

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 22 July 2004,

in the following composition:

Slim Aloulou (Tunisia), Chairman

Mario Gallavotti (Italy), member

Jean-Marie Philips (Belgium), member

Michele Colucci (Italy), member

Gerardo Movilla (Spain), member

on the claim presented by

the player, Y,

as Claimant

against

the club X,

as Respondent

regarding a contractual dispute between the player and the club,

Facts of the case

- The player X and the club Y signed an employment contract valid from 30 July 2003 until 30 June 2004 and made out on a standard employment contract form.
- According to this contract, it is valid for the above-mentioned period of time “with a four year unilateral renewal which is announced to the player via process server with a simultaneous legal notice to the Association of Football Players and ... at least 5 days before the commencement of the transfer period as prescribed by the Professional Players’ Regulation”.
- The transfer periods in the country of Y are from 1st January until 31st January and from 1st July until 31st July.
- Furthermore, in accordance with the contract, the notification of renewal must contain the financial terms pertaining to the extended period of time and the form of renewal (whether “continuous or interrupted”) in order to be valid. In addition, the relevant clause in the contract stipulates that the extension of the contract “will be made every year”.
- According to the employment contract, the player is entitled to receive the following monies:
 - Monthly salary ...
 - Christmas bonus ...
 - “Passover bonus” ...
- In addition, in accordance with article 7.2 of the contract, the club is obliged to “deposit” ... for unilateral renewal payable in 40 unequal instalments (payable in the months of August until March) as from 30 August 2003 until 30 March 2008.
- For each of the 2003/04 and 2004/05 seasons these instalments total For the following seasons 2005/06, 2006/07 and 2007/08, respectively, the instalments total ..., ..., and
- On 24 May 2004, the club notified the player in writing that it exercises its right to unilaterally renew the employment contract from 1 July 2004 until 30 June 2005.
- This document was delivered to the player by a judicial officer.
- Furthermore, the financial terms pertaining to this renewal are equal to the financial benefits of the player in accordance with the above-mentioned employment contract.
- On 7 June 2003, the player turned to FIFA claiming that this automatic and unilateral renewal of the contract by the club cannot be considered valid.
- The player asks the Dispute Resolution Chamber to advise as to whether he can end his employment relation with the club Y.
- The club for its part, maintains that it has fully carried out the terms and conditions of the employment contract.
- Furthermore, it asserts that it has legally renewed the employment contract for the next season.

Considerations of the Dispute Resolution Chamber

Due note was taken of the employment contract which was signed for a pre-determined period of time from 30 July 2003 until 30 June 2004 with a unilateral option for the club to extend such contract.

The Chamber acknowledged that the player wishes to be declared not bound by the unilateral extension option and free to sign on with another club.

Therefore, the Chamber has to consider whether this clause is valid or not.

Unilateral options are, in general, problematic, since they limit the freedom of the party that cannot make use of the option in an excessive manner. Furthermore, such options are not based on reciprocity, since the right to extend a contract is left exclusively at the discretion of one party.

In the case at hand, the extension option contained in the relevant employment contract is unilateral to the benefit of the club only, i.e. the stronger party in the employment relationship, and may be exercised by the club during a period of four footballing seasons. Furthermore, in the present matter, as regards the option being currently exercised by the club to extend the contract with the 2004/05 season and the validity of which is disputed by the player, there is no apparent gain for the player, as the conditions of employment remain unaltered. The Chamber concurred that the afore-mentioned specifics of the unilateral extension option in the case at hand do not fit within the general principles of labour law.

Taking into consideration all of the above, the members of the Chamber agreed that the unilateral extension option in the relevant employment contract is not legally binding on the player, X. Consequently, should the player in question not wish to accept the conditions contained in the notification of the extension of contract by club Y, the relevant employment contract has come to an end at its date of expiry, i.e. 30 June 2004.

Decision of the Dispute Resolution Chamber

1. The claim of the Claimant is accepted.
2. The employment contract between the Claimant and the Respondent terminated on 30 June 2004.
3. According to art. 60 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 10 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:

Avenue de l'Elysée 28
1006 Lausanne
Tel: +41 21 613 50 00
Fax: +41 21 613 50 01
e-mail: info@tas-cas.org
www.tas-cas.org

For the Dispute Resolution Chamber:

Urs Linsi
General Secretary

Enclosed: CAS directives