

# **Decision of the Dispute Resolution Chamber (DRC) judge**

passed in Zurich, Switzerland, on 13 December 2010,

by **Mr Philippe Diallo** (France), DRC judge,

on the claim presented by the club

**C,**

*as Claimant*

against the club,

**A,**

*as Respondent*

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

## **I. Facts of the case**

1. The Football Federation B (hereinafter: *the FFB*) confirmed that the player, V (hereinafter: *the player*), born on 28 January 1988, was registered with its affiliated club, C (hereinafter: *the Claimant*), as from 3 May 2008 until 18 October 2008 as an amateur.
2. The sporting season in country B follows the calendar year.
3. According to a written statement from the Football Association E (hereinafter: *the FAE*), the player has never been registered with its affiliated club, A (hereinafter: *the Respondent*).
4. On 9 October 2009, the Claimant contacted FIFA asking for its proportion of training compensation from the Respondent for the transfer of the player from the club O (hereinafter: O), to the Respondent. In particular, the Claimant requested USD 16,767 as training compensation.
5. The Claimant provided FIFA with a copy of a transfer agreement dated 19 March 2009, signed between the club O, the Respondent and the player. According to this agreement, the player should join the Respondent as a professional as from 1 June 2009 until 30 May 2013. According to art. 7 of the transfer agreement: “[...] Club A had paid to buy the player [...]”.
6. On 16 September 2010, FIFA informed the parties that it appears that the player appears not to have been registered for the Respondent and informed them of art. 2 par. 1 of Annexe 4 of the Regulations on the Status and Transfer of Players, according to which training compensation is due if the player is registered for the first time as a professional or if a professional is transferred between clubs of two different associations.
7. To that, the Claimant argued that on the basis of art. 7 of the transfer agreement, the Respondent agreed to pay a compensation to the club O, this not being a transfer compensation since the player was still an amateur. Furthermore, the Claimant stated that it is not possible that the player was a professional while he was registered with O since all the clubs affiliated to the Football Federation B belong to category IV within the Confédération Africaine de Football (CAF), which means that all these clubs have an amateur status.
8. In its reply, the Respondent explained that a transfer agreement was signed between the Respondent, O and the player on 19 March 2009, but “*due to unexpected and emergency conditions, it was agreed to cancel the transfer*”.

*contract*". Furthermore, the Respondent stated that *"all parties agreed to solve the problem amicably via the agreement dated 29 December 2009"*. The preamble of the agreement mentions that *"the player had agreed before with A to play for football team starting the season 2009/2010 and to be registered as a member of the team (...)"*.

9. Additionally, art. 2 of the said agreement stipulates that *"the three parties declare the dissolution (cancellation) of the agreement dated XX/XX/XXXX with all its contents and consequences that may be built on it"*. Also, art.3 of the aforementioned agreement mentions that *"the player and the club O [O] in the presence of its official representative Mr. M declare that they exempt from any debt liability concerning this case (i.e. no responsibility whatsoever on A's part)"*. Moreover, art. 4 of the said agreement states that *"the player and club O are obliged to acknowledge the international Football Federation (FIFA) that they abandon for the complaint against A and also with the solution and the settlement of the dispute cordially and that all parties had received all their financial rights"*.
10. Furthermore, the Respondent argued that there was also a labour dispute in front of FIFA, which was settled by means of this agreement. Therefore, the Respondent considers that training compensation is not due because the player was neither transferred nor ever registered with the Respondent.
11. In its replica, the Claimant pointed out that the Respondent acknowledged that it signed an employment contract with the player on 19 March 2009, which was the player's first professional contract. It cannot be concluded that due to the breach of contract, the player neither concluded a transfer agreement nor was he registered with the Respondent.
12. In its last position, the Respondent stressed that the player was never registered with it and that the International Transfer Certificate (ITC) was never requested. Furthermore, the Respondent provided FIFA with a letter dated 1 April 2009 from O in which the latter declared that it would be responsible for the payment of solidarity contribution. The Respondent argued that O is also responsible for the payment of training compensation.
13. Finally, the FAE confirmed once more that the player was never registered with the Respondent.

## **II. Considerations of the DRC judge**

1. First of all, the Dispute Resolution Chamber judge analysed whether he was competent to deal with the case at hand. In this respect, the judge first referred to art. 21 par. 1 and 2 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2008; hereinafter: *the Procedural Rules*). The present matter was submitted to FIFA on 9 October 2009, thus after the aforementioned Procedural Rules entered into force on 1 July 2008. Therefore, the judge concluded that the above-mentioned edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber is applicable to the matter at hand.
2. Subsequently, the DRC judge referred to art. 3 par. 2 of the Procedural Rules and confirmed that in accordance with art. 24 par. 2 and art. 22 lit. d) of the Regulations on the Status and Transfer of Players (edition 2009) the Dispute Resolution Chamber is competent to decide on the present litigation with an international dimension concerning the training compensation.
3. Furthermore, the DRC judge analysed which regulations should be applicable as to the substance of the matter. In this respect, taking into consideration that the player was allegedly transferred to the Respondent in March 2009 as well as the fact that the present claim was lodged on 9 October 2009, it confirmed that in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (editions 2008 and 2009), the 2008 edition of the Regulations on the Status and Transfer of Players (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.
4. The competence of the DRC judge and the applicable regulations having been established, the judge entered 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. In this respect, the DRC judge took note of the fact that the player, born on 28 January 1988, was registered with the Claimant as from 31 May 2008 until 18 October 2008 as an amateur.
6. Furthermore, the judge duly noted that the Claimant is requesting training compensation from the Respondent for the training and education of the player concerned in the amount of USD 16,767.

7. In this respect, the judge could verify the contents of the transfer agreement dated 19 March 2009, concluded between the Respondent, O and the player, as well as of the contents of the agreement signed between the said parties dated 29 December 2009, in particular its art. 2 (cf. point I.9. above). In this regard, it also noted that the agreement was signed after the claim was lodged.
8. In continuation, the DRC judge wished to recall that, as established in art. 20 of the Regulations, training compensation shall be paid to a player's training club(s) when a player signs his first contract as a professional and each time a professional is transferred until the end of the season of his 23<sup>rd</sup> birthday. Moreover, the obligation to pay training compensation derives from the registration date (art. 3 par. 1 Annexe 4 of the Regulations).
9. Additionally, the judge also referred to art. 5 par. 1 of the Regulations which states that a player must be registered at an association to play for a club as either a professional or an amateur and that only registered players are eligible to participate in organised football.
10. Therefore, the DRC judge came to the conclusion that the Regulations concerning training compensation are only applicable if a player is registered with a club affiliated to its national association.
11. In connection with the aforementioned, the judge took into account that the FAE confirmed that the player was never registered with the Respondent.
12. Apart of the above-mentioned, and for the sake of completeness, the DRC judge turned its attention to art. 7 of the transfer agreement dated 19 March 2009. In this regard, the judge noted that the sentence "[...] Club A had paid to buy the player [...]" appears as if the Respondent had to pay a transfer compensation for the player.
13. In this respect, the judge 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 Annexe 4 of the Regulations).
14. Subsequently, the DRC judge considered that since the above-mentioned agreement included a compensation to be paid for the transfer of the player, there are strong indications that the player was already registered as a professional before he would have transferred to the Respondent.

15. Furthermore, the DRC judge could also verify that, based on the documents on file as well as on the ITC issued by the FFB to the FAE, the player was transferred as a "*non-amateur*" to the country E and that this would also imply that the player was already registered as a professional with his former club.
16. Thus, and bearing in mind the above, the DRC judge 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. art. 3 par. 1 Annexe 4 of the Regulations).
17. In light of the above, the DRC judge analysed that if the player would have been registered for the Respondent, the Claimant would not have been entitled to receive any training compensation from the Respondent, since the transfer of the player from the country B to the country E would have to be considered as a subsequent transfer of a professional and, therefore, only the previous club of the player would be entitled to receive training compensation.
18. Therefore, the DRC judge concluded that since the FAE confirmed that the player was not registered as well as the fact that if the player would have been registered he would have subsequently transferred as a professional, the Claimant is in either situation not entitled to receive training compensation.
19. In light of all the above-mentioned considerations, the DRC judge decided to reject the claim of the Claimant.
20. In continuation, the Chamber referred to art. 18 par. 1 of the Procedural Rules, according to which in the proceedings before the Dispute Resolution Chamber relating to disputes regarding training compensation, costs in the maximum amount of CHF 25,000 are levied. The costs are to be borne in consideration of the parties' degree of success in the proceedings.
21. In this respect, the Chamber reiterated that the claim of the Claimant is rejected. Therefore, the Claimant has to bear the costs of the current proceedings in front of FIFA.
22. According to Annexe A of the Procedural Rules, the costs of the proceedings are to be levied on the basis of the amount in dispute.
23. In this regard, the judge reverted to the claim and remarked that the amount in dispute to be taken into consideration in the present proceedings amounts to

USD 16,767. Therefore, the Chamber concluded that the maximum amount of costs of the proceedings corresponds to CHF 5,000 (cf. table in Annexe A).

24. Considering that the case at hand showed particular factual difficulty and a certain legal complexity, the Chamber determined the final amount of costs of the current proceedings in the amount of CHF 5,000.
25. In view of all of the above, the Chamber concluded that the amount of CHF 5,000 has to be paid by the Claimant to FIFA to cover the costs of the present proceedings.

### **III. Decision of the DRC Judge**

1. The claim of the Claimant, C, is rejected.
2. The final amount of costs of the proceeding in the amount of CHF 5,000 is to be paid by the Claimant, C, **within 30 days** of notification of the present decision to FIFA to the following bank account with reference to case no. [xxx XX-XXXXX]:

UBS Zurich  
Account number 366.677.01U (FIFA Players' Status)  
Clearing number 230  
IBAN: CH27 0023 0230 3666 7701U  
SWIFT: UBSWCHZH80A

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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