

Decision of the Disciplinary Committee

passed in Zurich, Switzerland, on 23 July 2020,

COMPOSITION:

Mr. Yasser Al-Misehal, Saudi Arabia (member)
Mr. Maclean Letshwiti, Botswana (member)
Mr. Kossi Guy Akpovi, Togo (member)

RESPONDENT:

Cyprus Football Association

Regarding first registration of a minor without the approval of the FIFA sub-committee and player playing without valid registration (Ref: TMS_FDD-5698)

Art. 9 par. 1 of the FIFA Regulations on the Status and Transfer of Players (2016 ed.) (hereinafter: *the RSTP or the Regulations*)

Art. 19 pars. 1, 3 and 4 of the RSTP

Art. 1 par. 1 of Annexe 2 of the RSTP

Art. 1 par. 3 of Annexe 3 of the RSTP

I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the FIFA Disciplinary 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 those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. The disciplinary decision relates to the registration by the Cyprus Football Association (hereinafter: *the Cyprus FA*) of the minor players Ofri Levi (hereinafter: *Player 1*) and Gleb Shinkarenko (hereinafter: *Player 2*) with its affiliated clubs Liverpool FC International Academy Cyprus (hereinafter: *Liverpool*) and Juventus Academy FC respectively (hereinafter: *Juventus*).
3. In particular, the factual circumstances of the present case can be summarized as follows, including the information that the FIFA Disciplinary Committee has taken into account:

a. *Player 1*

- i. The player Ofri Levi, born on 10 January 2007 and of Israeli nationality, was registered with the Cyprus FA by Liverpool on 31 October 2017, 16 October 2018 and 18 October 2019 respectively to play in grassroots competitions, and on 10 January 2020 to play in the U-14 team.
- ii. On 5 November 2019, the Cyprus FA submitted on behalf of Liverpool a FIFA minor application through TMS to register Player 1 for the 2019/2020 season.
- iii. The aforementioned minor application for Player 1 was accepted by the FIFA Players' Status Sub-Committee (hereinafter: *the Sub-Committee*) on 10 January 2020.
- iv. The Cyprus FA confirmed that after receiving FIFA's approval of the minor authorization for Player 1, he played one match for Liverpool on 26 January 2020.
- v. On 14 May 2020, the Israel Football Association (hereinafter: *the Israel FA*) confirmed that Player 1 had been registered with the said association until 25 October 2018.
- vi. No ITC was requested by the Cyprus FA to the Israel FA for Player 1.
- vii. In light of the foregoing, Player 1 was registered with the Cyprus FA without the approval of the Sub-Committee and without an ITC, and played matches in the grassroots competitions prior to said approval as well as with the U-14 team without having the ITC.

b. *Player 2*

- i. The player Gleb Shinkarenko, born on 27 March 2006 and of Russian nationality, was registered with the Cyprus FA by Juventus on 23 October 2017 and 16

- October 2018 respectively to play in grassroots competitions, and on 3 February 2020 to play in the U-14 team.
- ii. On 18 November 2019, the Cyprus FA submitted on behalf of Juventus a FIFA minor application through TMS to register Player 2 for the 2019/2020 season.
 - iii. The aforementioned minor application for Player 2 was accepted by the Sub-Committee on 3 February 2020.
 - iv. In light of the foregoing, Player 2 was registered with the Cyprus FA without the approval of the FIFA Players' Status Sub-Committee and played matches in the grassroots competitions prior to said approval.
4. On 3 June 2020, following investigations conducted by FIFA's TMS Global Transfer & Compliance Department (hereinafter: *FIFA TMS*), disciplinary proceedings were opened against the Cyprus FA with respect to potential violations of arts. 9 par. 1 and 19 pars. 1, 3 and 4 of the Regulations on the Status and Transfer of Players (2016 ed.) (hereinafter: *the Regulations* or *the RSTP*), as well as of art. 1 par. 1 of Annexe 2 and art. 1 par. 3 of Annexe 3 of the RSTP. In this sense, the Cyprus FA was invited to provide its position in relation to the potential infringements.

II. RESPONDENT'S POSITION

1. On 12 June 2020, the Cyprus FA provided its position, which can be summarized as follows:
 - The Cyprus FA has long established grassroots football which is all football that is non-professional and non-elite and gives the chance to all kids from schools, private academies and youth between the age of 5 to 13 years to participate and love the game of football.
 - In grassroots programs supervised by the Cyprus FA there is no official match sheets and no grading or marking, and teams that participate do not have to be member clubs of the Cyprus FA and can be either school teams or private academies. All players are registered in a special registry (COMET) for that competition, which is not an official registration, and at the end of each grassroots season all the registrations are cancelled automatically and the time period on player's passports is given for grassroots purposes only, so it does not count for training and development purposes since it is not an official registration.
 - Based on the above, both players Ofri Levi and Gleb Shinkarenko have not participated in any official match and were registered respectively to Liverpool FC International Academy Cyprus and Juventus Academy for grassroots program purposes only. The abovementioned players participated only in grassroots competitions and not in any official Cyprus FA competition.
 - The official registration with the Cyprus FA for the player Gleb Shinkarenko took place on 3 February 2020, the same day that the minor application was approved by FIFA. Therefore, there is no breach of the Regulations.
 - As regards the player Ofri Levi, knowing that the player moved to Cyprus at the age of 10, the Cyprus FA TMS department omitted to request for an ITC from the Israel Football Association, having in mind the previous version of art. 9.2 of the Regulations that did not require an ITC for players under the age of 12.

- Unfortunately, it was a genuine and unintentional mistake from the Cyprus FA TMS department which, on the other hand, during the registration of the player took all appropriate measures to verify and ensure that the requirements for the protection of minors were met.
- Therefore, the Cyprus FA admits a breach of art. 9.1 of the Regulations but in light of the above considerations denies the breach of any other provision of the Regulations.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

A. Jurisdiction of the FIFA Disciplinary Committee

1. First of all, the FIFA Disciplinary Committee (hereinafter: *the Committee*) notes that at no point during the present proceedings did the Cyprus FA challenge its jurisdiction or the applicability of the FIFA Disciplinary Code (FDC).
2. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, on the basis of art. 53 of the FDC as read together with arts. 25 par. 3 and art. 9 par. 2 of Annexe 3 of the RSTP, it is competent to evaluate the present case and to impose sanctions in case of corresponding violations.

B. Applicable law

3. With respect to the applicable regulations, the Committee would first like to refer to the definitions section of the Regulations, and in particular to definition number 6, according to which organized football is defined as “(...) *association football organized under the auspices of FIFA, the confederations and the associations, or authorized by them*”.
4. Subsequently, the Committee emphasizes that, in accordance with art. 19 par. 1 of the Regulations “[i]nternational transfers of players are only permitted if the player is over the age of 18”.
5. Moreover, the Committee notes that in accordance with art. 19 par. 3 of the Regulations “[T]he conditions of this article shall also apply to any player who has never previously been registered with a club, is not a national of the country in which he wishes to be registered for the first time and has not lived continuously for at least the last five years in said country.”
6. In this respect, the Committee recalls that art. 19 par. 4 of the Regulations establishes that “[e]very international transfer according to paragraph 2 and every first registration according to paragraph 3, as well as every first registration of a foreign minor player who has lived continuously for at least five years in the country in which he wishes to be registered, is subject to the approval of the sub-committee appointed by the Players’ Status Committee for that purpose. The application for approval shall be submitted by the association that wishes to register the player (...)”.

7. In continuation, the Committee refers to art. 1 par. 1 of Annexe 2 of the Regulations, which establishes that “[a]ll applications for a first registration of a minor according to article 19 paragraph 3, or an international transfer involving a minor according to article 19 paragraph 2, must be submitted and managed through TMS”, as well as to art. 1 par. 3 of Annexe 3 of the Regulations in accordance with which “TMS helps safeguard the protection of minors. If a minor is being registered as a non-national for the first time or is involved in an international transfer, approval must be given by a sub-committee appointed by the Players’ Status Committee for that purpose (cf. article 19 paragraph 4). The request for approval by the association that wishes to register the minor on the basis of article 19 paragraphs 2 and 3 and the subsequent decision-making workflow must be conducted through TMS (cf. Annexe 2)”.
8. Finally, the Committee equally recalls that according to art. 9 par. 1 of the Regulations “[P]layers registered at one association may only be registered at a new association once the latter has received an International Transfer Certificate (hereinafter: ITC) from the former association (...)”.

C. Standard and burden of proof

9. The Committee recalled the basic principle of burden of proof, as stipulated in art. 36 par. 2 of the FDC, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof.

D. Merits of the dispute

I. Analysis of the potential violations of the RSTP by the Cyprus FA

10. Once having gone through the relevant provisions, the Committee finds it worthwhile to emphasize, as a preliminary remark, that the protection of minors constitutes one of the principles included in the agreement that was concluded between FIFA, UEFA and the European Commission in March 2001 and is one of the essential pillars of the Regulations since then. All of the aforementioned authorities and members of the football community agreed that the measures to ensure the protection of minors and to combat abuses require robust rules which must be implemented in a consistent and strict manner. Such principles were recognized by the Court of Arbitration for Sport (CAS), which by a decision of 6 March 2009 (CAS 2008/A/1485 FC Midtjylland A/S v. FIFA), confirmed the legality of the relevant FIFA regulations, further emphasizing that these provisions do not contravene any rule of public policy or European law.
11. In this respect, the Committee points out that FIFA’s efforts to protect minors have, since then, been recognized by CAS on several occasions (CAS 2005/A/955 Cádiz C.F., SAD v. FIFA and Asociación Paraguaya de Fútbol & CAS 2005/A/956 Carlos Javier Acuña Caballero v. FIFA and Asociación Paraguaya de Fútbol, CAS 2008/A/1485 FC Midtjylland A/S v. FIFA, CAS 2011/A/2354 Elmir Muhic v. FIFA, CAS 2011/A/2494 FC Girondins de Bordeaux v. FIFA, CAS 2012/A/2787 Villarreal CF. v. FIFA, CAS 2014/A/3611 Real Madrid FC v. FIFA, CAS 2014/A/3793

Fútbol Club Barcelona v. FIFA, CAS 2014/A/3813 Real Federación Española de Fútbol v. FIFA, CAS 2015/A/4312 John Kenneth Hilton v. FIFA, CAS 2016/A/4785 Real Madrid Club de Fútbol v. FIFA, CAS 2016/A/4805 Club Atlético de Madrid SAD v. FIFA and CAS 2017/A/5244 Oscar Bobb & Associação Juvenil Escola de Futebol Hernâni Gonçalves v. FIFA).

12. This having been established, the Committee subsequently analyses the evidence at its disposal (*i.e.* the documentation and information provided in the scope of the proceedings before FIFA TMS as well as the information provided during the present proceedings) to determine the potential violations of the RSTP committed by the IFA.

(1) Art. 19 pars. 1, 3 and 4 of the RSTP in conjunction with art. 1 par. 3 of Annexe 3 of the RSTP

13. First, the Committee turns its attention to the birth dates of Players 1 and 2, and acknowledges that at the time they joined Liverpool and Juventus respectively, and were therefore registered with the Cyprus FA, they were minors, in accordance with the definitions section of the Regulations. Furthermore, the Committee observes that at no point during the present proceedings has the Cyprus FA contested that Players 1 and 2 joined Liverpool and Juventus in 2017.
14. Secondly, the Committee notes that the Cyprus FA admitted that Players 1 and 2 were registered since 2017 in grassroots competitions, which are considered to be organized football as defined in the Regulations.
15. Being the above clear, the Committee reiterates 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).
16. Notwithstanding the above, the Committee recognizes that art. 19 par. 2 of the Regulations provides for three exceptions to the general principle of art. 19 par. 1 of the Regulations, under which the international transfer of a minor or the first registration of a non-national minor could be possible.
17. Moreover, the Committee notes that in accordance to art. 19 par. 3 of the Regulations, the conditions of art. 19 of the RSTP also apply to the registration of a player who has never previously been registered with a club and who is not a national of the country in which he wishes to be registered for the first time and has not lived continuously for at least five years in the said country.
18. However, the Committee points out that, even in the event that one of the exceptions laid down under art. 19 par. 2 of the Regulations was applicable to the situation of Player 1 or 2, neither the club nor the association concerned would be authorized to complete their transfer unless the Sub-Committee had granted its approval. Indeed, in line with art. 19 par. 4 of the Regulations, such an international transfer “*is subject to the approval of the sub-committee appointed by the Players’ Status Committee for that purpose*” and said approval shall be obtained prior to the registration of the minor player concerned.

19. In addition to the above and in relation to Player 1, the Committee emphasizes that prior to his move to Liverpool he had been playing for a club affiliated to the Israel FA. As a result, the Committee highlights that any potential registration of Player 1 in a country other than his country of origin and/or his international move to such country, would be considered as an international transfer in accordance with the Regulations.
20. As such, the Committee is convinced that, by moving from a club affiliated to an association other than the Cyprus FA (*i.e.* the Israel FA) to a club affiliated to the Cyprus FA, whilst being aged below 18, Player 1 was internationally transferred in contravention of art. 19 par. 1 of the Regulations.
21. As a result of all the above, and considering that “[t]here should be no doubt that the ban on transferring under-aged players is addressed to both “associations” and clubs” (CAS 2014/A/3793 FC Barcelona v. FIFA, par. 9.2), the Committee is of the opinion that, by proceeding to register Player 1 the Cyprus FA breached art. 19 par. 1 of the Regulations.
22. Moreover, and with respect to Player 2, the Committee highlights that any potential registration of the player in a country other than his country of origin, when he has never been registered with a club and has not lived continuously for at least five years in said country, would be considered as a first registration in accordance with the Regulations
23. With respect to the case at hand, and for the sake of completeness, the Committee notes that the Cyprus FA had never requested and/or been granted at the time of the registration of Players 1 and 2 a limited exemption from the obligation to refer applications for approval for minor players to the Sub-Committee, in accordance with art. 19 par. 4 of the Regulations.
24. Consequently, and considering that Player 1 was previously registered with the Israel FA, the Committee concludes that his international transfer to the Cyprus FA was undoubtedly subject to the prior approval of the Sub-Committee in line with art. 19 par. 4 of the RSTP.
25. Moreover, and considering that Player 2 is not of Cypriot origin and had never been registered with a club, the Committee concludes that his registration with the Cyprus FA was undoubtedly subject to the prior approval of the Sub-Committee in line with art. 19 par. 4 of the RSTP
26. With those considerations in mind, the Committee proceeds to analyse as to whether, *in casu*, the international transfer of Player 1 and the first registration of Player 2 had been duly approved by the Sub-Committee.
27. In this regard, the Committee observes that Players 1 and 2 have been registered with the Cyprus FA since 2017 whereas a FIFA minor application was not submitted for them until 5 and 18 November 2019, and accepted by FIFA on 10 January and 3 February 2020 respectively.

28. In addition, the Committee also observes that Players 1 and 2 participated in grassroots competition (*i.e.* organized football) matches and were improperly registered with Liverpool and Juventus respectively before the submission and confirmation of the FIFA minor applications took place.
29. In this sense, the Committee recalls that according to art. 19 par. 4 of the Regulations, the international transfer of a minor as well as the first registration of a minor are subject to the prior approval of the Sub-committee, meaning that the authorization has to be given before the relevant club and/or association proceeds to register the relevant player.
30. As a result, the Committee deems that it has no other alternative but to conclude that the Cyprus FA is to be found guilty for the violation of art. 19 par. 4 of the Regulations, read together with art. 1 par. 1 of Annexe 2 and art. 1 par. 3 of Annexe 3 of the Regulations, as it failed to obtain the approval of the Sub-Committee for the international transfer of Player 1 and for the first registration of Player 2.

(2) Art. 9 par. 1 of the Regulations

31. As far as article 9 par. 1 of the RSTP is concerned, that rule, in conjunction with art. 9 par. 4, stipulates the procurement of an ITC as a prerequisite for the registration of a player over the age of 10 (this age being previously 12 until 1 March 2015, cf. FIFA Circular no. 1468) with a new association and at a new club.
32. With regard to Player 1, the Committee observes from the file in its possession that he moved internationally from the Israel FA to Liverpool, that the Cyprus FA failed to request an ITC for him to the Israel FA, and that he had been participating in organized football for Liverpool.
33. Having clarified the above, the Committee wishes to draw the attention of the Cyprus FA to CAS 2016/A/4805 Club Atlético de Madrid SAD v. FIFA (par. 306). During these proceedings the CAS panel clarified that *“(...) both the registration and the ITC are prerequisites for a player to be eligible to participate in organised football. A failure to obtain an ITC must therefore be regarded as a violation separate from the failure to validly register a player. By the same token, a club’s failure to obtain an ITC prior to the participation of the player concerned in organised football must be considered a violation of article 9(1) FIFA RSTP”*.
34. To this respect, the Committee observes that in its position submitted to the FIFA Disciplinary Committee, the Cyprus FA has admitted the violation of art. 9 par. 1 of the RSTP in relation to the registration of Player 1, allegedly due to a miscalculation of the player’s age at the time of his registration with the Cyprus FA.
35. Following the above, it is the Committee’s firm opinion that a wrong calculation of the player’s age does not exonerate the Cyprus FA from its obligations, namely, from complying with the FIFA regulations.

36. In light of the above, the Committee concludes that the Cyprus FA is to be found liable for the breach of art. 9 par. 1 of the Regulations in relation to the registration of Player 1.
37. As a result, the Committee considers that the Cyprus FA is to be sanctioned for the aforementioned violations.

II. The determination of the sanction

38. Once having defined the violations of the Regulations committed by the Cyprus FA, the Committee subsequently considers the sanction(s) to be imposed.
39. First of all, the Committee stresses that being the Cyprus FA a legal person, it can be subject to the sanctions described under art. 6 par. 1 and 3 of the FDC.
40. For the sake of good order, the Committee underlines that it is responsible to determine the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking into account both aggravating and mitigating circumstances (art. 24 par. 1 of the FDC).
41. As it was established above, the Cyprus FA is found responsible of having infringed several provisions of the RSTP, namely, arts. 9 par. 1, 19 pars. 1, 3 and 4 as well as art. 1 par. 1 of Annexe 2 and art. 1 par. 3 of Annexe 3.
42. Taking into account the facts described in the present case – and in particular that this matter involves the improper transfer and/or registration of underage players –, the Committee considers that the appropriate sanction to be imposed on the Cyprus FA in relation to the violation of the abovementioned provisions of the RSTP would be a fine.
43. With regard to the fine, according to the provisions of art. 6 par. 4 of the FDC, the Committee notes that it may not be lower than CHF 100 and greater than CHF 1,000,000.
44. Taking into account all the circumstances of the case, while keeping in mind the deterrent effect that the sanction must have on the reprehensible behaviour and that the Cyprus FA has no previous record with regard of violations of the provisions of the RSTP here at stake, the Committee considers a fine of CHF 15,000 to be adequate and proportionate to the offence.
45. In addition to the fine, a warning is also issued pursuant to art. 6 par. 1 lit. a) of the FDC in relation to the conduct of the Cyprus FA. In particular, the Cyprus FA is ordered to undertake all appropriate measures in order to guarantee that the FIFA regulations (in particular the FDC as well as the RSTP) are strictly complied with. Should such infringements occur again in the future, the Committee would be left with no other option than to impose harsher sanctions on the Cyprus FA.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

1. The FIFA Disciplinary Committee found the Cyprus Football Association responsible for the infringement of the relevant provisions of the Regulations related to first registration of a minor without the approval of the FIFA sub-committee (art. 19 pars. 1, 3 and 4, art. 1 par. 1 of Annexe 2, and art. 1 par. 3 of Annexe 3) and player playing without valid registration (art. 9 par. 1).
2. The FIFA Disciplinary Committee orders the Cyprus Football Association to pay a fine to the amount of CHF 15,000.
3. In application of art. 6 par. 1 lit. a) of the FIFA Disciplinary Code, the Cyprus Football Association is warned on its future conduct.
4. The above fine is to be paid within thirty (30) days of notification of the present decision.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



LETSHWITI Maclean

Member of the Disciplinary Committee

NOTE RELATING TO THE PAYMENT OF THE FINE

Payment can be made either in Swiss francs (CHF) to account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J or in US dollars (USD) to account no. 0230-325519.71U, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH95 0023 0230 3255 1971 U, with reference to case number above mentioned.

NOTE RELATING TO THE LEGAL ACTION

This decision can be contested, in accordance with art. 49 together with art. 57 par. 1 of the FIFA Disciplinary Code, 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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