leave of absence is 200 hours per year.

Besides these duties, employers in the field of sport - professional sport, though also in non-professional entities - offer professional training as part of their regular activities, especially to coaches, trainers and technical staff and managers. Many of these training schemes are co-financed by the State or by Regional or Local Governments.

Great Britain

By Richard Macmillan, lawer associate at Lewis Silkin (London)

How do contractual relationships between an employee (not a professional sport player or trainer, but an employee (trainer, supervisor, administrative, for example) and his employer work in the sport sector?

- What is the **law** applying to contracts between an employee and an employer in the sports sector?

There is no additional legislation that distinguishes the rights of sport workers from any other employee. Thus, sport workers have rights under the Employment Rights Act 1996, anti-discrimination and contract law. They will be bound by employee handbooks (containing employment policies) or code of conduct depending on what policies each National Governing Body ("NGB") operates for their sport. An "employee handbook" will often contain more extensive policies than are contained in an employment contract and might cover such things as disciplinary policy and other internal procedures that employees are expected to abide by. The handbook will often be specifically referred to as forming part of the contract of employment i.e. their terms will be incorporated as terms of the contract

Trainers or coaches may operate their own business and therefore work at many different sporting bodies, but managers will tend to be employed by individual clubs and therefore negotiate a contract.

An analysis of case law is required as to whether a sport worker would be deemed an employee. Once an individual is deemed an employee they obtain employment rights. If an individual cannot satisfy the definition of 'employee' but can 'worker' they can be accredited some employee rights (under the Working Time Regulations). An "employee" is defined by English law as someone who works under a contract of employment. A "worker" is a self employed "who undertakes to do or perform personally any work or services for another party to the contracts whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual". In practice, a court will look at a number of factors in determining if an individual can be classified as an employee. These will include the level of control exercised by the employer over the individual, whether the individual performs personal service or can send a substitute in their place and whether there is a duty on the employer to provide work and on the individual to perform it. Those with worker rather than employee status will still acquire rights under the Working time regulation, these include the right to paid annual leave, rest breaks and the right not to work more hours than the statutory maximum working week.

- What is the role of **collective agreements** signed between an employers' association and trade unions in this sector? Do some sports federations sign collective agreements for their employees?

Whilst for *players*, the trade unions play a significant role, for example cricketers have their own trade union: the Professional Cricketers Association. However, for non-playing professionals there is little formal union representation or any collective bargaining. Football managers can go to the League Managers Association to help arrange legal representation, but they are not a trade union.

- Is the **employment contract** an open-ended or fixed-term contract? Is it another type of contract? Does it end every season? Is the employer allowed to terminate it before it ends if it is a fixed-term contract?

In terms of content, contracts will be commercially negotiated, but certain terms are industry practice. Certain terms will be included in all contracts for particular roles within an industry, for example with football managers, standard form contracts are used although they often look very different from standard employment contracts. These will usually be fixed term contracts.

Some contracts will contain garden leave provisions (garden leave, as this is known, occurs where an employer chooses to exercise its rights under a clause in the contract to require the employee to stay away from the office during the employee's notice period). Thus if an employee resigns without notice, a club can hold the employee to their contractual obligations and suspend them on gardening leave for the duration of their notice. In the case of *Crystal Palace v Bruce [2002] SLR 81*, the judge upheld an injunction to enforce the gardening leave provisions to stop manager Stephen Bruce from working for a competitor. Most contracts will have restrictive covenants relating to non-competition, non-dealing and restraint of trade to prevent the employee from competing

- What are the **main clauses** of an employment contract? Are there some specific clauses used in the sport sector?

The employer must give the employee a *written statement* setting out certain rights and obligations of the employee. This statement, which must be given within 2 months of the employee's starting date, must contain at least the following data: the employer's and employee's name, the starting date of employment, the date on which his "continuous employment" began (i.e. where he has been working for this employer or for another employer within the same group), the place of work, wage conditions including the scale or rate of remuneration or the method of wage calculation and its payment terms (monthly/weekly), the scope of working hours, any conditions relating to holiday and holiday pay, payment of wages and salaries during illness, details of any relevant pension scheme, the notice period applicable to both employees and employers, a job description, the period of employment (in the case of a fixed-term employment contract), a list of any collective agreements which directly influence the conditions of employment and the disciplinary and grievance procedures which apply to the employee. If the employee is to work abroad for a period of 1 month or more, the employer must give details of the terms which apply to this.

Qualifications

There are usually provisions relating to qualifications, especially for sports coaches. In the UK there are different coaching qualifications according to the different sports and each NGB will have different requirements, relating to the skill and technique required. In addition, if a coach is working with children, they will be required to pass Criminal Records Bureau (CRB) clearance.

Performance

It is common for provisions to be included relating to performance of the team. This may be clearly defined within a separate schedule (more likely for a sportsmen –and women in high profile football or rugby club) or it is a discretionary award.

- What are the **working hours** of employees in the sports sector? Daily and weekly limits? Do they work on Sundays? Does the legislation or a collective agreement allow differences between working time, on-duty time, etc.?

The Working Time Regulations 1998 cover all employees, including those in the sports sector. A summary of the major provisions:

48 Hour maximum working week: an employee's average working hours must not exceed 48 per week. An employer must take all reasonable steps, in keeping with the need to protect health and safety, to ensure that this limit is complied with. Failure to do so is an offence punishable with a potentially unlimited fine. This provision can be and frequently is opted out of by employees by giving their consent in writing.

Rest periods and rest breaks. The WTR allow workers all of the following: 1°A daily rest period of 11 hours uninterrupted rest per day; 2° a weekly rest period of 24 hours uninterrupted rest per week (or at the employer's choice, 48 hours per fortnight).

- How much **holiday** do employees get? Can they take them when they want? Are there specific rules for the sports sector?

The right of workers to take holiday is governed partly by statute and partly by contract. Since 1 October 2007, under statute, all workers have the right to a minimum of 4.8 weeks' paid annual leave (equivalent to 24 days for a full-time employee) subject to certain exceptions. The statutory entitlement increased from four weeks on 1 October 2007 and is due to increase to 5.6 weeks in April 2009. It is not unusual for employers to require their employees to take their leave during certain prescribed periods of the year. This is common in the sports sector where players and staff alike would be expected to take their leave during the off season.

- What are the modalities for the **termination** of the contract?

There is a legal minimum notice period which varies depending upon the duration of employment. If the period of employment is longer than 1 month but less than 2 years, the period of notice must be at least 1 week. After 2 years, the minimum notice period is always extended by an additional 1 week for each additional year of employment up to a maximum of 12 weeks' notice after 12 years' employment. In an employment contract the contracting parties often stipulate a longer notice period than that prescribed by law.

Italy

By Paolo Provenzali et Jessica Middlemas, Law office Toffoletto e Soci, Milan

How do contractual relationships between an employee (not a professional sport player or trainer, this time, but an employee (trainer, supervisor, administrative, for example), and his employer work in the sport sector?

- What is the **law** applying to contracts between an employee and an employer in the sports sector?

Definition of "sport workers"

a. *Sports workers, and sportsmen –and women*

Law n. 91 of March 23, 1981 applies to «*relationships between companies and professional sports persons*». Professional sports persons are, according to Law n. 91, «*athletes, coaches, technical-athletic directors and athletic trainers, who carry out a sports activity against compensation and on a continuous basis in accordance with the regulations of the Italian National Olympic Committee and who are considered as sportsmen and- women by the relevant national sports federations, in accordance with the rules set out by the federations themselves*». In other words, on the basis of this law, sportsmen and-woman in Italy are not only those individuals, indicated above, who carry out a sports activity against compensation and on a continuous basis but who are also considered as professional sports persons pursuant to the rules set out by the relevant national sports federations.
As a consequence, since it is up to the single sports federation to decide whether to have a professional sports league or not, not all sports in Italy are professional but only the following six: soccer, basketball, cycling, motorcycling, boxing and golf. Therefore, theoretically, all other sports in Italy are considered amateur sports.

Consequently, only those sports workers indicated under Law n. 91, who are considered sportsmen – and women according to the rules set out by the single national sports federations will be subject to the rules set out under the above-referred law.

However, some case-law has stated that, independently from the fact that formally an sport worker like a trainer is not part of a professional sports league, he/she can still be considered a sportsman- and woman, taking into consideration the fact that he/she carries out the sports activity on a continuous basis and against (sometimes very high) compensation (the so-called "*shamateurs*") with the consequent application of Law n. 91 to their relationship.

Except for these particular cases of *shamateurs*, in general amateur sports persons are excluded from the discipline set out under Law. N. 91.

Amateur sports persons, according to a Ministerial Decree of 17.12.2004 can be defined as «*all those persons, registered* [with a sports club, association, etc. – ndr] *who carry out an athletic activity on a competitive basis, a non-competitive basis, for fun or as a past-time, with exclusion of those that are defined as professionals*».

With this in mind, the considerations made below, which strictly concern sports persons, refer to *shamateurs* or to specific cases of amateurs that can be considered employees and not to the generality of amateur sports persons.

It does occur that amateur sports persons are formally self-employed workers but *de facto* employees. In these cases a claim can be brought by the worker before the competent Labour Tribunal to ascertain the existence of an employment relationship. The judge will therefore take into consideration whether there are the elements that indicate the existence of an employment relationship: the fact that the worker is subject to the direction, control and supervision of another individual, the existence of working hours, compensation paid out in a fixed measure.

b. *Administrative staff*

As regards the administrative staff of sports federations or associations, these are excluded from Law n. 91. The administrative staff can be either employees or self-employed workers.

It does occur, however, that the administrative staff of sports federations or associations is considered formally as self-employed workers but are in fact employees. In these cases a claim could be lodged before the competent Labour Tribunal, which could re-qualify the relationship, if the elements which indicate an employment relationship exist (i.e. if the worker is subject to the supervision and control of another, has fixed working hours, planned holidays and leave, etc.).

- What is the role of **collective agreements** signed between an employers' association and trade unions in this sector? Do some sports federations sign collective agreements for their employees?

Art. 4 of Law n. 91/1981 states that the employment relationship of sportsmen –and women are constituted by drawing up a written contract between the sports person and the employer pursuant to the standard contract set out by the national sports federation and the representatives of the categories involved. As Law n. 91/81 sets out rules that apply only to professionals sports, in the sense indicated above, then also this provision applies only to sportsmen –and women from professional sports.
As regards the collective bargaining agreements applied to sportsmen –and women, these are specific to the role covered. Therefore, there is a collective agreement for athletes, one for trainers, etc.
The standard contract set out under the collective agreements for professional sportsmen and-women is binding in the sense that it cannot be derogated from in a pejorative sense for the employee, but only if this entails a more favourable treatment.
As regards amateur athletes and the other sport workers by a sports association, the general rules will apply as to the application or not of a collective bargaining agreement to their relationship.

In fact, in general terms, the employer is under no obligation to apply a collective bargaining agreement to its employees unless:

- the employer is enrolled in the association that signed a collective agreement;
- or, even if the employer is not enrolled, but when the employer recalls in the individual contract provisions of the collective bargaining agreement.

That having been said, from a survey done with the sports federations of amateur sports (in particular with *FIPAV* – Italian Volleyball Federation), it appears that the federations tend to apply to their administrative staff the National Collective Bargaining Agreement for employees of *CONI Servizi* (the Italian National Olympic Committee).

- Is the **employment contract** an open-ended or fixed-term contract? Is it another type of contract? Does it end every season? Is the employer allowed to terminate it before it ends if it is a fixed-term contract?

Employment contracts of sports persons in amateur sports as well of the other employees of sports associations, clubs and companies can be hired both on a open-ended as well as on a fixed-term contract.

As regards in particular fixed-term contracts, art. 5 of Law n. 91/1981 sets out a specific discipline for fixed-term contracts for sportsmen –and women. The fixed term contract can have a maximum duration of 5 years. It is possible however to renew fixed-term contracts between the same parties. The law, in this case, does not provide for a maximum number of times a fixed-term contract may be renewed.

As for sport workers which are not under the discipline of Law n. 91/1981, the general rules on fixed term contracts shall apply. According to these rules, in general a fixed-term employment relationship between an employer and the same employee, for the performance of equivalent tasks, cannot last more than 36 months, including extensions and renewals of the initial fixed-term contract, otherwise the relationship will be considered a permanent employment relationship.

Moreover, the fixed-term contract must contain in writing the reasons of a technical, productive, substitutive or organizational nature, which justify the recourse to a fixed term relationship.

As for termination of a fixed-term contract if one of the parties withdraws before the expiration date of the contract, it has to pay the other party an indemnity corresponding to the amounts that would have been paid in relation to the remaining portion of the contract.

- What are the **main clauses** of an employment contract? Are there some specific clauses used in the sport sector?

The main clauses are, like in any employment contract, the compensation, the duration (whether open-ended or for a fixed term), the working hours, holidays and in general, the duties and rights of both parties. Clauses that are specific to sports employment, mainly in professional sports, contracts are, for example, the duty for coaches to perform training, the duty for the coach to teach the players on the team and instruct them as to the necessary measures to take to ensure safety at the workplace, to survey their behaviour in order to guarantee their physical performance (i.e. to make sure they lead a healthy life style). The coach also has the right to use the equipment and facilities necessary for his training, the duty to follow the rules of the NOC and of the relative Federation.

- What are the **working hours** of employees in the sports sector? Daily and weekly limits? Do they work on Sundays? Does the legislation or a collective agreement allow differences between working time, on-duty time, etc.?

As regards the working time for sportsmen and- women, Law n. 91/1981 does not set out any specific regime. However, activity of sportsmen and- women is considered a "discontinuous activity" and therefore is not entirely subject to the general rules on working hours applied to the majority of sport workers.

As regards instead sport workers employed by a sports club, association, etc. and the other personnel working for organizations of this type, the general rules on working time set out under Legislative Decree no. 66 of April 8, 2003 will apply.

In very broad terms, this Decree sets out that the average duration of work over a seven day period cannot exceed 48 hours, including over-time. The average duration of work can be calculated on the basis of a period of time, which cannot exceed four months. The collective bargaining agreements can set out a more favourable discipline for the employees.

Employees are due 11 hours of consecutive rest every 24 hours (from this it can be deduced that the maximum working hours in a day is 13)

- How much **holiday** do employees get? Can they take them when they want? Are there specific rules for the sports sector?

As regards holidays for sportsmen and- women, Law n. 91/1981 does not set out any specific discipline. Sportsmen and- women as well as the whole sport workers are guaranteed under the law. The collective agreements applied in the six professional sports usually set out a 4-week period of annual leave.

As for sport workers, they are subject to the general discipline provided for under Legislative Decree n. 66/2003, which provides for a minimum period of annual leave equal to 4 weeks, save a more favourable regime applied by the collective agreements, if any at all. These 4 weeks of annual leave must be taken in the following manner: the first two weeks within the year during which they are accrued, while the remaining two within 18 months after the end of the year of their accrual.

- What are the modalities for the **termination** of the contract?

Art. 4 of Law n. 91/1981 expressly excludes the application of the general rules concerning termination of employment relationships to sportsmen and- woman.

As for sport workers of sports clubs, associations, etc. the general rules apply. In general terms and very briefly, in case of open-ended employment contract, an individual dismissal can be grounded either on a «*just cause*» or on a «*justifiable reason*».

A just cause is defined by art. 2119 of the Italian Civil Code as an event, which is so serious that the employment relationship cannot continue even on a temporary basis (and which normally refers to cases of breach of contractual obligations that determine an irremediable rupture in the trust of the employee) and which therefore determines the immediate termination of the employment relationship, without any need for the employer to give any notice.

A justifiable reason can instead be either "subjective", which consists in a significant breach of the employee's contractual obligations (but not so severe as to fall in the category of just cause) or "objective which occurs when a dismissal is grounded on reasons referring to the business activity of the employer, the organization of work within the company and its regular functioning.

A dismissal for justifiable reasons, contrarily to a just cause, does not exempt the employer from the obligation to give notice to the employee. The duration of the notice period is set forth under the collective agreement applied to the employment relationship and depends on the length of service and position of the employee.

- Do employees have access to **vocational training**? Is the employer required to pay for 'n' days vocational training or to set aside a fixed part of the club's or association's total wage budget for training?

As regards the sportsmen and- women, the sports federations pay for the occupational training of their sport workers (administrative staff, trainers, coaches, athletes, etc.) on a course-by-course basis. In other words, they do not pay a monthly contribution but pay for each course that the employees participate in.