

Decision of the Dispute Resolution Chamber

passed on 15 July 2021

regarding an employment-related dispute concerning the player Bismark de Araujo
Ferreira

COMPOSITION:

Omar Ongaro (Italy), Deputy Chairman
Stéphane Burchkalter (France), member
MD Abu Nayeem Shohag (Bangladesh), member

CLAIMANT / COUNTER-RESPONDENT:

Al Qadsiah, Saudi Arabia
Represented by R&A Sports Law Firm

RESPONDENT / COUNTER-CLAIMANT:

Bismark de Araujo Ferreira, Brazil
Represented by Messrs Diogo Souza, Igor Ferreira and Felipe de Macedo

I. FACTS OF THE CASE

1. On 23 May 2017, the Brazilian club, SC Santa Rita, and the Saudi club, Al Qadsiah (hereinafter: *the club* or *the Claimant / Counter-Respondent*) agreed on the permanent transfer of the Brazilian player, Bismark de Araujo Ferreira (hereinafter: *the player* or *the Respondent / Counter-Claimant*) against payment of the sum of USD 900,000.
2. On 14 July 2018, the player and the club signed an employment agreement valid as from 15 July 2018 until 17 July 2023 (hereinafter: *the contract*).
3. In accordance with clause 4 of the contract, "*the total value of the contract*" amounted to USD 4,250,000, broken down as follows:
 - a. A monthly salary of USD 50,000, payable at the end of each calendar month;
 - b. Accommodation;
 - c. A 4x4 car;
 - d. 3 business class air tickets for the player and his family for each season (route Sao Paulo, BRA to Dammam, KSA);
 - e. "*Any other benefits: worth [the player] filling the contract during the contract period and the amount of power*" of USD 1,250,000, payable as follows:
 - i. USD 250,000 on 30 August 2018;
 - ii. USD 250,000 on 30 August 2019;
 - iii. USD 250,000 on 30 August 2020;
 - iv. USD 250,000 on 30 August 2021; and
 - v. USD 250,000 on 30 August 2022.
 - f. Bonuses, provided the following conditions were met: "*1) the Player is registered with the Club on a definitive basis and with the express exclusion of any period spent by the Player on loan to a third club. Such periods shall thus not be taken into account for the purpose of the calculation of the bonuses; 2) the Player has been inserted in the official report of the games in at least 50% of the official matches played by the Club in the relevant sporting season. The bonuses shall be paid proportionally according to the percentage of matches in which the Player has been called and inserted in the official report of the games (50% of matches = 1% of Bonuses; 100% of matches = 100% of Bonuses).*"
 - g. Four weeks paid vacation per year.

4. According to the information available in the Transfer Matching System (TMS), on 12 July 2019, the player, the club and the Emirati club, Khorfakkan SCC, signed a loan agreement, according to which the services of the player were loaned from the club to the latter as from 15 July 2019 until 14 July 2020 (hereinafter: *the first loan agreement*). The club received a loan transfer fee of USD 200,000 for such transfer.
5. On 3 January 2020, the first loan agreement was terminated by mutual agreement.
6. On 4 January 2020, the player, the club and the Kuwaiti club, Al Kuwait Club (hereinafter: *Al Kuwait*), signed a loan agreement, according to which the services of the player were loaned from the club to the latter as from the same date until 31 July 2020 (hereinafter: *the second loan agreement*). Subsequently, the player signed an employment agreement with Al Kuwait.
7. On 16 February 2020, the player and Al Kuwait terminated their employment relationship by mutual consent.
8. On 23 July 2020, the club sent a letter to the player informing that he should avail himself at the club to prepare for the season 2020/2021 by 1 August 2020. To this end, the club informed that it had made the necessary visa arrangements and additionally provided the player with a flight ticket, as follows: Recife (Brazil) - Sao Paulo (Brazil) – Dubai (UAE) – Bahrain (Bahrein), departing on 3 August 2020 and arriving on 5 August 2020.
9. On 26 July 2020, the player wrote to the club and stated as follows: *"I'd like to inform that is not possible to travel back to Saudi. I need to stay for one more month in Brazil to solve a family problem. Thanks for all support!!!"*
10. On 27 July 2020, the club wrote to the player accepting his request, and stating as follows:

*"We acknowledge receipt of your email and we take note that you request to extend your holiday for one month.
The club will operate in good faith, and thus you will be able to extend your return in the Kingdom of Saudi Arabia to 1.9.2020.
According to your request, we will send you in due course the future date of your return.
For the sake of clarity, you will not be entitled to any salary during your absence according to the principle of non-working without salary stipulated in CAS jurisprudence"*
11. On 24 August 2020, the club sent a letter to the player informing that he should avail himself at the club to prepare for the season 2020/2021 by 7 September 2020. To this end, the club informed that it had made the necessary visa arrangements and additionally provided the player with a flight ticket, as follows: Recife (Brazil) – Rio de Janeiro (Brazil) – Dubai (UAE) – Bahrain (Bahrein), departing on 4 September 2020 and arriving on 6 September 2020.
12. On 3 September 2020, the club sent a reminder to the player.

13. On 4 September 2020, the player wrote to the club and stated as follows: *"I'd like to say thanks for all support that Qadisiyah is giving for me, I just need ask one more time patience about my travel back to Khobar because I need fix something about my personal life. Please fix my ticket for begin of October"*.
14. By letter dated 4 September 2020, the club informed the player that his flight was scheduled to 4 September 2020 and that a breach in his obligation to avail himself at the club by 7 September 2020 would incur in disciplinary proceedings against him.
15. On 17 September 2020, the club wrote to the player taking note of his absence between 7 September and 17 September 2020, and granting him until 20 September 2020 to clarify his absence.
16. On 4 October 2020 (Brazilian time) / 5 October 2020 (Saudi time), the player wrote to the club and stated as follows:

"I write further to your email ref: Absence from Daily training for Al Qadsiah team.

As you aware I experienced family problems in Brazil and requested to Mr Mussad (former chairman of Al Qadsiah Club) a period of (unpaid) extension of my holidays. This request was attended and granted by the club.

I write to request to you to re-schedule my travel ticket for the next available flight, as the ticket can only be exchanged through the travel agent who purchased and not directly at the airlines.

I am ready and wish to return to work for Al Qadsiah Club immediately, in order to comply with my contract obligations.

I also want to thank you for respect my personal problem and granted my additional period in Brazil. I trust the club will not take any disciplinary measures due to the nature of my circumstance.

Please let me know as soon as possible the date of my travel. Kindly also confirm if my visa still valid".

17. Later on 5 October 2020, the club terminated the contract in writing, and *inter alia* stated as follows:

"On 04.09.2020, before little hours for flight time, Al Qadsiah received your message you thanking the club for the support provided to you and requesting to amendment the flight ticket to October 2020.

Al Qadsiah club Answer you by Refuse and requiring you to attend by flight ticket was sent to you to go in training with the team.

Indeed, despite all procedures to facilitate your entry into the Saudi Arabia and Preparations to you, but you did not comply to time attend to joining the team's training to preparation for the new sports season.

On 17.09.2020, Qadsiah Club sent you a letter to Asking about your absence for the previous period, and they give you sufficient time to clarify Your attitude, and we did not have any answer from you.

Given the absence of any communication from you, the club informed your agent by phone call of your prejudicial disinterest in the club and of the club's decision to notify you of the unilateral termination of your contract for just cause and to submit a request to the FIFA DRC to claim compensation and sportive sanctions.

Your email dated today has no impact on the current situation for which you assume full responsibility since your unjustified absence has lasted for 35 days.

it is therefore established that:

you have been absent for no valid reason since 01/09/2020.

you gave no positive reaction to the multiple sum mons.

you have neglected your contractual obligations as a professional player and you have prejudiced the club since the championship will start in 17/10/ 2020 days and the registration period will close in 25/10/2020.

All of the foregoing constitutes just cause for termination of the contract on the basis of Article 14 FIFA RSTP and entitles the club to file a request to claim compensation equal to the rest of the value of your contract and to claim damages, disciplinary sanctions against you on the basis of article 17 RSTP".

18. The player was unemployed by the time this decision was passed.

II. PROCEEDINGS BEFORE FIFA

19. On 9 December 2020, the club filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

a. The claim of the club

20. According to the club, it had just cause to terminate the contract on account of the player's "refusal to resume his activities during 35 days".
21. The club was of the position that the player "By refusing to take the flight of 4 September and being absent from that date in all training session without giving any clarification further to the letter sent by the club on 22 September 2020, the player has showed an aberrant lake of interest towards the club".
22. The club furthermore argued that the player "unilaterally and prematurely terminated the employment contract with the club without just cause when he refused to honor his contract by being absent during a long time without any acceptable reasons".

23. The club requested compensation for breach of contract broken down as follows:
- a. USD 3,050,000 as residual value of the contract (monthly salary of USD 50,000 plus bonus of USD 1,250,000;
 - b. USD 54,000 as 2/5 of the unamortized transfer fee of USD 900,000;
 - c. "Loss of a chance" of a transfer fee of USD 1,211,000.
24. The club further requested the imposition of sporting sanctions on the player and application of interest of 5% *p.a.* as from the date of termination, *i.e. "the final departure of the player from the club without any reason (i.e. 01 September 2020)"*.

b. The response and counterclaim of the player

25. On 19 April 2021, the player rejected the club's claim and filed a counterclaim against it.
26. The player explained that the flight tickets issued by the club regarding his return in September were false. To this end, he noted that because of the COVID-19 pandemic, no flights to Dubai were departing from Rio de Janeiro. He filed excerpts from the Brazilian National Aviation Agency in support of this allegation. The player highlighted that he requested on 4 September 2020 that the club "fixed" his ticket to October in light of his family situation. The player went on to affirm that *"Only on 17 September 2020, 13 (thirteen) days after their last exchange of email, the Club sent a Notification Letter to the Player requesting him to clarify his absence from the training session since 04 September 2020 It is amazing this notification of the Club considering that Al Qadisiyah sent a fake flight ticket to the Player, so how could the Claimant in good faith demand explanation from the Player for his absence in these trainings? This notification and affirmation of the Club only shows its disloyalty towards the Player"*.
27. In continuation, the player argued that the club did not have just cause to terminate the contract; nor that he terminated the contract without just cause. In this respect, the player argued that the club had overdue payables towards him by the time of termination amounting to USD 350,000, consisting of the missed payment of USD 250,000 due by 30 August 2020, as well as his salaries of August and September 2020.
28. In this context, the player highlighted that the club agreed to his absence in August 2020 and that there was no reason for the club to withhold payment. The player argued as follows *"the Club must be ordered by the honorable FIFA DRC to make the payment of the overdue amount of USD 350.000 (three hundred fifty thousand dollars), to the Player that was outstanding at the moment the Club unilaterally and illegally terminated the Contract on 05 October"*
29. The player additionally submitted that *"by the Club taking 13 (thirteen) days to send other notification to the Player in September 2020 after the previous one (the Club sent a letter*

on 17/09/21, and the previous was on 04/09/21), and as in this letter the Claimant did not provide to the Player other flight ticket for September 2020, neither requested his return in September 2020, it is clear that the Club was not really interested to have the Player back in September. In this context, we note that the Club indeed allowed the Player to be absent from the team trainings in September too, or at least tacitly permitted it".

30. The player also adduced that "just cause" constitutes an exceptional and inevitable measure, which was not the case as the club terminated the contract 11 hours after the player informed it on 4 October 2020 that he was ready to resume his activities with the club. The player underlined that the club had never sanctioned him for the alleged "breach of the contract", and that the termination was not made as "*ultima ratio*".
31. Accordingly, the player requested that the club is ordered to pay compensation for breach of contract, equivalent to the residual value of the contract of USD 2,220,000, broken down as follows:

"- USD 500.000 (five hundred thousand dollars), for the 2020/2021 season, i.e., 10 monthly salaries from October 2020 until July 2021, being USD 50.000 (fifty thousand dollars) per month;

- USD 850.000 (eight hundred fifty thousand dollars), for the 2021/2022 season, i.e., the fourth yearly installment in the amount of USD 250.000 (two hundred fifty thousand dollars) that would be due on 30 August 2021, plus 600.000 (sixty thousand dollars) as 12 monthly salaries from August 2021 until July 2022, being USD 50.000 (fifty thousand dollars) per month;

-USD 850.000 (eight hundred fifty thousand dollars), for the 2022/2023 season, i.e., the fifth yearly installment in the amount of USD 250.000 (two hundred fifty thousand dollars) that would be due on 30 August 2022, plus 600.000 (sixty thousand dollars) as 12 monthly salaries from August 2022 until July 2023, being USD 50.000 (fifty thousand dollars) per month."

32. The player also challenged the amount sought as compensation by the club, stressing that, by terminating the contract, the club saved USD 2,200,000. The player also pointed out that "*considering the amount of USD 800.000 already amortized by the Club in the transfer fee paid by the Player in the amount of USD 900.000, plus the percentage of 20% (900.000 x 20% = 180.000) that must be decreased on it, we realized that the Club has really nothing to receive from the Player as compensation for the "allege" breach of contract. Indeed, considering the amount of USD 900.000 of the transfer fee with the amortized amount of USD 980.000, we discover that the Club had a profit of USD 80.000 with the Player. Thus, we demonstrated another reason why the Player cannot be ordered to pay any compensation amount to the Club*".
33. The player further asked that sporting sanctions are imposed on the club, and none be imposed on him.
34. The requests for relief of the player were as follows:

- "A) Accept this response against the claim issued by the Claimant;
B) Dismiss all claims of Club in the merits for the reasons exposed in this Answer & Counterclaim;
C) In such case, admit the present Counterclaim and order that the Club pays the Player an amount of USD 350.000 (three hundred fifty thousand dollars) as overdue payables, plus an amount of USD 2,200,000 (two million, two hundred thousand dollars) as compensation for breach of contract;
D) As an alternative, consider that the Player has nothing to pay to the Club for the "alleged" breach of contract requested by the Claimant, and eventually, if the Player has to pay any amount to the Club, that this amount must be reduced by the FIFA DRC in accordance with our considerations;
E) Order the payment of legal interest at a rate of 5% p.a. to the values due by the Club to the Player, starting to count on the date when each of them became due until effective payment;
F) impose sporting sanctions on the Club banning it from registering any new players for two entire consecutive registration periods;
G) reject the request of the Club that the Player is restricted on playing in official matches;
H) order the Club to pay any legal expenses or costs faced by the Player in an amount prudently estimated in the excess of USD 50,000.00 (fifty thousand dollars);
I) order the Club to bear any and all administrative and procedural costs, which have already been incurred or may eventually be incurred in connection with these or future proceedings".*

c. The reply to the counterclaim by the club

35. In its reply to the counterclaim, the club denied that it had issued fake plane tickets to the player. It argued that the flight tickets were legitimate and that the player had never raised this issue in his previous communications. Additionally, the club adduced as follows: *"it should be remembered that during the flight period the airlines companies operated by repatriation flights which are not regular flights and therefore do not have the same place of departure as regular flights. Additionally, the club bought and paid the first fly ticket 35,458.00 SAR (see invoice attached exhibit E-Q-16) and further to the postponement of the player's return the club paid a penalty equal to 923.00 SAR to change the flight ticket to the new date (4 September) (see invoice attached exhibit E-Q-17) and spent all the amount since the player missed the flight".*
36. The club also argued that the *modus operandi* for the flight tickets was identical in previous years. Moreover, the club mentioned that the player was a repeat offender, having being sanctioned before for failing to perform his duties in 2018.
37. The club then rejected the position of the player that he had salaries overdue as his absence was unpaid in accordance with his email of 4 October 2020.

38. Lastly, the club reiterated its position that the player's failure to join the team amounts to just cause as per the FIFA jurisprudence. The club highlighted that the player only informed that he was ready to re-join the club after the club warned his agent that they would terminate the contract.

d. Final comments by the player

39. The player reiterated his position as to the just cause and highlighted that no matches were played while he was absent.
40. More in particular, the player insisted that the flight tickets were fake and outlined that the invoices provided by the club read "*travel order pending*", which denote that the tickets were not, or could not, be properly issued – unlike in 2018 when the flight tickets were correctly ordered by the club. The player also filed an interview from an airline company (Emirates) confirming that it was not operation out of Rio de Janeiro during the pandemic.
41. Finally, the player objected to the club's position that he was a repeat offender since the facts have no connection to the unilateral termination of the contract.

III. CONSIDERATIONS OF THE DISPUTE RESOLUTION CHAMBER

a. Competence and applicable legal framework

42. First of all, the Dispute Resolution Chamber (hereinafter also referred to as *Chamber* or *DRC*) analysed whether it was competent to deal with the case at hand. In this respect, it took note that the present matter was presented to FIFA on 09 December 2020 and submitted for decision on 15 July 2021. Taking into account the wording of art. 21 of the January edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *the Procedural Rules*), the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
43. Subsequently, the members of the Chamber referred to art. 3 par. 1 of the Procedural Rules and observed that in accordance with art. 24 par. 1 in combination with art. 22 lit. a) of the Regulations on the Status and Transfer of Players (edition February 2021), 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 Brazilian player and a Saudi club.
44. Subsequently, 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 2 of the Regulations on the Status and Transfer of Player (edition February 2021), and considering that the present claim was lodged on 09 December 2020, the October 2020 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

45. The Chamber recalled the basic principle of burden of proof, as stipulated in art. 12 par. 3 of the Procedural Rules, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof. Likewise, the DRC stressed the wording of art. 12 par. 4 of the Procedural Rules, pursuant to which it may consider evidence not filed by the parties.
46. In this respect, the Chamber also recalled that in accordance with art. 6 par. 3 of Annexe 3 of the Regulations, FIFA's judicial bodies may use, within the scope of proceedings pertaining to the application of the Regulations, any documentation or evidence generated or contained in TMS.

c. Merits of the dispute

47. The competence of the DRC and the applicable regulations having been established, the DRC entered into the merits of the dispute. In this respect, the DRC 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.

i. Main legal discussion and considerations

48. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that the parties strongly dispute whether the club had just cause to terminate the contract.
49. In this context, the Chamber acknowledged that its task was to determine if the player's prolonged absence consisted just cause for the club to terminate the contract, and the consequences that followed.
50. In doing so, the Chamber clarified that the club argued that the player breached the contract without just cause hence giving rise to the termination; however, the only party that effectively terminated the contract was the club by its letter dated 5 October 2020. As such, the DRC determined that the issue at stake is whether the club terminated the contract with or without just cause, and any other line of reasoning was set aside.
51. In the present case, the club claims to have issued the flight tickets to the player and warned him on 4 September 2020 that he should fly back to Saudi Arabia and resume his activities with the team by 7 September 2020. At the same time, the player claims that the flight tickets are fake.

52. In view of this dissent between the parties, the DRC was observant of the fact that the player never challenged the veracity/validity of the flight tickets until the claim was filed by the club. What is more, the Chamber noted that in his correspondences of September and October 2020, the player never raised the issue of his inability to board the flights provided by the club on account of the fact that these did not exist, but only referred to the matter of his family/personal issues not to travel (or, more accurately, to ask for a deferred arrival).
53. Therefore, the members of the DRC deemed that whether the flight tickets were fake or not has no bearing on the outcome of the case since this very reason was never invoked by the player to justify his absence from the club.
54. In continuation, in light of the player's absence in September 2020, the DRC recalled that on 17 September 2020 the club started disciplinary proceedings against him – to which they received no reply within the granted period.
55. Subsequently to that, the DRC also noted that the club terminated the contract on 5 October 2020, shortly after the player informed them that he was ready to resume his duties (and in line with his e-mail of 4 September 2020 requesting the club to re-schedule the plane tickets to October).
56. To this extent, the Chamber highlighted that only a breach or misconduct which is of a certain severity justifies the termination of a contract. In other words, only when there are objective criteria, which do not reasonably permit to expect a continuation of the employment relationship between the parties, a contract may be terminated prematurely. Hence, if there are more lenient measures which can be taken in order for an employer to ensure the employee's fulfilment of his contractual duties, such measures must be taken before terminating an employment contract. A premature termination of an employment contract can only ever be an *ultima ratio* measure.
57. Bearing in mind the foregoing, the Chamber was comfortable to establish that the club took several steps in order to ensure that the player complied with his contractual obligations, to no avail. At the same time, the Chamber found that the reasons brought forward by the player could not reasonably justify his absence, in spite of the repeated requests from the club.
58. The Chamber was furthermore comforted in its consideration on the basis that it seemed that the player had had sufficient time following the (early) termination of the second loan agreement in February to solve his personal issues. The DRC also pointed out that no explanation was given by the player of what these issues consisted – neither to the club nor in these proceedings.
59. All the above led the Chamber to conclude that the club could not reasonably expect the player to resume his duties nor that the employment relationship of the parties would continue. The DRC found thus that the club had just cause to terminate the contract. The player accordingly must bear the consequences that follow.

ii. Consequences

60. Having stated the above, the members of the Chamber turned their attention to the question of the consequences of such unjustified breach of contract committed by the player.
61. In doing so, the DRC first of all established that the player was employed by the club until 5 October 2020, *i.e.* up until the contract was terminated. This means, in principle, that the player (in line with this petition) would be entitled to his *pro-rata* salary for the corresponding period following the (original) expiry of the second loan agreement, as no evidence on file suggests that the club concurred to the early termination of said loan. The DRC clarified in this respect that the contract was suspended during the term of the second loan agreement (and also the first loan agreement for that matter); and that such suspension was lifted as of 1 August 2020.
62. However, the DRC was mindful of the player's admission that his absence requests were made on the basis of an unpaid leave as per his correspondence of 4 October 2020. This fact, combined with the already established unlawful absence of the player in the month of September 2020, led the Chamber to conclude that no salary is owed to the player for the months of August and September 2020. The Chamber consequently rejected the player's counterclaim in this respect.
63. Notwithstanding the above, the Chamber addressed the issue of the unpaid USD 250,000 annual fee which fell due on 31 August 2020, which the club does not dispute having failed to pay.
64. The Chamber then turned to the contract and observed that it was established therein that its total value was USD 4,250,000, comprising of the several concepts payable to the player, including his salary of USD 50,000 and "*any other benefits*". To this end, the Chamber was eager to clarify that the wording of the contract is poor to elucidate why, or under what concept, the USD 250,000 annual fee was payable. The Chamber did not fail to notice that the relevant clause reads "*Any other benefits: worth [the player] filling the contract during the contract period and the amount of power*".
65. The DRC determined that it was hence necessary to interpret the cited contractual clause, especially in light of the dissent of the parties: the player argues that these amounts corresponded to a part of his remuneration, and the club states that these amounts were bonuses, the condition of which was not met, entailing that no amounts were due. In carrying out such task, the DRC highlighted that in line with FIFA and CAS jurisprudence the interpretation must give respect to the behaviour of the parties, their respective interest in the contract and its goal can also be taken into account as complementary means of interpretation. The DRC also pointed out that it is of the responsibility of the author of the contract to choose its formulation with adequate precision bearing in mind the principle *in dubio contra stipulatorem*.

66. The DRC analysed the clause at stake and confirmed that the amounts established therein cannot be deemed bonuses as argued by the club, as the clause in which the latter relied on in support of this line of reasoning was in fact not the one at stake, but the one which follows such provision. In other words, the argumentation raised by the club gave respect to the clause which reads “the following bonuses” under the contract, and not to “any other benefits”.
67. This also was a strong indication to the Chamber that the yearly fees were not bonuses but in fact a benefit comprising of the player’s remuneration. Additionally, the DRC was mindful of the fact that the amounts were established as a whole (*i.e.* USD 1,250,000) with a deferred payment in five annual quotas.
68. It followed in the DRC’s eyes that the annual fees were deferred payments of a benefit akin to a sign-on fee, which reflects a payment obligation by the club to the player for the execution of the contract, thus not subject to any other conditions other than the execution of the contract itself. This was further confirmed by the total contract amount stipulated therein (*i.e.* USD 4,250,000), which is equivalent to 60 months’ worth of salaries of USD 50,000 plus USD 1,250,000 as sign-on fee.
69. As a consequence of the above, the DRC confirmed that such benefit should have been paid by the club insofar as its nexus pertained not to the compensation for work performed (*i.e.* salary) but to the execution of the contract itself.
70. As such, the Chamber decided to partially accept the player’s counterclaim and that the club must pay, in accordance with the general legal principle of *pacta sunt servanda*, the amount of USD 250,000 as outstanding remuneration in the case at hand.
71. In addition, taking into account the player’s request as well as the constant practice of the Dispute Resolution Chamber in this regard, the Chamber decided that the club must pay to the player interest of 5% *p.a.* on the said amount as of one day after its due date until the date of effective payment.
72. In continuation, the Chamber turned its attention to art. 17 par. 1 of the Regulations, according to which the player is liable to pay compensation to the club. The members of the Chamber recapitulated that, in accordance with art. 17 par. 1 of the Regulations, the amount of compensation shall be calculated, in particular and unless otherwise provided for in the contract at the basis of the dispute, with due consideration for the law of the country concerned, the specificity of sport and further objective criteria, including in particular the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years as well as the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period.

73. In application of the relevant provision, the Chamber held that it first of all had to clarify as to whether the pertinent employment contract contains a provision by which the parties had beforehand agreed upon an amount of compensation payable by either contractual party in the event of breach of contract. Upon careful examination of said contract, the members of the Chamber assured themselves that this was not the case in the matter at stake.
74. The Chamber then turned its attention to the remuneration and other benefits due to the player under the existing contract and/or any new contract(s), a criterion which was considered by the Chamber to be essential. The members of the Chamber deemed it important to emphasise that the wording of art. 17 par. 1 of the Regulations allows the Chamber to take into account both the existing contract and any new contract(s) in the calculation of the amount of compensation.
75. According to the documentation provided by the parties, it appears that in accordance with the contract, which was to run until 17 July 2023, the player was to receive a total remuneration of USD 2,177,149. This amount includes the remainder of the player's salaries and benefits of from 5 October 2020 until 17 July 2023.
76. In view of all of the above, the Chamber concluded that bearing in mind art. 17 par. 1 of the Regulations, after having duly taken into account the specificities of the present case, the compensation considering the player's both existing contract and any new contract(s) amounts to USD 2,177,149, a sum the Chamber found to be fair and proportionate.
77. The members of the Chamber then turned to the essential criterion relating to the fees and expenses paid by the club for the acquisition of the player's services insofar as these have not yet been amortised over the term of the relevant contract. The Chamber recalled that a transfer compensation of USD 900,000 had been paid by the club to the Brazilian club SC Santa Rita for the player's transfer, documentation of which has been presented by the club.
78. According to article 17 par.1 of the Regulations, this amount shall be amortised over the term of the relevant employment contract. As stated above, the player was bound by the club for a period of 60 months, and the club terminated the contract after the 22nd month had elapsed. As a result of the player's breach of contract, the club has thus been prevented from amortising the amount of USD 330,000, *i.e.* 22/60 of the USD 900,000, relating to the transfer compensation that it paid in order to acquire the player's services, which, at that time, the club counted to be able to make use of during five entire years.
79. In spite of the above, the Chamber noted that the amount of USD 200,000 was paid to the club in connection with the first loan agreement, an amount which shall be duly considered and offset against the other two cited figures.
80. In sum, the Chamber concluded that the amount of compensation for breach of contract without just cause to be paid by the player to the club consists of USD 330,000 related to

non-amortised expenses incurred by the club when engaging the services of the player and USD 2,177,149 being the reflection of the remuneration and other benefits due to the player under the contract, minus USD 200,000 regarding the loan transfer fee received by the club.

81. On account of all of the above-mentioned considerations and the specificities of the case at hand, the Chamber decided that the player must pay the amount of USD 2,307,419 to the club as compensation for breach of contract.
82. In addition, taking into account the club's request as well as the constant practice of the Dispute Resolution Chamber in this regard, the Chamber decided that the player must pay to the club interest of 5% *p.a.* on the amount of compensation as of the date of claim, *i.e.* 9 December 2020, until the date of effective payment.

iii. Compliance with monetary decisions

83. Finally, taking into account the consideration the applicable Regulations, the Chamber 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.
84. In this regard, the DRC highlighted 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.
85. Equally, the DRC confirmed that, against players, the consequence of the failure to pay the relevant amounts in due time shall consist of a restriction on playing in official matches up until the due amounts are paid. The overall maximum duration of the restriction shall be of six months on playing in official matches.
86. Therefore, bearing in mind the above, the DRC decided that, in the event that the player does not pay the amounts due to the club within 45 days as from the moment in which the club communicates the relevant bank details to the player, provided that the decision is final and binding, a restriction on playing in official matches shall become effective on the player in accordance with art. 24bis par. 2 and 4 of the Regulations.
87. Likewise, the DRC decided that, in the event that the club does not pay the amounts due to the player within 45 days as from the moment in which the player communicates the relevant bank details to the club, provided that the decision is final and binding, 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 club in accordance with art. 24bis par. 2 and 4 of the Regulations.

88. The DRC recalled that the above-mentioned bans 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.
89. Lastly, the DRC concluded its deliberations by rejecting any other requests for relief made by any of the parties.

d. Costs

90. The Chamber referred to article 18 par. 2 of the Procedural Rules, according to which *“DRC proceedings relating to disputes between clubs and players in relation to the maintenance of contractual stability as well as international employment related disputes between a club and a player are free of charge”*. Accordingly, the Chamber decided that no procedural costs were to be imposed on the parties.
91. Likewise and for the sake of completeness, the Chamber recalled the contents of art. 18 par. 4 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings.

IV. DECISION OF THE DISPUTE RESOLUTION CHAMBER

1. The claim of the Claimant/Counter-Respondent, Al Qadsiah, is partially accepted.
2. The counterclaim of the Respondent/Counter-Claimant, Bismark de Araujo Ferreira, is partially accepted.
3. The Respondent/Counter-Claimant has to pay to the Claimant/Counter-Respondent the following amount:
 - USD 2,307,419 as compensation for breach of contract without just cause plus 5% interest p.a. as from 9 December 2020 until the date of effective payment.
4. The Claimant/Counter-Respondent has to pay to the Respondent/Counter-Claimant the following amount:
 - USD 250,000 as outstanding remuneration plus 5% interest p.a. as from 1 September 2020 until the date of effective payment.
5. Any further claims of any of the parties are rejected.
6. The Claimant/Counter-Respondent is directed to immediately and directly inform the Respondent/Counter-Claimant of the relevant bank account to which the latter must pay the due amount.
7. The Respondent/Counter-Claimant is directed to immediately and directly inform the Claimant/Counter-Respondent of the relevant bank account to which the latter must pay the due amount.
8. The Respondent/Counter Claimant and the Claimant/Counter-Respondent shall provide evidence of payment of the due amount in accordance with this decision to **psdfifa@fifa.org**, duly translated, if applicable, into one of the official FIFA languages (English, French, German, Spanish).
9. In the event that the amount due, plus interest as established above is not paid by the Respondent/Counter-Claimant **within 45 days**, as from the notification by the Claimant/Counter-Respondent of the relevant bank details to the Respondent/Counter-Claimant, the following consequences shall arise:
 1. The Respondent/Counter-Claimant shall be banned from playing in official matches upuntil the due amounts are paid. The overall maximum duration of the restriction shall be of a maximum of six months. 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.
10. In the event that the amount due, plus interest as established above is not paid by the Claimant/Counter-Respondent within **45 days**, as from the notification by the Respondent/Counter-Claimant of the relevant bank details to the Claimant/Counter-Respondent, the following consequences shall arise:
 1. The Claimant/Counter-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.
11. This decision is rendered without costs.

For the Dispute Resolution Chamber:



Emilio García Silvero

Chief Legal & Compliance Officer

NOTE RELATED TO THE APPEAL PROCEDURE:

According to article 58 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.

NOTE RELATED TO THE PUBLICATION:

FIFA may publish this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 20 of the Procedural Rules).

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