



# Decision of the Dispute Resolution Chamber (DRC) judge

passed on 26 October 2018,

by **Philippe Diallo** (France), DRC judge,

on the claim presented by the player,

**Player A, Country B**

*as Claimant*

against the club,

**Club C, Country D**

*as Respondent*

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

## I. Facts of the case

1. On 27 August 2017, the Player of Country B, Player A (hereinafter: *the Claimant*), and the Club of Country D, Club C (hereinafter: *the Respondent*), signed an employment contract (hereinafter: *the contract*) valid *“for a period of 10 months starting from 20<sup>th</sup> of August 2017 and ending 30<sup>th</sup> of May 2018”*.
2. According to clause 3 of the contract, the Claimant was entitled to receive a monthly remuneration in the amount of EUR 2,000 net *“payable at maximum at the 10<sup>th</sup> day of each month”*.
3. Pursuant to clause 4 of the contract, the Claimant *“will also receive a bonus of one month salary (2000 Euro) in the event that after the end of the season 2017-2018 the [Respondent] remains by any means in the First League of Country D”*.
4. Clause 5 of the contract stipulates that the Claimant *“will receive a bonus of three monthly salaries (6000 Euro) if the [Respondent] qualified to play in the European competitions”*.
5. Moreover, clause 9 of the contract establishes that *“the [Respondent] will provide the [Claimant] with a furnished apartment free of charge [...]”*.
6. After previously having put the Respondent in default on two occasions, by correspondence dated 30 July 2018, the Claimant put the Respondent in default of payment of EUR 19,160 setting a time limit expiring on 9 August 2018 in order to remedy the default.
7. On 13 August 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 EUR 19,160, sum consisting of:
  - EUR 6,000, as outstanding salaries of October 2017, April 2018 and May 2018 (EUR 2,000 each);
  - EUR 2,000, for the bonus established in clause 4 of the contract;
  - EUR 6,000, for the bonus established in clause 5 of the contract;
  - EUR 4,600, *“corresponding to € 460 deducted by the [Respondent] every month (10 months)”*;
  - EUR 560, *“corresponding to € 140 rental agreement deposit plus rent monthly payment for March 2018, April 2018 and May 2018”*.
8. The Claimant further asks to be awarded interest of 5% *p.a.* as follows:
  - 5% *p.a.* over the amount of EUR 2,000 as from 10 November 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 2,000 as from 10 May 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 2,000 as from 10 June 2018 until the date of effective payment;

- 5% *p.a.* over the amount of EUR 2,000 as from 15 June 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 6,000 as from 15 June 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 4,600 as from “August 2017”;
  - 5% *p.a.* over the amount of EUR 560 as from 30 March 2018.
9. In addition, the Claimant requested that the Respondent be ordered to pay the procedural costs and EUR 2,000 for “legal fees”.
10. In his claim, the Claimant argued that the Respondent did not pay his full salaries of October 2017, April 2018 and May 2018 (EUR 6,000 in total) and that the Respondent deducted EUR 460 from his salary each month (EUR 4,600 in total). In addition, the Claimant held that the Respondent failed to pay the bonuses established in clauses 4 and 5 of the contract (EUR 8,000 in total) and EUR 560 for his rent costs.
11. In spite of having been invited to do so, the Respondent has not replied to the claim.

## II. Considerations of the DRC judge

1. First of all, the DRC judge analysed whether he was competent to deal with the matter at hand. In this respect, he took note that the present matter was submitted to FIFA on 13 August 2018. Consequently, the Rules Governing the Procedures of the Players’ Status Committee and the Dispute Resolution Chamber (edition 2018; hereinafter: *the Procedural Rules*) are applicable to the matter at hand (cf. art. 21 of the Procedural Rules).
2. Subsequently, the DRC judge referred to art. 3 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) he is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between an Player of Country B and a Club of Country D.
3. Furthermore, the DRC judge analysed which regulations should be applicable as to the substance of the matter. In this respect, he 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 13 August 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 DRC judge and the applicable regulations having been established, the DRC judge entered into the substance of the matter. In this respect, the DRC judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the DRC judge emphasised that in the following considerations he will refer only to the facts, arguments and documentary evidence, which he considered pertinent for the assessment of the matter at hand.

5. Having said this, the DRC judge acknowledged that, on 27 August 2017, the Claimant and Respondent signed an employment contract valid *“for a period of 10 months starting from 20<sup>th</sup> of August 2017 and ending 30<sup>th</sup> of May 2018”*.
6. Subsequently, the DRC judge noted that, according to clause 3 of the contract, the Claimant was entitled to receive a monthly remuneration in the amount of EUR 2,000 net *“payable at maximum at the 10<sup>th</sup> day of each month”*.
7. The DRC judge further acknowledged that pursuant to clause 4 of the contract, the Claimant *“will also receive a bonus of one month salary (2000 Euro) in the event that after the end of the season 2017-2018 the [Respondent] remains by any means in the First League of Country D”*.
8. In addition, the DRC judge noticed that clause 5 of the contract stipulates that the Claimant *“will receive a bonus of three monthly salaries (6000 Euro) if the [Respondent] qualified to play in the European competitions”*.
9. Moreover, the DRC judge observed that clause 9 of the contract establishes that *“the [Respondent] will provide the [Claimant] with a furnished apartment free of charge [...]”*
10. In continuation, the DRC judge duly noted that the Claimant lodged a claim against the Respondent in front of FIFA, maintaining that the Respondent has overdue payables towards him in the amount of EUR 19,160, sum consisting of:
  - EUR 6,000, as outstanding salaries of October 2017, April 2018 and May 2018 (EUR 2,000 each);
  - EUR 2,000, for the bonus established in clause 4 of the contract;
  - EUR 6,000, for the bonus established in clause 5 of the contract;
  - EUR 4,600, *“corresponding to € 460 deducted by the [Respondent] every month (10 months)”*;
  - EUR 560, *“corresponding to € 140 rental agreement deposit plus rent monthly payment for March 2018, April 2018 and May 2018”*.
12. In this context, the DRC judge took particular note of the fact that, on 30 July 2018, the Claimant put the Respondent in default of payment of EUR 19,160 setting a time limit expiring on 9 August 2018 in order to remedy the default.
13. Consequently, the DRC judge 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).
14. Subsequently, the DRC judge 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 judge considered that the Respondent renounced its right to defence and thus accepted the allegations of the Claimant.

15. Furthermore, as a consequence of the aforementioned consideration, the DRC judge concurred that in accordance with art. 9 par. 3 of the Procedural Rules he 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.
16. Having said this, the DRC judge acknowledged that, in accordance with the employment contract provided by the Claimant, the Respondent was obliged to pay to the Claimant a monthly remuneration in the amount of EUR 2,000 net.
17. Furthermore, taking into account the documentation presented by the Claimant in support of his petition, the DRC judge concluded that the Claimant had not fully substantiated his claim pertaining to overdue payables with pertinent documentary evidence in accordance with art. 12 par. 3 of the Procedural Rules. That is, there is no supporting documentation relating to the Claimant's claim pertaining to bonuses and rent costs. Consequently, the DRC judge decided to reject this part of the Claimant's claim relating to bonuses and rent costs.
18. On account of the aforementioned considerations, the DRC judge established that the Respondent failed to remit the Claimant's remuneration in the total amount of EUR 9,220, corresponding to the full outstanding salaries of October 2017, April 2018 and May 2018 (EUR 6,000 in total) plus the partial outstanding remuneration for the months of August 2017, September 2017, November 2017, December 2017, January 2018, February 2018 and March 2018 (EUR 460 each month, EUR 3,220 in total).
19. In addition, the DRC judge established that the Respondent had delayed a due payment for more than 30 days without a *prima facie* contractual basis.
20. Consequently, the DRC judge 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 total amount of EUR 9,220.
21. In addition, taking into account the Claimant's request as well as the constant practice of the Dispute Resolution Chamber, the DRC judge decided to award the Claimant interest on the above-mentioned amount as follows:
  - 5% *p.a.* over the amount of EUR 460 as from 11 September 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 October 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 2,000 as from 11 November 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 December 2017 until the date of effective payment;

- 5% *p.a.* over the amount of EUR 460 as from 11 January 2018 until the date of effective payment;
- 5% *p.a.* over the amount of EUR 460 as from 11 February 2018 until the date of effective payment;
- 5% *p.a.* over the amount of EUR 460 as from 11 March 2018 until the date of effective payment;
- 5% *p.a.* over the amount of EUR 460 as from 11 April 2018 until the date of effective payment;
- 5% *p.a.* over the amount of EUR 2,000 as from 11 May 2018 until the date of effective payment;
- 5% *p.a.* over the amount of EUR 2,000 as from 11 June 2018 until the date of effective payment.

22. Furthermore, as regards the claimed legal expenses, the DRC judge referred to art. 18 par. 4 of the Procedural Rules as well as to its long-standing and well-established jurisprudence, in accordance with which no procedural compensation shall be awarded in proceedings in front of the Dispute Resolution Chamber. Consequently, the DRC judge decided to reject the Claimant's request relating to legal expenses.
23. Moreover, the DRC decided that any further request filed by the Claimant is rejected.
24. In continuation, taking into account the consideration under number II. 19. above, the DRC judge referred to art. 12bis par. 2 of the Regulations which stipulates that any club found to have delayed a due payment for more than 30 days without a *prima facie* contractual basis may be sanctioned in accordance with art. 12bis par. 4 of the Regulations.
25. The DRC judge established that in virtue of art. 12bis par. 4 of the Regulations he has competence to impose sanctions on the Respondent. In this context, the DRC judge highlighted that, on 6 February 2018, the Respondent had already been found to have delayed a due payment for more than 30 days without a *prima facie* contractual basis and without the Respondent having responded to the relevant claim, as a result of which a fine had been imposed on the Respondent by the Dispute Resolution Chamber (DRC) judge.
26. In this respect, the DRC judge wished to highlight that a repeated offence will be considered as an aggravating circumstance and lead to more severe penalty in accordance with art. 12bis par. 6 of the Regulations.
27. Bearing in mind that the Respondent did not reply to the claim of the Claimant as well as the considerations under numbers II./25. and II./26. above, the DRC judge decided to impose a more severe fine on the Respondent in accordance with art. 12bis par. 4 lit. c) of the Regulations. Furthermore, taking into consideration the amount due of EUR 9,220 as well as the aggravating circumstance of a repeated offence, the DRC judge regarded a fine

amounting to CHF 3,000 as appropriate and hence decided to impose said fine on the Respondent.

### III. Decision of the DRC judge

1. The claim of the Claimant, Player A, is partially accepted.
2. The Respondent, Club C, has to pay to the Claimant, **within 30 days** as from the date of notification of this decision, outstanding remuneration in the amount of EUR 9,220.
3. **Within the same deadline**, the Respondent has to pay to the Claimant interest as follows:
  - 5% *p.a.* over the amount of EUR 460 as from 11 September 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 October 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 2,000 as from 11 November 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 December 2017 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 January 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 February 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 March 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 460 as from 11 April 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 2,000 as from 11 May 2018 until the date of effective payment;
  - 5% *p.a.* over the amount of EUR 2,000 as from 11 June 2018 until the date of effective payment.
4. In the event that the amount plus interest due to the Claimant in accordance with the above-mentioned numbers 2 and 3 is not paid by the Respondent 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 immediately and directly of the account number to which the remittance is to be made and to notify the DRC judge of every payment received.
7. The Respondent is ordered to pay a fine in the amount of CHF 3,000. The fine is to be paid **within 30 days** of notification of the present decision to FIFA to the following bank account with reference to case XXX:

UBS Zurich  
Account number 366.677.01U (FIFA Players' Status)  
Clearing number 230  
IBAN: CH27 0023 0230 3666 7701U  
SWIFT: UBSWCHZH80A

\*\*\*\*\*

**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](mailto:info@tas-cas.org)  
[www.tas-cas.org](http://www.tas-cas.org)

For the DRC judge:

---

Omar Ongaro  
Football Regulatory Director

Encl. CAS directives