

Decision of the Dispute Resolution Chamber

passed on 8 August 2024

regarding an employment-related dispute concerning the player Leroy
Jacques Mickels

COMPOSITION:

Clifford J. HENDEL (USA & France), Deputy Chairperson
Roy VERMEER (The Netherlands), Member
Calum BEATTIE (Scotland), Member

CLAIMANT:

Leroy Jacques Mickels, Germany
Represented by Danielle Babin

RESPONDENT:

Altaraji Club, Saudi Arabia

I. Facts of the case

Parties

1. The parties to this dispute are:
 - the German player Leroy Jacques Mickels (hereinafter: *the Player* or *the Claimant*), born on 25 June 1995; and
 - the Saudi club Altaraji Club (hereinafter: *the Club* or *the Respondent*), affiliated to the Saudi Arabia Football Federation (SAFF).
2. The Player and the Club are hereinafter jointly referred to as *the Parties*.

Parties' employment relationship

3. On 3 July 2023, the Player and the Club entered into an employment contract valid from 10 July 2023 to 9 June 2024 (hereinafter: *the Contract*).
4. Pursuant to art. 5 of the Contract, the Club undertook to pay the following amounts to the Player:
 - USD 120,000 net as total remuneration, payable in 10 monthly instalments of USD 10,909 net each, starting from July 2023 and the last one in June 2024;
 - USD 40,000 net as an advance payment, payable by 10 October 2023;
 - USD 30,000 net as a reward if the Club promoted to the Roshan League; and
 - USD 10,000 net as a reward if the Player scored or assisted 10 goals.
5. On 26 February 2024, the Player gave notice of default to the Club with respect to outstanding remuneration in the amount of USD 83,636 net, consisting of (i) the advance payment of USD 40,000 and (ii) 4 monthly salaries of USD 10,909 each (*i.e.*, from October 2023 to January 2024). The Player gave the Club 15 days to remedy the breach.
6. On 25 May 2024, the Player notified the Club of the termination of the Contract due to overdue payables.
7. The Player informed that he remained unemployed following the termination of the Contract.

II. Proceedings before FIFA

8. On 18 June 2024, the Player submitted the present claim to FIFA. A brief summary of the Parties' positions is set out below.

a. Position of the Player

9. In his claim, the Player alleged that the Club had failed to fulfil its financial obligations, in particular, by failing to pay him his advance payment and his salaries from November 2023 to May 2023.

10. In light of the foregoing, the Player requested to be awarded USD 116,363 net, plus 5% interest *p.a.* from the respective due dates. His requests for relief were as follows, quoted *verbatim*:

"12. Given all the foregoing, the Claimant requests the DRC to:

i. Order that the Respondent shall pay to the player 116 363 USD Net TOTAL + %5 interest per annum starting from the below-mentioned due dates:

- 40 000 USD Net on 10th October 2023*
- 10 909 USD Net on 30th november 2023*
- 10 909 USD Net on 31st december 2023*
- 10 909 USD Net on 31st janvier 2024*
- 10 909 USD Net on 29th february 2024*
- 10 909 USD Net on 31st march 2024*
- 10 909 USD Net on 30th april 2024*
- 10 909 USD Net on 31st may 2024*

ii. Order that the Respondent shall pay to the player 5000 USD representing the attorney fee paid by the claimant to his attorney.

iii. Order that if and so far, the amounts as mentioned over is not paid to the Player within the prescribed time limit, Article 24 of RSTP shall be imposed against the club".

11. It should be noted that the Player has not filed any request for compensation for breach of contract.

b. Position of the Club

12. The Club failed to reply to the claim despite being invited to do so.

III. Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

13. First of all, the Dispute Resolution Chamber (hereinafter: *the Chamber* or *the 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 18 June 2024 and submitted for decision on 8 August 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.
14. Furthermore, the Chamber referred to art. 2 par. 1 of the Procedural Rules and observed that in accordance with art. 23 par. 1 in combination with art. 22 par. 1 lit. b) of the Regulations on the Status and Transfer of Players (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 a German player and a Saudi club.
15. Subsequently, the Chamber analysed which regulations should be applicable as to the substance of the matter. In this respect, it confirmed that, in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (June 2024 edition) and considering that the present claim was lodged on 18 June 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

16. The Chamber recalled the basic principle of burden of proof, as stipulated in art. 13 par. 5 of the Procedural Rules, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof. Likewise, the Chamber stressed the wording of art. 13 par. 4 of the Procedural Rules, pursuant to which it may consider evidence not filed by the parties, including without limitation the evidence generated by or within the Transfer Matching System (TMS).

c. Merits of the dispute

17. Having established its competence and the applicable regulations, 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 assessing the matter at hand.

i. Main legal discussion and considerations

18. The Chamber moved to the substance of the matter and noted that it concerned a claim by the Player against the Club for breach of contract. In particular, the Chamber noted that the Player claimed that the Contract had been terminated for just cause due to overdue payables and that he was seeking payment of the remuneration due up until the date of termination.
19. On the other hand, the DRC took into account that the Club, for its part, did not submit a response to the Player's claim, despite having been invited to do so. The DRC therefore considered that the Club had waived its right of defence and had thus accepted the Player's allegations. It also confirmed that it should reach its decision on the basis of the evidence and arguments submitted by the Player in accordance with art. 14 par. 1 of the Procedural Rules.
20. In the absence of any evidence to disprove the Player's allegations, the Chamber acknowledged that at least five of his monthly salaries were outstanding at the time the default notice was sent (*i.e.*, from October 2023 to February 2024). Furthermore, the Player gave the Club a reasonable deadline (*i.e.*, 15 days) to remedy the breach, but to no avail.
21. Consequently, the DRC established that such a persistent and substantial breach of the contractual obligations by the Club would already justify the unilateral termination of the Contract and, in accordance with the settled jurisprudence of the DRC, would also render the Club liable for breach of contract.
22. On the basis of the factual and contractual situation, the Chamber decided that the Player had just cause to terminate the Contract in accordance with art. 14bis of the Regulations. The DRC also determined that the Club should be liable for consequences that follow.

ii. Consequences

23. The Chamber then turned to the question of the consequences of such an unjustified breach of contract committed by the Club.
24. The Chamber first decided that, according to the general legal principle of *pacta sunt servanda*, the Club is obliged to pay to the Player the amounts which were outstanding under the Contract at the time of the termination, *i.e.*, the advance payment and the salaries from October 2023 to May 2024.
25. In addition, taking into account the Player's request as well as the consistent practice of the Football Tribunal in this regard, the Chamber decided to award the Player interest at the rate of 5% *p.a.* on the outstanding amounts from the due dates until the date of actual payment, as follows:

- USD 40,000 net plus 5% interest *p.a.* from 11 October 2023;
 - USD 10,909 net plus 5% interest *p.a.* from 1 December 2023;
 - USD 10,909 net plus 5% interest *p.a.* from 1 January 2024;
 - USD 10,909 net plus 5% interest *p.a.* from 1 February 2024;
 - USD 10,909 net plus 5% interest *p.a.* from 1 March 2024;
 - USD 10,909 net plus 5% interest *p.a.* from 1 April 2024;
 - USD 10,909 net plus 5% interest *p.a.* from 1 May 2024; and
 - USD 10,909 net plus 5% interest *p.a.* from 31 May 2024 – as claimed by the Player.
26. Having stated the above, the Chamber recalled that the Player should also be entitled to compensation for breach of contract on the basis of the art. 17 of the Regulations. However, the Chamber also noted that the Player had not submitted a claim in this respect and therefore decided that it was prevented from ruling on this issue, in accordance with the general legal principle of *ne ultra petita*.

iii. Sporting sanctions and compliance with the decision

27. The Chamber noted that, in the recent past, the Respondent had also been found liable by the Football Tribunal on numerous occasions for the early termination of employment contracts without just cause¹.
28. Pursuant to art. 17 par. 4 of the Regulations, in addition to the obligation to pay compensation (if any), sporting sanctions shall be imposed on any club that is found to have committed or induced a breach of contract during the protected period.
29. The protected period is defined in the Regulations as *“a period of three entire seasons or three years, whichever comes first, following the entry into force of a contract, where such contract is concluded prior to the 28th birthday of the professional, or two entire seasons or two years, whichever comes first, following the entry into force of a contract, where such contract is concluded after the 28th birthday of the professional”*.
30. In the present case, the Chamber acknowledged that the Player was over the age of 28 years old when he signed the Contract. As two years or two full seasons had not elapsed at the time the Contract was terminated, the Chamber confirmed that the termination took place within the protected period.
31. At the same time, the Chamber recalled that (i) the Player terminated the employment relationship with the Club for just cause due to numerous overdue payments; and (ii) the Club was a repeat offender in this respect. The Chamber emphasized that the fact that the Player did not request compensation did not undermine his claim for breach of contract without just cause. As such, and by virtue of art. 17 par. 4 of the Regulations, the Chamber decided that the Club shall be prohibited from registering any new players, either nationally

¹ See, for example, FPSD-12918, FPSD-13194, FPSD-14371 and FPSD-14331.

or internationally, for the next two complete and consecutive registration periods following the notification of this decision.

32. For the sake of completeness, the Chamber recalled that pursuant to art. 24 par. 3 lit. a) of the Regulations, the consequences of failure to pay the relevant amounts in due time may be excluded if the Football Tribunal has imposed a sporting sanction on the basis of art. 17 in the same case. Consequently, the Chamber confirmed that the consequences of failure to pay the relevant sums in due time provided for in art. 24 of the Regulations in the present case and that, should the Club fail to comply with this decision in due time, it would be for the FIFA Disciplinary Committee to take the necessary measures in accordance with the FIFA Disciplinary Code.

d. Costs

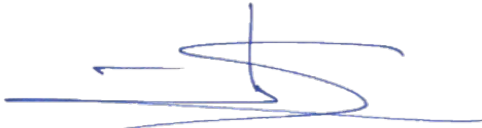
33. The Chamber referred to art. 25 par. 1 of the Procedural Rules, according to which *"Procedures are free of charge where at least one of the parties is a player, coach, football agent, or match agent"*. Accordingly, the Chamber decided that no procedural costs should be imposed on the Parties.
34. Likewise, and for the sake of completeness, the Chamber recalled the content of art. 25 par. 8 of the Procedural Rules and decided that no procedural costs should be awarded in these proceedings.
35. Finally, the DRC rejected any other requests for relief made by any of the Parties.

iii. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Leroy Jacques Mickels, is partially accepted.
2. The Respondent, Altaraji Club, must pay to the Claimant the following amount(s):
 - **USD 40,000 net as outstanding remuneration** plus 5% interest *p.a.* as from 11 October 2023 until the date of effective payment;
 - **USD 10,909 net as outstanding remuneration** plus 5% interest *p.a.* as from 1 December 2023 until the date of effective payment;
 - **USD 10,909 net as outstanding remuneration** plus 5% interest *p.a.* as from 1 January 2024 until the date of effective payment;
 - **USD 10,909 net as outstanding remuneration** plus 5% interest *p.a.* as from 1 February 2024 until the date of effective payment;
 - **USD 10,909 net as outstanding remuneration** plus 5% interest *p.a.* as from 1 March 2024 until the date of effective payment;
 - **USD 10,909 net as outstanding remuneration** plus 5% interest *p.a.* as from 1 April 2024 until the date of effective payment;
 - **USD 10,909 net as outstanding remuneration** plus 5% interest *p.a.* as from 1 May 2024 until the date of effective payment; and
 - **USD 10,909 net as outstanding remuneration** plus 5% interest *p.a.* as from 31 May 2024 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. The Respondent shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision.
6. If full payment is not made **within 30 days** of notification of this decision, the present matter shall be submitted, upon request of the Claimant, to the FIFA Disciplinary Committee.

7. This decision is rendered without costs.

For the Football Tribunal:



Emilio García Silvero
Chief Legal & Compliance Officer

NOTE RELATED TO THE APPEAL PROCEDURE:

According to article 57 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.

NOTE RELATED TO THE PUBLICATION:

FIFA may publish this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 17 of the Procedural Rules Governing the Football Tribunal).

CONTACT INFORMATION

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