

THE FIFA CLEARING HOUSE: REGULATORY CHALLENGES AND ITS FUTURE

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ABSTRACT: The purpose of this article is to enumerate the working of the FIFA Clearing House, after almost two years of operations, and explain its nature, scope and purpose along with the issues highlighted by the Court of Arbitration for Sport in various recent awards. For the sake of clarity, this article is intended to highlight the current regulatory framework, and consequently, it will not elaborate on training compensation and solidarity mechanism itself, the past history or practice of its distribution and related issues or jurisprudence.

The article begins with an introduction to the FIFA Clearing House, and it attempts to explain the functioning of the latter and elaborate on all involved procedures. Finally, the authors attempt to dissect and critically analyse the relevant jurisprudence concerning the FIFA Clearing House and provide their key conclusions therefrom.

Lo scopo del presente articolo è esaminare l'operato della FIFA Clearing House a circa due anni dalla sua nascita e spiegare la sua natura, la portata del suo operato nonché il suo scopo congiuntamente con le criticità evidenziate dal Tribunale Arbitrale dello Sport (TAS) in vari lodi emessi recentemente. Per chiarezza, questo scritto intende esaminare l'attuale quadro normativo e, di conseguenza, non verterà sul meccanismo di solidarietà e sull'indennità di formazione in sé, né sul relativo sviluppo storico o sulla loro distribuzione o sulle problematiche e sulla giurisprudenza ad esse connessa.

L'articolo inizia con un'introduzione alla FIFA Clearing House e tenta di spiegare il funzionamento di quest'ultima e di approfondire tutte le procedure in cui è coinvolta. Infine, gli autori tentano di dissezionare e analizzare criticamente la pertinente giurisprudenza relativa alla FIFA Clearing House e fornire le loro conclusioni chiave.

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SUMMARY: 1. Introduction – 2. How does the FCH work? – 3. CAS jurisprudence relating to FCH and waiver of training compensation – 4. Analysis and Conclusions

1. Introduction

In 2018, the *Fédération Internationale de Football Association* (“FIFA”) reformed the transfer system (which relates to training compensation and solidarity mechanism) in order to promote and protect the integrity of professional football,¹ a crucial aspect of which was the introduction of the FIFA Clearing House (“FCH”).² The FCH is a payment institution established in Paris, France which started its operation on 16 November 2022, and acts as an intermediary in payments relating to training compensation and solidarity mechanism (“Training Rewards”) deriving from Artt. 20 and 21 and Annexes 4 and 5 of the FIFA Regulations on the Status and Transfer of Players (“RSTP”).

More precisely, training compensation and solidarity contribution must be paid when an international transfer of a player occurs. Training compensation refers to the fees paid by the new club to the former club(s) which trained that player between the ages of 12 and 21. This concept aims to maintain a competitive balance between clubs and allows the training clubs to continue to select, instruct and promote the professional career of youth talents, knowing that they will be fairly compensated for their efforts.³

On the other hand, solidarity mechanism refers to the payment made on a player’s transfer (before expiry of the contract) by a new club to the player’s former clubs which contributed to that player’s training and education between

¹ TONI ROCA, “FIFA’s proposed solidarity mechanism reforms – an effective solution or a lost opportunity?”, *LawInSport*, 16 January 2019.

² FIFA already started a process of automation of the proceedings related to solidarity contribution and training compensation by approving an innovative electronic system through the TMS, at that time, to manage such kind of disputes. The Circular letter n. 1500 dated 4 September 2015 defined the new procedural framework. This review analysed it in S. CIVALE, *L’Indennità di formazione e il contributo di solidarietà nei trasferimenti internazionali dei calciatori alla luce della Circolare FIFA n. 1500*, in *Riv. dir. ec. sport*, 2015, 117 and J. KLEINER, C. CHAPARRO YEDRO, V. SARCÌ, R. TITTOLO, *FIFA Clearing House: Una Pietra Miliare Per il Sistema di Trasferimento dei Calciatori*, *ivi*, 2023, 79-91.

³ CAS 2017/A/5103 *Valletta FC v. Apollon Limassol*, award of 12 June 2018, para. 50.