

Decision of the Dispute Resolution Chamber

passed on 12 August 2021

regarding an employment-related dispute concerning the player **Jody Lukoki**

COMPOSITION:

Geoff Thompson (England), Chairman

Tomislav Kasalo (Croatia), member

Abu Nayeem Shohag (Bangladesh), member

CLAIMANT:

Jody Lukoki, Netherlands

Represented by Mr Remco Wortel and Ms Linda de Wit.

RESPONDENT:

Yeni Malatyaspor, Turkey

Represented by Mr Burak Cakir

I. FACTS OF THE CASE

1. On 17 August 2020, the Claimant and the Respondent signed an employment contract, valid between 18 August 2020 and 31 May 2022, based on which the Claimant was entitled to receive the following amounts:
 - EUR 800,000 for the 2020/2021 season, payable as follows: EUR 100,000 upon signing of the contract and 10 instalments of EUR 70,000 each in the period between 30 August 2020 and 30 May 2021;
 - EUR 800,000 for the 2021/2022 season, payable as follows: EUR 100,000 on 20 August 2021 and 10 instalments of EUR 70,000 each in the period between 30 August 2021 and 30 May 2022.
2. On 21 April 2021, the Claimant and the Respondent signed an settlement agreement, based on which the parties agreed that the contract between them would be terminated on 21 April 2021 and based on which the Respondent would pay the total amount of EUR 210,000 to the Claimant, as follows:
 - EUR 70,000 on 23 April 2021;
 - EUR 70,000 on 30 June 2021;
 - EUR 70,000 on 30 July 2021.
3. On 11 May 2021, the Claimant put the Respondent in default for the amount of EUR 70,000, providing a 3 days' deadline to remedy the default, however to no avail.
4. On 14 May 2021, the Claimant informed the Respondent that it would start a legal proceeding before FIFA.
5. On 19 May 2021, the Claimant informed the Respondent that – insofar the settlement agreement is annulled – he hereby unilaterally terminated the contract with the Respondent.

II. PROCEEDINGS BEFORE FIFA

6. 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

7. In his claim, the Claimant explains that the Respondent failed to meet its contractual obligations several times.
8. The requests for relief of the Claimant, as amended, were the following:

To be awarded the total amount of EUR 243,479.18 as follows:

- EUR 210,000 as outstanding amount as per the settlement agreement;
- EUR 1,979.18 as interest due 'until the date of claim';
- Interest as from the date of claim;
- EUR 31,500 as extrajudicial costs.

b. Position of the Respondent

9. In its reply to the Claimant's claim, the Respondent argued that it indeed did not pay the first instalment of EUR 70,000, however that the second and third instalment of EUR 70,000 are not due yet.

III. CONSIDERATIONS OF THE DISPUTE RESOLUTION CHAMBER

a. Competence and applicable legal framework

10. 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 4 June 2021 and submitted for decision on 12 August 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.
11. 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) and b) 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 Dutch player and a Turkish club.
12. 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 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

13. 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.

14. 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

15. 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

16. 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 the total amount that was outstanding as per the settlement agreement concluded between the parties.
17. In this context, the Chamber acknowledged that it its task was to whether the amounts claimed by the Claimant had indeed already fallen due and were to be paid by the Respondent.
18. In this respect, the members of the Chamber noted that it remained uncontested between the parties that the first instalment in the amount of EUR 70,000 had fallen due and remained unpaid by the Respondent.
19. What is more, the members of the Chamber noted that – although the settlement does not hold an acceleration clause, on the basis of which the late payment of one instalment would lead to the other instalments immediately becoming due – the other instalments had also fallen due at the time of the passing a decision in the matter at hand.
20. As a result of the foregoing, the Chamber decided to reject the argumentation submitted by the Respondent and concluded that the Claimant is entitled to full value of the settlement agreement.

ii. Consequences

21. Having stated the above, the members of the Chamber turned their attention to the question of the consequences of such unjustified breach of the settlement agreement committed by the Respondent.

22. 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 amount of EUR 210,000, plus interest at the rate of 5% p.a. as from the respective due dates.
23. Subsequently, the Dispute Resolution Chamber decided to reject the Claimant's claim pertaining to legal / extrajudicial costs in accordance with art. 18 par. 4 of the Procedural Rules and the Chamber's respective longstanding jurisprudence in this regard.
24. The Chamber concluded its deliberations in the present matter by rejecting any further request filed by the Claimant.

iii. Compliance with monetary decisions

25. Finally, taking into account the consideration under number 22. above, the Chamber 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.
26. 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. The overall maximum duration of the registration ban shall be of up to three entire and consecutive registration periods.
27. Therefore, bearing in mind the above, the DRC 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.
28. 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.
29. 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. 8 of the Regulations.

d. Costs

30. 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*

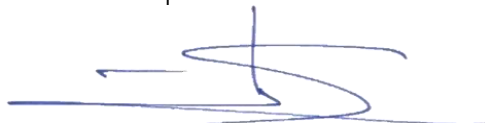
and a player are free of charge". Accordingly, the Chamber decided that no procedural costs were to be imposed on the parties.

31. 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.
32. Lastly, the DRC concluded its deliberations by rejecting any other requests for relief made by any of the parties.

IV. DECISION OF THE DISPUTE RESOLUTION CHAMBER

1. The claim of the Claimant, Jody Lukoki, is partially accepted.
2. The Respondent, Yeni Malatyaspor, has to pay to the Claimant, the following amount:
 - EUR 210,000 as outstanding amount, plus 5% interest *p.a.* until the date of effective payment as follows:
 - on the amount of EUR 70,000 as from 24 April 2021;
 - on the amount of EUR 70,000 as from 1 July 2021;
 - on the amount of EUR 70,000 as from 31 July 2021.
3. Any further claims of the Claimant are rejected.
4. Full payment (including all applicable interest) shall be made to the bank account set out in the enclosed Bank Account Registration Form.
5. 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.
6. 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](#).
7. This decision is rendered without costs.

For the Dispute Resolution Chamber:



Emilio Garcia 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).

CONTACT INFORMATION:

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