

# Decision of the Dispute Resolution Chamber (DRC)

passed in Zurich, Switzerland, on 24 November 2011,

in the following composition:

**Geoff Thompson (England)**, Chairman

**Guillermo Saltos Guale (Ecuador)**, member

**Carlos Soto (Chile)**, member

**Theodoros Giannikos (Greece)**, member

**Takuya Yamazaki (Japan)**, member

on the claim presented by the club,

**X,**

*as Claimant*

and the club,

**Y,**

*as Respondent*

regarding solidarity contribution related to the transfer  
of the player R

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

1. According to a statement issued by the Amateur League – affiliated to the Football Federation S and the latter, in its turn, to the Football Association B (hereinafter: *FAB*) – dated 30 January 2007, the player, R (hereinafter: *the player*), born on 25 January 1984, was registered with the club, X (hereinafter: *X* or *the Claimant*), as from January 1995 until December 1997. By means of its legal representative, X confirmed the player's registration as from 1 January 1995 until 31 December 1997.
2. Furthermore, a statement provided by the Football Federation S, dated 15 February 2007, establishes that “[...] *the amateur Football League is duly affiliated to the Football Federation S since 11 March 2005*”.
3. The Football Association B, by means of its correspondence dated 4 March 2008, confirmed the aforementioned information and consequently stated that no information regarding the League prior to 11 March 2005 is available; therefore, the registration with X cannot be officially confirmed.
4. The sporting season in country B follows the calendar year, i.e. from January to December every year.
5. The Football Federation Y confirmed that the player was registered for its affiliated club, Y (hereinafter: *Y* or *the Respondent*), on 26 August 2005.
6. On 31 July 2007, X lodged a claim in front of FIFA requesting that Y should proceed with the payment of solidarity contribution in the amount of USD 150,000, plus interests of 5% p.a. as from the date the payment became outstanding, corresponding to 10% of 5% of the transfer compensation, in connection with the transfer of the captioned player from the club, F.C. S (hereinafter: *F.C. S*), to the club, Y, for the alleged amount of USD 30,000,000.
7. X requests, moreover, Y should bear the legal expenses in the amount of EUR 5,000.
8. In its response, Y argues having paid the entire transfer compensation to F.C. S, in order to obtain the player's International Transfer Certificate (hereinafter: *ITC*). Therefore, F.C. S should be responsible for the payment of the solidarity contribution.
9. In addition, Y states that, having contacted F.C. S on the matter at hand, the latter argued that there is no evidence of the player ever being registered with X, as shown in the player's passport issued by the Football Association B in July 2007.

10. According to the aforementioned player's passport issued by the Football Association B in July 2007, no record was found for the period comprised between 1 January 1996 and 5 May 1999 and the player's very first registration was with F.C. S, on 6 May 1999.
11. In its replica, X maintains its previous arguments and states to ignore the reasons for which the Football Federation S refuses to confirm the registration of the player with X to the Football Association B, which consequently cannot issue a complete version of the player's passport.
12. Furthermore, X provided an extract of the player's official website, in which the following is stated: *"Found by the coach, he quickly changed from futsal to football in 1994 and went to play for X. From there to the young categories of F.C. S, neighbor of X, it did not take long"*.
13. After FIFA requested the Football Association B to provide an official statement of the player clarifying his registration between 1 January 1995 and 31 December 1997, for which the player's passport from July 2007 showed no record, the Football Association B provided a rectified player's passport from October 2008, in which the player was registered with F.C. S as from 1 January 1996 until 31 March 2001, as an amateur, and as from 1 April 2001 until 25 August 2005, as a professional.
14. Furthermore, the Football Association B provided a written statement from the player, dated 14 October 2008, in which the latter confirmed having played as an amateur for F.C. S as from 1 January 1996 until 30 April 1999.
15. In its duplica, Y states that, since the player was registered with F.C. S from the age of 12 until 21, according to the Football Association B's rectified player's passport, the solidarity contribution is due to F.C. S only and was already paid in August 2005.
16. X, nonetheless, refuses the new registration dates of the player with F.C. S and insists that, as from 1 January 1995 until 31 December 1997, the player was registered with X. Thus, X questions the authenticity of the rectified player's passport issued by the Football Association B and points out that F.C. S is one of the biggest and most influential clubs in country B.
17. X questions, furthermore, the fact that the rectified player's passport from July 2007 includes modifications deriving from the player's personal declaration from 14 October 2008, the authenticity of which was not recognized by a notary public.
18. Finally, X provided a statement signed by the player, dated 23 January 2009 and recognized by a notary public, in which the following is stated: *"I [...] make clear for all*

*due legal effects that I have been registered with the country B Football Club 'X as an amateur football player, beginning on January 1993 until the end of December 1996".*

19. In its final position, Y maintains its previous arguments.

## **II. Considerations of the Dispute Resolution Chamber**

1. First of all, the Dispute Resolution Chamber (hereinafter: *the Chamber or the DRC*) analysed which procedural rules are applicable to the case at hand. In this respect, it took note that the present matter was submitted to FIFA on 31 July 2007. Consequently, the 2005 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *the Procedural Rules*), is applicable to the matter at hand (cf. art. 18 par. 2 and 3 of the 2005 Procedural Rules and art. 21 par. 2 and 3 of the 2008 Procedural Rules).
2. In continuation, the Chamber referred to art. 3 par. 1 of the Procedural Rules and confirmed that, in accordance with art. 24 par. 1 in combination with art. 22 lit. d) of the Regulations on the Status and Transfer of Players (edition 2005; hereinafter: *the Regulations*), the Dispute Resolution Chamber was competent to adjudicate on a dispute relating to the payment of solidarity contribution between a country B club and a country S club.
3. Furthermore, the Chamber analysed which regulations were applicable as to the substance of the matter. In this respect, it confirmed that, in accordance with art. 24 par. 1 and with art. 29 of the 2005 edition of the FIFA Regulations, and with art. 26 par. 1 and 2 and art. 29 of the 2008 edition of the Regulations on the Status and Transfer of Players, and considering that the present claim was lodged on 31 July 2007 and that the player was registered with the Respondent on 26 August 2005, the 2005 edition of said Regulations was 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 the above-mentioned facts and the documentation contained in the file.
5. In particular, the Chamber noted that the Claimant had lodged a claim against the Respondent, requesting its share of solidarity contribution related to the transfer of the player from the country B club, F.C. S, to the country S club, Y, in the amount of USD 150,000, i.e. 10% of 5% of the transfer compensation, plus interests of 5% p.a. as from the date the payment became outstanding, as well as legal expenses in the amount of EUR 5,000.

6. In particular, the Chamber noted that, on the one hand, the Claimant based its request and the calculation of the allegedly due amount of solidarity contribution on a statement of the Amateur League, dated 30 January 2007, and on a statement of the captioned player, dated 23 January 2009. While the statement of the Amateur League indicated that the player was registered with X from January 1995 until December 1997, that of the player indicated that his registration with X started in January 1993 and ended in December 1996.
7. On the other hand, the members of the Chamber noted that the Respondent stated that the Claimant was not able to provide any conclusive evidence of the player's registration with X. According to the first player's passport of July 2007, provided by the Football Association B, there exists no record of the player's registration with any club for the period comprised between 1 January 1995 and 31 December 1997. The DRC equally noted that the Respondent argues that the second passport issued in October 2008 by the Football Association B, rectified as per the player's statement of 14 October 2008, would neither entitle the Claimant to any type of compensation, since it showed that the player was registered with F.C. S as of 1 January 1996 until 25 August 2005 and could not have possibly been registered with X as from 1 January 1995 until 31 December 1997, as argued by the latter.
8. Further, the Chamber took note that the Claimant, in view of the aforementioned statements of the Respondent, argues that the information contained in both player passports provided by the Football Association B – of July 2007 and of October 2008 – are incorrect, and pointed out that F.C. S is one of the biggest and most influential clubs in country B.
9. In view of the above, the Chamber observed that the main question of dispute to be analysed in the present matter is the player's registration for the period between 1 January 1995 and 31 December 1997, i.e. whether the player was registered with the Claimant for the aforementioned period. In this respect, the Chamber considered the question of the involvement of the Claimant in the training and education of the player as an essential prerequisite to establish its entitlement to solidarity contribution.
10. In continuation, the Chamber deemed it important to emphasize that, as a general rule, as established in art. 21 of the Regulations in connection with its Annex 5, if a professional player 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 distributed by the new club as solidarity contribution to the club(s) involved in the training and education of the player in proportion to the number of years the player has been registered with the relevant club(s) between the sporting seasons of his 12<sup>th</sup> and 23<sup>rd</sup> birthdays.

11. At this point and for the sake of good order, the Chamber also reminded the parties of the basic principle of burden of proof, as stipulated in art. 12 par. 3 of the Procedural Rules, according to which a party claiming a right from an alleged fact shall carry the respective burden of proof.
12. Bearing in mind all the aforementioned, the Chamber proceeded to analyze all the documentation provided to FIFA by the parties, in particular the statement of the Amateur League, the statement of the Football Federation S, the two player passports issued by the Football Association B, and the two declarations allegedly provided by the player, in order to establish his registration for the period between 1 January 1995 and 31 December 1997, and consequently, establish whether the Claimant has the right to claim the payment of solidarity contribution from the Respondent. In case the DRC deems that the Claimant is indeed entitled to receive solidarity contribution from the Respondent, the Chamber will then proceed with the calculation of the amount due.
13. Firstly, the DRC recalled the wording of the statement of the Amateur League, dated 30 January 2007, according to which *"The player R was duly registered before this institution and participated in official competitions recognized by the Football Federation S, for X [...] during the period between January/1995 and December/1997"*.
14. Furthermore, the Chamber recalled the wording of the statement of the Football Federation S, dated 15 February 2007, which established that *"[...] the amateur Football League is duly affiliated to the Football Federation S since 11 March 2005"*.
15. Subsequently, the DRC took note that the first player's passport submitted was issued by the Football Association B in July 2007 and provided for the following registration periods of the player: as from 1 January 1996 to 5 May 1999, there was no record found of any registration regarding the player in question; as from 6 May 1999 until 31 March 2001, the player was registered as an amateur with F.C. S; and as from 1 April 2001 until 25 August 2005, the player was registered as a professional, also with F.C. S.
16. Equally, the Chamber took into account that the second player's passport submitted was issued by the Football Association B in October 2008 and provided for the following registration periods of the player: as from 1 January 1996 until 31 March 2001, the player was registered as an amateur with F.C. S; as from 1 April 2001 until 25 August 2005, the player was registered as a professional, also with F.C. S
17. The members of the DRC further took due note of the first statement of the player, dated 14 October 2008 and remitted to FIFA by the Football Association B, according to which the player declares having *"played as amateur for the F.C. S, from 1 January 1996 to 30 April 1999"*.

18. In continuation, the DRC was furthermore eager to refer to the second statement of the player, dated 23 January 2009, provided by the Claimant, by means of which he declares to *"have been registered with the country B Football club X as an amateur football player, beginning on January 1993 until the end of December 1996"*.
19. In view of the above-mentioned, the DRC observed that the information contained in the documentation provided by the parties in the present case is completely contradictory on what concerns the registration of the captioned player between the period of 1 January 1995 and 31 December 1997.
20. Therefore, the Chamber deemed that, in order to be able to establish the Claimant's entitlement to solidarity contribution, it would have to identify which is the fundamental documentation to establish a player's career, which can in good faith be relied upon by the parties. In case the information contained in such documentation is disputed by any of the parties, the Chamber would have to analyze whether consistent evidence of the contrary has been presented by the party that contests its validity, in accordance with art. 12 par. 3 of the Procedural Rules.
21. In this respect and before analyzing the arguments and the relevant supporting documentation presented by the Claimant, the DRC was eager to emphasize that, for claims regarding the payment of solidarity contribution, on the basis of art. 21 and Annex 5 of the FIFA Regulations, the player's passport issued by a football Association, which is affiliated to FIFA, is the relevant document in order to establish the entitlement of a party to such payment and is the basis of the calculation of its amount. In other words, the members of the Chamber were of the opinion that, in principle, a party that is responsible for the distribution of the solidarity contribution has to be able to rely on a document issued by an Association, duly affiliated to FIFA.
22. In view of the above, the members of the Dispute Resolution Chamber stated that the player's passport issued by an Association is decisive for the establishment of the history of the player's registration with clubs and, as such, shall be taken into account should the interested party not be able to provide well-founded evidence to the contrary. Therefore, the DRC pointed out that, in the present case, the Claimant, X, bears the burden of proof in demonstrating that the information contained in the player's passport provided by the Football Association B was to be incorrect.
23. In this context, the members of the DRC took note of the fact that the Claimant claims the payment of solidarity contribution for the period of 1 January 1995 until 31 December 1997, based on the transfer of the captioned player from F.C. S to Y, on 26 August 2005.
24. However, the DRC observed that the first player's passport, issued by the Football Association B in July 2007, establishes that no record was found for the period of 1

January 1996 to 5 May 1999, and the second player's passport, rectified by the Football Association B in October 2008, provided for the registration of the captioned player with F.C. S as from 1 January 1996 until 25 August 2005. In view of the aforementioned, the DRC observed that neither the information contained in the player's passport of July 2007 nor that contained in the player's passport of October 2008 is able to sustain the Claimant's allegation concerning the captioned player's registration with X as from 1 January 1995 until 31 December 1997.

25. Proceeding in the analysis of the documentation provided by the parties in the case at hand, the Dispute Resolution Chamber further noted that the statement of the Amateur League, dated 30 January 2007, according to which the player was registered with X from January 1995 until December 1997, could not be confirmed by the Football Association B, as stated in its correspondence dated 4 March 2008, since the aforementioned League is affiliated to the Football Federation S only since 11 March 2005 and, therefore, according to the Football Association B, any information prior to that date regarding registration dates could not be verified. Thus, the members of the DRC concluded that the information contained in said statement alone could not be regarded as consistent enough to establish the right of the Claimant to solidarity contribution.
26. In continuation of the analysis of the provided evidence, the DRC observed that the statements provided by the player with regard to his registration for the period comprised between 1 January 1995 and 31 December 1997 are completely divergent. While the first statement, dated 14 October 2008 and provided by the Football Association B, indicates a registration period with F.C. S as from 1 January 1996 until 30 April 1999, the second one, dated 23 January 2009 and provided by the Claimant, mentions the player's alleged registration with X as from January 1993 until December 1996.
27. Taking into account the above-mentioned documentation, the DRC noted that none of the player's statements provided in the case at hand are able to confirm the position of the Claimant, regarding the player's registration with X as from 1 January 1995 until 31 December 1997.
28. In this regard, the Chamber was also eager to emphasize that the information contained in a player's statement is of mainly subjective perception and might be affected by diverse contextual factors; therefore, such type of documentation is considered as of limited reliability to be taken into account as evidence.
29. Subsequently, the members of the DRC took note of the extract from the player's website submitted by the Claimant, according to which the player started playing for X in 1994, before being transferred to F.C. S. In this regard, the Chamber was eager to

emphasize that the aforementioned information was also not consistent with the player's alleged registration dates with X indicated by the Claimant. Furthermore, the Chamber pointed out that, in view of its unofficial nature and possibly reduced credibility, information extracted from a website cannot be considered as conclusive documental evidence.

30. In view of the above, bearing in mind the principle of burden of proof, taking into account the entire documentation provided by the parties in the present matter and bearing in mind the contradictory positions of the parties, the DRC was eager to enlighten the fact that it could not acquire the certainty that the player had indeed played for the Claimant between 1 January 1995 and 31 December 1997, necessary for the establishment of the right of a party to receive solidarity contribution. Therefore, the Chamber was of the opinion that no conclusive indications that the player had ever been registered with the Claimant were present in the current case.
31. On the basis of all the above-mentioned considerations, the Chamber concluded that, in the absence of conclusive indication to the player's registration with X as from 1 January 1995 until 31 December 1997, in view of the information contained in the player's passports provided by Football Association B, as well as the statement of the latter, according to which no information concerning the player's registration with clubs prior to 11 March 2005 can be confirmed, the claim of the Claimant for the solidarity contribution for the aforementioned period must be rejected.
32. Finally and for the sake of good order, the DRC held that the Claimant's claim pertaining to legal costs is rejected, in accordance with art. 15 par. 3 of the Procedural Rules and the Chamber's respective longstanding jurisprudence.

### **III. Decision of the Dispute Resolution Chamber**

The claim of the Claimant, X, is rejected.

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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:

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For the Dispute Resolution Chamber:

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Jérôme Valcke  
Secretary General

Enclosed: CAS directives