

## **A cause of many conflicts between clubs and athletes: Contract negotiation<sup>1, 2</sup>**

**William Vermersch**

### **ABSTRACT**

The objective of this paper was to understand the conflicts between clubs and athletes, particularly on contract negotiation, and also to analyze the different alternatives for resolving an emerging conflict. Indeed, conflicts are regular in this environment and not always well negotiated by both parties, which sometimes harms internal club relations. Can conflicts in contract negotiations lead to a deadlock in the project of clubs and players?

In order to address this issue, we have focused at the heart of this paper on understanding and analyzing the most appropriate alternative for conflict resolution. We performed a root cause analysis to find the most important cause. Since then, we have used specific tools and techniques such as a non-compensatory model, a multi-attribute decision making grid, a matrix analysis and an additive weighting technique model. Thanks to these tools we were able to establish a ranking of scoring attributes, alternatives and we were finally able to find the best alternative dispute resolution. Then we built a Pareto analysis to highlight the impact of conflicts with and without prevention.

At the end of my paper, we discovered that Prevention was the best alternative resolution thanks to many features in the following paper. Other alternatives remain of course interesting to resolve conflicts such as standing neutral or non-binding solution.

**Key words:** Players, Clubs, Trainers, Salaries, Disputes, Meetings, Solutions, Sport Management, Negotiations, Interests, Clashes

### **INTRODUCTION**

High-level sports have the same complexity as many other project portfolios and are perfectly aligned with the Guild's definitions:

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		GUILD DEFINITION <sup>3</sup>	SPORTS EXAMPLES
Project		Special environment created in order to deliver one or several business outcomes, in a frame of a specified resources.	Game as a project, is a piece of planned and controlled activity, conducted in a frame of certain time and assets in order to achieve a particular purpose: enable players to make their club win and succeed in raising the club as high as possible in terms of ranking
Program	Strategic Program	Set of related projects, combined with the purpose to attain the sponsor's future state. This program is linked to a specific strategic goal and its early results influence the further decision-making process	Observing emerging players from different regions (world or country, depending on the club level) in the different lower level leagues in order to identify them at an early age and exploit their potential to the fullest
	Operational Program	Interdependent constituent projects, aiming to affect sponsor's day-to-day operations	For clubs, this may be similar to the maintenance of the club's infrastructure, such as the maintenance of the stadium lights, its scoreboard or training equipment such as weight training equipment or the quality of the pitch.
	Multi-Project Program	Created interdependence of constituent project in order to receive benefits from the synergy	Clubs that generally operate in leagues with several teams, the entire season and the two rounds against each team is an example of a Multi-Project program
	Mega-Project	Project with significantly larger scale than the typical sponsor's projects have.	Every 4 years, the World Cup is organized by FIFA and represents an incredible event for any football player. Every player aspires to participate and this is the long-term goal of every footballer (some will only seek to participate when others dream of winning it)
Portfolio	Portfolio of Projects	Is investment portfolio, where the main aim is to minimize risks and maximize returns.	All the projects undertaken by the clubs correspond to a portfolio of projects (decisions taken by management, choices made by players on the field, investments made in player scouting, infrastructure, payroll, etc.)
	Portfolio of Assets	Owner or Contractor has a portfolio of assets, that mean set of resources, which are dedicated to the projects, with the aim to generate those resources into the most desirable return.	The portfolios of assets of a club are its infrastructure, its finances, its employees, its external image while those of a player are its sporting qualities of course but also its ability to integrate into a team, its leadership, its ability not to be injured, etc

Figure 1: Club as a project portfolio<sup>4</sup>

<sup>3</sup> Planning planet (2015, November 2). GUILD OF PROJECT CONTROLS COMPENDIUM and REFERENCE (CaR)  
 Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

<sup>4</sup> By author

By talking more precisely about the assets of sport, we can also divide them into five types:

Information Assets	Athlete performance, potential, Potential Merchandising
Human Assets	Athlete, Coach, Physical Trainer, Agent etc
Physical Assets	Training facilities, Stadium, Medical equipment,
Financial Assets	Wage bill available
Intangible Assets	Written agreements, Contracts, Clauses, everything that is granted legal protections

Figure 2: The assets of the club<sup>5</sup>

“Driven by strong growth (estimated at nearly 4% per year since 2010), the global sports market continues to expand, in line with its development in emerging markets, Asia, the Middle East and Latin America. The rapid growth in its turnover and its international development make the sports sector particularly attractive, as evidenced by the worldwide increase in events such as trade fairs, forums, conferences and international summits dedicated to the sports economy and its many markets: equipment (equipment, textiles, etc.), sports events, sports marketing, speakers, new technologies, media and sports betting”<sup>6</sup>.

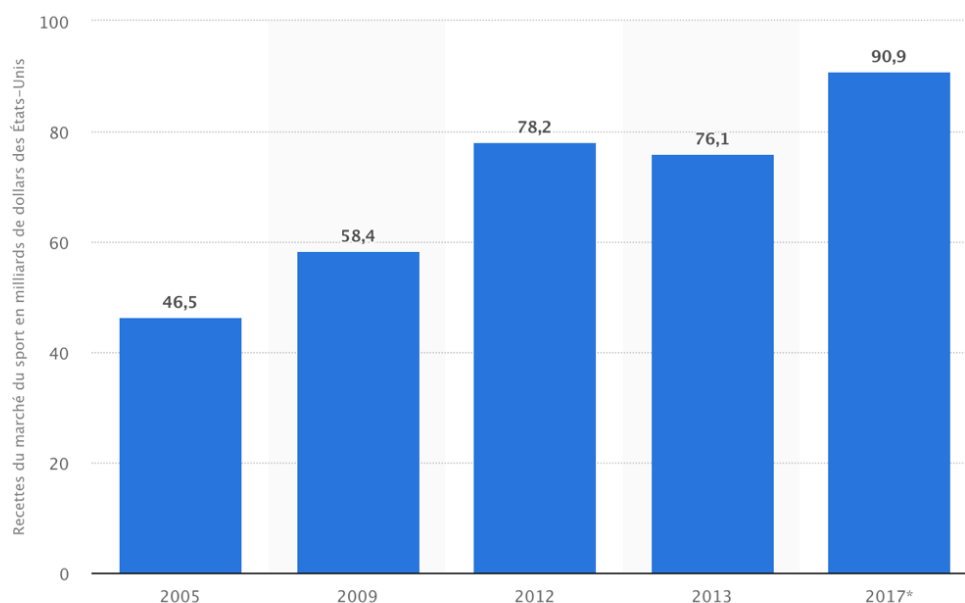


Figure 3: Amount of global sports market revenue from 2005 to 2017 (in billions of US dollars)<sup>7</sup>

Due to the exponential increase in income generated by sport since the early 2000s, athletes' salaries and their requirements in terms of contractual clauses have increased enormously in recent

<sup>5</sup> By author

<sup>6</sup> No author : <http://www.sports.gouv.fr/organisation/organisation-du-sport-en-france/sporteco/Sport-a-l-export/>

<sup>7</sup> Statista (2018) : <https://fr.statista.com/statistiques/574702/recettes-totales-du-marche-du-sport-dans-le-monde/>

years leading to financial conflicts between clubs and players. These conflicts are mainly financial but may also arise from other specific situations.

A dispute is an argument or disagreement, especially an official one between for example workers and employers or two countries with a common border<sup>8</sup> when negotiation is the search for an agreement, focused on material interests or quantifiable issues between two or more interlocutors (one does not negotiate with oneself, one deliberates), in a limited time. This search for agreement implies the confrontation of incompatible interests on various points (of negotiation) that each interlocutor will try to make compatible by a set of mutual concessions. Negotiation is the act of negotiating, i.e. dealing with someone, trading, discussing the terms of an arrangement in order to reach an agreement or convention that is satisfactory to all parties<sup>9</sup>

Conflict is often perceived negatively because of the consequences it can have on a relationship. But it is often forgotten that going through conflict can lead to interesting results without necessarily harming a relationship. In the world of top-level sport, there are many conflicts between the different parties within a club. On the one hand, players and sportsmen and their egos, on the other hand, clubs and respect for their institution. In the world of sport, conflicts can revolve around the negotiation of contracts, the recognition of the player with the coach but also around certain details within clubs. Many players wanted to stand up to their club to ultimately discredit themselves and lose credibility in the world of top-level sport. Many clubs have also remained firm about players' desires, only to find that they should perhaps have expressed a little less intransigence. The objective of this written work will be to show how clubs can best manage conflicts they may have with players within their squad. How to successfully manage a conflictual relationship in order to reach a solution where both parties are winners?

	<b>Amateurism</b>	<b>Semi-Professionalism</b>	<b>Professionalism</b>
<b>Type of command</b>	Paternalistic	Authoritarian	Animator (commando officer)
<b>Team structure</b>	Homogeneous	Composite	Heterogeneous / Exploded
<b>Type of team</b>	Neighborhood premises ("club spirit")	Delocalized	Cosmopolitan
<b>Solidarity type</b>	"Mechanical solidarity"	Solidarity interested	"Organic solidarity"
<b>Dominant attitude of the players</b>	Abnegation/ Altruism	Calculation	Individualism
<b>Types of disputes</b>	Interpersonal tensions	Latent conflicts	Open conflicts
<b>Types of conflict resolution</b>	Compromise (amicable)	Threats of punishment	Penalties & sanctions
<b>Intervention style</b>	Intuitive/ Empirical	Para-psychological	Psychosociological
<b>Behaviors &amp; attitudes</b>	Duty Consciousness	Mentality of assistance	Professional mentality autonomy

Figure 4: The different types of conflicts and their different solutions depending on the professional or non-professional nature of the clubs<sup>10</sup>

<sup>8</sup> <https://dictionary.cambridge.org/dictionary/english/dispute>

<sup>9</sup> <https://fr.wikipedia.org/wiki/Négociation>

<sup>10</sup> Abdellatif Naja (2018) : *Comprendre et résoudre des conflits entraînés/entraîneurs par la psychosociologie* Retrieved from: [http://www.revue-eps.com/fr/comprendre-et-resoudre-des-conflits-entraîneurs-entraînés-par-la-psychosociologie\\_a-9276.html](http://www.revue-eps.com/fr/comprendre-et-resoudre-des-conflits-entraîneurs-entraînés-par-la-psychosociologie_a-9276.html)

Through this table, we observe that a conflict must be approached differently depending on the type of club in which the conflict occurs. Indeed, since solidarity and team structure are different, the best way and approach to deal with the problem will be totally different.

In our analysis, we will focus on the professional environment because contract negotiations are much more conflictual, particularly because of the enormous financial stakes that govern players' contracts based on their performance but also on their behaviour and image outside the sports grounds. This table has just allowed us to highlight the glaring differences between professional and amateur sport and in particular the greater capacity to go as far as litigation in negotiations between clubs and professional sportsmen.

The high-performance athlete category is a separate category from their employment situation. Each professional athlete has a limited-term contract of not more than 5 years. Most of the contractual negotiations (duration, salary, status of the athlete, various clauses, etc...) are conducted between the team manager, the president and the athlete (often accompanied by his agent). The sports market is a so-called "reputational" market where a few stars, thanks to the reputation they have acquired over the course of their careers, share the vast majority of the clubs' payroll. This type of market is therefore a market where there can be great disparities within the same sport but also within the same club.<sup>11</sup> This situation can be a source of comparison and therefore of direct conflicts between players who feel they are underpaid compared to their status and someone else's salary. The most recent example is the departure of Cristiano Ronaldo from Real Madrid FC because he considered he deserved the same salary as Lionel Messi, rival player of the Barcelona FC team.<sup>12</sup>

Each sport differs from the other according to a number of variables (sporting, cultural, economic, legal, etc.). As a result, it is difficult to draw general conclusions from an observation limited to a discipline or team. Sometimes, however, there are common points in the way sport professionals are managed because top-level sport has requirements that are common to all disciplines, as has already been pointed out. However, today, no global managerial model serves as a shared reference. Is there only one?

### Root Cause Analysis:

The problem here is therefore the resolution of conflicts between sportsmen and clubs. So why are there conflicts about salary negotiation within clubs? Because there are different interests to reconcile between a club and its long-term ambitions and an employee (player/athlete) and its salary, sports and emotional requirements in the short term.

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<sup>11</sup> Antoine Duval (2017) : *The validity of unilateral extension options in football*

Retrieved from <http://www.asser.nl/SportsLaw/Blog/post/the-validity-of-unilateral-extension-options-in-football-part-1-a-european-legal-mess-by-saverio-spera>

<sup>12</sup> Onze Mondial (2018) : *Real Madrid – Des problèmes entre Ronaldo et Perez*

Retrieved from : <http://www.onzemonial.com/transferts/real-madrid-problemes-ronaldo-perez-mijatovic-171225>

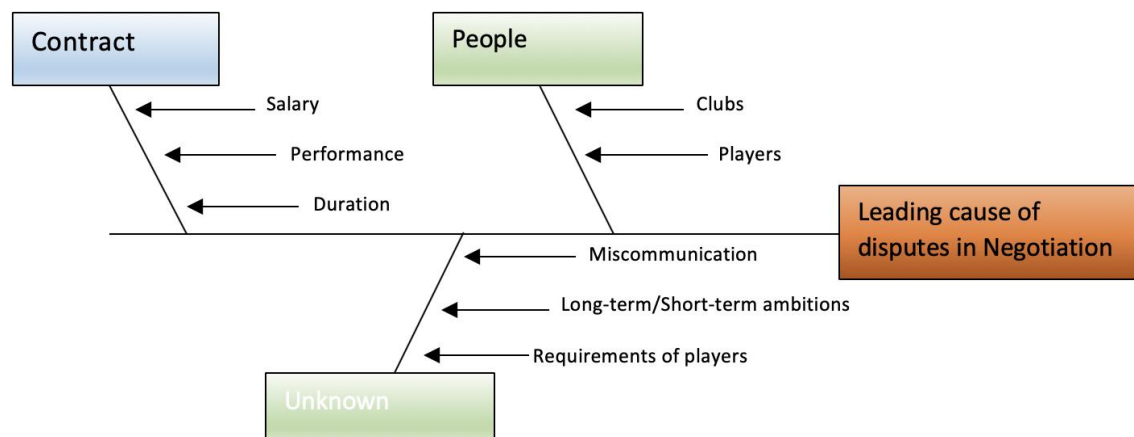


Figure 5: Root cause analysis for leading cause of disputes in construction contract<sup>13</sup>

Why is it difficult to reconcile these two parts? Conflicts can be caused directly by miscommunication, misinterpretation, omission, betrayal or even conflict of interest. How can we therefore succeed in overriding all these facts and avoid the final conflict? Why and how can we succeed in avoiding these situations that lead to the final conflict when the relationship could have been on the conflict side?

Our subject here is not to seek solutions to avoid conflict but really to find a way out of the conflict already engaged between two parties and in the best possible way. To this end, thanks to the root case analysis carried out above, we were able to observe that the conflicts arose from many situations where the 2 parties either started on the wrong basis or experienced disagreements during or during the negotiation.

Why do we end up with conflicts within the clubs and how can we overcome them without questioning one of the 2 negotiating parties?

We will focus on the basis of successful negotiation but also on many examples of conflict that have had a positive impact on a club-coach/athlete relationship.

## METHODOLOGY

### 1st Step:

C. Ronaldo or Hatem Ben Arfa<sup>14</sup> (football), LeBron James<sup>15</sup> (basketball) or Lewis Hamilton/Nico Rosberg<sup>16</sup> (Formula 1) have recently or over the past 5 years experienced major conflicts with

<sup>13</sup> By author

<sup>14</sup> Claire Gaveau (2018) : *Pourquoi H. Ben Arfa attaque le club ?*

Retrieved from <https://www.rtl.fr/sport/football/psg-pourquoi-hatem-ben-arfa-attaque-le-club-7793078908>

<sup>15</sup> Antoine Pimmel (2018) : *Dan Gilbert, le proprio qui va pousser LeBron vers la sortie ?*

Retrieved from <https://www.basketseason.com/actu/lebron-james-gilbert-rumeurs-413982/>

<sup>16</sup> Jérémy Maccaud (2014) : *Hamilton-Rosberg, chronique d'un duel fratricide*

Retrieved from <http://www.europe1.fr/sport/multisports/articles/f1-hamilton-rosberg-histoire-d-un-duel-fratricide-2225247>

their respective clubs or car teams. This phenomenon is not new and is not about to stop given the ever-increasing importance of players or athletes within their entity. It is therefore important to understand the different possibilities for resolving conflicts in order to be able to overcome them. So, what are the workable alternatives that can be used to avoid high-cost and unpopular disputes?

## **2<sup>nd</sup> Step:**

There are several possible alternatives to avoid conflicts between players and clubs over game interests, remuneration, player recognition within the squad, the right to a player's image or simply the trust placed in him<sup>17</sup>.

1. **Prevention:** This step takes place well before the start of the negotiation and can avoid any form of conflict thanks in particular to: a written and clear contract, well-defined common objectives to be achieved, clear and precise communication, a common commitment to respect the clauses of the contract, a well conducted and well-organized negotiation.
2. **Negotiation:** Here we must not forget that we are first and foremost looking for a "win-win" conclusion where both parties will come out of the negotiation satisfied, hence the need to know our final objectives but also those of the other party before the start of the negotiation. Preparing for negotiations bilaterally establishes a healthy relationship and can also speed up and close negotiations in the best possible way. Each party must have a concrete BATNA (best alternative to a negotiation agreement)<sup>18</sup> to start the negotiation in the best possible way.
3. **Standing neutral:** Here the idea is to obtain the help or rather the support of a person outside the negotiation, in particular a sports agent or a club manager. Thanks to an external opinion to the negotiation, both parties will be able to put water in their wine while having a perspective on the negotiation.
4. **Non-binding solution:** This alternative include “mediation, Mini-trial, arbitration”. Using mediation or arbitration is a good way to find a common agreement while “keeping good relationships”<sup>19</sup>. Using non-binding solution is time and cost saving for both parties and it avoids going to trial.
5. **Private-binding solution:** When disputes require the assistance of a status expert, the parties may choose a legally binding private solution such as the hiring of a private judge.

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<sup>17</sup> By author

<sup>18</sup> No author – No title

Retrieved from : <http://coacheloquence.com/technique-de-negociation-mieux-negocier-methode-batna/>

<sup>19</sup> James G Zack – Resolution of dispute – The next generation. Adaptation Planning planet (December-2015) – Formal dispute resolution. Retrieved from: <http://www.planningplanet.com/guild/gpccar/formal-disputes-resolution>



6. **Litigation:** This option consists of bringing the case before the courts, using judges, jurors and prosecutors to resolve the dispute.<sup>20</sup>

To evaluate the different alternatives outlined above, we have developed a list of attributes that will rank the best and worst options. These attributes have been decided based on what both players and clubs want when they have a dispute<sup>21</sup> :

**Effectiveness:** these attributes make it possible to assess whether or not the alternative used has enabled the parties to reach an agreement. This is an obvious attribute for assessing the quality of the chosen alternative<sup>22</sup>.

**Effects on the relationship:** Each party will try to minimize the impact on the relationship, particularly from the perspective of a successful negotiation. Indeed, a controlled negotiation without negative impact on the links between the player and his club will allow to establish a relationship of trust between the 2 parties and will facilitate in particular a potential future negotiation.<sup>23</sup>

**Price:** Clubs and players are primarily looking to maximize their income and therefore avoid losing money. This obviously involves giving a salary that meets the player's expectations and performance, but also a good knowledge of the club's finances (in particular the wage bill) by the manager in charge of wage negotiations. A player who has negotiated his contract well will be better able to achieve great performances while a club with a well-crafted contract and in accordance with his finances will be confident about the player's investment and its impact on the club's income.<sup>24</sup>

**Duration:** Money is time, which pushes clubs and players to negotiate as efficiently and quickly as possible in order to allow the player/athlete to achieve the best possible performance and therefore to make the club shine in return. For this reason, a good preparation of the negotiation can only save time and therefore money for the 2 negotiating parties.<sup>25</sup>

**Confidentiality:** Today, the world of top-level sport, and football in particular, is highly valued by sponsors and fans. A conflict between a club and its player can quickly be misinterpreted, especially today with social networks that broadcast information that is not always verified in a supersonic way. A player will have no desire to appear to be a self-righteous and pretentious player in terms of salary if the negotiation does not succeed, while a club and its leaders also have no interest in being seen by the general public as a club that does not meet its players' salary

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<sup>20</sup> GUILD OF PROJECT CONTROLS COMPENDIUM and REFERENCE.

Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls>

<sup>21</sup> Eric de Cozar (2016) : *La négociation dans l'univers des transferts de joueurs de football professionnels*

Retrieved from <http://www.harmodeal.fr/la-negociation-dans-lunivers-des-transferts-de-joueurs-de-football-professionnels/>

<sup>22</sup> Nathalie Semczuk (2017) : *The 10 Most effective conflict resolution strategies*

Retrieved from <https://thedigitalprojectmanager.com/10-effective-conflict-resolution-strategies/>

<sup>23</sup> Elisabeth Scott (2018) : *Effects of Conflict and Stress on Relationships*

Retrieved from <https://www.verywellmind.com/the-toll-of-conflict-in-relationships-3144952>

<sup>24</sup> Carl Natale : *How to Successfully Negotiate Lower Prices in any situation*

Retrieved from <https://www.moneycrashers.com/successfully-negotiate-lower-prices/>

<sup>25</sup> No author : [http://www.osba.org/Resources/Article/AskHR/How\\_long\\_should\\_contract\\_negotiations\\_last.aspx](http://www.osba.org/Resources/Article/AskHR/How_long_should_contract_negotiations_last.aspx)



expectations or even a "cheap" club. This could affect the club's ability to attract other players or make the player in question appear complicated to manage and costly in terms of management.<sup>26</sup>

**Speed:** Even the speediest sales and legal teams get bogged down in contract negotiations. This is particularly frustrating when all parties involved would like nothing better than to get across the finish line, where agreements are signed and they can move on to delivering or receiving the goods and services to which they've committed.<sup>27</sup>

**Flexibility of process:** Flexibility is often introduced to contracts with relational methods, relying on good personal relationships between business partners or negotiation power and negotiation skills. Contract documents often do not contain mechanisms for dealing with contingencies, or "soft" contract terms. The paper finds the following reasons that may explain this. First, firms heavily rely on model contracts to develop their own templates and the lack of contract models in new business areas hinders firms to develop their templates. Second, unfamiliarity with using soft elements makes it difficult to use them. Additionally, in some cases firms may prefer using relational capability.<sup>28</sup>

**Absence of appeal:** The fact that awards cannot be appealed can, depending on the circumstances, be viewed as an advantage or as a disadvantage. Indeed, it ensures that there will be only one procedure and that the losing party will not be able to delay enforcement by initiating time and cost-consuming appellate proceedings. On the other hand, it can be very frustrating to parties not to be able to have another tribunal review a flawed award.<sup>29</sup>

**Potential need for Court Intervention:** Court intervention may be needed, and is foreseen by many recent arbitration statutes, where the parties are unable to appoint an arbitral tribunal. Where the arbitration takes place pursuant to an arbitral institution's rules, such rules generally empower the arbitral institution to resolve any impasse and select the tribunal. Difficulties requiring court intervention thus mostly arise in *ad hoc* arbitration, where the parties have failed to designate a third party to resolve difficulties in the appointment process<sup>30</sup>

**Freedom to choose a Neutral and Competent Decisionmaker:** Parties to a contract are often reluctant to submit to the jurisdiction of the other party's home courts. The mutual unwillingness to risk having a dispute decided by a tribunal that is believed to be more sympathetic to the other party's interest is usually one of the main reasons contracting parties agree to submit future disputes arising out of their contract to arbitration.<sup>31</sup>

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<sup>26</sup>Mark Williams (2016): *Contracts negotiation – Pitfalls to avoid*. Retrieved from <https://www.gabyhardwicke.co.uk/briefing-notes/contract-negotiations-pitfalls-to-avoid/>

<sup>27</sup>Patricia Gallagher (2017): *How to speed up the contract process and lose fewer deals*. Retrieved from <https://www.salesforce.com/blog/2017/07/speed-up-contract-process.html>

<sup>28</sup>Soili Nystén-Haarala (2010): *Flexibility in contract terms and contracting processes*. Retrieved from <https://www.emeraldinsight.com/doi/abs/10.1108/17538371011056084>

<sup>29</sup>Peter Sherwin (2016): *The decision to arbitrate*. Retrieved from <https://www.proskauerguide.com/arbitration/19/1>

<sup>30</sup>Patricia Gallagher (2017): *How to speed up the contract process and lose fewer deals*. Retrieved from <https://www.salesforce.com/blog/2017/07/speed-up-contract-process.html>

<sup>31</sup>Peter Sherwin (2016): *The decision to arbitrate*. Retrieved from <https://www.proskauerguide.com/arbitration/19/1>

### 3rd Step:

We selected these 4 attributes because they were tied to the willingness of both parties to solve disagreements in a certain manner. To evaluate these 4 attributes and classify them from best to worst, we will use a non-compensatory model based on disjunctive reasoning. This method "look at all the attributes and make a Pair-wise comparison to determine which attributes are the most important by asking "which is the most important" and give a score of 1 to the winning option and a score of 0 to the losing option"<sup>32</sup>

Non-compensatory model											
Attributes	Effectiveness	Effects on the relationship	Price	Duration	Confidentiality	Speed	Flexibility of process	Absence of appeal	Potential need for court intervention	Freedom to choose a Neutral and Competent Decisionmaker	Ordinal ranking
Freedom to choose a Neutral and Competent Decisionmaker	0	0	0	0	0	0	0	1	0		1
Potential need for court intervention	0	0	0	0	0	0	0	1		1	2
Absence of appeal	0	0	0	0	0	0	0		0	0	0
Flexibility of process	0	0	0	0	0	0		1	1	1	3
Speed	0	0	0	0	0		1	1	1	1	4
Confidentiality	1	1	1	1		1	1	1	1	1	9
Duration	0	0	1		0	1	0	0	0	0	2
Price	0	0		0	0	1	1	1	1	1	5
Effects on the relationship	1		1	1	0	1	1	1	1	1	8
Effectiveness		0	1	1	0	1	1	1	1	1	7

Figure 6: Non-compensatory model<sup>33</sup>

With this evaluation method, we can see that the most important attributes are the public visibility of the conflict of the alternative used, then the length and then the cost-effectiveness. The "worst" feature according to this approach is the impact on the relationship between the two parts involved.

### 4th Step:

From now on, we will use a *multi-attribute decision making model* based on a qualitative analysis to compare the characteristics of the alternative solutions<sup>34</sup> discussed in step 1 to define the best possible option. For this we used 3 colors in the model below:

**Red** for bad, **Orange** for medium and **Green** for all right

<sup>32</sup> Sullivan, Wickes & Kroelling (2014) *Engineering Economics* 15th Edition Using the approach.

Retrieved from: <http://www.planningplanet.com/guild/gpccar/managing-change-the-owners-perspective>

<sup>33</sup> Made by the author based on the work of Sullivan, Wickes and Kroelling.

<sup>34</sup> Sullivan, Wickes & Kroelling (2014) *Engineering Economics* 15th Edition Then the second step is to calculate the relative weighting of each attribute. Retrieved from: <http://www.planningplanet.com/guild/gpccar/managing-change-the-owners-perspective>

Multi-attribute decision making						
	Prevention	Negotiation	Standing neutral	Non-binding solution	Private-binding solution	Litigation
Freedom to choose a Neutral and Competent Decisionmaker	High	High	Medium	Medium	Low	Low
Potential need for court intervention	Weak	Weak	Weak	Medium	Medium	High
Absence of appeal	Low	Low	Medium	Medium	High	High
Flexibility of process	Medium	Medium	High	High	low	Low
Speed	Quick	Quick	Quick	Quick	Quick	Slow
Confidentiality	Yes	Yes	Yes	Yes	No	Not at all
Duration	Low	Medium	Medium	Medium	Long	Very long
Price	Low	Low	Medium	Medium	Expensive	Expensive
Effects on the relationship	Weak	Medium	Weak	Weak	Strong	Very strong
Effectiveness	Low	Medium	Medium	Medium	High	Very high

Figure 7: Multi-attribute decision making model<sup>35</sup>

From now on, we will now weight each attribute:

	Prevention	Negotiation	Standing neutral	Non-binding solution	Private-binding solution	Litigation
Freedom to choose a Neutral and Competent Decisionmaker	1	1	0,5	0,5	0	0
Potential need for court intervention	1	1	1	0,5	0,5	0
Absence of appeal	1	1	0,5	0,5	0	0
Flexibility of process	0,5	0,5	1	1	0	0
Speed	1	1	1	1	0	0
Confidentiality	1	1	1	1	0	0
Duration	1	0,5	0,5	0,5	0	0
Price	1	1	0,5	0,5	0	0
Effects on the relationship	1	0,5	1	1	0	0
Effectiveness	1	0,5	0,5	0,5	0	0
<b>Totals</b>	<b>9,5</b>	<b>8</b>	<b>7,5</b>	<b>7</b>	<b>0,5</b>	<b>0</b>

Figure 8: Matrix analysis and ordinal ranking<sup>36</sup>

<sup>35</sup> By author

<sup>36</sup> By author

So, with this method, we can then start to eliminate some of the alternatives. After studying these tabs, we decided that each alternative with a sum less than 5 will be removed from the most appropriate options. Therefore we can eliminate the private-binding solution and the litigation. Legal dispute is the most expensive, longest and least effective, especially since it often leads to a public exposure of the club's internal conflict. In addition, we can also dismiss the legally private-binding solution, even if it may be effective, this alternative is close to that of legal dispute and the issues that accompany it.

The best alternatives through this study are prevention, negotiation, standing neutral and non-binding solution.

**5<sup>th</sup> Step:**

We will now summarize the decision-making process of the study we conducted in steps three and four using an additive weighting technique<sup>37</sup> that allows us to rank the alternatives by comparing the weight of the attributes with the weight of the alternative. As we have decided to eliminate two alternatives: litigation and the private binding solution, we are now focusing on the remaining four alternatives.

	Step 1	Step 2	Prevention		Negotiation		Standing Neutral		Non-binding solution	
	Relative ranking	Normalized weight (A)	(B)	(A)*(B)	(C)	(A)*(C)	(D)	(A)*(D)	(E)	(A)*(E)
Freedom to choose a Neutral and Competent Decisionmaker	1	0,1	1	0,1	1	0,1	0,5	0,05	0,5	0,05
Potential need for court intervention	2	0,2	1	0,2	1	0,2	1	0,2	0,5	0,1
Absence of appeal	0	0	1	0	1	0	0,5	0	0,5	0
Flexibility of process	3	0,3	0,5	0,15	0,5	0,15	1	0,3	1	0,3
Speed	4	0,4	1	0,4	1	0,4	1	0,4	1	0,4
Confidentiality	9	0,9	1	0,9	1	0,9	1	0,9	1	0,9
Duration	2	0,2	1	0,2	0,5	0,1	0,5	0,1	0,5	0,1
Price	5	0,5	1	0,5	1	0,5	0,5	0,25	0,5	0,25
Effects on the relationship	8	0,8	1	0,8	0,5	0,4	1	0,8	1	0,8
Effectiveness	7	0,7	1	0,7	0,5	0,35	0,5	0,35	0,5	0,35
<b>Totals</b>	<b>42</b>	<b>4,2</b>	<b>3,95</b>		<b>3,1</b>		<b>3,35</b>		<b>3,25</b>	

Figure 9: Additive weighting technique model

Thus, this method confirms that Prevention and Standing neutral are the first ranked alternative dispute resolution as we saw it in step 4. They respectfully each have a score of 3,9 (Prevention) and 3,35 (Standing Neutral). Moreover, with the additive weighting technique Non-binding solution has still more points than Negotiation. Finally, Non-binding's score is quite low compared to the other alternatives dispute resolution (3,35).

<sup>37</sup> Sullivan, Wickes & Kroelling (2014) *Engineering Economics* 15<sup>th</sup>. Adaptation from planning planet. Retrieved from: <http://www.planningplanet.com/guild/gpccar/managing-change-the-owners-perspective>

## 6<sup>th</sup> Step:

We can now rank our alternatives from best to worst:

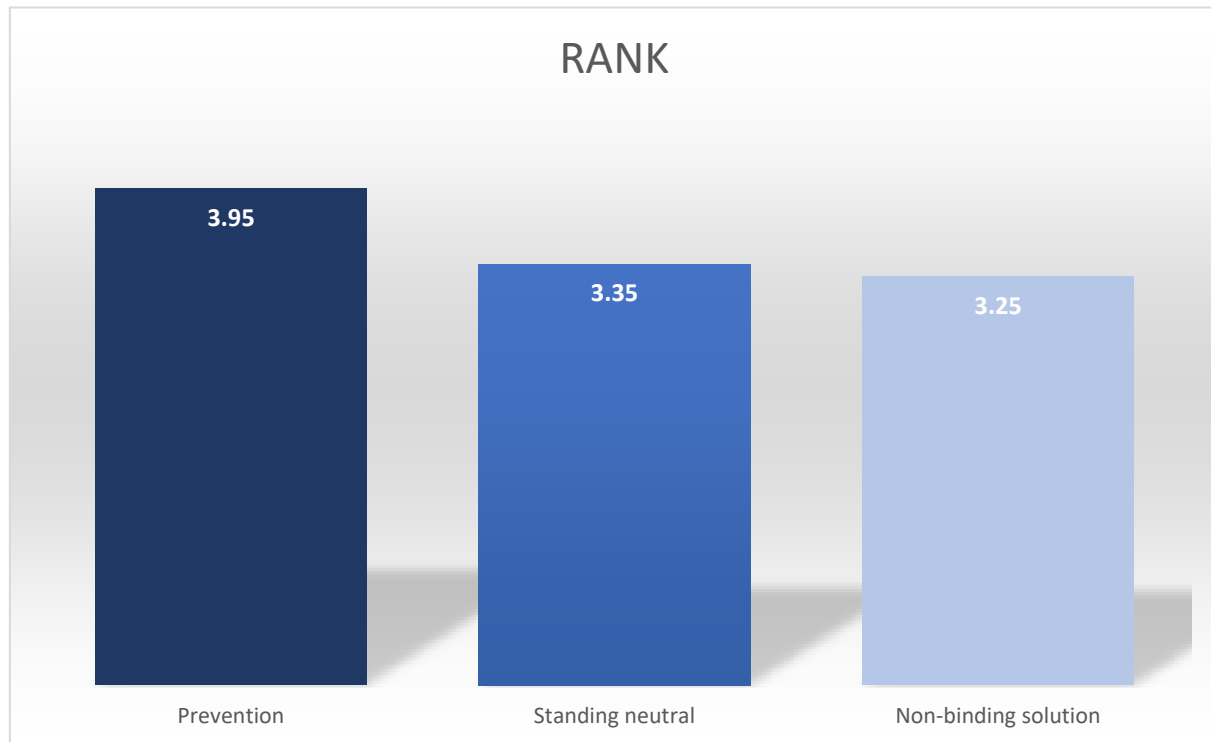


Figure 10: Alternatives rank graph<sup>38</sup>

With this ranking method and thanks to the study carried out in step 5, we have decided not to keep the negotiation alternative even if it makes it possible to " resolve and close [Disputes] at lowest cost in terms of time, money or stress"<sup>39</sup> to be effective, the negotiation process must be conducted in good faith, unfortunately this is often not the case in the sports sector.

The best alternative is therefore prevention, followed by neutral and non-binding solutions. These 3 alternatives do not require a trial and represent a saving of time and money for the parties involved.

The prevention alternative is a better choice by **1500%** compared to private binding solutions ( $9,5/0,5 * 100$ ) and by **118,75%** compared to negotiation ( $9,5/8 * 100$ ).

Prevention is about partnership and understanding between both parties to settle an agreement preventing disputes to arise. **However, when disputes do arise then the best alternatives are standing neutral and non-binding solution** or more commonly **standing neutral**. As shown in the studies led in the methodology these two alternatives answer the attributes requirements: first

<sup>38</sup> By author

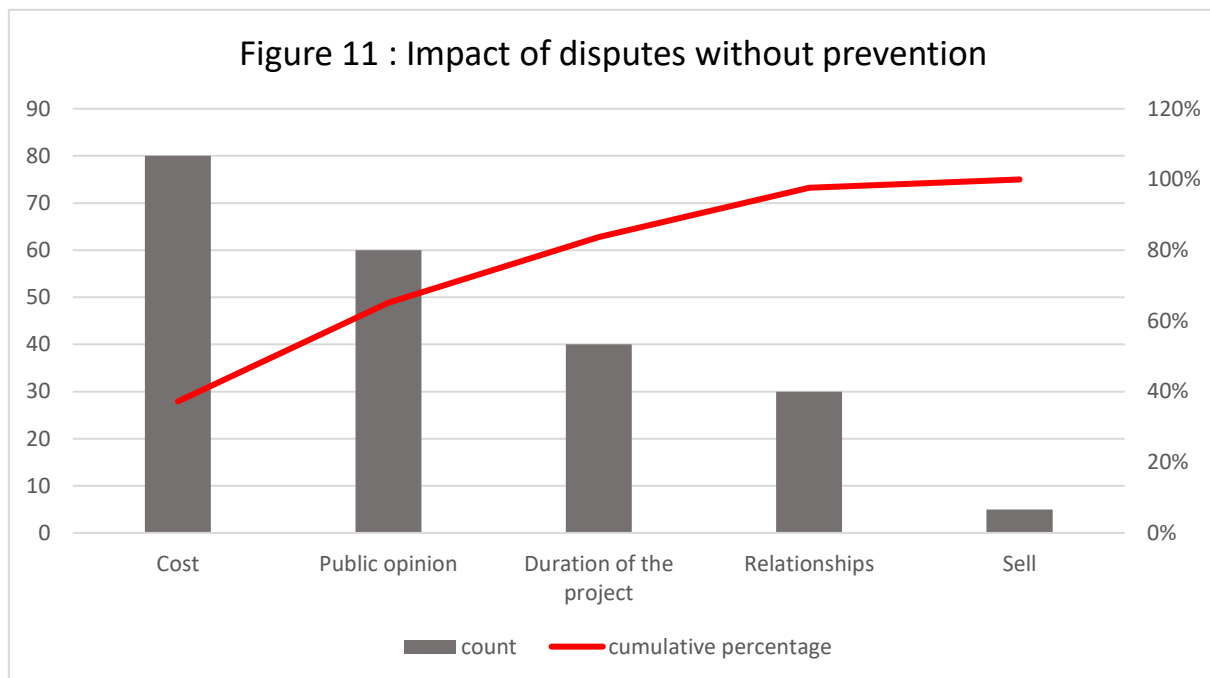
<sup>39</sup> Heady, Eugene (2013) Effective Negotiation Of Construction Claims – Adaption from planning planet. Retrieved from: <http://www.planningplanet.com/guild/gpccar/settlement-negotiations-phase>

regarding the cost and duration but also about confidentiality and the effects on the relationship between the two parts in charge of the negotiation.

### **7<sup>th</sup> Step:**

Now that we have chosen the best alternative to dispute resolution as prevention, we can conduct a Pareto analysis to justify the effect of prevention on the impacts resulting from conflict.

“A Pareto Analysis enables the project control practitioner to identify the “significant few” from the “insignificant many” and use that information to prioritize which problems should be addressed”.<sup>40</sup>.

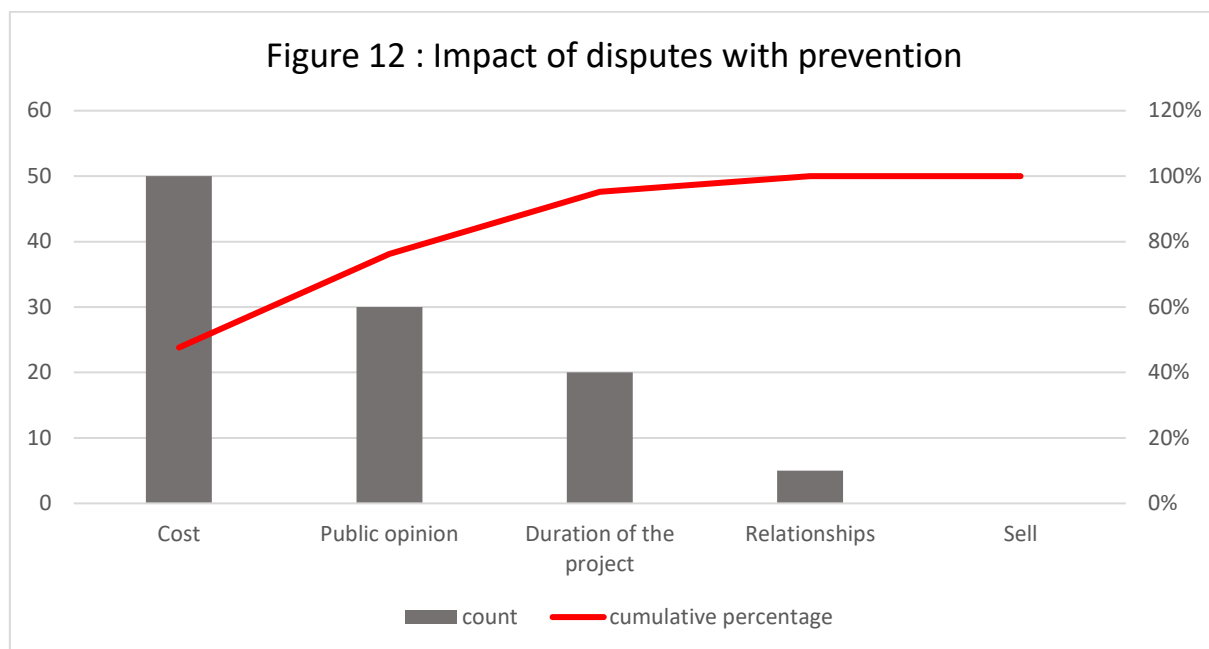


In this first analysis we can see that without prevention disputes are going to highly impact the cost of the project, the public opinion but also the duration of the project.

Let's see now the impact of disputes with the use of prevention.

<sup>40</sup> DoE [Cost Estimating Guidelines](http://www.planningplanet.com/guild/gpccar/risk-opportunity-monitoring-and-control) – Adaptation from Planning Planet (2015 – November) – Risk opportunity monitoring and control. Retrieved from: <http://www.planningplanet.com/guild/gpccar/risk-opportunity-monitoring-and-control>





Thus, it can be seen that when parties resort to prevention, the impact of disputes about cost, public opinion and project duration is less significant. Partnership and cooperation enable the parties to significantly reduce the risks associated with litigation.

## CONCLUSION

The purpose of this document was to answer the following issue: What are the main tools for resolving conflicts between players and clubs? And what is the best alternative to dispute resolution that should be used by both sides?

In this paper, we have identified the different alternatives for resolving disputes: prevention, negotiation, standing neutral, non-binding solution, private-binding resolution and litigation. We clarified each alternative and assessed the impact of each of them on our particular topic. Through the research we have carried out, we have eliminated three options: negotiation, private-binding solution and litigation as the least suitable choices.

Obviously the choice of ADR selected depend on the cause of the conflict and the state of both parties. Obviously, “a negotiation is successful when each of the two parties has taken a step towards the other, even if neither is absolutely satisfied in the end. This is what he calls "the balance point".<sup>41</sup> but in most cases, the best ADRs are: prevention, neutral and non-binding solution. As outlined in the document, prevention allows the parties to work together and build a relationship to prevent disputes. But sometimes disputes do occur and it is important to think about a neutral, non-binding solution because it is the solutions that do the least damage to the project.

<sup>41</sup> Christine Regnier (2018) : *Négociation de salaire, de contrats, ... 5 As livrent leurs astuces*. Retrieved from <https://www.capital.fr/votre-carriere/negociation-de-salaire-de-contrats-5-as-livrent-leur-astuces-1270108>

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## About the Author



### **William Vermersch**

Frankfort, Germany

Lille, France



**William Vermersch** is currently a Master's degree student at SKEMA Business School on the Lille Campus. William comes from Orsay, he was born in 1996, and has been living in Lille for 3 years. At first, he lived in Orsay, then moved to Troyes in order to attend 2 years of Preparatory Classes, and he was able to enter SKEMA Business School. Previously, he has served as a Project Manager during an entire year running as Vice- President of the Sports Student Office at SKEMA Business School. He is currently doing an internship in Germany in Frankfurt as part of his graduation as a Business Developer in Bettzeit Group. He is moving towards an international sales career and is looking for opportunities in particular in the automotive sector or top-level sport. Thanks to his many experiences in sports and cultural associations, William is a real asset within a group and will be able to adapt to any type of professional situation. He is a certified AgilePm Practitioner. Contact him on: [william.vermersch@skema.edu](mailto:william.vermersch@skema.edu) or [vermersch.william@gmail.com](mailto:vermersch.william@gmail.com).