

# **Decision of the Dispute Resolution Chamber (DRC) judge**

passed in Zurich, Switzerland, on 12 June 2012,

by **Theo van Seggelen** (Netherlands), DRC judge,

| on the claim presented by the club P,

*as Claimant*

against the club D,

*as Respondent*

regarding solidarity contribution in connection with the international transfer of the  
player V

## **I. Facts of the case**

1. According to the player passport issued by the Football Association B, the player V from country B, born on 31 May 1990, was registered with the club P in country B (hereinafter: *the Claimant*), as from 1 January 2002 until 31 December 2008.
2. The season in country B starts in January and ends in December.
3. According to a written statement transmitted by the Football Federation of U the player was registered with the club D in country U (hereinafter: *the Respondent*) on 2 March 2011.
4. On 26 May 2011, the Claimant lodged a claim in front of FIFA, claiming its proportion of the solidarity contribution in connection with the transfer of the player concerned from the club I from country B to the Respondent, on the basis of a transfer compensation of EUR 11,000,000. In this respect, the Claimant requests 50% of the 5% of the total compensation, equivalent to EUR 275,000, plus 5% interest since the date on which the payments were due.
5. According to the information contained in the Transfer Matching System (TMS), club I and the Respondent agreed upon a transfer compensation of EUR 11,000,000 payable as follows:
  - EUR 7,000,000 on 25 February 2011
  - EUR 2,000,000 on 1 June 2011
  - EUR 2,000,000 on 1 December 2011
6. In spite of having been invited by FIFA to provide its position regarding the claim, the Respondent did not respond to the claim or make any statements at all during the course of the investigation.

## **II. Considerations of the DRC judge**

1. First of all, the DRC judge analysed whether he was competent to deal with the case at hand. In this respect, he took note that the present matter was submitted to FIFA on 26 May 2011. Consequently, the DRC judge concluded that the 2008 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber is applicable to the matter at hand (cf. art. 21 par. 2 and par. 3 of the Procedural Rules).
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2. Subsequently, the DRC judge referred to art. 3 par. 2 of the Procedural Rules, which states that the DRC judge shall examine its jurisdiction in light of art. 24 par. 2 of the Regulations on the Status and Transfer of Players (edition 2010). In accordance with art. 24 par. 1 and par. 2 lit. ii. in connection with art. 22 lit. d) of the Regulations on the Status and Transfer of Players, the DRC judge is competent to decide on the present matter relating to the solidarity mechanism between clubs belonging to different associations.
  3. Furthermore, the DRC judge analysed which edition of the Regulations on the Status and Transfer of Players should be applicable as to the substance of the matter. In this respect, he referred, on the one hand, to art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (edition 2010) and, on the other hand, to the fact that the present claim was lodged on 26 May 2011 and that the player was registered with the Respondent on 2 March 2011. In view of the aforementioned, the DRC judge concluded that the 2010 edition of the Regulations on the Status and Transfer of Players (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.
  4. The competence of the DRC judge and the applicable regulations having been established, the DRC judge entered into the substance of the matter. In doing so, the DRC judge started by acknowledging the above-mentioned facts of the case as well as the documents contained in the file.
  5. In this respect, the DRC judge noted that the Claimant claimed the payment of the amount of EUR 275,000 as solidarity contribution from the Respondent, corresponding to 50% of the 5% of the total compensation, plus 5% interest since the date on which the payments were due.
  6. In addition to the above, the DRC judge took into account that according to the information contained in the Transfer Matching System, club I and the Respondent agreed upon a transfer compensation of EUR 11,000,000 payable as follows:
    - EUR 7,000,000 on 25 February 2011
    - EUR 2,000,000 on 1 June 2011
    - EUR 2,000,000 on 1 December 2011
  7. Furthermore, the DRC judge duly noted that the Respondent never took position in the present matter, although having been invited to do so by FIFA. Therefore, the DRC judge deemed that, in this way, the Respondent renounced to its right to defence and accepted the allegations of the Claimant.
  8. As a consequence of the aforementioned consideration, the DRC judge established that, in accordance with art. 9 par. 3 of the Procedural Rules, it shall take a decision upon the basis of the documents already on file.
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9. Having established the above, the DRC judge referred to art. 21 of the Regulations in combination with art. 1 of Annexe 5 of the Regulations which stipulate that, if a professional moves during the course of a contract, 5% of any compensation, not including training compensation paid to his former club, shall be deducted from the total amount of this compensation and be distributed by the new club as a solidarity contribution to the club(s) involved in the training and education of the player in proportion of the number of years the player has been registered with the relevant club(s) between the seasons of his 12<sup>th</sup> and 23<sup>rd</sup> birthday.
  10. In this respect, the DRC judge recalled that the Football Association B had confirmed that the player, born on 31 May 1990, was registered with the Claimant as from 1 January 2002 until 31 December 2008.
  11. On account of the above and in accordance with art. 1 of Annexe 5 of the Regulations, the DRC judge considered that the Claimant is, thus, entitled to receive solidarity contribution for the period as from 1 January 2002 until 31 December 2008, i.e. for 7 complete seasons.
  12. In view of all of the above, the DRC judge decided to accept the claim of the Claimant and held that the Respondent is liable to pay the amount of EUR 275,000 to the Claimant as solidarity contribution in relation to the transfer of the player from club I to the Respondent.
  13. Furthermore, and taking into consideration both the claim of the Claimant as well as art. 2 par. 1 of Annexe 5 of the Regulations, the DRC judge decided that the Respondent has to pay, in conformity with the longstanding practice of the DRC, interest at rate of 5% *p.a.* as follows:
    - 5% *p.a.* on the amount of EUR 175,000 as from 28 March 2011 until the date of effective payment;
    - 5% *p.a.* on the amount of EUR 50,000 as from 2 July 2011 until the date of effective payment;
    - 5% *p.a.* on the amount of EUR 50,000 as from 2 July 2011 until the date of effective payment.
  12. Lastly, the DRC judge referred to art. 25 par. 2 of the Regulations in combination with art. 18 par. 1 of the Procedural Rules, according to which, in proceedings before the DRC, including the DRC judge, relating to disputes regarding training compensation and the solidarity mechanism, costs in the maximum amount of CHF 25'000 are levied. The relevant provision further
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states that the costs are to be borne in consideration of the parties' degree of success in the proceedings (cf. art. 18 par. 1 of the Procedural Rules).

13. In respect of the above, and taking into account that the claim of the Claimant has been accepted, the DRC judge concluded that the Respondent has to bear the costs of the current proceedings in front of FIFA.
14. According to Annex A of the Procedural Rules, the costs of the proceedings are to be levied on the basis of the amount in dispute.
15. On that basis, the DRC judge held that the amount to be taken into consideration in the present proceedings is EUR 275,000 related to the claim of the Claimant. Consequently, the DRC judge concluded that the maximum amount of costs of the proceedings corresponds to CHF 25,000 (cf. table in Annex A).
16. Considering that the case at hand did not compose any complex factual or legal issues and that it was adjudicated by the DRC judge and not by the DRC, the DRC judge determined the costs of the current proceedings to the amount of CHF 15,000.

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### **III. Decision of the DRC judge**

1. The claim of the Claimant, club P, is accepted.
2. The Respondent, club D, has to pay to the Claimant the amount of EUR 275,000 within 30 days as from the date of notification of this decision.
3. The Respondent has to pay to the Claimant, within 30 days of notification of this decision, interest at the rate of 5% *p.a.* as follows:

5% *p.a.* on the amount of EUR 175,000 as from 28 March 2011 until the date of effective payment;

5% *p.a.* on the amount of EUR 50,000 as from 2 July 2011 until the date of effective payment;

5% *p.a.* on the amount of EUR 50,000 as from 1 January 2012 until the date of effective payment.

4. In the event that the aforementioned sum and interest are not paid within the stated time limit, the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision.
5. The final amount of costs of the proceedings in the amount of CHF 15,000 is to be paid by the Respondent within 30 days of notification of the present decision, as follows:

- 5.1. The amount of CHF 10,000 to FIFA to the following bank account with reference to case no.:

UBS Zurich  
Account number 366.677.01U (FIFA Players' Status)  
Clearing number 230  
IBAN: CH27 0023 0230 3666 7701U  
SWIFT: UBSWCHZH80A

- 5.2. The amount of CHF 5,000 to the Claimant.

6. The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittances are to be made and to notify the DRC judge of every payment received.
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**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:

Court of Arbitration for Sport  
Avenue de Beaumont 2  
1012 Lausanne  
Switzerland  
Tel: +41 21 613 50 00  
Fax: +41 21 613 50 01  
e-mail: [info@tas-cas.org](mailto:info@tas-cas.org)  
[www.tas-cas.org](http://www.tas-cas.org)

For the DRC judge:

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Jérôme Valcke  
Secretary General

Enclosed: CAS directives

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