

# Decision of the Dispute Resolution Chamber (DRC) judge

passed on 2 October 2019

by **Jon Newman** (USA), 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 in connection with overdue payables

## I. Facts of the case

1. On an unspecified date, 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 valid as from 15 July 2017 until 30 June 2018.
2. In accordance with the employment contract, the Respondent undertook to pay to the Claimant 14 monthly salaries in the amount of EUR 2,600 'gross', consisting of EUR 1,801.87 'net' for the 12 monthly salaries; EUR 2,062.79 'net' for the 13<sup>th</sup> monthly salary (*i.e.* the "*holiday subsidy*") and EUR 2,025.58 'net' for the 14<sup>th</sup> monthly salary (*i.e.* the "*Christmas bonus*"), payable before the "*10<sup>th</sup> day of forthcoming month*".
3. By correspondence dated 20 March 2019, the Claimant put the Respondent in default of payment of EUR 3,000 setting a 10 days' time limit in order to remedy the default.
4. On 6 August 2019, 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 EUR 3,864.66, corresponding to the 'net' salary for June 2018 and the 13<sup>th</sup> monthly salary (*i.e.* the "*holiday subsidy*").
5. The Claimant further asked to be awarded interest of 5% *p.a.* as from 11 July 2018.
6. In spite of having been invited to do so, the Respondent did not reply to the claim.

## II. Considerations of the DRC judge

1. First of all, the DRC judge analysed whether he was competent to deal with the matter at hand. In this respect, it took note that the present matter was submitted to FIFA on 6 August 2019. Consequently, the 2018 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *Procedural Rules*) is applicable to the matter at hand (cf. art. 21 of the *Procedural Rules*).
2. Subsequently, the DRC judge referred to art. 3 par. 1 of the *Procedural Rules* and confirmed that in accordance with art. 24 par. 1 and 2 in conjunction with art. 22 lit. b of the Regulations on the Status and Transfer of Players (edition 2019), he 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 judge analysed which regulations should be applicable as to the substance of the matter. In this respect, he confirmed that, in accordance with art. 26 par. 1 and par. 2 of the Regulations on the Status and Transfer of Players (edition 2019) and considering that the present claim was lodged on 6 August 2019, the June 2019 edition of said regulations (hereinafter: *Regulations*) is applicable to the matter at hand as to the substance.
4. Having said this, the DRC judge acknowledged that, on an unspecified date, the Claimant and the Respondent signed an employment contract valid between 15 July 2017 and 30 June 2018, in accordance with which the Claimant was entitled to receive from the Respondent 14 monthly salaries in the amount of EUR 2,600 gross, consisting of EUR 1,801.87 'net' for the 12 monthly salaries; EUR 2,062.79 'net' for the 13<sup>th</sup> monthly salary (*i.e.* the "*holiday subsidy*") and EUR 2,025.58 'net' for the 14<sup>th</sup> monthly salary (*i.e.* the "*Christmas bonus*"), payable before the "*10<sup>th</sup> day of forthcoming month*".
5. The Claimant lodged a claim against the Respondent in front of FIFA, maintaining that the Respondent had overdue payables towards him in the total amount of EUR 3,864.66, corresponding to the 'net' salary for June 2018 and the 13<sup>th</sup> monthly salary (*i.e.* the "*holiday subsidy*").
6. In this context, the DRC judge took particular note of the fact that, on 20 March 2019, the Claimant put the Respondent in default of payment of EUR 3,000, setting a 10 days' time limit in order to remedy the default.
7. Consequently, the DRC judge 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).
8. Subsequently, the DRC judge took into account that the Respondent, for its part, failed to present its response to the claim of the Claimant, despite having been invited to do so. In this way, so the DRC judge deemed, the Respondent renounced its right to defence and, thus, accepted the allegations of the Claimant.
9. Moreover, and as a consequence of the aforementioned consideration, the DRC judge established 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.
10. On account of the above, the DRC judge established that the Respondent failed to remit the player's remuneration, in the total amount of EUR 3,864.66, corresponding to the net salary for June 2018 and the 13<sup>th</sup> monthly salary (*i.e.* the "*holiday subsidy*").

11. In addition, bearing in mind the considerations under numbers II./6. and II./7. above, the DRC judge established that the Respondent had delayed a due payment for more than 30 days without a *prima facie* contractual basis.
12. 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 the total amount of EUR 3,864.66.
13. In addition, taking into account the Claimant's request, the DRC judge decided that the Respondent must pay to the Claimant interest at the rate of 5% *p.a.* on the amount of EUR 3,846.66 as from 11 July 2018.
14. In this context and for the sake of good order, the DRC judge highlighted that, in light of the prerequisites set out in art. 12bis par. 3 of the Regulations, only the outstanding amount of EUR 3,000 in connection with Claimant's claim relating to his unpaid dues is considered to fall within the scope of art. 12bis of the Regulations.
15. In continuation, taking into account the consideration under number II./11. above, the DRC judge 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.
16. The DRC judge established that, in virtue of art. 12bis par. 4 of the Regulations, it has the competence to impose sanctions on the Respondent. In this context, in the absence of the circumstance of repeated offence, the DRC judge decided to impose a warning on the Respondent, in accordance with art. 12bis par. 4 lit. a) of the Regulations.
17. Moreover, the DRC judge referred to art. 12bis par. 6 of the Regulations, which establishes that a repeated offence will be considered as an aggravating circumstance and lead to a more severe penalty.
18. Furthermore, taking into account the consideration under number II./3. above, the DRC judge referred to par. 1 and 2 of art. 24bis 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.
19. In this regard, the DRC judge pointed out 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 and for the maximum duration of three entire and consecutive registration periods.

20. Therefore, bearing in mind the above, the DRC judge decided that, in the event that the Respondent does not pay the amounts due to the Claimant within 45 days as from the moment in which the Claimant, following the notification of the present decision, communicates the relevant bank details to the Respondent, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods shall become effective on the Respondent in accordance with art. 24bis par. 2 and 4 of the Regulations.
21. Finally, the DRC judge 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. 24bis par. 3 of the Regulations.

### III. Decision of the DRC judge

1. The claim of the Claimant, Player A, is accepted.
2. The Respondent, Club C, has to pay to the Claimant the amount of EUR 3,864.66, plus 5% interest *p.a.* as from 11 July 2018 until the date of effective payment.
3. A warning is imposed on the Respondent.
4. The Claimant is directed to inform the Respondent, immediately and directly, preferably to the e-mail address as indicated on the cover letter of the present decision, of the relevant bank account to which the Respondent must pay the amount mentioned under point 2. above.
5. The Respondent shall provide evidence of payment of the due amount in accordance with point 2. above to FIFA to the e-mail address [psdfifa@fifa.org](mailto:psdfifa@fifa.org), duly translated, if need be, into one of the official FIFA languages (English, French, German, Spanish).
6. In the event that the amount due in accordance with point 2. above is not paid by the Respondent **within 45 days** as from the notification by the Claimant of the relevant bank details to the Respondent, the Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods (cf. art. 24bis of the Regulations on the Status and Transfer of Players).

7. The ban mentioned in point 6. above will be lifted immediately and prior to its complete serving, once the due amount is paid.
8. In the event that the aforementioned sum is still not paid by the end of the ban of three entire and consecutive registration periods, the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision.

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**Note relating to the motivated decision (legal remedy):**

According to article 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:

Court of Arbitration for Sport  
Avenue de Beaumont 2  
1012 Lausanne  
Switzerland  
Tel: +41 21 613 50 00  
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e-mail: [info@tas-cas.org](mailto:info@tas-cas.org)  
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For the DRC judge:

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Emilio García Silvero  
Chief Legal & Compliance Officer

Encl: CAS directives