

Decision of the Single Judge of the Players Status Committee

passed on 12 July 2021

regarding an employment-related dispute concerning the match agent Fakhri Yaiche

BY:

Roy Vermeer (Netherlands), Single Judge of the PSC

CLAIMANT:

Fakhri Yaiche, Tunisia

Represented by Mr Sami Boussarsar

RESPONDENT:

Al Nasr Benghazi, Libya

I. FACTS OF THE CASE

1. On 6 October 2019, the Libyan club, Al Nasr Benghazi (hereinafter: Respondent) issued an acknowledgement of debt towards the FIFA licensed match agent, Mr Fakhri Yaiche (hereinafter: Claimant), stating the following:

“The Management Committee (Board of Directors) of Al Nasr Sports, Cultural and Social Club of Benghazi, Libya, acknowledges that Al Nasr Club owes to Mr. Fakhry Yaiche, FIFA matches' agent, an amount of 120,410.00 (one hundred twenty thousand four hundred and ten) USD in return for the First Team camp, organization of a match between Al-Nasr Sports Club of Libya and Salitas Football Club of Burkina Faso, transportation of the guest team and the referees, in accordance with the invoice issued by the office of Mr. Fakhry Yaiche”.

2. On 14 March 2019, the Claimant sent a reminder to the Respondent with respect to the payment of his dues in connection with the organisation of the match between the Respondent and Salitas Football Club of Burkina Faso, while reminding the Respondent that all invoices and their evidences and detailed financial statements were made available to it.
3. On 17 September 2020, the Claimant sent a formal default notice to the Respondent to pay until 15 October 2020 the total accrued amount of USD 148,030, i.e. the amount of USD 120,410 according to the acknowledgement of debt as well as a further amount of USD 22,020 according to the approved and consented invoice No. 0066/19 dated 30 October 2019 and USD 5,600 according to the approved and consented invoice No. 19/0067 dated 30 October 2019.
4. On 6 October 2020, the Claimant granted the club a further deadline until 20 November 2020 to comply with the relevant payment.

II. PROCEEDINGS BEFORE FIFA

5. On 22 December 2020, the Claimant filed a claim against the Respondent regarding an outstanding commission fees before FIFA. A brief summary of the position of the parties is detailed below.

a. The claim of the Claimant

6. The Claimant claimed that he had organised a training camp and a match on behalf of the Respondent, for which he did not receive any commission.

7. The Claimant specified that the Respondent was provided all corresponding invoices but failed to make payment of the relevant amounts.
8. On 6 October 2019, the Respondent acknowledged its debt in the amount of USD 120,410.
9. Notwithstanding, the relationship between the parties continued successfully, and in this context, the Claimant issued two invoices in the amount of USD 22,020 and USD 5,600 respectively.
10. The requests for relief of the Claimant were the following:
 - USD 148,030 plus “interest” as from 14 March 2019 until the date of effective payment,
 - USD 10,000 legal fees,
 - Procedural costs to be borne by the Respondent.

b. Position of the Respondent

11. In spite of having requested by the FIFA administration to do so, the Respondent has not replied to the claim.

III. CONSIDERATIONS OF THE SINGLE JUDGE OF THE PLAYERS’ STATUS COMMITTEE

a. Competence and applicable legal framework

12. First, the Single Judge of the Players’ Status Committee (hereinafter also referred to as *Single Judge*) 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 22 December 2020 and submitted for decision on 12 July 2021. 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 aforementioned edition of the Procedural Rules is applicable to the matter at hand.
13. Subsequently, the members of the Chamber referred to art. 3 par. 1 of the Procedural Rules and observed that in accordance with art. 22 par. 1 of the Match Agent Regulations Players (edition 2003), he is competent to deal with the matter at stake, which concerns a dispute between a FIFA licensed match agent and a club.
14. 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. 25 of the Match Agent Regulations (edition 2003), and considering that the present claim was lodged

on 22 December 2020, the 2003 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

15. The Single 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 Single stressed the wording of art. 12 par. 4 of the Procedural Rules, pursuant to which he may consider evidence not filed by the parties.

c. Merits of the dispute

16. His competence and the applicable regulations having been established, the Single Judge entered into the merits of the dispute. 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 it considered pertinent for the assessment of the matter at hand.

i. Main legal discussion and considerations

17. The foregoing having been established, the Single Judge moved to the substance of the matter, and took note of the fact that the Claimant claims outstanding commission from the organisation of a match on behalf of the Respondent.
18. The Single Judge equally remarked that, in spite of having been invited to do so by the FIFA administration, the Respondent had failed to reply to the Claimant's claim. Consequently, the Single Judge deemed that the Respondent had renounced to its right of defence in the present matter (cf. art. 9 par. 3 of the Procedural Rules).
19. It thus remained uncontested that the Respondent had issued an acknowledgement of debt dated 6 October 2019 for the amount of USD 120,410 in connection with the organisation of a match between the Respondent and Salitas Football Club of Burkina Faso.
20. Furthermore, it remained uncontested that, despite the issuance of the debt acknowledgment, the Respondent had not proceeded to the payment of USD 120,410 in accordance with the said debt acknowledgment. The Claimant addressed a series of payment reminders as well as formal default notices to the Respondent, to no avail.
21. In view of the above, the Single Judge determined that the Respondent had failed to honour its obligations towards the Claimant by not paying the amount of USD 120,410, which

corresponds to the latter's commission in the context of the organisation of the aforementioned match.

22. As a consequence, the Respondent must pay the amount of USD 120,410 to the Claimant in accordance with the legal principle of *pacta sunt servanda*.
23. Furthermore, in accordance with the Claimant's respective claim as well as the jurisprudence of the Players' Status Committee, 5% interest per annum shall apply on the amount of USD 120,410 as from 6 October 2019, date of issuance of the debt acknowledgement, until the date of effective payment.
24. With this established, the Single Judge turned his attention to the Claimant's claim for the payment of USD 22,020 and USD 5,600. In this regard, the Single Judge duly noted that these amounts corresponded to those mentioned in two invoices addressed by the Claimant to the Respondent and which the Claimant produced as evidence in the present proceedings.
25. Nevertheless, the Single Judge found that it is unclear in which context the said invoices were issued. In particular, invoice no. No. 00066/19 contains the following mention: *"Basketball Senior Team camp from 11 to 22 October 2019"*.
26. Furthermore, the Single Judge noted that, contrary to the amount of USD 120,410, the Respondent had not recognised the relevant debt.
27. In view of the above, the Single Judge decided to reject the Claimant's further claims for the payment of USD 22,020, respectively USD 5,600 due to a lack of evidence or contractual basis.
28. In conclusion, the Claimant's claim is partially accepted.

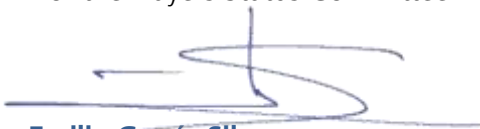
d. Costs

29. The Single Judge referred to art. 18 par. 4 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings. Therefore, the Claimant's claim for the reimbursement of his legal fees is rejected.
30. Furthermore, the Single Judge underlined that, given the fact that the present claim was lodged between 10 June and 31 December 2020, the present decision is rendered without procedural costs (cf. art. 18 par. 1 i. of the Procedural Rules).

IV. DECISION OF THE PLAYERS' STATUS COMMITTEE

1. The claim of the Claimant, Fakhri Yaiche, is partially accepted.
2. The Respondent, Al Nasr Benghazi, has to pay to the Claimant, the following amount:
 - USD 120,410 as outstanding commission plus 5% interest *p.a.* on the said amount as from 16 October 2019 until the date of effective payment.
3. Any further claims of the Claimant are rejected.
4. 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.
5. The 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).
6. In the event that the amount due, plus interest as established above is not paid by the Respondent **within 30 days** as from the notification by the Claimant of the relevant bank details to the Respondent, the following consequences shall arise:
 1. In the event that the amounts payable due as per this decision are not paid within the granted deadline, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee.
7. This decision is rendered without costs.

For the Players Status Committee:



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).

CONTACT INFORMATION:

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