

# Decision of the Dispute Resolution Chamber

passed on 17 August 2023

regarding an employment-related dispute concerning  
the player Taylor Diawisie

## COMPOSITION:

**Frans DE WEGER (The Netherlands)**, Chairperson

**Tomislav KASALO (Croatia)**, member

**Dana MOHAMED AL-NOAIMI (Qatar)**, member

## CLAIMANT:

**Taylor Diawisie, Ghana**

Represented by Professional Footballers Association of Ghana

## RESPONDENT:

**Future FC, Egypt**

Represented by Nehad Hagag

## I. Facts of the case

1. In September 2021, the Ghanaian player Taylor Diawisie (hereinafter: *the Claimant* or *the Player*) and the Egyptian club Coca Cola FC (hereinafter: *the Respondent* or *the Club*) concluded an employment contract (hereinafter: *Contract 1*).
2. On 9 September 2022, the parties concluded a new employment contract (hereinafter: *Contract 2*) "*valid until the end of season 2024/2025*".
3. As per Contract 2, for season 2022/2023 the Player was entitled to receive USD 250,000 as follows:

*USD 62.503 in October 2022*  
*USD 20.833 in November 2022*  
*USD 20.833 in December 2022*  
*USD 20.833 in January 2023*  
*USD 20.833 in February 2023*  
*USD 20.833 in March 2023*  
*USD 20.833 in April 2023*  
*USD 20.833 in May 2023*  
*USD 20.833 in June 2023*  
*USD 20.833 in July 2023*

4. At some point, the parties sign another standard contract with the Club's new name, Future FC (hereinafter: *Contract 3*) "*valid until the end of season 2024/2025*".
5. As per Contract 3, the Claimant is entitled to the following remuneration:

*For season 2022/2023 an amount of USD 250,000 as follows:*

*USD 62.500 on 31 January 2023*  
*USD 22.500 on 1 February 2023*  
*USD 20.625 on 1 March 2023*  
*USD 20.625 on 1 April 2023*  
*USD 20.625 on 1 May 2023*  
*USD 20.625 on 1 June 2023*  
*USD 20.625 on 1 July 2023*  
*USD 20.625 on 1 August 2023*  
*USD 20.625 on 1 September 2023*  
*USD 20.625 on 30 September 2023*

*For season 2023/2024 an amount of USD 300,000 divided as follows:*

*(...)*

*For season 2024/2025 an amount of USD 350,000 divided as follows:*

*(...)*

6. According to the contract(s), the Club would also provide the Player with 3 round trip flight tickets per season, accommodation, and EGP 2.000 net as transport allowance.

7. On 7 March 2023 the Player sent the Club a default notice dated 3 March 2023, by means of which he requested the outstanding salaries from October 2022 to March 2023 in the amount of USD 175,000.
8. On 14 April 2023, the Player sent the Club a second default notice requesting the amount of USD 225,000 to be paid within 5 days.
9. On 11 May 2023, the Player sent the Club a termination letter dated 9 May 2023 terminating the contract invoking just cause.
10. On 25 May 2023, the Club replied to the Player's termination letter alleging that it never received neither of the previous default notices.
11. On 1 June 2023, the Player sent a letter rejecting the Club's allegations and requested his passport back within the next 48 hours.
12. On 15 June 2023, the Claimant received his passport back.
13. On 19 July 2023, the Claimant informed that he remained unemployed.

## II. Proceedings before FIFA

14. On 16 June 2023, the Claimant filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

### a. Position of the Claimant

15. The Claimant sustains that the Club has failed to comply with several obligations since he returned to the Club in September 2022.
16. The Claimant states that he never received a copy of the Contract 2 or the Contract 3 signed. The Claimant insists that *"It was the Player's understanding that Contract 3 was apparently signed with the purpose of having a contract with the Club's new name for the Club's internal control, thus the Player could only assume that Contract 2 was the one in place as the third one appeared to be signed only for administrative reasons. Consequently, he expected the first payment in October 2022 as per Contract 2, which he never received"*.
17. The Claimant adduces that *"by the day of termination the Club had not returned the Player's passport yet which it had been confiscating since December 2022 (for over 5 months), nor it ever issued the Player's visa, which is a serious breach of contract and abusive behaviour"*.
18. The Claimant deems he is entitled to the amount of USD 208,334 in outstanding remuneration consisting of the following payments:

*USD 62,503 due in October 2022*

*USD 20,833 due in November 2022*

*USD 20,833 due in December 2022*

*USD 20,833 due in January 2023*

*USD 20,833 due in February 2023*

*USD 20,833 due in March 2023*

*USD 20,833 due in April 2023*

*USD 20,833 due in May 2023*

19. Additionally, the Player is requesting a total of EGP 16,000 for the travel allowance (EGP 2.000 net per month) as overdue payments.
20. The Claimant requests compensation for breach of contract without just cause. The Claimant sustains that the remaining value of the contract corresponds to USD 691,666 net plus EGP 56,000 net.
21. The Claimant further requests additional compensation in the amount 6 monthly salaries.
22. The Claimant filed the following requests for relief:

*Player is requesting the FIFA DRC to determine that he terminated the employment relationship with the Club with just cause on 9 May 2023 and to order the Club to pay him the following amounts:*

*USD 208.334 + EGP 16.000 net as outstanding salaries + 5% interest p.a. as of the relevant due dates until the effective day of payment.*

*USD 691.666 + EGP 56.000 net as the amount due as compensation for breach of contract+ 5% interest as of 11 May 2023 i.e. the day of termination, until the effective payment.*

*Alternatively, should the FIFA DRC find that Contract 3 was the one in place and not Contract 2, it is then requested that USD 146.875 + EGP 16.000 net are awarded as outstanding salaries and USD 753.125 + EGP 56.000 net are awarded as compensation + 5% interest p.a. as of the relevant due dates as per Contract 3 until the effective day of payment.*

*The cost of one flight ticket Egypt to Ghana.*

## **b. Position of the Respondent**

23. Despite being invited to provide its position, the Respondent failed to reply to FIFA.

### III. Considerations of the Dispute Resolution Chamber

#### a. Competence and applicable legal framework

24. First of all, the Dispute Resolution Chamber (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 presented to FIFA on 16 June 2023 and submitted for decision on 17 August 2023. Taking into account the wording of art. 34 of the March 2023 edition of the Procedural Rules Governing the Football Tribunal (hereinafter: *the Procedural Rules*), the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
25. Subsequently, the members of the Chamber referred to art. 2 par. 1 of the Procedural Rules and observed that in accordance with art. 23 par. 1 in combination with art. 22 lit. b) of the Regulations on the Status and Transfer of Players (May 2022 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 Ghana and a club from Egypt.
26. Subsequently, 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 (May 2023 edition) and considering that the present claim was lodged on 16 June 2023, the May 2023 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

#### b. Burden of proof

27. The Chamber recalled the basic principle of burden of proof, as stipulated in art. 13 par. 5 of the Procedural Rules, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof. Likewise, the Chamber stressed the wording of art. 13 par. 4 of the Procedural Rules, pursuant to which it may consider evidence not filed by the parties, including without limitation the evidence generated by or within the Transfer Matching System (TMS).

#### c. Merits of the dispute

28. Its competence and the applicable regulations having been established, the Chamber entered into the merits of the dispute. In this respect, the Chamber started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Chamber 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.

##### i. Main legal discussion and considerations

29. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that the claim remains uncontested by the Respondent.

30. In this context, the Chamber acknowledged that its task was to determine, based on the evidence presented by the parties, whether the claimed amounts had in fact remained unpaid by the Respondent and, if so, whether the formal pre-requisites of art. 14bis of the Regulations had in fact been fulfilled.
31. The Chamber then referred to the wording of art. 14bis par. 1 of the Regulations, in accordance with which, if a club unlawfully fails to pay a player at least two monthly salaries on their due dates, the player will be deemed to have a just cause to terminate his contract, provided that he has put the debtor club in default in writing and has granted a deadline of at least 15 days for the debtor club to fully comply with its financial obligation(s).
32. At this point, the Chamber referred itself to the several contracts allegedly concluded between the parties. The Claimant sustains that although he never received a copy of Contract 3 duly signed by the Respondent, this instrument was the most recent and binding agreement between the parties. On its part, the Respondent has not challenged this argumentation.
33. In this regard, the Chamber observed that notwithstanding the fact that the Contract 3 provided by the Claimant is unsigned by the Respondent, the instrument contains all the *essentialia negotii* and it is concluded in the standard form of the Egyptian Football Association. Thus, in the absence of any argument in the contrary, the Chamber was convinced of the Claimant's allegation, and it deemed that Contract 3 is the most recent agreement between the parties and therefore its terms are the ones binding for the parties.
34. Having established the above, the Chamber noted that the Claimant claims not having received his remuneration corresponding to January to May 2023. Furthermore, the Chamber noted that the Claimant has provided written evidence of having put the Respondent in default on 14 April 2023, i.e. at least 15 days before unilaterally terminating the contract on 11 May 2023.
35. The Chamber also noted that in the case at hand the Respondent bore the burden of proving that it indeed complied with the financial terms of the contract concluded between the parties. Nonetheless, the Respondent has not provided any evidence in this regard.
36. Thus, the Chamber concluded that the Claimant had a just cause to unilaterally terminate the contract, based on art. 14bis of the Regulations.

## ii. Consequences

37. Having stated the above, the members of the Chamber turned their attention to the question of the consequences of such unjustified breach of contract committed by the Respondent.
38. The Chamber observed that the outstanding remuneration at the time of termination, coupled with the specific requests for relief of the player, are equivalent to approximately 6 monthly salaries under the contract, amounting to USD 126,250.
39. As a consequence, and in accordance with the general legal principle of *pacta sunt servanda*, the Chamber decided that the Respondent is liable to pay to the Claimant the amounts which were outstanding under the contract at the moment of the termination, i.e. USD 126,250, corresponding to:

USD 62,500 due on 31 January 2023  
USD 22,500 due on 1 February 2023  
USD 20,625 due on 1 March 2023  
USD 20,625 due on 1 April 2023

40. In addition, the Chamber decided that the Respondent shall pay the amount of EGP 14,000 as outstanding accommodation allowance EGP 2,000 \* 7 months (October 22 to April 23).
41. Furthermore, taking into consideration the Claimant's request as well as the constant practice of the Chamber in this regard, the latter decided to award the Claimant interest at the rate of 5% p.a. on the outstanding amounts as from the respective due dates until the date of effective payment.
42. Having stated the above, the Chamber turned to the calculation of the amount of compensation payable to the player by the club in the case at stake. In doing so, the Chamber firstly recapitulated that, in accordance with art. 17 par. 1 of the Regulations, the amount of compensation shall be calculated, in particular and unless otherwise provided for in the contract at the basis of the dispute, with due consideration for the law of the country concerned, the specificity of sport and further objective criteria, including in particular, the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, and depending on whether the contractual breach falls within the protected period.
43. In application of the relevant provision, the Chamber held that it first of all had to clarify as to whether the pertinent employment contract contained a provision by means of which the parties had beforehand agreed upon an amount of compensation payable by the contractual parties in the event of breach of contract. In this regard, the Chamber established that no such compensation clause was included in the employment contract at the basis of the matter at stake.
44. As a consequence, the members of the Chamber determined that the amount of compensation payable by the club to the player had to be assessed in application of the other parameters set out in art. 17 par. 1 of the Regulations. The Chamber recalled that said provision provides for a non-exhaustive enumeration of criteria to be taken into consideration when calculating the amount of compensation payable.
45. Bearing in mind the foregoing as well as the claim of the player, the Chamber proceeded with the calculation of the monies payable to the player under the terms of the contract from the date of its unilateral termination until its end date. Consequently, the Chamber concluded that, as the basis for the determination of the amount of compensation for breach of contract, serves the residual value of Contract 3 in the amount of USD 773,750 and EGP 54,000, itemised as follows:

USD 20,625 on 1 May 2023  
USD 20,625 on 1 June 2023  
USD 20,625 on 1 July 2023  
USD 20,625 on 1 August 2023  
USD 20,625 on 1 September 2023  
USD 20,625 on 30 September 2023

For season 2023/2024 an amount of USD 300,000  
For season 2024/2025 an amount of USD 350,000

EGP 2,000 \* 27 months (May 23 to July 25)

46. Considering the request of the Claimant and the existence of contractual basis, the Chamber decided that the Respondent shall pay the costs of on flight ticket from Egypt to Ghana, calculated in the amount of USD 450 by FIFA Travel.
47. In continuation, the Chamber verified as to whether the player had signed an employment contract with another club during the relevant period of time, by means of which he would have been enabled to reduce his loss of income. According to the constant practice of the DRC as well as art. 17 par. 1 lit. ii) of the Regulations, such remuneration under a new employment contract shall be taken into account in the calculation of the amount of compensation for breach of contract in connection with the player's general obligation to mitigate his damages.
48. In this regard, the Chamber observed that the Claimant informed that he remained unemployed. Thus, no mitigation ought to be applied and consequently, no additional compensation could be awarded either.
49. On account of all of the above-mentioned considerations and the specificities of the case at hand, the Chamber decided that the club must pay the amount of USD 774,225 and EGP 54,000 to the player, which was to be considered a reasonable and justified amount of compensation for breach of contract in the present matter.
50. Lastly, taking into consideration the player's request as well as the constant practice of the Chamber in this regard, the latter decided to award the player interest on said compensation at the rate of 5% p.a. as of 11 May 2023 until the date of effective payment.

### **iii. Compliance with monetary decisions**

51. Finally, taking into account the applicable Regulations, the Chamber referred to art. 24 par. 1 and 2 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.
52. In this regard, the DRC highlighted 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. The overall maximum duration of the registration ban shall be of up to three entire and consecutive registration periods.
53. Therefore, bearing in mind the above, the DRC decided that the Respondent must pay the full amount due (including all applicable interest) to the Claimant within 45 days of notification of the decision, failing which, at the request of the Claimant, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods shall become immediately effective on the Respondent in accordance with art. 24 par. 2, 4, and 7 of the Regulations.

54. The Respondent shall make full payment (including all applicable interest) to the bank account provided by the Claimant in the Bank Account Registration Form, which is attached to the present decision.
55. The DRC 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. 24 par. 8 of the Regulations.

#### **d. Costs**

56. The Chamber referred to art. 25 par. 1 of the Procedural Rules, according to which *"Procedures are free of charge where at least one of the parties is a player, coach, football agent, or match agent"*. Accordingly, the Chamber decided that no procedural costs were to be imposed on the parties.
57. Likewise, and for the sake of completeness, the Chamber recalled the contents of art. 25 par. 8 of the Procedural Rules and decided that no procedural compensation shall be awarded in these proceedings.
58. Lastly, the DRC concluded its deliberations by rejecting any other requests for relief made by any of the parties.

## IV. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, **Taylor Diawisie**, is partially accepted.
2. The Respondent, **Future FC**, must pay to the Claimant the following amount(s):
  - **USD 126,250 and EGP 14,000 as outstanding remuneration** plus 5% interest *p.a.* as follows:
    - On USD 62,500 from 31 January 2023 until the date of effective payment;
    - On USD 22,500 from 1 February 2023 until the date of effective payment;
    - On USD 20,625 from 1 March 2023 until the date of effective payment;
    - On USD 20,625 from 1 April 2023 until the date of effective payment;
    - On EGP 2,000 from 1 October 2022 until the date of effective payment;
    - On EGP 2,000 from 1 November 2022 until the date of effective payment;
    - On EGP 2,000 from 1 December 2022 until the date of effective payment;
    - On EGP 2,000 from 1 January 2023 until the date of effective payment;
    - On EGP 2,000 from 1 February 2023 until the date of effective payment;
    - On EGP 2,000 from 1 March 2023 until the date of effective payment;
    - On EGP 2,000 from 1 April 2023 until the date of effective payment;
  - **USD 774,225 and EGP 54,000 as compensation for breach of contract without just cause** plus 5% interest *p.a.* as from 11 May 2023 until the date of effective payment.
3. Any further claims of the Claimant are rejected.
4. Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.
5. Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made **within 45 days** of notification of this decision, the following **consequences** shall apply:
  1. The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of up to three entire and consecutive registration periods.
  2. The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not made by the end of the three entire and consecutive registration periods.
6. The consequences **shall only be enforced at the request of the Claimant** in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.

7. This decision is rendered without costs.

For the Football Tribunal:



**Emilio Garcia Silvero**

Chief Legal & Compliance Officer

**NOTE RELATED TO THE APPEAL PROCEDURE:**

According to article 57 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 17 of the Procedural Rules Governing the Football Tribunal).

**CONTACT INFORMATION**

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