

# Decision of the Dispute Resolution Chamber

passed by way of circulars on 12 July 2018,

in the following composition:

**Geoff Thompson (England)**, Chairman

**Philippe Diallo (France)**, member

**Jon Newman (USA)**, member

on the claim presented by the player,

**Player A**, from country A

*as Claimant*

against the club,

**Club B**, from country B

*as Respondent*

regarding an employment-related dispute  
between the parties in connection with overdue payables

## I. Facts of the case

1. On 10 August 2015, the player A, from country A (hereinafter: *the Claimant*), and the Club B, from country B (hereinafter: *the Respondent*), signed an employment contract valid as from the date of signing until 30 June 2018.
2. On 19 July 2017, the Claimant and the Respondent signed a termination agreement, in accordance with which the Respondent undertook to pay to the Claimant USD 1,750,000 in 4 instalments of USD 437,500 each, falling due, respectively, on 15 November 2017, 15 March 2018, 15 May 2018 and 15 July 2018.
3. By correspondence dated 16 April 2018, the Claimant put the Respondent in default of payment of USD 437,500, corresponding to the second instalment of the termination agreement which fell due on 15 March 2018, setting a time limit of 15 days in order to remedy the default.
4. On 4 May 2018, completed on 28 May 2018, the Claimant lodged a claim against the Respondent in front of FIFA asking that the Respondent be ordered to pay to him overdue payables in the amount of USD 437,500, corresponding to the second instalment of the termination agreement.
5. In spite of having been invited to do so, the Respondent has not replied to the claim.

## II. Considerations of the Dispute Resolution Chamber

1. First of all, the Dispute Resolution Chamber (hereinafter also referred to: *the Chamber* or *DRC*) analysed whether it was competent to deal with the matter at hand. In this respect, the Chamber took note that the present matter was submitted to FIFA on 4 May 2018. Consequently, the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2018; 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 and par. 2 in conjunction 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 player and a club.

3. Furthermore, 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 par. 2 of the Regulations on the Status and Transfer of Players (edition 2018), and considering that the present claim was lodged on 4 May 2018, the 2018 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 DRC 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 on file. However, the DRC 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. Having said this, the members of the Chamber acknowledged that, on 10 August 2015, the Claimant and the Respondent signed an employment contract valid as from the date of signature until 30 June 2018.
6. Furthermore, the members of the Chamber observed that, on 19 July 2017, the Claimant and the Respondent signed a termination agreement, pursuant to which the Respondent undertook to pay to the Claimant USD 1,750,000 in 4 instalments of USD 437,500 each, falling due, respectively, on 15 November 2017, 15 March 2018, 15 May 2018 and 15 July 2018.
7. In continuation, the DRC took note that the Claimant lodged a claim against the Respondent in front of FIFA, maintaining that the Respondent has overdue payables towards him in the total amount of USD 437,500, corresponding to the second instalment of the termination agreement.
8. In this context, the members of the Chamber took particular note of the fact that, on 16 April 2018, the Claimant put the Respondent in default of payment of the aforementioned amount, setting a 15 days' time limit in order to remedy the default.
9. Consequently, the Chamber concluded that the Claimant had duly proceeded in accordance with art. 12bis par. 3 of the Regulations, which stipulates that the creditor (player or club) must have put the debtor club in

default in writing and have granted a deadline of at least ten days for the debtor club to comply with its financial obligation(s).

10. Subsequently, the DRC took into account that the Respondent, for its part, failed to present its response to the claim of the Claimant, in spite of having been invited to do so. In this way, the DRC considered that the Respondent renounced its right to defence and thus accepted the allegations of the Claimant.
11. Furthermore, as a consequence of the aforementioned consideration, the DRC concurred that in accordance with art. 9 par. 3 of the Procedural Rules it shall take a decision upon the basis of the documents already on file, in other words, upon the statements and documents presented by the Claimant.
12. Having said this, the Chamber acknowledged that, in accordance with the termination agreement, the Respondent was obliged to pay to the Claimant the amount of USD 1,750,000 in 4 instalments of USD 437,500 each, falling due, respectively, on 15 November 2017, 15 March 2018, 15 May 2018 and 15 July 2018.
13. Taking into account the documentation presented by the Claimant in support of his petition, the Chamber concluded that the Claimant had substantiated his claim pertaining to overdue payables with sufficient documentary evidence.
14. On account of the aforementioned considerations, the DRC established that the Respondent failed to remit the Claimant's remuneration in the amount of USD 437,500, corresponding to the second instalment due in accordance with the termination agreement.
15. In addition, the DRC established that the Respondent had delayed a due payment for more than thirty days without a *prima facie* contractual basis.
16. Consequently, the Chamber decided that, in accordance with the general legal principle of *pacta sunt servanda*, the Respondent is liable to pay to the Claimant overdue payables in the amount of USD 437,500.
17. Furthermore, taking into account the consideration under number II./15. above, the Chamber referred to art.12bis par. 2 of the Regulations, which stipulates that any club found to have delayed a due payment for more than thirty days without a *prima facie* contractual basis may be sanctioned in accordance with art. 12bis par. 4 of the Regulations.

18. In this regard, the Chamber established that in virtue of the aforementioned article 12bis par. 4, it has competence to impose sanctions on the Respondent. In this context, the members of the Chamber highlighted that on 11 September 2015 and on 26 April 2018, the Respondent had already been found to have delayed a due payment for more than 30 days without a *prima facie* contractual basis, as a result of which fines were imposed on the Respondent by the Dispute Resolution Chamber.
19. Having said that, the Chamber established that, in the present matter, the Respondent is found to have delayed a due payment for more than 30 days without a *prima facie* contractual basis for the third time.
20. In this respect, the DRC wished to highlight that a repeated offence will be considered as an aggravating circumstance and lead to a more severe penalty in accordance with art. 12bis par. 6 of the Regulations.
21. Therefore, bearing in mind the above, the DRC decided that in the event that the Respondent does not pay the amount due to the Claimant within the 30 days following the notification of the present decision, a ban from registering any new players, either nationally or internationally, for the next entire registration period following the notification of the present decision shall become effective on the Respondent in accordance with art. 12bis par. 4 lit. d) of the Regulations.

### III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Player A, is accepted.
2. The Respondent, Club B, has to pay overdue payables in the amount of USD 437,500 to the Claimant **within 30 days** as from the date of notification of this decision.
3. In the event that the amount due to the Claimant is not paid by the Respondent within the stated time limit, interest at the rate of 5% *p.a.* will fall due as of expiry of the aforementioned time limit and the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.

4. The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittance is to be made and to notify the DRC of every payment received.
5. In the event that the amount due to the Claimant is not paid by the Respondent within 30 days as from the date of notification of this decision, the Respondent shall be banned from registering any new players, either nationally or internationally, for the next entire registration period following the notification of the present decision.

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**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  
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For the Dispute Resolution Chamber:

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Omar Ongaro  
Football Regulatory Director

Encl: CAS directives