

# **Decision of the Single Judge of the Players' Status Committee**

passed in Zurich, Switzerland, on 5 June 2013,

by

**Geoff Thompson** (England)

Single Judge of the Players' Status Committee,

on the claim presented by the club

**Club H**, from country C

as *"Claimant"*

against the club

**Club I**, from country S

as *"Respondent"*

regarding a contractual dispute arisen between the parties  
and relating to the player A

## **I. Facts of the case**

1. On 15 July 2012, Club H, from country C (hereinafter: *the Claimant*) and Club I, from country S (hereinafter: *the Respondent*) concluded a transfer contract (hereinafter: *the contract*) for the definitive transfer of the player A (hereinafter: *the player*) from the Claimant to the Respondent.
2. Article 3.2 of the contract provided that an amount of EUR 1,800,000 had to be paid by the Respondent to the Claimant for the transfer of the player in two instalments as follows:
  - EUR 1,200,000 "*no later than 18 August 2012*";
  - EUR 600,000 "*on or before 15 February 2013*".
3. Article 3.3 of the contract stipulated that "*The parties agree that, if Club I [i.e. the Respondent] fails to comply, either totally or partially with the payment of the first instalment foreseen in clause 3.2 above within the established deadline, Club H [i.e. the Claimant] [is] entitled to claim the full amount still owed of the first instalment as well as the second instalment*".
4. Furthermore, the aforementioned article provided that "*Club H [i.e. the Claimant] shall also be entitled to claim the interests arisen at a rate of 10% per annum, as of one month following the day that any unpaid instalment was due, until the moment of full payment of both the Transfer Compensation from the moment in which the delay occurred*".
5. On 19 September 2012, the Claimant lodged a claim with FIFA against the Respondent, claiming that the latter had failed to pay the first instalment of EUR 1,200,000. Consequently, and on the basis of article 3.3 of the contract, the Claimant requested the total amount of EUR 1,800,000 (i.e. first and second instalments under article 3.2 of the contract), together with an interest at a rate of 10% per year "*accrued from 18 August 2012 until paid in full*".
6. On 18 December 2012, the Respondent provided its response to the claim and stated that it was "*willing to pay all the debts despite having discovered an economic hole in the club's accounts*" and proposed to pay the amount due in four instalments as well as stated that it would add on the "*last instalment [...] 5% interest for the full late payments*".
7. On 1 February 2013, FIFA asked both parties to inform it whether the matter could be solved amicably and in response to this the Claimant, on 18 February 2013, stated that the parties had not been able to agree on the final terms of a settlement agreement. In view of this, the Claimant requested FIFA to "*proceed to*

*submit the present matter to your competent decision-making body for consideration and decisions, as soon as possible".*

## **II. Considerations of the Single Judge of the Players' Status Committee**

1. First of all, the Single Judge of the Players' Status Committee (hereinafter: *the Single Judge*) analysed whether he was competent to deal with the matter in hand. In this respect, he referred to art. 21 par. 2 and 3 of the 2012 and 2008 editions of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber. Consequently, and since the present matter was submitted to FIFA on 19 September 2012, the Single Judge concluded that the 2008 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *the Procedural Rules*) is applicable to the present matter.
2. Furthermore, the Single Judge confirmed that, on the basis of art. 3 par. 1 of the Procedural Rules in connection with art. 23 par. 1 and 3 as well as art. 22 f) of the 2012 edition of the Regulations on the Status and Transfer of Players, he was competent to deal with the present matter since it concerned a dispute between two clubs affiliated to different associations.
3. Subsequently, the Single Judge analysed which edition of the Regulations on the Status and Transfer of Players should be applicable as to the substance of the matter. In this respect, he referred to art. 26 par. 1 of the 2012 and 2010 editions of the Regulations on the Status and Transfer of Players and again to the fact that the claim was lodged with FIFA on 19 September 2012. In view of this, the Single Judge concluded that the 2010 edition of the FIFA Regulations on the Status and Transfer of Players (hereinafter: *the Regulations*) is applicable to the matter as to the substance.
4. His competence and the applicable regulations having been established and entering into the substance of the matter, the Single Judge started by acknowledging the above-mentioned facts as well as the arguments provided by the parties and the documentation contained in the file.
5. In this respect, and first of all, the Single Judge noted that the parties had concluded on 15 July 2012 a contract for the definitive transfer of the player from the Claimant to the Respondent, according to which the latter would pay a total amount of EUR 1,800,000 to the former in two instalments as follows: EUR 1,200,000 by no later than 18 August 2012 and EUR 600,000 by no later than 15

February 2013. Furthermore, the Single Judge remarked that article 3.3 of the contract provided that in case the Respondent would fail to pay the first instalment due on 18 August 2012, the Claimant would be entitled to immediately claim "*the full amount still owed of the first instalment as well as the second instalment*". Equally, the same article provided that interest of 10% per year would apply on any unpaid amount, as from one month following the day on which the respective instalment fell due.

6. Furthermore, the Single Judge reverted to the submissions of the parties and underlined, in particular, that the Respondent had acknowledged owing the amount of EUR 1,800,000 to the Claimant and had proposed to pay said amount in different instalments in an attempt to solve the matter amicably. In addition, the Single Judge underlined that, eventually, no amicable settlement was reached between the parties and consequently, the Claimant had requested FIFA to pass a formal decision in the present matter.
7. In view of the above and in accordance with the general principle of *pacta sunt servanda*, which in essence means that agreements must be respected by the parties in good faith, the Single Judge held that the Respondent must fulfil the obligation it entered into with the Claimant by means of the contract signed between the parties, and therefore, must pay to the Claimant the outstanding transfer compensation agreed upon for the transfer of the player.
8. In continuation and in view of the request of the Claimant for interest on the basis of article 3.3 of the contract, the Single Judge held that an interest of 10% per year on the total amount of EUR 1,800,000 should apply "*as of one month following the day*" that the first instalment had become due, i.e. as from 19 September 2012, and not as from 18 August 2012 as requested by the Claimant.
9. In view of all of the above, the Single Judge decided to partially accept the Claimant's claim and held that the Respondent must pay to the Claimant the amount of EUR 1,800,000, plus interest at a rate of 10% on the aforementioned amount from 19 September 2012 until the date of effective payment.
10. Finally, 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 Players' Status Committee including its Single Judge, costs in the maximum amount of currency of country Z 25,000 are levied and which states that the costs are to be borne in consideration of the parties' degree of success in the proceedings and are normally to be paid by the unsuccessful party.

11. Taking into account that the responsibility of the failure to comply with the payment of the transfer compensation can entirely be attributed to the Respondent and that the claim of the Claimant has been almost fully accepted, the Single Judge concluded that the Respondent has to bear the costs of the current proceedings before FIFA. 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. On that basis, the Single Judge held that the amount to be taken into consideration in the present proceedings is over currency of country Z 200,000. Consequently, the Single Judge concluded that the maximum amount of costs of the proceedings corresponds to currency of Z 25,000.
12. Considering the particular circumstances of the present matter, the Single Judge determined the costs of the current proceedings to the amount of currency of country Z 20,000 and concluded that said amount has to be paid by the Respondent in order to cover the costs of the present proceedings.

### **III. Decision of the Single Judge of the Players' Status Committee**

1. The claim of the Claimant, Club H, is partially accepted.
2. The Respondent, Club I, has to pay to the Claimant, Club H, **within 30 days** as from the date of notification of this decision, the amount of EUR 1,800,000, together with interest at a rate of 10% per year on the aforementioned amount from 19 September 2012 until the date of effective payment.
3. Any further claims lodged by the Claimant, Club H, are rejected.
4. If the abovementioned amount, plus interest as established above, is not paid within the aforementioned deadline, the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision.
5. The final costs of the proceedings in the amount of currency of country Z 20,000 are to be paid by the Respondent, Club I, **within 30 days** as from the notification of the present decision, as follows:
  - 5.1 The amount of currency of country Z 15,000 has to be paid to FIFA to the following bank account with reference to case nr.:

- 5.2 The amount of currency of country Z 5,000 has to be paid directly to the Claimant, Club H.
6. The Claimant, Club H, is directed to inform the Respondent, Club I, immediately and directly of the account number to which the remittances under points 2. and 5.2 above are to be made and to notify the Players' Status Committee of every payment received.

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**Note relating to the motivated decision** (legal remedy):

According to article 67 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](mailto:info@tas-cas.org) / [www.tas-cas.org](http://www.tas-cas.org)

For the Single Judge of the  
Players' Status Committee

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Markus Kattner  
Deputy Secretary General

Encl. CAS Directives