Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 27 April 2007,

in the following composition:

Slim Aloulou (Tunisia), Chairman
Mario Gallavotti (Italy), member
Wilfried Straub (Germany), member
Gerardo Movilla (Spain), member
Joaquim Evangelista (Portugal), member

on the claim presented by the club

X, xxxx
represented by Mr xxxx, attorney at law,

as *Claimant*

against the club

Y, xxxx

as *Respondent*

regarding training compensation
for the player Z.

./...

I. Facts of the case

1. The Football Association of xxxx confirmed that the player Z, born on 2 April 1984, was registered with its affiliate X, the Claimant, as from 1 March 2002 until 18 August 2003, between the ages of 17 and 19 as an amateur.

2. On 8 June 2006, the Claimant contacted FIFA affirming that the player had signed an employment contract with Y, the Respondent, in June 2005.

3. In view of the above, the Claimant requested the amount of EUR 180,000 as training compensation from the Respondent in accordance with Chapter VII of the FIFA Regulations for the Status and Transfer of Players (edition 2001).

4. According to the player passport issued by the Football Federation xxxxxx, the player concerned had already been registered during the season 2004/2005, namely as of 22 September 2004, as a non-amateur player within the xxxx with another club, xxxxxx.

5. According to the documentation remitted by the xxxx, the player concerned had signed an employment contract with the Respondent on 31 January 2005 valid until 30 June 2006. Furthermore, based on the aforementioned documentation remitted by the xxxx it can be established that on 17 September 2005 the player in question and the Respondent, mutually terminated the relevant employment contract.

6. As far as the categorization of the clubs for the calculation of the training compensation is concerned, the xxxx confirmed that the Claimant is a category 2 club and the xxxx confirmed that the Respondent is a second division (B-league) club, i.e. also a category 2 club.

7. The Claimant explained that the employment contract signed between the xxxxx and the player cannot be considered a valid contract. The Claimant emphasised that, on the one hand, the said employment contract had been signed when the first division's transfer window in xxxx was already closed. On the other hand, the Claimant maintained that the relevant employment contract already expired three months later, when the transfer window was open.

8. As a result, the Claimant is of the opinion that the employment contract signed between the player and xxxx is not valid since its length contravenes the minimum length foreseen by the applicable FIFA Regulations.

9. Moreover, the Claimant added that the player was transferred from a club belonging to the category 3 in Italy, i.e. from xxxx to a club belonging to the

category 1 in Italy, i.e. the Respondent, only 3 months after being in Europe and free of charge.

10. As a result, the Claimant is of the opinion that the player signed an employment contract with a category 3 club, i.e. xxxxx, only with the aim to circumvent the Respondent's obligation to pay training compensation to the Claimant.

11. The Respondent was invited through the xxx several times to provide its position with regard to the claim of the Claimant for training compensation amounting to EUR 180,000. However, the Respondent never presented any submissions.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Chamber 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 8 June 2006, as a consequence the Chamber concluded that the revised Rules Governing Procedures (edition 2005) 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 combination with art. 22 (d) of the aforementioned Regulations, the Dispute Resolution Chamber shall adjudicate on disputes between two clubs belonging to different Associations related to training compensation.

3. As a consequence, the Dispute Resolution Chamber is the competent body to decide on the present litigation concerning the training compensation claimed by the Claimant for the training and education of the player Z.

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 to art. 26 par. 1 and 2 of the Regulations for the Status and Transfer of Players (edition 2005) in the modified version in accordance with the FIFA circular no. 995 dated 23 September 2005. Furthermore, it acknowledged that the professional had been registered for the Respondent in January 2005. Equally the Chamber took note that the claim was lodged at FIFA on 8 June 2006. In view of the aforementioned, the Chamber

concluded that the former FIFA Regulations for the Status and Transfer of Players (edition 2001, hereafter: the Regulations) are applicable to the case at hand as to the substance.

5. In continuation, and entering into the substance of the matter, the members of the Chamber stated that, as a general rule, training compensation for a player's training and education is, in principle, due when a player signs for the first time a contract as a non-amateur (cf. art. 14 of the Regulations) or when a non-amateur player changes from one club to another up to the time his training and education is complete, which as a general rule, occurs when the player reaches 23 years of age (cf. art. 15 of the Regulations).

6. Subsequently, the Chamber took due note that the Respondent never provided its position during the investigation of the matter at stake, although having been invited to do so several times. The deciding body deplored such stance and remarked that in this way the Respondent had renounced its right to defence. As a consequence, the Chamber established that it would have to pass a decision upon the basis of the documents on file (cf. art. 9 par. 3 of the Rules Governing the Procedures of the Players' Status and the Dispute Resolution Chamber).

7. In view of the above, the Chamber took due note of the fact that according to the player passport issued by the xxxx the player concerned had already been registered during the season 2004/2005, as of 22 September 2004, as a non-amateur player with the club, xxxx, and thereafter, he was registered with another club, i.e. the Respondent, also as a non-amateur player in January 2005.

8. In continuation, the Chamber turned its attention to the Claimant's position according to which the employment contract signed between the player and the Italian club, xxxx, cannot be considered as a valid contract. Particularly, the Chamber acknowledged that the Claimant is of the opinion that the player was registered with the club, xxxx, belonging to the category 3, as a non-amateur player, only with the aim to circumvent the obligation of the Respondent, a category 1 (recte: 2) club, to pay training compensation.

9. In this respect, first and foremost, the Chamber referred to the legal principle of the burden of proof, which is a basic principle in every legal system, according to which any party deriving a right from an asserted fact has the obligation to prove the relevant fact (cf. art. 12 par. 3 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber). In casu, the deciding authority was of the unanimous opinion that the Claimant had not provided any evidence corroborating its allegation pertaining to the invalidity of the relevant employment contract. In particular, the Chamber was eager to

emphasise that even if the employment contract in question would not have respected the provisions of the Regulations concerning the minimum length of a contract, as claimed but not proven by the Claimant, such fact would not render the pertinent contract null and void. Furthermore, the Chamber stressed that the xxxx had accepted to register the player as a non-amateur for xxxx on the basis of the relevant employment contract. Therefore, due to the lack of proof with regard the Claimant's allegations related to the alleged invalidity of the employment contract signed between the player and the club, xxxx, the Dispute Resolution Chamber did not uphold the Claimant's position in this respect. For the sake of good order, the Chamber also remarked that, as a general principle, an employment contract between a non-amateur player and a club may be terminated by mutual agreement at any time.

10. Subsequently, the Chamber emphasised that, contrary to the Claimant's unfounded affirmation, and in accordance with the confirmation of the xxx, the Respondent belongs to the category 2 and not to the category 1 as far as the categorisation of clubs for the calculation of training compensation is concerned.

11. Equally, the members of the Chamber stated that in accordance with art. 7 par. 3 of the Regulations governing the Application of the Regulations, as a general principle, compensation for training and education of a player is based on the training and education costs of the country in which the new club is located. In this respect, and in order to clarify the sense of the mentioned clause, the Chamber stated that, for the transfer of a player from a country outside the European Union (EU) or the European Economic Area (EEA) to a country inside the EU or the EEA, whenever training compensation is owed, the compensation should be calculated based on the costs of the country of the new club applying the category of the club which effectively has formed and educated the player. art. 7 par.1 of the aforementioned Application Regulations confirms the mentioned principle ("*the compensation for training and education shall be obtained by multiplying the amount corresponding to the category of the training club for which the player was registered by the number of years of training from 12 to 21"* [emphasis added]*).*

12. In view of the above, the members of the Chamber rejected the Claimant's appreciation with regard to an alleged circumvention and remarked that in the present case any possible training compensation would anyway have to be calculated based on the category of the Claimant, i.e. the training club, irrespective of the category of the Respondent.

13. Thus, and bearing in mind the above, the Chamber underlined that, in principle, and provided all applicable prerequisites would have been met, the training

compensation potentially due to the Claimant would have been the same irrespective of the player signing his first employment contract with xxxx, a category 3 club, or with the Respondent a category 2 club. The alleged circumvention would therefore have been useless.

14. Thereafter, the members of the Chamber referred to the FIFA circular no. 826 dated 31 October 2002 which establishes that training compensation will be payable to all clubs that have trained a player between the ages of 12 and 21 once the player acquires non-amateur status (i.e. by signing a non-amateur contract with the club for which he has been playing as an amateur, or by signing a non-amateur contract with another club to which he transfers). Moreover, in case of subsequent transfers of young non-amateur players, training compensation will only be payable to the previous training club of the player, and not to any other training club.

15. For the sake of good order, the Chamber emphasised that the aforementioned rule corresponds to the constant practice and the well-established understanding and jurisprudence of the DRC. Furthermore, it was stressed that the current version of the Regulations (edition 2005) also clearly stipulates that in case of subsequent transfers of a professional, training compensation will only be owed to his former club for the time he was effectively trained by that club (cf. annex 4 art. 3 par. 1 of the aforementioned Regulations).

16. In light of the above, the Chamber concluded that the Claimant is not entitled to receive any training compensation from the Respondent since the transfer at the basis of the claim has to be considered as a subsequent transfer of a non-amateur player and therefore, only the previous club of the player would be entitled to receive training compensation.

17. Taking into account all of the above, the Chamber decided that the Claimant's demand for training compensation is rejected.

III. Decision of the Dispute Resolution Chamber

1. The claim lodged by the Claimant is rejected.

2. According to art. 61 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:

Avenue de Beaumont 2
CH-1012 Lausanne
Switzerland
Tel: +41 21 613 50 00
Fax: +41 21 613 50 01
e-mail: info@tas-cas.org
www.tas-cas.org

For the Dispute Resolution Chamber:

Jérôme Valcke
General Secretary

Encl. CAS directives