

## **Decision of the Dispute Resolution Chamber (DRC) Judge**

passed on 9 September 2020

regarding an employment-related dispute concerning the player Diogo Jorge Rosado

**BY:**

**Pavel Pivovarov** (Russia), DRC Judge

**CLAIMANT:**

**DIOGO JORGE ROSADO, Portugal**

Represented by Mr. José Duarte Reis

**RESPONDENT:**

**CS GAZ METAN MEDIAS, Romania**

## I. FACTS OF THE CASE

1. On 9 January 2018, the parties signed an employment contract (hereinafter: *contract*) valid as from the date of signature until 30 June 2018.
2. In accordance with art. 4.1 of the contract, the player was entitled to a monthly salary of EUR 6,826.
3. Pursuant to art. 4.2 of the contract, the club will, inter alia, pay the player, *"upon the proposal of the senior coach, if the player evolves for at least 45 minutes in at least 50% of the official games, a fee calculated based on the following criteria:*
  - EUR 16,667 (EUR 15,000 net + EUR 1,667 taxes), *"for the 10th place"*.
4. By means of art. 11 of the contract, the contract *"will be governed and interpreted according to the Law of [...] sports [...], to the Civil Code, to the Regulation on the Status and Transfer of Football Players [...] and to the Regulations of FRF and FIFA.*  
[...]  
*The conflicts related to the executions [of the contract] will be solved [...] as litigation, considering that the competence to solve such litigations belongs to the arbitration courts of sports, that is the competent committees of FRF and/or LPF, depending on the case, and TAS, excepting those that belong exclusively to the competence of the courts of law, under the law."*
5. On 1 February 2019 the player sent a formal communication to the club requesting the payment of EUR 16,667, in accordance with art. 4.3 of the contract, within 15 days.
6. On 2 April 2019, the player informed the club in writing of the following: *"Following my last communication dated 1 February 2019, you paid [the player] the amount of EUR 10,000"*. Thus, in said letter, the player referred to art. 4.2 of the contract, and requested the amount of EUR 5,000 to be paid within 15 days.
7. On 23 October 2019, the player once again requested the club in writing to pay him the remaining EUR 5,000 in accordance with art. 4.2 of the contract.
8. On 15 May 2020, the player lodged a claim against the club for outstanding remuneration, requesting the amount of EUR 5,000 *"as well as interest at the rate of 5%.*
9. The player further requested the imposition of sporting sanctions on the club.
10. In his claim, the player held that, notwithstanding his correspondences dated 2 April 2019 and 23 October 2019 respectively, the club failed to pay him the outstanding amount of EUR 5,000.
11. In its reply, the club held that following the wording of art. 4.2.1 of the contract, bonuses had to be awarded following the proposal of the head coach who decided to grant EUR 10,000 to the player.

12. According to the club, for a bonus to be validly awarded, 2 cumulative conditions needed to be met: the club reaching the adequate standing while the player played enough minutes, and the agreement of the coach.
13. The club held that it had played a total of 21 games so 1,890 minutes and that the player had played a total of 1,112 minutes which would therefore be equal to 58.84% of the total minutes. Therefore, the club deemed that due to that *"he was entitled to receive 58.84% of the total amount of EUR 15,000, respectively EUR 8,826. However the main coach at that time believed that the player was entitled to receive more and proposed the amount of EUR 10,000 amount that was paid to the claimant as acknowledged."*
14. The club requested that the claim be dismissed.

## II. CONSIDERATIONS OF THE DISPUTE RESOLUTION CHAMBER (DRC) JUDGE

1. In relation to the competence, the Dispute Resolution Chamber (DRC) Judge (hereinafter also referred to as the DRC judge) analysed whether he was competent to deal with the case at hand. In this respect, he took note that the present matter was submitted to FIFA on 15 May 2020 and decided on 9 September 2020. Consequently, the June 2020 edition of the Rules governing the procedures of the Players' Status Committee and the Dispute Resolution Chamber hereinafter: the Procedural Rules) is applicable to the matter at hand (cf. art. 21 of the Procedural Rules).
2. Subsequently, the DRC Judge referred to art. 3 par. 1 and 2 of the Procedural Rules and confirmed that in accordance with art. 24 par. 1 in conjunction with art. 22 lit. b) of the Regulations on the Status and Transfer of Players, he is competent to deal with employment-related disputes with an international dimension between a player and a club.
3. The DRC judge analysed which edition of the 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 2 of the Regulations on the Status and Transfer of Players, and considering that the present claim was lodged on 15 May 2020 and decided on 9 September 2020, the January 2020 edition of said regulations is applicable to the matter at hand as to the substance.
4. His competence and the applicable regulations having been established, the DRC judge entered into the substance of the matter. The DRC Judge continued by acknowledging the above-mentioned facts as well as the documentation contained in the file in relation to the substance of the matter. However, he 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. In this respect, the DRC judge acknowledged that the parties had signed an employment contract on 9 January 2018, in accordance with which the player was entitled to receive, inter alia, a monthly salary of EUR 6,826 and bonuses to be paid as follows: *"if the player evolves for at least 45 minutes*

*in at least 50% of the official games, a fee calculated based on the following criteria: EUR 16,667 (EUR 15,000 net + EUR 1,667 taxes), "for the 10th place".*

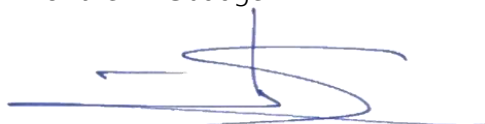
6. In continuation, the DRC judge noted that the player, on 1 February 2020 put the club in default and asked for the payment of the amount of EUR 16,667. Moreover, after having received an amount of EUR 10,000 on an unspecified date, the player - on 2 April 2019 and 23 October 2019 - requested the club to pay him the remaining EUR 5,000, however to no avail. Consequently, the Claimant asked to be awarded with the payment of the total amount of EUR 5,000, plus interest.
7. Equally, the DRC judge took note of the reply of the club, which asserted that the bonuses as per the contract had to be awarded following the proposal, of head coach. The club further explains that the bonus only became payable (a) once the club had reaching the adequate standing, (b) the player played enough minutes and (c) the coach agreed with the payment of bonus
8. The club further explains that it played a total of 21 games (1,890 minutes) and that the player had played a total of 1,112 minutes, which would therefore be equal to 58.84% of the total minutes. Therefore, the club deemed that the player only entitled to 58.84% of the total amount of EUR 15,000, i.e. EUR 8,826, but that upon proposal of the coach, the player was awarded the amount of EUR 10,000, which was also duly paid.
9. With due consideration to the above, the DRC judge acknowledged that the club did not contest the number of matches and minutes played by the player, however interpreted the clause that in case a player would only play a specific percentage of the matches, the bonus would only amount to the corresponding percentage of the full bonus amount
10. In this respect, the DRC judge noted that the wording of the clause is clear, and that there are no indications in said clause that can lead to the conclusion that in some situations, only a specific percentage of the bonus amount would need to be paid. The DRC judge noted that the clause holds 3 cumulative conditions (a) playing in more than 50% of the official match, (b) playing at least 45 minutes during those match and (c) the club achieving the relevant position.
11. From the documentation and statements from the parties on file it appears that all these conditions are fulfilled. Furthermore, the DRC judge noted that based on the wording of the clause, the club's coach could choose which player would be entitled to a bonus payment, however the coach or the club did not have the power to discretionary lower the amount of the bonus payment, if the player was chosen to be entitled to the bonus payment.
12. In view of the above, the DRC judge concluded that the club's argumentation in this respect could not be upheld and that, therefore, it could be established that the club had failed to pay to the player the full amount of the bonus payment as agreed upon between the parties in the contract. As a consequence, and in accordance with the general legal principle of *pacta sunt servanda*, the club must fulfil its obligations as per the contract concluded with the player and, consequently, is to be held liable to pay the outstanding amount of EUR 5,000 to the player.

13. With regards to the claimed interests, the DRC judge noted that the player did not further specify as from which date said interest should apply, therefore, the DRC judge decided that the club had to pay default interest at a rate of 5% on the amount of EUR 5,000 as from 1 July 2018, the day after the contract had ended.

### III. DECISION OF THE DRC JUDGE

1. The claim of the Claimant, Diogo Jorge Rosado, is accepted.
2. The Respondent, CS Gaz Metan Medias, has to pay to the Claimant, the following amount:
  - EUR 5,000 as outstanding remuneration plus 5% interest *p.a.* as from 1 July 2018 until the date of effective payment.
3. The Claimant is directed to immediately and directly inform the Respondent of the relevant bank account to which the Respondent must pay the due amount.
4. The Respondent shall provide evidence of payment of the due amount in accordance with this decision to [psdfifa@fifa.org](mailto:psdfifa@fifa.org), duly translated, if applicable, into one of the official FIFA languages (English, French, German, Spanish).
5. In the event that the amount due, plus interest as established 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 following consequences shall arise:
  1. 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. The aforementioned ban mentioned will be lifted immediately and prior to its complete serving, once the due amount is paid. (cf. art. 24bis of the [Regulations on the Status and Transfer of Players](#)).
  2. In the event that the payable amount as per in this decision 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 the FIFA Disciplinary Committee.

For the DRC Judge:



**Emilio Garcia Silvero**

Chief Legal & Compliance Officer

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**NOTE RELATED TO THE FINDINGS OF THE DECISION:**

In accordance with arts. 15 and 18 of the [Procedural Rules](#), this correspondence only communicates the findings of the decision without grounds.

Should any of the parties wish to receive the grounds of the decision, a **written request** must be received by FIFA, **within 10 days** of receipt of notification of the findings of the decision. Failure to do so within the stated deadline will result in the decision becoming final and binding and the parties being deemed to have waived their rights to file an appeal.

**CONTACT INFORMATION:****Fédération Internationale de Football Association**

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