Sporting just cause and the relating jurisprudence of FIFA and CAS

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The FIFA Regulations on the Status and Transfer of Players (the Regulations)\(^1\) stipulate that a contract between a professional and a club may only be terminated: 1) on expiry of the term of the contract or by mutual agreement (Art. 13); or 2) if there is “just cause” (Art. 14); or 3) for “sporting just cause” (Art. 15).

On 10 August 2007, the FIFA Dispute Resolution Chamber (DRC) had to address, for the first time, the question whether a professional had terminated the employment contract prematurely on the ground of sporting just cause in the sense of Art. 15 of the Regulations. The latter article, as well as the pertinent formal DRC Decision\(^2\) and final award passed by the Court of the Arbitration for Sport (CAS)\(^3\) are subject of this contribution.

The Regulations

Art. 15 of the Regulations (edition 2009) provides as follows:

> “An established professional who has, in the course of the season, appeared in fewer than ten per cent of the official matches in which his club has been involved may terminate his contract prematurely on the ground of sporting just cause. Due consideration shall be given to the player’s circumstances in the appraisal of such cases. The existence of a sporting just cause shall be established on a case-by-case basis. In such a case, sporting sanctions shall not be imposed, though compensation may be payable. A professional may only terminate his contract on this basis in the 15 days following the last official match of the season of the club with which he is registered”.

The Commentary on the Regulations\(^4\)

FIFA maintains in the Commentary that there are only two mandatory conditions for a player to be entitled to claim sporting just cause: (i) that the player is recognized as an established player; and (ii) that he has not appeared in 10% of the Official Matches of his club during the Season.

With respect to (i), FIFA defines the term “established player”, as a player who has terminated and completed his training period and whose level of football skills is at least equal to or even superior to those of his teammates who appear regularly.

Regarding (ii), FIFA clarifies that: a) “appearance” is to be understood as being fielded and thus, actively taking part in a game. In this respect, it is not the number of appearances in games but the minutes effectively played therein that is relevant; and b) the championship, as well as national and international cup matches, is to be taken into account to establish the percentage of games played.

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\(^1\) The Regulations are published on FIFA.com, as well as all other FIFA-related documents cited hereinafter.
\(^2\) cf. DRC No 871322, decision of 10 August 2007.
\(^3\) cf. CAS 2007/A/1369, award of 6 March 2008.
\(^4\) cf. p. 41 to 43 of the Commentary.
The existence of sporting just cause must always be established by the competent deciding body. If sporting just cause does not exist, this means that the employment relationship has been terminated without just cause and consequently, Art. 17 of the Regulations applies.

According to FIFA, the term “player’s circumstances” (e.g. the player’s position on the pitch, any injuries or suspensions sustained by a player that have prevented him from playing over a certain period of time as well as any situation that may justify, from a sporting point of view, the fact that the player has not been fielded on a regular basis) is not to be considered as an independent criterion, but it should be seen in the context of the prerequisite “established player”.

No sporting sanctions will be imposed on the player, terminating the contract for sporting just cause. However, compensation may be payable to the club, unless the player can prove that the club has completely neglected him from a sporting point of view.

Lastly, FIFA points out that a player, who seeks to rescind an employment contract for sporting just cause outside the 15 days following the last Official Match of the Season, is liable to imposition of sporting sanctions and to pay compensation to the club for damages incurred by the latter as a result of the contract being terminated incorrectly. With regards to the “sanctions” issue, FIFA maintains that “the closer it is to the end of the main registration period, the harder the sanction may be”.

Interim conclusions

Beforehand, I wish to underline that the Commentary is no more than a guideline for the interpretation of the Regulations. Therefore, it is the real intent and wording of Art. 15 of the Regulations that matters.

Obviously, Art. 15 of the Regulations provides a legal basis exclusively to the player (not to the club) for a unilateral termination of the employment contract. In so far as participation in Official Matches is the essential purpose of a professional player's activity, it is my understanding that Art. 15 is designed, first and foremost, to secure the player’s right to an effective employment and to provide protection for the player’s professional career, which is relatively short.

Traditionally, the employer’s duty to provide work applies only to those who are paid on a commission or piecework basis, or an exceptional category of employee who needs to work in order to establish and enhance a professional reputation, for instance, an actor or a singer, or a football player or coach. In view of the latter, in the case CAS 2005/A/909-910-911-912, award of 9 March 2006, in par. 9.9 CAS has ruled as follows:

“It is also to be reminded that the employer has under Swiss Law the obligation to protect the employee's personality (Art. 328 of the Swiss Code of Obligations hereafter "CO"). The case law has deduced thereof a right for some categories of employees to be employed, in particular for employees whose inoccupation can prejudice their future career development. The employer has to provide these employees with the activity they have been employed for and for which they are qualified. The employer is therefore not authorised to employ them at

5 For the exact role of the Commentary, please see FIFA Circular No 1075.
6 cf. ECJ Case C-415/93, “Bosman”, judgment of 15 December 1995, par. 120, the 2nd sentence.
7 cf. also CAS 2007/A/1369, paras. 142, 146, 168 and 218 (cf. infra).
It is my personal opinion that there are three cumulative conditions for a player “to be entitled” to claim sporting just cause: (i) “established player”; (ii) “10% appearance”; and (iii) “15-day term”.  

With respect to (i), according to Art. 1.1 of Annex 4 of the Regulations, training compensation is payable “for training incurred up to the age of 21, unless it is evident that a player has already terminated his training period before the age of 21”. Therefore, in any event, “the conclusion of a player’s training period occurs when the player reaches the age of 21”. It is also possible that the player terminates and completes his “training period” before his 21st birthday. The examples provided in footnote 149 of the Commentary facilitate the comprehension of the football stakeholders with respect to the earlier conclusion of the player’s establishment.

“CAS 2003/O/527: a player signed his first professional contract at the age of 17. In his first season as a professional, he played 15 times with the first team. Moreover, at that time, he was noticed for his good technical skills and speed. Therefore, it was considered that the player had terminated his training period before his second season as a professional player at the age of 18.
CAS/2004/A/594: a player was considered by his training club as “the most talented player who played at all ages at the highest level in the country of the training club and in the national teams at all ages”. Moreover, the player was described by his training club as a “regular player for the club”. Finally, for the four-year loan of the player at the age of 18, a six-figure USD sum was paid for each year. Therefore, it was considered that the player’s training was terminated at the age of 17, when he, in fact, signed a five-year contract with his training club”.

As to (ii), for the calculation of the “10% appearance” “it is not the number of appearances in games but the minutes effectively played therein that is relevant”. Following a grammatical rather than a teleological interpretation of Art. 15 “could defeat the intention underlying the approval of this provision, which essentially seeks to protect players from being prevented from actively continuing with their professional careers and from keeping up their levels of competitiveness”.

Regarding (iii), the “15-day term” is a compulsory prerequisite for the admissibility of the player’s claim on the ground of sporting just cause, but it bears no relevance when determining whether sporting just cause is in fact present or not. It is clear from the language of the last sentence of Art. 15 that the player is prevented from invoking a sporting just cause to part with the club beyond the 15 days deadline from the last official match of the Season. Otherwise, the effects of Art. 17 of the Regulations apply in full.

Furthermore, it is very important to emphasize that Art. 15 does not provide for a mandatory termination notice to be served to the club. It follows that the issue of proceedings on the basis of

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9 cf. also Frans de Weger, THE JURISPRUDENCE OF THE FIFA DISPUTE RESOLUTION CHAMBER, p. 96-97, par. 8.4.1.
10 cf. CAS 2007/A/1369, par. 132 (cf. infra).
11 cf. also the last example on p. 6 of FIFA Circular No 769.
12 cf. fn. 66 of the Commentary; see also CAS 2007/A/1369, par. 147 (cf. infra).
13 cf. CAS 2007/A/1369, par. 146 (cf. infra).
sporting just cause before the competent judicial body, within the 15 days timeframe from the end
of the Season, completely satisfies the requirements of the criterion “15-day term”.14 Pursuant to
Swiss law, subsidiarily applied by FIFA and CAS in case of a loophole in the Regulations, save for
disputes where the parties have explicitly agreed upon the application of another national law in
advance, “[f]or valid reasons, ... the employee, may ... terminate the employment relationship
without notice. He shall justify the termination of the contract in writing if so requested by the other
party”15. In this respect, the following example of CAS case-law is indicative:16

“By his agent’s letter of 14 March 2006 the Appellant notified FIFA that he considered the
Contract to be terminated with immediate effect and that he was thinking of entering into a
new contract with another club. As of 15 March 2006 the Appellant no longer appeared for
training and otherwise no longer fulfilled his obligations under the Contract. Instead he
travelled to Antalya on 15 March 2006 and left Turkey shortly afterwards. The letter of 14
March 2006 must therefore be considered to be a termination of the Contract by the
Appellant”.

As far as the term “player’s circumstances” is concerned, from the one hand, it indeed pertains to
the prerequisite “established player” (e.g. the age of the player, the number of games played in the
previous season(s), any senior national team experience and the compensation paid for the player’s
registration, if any, are among the main criteria to be considered when determining whether the
player is established or not), and, on the other hand, it concerns also the „10% appearance”
condition (e.g. any injuries or suspensions sustained by a player that have prevented him from
playing over a certain period of time will surely influence the count). For these reasons, I agree with
FIFA that the criterion “player’s circumstances” has, as its standing purpose, to give assistance in
determining whether a player is “established” and has appeared in fewer than 10% of the playing
time of his club and that it cannot be considered as an independent factor to establish the existence
of sporting just cause, but rather it has to be subordinated in relation to the “established player” and
„10% appearance” heads.

In continuation, one must keep in mind that “Season” is “the period starting with the first official
match of the relevant national league championship and ending with the last official match of the
relevant national league championship”.17 Evidently, the notion of “Season” does not encompass
the national and international cup matches.18 Therefore, any cup match played after the end of the
Season could not be included in the calculation of the 10% of the playing time and the 15 days
regulatory time limit.

Equally, due attention should be paid to the notion of “Official Matches”, as defined in Definition 5
of the Regulations, which does not cover any friendly and trial matches.

Finally, it is noteworthy that in some occasions compensation may be payable to the club, unless
the player can prove that the club was not interested in his services - for e.g. if the player was
dropped in the second team of the club for the entire Season, provided that Art. 15 of the
Regulations applies only to established professionals, who, as a general rule, are hired by the club to

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14 It is worth noting, in this connection, that the “[p]arties affected by the opening of proceedings must be notified
thereof without delay” (cf. Art. 6.3 of the FIFA General Procedural Rules, the 2nd sentence).
16 cf. CAS 2006/A/1100, award of 15 November 2006, par. 8.2.
17 cf. Definition 9 of the Regulations.
be fielded in first team action. The latter implies, by the way, that any second team match must be excluded from the percentage of games played.\textsuperscript{19} “In the event it is determined that compensation is payable, the amount must obviously be less than the compensation due in the case of an unjustified contractual breach, since the club is at least in part responsible for the breach, and should, in principle, not exceed the salary remaining until the end of the contract”.\textsuperscript{20}

**The jurisprudence of FIFA**

On 20 August 2004, the player T, born in 1984, and the club K entered into a contract, valid until 31 December 2008. 4 days after the last official match of K in the 2006 season, played on 26 November 2006, FIFA received a petition from T, requesting, \textit{inter alia}, the termination of his contract with K for sporting just cause. T alleged, \textit{inter alia}, participation in 4 matches (198 min.) out of 34 first team matches (3090 min, incl. 30 min. extra time played in a Cup game) and that he is an established player. T also explained that he appeared in 1 second team match of K, which must not count.

K replied, \textit{inter alia}, that T is not an established player and appeared in 11.76% of the official matches. K requested from FIFA, primarily, to order T to return to K, or, alternatively, to establish that T terminated the contract without just cause during the “Protected Period”\textsuperscript{21} and as a result, to condemn T to pay compensation to K and to entail a sporting sanction on him. The FA of K informed FIFA that K played 34 official matches, 30 Championship matches and 4 Domestic Cup matches, and T participated in 5 matches, being effectively fielded 245 min.

DRC, first of all, retained its jurisdiction to hear the dispute between T and K. Subsequently, DRC concluded that edition 2005 of the Regulations is applicable to the merits. DRC then made the following pertinent considerations, \textit{inter alia}:\textsuperscript{22}

“In continuation, the members of the Chamber deemed important to emphasize that for the sake of good order the determination of sporting just cause has to be measured accurately and carefully. Therefore this legal remedy authorizing to terminate a labour relationship with a valid reason has to be set at high level and under clear and objective conditions in order to preserve the legal security.

Equally, the deciding authority was eager to emphasize that it is the first time it had to address the question whether a professional has terminated the relevant employment contract prematurely on the grounds of sporting just cause in the sense of art. 15 of the Regulations, and thus, no jurisprudence has been established so far.

Yet the Chamber remarked that under the Regulations and following a grammatical interpretation of the relevant provision, the sporting just cause is established mainly taking in consideration a floor of 10% of the official matches in which the player in question participated and not the minutes.

Furthermore, the members of the Chamber checked carefully the information at disposal in the matter at stake, in particular the report submitted to FIFA by the National Football Union and they concluded that the player T participated in 5 of the 34 official matches that K played.

\textsuperscript{19} cf. also CAS 2007/A/1369, par. 149 (cf. infra).
\textsuperscript{21} cf. Definition 7 of the Regulations.
\textsuperscript{22} cf. DRC No 871322, decision of 10 August 2007, paras. II.20-24.
Consequently, the Chamber deemed that there is not sporting just cause in the matter at stake since 5 matches out of 34 is more than 10% that the limit required by art. 15 of the Regulations”.

On account of the above, among other considerations, DRC decided unanimously that T dissolved the contract with K without just cause during the protected period and T is thus liable to pay compensation to K, as well as to imposition of a 4-month restriction on his eligibility to participate in any official matches, which “sanction shall take effect as from the first day of the registration of the player with a new club”.

The jurisprudence of CAS

On 31 August 2007, T appealed against the DRC Decision to the CAS. In his final decision, the CAS Sole Arbitrator, at first, upheld his jurisdiction to decide the dispute at stake. Furthermore, CAS placed reliance on the provision of Art. 60.2 of the 2007 FIFA Statutes, which reads, inter alia, that “CAS shall primarily apply the various regulations of FIFA … and, additionally, Swiss law”, and confirmed “that the edition of the FIFA Regulations applicable to this case is the 2005 edition”.

With respect to the essential question “Did the player have [sporting] just cause to terminate the employment contract with the Club and was the said termination effected in the legally prescribed manner”, CAS made the following relevant and notable considerations, inter alia:

“123. It is accordingly necessary for four requirements to be complied with before a player can terminate his Employment Contract on the grounds of sporting just cause:
   a. That the player is an established professional;
   b. That he has played in less than 10% of the official matches in which his club was involved in the sporting season in question;
   c. The player’s personal circumstances; and
   d. That he terminates his employment contract during the 15 days following the final official match in the season of the club with which he was registered.

A.2.1) An established Professional

130. The Single Arbitrator is of the opinion that the “established professional” concept needs to be filled out not only on the basis of the player’s age, but also on the basis of his sporting level as demonstrated during his career, in terms of an acceptable standard in the light of the specificity of sport, the player legitimate expectations and what is expected of the player in terms of sporting performance.

131. The applicable sporting regulations, i.e. the criteria considered therein, must also be taken into consideration in this interpretative exercise. Article 1 of Annexe 4 of the FIFA Regulations provides a general indication, when it provides that compensation for training “shall be payable, as a general rule, up to the age of 23 for training incurred up to the age of 21”.

132. The Single Arbitrator interprets this provision so that there is a presumption that the conclusion of a player’s training period occurs when the player reaches the age of 21.

135. Accordingly, in the light of the consideration above and considering that:
a. the Player came to Europe from Nigeria with a professional sports contract at the age of 17;
b. in the 2003/2004 sporting season the Player had played in 27 games (1988 minutes)...;
c. the Player was transferred to the Club in 2004 for a transfer fee of USD 550,000;
d. during the 2006 sporting season the Player received a monthly salary of USD 12,500, in addition to the other terms of the contract;
e. the Player played in 19 matches (1087 minutes) for the Club in the 2005 season; and
f. the Player was 22 years old when he rescinded his contract unilaterally,
in the light of all the facts, the Sole Arbitrator considers that the Player was already an established professional on the 27th of November 2006 and this requirement in article 15 of the FIFA Regulations is accordingly complied with.

A.2.2) Participation of the Player in less than 10% of the Official Matches played by the club

139. In the commentaries, FIFA appears to admit a teleological interpretation of the provision, i.e. an interpretation, which takes the objective of the provision into consideration, rather than a strictly literal application of article 15.
141. The provision and specifically the question of the calculation of a 10% participation in official matches must accordingly be considered in the light of the ratio of article 15, even if this leads to a consequence other than would have been obtained via a literal analysis of the said provision.
142. In the Single Arbitrator's opinion, the aim of this article is to permit a player to terminate his employment contract unilaterally if he is in a situation in which he is prevented from exercising his professional activity with a reasonable frequency and is, as such, prevented for progressing professionally.
143. In football, as in most sporting activities, regular competitive play is fundamental for the player's development and for the maintenance of his physical and technical skills.
145. If read literally, the limits imposed by this provision could be easily avoided by any club in relation to any player, for this it would suffice to put the player on the field in 10% of its official games, while only allowing him to play for 1 minute in each of these matches.
146. This interpretation could defeat the intention underlying the approval of this provision, which essentially seeks to protect players from being prevented from actively continuing with their professional careers and from keeping up their levels of competitiveness.
147. It is therefore admitted that participation by the player in more or less 10% of the official matches played by his club during a certain sporting season is calculated, not only by taking the number of matches in which the player did in fact play, but according to the time he was playing on the field.
148. Another aspect of the arithmetic calculation of the 10% requirement also needs to be clarified, i.e. what is the basis of the calculation, or what is the total number of games of the team, which must be taken into consideration?
149. First of all, it is necessary to expressly exclude matches played by second teams, or "B" teams, from this calculation. As this provision applies only to established professionals, the Single Arbitrator considers that it makes no sense to include such games in the calculation of either the total Official Matches played by the club, or in which the player played.
150. The Single Arbitrator considers in this regard that the first team games, which are relevant for the purpose of the calculation of the 10% envisaged in article 15 of the FIFA Regulations, does not have to correspond to all official matches played by the team during a
certain sporting season. For there are certain games in which a player is not eligible to play and which should not be included in the calculation, i.e.:
a. matches in which a player cannot play because he has been disqualified for unsporting behaviour, which has also been punished by the club internally, and
b. matches in which a player was not eligible to play because of illness or injury, which was not a direct or indirect consequence of his professional activity as a football player.
158. Although the Player played in 14.28% of the Club's official games for which he was eligible (4 out of 28 possible games), he only played for 7.76% of the minutes he was eligible to play (198 out of 2550 possible minutes).
159. According to the Single Arbitrator's interpretation of article 15 of the FIFA Regulations, he considers that notwithstanding the letter of the law, the meaning of the provision is that actual time played rather than the number of games should be considered. 160. In the light of the above, the Single Arbitrator considers that the second requirement in article 15 of the FIFA Regulations is complied with.

A.2.3) Player's circumstances

161. Many of what the Single Arbitrator considers to be the player's circumstances have already been considered in the preceding point, i.e. with regard to his legitimate aspirations to develop his skills and advance in his professional career.
164. The aspirations and personal circumstances of each player vary not only according to age, but also according to his career progress and obviously according to his position on the field.
165. A player, who is hired as a second goalkeeper must be willing to play only when the first goalkeeper is injured or, at most, in cup matches, A third goalkeeper must be willing to pass a whole season without ever playing.
167. Furthermore, the Single Arbitrator must take into consideration that it has not been proved that he ever, during the 2006 season, expressed the slightest discontent with regard to the lack of opportunity in his team's games or that he informed the Club that he wished to play in more first team games.
168. The Player's right to an effective occupation and to participate actively in competitions, to his technical, tactical and physical development cannot, in the Single Arbitrator's view, limit the freedom of action of clubs' technical departments, i.e. the club manager, in each game, to put on the field the players, which, in his opinion, as best suited to obtaining a positive result.
171. A player is not always in a physical and psychological condition in order to compete. The integration of a player in a team is not always consolidated. A player is not always able to become integrated within the culture of a club and to have relations of friendship and camaraderie with the other players, i.e. a player does not always integrate in what is commonly known as the "changing room". All these are factors and circumstances, which should be taken into consideration in the evaluation of the "effective occupation" of a player and the management of the team's performance that is required of the team's manager. We know from practical experience that a good player does not always do well in all teams and all clubs and that it is possible that the root cause of the non-integration or lack of motivation of a player may lie outside the club. This justifies the fact that the player may not be fielded in certain games or even that the player agrees to accept and agree to this treatment, because the player considers that he is not in good physical or psychological
condition or that other players in the same team are performing better, in order to achieve a good result for the team.

172. For all of the reasons detailed above and in order to preserve contractual stability, the termination of an employment contract for sporting reasons cannot be accepted on the basis of mere compliance with the formal requirements referred to above, unless the player has during the performance of his employment contract made the Club aware of his dissatisfaction with the fact that he is not actively participating in the team's games. Silence can communicate a sense of resignation, acceptance or even accommodation to the situation and give the impression he lacked motivation.

174. A player, who demonstrates by act or omission, during a sporting season that he is resigned to his position as an unused player, cannot subsequently avail himself of the said situation in order to justify the termination of his contract on the grounds of sporting just cause.

176. It must accordingly be considered that the Player's personal circumstances justified his intention to leave the Club, but that the Player should, in some way, during the season, have manifested his discontent with the way he was being treated by the Club, i.e. the fact that he was little used in first team games. Thus, the Single Arbitrator considers that the "player's circumstances" requirement in Article 15 of the FIFA Regulations is not complied with.

A.2.4) That the player terminates his employment contract during the 15 days following the last official game of the season the club with which he is registered

177. The notice of the Player's intention to terminate the Employment Contract on the grounds of sporting just cause was given in a fax sent to the [National] FU and FIFA ... on the 27th of November 2006.

178. According to the general provisions of the law, notice of the rescission of a contract is effective once it is known to the other party, unless the other party intentionally placed itself in a position in which it could not become aware of the said notice.

182. Despite the fact that the Club, at the hearing, acknowledged that it had become aware, during the days following the sending of the communication dated 27 November 2006, that contacts were being made between the Player and FIFA, it is also true that it stated that it had been unaware of the exact nature of the contents of the said contacts/communications and of what it was that the Player wanted from FIFA.

183. The termination of a contract involves compliance with rigorous formal and material requirements with regard to the giving of notice thereof to the other party, given the inherent seriousness of the rescission of a contract and the particularly relevant consequences thereof. In this case it has not been proved that the notice was sent directly to the Club, or that the Club had direct notice of the contents thereof on the date on which the Player states he sent the notice. It is stressed in the latter regard, that in the notice sent by the Player, the Club appears only as a party to which the notice is notified and not as the party to which the notice is addressed, as is required. Finally it is also noted at the material level that the terms of the communication sent are imprecise as to the formalisation of the termination of the contract on sporting grounds. The communication sent does not amount to a clear formalisation of the decision to terminate the contract, but is rather a request for the termination of the contract, which is addressed to the persons to whom the communication itself is addressed. It appears that the Player was awaiting some confirmation, as can be inferred from the first paragraph of the said communication...
184. Accordingly, as the sporting season ended on the 26th of November 2008, the unilateral termination of the Employment Contract by the Player on the grounds of sporting just cause would have to have been received by the club no later than the 12th of December 2006.

185. In the light of the above, the Single Arbitrator considers that the Player did not terminate his Employment Contract with the Club within the 15-day period following the Club’s final Official Game in the season and that the final requirement for the unilateral termination of the Employment Contract on the grounds of sporting just cause provided in article 15 of the FIFA Regulations has not been complied with.

A.2.5) Conclusion

186. The Single Arbitrator considers with regard to the sporting just cause for the unilateral termination of the Employment Contract invoked by the Player, that:

a. the Player was already an established professional on the 27th of November 2006;
b. the Player had a match play time of less than 10% of the time for which he was eligible to play for his team during the 2006 season;
c. the player's personal circumstances do not, in this case, justify the unilateral termination of the Employment Contract on the grounds of sporting just cause; and
d. the Player also failed to rescind his Employment Contract with the Club during the 15-day period following the Club's last official game of the season.

187. This being so and as the requirements of article 15 of the FIFA Regulations are cumulative and two of them have not been complied with, the Single Arbitrator accordingly upholds the DRC Decision appealed against, although not on entirely the same ratio as is stated therein, and dismisses the claim for the unilateral rescission of the Employment Contract between the Player and the Club on the grounds of sporting just cause”.

In addition to the above-made considerations, CAS also acknowledged, inter alia, the following:

“218. In the submissions made at the hearing by counsel for the Club, the Club stated that the only rights the Player could claim were the right "to train and be paid his salary". The Single Arbitrator considers, with all due respect, that there is one other right in addition to those mentioned, which also merit the protection of the law, i.e. the right to play and compete, or rather the right to an effective occupation, which right underlies the rule in article 15 of the FIFA Regulations.

222. The Player ceased to work for the Club on the 27th of November 2006”.

On account of the above-made considerations, among others, the CAS Sole Arbitrator decided to partially reform the DRC Decision, significantly reducing the due compensation and awarding interest of 5% per year accrued since 27 November 2006. In addition, CAS upheld the 4-month ban imposed on T’s eligibility to play in any official matches, which “sanction shall take effect as from the first day of the registration of the player with a new club”.

General conclusions

The leading jurisprudence of FIFA and CAS does not provide the football stakeholders with an unambiguous answer how to implement the provision of Art. 15 of the Regulations in the reality.
DRC made its ruling “mainly taking in consideration a floor of 10 % of the official matches in which the player in question participated and not the minutes”, including in the final calculation a second team game played by the player.

CAS shed light on the interpretation of the criteria “established player” and “10% appearance” and added new aspects to Art. 15, establishing, inter alia, that: 1) in any case, “the conclusion of a player’s training period occurs when the player reaches the age of 21”; 2) “participation by the player in more or less 10% of the official matches played by his club during a certain sporting season is calculated, not only by taking the number of matches in which the player did in fact play, but according to the time he was playing on the field”, as well as that “it is necessary to expressly exclude matches played by second teams, or ”B” teams, from this calculation”; 3) “the player’s circumstances” has to be regarded as a sovereign criterion; and 4) the player is required to send a termination notice, within “the 15 days following the last official match of the season of the club with which he is registered”, directly to the club. CAS went on further to state that the semantic construal of Art. 15 would deprive it from its essential purpose – i.e. “to protect players from being prevented from actively continuing with their professional careers and from keeping up their levels of competitiveness”.

In a nutshell, an established player, i.e. a player who has already reached 21 years-of-age or has completed and terminated his training period before that age, who has participated in less than 10% of the playing time of the first team official matches of his club during the season, ending with the last official match of the relevant national league championship, paying particular attention to his position on field and the various circumstances surrounding his professional activities, behavior, disciplinary record and health condition throughout the last season, may rely upon a sporting just cause to terminate the employment contract, within the preclusive term of 15 days following the end of the season, by serving a written notice directly to the club before action and the issue of proceedings. In such case, disciplinary sanctions will not be inflicted on the player, though financial compensation may be due to the club.

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