

**THE DISPUTE RESOLUTION CHAMBER
OF THE PLAYERS' STATUS COMMITTEE**

convening in Zurich, Switzerland, on 6 June 2003 and comprising:

**Slim Aloulou (Tunisia), Chairman
Philippe Piat (France), member
Gerardo Movilla (Spain), member
Michele Colucci (Italy), member
Mario Gallavotti (Italy), member
Maurice Watkins (England), member
Philippe Diallo (France), member
Paulo Rogeiro Souza Amoretty (Brazil), member**

and deliberating in accordance with Article 42 of the FIFA Regulations for the Status and Transfer of Players (edition September 2001) on a claim lodged by the club X. against the player A. (*first respondent*), as well as against the club P. (*second respondent*) and the licensed players' agent I, (*third respondent*), subsequently and in solidarity,

TOOK INTO CONSIDERATION

AS TO SUBSTANCE

- the Chamber duly noted that:
 - on 23 May 2002, the clubs X. and P. as well as the player A. signed a tripartite agreement, arranging for the player's transfer to join the club X.,
 - furthermore, the player and the club X. signed an employment contract on 24 June 2002 valid until 24 June 2006,
 - the club X. had purchased the federative rights to the player A. at a total of USD , of which it paid USD to the club Z. and USD to the club P.,
 - the club X. and the player A. signed an employment contract entitling the player to a salary of USD per season, payable in 10 instalments,
 - the parties signed a further contract over the image rights of the player, establishing that the player would receive an additional amount of USD 2,000,000 per season,
 - on 12 February 2003, the Football Association of the player A. summoned the latter to play a friendly match against the representative team of a European Football Association,
 - rather than returning to the club X. after the period of release, the player left for his home country and has since not gone back to his club,
 - the Football Association of the player A. informed the club X. that it had undertaken all necessary steps to ensure that the player would return to his club after the match, yet the player did not board the aeroplane and returned to his home country on his own account, given that the delegation of his national association travelled without him,
 - the club X. turned to FIFA on 11 April 2003, asking for its rights to be protected,

- the claimant, the club X., maintains in particular in its claim that:

- it granted the player A. a deadline until 12 March 2003 to reassume his duties at the club, which was not met by the player,
- therefore, it is claiming compensation from the player for breach of contract and, subsequently and in solidarity, against the club P. and the player's agent I., should it be proven that they instigated the player to breach the contract,
- the sportive and economical prejudice caused by the player when he left the club X. comprises the following:
 - X. purchased 50% of the federative right to the player A. from the club Z. at USD . The agreement with the club P. in the amount of USD was signed in continuation so as to enable the club X. to obtain the remaining 50% from this club. Therefore, transfer fee amounted to a total of USD .
 - The club X. also arranged to pay an amount of USD to the players' agent and former holder of player's image rights the "XXX Company".
 - Furthermore, the club X. paid an amount of USD to the Football Association, corresponding to the % participation on transfers foreseen in this countries collective bargaining agreement.
 - The player A. and the club X. agreed that the player would be entitled to a salary of USD per season, payable in 10 instalments as well as an amount of USD per season for the player's image rights.
 - In addition, the club X. took charge of paying stamp duty and taxes, fees for the agents and image company involved, expenses regarding the issuance of bank guarantees, legal costs and all further expenses related to the player such as travel costs, salary of the players advisor, rent and car.
- The club X. is therefore claiming compensation in the total amount of USD from the counterparties, i.e. the player A- as well as the player's agent I. and the club P. subsequently and in solidarity, in case their involvement in the breach would be proven, along with USD in concept of sportive prejudice.
- the FIFA Administration asked the first respondent, the player A., via his Football Association, to send his explanations on the matter:
 - in view of the fact that the player abandoned his legal domicile in the country of the club X., where all notifications would otherwise be transmitted, the Dispute Resolution Chamber noted that the claim was forwarded to the Football Association instead,
 - the Football Association was asked to send all documents received to the player A.,
 - the Dispute Resolution Chamber noted that there was no possibility to serve the claim to the player directly,
 - the player did not answer the request of FIFA,
 - the Football Association, however, did provide FIFA with a letter it received from the player on 19 March 2003, i.e. even before the claim of the club X. was lodged, in which he outlined his reasons for not returning to the club,
 - the player maintained that he returned home after the match of his national association, since he had the oral authorisation by the president of the club X. to visit his family and to witness the birth of his child. Therefore, he was surprised to learn that the club X. claimed that he had failed to return and asked for his suspension, particularly since at the same time the club was initiating discussion with the club P. to arrange his transfer back,
 - personally, the player felt that the club X. was not granting him the required medical attention as well as the personal security, ever since he returned to the club at the beginning of the year,
 - also, the political instability of the region deterred him from going back to the club,

- given the discussion between his former club and the club X., the player resolved to stay in his home country,
 - he is asking to be able to continue playing football at home,
- in response to the claim, the second respondent, the club P., maintains in particular that:
 - the club X. involved it in this litigation in an unfair manner,
 - as from 3 February 2003, articles began appearing in the press stating that the player A. no longer wanted to play with the club X.,
 - on the basis of this news, the club P. contacted club X. in writing on 7 February 2003 so as to establish whether the club X. would be interested in negotiating the transfer of the player A. back to the club P.,
 - from 18 to 21 February 2003, two representatives of the club X. visited the club P. in order to negotiate a possible transfer,
 - the continuation of these negotiations was held in the country of the club X., where two representatives of club P. visited the club X.,
 - the club P. has provided FIFA with the copies of the aeroplane tickets to the country of club X. and the invoices of the hotel bills for the representatives of the club X. during their stay in the country of the club P.,
 - the negotiations, however, did not lead to a satisfactory conclusion and therefore, the club P. abandoned its interest in signing the player,
 - for these reasons, the club P. considers it wholly unacceptable that it is being held responsible for the actions of the player A.,
- in response to the claim, the third respondent, the licensed agent I., maintains in particular that:
 - he can but reject all responsibility for the actions of the player A., since the latter left the club X. for personal reasons, in virtue of the oral authorisation granted by the club and that he did not return because he felt unsafe and because he had learnt of the discussions of the club X. with his former club regarding a possible transfer back. Moreover, the actions of the player A. were beyond his control,
- taking into consideration the above, the Chamber outlined that:
 - as established in art. 21 §1 of the FIFA Regulations for the Status and Transfer of Players (hereinafter “transfer regulations”), it falls within the purview of the Dispute Resolution Chamber to determine whether one of the parties has committed a unilateral breach of contract without just cause,
 - if the employment contract was breached by a party, the Dispute Resolution Chamber is responsible to verify whether this party is accountable for compensation and outstanding payments,
 - also, and as outlined in the mentioned article, the Dispute Resolution Chamber will establish the amount of compensation to be paid and decide whether sports sanctions must be imposed,
 - the Dispute Resolution Chamber noted that the player A. had committed a breach of contract by failing to reassume training with the club X., after having been summoned to play for his Football Association,

- the player A. did not provide FIFA with an explanation on his conduct, despite the seriousness of the allegations being raised against him by the club X.,
- the Chamber can therefore only refer to the explanations that the player had offered to the President of his Football Association on 19 March 2003, which largely coincides with the letter that the player sent to the club X. on 8 March 2003,
- consequently, the Chamber is limited to these explanations, in order to establish whether the player had just cause for the breach of contract,
- from the information at its disposal, the Chamber understands that the player A. had received verbal authorisation by the club X. to travel home, so as to enable him to witness the birth of his child,
- although there is no documentary proof that this information is correct, the Chamber considers that this point bears no further relevance,
- in this context, the Chamber maintained that, even if the player A. had been authorised to travel home, he should have returned to the club X. by 12 March 2003 at the latest, as requested by the club,
- furthermore, the fact that club X. and the club P. were negotiating his possible transfer back, this is no valid reason for the player to ignore the club X's demand for his return,
- in particular, the player cannot bank on the success of the negotiations and is unable to predict the duration of these talks,
- with regard to the allegations of the player A. on the apparent lack of medical attention and measures of personal security provided by the club X., the Chamber maintained that these claims were unsubstantiated and vague,
- moreover, it is clearly in the club's interest to ensure that its players benefit from the required medical attention and the personal security measures,
- finally, the Chamber outlined that the political instability of the area could not be considered an impediment for the player to return to the club X., as the country of the club was not involved in the conflict and that this situation posed no threat to the player,
- the Dispute Resolution Chamber therefore concluded that the player A. had committed a breach of contract without just cause,
- as the player A. signed the employment contract with the club X. at 28 years of age, art. 21.1 (b) of the FIFA Regulations for the Status and Transfer of Players is applicable,
- the player A. left the club X. in February 2003, 9 months into the validity of the employment,
- art. 21 of the transfer regulations foresees that sports sanctions shall be applied and compensation payable, if a contracting party commits a breach of contract without just cause during the protected period of the employment,
- art. 23.1 (a) of the transfer regulations foresees that the sports sanctions applicable against players shall consist of a suspension to participate in any official football matches for a period of four months, as from the beginning of the new season of the new club's national championship,
- given that the mentioned player has not yet signed with a new club, the Chamber decided that the suspension of the player should commence on 31 August 2003, date of the end of the registration period for both the club X.'s Association and the player A.'s home Football Associations. The suspension of the player A. will thus run until 30 December 2003,
- art. 42.1 (c) of the aforementioned regulations specifies that an appeal against the present decision will not have a suspensive effect on the mentioned sportive sanction,
- with regard to the compensation payable by the player A., the Chamber maintained that the player had committed a grave infraction and that his responsibility weighed heavily on the damages being suffered by the club X.,

- art. 22 of the FIFA Regulations for the Status and Transfer of Players lists the factors that are to be taken into account when establishing the compensation for the breach of contract,
- not only did the player A. breach the employment contract in the protected period, i.e. in the first year of its validity, but he also abandoned the club mid-season, which is contrary to art. 21.1 (c) of the transfer regulations,
- understandably so, this will have had a detrimental impact on the performance and the planning of the club X.,
- moreover, the Chamber noted that club X. paid USD to the club Z and USD to the club P., in order to obtain the federative rights to the player A.,
- additionally, and in spirit of art. 22 (3), the Chamber recognised that club X. had paid the required % participation to the Football Association of the player amounting to USD , as foreseen in the collective bargaining agreement, and that it cancelled tax payments, stamp duties and fees for bank guarantees amounting to around USD ,
- aside of these expenses, the club X. remunerated the “XXX Company” with USD so as to obtain the image rights to the player,
- in the sense of art. 22 (2) of the transfer regulations, the Chamber took into consideration that the player A. would have had 3 years and 3 months remaining on his employment contract with the club X.,
- the player was receiving a salary of USD per season as well as USD per season as compensation for his image rights,
- taking into account the expenses of the club X. and, on the other hand, the fact that the player A. had performed for the club X. during nine months, the Chamber concluded that the compensation for the breach of contract that the player A. is liable to reimburse to the club X. amounts to USD ,
- furthermore, the player must immediately return the bank guarantees in the amount USD that were issued on his behalf by the club X.,
- with regard to the requested joint liability of the club P. and the licensed agent I., the Chamber resolved that the club P. was able to clearly document that it had been negotiating a possible transfer of the player back, yet that it was unable to reach an agreement with the club X.,
- the club P. had not concealed its interest in signing the player A. and the club X. had been willing to negotiate this matter,
- therefore, the club P. cannot be said to have induced the player A. to breach his contract with the club X.,
- equally, the Chamber maintained that there were no signs of an involvement of the licensed agent I. that could give rise to the notion that the agent may have induced the player A. to the breach of employment,
- as a result, the Chamber rejected the request of the club X. to hold the club P. and the licensed agent I. jointly liable for the compensation to be paid by the player A.,
- as a result, the Chamber reiterated that club X. is entitled to receive an amount of USD from the player A. as compensation for damages deriving from the unilateral breach of the employment contract without just cause by the mentioned player,
- the player A. is not eligible to participate in any official football matches until 30 December 2003,

DECIDED FOR THESE REASONS

1. The claim lodged by club X. is partially accepted.
2. The player A. committed a breach of the employment contract signed with the club X. on 13 February 2003, without just cause.
3. The player A. is not eligible to play for any club until 30 December 2003.
4. The player A. must pay the club X. an amount of USD as compensation for the breach of the employment contract.
5. The player A. must immediately return the bank guarantees received from the club X.
6. The claims lodged by the club X. against the club P. and the licensed players' agent I. are rejected.
7. This decision may be appealed before the Court of Arbitration for Sport (CAS) within 20 days of receiving notification of this decision, by contacting the court directly in writing and by following the directions issued by the CAS, copy of which we enclose hereto. The full address and contact numbers of the CAS are the following:

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1006 Lausanne
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For the Dispute Resolution Chamber of the FIFA Players' Status Committee,

Jérôme Champagne
Deputy General Secretary

Enclosure: CAS Directions