

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 5 December 2008,

in the following composition:

Slim Aloulou (Tunisia), Chairman

Joaquim Evangelista (Portugal), member

Gerardo Movilla (Spain), member

Mario Gallavotti (Italy), member

Caio Cesar Vieira Rocha (Brazil), member

on the claim presented by the club

A,

as Claimant

against the club

SV,

as Respondent

regarding a dispute for training compensation in connection with
the player S.

I. Facts of the case

1. The Football Association of A confirmed that the player, S, born on 11 September 1987, was registered with its affiliated club A (hereafter: the Claimant) as from 20 March 1998 until 7 March 2005 as an amateur.
2. The football season in A for U-20 amateur players lasts from January to December.
3. On 8 February 2007, the player was registered with the G club SV (hereafter: the Respondent) as a professional player.
4. The Football Federation of G confirmed that the Respondent belonged to the category III (indicative amount of EUR 30,000 per year) during the season 2006/2007.
5. On 14 June 2007, the Claimant contacted FIFA asking for its proportion of training compensation from the Respondent. In particular, the Claimant is requesting the amount of EUR 100,000 (as from the season of the player's 12th birthday until the season of the player's 17th birthday).
6. On 23 November 2007, the Respondent contested the amount claimed by the Claimant and deemed that the Dispute Resolution Chamber should adjust the relevant amount since it is clearly disproportionate. In particular, the G club maintained that only during the season 2006/2007 it had belonged to the category III (indicative amount of EUR 30,000 per year) in the sense of art. 4 Annexe 4 of the Regulations on the Status and Transfer of Players (hereafter: the Regulations). Moreover, the Respondent affirmed that the player only played 622 Minutes during the season 2006/2007 and that by the end of the season 2007/2008 he returned to S. Finally, the G club maintained that being the player also an I citizen, EU-law applies and in accordance with a decision of a G court from the year 2005 the provisions relating to training compensation are null and void.
7. On 2 April 2008, the Claimant referred to its previous correspondence and added that neither did the Respondent corroborate any of its allegations, nor would any of the arguments put forward by the Respondent interfere with its rights as per the Regulations, to be properly compensated as training clubs.
8. On 11 September 2008, the Respondent again referred to its previous position and added that according to the Respondent's tax advisers it had been investing per year and per player the amount of EUR 620 (season 2003/2004), the amount of EUR 812,50 (season 2004/2005) and the amount of EUR 737,50 (season 2005/2006). Thus, if at all it would pay training compensation amounting to EUR 1,000 per year, i.e. the amount of EUR 3,350 to the Claimant.
9. Both, the Claimant and the Respondent referred to their previous statements.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Dispute Resolution Chamber analysed whether it was competent to deal with the case at hand. In this respect, it took note that the present matter was submitted to FIFA on 14 June 2007. Consequently, the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2005, hereinafter: Procedural Rules) are applicable to the matter at hand (cf. art. 18 par. 2 and 3 of the Procedural Rules).
2. Subsequently, the members of the Chamber referred to art. 3 par. 1 of the Procedural Rules and confirmed that in accordance with art. 24 par. 1 and art. 22 lit. (d) of the Regulations on the Status and Transfer of Players (edition 2008) the Dispute Resolution Chamber is competent to decide on the present litigation with an international dimension concerning the training compensation claimed by the Claimant for the training and education of the player S.
3. Furthermore, and taking into consideration that the player was registered with his new club on 8 February 2007, the Chamber analysed which regulations should be applicable as to the substance of the matter. In this respect, it confirmed that in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (edition 2008), and considering that the present claim was lodged on 14 June 2007, the previous version of the regulations (edition 2005; hereinafter: Regulations) is applicable to the matter at hand as to the substance.
4. The competence of the Chamber and the applicable regulations having been established, the Chamber entered into the substance of the matter. The members of the Chamber started by acknowledging that the player, born on 11 September 1987, was registered with the Claimant as from 20 March 1998 until 7 March 2005 as an amateur and that the football season in A for U-20 amateur players lasts from January to December.
5. The Chamber duly noted that, on the one hand, the Claimant is requesting training compensation for the training and education of the player concerned from the Respondent in the amount of EUR 100,000. On the other hand, the Chamber took into account that the Respondent contested the amount claimed by the Claimant and deemed that the Dispute Resolution Chamber should adjust the relevant amount since it is clearly disproportionate.
6. In particular, the Respondent pointed out that it only belonged to the category III in the sense of art. 4 Annexe 4 of the Regulations during the season 2006/2007, that the player only played 622 Minutes during the season 2006/2007 and that being the player also an I citizen EU-law applies, and in accordance with a decision of a G court from the year 2005 the provisions relating to training compensation are null and void. Finally, the Respondent explained that per year it had been investing per year and per player the amount of EUR 620 (season 2003/2004), the amount of EUR 812,50 (season 2004/2005) and the amount of EUR 737,50 (season 2005/2006). Thus, if at all it would pay training compensation amounting to EUR 1,000 per year, i.e. the amount of EUR 3,350 to the Claimant.

7. Thereafter, the Chamber acknowledged that it is uncontested by the parties and confirmed the Football Federation of G that the player was registered with the Respondent as a professional on 8 February 2007 and that the Respondent belonged to the category III (indicative amount of EUR 30,000 per year) during the season 2006/2007.
8. Continuing, the Chamber stated that, as established in art. 1 par. 1 of Annexe 4 in combination with art. 2 of Annexe 4 of the Regulations, training compensation is payable, as a general rule, for training incurred between the ages of 12 and 21 when the player concerned is registered for the first time as a Professional, or when a Professional is transferred between two clubs of two different Associations, before the end of the season of the player's 23rd birthday.
9. In view of the above, the Chamber concluded that based on the documents at disposal it can be established that the player in question, was registered for the first time as a professional with the Respondent before the end of the season of the player's 23rd birthday.
10. As a result, and considering the above point II. 4. as well as art. 3 par. 1 of the Annexe 4 of the Regulations, which stipulates that the amount payable is calculated on a pro rata basis according to the period of training that the player spent with each club, the Chamber concluded that the effective period of time to be considered at the matter at stake corresponds to six entire seasons, the seasons between the player's 12th to 17th birthday (1999-2004), as well as two months of the season of his 18th birthday (2005).
11. Turning its attention to the calculation of training compensation, the Chamber referred to art. 5 par. 1 and 2 of the Annexe 4 of the Regulations, which stipulates that as a general rule, it is necessary to take the costs that would have been incurred by the new club if it had trained the player itself and thus it is calculated based on the training costs of the new club multiplied by the number of years of training with the former club. Yet, and to ensure that training compensation for very young players is not set at unreasonably high levels, the training costs for players for the season between their 12th and 15th birthday (i.e. four seasons) shall be based on the training and education costs of category 4 clubs (cf. art 5 par. 3 of the Annexe 4 of the Regulations).
12. In this respect, the Chamber took due note that according to the information at disposal by the time the player was registered as a professional with the Respondent, i.e. in the season 2006/2007, the latter belonged to category 3 (indicative amount within UEFA EUR 30,000 per year). Equally, the Chamber considered that the indicative amount within UEFA for a category 4 club is EUR 10,000 per year.
13. Yet, the Chamber considered that the Respondent deems that for the present dispute the amount of training compensation is clearly disproportionate and should therefore be adjusted. In this respect, the Chamber referred to the legal principle of the burden of proof, according to which any party claiming a right on the basis of an alleged fact shall carry the burden of proof (cf. art. 12 par. 3 of the Procedural Rules).

14. In this context, the Chamber emphasized that the Respondent neither provided any documentary evidence at all with regard that the player apparently only played 622 Minutes during the season 2006/2007 nor that the player is also an I citizen.
15. For the sake of good order, the Chamber mentioned that the decision of a G court to which the Respondent referred, which states that the provisions relating to training compensation are null and void, refers to the rules of training compensation contained in the regulations of the Football Federation of G. Equally, the Chamber deemed it appropriate to reiterate that according to the established jurisprudence and the applicable Regulations training compensation is due in case a player signs his first employment contract, thus irrespective of the period of time a player actually renders his services to the new club and/or appears in matches.
16. Thereafter, the Chamber emphasized that the G Football Federation confirmed that the Respondent belonged to the category III (indicative amount of EUR 30,000 per year) during the season 2006/2007. Moreover, the Chamber considered that the documents submitted by the Respondent, produced by its tax advisers refer to the season 2004/2005 until 2005/2006. Yet, the present matter refers to the season 2006/2007, when the player signed his first employment and according to the remitted information the Respondent belonged to the category III.
17. Thus, the Chamber deemed that the documents remitted by the Respondent cannot be considered as concrete evidence to corroborate that the training costs payable by the Respondent are clearly disproportionate because the player signed his first employment contract during the season 2006/2007.
18. In view of all of the above, the Chamber concluded that the Claimant is entitled to receive training compensation from the Respondent in the claimed amount of EUR 100,000.

III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, A, is accepted.
2. The Respondent, SV, has to pay to the Claimant, A, the amount of EUR 100,000 **within 30 days** as from the date of notification of this decision.
3. If the aforementioned sum is not paid within the aforementioned deadline, an interest rate of 5% per year will apply as of expiring of the fixed time limit and the present matter shall be submitted upon the parties' request to FIFA's Disciplinary Committee so that the necessary disciplinary sanctions may be imposed.
4. The Claimant, A, is directed to inform the Respondent, SV, immediately and directly of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received.

Note relating to the motivated decision (legal remedy):

According to art. 63 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 21 days of receipt of notification of this decision and shall contain all the elements in accordance with point 2 of the directives issued by the CAS, a copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS (cf. point 4 of the directives).

The full address and contact numbers of the CAS are the following:

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For the Dispute Resolution Chamber:

Markus Kattner
Deputy Secretary General

Encl. CAS directives