

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

passed on 14 July 2021

regarding an employment-related dispute concerning the player Yonathan Alexander Del Valle Rodríguez

### **COMPOSITION:**

**Stijn Boeykens** (Belgium), DRC Judge

### **CLAIMANT:**

**Yonathan Alexander Del Valle Rodríguez, Venezuela**

Represented by Yakub Kizilkaya

### **RESPONDENT:**

**Giresunspor, Turkey**

Represented by Atahan Sevimli

## I. FACTS OF THE CASE

1. On an unspecified date, the Claimant and the Respondent signed an employment agreement (hereinafter: *the contract*), valid between 25 July 2019 and 31 May 2020.
2. What is more, on 8 September 2020, the Claimant and the Respondent signed a protocol, by means of which they agreed that the amount of EUR 140,000 net, which was allegedly paid late in the period between 25 July 2019 and 31 May 2020, would be payable to the Claimant as follows:
  - EUR 14,000 on 15 November 2020;
  - EUR 14,000 on 15 December 2020;
  - EUR 14,000 on 15 January 2021;
  - EUR 14,000 on 15 February 2021;
  - EUR 14,000 on 15 March 2021;
  - EUR 14,000 on 15 April 2021;
  - EUR 14,000 on 15 May 2021;
  - EUR 14,000 on 15 June 2021;
  - EUR 14,000 on 15 July 2021;
  - EUR 14,000 on 15 August 2021.

## II. PROCEEDINGS BEFORE FIFA

3. On 4 June 2021, the Claimant 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 Claimant

4. On 4 June 2021, the Claimant lodged a claim against the Respondent, claiming to be awarded the amount of EUR 140,000, plus 5% interest *p.a.* as from the respective due dates.
5. In his claim, the Claimant explains that the Respondent failed to comply with any of its financial obligations under the protocol.

### b. Position of the Respondent

6. In its reply, the Respondent argued that the claims of the Claimant are '*false*' and that '*it made several payments to the Claimant*'.

### c. Additional position of the Claimant

7. In reply to the allegations of the Respondent that it made several payments, the Claimant stated that the payment receipt submitted by the Claimant are dated between 11 November 2019 and 19 June 2020, i.e. before the date of the protocol, which was signed on 8 September 2020.
8. As a result, the Claimant argues that the payment receipts cannot be taken into account as they are irrelevant.

### III. CONSIDERATIONS OF THE DRC JUDGE

#### a. Competence and applicable legal framework

1. First of all, the Dispute Resolution Chamber (DRC) judge (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 4 June 2021 and submitted for decision on 14 July 2021. Taking into account the wording of art. 21 of the 2021 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.
2. Subsequently, the DRC judge referred to art. 3 par. 1 of the Procedural Rules and observed that in accordance with art. 24 par. 1 and 2 in combination with art. 22 lit. a) and b) of the Regulations on the Status and Transfer of Players (edition February 2021), the DRC judge is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Venezuelan player and a Turkish club.
3. Subsequently, 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 2 of the Regulations on the Status and Transfer of Player (edition February 2021), and considering that the present claim was lodged on 4 June 2021, the February 2021 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

#### b. Burden of proof

4. The DRC judge 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 judge stressed the wording of art. 12 par. 4 of the Procedural Rules, pursuant to which he may consider evidence not filed by the parties.
5. In this respect, the DRC judge 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**

6. The competence of the DRC judge and the applicable regulations having been established, the DRC judge entered into the merits of the dispute. 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 it considered pertinent for the assessment of the matter at hand.

**i. Main legal discussion and considerations**

7. The foregoing having been established, the DRC judge moved to the substance of the matter, and took note of the fact that the parties strongly dispute whether or not the amounts claimed by the Claimant can be effectively granted to him.
8. In this context, the DRC judge acknowledged that its task was to determine whether or not the Respondent had met its burden of proof on the basis of which it could be established that it had fulfilled its contractual obligations towards the Claimant.
9. In this respect, the DRC judge noted that in its reply, the Respondent argued that it complied with its financial obligations and had filed several payment receipts, which were however not translated into one of the official FIFA languages and can therefore, in line with art. 9 par. 1 and 3 of the Procedural Rules, not be taken into account.
10. Moreover, the DRC judge noted that the Claimant stated that the payment receipt submitted by the Claimant are all dated between 11 November 2019 and 19 June 2020, i.e. before the date of the protocol, which was signed on 8 September 2020. As such, the DRC judge deemed that the payment receipts, if at all to be taken into account, are not relevant for the assessment which amounts were outstanding.
11. In conclusion, the DRC judge concluded that the argument submitted by the Respondent cannot be upheld and that it was in breach of its financial obligations as per the protocol.

**ii. Consequences**

12. Having stated the above, the DRC judge turned their attention to the question of the consequences of such unjustified breach of the financial obligations as per the protocol committed by the Respondent.
13. 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 the amount of EUR 140,000 plus interest at the rate of 5% *p.a.* as from the respective due dates.

### iii. Compliance with monetary decisions

14. Finally, taking into account the consideration under number 13. above, the DRC judge referred to par. 1 lit. 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.
15. In this regard, the DRC judge 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. The overall maximum duration of the registration ban shall be of up to three entire and consecutive registration periods.
16. Therefore, bearing in mind the above, the DRC judge decided that the Respondent must pay the full amount due (including all applicable interest) to the Claimant within 45 days of notification of the decision, failing which, at the request of the Claimant, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods shall become immediately effective on the Respondent in accordance with art. 24bis par. 2, 4, and 7 of the Regulations.
17. The Respondent shall make full payment (including all applicable interest) to the bank account provided by the Claimant in the Bank Registration Form, which is attached to the present decision.
18. The DRC judge 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. 8 of the Regulations.

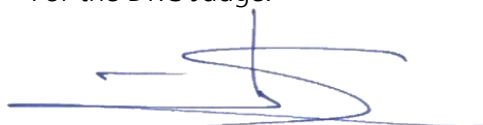
### d. Costs

19. The DRC judge 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 DRC judge decided that no procedural costs were to be imposed on the parties.
20. Likewise and for the sake of completeness, the DRC judge recalled the contents of art. 18 par. 4 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings.
21. Lastly, the DRC judge concluded its deliberations by rejecting any other requests for relief made by any of the parties.

#### IV. DECISION OF THE DRC JUDGE

1. The claim of the Claimant, Yonathan Alexander Del Valle Rodríguez, is accepted.
2. The Respondent, Giresunspor, has to pay to the Claimant, the following amount:
  - EUR 112,000 as outstanding remuneration, plus 5% interest p.a. until the effective date of payment as follows:
    - On the amount of EUR 14,000 as from 16 November 2020;
    - On the amount of EUR 14,000 as from 16 December 2020;
    - On the amount of EUR 14,000 as from 16 January 2021;
    - On the amount of EUR 14,000 as from 16 February 2021;
    - On the amount of EUR 14,000 as from 16 March 2021;
    - On the amount of EUR 14,000 as from 16 April 2021;
    - On the amount of EUR 14,000 as from 16 May 2021;
    - On the amount of EUR 14,000 as from 16 June 2021.
3. Full payment (including all applicable interest) shall be made to the bank account set out in the enclosed Bank Account Registration Form.
4. Pursuant to article 24bis of the [Regulations on the Status and Transfer of Players](#) if full payment (including all applicable interest) is not paid **within 45 days** of notification of this decision, the following **consequences** shall apply:
  1. The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of three entire and consecutive registration periods.
  2. The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not paid by the end of the of the three entire and consecutive registration periods.
5. The consequences **shall only be enforced at the request of the Claimant** in accordance with article 24bis paragraphs 7 and 8 and article 24ter of the [Regulations on the Status and Transfer of Players](#).
6. This decision is rendered without costs.

For the DRC Judge:



**Emilio García Silvero**

Chief Legal & Compliance Officer

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**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).

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

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