

Decision of the Dispute Resolution Chamber

passed on 21 July 2022

regarding an employment-related dispute concerning the player
Magoimed Shapi Suleymanov

BY:

Frans DE WEGER (Netherlands), Chairperson
Alejandro ATILIO TARABORELLI (Argentina), member
Roy VERMEER (Netherlands), member

CLAIMANT:

Magoimed Shapi Suleymanov, Russia

RESPONDENT:

Giresunspor, Turkey

I Facts

1. On 8 September 2021, the parties concluded an employment contract valid as from the date of signature until May 2022.
2. Accordingly, the contract stipulated that the player was entitled to a total remuneration of EUR 594,000, payable as follows:
 - 495.000,00-Euro (...) of the abovementioned total amount is to be paid to the Player by the Club as the monthly salary in 9 (nine) equal installments (9 x 55.000,00-Euro) between the period September 2021 – May 2022. The monthly salaries are to be paid the last day of the relevant months.
 - 99.000,00-Euro (...) of the abovementioned total amount is to be paid to the Player by the Club as the advance payment in 2 (two) installments as shown below:
 - On 15.09.2021: 77.000,00-Euro
 - On 30.10.2021: 22.000,00-Euro
3. According to the player, in 13 April 2022, he sent a default notice requesting the payment of EUR 349,000 within 15 days.
4. On 31 May 2022, lodged a claim before FIFA for outstanding remuneration and requested the payment of the total net amount of EUR 409,000, detailed as follows:
 - EUR 24.000 remaining from the salary of October 2021 salary,
 - EUR 55.000 corresponding to the November 2021 salary,
 - EUR 55.000 corresponding to the December 2021 salary,
 - EUR 55.000 corresponding to the January 2022 salary,
 - EUR 55.000 corresponding to the February 2022 salary,
 - EUR 55.000 corresponding to the March 2022 salary,
 - EUR 55.000 corresponding to the April 2022 salary,
 - EUR 55.000 corresponding to the May 2022 salary,
5. The claimant further requested the payment of 5% interest p.a. as from the due dates and considered that the respondent shall pay “the costs of the present arbitration”.
6. In its reply, the club explained that it was affected by the COVID-19 pandemic and because of the “major broadcast crisis between the Turkish Football Federation (hereby referred as “TFF”) and the contracted broadcaster BEIN Media Group (hereby referred as “BEIN”) that affected all teams”
7. The club argued that it paid the player partially, and provided the following translated receipts:
 - 10/09/2021: EUR 55,000 (Halkbank)
 - 05/09/2021: EUR 40,000 (Halkbank)
 - 09/12/2021: EUR 40,000 (Halkbank)
 - 22/04/2022: EUR 50,000 (Halkbank)(note: the total is EUR 185,000)

8. In his replica, the Claimant explained that the calculation of the overdue payables in his initial petition was already made by taking into consideration of the partial payments made by the Respondent.
9. The Claimant acknowledged that during the execution of the contract, he received the total amount of EUR 185,000, but underlined that, according to the contract, he was entitled to EUR 594,000.
10. As a result, the player insisted to be paid the amount of EUR 409,000 (i.e. EUR 594,000-185,000).

II Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

1. First of all, the Dispute Resolution Chamber (hereinafter also referred to as *the Chamber*) 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 31 May 2022 and submitted for decision on 21 July 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.
2. Subsequently, the Chamber referred to art. 2 par. 1 and art. 24 par. 1 lit. a) 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 (June 2022 edition), it is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Russian player and a Turkish club.
3. 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 (June 2022 edition), and considering that the present claim was lodged on 31 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

4. 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

5. 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

6. The Chamber first noted that, on 8 September 2021, the parties concluded an employment contract valid as from the date of signature until May 2022, according to which the player was entitled to a total remuneration of EUR 594,000 (cf. point I 2) above.
7. Subsequently, the Chamber observed that the Claimant lodged a claim before FIFA against the club, by means of which he requested the payment of the total net amount of EUR 409,000, detailed as follows:

- EUR 24.000 remaining from the salary of October 2021 salary,
 - EUR 55.000 corresponding to the November 2021 salary,
 - EUR 55.000 corresponding to the December 2021 salary,
 - EUR 55.000 corresponding to the January 2022 salary,
 - EUR 55.000 corresponding to the February 2022 salary,
 - EUR 55.000 corresponding to the March 2022 salary,
 - EUR 55.000 corresponding to the April 2022 salary,
 - EUR 55.000 corresponding to the May 2022 salary,
8. On the other hand, the Chamber took note of the position of the Respondent, which fundamentally consisted in an acknowledgement of its financial difficulties. The Chamber observed that the Respondent broadly and generically referred to the effects of COVID-19 pandemic as well as to issues concerning its broadcasting rights.
9. However, and under any circumstance, the Chamber considered that references of the Respondent to this potential situation of force majeure is clearly unsubstantiated and does not contain sufficient evidence. Therefore, the Chamber established that the Respondent's arguments cannot be followed.
10. In addition, the Chamber observed that, in its reply, the club argued that it paid the player partially, and provided the following translated receipts:
- 10/09/2021: EUR 55,000 (Halkbank)
 - 05/09/2021: EUR 40,000 (Halkbank)
 - 09/12/2021: EUR 40,000 (Halkbank)
 - 22/04/2022: EUR 50,000 (Halkbank)
 - Total: EUR 185,000
11. Hence, considering that the player was entitled to a total remuneration of EUR 594,000 and that he was paid EUR 185,000 (as explained above), the Chamber established that the final outstanding amount of EUR 409,000 remains due.
12. 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 claimed as outstanding under the contract, in total EUR 409,000, as detailed above.
13. In addition, taking into consideration the Claimant's request as well as the constant practice of the Chamber in this regard, the latter decided to award the Claimant interest at the rate of 5% p.a. on the outstanding amounts as from the due dates until the date of effective payment.

ii. Compliance with monetary decisions

14. Finally, taking into account the applicable Regulations, the Chamber referred to art. 24 par. 1 and 2 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 Chamber 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 Chamber decided that the club must pay the full amount due (including all applicable interest) to the player within 45 days of notification of the decision, failing which, at the request of the creditor, 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 club in accordance with art. 24 par. 2, 4, and 7 of the Regulations.

17. The club shall make full payment (including all applicable interest) to the bank account provided by the player in the Bank Account Registration Form.

18. The Chamber 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. 24 par. 8 of the Regulations.

d. Costs

19. 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.

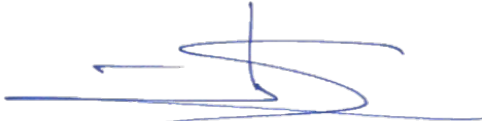
20. Furthermore, the Chamber recalled the contents of art. 25 par. 8 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings.

21. Lastly, the Chamber concluded its deliberations by rejecting any other requests for relief made by any of the parties.

III Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Magoimed Shapi Suleymanov, is partially accepted.
2. The Respondent, Giresunspor, has to pay to the Claimant, **the outstanding amount of EUR 409,000** plus interest as follows:
 - 5% interest p.a. over the amount of EUR 24,000 as from 1 November 2021 until the date of effective payment;
 - 5% interest p.a. over the amount of EUR 55,000 as from 1 December 2021 until the date of effective payment;
 - 5% interest p.a. over the amount of EUR 55,000 as from 1 January 2022 until the date of effective payment;
 - 5% interest p.a. over the amount of EUR 55,000 as from 1 February 2022 until the date of effective payment;
 - 5% interest p.a. over the amount of EUR 55,000 as from 1 March 2022 until the date of effective payment;
 - 5% interest p.a. over the amount of EUR 55,000 as from 1 April 2022 until the date of effective payment;
 - 5% interest p.a. over the amount of EUR 55,000 as from 1 May 2022 until the date of effective payment;
 - 5% interest p.a. over the amount of EUR 55,000 as from 1 March 2022 until the date of effective payment.
3. Any further claims of the Claimant are rejected.
4. Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.
5. Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made **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 the ban shall be of up to 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 made by the end of the three entire and consecutive registration periods.
6. The consequences **shall only be enforced at the request of the Claimant** in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.
7. This decision is rendered without costs.

For the Football Tribunal:



Emilio García Silvero

Chief Legal & Compliance Officer

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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