

CONTRACTUAL STABILITY VS PLAYER MOBILITY:

A CRITIQUE OF FIFA JURISPRUDENCE ON BUY-OUT AND RELEASE CLAUSES

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1.0 Introduction

The global football transfer system is formally structured around a balance between contractual stability and player mobility. FIFA presents the fixed-term employment contract as the cornerstone of sporting integrity, financial predictability, and competitive balance. In practice, however, this balance is uneven. Contractual stability is protected robustly for clubs, while mobility for players is tolerated primarily as a negotiated or sanctioned deviation rather than as a contractual right.

This asymmetry is most visible in disputes concerning buy-out clauses and release clauses, as well as in situations where players remain contractually bound but are systematically excluded from meaningful sporting participation. While transfers occur routinely, FIFA jurisprudence persistently frames early exit as a form of breach subject to compensation and potential sporting sanctions. The possibility that mobility may itself be lawfully embedded in the contract is largely ignored.

This article argues that FIFA's treatment of buy-out and release clauses, anchored in **Articles 13–17 of the FIFA Regulations on the Status and Transfer of Players (RSTP- January 2025 edition)**^[1] is doctrinally rigid and substantively club-protective. By misclassifying exit mechanisms and failing to address constructive breakdowns of employment, FIFA preserves contractual form while frequently abandoning contractual substance.

2. Contractual Stability under the FIFA RSTP

Contractual stability is expressed in unequivocal terms in the FIFA Regulations on the Status and Transfer of Players. **Article 13** provides:

“A contract between a professional and a club may only be terminated upon expiry of the term of the contract or by mutual agreement”[2].

Unilateral termination is permitted only in narrowly defined circumstances. Article 14 also provides:

“A contract may be terminated by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions) where there is just cause”[3].

Temporal rigidity is also reinforced by **Article 16**:

“A contract cannot be unilaterally terminated during the course of a season.[4]

Where termination occurs outside these gateways, **Article 17** provides:

“In all cases, the party in breach shall pay compensation. Compensation must be assessed with regard to national law, the remaining value of the contract, benefits due, fees paid, and the “specificity of sport. Sporting sanctions may also apply during the protected period”.[5]

Although **Article 17** allows compensation to be “stipulated in the contract,” FIFA and CAS jurisprudence consistently treat such clauses as damage caps following breach, not as lawful exit prices. The regulatory framework therefore recognizes only two states: performance or sanctioned deviation. There is no recognition of contractually designed exit in the FIFA Regulations on the Status and Transfer of Players (RSTP).

3. Buy-Out Clauses and Release Clauses: Definition and Legal Function

Buy-out clauses are contractual provisions allowing a player to exit an employment relationship upon payment of a pre-agreed sum. They operate as *ex ante* exit-pricing mechanisms, allocating the economic risk of early termination.

Although often conflated, buy-out clauses and release clauses are legally distinct. A buy-out clause confers on the player a unilateral right to terminate the employment contract upon payment of a predetermined sum. The decisive legal act is termination by the player; the club's consent is legally irrelevant once the clause is validly exercised. This model is most clearly reflected in Spanish professional football, where buy-out clauses are mandatory under ***Real Decreto 1006/1985*** and operate as labour-law exit rights.^[6]

A release clause, by contrast, does not grant a termination right to the player. It imposes a conditional obligation on the club to permit a transfer if a third party offers a specified amount. The employment relationship ends through agreement and transfer, with the clause operating as a limit on the club's discretion. This mechanism is characteristic of English football practice.^[7]

This distinction is structural, not semantic. Buy-out clauses engage questions of lawful unilateral termination and labour mobility; release clauses engage contractual autonomy and market access. FIFA's jurisprudence routinely collapses both into a single compensation-based model of early termination, obscuring their different legal functions.

[6] <https://talksport.com/football/2005954/transfer-buyout-clauses-different-release-la-liga-contract-arsenal-liverpool-chelsea/> Accessed 13/01/2026

[7] *ibid*

4. National Legal Approaches

4.1. France: Public-Policy Prohibition and the Mbappé Impasse

In French professional football, buy-out clauses are strictly prohibited by labour law, sports law, and collective bargaining.[8]

Article L.1243-1 of the French Labour Code provides:

“A fixed-term employment contract may only be terminated before its expiry by mutual agreement, serious misconduct, force majeure, or certified unfitness”.[9]

Article L.222-2-7 of the French Sports Code renders void any clause allowing unilateral termination of a professional athlete's employment contract.[10] This is reinforced by Article 257 of the National Collective Agreement for Professional Football (2024/2025), which forbids unilateral termination in exchange for compensation and mandates rejection of contracts containing such clauses. These rules are of public-policy (*ordre public*) nature.[11]

The prolonged standoff between Kylian Mbappé and Paris Saint-Germain illustrates the consequences. With no lawful exit mechanism available, the relationship deteriorated into squad exclusion and coercive bargaining. Stability was preserved formally, but collapsed substantively.

4.2. Spain: Statutory Buy-Out Clauses and Anti-Mobility Inflation

Spanish law mandates buy-out clauses under **Real Decreto 1006/1985**, framing them as a statutory right of unilateral termination by the player. The clause must be paid in full and upfront.

[8]Article L.1243-1 of the French Labour Code

[9] *ibid*

[10] *ibid*

[11]<https://valloni.ch/2025/07/24/buyout-clauses-in-football-transfer-agreements-and-european-union-competition-law/> Accessed 13/01/2026

Following Paris Saint-Germain's €200 million acquisition of Neymar in 2017, Spanish clubs began inflating buy-out clauses to deterrent levels. Clauses of €500 million or more cease to function as realistic exit rights and instead operate as anti-mobility devices, raising proportionality concerns.

The inflationary distortion of statutory buy-out clauses in Spain is not theoretical. It is reflected in the extraordinary release figures now routinely imposed on elite players, particularly by major clubs.

At Real Madrid, Vinícius Júnior's contract reportedly contains a €1 billion buy-out clause, a figure that bears no rational relationship to market value or realistic mobility. A similar approach has been adopted by FC Barcelona, where Pedri's contract also includes a €1 billion clause, and Lamine Yamal is protected by an identical €1 billion buy-out provision, despite his youth and developmental status.

While these clauses comply formally with **Real Decreto 1006/1985**, they no longer operate as genuine exit rights. Instead, they function as absolute deterrents, ensuring immobility in all but name. The player retains a theoretical right to terminate, but the economic conditions render that right illusory.

This practice exposes the structural weakness of the Spanish model. Where buy-out clauses are mandatory but unconstrained by proportionality, they risk becoming anti-mobility devices, undermining the very labour-law rationale they were intended to serve. From an EU law perspective, such clauses raise serious questions under the proportionality principle developed by the Court of Justice, as they restrict movement in form while denying it in substance.

4.3. England: Release Clauses, Market Practice, and Managerial Pressure

English football adopts a pragmatic approach. Release clauses are not mandatory, but where clearly drafted they are generally respected as binding contractual mechanisms or valuation anchors.

Recent practice illustrates this. Market interest in **Antoine Semenyo** at AFC Bournemouth was framed by reference to a reported release figure[12] Similar clause-anchored negotiations structured the transfer of Matheus Cunha to Manchester United.[13]

High-value transfers involving Declan Rice, Moisés Caicedo, and Enzo Fernández further demonstrate how pre-agreed contractual benchmarks govern mobility without recourse to breach.

Where no such clause exists, contractual stability may be enforced through managerial exclusion, as illustrated by the treatment of Axel Disasi and Raheem Sterling at Chelsea Football club.[14]

5. EU Law: Free Movement, Competition, and Proportionality

Article 45 of the Treaty on the Functioning of the European Union (TFEU) [15] guarantees free movement of workers. Buy-out clauses set at prohibitive levels may constitute restrictions. Article 101 TFEU may be engaged where clauses operate as coordinated market barriers. [16]

[12] Approximately £60 million as a guaranteed amount plus about £5 million in potential add-ons.

[13] Manchester United triggered Matheus Cunha's release clause of approximately £62.5 million in 2025 to secure his transfer from Wolverhampton Wanderers.

[14] As of the 2025–26 season, Raheem Sterling's most recent first-team appearance came during his loan spell at Arsenal at the end of the 2024–25 campaign, and Axel Disasi last played for Aston Villa while on loan from Chelsea in April 2025, with neither featuring at all for Chelsea's first team thereafter.

[15] Treaty on the Functioning of the European Union (Consolidated Version) [2012]

[16] *ibid*

The Court of Justice of the European Union applies a proportionality test. In *Meca-Medina*[17] and *Diarra*[18], the Court held that sporting rules must be assessed by their actual effects. Excessive clauses are vulnerable; proportionate ones may be justified.

6. FIFA Silence and Court of Arbitration for Sport CAS Jurisprudence[19]

The RSTP are silent on buy-out clauses. In *CAS 2021/A/8543 (Paris Saint-Germain v FC Barcelona)*, the Court of Arbitration for Sport confirmed that a Spanish buy-out clause must be executed unconditionally and at full face value, with solidarity paid in addition.

CAS further held that a “transfer” requires: *CAS 2021/A/8543 (Paris Saint-Germain v FC Barcelona)*

1. Consent of the original club;
2. Willingness of the new club;
3. Player consent; and
4. Financial consideration[20]

7. Inclusive Contractual Mobility

Across systems, a common flaw emerges: contractual stability is enforced even where contractual substance has collapsed. Players may be excluded or economically sidelined without acquiring any right to terminate freely.

[17] *Case C-519/04 P Meca-Medina and Majcen v Commission*

[18] *Case C-650/22 Diarra.*

[19] *The Court of Arbitration for Sport is an independent international arbitral tribunal that resolves disputes related to sport. It was established in 1984 and is headquartered in Lausanne, Switzerland.*

CAS has jurisdiction over:

disputes between clubs and players,

transfer and contractual disputes,

appeals against decisions of sporting federations (including FIFA),

disciplinary and regulatory matters in international sport.

[20] *CAS 2021/A/8543 (Paris Saint-Germain v FC Barcelona)*

A balanced system requires inclusive contractual mobility. Where sustained exclusion or erosion of professional value occurs, the employment relationship has effectively broken down. In such cases, termination should be possible without compensation or sporting sanction.

To move beyond abstraction, contractual mobility must be articulated as a concrete legal principle, not merely a policy aspiration. Properly framed, contractual mobility is not the negation of contractual stability; it is its functional complement.

Contractual mobility should be understood as:

“The legally protected capacity of a professional footballer to exit a fixed-term employment relationship through a pre-defined, transparent, and proportionate contractual mechanism, without being compelled to rely on breach, coercion, or exclusion”.

This conception rests on three pillars:

1. Predictability – the conditions of exit are known *ex ante*;
2. Proportionality – the cost of exit bears a rational relationship to the player’s profile and contractual value; and
3. Neutrality – exit is treated as lawful contractual performance, not moralized as wrongdoing.

Under this model, stability is preserved not by immobilizing the player, but by pricing mobility in advance. Clubs are protected because their investment is quantified; players are protected because mobility is not contingent on club goodwill or regulatory tolerance.

8. Why the Current FIFA Framework Fails

FIFA's existing approach collapses contractual mobility into a breach-and-compensation paradigm, principally through Article 17 RSTP. This produces three structural failures:

1. Early termination is framed as a violation, even where the contract itself anticipates and prices exit.
2. Players lacking release or buy-out clauses must rely on sporting exclusion, wage disputes, or informal pressure to force transfers.
3. Contracts remain "stable" on paper while the employment relationship collapses in practice.

Comparative analysis demonstrates that this model is neither inevitable nor optimal. Where mobility is structured contractually (England), disputes are fewer. Where it is prohibited (France) or inflated beyond realism (Spain), coercion and distortion follow.

1. A robust regulatory model should therefore recognize inclusive contractual mobility, meaning:
2. Mobility is available to all players, not only elite or well-advised ones;
3. Exit mechanisms apply throughout the contract term, subject to proportionate conditions;
4. Sustained exclusion from sporting activity or erosion of professional value is recognized as evidence of constructive breakdown.

In such circumstances, continued enforcement of contractual stability serves no legitimate purpose. Stability that survives only through exclusion is not stability, it is control.

9. Conclusion And Recommendations

This article has demonstrated that buy-out and release clauses, when properly understood and regulated, are not threats to contractual stability but essential instruments for reconciling stability with labour mobility in modern professional football. Comparative practice shows that outright prohibition produces coercion, statutory mandates without proportionality produce illusion, and contractual recognition produces predictability.

FIFA's current framework, centred on Articles 13–17 of the RSTP, preserves contractual stability in form while frequently abandoning it in substance, by treating contractually designed exit as moralized breach and by tolerating situations in which players remain bound yet excluded from meaningful sporting participation.

A coherent regulatory response requires FIFA to move beyond silence and misclassification by mandating the inclusion of exit clauses in all professional football employment contracts and by regulating those clauses for fairness and proportionality, taking into account the player's age, experience, performance history, remuneration, and remaining contract duration.

Exit clauses calibrated without regard to these factors: such as prohibitively inflated buy-out figures, cannot credibly be justified as stability-protective and operate instead as restraints on mobility. Where a player exits pursuant to a contractually agreed clause, that exit must be recognized as lawful contractual performance rather than as a breach attracting compensation or sporting sanctions.

Only by embedding inclusive, proportionate contractual mobility into its regulatory architecture can FIFA preserve genuine stability, reduce coercive practices, and align football's employment system with contemporary labour-law principles.