

PE1319/DDDD

Petitioners submission of 20 May 2020

We are writing in response to the submission PE1319/CCCC submitted on 11 May 2020 by the Scottish FA in relation to our petition.

We, the petitioners, are once again very disheartened by the submission of the Scottish FA and the persistent inaccuracies which they continue to present to the committee and have done over the past decade. This is despite our submissions and letters over the last year which specifically have addressed the points which the Scottish FA raise.

We refer to the Scottish FA's claim that compensation payments are a requirement of FIFA and therefore cannot be diverted from. The Scottish FA stated in their recent submission that *"it is a requirement of Article 1(2) of the FIFA Regulations that all national associations have specific rules which **"provide for a system to reward clubs affiliated to the relevant association investing in the training and education of young players."** Therefore, it is a FIFA requirement that within its rules related to the domestic transfer of players the Scottish FA has a system in place to reward clubs in Scotland that invest in the development of young players."*

As we have outlined many times previously, but will again now for the avoidance of doubt, our position (which we believe is the true legal position) is:

Realgrassroots do not dispute that the FIFA Regulations on the Status and Transfer of Players ('the FIFA Regulations') permit that a system of compensation should be in place by each national association. We also do not dispute that compensation should be paid in domestic transfers. We do submit (as proven in the evidence within this letter), that it is NOT a requirement of FIFA that compensation is paid **in any transfer where that player is a child (non-professional)**.

Again, to put this into perspective, Player A, aged 13, should be able to move to club B, without compensation due. Then again at aged 14, Player A should be able to move to club C, without compensation due. However, if Player A becomes a professional footballer (after his sixteenth birthday) and is offered a professional contract i.e. a contract of employment, then in any transfer once Player A is a professional, compensation should be owed

retrospectively. This means that club B and club C would be able to claim proportionate (as outlined within the Scottish FA Reimbursement for Training Matrix) compensation for their contribution to that, now professional, player's development.

We use this particular example because it applies the very clear rules set out within the FIFA Regulations. Article 20(1) of the FIFA Regulations states that "*Training compensation shall be paid to a player's training club(s): (1) when a player signs his first contract as a professional, and (2) each time a professional is transferred until the end of the season of his 23rd birthday.*" This is precisely what we think should be the case in Scotland. Football clubs can still be compensated – but only once the **player is a professional, and by default, an adult.**

This protection means that children, in any transfer where they are still a child (non-professional) can move freely between football clubs without the interference of monetary considerations. We have highlighted countless times throughout this petition that the compensation in Scottish football allows for clubs to treat children as commodities and investments (this was evidenced in the 2015 report by former Children's Commissioner Tam Baillie) and this creates a 'transfer market for children', a term quoted by both Rangers FC and Celtic FC Youth Academy Directors at an oral evidence session in 2011. By ensuring that compensation is only owed once a player becomes a professional thus an adult, it provides protection. Professional players sign employment contracts which provides legal employment rights and adults are capable of a better understanding of the rules which apply. FIFA absolutely do not force national governing bodies to request compensation for children who are non-professional – this is a choice of national football associations.

This is even better highlighted with reference to several football associations across Europe. Following the Bernard Case in the European Court of Justice, a report was carried out into the compensation schemes in place across 18 different European Football Associations. The report showed that at least Belgium, Denmark, France, Greece, Ireland, Poland, Portugal, Russia, Spain, Slovenia, Sweden and The Netherlands do not request compensation payments for children in any domestic transfer where that player is a non-professional (note that many clubs extended this to aged 21 whereas in Scotland it is 16). The report refers to 'amateur players' but as many countries explicitly outlined in their explanations, includes children. We acknowledge that this report is from 2009 and therefore updates may have been

made (although this was only one year before this petition was launched). The report can be found here:

<http://www.colucci.eu/Parma2012/ALLEGATO2.pdf>

Realgrassroots took it upon ourselves to contact the World Football Player's Association (FifPro). A representative from FifPro immediately confirmed that at least Denmark, Norway and Spain do not request compensation for children in domestic transfers in 2020 (without looking into the other jurisdictions mentioned therefore we cannot confirm nor deny). More evidence of this correspondence can be provided upon request. This also supports our evidence submitted to the committee in 2011 (document PE1319/BB) by Swedish Club IKF Gothenburg. This fundamentally disproves the Scottish FA's assertions. It stands that compensation for children in domestic transfers is not, and cannot be a FIFA requirement as other countries do not invoke it.

Additionally, Mr Maxwell mentioned in the recent submission, and stated in his comments at the meeting on 30 January 2020 in relation to the three-year rolling registration of age groups 15 to 17 that, *"I highlighted the fact that we plan to review the three-year registration period. We note the committee's concerns. It is appropriate to look at it in context... of the 2,000 players, an average of 500 annually—over the past two years, just over 1,000 have moved club, whether from a club academy Scotland team to the recreational game, from the recreational game into Club Academy Scotland, or from one club academy Scotland team to another. There is a huge amount of movement from club to club, involving a quarter of the players in the programme on an annual basis."* First, it is important to highlight that this was stated in relation to the three-year registration, however these figures cannot possibly be only of those players under a three-year rolling registration but instead of all players within Club Academy Scotland. Therefore at present, we do not know how many players, if any, under a three-year registration move between clubs during that registration period. Additionally, this means that the vast majority of the 500 players whom Mr Maxwell mentioned are on one-year registrations, where their registration lapses at the end of the season. Without compensation as we, the petitioners, hope for, it would be possible for all of these players to move between clubs at the end of the season if they wish. Instead, at present, only one quarter do. To flip these statistics, this means that three quarters of players within Club Academy Scotland **do not** move between clubs. Granted, many of these players may not want to move, but we

cannot quantify how many of these 1,500 players would have preferred to transfer clubs if they had the choice.

Furthermore, the Scottish FA outlined the four mechanisms in which children can have their registrations cancelled. We welcome any improvements which make it easier for children to leave clubs where they are unhappy. However, none of these options allow for a child to decide on his own volition, to leave one Club Academy Scotland at the end of his registration, to play for another Club Academy Scotland club, without the football club insisting on retaining their right to compensation. We understand that measures are in place for children who find themselves in “exceptional circumstances” or whom do not have much game time, but there are no provisions in place for the children who do not fit into these exceptions. We are fighting for all children’s rights in professional youth football. We ask – why should a child have to prove ‘exceptional circumstances’ to leave a football club where he is unhappy? This does not happen in any other sport in Scotland.

The Scottish FA mentioned that a player who does not play in at least 25% of the matches that he is eligible to play in can have his registration cancelled. We do not think it is satisfactory for a child who travels to four matches but only plays in one, to be held to their registration with that club. 25% is a very low threshold and resultantly, many children will not fit into this exception.

The Scottish FA have referred frequently to the mediation process provided by the Well-Being Panel but do not forget this Panel process was only introduced several years into the Petition’s journey. Although it appears encouraging our message is clear: children should not have to undertake mediation, a legal process where football clubs, with vast resources, can be legally represented, in order to leave a football club at the end of their registration. Football is a recreational activity – this process is disproportionate, judicial and unfit for purpose.

Finally, we would like to address the Scottish FA’s comments in relation to children and their parents fully understanding the implications of registration, particularly the three-year rolling registration. The Scottish FA stated in their recent submission that “*Attendees at the February meeting also discussed the information that is made available to children, young people and parents/carers during the registration process, which is available **for reference***”

on the Scottish FA website. The clubs in attendance confirmed that all the relevant information is provided, however it was agreed that to improve clarity the registration documentation would be reviewed and amended to ensure it was as clear as possible and that children, young people and parents/carers would be asked to sign specific sections to signify that they have understood the information provided.” We wonder if all Club Academy Scotland clubs were in attendance at the meeting and what procedures clubs use to ensure that players and parents receive this information before the signing opportunity and how it is monitored. The Children’s Commissioner’s 2015 Report to the committee quotes children stating that *“registration was a 5-minute slot to sign and we did not see the documents again.”* It is very often the case that parents and players do not know if they are having their registration renewed or whether they are being released before the signing opportunity. It is therefore extremely unlikely in those circumstances that parents and players have accessed the resources on the Scottish FA’s website in advance, or even know that it is there. Again, we should not forget that several years ago, former SFA CEO Stewart Regan agreed with our position and ordered the introduction of a ‘Youth Registration Form – Declaration’ (copy attached). It would appear this was unpalatable to the member clubs and the form was removed after a short number of years; nevertheless it appears the SFA are about to complete the circle and re-introduce a very similar form.

The above outlines our reply to the issues raised in the Scottish FA’s recent submission to the committee. We would also like to draw the committee’s attention to the vast media coverage which has criticised members of both the SPFL and the Scottish FA’s boards in recent months since the COVID-19 outbreak. It is undeniable that the trust installed upon the SPFL and its member clubs to self-regulate their own affairs has never been under such scrutiny. Whilst the details of the recent vote to end the Scottish Leagues early and the allegations of coercion, bullying and indeed corruption, made against individuals within the SPFL board is outwith the scope of this petition, we believe that it is yet more evidence to suggest that the current system of self-regulation is failing. There has been strong accusations of ‘self-interest’ made by several SPFL clubs and this has similarities with the ‘self-interest’ position on failing to protect children’s human rights. Scottish football, amongst many other industries and sectors across the country are due to face unprecedented challenges during and following from this pandemic. We hope that this does not allow for the human rights of children to fall even further down the list of priorities and that the Scottish

Government will step in to the end the exploitation of children in youth football.

We would also like to make clear that we, the petitioners, are happy to engage in any correspondence or discussions with either the Children's Commissioner, Scottish FA or the Committee at any point. We mentioned in our correspondence to the Children's Commissioner that we did not wish to meet with the Commissioner and Scottish FA before the publishing of the Committee's report – not the conclusion of the petition. However, due to the delays caused by COVID-19 we understand that the original time scales may have changed. We are willing to engage in all discussions.