

Hundreds of footballers threaten legal action over the use of their personal data



A group of over 850 professional footballers are threatening legal action over how their personal data is collected and shared. The players argue that information such as a player's height, or the average number of goals scored, amount to personal data. They claim that this is being unlawfully processed by betting, data sharing and entertainment companies and have sent formal letters before action which have now been issued to 17 such companies.

Where the information on the players constitutes personal data as defined in Article 4 paragraph (1) of the GDPR and the processing of the same fall under the material scope of Article 2 of GDPR, then the rules and principles set in GDPR must be observed.

However, the players will need to prove that the modalities by which the players' personal data were processed constituted an infringement of GDPR, and that the same have suffered material

or non-material damage following such infringement in order to be entitled to receive compensation from the infringing companies for the suffered damage.

If this initial case is successful, it will create an important precedent for legal action against a far wider range of companies which harvest player data without their consent. Indeed, the group taking the case says that some 150 companies are unlawfully using players' personal data.

The players' group organising the legal action is known as the Global Sports Data and Technology Group and is led by former Cardiff City, Leyton Orient and Yeovil Town manager, Russel Slade. The group is seeking compensation for the dissemination of their performance data over the past six years and are calling for annual fees to be paid in future for the commercial use of their data. This could provide an important source of income for players, especially in the lower leagues of the English footballing pyramid.

The subject of the monetisation of personal data is very hot topical at the moment. The European Data Protection Board states that personal data cannot be considered as a "tradeable commodity" and that the monetisation of personal data will not mean that the data subject can waive his or her fundamental rights. Nevertheless, this case holds many unknowns.

Slade and the group argue that using personal data without consent constitutes a breach of the General Data Protection Regulations (GDPR). As mentioned above, it is important to establish if the information on the players constitutes personal data under Article 4 paragraph (1) of the GDPR. The fact that a goal is scored is not itself personal information, but when it is attributed to an individual in specific contexts then the same can constitute personal data under GDPR.

However, consent is not the only legal ground for processing personal data, since GDPR provides for six legal grounds for the same and none of these has precedent over the others.

Should this matter go to court, it is likely to involve some very interesting and complex legal arguments. For example, companies sharing performance data may argue that, by agreeing to play in public, the facts about players' performance inevitably enter into the public domain and that they have a legitimate interest in processing such information for their purposes.



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Indeed, the UK's Information Commissioners Office (ICO) says that this legitimate interest "could in principle apply to any type of processing for any reasonable purpose." However, the ICO says that "Because it could apply in a wide range of circumstances, it puts the onus on you to balance your legitimate interests and the necessity of processing the personal data against the interests, rights and freedoms of the individual taking into account the particular circumstances."

Depending on the arguments provided, the court might decide that the information in the public domain does not justify the processing of such information by the third parties based on the legitimate interest of the same.

In the case at hand, the court might go further in its analysis and see if there are any legally binding agreements concluded by the players pursuant to which their personal data might be processed in a commercial manner. The intricacies of the contractual agreements between the concerned parties, the players, their clubs, the tournaments, the leagues or the broadcasters will make things even more complicated, since various interests may collide.

It will be certainly interesting to see how this matter progresses if it goes to court. If the case is successful, it could bring significant changes to how such data is handled across the entire sports industry. Likewise, it will be also interesting to see how the contractual relationship between the players and the clubs with regards to the players' personal data will be framed in the future.

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