

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 14 September 2007,

in the following composition:

Slim Aloulou (Tunisia), Chairman

Theo van Seggelen (Netherlands), member

Gerardo Movilla (Spain), member

Rinaldo Martorelli (Brazil), member

Joaquim Evangelista (Portugal), member

Philippe Diallo (France), member

Ivan Gazidis (USA), member

Percival Majavu (South Africa), member

Essa M. Saleh Al-Housani (UAE), member

on the claim presented by the club

X, xxxx

represented by Mr xxxx

as Claimant

against the club

Y, xxxx

represented by Mr 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 27 July 1984, was registered with the club X, the Claimant, as from 27 February 1995 until 26 February 2002, as amateur, between the ages of 11 and 17.
2. The Football Association of xxxx also confirmed that the player signed his first employment contract with the club A in July 2005 and that he was transferred to the club Y the Respondent, on 14 February 2006.
3. The Football Association of xxxx provided a copy of the employment contract signed between the player and A, originally valid until 30 June 2006 providing for a monthly salary of ARS 1,700. The Football Association of xxxx also confirmed that the said employment contract was mutually terminated by the parties in January 2006.
4. On 8 June 2006, the Claimant contacted FIFA affirming that the player in question signed his first employment contract with the Respondent in July 2005. As a result, and being the Y a category 2 club, in the sense of art. 4 par. 2 of the annex 4 of the FIFA Regulations for the Status and Transfer of Players, the Claimant requests the amount of EUR 220,000 plus default interest and procedural costs.
5. On 2 October 2006, the Respondent informed FIFA that the player had already signed an employment contract with the club A in July 2005. In order to corroborate its position, the Respondent provided a copy of the mutual termination agreement signed between the player and his former club A on 5 January 2006. As a result, the Respondent underlined that it does not owe any amount at all to the Respondent since in accordance with art. 3 par. 1 of the annex 4 of the FIFA Regulations for the Status and Transfer of Players the matter at stake has to be considered a subsequent transfer of a professional player. Finally, the Respondent emphasised that the fact that the player did allegedly not play any match with A is of no relevance.
6. The Claimant insisted on its entitlement to receive training compensation arguing that the employment contract signed between the player and A is not valid since it was valid for 5 months only. Moreover, the Claimant underlined that the salaries of the player are not even known, that according to the national regulations his former club was obliged to offer him a contract and that the player never played for A. Finally, the Claimant maintained that the player only signed an employment contract with the club A so as to circumvent the obligation of his future clubs to pay training compensation.
7. The Respondent referred to its previous correspondence.

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) 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 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 February 2006. 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 current FIFA Regulations for the Status and Transfer of Players (edition 2005, 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 acknowledged that the Claimant requests the amount of EUR 220,000 as training compensation from the Respondent plus default interest and procedural costs. Particularly, the Claimant emphasised that irrespective from the fact that the player in question had already previously been registered as a professional, it was entitled to receive the claimed training compensation from the Respondent, since the player's previous registration was aimed to circumvent the Respondent's obligation to pay training compensation.

6. The Chamber also took note that the Respondent contested the claim of the Claimant emphasizing that the player had already been registered as a professional with the club A in July 2005. In order to corroborate its position, the Respondent provided a copy of the mutual termination agreement signed between the player and his former club, A., on 5 January 2006. As a result, the Respondent underlined that it does not owe any amount at all to the Respondent since in accordance with art. 3 par. 1 of the annex 4 of the Regulations the matter at stake has to be considered a subsequent transfer of a professional player.
7. Equally, the Chamber considered that the Football Association of xxxx confirmed that the player had already been registered as a professional with one of its affiliated, i.e. A., based on an employment contract originally valid as from July 2005 until 30 June 2006, however, the said contract was mutually terminated in January 2006.
8. Thereafter, the Chamber maintained that, as a general rule, training compensation for a player's training and education is, in principle, due when a player is registered as a professional for the first time and in case of a subsequent transfer of a professional, training compensation will only be owed to his former club for the time he was effectively trained by that club (cf. art. 3 par. 1 of the Annex 4 of the Regulations)
9. Subsequently, the Chamber considered that the Football Association of xxxx confirmed that the player in question had already been registered as a professional before being transferred to the Respondent and provided a copy of the relevant employment contract.
10. In continuation, the Chamber turned its attention to the Claimant's position with regard that the employment contract signed between the player and A is not valid since it was valid for 5 months only. Moreover, the Claimant underlined that the salaries of the player are not known, that according to the national regulations his former club was obliged to offer him a contract and that the player never played for A.
11. First of all, the Chamber referred to the legal principle of the burden of proof, which is a basic principle in every legal system, according to which a 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). 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 A, the Dispute Resolution Chamber did not uphold the Claimant's position in this respect. For the sake of good order, the Chamber remarked that, as a general principle, an employment contract between a professional player and a club may be terminated by mutual agreement (cf. art. 13 of the Regulations).

12. Subsequently, the Chamber emphasised that, contrary to the Claimant's unfounded affirmation, and in accordance with the confirmation of the Football Association of xxxx, particularly the copy of the relevant employment contract signed between the player and A, the aforementioned parties signed a one-year employment contract providing for a monthly salary of xxx 1,700. Finally, and with regard to the Claimant's allegation that the player never played for A the Chamber again referred to the above-mentioned legal principle of the burden of proof and underlined that the Claimant did not provide any documentary evidence to corroborate its position.
13. In view of the above, the members of the Chamber rejected the Claimant's appreciation with regard to an alleged circumvention and remarked that the Claimant did not provide any documents in that regard which would let the Chamber to follow its appreciation.
14. Thus, and bearing in mind the above, the members of the Chamber underlined that in accordance with the clear wording of the Regulations 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 Regulations).
15. 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 of the player to the Respondent has to be considered as a subsequent transfer of a professional player and therefore, only the previous club of the player would be entitled to receive training compensation.
16. Taking into account all of the above, the Chamber concluded 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:

Court of Arbitration for Sport
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