

# **Decision of the Single Judge of the Players' Status Committee**

passed on 9 July 2021,

regarding a dispute concerning the transfer of the player Stephen Odey

**BY:**

**Roy Vermeer** (*Netherlands*), Single Judge of the PSC

**CLAIMANT:**

**Mountain of Fire and Miracles Ministries FC, Nigeria**  
Represented by Mr Cristiano Novazio

**RESPONDENT:**

**FC Zurich, Switzerland**  
Represented by Mr Daniel Engel

## I. FACTS OF THE CASE

1. On 31 August 2017, the Nigerian club, Mountain of Fire and Miracles Ministries FC (hereinafter: *the Claimant*) and the Swiss club, FC Zurich (hereinafter: *the Respondent*) concluded an agreement (hereinafter: *transfer agreement*) regarding the permanent transfer of the player Stephen Odey (hereinafter: *player*) from the Claimant to the Respondent.
2. According to the transfer agreement, the Respondent undertook to pay a transfer fee in the amount of EUR 300,000, as follows:
  - EUR 200,000 within 10 days;
  - EUR 100,000 until 31 December 2017.
3. Furthermore, the transfer agreement establishes in art. 2.4.: *"In addition to the above mentioned amount, the Parties have agreed that in case of a subsequent transfer of the Player from Zurich to a third club (2.4.1.) latest until 15 June 2021 (2.4.2.) on a permanent basis, Zurich shall pay to MFM an additional compensation amount of 7.5% (seven point five percent) of the difference between the transfer compensation Zurich will receive from the third club for such a subsequent transfer of the Player and the amount already paid under the present Agreement (2.1. and 2.2.) and any payments to players agents in relation with the transfer of the player from MFM to Zurich. This amount is payable within 10 days after reception of the transfer compensation from the third club."*
4. Between 6 October 2017 and 28 March 2019, the Claimant issued invoices regarding the different instalments of the transfer fee and its conditional payments. Said invoices were issued on the official letterhead of the club and sent from the email address mfmfcclagos@gmail.com.
5. On 28 June 2019, the player was permanently transferred from FC Zurich to KRC Genk, including a transfer fee of EUR 3,500,000, payable as follows:
  - EUR 2,000,000 upon receipt of the ITC;
  - EUR 750,000 on 1 February 2020;
  - EUR 750,000 on 1 July 2020.
6. On 23 July 2019, the Respondent received a further invoice regarding the first instalment of the sell-on fee agreed upon in the transfer agreement. Such invoice was sent by Mr Davidson Adejuwon, allegedly Director MFM FC, from the email address mfmfcclagos@hotmail.com and issued on the official letterhead of the Claimant. Such invoice requested payment to a different bank account than the previous ones.
7. On 5 August 2019, the Respondent remitted a payment in the amount of EUR 99,375, corresponding to the first instalment of the sell-on fee to the bank account mentioned in the invoice dated 23 July 2019.
8. On 19 September 2020, the Respondent sent an email to the Claimant requesting the latter if it received the payment.

9. On 1 December 2020, the Claimant lodged a claim against the Respondent in front of FIFA, requesting payment of EUR 99,375 plus 5% interest *p.a.* as of the due date, corresponding to the first instalment of the sell-on fee regarding the player's transfer to Genk.
10. The Claimant held that the payment corresponding to the first instalment of the sell-on fee remitted to a fraudulent bank account had not arrived by the Claimant.
11. In this regard, the Claimant held that the invoice leading to such payment was sent from a different email address than the club's official one, which is indicated in the club's letterhead.
12. Furthermore, the Claimant argued that the Respondent should have noticed that it was requested to pay the amount in question to a different bank account, in a different country (UK) than the previous ones.
13. On account of the above, the Claimant maintained that it was the Respondent's mistake to remit the amount to a third party and therefore it is entitled to claim such amount.
14. In its reply, the Respondent rejected the Claimant's claim.
15. According to the Respondent it remitted several payments due to the Claimant upon receiving the corresponding invoices as no bank account was agreed upon in the transfer agreement.
16. In this regard, the Respondent referred to its payments remitted after receiving invoices between 6 October 2017 and 28 March 2019.
17. After the player's transfer to KRC Genk, the Claimant was entitled to receive the following amounts:
  - EUR 99,375 as sell-on corresponding to the first instalment, paid on 5 August 2019;
  - EUR 53,437.50 as sell-on corresponding to the second instalment, paid on 28 September 2020;
  - EUR 53,437.50 as sell-on corresponding to the third instalment, paid on 28 September 2020.
18. The Claimant acknowledged receipt of the second and third instalment, and according to the Respondent it remitted the payment in connection with the first instalment correctly, after having received an invoice on the letterhead of the club, from a similar email-address requesting the exact amount due to the Claimant.
19. The Respondent held that the person sending the invoice in question was perfectly aware of the content of the transfer agreement and the respective sell-on clause. Therefore, the Respondent had no reason to doubt its accuracy.
20. After it became aware of the Claimant's allegation that it had not received the payment and that the Respondent had remitted the payment to a third person, the Respondent started criminal proceedings in Switzerland in order to have the incident investigated. During the course

of such proceeding, the state's attorney found out that the E-Mail was sent from Nigeria, which leads the Respondent to believe it acted correctly.

21. According to the law, the Respondent fulfilled its contractual obligations arising from the transfer agreement. The Respondent further argued that it is not to blame for the incident as it is obvious that the third person was perfectly informed about the content of the transfer agreement and such information must have been leaked by the Claimant itself, and therefore the Claimant was at fault.
22. The Respondent argued having acted with the appropriate due diligence, but since the invoice was issued on the official letterhead, came from a nearly identical email-address, contained all the confidential details of the transfer agreement and was received at the correct time, the Respondent is not to blame for remitting the payment to this bank account.
23. In its replica, the Claimant reiterated its position.
24. The Claimant argued that the fact that the email with the fraudulent invoice was sent from Nigeria cannot be attributed to the Claimant and is not its fault.
25. Further, the Claimant pointed out that the Respondent did not submit any evidence that the Claimant was involved in such fraud.
26. According to the Claimant, the wrong payment happened due to the negligence of the Respondent, which is shown by the confirmation email requested by the Respondent after it realized its mistake.
27. In its duplica, the Respondent reiterated its position.
28. The Respondent held that the bank account it remitted payment to, was issued in the name of the club and therefore it acted correctly. In this regard, the Respondent argued that there is no proof that the bank account it remitted the amount to does not belong to the club. According to the Respondent it would have been simple to submit evidence that the club does not have a bank account with such bank in the UK, but the Claimant failed to do so.
29. In this regard, the Respondent pointed out that the invoice was nearly identical.

## II. CONSIDERATIONS OF THE SINGLE JUDGE OF THE PLAYERS' STATUS COMMITTEE

1. First of all, the Single Judge of the Players' Status Committee (hereinafter: *Single Judge*) analysed whether he was competent to deal with the present matter. In this respect, he took note that the present matter was submitted to FIFA on 1 December 2020. Taking into account the wording of art. 21 of the January 2021 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *the Procedural Rules*), the June 2020 edition of the Procedural Rules is applicable to the matter at hand.
2. Subsequently, the Single Judge referred to art. 3 paras 2 and 3 of the Procedural Rules and confirmed that in accordance with art. 23 paras 1 and 4 in conjunction with art. 22 lit. f of the Regulations on the Status and Transfer of Players (edition February 2021) he is competent to deal with the matter at stake, which concerns a contractual dispute between clubs affiliated to different associations.
3. Furthermore, the Single 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 par. 2 of the Regulations on the Status and Transfer of Players (edition February 2021), and considering that the present claim was lodged on 1 December 2020, the October 2020 edition of said regulations (hereinafter: *Regulations*) is applicable to the matter at hand as to the substance.
4. The competence of the Single Judge and the applicable regulations having been established, the Single Judge entered into the substance of the matter. In this respect, the Single Judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Single Judge 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. In particular, the Chamber recalled that in accordance with art. 6 par. 3 of Annexe 3 of the Regulations, FIFA may use, within the scope of proceedings pertaining to the application of the Regulations, any documentation or evidence generated or contained in the Transfer Matching System (TMS).
5. Having said this, the Single Judge acknowledged that the Claimant and the Respondent signed a transfer agreement on 31 August 2017 regarding the transfer of the player from the Claimant to the Respondent, according to which the Respondent undertook to pay the Claimant a transfer fee and a sell-on fee.
6. Moreover, the Single judge took notice of the Claimant's claim lodged against the Respondent in front of FIFA, maintaining that the Respondent owed it the amount of EUR 99,375, corresponding to the first instalment of the sell-on fee. According to the Claimant, such payment was never remitted by the Respondent.
7. Subsequently, the Single Judge took into account that the Respondent, in reply to the claim, argued that it remitted the instalment in question to a different bank account than the other payments, after having received an invoice on 23 July 2019, indicating such bank account.

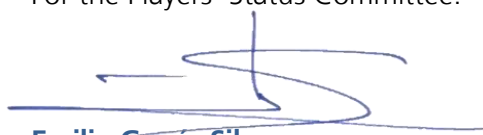
8. In this regard, the Single Judge noted that the Claimant argued that the Respondent acted negligent and became the victim of a fraud. Therefore, it should have been more careful before remitting the amount to a different bank account, in a different country after an invoice sent from a different email address.
9. The Single Judge observed the argumentation of the Respondent on the other hand, which held having acted in good faith, since the invoice was issued on the official letterhead of the club, came from a nearly identical email-address, contained all the confidential details of the transfer agreement and was received at the correct time. According to the Respondent, it is not to blame for remitting the payment to this bank account, due to the fact that no bank account was agreed upon in the transfer agreement. Moreover, the Respondent held that such bank account was opened in the name of the club and that there is no evidence that it does not belong to the club.
10. Having assessed both parties' submissions, from the outset, the Single Judge wished to emphasise the unfortunate nature of the dispute in front of him, in which a fraudulent third party deceived the Respondent and where there was thus no intention of the Respondent not to pay the Claimant. Having said that, the Single Judge is faced with the claim of an unpaid club and he has to make a ruling as to whether the Respondent needs to pay the sell-on fee again, after the Respondent already made an identical payment to the fraudulent third party. In answering this question, the Single Judge has to establish which party is at fault, taking into account all circumstances of the matter as well as the documentation on file.
11. In this context, the Single Judge considered that the Respondent could have been more diligent after having received an invoice from a different email address indicating a different bank account than the invoices related to the previous payments. The Single Judge emphasized that the Respondent could have prevented the erroneous payment if it had double-checked the payment details with the Claimant before remitting the amount. The fact that a different bank account had been forwarded than in the previous invoices – and from a different email address –, should have triggered doubt on the side of the Respondent and warranted a further investigation. Therefore, the Single Judge deems that the Respondent could have acted differently to avoid the erroneous payment.
12. What is more, the Single Judge pointed out that there are no indications that the Claimant was involved in – or responsible for – such fraud. Taking due note that the Respondent accuses the Claimant of being at fault, the Single Judge finds that there is in fact no proof which would link the fraud to the Claimant itself. The conclusion of the state's attorney that the email was sent from Nigeria does not link it to the Claimant itself, and neither does the allegation that the fraudulent party knew the content of the transfer agreement. The content of the transfer agreement was known to a variety of people both in Nigeria as well as Switzerland. Again, without any proof directly linking the Claimant or its officials to the fraud, the Single Judge cannot accept the Respondent's argument that the Claimant was at fault or involved.
13. On account of the above, the Single Judge rejected the Respondent's arguments and decided that the Respondent is liable to remit the outstanding amount to the Claimant.

14. Consequently, the Single Judge 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 99,375.
15. In addition, taking into consideration the claim, the Single Judge decided to award the Claimant interest at the rate of 5% *p.a.* as of 21 July 2020 until the date of effective payment.
16. What is more, taking into account the consideration under number II./3. above, the Single Judge 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.
17. In this regard, the Single Judge 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.
18. Therefore, bearing in mind the above, the Single Judge 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.
19. Moreover, the Single 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. 3 of the Regulations.
20. Finally, the Single Judge referred to the Covid-19 Football Regulatory Issues – FAQ, published on 11 June 2020 which establish that, for any claim lodged between 10 June 2020 and 31 December 2020 (both inclusive), there will be no requirement to pay an advance of costs and no procedural costs shall be ordered.

### III. DECISION OF THE SINGLE JUDGE OF THE PLAYERS' STATUS COMMITTEE

1. The claim of the Claimant, Mountain of Fire and Miracles Ministries FC, is accepted.
2. The Respondent, FC Zurich, has to pay to the Claimant, the following amount:
  - EUR 99,375 plus 5% interest *p.a.* as from 21 July 2020 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.
6. This decision is rendered without costs.

For the Players' Status Committee:



**Emilio Garcia 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**

FIFA-Strasse 20 P.O. Box 8044 Zurich Switzerland  
[www.fifa.com](http://www.fifa.com) | [legal.fifa.com](http://legal.fifa.com) | [psdfifa@fifa.org](mailto:psdfifa@fifa.org) | T: +41 (0)43 222 7777