

**Decision of the
Single Judge of the sub-committee of the
Dispute Resolution Chamber (DRC)**

passed on 24 July 2017,

by **Theo van Seggelen** (Netherlands),
Single Judge of the sub-committee of the DRC,

on the claim presented by the club,

Club A, Country B

as Claimant

against the club,

Club C, Country D

as Respondent

regarding solidarity contribution in connection with the international transfer
of the player, Player E

I. Facts of the case

1. According to the player passport issued by the Football Federation of Country B, the player, Player E (hereinafter: *player*), born on 17 June 1984, was registered with the Club of Country B, Club A (hereinafter: *the Claimant*), as from 19 May 1998 until 30 December 2002.
2. The football season in Country B runs from January until December of each year.
3. According to the information contained in the Transfer Matching System (TMS), on 17 June 2016, the Club of Country F, Club G, and the Club of Country D, Club C (hereinafter: *the Respondent*) agreed upon the transfer of the player from Club G to the Respondent against the payment of a transfer fee amounting to EUR 700,000, payable "*within ten (10) Business Days of Country D of the later of the release of the ITC in FIFA TMS and confirmation by the Football Association of Country D that the Player is registered with the Acquiring Club*".
4. On 5 October 2016, the Claimant lodged a claim in front of FIFA against the Respondent claiming its proportion of the solidarity contribution in connection with the transfer of the player from Club G to the Respondent. In particular, the Claimant requested 38,109% of the 5% of the transfer compensation as well as interest as of the due date. Moreover, the Claimant requested that the Respondent bears the entire procedural costs.
5. According to the information contained in the TMS, the player was registered with the Respondent on 30 September 2016.
6. In spite of having been invited to do so, the Respondent did not reply to the claim of the Claimant.
7. On 5 July 2017, the Claimant confirmed that no payment had been received from the Respondent.

II. Considerations of the Single Judge of the sub-committee of the DRC

1. First of all, the Single Judge of the sub-committee of the Dispute Resolution Chamber (hereinafter: *the Single Judge*) analysed whether he was competent to deal with the matter at hand. In this respect, he took note that the present matter was submitted to FIFA on 5 October 2016. Consequently, the 2015 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 of the Procedural Rules).

2. Subsequently, the Single Judge referred to art. 3 of the Procedural Rules, which states that the Dispute Resolution Chamber shall examine its jurisdiction in light of arts 22 to 24 of the Regulations on the Status and Transfer of Players (edition 2016). In accordance with art. 3 of Annexe 6 in conjunction with art. 24 par. 3 and art. 22 lit. d) of the Regulations on the Status and Transfer of Players, the Single Judge is competent to decide on the present dispute relating to solidarity mechanism between clubs belonging to different associations handled through TMS.
3. Furthermore, the Single 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 2016), and considering that the player was registered with the Respondent on 30 September 2016, the 2016 edition of the Regulations on the Status and Transfer of Players (hereinafter: *Regulations*) is applicable to the matter at hand as to the substance.
4. The competence of the Single Judge and the applicable regulations having been established, the Single Judge entered into the substance of the matter. In this respect, the Single Judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation submitted by the parties. However, the Single Judge emphasised that in the following considerations he will refer only to the facts, arguments and documentary evidence, which he considered pertinent for the assessment of the matter at hand. In particular, the Single Judge recalled that in accordance with art. 6 par. 3 of Annexe 3 of the Regulations, FIFA may use, within the scope of proceedings pertaining to the application of the Regulations, any documentation or evidence generated or contained in the Transfer Matching System (TMS).
5. In this respect, the Single judge noted that the Claimant claimed the payment of solidarity contribution from the Respondent, corresponding to 38,109% of the 5% of the relevant transfer compensation, plus 5% interest per year applicable as of the date on which the payment fell due.
6. In addition to the above, the Single judge took into account that according to the information contained in the TMS, Club G and the Respondent agreed upon a transfer compensation of EUR 700,000 in connection with the transfer of the player from Club G to the Respondent.
7. Furthermore, the Single judge duly noted that the Respondent never took position in the present matter, although having been invited to do so by FIFA. Therefore, the Single judge deemed that, in this way, the Respondent renounced to its right to defence and accepted the allegations of the Claimant.

8. As a consequence of the aforementioned consideration, the Single 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.
9. Having established the above, the Single judge referred to art. 21 of the Regulations in combination with art. 1 of Annexe 5 of the Regulations which stipulate that, if a professional 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 a solidarity contribution to the club(s) involved in the training and education of the player in proportion of the number of years the player has been registered with the relevant club(s) between the seasons of his 12th and 23rd birthday.
10. In this respect, the Single judge recalled that the Football Federation of Country B had confirmed that the player, born on 17 June 1984, was registered with the Claimant as from 19 May 1998 until 30 December 2002.
11. On account of the above and in accordance with art. 1 of Annexe 5 of the Regulations, the Single judge considered that the Claimant is, thus, entitled to receive solidarity contribution for the relevant period, i.e. for 7 months during the season of the player's 14th birthday and the entire seasons of the player's 15th, 16th, 17th and 18th birthdays, which corresponds to 37,91% of the 5% of the total transfer compensation.
12. Having said that, the Single judge took into account that the Claimant, for its part, claimed 38,109% of the 5% of the total transfer compensation.
13. In view of all of the above, the Single judge decided to partially accept the claim of the Claimant and held that the Respondent is liable to pay the amount of EUR 13,268 to the Claimant as solidarity contribution in relation to the transfer of the player from Club G to the Respondent.
14. Furthermore, and taking into consideration both the claim of the Claimant as well as art. 2 par. 1 of Annexe 5 of the Regulations, the Single judge decided that the Respondent has to pay, in conformity with the longstanding practice of the DRC, interest at rate of 5% *p.a.* on the amount of EUR 13,268 as from 31 October 2016 until the date of effective payment.
15. Lastly, the Single judge referred to art. 25 par. 2 of the Regulations in combination with art. 18 par. 1 of the Procedural Rules, according to which, in proceedings before the DRC, including the Single judge, relating to disputes regarding training compensation and the solidarity mechanism, costs in the maximum amount of CHF 25'000 are levied. The relevant provision further states

that the costs are to be borne in consideration of the parties' degree of success in the proceedings (cf. art. 18 par. 1 of the Procedural Rules).

16. According to Annex A of the Procedural Rules, the costs of the proceedings are to be levied on the basis of the amount in dispute.
17. On that basis, the Single judge held that the amount to be taken into consideration in the present proceedings is EUR 13,338 related to the claim of the Claimant. Consequently, the Single judge concluded that the maximum amount of costs of the proceedings corresponds to CHF 5,000 (cf. table in Annex A).
18. Considering the fact that the claim of the Claimant was almost fully accepted and that the Respondent did not reply to the claim, the Single judge determined the costs of the current proceedings to the maximum amount of CHF 5,000, which shall be borne by the Respondent.
19. The Single judge concluded his deliberations in the present matter by establishing that any further claim lodged by the Claimant is rejected.

III. Decision of the Single Judge of the sub-committee of the DRC

1. The claim of the Claimant, Club A, is partially accepted.
2. The Respondent, Club C, has to pay to the Claimant, **within 30 days** as from the date of notification of this decision, the amount of EUR 13,268 plus 5% interest *p.a.* as from 31 October 2016 until the date of effective payment.
3. In the event that the aforementioned sum and interest are 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. Any further request filed by the Claimant is rejected.
5. The final costs of the proceedings in the amount of CHF 5,000 are to be paid by the Respondent, **within 30 days** as from the date of the notification of the present decision, to FIFA to the following bank account with reference to case no. XXX:

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

6. The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittance under point 2. above is to be made and to notify the Single Judge of the sub-committee of the DRC of every payment received.

Note relating to the motivated decision (legal remedy):

According to art. 58 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
www.tas-cas.org

For the Single Judge of the
sub-committee of the DRC:

Marco Villiger
Chief Legal & Integrity Officer

Encl. CAS directives