

Decision of the Dispute Resolution Chamber

passed by way of circulars on 2 October 2019,

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, 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 10 May 2016, 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 valid as from the date of signature until 31 May 2019.
2. In accordance with the employment contract, the Respondent undertook to pay to the Claimant, *inter alia*, EUR 50,000 per month “*from September 2018 to June 2019*”.
3. On an unspecified date, the Claimant and the Respondent signed an “*Agreement*”, which, *inter alia*, stipulated the following: “*This extension contract will be valid if the [Respondent] gets right to attend to the League E for the season 2019-2020. If the [Respondent] cannot get the right to be in the League E at the end of the season 2018-2019 and continue to attend to be in 1st Division of Country D, then the [Respondent] will pay to the player total amount of [EUR 200,000] until the end of September 2019. And player will be free to sign with any other clubs he want*”.
4. By correspondence dated 18 April 2019, the Claimant put the Respondent in default of payment of EUR 150,000, setting a time limit expiring on 2 May 2019 in order to remedy the default.
5. By email dated 30 April 2019, the Respondent asked the Claimant to provide until 14 May 2019 to pay the amount of EUR 150,000.
6. On 8 July 2019, 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 300,000, corresponding to the instalments of EUR 50,000 each for the months as from January 2019 until June 2019.
7. Furthermore, the player requested “*to remind*” the Respondent that it has “*to pay [...] amount of EUR 200,000 [...] until the end of September 2019 risen from the additional agreement*”.
8. 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: *Chamber* or *DRC*) analysed whether it was competent to deal with the matter at hand. In this respect, it took note that the present matter was submitted to FIFA on 8 July 2019. Consequently, the 2018 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *Procedural Rules*) is applicable to the matter at hand (cf. art. 21 of the Procedural Rules).
2. Subsequently, the Chamber referred to art. 3 par. 1 of the Procedural Rules and confirmed that in accordance with art. 24 par. 1 and 2 in conjunction with art. 22 lit. b of the Regulations on the Status and Transfer of Players (edition 2019), it is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Player of Country B and a Club of Country D.
3. Furthermore, the DRC 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 2019) and considering that the present claim was lodged on 8 July 2019, the June 2019 edition of said regulations (hereinafter: *Regulations*) is applicable to the matter at hand as to the substance.
4. Having said this, the Chamber acknowledged that the Claimant and the Respondent signed an employment contract valid between 10 May 2016 and 31 May 2019, in accordance with which the Claimant was entitled to receive from the Respondent, *inter alia*, a monthly salary of EUR 50,000 "*from September 2018 to June 2019*".
5. Moreover, the DRC took note that, on an unspecified date, the parties signed an agreement, pursuant to which "*This extension contract will be valid if the [Respondent] gets right to attend to the League E for the season 2019-2020. If the [Respondent] cannot get the right to be in the League E at the end of the season 2018-2019 and continue to attend to be in 1st Division of Country D, then the [Respondent] will pay to the player total amount of [EUR 200,000] until the end of September 2019. And player will be free to sign with any other clubs he want*".
6. 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 EUR 300,000, corresponding to the installments of EUR 50,000 each for the months between January and June 2019.

7. In this context, the DRC took particular note of the fact that, on 18 April 2019, the Claimant put the Respondent in default of payment of EUR 150,000, setting a time limit expiring on 2 May 2019 in order to remedy the default.
8. Consequently, the DRC 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).
9. Subsequently, the Chamber took into account that the Respondent, for its part, failed to present its response to the claim of the Claimant, despite having been invited to do so. In this way, so the Chamber deemed, the Respondent renounced its right to defence and, thus, accepted the allegations of the Claimant.
10. Moreover, and as a consequence of the aforementioned consideration, the Chamber established 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.
11. On account of the above, the DRC established that the Respondent failed to remit the player's remuneration, in the total amounts of EUR 300,000, corresponding to the outstanding salaries for the period between January and June 2019.
12. In addition, bearing in mind the considerations under numbers II./7. and II./8. above, the DRC established that the Respondent had delayed a due payment for more than 30 days without a *prima facie* contractual basis.
13. 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 the total amount of EUR 300,000.
14. In this context and for the sake of good order, the DRC highlighted that, in light of the prerequisites set out in art. 12bis par. 3 of the Regulations, only the outstanding amount of EUR 100,000 in connection with Claimant's claim relating to the unpaid salaries for the period between January and June 2019 is considered to fall within the scope of art. 12bis of the Regulations.
15. Moreover, concerning the Claimant's request "*to remind*" the Respondent that it has "*to pay [...] amount of EUR 200,000 [...] until the end of September 2019 risen from the additional agreement*", the Chamber observed that such request is premature, given that the above-mentioned amount is not yet due and is conditional.

16. In continuation, taking into account the consideration under number II./13. above, the DRC 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.
17. The Chamber established that, in virtue of art. 12bis par. 4 of the Regulations, it has competence to impose sanctions on the Respondent. In this context, the DRC highlighted that, on 19 November 2018 and 20 February 2019, 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 a warning and a reprimand had been imposed on the Respondent by the DRC.
18. Bearing in mind the above, the Chamber regarded a fine amounting to CHF 15,000 as appropriate and hence decided to impose said fine on the Respondent.
19. Moreover, the DRC referred to art. 12bis par. 6 of the Regulations, which establishes that a repeated offence will be considered as an aggravating circumstance and lead to a more severe penalty.
20. The DRC concluded its deliberations in the present matter by establishing that any further claim lodged by the Claimant is rejected.
21. Furthermore, taking into account the consideration under number II./3. above, the DRC referred to par. 1 and 2 of art. 24bis of the Regulations, which stipulate that, with its decision, the pertinent FIFA deciding body shall also rule on the consequences deriving from the failure of the concerned party to pay the relevant amounts of outstanding remuneration and/or compensation in due time.
22. In this regard, the DRC pointed out that, against clubs, the consequence of the failure to pay the relevant amounts in due time shall consist of a ban from registering any new players, either nationally or internationally, up until the due amounts are paid and for the maximum duration of three entire and consecutive registration periods.
23. Therefore, bearing in mind the above, the DRC decided that, in the event that the Respondent does not pay the amounts due to the Claimant within 45 days as from the moment in which the Claimant, following the notification of the present decision, communicates the relevant bank details to the Respondent, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods shall become effective on the Respondent in accordance with art. 24bis par. 2 and 4 of the Regulations.

24. Finally, the DRC recalled that the above-mentioned ban will be lifted immediately and prior to its complete serving upon payment of the due amounts, in accordance with art. 24bis par. 3 of the Regulations.

III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Player A, is partially accepted.
2. The Respondent, Club C, has to pay to the Claimant the amount of EUR 300,000.
3. The Respondent is ordered to pay a fine in the amount of CHF 15,000. 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 nr. XXX:

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

4. Any further claim lodged by the Claimant is rejected.
5. The Claimant is directed to inform the Respondent, immediately and directly, preferably to the e-mail address as indicated on the cover letter of the present decision, of the relevant bank account to which the Respondent must pay the amount mentioned under point 2. above.
6. The Respondent shall provide evidence of payment of the due amount in accordance with point 2. above to FIFA to the e-mail address psdfifa@fifa.org, duly translated, if need be, into one of the official FIFA languages (English, French, German, Spanish).
7. In the event that the amount due in accordance with point 2. above is not paid by the Respondent **within 45 days** as from the notification by the Claimant of the relevant bank details to the Respondent, the Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods (cf. art. 24bis of the Regulations on the Status and Transfer of Players).
8. The ban mentioned in point 7. above will be lifted immediately and prior to its complete serving, once the due amount is paid.

9. In the event that the aforementioned sum is still not paid by the end of the ban of three entire and consecutive registration periods, the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision.

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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1012 Lausanne
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Tel: +41 21 613 50 00
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For the Dispute Resolution Chamber:

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Encl: CAS directives