

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 10 August 2011

in the following composition:

Geoff Thompson (England), Chairman

Philippe Piat (France), member

Jon Newman (USA), member

Theodoros Giannikos (Greece), member

Thilina Panditaratne (Sri Lanka), member

on the claim presented by the

Football Federation B,

as Claimant

against the club

E,

as Respondent

regarding a dispute relating to the solidarity contribution in connection
with the transfer of the player C

I. Facts of the case

1. The Football Federation B (FFB; hereinafter: *the Claimant*) confirmed that the player C (hereinafter: *the player*), born on 23 September 1982, was not registered (“*no record found*”) with any of its affiliated clubs since the season of his 12th birthday until 23 June 1996.
2. The sporting season in the country B follows the calendar year.
3. According to a written statement from the Football Federation E (FFE), the player was registered with the club, E (hereinafter: *the Respondent*), on 22 August 2005.
4. On 19 July 2007, the Claimant contacted FIFA requesting its proportion of the solidarity contribution in connection with the transfer of the player from the club, M, to the Respondent for the alleged amount of EUR 4,000,000.
5. In particular, the Claimant claimed 0.62% of the total transfer compensation as solidarity contribution, *i.e.* it requested the payment of EUR 24,800, for the period comprehended between the season of the player’s 12th birthday and 23 June 1996.
6. The Claimant referred to a decision of the Court of Arbitration for Sport (CAS), according to which an association does not have to prove that the player was trained during the period, where “*no record*” was found concerning the player. It did therefore not provide FIFA with any documentary evidence providing that the player was in the country B between 1 January 1994 and 23 June 1996 and that he was trained in football in this period.
7. In its position dated 19 October 2007, the Respondent confirmed that it had paid EUR 4,000,000 as transfer compensation, but added that the last instalment amounting to EUR 500,000 was payable until 10 August 2008. Consequently, the solidarity contribution based on the last instalment was not owed yet. Therefore, the Respondent agreed to pay EUR 21,700 to the Claimant and asked for its bank details.
8. On 23 August 2010, the Claimant informed FIFA that it had provided the Respondent with its bank details.
9. Later on, on 15 September 2010, the Claimant informed FIFA that the Respondent refused to pay solidarity contribution, since its claim would allegedly be time-barred.
10. In its final position, the Respondent clarified that the Claimant did not demand solidarity contribution since 19 October 2007 and that therefore, in accordance

with the FIFA Regulations on the Status and Transfer of Players, the right to solidarity contribution was time-barred, since more than two years had elapsed.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Dispute Resolution Chamber (hereinafter: *the DRC* or *the Chamber*) analysed whether it was competent to deal with the matter at stake. In this respect, it referred to art. 18 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (DRC; edition 2005) in conjunction with art. 21 par. 2 and 3 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2008). The present matter was submitted to FIFA on 19 July 2007. As a consequence, the Chamber concluded that the 2005 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (DRC; hereinafter: *the Procedural Rules*) are applicable on the matter at hand.
2. With regard to the competence of the Chamber, art. 3 par. 1 of the Procedural Rules states that the Dispute Resolution Chamber shall examine its jurisdiction in the light of articles 22 to 24 of the Regulations on the Status and Transfer of Players (edition 2010). In accordance with art. 1 par. 1 of the aforementioned Regulations, which describes the scope of the relevant Regulations, in connection with articles 24 par. 1 and 22 d) of said Regulations, the Dispute Resolution Chamber is competent to decide on the present litigation with an international dimension concerning the distribution of the solidarity contribution claimed by the Claimant, the FFB, in connection with the international transfer of the professional player, C.
3. Furthermore, and taking into consideration that the player was registered for the Respondent on 22 August 2005, the Chamber 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, it confirmed that in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (edition 2010, 2009 and 2008), and also considering that the present claim was lodged in front of FIFA on 19 July 2007, the previous edition of the Regulations for the Status and Transfer of Players (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.
4. In continuation, the Chamber duly noted that the Respondent was of the opinion that the present claim should be viewed as time-barred, since more than two years had allegedly elapsed.

5. In view of the above, the Chamber deemed fundamental to underline that in order to determine whether it could hear the present case, it should, first and foremost, establish which is the event giving rise to the dispute, *i.e.* which is the starting point of the time period of two years set out under art. 25 par. 5 of the Regulations. In this respect, the Chamber referred to art. 2 par. 1 of Annex 5 of the Regulations, which stipulates that *"The new club shall pay the solidarity contribution to the training club(s) [...] no later than 30 days after the player's registration or, in case of contingent payments, 30 days after the date of such payments"*.
6. Reverting to the facts of the present case, the DRC emphasized that the player was registered with the Respondent on 22 August 2005.
7. On account of the foregoing, the Chamber unanimously decided that the event giving rise to the dispute, regarding the payment of solidarity contribution occurred 30 days after the player's registration with the Respondent.
8. Therefore, the members of the Chamber came to the firm conclusion that, *in casu*, and in accordance with art. 2 par. 1 of Annex 5 of the Regulations, the payment of the solidarity contribution fell due on 21 September 2005, *i.e.* 30 days after the registration of the player at the FFE, and that this latter date was the starting point of the time period of two years set out under art. 25 par. 5 of the Regulations. Equally, the Chamber held that the time period of two years had elapsed, *in casu*, on 21 September 2007.
9. As a consequence, the Chamber concluded that less than two years had elapsed between the event giving rise to the dispute, *i.e.* the due date of payment of the solidarity contribution, which was on 21 September 2005, and the submission of the present claim to FIFA by the Claimant on 19 July 2007, and that therefore, the claim of the Claimant for solidarity contribution can be heard by the Dispute Resolution Chamber.
10. Thereafter, the DRC acknowledged that as established in art. 21 in connection with Annex 5 of the Regulations, as a general rule, the new club of the player has to distribute as a solidarity contribution 5% of any compensation paid to the previous club 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 seasons of his 12th and 23rd birthday.
11. The Chamber underlined that in the present case, it was an association and not a club which claimed payment of the solidarity contribution. Therefore, it first had to analyse whether the conditions set forth in art. 2 par. 3 of Annex 5 of the Regulations were fulfilled.

12. The Chamber recapitulated that the aforementioned provision stipulates that if a link between a professional player and any of the clubs that trained him cannot be established within 18 months of his transfer, the solidarity contribution shall be paid to the association(s) of the country where the professional player was trained.
13. On this basis, the members of the Chamber pointed out that, at first, it had to analyse whether the time frame of 18 months for the possible establishment of a link between a professional player and a club had already elapsed after the transfer of the player to the Respondent, which is a prerequisite contained in art. 2 par. 3 of Annex 5 of the Regulations.
14. To that regard, the DRC stated that the transfer of the player from the club, M, to the Respondent had taken place in August 2005 and referred to art. 2 par. 1 of Annex 5 of the Regulations, which stipulates that the solidarity contribution to the training club(s) should be paid by the new club no later than 30 days after the player's registration, which took place, *in casu*, on 22 August 2005.
15. In view of the aforementioned, the Chamber took note that the required time frame of 18 months for the possible establishment of a link between the player and a training club had elapsed and that therefore, the Claimant was, in principle, entitled to claim the relevant proportion of the 5% pertaining to the solidarity contribution.
16. In continuation, the Chamber took note of the fact that, in support of its claim, the Claimant had submitted a copy of the player passport, according to which in the period from the season of the player's 12th birthday until 23 June 1996, no record could be found with regard to the registration of the player.
17. In view of the aforementioned, the DRC acknowledged that, as asserted by the Claimant, no link could be established between the player and any of the clubs affiliated to the FFB that allegedly trained him during the aforementioned period.
18. Equally, the Chamber duly considered the arguments of the Claimant, referring to a decision of the CAS according to which an association does not have to prove that the player was trained during the "*no record found*" period.
19. To that regard, the Chamber was eager to refer to art. 2 par. 3 of Annex 5 of the Regulations, according to which the solidarity contribution shall be paid to the association of the country where the professional was trained "*if a link between the Professional and any of the clubs **that trained him** cannot be established within 18 months of his transfer*" (emphasis added).

20. On the basis of the aforementioned wording, the members of the Chamber were eager to emphasise that the Regulations clearly and unambiguously request for the player to have been trained in football during the period of time in which no link between the professional player and any of the clubs that trained him can be established. Only such understanding can properly reflect the aim and the *ratio legis* of the solidarity mechanism, which is to reward the clubs investing in the football training and education of young players. In other words, if prior to enter into football a player practised no sport at all or another sport, training cannot be compensated within the football structures.
21. As a result, the Chamber unanimously concluded that contrary to the Claimant's position, it is an association's responsibility not only to demonstrate that no link could be established between a professional and a club, but also to give evidence that the player had actually been trained in football during the relevant period of time, if it intends to claim part of the solidarity contribution.
22. The Chamber therefore added that if there are no records found with regard to the registration of the player and no evidence is provided that the player was clearly trained in football by a club during the relevant period of time, the new club of the player is not obliged to pay any solidarity contribution for the period where no records were found.
23. In this respect, the Chamber stressed that in the case at hand, the Claimant had failed to provide FIFA with any documentary evidence at all which would have indicated that the player was indeed trained in football by any club during the period in which no records regarding his registration could be found.
24. On the basis of all these considerations, the DRC unanimously concluded that, also in confirmation of its recent jurisprudence, the claim of the Claimant for the solidarity contribution for the period from the season of the player's 12th birthday until 23 June 1996 must be rejected.

III. Decision of the Dispute Resolution Chamber

The claim of the Claimant, Football Federation B, is rejected.

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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Encl. CAS directives