

Decision of the Dispute Resolution Chamber

passed on 7 July 2023

regarding an employment-related dispute concerning
the player Yohan Roche

COMPOSITION:

Frans DE WEGER (the Netherlands), Chairperson
André dos Santos MEGALE (Brazil), Member
Khadija TIMERA (Senegal), Member

CLAIMANT:

Yohan Roche, France
Represented by Jérémie Delattre

RESPONDENT:

Adanaspor A.S., Türkiye
Represented by Ismet Bumin

I. Facts of the case

1. On 20 July 2021, the French player, Yohan Roche (hereinafter: *the player* or *the Claimant*) and the Turkish club, Adanaspor (hereinafter: *the club* or *the Respondent*) concluded an employment contract (hereinafter: *contract*) valid until 31 May 2023.
2. In accordance with the contract, the Respondent undertook to pay to the Claimant *inter alia* the following amounts:
 - For the 2021/2022 season: EUR 90,000.
 - For the 202/2023 season: EUR 100,000 in case the club is competing the TFF 1st (second tier) league or EUR 50,000 in case the club is competing in the TFF Super (top tier) league.
3. Clause 9 of the contract reads as follows:

*“Disputes:
Any and all disputes arising out or in connection with this Contract shall be dealt with exclusively by the Courts and Enforcement Offices of Adama and shall be resolved definitely in accordance with Turkish law”.*
4. Following the earthquake in Türkiye on 6 February 2023, the training/competitions of the club were suspended.
5. By correspondence dated 17 February 2023, the Claimant put the Respondent in default of payment of EUR 32,000 corresponding to EUR 2,000 as remaining salary of the 2021/2022 season and EUR 30,000 as salary of the first part of the season 2023.
6. On 2 March 2023, the club informed the players that would resume trainings on 6 March 2023.
7. On 6 March 2023, the Player and Mr. Karayel, responsible of the company managing the club’s cars at the disposition of the players, exchanged WhatsApp messages, in which the player asked information about his car and his personal items. Mr. Karayel replied that the club “sent the car back”. The player argued that this situation was not normal as it was without the player’s authorization and that he wants to recover his personal items.
8. On the same date, 6 March 2023, the player and Mr. Karayel met in order to return the player’s personal items and there was a dispute between them. A claim regarding this incident was filed to the police.
9. By correspondence dated 10 March 2023, the Claimant put the Respondent in default of payment of EUR 42,000 corresponding to the remaining salary of the 2021/2022 season

and the salary of the first part of the season 2023 and to provide him with a car; setting a 15 days' time limit in order to remedy the default.

10. On 10 March 2023, the club unilaterally terminated the contract. However, the player contested the notification of this letter.
11. On 12 March 2023, via the WhatsApp application, the player was informed by club's administrative officer, Mr. Anil Görkem Aksak, that there was a termination letter from the club.
12. On 13 March 2023, the player sent an email to the club, indicating that he went to the club's premises, and he found out that the training was cancelled. He requested the club why he was not informed about it and that *"the situation is getting very confusing for [the player]. In addition to the lack of payment of [the player's] remuneration (for which [the player] had to hire a lawyer), [the player has] to train with very small groups as many players have left the club and on very bad quality pitches, with the risk of injury"*.
13. On 14 March 2023, the player was informed that on 10 March 2023 the club had terminated the contract.

II. Proceedings before FIFA

14. On 30 March 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. In his claim, the player indicated that FIFA is competent in accordance with art. 22 of the Regulations on the Status and Transfer of Players (RSTP).
16. In accordance with the player, the club terminated the contract without just cause as he rejected the arguments provided in which it was mentioned that he aggressed a club representative. Therefore, the player requested payment of the outstanding salaries and compensation for breach of contract.
17. The Player requested the following relief:
 - To condemn the club to pay the player the amount of EUR 42,000 regarding the salaries due to him until 10 March 2023.
 - To impose sanctions under art. 12 bis of the RSTP.
 - To indicate that the contract was terminated without just cause by the club.
 - To condemn the club to pay the player the amount of EUR 69,200 as compensation for breach of contract.

- To impose sanctions under art. 17.4 of the RSTP.

b. Position of the Respondent

18. On 2 May 2023, in addition to a request of a deadline extension, the Respondent argued that FIFA has no jurisdiction to treat the present case. The Respondent referred to the clear wording of clause 9 of the contract.

19. The Respondent requested the following relief:

"In light of the explanations given above, by reserving its right to submit its answers on the substance of the matter and its counterclaim against the Claimant, the Respondent hereby respectfully requests from the Honourable Chamber to rule that the Football Tribunal does not have jurisdiction to hear the claim of the Claimant and to declare that the claim of the of the Claimant, Mr. Yohan Roche, is inadmissible".

20. On 11 May 2023, as to the merits, the Respondent rejected the facts presented by the player with regards to the discussions with Mr Karayel and considered that the contract was terminated with just cause.

21. As to the outstanding remuneration, the Club argued that it paid all salaries to the Player and provided with proofs of payment.

22. The Respondent requested the following relief:

"In light of the explanations given above, by reserving its right to submit its counterclaim against the Claimant if the Honourable Chamber declares itself competent to hear the claim of the Claimant, the Respondent hereby respectfully requests from the Honourable Chamber to rule that the Football Tribunal does not have jurisdiction to hear the claim of the Claimant and to declare that the claim of the of the Claimant, Mr. Yohan Roche, is inadmissible; or in subsidiary order, to reject all claims of the Claimant, in full".

23. Upon FIFA secretariat general request to complete its counterclaim, following the request for relief, on 16 May 2022, the Respondent provided with the following reply:

"(...)

Within this scope, [the club] respectfully inform your services that the Respondent, in light of its strong opinion that the Honourable Chamber will rule that the Football Tribunal does not have jurisdiction to hear the claim of the Claimant and will declare the claim is inadmissible, does not have a counterclaim against the Claimant before the FIFA Football Tribunal.

For the sake of good order, the Respondent respectfully notes that its right to lodge a claim, or a counterclaim against the Player Mr. Yohan Roche before the competent bodies is reserved".

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 30 March 2023 and submitted for decision on 7 July 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 par. lit. b) of the RSTP (May 2023 edition), the Dispute Resolution Chamber is in principle competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a player from France and a club from Türkiye.
26. However, the Chamber acknowledged that the Respondent, on one hand, contested the jurisdiction of FIFA's deciding bodies on the basis of clause 9 of the contract, alleging that the competent body to deal with any dispute deriving from the relevant employment contract are the courts of Adana. On the other hand, the Chamber noted that the Claimant stressed that FIFA has jurisdiction to deal with the dispute.
27. Taking into account all the above, the Chamber emphasised that in accordance with art. 22 par. 1 of the RSTP (edition May 2023), FIFA has jurisdiction to hear employment-related disputes between a player and a club with an international dimension "*without prejudice to the right of any player (...) or club to seek redress before a civil court for employment related disputes*".
28. In the present matter, the Chamber duly noted that the Claimant and the Respondent had unambiguously and exclusively decided that any dispute that would arise from the contract would be submitted to the "courts and enforcement offices of Adana".
29. The Chamber recalled that parties may freely agree to give jurisdiction to a civil court, and that such choice shall always prevail. In fact, the Chamber, recalling its jurisprudence as well as the Court of Arbitration for Sport (CAS)' jurisprudence in this regard, highlighted that even if the choice of law does not specify which courts are competent (e.g., a generic reference is made to a region/city), FIFA is not competent when the parties have exclusively agreed upon the jurisdiction of a civil court. In addition, the Chamber emphasized that art. 22 par. 1 of the RSTP provides a clear hierarchy in favour of contractual autonomy.

30. In view of all the above, the Chamber concluded that it does not have jurisdiction to hear the dispute between the Claimant and the Respondent.

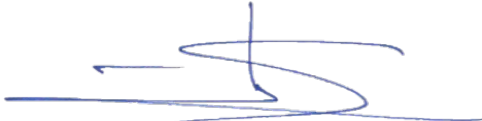
b. Costs

31. 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.
32. 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.
33. 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 Football Tribunal does not have jurisdiction to hear the claim of the claimant, Yohan Roche.
2. This decision is rendered without costs.

For the Football Tribunal:



Emilio García 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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