

Decision of the Players' Status Chamber

passed on 15 July 2024

regarding an employment-related dispute concerning
the coach Rui Miguel Garcia Lopes de Almeida

BY:

Javier VIJANDE PENAS (Argentina), Chairperson
Luis KANONNIKOFF (Paraguay), member
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CLAIMANT:

Rui Miguel Garcia Lopes de Almeida, Portugal

RESPONDENT:

JS Kabylie, Algeria

I. Facts of the case

1. On 13 October 2023, Rui Miguel Garcia Lopes de Almeida and JS Kabylie concluded an employment contract as head coach valid as from the date of signature until the end of the season 2024/2025, with an option to extend it for the season 2025/2026.
2. According to art. 4 par. 1 of the contract, the coach was entitled to DZD 3,400,000 per month (gross).
3. Art. 7 of the contract stipulated the following:
« *ARTICLE 7 : DISPOSITIONS DIVERSES*
Les litiges ou les contestations pouvant survenir a l'occasion de l'exécution du présent contrat seront résolus a l'amiable entre les deux parties.
L'employeur pourra a sa demande motivée, résilier le present contrat, à charge à lui de verser un mois de salaire a l'entraîneur comme indemnité de résiliation.
A défaut, le différent est soumis par l'une ou l'autre partie a la chambre des résolutions des litiges aupres de la FAF et/ou au TAS FIFA. »
Free translation into English :
"ARTICLE 7: MISCELLANEOUS PROVISIONS
Any disputes or disagreements that may arise in connection with the performance of this contract shall be resolved amicably between the two parties.
The employer may terminate the present contract at its own motivated request, on condition that it pays one month's salary to the trainer as termination compensation.
Failing this, the dispute shall be submitted by either party to the FAF Dispute Resolution Chamber and/or to CAS FIFA.
4. In addition, on the same date, the parties concluded an addendum (avenant), stipulating that the coach would be entitled to DZD 3,400,000 gross or DZD 2,960,000 net.
5. On 24 January 2024, the club sent a termination letter to the coach with the following contents:
« *Nous avons le regret de vous informer que vous etes demis de votre fonction d'entraîneur principal de l'equipe senior de la Jeunesse Sportive de Kabylie (JSK) a compter de ce jour le 24 janvier 2024.*
Nous vous prions de bien vouloir vous rapprocher de la direction de la SSPA-JSK, au siege, afin de terminer les dispositions de la resiliation de votre contrat conformément aux dispositions contractuelles vous liant a votre club employeur. »
Free translation into English :
"We regret to inform you that you have been dismissed as head coach of the Jeunesse Sportive de Kabylie (JSK) senior team with effect from today, 24 January 2024.
We kindly ask you to contact the management of the SSPA-JSK, at the head office, in order to complete the arrangements for the termination of your contract in accordance with the contractual provisions binding you to your employing club".
6. On 26 January 2024, the coach sent an email to the club requesting the payment of outstanding remuneration.
7. On 29 January 2024, the coach was notified of a claim lodged against him before the

Algerian Football Federation.

8. On 31 January 2024, the Algerian FA invited the coach for a hearing on 4 February 2024.
9. On 2 February 2024, the coach requested to change the date of the hearing.
10. On 29 February 2024, the Players' Status Committee of the Algerian Football Federation (*Algerian PSC* or *NPSC*) rendered a decision.
11. The Algerian PSC found the unilateral termination of the contract by the club to be without just cause and ordered compensation for the coach in the amount of DZD 14,800,000.
12. According to contents said decision, the coach objected to the competence of the Algerian NDRC and insisted in the competence of FIFA, although he subsidiarily lodged a counterclaim.
13. In said decision, the Algerian NDRC declared itself to be compliant with the FIFA RSTP.
14. On 21 March 2024, the coach lodged an appeal before the Tribunal Algérien de Résolution des Litiges Sportifs" (TARSL).
15. In his statement of appeal, the coach argued the following:
 - The employment contract stipulated that disputes should be resolved under FIFA's jurisdiction, specifically the FIFA Football Tribunal.
 - The coach challenged the competence and fairness of the National Dispute Resolution Chamber (NDRC) and asserted that it did not adhere to FIFA's standard regulations. He included allegations related to a lack of procedural fairness, such as failure to provide required documentation and not ensuring equal treatment as per FIFA's standard procedures.
16. On 2 April 2024, the legal representative of the Respondent sent an email to the Claimant indicating that it has decided to pay the amounts ordered by the Algerian PSC.
17. On 5 April 2024, the legal representative of the coach indicated that the relevant sums have not been transferred, and insisted that said payments "*do not bring the dispute between the parties to an end*".
18. On 24 April 2024, the legal representative of the coach inquired before the Algerian FA concerning the status of his appeal.
19. The coach confirmed that he remained unemployed.

II. Proceedings before FIFA

20. On 6 February 2024, Mr Rui Miguel Garcia Lopes de Almeida lodged a claim before the FIFA Football Tribunal for breach of contract without just cause and requested DZD 57,800,000 as compensation, plus 5% interest p.a. (i.e. DZD 3,400,000*17)
21. The coach argues that the clause in the contract that allows the club to unilaterally terminate the contract with just one month's salary as compensation is unfair and grants excessive rights to the club. The coach cited jurisprudence from FIFA and CAS to support this argument.
22. Thus, in the view of the coach, since the termination clause is deemed null and void, he argued that he is entitled to receive compensation for the unilateral termination of the contract without just cause. The coach referred to Article 6 of Annex 2 of the FIFA RSTP, which states that the party in breach of the contract shall pay compensation equal to the residual value of the prematurely terminated contract.
23. The coach claims that the club has failed to comply with its financial obligations towards him, as stipulated in the contract.
24. The coach argues that FIFA has exclusive competence to settle disputes of an international dimension between a club and a coach, as stated in the employment contract. The coach cites Article 22 of the FIFA RSTP, which grants FIFA the authority to hear employment-related disputes between clubs or associations and coaches. The coach asserted that the NDRC from the Algerian Football Federation (FAF) does not comply with the NDRC Standard Regulations from FIFA.
25. The coach claimed that the FAF has denied him justice by not providing the necessary regulations and failing to respond to his request to change the hearing date. The coach argued that he has not been treated equally and that his procedural rights have been violated. The coach referred to the NDRC Standard Regulations from FIFA, which guarantee the right to equal treatment and the right to be heard.
26. In its reply, the Respondent considered that the claim is inadmissible.
27. In the alternative, the Respondent lodged a counterclaim against the coach and requested the payment of DZD 58,567,441.90 as compensation.
28. In addition to the above, the Respondent further request that the Coach be ordered to reimburse the former in an amount equal to DZD 200.000,00, pertaining to the fine imposed on the Club due to his absence from the bench on a league match on 27 January 2024.
29. The Club argued that the Coach accepted the jurisdiction of the NPSC, and the decision made by the NPSC may have a *res judicata* effect over the claim brought before the FIFA PSC. The Club argued that it complied with the NPSC decision by paying the Coach as per the local decision.

30. According to the club, with reference to the Statutes of the Algerian Football Federation, one can conclude the following: 1) the General Assembly is composed of all football stakeholders including football clubs and coaches; 2) the President, Vice-president and members of the Federal Executive Committee are elected by the General Assembly; and 3) the President and Vice-president of the CSJ are appointed by AFF President after consultation with the Federal Executive Committee and 4) the members of the CSJ are appointed by the Federal Executive Committee on the proposal of the CSJ's President.
31. In this sense, the club argued that all members of CSJ are appointed democratically by all Algerian football stakeholders, including the representatives of football clubs and coaches. Therefore, both coaches and clubs exert equal influence over the appointment of the members of the CSJ.
32. Furthermore, the club argued that it paid DZD 14,800,000 on 2 April 2024 in compliance with the decision of the Algerian NPSC ("Ordre de Virement Bancaire" on file)
33. As to the substance, the Club asserted that it was the Coach who failed to comply with his obligations under the Employment Contract by misinterpreting the Club's communication as a unilateral termination, despite clarification that it was not.
34. In his replica, the Claimant insisted in the jurisdiction of FIFA and considered the club's counterclaim to be baseless.
35. The Claimant strongly rejected the Respondent's response, asserting it was based on misunderstandings and lacked legal basis. He claimed the Respondent manipulated facts to obscure the truth.
36. The Claimant emphasized that the FIFA Football Tribunal was the only competent jurisdiction for the dispute, asserting that he did not engage in forum shopping. He argued that the decision by the Algerian CSJ did not constitute *res judicata* because he had appealed to the Algerian Tribunal for Sports Disputes (TARLS), and the appeal was still pending.
37. The Claimant denied receiving any payment of DZD 14,800,000.00 as alleged by the Respondent, stating the amount was neither credited to his bank account in Algeria nor converted to USD. He accused the Respondent of failing to provide proof of the transaction.
38. The Claimant maintained that the Respondent unilaterally terminated the contract without just cause and had a history of such actions, including hiring and firing another coach.
39. The Claimant reiterated that the FIFA Tribunal had jurisdiction over the matter due to the international nature of the dispute and the specific clauses in the employment contract.

40. He also noted that the Respondent had attempted to manipulate the jurisdiction by initiating a procedure with the Algerian Football Federation (National Players' Status Chamber, NPSC) before the 10-day deadline given to settle the dispute through FIFA.
41. The Claimant maintained that the decision of the Algerian NPSC was not final or binding because of the pending appeal and did not have the effect of *res judicata*.
42. Regarding the alleged payments, the Claimant stated that the amounts supposedly transferred by the Respondent were not received and accused the Respondent of bad faith.
43. The Claimant dismissed the Respondent's counterclaim, arguing that the Respondent's actions were contradictory and demonstrated an attempt to avoid FIFA's jurisdiction.
44. Finally, the Claimant reiterated his demand for compensation according to FIFA regulations and highlighted the Respondent's non-compliance with the necessary procedures to transfer the owed amounts to his account in Portugal.
45. The Respondent failed to provide its *duplica*.

III. Considerations of the Players' Status Chamber

a. Competence and applicable legal framework

1. First of all, the Players' Status Chamber (hereinafter also referred to as *Chamber* or *PSC*) 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 6 February 2024 and submitted for decision on 15 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.
2. 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. c) of the Regulations on the Status and Transfer of Players (March 2023 edition), the layers' Status Chamber is in principle competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Portuguese coach and an Algerian club.
3. 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 (March 2023 edition), and considering that the present claim was lodged on 6 February 2023, the March 2023 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

4. 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. Admissibility

5. Before entering into the substance of the matter, the Chamber noted that the present matter requires the examination of a possible issue of *res iudicata*, insofar the Algerian Players' Status Chamber (also referred to as National Players' Status Chamber, NPSC) already rendered a decision.
6. In relation to this issue, the Chamber noted that the club provided a copy of the 2018 edition of the Statutes of the Algerian FA which, *inter alia*, include the following provision:

« 66.3. La FIFA a compétence juridique sur les litiges internationaux survenant entre des parties appartenant à différentes associations et/ou confédérations. »

(...)

Free translation into English

" 66.3. FIFA has legal jurisdiction over international disputes arising between parties belonging to different associations and/or confederations."

(...)

7. As to the composition of the NPSC, the Statutes of the Algerian FA stipulate the following:

"43- COMMISSIONS ET STRUCTURES PERMANENTES

A- les Commissions Permanentes sont :

(...)

- *Commission du statut du joueur ;*

(...)

43.1. Les Présidents et vice-présidents des commissions permanentes sont désignés par le Président de la FAF après avis du Bureau fédéral.

(...)

43.4. Chaque commission comprend, en outre, un rapporteur et trois à sept membres désignés par le Bureau fédéral, sur proposition du Président de la commission. Les membres doivent être choisis en raison de leur expérience et compétence en rapport avec l'objet de la commission spécialisée. »

Free translation into English :

"43- STANDING COMMITTEES AND STRUCTURES

A- The Standing Committees are :

(...)

- *Players' Status Committee ;*

(...)

43.1. The Chairmen and Vice-Chairmen of the Standing Committees are appointed by the President of the FAF after consultation with the Federal Bureau.

(...)

43.4. Each committee shall also include a rapporteur and three to seven members appointed by the Federal Bureau on the proposal of the Committee Chairman. The members must be chosen for their experience and competence in relation to the purpose of the specialised committee.

8. After duly analysing the contents of said statutes, the Chamber observed that its Art. 66.3 clearly reserves to FIFA the competence for international disputes, such as the present one (i.e. between a Portuguese coach and an Algerian club). Therefore, under the Algerian NDRC's own rules, the local Players' Status Committee should have declined jurisdiction, as it is not competent to handle international disputes.
9. As a result, given the self-limitation included in the aforementioned Statutes, the Chamber concluded that FIFA is competent on the basis of art. 22 c) of the FIFA Regulations on the Status and Transfer of Players.

10. Therefore, FIFA retains competence to adjudicate this matter independently of the decision by the Algerian PSC. The decision of the Algerian PSC cannot be recognized or acknowledged by the FIFA Players' Status Chamber.

d. Merits of the dispute

11. 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

12. The foregoing having been established, the Chamber moved to the substance of the matter.
13. The Chamber noted that the matter at stake is a claim for breach of contract without just cause. The club sent a termination letter on 24 January 2024.
14. The Chamber analysed the contents of the termination letter, and unanimously agreed that its contents are clear: "We regret to inform you that you have been dismissed as head coach" (in French: "*Nous avons le regret de vous informer que vous etes demis de votre fonction d'entraîneur principal*").
15. In evaluating the club's position, the Chamber acknowledged the club's assertion that it was seeking to explore an amicable settlement. However, the Chamber noted that this assertion is incongruent with the explicit language of the termination letter. The clarity and directness of the termination notice leave no room for ambiguity, and the notion of attempting an amicable settlement post-termination does not align with the unequivocal nature of the termination communication. The Chamber deemed the club's argument unsubstantiated in light of the clear and decisive language used in the letter.
16. The Chamber underlined that the principle of *in claris non fit interpretatio* is pertinent here, which means that when the meaning of a contractual provision is clear, no further interpretation is necessary. The termination letter's language is precise and leaves no room for ambiguity. It is well-established in legal practice that where the terms of a communication are clear and explicit, there is no need for additional interpretation.
17. Thus, the Chamber concurred that the club clearly terminated the contract on 24 January 2024 without providing any reasonable explanation, thereby terminating the contract without just cause. As a result, the coach is entitled to compensation.

ii. Consequences

18. 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 Respondent.
19. Having stated the above, the Chamber turned to the calculation of the amount of compensation payable to the coach by the club in the case at stake. In doing so, the Chamber firstly recapitulated that, in accordance with art. 6 of the Annexe 2 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 coach 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.
20. 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.
21. As a consequence, the members of the Chamber determined that the amount of compensation payable by the club to the coach had to be assessed in application of the other parameters set out in art. 6 of the Annexe 2 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.
22. Bearing in mind the foregoing as well as the claim of the coach, the Chamber proceeded with the calculation of the monies payable to the coach under the terms of the contract from the date of its unilateral termination until its end date, as follows:

Month Number	Month	Monthly Salary (DZD)
1	February 2024	3,400,000
2	March 2024	3,400,000
3	April 2024	3,400,000
4	May 2024	3,400,000
5	June 2024	3,400,000
6	July 2024	3,400,000
7	August 2024	3,400,000
8	September 2024	3,400,000
9	October 2024	3,400,000
10	November 2024	3,400,000
11	December 2024	3,400,000
12	January 2025	3,400,000
13	February 2025	3,400,000
14	March 2025	3,400,000
15	April 2025	3,400,000

16	May 2025	3,400,000
17	June 2025	3,400,000
Total		57,800,000

23. Consequently, the Chamber concluded that the amount of DZD 57,800,000 serves as the basis for the determination of the amount of compensation for breach of contract.
24. In continuation, the Chamber verified as to whether the coach 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 Football Tribunal as well as art. 6 of the Annexe 2 to 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 coach's general obligation to mitigate his damages.
25. In this respect, the Chamber noted that the coach remained unemployed.
26. In addition, the Chamber also noted that the club argued that it paid that it paid DZD 14,800,000 on 2 April 2024 in compliance with the decision of the Algerian NPSC, but this is denied by the coach.
27. After duly reviewing the documentation on file, the Chamber understood that it appears to be an internal document by means of which the club made a request to a bank, but it is not an official bank document reflecting a valid transaction. As a result, it cannot be accepted as evidence.
28. 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 DZD 57,800,000 to the coach which was to be considered a reasonable and justified amount of compensation for breach of contract in the present matter.
29. Lastly, 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 coach interest on said compensation at the rate of 5% p.a. as of the date of termination until the date of effective payment.

iii. Compliance with monetary decisions

30. Finally, taking into account the applicable Regulations, the Chamber referred to art. 8 par. 1 and 2 of Annexe 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.
31. In this regard, the Chamber 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.

32. Therefore, bearing in mind the above, the Chamber 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. 8 par. 2, 4, and 7 of Annexe 2 of the Regulations.
33. The Respondent shall make full payment (including all applicable interest) to the bank account provided by the Claimant in the Bank Account Registration Form.
34. The Chamber 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. 8 par. 8 of Annexe 2 of the Regulations.

e. Costs

35. 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.
36. 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.
37. Lastly, the Chamber concluded its deliberations by rejecting any other requests for relief made by any of the parties.

IV. Decision of the Players Status Chamber

1. The Football Tribunal has jurisdiction to hear the claim of the claimant, Rui Miguel Garcia Lopes de Almeida.
2. The Respondent, JS Kabylie, must pay to the Claimant the following amounts:
 - **DZD 57,800,000 as compensation for breach of contract without just cause** plus 5% interest *p.a.* as from 24 January 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 Bank Account Registration Form.
5. Pursuant to art. 8 of Annexe 2 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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