Decision of the Dispute Resolution Chamber

passed on 2 July 2020,

regarding an employment-related dispute concerning the player Matic Fink

COMPOSITION:

Clifford J. Hendel (USA & France), Deputy Chairman
Michele Colucci (Italy), member
Todd Durbin (USA), member

CLAIMANT:

Caykur Rizespor, Turkey
Represented by Mrs Anil Gursoy Artan

RESPONDENT:

Mr Matic Fink, Slovenia
Represented by Mr Janez Pejovnik

I. FACTS OF THE CASE

1. On 1 July 2016, the Turkish club, Caykur Rizespor, (hereinafter: *the Claimant or club*), and the Slovenian player, Matic Fink, (hereinafter: *the Respondent or player*) concluded an employment contract valid as from the date of signature until 31 May 2019 (hereinafter: *the contract*), pursuant to which the Claimant undertook to pay the Respondent the following amounts:
   - EUR 300,000 for the season 2016/2017;
   - EUR 300,000 for the season 2017/2018;
   - EUR 300,000 for the season 2018/2019.

2. On 31 January 2019 the Claimant and the Respondent signed a termination agreement, according to which the Clamant agreed to pay to the Respondent a net amount of EUR 130,000 as follows:
   a. EUR 20,000 on 31 May 2019;
   b. EUR 20,000 on 28 June 2019;
   c. EUR 20,000 on 31 July 2019;
   d. EUR 20,000 on 29 August 2019;
   e. EUR 20,000 on 30 September 2019;
   f. EUR 30,000 on 31 October 2019.

3. On the same date, the Respondent signed a document entitled "*declaration*" by means of which he declared the following:
   "*I, Matic Fink, hereby declare that, if my agent would not give his waiver about his receivables of 24.000 EUR from Caykur Rizespor and ask for this amount to be paid then I'll pay this amount to Caykur Rizespor immediately upon the Club's claim.*

   Should there be any dispute I hereby accept the jurisprudence of Turkish Courts and Execution Offices as well as FIFA resolution bodies."

4. The Claimant argued that it had an agreement with the Respondent according to which the Claimant and the Respondent would "*guarantee that* [his representative] *would not ask for the instalment of EUR 24,000 – unamortised fee*" and that in application of the declaration, the Respondent would, in case of request of his representative to the Claimant for the EUR 24,000, pay that amount to the Claimant.

5. On 20 May 2019, the Claimant received from the Istanbul Execution Office an Order of Payment, in accordance with which, following a claim of the Respondent's representative, the Claimant had to pay to the Respondent's representative EUR 24,899.01.

6. On 28 May 2019, the Claimant and the Respondent's representative signed a settlement agreement, and following the settlement agreement, the Claimant paid all the amounts provided in it, amounting to EUR 24,000 plus TRL (Turkish Lyra) 15,000, to the Respondent's representative.

7. On 28 November 2019, the Claimant lodged a claim against the Respondent in front of FIFA for outstanding remuneration, claiming the following:

- EUR 24,000, plus 5% interest as from 30 September 2019 until the date of effective payment;
- TRL 15,000 (approx. EUR 2,288), plus 5% interest as from 31 May 2019 until the date of effective payment;
- All the costs of the proceeding at the expense of the Respondent.

8. The Claimant based its claim on the declaration of the Respondent dated 31 January 2019 to claim the amounts that it paid to the Respondent's representative in accordance with the settlement agreement concluded with the latter.

9. In his reply to the claim, the Respondent stated that the relationship between the Claimant and the Respondent's representative is "*totally independent from the Player and should not all be anyhow connected. The payments to be made to the intermediary are in no way connected with the obligations from the Player towards the Club.*"

10. Moreover, the Respondent pointed out that the Claimant agreed to pay to the Respondent's representative "*three instalments each 24.000,00 EUR*" and that the last instalment should have been paid on 30 July 2018.

11. The Respondent added that on 31 January 2019 he negotiated the terms of the termination with the Claimant. "*During the talks the Club repeated to the Player many times that if he didn't agree he would had to train with the second team of the Club and his hotel room would had been cancelled. The Player was aware that similar actions had been indeed done to some players of the Club already that did not find an agreement with the Club and was therefore aware that such threats are material and real!*"

12. Consequently, the Respondent maintained that, because he "*did not want to lose at least half of the season by being degraded to the second team*", he signed the termination agreement with the Claimant. The Respondent highlighted that "*until that time there had been absolutely no words regarding the already due last instalment of the commission to the agent*."

13. With regards to the above, the Respondent held that while he was in Istanbul for signing his new employment contract with FC Boluspor, at this time, the Claimant further requested either the Respondent's representative to waive his commission or the Respondent to pay it to his representative. Otherwise, the Claimant would not sign the termination agreement and consequently the Respondent could not sign his new employment contract with FC Boluspor. The Respondent defined such behaviour as an extortion.

14. Furthermore, the Respondent sustained that the "*declaration*" has been drafted by the Claimant and it was sent to the Respondent in order to be signed, otherwise "*there would be no termination of the Contract and signing with FC Boluspor and the Player would be a victim of already promised mobbing done by the Club.*"

15. In his conclusion, the Respondent requested the following:
    a. "*Admit the present answer to the claim;*

b. *Decide that a hearing shall be held in the present proceedings and all proposed witnesses be interrogated;*
c. *Reject the Claimant's Claim entirely;*
d. *Condemn the Claimant with Sporting Sanctions."*

II. CONSIDERATIONS OF THE DISPUTE RESOLUTION CHAMBER

1. First of all, the Dispute Resolution Chamber (hereinafter also referred to as *Chamber* or *DRC*) analysed whether it was competent to deal with the matter at stake. In this respect, the DRC took note that the present matter was submitted to FIFA on 28 November 2019 and decided on 2 July 2020. Taking into account the wording of art. 21 of the June 2020 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: *the Procedural Rules*), the aforementioned edition of the Procedural Rules is applicable to the matter at hand.

2. Subsequently, the DRC referred to art. 3 par. 1 of the Procedural Rules and confirmed that, in accordance with art. 24 par. 1 and 2 in combination with art. 22 lit. b) of the Regulations on the Status and Transfer of Players, the DRC is in principle competent to deal with employment-related disputes between a club and a player with an international dimension.

3. The Chamber however noted that the Respondent objected to the admissibility of the claim, arguing that it was not employment-related.

4. In this respect, the DRC started by acknowledging all the above-mentioned facts as well as the arguments and the documentation submitted by the parties, emphasising 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. The Chamber then turned its attention to the circumstances surrounding the case at stake and acknowledged that the Claimant's claim against the Respondent is based on a declaration of the Respondent dated 31 January 2019, which stipulates that the player would reimburse to the club any amounts paid by the latter to the player's agent. In this respect, the Claimant also makes reference to a settlement agreement concluded on 28 May 2019 between the club and the player's agent, in accordance with which the club paid the amount of EUR 24,000 plus TRL (Turkish Lyra) 15,000 to the player's agent.

6. The Chamber noted that on 31 January 2019, the parties signed in fact two documents, namely the aforementioned declaration and a termination agreement of their employment relationship.

7. In this context, the Chamber recalled the argument of the player, which in his reply stated that the relationship between the Claimant and the Respondent's representative is "*totally independent from the Player and should not all be anyhow connected. The payments to be made to the intermediary are in no way connected with the obligations from the Player towards the*

Club." The Respondent was of the opinion that his declaration was not related to the employment relationship between the player and the club.

8. In this respect, the main point of discussion of the DRC in the matter at hand was whether the "*declaration*" is in fact employment-related and whether its enforcement could be requested at FIFA.

9. The DRC held that it would have to be established, beyond any reasonable doubt, by documentary evidence, that said declaration was part of or directly linked to the labour agreement between the parties. Furthermore, the Chamber held that it could not simply assume that said declaration had been concluded by and between the parties in the context of an employment relationship simply based on circumstances which may be likely but are not certain, merely because the declaration and the termination agreement were conceded on the same day.

10. After a thorough analysis of the parties' submissions and the accompanying documentation, the Chamber deemed that the declaration concluded between the player and the club referred exclusively to the reimbursement by the former to the latter of any amounts claimed by the player's agent and paid by the club. While it is clear that such declaration of 31 January 2019 is linked to the settlement agreement concluded on 28 May 2019 between the club and the player's agent, no link to the employment contract or any employment-related obligation therein established can be made, based on the documentation on file.

11. At this point, the Chamber referred again to art. 22 of the Regulations, in particular lit. a) and lit. b) which establish the framework of the Chamber's competence for disputes between players and clubs, and pointed out that both provisions stipulate that the Chamber is only competent to deal with disputes between players and clubs if they are employment-related.

12. On account of the above, the members of the Chamber had to conclude that the declaration concluded between the Respondent and the Claimant was not employment-related, as a result of which FIFA cannot intervene due to a lack of jurisdiction over the matter.

13. The DRC concluded its deliberations in the present matter by establishing that the Claimant's claim is inadmissible.

III. DECISION OF THE DRC JUDGE

1. The claim of the Claimant, Caykur Rizespor, is inadmissible.

For the Dispute Resolution Chamber:

Emilio García Silvero
Chief Legal & Compliance Officer

NOTE RELATED TO THE APPEAL PROCEDURE:

According to article 58 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.

NOTE RELATED TO THE PUBLICATION:

FIFA may publish this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 20 of the Procedural Rules).

CONTACT INFORMATION:

Fédération Internationale de Football Association
FIFA-Strasse 20 P.O. Box 8044 Zurich Switzerland
www.fifa.com | legal.fifa.com | psdfifa@fifa.org | T: +41 (0)43 222 7777