

**Ministrstvo za izobraževanje, znanost in šport
RS**

dr. Maja Makovec Brenčič, ministrica
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**Proposed exclusion of professional athletes from the labour relations
legislation of Slovenia**

Dear Minister,

UNI World Athletes (**UWA**), the global player association across professional sport and a sector of the UNI Global Union, would like to express its deep concern over proposals being considered to exclude professional athletes from the protection and operation of the current law of Slovenia which governs labour relations.

UNI World Athletes

Established in 2000 and based in Nyon, Switzerland, UNI Global Union represents more than 20 million workers from over 900 trade unions in the fastest growing sectors in the world – skills and services, including sport.

UWA unites 85,000 athletes through over 100 player associations throughout the world including FIFPro (the world footballers' association), the Federation of International Cricketers' Associations, the International Rugby Players' Association, EU Athletes, the National Football League Players Association, the National Hockey League Players Association, the National Basketball Players Association, the Women's National Basketball Players Association, the Japanese Professional Baseball Players Association and the Australian Athletes' Alliance.

Further details about UWA including the composition of our Executive Committee, objectives and governing rules are available at: <http://www.uniglobalunion.org/sectors/sport/about-us>. The Executive Committee includes democratically elected representatives of athletes from Europe, the Americas, Africa and Asia / Oceania and is made up of the most experienced and qualified athlete representatives in the world today. Affiliated player associations of UWA enjoy established relations with government and the federations, leagues and clubs of their respective sports at the global, regional and national levels.

Our understanding of the proposed law

As it has been explained to us by Sindikat Sportnikov Slovenije (**SSS**), the proposed law will adversely impact professional athletes in a number of key respects. These include:

- should a professional athlete wish to enter into an employment contract, then the parties to the individual employment relationship will be entitled to determine a number of material terms without regard to any restrictions or protections imposed by Slovenia's labour relations law. These include:
 - the conditions and limits of employment for a definite time;
 - hours of work;
 - breaks and rest periods;
 - remuneration;
 - discipline; and
 - the termination of the employment contract; and
- professional athletes otherwise being engaged as independent contractors.

Likely impacts of the proposed law

It is now well established that, due to the nature of the work of professional athletes, they are properly regarded as workers and / or employees for the purposes of the law. Professional athletes are asked to perform to rigorous standards under the direct control of their employer.

The proposed law would deny professional athletes the protection of Slovenia's labour relations law. There is no basis under international law for professional athletes to be treated any differently to any other worker or employee. Indeed, professional athletes are often as vulnerable as any other worker or employee, given that they are mostly young, their work is both dangerous and precarious and their career is, by its nature, short-term.

Further, the proposed law, by encouraging the broad and unregulated use of individual employment contracts, undermines collective bargaining and the fundamental right of professional athletes to organise. Indeed, by encouraging the use of individual contracts as a condition of an athlete being legally recognised as an employee, the impact of the proposed law is likely to be particularly pernicious. Employers, who enjoy the stronger hand in the employment relationship, would be free to impose onerous and insecure work arrangements on professional athletes as a condition of allowing athletes to participate in sport and pursue their right to work in their chosen profession, a right they should be able to pursue freely.

Research, such as that undertaken by FIFPro, shows that professional footballers are already in a particularly vulnerable situation. Extensive player surveying highlights the serious problems confronting professional footballers in eastern Europe (including Slovenia) such as:

- approximately one in ten players having their contracts unjustly terminated, including for reasons such as injury;
- over 40% of players not being paid in accordance with their contracts;
- players being forced by their employers to work in isolation, or train alone, on threat of having to agree to employment related demands of the employer (such as a transfer or early contract termination);
- over 10% of players being subjected to capricious sanctions and financial penalties by their employers;
- around 10% of players being subjected to violence by fans and club management;
- around 10% of players being subjected to bullying and harassment;
- widespread racism (over 10% of players complained of being subjected to a racist act in eastern Europe); and
- almost 12% of players being approached to fix the result of a match, often in circumstances of duress.

Given the extent of the current plight of professional footballers, it would seem inevitable that the passage of the proposed law will exacerbate these problems.

Whilst it is common for sporting bodies to seek to negotiate arrangements to meet the particular requirements of their sport (just as all businesses seek arrangements tailored to their particular enterprises), this is best advanced through collective, and not individual, bargaining. We understand this is the recommended policy position of the SSS, a position we would fully endorse, as these matters are best resolved cooperatively by the social partners.

Slovenia's international obligations

International labour standards are legal instruments drawn up by the constituents of the International Labour Organization (**ILO**) (governments, employers and workers) setting out basic principles and rights at work. Slovenia has been a member of the ILO since 1992.

The ILO Employment Relationship Recommendation, 2006 (No. 198) acknowledges the widespread problem of employers seeking to disguise the employment relationship due to the unequal bargaining position between employers and employees, and the effect this has in depriving workers of the protection they are due. The Recommendation provides for the legal presumption of an employment relationship where it is apparent from the facts relating to the performance of work and the payment of remuneration, irrespective of how the parties have characterised the relationship. It also acknowledges the serious difficulties created for workers, their communities and society at large where there is doubt over the existence of the employment relationship, and how such doubt undermines fair competition in the marketplace.

Slovenia has also ratified a number of conventions of the ILO, including:

- C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- C098 – Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- C111 – Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- C122 – Employment Policy Convention, 1964 (No. 122)
- C095 – Protection of Wages Convention, 1949 (No. 95)
- C135 – Workers' Representatives Convention, 1971 (No. 135)
- C154 – Collective Bargaining Convention, 1981 (No. 154)
- C158 – Termination of Employment Convention, 1982 (No. 158).

As a ratifying State, Slovenia has an important legal responsibility to provide a legislative framework within its own borders that meets its obligations under international law.

Accordingly, should Slovenia adopt the proposed law and, in so doing, deny Slovenia's professional athletes their rights under international law including ILO conventions, UWA would not hesitate in seeking to have the rights of the athletes upheld and protected through the competent authorities of the ILO.

Yours sincerely,



Brendan Schwab
Head of UNI World Athletes