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China's Naturalization of Football Players: An Expansive Reform?

By Roy Chu | Giandonato Marino

On 20th December 2018 the Chinese Football Association ("CFA") announced on its Wrap-Up Conference for the 2018 Professional League that it will practically start up with the implementation of foreign player naturalization, which means the country will be seeking all feasible methods to improve the prospective to participate in the 2022 Qatar World Cup. Any high-level foreign players eligible to change the nationality so as to represent the national team would be considered candidates for naturalization, and the related policy which has been discussed for quite a long time may finally be published in 2019 season.

Llinks lawyers have long been following the evolving football law and policies in China. In December 2018, the international football law journal "Football Legal" published in the Chinese column articles by Llinks lawyers "Naturalization of Football Players in China: Towards Expansive Policies in Chinese football?" and "New Policies on the Development of Young Chinese Football Players". So far, Llinks lawyers have provided 6 articles for Football Legal since June 2017, opening up a window for the world to follow up the newest development of Chinese football.

Football Legal is a journal dedicated to international football law, which publishes two journals a year and online contents that offer a snapshot of the latest developments in football law at national and international

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levels. As an independent journal established in 2014, Football Legal operates responsively to sports law's fast-pace and ever-evolving nature. With contributors including some of the world's most prominent sports lawyers, Football Legal has become one of the world-recognized media in sports law publishing and has become a go-to for the sector's major stakeholders. Today, Football Legal has its subscribers include international federations, governing bodies, football clubs, sports lawyers, players' agents, academics and students.

1. Polices and Legal Framework

During the last years, there has been a long debate in China about whether CFA should encourage foreign players to acquire Chinese nationality, with the aim to be eligible to play for the Chinese national team. As the Chinese national team has long been outside the threshold of the World Cup since 2002, and the national leadership has been hoping to make China a world-class football power, this topic is therefore long kept under the spotlight.

Historically, the first employment contract between a Chinese professional football club and a foreign player with Chinese background was signed 10 years ago. In 2008, Yantai Yiteng, a club then participating in Chinese Football Association China League ("CSL", the second division), signed Gordon Chin - a Canadian-Chinese player - but he was indeed registered as a foreign player. After that, there were constant calls for naturalized foreign players¹, but it was not until the Wrap-Up Conference for the 2018 Professional League (Shanghai, December 20, 2018) that Secretary Du Zhaocai officially confirmed that CFA would "promulgate the implementation policy of relevant naturalized players and assist clubs with their pilot projects on outstanding foreign players to participate in the Chinese Super League ("CSL")"². The policy is further evidenced by Li Ming, general manager of Beijing Sinobo Guoan F.C. in his interview, that earliest in January 2019, the CSL clubs will have their first naturalized player transferred into the league. According to recent news that Nico Yennaris will soon become the first naturalized footballer under the new policy and play for Beijing Sinobo Guoan F.C. in the 2019 CSL.

Although Article 7 of "Nationality Law of People's Republic of China" ("Nationality Law") provides the possibility for foreign nationals to obtain Chinese nationality under certain conditions, while as dual or multiple nationalities are not permitted under Chinese law as per Article 3 of the Nationality Law³, whoever obtains the Chinese nationality would have to abandon any other foreign nationality. Hence, those who finally decide to join the naturalization procedure shall be determined enough to represent China forever, and would better have Chinese-related family background so as to simplify their procedure to obtain the Chinese nationality. Thus, at the current stage most of the potential "naturalized foreign players" refer to foreign players who have at least one of their parents or ancestry holding the Chinese nationality, who are more practical to be naturalized. Besides, it is very important whether these players can represent the Chinese national teams, therefore, they shall be eligible to play international matches after naturalization subject to article 5 to 8 of Part III. Eligibility to play for representative teams of the FIFA Statutes.

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2. Current Naturalization Practice in Hong Kong, Macau and Taiwan

Under the previous policies before 2019, most domestic clubs take advantage of a loophole for Hong Kong players to sign an additional foreign-born player so as to improve their tactics. This is a common approach in the small or mid-sized football clubs, and according to the policy for the 2019 season, it will probably remain welcomed in the league.

Considering the key effect of foreign players in the Chinese clubs, CFA encourages the transfer of high-level international players meanwhile limits the quota for each team so as to preserve the space of development of domestic players. According to the part of new policy already published for 2019, all clubs participating in the CSL can only register 4 foreign players, and have 3 on the field for each game. And for CL1 the 2nd division, the clubs could register 3 foreign players and have 2 of them for each game.

In the previous years the CFA policy has been changing constantly:

- Until the 2015 season, they were considered as “domestic players” and therefore did not occupy the quota of foreign players;
- In 2016, after issuance of a particular policy from the CFA at the end of the season 2015⁴, they were considered “Asian International Players”, therefore occupying the only quota available for Asian international players in the CSL⁵;
- From 2017 onwards, they are considered “foreign players” that should occupy a quota of foreign player;
- In January 2018, CFA published its “Circular on the 2018 Professional League Registration for Hong Kong, Macau and Taiwan”⁶, and confirmed that such players are no longer considered foreign players. The prerequisite to register such players is that the players involved have their first registration at the football association in such areas, and have the permanent residence therein. Players who registered as domestic players according to the 2015 policy will still be eligible to continue their domestic contract regardless of their first registration.

Under such policy of limitation, domestic clubs mostly transfer in foreign players who have been already naturalized by Hong Kong, Macau and Taiwan in order to have them registered as domestic players, so that they would occupy one less quota for foreign players, and bring with competitiveness that is higher than normal Chinese players. Moreover, the CFA Circular does not include any requirement for non-mainland players to have been registered with the Hong Kong, Macau or Taiwan FA during their entire careers nor that the last registration shall be with one of such associations. On the other hand, the CFA Circular does not provide any explanation whether the concept of first registration includes or not any previous registrations in other football associations as amateur players. Therefore it makes the loophole even larger for some Chinese clubs to sign foreign players with the Chinese non-mainland nationality from a wider range of selection.

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In this respect, the case of the football player Alex Toyo Akande is self-explanatory: a Nigerian born naturalized Hong Kong football player, who was registered with an English club as an amateur until 2008 and then was registered with Hong Kong clubs until receiving the Hong Kong nationality in 2016. This player has recently joined the CL1 club Yanbian Fude, being the fourth non-Chinese player registered in the team for that season and therefore occupying the quota of “non-mainland player”.

Another case to be mentioned is the case of the Nigerian player Festus Baise, who had his first registration with the Hong Kong Football Association in 2004 and obtained his residence in 2015. As a result, he was registered with the Chinese club Guizhou Hengfeng FC from 2016, without occupying any quota for foreign players as he could benefit from the abovementioned 2015 CFA policy.

Although from the practical perspective, CFA has given its acquiescence to this approach to first naturalize foreign players to Hong Kong, Macau and Taiwan, therefore have them registered as domestic players for the Chinese league, obstacles can still be easily felt in fact. For example, in order to obtain the Hong Kong residence, aside from marriage or investment domestically in the area, an applicant needs to have lived in Hong Kong for more than 7 years. Similar rules and preconditions also apply to Macau and Taiwan residence qualification. In addition, considering the intensity of competition in such leagues, foreign players who have their first registration at the associations thereof cannot be expected to have strong edge over normal Chinese players. And their age and competitiveness, after a long residence of 7 years, could be another concern that keeps the Chinese clubs away from this approach. We can learn from the cases that most clubs taking this strategy are small or mid-sized football clubs. As the price of outstanding domestic players is surging, these clubs can neither compete for domestic players with the leading clubs, nor sign top international players with record high fees meanwhile paying relevant CFA procedural funds. They have to take this other plan to strengthen their locker room and avoid delegation. Transferring in those players who have been already naturalized are having decent ability, could indeed allow the club to have one more foreign-born player without affecting other foreign players in the given quota. CFA's recognition of these players' status and its recent attitude toward naturalization of players, are making this strategy an increasingly reasonable choice to Chinese clubs looking for dependable new blood.

3. Naturalization Practice under the New Policy

With the CFA officially confirming the future policy of naturalized players, giving permission that domestic clubs may change nationality of those who are considered “top-tier foreign players” and have them registered for the domestic football league and even play for the national team, more clubs will try to directly convert foreign players into Chinese nationality.

Such policy undoubtedly expands the scope of talent selection for clubs, rather than being constrained by the only choice among players naturalized in Hong Kong, Macao and Taiwan. It is not difficult to find out that the pilot clubs (Beijing Guoan, Shandong Luneng, Shanghai Shenhua, etc.) that those taking the lead in implementation of this new policy are mostly large football clubs with a long history of development. This

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group of clubs, which have long sought to improve their ranks in the league, will inevitably target at naturalized candidates with international level and are willing to pay higher transfer and salary fees to have more players of the international level. Naturalized players entering the Chinese leagues through these clubs will have a much higher competitive level than those who have completed their naturalization procedures through Hong Kong, Macao and Taiwan regions, hence having greater possibility to enter the national team. A large number of agents who have long been paying attention to the naturalization of players have carried out pre-transfer operations for such players. However, from the perspective of the published policies, the specific guidelines for the naturalization of football players have not been officially enacted, thus, at the current stage, we may only make reference to general existing immigration laws and regulations to evaluate the time required for the naturalization of players. There are not too many requirements on the list of documents required by the official website of China's ministry of Public Security, but this does not mean the procedure will be quick. In fact, the specific time length of the "processing period" is not clearly stated in the website information, reflecting certain degree of uncertainty in practice.

With reference to the legal framework, subject to Article 7 of the "Nationality Law of China", foreign individuals may be naturalized Chinese in the following cases:

- Have Chinese close relative(s);
- Have settled in China;
- Have other just causes.

Considering that normally only individuals who made outstanding contributions to the country (i.e. in the fields of scientific research, literature, etc.) may satisfy the "just cause" in the 3rd category above, in practice only foreign individuals with close Chinese relatives (for instance one of his biological parent or grandparent was born in China) or who are settled in China can obtain Chinese nationality.

For those who do not have close Chinese relatives, it would first be necessary to obtain permanent Chinese residence permission ("Chinese Green Card"⁷). For instance, the applicant shall at least (including but not limited to):

- Have made a certain amount of investments (normally above 2 million CNY) in China with decent taxing records;
- Have been in the post above vice manager, vice factory director or with title above vice professor, vice researcher or enjoy equivalent treatment in China for a minimum duration of 4 consecutive years, and live in China accumulatively for no less than 3 years with decent taxing records;
- Make outstanding contributions as needed by the country;
- Be married to a Chinese citizen and have stayed in China for a minimum duration of 5 consecutive years.

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From the existing records, from 2004 to 2016, only 10,200 green cards have been issued to foreign citizens. Although more applications have been accepted in recent years, from the perspective of football players, it is still difficult for those without Chinese family background to obtain this nationality for the purpose of professional football in the existing legal procedures.

Therefore, most targets to be naturalized by the domestic clubs known to the public more or less have a certain Chinese family background. Since the fathers or grandparents of these players have close contact with China, they can skip the green card application, and obtain Chinese nationality easily compared with other foreign players. Besides, from the perspective of language and culture, these players are more likely to integrate into the leagues in China, cultivate a sense of Chinese self-identification, and thus better prepare for the career in the national team. Some media and sources even leaked the news that the CFA has already been coordinating with the public security so that the targeted players can complete the nationality conversion as soon as possible.

With the 2022 Qatar World Cup Qualification approaching, CFA has made its proposal clear that it will push forward the naturalization of players for the improvement of the league competitiveness. Therefore, the naturalization of foreign football players with Chinese family background will be a popular choice for most Chinese professional clubs in the short term, while those foreign players without similar backgrounds may have to wait for stronger support at the policy level.

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¹ It was during the National People's Congress and the Chinese Political Consultative Conference in 2015 that Wan Anpei, member of the national committee, branch manager of Ping An Bank(Wuhan) made the suggestion that Chinese football may need to adopt new laws with regard to "Nationality Law of People's Republic of China", so as to naturalize high-level foreign players to improve the competitiveness of Chinese football environment.

<http://sports.people.com.cn/n/2015/0605/c22176-27108132.html>

² On 20th December 2018 the CFA Secretary Du Zhaocai officially confirmed that since 2019 the implementation of foreign player naturalization will be carried out.

<http://sports.163.com/18/1220/20/E3GEF31800058780.html>

³ Article 3 of "Nationality Law of People's Republic of China": The PRC does not recognize dual nationality for its citizens.

⁴ The "CFA Circular [2015]No.625: Circular on the Adjustment of Transfers of Hong Kong, Macau and Taiwan Players"

⁵ Under the Foreign Players' Quota at the time, CSL clubs are allowed to register 4 non-Asian foreign players and 1 Asian foreign player. This policy was later cancelled in season 2016.

⁶ The "CFA Circular [2018]No.36: Circular on the 2018 Professional League Registration for Hong Kong, Macau and Taiwan"

⁷ The regime of "Permanent Residence Permit" (also known as "Chinese Green Card") was first promulgated through "Administrative Regulations on the Examination over Foreigners' Permanent Residence in People's Republic of China" in August 2004.