

Decision of the Dispute Resolution Chamber (DRC) judge

passed in Zurich, Switzerland, on 1 April 2011,

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

on the claim presented by the club

F,

as Claimant

against the club

A,

as Respondent

regarding a dispute relating to the solidarity contribution in connection with
the international transfer of the player S.

I. Facts of the case

1. According to the player passport issued by the Football Federation of B (FFB), the player, S (hereinafter: *the player*), born on 12 January 1982, was registered as an amateur with the club, F (hereinafter: *the Claimant*), as from 1 September 1996 until 31 January 2005.
2. The Football Federation of B confirmed that the sporting season ran from 1 August until 31 July of the following year when the player was registered with the Claimant.
3. On 25 June 2009, the player was registered for the club, A (hereinafter: *the Respondent*).
4. On 23 July 2010, the Claimant contacted FIFA claiming its proportion of the solidarity contribution in connection with the transfer of the player from the club, J (hereinafter: *J*), to the Respondent. In particular, the Claimant requested the payment of 4,04% of the total transfer amount plus interest at the discretion of the Dispute Resolution Chamber.
5. On 10 January 2011, the Respondent replied arguing that *"the player signed an employment contract with A on the 25.6.2009. According to the provision of the said agreement the player agreed to provide his services for A for a period of 2 years in consideration for an agreed sum"*. Moreover, the Respondent held that the club and the player agreed to mutually terminate the said agreement and that the player has been registered on 14 September 2009 to the Football Federation R.
6. The Respondent further stated that the claim is inadmissible and stressed that *"since the player is over 23 years old when he was transferred to them then no such obligation is owed to the claimant club or to any other club that the player had previously been registered. Further, it has to be noted that according to the said regulations the Football Association X is category IV"*.
7. On 4 November 2010, the Respondent provided FIFA with a copy of the relevant transfer agreement concluded between it and the club, J (hereinafter: *the agreement*) for the transfer of the player from club J to club A, by means of which the parties agreed upon a transfer compensation of EUR 100,000.
8. On 7 February 2011, the Claimant amended its claim and requested the Respondent to pay the amount of EUR 4,040 *"(4,04% of 100.000) or the amount the Commission will consider fair"* as well as legal costs of the proceedings.
9. In its final position, the Respondent maintained its previous arguments.

II. Considerations of the DRC judge

1. First of all, the DRC judge 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 23 July 2010. 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. article 21 par. 2 and 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 in conjunction with art. 22 lit. d) of the Regulations on the Status and Transfer of Players (edition 2008) the DRC judge is competent to decide on the present litigation which is of an international dimension, and concerns the distribution of solidarity contribution between two clubs belonging to different Associations in connection with the international transfer of the player.
3. As a consequence, the DRC judge 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 player from the club J to the Respondent.
4. Furthermore, and taking into consideration that the player was registered with the Respondent on 25 June 2009, 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 (editions 2009 and 2008) and considering that the present claim was lodged on 23 July 2010, the 2008 edition of the said Regulations (hereinafter: *the Regulations*) is applicable to the present matter as to the substance.
5. The competence of the DRC judge and the applicable regulations having been established, the DRC judge entered into the substance of the matter. In doing so, the DRC judge started to acknowledge the facts of the case as well as the documents contained in the file.
6. The DRC judge started by acknowledging that the Claimant initially claimed solidarity contribution in the proportion of 4,04% of the transfer compensation paid in connection with the transfer of the player from J to the Respondent, as well as interest at the discretion of the DRC. Moreover, the DRC judge took note that, subsequently, the claimant amended its claim and requested the payment of EUR 4,040 as well as legal costs to be assessed by the DRC, without however claiming any interest on the aforementioned amount.

7. The DRC judge equally took note that the Respondent submitted a copy of the transfer agreement it had signed with J in connection with the transfer of the player for the transfer amount of EUR 100,000.
8. In this respect, the DRC judge reproached the behaviour of the Respondent who rejected the claim entirely arguing that the player was over 23 years when he was transferred from J to the Respondent and thus the Claimant is not entitled to receive solidarity contribution for the training and education of the player in accordance with art. 21 and Annex 5 of the Regulations.
9. In continuation, the DRC judge first referred to art. 21 and art. 1 par. 1 of Annexe 5 of the Regulations which stipulate that if a professional is transferred before the expiry of his contract, 5% of any compensation, with the exception of training compensation, paid to his former club shall be deducted from the total amount of this compensation and distributed by the new club as a solidarity contribution to the club(s) involved in the training and education of the player between the seasons of the player's 12th and 23rd birthdays.
10. In this context, the DRC judge acknowledged that the Football Federation B and (FFB) confirmed that the player, born on 12 January 1982, was registered with the Claimant as from 1 September 1996 until 31 January 2005, and that, according to the Football Association X (FAX), the player was registered with the Respondent on 25 June 2009.
11. In continuation, with regard to the statements of the Respondent, who held that solidarity contribution is not due since the player was transferred after his 23rd birthday, the DRC judge emphasized that within the system of solidarity contribution there is no such provision stipulating that solidarity contribution exclusively falls due if a player, upon being transferred, is between the age of 12 and 23. In fact, the age range of 12 to 23 is related to the seasons during which a player was trained and educated by a club, as clearly set out by the Regulations.
12. Moreover, the DRC judge found it worthwhile to underline that the provision which the Respondent referred to, can be found in the rules applicable to training compensation. In fact, as established in art. 1 par. 1 of Annexe 4 in conjunction with art. 2 of Annexe 4 to 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 and each time a professional is transferred until the end of the season of his 23rd birthday.
13. Consequently, solidarity contribution falls due if a professional over the age of 23 is transferred internationally before the expiry of his contract, however, in such case the relevant proportion of the 5% of any compensation (except for training compensation) shall be calculated for the training and education by clubs between the seasons of the player's 12th and 23rd birthdays only.

14. In view of the above and in accordance with art. 1 of Annex 5 of the Regulations, the Claimant is entitled to receive solidarity contribution for the period as from 1996/1997 (15th birthday) until 2004/2005 (23rd birthday).
15. Having established that the Respondent is obliged to pay solidarity contribution to the Claimant, the DRC judge then turned to the calculation of the pertinent amount. In this respect, the DRC judge took in consideration that the player, born on 12 January 1982, was registered with the Claimant as from 1 September 1996 until 31 January 2005 and that according to the transfer agreement dated 1 June 2009, the Respondent agreed to pay EUR 100,000.
16. As a result, the DRC judge decided that in accordance with article 1 of Annex 5 to the Regulations, the Respondent is liable to pay 79,58% of the 5% of the relevant transfer compensation, i.e. the amount of EUR 3,979 and that any further claim of the Claimant is rejected.
17. In particular, the DRC judge decided to reject the Claimant's claim pertaining to legal costs taking into account art. 18 par. 4 of the Procedural Rules and the Chamber's respective longstanding jurisprudence.
18. Finally, the DRC judge referred to art. 18 par. 1 of the Procedural Rules, according to which in the proceedings before the DRC judge relating to disputes regarding 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.
19. In this respect, the DRC judge reiterated that the claim of the Claimant is partially accepted. Therefore, the Respondent has to bear the costs of the current proceedings in front of FIFA.
20. 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.
21. The amount in dispute to be taken into consideration in the present proceedings amounts to EUR 4,040 related to the claim of the Claimant. Consequently, the DRC judge concluded that the maximum amount of costs of the proceedings corresponds to CHF 5,000 (cf. table in Annexe A).
22. Considering that the case at hand allowed to be dealt with following a reasonable procedure, that the present case did not show any particular factual difficulty and that it did not involve specific legal complexity, the DRC judge determined the final amount of costs of the current proceedings to the amount of CHF 500.

23. In view of all the above, the DRC judge concluded that the amount of CHF 500 has to be paid by the Respondent to FIFA to cover the cost of the proceedings.

III. Decision of the DRC judge

1. The claim of the Claimant, F, is partially accepted.
2. The Respondent, A, has to pay to the Claimant, F, the amount of EUR 3,979, **within 30 days** as from the date of notification of the present decision.
3. Any further claims lodged by the Claimant, F, are rejected.
4. If the aforementioned sum is not paid within the above-mentioned 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 its consideration and decision.
5. The final amount of costs of the proceeding in the amount of CHF 500 is to be paid by the Respondent, A, **within 30 days** of notification of the present decision, 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

6. The Claimant, F, is directed to inform the Respondent, A, immediately and directly of the account number to which the remittance is 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:

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For the DRC judge:

Jérôme Valcke
Secretary General

Enclosed: CAS directives