

# Decision of the Dispute Resolution Chamber

passed on 4 August 2022

regarding an employment-related dispute concerning the player  
**Abdoulaye Ouattara**

## COMPOSITION:

**Omar Ongaro (Italy), Deputy Chairperson**  
**Laurel Vaurasi (Fiji), Member**  
**Khadija Timera (Senegal), Member**

## CLAIMANT:

**Abdoulaye Ouattara, France**  
Represented by Fitzgerald Thomas

## RESPONDENT:

**FK Senica, Slovakia**

## I. Facts of the case

1. On 25 January 2022, the French player Abdoulaye Ouattara (hereinafter: *the player* or *the Claimant*) and the Slovak club FK Senica (hereinafter: *the club* or *the Respondent*) concluded an employment contract valid as from the same date until 30 June 2022 (hereinafter: *the contract*).
2. In accordance with the information available in the Transfer Matching System (TMS), the player was born on 8 January 2021.
3. Under the contract, the player was entitled *inter alia* to the following amounts:
  - a. Monthly salary of EUR 1,750 gross;
  - b. EUR 400 as accommodation;
  - c. A “fly ticket” once a year;
  - d. A signing bonus of EUR 1,000, payable in two instalments of EUR 500 each respectively on 30.01.2022 and 25.02.2022; and
  - e. Various bonuses for performance.
4. Clause 1.3 of the contract states that it would be automatically extended in the following conditions:
  - a. If the player played at least 46 minutes in 5 matches of the local league, the contract would be extended until 30 June 2023;
  - b. If the player played at least 46 minutes in 20 matches of the local league, the contract would be extended until 30 June 2024.
5. On 5 April 2022, the player put the club in default and stated as follows:

*“I, the undersigned, Abdoulaye OUATTARA, hereby contact you with this formal notice letter, in regard of an overdue payment of two months salary plus signing bonus, game bonuses and accommodation allowance.*

*On January 25h 2022, we have signed an employment contract (attached to this letter) and agreed the terms payment conditions for my remuneration for the monthly salary (1.750 euros gross per month, provide accommodation at the club expense in amount of 400 euros per month and a signing bonus of 1000 euros gross payable as following: 500 euros until 30/01/2022 and 500 euros until 25/02/2022).*

*Until today I didn't receive any amounts of payment, regards to accommodation the owner of the room (vip restaurant) told me you didn't pay him and put me out of the room. My agent came to Senica and paid him 300 euros for 5 days to find a new place. My agent finally found an hotel for me and my teammate Raphael ANABA and paid the hotel for us (invoice of hotel as proof), without any financial incomes I had to pay for my food so finally I am paying to train every days.*

*Until the date of this present notice, you are still liable to those amounts. I expressly demand that payment of the full amounts be paid.*

*If the payment is not done within the 10 days from this date and in accordance with Article 12Bis of the FIFA Regulations on the Status and Transfer of Players (RSTP), I will immediately forward the file to FIFA."*

6. On 15 April 2022, the player put the club in default for a second time, granting the latter with 15 days to cure its contractual breaches, to no avail.
7. On 24 May 2022, the player terminated the contract in writing.
8. The player remained unemployed following the termination of the contract.

## **II. Proceedings before FIFA**

9. On 10 May 2022, the player lodged a claim before FIFA for outstanding remuneration and compensation for breach of contract, stating *inter alia* as follows (freely translated to English):

*"Therefore, according to Article 14bis of the FIFA Regulations on the Status and Transfer of Players, the player Abdoulaye Ouattara is entitled to terminate his contract for just cause due to unpaid wages.*

*We therefore request that the player obtain the termination of the contract and his contractual release in order to find an employing club for the coming season, as well as compensation for the financial loss".*

10. On 19 May 2022, the FIFA general secretariat sent a letter whereby it requested the player to complete his claim and *inter alia* specify the amounts sought. More in particular, said letter indicated as follows:

*"Dear Madam or Sir,*

*We acknowledge receipt of your correspondence relating to the above-mentioned matter and have noted its contents.*

*We have taken due note of the request of the player to “obtain the termination of the contract and his contractual release so he can find a new club for the upcoming season as well as compensation for financial damages”.*

*In respect of such request, we would like to inform you that on the basis of article 14 of the FIFA Regulations on the Status and Transfer of Players (hereinafter: Regulations), either party to an employment contract between a professional player and a club may terminate the contract if they deem to have a just cause for such a termination. In case of a dispute, it would be up to the competent decision-making body to establish whether a contractual breach occurred, with or without just cause, who is to be deemed responsible and what the consequences of such a breach would be (cf. article 17 of the Regulations). Equally, we kindly inform you that jurisprudence of the Dispute Resolution Chamber (DRC) regarding the foregoing is available via [legal.fifa.com](http://legal.fifa.com).*

*Additionally, should you envisage to sign a new employment contract with another club, affiliated to another association, we would like to refer you to the provisions of Annexe 3 of the Regulations, which concerns inter alia the administrative procedure governing the transfer of players between associations.*

*In this regard, according to article 8.2 paragraph 1 of said Annexe, all data allowing the new association to request an International Transfer Certificate (ITC) shall be entered into the Transfer Matching System (TMS), confirmed and matched by the club wishing to register a player during one of the registration periods established by that association. When entering the relevant data, the new club shall upload into the TMS, amongst other documents, a copy of the employment contract signed between it and the professional player.*

*Thereupon, the new association shall immediately request the former association through the TMS to deliver an ITC for the player (“ITC request”; cf. article 8.2 paragraph 2 of the Annexe 3 of the Regulations).*

*Moreover, in case the former association rejects the ITC request, and if the new association asks for FIFA’s assistance in obtaining the relevant ITC, the Football Tribunal would, provided the necessary conditions are fulfilled, be in a position to intervene with regard to the international clearance. In exceptional circumstances, FIFA might then take provisional measures regarding the registration of the player for his new club (cf. article 8.2 paragraph 7 of Annexe 3 of the Regulations).*

11. The player subsequently replied and filed a copy of his termination letter dated 24 May 2022, together with the following breakdown of amounts sought:

*“5- Detailed breakdown of the amount in dispute:  
As define by the professional contract signed on the 25 of January 2022*

*Monthly Salary of 1750€ gross*

*February – 1750€*

*March – 1750€*

*April – 1750€*

*Total amount salaries = 5250 euros in gross*

*As we are requesting the termination of the contract for just cause, we don't ask for payment of May and June 2022.*

*As define by Annex no 1 to the contract signed on the 25 of January 2022 :*

*"The player is entitled to a signing bonus of 1000€ brutto, payable as following :*

*500€ until 30.01.22 and 500€ until 25.02.2022".*

*As define by Annex no 1 to the contract signed on the 25 of January 2022 :*

*The player was entitled to different bonuses based on the points earned by the team in the fortuna liga, but we don't claim for those payments.*

*Total amount claimed : 5250 + 1000 = 6250€ gross"*

12. The Respondent did not file a reply to the player's claim, in spite of having been invited to do so by the FIFA general secretariat.

### **III. Considerations of the Dispute Resolution Chamber**

#### **a. Competence and applicable legal framework**

13. 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 10 May 2022 and submitted for decision on 4 August 2022. Taking into account the wording of art. 34 of the June 2022 edition of the Procedural Rules Governing the Football Tribunal (hereinafter: *the Procedural Rules*), the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
14. Subsequently, the members of the Chamber referred to art. 2 par. 1 of the Procedural Rules and observed that in accordance with art. 23 par. 1 in combination with art. 22, par. 1, lit. b) of the Regulations on the Status and Transfer of Players (July 2022 edition), 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 French player and a Slovak club.
15. 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 Players (July 2022 edition), and considering that the present claim was lodged on 10 May 2022, the March 2022 edition

of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

### **b. Burden of proof**

16. The Chamber recalled the basic principle of burden of proof, as stipulated in art. 13 par. 5 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 Chamber stressed the wording of art. 13 par. 4 of the Procedural Rules, pursuant to which it may consider evidence not filed by the parties, including without limitation the evidence generated by or within the Transfer Matching System (TMS).

### **c. Merits of the dispute**

17. Its competence and the applicable regulations having been established, the Chamber entered into the merits of the dispute. In this respect, the Chamber started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Chamber 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**

18. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that the matter at hand pertains to the early termination of the contract by the Claimant, based on the alleged non-payment of certain financial obligations by the Respondent as per the contract, in accordance with art. 14bis of the Regulations.
19. In this context, the Chamber acknowledged that its task was to determine, based on the evidence presented by the parties, whether the claimed amounts had in fact remained unpaid by the Respondent and, if so, whether the formal pre-requisites of art. 14bis of the Regulations had in fact been fulfilled.
20. To this end, the Chamber highlighted that the Respondent failed to reply to the claim, therefore renouncing to its right to contest the allegations of the Claimant. As such, the Chamber confirmed that a decision was to be made on the basis of the argumentation and evidence brought forward by the Claimant.
21. The Chamber then referred to the wording of art. 14bis par. 1 of the Regulations, in accordance with which, if a club unlawfully fails to pay a player at least two monthly salaries on their due dates, the player will be deemed to have a just cause to terminate his contract, provided that he has put the debtor club in default in writing and has granted

a deadline of at least 15 days for the debtor club to fully comply with its financial obligation(s).

22. The Chamber noted that the Claimant claims not having received any of his remuneration agreed under the contract from February, March, and April 2022. Furthermore, the Chamber noted that the Claimant has provided written evidence of having put the Respondent in default on 15 April 2022, i.e. at least 15 days before unilaterally terminating the contract on 24 May 2022.
23. The Chamber also noted that in the case at hand the Respondent bore the burden of proving that it indeed complied with the financial terms of the contract concluded between the parties. Nonetheless, no reply to the claim was filed as underlined before.
24. Thus, the Chamber concluded that the Claimant had a just cause to unilaterally terminate the contract, based on art. 14bis of the Regulations.

## ii. Consequences

25. 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 Respondent.
26. The Chamber observed that the outstanding remuneration at the time of termination, coupled with the specific requests for relief of the player, is equivalent to EUR 6,250, corresponding to the salaries between February and April 2022, as well as the signing bonus of EUR 1,000.
27. As a consequence, and in accordance with the general legal principle of *pacta sunt servanda*, the Chamber decided that the Respondent is liable to pay to the Claimant the amounts which were outstanding under the contract at the moment of the termination, i.e. EUR 6,250.
28. Taking into consideration that the Claimant's has not filed any request for interest, the Chamber confirmed that under the principle *ne ultra petita* no amounts could be granted in this respect.
29. Along the same lines, the Chamber highlighted that, in principle, the player would be entitled to compensation for breach of contract without just cause. In doing so, the Chamber firstly 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, and depending on whether the contractual breach falls within the protected period.

30. However, the Chamber stressed that surprisingly the player has not claimed any amounts in this respect. As such, and on the basis of the forecited *ne ultra petitia* principle, the Chamber was prevented from awarding any compensation to the player.
31. For the sake of completeness, the Chamber confirmed that under the aforementioned principle, combined with the fact that the question of the contract extension was unchallenged by the player, it could also not grant any relief in this respect.

### iii. Sporting sanctions

32. The Chamber noted that the Respondent had also on several occasions in the recent past been held liable by the Football Tribunal for the early termination of the employment contracts without just cause, namely in the following cases: FPSD-6275, FPSD-6279, and FPSD-6005.
33. Under article 17 par. 4 of the Regulations, in addition to the obligation to pay compensation (if any), sporting sanctions shall be imposed on any club found to be in breach of contract or found to be inducing a breach of contract during the protected period.
34. As to the protected period, this is defined in the Regulations as *"a period of three entire seasons or three years, whichever comes first, following the entry into force of a contract, where such contract is concluded prior to the 28th birthday of the professional, or two entire seasons or two years, whichever comes first, following the entry into force of a contract, where such contract is concluded after the 28th birthday of the professional"*.
35. In the present case, the player was younger than 28 years old when he signed the contract. For three years or three entire seasons had not elapsed by the time the contract was terminated, the Chamber confirmed that said termination took place within the protected period.
36. At the same time, the DRC recalled that both (a) the player terminated the employment relationship with the club with just cause, as the club had been found to have breached the contract; and (b) the club was a repeat offender in this respect. As such, and by virtue of art. 17 par. 4 of the Regulations, the Chamber decided that the Respondent shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision.



37. For the sake of completeness, the Chamber recalled that in accordance with article 24 par. 3 lit. a) of the Regulations, the consequences for failure to pay relevant amounts in due time may be excluded where the Football Tribunal has imposed a sporting sanction on the basis of article 17 in the same case. Consequently, the Chamber confirmed that the consequences for failure to pay relevant amounts in due time envisaged by art. 24 of the Regulations were excluded in the present matter, and that should the Respondent fail to timely comply with this decision, it would be for the FIFA Disciplinary Committee to adopt the necessary measures in accordance with the FIFA Disciplinary Code.

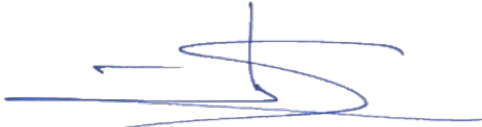
#### **d. Costs**

38. The Chamber referred to art. 25 par. 1 of the Procedural Rules, according to which *"Procedures are free of charge where at least one of the parties is a player, coach, football agent, or match agent"*. Accordingly, the Chamber decided that no procedural costs were to be imposed on the parties.
39. Likewise and for the sake of completeness, the Chamber recalled the contents of art. 25 par. 8 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings.
40. 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, Abdoulaye Ouattara, is accepted.
2. The Respondent, FK Senica, has to pay to the Claimant EUR 6,250 as outstanding remuneration.
3. Full payment shall be made to the bank account indicated in the enclosed Bank Account Registration Form.
4. The Respondent shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision.
5. If full payment is not made **within 45 days** of notification of this decision, the present matter shall be submitted, upon request of the Claimant, to the FIFA Disciplinary Committee.
6. This decision is rendered without costs.

For the Football Tribunal:



**Emilio García Silvero**

Chief Legal & Compliance Officer

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**NOTE RELATED TO THE APPEAL PROCEDURE:**

According to article 57 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 17 of the Procedural Rules).

**CONTACT INFORMATION**

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