

Decision of the Dispute Resolution Chamber

passed on 17 July 2024

regarding an employment-related dispute concerning
the player Moussa Sissoko

BY:

Roy Vermeer (the Netherlands)

CLAIMANT:

Moussa Sissoko, Mali

Represented by Mr Slim Boulasnem

RESPONDENT:

Club Sur, Oman

Represented by Mr Habib Grami

I. Facts of the case

1. On 31 July 2023, the Malian player Moussa Sissoko (hereinafter: *Claimant* or *player*) and the Omani club Sur (hereinafter: *club* or *Respondent*) concluded an employment contract (hereinafter: *the Contract*) valid as from 1 August 2023 until 17 May 2024.
2. According to the Contract, the Respondent undertook to pay the Claimant a monthly salary of USD 1,700 as well as a signature bonus of USD 3,000, payable in two equal instalments upon signature and the beginning of the second round of the season respectively.
3. On 9 August 2023, the Claimant received his (employment) visa to travel to Oman.
4. On 22 August 2023, the Claimant allegedly began his activity with the Respondent.
5. At an unspecified point in time, the Claimant was allegedly informed by the Respondent that it did not count on his services anymore. The Respondent allegedly provided the Claimant with a flight ticket to return home.
6. On 11 September 2023, the Claimant addressed the Respondent in writing, informing the latter that it was in breach of contract by informing the Claimant that he was no longer desired. The Claimant requested reintegration into the squad within 24 hours, and payment of the salary for August 2023 and the signature bonus within 7 days.
7. On 13 September 2023, in the absence of any reply by the Respondent, the Claimant left Oman with the flight tickets allegedly provided by the former.
8. On 10 October 2023, the Respondent provided the Claimant with a "liberation letter", informing the latter that he is free from any obligations with the former and free to sign with any other club.
9. On 15 October 2024, the Claimant put the Respondent in default and requested either reintegration or payment of the due amounts up to that point within three days.
10. On 26 October 2024, the Claimant sent a reminder as to the above correspondence and extended the previous deadline by three further days.

II. Proceedings before FIFA

11. On 4 June 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. In his claim, the player argued that the Respondent failed to integrate him into the squad and dismissed him unlawfully by informing him verbally that he was no longer desired and giving him a flight ticket to return home, despite several reminders as to its contractual obligations.

13. The Claimant adduced that the Respondent confirmed the conclusion of the Contract by providing the “liberation letter” on 10 October 2023.

14. The Claimant requested as follows:

- USD 4,900 outstanding remuneration (two monthly salaries for August 2023 and September 2023 of USD 1,700 each, as well as half of the signature bonus in the amount of USD 1,500);
- USD 15,100 as compensation;
- Six monthly salaries as additional compensation;
- Interest as from the respective due dates;
- Sporting sanctions on the Respondent;
- EUR 5,000 as legal costs.

b. Position of the Respondent

15. Despite having been invited to do so, the Respondent provided no reply to the claim.

III. Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

16. First of all, the Single Judge of the Dispute Resolution Chamber (hereinafter also referred to as *Single Judge*) analysed whether he was competent to deal with the case at hand. In this respect, it took note that the present matter was presented to FIFA on 4 June 2024 and submitted for decision on 17 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.
17. Subsequently, 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 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 Malian player and an Omani club.
18. 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 4 June 2024, the June 2024 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

19. 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

20. Its competence and the applicable regulations having been established, 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 he 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

21. The foregoing having been established, the Single Judge moved to the substance of the matter and took note of the fact that the basis of the present dispute was the lawfulness of the contractual termination.
22. In this context, the Single Judge acknowledged that his task was to determine in what circumstances the Contract was terminated, if at all, to whose detriment, and what the consequences thereof may be in terms of liability.
23. Prior to commencing his analysis, the Single Judge revisited the parties' positions. On one hand, the Claimant asserted that the Respondent terminated the Contract without just cause by verbally informing the former that he was no longer needed and allegedly providing him with a flight ticket to return home. The Claimant argued that the validity of the Contract is beyond dispute considering that the Claimant was provided with a letter pronouncing him free of any obligations from the Respondent on 10 October 2023.
24. On the other hand, the Single Judge noted that the Respondent failed to reply to the claim.
25. Notwithstanding the fact that, as a result, the Claimant's allegations remained uncontested, the Single Judge wished to emphasise that the principle of the burden of proof dictated that whenever a party asserts a certain fact, it must also prove the veracity thereof.
26. With this established, the Single Judge firstly wished to address the validity of the Contract at hand. Although its existence was not contested, the Single Judge deemed this analysis important on account of the fact that the copy submitted to the file was only signed by the Claimant.
27. In this respect, the Single Judge considered it noteworthy that the copy submitted to the file contained the Respondent's letterhead and logo, which established a tangible link to the latter.
28. Furthermore, the Claimant submitted various circumstantial evidence to suggest that the Contract had indeed been executed, in particular:
 - Flight ticket to Oman shortly after conclusion of the Contract;
 - Flight ticket from Oman to Bamako after the alleged termination;
 - "Liberation letter" dated 10 October 2023 with the Respondent's logo and Chairman's signature;
 - Default notices sent to the Respondent's official (TMS) address, with the Oman FA in copy.

29. In light of the above, the Single Judge considered that the evidence on file overwhelmingly suggested that there was a valid employment agreement (i.e., the Contract) in place.
30. With this established, the Single Judge moved on to consider the circumstances of the contractual termination.
31. The Single Judge recalled that the Claimant alleged a verbal termination, without being able to corroborate a date and time, or adducing any proof of communication in that respect.
32. Notwithstanding the above, the Single Judge deemed the correspondence sent to the Respondent on 10 September 2023, with the Oman FA in copy, relevant in respect of highlighting a breach of contract by the Respondent – that is, failing to integrate the player.
33. The Single Judge equally noted that it remained uncontested that the Claimant departed Oman on 13 September 2023 after granting the Respondent a definitive deadline to reintegrate him, as well as trying to reconcile his differences with the Respondent more than one month after the alleged termination, to no avail.
34. Lastly, in the Single Judge's opinion, the lack of a response from the club further supported the Claimant's allegations and cemented the impression that the Respondent was in breach of its obligations.
35. Consequently, the Single Judge concluded that the Claimant terminated the Contract with just cause on 13 September 2023, when departing Oman, in view of the lack of evidence as to the verbal dismissal and the expiration of the deadline granted to reintegrate him.

ii. Consequences

36. Having stated the above, the Single Judge turned his attention to the question of the consequences of such unjustified breach of contract committed by the Respondent.
37. The Single Judge observed that the outstanding remuneration at the time of termination, coupled with the specific requests for relief of the player, are equivalent to one monthly salary corresponding to August 2023, as well as the first instalment of the signature bonus, collectively amounting to USD 3,200.
38. As a consequence, and in accordance with the general legal principle of *pacta sunt servanda*, the Single Judge 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, i.e., USD 3,200 (or USD 1,500 plus USD 1,700).

39. In addition, taking into consideration the Claimant's request as well as the constant practice of the Single Judge 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 following dates:
- On the amount of USD 1,700, as from 1 August 2023 until the date of effective payment;
 - On the amount of USD 1,500, as from 1 September 2023 until the date of effective payment.
40. Having stated the above, the Single Judge 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 Single Judge 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. In application of the relevant provision, the Single Judge 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 Single Judge established that no such compensation clause was included in the employment contract at the basis of the matter at stake.
42. As a consequence, the Single Judge 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 Single Judge recalled that said provision provides for a non-exhaustive enumeration of criteria to be taken into consideration when calculating the amount of compensation payable.
43. Bearing in mind the foregoing as well as the claim of the player, the Single Judge 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 Single Judge concluded that the amount of USD 16,032.26 (i.e., the residual value of the Contract, or eight times USD 1,700 between September 2023 and April 2024 plus USD 932.26 as the pro-rata salary for May 2024 plus USD 1,500 as the second instalment of the signature bonus) serves as the basis for the determination of the amount of compensation for breach of contract.

44. In continuation, the Single Judge 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.
45. In the case at hand, the Claimant failed to sign any employment contract after the contractual termination, thus not mitigating his damages.
46. Consequently, on account of all of the above-mentioned considerations and the specificities of the case at hand, the Single Judge decided that the club must pay the amount of USD 16,032.26 to the player, which was to be considered a reasonable and justified amount of compensation for breach of contract in the present matter.
47. Lastly, taking into consideration the player's request as well as the constant practice of the Single Judge in this regard, the latter decided to award the player interest on said compensation at the rate of 5% *p.a.* as of 10 October 2023 until the date of effective payment.

iii. Compliance with monetary decisions

48. Finally, taking into account the applicable Regulations, the Single Judge 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.
49. In this regard, the Single Judge 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.
50. Therefore, bearing in mind the above, the Single Judge 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.

51. 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.
52. The Single Judge 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.

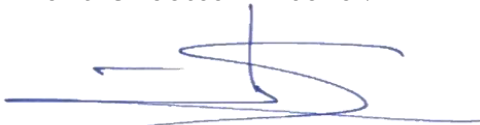
d. Costs

53. 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.
54. Likewise, and for the sake of completeness, the Single Judge recalled the contents of art. 25 par. 8 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings.
55. 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, Moussa Sissoko, is partially accepted.
2. The Respondent, Club Sur, must pay to the Claimant the following amount(s):
 - **USD 3,200 as outstanding remuneration** plus interest *p.a.* as follows:
 - 5% interest *p.a.* over the amount of USD 1,700 as from 1 August 2023 until the date of effective payment;
 - 5% interest *p.a.* over the amount of USD 1,500 as from 1 September 2023 until the date of effective payment.
 - **USD 16,032.26 as compensation for breach of contract without just cause** plus 5% interest *p.a.* as from 10 October 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

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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