

Decision of the DRC Judge

passed on 14 October 2020

regarding an employment-related dispute concerning the player Stallone Limbombe

BY:

José Luis Andrade (Portugal), DRC Judge

CLAIMANT:

Stallone Limbombe, Belgium

Represented by ACV-CS Sporta

RESPONDENT:

Giresunspor Kulübü Derneği, Turkey

Represented by Mr Atahan Sevimli

I. Facts

1. The parties concluded an employment contract valid as from the date of signature *“for the football season 2019/2020”*
2. According to art. 6.1 of the contract, the player was entitled to a total remuneration of EUR 250,000 for the season 2019/2020, payable as follows:
*“50.000,00-EUR on the signature day
20.000,00-EUR on the 30th of September, 2019,
20.000,00-EUR on the 31 st of October, 2019,
20.000,00-EUR on the 30th of 30th November 2019,
20.000,00-EUR on the 31st of December 2019
20.000,00-EUR on the 31 st of January, 2019, '
20.000,00-EUR on the 28th of February, 2019,
20.000,00-EUR on the 31st of March 2019;
20.000,00-EUR on the 30th of April, 2019,
20.000,00-EUR on the 31st of May, 2019,
20.000,00-EUR on the 30th of June, 2019,”*
3. According to the club, on 27 December 2019, the parties signed a *“Protocol”* stipulating the following:
*“1) The parties agree, declare and undertake that 60.000,-EUR indicated in the notice which was drafted by the Player and 20.000,-EUR that will be arise from the Professional Football Player's Contract due to 31.12.2019, totally net EUR 80.000,-is the debt of the Giresunspor football Club. Giresunspor undertakes to pay aforementioned amount to the Player as follow;
-EUR 30.000,-before 31.12.2019,
-EUR 20.000,-on 28.02.2020,
-EUR 15.000,-on 31.03.2020,
-EUR 15.000,-on 30.04.2020
The Club authorize from now and agree that the Player can find a new club, and sign a new contract without any condition until the date of 10.02.2020. The parties accept that the Player may terminate the Professional Football Player's Contract unconditionally and without compensation if he agrees with another football club until 10.02.2020 when he is on permission period. The Club authorize from now and agree that the Player is on permission and can find a new club and sign a new contract without any condition. If the Player uses the right of the termination of the contract before 10 February 2020 and sign a contract with a new club, Giresunspor Football Club will not make any payment to the Player other than EUR 80.000.-which was stated in this protocol.”*
4. On 19 December 2019, the player sent a default notice, requesting the payment of an outstanding amount of EUR 50,000 before 31 December 2019.
5. According to the information contained in the TMS, the player was transferred *“free of payment”* from the Respondent to the Belgian club, KAA Gent.

6. In this respect, the player's International Transfer Certificate (ITC) was issued on 31 January 2020.
7. On 4 August 2020, the Claimant lodged a claim for outstanding remuneration, indicating the following:
"We send a registered letter on 5 and 19th December 2019 to ask the payment of the salary for September, October and November 2019. The club paid only 10.000 euros so the player is still entitled of the amount of 50.000 euros."
8. In its reply to the claim, the Respondent argued that it paid the amount of EUR 50,000 after the "Protocol" was signed, as follows (note: receipts on file):
 - ▶ EUR 30.000.-on 31.12.2019,
 - ▶ EUR 20.000.-on 27.02.2020,
9. In addition, the Respondent explained that "the Player terminated his contract on the date of 31.01.2020".
10. The club further wished to highlight that because of economic and political crisis in Turkey, and the pandemic diseases' negative effects, it has a difficult in financial position
11. In view of the contents of the Respondent's reply, the Claimant was invited to provide additional comments.
12. In this respect, the Claimant asserted the following:
*"Dear Sir or Madam,
(...)
Covid is for everyone a problem but the termination has nothing to do with Covid.
We are agree to give the club the time to find some capital to pay the player but not pay is not an possibility for us.
We thank you for your kind attention to the above."*

II. Decision of the DRC Judge

1. First of all, the DRC Judge (hereinafter also referred to as *Chamber* or *DRC*) 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 4 August 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 Judge referred to art. 3 par. 1 of the Procedural Rules and emphasised that, in accordance with art. 24 par. 1 in combination with art. 22 lit. b) of the Regulations on the Status and Transfer of Players, the DRC Judge is competent to deal with matters which concern employment-related disputes with an international dimension between players and clubs with up to a litigious value of CHF 200,000;
3. In continuation, the DRC Judge analysed which edition of the Regulations of the Status and Transfer of Players should be applicable to the present matter. In this respect, the DRC Judge confirmed that in accordance with art. 26 par. 1 and 2 of the Regulations on

the Status and Transfer of Players, and considering that the claim was lodged on 4 August 2020, the June 2020 edition of the aforementioned regulations (hereinafter: *the Regulations*) is applicable to the matter at hand.

4. With the above having been established, the DRC Judge entered into the substance of the matter. In doing so, it started to acknowledge the facts of the case as well as the documents contained in the file. However, the DRC Judge emphasized that in the following considerations it will refer only to facts, arguments and documentary evidence which it considered pertinent for the assessment of the matter at hand.
5. In this respect, the DRC Judge noted that, the Claimant lodged a claim for outstanding remuneration, by means of which he requested the payment of the total amount of EUR 50,000, corresponding to *"the salary for September, October and November 2019. The club paid only 10.000 euros so the player is still entitled of the amount of 50.000 euros."*
6. Conversely, the DRC judge observed that, according to the Respondent, on 27 December 2019, the parties concluded a *"protocol"*, by means of which the Respondent committed to pay the amount of EUR 80,000, as follows:

*-EUR 30.000,-before 31.12.2019,
-EUR 20.000,-on 28.02.2020,
-EUR 15.000,-on 31.03.2020,
-EUR 15.000,-on 30.04.2020*

7. In this respect, the DRC judge also noted that, according to the Respondent, it paid the amount of EUR 50,000 after the *"Protocol"* was signed, as follows:
 - ▶ EUR 30.000.-on 31.12.2019,
 - ▶ EUR 20.000.-on 27.02.2020,
8. In relation to said alleged payments, the DRC judge observed that the Respondent provided evidence in support of said allegation of payment.
9. Thereafter, the DRC judge noted that the Claimant was invited to provide its comments in this respect, and that it stated the following:

"Dear Sir or Madam,

(...)

Covid is for everyone a problem but the termination has nothing to do with Covid.

We are agree to give the club the time to find some capital to pay the player but not pay is not an possibility for us.

We thank you for your kind attention to the above."

10. In view of the contents of said correspondence, the DRC judge understood that the Claimant did not deny the validity of said *"protocol"*.
11. Moreover, the DRC judge noted that the protocol provided the following: *"if the Player uses the right of the termination of the contract before 10 February 2020 and sign a contract with a new club, Giresunspor Football Club will not make any payment to the Player other than EUR 80.000.-which was stated in this protocol"*

12. In relation to said clause, the DRC judge observed the documentation on file, and noted that the player transferred to KAA Genk on 31 January 2020.
13. As a result, the DRC judge assumed that the contract between the parties was indeed mutually terminated. Consequently, the DRC judge understood that is *de facto* acting as a settlement agreement, and per said agreement, the player is entitled in principle to EUR 80,000.
14. The foregoing having been established, the DRC judge went on examine whether the club settled its financial liabilities arising from the protocol.
15. In this respect, the DRC judge noted that the Respondent provided evidence of having paid the amount of EUR 50,000.
16. In relation to said payment, the DRC judge noted that the player, despite being invited to provide its comments, failed to address said evidence.
17. As a result, the DRC judge concluded that he could only confirm the sufficiency of the evidence of the evidence provided by the club.
18. Nevertheless, the DRC judge understood that the payment of EUR 50,000 only partially settled the financial obligations as stipulated in the protocol, which amounted to EUR 80,000 in total.
19. Consequently, the DRC Judge understood that EUR 30,000 still remained as outstanding (i.e. 80,000-50,000).
20. Accordingly, in strict application of the principle of *pacta sunt servanda*, the DRC Judge established that the Respondent has to pay to the Claimant, the total outstanding amount of EUR 30,000, as agreed in the protocol.
21. For the sake of completeness, the DRC Judge considered that, in line with its well-established jurisprudence, a club's financial difficulties cannot be considered a valid justification for non-compliance with its essential contractual obligations deriving from the signature of a binding agreement. Consequently, the DRC Judge decided that this argumentation of the Respondent cannot be followed on this point.
22. Furthermore, taking into account the previous considerations, 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.
23. 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.

24. 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.
25. 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.
26. The DRC Judge concluded his deliberations by rejecting any further claim lodged by the Claimant.

III. Decision of the DRC Judge

1. The claim of the Claimant, Stallone Limbombe, is partially accepted.
2. The Respondent, Giresunspor Kulübü Derneği, has to pay to the Claimant, the following amount:
 - EUR 30,000 as outstanding remuneration.
3. Any further claims of the Claimant are rejected.
4. The Claimant is directed to immediately and directly inform the Respondent of the relevant bank account to which the Respondent must pay the due amount.
5. The Respondent shall provide evidence of payment of the due amount in accordance with this decision to psdfifa@fifa.org, duly translated, if applicable, into one of the official FIFA languages (English, French, German, Spanish).
6. In the event that the amount due as established 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 following consequences shall arise:
 1. 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. The aforementioned ban mentioned will be lifted immediately and prior to its complete serving, once the due amount is paid.
(cf. art. 24bis of the [Regulations on the Status and Transfer of Players](#)).
 2. In the event that the payable amount as per in this decision 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 the FIFA Disciplinary Committee.

For the DRC Judge:



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