

Decision of the Dispute Resolution Chamber

passed on 15 October 2015,

in the following composition:

Geoff Thompson (England), Chairman
Philippe Diallo (France), member
Theo van Seggelen (Netherlands), member

on the claim presented by the player,

Player A, Country B,

as Claimant

against the club,

Club C, Country D

as Respondent

regarding an employment-related dispute
between the parties in connection with overdue payables

I. Facts of the case

1. On 1 July 2012, the Player of Country B, Player A (hereinafter: *the Claimant*), and the Club of Country D, Club C (hereinafter: *the Respondent*) signed an employment contract (hereinafter: *the contract*) valid as from the date of its signature until 30 June 2015.
2. In accordance with the contract, for the season 2014-2015, the Respondent undertook to pay *inter alia* to the Claimant the following amounts:
3.
 - USD 100,000 as performance-related bonus payable in two instalments of USD 50,000 each, due on 1 July 2014 and 1 January 2015 respectively;
 - USD 18,750 as monthly salary payable over 12 months as of 1 July 2014.
4. By correspondence dated 24 July 2015, the Claimant put the Respondent in default of payment of the amount of USD 118,750, setting a time limit expiring on 7 August 2015 in order to remedy the default.
5. On 10 August 2015, the Claimant lodged a claim against the Respondent in front of FIFA asking that the Respondent be ordered to pay to him overdue payables in the amount of USD 118,750 corresponding to the performance-related bonus for the season 2014-2015 as well as his salary for June 2015.
6. The Claimant further asks to be awarded interest of 5% *p.a.* as of the due date of each payment.
7. In spite of having been invited to do so, the Respondent has not replied to the claim.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Dispute Resolution Chamber (hereinafter: *Chamber* or *DRC*) analysed whether it was competent to deal with the matter at hand. In this respect, it took note that the present matter was submitted to FIFA on 10 August 2015. Consequently, the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2015; hereinafter: *Procedural Rules*) are applicable to the matter at hand (cf. art. 21 of the *Procedural Rules*).

2. Subsequently, the Chamber referred to art. 3 par. 2 and par. 3 of the Procedural Rules and confirmed that in accordance with art. 24 par. 1 and par. 2 in conjunction with art. 22 lit. b of the Regulations on the Status and Transfer of Players (edition 2015), it is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Player of Country B and a Club of Country D.
3. Furthermore, the DRC 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 par. 2 of the Regulations on the Status and Transfer of Players (2015), and considering that the present claim was lodged on 10 August 2015, the 2015 edition of said regulations (hereinafter: *Regulations*) is applicable to the matter at hand as to the substance.
4. The competence of the DRC and the applicable regulations having been established, the DRC entered into the substance of the matter. In this respect, the DRC 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.
5. Having said this, DRC acknowledged that the Claimant and the Respondent signed an employment contract valid as of 1 July 2012 until 30 June 2015, in accordance with which, for the season 2014-2015, the Claimant was entitled to receive from the Respondent, *inter alia*, a performance-related bonus in the amount of USD 100,000 payable in two instalments of USD 50,000, due on 1 July 2014 and 1 January 2015 respectively, as well as a monthly salary of USD 18,750.
6. In continuation, the Chamber took note that the Claimant lodged a claim against the Respondent in front of FIFA, maintaining that the Respondent has overdue payables towards him in the total amount of USD 118,750 corresponding to the performance-related bonus and his salary for June 2015.
7. In this context, the DRC took particular note of the fact that, on 24 July 2015, the Claimant put the Respondent in default of payment of the aforementioned amounts, setting a time limit of more than 10 days in order to remedy the default.
8. Consequently, the DRC concluded that the Claimant had duly proceeded in accordance with art. 12bis par. 3 of the Regulations, which stipulates that the creditor (player or club) must have put the debtor club in default in writing and

have granted a deadline of at least ten days for the debtor club to comply with its financial obligation(s).

9. Subsequently, the DRC took into account that the Respondent, for its part, failed to present its response to the claim of the Claimant, in spite of having been invited to do so. In this way, the DRC considered that the Respondent renounced its right to defence and thus accepted the allegations of the Claimant.
10. Furthermore, as a consequence of the aforementioned consideration, the Chamber concurred that in accordance with art. 9 par. 3 of the Procedural Rules he shall take a decision upon the basis of the documents already on file, in other words, upon the statements and documents presented by the Claimant.
11. Having said this, the DRC acknowledged that, in accordance with the employment contract provided by the Claimant, the Respondent was obliged to pay *inter alia* to the Claimant a performance-related bonus of USD 100,000 as well as a salary in the amount of USD 18,750 for the season 2014-2015.
12. Taking into account the documentation presented by the Claimant in support of his petition, the DRC concluded that the Claimant had substantiated his claim pertaining to overdue payables with sufficient documentary evidence.
13. On account of the aforementioned considerations, the DRC established that the Respondent failed to remit the Claimant's remuneration in the total amount of USD 118,750 corresponding to the performance-related bonus for the season 2014-2015 and his salary for June 2015.
14. In addition, the Chamber established that the Respondent had delayed a due payment for more than 30 days without a *prima facie* contractual basis.
15. Consequently, the DRC decided that, in accordance with the general legal principle of *pacta sunt servanda*, the Respondent is liable to pay to the Claimant overdue payables in the total amount of USD 118,750.
16. In addition, taking into account the Claimant's request as well as the constant practice of the Dispute Resolution Chamber, the Chamber decided that the Respondent must pay to the Claimant interest of 5% *p.a.* on each of the relevant payment(s), as of the day following the day on which the relevant payment(s) fell due, until the date of effective payment.
17. In continuation, taking into account the consideration under number II./14. above, the DRC referred to art.12bis par. 2 of the Regulations which stipulates that any

club found to have delayed a due payment for more than 30 days without a *prima facie* contractual basis may be sanctioned in accordance with art. 12bis par. 4 of the Regulations.

18. The DRC further established that by virtue of art. 12bis par. 4 of the Regulations it has competence to impose sanctions on the Respondent. Bearing in mind that the Respondent did not reply to the claim, the DRC decided to impose a fine on the Respondent in accordance with art. 12bis par. 4 lit. c) of the Regulations. Furthermore, taking into consideration the amount due, the Chamber regarded a fine amounting to CHF 15,000 as appropriate and hence decided to impose said fine on the Respondent.
19. In this connection, the DRC wished to highlight that a repeated offence will be considered as an aggravating circumstance and lead to more severe penalty in accordance with art. 12bis par. 6 of the Regulations.

III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant is accepted.
2. The Respondent has to pay to the Claimant, within 30 days as from the date of notification of this decision, overdue payables in the amount of USD 118,750, plus interest at the rate of 5% *p.a.* until the date of effective payment as follows:
 - a. 5% *p.a.* on the amount of USD 50,000 as from 2 July 2014;
 - b. 5% *p.a.* on the amount of USD 50,000 as from 2 January 2015;
 - c. 5% *p.a.* on the amount of USD 18,750 as from 1 July 2015.
3. In the event that the amount due to the Claimant, plus interest, is not paid by the Respondent within the stated time limit, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.
4. The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittance is to be made and to notify the DRC of every payment received.
5. The Respondent is ordered to pay a fine in the amount of CHF 15,000. The fine is to be paid **within 30 days** of notification of the present decision to FIFA to the following bank account:

UBS Zurich
Account number 366.677.01U (FIFA Players' Status)
Clearing number 230
IBAN: CH27 0023 0230 3666 7701U
SWIFT: UBSWCHZH80A

Note relating to the motivated decision (legal remedy):

According to article 67 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 21 days of receipt of notification of this decision and shall contain all the elements in accordance with point 2 of the directives issued by the CAS, a copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS (cf. point 4 of the directives).

The full address and contact numbers of the CAS are the following:

Court of Arbitration for Sport
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For the Dispute Resolution Chamber:

Marco Villiger
Acting Deputy Secretary General

Encl. CAS directives