

Decision of the Dispute Resolution Chamber (DRC) judge

passed in Zurich, Switzerland, on 24 November 2010,

by **Mr Theo van Seggelen** (Netherlands), DRC judge,

on the claim presented by the club,

R,

as Claimant

against the club,

B,

as Respondent

regarding training compensation in connection with the player K

I. Facts of the case

1. The Football-Association X (FAX) confirmed that the player, K (hereinafter: *the player*), born on 21 August 1990, was registered with its affiliated club, R (hereinafter: *the Claimant*), as from 1 July 2006 until 11 July 2008 as an amateur player.
2. The football seasons in the country X during the period of time the player was registered with the Claimant started on 1 July and ended on 30 June of the following year.
3. According to the player passport issued by the FAX, the Claimant belonged to the category II during the period of time the player was registered with the Claimant.
4. According to the official confirmation of the Football Federation Y (FFY) the player was registered with its affiliated club, B (hereinafter: *the Respondent*), on 18 July 2008 as a professional.
5. The FFY also confirmed that the Respondent belonged to the category II during the season when the player was registered with the Respondent.
6. On 4 December 2009, the Claimant lodged a claim in front of the Dispute Resolution Chamber claiming the payment of training compensation from the Respondent, on the basis that the player had signed his first professional contract with the Respondent on 30 July 2008. In particular, the Claimant claimed EUR 120,000 plus interest.
7. In support of its claim, the Claimant referred to art. 6 par. 3 of the Annexe 4 of the Regulations on the Status and Transfer of Players and asserted that, in line with the said article, it had offered the player a professional contract, however, the player had decided not to accept the offer. In this respect, the Claimant submitted a copy of a letter dated 29 February 2008, which was sent by the agent of the player and addressed to the Claimant's General Manager and **Youth Academy** Chief. In the said letter, the player's agent indicated that the player had received the contract offer, but had decided not to accept the offer. Furthermore, the Claimant submitted a copy of an unsigned document titled "*Contrat de joueur de football*", which would run from 1 July 2008 to 30 June 2010 and contains the name of the player and the Claimant and the remuneration in exchange of the player's services.

8. Moreover, the Claimant argued it had always considered the player as a great prospect for the future, which, in the Claimant's view, could be evidenced by the following facts:
 - The player was selected for the Claimant's squad that participated in the tournament in the country Y. According to the Claimant, only the most promising players were selected for the said tournament,
 - The player regularly played for the representative teams of M, and
 - In the middle of 2007, the player started to train with the Claimant's first team.
9. On account of the above, the Claimant asserted that, in line with the decision passed by the Court of Arbitration for Sport (CAS) in CAS XXXX/X/XXXX, A FC v. N FC it had showed a genuine intention to retain the services of the player for the upcoming seasons and, therefore, was entitled to receive training compensation from the Respondent.
10. In spite of having been invited by FIFA to provide its position regarding the claim, the Respondent did not respond to the claim or make any statements at all during the course of the investigation.

II. Considerations of the DRC judge

1. First of all, the DRC judge analysed whether he was competent to deal with the case at hand. In this respect, he took note that the present matter was submitted to FIFA on 4 December 2009. Consequently, the 2008 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: Procedural Rules) is applicable to the matter at hand (cf. art. 21 par. 2 and par. 3 of the Procedural Rules).
2. Subsequently, the DRC judge referred to art. 3 par. 2 of the Procedural Rules and confirmed that in accordance with art. 24 par. 1 and par. 2 lit. ii. in conjunction with art. 22 lit. d) of the Regulations on the Status and Transfer of Players (edition 2010) the DRC judge is competent to deal with the matter at stake relating to training compensation between clubs belonging to different associations.
3. Furthermore, and taking into consideration that the player was registered with the Respondent on 18 July 2008, the DRC judge analysed which regulations should be applicable as to the substance of the matter. In this respect, he confirmed that in accordance with art. 26 par. 1 and par. 2 of the Regulations on the Status and Transfer of Players (edition 2010) and considering that the present claim was

lodged on 4 December 2009, the 2008 edition of the said Regulations (hereinafter: Regulations) is applicable to the present matter as to the substance.

4. In continuation, and entering into the substance of the matter, the DRC judge started by acknowledging the facts of the case as well as the documentation contained in the file.
5. First of all, the DRC judge recalled that the player was born on 21 August 1990 and was registered with the Claimant as from 1 July 2006 until 11 July 2008 as an amateur player.
6. In continuation, the DRC judge took note that the Claimant asserted that it was entitled to receive training compensation from the Respondent in the amount of EUR 120,000, since the player had signed his first professional contract with the Respondent.
7. Equally, the DRC judge took note that the Respondent failed to present its response to the claim of the Claimant, despite having been invited to do so. In this way, the Respondent renounced its right to defence and, thus, accepted the allegations of the Claimant.
8. As a consequence of the aforementioned consideration, the DRC judge established that in accordance with art. 9 par. 3 of the Procedural Rules he shall take a decision upon the basis of the documents already on file, in other words upon the statements and documents presented by the Claimant.
9. Furthermore, and hereby referring to the rules applicable to training compensation, the DRC judge stated that, as established in art. 1 par. 1 of Annexe 4 in conjunction with art. 2 of Annexe 4 of the Regulations, training compensation is payable, as a general rule up to the age of 23, for training incurred between the ages of 12 and 21 in case a player is registered for the first time as a professional before the end of the season of the player's 23rd birthday.
10. Moreover, the DRC judge referred to art. 6 of Annexe 4 of the Regulations, which contains special provisions regarding players moving from one Association to another Association inside the territory of the European Union (EU)/European Economic Area (EEA). The DRC judge acknowledged that, in particular, he had to verify whether art. 6 par. 3 sent. 1 of Annexe 4 of the Regulations applies to the present case as *lex specialis*, and, in the affirmative, to determine if the Claimant complied with the said provision in order to be entitled to training compensation.
11. As far as the applicability of art. 6 par. 3 of Annexe 4 of the Regulations is concerned, the DRC judge first of all stated that, since the player moved from

country X to country Y, *i.e.* moved from one Association to another Association inside the territory of the EU, art. 6 par. 3 of Annexe 4 of the Regulations is applicable. Therefore, the DRC judge concluded that the aforementioned provision applies in the case at hand as *lex specialis*.

12. On account of the aforesaid, the DRC judge analysed if the Claimant had complied with the prerequisites of art. 6 par. 3 of Annexe 4 of the Regulations in order to be entitled to receive training compensation from the Respondent.
13. In this respect, the DRC judge noted that, in accordance with art. 6 par. 3 sent. 1 of Annexe 4 of the Regulations, in case the former club does not offer the player a contract, no training compensation is payable unless the former club can justify that it is entitled to such compensation.
14. In light of the above, the DRC judge examined the assertions of the Claimant and the documentation presented by the Claimant in support of its claim.
15. The DRC judge first of all pointed out that the Claimant asserted that it had offered a contract to the player, but the player had decided to decline the said offer.
16. In this regard, the DRC judge duly noted the contents of the letter dated 29 February 2008, which was sent by the agent of the player and addressed to the Claimant's General Manager and Youth Academy Chief, and which indicated that the player had decided not to accept the Claimant's contract offer.
17. Equally, the DRC judge took note that the Claimant submitted a copy of an employment contract, which would run from 1 July 2008 until 30 June 2010 and which contains the name of the player and the Claimant and stipulates the remuneration in exchange of the player's services.
18. In light of the foregoing and bearing in mind the absence of a statement to the contrary of the Respondent, the DRC judge established that the Claimant, being the former club of the player, had complied with art. 6 par. 3 of Annexe 4 of the Regulations.
19. In addition, the DRC judge pointed out that the FFY had confirmed that the player was registered as a professional with the Respondent on 18 July 2008. Equally, the DRC judge stressed that, taking into account the player's career history, the player had at all times been registered as an amateur prior to his registration as a professional with the Respondent.

20. On account of the above considerations, the DRC judge decided that the Respondent is liable to pay training compensation to the Claimant in accordance with art. 20 and Annexe 4 of the Regulations.
21. Turning his attention to the calculation of training compensation, the DRC judge referred to the FIFA circular no. 1142 dated 15 April 2008 which provides details for the calculation of training compensation as well as to art. 5 par. 1 and par. 2 of Annexe 4 of the Regulations, which stipulate that as a general rule, to calculate the training compensation due to a player's former club, it is necessary to take the costs that would have been incurred by the new club if it had trained the player itself. Furthermore, the DRC judge referred to art. 6 of Annexe 4 of the Regulations which contains special provisions in case a player moves from a lower to a higher category club or from a higher to a lower category club within the territory of the EU/EEA. However, since in the matter at hand both clubs belong to the same category, this provision is irrelevant in this context.
22. In continuation, the DRC judge took into account that according to the documentation on file, both the Claimant and the Respondent belonged to the category II and that the player, born on 21 August 1990, was registered with the Claimant as from 1 July 2006 until 11 July 2008.
23. Consequently, taking into account the above-mentioned considerations, the DRC judge decided to accept the Claimant's claim and decided that the Respondent is liable to pay training compensation to the Claimant in the amount of EUR 120,000.
24. Moreover, taking into consideration the Claimant's claim as well as art. 3 par. 2 of Annexe 4 of the Regulations, the DRC judge decided that the Respondent has to pay the interest at 5% p.a. over the amount payable as training compensation as of the 31st day of the registration of the player with the Respondent, i.e. as of 18 August 2008, until the date of effective payment.

III. Decision of the DRC judge

1. The claim of the Claimant, R, is accepted.
2. The Respondent, B, has to pay to the Claimant, within 30 days as from the date of notification of this decision, the amount of EUR 120,000 plus 5% interest *p.a.* due as from 18 August 2008 until the effective date of payment.
3. In the event that the aforementioned sum is not paid within the stated time limit, the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision.

4. The final amount of costs of the proceedings in the amount of CHF 20,000 are to be paid by the Respondent within 30 days of notification of the present decision, as follows:
 - 4.1. The amount of CHF 16,000 to FIFA to the following bank account with reference to case no. XX:

UBS Zurich
Account number 366.677.01U (FIFA Players' Status)
Clearing number 230
IBAN: CH27 0023 0230 3666 7701U
SWIFT: UBSWCHZH80A
 - 4.2. The amount of CHF 4,000 to the Claimant.
5. The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittances are to be made and to notify the DRC judge of every payment received.

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
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For the DRC judge:

Jérôme Valcke
Secretary General

Enclosed: CAS directives