

Decision of the Dispute Resolution Chamber

passed on 4 April 2024

regarding an employment-related dispute concerning
the player Anane Tidjani

COMPOSITION:

Lívia SILVA KÄGI (Brazil & Switzerland), Deputy Chairwoman
Jorge GUTIÉRREZ (Costa Rica), member
Stella MARIS JUNCOS (Argentina), member

CLAIMANT/COUNTER-RESPONDENT 1:

Anane Tidjani, Benin
Represented by Çağlar Akoğlu

RESPONDENT/COUNTER-CLAIMANT:

FC Košice, Slovakia
Represented by Steiner & Associates s.r.o.

COUNTER-RESPONDENT 2:

Al Rayan, Saudi Arabia

I. Facts of the case

Introduction

1. The parties to the dispute are:
 - a. The player Anane Tidjani from Benin (hereinafter: **Claimant/Counter-Respondent 1** or **Player**).
 - b. The club FC Košice from Slovakia (hereinafter: **Respondent/Counter-Claimant** or **Club**).
 - c. The club Al Rayan from Saudi Arabia (hereinafter: **Counter-Respondent 2** or **New Club**).
2. On 1 September 2023, the Player and the Club concluded an employment contract (hereinafter: **Contract**) valid as from the same date until 31 December 2024.
3. According to the Contract (Art. II clause 9), the Club undertook to pay the Player:
 - a. EUR 4,000 net as monthly salaries, payable by the last day of the next subsequent month.
 - b. EUR 5,000 net as one time sign-on fee.
 - c. EUR 600 as monthly accommodation allowance.
 - d. Twice return tickets for the player, wife and child from Paris or Brussels to Kosice.
 - e. A car.
 - f. Various bonuses for performance, including an EUR 200 net bonus for goals scored in matches for the Slovak first division league.
4. Art. II clause. 14 of the Contract reads as follows:

"14) Immediate termination of the contractual relationship has been agreed by the Parties under the following conditions:

a) Immediate termination of the contractual relationship established by the Contract must be in writing and delivered to the other Party.

b) Immediate termination of the contractual relationship established by the Contract must be supported by giving a reason for such immediate termination. The reason for immediate termination must be factually defined in the notice so that it cannot be confused with another reason. The reason for termination cannot be changed subsequently.

c) The [Player] or [Club] may immediately terminate the contractual relationship established by the Contract within one month of the day on which the [Player] or [Club] became aware of the reason for immediate termination,

d) Immediate termination of the contractual relationship on the part of the [Player] shall be sent to the last known address of the [Club]'s registered office with a record of delivery. The consignment is considered as delivered even if the [Club] has refused to accept the consignment,

if the [Club] has failed to deliver the consignment, or if the consignment is returned to the [Player] as undeliverable,

e) Immediate termination of the contractual relationship on the part of the [Club] shall be sent to the [Player]'s last known address with a record of delivery. If the addressee is not reached even though he is at the place of service, such a shipment will be delivered to another person at the place of service. The consignment is considered as delivered even if the [Player] has refused to accept the consignment, if the [Player] has failed to deliver the consignment, or if the consignment is returned to the [Club] as undeliverable."

5. Art. II Clause 18 of the contract reads as follows:

"18) Compensation for breach of Contract and termination of Contract without justified reasons:

a) The breaching party is responsible for paying compensation to the other party; the claim for compensation may not be transferred to a third party.

b) The [Club] is entitled to claim compensation from the [Player] for each individual breach of the Contract in the amount of EUR 100 (in words: one hundred euros); this does not affect the provision of Art. II. (20) (d) and (e) of the Contract. The [Club] is entitled to demand compensation from the [Player] for the termination of the Contract without justified reasons of EUR 5,000 (in words: five thousand euros)."

The player's visa issues and the correspondence exchanged to this effect

6. On 11 October 2023, the Club sent an e-mail to an attorney at law concerning the Player and requesting assistance in "obtaining national visa" for him.

7. On 6 November 2023, the Player via his attorney put the Club in default and stated as follows:

"My client did his best for the Club and attended the all trainings and matches until 3 November 2023.

Despite the attempts of the Player, your Club did not make the necessary applications for the Player's visa timely. The Player still has no residence and work permit in Slovakia. The Player signed the contract on 1 September 2023, more than 2 months ago and your Club has not provided a valid visa and the permits for the Player.

On 3 November 2023, the Player had to visit the foreign police station with a Club worker and could not get out on time for the league match against the Club, Dunajská. This situation is against the effective employment principle and player's right to play. More importantly, if the Player receives an invitation from his national team, he would never be able to come back to Slovakia because of this unlawful act of the Club.

(...)

As a result, your Club must make the necessary applications immediately for the Player to get the necessary visa, residence and work permits as the Player tried to get it himself several times but could not succeed.

As you can easily see, your Club is in breach of contract and violates the rules and regulations of FIFA.

This is to inform you that, we will have to unilaterally terminate the employment contract with immediate effect and with just cause and file a claim before the committees of FIFA to get compensations and all other payments and ask for sporting sanctions if the abovementioned violations will not be ended immediately."

8. On 7 November 2023, the Club replied to the aforementioned notice *inter alia* as follows:

"We would like to assure you that we are working intensively to obtain a D visa for Anane Tidjani. As you rightly mentioned, we are continuously assisting Anane Tidjani in obtaining these visas. we have taken legal steps to obtain these visas and we believe it will happen soon. We ask that Anane Tidjani be as cooperative as possible in obtaining them."

9. On 8 November 2023, the Club's legal representative sent an email to the Ministry of Education, Science, Research and Sport of the Slovak Republic (hereinafter: **the Ministry**), with the following content:

*"Hello Mr. Nash,
we would like to request you to secure the approval of the Minister of Education to grant a national visa to Mr. Anane Tidjani, who is a player of FC KOSICE football club.
In the attachment we are sending:*

- the club's request for consent,*
- confirmation of the SFZ,*
- confirmation of the ULK,*
- club confirmation.*

If you need further documents or information I am at your full disposal."

10. On 20 November 2023, the Club's legal representative sent an e-mail to the Ministry to follow up on her previous request.

11. On 23 November 2023, a Ministry representative replied to the Club as follows:

"I will deal with the relevant response to your request today, but as the Secretary of State is away on business he will not sign it until Monday, after which we will send it to the Minister for signature, where I assume it will be dealt with within the next week, you will be able to collect the response in person, I will contact you when it is ready."

12. On the same date, the Club's legal representative replied to the Ministry as follows:

"Thank you for the information. It would be ideal if we have the consent in the first half of next week, as we are in a time crunch regarding the possibilities of the player staying in Slovakia. I will await your information on the arrangements and we will definitely come to collect the consent in person at the Ministry of Education, Science, Research and Sport."

13. On the same date, the Club and their legal representative exchange e-mails regarding the arrangement of an appointment for the Player's visa with "Alien Police" for preferably 30 November or 1 December 2023.

14. On 30 November 2023, the Player put the Club in default for a second time, *inter alia* stating as follows:

"As you are aware, on 6 November 2023, we sent our notice regarding the necessary visa, residence and work permits about my client, Mr. Anane Tidjani. In your response, dated 7 November 2023, you informed us that the club is working for obtaining a D visa for the player.

Despite the patient waiting of the Player, no updates existed but only yesterday the Club representatives informed the player that he must leave Slovakia latest on 2 December 2023 as the deadline is ending which is provided by foreign police of the country. Your Club also informed the player he must go to his country first, then Kenya to apply for Slovakian visa.

As you know, my client and your Club signed the employment contract on 1 September 2023 and your Club did not make the necessary applications to the legal offices timely.

Despite these facts, Player wants to continue the employment relationship with your Club and gives his full effort to get the visa and permits. He went to police station several times, he contacted with embassies in Austria and Nigeria etc.

We would like to inform you that the Player will have to leave Slovakia latest on 2 December 2023 and he is ready to go to Benin and/or Kenya for the visa process whenever you provide the necessary conditions for him i.e. visa appointment, legal documents, flights, hotel etc.

As a result, your Club must provide the necessary conditions immediately for the Player to get the necessary visa, residence and work permits as the Player tried to get those himself several times but could not succeed. We would like to inform you that, Player is waiting for the Club to fulfill its responsibilities.

As you can easily see, your Club is in breach of contract and violates the rules and regulations of FIFA.

This is to inform you that, we will have to unilaterally terminate the employment contract with immediate effect and with just cause and file a claim before the committees of FIFA to get

compensations and all other payments and ask for sporting sanctions if the abovementioned violations will not be ended immediately.”

15. On 1 December 2023, the Player took part in a match of the Club valid for the local first division against club Michalovce, where the Player scored one goal.
16. On 5 December 2023 via letter dated 1 December 2023, the Club replied to the second notice of the Player, *inter alia* stating as follows:

Our intensive work has resulted in obtaining the national visa required for Anane Tidjani's temporary stay in the Slovak Republic. According to our information, the issuance of these visas is merely a technical matter of applying to Anane Tidjani in Nairobi, Kenya. Unfortunately, the delay has been caused by circumstances outside the reach of our Club, namely the change of local government, where processes that used to take a week now sadly take over a month. We would like to ask Anane Tidjani to be as accomodating as possible during the final steps in the process of obtaining them. The Club has provided excellent conditions so far for Anane Tidjani overall, therefore, in view of this, we regret for him to have acceded to present warnings at all.

17. On 6 December 2023, the Player put the Club in default for a third time, *inter alia* stating as follows:

“First of all we would like remind you that my client and your Club signed the employment contract on 1 September 2023, more than 3 months ago. Despite the fact that your Club did not make the necessary applications to the legal offices timely, the player has waited for the process with great patient Unfortunately, until the provided deadline by the foreign police of the country is over, your Club did not solve the problem and the player had to leave the country. As you are aware, he is currently in France, waiting for your Club to provide the necessary conditions for visa application.

By our previous notices, we mentioned that as per the established jurisprudence, it is the club's responsibility to obtain the necessary documents on time so Club must face off the expenses. We would like to inform you that the Player is ready to go to Nairobi for the issuance of his visa and waiting for your club to provide the necessary conditions such as visa appointment, flights, hotel, supporting legal documents etc.

As a result, your Club must provide the necessary conditions immediately for the Player to get the necessary visa, residence and work permits as the Player tried to get those himself several times but could not succeed. We would like to inform you once again that, Player is waiting for the Club to fulfill its responsibilities.

As you can easily see, your Club is in breach of contract and violates the rules and regulations of FIFA.

Please take note that, the player is waiting for the necessary documents, flight and hotel reservations and application process from your Club and whenever your Club provides mentioned conditions, he will travel to Nairobi.

This is to inform you that, we will have to unilaterally terminate the employment contract with immediate effect and with just cause and file a claim before the committees of FIFA to get compensations and all other payments and ask for sporting sanctions if the abovementioned violations will not be ended in 5 days."

18. On 12 December 2023, the Player sent to the Club a "last notice before termination", in which he *inter alia* stated as follows:

"As we explained in our previous notices, we do not accept your excuses about the change of the government. Your Club is responsible to make the necessary applications to the legal offices.

We would like to remind you once again that the Player is currently in France, waiting for your Club to provide the necessary Conditions for visa application.

On the other hand, Player informed me that his October salary which is due from 30 November 2023 is not paid.

Your Club must provide the necessary conditions immediately for the Player to get the necessary visa, residence and work permits and must pay his October salary. Player is waiting for the Club to fulfill its responsibilities.

This is to inform you that, we will have to unilaterally terminate the employment contract with immediate effect and with just cause and file a claim before the committees of FIFA to get compensations and all other payments and ask for sporting sanctions if the abovementioned violations will not be ended in 3 days."

19. On 12 December 2023, with a letter dated 8 December 2023, the Club replied to the Player and stated *inter alia* as follows:

- The club asserted that they have made intensive efforts to obtain the necessary national visa required for the temporary stay of the Player in the Slovak Republic. They provided evidence of allegedly obtaining the visa through an exceptional procedure with the Ministry, which speaks to their high degree of professionalism. Said document, dated 30 November 2023, read as follows:

"The Ministry of Education, Science, Research and Sport of the Slovak Republic recommends that, pursuant to the provisions of Section 15(1) of Act No. 404 of 2011 on Residence of Aliens and on Amendments to Certain Acts, as amended, a national visa be granted to the applicant, namely: Tidjani Anane, born 29.03.1997, Nationality: Benin.

According to the Slovak Football Association, which is responsible for the development of football, the arrival of the player to FC Kos ice follows the goals and interests of the club's development.

In view of the above, I consider the granting of a national visa to the above person to be in the interest of the development of the club and the improvement of the quality of the competition."

- The Club highlighted the challenges they faced due to the Player's initial valid tourist visa for a duration of only 30 calendar days at the time of the commencement of the Contract. They argued that it is extremely difficult to obtain the necessary visas for temporary stay within such a short duration, especially when the process often takes longer than the remaining time of the tourist visa.
 - The Club also mentioned the lack of cooperation from the Player's agent following the conclusion of the Contract, emphasizing that the agent "vanished" and ceased to assist in obtaining visas or any other matter.
 - Lastly, the Club proposed that any costs incurred and to be incurred in obtaining the visa required for the Player's temporary residence in the Slovak Republic should be borne by the parties on a 50/50 basis, considering the superior conditions provided to the Player at the Club.
20. On 13 December 2023, the Player sent to the Club a second "last notice before termination", in which he *inter alia* stated as follows. In such notice, the Player enclosed several screenshots to demonstrate the poor availability to book an interview at the Slovakian embassy in Nairobi, Kenya:

"On 12 December 2023, we received your brief statement by your email and signed explanations dated 8 December 2023. In your email you asked Mr. Tidjani to submit his application to the Slovak Embassy in Nairobi and mentioned that your waiting for an appointment at the embassy.

We would like to inform you that, after receiving your email, Mr. Tidjani immediately tried to get an appointment from the Slovak embassy in Nairobi but the reality is there is no such possible appointment for him until August We attach the application and the results of his appointment search.

On contrary of your claim, your visa process work had not resulted successfully to obtain the visa for the player.

As we mentioned and demanded by our previous notice dated 12 December 2023, please provide the necessary conditions for the Player to get the necessary visa, residence and work permits in the provided deadline by our previous notice.

This is to inform you that, we will unilaterally terminate the employment contract with immediate effect and with just cause and file a claim before the committees of FIFA to get compensations and

all other payments and ask for sporting sanctions if the abovementioned cumulative violations will not be ended in the provided deadline by our previous notice, dated 12 December 2023."

The termination of the Contract by the Player and its aftermath

21. On 18 December 2023, the Player sent a termination notice to the Club, stating as follows:

"As you are aware, on 12 December 2023, we sent our forth and last notice before termination related Mr. Ananc Tidjani and asked to stop the violations and to provide the necessary conditions for the Player. In the same notice we informed you that if the Club does not provide the necessary conditions and/or stop the violations in the provided deadline, the employment contract between your club and my client, would be unilaterally terminated with immediate effect.

Despite the fact that we asked you several times to provide the necessary conditions for the player about his visa and permits, your Club did not provide it.

Since the beginning of the contractual relationship, your club is in breach and there is "just cause" for my client to terminate the employment contract starting on 1 September 2023, ending on 31 December 2024.

I hereby inform you that with this termination letter Mr. Anane Tidjani terminates the above mentioned contract unilaterally with immediate effect.

I also inform you that we will file a claim against your Club before the committees of FIFA to get the unpaid amounts, compensations, and all other payments and ask sporting sanctions for being in breach.

Consequently, I inform you that Mr. Anane Tidjani is no longer a player of FC Kosice as a result of the unilateral termination of the employment contract with immediate effect".

22. On the same date, the Club responded to the Player's termination notice and stated as follows:

"Based on your letter dated December 18, 2023, in which you inform us that your client, Tidjani Anane, has terminated his professional contract with our club, we wish to state that we are continuing until the end of this professional contract and request that Tidjani Anane continue to use this professional contract fulfilled his obligations. As we stated last time, the club has taken all steps to obtain a visa for Tidajani Anane, we are in constant contact with the Ministry of Education, Science, Research and Sports of the Slovak Republic, as well as with the Embassy of the Slovak Republic in Nairobi, Kenya, which we contacted with a request for earlier date. We believe that the immediate termination of Tidjani Anana's professional contract was wrong, moreover contrary to the professional contract, the legal regulations of the Slovak Republic, the regulations of the Slovak Football Association, as well as FIFA regulations. We are sorry that Tidjani Anane, does not respect the Club and slipped to this level despite the fact that the Club gave the conditions

to the player. If Tidjani Anane does not fulfill his obligations, we have decided to defend the club's rights to the relevant authorities, including all the sanctions we have agreed in the contract."

23. On 20 December 2023, the Club wrote to the Player and stated as follows:

"We would like to inform you with pleasure that on December 20, 2023, we received an e-mail from the Embassy of the Slovak Republic in Nairobi, Kenya, in which, among other things, they inform us that, based on our request, they set new dates for the meeting for [the Player], namely December 28, 2023 at 10:00 a.m., or January 4, 2024 at 10:00 a.m.; in the attachment I am sending you the corresponding e-mail from the Embassy of the Slovak Republic in Nairobi, Kenya (including its translation into English). The documentation required by the embassy could be submitted by the club, with the exception of an extract from the criminal record of all countries in which [the Player] has stayed for more than 90 days in the last 3 years. As a club, we are not able to present these extracts from [the Player's] criminal record, only [the Player] is able to fulfill this obligation.

On the basis of the above fact, we would like to ask you to take a position on which date, namely on December 28, 2023 at 10:00 a.m., or on January 4, 2024 at 10:00 a.m. Tidjani Anane will arrive at the Embassy of the Slovak Republic in Nairobi, Kenya?"

24. On 21 December 2023, the Club wrote to the Player and stated as follows:

"Football club FC Kosice has booked a ticket for both term.

On the basis of the above-mentioned fact, we would like to ask you to take an opinion on which date, 12/28/2023 at 10:00 a.m. or 1/4/2024 at 10:00 a.m. Tidjani Anane will come. at the Slovak Embassy in Nairobi, Kenya?

The football club FC Kosice used all possibilities to secure term for the player Anana Tidjani, If we do not receive an answer from you, we will consider it as a breach of contract."

25. In this opportunity, the Club presented flight ticket reservations for flights from Paris to Nairobi as follows:

- Via Frankfurt, scheduled for 26 December 2023 as well as returning flights on 29 December 2023 (with arrival the following day).
- via Madrid and Doha, scheduled for 2 January 2024 (with arrival the following day) as well as returning flights on 5 January 2024.

26. On 28 December 2023, the Club wrote to the Player's attorney and stated as follows:

"We sent you two dates for your player Tijani Anane and you didn't reply to either of them. Today we were contacted by the embassy that your client did not show up. Tijani's last date is scheduled for 04.01.2024 at 10:00 (Slovak Embassy – Nairobi Kenya). It was very difficult to secure a term for

player Tidjani. If you decide to use the last date at the embassy, please bring of your criminal record. Football club FC Košicesent all documents on Embassy.

The football club FC Košice used all possibilities to secure term for the player Anana Tidjani, If we do not receive an answer from you, we will consider it as a breach of contract."

27. On 2 January 2024, the Club wrote to the Player's attorney and stated as follows:

"Today is the last chance to confirm the term at the embassy for Tidjani. Please let us know if you will use the date 04 January 2024 reserved for you by your club.. If not, the embassy will move your term to another person. The football club FC Košice used all possibilities to secure term for the player Anana Tidjani. We would like to ask you for an answer, Anane Tidjani is still a player of FC Košice, with whom he has a valid professional contract."

28. On 3 January 2024, the Player's attorney replied to the Club as follows:

"As you know, on 18 December 2023 the player already terminated the contract.

I tried to explain this situation to your club's sport director but he did not want to communicate with me.

So once again, I would like to inform you that the player terminated his contract with immediate effect on 18 December 2023 and he is not a player of your club since then.

We also would like to inform you that the player signed a contract with Saudi Club Al-Rayan and they need your approval about ITC.

Please send it as soon as possible and stop the bad behavior against the player. It should be considered that the amounts in his new contract will not be asked from your club so it is also good for your side.

If you reject to send the ITC, unfortunately we will have to apply yo FIFA." (sic)

29. On 4 January 2024, the Club wrote to the Player's attorney and stated as follows. In this occasion it also sent a draft settlement agreement for the mutual termination of the Contract:

"The football club FC Košice believes that the professional contract is still effective, in our opinion the immediate termination of the contract on your part was premature, unreasonable and invalid, but we want to find an agreement and "break up" amicably and, above all, fairly, that is why we are sending you a proposal a settlement agreement that is very fair.

If you sign this agreement, please scan it and send it to e-mail: manazer@fckosice.sk so that we can send the agreement to the Slovak Federation, which will legally terminate the contract.

If you accept this agreement and you properly terminate the contract with your signature, we will allow the player to transfer to another club."

30. On 25 January 2024, the Club placed the New Club in default, stating that the Player was still under contract and demanding payment of EUR 275,000 as a transfer fee for the Player within the next 10 days.
31. According to the information contained in the Transfer Matching System (**TMS**), on 26 December 2023, the player signed an employment contract with the New Club valid as from 1 January 2024 until 30 March 2024, for a total remuneration of USD 4,000 net.
32. The Player was registered with the New Club on 10 January 2024 without any distinctive issues.

II. Proceedings before FIFA

33. On 25 December 2023, the Player filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

a. Claim of the Player

34. In his claim, the Player recalled the many correspondences exchanged between the parties regarding his visa situation. In this respect, he recalled that he was provided with a deadline to leave the country by the Slovak authorities, and despite facing difficulties, he played all the matches in November 2023 under that condition. He also argued that he made several attempts to obtain the necessary visa and work permits, including contacting embassies in Austria and Nigeria, but received negative responses, as well as engaged with Club representatives and other persons, to no avail.
35. The Player referred accordingly to the jurisprudence of FIFA, stating that it's the Club's responsibility to obtain the required permits on time, and a player will be considered to have just cause to terminate their contract if the permits are not available in good time. As such, the Player deems he terminated the Contract with just cause, as it was not possible for him to stay in a foreign country illegally. He emphasized to this effect that he sent multiple notices to the Club before termination to protect the contractual stability.
36. In continuation and on the basis of art. 17 par. 1 of the Regulations on the Status and Transfer of the Players (**RSTP**), the Player seeks compensation from the Club for breach of contract as well as outstanding remuneration, as follows:
 - EUR 200 as bonus for one goal scored with its interest from the termination date (i.e., 18 December 2023) until the effective payment. It is to be noted that the Player filed evidence of said match and goal scored.

- EUR 56,000 as the residual value of the Contract with its interest from the termination date (i.e., 18 December 2023) until the effective payment date. The Player clarified in this respect that the Club only paid his salaries of October and November 2023, and thus has calculated the residual value of the Contract as EUR 56,000 for 14 months à EUR 4,000 each.

b. Reply and counterclaim of the Club

37. In its reply, the Club challenged the claim of the Player and filed a counterclaim against him and the New Club.

Statement of defense

38. In its answer, the Club advanced the following arguments:

- After finding out that the Player did not have a valid visa, the Club secured an extension of the Player's stay until 2 December 2023, and engaged a professional law firm to act on its behalf in the process of obtaining the visa.
- The Club asserted that they diligently pursued all necessary steps to secure the Player's visa. It emphasized its commitment at all times to ensuring his eligibility to play for the Club. To this effect, the Club recalled it engaged with relevant authorities, submitted required documentation, and followed the legal procedures meticulously to the extent that the Club's legal team worked closely with immigration officials to expedite the process.
- At the same time, the Club underlined that it maintained open communication channels with the Player and his staff throughout the visa application period. They provided him with clear instructions and updates, collaborated with his representatives, emphasizing the urgency and importance of timely visa approval. Regular follow-ups were conducted to address any potential roadblocks. When faced with unexpected delays or challenges not attributed to the club but in fact to a governmental change, the Club still proactively sought solutions, explored alternative routes, engaged legal experts, and advocated for the Player's case with the Slovak authorities. The Club highlighted that its legal team worked tirelessly to resolve any issues related to documentation, background checks, or administrative hurdles. Considering all the above, and despite external factors beyond its control, the Club remained steadfast in their efforts to secure the Player's visa.
- The Club submitted it acted in good faith throughout the process and that its commitment extended beyond contractual obligations because it genuinely wanted the Player to join the team and contribute on the field of play.
- At the same time, the Club raised that the visa complications arose due to the Player's lack of cooperation or compliance with the visa application process. To this effect, the Club stated that the Player, despite being informed about the progress and the recommendation from the Ministry, failed to visit the Slovak Embassy in Nairobi within the provided dates.

Counterclaim

39. The Club raised the following arguments in its counterclaim:

- The Club contended that it was not at fault for any delays or issues and that the Player's actions led to the visa-related problems, and therefore claim that the Player did not have just cause to terminate the contract. The Club added that the unilateral immediate termination of the Contract by the Player was invalid because the Contract stipulated that termination should be made exclusively by registered mail, not by email. The Club also submitted that the Player's abrupt exit caused financial losses and impacted their overall football operations.
- Equally, the Club claimed that the Player acted in bad faith and with opportunism, as he already had another contract with the New Club by 3 January 2024. As such, the Club asserted that the New Club should be liable for payment of compensation. The Club also underscored that the Player terminated the Contract during the winter break, knowing that the recommendation for the visa had been granted. The Club argued that he was not deprived of his right to play for the Club, as the winter break lasted until 3 February 2024.
- Based on the foregoing, the Club is seeking compensation in the amount of EUR 48,000 for breach of the Contract without just cause, calculated on the basis of its residual value (12 months x EUR 4,000 per month). According to the Club, under Article III, paragraph 18, letter b) of the Contract, in the event of unilateral termination of the contract by the Player, the agreed compensation is EUR 5,000. However, the Club argued that this provision does not limit their entitlement to claim compensation according to the RSTP, but only provides the right to contractual compensation alongside compensation according to FIFA regulations. Therefore, the Club is of the opinion that they are entitled to the full amount of compensation as stated in Article 17, paragraph 1 of the RSTP. By the same token, the Club argued that the DRC has the possibility of setting aside the contractual provision on the basis of a lack of reciprocity and proportionality between the parties, as per its jurisprudence.

40. It is to be noted that together with other pieces of evidence, the Club filed the following witness statement from one of its officials:

"I, Ing. Roman Simko, as manager of the football club FC Kosice, Slovakia, am hereby declaring that:

1. I am fully aware with all pre-contractual, contractual and other relevant circumstances between football club FC Kosice and player Anane Tidjani, born at March 29, 1997, nationality Benin and following issues.

2. *The player Mr. Anane Tidjani informed the club before signature of the professional contract that he has valid visa and he can start play for the club without any further necessary steps, only future extension of the visa upon valid contract would be needed.*
3. *In September 2023 I was personally with the player Anane Tidjani at the Slovak Foreign Police with aim to secure extension of his visa. The officials informed me that visa of Mr. Anane Tidjani was inappropriate because player had visa type C for Schengen area, issued from France only for 90 days and cannot be prolonged. I was informed by the Slovak Foreign Police that for the player are suitable national visa (type D) that are issued for period of 1 year.*
4. *During these visits in September 2023 altogether with the player Mr. Tidjani, we found out that he entered Schengen area at July 1, 2023, and his 90 day's stay is coming to expire. Therefore we submitted request for extension for the stay in the Slovakia, which ultimately allowed player to stay in Slovakia until December 2, 2023.*
5. *On October 11, 2023 I have contacted on behalf FC Kosice a professional - legal firm and commissioned it to act on behalf of the club in the matter of obtaining the national visa for Mr. Anane Tidjani and provided full support to the legal firm in the process.*
6. *I also confirm that during season 2023/2024 winter break, a club-wide vacation was ordered and every player of FC Kosice took compulsory holiday from December 17, 2023 till January 3, 2024.*
7. *I declare that I am giving above stated information due to my best knowledge and personal involvement in the matter itself."*

41. The request for relief of the Club was as follows:

"The Respondent/Counter-Claimant hereby asks the FIFA Football Tribunal / DRC to issue decision on this matter as follows:

1. *The claim of the Claimant / Counter-Respondent, Anane Tidjani, is rejected.*
2. *The claim of the Respondent / Counter-Claimant, FC Kosice, is accepted.*
3. *The Claimant / Counter-Respondent has to pay to the Respondent / Counter-Claimant, the following amount: EUR 48,000 as compensation for breach of contract without just cause, plus 5% interest p.a. from December 18, 2023 until the date of effective payment. Respondent 2, Al-Rayyan Club, is jointly and severally liable for the payment of the aforementioned amount.*
4. *Respondent 2, Al-Rayyan Club, has to pay to the Respondent / Counter-Claimant the amount of EUR 275,000.*

5. *Full payment (including all applicable interest) shall be made to the bank account of the Respondent / Counter-Claimant indicated in the enclosed Bank Account Registration Form.*
6. *The decision is rendered without costs."*

c. Reply to the counterclaim by the Player

42. In his Reply to the Club's counterclaim, the Player largely reiterated his arguments per his statement of claim.
43. He highlighted the Club's responsibility to obtain the necessary visa and work permit and asserted that he acted in good faith throughout the process and made efforts to continue the employment relationship with the Club. The Player also emphasized that he took all necessary steps and cooperated with the Club, but the latter failed to take the required actions.
44. Furthermore, the Player cited a decision from the Court of Arbitration for Sport (**CAS**), namely case No. CAS 2017/A/5092 to support his position. In summary, said award states that the employer is responsible for obtaining the visa/work permit for the employee. It also emphasizes that the employer must provide the employee with the necessary visa/work permit, and failure to do so can be seen as an unjustified breach of contract.
45. Additionally, the Player argued that the termination of the Contract was valid, as he had just cause to terminate it due to the Club's failure to obtain the necessary visa.
46. The Player also addressed the Club's claim that the termination did not fulfil formal requirements, stating that the termination via email was valid and in line with FIFA and CAS jurisprudence. The Player argued to this end that the termination was made on 18 December 2023 when he was out of Slovakia, and mentioned that it cannot be expected from the Player or from his legal representative to send the termination by mail from Turkey or France while all of the notices and other letters were sent by email from the Player and also from the Club.
47. The Player added that in the Contract, it is not explicitly stated that the termination will be invalid if it is not made by mail. He adduced that considering the dispute is between a player and a club, it is in line with FIFA and CAS jurisprudence to terminate the contract via email. The Player equally emphasized the importance of the burden of proof, stating that the party who terminates a contract by email will have to prove that the email was received by the addressee. He highlighted to this effect that the Club sent its brief statement one day after receiving the email, which shows that the Club received the termination timely.
48. The Player requested FIFA to render a decision that he terminated the Contract with just cause, reiterate his *petitum* per his statement of claim and requested that the counterclaim of the Club be dismissed.

d. Position of the New Club

49. In spite of having been invited to do so by the FIFA general secretariat, the New Club did not submit any position to the counterclaim of the Club.

III. Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

50. 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 25 December 2023 and submitted for decision on 4 April 2024. Taking into account the wording of art. 34 of the March 2023 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.
51. 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 lit. b) of the RSTP (February 2024 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 player from Benin and a club from Slovakia, with the involvement of a Saudi club.
52. 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 RSTP (edition February 2024), and considering that the present claim was lodged on 25 December 2023, the May 2023 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

53. 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

54. 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

55. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that this is a claim of a player against a club for breach of contract and outstanding remuneration, with a corresponding counterclaim.
56. The DRC started by remarking that as to the amounts outstanding, the Player is claiming a bonus for a goal scored, which is not contested by the Club. Equally, the DRC underlined that such claim of the Player is contractually based and accompanied by the corresponding evidence. As such, the DRC decided that said bonus is to be awarded in the amount of EUR 200 plus interest, as requested, from the date of termination of the Contract, in line with the principle *pacta sunt servanda*.
57. In continuation, the DRC noted that per the Contract the Player's salary of November was due on 30 December 2023 only. The DRC equally remarked that regarding the termination of the Contract, the Player states he terminated it with just cause due to the lack of visa. The Club states otherwise, and claims that it bore no fault regarding the issuance of the visa. It also argues that the termination did not follow the proper contractual steps.
58. The well-established jurisprudence of the DRC determines that only a breach or misconduct that is of a certain severity justifies the termination of a contract. In other words, only when there are objective criteria that do not reasonably permit the expectation that the employment relationship between the parties can continue, a contract may be terminated prematurely (*ultima ratio* measure).
59. In this respect, the DRC found it noteworthy that the jurisprudence of the Football Tribunal, as detailed by the Commentary on the RSTP – Edition 2023, pp. 129, establishes the following:
- When assessing whether a unilateral contract termination is justified, the following general criteria must be applied, considering the specific circumstances of each individual matter:*
- *Only a sufficiently serious breach of contractual obligations by one party qualifies as just cause for the other party to terminate the contract.*
 - *In principle, the breach is considered sufficiently serious when there are objective circumstances that would render it unreasonable to expect the employment relationship between the parties to continue, such as a serious breach of trust.*
 - *The termination of a contract should always be an action of last resort (an 'ultima ratio' action)".*
60. With due consideration of above, the DRC turned to the evidence on file and deemed crucial to outline that the Player based the termination of the Contract exclusively on the Club's failure to provide guidance and/or facilitate the issuance of his working permit/visa.

61. To this end, the DRC once again reverted to the longstanding jurisprudence of the Chamber and noted that it establishes, as a general rule, that clubs shall be liable to take all necessary administrative action to ensure that that a player's permit is granted (or renewed), allowing a player to render the services under the relevant employment contract. The jurisprudence is also solid to recognize that a player shall provide assistance as can be reasonably expected in order to facilitate the administrative procedure. Put differently (cf. Commentary on the RSTP – Edition 2023, p. 138):

“As per the established jurisprudence, it is the club's responsibility to obtain these documents (on time). As a result, a player will generally be considered to have a just cause to terminate their contract if the required permits are not available in good time. However, a player is expected to cooperate in completing the processes associated with obtaining these documents; this was recently confirmed in a 2021 case. Moreover, considering the principle that terminating a contract should be a last resort, a warning should be sent to the club ahead of any move to put an end to the contractual relationship.”

62. Aside from case law of the DRC, the aforementioned conclusion is also in line with CAS' jurisprudence, which confirms that the player must cooperate with the efforts to obtain a visa or work permit, as well as show sufficient degree of diligence to comply with the administrative formalities (as set, for example, under CAS 2017/A/5092).
63. Taking the above into consideration, the DRC went on analysing the documentation submitted the parties. In this respect, it noted in particular the witness statement of the Club's official according to which, from the very early stages of the parties' relationship, the Club was acutely aware of the Player's visa status. Nonetheless, the situation surfaced after the relationship had already started. The visa, as the other administrative conditions, cannot affect the validity of an employment contract in line with art. 18 par 4. of the Regulations and therefore – so remarked the Chamber - this places on clubs the burden to actively investigate a player's ability to render services for a club *before* concluding the relevant contract, as they are best placed to understand the particularities of their local legal requirements.
64. Having this in mind, the DRC noted that the Club did take steps in order to try to remedy the situation as it should, but in the Chamber's view because this was not timely done (seemingly because the Club failed to carry a previous due diligence) as there was not enough time to issue the Player's visa. In other words, the Chamber concluded that the Club acted too late: the lack of good paperwork forced the Player to travel abroad, stop rendering services and wait outside Slovakia for his documentation was not correct per the local authorities, which had a direct impact on his working capabilities.
65. To this end, the DRC was of the opinion that the Player demonstrated a lot of patience, having placed the Club in default five times before eventually terminating the Contract. It was only after the termination (not necessarily because of it) that the Club could effectively demonstrate that it had secured dates for the Player to be interviewed in the Slovak embassy in Nairobi, which was already insufficient to remedy the situation.

66. For the sake of completeness, the DRC was also of the opinion that the Player contributed with his share of obligations to try to secure the visa as opposed to the allegations of the Club: his notices and the fact that he travelled out of the country clearly demonstrate his readiness to solve the issue.
67. Given the above circumstances, the Chamber concluded that the Player terminated the Contract with just cause.
68. As to the issue of the method of termination, the DRC upheld the argumentation of the Player: the concerned clause is indeed not clear to determine that termination shall be made exclusively by post and not e-mail; at the same time, the DRC underlined he was out of the country because the Club had failed to secure the visa (and because he was trying to do his share to obtain it) and the termination letter was delivered to the Club unequivocally. It is also noteworthy that the Club never objected to this delivery method until now, and therefore it is estopped from changing its course of action in line with the principle of *estoppel*.
69. The DRC accordingly rejected the counterclaim of the Club and determined it shall endure the consequences that follow from the termination of the Contract by hand of the Player.

ii. Consequences

70. 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 Club.
71. The Chamber observed that the outstanding remuneration at the time of termination, coupled with the specific requests for relief of the Player, are equivalent to the goas-scoring bonus of EUR 200, plus the salaries of November and December 2023 under the contract, amounting to EUR 4,000 each.
72. As a consequence, and in accordance with the general legal principle of *pacta sunt servanda*, the Chamber decided that the Club is liable to pay to the Player the amounts which were outstanding under the Contract at the moment of the termination, i.e., EUR 8,200.
73. In addition, taking into consideration the Player's request as well as the constant practice of the Chamber in this regard, the latter decided to award the Player interest at the rate of 5% p.a. on the outstanding amounts as from the date of termination of the Contract until the date of effective payment, precisely as requested by the Player.
74. Having stated the above, the Chamber turned to the calculation of the amount of compensation payable to the player by the club in the case at stake. 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.

75. In application of the relevant provision, the Chamber held that it first of all had to clarify as to whether the pertinent employment contract contained a provision by means of which the parties had beforehand agreed upon an amount of compensation payable by the contractual parties in the event of breach of contract. In this regard, the Chamber established that no such compensation clause was included in the employment contract at the basis of the matter at stake.
76. As a consequence, the members of the Chamber determined that the amount of compensation payable by the club to the player had to be assessed in application of the other parameters set out in art. 17 par. 1 of the Regulations. The Chamber recalled that said provision provides for a non-exhaustive enumeration of criteria to be taken into consideration when calculating the amount of compensation payable.
77. Bearing in mind the foregoing as well as the claim of the player, the Chamber proceeded with the calculation of the monies payable to the player under the terms of the contract from the date of its unilateral termination until its end date. Consequently, the Chamber concluded that the amount of EUR 48,000 (i.e. the residual value of the Contract for 12 months) serves as the basis for the determination of the amount of compensation for breach of contract.
78. In continuation, the Chamber verified as to whether the Player had signed an employment contract with another club during the relevant period of time, by means of which he would have been enabled to reduce his loss of income. According to the constant practice of the DRC as well as art. 17 par. 1 lit. ii) of the Regulations, such remuneration under a new employment contract shall be taken into account in the calculation of the amount of compensation for breach of contract in connection with the player's general obligation to mitigate his damages.
79. Indeed, the player found employment with the New Club. In accordance with the pertinent employment contract, the Player was entitled to approximately EUR 3,600 in total (i.e., USD 4,000 converted to Euros). Therefore, the Chamber concluded that the player mitigated his damages in the said amount.
80. Subsequently, the Chamber referred to art. 17 par. 1 lit. ii) of the Regulations, according to which a player is entitled to an amount corresponding to three monthly salaries as additional compensation should the termination of the employment contract at stake be due to overdue payables. In the case at hand, the Chamber confirmed that the contract termination did not take place due to said reason i.e. overdue payables by the Club, and therefore decided that the player shall not receive additional compensation.

81. Consequently, on account of all of the above-mentioned considerations and the specificities of the case at hand, the Chamber decided that the club must pay the amount of EUR 44,400 to the player (i.e. EUR 48,000 minus EUR 3,600), which was to be considered a reasonable and justified amount of compensation for breach of contract in the present matter.
82. Lastly, taking into consideration the player's request as well as the constant practice of the Chamber in this regard, the latter decided to award the player interest on said compensation at the rate of 5% p.a. as of the date of termination of the Contract until the date of effective payment.

iii. Compliance with monetary decisions

83. 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.
84. 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.
85. Therefore, bearing in mind the above, the DRC 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 Player, 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.
86. The Club shall make full payment (including all applicable interest) to the bank account provided by the Player in the Bank Account Registration Form, which is attached to the present decision.
87. 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. 24 par. 8 of the Regulations.

d. Costs

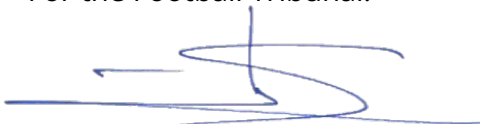
88. The Chamber referred to art. 25 par. 1 of the Procedural Rules, according to which *"Procedures are free of charge where at least one of the parties is a player, coach, football agent, or match agent"*. Accordingly, the Chamber decided that no procedural costs were to be imposed on the parties.

89. 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.
90. 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/Counter-Respondent 1, Anane Tidjani, is partially accepted.
2. The counterclaim of the Respondent/Counter-Claimant, FC Košice, is rejected.
3. The Respondent/Counter-Claimant, must pay to the Claimant/Counter-Respondent 1 the following amount(s):
 - **EUR 8,200 as outstanding remuneration** plus 5% interest *p.a.* as from 18 December 2023 until the date of effective payment;
 - **EUR 44,400 as compensation for breach of contract without just cause** plus 5% interest *p.a.* as from 18 December 2023 until the date of effective payment.
4. Any further claims of the Claimant/Counter-Respondent 1 are rejected.
5. Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.
6. 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/Counter-Claimant 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.
7. The consequences **shall only be enforced at the request of the Claimant/Counter-Respondent 1** in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.
8. 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 Governing the Football Tribunal).

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