

# Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 27 April 2006,

in the following composition:

**Slim Aloulou** (Tunisia), Chairman

**Carlos Soto** (Chile), Member

**Philippe Piat** (France), Member

**Jean-Marie Philips** (Belgium), Member

**Wilfried Straub** (Germany), Member

on the claim presented by

**Player A,**

as Claimant

against

**Club B,**

as Respondent

regarding a dispute about  
the employment contract concluded between the parties.

## I. Facts of the case

1. On 15 June 2004, the player A (hereinafter; the player) and the club B (hereinafter; the club) concluded an employment contract valid from 1 July 2004 to 30 June 2007, stipulating for the sports season 2005/06 the following financial rights of the player:
  - lump sum due on 10 July 2005 USD 200,000
  - 10 monthly salaries for August 2005 to May 2006, due on the 15 of the following month USD 10,000 per month
  - match bonus for player being summoned, due every four matches pro rata of USD 100,000 according to number of matches of championship for which player was summoned
2. On 14 March 2006, the player claimed before FIFA to be released from his employment contract, since, allegedly, his salaries were always paid late, e.g. the November 2005 salary was paid only on 6 February 2006 instead of 15 December 2005, and since the salaries for December 2005 and January 2006 were still unpaid.
3. On 15 March 2006, the player informed FIFA that, allegedly, in the meantime, the February 2006 salary was also outstanding.
4. On 17 March 2006, the club also lodged a claim before FIFA against the player for unexcused absence as of 15 March 2006.
5. On that occasion, the club emphasized that it had respected all its financial obligations towards the player.
6. Therefore, the club requested that the player shall be ordered to fulfil his contractual obligations towards the club and return immediately. Subsidiary, the club requested that the player be condemned for unilateral breach of contract.
7. On 24 March 2006, FIFA requested the club to provide its position regarding the player's claim including written evidence for the fulfilment of all of its financial obligations towards the player.
8. On 4 April 2006, the club provided its position, thereby reiterating its request that the player shall be ordered to immediately return to the club.

9. Furthermore, the club submitted copies of payment receipts signed by the player, according to which the following payments were made to the player:
- 13.7.05 USD 200,000 (lump sum)
  - 28.9.05 USD 10,000 (monthly salary)
  - 28.9.05 USD 3,000 (bonus for one match)
  - 27.10.05 USD 10,000 (monthly salary)
  - 27.10.05 USD 12,000 (bonus for four matches)
  - 24.11.05 USD 10,000 (monthly salary)
  - 24.11.05 USD 3,000 (bonus for one match)
  - 24.11.05 USD 6,000 (bonus for two matches)
  - 19.12.05 USD 10,000 (monthly salary)
  - 19.12.05 USD 46,000 (advance payment, allegedly on player's request)
  - 31.1.06 USD 10,000 (monthly salary)
  - 31.1.06 USD 12,000 (bonus for four matches)
10. With regard to the match bonuses, the club presented a list according to which until the date of the player's departure from the club, he was entitled to bonuses for 18 matches. Moreover, two bonuses for matches played in March 2006 would become due on 15 April 2006.
11. On 12 April 2006, the player provided FIFA with his answer towards the club's position, and thereby, besides reiterating his former statements, declared that the contractually agreed lump sum was not paid on 13 July 2005, but only at the end of August 2005.
12. With regard to the match bonuses, the player stated that he played extra matches in the cup for which he was never paid any bonus.
13. Moreover, the player stated that the receipt dated 19 December 2005 regarding the amount of USD 46,000 was forged, since he allegedly never signed such a document and never received the relevant amount. Therefore, he requested the submission of the originals of the payment receipts by the club, in order to examine their authenticity.
14. The player also insisted that he was never paid the salaries from December 2005 to February 2006.
15. In consequence to the above, the player requested to be released from the employment contract due to unjustified breach of contract by the club, and moreover claimed for the payment of his salaries and bonuses from 1 December 2005 to 15 March 2006 as well as for compensation in the amount of USD 400,000 per annum until the first payment date of a new club of the player.

16. On 20 April 2006, the club submitted its final position on the matter, and thereby presented, inter alia, the originals of all the payment receipts of which copies were submitted at an earlier stage of this procedure.
17. Besides that, the club reiterated its former arguments and requests.

## **II. Considerations of the Dispute Resolution Chamber**

1. First of all, the Dispute Resolution Chamber (DRC) had to analyse whether it was competent to deal with the matter at stake. In this respect, it referred to art. 18 par. 2 and 3 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber. The present matter was submitted to FIFA on 14 March 2006, as a consequence the DRC concluded that the revised Rules Governing Procedures (edition 2005) on matters pending before the decision making bodies of FIFA are applicable on the matter at hand.
2. With regard to the competence of the DRC, art. 3 par. 1 of the above-mentioned Rules states that the DRC shall examine its jurisdiction in the light of articles 22 to 24 of the current version of the Regulations for the Status and Transfer of Players (edition 2005). In accordance with art. 24 par. 1 in connection with art. 22 (b) of the aforementioned Regulations, the DRC shall adjudicate on employment-related disputes between a club and a player that have an international dimension.
3. As a consequence, the DRC is the competent body to decide on the present litigation involving a club and a player regarding an international dispute in connection with an employment contract.
4. Subsequently, the DRC analyzed which edition of the Regulations for the Status and Transfer of Players should be applicable as to the substance of the matter. In this respect, the Chamber referred, on the one hand, to art. 26 par. 1 and 2 of the Regulations for the Status and Transfer of Players (edition 2005) and, on the other hand, to the fact that the relevant contract at the basis of the present dispute was signed on 15 June 2004, and the claim was lodged at FIFA on 14 March 2006. In view of the aforementioned, the DRC concluded that the current FIFA Regulations for the Status and Transfers of Players (edition 2005, hereinafter; the Regulations) are applicable on the case at hand as to the substance.

5. Entering into the substance of the matter, the DRC acknowledged the documentation contained in the file, and in view of the circumstances of the case, focused on the question whether the club had committed a unilateral breach of the employment contract without just cause, thereby creating a just cause for the player to unilaterally terminate the employment contract before its expiry. The DRC also stated that if that had been the case, it would have to verify and decide whether the club is accountable for outstanding payments and compensation.
6. The DRC thus first turned to the question if there was an unjustified breach of contract by the club, and in this respect, acknowledged that according to the player, the club had regularly fulfilled its financial obligations towards him with delay, e.g. the lump sum for the season 2005/06, which was due on 10 July 2005 had been paid only at the end of August 2005, and the November 2005 salary only on 6 February 2006 instead of 15 December 2005. Moreover, the club had not paid him the salaries for December 2005 as well as for January and February 2006.
7. In this respect, the DRC took note of the due dates stipulated in the employment contract, and of the contents of the payment receipts signed by the player that the club had provided.
8. According to the said payment receipts, the lump sum for the season 2005/06 was paid on 13 July 2005. Moreover, according to the relevant payment receipts, the following salary payments were made:
  - 28.9.05 USD 10,000
  - 27.10.05 USD 10,000
  - 24.11.05 USD 10,000
  - 19.12.05 USD 10,000
  - 31.1.06 USD 10,000
9. Moreover, according to a further payment receipt dated 19 December 2005, the player was paid the amount of USD 46,000 as an advance payment.
10. The DRC considered that, since the player, according to the employment contract, was entitled to 10 monthly salaries for August 2005 to May 2006 in the amount of USD 10,000 per month, each due on the 15 of the following month, the payments in the above-mentioned list are to be considered as being the salaries for August until December 2005. Moreover, the advance payment made on 19 December 2005 must be considered as containing the salaries for January and February 2006 in the total amount of USD 20,000.

11. In view of these considerations, the DRC stated that until the day of the player's departure, i.e. 15 March 2006, for the season 2005/06, all the player's salaries were paid by the club in accordance with the employment contract concluded between the parties.
12. As far as the match bonuses are concerned, the DRC first of all noted that the parties apparently tacitly agreed that the match bonus per game for which the player is summoned amounts to USD 3,000, although this was not expressly agreed by the parties in the employment contract. Moreover, the DRC acknowledged that the player, according to the club's submission, was entitled to 18 match bonuses for the season 2005/06 when he left the club on 15 March 2006, resulting to the total amount of USD 54,000 on account of match bonuses. The player's allegation that he should be entitled to further match bonuses could not be considered due to lack of evidence in the player's submission.
13. In this respect, the DRC noted that the club has presented payment receipts for twelve match bonuses, in the total amount of USD 36,000. The additional six match bonuses in the total amount of USD 18,000 were considered by the DRC as having been paid by the club by means of part of the so-called advance payment on 19 December 2005.
14. As a result, the DRC came to the conclusion that on the one hand, until the day of the player's departure, in total, the club had paid to the player during the season 2005/06 the amount of USD 332,000. On the other hand, until the player's departure on 15 March 2006, according to the employment contract, the amount of USD 324,000 had become due (lump sum 200,000, salaries USD 70,000, match bonuses USD 54,000).
15. In conclusion, the DRC considered that the club had not only fulfilled all its financial obligations towards the player in accordance with the employment contract, but has even paid more than what was due to the player until he left the club.
16. In continuation, the DRC acknowledged that the player contested having signed the payment receipt dated 19 December 2005 over the amount of USD 46,000 and stated that his signature had been forged, and therefore requested to examine the authenticity of the signature on this document. In this respect, the DRC also noted that upon the request of FIFA to be sent the originals of the payment receipts, the club provided all the originals of the payment receipts in question, in particular also the one dated 19 December 2005 related to the contested advance payment.

17. In this regard, the DRC first of all stressed that the club had the burden of proof with regard to the payments in question, and moreover emphasized that, in principle, it has fulfilled its obligation to prove the facts it alleged.
18. In view of the player's allegation of a signature forgery, the DRC emphasized that as a general rule, it has no competence to adjudicate on alleged criminal offences, such as forgery of signature or documents.
19. In consequence, in such cases, the DRC has to refer the parties to the competent national criminal authorities.
20. Moreover, the DRC stated that, again as a general rule and with the possible exception of cases of evident divergence of the signatures, as long as the falsification of a signature or a document is not established by a final and binding decision of a competent criminal authority, the DRC has to presume the authenticity of the signature or the document in question.
21. Moreover, the DRC emphasised certain contradictions in the player's argumentation. In particular, although he is not contesting having signed the receipt dated 13 July 2005 related to the lump sum agreed between the parties, he claims having received the relevant sum only at the end of August 2005. Equally, the player does not contest the receipt dated 19 December 2005 related to a monthly salary. As previously stated, the DRC concluded that, in view of the circumstances of the affair this payment has to be regarded as the salary payment for November 2005. Yet, the player claims without any evidence, that the relevant salary was paid to him on 6 February 2006 only.
22. In the case at hand, and in view of the above outlined principles, the DRC concluded that it has to presume that the payment receipt presented by the club both in original and in copy dated 19 December 2006 over the amount of USD 46,000, the authenticity of which is contested by the player, was signed by the player.
23. In consequence, the DRC concluded that it appears that the club had respected all its financial obligations towards the player in accordance with the employment contract and that therefore, the club has not breached the relevant employment contract.
24. On account of this, the DRC decided that the player has no just cause to terminate the employment contract with the club unilaterally before its expiration, but on the contrary, has to respect this contract and to fulfil his contractual obligations towards the club.

25. In view of this, the DRC decided that the player has to return to the club and to resume duty immediately.
26. Consequently, the club also is not accountable for outstanding payments and compensation towards the player.

### **III. Decision of the Dispute Resolution Chamber**

1. The claim of the player A is rejected.
2. The counterclaim of the club B is accepted.
3. The player A has to resume duty with the club B **immediately**.
4. In the event that the player A does not comply with the present decision, the matter shall be submitted to FIFA's Disciplinary Committee, so that the necessary disciplinary sanctions may be imposed.
5. According to art. 60 par. 1 of the FIFA Statutes this decision may be appealed before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 21 days of receiving notification of this decision and has to contain all elements in accordance with point 2 of the directives issued by the CAS, copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for the filing of the statement of appeal, the appellant shall file with the CAS a brief stating the facts and legal arguments giving rise to the appeal (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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Urs Linsi  
General Secretary  
Encl. CAS directives