

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 20 April 2017,

in the following composition:

Geoff Thompson (England), Chairman
Leonardo Grosso (Italy), member
Mohamed Mecherara (Algeria), 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

I. Facts of the case

1. On an unspecified date, 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 valid "*for the football season of 2015-2016*".
2. In accordance with the employment contract, the Claimant was *inter alia* entitled to receive total remuneration of USD 150,000, payable as follows:
 - a. USD 30,000 paid to the Claimant after receipt of the ITC;
 - b. USD 45,000 paid "*at the end of the first half season*";
 - c. USD 15,000 paid "*in the early days of April 2017 (sic)*";
 - d. USD 30,000 a week after the end of the football season;
 - e. USD 30,000 that "*will be as the club's trust and in case of full technical, moral and disciplinary satisfaction will be paid to the player at the end of the football season*".
3. On 16 December 2015, the Claimant and the Respondent signed a mutual termination agreement which states that the Claimant has "*received all of his salaries and bonuses from [the Respondent] in full and may not raise any disputes with regards to clubs commitments towards the player (sic.)*", after which, according to the Claimant, the Respondent gave him two cheques, each worth 300,000,000, amounting to the value of USD 20,000.
4. On 17 March 2016, the Claimant put the Respondent in default of USD 54,000 on the basis that at the mid-season point he was owed USD 75,000 but was only paid USD 21,000. The Claimant set a ten-day period to cure the default. In the default notice, the Claimant explained that he was unable to cash the cheques given to him.
5. On 5 October 2016, the Claimant lodged a claim before FIFA against the Respondent requesting to be paid outstanding remuneration in the amount of USD 20,000 plus 5% interest *p.a.* from 16 December 2015.
6. The Claimant indicated that the Respondent omitted to pay USD 10,000 from the first instalment due to him, but he had continued to perform his obligations in line with the employment contract.
7. Furthermore, the Claimant stated that on an unspecified date in December 2015 he was offered a mutual termination of the employment contract in return for

being paid USD 20,000 and being handed flight tickets for him and his family to return to Country B.

8. The Claimant claimed that consequently, he signed the termination agreement and received two cheques from the Respondent, each in the amount of 300,000,000, which he was not able to cash. He asserted having requested the payment of the amounts as well as the flight tickets promised to him and stated having received reassurances from the club. He indicated that he was provided with the flight tickets, but despite multiple attempts, was never able to cash the cheques.
9. 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, the Dispute Resolution Chamber analysed whether it was competent to deal with the case at hand. In this respect, it took note that the present matter was submitted to FIFA on 5 October 2016. Consequently, the Rules Governing the Procedures of the Player's Status Committee and the Dispute Resolution Chamber (2015 edition; hereinafter: *the Procedural Rules*) are applicable to the matter at hand (*cf.* art. 21 of the Procedural Rules).
2. Subsequently, the members of the Chamber referred to art. 3 par. 1 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 (2016 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 player from Country B and an club from Country D.
3. Furthermore, 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 (2016 edition), and considering that the present claim was lodged on 5 October 2016, the 2016 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.
4. The competence of the Chamber and the applicable regulations having been established, the Chamber entered into the substance of the matter. In this

respect, the Chamber started by acknowledging all the aforementioned facts as well as the arguments and documentation submitted by the parties. The Chamber, however, 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. In this respect, the members of the Chamber first acknowledged that the parties had signed an employment contract valid *"for the football season of 2015-2016"* and thereafter, on 16 December 2015, signed a mutual termination agreement indicating that the Claimant had *"received all of his salaries and bonuses from [the Respondent] in full and may not raise any disputes with regards to clubs commitments towards the player (sic.)"*.
6. Subsequently, the Chamber noted that the Claimant contacted FIFA on 5 October 2016 indicating that he had signed the mutual termination agreement on the basis that he had been given two cheques, each in the amount of 300,000,000. The members of the Chamber noted that the Claimant claimed that since he was unable to cash the aforementioned cheques, he considered the Respondent to be in breach of its obligations and requested to be paid the amount of 600,000,000 or USD 20,000 as outstanding remuneration.
7. Equally, the members of the Chamber noted that the Respondent, in spite of having been invited to do so, failed to present its response to the claim of the Claimant. In this way, the Chamber deemed that the Respondent renounced its right to defence and, thus, accepted the allegations of the Claimant.
8. As a consequence of the aforementioned consideration, the Dispute Resolution Chamber established that in accordance with art. 9 par. 3 of the Procedural Rules he shall take a decision on the basis of the documents already on file, in other words, on the statements and documents presented by the Claimant.
9. Having said that, the Chamber went on to analyse the documentation provided by the Claimant in support of his claim. After a thorough analysis of the documentation on file, the members of the Chamber duly noted that the translation of the first cheque submitted, numbered XXXXX1, establishes the date as being 24 March 2015 and that the second cheque submitted, numbered XXXXX2, is dated 25 December 2015. Taking into consideration the date on which the mutual termination agreement was signed between the parties, *i.e.* 16 December 2015, and the date established on the first cheque, the Chamber considered that the first cheque submitted does not appear to bear any relation to the mutual termination agreement and consequently considered that the amount provided for on that cheque could not be taken

into account. Equally, the Chamber noted that in the termination agreement dated 16 December 2015, the Claimant appears to have waived his right to claim any past debts of the Respondent, which statement the DRC deems to refer also to the cheque dated 24 March 2015.

10. In light of the aforementioned consideration and bearing in mind the general legal principle of *pacta sunt servanda*, the members of the Chamber concluded that the Respondent is liable to pay the Claimant the total amount of 300,000,000, corresponding to the amount stipulated in the cheque dated 25 December 2015. Equally, the Dispute Resolution Chamber decided that the Claimant has to return the cheque bearing the date of 25 December 2015, in the value of 300,000,000, to the Respondent.
11. Finally, with regard to claimed interest, the DRC decided that the Respondent has to pay interest at the rate of 5% *p.a.* on the outstanding amount as from 25 December 2015 until the date of effective payment.
12. The Dispute Resolution Chamber concluded its deliberations in the present matter by establishing that any further claim lodged by the Claimant is rejected.

III. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Player A, is partially accepted.
2. The Respondent, Club C, has to pay to the Claimant, **within 30 days** as from the date of notification of this decision, outstanding remuneration in the amount of 300,000,000 plus 5% interest *p.a.* as of 25 December 2015 until the date of effective payment.
3. In the event that the aforementioned sum plus interest is not paid within the stated time limit, 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 Dispute Resolution Chamber of every payment received.

6. The Claimant is directed to return to the Respondent the relevant cheque, number 997420 dated 25 December 2015 for an amount of 300,000,000 **within 30 days** as from the date of notification of this decision.

Note relating to the motivated decision (legal remedy):

According to art. 58 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 Dispute Resolution Chamber:

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Encl. CAS directives