

# **Decision of the Dispute Resolution Chamber**

passed in Zurich, Switzerland, on 26 January 2011,

in the following composition:

**Geoff Thompson** (England), Chairman *ad interim*

**Gerardo Movilla** (Spain), member

**Carlos Soto** (Chile), member

**Ivan E. Gazidis** (England), member

**Alejandro Marón** (Argentina), member

on the claim presented by the club

**R,**

*as Claimant*

against the club

**T,**

*as Respondent*

regarding a training compensation dispute  
related to the transfer of the player Y

## I. Facts of the case

1. According to the player passport issued by the G Football Federation (GFF), the player, Y (hereinafter: *the player*), born on 30 August 1986, was registered as a professional player with the club, R (hereinafter: *the Claimant*), as from 26 August 2005 until 19 July 2009.
2. According to a written confirmation of the G Football Federation, the football season in the country G during the period of registration of the player with the Claimant started each year on 1 July and ended on 30 June of the following year.
3. On 20 July 2009, the G Football Federation issued the International Transfer Certificate (hereinafter: ITC) of the player in favour of the X Football Federation (XFF).
4. On 7 August 2009, the player was registered as a professional player for the club, T (hereinafter: *the Respondent*).
5. According to the X Football Federation, the Respondent belongs to the category 2.
6. On 20 October 2009, the Claimant contacted FIFA asking for the relevant proportion of training compensation from the Respondent. In particular, the Claimant requested training compensation for the seasons 2005/06, 2006/07 and 2007/08, in a total amount of EUR 180,000.
7. By means of its brief of 8 March 2010, the Respondent replied rejecting the claim, but stating that in the case the "Panel" would decide that training compensation is due, then the maximum amount shall be of EUR 80,000. Equally, the Respondent requested to order the Claimant to pay the costs of the proceedings as well as the legal fees and expenses incurred because of the proceedings. In particular, the Respondent asserted that according to the well-established jurisprudence of the FIFA Dispute Resolution Chamber (DRC) and the CAS, a party claiming training compensation has to prove that the training and the education continued to the end of the player's age of 23, and that such proof was not provided by the Claimant. Moreover, the Respondent alleged that since the date of the transfer was on 7 August 2009 and the birthday of the player was on 30 August 1986, the transfer took place at the end of the season of the player's 23<sup>rd</sup> birthday of the player and that therefore it shall be deemed that no training compensation was due.
8. In addition, the Respondent asserted that if the panel would impossibly deem that training compensation should be due, then only the first two years shall be made subject to this application. Finally, as a last remark, the Respondent noted that the base value shall not be EUR 60,000 but EUR 40,000, due to the position and the league of the club. Therefore, according to the Respondent, the maximum amount of the claim, under the condition that the Claimant would satisfy the aforementioned requirements, i.e. to prove that the training and the education continued to the end of the player's age of 23, shall be EUR 80,000 (EUR 40,000 x 2).

## **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 20 October 2009. Consequently, the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2008; hereinafter: *the Procedural Rules*) is applicable to the matter at hand (cf. art. 21 par. 2 and par. 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 2010) 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 Y.
3. Furthermore, and taking into consideration that the player was registered with his new club in January 2008, and considering that the present claim was lodged on 20 October 2009, 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 (editions 2010 and 2009), the previous version of the regulations (edition 2008; hereinafter: *the 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 the above-mentioned facts of the case as well as the documentation on file.
5. In this respect, the members of the Chamber recalled that the player, born on 30 August 1986, was registered with the Claimant as a professional from 26 August 2005 until 19 July 2009.
6. Furthermore, the Chamber acknowledged that the season in the country G, during the period of registration of the player with the Claimant, ran from 1 July until 30 June of the following year.
7. Equally, the Chamber acknowledged that the player was registered by the X Football Federation (XFF) as a professional on 7 August 2009, and that the Respondent belongs to the category 2.

8. Moreover, the Chamber duly noted, on the one hand, that the Claimant claims the amount of EUR 180,000 as training compensation from the Respondent for having trained the player for the seasons 2005/06, 2006/07 and 2007/08.
9. On the other hand, the Chamber also took due note that the Respondent requested to reject the claim, and that in case the Chamber would decide that training compensation is due, the maximum amount shall be of EUR 80,000, since only the first two seasons can be subject to training compensation, and since the base value shall not be EUR 60,000 but EUR 40,000, due to the position and the league of the club. Equally, the Chamber noted that Respondent asked to order the Claimant to pay the costs of the proceedings, as well as any legal fees and expenses of these proceedings.
10. Finally, the Chamber also acknowledged that the Respondent deemed that training compensation is not due in this case since the date of the transfer, i.e. 7 August 2009, was at the end of the season of the 23<sup>rd</sup> birthday of the player.
11. Having recalled these facts, the Chamber referred to the rules applicable to training compensation, the Chamber stated that, as established in art. 20 of the Regulations in combination with art. 1 par. 1 and art. 2 of Annexe 4 to the Regulations, training compensation is payable, as a general rule, for training incurred between the ages of 12 and 21 when a professional is transferred between two clubs of two different associations, before the end of the season of the player's 23<sup>rd</sup> birthday.
12. Moreover, the Chamber also recalled that in accordance with art. 3 par. 1 of Annexe 4 of the Regulations, the new club, with which the player is registered, is responsible to pay training compensation.
13. The Chamber, therefore, turned its attention to the question whether training compensation is due or not in this case.
14. In order to establish this, the Chamber took again into consideration that the player was registered by the X Football Federation on 7 August 2009.
15. With regard to the question whether the transfer occurred before the end of the season of the player's 23<sup>rd</sup> birthday, the Chamber established that the season of the 23<sup>rd</sup> birthday of the player was the season 2009/10. Since the registration of the player with the Respondent took place on 7 August 2009, the Chamber confirmed that said registration clearly happened before the end of the season of the player's 23<sup>rd</sup> birthday.
16. In view of the above, the Chamber concluded that, based on the documents at its disposal, it could be established that the professional player in question, born on 30 August 1986, was internationally transferred before the end of the season of

his 23<sup>rd</sup> birthday, and that, thus, the Claimant was, in principle, entitled to receive training compensation.

17. In this context, as a side-note, with regard to the allegations made by the Respondent, by means of which it alleged that according to the well-established FIFA DRC and CAS jurisprudence, the party claiming a training compensation has to prove that the training and the education continued to the end of the player's age of 23, the Chamber recalled that the Claimant did not claim training compensation for said period, but only training compensation until the end of the season of the player's 21<sup>st</sup> birthday.
18. Subsequently, and considering once again art. 3 par. 1 of the Annexe 4 to 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 in the matter at stake corresponds to 34 months (the months of September 2005 until June 2008), during which the player was effectively trained and educated by the Respondent.
19. Turning its attention to the calculation of training compensation, the Chamber referred to art. 5 par. 1 and 2 of Annexe 4 to 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 that it is thus calculated based on the training costs of the new club multiplied by the number of years of training with the former club.
20. In this respect, the Chamber duly noted that, according to all the documents remitted, it could be established that the player had been transferred to the Respondent in August 2009 which, according to the information received from the X Football Federation, belonged to category 2 in the season 2009/2010.
21. In this context, the Chamber considered the arguments of Respondent, who held that the base value shall not be EUR 60,000 but EUR 40,000. To that regard, the Chamber noted that the Respondent held that the criteria to calculate the training compensation are "*the position and the leagues of the clubs*".
22. In this regard, the Chamber emphasised that in accordance with its well established and confirmed jurisprudence when deciding on cases of training compensation, the calculation mechanism set out in the Regulations is to be applied rigorously. Furthermore, the Chamber stated that the amount calculated as per these rules will only be altered, if the circumstances of the player in question are exceptional and the outcome of the calculation was clearly disproportionate (cf. art. 5 par. 4 of Annexe 4 to the Regulations).

23. In this context, the Chamber also referred to the legal principle of the burden of proof, which is a basic principle in every legal system, and 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 Procedural Rules).
24. Taking into account the above-mentioned jurisprudence (cf. above-mentioned point II 21) and the legal principle of the burden of proof, the members of the Chamber concluded that the Respondent neither substantiated, nor provided any documentary evidence in order to corroborate exceptional circumstances or a disproportionate outcome of the calculation in the present matter. Consequently, the Chamber considered the allegation of the Respondent to be ungrounded and therefore it decided that it has to be rejected due to the lack of probative force. The Chamber decided consequently to take into account the indicative amount of EUR 60,000 for the calculation of the training compensation.
25. Moreover, the Chamber emphasized that training compensation is calculated based on the categories into which all associations divide their clubs in accordance with the clubs' financial investments. Equally, the Chamber recalled that the training costs are established on a confederation basis for each category of clubs.
26. In view of the above, the Chamber concluded that the Claimant is entitled to receive training compensation for the training and education of the player concerned for the period of time from 26 August 2005 until 30 June 2008 between the ages of 19 and 21 years, i.e. for 34 months, for an indicative amount of EUR 60,000 per year.
27. As a result, the Chamber, taking into consideration all the above, as well as art. 5 par. 1 and 2 of Annexe 4 to the Regulations, concluded that the Claimant is entitled to receive the amount of EUR 170,000 from the Respondent for the training and education of the player concerned.
28. In view of all of the above, the Chamber decided that the claim of the Claimant is partially accepted and, in this regard, reiterated that the Respondent must pay the amount of EUR 170,000 to the Claimant. Furthermore, the Chamber concluded its deliberations by deciding that any further claims of the Claimant are rejected.

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### III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, R, is partially accepted.
2. The Respondent, T, has to pay to the Claimant, R, the amount of EUR 170,000, **within 30 days** as of notification of the present decision.
3. Any further claims lodged by the Claimant, R, are rejected.
4. If the aforementioned sum is not paid within the aforementioned deadline, interest at the rate of 5% per year will apply as of expiry of the stipulated time limit and 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 25,000 is to be paid by the Respondent, T, **within 30 days** of notification of the present decision as follows:
  - 5.1. The amount of CHF 20,000 to FIFA to the following bank account with reference to case no. [XX-XXXX/xxx]:

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, R.
6. The Claimant, R, is directed to inform the Respondent, T, 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.

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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 Dispute Resolution Chamber:

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Markus Kattner  
Deputy Secretary General

Enclosed: CAS directives