Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 11 April 2019,

in the following composition:

Geoff Thompson (England), Chairman
Alexandra Gómez Bruinewoud (Uruguay), member
Stefano Sartori (Italy), member
Daan de Jong (the Netherlands), member
Muzammil Bin Mohamed (Singapore), member

on the claim presented by the club,

Club C, Country D

as *Claimant*

against the player,

Player A, Country B

as *Respondent I*

and the club,

Club E, Country F

as *Respondent II*

regarding an employment-related dispute
arisen between the parties

I. Facts of the case

1. On 28 March 2017, Player A from Country B (hereinafter: *the Respondent I* or *the player*), born on 4 November 1995, and Club C from Country D (hereinafter: *the Claimant* or *the Club* or *Club C*), signed an employment contract (hereinafter: *the contract*) valid as from its date of signature until 24 March 2020.

2. According to art. 5.1 of the contract, the player was entitled to a monthly salary of EUR 1,500 "*net*", payable by the "*17th day of the next month*". Moreover, the Claimant undertook "*to pay all the mandatory taxes under the laws of Country D (including the natural persons' income tax, the social insurance tax, and the health insurance tax)*".

3. Pursuant to art. 4.2.12 of the contract, the Claimant undertook to provide the player with an accommodation and cover the related costs.

4. Art. 9.3 of the contract stipulates that the Claimant "*has the right to unilaterally and without any ensuing consequences for the* [Club]*, including the duty to pay any compensation to the player, to terminate this contract after the end of the 2017 football season by submitting a notice on the termination of the contract to the player on the grounds established herein no later than within 1 (one) month after the date of the last match played by the* [Club]*'s team in the 2017 season*".

5. According to art. 9.4.1 of the contract, "*upon the expiration of the validity period of the contract, the* [Club] *shall have the right of priority to extend this contract*".

6. Furthermore, art. 9.5.3 of the contract provided that Club C *"shall have the right to unilaterally terminate the contract before its expiry*" in case of breach of the Club's internal rules "*systematically*" by the player.

7. Art. 9.6 of the contract, "*in the event of unilateral termination of the contract by* [the player]*, on grounds and procedures that are not stipulated in this contract, or in the event of unilateral termination of this contract by the* [Club] *due to the* [player's] *wrongdoing, the player is obliged to pay a fine in the amount of EUR 50,000 (fifty thousand) to the* [Club] *within 14 days, as well as to compensate the expenses incurred by the* [Club] *and related to the implementation of this contract*".

8. On 14 August 2017, Club H from Country G sent an offer to Club C for the transfer of the player against payment of a transfer fee of EUR 175,000.

9. On 30 August 2017, the Claimant sent a letter to the Club E from Country F (hereinafter: *the Respondent II* or *Club E*) affirming that, despite the player was under contract with Club C, he was training with Club E without the permission of Club C. Furthermore, the same Club alleged that Club E was inducing the player to terminate his contract with Club C and suggested the latter club "*not to engage with the player*".

10. On the same date, the player sent a letter to Club C, informing the Claimant about his intention "*to exercise* [his] *rights under art. 9.6 of the* [contract]". Moreover, the player requested the bank details of Club C and stated that, upon receipt of said details, "*the amount due, as compensation, will be transferred to* [Club C] *in accordance with the terms, set out in the clause 9.6 concerned*".

11. On 31 August 2017, the Claimant replied to the player's letter affirming that it did not intend to terminate the contract and arguing that art. 9.6 of the contract was not a "*buy-out*" clause, but it just stipulated the minimum damages to be paid by the player in case he terminated the contract without just cause. With the same letter, Club C also provided the player with its bank details, for the case he wanted to "*cover the minimum damages*" and also invited him to respect the contract and come back to the team's trainings within the following two days.

12. On 31 August 2017, the player and Club E signed an employment contract valid as from the date of signature until 14 June 2020, providing the following monthly "*net*" salary:
"*for the period from 31.08.2017 to 14.06.2018 will be 679.736,00 (11.053 euro)* […]
for the period from 35.06.2018 to 14.06.2020 will be 615,000 (10.000 euro)".
On the same date, Club E announced that it concluded a "*three-year contract*" with the player.

13. Also on 31 August 2017, Club C sent another letter to Club E, referring to its letter of 30 August 2017 and requesting the latter to immediately terminate "*all agreements signed with the player and urge the player to come back to* [Club C] *as soon as possible*".

14. On 8 September 2017, Club C sent a further letter to Club E, whereby it acknowledged receipt, on 7 September 2017, of the payment of EUR 50,000, the bank receipt of which bore the reference "*remittances of the required buyout amount under clause 9.6 from 28.03.2017*". In this context, Club C pointed out that clause 9.6 of the contract did not stipulate any buy-out clause and, consequently, maintained that its contract with the player was

still in force and reiterated its previous requests to Club E.

15. On 2 October 2017, the Single Judge of the FIFA Players' Status Committee passed a decision whereby, upon request of the Football Federation of Country F, he authorised the latter to provisionally register the player for Club E with immediate effect.

16. On 19 October 2017, Club C lodged a claim in front of FIFA against the player and Club E for breach of contract, requesting the following:
    a) the player to pay compensation for breach of contract in the amount of EUR 362,957 or, alternatively, EUR 244,825, plus 5% interest p.a. as from 30 august 2017;
    b) Club E to be held jointly and severally liable for the payment of the aforementioned compensation;
    c) sporting sanctions on the player and Club E.

17. In its claim, Club C affirmed that the player terminated the contract without just cause on 30 August 2017. In particular, the Claimant averred that art. 9.6 of the contract was not a buy-out clause for the following reasons:
    a) the aforementioned clause did not grant the player the right to terminate the contract, but only set the consequences of such termination in two specific situations: i) when the player terminates the contract without just cause or ii) when the Club terminates the contract with just cause due to the player's fault;
    b) art. 9.6 of the contract refers to a "*penalty/forfeit/fine*", which are terms inconsistent with a buy-out clause. In particular, the Claimant considered that a buy-out clause should rather refer to a consideration for the exercise of a contractual right or to an "*option price*".

18. As to the consequences of the termination of the contract, Club C first maintained that art. 9.6 could not be used as a compensation clause within the context of the calculation of the compensation for breach of contract, because it was neither proportional nor reciprocal. In particular, the Claimant emphasised that such clause was to the benefit of the player only.

19. Moreover, Club C argued that the remaining value of the contract was EUR 67,115 (namely 31 Months as from 30 August 2017 until 24 March 2020), considering an alleged gross monthly salary of EUR 1,765 (EUR 1,500 net monthly salary plus 15% income tax) and a monthly house allowance under art. 4.2.12 of the contract allegedly equal to EUR 400.

20. Furthermore, Club C affirmed that it incurred in extra costs by replacing the

player with a new one, Player K, who signed a contract with Club C on 14 September 2017, valid as from the date of signature until 18 August 2018 and providing a monthly net salary of EUR 2,500 "*net*" (according to the Claimant corresponding to EUR 2,941 gross). In particular, Club C pointed out that the new player's higher salary caused extra-costs regarding salaries in the amount of EUR 13,092 for the relevant contractual period.

21. Along these lines, Club C also affirmed that it incurred in extra costs for the transfer of the aforementioned player in the amount of EUR 100,000, corresponding to the intermediary's fee.

22. The Claimant also pointed that it had to pay training compensation to the player's former club (the Club L from Country D) in the amount of EUR 9,000 and argued that, as a consequence thereof, it incurred in not-amortized expenses for the acquisition of the player in the amount of EUR 7,750.

23. Moreover, Club C held that, due to the loss of the player's services, it lost the amount of EUR 175,000, i.e. the value of the offer that the Club H sent to Club C in August 2017.

24. On account of the above, Club C concluded that the claimed compensation was composed of the remaining value of the contract (i.e. EUR 67,115), the extra-cost for the transfer of the new player (i.e. EUR 113,092), the not amortised expenses for the transfer of the player to Club C (i.e. EUR 7,750) and the lost fee for the transfer of the player to another club (i.e. EUR 175,000), for the total amount of EUR 362,957.

25. Alternatively, in the event that art. 9.6 should be considered as an applicable compensation clause, Club C maintained that the relevant compensation of EUR 50,000 provided therein should be increased of EUR 9,000 (the training compensation paid to Club L), of further EUR 10,825 (the remuneration paid to the player) and of the lost transfer fee (i.e. EUR 175,000), for the total amount of EUR 244,825.

26. Finally, the Claimant maintained that, as the player concluded the contract with Club E the day after he terminated the contract with Club C without just cause, Club E therefore induced the player to breach his contract with Club C during the protected period.

27. In his reply to the claim, the player contested Club C's arguments and argued that art. 9.6 should be construed in accordance with the principle of the interpretation *contra proferentem*, pursuant to which a clause with an unclear wording should be interpreted against the author of such clause.

28. In this context, the player affirmed that art. 9.6 and, in particular, its sentence "*...on grounds and procedures that are not stipulated in this contract...*", is "*notoriously broad and uncertain and apt to cause uncertainty as to the exact scope of clause 9.6.*".

29. Moreover, the player argued that the following alleged circumstances led to the application of the aforementioned principle to art. 9.6:
    a) at the time of the conclusion of the contract, there was an inequality of bargaining power between the player and the club in favour of the latter and Club C abused of such inequality to its advantage;
    b) Club C drafted and imposed a standardised and unbalanced contract – in its favour – to the player. In this context, the player argued that said unbalance was confirmed, *inter alia*, by the fact that, according to the contract, only the club was entitled to terminate the contract at the end of season 2017 (*ex* art. 9.3), to extend its duration (*ex* art. 9.4.1) or to terminate it in case of breach of the club's internal rules (*ex* art. 9.5.3);
    c) the player was not assisted by any intermediary or legal advisor at the time of the conclusion of the contract and the Claimant, before its signature, assured him that art. 9.6 entitled him to terminate the contract by paying EUR 50,000 and that the contract was the "*standard*" applied by Club C to all its players. Consequently, the player maintained that the Claimant "*did not negotiate the terms of the employment contract, individually*".

30. As a result of the application of the aforementioned principle, the player came to the conclusion that art. 9.6 of the contract should be construed against its drafter (i.e. Club C) and, thus, as a buy-out clause.

31. In the alternative, should the *contra proferentem* principle considered as not applicable, the player affirmed that the common intention of the parties was to insert in the contract a clause to the benefit of the player, which would allow the latter to terminate the contract with the payment of the pre-determined amount of EUR 50,000. What is more, the player affirmed that such intention was confirmed by the behaviour of Club C, which eventually accepted the payment of the aforementioned amount by the player. As a consequence of the above, the player argued that such circumstances confirmed that art. 9.6 could be interpreted only as a buy-out clause and, therefore, the termination of the contract by the player pursuant to said clause was with just cause.

32. In its reply to the claim, Club E stated that, on 30 August 2017, it was informed that the player had terminated his contract with Club C in

accordance with a buy-out clause and, since then, he was out of contract. According to Club E, only after that moment it contacted the player for the first time and eventually (i.e. on 31 August 2017) concluded the employment contract with him. Consequently, Club E maintained that it was not in a position to exert any influence on the player while he was under contract with Club C and, thus, it did not induce him to terminate the relevant contract.

33. In its replica, the Claimant rejected the other parties' arguments and, as to the player's position, it denied that the player did not have the opportunity discuss the content of the contract with Club C before its signature and that it allegedly informed the player that art. 9.6 granted him the right to terminate the contract.

34. Moreover, while reiterating its previous arguments, Club C also pointed out that the interpretation of art. 9.6 should first and foremost be carried out seeking the common intention of the parties. In this regard, as confirmed by the correspondence sent by the Claimant to Club E on 30 and 31 August 2017, Club C affirmed that the Club made always clear that art. 9.6 of the contract was not a buy-out clause, but rather a liquidated damages clause for the case the player terminated the contract without just cause.

35. Furthermore, Club C affirmed that the player arrived in City M (i.e. the city of Club E) on 29 August 2017, passed the medical tests with Club E on 30 August 2017 and, on the same date, it terminated the contract. In particular, the Claimant argued that, in view of the economic terms of the new contract, the player left Club C for Club E for financial reasons.

36. In this framework, the Claimant stressed that, when the player terminated the contract, on 30 August 2017, the transfer window in Country D was already closed and this entailed further damages for Club C.

37. As to the content of Club E's response to the claim, Club C affirmed that it is not true that Club E did not contact the player before he terminated the contract with his former Club, as the player arrived in City M on 29 August 2017 and passed the medical tests on 30 August 2017, before terminating the contract with Club C on the same date in the late evening. What is more, the club stressed that such termination was sent to Club C only after that the latter had sent its letter to Club E (cf. point 9 above). In particular, the Claimant submitted documentation according to which the player's termination was sent via e-mail to Club C on 30 August 2017 at 7 pm, while Club C's letter to Club E had been sent via e-mail before, at 5:31 pm.

38. In his duplica, the player reiterated his previous arguments, on the basis of which it insisted that art. 9.6 was a buy-out clause and, therefore, the player terminated the contract with just cause.

39. Also Club E, in its final comments, did not change its position and affirmed that the alleged news from Country F mass-media, which Club C referred to within its replica, were not admissible and unreliable.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Dispute Resolution Chamber (hereinafter also referred to as: *Chamber* or *DRC*) analysed whether it was competent to deal with the matter at hand. In this respect, it took note that the present matter was submitted to FIFA on 19 October 2017. Consequently, the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2017; hereinafter: *Procedural Rules*) are applicable to the matter at hand (cf. art. 21 of the Procedural Rules).

2. Subsequently, the members of the Chamber referred to art. 3 par. 1 of the Procedural Rules and confirmed that, in accordance with art. 24 par. 1 in combination with art. 22 lit. b) of the Regulations on the Status and Transfer of Players (edition 2018), the Dispute Resolution Chamber is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Country D club, a Country B player and a Country F club.

3. In continuation, the Chamber analysed which regulations should be applicable as to the substance of the matter. In this respect, it confirmed that, in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (edition 2018), and considering that the present claim was lodged on 19 October 2017, the 2016 edition of said regulations (hereinafter: *Regulations*) is applicable to the matter at hand as to the substance.

4. The competence of the Chamber and the applicable regulations having been established, the Chamber entered into the substance of the matter. In this respect, the Chamber started by acknowledging all the above-mentioned facts as well as the arguments and the documentation submitted by the parties. However, the Chamber emphasised that in the following considerations it will refer only to the facts, arguments and documentary evidence, which it considered pertinent for the assessment of the matter at hand.

5. In this respect, the members of the DRC acknowledged that, on 28 March 2017, the player and Club C signed an employment contract valid until 24 March 2020, pursuant to which the player was entitled to receive a monthly salary of EUR 1,500.

6. In continuation, the DRC took note that it was undisputed by the parties that said contract was terminated by Respondent I on 30 August 2017, in writing, on the basis of art. 9.6 of the contract and without mentioning other circumstances allegedly justifying such termination. In addition, on 31 August 2017, Respondent I and the Respondent II signed an employment contract valid as from such date until 14 June 2020.

7. The Chamber further took note of the position of the Claimant, which maintained that Respondent I terminated the contract without just cause. In particular, the Claimant averred that art. 9.6 of the contract was not a buy-out clause as it only set the consequences of the termination of the contract without just cause by the player. As a consequence thereof, the Claimant requested to be awarded compensation for breach of the employment contract and to declare that Respondent II is jointly liable for the relevant payment.

8. Equally, the members of the Chamber noted that Respondent I, for his part, rejected the claim of the Claimant, arguing that art. 9.6 of the employment contract was to be interpreted *contra proferentem* and, as such, it constituted a buy-out clause which entitled the player to the unilateral termination of the contract based upon any reason whatsoever, by paying the amount of EUR 50,000. To this end, Respondent I stressed that the payment of the aforementioned amount was acknowledged by the Claimant.

9. Furthermore, the DRC took note of the position of Respondent II, which held that it did not induce the player to terminate the contract with Club C and affirmed that it negotiated the employment contract with Respondent I only after he terminated the contract with the Claimant.

10. On account of the above, the members of the Chamber highlighted that the underlying issue in this dispute, considering the diverging position of the parties, was to determine whether the Claimant had just cause to terminate the contract on 30 August 2017 and to decide on the consequences thereof.

11. In so doing, the Chamber proceeded with an analysis of the circumstances surrounding the present matter, the parties' arguments as well the documentation on file, bearing in mind art. 12 par. 3 of the Procedural Rules,

in accordance with which any party claiming a right on the basis of an alleged fact shall carry the burden of proof.

12. In this respect, the DRC first went to carefully analyse the content of the clause under art. 9.6 of the contract and emphasised that the relevant provision appears to deal with the consequences of the termination of the contract in the event that the player breaches the contract, rather than providing the player's entitlement to terminate the contract by paying a certain predetermined amount. In particular, the members of the Chamber stressed that the amount of EUR 50,000 indicated therein not only appears to be payable as a consequence of the termination of the contract, but also seeks at fixing the minimum amount of compensation due to the Claimant in case of breach by the player. What is more, as the relevant clause provides not only the player's obligation to pay EUR 50,000, but also to "*compensate the expenses incurred by the club and related to the implementation of this contract*", the final amount of such compensation remains open as to its maximum.

13. Furthermore, as to the player's arguments that the clause under art. 9.6 of the contract was not negotiated but, rather, it was imposed by the Claimant and that he was not assisted by a legal advisor at the time of the conclusion of the contract, the members of the DRC emphasised that the player did not corroborate his allegations with any conclusive evidence. In this respect, the DRC deemed also important to point out that, pursuant to the long-standing jurisprudence of the DRC, any party signing a document of legal importance without knowledge of its precise content does so on its own responsibility. Consequently, the Chamber concluded that the aforementioned arguments of Respondent I could not be upheld.

14. On account of the aforementioned considerations, the Chamber was of the opinion that it had no other option than to consider that the player had no contractually stipulated right to prematurely terminate the contract. Consequently, the Chamber deemed that Respondent I had no just cause to unilaterally terminate the employment relationship and, therefore, concluded that he terminated the contract without just cause on 30 August 2017.

15. Subsequently, after having established that Respondent I terminated the contract without just cause, the DRC established that, in accordance with art. 17 par. 1 of the Regulations, the player is liable to pay compensation to the Claimant for breach of contract. Furthermore, in accordance with the unambiguous contents of art. 17 par. 2 of the Regulations, the Chamber established that the player's new club, *i.e.* Respondent II, shall be jointly and

severally liable for the payment of compensation. In this respect, the Chamber was eager to point out that the joint liability of Respondent II is independent from the question as to whether the new club has committed an inducement to contractual breach or any other kind of involvement by the new club. This conclusion is in line with the well-established jurisprudence of the Chamber that was repeatedly confirmed by the Court of Arbitration for Sport (CAS).

16. Having stated the above, the Chamber focussed its attention on the calculation of the amount of compensation for breach of contract in the case at stake. In doing so, the members of the Chamber firstly recapitulated that, in accordance with art. 17 par. 1 of the Regulations, the amount of compensation shall be calculated, in particular and unless otherwise provided for in the contract at the basis of the dispute, with due consideration for the law of the country concerned, the specificity of sport and further objective criteria, including in particular the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years as well as the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period. The DRC recalled that the list of objective criteria is not exhaustive and that the broad scope of criteria indicated tends to ensure that a just and fair amount of compensation is awarded to the prejudiced party.

17. In application of the relevant provision, the Chamber held that it first of all had to clarify as to whether the pertinent employment contract contained a provision by means of which the parties had beforehand agreed upon an amount of compensation payable by the contractual parties in the event of breach of contract.

18. In this respect, the Chamber wished to recall that, pursuant to art. 9.6 of the contract, "*in the event of unilateral termination of the contract by* [the player]*, on grounds and procedures that are not stipulated in this contract, or in the event of unilateral termination of this contract by the* [Club] *due to the* [player's] *wrongdoing, the player is obliged to pay a fine in the amount of EUR 50,000 (fifty thousand) to the* [Club] *within 14 days, as well as to compensate the expenses incurred by the* [Club] *and related to the implementation of this contract*".

19. With the above in mind, the Chamber considered noteworthy to mention, from the outset, that, due to their important objective of setting forth, in advance, the indemnity to be payable by a party in case of breach of contract, compensation clauses should be clear and give no room for ambiguity. In

other words, the DRC emphasised that, as a deciding body, when assessing the existence or not of a compensation clause, it must be in a position to clearly establish the precise intention of the parties as to the matter.

20. Taking into account the clause at stake, the members of the Chamber underlined again that no fixed amount was set out in art. 9.6 of the contract, but that said amount remains open as to its maximum and the clause only seeks fixing the minimum amount payable to the Claimant (i.e. EUR 50,000) in case of breach by the player.

21. In light of the above, the Chamber considered that the aforementioned clause cannot be considered by the DRC when establishing the amount of compensation for breach of contract. What is more and for the sake of good order, the Chamber wished to emphasise that, in any case, the clause at stake was not reciprocal, meaning that it did not foresee the consequences of the unilateral termination without just cause by the club and that, as such, it could not be seen as enforceable.

22. In continuation, the members of the Chamber determined that the amount of compensation payable in the case at stake had to be assessed in application of the other parameters set out in art. 17 par. 1 of the Regulations. The Chamber recalled that said provision provides for a non-exhaustive enumeration of criteria to be taken into consideration when calculating the amount of compensation payable. Therefore, other objective criteria may be taken into account at the discretion of the deciding body. In this regard, the Dispute Resolution Chamber stated beforehand that each request for compensation for contractual breach has to be assessed by the Chamber on a case-by-case basis taking into account all specific circumstances of the respective matter.

23. Consequently, in order to estimate the amount of compensation due to the Claimant in the present case, the Chamber firstly turned its attention to the to the essential criterion relating to the fees and expenses paid by Club C for the acquisition of the player's services insofar as these have not been amortised over the term of the relevant contract. In this regard, the DRC observed that the Claimant had not specifically included any of these costs in its claim but the payment of training compensation. Nevertheless, the DRC also pointed out that the payment of training compensation cannot be included in the aforementioned expenses and fees, being the same a consequence of the transfer of the player. As such, the Chamber established that, as it had no indications at its disposal regarding possible fees and expenses paid or incurred by the Claimant for the acquisition of the player, it could not further consider that criterion in the specific case at hand.

24. The Chamber further noted that, in its calculation of the amount of compensation, the Claimant had included costs relating to the acquisition of another player that allegedly replaced the player Respondent. In this regard, the Chamber was eager to emphasise that the Claimant failed to provide documentary evidence in order to establish, at the Chamber's satisfaction, a direct nexus between the loss of the player Respondent's services and the hiring of the new player. Therefore the Chamber decided not to take into consideration the alleged extra-costs for the new player's salary, let alone the alleged intermediary's fee, in order to determine the payable compensation.

25. Likewise, the members of the Chamber agreed that the amount of EUR 175,000, which was put forward by the Claimant in its claim maintaining that it would have accepted to negotiate the player's transfer to another club on the basis of such offered amount, could not be accepted, since it was considered to be speculative.

26. Consequently, in order to estimate the amount of compensation due to the Claimant in the present case, the members of the Chamber turned their attention to the financial terms of the player's former contract and the new contract, the value of which constitutes an essential criterion in the calculation of the amount of compensation in accordance with art. 17 par. 1 of the Regulations. The members of the Chamber deemed it important to emphasise that the relevant compensation should be calculated based on the average fixed remuneration, *i.e.* excluding any conditional or performance related payment, agreed by the player with his former club and his new club, as well as considering the period of time remaining on the contract signed between the player and the former club.

27. Bearing in mind the foregoing, the Chamber proceeded with the calculation of the fixed remuneration payable to the player under the terms of both the employment contract signed with the Claimant, *i.e.* Club C, and the one signed with the Respondent II, *i.e.* Club E, for the period that was remaining since the unilateral termination of the contract by the player until its expiry, *i.e.* from 30 August 2017 until 24 March 2020.

28. In this regard, the Chamber noted that, as per the employment contract signed with the Claimant, the player was entitled to a monthly remuneration in the amount of EUR 1,500 for the remaining contractual period, *i.e.* a total fixed remuneration of EUR 46,500. In this respect and referring to art. 12 par. 3 of the Procedural Rules, the DRC wished to emphasise that the Claimant did not provide satisfactory evidence about the alleged higher gross monthly remuneration of the player and about an allegedly agreed monthly house

allowance.

29. In continuation, the DRC equally took note of the player's remuneration under the terms of his employment contract with his new club, *i.e.* Respondent II, which corresponds to EUR 319,477 for the relevant period.

30. Taking into account the above, the Chamber concluded that, for the relevant period, the player's average remuneration amounts to EUR 182,988.

31. Furthermore, the members of the DRC deemed necessary to recall that the Claimant acknowledged receipt of the amount of EUR 50,000 from Respondent I after the termination of the contract and that it remained undisputed that such amount was retained by the Claimant. Consequently, the DRC concluded that the aforementioned amount shall be deducted in the calculation of the compensation for breach of contract payable to the Claimant.

32. On account of the above, and taking into account all the aforementioned objective elements in the matter at hand, the Dispute Resolution Chamber decided that the total amount of EUR 132,988 was to be considered a reasonable and justified amount to be paid as compensation for breach of contract in the case at hand.

33. In addition and with regard to the Claimant's request for interest, the Chamber decided that the Claimant is entitled to 5% interest p.a. on said amount as of 19 October 2017 until the date of effective payment.

34. Furthermore, the Chamber decided that, in accordance with art. 17 par. 2 of the Regulations, the Respondent club shall be jointly and severally liable for the payment of the aforementioned amount of compensation.

35. In continuation, the Chamber focussed its attention on the further consequences of the breach of contract in question and, in this respect, it addressed the question of sporting sanctions against the player in accordance with art. 17 par. 3 of the Regulations. The cited provision stipulates that, in addition to the obligation to pay compensation, sporting sanctions shall be imposed on any player found to be in breach of contract during the protected period.

36. In this respect, the members of the Chamber referred to item 7 of the "*Definitions*" section of the Regulations, which stipulates, *inter alia*, that the protected period shall last "*for three entire seasons or three years, whichever comes first, following the entry into force of a contract, where such contract*

is concluded prior to the 28th birthday of the professional, or two entire seasons or two years, whichever comes first, following the entry into force of a contract, where such contract is concluded after the 28th birthday of the professional". In this regard, the DRC pointed out that the player, whose date of birth is 4 November 1995, was 21 years of age when he signed his employment contract with the Claimant on 28 March 2017, entailing that the unilateral termination of the contract occurred within the applicable protected period.

37. With regard to art. 17 par. 3 of the Regulations, the Chamber emphasised that a suspension of four months on a player's eligibility to participate in official matches is the minimum sporting sanction that can be imposed for breach of contract during the protected period. This sanction, according to the explicit wording of the relevant provision, can be extended in case of aggravating circumstances. In other words, the Regulations intend to guarantee a restriction on the player's eligibility of four months as the minimum sanction. Therefore, the relevant provision does not provide for a possibility to the deciding body to reduce the sanction under the fixed minimum duration in case of mitigating circumstances.

38. With the above in mind, the members of the Chamber wished to recall the sequence of the events of the present matter. First, the DRC recalled that, on 30 August 2017, the Claimant sent a letter to Respondent II informing that the player could not train with Club E as he was under contract with Club C. Then, on the same date, the Respondent I terminated the contract and, on 31 August 2017, he signed an employment contract with Respondent II. Nevertheless, the members of the Chamber wished to emphasise that, based on the documentation submitted by the Claimant, it appears that, despite the two events took place on the same day, the player's termination of the contract was sent to the Claimant only after that the latter sent his letter to the club Respondent.

39. Having stated that, the DRC was eager to emphasise that the player raised his income considerably by concluding an employment contract with Respondent II and underlined that only one day passed between the termination of the contract with the Claimant and the execution of the new contract with Respondent II.

40. Consequently, taking into account the circumstances surrounding the present matter, the Chamber was of the opinion that the player only terminated the contract with the aim of signing a new contract with Club E. As such, the DRC decided that, by virtue of art. 17 par. 3 of the Regulations, the Respondent player is to be sanctioned with a restriction of four months on his eligibility

to participate in official matches.

41. Finally, the members of the Chamber turned their attention to the question of whether, in view of art. 17 par. 4 of the Regulations, the player's new club, *i.e.* Respondent II, must be considered to have induced the player to unilaterally terminate his contract with the Claimant without just cause during the protected period and, therefore, shall be banned from registering any new players, either nationally or internationally, for two entire and consecutive registration periods.

42. In this respect, the Chamber recalled that, in accordance with art. 17 par. 4 of the Regulations, it shall be presumed, unless established to the contrary, that any club signing a professional player who has terminated his previous contract without just cause has induced that professional to commit a breach. Consequently, the Chamber pointed out that the party that is presumed to have induced the player to commit a breach carries the burden of proof to demonstrate the contrary.

43. Having stated the above, the members of the Chamber took note that, based on the documentation submitted by the parties, it appears that Respondent II not only did not react to the Claimant's letters but, even more, there was only one a one day distance between the date of termination of the contract with Club C (30 August 2017) and the conclusion of the employment contract with the Respondent II (31 August 2017).

44. In light of the aforementioned, and given that Respondent II did not provide any other specific or plausible explanation as to its possible non-involvement in the player's decision to unilaterally terminate his employment contract with the Claimant, the DRC had no option other than to conclude that Respondent II had not been able to reverse the presumption contained in art. 17 par. 4 of the Regulations and that, accordingly, the latter had induced the player to unilaterally terminate his employment contract with the Claimant.

45. In view of the above, the Chamber decided that, in accordance with art. 17 par. 4 of the Regulations, Respondent II shall be banned from registering any new players, either nationally or internationally, for the two entire and consecutive registration periods following the notification of the present decision. Respondent II shall be able to register new players, either nationally or internationally, only as of the next registration period following the complete serving of the relevant sporting sanction. In particular, it may not make use of the exception and the provisional measures stipulated in art. 6 par. 1 of the Regulations in order to register players at an earlier stage.

46. The Dispute Resolution Chamber concluded its deliberations in the present matter by establishing that any further claim lodged by the Claimant is rejected.

III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Club C, is partially accepted.

2. Respondent I, Player A, is ordered to pay to the Claimant, **within 30 days** as from the date of notification of this decision, compensation for breach of contract in the amount of EUR 132,988, plus 5% interest p.a. as from 19 October 2017 until the date of effective payment.

3. Respondent II, Club E, is jointly and severally liable for the payment of the aforementioned compensation.

4. In the event that the aforementioned amount plus interest is not paid within the stated time limit, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.

5. Any further claim lodged by the Claimant is rejected.

6. The Claimant is directed to inform the Respondent I and Respondent II, immediately and directly of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received.

7. A restriction of four months on his eligibility to play in official matches is imposed on the Respondent I, Player A. This sanction applies with immediate effect as of the date of notification of the present decision. The sporting sanction shall remain suspended in the period between the last official match of the season and the first official match of the next season, in both cases including national cups and international championships for clubs.

8. Respondent II, Club E, shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision.

*****

Note relating to the motivated decision (legal remedy):

According to article 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 and shall contain all the elements in accordance with point 2 of the directives issued by the CAS, a copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS (cf. point 4 of the directives).

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

Court of Arbitration for Sport
Avenue de Beaumont 2
1012 Lausanne
Switzerland
Tel: +41 21 613 50 00
Fax: +41 21 613 50 01
e-mail: info@tas-cas.org
www.tas-cas.org

For the Dispute Resolution Chamber:

Emilio García Silvero
Chief Legal Officer

Encl. CAS directives