

# Decision of the Single Judge of the sub-committee of the Dispute Resolution Chamber

passed on 19 August 2020,

regarding training compensation for the player Rafael Alexandre Romao Victor

**BY:**

**Omar Ongaro** (Italy), Single Judge of the sub-committee of the Dispute Resolution Chamber

**CLAIMANT:**

**Mem Martins SC, Portugal**

**RESPONDENT:**

**Throttur Reykjavik, Iceland**

## I. FACTS OF THE CASE

1. According to the player passport issued by the Portuguese FA, the player, Rafael Alexandre Romao Victor (hereinafter: *the Player*), born on 21 October 1996, was registered as an amateur with the Portuguese club, Mem Martins SC (hereinafter: *Claimant*) as from 23 February 2012 until 30 June 2012 and again as from 19 October 2012 until 30 June 2013 (season of player's 15<sup>th</sup> and 16<sup>th</sup> birthday).
2. The football seasons in Portugal runs from 1 July until 30 June of the following year.
3. Furthermore, according to the player passport issued by the Portuguese FA, the player registered with the Icelandic club, Throttur Reykjavik (hereinafter: *Respondent*) on 24 April 2019 as an amateur.
4. According to the player passport issued by the Icelandic FA, the player was registered with the Respondent as a professional on 23 April 2019.
5. By means of the information contained in TMS, the Claimant belonged to the category IV (indicative amount of EUR 10,000 per year within UEFA) at the moment that the player was registered with the Respondent.
6. As per the information contained in TMS, the Respondent belonged to the category III (indicative amount of EUR 30,000 per year within UEFA) at the moment that the player was registered with it.
7. On 22 July 2020, the Claimant lodged a claim in front of FIFA requesting training compensation for the period as from 23 February 2012 until 30 June 2012 and again as from 19 October 2012 until 30 June 2013 on the ground of the first registration as a professional of the player before the end of the season of his 23<sup>rd</sup> birthday. In particular, the Claimant requested EUR 17,424.65 plus interest of 5 % *p.a.* as of the due date until the date of effective payment.
8. In reply to the Claimant's claim, the Respondent held that no training compensation was due to the Claimant.
9. First of all, the Respondent referred to art. 6 par. 3 Annexe 4 of the Regulations, and argued that *"if a club wants to retain the right to training compensation in respect of one of its amateur players [...] the training club must either offer the concerned player a professional contract or [...] must show bona fide and genuine interest in retaining him for the future"*.
10. In this regard, as per the Respondent, it *"does not appear that [the Claimant] offered [the player] a professional contract"*.

11. Secondly, the Respondent maintained that the player was *“training and playing [with the Respondent] de facto as an amateur in the spring of 2019. His basic monthly salary was ISK 248,658 (roughly EUR 1,600)”*.
12. As per the Respondent, the player *“was not paid more by [the Respondent] than the expenses he effectively incurred in return for his footballing activity at the club and therefore has to be considered as an amateur player”*.
13. Finally, the Respondent held that it is *“today registered as a category 4 club”*. Thus, as per the Respondent, *“training compensation is not due if the player is transferred to a category 4 club”*.

## II. CONSIDERATIONS OF THE SINGLE JUDGE OF THE SUB-COMMITTEE OF THE DISPUTE RESOLUTION CHAMBER

14. 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 case at hand. In this respect, he took note that the present matter was submitted to FIFA on 22 July 2020. Taking into account the wording of art. 21 of the June 2020 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *the Procedural Rules*), the June 2020 edition of the Procedural Rules is applicable to the matter at hand (cf. article 21 of the Procedural Rules).
15. 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 (June 2020 edition). In accordance with art. 3 of Annexe 6 in conjunction with art. 24 par. 3 and art. 22 lit. d) of the Regulations, the Single Judge is competent to decide on the present dispute relating to training compensation between clubs belonging to different associations handled through TMS.
16. Furthermore, and taking into consideration that the player was registered with the Respondent on either 23 April 2019 or 24 April 2019, 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 2 of the Regulations, the June 2018 edition of the Regulations is applicable to the matter at hand as to the substance.
17. The competence of the Single Judge and the applicable regulations having been established, the Single Judge entered into the substance of the matter. The Single Judge started by acknowledging the above-mentioned facts of the case as well as the documentation on file. However, the Single Judge emphasized 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 TMS.

18. First of all, the Single Judge recalled that, in accordance with the player's passport issued by the Portuguese FA, the player, born on 21 October 1996, was registered with the Claimant as an amateur as from 2 September 2013 until 30 June 2014. Furthermore, the DRC Judge noted that according to the player passport issued by the Portuguese FA, the player registered with the Respondent on 24 April 2019 as an amateur. Having said this, the DRC Judge took into account that, according to the player's passport issued by the Icelandic FA, the player was registered with the Respondent as a professional on 23 April 2019.
19. Given the discrepancies between the player's passport issued by the Portuguese FA and the player's passport issued by the Icelandic FA, the Single Judge understood that he firstly had to determine on which exact date the player was registered with the Respondent. Importantly, the Single Judge further had to determine whether the player was registered with the Respondent as an amateur or as a professional.
20. In this context, the Single Judge decided to place more emphasis on the information contained in the player's passport provided by the Icelandic FA, given that the Respondent is affiliated to said national association. What is more, the Single Judge recalled that in its reply, the Respondent did not accuse the Icelandic FA of committing any administrative error when creating the player's passport.
21. Given the above, the Single Judge concluded that the player was registered with the Respondent as a professional on 23 April 2019.
22. In continuation, the Single Judge took note that the Claimant asserted that it was entitled to receive training compensation from the Respondent in the amount of EUR 17,424.65 on the ground of the first registration as a professional of the player before the end of the season of his 23<sup>rd</sup> birthday.
23. In consideration of the Claimant's claim, the Single Judge, and hereby referring to the rules applicable to training compensation, started by stating that, as established in art. 20 of the Regulations as well as in art. 1 par. 1 of Annexe 4 in combination with art. 2 of Annexe 4 of the Regulations, training compensation is payable, as a general rule, for training incurred between the ages of 12 and 21 when a player is registered for the first time as a professional before the end of the season of the player's 23<sup>rd</sup> birthday or when a professional is transferred between clubs of two different associations before the end of the season of the player's 23<sup>rd</sup> birthday. In case the latter occurs, art. 3 par. 1 sent. 3 of Annexe 4 of the Regulations sets forth that training compensation will only be owed to the player's former club for the time he was effectively trained by that club.
24. In continuation, the Single Judge evoked that art. 5 par. 1 and par. 2 of Annexe 4 of the Regulations stipulates 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.
25. Subsequently, the Single Judge noted that since the player moved from Portugal to Iceland, *i.e.* from one association to another association inside the territory of the EU/EEA, art. 6 par. 1 of the Annexe 4 of the Regulations is applicable to the case at hand. In this context, the Single Judge recalled that said provisions stipulate that when a player moves from a lower to a higher category club within the territory of the EU/EEA, the amount of training compensation payable shall be calculated on the average training costs of the two clubs.
  26. In this respect, the Single Judge took into account that according to the information contained in the TMS as well as the documentation on file, the Claimant belonged to the club category IV on the date the player was registered with the Respondent (*i.e.* 23 April 2019), while the Respondent belonged to the training category III at the time the player was registered with it.
  27. Having said this, the Single Judge took into account the position of the Respondent, which held that no training compensation was due to the Claimant for the following reasons: 1) the Claimant should have offered the player a professional contract in accordance with art. 6 par. 3 Annexe 4 of the Regulations; 2) the player was *"training and playing [with the Respondent] de facto as an amateur in the spring of 2019"*; and 3) the Respondent is *"today registered as a category 4 club"*, meaning that *"training compensation is not due if the player is transferred to a category 4 club"*.
  28. First of all, with regard to the Respondent's allegation that the Claimant should have offered the player a professional contract, the Single recalled that, in accordance with art. 6 par. 3 Annexe 4 of the Regulations, *"if 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"*.
  29. In this regard, the Single Judge placed particular emphasis on the fact that, pursuant to the Regulations, it is the obligation of the former club to offer the player a contract, and not of any former club. In other words, as per the Single Judge, this obligation only applies to the last club the player was registered with before being registered with the Claimant. In this sense, according to the player's passport issued by the Portuguese FA, the former club of the player was ARC Oleiros, and not the Claimant.
  30. Given the above, the Single Judge decided to reject the Respondent's allegation that the Claimant should have offered the player a professional contract in accordance with art. 6 par. 3 Annexe 4 of the Regulations.
  31. Subsequently, the Single Judge turned his attention to the Respondent's position that the player was training and playing *de facto* as an amateur. In this light, the Single Judge further noted that, according to the Respondent, the player's monthly salary was *"was ISK 248,658 (roughly EUR 1,600)"* and that the player *"was not paid more by [the*

Respondent] *than the expenses he effectively incurred in return for his footballing activity at the club and therefore has to be considered as an amateur player*".

32. The Single Judge could not agree with the Respondent's position. First of all, the player's passport issued by the Icelandic FA clearly stipulated that the player was registered with the Respondent as a professional. What is more, the Single Judge referred to his previous deliberations and reiterated that the Respondent did not accuse the Icelandic FA of committing any administrative error when creating the player's passport.
33. In this context, the Single Judge highlighted that the Respondent itself had acknowledged that the player was earning "*roughly EUR 1,600*" per month. In addition, the Single Judge evoked that the Respondent submitted an employment contract between the player and the Respondent in order to emphasize the extent of the player's remuneration.
34. Along these lines, the Single Judge referred to Art. 2 par. 2 of the Regulation, which reads as follows: "*A professional is a player who has a written contract with a club and is paid more for his footballing activity than the expenses he effectively incurs*".
35. Thus, to the opinion of the Single Judge, the fact that there is a written contract between the player and the Respondent is the first decisive element in this regard. Furthermore, the Single Judge, referring to the principle of the burden of proof explicitly stipulated in art. 12 par. 3 of the Procedural Rules, established that the Respondent did not provide any evidence that can demonstrate that the player's expenses for his footballing activity exceeded his income.
36. Consequently, the Single Judge decided to reject the Respondent's position that the player was training and playing *de facto* as an amateur.
37. Finally, the Single Judge turned to the Respondent's statement that today it belongs to the training category IV, and that consequently no training compensation is due. Having said this, the Single Judge stressed that the categorization of the Respondent at the time of the registration of the player is decisive, and not the current training category. In this light, the Single Judge reiterated that, as per the information contained in the TMS, the Respondent belonged to the training category III at the time the player was registered with it. Moreover, the Single Judge wished to underline that the Respondent never disputed the fact that on the date of the player's registration with the Respondent (*i.e.* 23 April 2019), it belonged to the training category III.
38. Therefore, the Single the Single Judge decided to reject the Respondent's statement that no training compensation is due, because today it belongs to the training category IV.
39. Consequently, given all of the above considerations, the Single Judge decided to reject the Respondent's reply in its entirety, and decided that the Respondent is liable to pay

- training compensation to the Claimant for the training of the player in accordance with art. 20 of the Regulations and art. 2 par. 1 lit. ii. and art. 3 par. 1 of Annexe 4 of the Regulations.
40. Furthermore, the Single Judge referred to the FIFA circular no. 1627 dated 9 May 2018 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.
  41. In continuation, the Single Judge reiterated that, pursuant to art. 6 par. 1 of the Annexe 4 of the Regulations, when a player moves from a lower to a higher category club within the territory of the EU/EEA, the amount of training compensation payable shall be calculated on the average training costs of the two clubs. In this respect, the Single Judge once again took into account that the Claimant belonged to the club category IV and that the Respondent belonged to the club category III on the date of the player's registration with the Respondent.
  42. As a result, and considering art. 3 par. 1 sent. 2 of Annexe 4 of the Regulations, which stipulates that the amount payable is calculated on a *pro rata* basis according to the period of training that the player spent with each club, the Single Judge concluded that the effective period of time to be considered in the matter at stake corresponds to 129 days of the 2011/2012 season, *i.e.* as from 23 February 2012 until 30 June 2012, as well as to 255 days of the 2012/2013 season, *i.e.* as from 19 October 2012 until 30 June 2013.
  43. In this context, the Single Judge noted that, in accordance with Art. 5 para. 3 of Annexe 4, for the period of 23 February 2012 until 30 June 2012 (*i.e.* the season of the player's 15<sup>th</sup> birthday), the training costs shall be based on the training and education costs of category IV club, *i.e.* EUR 10,000 per year. Similarly, the Single Judge recalled that, for the period of 19 October 2012 until 30 June 2013 (*i.e.* the season of the player's 16<sup>th</sup> birthday), the average of the two training costs applies, *i.e.* EUR 20,000 per year.
  44. Therefore, the Single Judge determined that the Claimant would, in principle, be entitled to EUR 17,506.85 as training compensation.
  45. Having said this, the Single Judge noted that in its claim, the Claimant had limited its request for training compensation to EUR 17,424.65. Therefore, taking into account the Claimant's request for relief as well as the principle of *non ultra petita*, the Single Judge understood that he could not award more training compensation to the Claimant than the amount it requested.
  46. Consequently, on account of all of the above-mentioned considerations and the specificities of the case at hand, the Single Judge decided that the Respondent must pay the amount of EUR 17,424.65 to the Claimant as training compensation on the ground

of the first registration as a professional of the player before the end of the season of his 23<sup>rd</sup> birthday.

47. Moreover, taking into consideration the Claimant's claim as well as art. 3 par. 2 of Annexe 4 of the Regulations, the Single Judge decided that the Respondent has to pay, in conformity with its longstanding practice, interest of 5% *p.a.* over the amount payable as training compensation as of the 31<sup>st</sup> day of the registration of the player with the Respondent on a definitive basis, *i.e.* as of 24 May 2019, until the date of effective payment.
48. In continuation, 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 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.
49. However, in this respect, the Single Judge referred to art. 18 par. 1. ii. of the Procedural Rules according to which, for any claim lodged prior to 10 June 2020 which has yet to be decided, the maximum amount of the procedural costs shall be equivalent to any advance of costs paid. Thus, considering that no advance of costs was paid in this matter, no procedural costs can be awarded.
50. Thereafter, taking into account the consideration under number II./16. above, the Single Judge referred to par. 1 and 2 of art. 24bis of the Regulations, which stipulate that, with its decision, the pertinent FIFA deciding body shall also rule on the consequences deriving from the failure of the concerned party to pay the relevant amounts of outstanding remuneration and/or compensation in due time.
51. In this regard, the Single Judge pointed out that, against clubs, the consequence of the failure to pay the relevant amounts in due time shall consist of a ban from registering any new players, either nationally or internationally, up until the due amounts are paid and for the maximum duration of three entire and consecutive registration periods.
52. Therefore, bearing in mind the above, the Single Judge decided that, in the event that the Respondent does not pay the amount due to the Claimant within 45 days as from the moment in which the Claimant, following the notification of the present decision, communicates the relevant bank details to the Respondent, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods shall become effective on the Respondent in accordance with art. 24bis par. 2 and 4 of the Regulations.
53. Finally, the Single Judge recalled that the above-mentioned sanction will be lifted immediately and prior to its complete serving upon payment of the due amounts, in accordance with art. 24bis par. 3 of the Regulations.



### III. DECISION OF THE SINGLE JUDGE OF THE SUB-COMMITTEE OF THE DISPUTE RESOLUTION CHAMBER

1. The claim of the Claimant, Mem Martins SC, is accepted.
2. The Respondent, Throttur Reykjavik, has to pay to the Claimant, the following amount:
  - EUR 17,424.65 as training compensation plus 5% interest *p.a.* as from 24 May 2019 until the date of effective payment.
3. The Claimant is directed to immediately and directly inform the Respondent of the relevant bank account to which the Respondent must pay the due amount.
4. The Respondent shall provide evidence of payment of the due amount in accordance with this decision to [psdfifa@fifa.org](mailto:psdfifa@fifa.org), duly translated, if applicable, into one of the official FIFA languages (English, French, German, Spanish).
5. In the event that the amount due, plus interest as established above is not paid by the Respondent **within 45 days**, as from the notification by the Claimant of the relevant bank details to the Respondent, the following consequences shall arise:
  1. The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods. The aforementioned ban mentioned will be lifted immediately and prior to its complete serving, once the due amount is paid.  
(cf. art. 24bis of the [Regulations on the Status and Transfer of Players](#)).
  2. In the event that the payable amount as per in this decision is still not paid by the end of the ban of three entire and consecutive registration periods, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee.

For the Dispute Resolution Chamber:



**Emilio García Silvero**  
Chief Legal & Compliance Officer

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**NOTE RELATED TO THE APPEAL PROCEDURE:**

According to article 58 par. 1 of the [FIFA Statutes](#), this decision may be appealed against before the [Court of Arbitration for Sport \(CAS\)](#) within 21 days of receipt of the notification of this decision.

**NOTE RELATED TO THE PUBLICATION:**

FIFA may [publish](#) this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 20 of the Procedural Rules).

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