

# Decision of the Dispute Resolution Chamber

passed on 7 August 2024

regarding an employment-related dispute concerning the player Daniel  
Lukasik

**BY:**

**Jorge Gutiérrez, Costa Rica**

**CLAIMANT:**

**Daniel Lukasik, Poland**  
Represented by Maciej Balazinski

**RESPONDENT:**

**MKE Ankaragucu SK, Türkiye**

## I. Facts of the case

1. On 1 February 2020, the Polish player Daniel Lukasik (hereinafter: *the Player* or *the Claimant*) and the Turkish club MKE Ankaragucu SK (hereinafter: *the Club* or *the Respondent*) entered into an employment contract valid from 31 January 2020 to 31 May 2020 (hereinafter: *the Contract*).
2. Pursuant to clause 3 of the Contract, the Player would be entitled to (i) a guaranteed payment of EUR 25,000 net on 5 February 2020; and (ii) EUR 125,000 as monthly salary, for a total amount of EUR 150,000 net.
3. Furthermore, the same clause 3 of the Contract states, *inter alia*, that: "*the amounts stated in the [Contract] are net and taxes and withholding taxes shall be paid by the Club. Social security bonus will be paid by the Club*".
4. On 9 February 2022, the same parties signed a termination agreement for the early termination of the Contract (hereinafter: *the Termination Agreement*). Such document reads *inter alia* as follows:

"SUBJECT OF THE CONTRACT

*The parties signed [the Contract]. The parties hereby confirm that the total unpaid receivables of the player are equal to 67.776,00 Euro.*

*The parties hereby agree on a mutual termination.*

*As a consequence of this mutual termination, the parties agreed on the below-mentioned conditions:*

*The club hereby accepts to pay 67.776.00 Euros unpaid receivables of the player + 92.224.00 Euro compensation for the termination of the employment relationship. In other words, only a total of 160.000.00 Euro, including the Player's receivables and compensation for the termination will be paid on the following dates:*

*110.000.00 Euro on 09.02.2022*

*50.000.00 Euro on 15.06.2022*

*Except for the amount stated above (Total 160.000,00 Euros), the Parties do not have any rights or receivables from each other. The player confirms and undertakes that he is not going to claim anything except the above-mentioned amounts.*

*If the above-mentioned 110.000.00 Euro payment with a maturity date of 09.02.2022 is not deposited into the Player's bank account on the same day, this protocol will become invalid.*

*All necessary documents (ITC-POLCED) for the transfer of the player to another club will be provided by the club immediately upon request.*

*Any dispute arising from this agreement will be submitted to FIFA”.*

### **The tax-related issues**

5. Allegedly on 12 January 2024, the Player received a document entitled “Payment Order” and dated 25 October 2023. According to this document, the Player was seemingly requested to pay TRY 2,112,119.50 in taxes to the Turkish tax authorities. However, it should be noted that there is no breakdown of the amounts or reference to their nature.
6. On 18 January 2024, the Player replied to the abovementioned correspondence and stated as follows:

*“Have a good day.*

*I have received the ‘Payment Order’ prepared and sent by you on 12.01.2024.*

*It should be noted that the income subject to the tax penalty in question was earned due to the service contract concluded by and between [the Club] and me, and the named Club is responsible for paying the said tax and this situation is clearly stated in the aforementioned contract.*

*Indeed, all fees received by me under the [Contract] are NET and [the Club] acknowledges that it is the debtor of the payment in question and has stated to me verbally that it shall make the relevant payment.*

*For the stated reason, I respectfully request and demand the collection of the aforementioned tax from [the Club] affiliated to your Tax Office Presidency”.*

7. On 24 April 2024, the Player sent the Club a document entitled “dunning letter” in which he (i) recalled that the payments under the Contract were stipulated to be “net”; (ii) referred to the notification received from the Turkish tax authorities; and (iii) demanded payment within 7 days of the “tax debt”.
8. It should be noted that the above letters were freely translated into English by the Player, and they contain some inconsistencies as to dates and addressees. The reference to the Turkish authorities allegedly issuing the letters is also unclear.

## II. Proceedings before FIFA

9. On 22 May 2024, the Player filed the present claim with FIFA. A summary of the parties' position is set out below.

### a. Player's claim

10. According to the Player, the Club had agreed to pay him his remuneration net of any tax but had nevertheless failed to comply with its obligations to the tax authorities in Türkiye. The Player submitted a copy of the letters allegedly issued by the Turkish government and claimed that the Club should pay him EUR 74,772.97 (*i.e.*, TRY 2,112,119.60 at the exchange rate of 26 June 2023).

11. It should be noted that the Player's claim was signed by his legal representative, Mr. Talat Emre Koçak, holding a valid power of attorney within the meaning of art. 18, par. 1 of the Procedural Rules Governing the Football Tribunal (hereinafter: *the Procedural Rules*).

### b. Club's reply

12. On 16 June 2024, the Club filed its reply to the Player's claim.

13. The Club submitted a copy of the Termination Agreement and the proof of payment of EUR 110,000 on 9 February 2022. In doing so, the Club alleged having complied with all its financial obligations and concluded that:

*"[...] it is crystal clear that [the Player] and [the Club] waived their all rights against each other with the signing of the mutual termination agreement.*

*As a result, the player cannot claim his income tax payments from the club. Therefore, we kindly request the honorable chamber to reject the present claim of the claimant".*

### c. Player's unsolicited correspondence

14. On 3 July 2024, the FIFA general secretariat acknowledged receipt of the Club's reply and informed the parties that the submission phase in the present matter was closed in accordance with art. 23 of the Procedural Rules.

15. On 9 July 2024, Mr. Talat Emre Koçak informed the FIFA general secretariat that he was no longer authorized to represent the Player.

16. On 10 July 2024, the Player appointed Mr. Maciej Balazinski as his new legal representative. On the same day, he filed unsolicited comments on the Club's response.

17. On 22 July 2024, the FIFA general secretariat acknowledged receipt of the Player's correspondence and informed him that it had been submitted after the closure of the submission phase (*cf.*, art. 23, par. 1 of the Procedural Rules).

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

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

18. First of all, the Single Judge of the Dispute Resolution Chamber (hereinafter: *the Single Judge*) analysed whether it was competent to deal with the case at hand. In this respect, he took note that the present matter was presented to FIFA on 22 May 2024 and submitted for decision on 7 August 2024. Taking into account the wording of art. 34 of the March 2023 edition of the Procedural Rules, the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
19. Furthermore, the Single Judge 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 (June 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 an Polish player and a Turkish club.
20. Subsequently, the Single Judge analysed which regulations should be applicable as to the substance of the matter. In this respect, he confirmed that, in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (June 2024 edition), and considering that the present claim was lodged on 22 May 2024, the cited edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

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

21. The Single Judge 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 Single Judge stressed the wording of art. 13 par. 4 of the Procedural Rules, pursuant to which he 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**

22. Having established the competence and the applicable regulations, the Single Judge entered into the merits of the dispute. In this respect, the Single Judge started by

acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Single Judge emphasised that in the following considerations it will refer only to the facts, arguments and documentary evidence, which he considered pertinent for assessing the matter at hand.

#### **i. Admissibility of the Player's unsolicited correspondence**

23. The Single Judge first noted that the Player submitted unsolicited comments after the closure of the submission phase in the present case. Nevertheless, the Single Judge referred to the clear and unambiguous wording of the art. 23, par. 1 of the Procedural Rules and ruled that they were inadmissible and should therefore be disregarded.
24. For the sake of completeness, the Single Judge outlined that the fact that the Player had changed representatives during the proceedings did not entitle him to submit new comments and/or supplement his previous submission.
25. Therefore, the Single Judge confirmed that the merits of the Player's relief should only be entertained on the basis of his statement of claim and the Club's response.

#### **ii. Main legal discussion and considerations**

26. The Single Judge then moved on to the substance of the matter, noting that it concerned a claim for taxes.
27. In particular, the Single Judge observed that the Player claimed an amount of EUR 74,772.97 (*i.e.*, TRY 2,112,119.60 at the exchange rate of 26 June 2023) in respect of unpaid taxes that should have been paid by the Club for the duration of his employment. The Club, on the other hand, denied any liability to the Player in light of, *inter alia*, the terms of the Termination Agreement.
28. In this context, and after careful consideration of the case file, the Single Judge found that the Player's claim could not succeed, regardless of the wording of the Termination Agreement and/or any residual liability thereunder.
29. The Single Judge based his decision on the following:
  - While it is true that the Contract refers to the payment of the Player's remuneration "net of any taxes", it does not establish that the Club should pay the taxes *to the Player*, but rather to the tax authorities;
  - Although the Player has provided some documentation purportedly issued by the Turkish tax authorities, the Player has failed to demonstrate that the tax liabilities were in any way related to the period during which he was tied to the Club, let alone that he paid any amount worthy of reimbursement; and

- In fact, the Player has limited himself to providing copies of partially translated default notices with conflicting dates and addressees that do not contain any reference to the issuing authority, let alone a breakdown of the debt and to which it relates, making it impossible for the Single Judge to confirm the nature of the debt and the Club's liability.
30. In light of the above, the Single Judge concluded that that the Player had not met his burden of proving that he was entitled to the amount of the alleged taxes. Similarly, the Single Judge determined that, even if the Player were to claim a refund – *quod non* – such a claim would be premature in that no amount had been paid to the relevant tax authorities.
31. In conclusion, the Single Judge decided that Player's claim should be rejected.


#### **d. Costs**

32. The Single Judge 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 Single Judge decided that no procedural costs were to be imposed on the parties.
33. Likewise, the Single Judge recalled the contents of art. 25 par. 8 of the Procedural Rules and decided that no procedural compensation should be awarded in these proceedings.
34. Lastly, the Single Judge 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, Daniel Lukasik, is rejected.
2. 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 Governing the Football Tribunal).

**CONTACT INFORMATION**

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