

Gibraltar: An Unlikely Football Nation

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Dear Editor,

Martin O'Neill and Roy Keane's men faced Gibraltar in the first home game of their UEFA European 2016 qualifying campaign on the 11th of October last year, Ireland running out easy victors in a 7-0 victory. The game was noteworthy only in that it represented Gibraltar's only second competitive international football match since it was accepted by UEFA as a full member in May 2013, following a successful appeal to the Court of Arbitration for Sport (CAS). The original decision, Arbitration CAS 2002/O/410: The Gibraltar Football Association (GFA)/Union des Associations Européennes de Football (UEFA), was handed down by CAS on the 7th of October 2003.¹

It will not have gone unnoticed amongst football fans how busy CAS has been recently. The Court refused to accept Legia Warsaw's appeal to be reinstated into the UEFA Champions League qualifiers, following the playing of an ineligible player by the Polish club in a match

¹ CAS 2014/A/3665, 3666 & 3667, see <www.jurisprudence.tas-cas.org/sites/CaseLaw/Shared%20Documents/410.pdf> accessed 30 March 2015.

against Celtic.² Further, only last week CAS partially upheld the four-month suspension of Luis Suarez from all football-related following the much-publicised biting incident involving Suarez with Giorgio Chellini at this summer's World Cup.³ The Court softened the sanction somewhat to allow Suarez train with his new Barcelona team-mates. It is hoped that the busy Court will now be able to draw its breath.

CAS's decision to grant membership to tiny Gibraltar, a territory of less than 30,000 people and an area encompassing a mere 2.3 square miles, was not greeted with glee on all fronts. Gibraltar is a British Overseas Territory which remains under the jurisdiction and sovereignty of the UK. This arrangement, tracing its provenance back to the Treaty of Utrecht in 1713, is fiercely contested by Spain who lodged opposition to the Gibraltar FA's initial request for UEFA membership in 1999. Spain had - not unjustifiable fears - that the Catalan and Basque regions might also apply for UEFA membership. This fear has, however, arguably been quelled since the resounding achievements of Spanish football in club and international competitions since then.

CAS in its judgment made an imaginative distinction between the idea of a 'nation' or 'country' in the sports law environment (*Lex Sportiva*) and 'its common political meaning,'⁴ giving the examples of Scotland, Wales and the Faroe Islands which do not enjoy independent statehood either, but do of course have international football teams.

² 'Legia Warsaw & Celtic: Court of Arbitration for Sport rejects appeal' (BBC Sport, 18 August 2014) <<http://www.bbc.com/sport/0/football/28839720>> accessed 30 March 2015.

³ Luis Suárez, FC Barcelona & Uruguayan Football Association v FIFA CAS 2014/A/3665, 3666 & 3667 <www.tas-cas.org/fileadmin/user_upload/award_3665-3666-3667__FINAL__internet.pdf> accessed 30 March 2015.

⁴ GFA/UEFA (n 1).

Whilst the new version of Article 5 of the UEFA Statutes, introduced in July 2001, declared that UEFA membership is restricted to football associations in countries which are recognised as independent States by the UN, CAS held the rule was inapplicable as the Gibraltar Football Association (GFA) had made an application for UEFA membership before the new version of Article 5 was introduced. Such serendipitous timing would prove crucial for Gibraltar.

Under the old rule, membership of UEFA was dependent on a national football association being 'responsible for the organisation and implementation of football-related matters in their particular territory'. Thus, as the GFA was founded in 1895, making it one of the oldest football associations in the world, CAS held that the GFA 'indisputably exercised sole responsibility' for organising football on the territory. It is this change in rule that has since prevented disputed territories like Kosovo applying for UEFA membership.

In the run-up to the UEFA qualifiers, before Ireland's facile victory over Gibraltar (and subsequently Poland's, by the very same score line) more idealistic Irish football fans had good reason to have been intrigued about the competitiveness of the Gibraltar team, and to ask inquisitively about how Gibraltar would have fared along the same lines as other 'water-carriers' in UEFA international qualifying competitions such as Lichtenstein, San Marino and Andorra. Danny Higginbotham, formerly of Manchester United, has been the most famous player to have played for Gibraltar, qualifying to play under the 'granny rule'. However, Higginbotham has now retired after 3 caps in friendly matches and the highest-profile squad member for the first qualifying match against Poland was Scott Wiseman of English League One side, Preston North End. The majority of the remaining squad were plying their trade in the domestic Gibraltar league with some players playing abroad in the lower leagues of

Israel, England and Wales. Lincoln Red Imps have dominated club football in Gibraltar winning twelve consecutive league titles and recently represented the country in the first round of the UEFA Champions League Qualifiers, going out 6-3 against Faroe Islanders, Havnar Bóltfelag. The cynics have been proven correct, it seems.

Indeed, it is easy to be cynical about a team playing international football with a smaller population to pick from than Dundalk or Swords. However, when such a team upsets a greater power in the game it is undeniable that great joy is brought to neutral supporters around the globe; Italy losing to North Korea in the 1966 World Cup and Denmark beating Germany in Euro 1992, are but two examples.

And neither is the Irish national team immune to such ignominious results, eerily enough in European qualifiers themselves. Ireland's draw away against Lichtenstein in 1995 in a European qualifier ultimately prevented the team from qualifying for the final tournament. English fans may think of San Marino scoring against them after 8 seconds in 1993, or more recently drawing lesser-known nations such as Costa Rica. Germany, recently crowned World Cup Winners also played Gibraltar on the 14th of November, and only won by a (relatively) modest four goals.

Law and football are becoming more and more acquainted with each other, particularly in CAS as we have seen. The number of legal disputes in football will only increase as the game continues to spread economically, socially and culturally around the globe. While, legal scholars will continue to bicker about the finer points of jurisdiction of international states, the international sports law system, *lex sportiva*, as well as the increasing influence of CAS, football fans will look on in nervous interest too as the fate of errant and misbehaving players are decided by the court. The nervous ride will only continue for O'Neill's boys as they

navigate a group with not only the minnows Gibraltar, but the world champions, an emergent Scotland and an increasingly impressive Poland.