

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 26 February 2010,

in the following composition:

Slim Aloulou (Tunisia), Chairman

Philippe Piat (France), member

Takuya Yamazaki (Japan), member

Mario Gallavotti (Italy), member

Todd Durbin (USA), member

on the claim presented by the club

A,

as Claimant

against the club

T,

as Respondent

regarding the solidarity contribution related to the
transfer of the player G

I. Facts of the case

1. The Football Association of A confirmed that the player G (hereinafter: the player), born on 19 April 1985, was registered with its affiliated club, A, the Claimant, as an amateur player from 10 March 1997 until 28 June 2004 and as a professional player from 29 June 2004 until 23 June 2006.
2. The sporting season in A runs as follows: a) for amateurs (under 20 years of age) as from January until December of the relevant year and b) for amateurs (more than 20 years of age) and professionals as from 1 July until 30 June of the following year.
3. According to a written statement from the T Football Federation, the player was registered with club B, the Respondent, in July 2008.
4. On 27 August 2008, the Claimant contacted FIFA claiming its proportion of the solidarity contribution in connection with the transfer of the player from the club, Y, to the Respondent for the amount of EUR 2,300,000. In this respect, the Claimant provided FIFA with the relevant transfer contract concluded between club Y and the Respondent. According to art. 2 of the transfer contract, the pertinent transfer compensation amounts to EUR 2,300,000 to be paid in five instalments as follows: EUR 600,000 on 2 June 2008, EUR 400,000 on 1 January 2009, EUR 400,000 on 1 July 2009, EUR 450,000 on 1 January 2010 and EUR 450,000 on 1 July 2010.
5. On account of the foregoing, the Claimant requested the payment of EUR 80,500 as solidarity contribution, allegedly corresponding to 70% of the proportion of 5% of the total transfer compensation paid by the Respondent to club Y.
6. On 10 June 2009, the Respondent informed FIFA that it accepted its obligation to pay solidarity contribution to the Claimant. However, the Respondent stated, that, at the present moment, it was not able to distribute the said solidarity contribution to the Claimant due to financial problems. Therefore, the Respondent proposed to make the relevant payment in six instalments as follows: EUR 15,500 to be paid until 15 July 2009, EUR 13,000 until 15 August 2009, EUR 13,000 until 15 September 2009, EUR 13,000 until 15 October 2009, EUR 13,000 until 15 November 2009 and EUR 13,000 until 15 December 2009.
7. On 9 July 2009, the Claimant accepted the proposal of the Respondent and communicated its banking details.
8. On 6 August 2009, the Claimant informed FIFA that the Respondent had not paid the first instalment of EUR 15,500 due until 15 July 2009 in accordance with the aforementioned proposal from the Respondent (cf. point no. 6 above).
9. Despite having been invited to do so, the Respondent did not submit any further comments to FIFA.

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. 21 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 27 August 2008, as a consequence the Chamber concluded that the revised Rules Governing Procedures (edition 2008) 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 Regulations for the Status and Transfer of Players (edition 2008). In accordance with art. 24 par. 1 in connection 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 solidarity mechanism.
3. As a consequence, the Dispute Resolution Chamber is the competent body to decide on the present litigation concerning the distribution of the solidarity contribution claimed by the Claimant, in connection with the transfer of the professional G to the Respondent.
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 confirmed that in accordance with art. 26 par. 1 and 2 of the Regulations for the Status and Transfer of Players (edition 2009), and considering that the player was registered with the new club in July 2008 and the present claim was lodged on 27 August 2008, the previous version of the regulations (edition 2008; hereinafter: Regulations) is applicable to the matter at hand as to the substance.
5. In continuation, and entering into the substance of the matter, the members of the Chamber went on to recall that according to art. 21 of the Regulations in connection with Annex 5 of the Regulations, if a professional player moves during the course of a contract, 5% of any compensation, not including training compensation paid to his former club, shall be deducted from the total amount of this compensation and be distributed by the new club as solidarity contribution 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 clubs between the sporting seasons of his 12th and 23rd birthday.
6. In this respect, the Chamber took into account that according to the transfer contract concluded between the club, Y, and the Respondent the player was transferred for the amount of EUR 2,300,000.

7. In addition to the above, the Chamber drew its attention to the fact that the Football Association of A confirmed that the player, born on 19 April 1985, had been registered for the Claimant as an amateur player from 10 March 1997 until 28 June 2004 and as a professional player from 29 June 2004 until 23 June 2006.
8. Moreover, the Chamber considered that the Claimant requested the payment of the amount of EUR 80,500 as solidarity contribution, corresponding to 70% of the proportion of 5% of the total transfer compensation paid by the Respondent to Y.
9. In this respect, the members of the Chamber noted that during the procedures of the present matter the Respondent had offered to pay to the Claimant the claimed amount of EUR 80,500 in six instalments, in order to settle the matter at stake in connection with the solidarity contribution for the player.
10. Equally, the Chamber took due note of the fact that the Claimant accepted the proposal made by the Respondent. However, the Respondent appears to not have complied with its proposal, i.e. the Respondent did not adhere to the amicable agreement and did not pay the agreed first instalment on 15 July 2009.
11. In view of the above, the Chamber duly noted that the Claimant requests the agreed amount of EUR 80,500.
12. In this respect, the Chamber reproached the behaviour of the Respondent, who after having proposed to settle the matter, never took position in the dispute, despite having been asked to do so by the FIFA administration on several occasions. In this way the Respondent renounced to its right to defence and accepts the allegations of the Claimant.
13. In view of all of the above, the Chamber decided that the Respondent has to pay to the Claimant as solidarity contribution the amount of EUR 80,500 mutually agreed between the parties of the present dispute.
14. 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 the solidarity mechanism 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.
15. In this respect, the Chamber reiterated that the claim of the Claimant is accepted. Therefore, the Respondent has to bear the costs of the current proceedings in front of FIFA.
16. 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.
17. The amount in dispute to be taken into consideration in the present proceedings amounts to EUR 80,500 related to the claim of the Claimant. Therefore, the

Chamber concluded that the maximum amount of costs of the proceedings corresponds to CHF 15,000 (cf. table in Annexe A).

18. Considering that the case at hand allowed to be dealt with following a reasonable procedure, that the present case did not show particular factual difficulty and that it did not involve specific legal complexity, Chamber determined the final amount of costs of the current proceedings to the amount of CHF 7,500.
19. In this respect, the Chamber took into account that the Claimant had paid the advance of costs in the amount of CHF 3,000 in accordance with art. 17 of the Procedural Rules.
20. In view of all of the above, the Chamber concluded that the amount of CHF 7,500 has to be paid by the Respondent to cover the costs of the present proceedings. Thereof the amount of CHF 4,500 has to be paid by the Respondent to FIFA and the amount of CHF 3,000 to the Claimant.

III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, A, is accepted.
2. The Respondent, B, has to pay to the Claimant, A, the amount of EUR 80,500, **within 30 days** as from the date of notification of this decision.
3. If the aforementioned sum is not paid within the aforementioned deadline, an interest rate of 5% per year will apply as of expiring of the fixed time limit and the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for its consideration and a formal decision.
4. The final amount of costs of the proceedings in the amount of CHF 7,500 are to be paid by the club B, **within 30 days** of notification of the present decision as follows:
 - 4.1 The amount of CHF 4,500 to FIFA to the following bank account with reference to case no.:

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 3,000 to A.

5. The Claimant, A, is directed to inform the Respondent, club B, 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.
6. According to article 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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For the Dispute Resolution Chamber:

Jérôme Valcke
General Secretary

Encl. CAS directives