

Decision

of the

FIFA Appeal Committee

Mr Thomas Bodström [SWE], chairman;
Mr Victor Garza [MEX], member;
Mr Salman Al Ansari [QAT], member;
Ms Larissa Zakharova [RUS], member.

on 6 September 2019,

to discuss the case of:

Belgian Football Association

(Decision 180873 APC)

regarding:

Appeal lodged by the Belgian Football Association against the decision passed by the FIFA
Disciplinary Committee on 15 May 2019 (Decision 180873 TMS)

I. **inferred from the file**

1. This case relates to 23 international transfers of minor players conducted by Belgian clubs and their registration by the Belgian Football Association between 2012 and 2017. In particular, these minor players, being registered with associations other than the Belgian Football Association, joined Belgian clubs without and/or before the prior approval of the Sub-Committee appointed by the FIFA Players' Status Committee, and some of them even participated in matches for Belgian clubs.
2. On 13 March 2019, following investigations conducted by the FIFA's TMS Compliance department (FIFA TMS) concerning the international transfers of 23 minor players to Belgian clubs, disciplinary proceedings were opened against the Belgian Football Association (hereafter, the "*Appellant*") for potential violations of the following provisions:
 - i. arts. 5 par. 1, 9 par. 1, 19 pars. 1 and 4 of the Regulations on the Status and Transfer of Players (2010 to 2016 editions, hereinafter "*the Regulations*" or "*the RSTP*");
 - ii. art. 1 par. 1 of Annexe 2 of the RSTP;
 - iii. art. 1 par. 3 of Annexe 3 of the RSTP;
 - iv. art. 64 of the FIFA Disciplinary Code (2011 to 2017 editions, hereinafter "*the FDC*").
3. On 15 May 2019, the Disciplinary Committee passed a decision (hereinafter, "*the Appealed Decision*") against the Appellant. In particular, the Disciplinary Committee decided as follows¹:
 1. *The Disciplinary Committee orders the Belgian Football Association to pay a fine to the amount of CHF 230,000.*
 2. *In addition to the above, the Belgian Football Association is warned on its future conduct.*

¹ The Appellant was sanctioned for violating the following provisions:

- o Art 19 pars. 1 and 4 of the RSTP (together Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP) on 23 occasions;
- o Art. 5 par. 1 of the RSTP on 7 occasions;
- o Art. 9 par. 1 of the RSTP on 23 occasions;
- o Art. 64 of the FDC on 11 occasions.

3. *The above fine is to be paid within thirty (30) days of notification of the present decision.*
4. The terms of the Appealed Decision were notified to the Appellant on 16 May 2019. Upon request of the Appellant, the grounds of the Appealed Decision were notified on 9 July 2019.
5. On 10 July 2019, the Appellant informed the secretariat to the FIFA Appeal Committee (hereinafter, "*the Secretariat*") about its intention to appeal the aforementioned decision.
6. On 18 July 2019, the Appellant provided a copy of the proof of payment of the appeal fee and submitted its reasons for the appeal which can be summarized as follows²:
 - i. The Appellant considered that the principle of due process, according to which disciplinary proceedings need to be handled within a reasonable time, was not respected considering that almost 5 years passed between the start of the investigation phase made by FIFA TMS and the opening of the disciplinary proceedings.
 - ii. The Appellant did not refute the breaches of the aforementioned provisions for 18 minor players but merely wanted to invoke mitigating circumstances, such as its continuous efforts to improve and develop its digital platform in order to reduce and eliminate potential human errors in international transfer and registration of players (minors and adults).
 - iii. Although the Appellant did not reject its failure to comply with the regulations of the RSTP in the transfer and registration of 18 minor players, it however contested the breaches for which it was found liable for 5 players and put forward the followings explanations:
 - a) *Player 1 - Tshiani Patrick*
 - iv. The Appellant pointed out that the club RSC Anderlecht made a request for registration on 20 June 2012, when the player was 17 years old. Said request was annulled by the Appellant due to missing documents.

² For the sake of clarity, this summary does not purport to include every single contention put forth by the Appellant. Nevertheless, the FIFA Appeal Committee has thoroughly considered in its discussion and deliberations any and all evidence and arguments submitted, even if no specific or detailed reference has been made to these arguments in the following outline of their positions and in their ensuing discussion on the merits.

- v. The player moved then to another Belgian club, R. Standard de Liège, which filed a request to register the player on 6 September 2013, when the player was older than 18 years old and consequently no procedure before the Sub-Committee appointed by the Players' Status Committee (hereinafter, "*the subcommittee*") had to be initiated.
- vi. As a result, the Appellant considered that it did not breach the provisions of art. 19 par. 4 of the RSTP, art. 1 par. 1 of Annexe 2 of the RSTP and art. 1 par. 3 of Annexe 3 of the RSTP nor art. 9.1 of the RSTP.

b) Player 2 - Cojocaru Dragos Stefan

- vii. The Appellant stressed that in order to initiate the procedure before the subcommittee, it first requested the approval of the player's former association. However, following two reminders, the Romanian Football Association wrongly issued the player's International Transfer Certificate (ITC), and thus without the Appellant having asked for it.
- viii. Being conscious of having registered a minor player without the approval of the subcommittee, the Appellant initiated the procedure before the subcommittee, which subsequently approved the registration of the aforementioned player.
- ix. Furthermore, the Appellant claimed that the indicated date of registration of the player (12 July 2012) gave a misleading view on the correct registration status of the player. In this regard, the Appellant argued that according to its regulations, the affiliation shall take effect, if accepted by the association, on the date of the affiliation's request made by the club.
- x. As a consequence, the Appellant pointed out that after receipt of the subcommittee's approval on 9 May 2014, the registration date was set on 12 July 2012, *i.e.* the date of the initial request for registration made by the club RSC Anderlecht.

c) Player 3 - Mangulu Mbemba Chancel

- xi. The Appellant submitted that no procedure before the subcommittee had to be initiated given that the club RSC Anderlecht requested the registration of the player on 27 August 2012, when he was already older than 18 years old.

- xii. As a result, the Appellant considered that it did not breach the provisions of art. 19 par. 4 of the RSTP, art. 1 par. 1 of Annexe 2 of the RSTP and art. 1 par. 3 of Annexe 3 of the RSTP nor art. 9.1 of the RSTP.

d) Player 4 - Magar Bimal Gharti

- xiii. The Appellant pointed out that it never received any request for registration for this player. Furthermore, the Appellant argued that the player took part with its affiliated club RSC Anderlecht in tournaments organised by Dutch clubs.
- xiv. In this respect, the Appellant submitted that it could not be aware of the fact that a player, who was not registered with it, participated in tournaments in the Netherlands with its affiliated club RSC Anderlecht.
- xv. Consequently, in the absence of a registration request from its affiliated club, the Appellant firmly believed that no procedure before the subcommittee had to be initiated and considered that it did not breach the provisions of art. 19 par. 4 of the RSTP, art. 1 par. 1 of Annexe 2 of the RSTP and art. 1 par. 3 of Annexe 3 of the RSTP nor art. 9.1 of the RSTP.

e) Player 12 - Cheprassov Oleg

- xvi. The appellant emphasized that the player was registered with the amateur club K. Lyra and not with the professional club K. Lierse SK as mentioned on the player's passport issued by the Dutch Football Association. In particular, the Appellant recalled that since the aforementioned player had been registered under the "limited exemption" as an amateur, no procedure before the subcommittee was required.
- xvii. As a result, the Appellant considered that it did not breach art. 9 par. 1 of the RSTP and art. 64 of the FDC.
- xviii. In light of the above, the Appellant requested the following:
 - a) Given that the Appellant has not committed any infringement concerning the five aforementioned players, it considered that no sanction should be imposed with respect to these players;

- b) Given that the general legal principle of due process (and reasonable time) has not been respected, the Appellant considered that a finding of guilt without the imposition of a sanction was adequate;
 - c) With respect to the 11 players wrongly registered through the “limited exemption” due to an internal misunderstanding, the Appellant pointed out that the registration of these 11 players were spread over two seasons only. In this regard, the Appellant claimed that if it would have known or be informed that it was applying a wrong procedure, it would have immediately ceased this practice. In addition, the Appellant found that these continuous breaches of art. 19 pars. 1 and 4 of the RSTP should be considered as one single offence that arose out of one single intent. Consequently, the Appellant considered that the fine should be reviewed.
- xix. In addition, the Appellant requested the Appeal Committee to impose:
- d) A fine, partially with probation period. In this regard, the Appellant submitted that its efforts to improve its system regarding the registration of player cannot lead to an exemption of its responsibility. However, the Appeal Committee would acknowledge the Appellant’s efforts by imposing a sanction with a 2-year probation period, for example.
 - e) Alternatively, to divide the fine whereby 50% is to be paid effectively (or partially with probation) and 50% is to be mandatorily invested in the digitalization of the Appellant’s registration system.

On 21 August 2019, the Secretariat to the Appeal Committee acknowledged receipt of the two abovementioned correspondences and confirmed that the payment of the appeal fee had been duly received by FIFA.

II. and considered

1. In view of the circumstances of the present matter, the FIFA Appeal Committee (hereinafter, "*the Committee*") first decided to address some key procedural aspects (A), before entering into the substance of the case at stake (B).

A. PROCEDURAL ASPECTS

1. Competence of the FIFA Appeal Committee and admissibility of the Appeal

2. Primarily, the Committee recalled that the procedural aspects of the matter at stake are governed by the 2017 edition of the FIFA Disciplinary Code (hereinafter, "*the 2017 FDC*"), in particular considering that the present appeal was lodged by the Appellant on 10 July 2019, *i.e.* while the 2017 FDC was applicable and before the entry into force of the 2019 edition of the FDC.
3. In this context, the Committee underlined that the sanctions imposed by the Disciplinary Committee through the Appealed Decision were a fine amounting to CHF 230,000 and a warning. As such, the Committee pointed out that, in accordance with art. 79 in conjunction with art. 118 of the 2017 FDC, it was competent to hear the appeal presented by the Appellant against the decision rendered by the Disciplinary Committee on 15 May 2019.
4. This having been established, the Committee acknowledged that:
 - i. The grounds of the Appealed Decision were notified on 9 July 2019;
 - ii. The Appellant communicated its intention to appeal on 10 July 2019 and;
 - iii. The Appellant submitted its reasons for the appeal and provided proof of payment of the appeal fee on 18 July 2019.
5. In view of this, the Committee held that the requirements of art. 120 pars. 1 and 2 and art. 123 par. 1 of the 2017 FDC have been met and therefore declared the present Appeal admissible.

2. Applicable law

6. In continuation, the Committee deemed that it had to determine which edition of the Regulations on the Status and Transfer of Players (RSTP) applied to the substance of the matter at stake and on which edition of the FIFA Disciplinary Code (FDC) the potential sanctions should be based.
7. In these circumstances, the Committee noted from the Appealed Decision that the Appellant was sanctioned for having infringed the provisions contained in the RSTP governing the international transfer and registration of minor players on the ground that 23 players were irregularly internationally transferred to several Belgian clubs between 2012 and 2017.
8. Against this background, the Committee observed that several versions of the RSTP were in force during this period³. However, the Committee noted that the provisions relating to the international transfer and registration of minor players as well as arts. 5 and 9 of the RSTP have not undergone substantial changes as to their content in the different editions of the RSTP. Consequently, the Committee did not indicate which specific edition applies in each individual case but rather referred to the RSTP generically, since the content and regulatory principles remained substantially unchanged in the different editions.
9. Then, the Committee recalled that in accordance with art. 25 of the RSTP, any violation of the provisions contained therein shall be sanctioned in accordance with the FIFA Disciplinary Code. In this regard, the Committee held that the aforementioned facts occurred between 2012 and 2017, while the 2011 edition of the FDC (hereinafter, "*the 2011 FDC*") was applicable. Nevertheless, the Committee remarked that the case at hand was decided by the Disciplinary Committee on 15 May 2019, once the 2017 edition of the FDC had already entered into force.
10. In this regard, the Committee stressed that the two aforementioned editions of the Disciplinary Code empowered the Disciplinary Committee to sanction any breach of FIFA regulations, such as the RSTP, which did not come under the jurisdiction of another body⁴.

³ The 2010 RSTP edition was in force from 1 October 2010 until 30 November 2012; the 2012 RSTP edition was in force from 1 December 2012 until 31 July 2014; the 2015 RSTP edition was in force from 1 August 2014 until 31 March 2015; the 2015 RSTP edition was in force from 1 April 2015 until 31 May 2016 and the 2016 RSTP edition was in force from 1 June 2016 until 31 December 2017.

⁴ cf. art. 76 of the 2011 and 2017 FDC.

11. With these elements in mind, the Committee then recalled that the 2017 edition of the FDC was applicable to facts that occurred before it entered into force provided that:
 - i. the 2017 edition of the FDC is equally favourable or more favourable for the perpetrator of the facts than the previous edition and;
 - ii. the judicial bodies of FIFA are deciding on these facts after the 2017 edition of the FDC has come into force⁵.

12. As far as the matter at stake is concerned, it appears to be clear that:
 - i. the relevant facts occurred prior to the entry into force of the 2017 edition of the FDC;
 - ii. the 2011 and 2017 editions of the FDC are equally favourable insofar as the sanctions applicable to legal persons are identical. In particular, the amount of the fine ranges from CHF 300 to CHF 1,000,000 in both editions;
 - iii. the FIFA Disciplinary Committee decided on these facts after the 2017 FDC had come into force.

13. For the reasons set out above, the Committee considered that any sanction imposed on the Appellant in the present matter had to be based on the 2017 edition of the FDC.

3. Procedural issues raised by the Appellant

14. With regard to issues relating to the procedure, the Committee noted that the Appellant found that the principle of due process, according to which disciplinary proceedings need to be handled within a reasonable time, was not respected considering that almost 5 years passed between the investigation phase conducted by FIFA TMS and the opening of the disciplinary proceedings.

15. In this regard, the Committee drew its attention to art. 42 of the FDC which provides that the limitation period for prosecution is, as a general rule, ten years. In continuation, the Committee noted that the facts of the case at hand concerned the possible irregular international transfers of 23 minor players between 2012 and 2017. Finally, the Committee noticed that the disciplinary proceedings relating to the case were initiated on 13 March 2019. Therefore, the Committee found that the disciplinary proceedings were conducted within the established time limit for prosecution.

⁵ cf. art. 4 of the 2011 and 2017 FDC.

16. In addition, the Committee observed that the Appellant claimed that the 11 minor players wrongly registered through the “limited exemption” should be regarded as a continuous breaches of art. 19 pars. 1 and 4 of the RSTP and, therefore should be considered as one single offence.
17. In this regard, the Committee recalled that each registration of a player, regardless of his age, is a unique event. As a result, the association that registers a player for one of its affiliated club must ensure that the relevant provisions are properly applied. Furthermore and when it comes to minor players, the association is additionally required to apply and comply with the principles laid down in art. 19 of the RSTP.
18. In light of the foregoing, the Commission confirmed the approach of the Disciplinary Committee, which took each registration separately and analysed whether the Appellant had duly complied with the provisions governing the international transfer and registration of minor players.
19. As a result, the Committee considered that the two aforementioned arguments of the Appellant had to be rejected.

B. MERITS OF THE CASE

20. As starting point, the Committee recalled that following an appeal against a decision initially decided by the Disciplinary Committee, the Committee has the power to review the Appealed Decision but is prevented from amending it to the detriment of the Appellant⁶. Consequently, the Committee held that only the infringements mentioned in the Appealed Decision and contested by the Appellant could be analysed.
21. In this respect, the Committee took note that the Appellant only contested the conclusions reached by the Disciplinary Committee with respect to five players (out of 23 minor players), namely the players Patrick Tshiani, Dragos Stefan Cojocar, Chancel Mbemba Mangulu, Bimal Gharti Magar and Oleg Cheprassov. In particular, the Appellant alleged that some of them were no longer minors at the time of their registration and that some were never registered by it.
22. Bearing the above in mind, the Committee deemed that three questions needed to be answered in order to decide on this appeal:

⁶ Cf. art. 124 par 1 of the 2017 FDC in conjunction with art. 125 par. 2 of the 2017 FDC.

- a) What is the correct registration's procedure that an association has to conduct when registering a minor player as a result of its international transfer?
- b) Did the Appellant follow the applicable procedure in the five cases where it rejected the findings of the FIFA Disciplinary Committee?
- c) Are the sanctions imposed proportionated?

a) What is the correct registration's procedure that an association has to conduct when registering a minor player as a result of its international transfer?

23. First of all, the Committee stressed that the protection of minor players constitutes a key element in FIFA's overall regulatory framework relating to the transfer of players as confirmed by CAS on repeated occasions⁷.
24. In particular, the Committee emphasised the key role played by the member associations in this respect and, as such, considered it of paramount importance that associations registering minor players comply with the provisions contained in the RSTP. In this regard, the Committee recalled that only a consistent and strict application of these provisions could enable football authorities, such as FIFA, to ensure effective control of international transfers and safeguard the protection of minor players.
25. Bearing the above in mind, the Committee found it essential to recall that, in principle, international transfers of players are only permitted if the player is over the age of 18 (art. 19 par. 1 of the RSTP). Nevertheless, a minor player may be authorized to participate in organized football for a club following his international transfer provided that the procedure described below has been duly respected and completed by the association of the club wishing to register the minor player. In a nutshell, said procedure can be summarised as follows:
- i. One of the exceptions of art. 19 par. 2 of the RSTP must be applicable to the player's situation;

⁷ Cf. CAS 2005/A/955 & 956; CAS 2008/A/1485; CAS 2011/A/2354; CAS 2011/A/2494; CAS 2012/A/2787; CAS 2014/A/3611; CAS 2014/A/3793; CAS 2014/A/3813; CAS 2015/A/4312; CAS 2016/A/4785; CAS 2016/A/4805; CAS 2017/A/5244.

- ii. The association concerned submits an application for the approval of the subcommittee via TMS (art. 19 par. 4 of the RSTP along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP);
 - iii. Once the approval is granted by the subcommittee, the association requests the player's ITC from the former association (cf. art. 9 par. 1 of the RSTP);
 - iv. Once the former association has issued the ITC, the new association receives the ITC and proceeds to the player's registration (art. 9 together with art. 5 of the RSTP).
26. In sum, the Committee pointed out that a player is only entitled to participate in organized football for a club once it is registered for the club concerned, *i.e.* once all the aforementioned steps have been completed.
27. In this context, the Committee recalled that the sole exception to the above procedure is the so-called "limited exemption". As a matter of fact, the bureau of the subcommittee, by means of a formal decision and upon request of an association, can grant an association with this "exemption". In such case, the association concerned is exempted from the obligation to refer applications for approval to the subcommittee. In other words, the association benefitting from this "limited exemption" is entitled to proceed with the international transfer and/or the first registration of minor players without an application having to be submitted to the subcommittee, provided that:
- The minor player in question complies with one of the exceptions of art. 19 par. 2 of the RSTP and;
 - The latter is registered as an amateur player for a purely amateur club.
28. The association is then required to report every 6 months to FIFA all minor players that have been registered under such "limited exemption".
29. The procedure that an association has to apply when registering a minor players being clarified, the Committee then referred to the extensive jurisprudence of the Court of Arbitration for Sport (CAS) on this matter.
30. In particular, the Committee recalled that CAS already ruled that the body in charge of running football in a country, in other words the national association, is obliged by art. 14 par. 1 let d) of the FIFA Statutes to ensure that its affiliated clubs fully comply with the Statutes, regulations, directives and decision of FIFA bodies⁸. In this regard, the

⁸ Cf. CAS award 2014/A/3813.

Committee noted that the Appellant had the duty to ensure that its affiliated clubs strictly observe and apply the FIFA regulations, especially the provisions relating to the protection of minor players contained in the RSTP.

31. Secondly, CAS specified that art. 19 par. 1 of the RSTP is the backbone of the RSTP on the protection of minor players and is a provision that must be observed by clubs and associations alike⁹. In addition, CAS clarified that in order for a violation of art. 19 par. 1 of the RSTP to be established, it was not necessary that the minor players were registered with the national association concerned, but that the minor players have participated in organized football without complying with any of the substantive exceptions set out in art. 19 par. 2 of the RSTP¹⁰.
32. In light of the above, the Committee recalled that if a minor player participates in official matches for a Belgian club without being duly registered and/or without the above-mentioned procedure being completed, then the Belgian club and the Belgian Football Association would be held liable for any infringements of the provisions governing the international transfer and registration of minor players.
33. With the above in mind, the Committee went on to analyse whether the Appellant properly applied the above outlined principles to the case at hand

b) Did the Appellant follow the applicable procedure in the five cases where it rejected the finding of the FIFA Disciplinary Committee?

34. As a preliminary observation, the Committee remarked that the Disciplinary Committee also sanctioned the club RSC Anderlecht for having infringed the provisions concerning the protection of minor players in relation to the following players: Patrick Tshiani, Dragos Stefan Cojocaru, Chancel Mbemba Mangulu and Bimal Gharti Magar¹¹.
35. Turning back to the case at hand, the Committee noted that the Appellant contested the Disciplinary Committee's findings with respect to the four aforementioned players (out of the five contested players). As a result, the Committee deemed it pertinent to take into consideration the position filed before the Disciplinary Committee by the club RSC Anderlecht to assess the present case.

⁹ Cf. CAS award 2014/A/3813.

¹⁰ Cf. CAS award 2016/A/4805.

¹¹ For the sake of completeness, the Committee underlines that said decision was also communicated to the Appellant.

36. Having stated the above, the Committee then focused on the five minor players contested by the Appellant by analysing whether the latter had properly applied the relevant procedure in these five cases.

i. With respect to the player Tshiani Patrick (nationality: USA; DoB: 8 June 1995)

37. The Committee first acknowledged that the Disciplinary Committee found that the Appellant breached the general provision of art. 19 par. 1 of the RSTP as it did not comply with the procedure exposed above. In particular, according to the Appealed Decision, the Appellant failed to:

- Submit an application for the approval of the subcommittee via TMS (art. 19 par. 4 of the RSTP along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP);
- Request the player's ITC from the former association (art. 9 par. 1 of the RSTP);
- Receive the ITC and proceed to the player's registration for the club RSC Anderlecht (art. 9 together with art. 5 of the RSTP).

38. In this context, the Appellant claimed that it never registered the aforementioned player for the club RSC Anderlecht, further explaining that the latter had in fact been registered for the club Standard de Liège on 6 September 2013, once the player was older than 18 years old. Consequently, the Appellant found that no procedure before the subcommittee had to be initiated.

39. However, the Committee took note from the documents at its disposal that:

- At the beginning of August 2011, the player Patrick Tshiani left the club BCF Centre [USA] and joined the club RSC Anderlecht, when he was 16 years old.
- On 16 August 2011, he played his first match for the club RSC Anderlecht U17 team.
- During his time at the club, the player Patrick Tshiani played several friendly and official matches for the club RSC Anderlecht.

40. In addition, the Committee noted from the Appealed Decision that the player participated in at least 39 matches for the club RSC Anderlecht. In this respect, the Committee observed that the Disciplinary Committee found that these matches (namely from the "Elite U-16", the "Elite U-17", the "Provincial U21", the national championship and the national cup matches) were all organised under the auspices of the Appellant and were therefore to be considered as being organised football. With these elements in

mind, the Committee acknowledged that the Appellant did not contest these facts or rebut the findings of the Disciplinary Committee by proving that these matches were not organized under its auspices, *i.e.* they did not fall under its umbrella. As a result, the Committee decided to endorse the aforementioned conclusion by considering these matches as organized football.

41. In light of the foregoing, the Committee considered that it was clear that the player, following his international transfer from the USA to Belgium, played his first match on 16 August 2011 with the professional club RSC Anderlecht when he was a minor (16 years old). These facts were never contested nor even addressed by the Appellant.
42. As a result, the Committee found that in order for the player Patrick Tshiani to be able to participate in such matches – considered to be part of organised football – a procedure before the subcommittee had to be conducted, which has clearly not been carried out by the Appellant (as confirmed by the latter). Additionally, the Committee remarked that the Appellant never requested and received the player’s ITC from the former association and failed to duly register the player for its club RSC Anderlecht.
43. Consequently, the Committee confirmed that the Appellant breached the following provisions:
 - Arts. 5 par. 1 and 9 par. 1 of the RSTP since the player Patrick Tshiani participated, as a minor, in organised football without being duly registered and without an ITC being duly requested and received;
 - Art. 19 pars. 1 and 4 of the RSTP (along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP) given that the correct procedure related to international transfers of minor players has not been completed.
 - ii. *With respect to the player Cojocaru Dragos Stefan (Nationality: ROU; DoB: 8 April 1997):*
44. The Committee noted that the Disciplinary Committee found that the Appellant breached the general provision of art. 19 par. 1 of the RSTP as it did not comply with the procedure exposed above. In particular, according to the Appealed Decision the Appellant failed to:
 - Submit an application for the approval of the subcommittee via TMS (art. 19 par. 4 of the RSTP along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP). In this

respect, the Disciplinary Committee recalled that CAS confirmed the possibility to sanction the failure to timely request for approval from the subcommittee where this was required, despite the fact that such approval may have been granted by the subcommittee retrospectively¹²;

- Request the player's ITC from the former association (art. 9 par. 1 of the RSTP);
 - Receive the ITC and proceed to the player's registration for the club RSC Anderlecht (art. 9 together with art. 5 of the RSTP).
45. In these circumstances, the Appellant stressed that in order to initiate the procedure before the subcommittee, it first requested the approval of the player's former association. However, following two reminders, the Romanian Football Association wrongly issued the player's ITC. To remedy this situation, the Appellant initiated the procedure before the subcommittee, which subsequently approved the registration of the minor.
46. Furthermore, the Appellant pointed out that after receipt of the subcommittee's approval on 9 May 2014, the registration date was set on 12 July 2012, *i.e.* the date of the initial request for registration made by its affiliated club RSC Anderlecht.
47. Having said that, the Committee took note from the documents related to the present matter that the player Cojocaru Dragos Stefan played as from August 2012 several official matches with the U16 team of the club RSC Anderlecht.
48. In addition, the Committee noted from the Appealed Decision that the player Cojocaru Dragos Stefan participated between August 2012 and May 2014 in at least 23 matches of the "Elite U-16" and "Elite U-17" championships for the club RSC Anderlecht, all being part of organised football as organised under the auspices of the Appellant.
49. In light of the foregoing, the Committee considered that it was clear that the player, following his international transfer from Romania to Belgium, played his first official match in August 2012 with the club RSC Anderlecht when he was a minor (15 years old). These facts were never contested nor even addressed by the Appellant.
50. As a result, the Committee found that in order for the player Cojocaru Dragos Stefan to be able to participate in such matches – considered to be part of organised football – a procedure before the subcommittee had to be conducted. In this regard, the Committee

¹² Cf. CAS award 2016/A/4805.

remarked that the Appellant received the approval from the subcommittee on 9 May 2014 only, *i.e.* when the aforementioned player had already played at least 23 matches with the club RSC Anderlecht.

51. Against this background, the Committee recalled that a minor player is authorized to play organized football only once it is registered for the club concerned, *i.e.* once the above-described procedure for registering a minor player has been fully completed.
52. Referring to the case at hand, the Committee found that the Appellant failed to timely initiate and complete the procedure before the subcommittee.
53. Consequently, the Committee confirmed that the Appellant breached the following provisions:
 - Arts. 5 par. 1 and 9 par. 1 of the RSTP since the player Cojocaru Dragos Stefan participated, as a minor, in organised football without being duly registered and without an ITC being duly requested and received;
 - Art. 19 pars. 1 and 4 of the RSTP (along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP) given that the correct procedure related to international transfers of minor players has not been completed.

iii. With respect to the player Mangulu Mbemba Chancel (Nationality: COD; DoB: 8 August 1994):
54. The Committee first took note that the Disciplinary Committee found that the Appellant breached the general provision of art. 19 par. 1 of the RSTP as it did not comply with the procedure exposed above. In particular, according to the Appealed Decision the Appellant failed to:
 - Submit an application for the approval of the subcommittee via TMS (art. 19 par. 4 of the RSTP along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP);
 - Request the player's ITC from the former association (art. 9 par. 1 of the RSTP);
 - Receive the ITC and proceed to the player's registration for the club RSC Anderlecht (art. 9 together with art. 5 of the RSTP).
55. In reply thereto, the Appellant was of the opinion that no procedure before the subcommittee had to be conducted given that the club RSC Anderlecht requested the

registration of the player on 27 August 2012, when the latter was already older than 18 years old.

56. Nevertheless, the Committee took note from the evidence at its disposal that:
- On 13 May 2011, the player Mangulu Mbemba Chancel played his first official match with the U21 team of the club RSC Anderlecht, when he was 16 years old.
 - As from 17 September 2011, the aforementioned player also took part in several official and friendly matches for the club RSC Anderlecht.
 - On 31 August 2012, the Congolese Association Football Federation (FECOFA) delivered the ITC.
57. In addition, the Committee noted from the Appealed Decision that the player participated in several matches of U-21 as well as of the first team of the club RSC Anderlecht.
58. In light of the foregoing, the Committee considered that it was clear that the player Mangulu Mbemba Chancel, following his international transfer from Congo DR to Belgium, played his first official match on 13 May 2011 with the club RSC Anderlecht when he was a minor (16 years old). These facts were never contested nor even addressed by the Appellant
59. As a result, the Committee found that in order for the player Mangulu Mbemba Chancel to be able to participate in such matches – considered to be part of organised football – a procedure before the subcommittee had to be conducted, which has clearly not been carried out by the Appellant.
60. Additionally, the Committee remarked that the Appellant, upon receipt of the ITC from the Congolese Association Football Federation, registered the player for the club RSC Anderlecht on 27 August 2012 only, *i.e.* more than a year after the latter played his first official match for the club RSC Anderlecht.
61. In these circumstances, the Committee recalled once again that a minor player is authorized to play organized football only once it is registered for the club concerned, in other words once the procedure for registering a minor player has been fully completed.
62. Consequently, the Committee confirmed that the Appellant breached the following provisions:

- Arts. 5 par. 1 and 9 par. 1 of the RSTP since the player Mangulu Mbemba Chancel participated, as a minor, in organised football without being duly registered and without an ITC being duly requested and received;
- Art. 19 pars. 1 and 4 of the RSTP (along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP) given that the correct procedure related to international transfers of minor players has not been completed.

iv. With respect to player Magar Bimal Gharti (Nationality: NEP; DoB: 26 January 1998):

63. The Committee acknowledged that the Disciplinary Committee found that the Appellant had breached the general provision of art. 19 par. 1 of the RSTP as it did not comply with the procedure exposed above. In particular, as per the Appealed Decision, the Appellant failed to:

- Submit an application for the approval of the subcommittee via TMS (art. 19 par. 4 of the RSTP along with Annexe 2 and art. 3 par. 1 of Annexe 3 of the RSTP);
- Request the player's ITC from the former association (art. 9 par. 1 of the RSTP);
- Receive the ITC and proceed to the player's registration for the club RSC Anderlecht (art. 9 together with art. 5 of the RSTP).

64. In this context, the Appellant pointed out that it never received any request to register the player and argued that the player took part with its affiliated club RSC Anderlecht in tournaments organised by Dutch clubs. In this respect, the Appellant submitted that it was not in a position to be aware of the fact that a player, who was not registered with it, participated in tournaments in the Netherlands with its affiliated club RSC Anderlecht.

65. In these circumstances and referring to the documents at its disposal, the Committee took note that:

- On 7 February 2014, the club RSC Anderlecht invited the player Magar Bimal Gharti for a probation period from 1 April until 31 May 2014.
- Between April and May 2014, the aforementioned player took part in the following friendly matches:
 - The ABN AMRO Cup in April 2014 and the Nuenen tournament in May 2014 with the U17 team of the club RSC Anderlecht;

- The Copa del Agatha in August 2014 with the U19 team of the club RSC Anderlecht.
 - On 26 June 2014, the player was invited for another probation period starting on 17 July 2014.
66. In this respect, the Committee observed that the Disciplinary Committee found that the aforementioned tournaments in which the player took part – the “ABN AMRO Cup”, the “Nuenen tournament” and “Copa del Agatha” – were organised by Dutch clubs and, as such, under the auspices of the Dutch Football Association. As a result, the Disciplinary Committee considered these tournaments as being organised football. In particular, the Committee noted that the Appellant did not contest this fact facts or rebut the findings of the Disciplinary Committee by proving that these matches were not organized under the auspices of the Dutch Football Association, *i.e.* they did not fall under the latter’s umbrella. Therefore, the Committee decided to endorse the conclusion of the Disciplinary Committee by considering the aforementioned matches as organized football.
67. In light of the foregoing, the Committee considered that it was clear that the player Magar Bimal Gharti took part in organised football with the professional club RSC Anderlecht when he was a minor player (16 years old).
68. Consequently, the Committee held the view that a procedure before the subcommittee had to be conducted, which has clearly not been carried out by the Appellant. Additionally, the Committee remarked that the Appellant never requested and received the player’s ITC from the former association, the All-Nepal Football Association, and failed to duly register the player for its club RSC Anderlecht.
69. With respect to the arguments put forward by the Appellant, the Committee recalled that pursuant to CAS jurisprudence¹³, the Appellant, being the body in charge of running football in Belgium, had the duty to ensure that its affiliated clubs strictly observe the provisions relating to the protection of minor players. Moreover, the Committee stressed that it is irrelevant that the Appellant was allegedly not aware of the fact that a non-registered player participated in tournaments in the Netherlands with one of its affiliated club as the aforementioned provisions shall apply to clubs and associations alike. It rather reveals that the Appellant failed to act diligently and to ensure that its affiliated clubs complied with the relevant provisions relating to the protection of minor players.

¹³ Cf. CAS award 2014/A/3813.

70. Consequently, the Committee confirmed that the Appellant breached the following provisions:

- Arts. 5 par. 1 and 9 par. 1 of the RSTP since the player Magar Bimal Gharti participated, as a minor, in organised football without being duly registered and without an ITC being duly requested and received;
- Art. 19 pars. 1 and 4 of the RSTP (along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP) given that the correct procedure related to international transfers of minor players has not been completed.

v. *With respect to the player Cheprassov Oleg (Nationality: BEL; DoB: 23 April 1997):*

71. The Committee took note that the Disciplinary Committee found that the Appellant had breached the general provision of art. 19 par. 1 of the RSTP as it did not comply with the procedure exposed above. In particular, according to the Appealed Decision, the Appellant failed to:

- Submit an application for the approval of the subcommittee via TMS (art. 19 par. 4 of the RSTP along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP);
- Request the player's ITC from the former association (art. 9 par. 1 of the RSTP);

72. In these circumstances, the Appellant submitted that the player was registered with the amateur Belgian club K. Lyra T.S.V. and not with the professional club K. Lierse SK as wrongly mentioned on the player passport issued by the Dutch Football Association. In particular, the Appellant claimed that since the aforementioned club was purely amateur, it registered the player Cheprassov Oleg on 28 August 2014 under the "limited exemption" as an amateur. As a result, the Appellant believed that no prior approval from the subcommittee was required.

73. In light of the foregoing, the Committee first observed that the Disciplinary Committee correctly noted that the player has been internationally transferred from a Dutch club to the Belgian club K. Lyra T.S.V.¹⁴. The Committee then recalled that pursuant to the decision rendered on 22 January 2014 by the bureau of the Sub-Committee of the Players' Status Committee, the Appellant was required "*to report to FIFA through TMS every six months which players it has itself registered on the basis of the [limited exemption]*". Having in mind that the Appellant claimed to have allegedly registered the

¹⁴ Cf. point I par. 3 of the Appealed Decision.

player on 28 August 2014, the Committee examined whether the aforementioned player had been duly reported.

74. After analysing the report provided to FIFA by the Appellant for the 2014-2015 season, the Committee noticed that the player Cheprassov Oleg was not included on this report. In addition, the Committee noted that the Appellant claimed to have registered the player in August 2014, without however submitting any evidence of the player's registration nor even a copy of any ITC issued by and received from the Dutch Football Association.
75. In this context, the Committee pointed out that it is the association claiming to have registered a minor player under the "limited exemption" that has to demonstrate that the prerequisites for registering the minor player under this exemption have been satisfied and that the player has effectively been registered. However, the Appellant failed to provide any supporting documentation proving (i) that it registered the player under the limited exemption and (ii) that the player complied with one of the exception mentioned in art. 19 par. 2 of the RSTP.
76. As a result and in light of the document in the file, the Committee confirmed the Disciplinary Committee's conclusions according to which the Appellant breached art 19 pars. 1 and 4 of the RSTP (along with Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP) as well as art. 9 par. 1 of the RSTP.

c) Are the sanctions imposed by the FIFA Disciplinary Committee proportionate?

77. After establishing that the Appellant breached the aforementioned provisions, the Committee subsequently noted that the Appellant considered that the sanctions imposed in the Appealed Decision were disproportionate and that mitigating circumstances, such as its continuous efforts to improve and develop its digital platform to reduce and eliminate potential human errors in international transfer and registration of players (minors and adults), had not been taken into account.
78. Against such background, the Committee went on to analyse whether the sanctions imposed by the Disciplinary Committee, namely a fine of CHF 230,000 and a warning, were proportionate to the offences committed.
79. In this respect, the Committee recalled the jurisprudence of CAS according to which a decision-making body fixing the level of pecuniary sanctions should, amongst others,

take into consideration the following elements: (a) the nature of the offence; (b) the seriousness of the loss or damage caused; (c) the level of culpability; (d) the offender's previous and subsequent conduct in terms of rectifying and/or preventing similar situation; (f) the applicable case law and (g) other relevant circumstances¹⁵.

80. In light of the foregoing, the Committee observed that the Appellant infringed multiple provisions of the RSTP and of the FDC, which aim at protecting the integrity and development of minor players. In particular, the Committee recalled that the protection of minors is one of the essential pillars of the RSTP and that the football authorities as well as the members of the football community shall enforce these rules in a consistent and strict manner. In other words, these provisions intend to protect one of the FIFA objectives which is *"to improve the game of football constantly and promote it globally in the light of its unifying, educational, cultural and humanitarian values, particularly through youth and development programmes"*¹⁶.
81. In this regard, the Committee wished to endorse the developments of the Appealed Decision in the sense that the provisions governing the international transfer and registration of underage players seek to provide effective protection to their integrity and development. In particular, the Committee reiterated that associations are responsible to assure that the provisions of the RSTP are duly respected and to ensure that the protection of underage players is not put at stake, especially in the context of international transfers. As a result, the Committee found that any breach of the provisions governing the international transfer and registration of minor players is to be considered as a serious breach of the RSTP.
82. In this regard, the Committee recalled that for 18 minor players, the facts and infringements mentioned in the Appealed Decision were not contested by the Appellant, and that for the remaining 5 players, it has been established that the Appellant breached the provisions governing the international transfer and registration of minor players. Consequently, the Appellant did not comply with the above-mentioned provisions in the international transfers of 23 minor players to Belgian clubs, and thus failed to ensure that their protection and integrity were safeguarded.
83. Finally, the Committee drew its attention to the CAS award 2014/A/3813 whereby the Spanish Football Federation was sanctioned with a fine amounting to CHF 280,000 for similar infringements. In particular, the Committee noted that the Spanish Football

¹⁵ CAS award 2014/A/3813.

¹⁶ Cf. art. 2 lit a) of the FIFA Statutes.

Federation failed to apply the provisions governing the international transfer and registration of minor players in relation to the international transfers of 14 minor players to Spanish clubs.

84. As a result and bearing in mind the seriousness of the provisions infringed, the Committee unanimously found that the fine imposed was not disproportionate and was a deterrent sanction to avoid unacceptable conducts such as the one at hand.
85. Additionally, the Committee emphasized that it welcomed the efforts made by the Appellant to improve and develop its digital platform, but considered that these efforts could not justify a lower sanction nor lead to an exemption from its responsibility with respect to the present matter.
86. Consequently, the Committee deemed that the Disciplinary Committee properly took into consideration the facts and circumstances of the case and correctly applied the principle of proportionality when deciding on the sanctions to be imposed.

C. CONCLUSION

87. In view of all the circumstances pertaining to the present matter, the FIFA Appeal Committee concluded that the decision taken by the FIFA Disciplinary Committee on 15 May 2019 is to be confirmed in its entirety, namely the fine amounting to CHF 230,000 and the warning.

D. COSTS

88. The Committee decided based on art. 105 par. 1 of the FDC that the costs and expenses of these proceedings amounting to CHF 3,000 shall be borne by the Appellant.
89. In this sense, the Committee noted that the Appellant has already paid the appeal fee of CHF 3,000 and decides that the aforementioned costs and expenses of the proceedings are set off against this amount.

III. has therefore decided

1. The FIFA Appeal Committee found the Belgian Football Association responsible for the infringement of the relevant provisions of:
 - Regulations on the Status and Transfer of Players (RSTP) related to:
 - The protection of minors (arts. 19 pars. 1 and 4 as well as art. 1 par. 1 of Annexe 2 and art. 1 par. 3 of Annexe 3);
 - The registration of players (art. 5 par. 1);
 - The procedure governing international transfers of players (art. 9 par. 1);
 - FIFA Disciplinary Code related to the failure to respect decisions (art. 64).
2. The appeal lodged by the Belgian Football Association is rejected and the decision of the FIFA Disciplinary Committee passed on 15 May 2019 is confirmed in its entirety.
3. The costs and expenses of the proceedings amounting to CHF 3,000 are to be borne by the Belgian Football Association. This amount is set off against the appeal fee of CHF 3,000 already paid by the Belgian Football Association.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Thomas Bodstrom
Chairman of the FIFA Appeal Committee

LEGAL ACTION

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. 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.

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