

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 23 March 2006,

in the following composition:

Slim Aloulou (Tunisia), Chairman
Mario Gallavotti (Italy), Member
Peter Friend (Australia), Member
Mick McGuire (England), Member
Gerardo Movilla (Spain), Member

on the claim presented by

Player A,

as Claimant

against

Club B,

as Respondent

regarding a dispute about
the employment contract concluded between the parties.

I. Facts of the case

1. The player A (hereinafter; the player), born on 1 June 1986, concluded an employment contract with the club B (hereinafter; the club) on 6 December 2004, valid as of 1 December 2004 until 31 December 2007. In annex 2 to the contract, a monthly salary of USD 3,000 is stipulated.
2. In May 2005, the player joined the U-20 representative team of his Association for the U-20 World Cup in the Netherlands.
3. On 18 August 2005, the player contacted FIFA, maintaining that he had been deceived by the CEO of the club to sign the above-mentioned employment contract.
4. On 9 September 2005, the player completed his former submission, requesting the annulment of the employment contract and disciplinary sanctions against the club.
5. First of all, the player complained that the contract does not stipulate any obligation of the club to provide him with the basic requirements, such as accommodation, feeding and educational support. The stipulated salary would not cover the player's expenses, therefore he should be considered *de facto* as an amateur.
6. Moreover, he stated that the club X sponsored and was responsible for his training and education, and that therefore the club could not have signed an employment contract with him. The player did not submit any agreement signed by him and club X.
7. Furthermore, the player complained that since he was 18 years old at the time of the conclusion of the relevant contract, the signing of a professional contract was in violation of article 13 of the FIFA Regulations for the Status and Transfer of Players (edition 2001), which states that the training and education of a player has to take place between the ages of 12 and 23.
8. Finally, the player also complained that the contract was signed without his agent having been contacted before, and that the agent's name was not included in the contract.
9. On 30 September 2005, the club answered to the player's accusations.
10. In this respect, the club first of all informed FIFA that the player had resumed duty after the U-20 World Cup in the Netherlands only on 5 September 2005.

11. In continuation, the club stated that the player was not deceived into signing the relevant employment contract, but that he signed the contract in free will. Therefore, he must respect the contract and fulfil his contractual obligations.
12. Moreover, the club stated that all the player's salaries were paid so far, despite his long and unexcused absence. Besides that, the club stated that the agreed salary was adequate for the player in question and more than sufficient to cover his needs. In this regard, the club also stated that the player had free board and lodging, and moreover, was provided with a new car.
13. Finally, the club reserved its right to make a claim against the player for his unexcused absence from the end of the U-20 World Cup in the Netherlands on 2 July 2005 until 5 September 2005, but for the time being, refrained from submitting an official claim, since the player apparently acted under high pressure of his counsels.
14. On 25 October 2005, the player informed FIFA that he insisted on a formal decision to be taken by the Dispute Resolution Chamber, since he was still of the opinion that he had been deceived by the club when he signed the employment contract.
15. In this regard, the player confirmed having resumed duty with the club on 5 September 2005, and in this regard, also confirmed that the club respected its financial obligations towards him.
16. Moreover, he stated that he was illegally registered, since his former Association allegedly never sent his International Transfer Certificate to his new Association.
17. On 7 December 2005, the club informed FIFA that the player in question again left the club without permission on 28 November 2005, and therefore requested FIFA to intervene so that the player would immediately return to the club.
18. On 11 December 2005, the club provided FIFA with its final position in the matter, stating that a valid employment contract had been concluded between the parties, that the club always had respected all its contractual obligations towards the player, and that therefore, the player also must respect his contractual obligations.
19. On 15 February 2006, the player submitted his answer to the club's request for immediate return, and thereby maintained that he was absent from the club due to his participation with his Association team to an international tournament. In continuation, he stated that on 16 February 2006, he allegedly had to attend to

an award ceremony. Finally, he stated that he planned to rejoin the club as soon as all activities connected with the said ceremony were concluded.

20. Besides the above, he was still of the opinion that the employment contract binding him to the club was not valid, since he was deceived into signing the said contract.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Dispute Resolution Chamber (DRC) analysed whether it was competent to deal with the matter at stake. In this respect, it referred to art. 18 par. 2 and 3 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber. The present matter was submitted to FIFA on 18 August 2005, as a consequence the Chamber concluded that the revised Rules Governing Procedures (edition 2005) on matters pending before the decision making bodies of FIFA are applicable on the matter at hand.
2. With regard to the competence of the Chamber, art. 3 par. 1 of the above-mentioned Rules states that the Dispute Resolution Chamber shall examine its jurisdiction in the light of articles 22 to 24 of the current version of the Regulations for the Status and Transfer of Players (edition 2005). In accordance with art. 24 par. 1 in connection with art. 22 (b) of the aforementioned Regulations, the Dispute Resolution Chamber shall adjudicate on employment-related disputes between a club and a player that have an international dimension.
3. As a consequence, the Dispute Resolution Chamber is the competent body to decide on the present litigation involving a club and a player with different nationalities regarding a dispute in connection with an employment contract.
4. Subsequently, the members of the Chamber analyzed which edition of the Regulations for the Status and Transfer of Players should be applicable as to the substance of the matter. In this respect, the Chamber referred, on the one hand, to art. 26 par. 1 and 2 of the Regulations for the Status and Transfer of Players (edition 2005) and, on the other hand, to the fact that the relevant contract at the basis of the present dispute was signed on 6 December 2004 and the claim was lodged at FIFA on 18 August 2005. In view of the aforementioned, the Chamber concluded that the current FIFA Regulations for the Status and Transfer of Players (edition 2005, hereafter: the Regulations) are applicable on the case at hand as to the substance.

5. Entering into the substance of the matter, the DRC acknowledged the documentation contained in the file, and in view of the circumstances of the case, focused on the question whether the employment contract between the club and the player was to be considered as null and void or if the player had to resume duty with the club.
6. In this respect, the DRC had, in particular, to analyse the following argumentations (*in italics*) forwarded by the player, according to which the said employment contract, from the player's point of view should be declared null and void.
7. *1) The player had been deceived by the CEO of the club to sign the above-mentioned employment contract.*
8. The DRC acknowledged that the player alleged that he had been deceived to sign the employment contract in question, but that he had neither outlined how this should have happened, nor submitted any clear evidence corroborating such allegation.
9. Therefore, in application of the principle of the burden of proof, and due to lack of evidence, the DRC had to reject the first argument of the player.
10. *2) The employment contract does not stipulate any obligation of the club to provide the player with the basic requirements, such as accommodation, feeding and educational support.*
11. The DRC deliberated if clubs are obliged, according to the Regulations, to provide their players with basic requirements, such as accommodation, feeding and educational support.
12. In this respect, the DRC could only refer to art. 19 par. 9 b) of the Regulations, based on which an international transfer of a minor within the EU/EEA shall only be permitted in case the player concerned is aged between 16 and 18, and if suitable arrangements are guaranteed for the player's sports training, academic education and care by the new training club.
13. The DRC had to clarify, however, that the above-mentioned provision 1) does not concern the validity of an employment contract, but only the possibility of an international transfer of a minor, and 2) does apply only to transfers of players between two clubs affiliated to Associations in the EU/EEA.
14. In the present case, the player challenged the validity of the employment contract, but not the validity of his international transfer.

15. Moreover, the international transfer of the player did not occur between two clubs affiliated to Associations in the EU/EEA. Therefore, the above-mentioned provision does not apply to the matter at stake
16. Finally, the DRC emphasized that at the time of the relevant transfer, the player was already older than 18.
17. In conclusion, the DRC had to reject such argumentation of the player.
18. For the sake of good order, the DRC also referred to article 2 par. 2 of the Regulations and deemed that a monthly salary of approximately USD 3,000 has to be considered a higher remuneration as just refund of expenses incurred by the player in return for his footballing activity. As a consequence, the DRC rejected also the player's claim that he should be, de facto, considered an amateur.
19. *3) The club X was responsible for the player's training and education, therefore the club could not have signed an employment contract with the player.*
20. The DRC acknowledged that the player had not submitted any agreement signed between him and the club X, according to which the club X would be responsible for his training and education.
21. Therefore, in application of the principle of the burden of proof, and due to lack of evidence, the DRC had as well to reject the third argument of the player.
22. *4) The signing of a professional contract was in violation of article 13 of the FIFA Regulations for the Status and Transfer of Players (edition 2001), which states that the training and education of a player has to take place between the ages of 12 and 23, since the player was only 18 years old at the time of the conclusion of the relevant contract.*
23. The DRC emphasized that the duration of the period of training and education of a player provided in art. 13 of the afore-mentioned Regulations is relevant only for the entitlement to and the calculation of the amount of training compensation for young players. The provision in question does, however, not prevent players and clubs from concluding an employment contract before the player's age of 23.
24. In this respect, the DRC clarified that clubs and players can conclude employment contracts without the same having to be co-signed by the player's legal representative/guardian as soon as the player, in accordance with the national law applicable, has attained majority.

25. Therefore, and in view of the fact that the player was already at the age of 18 when he signed the employment contract in question, the DRC came to the conclusion that, under this aspect, the said contract was concluded validly.
26. *5) The contract was signed without contacting the player's agent beforehand, and the agent's name was not included in the contract.*
27. The DRC underlined that there is no obligation contained in the applicable Regulations of FIFA preventing a player and a club from signing an employment contract without contacting the player's agent beforehand. Furthermore, in case the agent of a player is not involved in the conclusion of an employment contract, his name, in consequence, is not to be mentioned in that contract.
28. In view of the above, also from this point of view, the DRC considered the employment contract in question as having been concluded validly, and hence rejected argument 5 of the player.
29. *6) The player was illegally registered, since the player's former Association allegedly never sent his International Transfer Certificate to the player's new Association.*
30. In view of the investigations carried out by FIFA, by means of which it was established that the player's International Transfer Certificate was requested and issued by the competent Associations, the last argument of the player was declared by the DRC as being wrong.
31. Finally, the DRC also pointed out that the player had explicitly recognised that the club had fully complied with the payment of his salary and thus had always adhered to its contractual obligations.
32. In view of all the above, the DRC concluded that the invalidity of the employment contract in question was not established by the claimant. Therefore, in application of the principle of *pacta sunt servanda*, which is a basic principle to every legal system in the world, the DRC decided that the player had to resume duty with the club immediately.

III. Decision of the Dispute Resolution Chamber

1. The claim of the player is rejected.
2. The counterclaim of the club is accepted.
3. The player has to resume duty with the club **immediately**.
4. In the event that the player does not comply with the present decision, the matter shall be submitted to FIFA's Disciplinary Committee, so that the necessary disciplinary sanctions may be imposed.
5. According to art. 60 par. 1 of the FIFA Statutes this decision may be appealed before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 21 days of receiving notification of this decision and has to contain all elements in accordance with point 2 of the directives issued by the CAS, copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for the filing of the statement of appeal, the appellant shall file with the CAS a brief stating the facts and legal arguments giving rise to the appeal (cf. point 4 of the directives).

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Encl. CAS directives