

Decision of the Dispute Resolution Chamber (DRC) judge

Passed in Zurich, Switzerland, on 10 February 2015,

by **Philippe Diallo** (country B), DRC judge,

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

I. Facts of the case

1. On 20 January 2012, the player from country B, Player A (hereinafter: *the Claimant*), and the club from country D, Club C (hereinafter: *the Respondent*), signed an employment contract (hereinafter: *the contract*), valid as from 21 January 2012 until 30 June 2014.
2. According to art. 3 of the contract, the Respondent undertakes to pay the Claimant, a monthly salary of 11,735 net, payable at the end of the following month at the latest.
3. In addition, according to art. 4 of the contract, the Respondent undertakes to pay regularly to the Claimant match bonuses for participation in international football games, in accordance with the Respondent's internal rules.
4. On 5 July 2012, the Respondent agreed to transfer the Claimant to the club from country F, Club E.
5. On 5 November 2012, the Claimant sent a reminder to the Respondent by registered mail, received on 9 November 2012, to invite it to pay within ten days the outstanding amount of EUR 7,450 corresponding to his salary for June 2012, a portion of his salary of July and match bonuses.
6. On 21 November 2012, having allegedly received no reply, the Claimant sent a second reminder by fax but, as per the Claimant, the Respondent also did not react.
7. On 12 June 2014, the Claimant lodged a claim in front of FIFA against the Respondent for outstanding salaries, requesting the payment of the total amount of EUR 13,450 as follows:
 - EUR 6,000 corresponding to his salary of June 2012;
 - EUR 200 corresponding to three days of his salary of July 2012;
 - EUR 1,250 corresponding to match bonuses (EUR 500 + 3 x EUR 250);
 - EUR 3,000 for compensation for abusive delay in payment;
 - EUR 3,000 for his legal costs.

8. Despite of having been invited by FIFA to provide its comments on the present matter, the Respondent did not answer to the Claimant's claim.

II. Considerations of the DRC judge

1. First, the DRC judge analysed whether he was competent to deal with the case at hand. In this respect, he took note that the present matter was submitted to FIFA on 12 June 2014. Consequently, the 2012 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *the Procedural Rules*) is applicable to the matter at hand (cf. art. 21 of the 2012 and 2014 editions of the Procedural Rules).
2. Subsequently the DRC judge 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 (editions 2012 and 2014) he is competent to decide on the present litigation, which concerns an employment-related dispute with an international dimension between a player from country B and a club from country D.
3. In particular, and in accordance with art. 24 par. 2 lit. i) of the Regulations on the Status and Transfer of Players, the DRC judge confirmed that he may adjudicate in the present dispute, the value of which does not exceed CHF 100,000.
4. In continuation, the DRC judge analysed which edition of the FIFA Regulations on the Status and Transfer of Players should be applicable as to the substance of the matter. In this respect, he referred, on the one hand, to art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (editions 2010, 2012 and 2014), and, on the other hand, to the fact that the present claim was lodged in front of FIFA on 12 June 2014. The DRC judge concluded that the 2012 edition of the Regulations on the Status and Transfer of Players (hereinafter: *the Regulations*), is applicable to the matter at hand as to the substance.
5. The competence of the DRC judge and the applicable regulations having been established, the DRC judge entered into the substance of the matter. In doing so,

he started by acknowledging the abovementioned facts of the case as well as the documentation contained in the file.

6. However, the DRC judge emphasised that in the following considerations he will refer only to the facts, arguments and documentary evidence which he considered pertinent for the assessment of the matter at hand.
7. In this respect, the DRC judge acknowledged that the parties to the dispute had signed a valid employment contract on 21 January 2012 until 30 June 2014, in accordance with which the Respondent would pay the Claimant a monthly salary of 11,735.
8. Subsequently, the DRC judge noted that the Respondent failed to present its response to the claim of the Claimant, in spite of having been invited to do so. By not presenting its position to the claim, the DRC judge was of the opinion that the Respondent renounced its right of defence and, thus, accepted the allegations of the Claimant.
9. Furthermore, as a consequence of the aforementioned consideration, the DRC judge concurred that in accordance with art. 9 par. 3 of the Procedural Rules, he shall take a decision upon the basis of the documentation already on file; in other words, upon the statements and documents presented by the Claimant.
10. In this respect, the DRC judge took into consideration that according to the Claimant, the Respondent had failed to pay his remuneration in the total amount of 13,450, detailed in point I.7 above.
11. Taking into account the documentation presented by the Claimant in support of his petition, the DRC judge concluded that for the month of June 2012 the Claimant had substantiated his claim pertaining to outstanding remuneration with sufficient documentary evidence. However, for the three days remuneration requested for the month of July 2012, the DRC judge deemed that there was not enough evidence that this amount was due to the Claimant by the Respondent, since the Claimant was as from 5 July 2012 engaged with another club, responsible then for the payment of his remuneration.

12. On account of the aforementioned considerations, the DRC judge established that the Respondent failed to remit the Claimant's monthly remuneration for the month of June 2012, in the total amount of 11,735.
13. In continuation, the DRC judge focused its attention on the Claimant's request for allegedly outstanding bonuses. According to the Claimant, it was agreed between the parties that for each victory he was entitled to EUR 500 and for each draw, to EUR 250. In this context, the DRC judge deemed that the Claimant bore the burden of proof regarding its claim concerning the bonuses per win. After a careful study of the documents that were presented by Claimant, the DRC judge concluded that in absence of any monetary value in the contract relating to a victory bonus, as well as any other evidence provided in this regard such as the club's internal rules, the DRC judge had to reject the Claimant's claim amounting to EUR 1,250 corresponding to match bonuses.
14. Consequently, the DRC judge decided that, in accordance with the general legal principle of *pacta sunt servanda*, the Respondent is liable to pay to the Claimant outstanding remuneration in the total amount 11,735.
15. Finally, the DRC judge concluded his deliberations in the present matter by establishing that any further claim lodged by the Claimant is rejected.

III. Decision of the DRC judge

1. The claim of the Claimant, Player A, is partially accepted.
2. The Respondent, Club C, is ordered to pay to the Claimant, outstanding remuneration in the amount of 11,735, **within 30 days** as from the date of notification of this decision.
3. In the event that the aforementioned sum is not paid by the Respondent within the stated time limit, interest at the rate of 5% p.a. will fall due as of expiry of the aforementioned time limit and the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision.

4. Any further claim lodged by the Claimant is rejected.
5. 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 judge of every payment received.

Note relating to the motivated decision (legal remedy):

According to art. 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:

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For the DRC judge:

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Encl. CAS directives