

# Decision of the Dispute Resolution Chamber

passed on 18 July 2024

regarding an employment-related dispute concerning  
the player Eid Mugadam Abakar Mugadam

**BY:**

**Frans DE WEGER (The Netherlands)**, Chairperson

**Tomislav KASALO (Croatia)**, Member

**Tarek BRAUER (Germany)**, Member

**CLAIMANT:**

**Eid Mugadam Abakar Mugadam, Sudan**

Represented by Islam Hisham and Shimaa El-Daly

**RESPONDENT:**

**Rayon Sports Association, Rwanda**

Represented by Gilbert Ndayambaje

## I. Facts of the case

1. On 4 August 2023, the Sudanese player, Eid Mugadam Abakar Mugadam (hereinafter: the *Claimant* or the *Player*), and the club from Rwanda, Rayon Sports Association (hereinafter: the *Respondent* or the *Club*), signed an employment contract (hereinafter: the *Contract*) valid for the season 2023-2024.

2. In accordance with the Transfer Matching Season (TMS), the relevant season 2023-2024 runs from 12 August 2023 until 30 June 2024.

3. According to article 3 of the Contract, the parties agreed on the following:

*"A one (1) month notice shall be given in writing by either of the two parties desiring to terminate this Contract before the end date as stipulated in Contract."*

*Association Rayon Sports accepts to release EID MUGADAM ABAKAR MUGADAM once he will receive a good opportunity outside Rwanda, the club that wants his service shall discuss with Association Rayon Sports and the latter will release the player after receiving Thirty thousand US Dollar (30,000 000 USD). Association Rayon Sports reserves the right to accept or decline the offer."*

4. Regarding the remuneration of the Player, articles 8 and 9 of the Contract read as follows:

*"Article 8: Salary Payment and Other Benefits*

*Both parties agree to the Contract determine the Player's monthly salary to One Thousand US Dollar (1,000 USD) to be paid by the Club at the end of the month through the Player's bank. (...)*

*Article 9: Bonus of Match*

*The amount of the bonus for each match determined according to the rules and regulations of the Club is Fifty thousand (50,000 RWF) and is paid when the team wins the match."*

5. In addition, the Contract included the following termination clause in article 11:

*"In event the Club needs to separate with the Player prematurely due to various causes, the Club will pay the amount equivalent to two (2) month salary to the Player."*

6. Lastly, article 14 of the Contract stipulated the following:

*"14.1 The Contract could be terminated up on expiration of its term.*

*14.2 The Club and the Player have the right to terminate the Contract based on just cause*

*14.3 The Club and the Player can terminate the Contract upon mutual agreement and the buyout clause will be applied."*

7. During the employment relationship between the parties, the Club won the following matches:
  - 12 August 2023: Rayon Sports vs APR (3-0);
  - 18 August 2023: Rayon Sports vs Gasogi United (2-1).
8. On 2 November 2023, the Club terminated the Contract of the Player.
9. By correspondence dated 22 November 2023, the Claimant sent a default notice to the Respondent, which read as follows:

*"[...] this early termination is considered to be without just cause, as it occurred during the course of the season, which is prohibited by Article 16 of the FIFA Regulations on the Status and Transfer of Players (RSTP). As a result of the early termination that you made on 02 November 2023, in violation of Article 14 of the FIFA RSTP, you are required to compensate our client with fair compensation equal to the residual value of the contract, as stipulated in Article 17 of the FIFA-RSTP*

*Therefore, we hereby grant you a period of ten (10) calendar days as a deadline to pay the compensation for the player according to article 17 of FIFA-RSTP. Should the club fail to comply with these requests, the player will have no alternative but to seek recourse through the FIFA Football Tribunal (DRC) to demand the club's payment of his outstanding salaries in accordance with Article 12 bis of the FIFA-RSTP, along with compensation for the remaining value of the contract, six months' worth of salaries for the specificity of sports, and 5% interest as stipulated in Article 17 of the FIFA-RSTP. Additionally, the club will be liable for legal fees amounting to USD 5,000. [...]"*
10. On 4 February 2024, the Player signed a new employment contract with the Libyan Club Al Ahly SC, valid as from the date of signature until 3 February 2024, with a monthly salary of USD 5,000.

## **II. Proceedings before FIFA**

11. On 9 January 2024, the Claimant filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

### **a. Position of the Claimant**

12. According to the Claimant, the Club breached the Contract by unilaterally terminating it without just cause on 2 November 2023. In this respect, the Claimant argued that the conditions for an early termination of the Contract had not been met in accordance with article 14.3 of the Contract, as no mutual agreement had been reached between the parties. In addition, it is the Claimant's position that the termination clause inserted in article 11 of the Contract is invalid due to its lack of reciprocity and its non-applicability

within the FIFA and CAS jurisprudence. Therefore, the Claimant relied on the legal principle *pacta sunt servanda* to argue that it is entitled, according to article 17 of the RSTP, to compensation for all damages incurred as a result of the termination of the Contract before its term.

13. The requests for relief of the Claimant, were the following:

*"1) To accept this claim against the Respondent.*

*2) To consider the Respondent liable for early termination of the Contract without just cause during the protected period.*

*3) To condemn the Respondent to pay the Claimant the outstanding bonuses that proved by the article 9 of the contract, in **amount of RWF 300,000-/ "three hundred thousand Rwandan frank"** which equivalent to **an amount of USD 300-/ "three hundred dollars" plus 5% interest.***

*4) To condemn the Respondent to pay the Claimant compensation for breach of contract under article 17 of FIFA-RSTP in amount of **"Seven Thousand Dollars" (7,000-/USD) NET** plus 5% interest calculating as from 02 November 2023.*

*5) To condemn the Respondent to pay the claimant an additional head of compensation under the specificity of sport as provided for under FIFA-RSTP in **the amount of Six Thousand Dollars (6,000-/ USD)** plus 5% interest calculating as from 02 November 2023.*

*6) To condemn the Respondent to pay interests at a rate of five percent (5%) per annum over entire amounts requested from the due date of each payment until the date of the effective payment.*

*7) To ban the Respondent from registering any new players, either nationally or internationally, for two registration periods under article 17, paragraph 4 of the FIFA RSTP; AND*

*8) To impose the Respondent whatever sanctions this honorable Chamber deems fit in accordance with article 12 bis of the FIFA RSTP.*

*9) To fix a sum of USD **(5,000-/) "five thousand dollars"**, to be paid by the Respondent to the Claimant, to help the payment of its legal fees and costs.*

*10) As a consequence of the above, to condemn the Respondent to pay all expenses and costs of the present proceedings, if any."*

**b. Position of the Respondent**

14. According to the Respondent, the claim should be dismissed as the Player had agreed, by signing the Contract, to be bound by its terms, including the termination clause. The Club added that it had complied with the legal principle *pacta sunt servanda*, as it had acted in accordance with the terms provided of the Contract.
15. The Respondent alleged that it had already paid one month's salary to the Player in accordance with article 11 of the Contract, and that the second month will be paid on 30 March 2024.
16. Regarding the outstanding bonuses claimed by the Player, the Club responded that he would have been entitled to receive them if he had been one of the twenty players selected for the matches in question.

**c. Replica of the Claimant**

17. The Claimant reiterated that the Club did not comply with the necessary conditions for terminating the Contract before its term and must therefore pay the residual value of the Contract.
18. Regarding the outstanding bonuses, the Player replied that the only condition for receiving them is winning the match according to article 9 of the Contract.
19. In addition, the Player argued that the Club's conduct had made him unemployed for two months, damaging his market value and reputation, and that he should therefore be entitled to additional compensation in the amount of USD 6,000, representing six months' salary. Alternatively, the Player requested USD 2,000, the amount stipulated in article 11 of the Contract.

**d. Duplica of the Respondent**

20. The Respondent reiterated that its decision to terminate the Contract was based on the buyout clause and that it is consistent with articles 3, 11, and 14 of the Contract, which outlined the permissible grounds for termination. In fact, the Respondent argued that it complied with article 14.3 of the Contract, which explicitly outlined the application of the buyout clause, i.e., granting the Club the right to terminate the Contract by paying the Player the agreed upon buyout amount. In this regard, the Respondent stated that the Player had consented to the buyout clause, which made him ineligible to pursue legal action against the Club.

### III. Considerations of the Dispute Resolution Chamber

#### a. Competence and applicable legal framework

21. 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 9 January 2024 and submitted for decision on 18 July 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.
22. 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 Regulations on the Status and Transfer of Players (May 2023 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 Sudanese player and a club of Rwanda.
23. 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 (February 2024) and considering that the present claim was lodged on 9 January 2024, 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

24. 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 TMS.

#### c. Merits of the dispute

25. 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

26. The foregoing having been established, the Chamber took note of the fact that the Contract was terminated on 2 November 2023, but that the parties strongly dispute the validity of the termination clause inserted in the Contract. In this regard, the Chamber recalled the position of the respective parties, starting with the Claimant who held that the Club breached the Contract by unilaterally terminating it without just cause. As for the position of the Respondent, the Chamber acknowledged its argument that the Contract was terminated by exercising the so-called buyout clause stipulated in article 11 of the Contract.
27. In this context, the Chamber considered the wording of article 11 of the Contract, which established that *"In event the Club needs to separate with the Player prematurely due to various causes, the Club will pay the amount equivalent to two (2) month salary to the Player."*
28. Bearing in mind the circumstances of the termination of the Contract, the Chamber determined that the so-called buyout clause had not been triggered by the Respondent and was not applicable to the present case. The Chamber relied on the fact that the compensation of two monthly salaries had not been paid by the Respondent to the Claimant and no mutual agreement had been reached between the parties pursuant to article 14.3 of the Contract.
29. The Chamber also took note of the fact that no just cause had been submitted to justify the Club's termination of the Contract.
30. Following this observation, the Chamber recalled that a contract may only be terminated prior to the expiry of the agreed term where there is a valid reason to do so. In this regard, the Chamber recalled its well-established jurisprudence according to which 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).
31. In addition, after analysing the content of the aforementioned clause, the Chamber determined that, despite the misleading nomenclature, article 11 of the Contract is a liquidated damages clause rather than a buyout clause, as it only grants the Club the right to terminate the Contract. In fact, a buyout clause grants a right to the Player to terminate the contractual relationship prematurely in return for payment of a predetermined sum stipulated in the Contract.
32. Based on the foregoing and the evidence on file, the Chamber concluded that the Club prematurely terminated the Contract without just cause on 2 November 2023.

## ii. Consequences

33. Having stated the above, the Chamber turned its attention to the question of the consequences of such unjustified breach of the Contract committed by the Respondent.
34. The Chamber observed that there are no outstanding salaries at the time of termination, as it is acknowledged by the Player that the Club paid him the months of August, September, October, and November 2023.
35. Regarding the bonuses requested, 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. In accordance with the general legal principle of *pacta sunt servanda*, the Claimant is entitled to RWF 100,000 (i.e., 2 times RWF 50,000 as the Club won the matches on 12 August 2023 and 18 August 2023 during the employment relationship between the parties).
36. 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 dates of the respective matches, i.e., 12 August 2023 and 18 August 2023, until the date of effective payment.
37. With the above in mind, the Chamber concluded that the liquidated damages clause did not fulfil the criteria of reciprocity and proportionality, in line with the Chamber's longstanding jurisprudence, and therefore could not be taken into account for establishing the amount of compensation payable to the Club by the Player. In particular, the Chamber noted that although the Player had agreed to the clause, and there was no proof that the Player was subject to any undue pressure to sign the Contract, article 11 involved a structure that disproportionately favoured the Club and gave it an easy way of terminating the Contract at any a moment without suffering any real consequences, whereas the Player did not have the same option.
38. In addition, the Chamber considered that article 11 of the Contract was unbalanced and not consistent with the principle of contractual stability, as it did not reflect reciprocal concessions of comparable importance from the parties.
39. As a consequence, the Chamber determined that the amount of compensation payable by the Player to the Club 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.
40. The Chamber then analysed 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.

41. 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. Considering that the salary for the month of November 2023 has been paid to the Player, the Chamber concluded that the amount of USD 7,000 (i.e., the salaries from the month of December 2023 to the month of June 2024) serves as the basis for the determination of the amount of compensation for breach of contract.
42. 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.
43. Indeed, the Player signed a new employment contract with the Libyan Club Al Ahly SC, valid as from 4 February 2024 until 3 February 2025. In accordance with the new employment contract, the Player was entitled to USD 5,000 per month from February 2024 to June 2024. Therefore, the Chamber concluded that the Player mitigated his damages in the total amount of USD 25,000, i.e., 5 times USD 5,000.
44. Consequently, on account of all the above-mentioned considerations and the specificities of the case at hand, the Chamber concluded that the Player was able to fully mitigate his damages. In fact, the residual value of the Contract amounts to USD 7,000 and the Player earned USD 25,000 under the new employment contract for the overlapping period. Therefore, the Player is not entitled to compensation for breach of the Contract in the present matter.

### **iii. Compliance with monetary decisions**

45. 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.

46. 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.
47. Therefore, bearing in mind the above, the DRC decided that the Respondent must pay the full amount due (including all applicable interest) to the Claimant within 45 days of notification of the decision, failing which, at the request of the Claimant, 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 Respondent in accordance with art. 24 par. 2, 4, and 7 of the Regulations.
48. The Respondent shall make full payment (including all applicable interest) to the bank account provided by the Claimant in the Bank Account Registration Form, which is attached to the present decision.
49. 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.

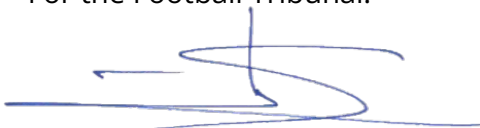
#### **d. Costs**

50. 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.
51. 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.
52. 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, Eid Mugadam Abakar Mugadam, is partially accepted.
2. The Respondent, Rayon Sports Association, must pay to the Claimant the following amounts:
  - **RWF 50,000 as outstanding amount** plus 5% interest *p.a.* as from 13 August 2023 until the date of effective payment;
  - **RWF 50,000 as outstanding amount** plus 5% interest *p.a.* as from 19 August 2023 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

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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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