

# Decision of the FIFA 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:

Slovakian 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-5778)

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 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 Slovakian Football Association (hereinafter: *the Slovak FA*) of the minor player Zsolt Szántó (hereinafter: *the Player*) with its affiliated club FC Slovan Šahy (hereinafter: *Slovan*).
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:
  - i. The player Zsolt Szántó, born on 23 September 2007 and of Hungarian nationality, was registered with the Hungarian Football Federation (hereinafter: *the Hungarian FA*) on 19 February 2015.
  - ii. As the Player's father was working close to the Hungary-Slovakia border, he attended elementary school in the Slovakian town of Šahy, and was registered with the Slovak FA on 27 July 2018 by the amateur club FC Slovan Šahy.
  - iii. The Slovak FA did not submit on behalf of Slovan a FIFA minor application to the FIFA Players' Status Sub-Committee (hereinafter: *the Sub-Committee*), neither did it request an ITC for the Player from the Hungarian FA.
  - iv. The Slovak FA confirmed that the Player was listed on the match sheet for three games and fielded in two matches for its affiliated club Slovan.
  - v. In light of the foregoing, the Player was registered with the Slovak FA without the approval of the Sub-Committee and without an ITC, and played matches without having the ITC.
4. On 16 June 2020, following investigations conducted by FIFA's TMS Global Transfer & Compliance Department (hereinafter: *FIFA TMS*), disciplinary proceedings were opened against the Slovak FA with respect to potential violations of arts. 9 par. 1 and 19 pars. 1 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 Slovak FA was invited to provide its position in relation to the potential infringements.

## II. RESPONDENT'S POSITION

1. On 22 June 2020, the Slovak FA provided its position, which can be summarized as follows:
  - As regards a possible breach of the RSTP in relation to the registration of minors, the Slovak FA does not believe to have committed any violation, given that the association was granted on 20 June 2017 by the Bureau of the Sub-Committee of the Players' Status Committee a limited exemption from the obligation to refer applications for approval for minor players to FIFA.
  - In this regard, the duration of the limited exemption is restricted to two years (*i.e.* until 19 June 2019), whereas the Player was registered on 27 July 2018, when the limited exemption was in force.
  - On the other hand, as regards the failure to request an ITC, the Slovak FA admits a human error given that when it informed the Hungarian FA on 27 July 2018 of the registration of the Player, it mistakenly calculated that he was aged 9. As a consequence, the Slovak FA did not request the ITC as it believed that the Player was under the age of 10 and no ITC was needed.
  - In any case, the Slovak FA understands that the abovementioned mistake does not affect the registration of the Player with the association, given that said registration was done when the limited exemption granted to the Slovak FA was in force, but only affects the fact that an ITC was not requested when it should have.
  - Based on the above considerations, the Slovak FA requests that the Disciplinary Committee treats the case as a human error with no intention to breach the Regulations, and that it also takes into account for its decision the fact that the association has always complied with the FIFA regulations. As a consequence, the Slovak FA asks that in case that a disciplinary offense is appreciated, the sanction imposed is the lowest possible, namely a warning.

## 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 Slovak 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 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*”.
4. In this respect, the Committee recalls that art. 19 par. 4 of the Regulations establishes that “*[e]very international transfer according to paragraph 2 (...) 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 (...)*”.
5. 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)*”.
6. 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

7. 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 Slovak FA

8. 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.

9. 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 CF 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).
10. 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 and 4 of the RSTP in conjunction with art. 1 par. 3 of Annexe 3 of the RSTP*

11. First, the Committee turns its attention to the birth date of the Player and acknowledges that at the time he joined Slovan, and was therefore registered with the Slovak FA, he was a minor, in accordance with the definitions section of the Regulations. Furthermore, the Committee observes that at no point during the present proceedings has the Slovak FA contested that the Player joined Slovan.
12. 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).
13. 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.
14. 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 the Player, neither the club nor the association concerned would be authorized to complete his 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.

15. In addition to the above, the Committee emphasizes that prior to his move to Slovan, the Player had been registered with the Hungarian FA. As a result, the Committee highlights that any potential registration of the Player 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.
16. As such, the Committee is convinced that, by moving from a club affiliated to an association other than the Slovak FA (*i.e.* the Hungarian FA) to a club affiliated to the Slovak FA, whilst being aged below 18, the Player was internationally transferred in contravention of art. 19 par. 1 of the Regulations.
17. 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 the Player, the Slovak FA breached art. 19 par. 1 of the Regulations.
18. With respect to the case at hand, and for the sake of completeness, the Committee notes that, as alleged by the Slovak FA, the said association had been granted at the time of the registration of the Player 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.
19. In this regard, the Committee takes note that in accordance with the said limited exemption, the Slovak FA is entitled to register minor amateur players who only wish to be registered with amateur clubs without the need to submit every registration individually to the Sub-Committee, but with the obligation to report to FIFA through TMS every six months which players it has itself registered on the basis of the above.
20. With those considerations in mind, the Committee proceeds to analyse as to whether, *in casu*, the international transfer of the Player had been duly approved by the Sub-Committee.
21. In this regard, the Committee observes that the Player was registered with the Slovak FA on 27 July 2018, under the limited exemption granted to the Slovak FA at the time of the registration.
22. However, the Committee notes that the Slovak FA did not comply with the requirements of the limited exemption, as it did not report the Player’s registration to FIFA at any time.
23. In addition, the Committee also observes that the Player participated in official matches while being improperly registered with Slovan.
24. In this sense, the Committee recalls that according to art. 19 par. 4 of the Regulations, the international transfer of a minor is subject to the prior approval of the Sub-committee, or in this case to the fulfilment by the Slovak FA of the requirements of the limited exemption.

25. As a result, the Committee deems that it has no other alternative but to conclude that the Slovak 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 comply with the requirements of the limited exemption and obtain the approval of the Sub-Committee for the international transfer and registration of the Player.

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

26. 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 with a new association and at a new club.
27. With regard to the Player, the Committee observes from the file in its possession that he moved internationally from the Hungarian FA to Slovan, that the Slovak FA failed to request an ITC for him to the Hungarian FA, and that he had been participating in official matches for Slovan.
28. Having clarified the above, the Committee wishes to draw the attention of the Slovak 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"*.
29. To this respect, the Committee observes that in its position submitted to the FIFA Disciplinary Committee, the Slovak FA has admitted the failure to request an ITC for the Player to the Hungarian FA, allegedly due to a miscalculation of the Player's age at the time of his registration with the Slovak FA.
30. Following the above, it is the Committee's firm opinion that a wrong calculation of the Player's age does not exonerate the Slovak FA from its obligations, namely, from complying with the FIFA regulations.
31. In light of the above, the Committee concludes that the Slovak FA is to be found liable for the breach of art. 9 par. 1 of the Regulations in relation to the registration of the Player.
32. As a result, the Committee considers that the Slovak FA is to be sanctioned for the aforementioned violations.

## **II. The determination of the sanction**

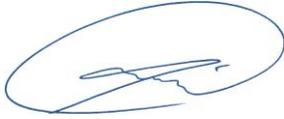
33. Once having defined the violations of the Regulations committed by the Slovak FA, the Committee subsequently considers the sanction(s) to be imposed.

34. First of all, the Committee stresses that being the Slovak FA a legal person, it can be subject to the sanctions described under art. 6 par. 1 and 3 of the FDC.
35. 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).
36. As it was established above, the Slovak FA is found responsible of having infringed several provisions of the RSTP, namely, arts. 9 par. 1, 19 pars. 1 and 4 as well as art. 1 par. 1 of Annexe 2 and art. 1 par. 3 of Annexe 3.
37. Taking into account the facts described in the present case – and in particular that this matter involves the improper transfer and/or registration of an underage player –, the Committee considers that the appropriate sanction to be imposed on the Slovak FA in relation to the violation of the abovementioned provisions of the RSTP would be a fine.
38. 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.
39. 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 Slovak 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 10,000 to be adequate and proportionate to the offence.
40. 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 Slovak FA. In particular, the Slovak 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 Slovak FA.

#### **IV. DECISION OF THE DISCIPLINARY COMMITTEE**

1. The FIFA Disciplinary Committee found the Slovakian 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 and 4) and player playing without valid registration (art. 9 par. 1, art. 1 par. 1 of Annexe 2, and art. 1 par. 3 of Annexe 3).
2. The FIFA Disciplinary Committee orders the Slovakian Football Association to pay a fine to the amount of CHF 10,000.
3. In application of art. 6 par. 1 lit. a) of the FIFA Disciplinary Code, the Slovakian 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

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### **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.

The full address and the contact details of the CAS are the following:

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