

# Decision of the Dispute Resolution Chamber

passed on 7 July 2023

regarding an employment-related dispute concerning  
the player Roland Andras Ugrai

## COMPOSITION:

**Frans DE WEGER (The Netherlands)**, Chairperson  
**Khadija TIMERA (Senegal)**, member  
**André dos Santos MEGALE (Brazil)**, member

## CLAIMANT / COUNTER-RESPONDENT:

**Roland Andras Ugrai, Hungary**  
Represented by Kristof Wenczel

## RESPONDENT / COUNTER-CLAIMANT:

**Pendikspor Futbol A.S., Türkiye**  
Represented by Juan de Dios Crespo Pérez

## I. Facts of the case

1. On 9 August 2022, the Hungarian player Roland Andras Ugrai (hereinafter: *the Player*) and the Turkish club Pendikspor Futbol A.S. (hereinafter: *the Club*) concluded an employment contract (hereinafter: *the Contract*) valid until 31 May 2023 and additional protocol (hereinafter: *the Additional Protocol*).

2. Art. 1 of the Additional Protocol reads as follows:

*1) Obligation of the Club*

*FOR 2022/2023 FOOTBALL SEASON*

*120.000.-EURO NET has been paid as down payment on the signature date of this protocol.*

*120.000.-EURO NET will be paid in total in ten equal instalments between August 2022 - May 2023 as 12.000,-EUR for each month.*

3. Art. 8 of the Contract reads as follows:

*"8 – NOTIFICATIONS*

*Parties have to immediately notify each other and TFF about changes occurred on their respective addresses, by registered letter. Notifications served to addresses indicated in this Contract are deemed valid on the contrary. All notifications made via e-mail to the Player will be accepted as a valid and legally binding notifications."*

4. On 15 January 2023 the Player sent a default notice (hereinafter: *the Default Notice*) requesting the payment of EUR 36,000 within 15 days, to no avail.

5. On 2 February 2023, the Player terminated the Contract adducing just cause.

6. On 27 May 2023, the Player informed that he remained unemployed.

## II. Proceedings before FIFA

7. On 20 March 2023, the Player filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

### a. Position of the Player

8. The Player states that the Club failed to make any payment to him as from 1 October 2023.

9. Thus, the Player further states that after sending the default notice on 15 January 2023, it terminated the Contract with just cause on 2 February 2023.

10. The Player filed the following requests for relief:

*Please oblige the Respondent Club of payment of the net amount €96.000, as the remuneration until the 30th May 2023, and provide the adequate tax certificate.*

*Additionally oblige the Respondent to pay 3,5% p.a. Interest rate from the date of 31<sup>st</sup> January 2023 until the effective payment date of the claim above.*

*Claimant declares that in case of the Club's promotion to the Turkish First League at the end of the season 2022/23 the claim is to be extended for the bonuses accordingly.*

#### **b. Position & Counterclaim of the Club**

11. In its reply, the Club denied having received the Default Notice.
12. The Club states that the Player sent the Default Notice to a wrong Club's email address: **info@pendikspor.org.tr** and that this communication was never received by the Club.
13. The Club argues that the aforementioned email address did not appear in the Contract, nor was it previously used in any communication between the parties. Moreover, the mail that the Club has registered in the Transfer Matching System (TMS) in FIFA is: [adem.torun@pendiskpor.org.tr](mailto:adem.torun@pendiskpor.org.tr)
14. According to the Club, the Player added in the Default Notice the Turkish Football Federation ("TFF") for information, *"but the letter was never sent to them in the email, as he did with the termination notice to be released, in which he added TFF for information and he sent the email to both, Pendikspor (to a wrong mail) and TFF, which was who notify (sic) the Club about the situation with the Player."*
15. In the view of the Club, *"the Player knew that TFF would have notified the Club about the warning letter, as it did with the termination notice, and he avoided that situation by sending the warning letter only to a wrong email."*
16. The Club refers to CAS jurisprudence regarding the prerequisite of sending a valid default notice before terminating a contract.
17. The Club argues that when sending the termination notice, the Player did send it to the Club's Fax. In the Club's view, *"this is an indication that the Player had other tools to properly notify the club."*
18. The Club concludes that *"It cannot be considered that the Player gave the Club a realistic chance to remedy its financial obligations by the mere fact of erroneously sending an email to an account that is not used by the Club and that was never used between the Parties. On the contrary, what we can draw from that action is that the Player did not act with due diligence and only sought to end his contractual relationship with Club, ensuring that the latter would not have a realistic chance to remedy its financial obligations"*.

19. For the above, the Club deems that the player unilaterally terminated the Contract without just cause, and therefore he must be condemned to pay the compensation for the Club.
20. The Club filed the following requests for relief:
  1. *To fully reject the Player's Claim.*
  2. *To establish that the Club shall not pay any compensation of whatsoever kind related to the Player's Claim.*
  3. *To accept this Response and Counterclaim;*
  4. *To order the Claimant and Counter-Respondent to pay the Respondent and Counter-Claimant the amount of 240,000 € based on art. 17 para. 1 FIFA RSTP:*
    - a. *12,000 € corresponding to the signing bonus paid by the Club on 10th August 2022.*
    - b. *24,000 € corresponding to the salaries of August and September 2022 paid by the Club.*
    - c. *96,000 € corresponding to the residual value of the Employment Contract.*
5. *To impose the Claimant and Counter-Respondent a four-month restriction on playing in official matches based on art.17 para.3 RSTP.*
6. *To order the Claimant and Counter-Respondent to pay the Respondent and Counter-Claimant the default interest at a rate of 5% per annum of the overdue amounts as of the date of default until the full payment.*
7. *Any other relief the FIFA Football Tribunal may deem necessary.*

### **c. Answer to the Counterclaim**

21. The Player sustains that the email address, [info@pendikspor.org.tr](mailto:info@pendikspor.org.tr) "is the official email address of the Club which is also displayed in multiple places on its official website ([www.pendikspor.org.tr](http://www.pendikspor.org.tr)) - including the impressum of the frontpage and the one indicated at the section Contacts' (İLETİSİM) - and on its social media platform".
22. According to the Player, "it is undisputed that the Email Address did not appear in the Employment Agreement, however no other email address was indicated by the Club on it. The Club even failed to add explicitly an official communication channel under point "8-Notifications" of the Employment Agreement".
23. In the Player's view, he "not just only acted with good faith but followed the one and only manner to reach out to the Club on its available official communication channel". As he does not have access to TMS.
24. The Player requests to refuse the request of the Club regarding the payment of any kind of compensation towards the Club.

25. The Player amended his requests for relief as follows:

*the Player respectfully requests from the Hon. Tribunal to disregard the Response entirely and to impose the necessary sanction on the Club as a result of not complying with 12 par. 2 of the Procedural Rules.*

*Apart from the initially requested 3,5% p.a. interest rate, following the practice of the FIFA DRC and the CAS to award interest on late payments, the Player requests to pay 5% p.a. interest rate from the date of 31st January 2023 until the effective payment date of the claim, considering the severity of the case. Thus, the Player requests 8,5% p.a. interest rate to be paid by the Club in total.*

#### **d. Final comments of the Club**

26. The Club sustains that the Player did not act with due diligence and reiterates that the Club did not receive the Default Notice, "as it was sent to a wrong email, which is not used by the Club, as it is the old one".

27. The Club states that the parties never communicated before by email and considers that "it is crystal clear that if someone wants to communicate such an important notification in good faith, there are two ways of doing it:

- To notify by the usual means of communication between the parties, i.e., by WhatsApp.
- To notify in accordance with the notification clause stated in the agreement between the parties, i.e., by registered letter to the indicated addresses."

28. In the view of the Club, the Player "should have had a greater diligence in order to be aware of other emails".

29. The Club argues that "Contrary to the Player's response, it was impossible for him to get the email address [info@pendikspor.org.tr](mailto:info@pendikspor.org.tr) from the official website as it was under construction from 4 September 2022 till 1 May 2023. It was impossible for anyone to access to a website that was not active and <https://pendikspor.org.tr/> was not available for anyone during that time".

30. The Club further argues that the "email address was written there by mistake by the IT agency because it was an old email address that the Club have for commercial communications, but never for football structure and organization".

31. The Club reiterates its previous requests for relief.

### III. Considerations of the Dispute Resolution Chamber

#### a. Competence and applicable legal framework

32. 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 20 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.
33. 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 (March 2023 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 Hungary and a club from Türkiye.
34. 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 (March 2023 edition) and considering that the present claim was lodged on 20 March 2023, the March 2023 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

#### b. Burden of proof

35. 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

36. 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

37. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that the parties strongly dispute the justice of the early termination of the contract by the Player, based on the alleged non-payment of certain financial obligations by the Club as per the contract, in accordance with art. 14bis of the Regulations.
38. The Chamber further noted that the Club has not disputed the non-payment of the amounts claimed although it sustains that it never received the Default Notice.
39. 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 Club and, if so, whether the formal pre-requisites of art. 14bis of the Regulations had in fact been fulfilled.
40. 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).
41. The Chamber noted that the Player claims not having received his remuneration corresponding to the months of October 2022 to December 2022. Furthermore, the Chamber noted that the Player has provided written evidence of having put the Club in default on 15 January 2023, i.e. at least 15 days before unilaterally terminating the contract on 2 February 2023.
42. In this regard, the Chamber observed that the Player sent the Default Notice to the email address available on the Club's website and social media.
43. The Chamber emphasised that in the absence of a specific email address for notifications agreed between the parties in the contract, the Player had not other option but to rely in good faith on the information available in the Club's website. The Chamber underscored that it was the Club's duty to keep this information updated and to *quad non* delete obsolete addresses if those were in use no longer.
44. Based on the above, the Chamber concluded that the Player could rely in good faith on the correct delivery of the Default Notice and therefore the Player had complied with the requirements of art. 14bis of the Regulations.
45. Having established the above, the Chamber also noted that in the case at hand the Club bore the burden of proving that it indeed complied with the financial terms of the contract concluded between the parties. Nonetheless, the Club has not submitted any supporting evidence as to the payment of the amounts claimed as outstanding by the Player.

46. Thus, the Chamber concluded that the Player had a just cause to unilaterally terminate the contract, based on art. 14bis of the Regulations. Consequently, the Chamber decided that the counterclaim of the Club had to be rejected

## ii. Consequences

47. 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 Club.
48. 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 four salaries under the contract (i.e. October 2022 to January 2023), amounting to EUR 48,000.
49. As a consequence, and in accordance with the general legal principle of *pacta sunt servanda*, the Chamber decided that the Club is liable to pay to the Player the amounts which were outstanding under the contract at the moment of the termination, i.e. EUR 48,000.
50. In addition, taking into consideration the Player's specific request as well as the constant practice of the Chamber in this regard, the latter decided to award the Player interest at the rate of 5% p.a. on the outstanding amounts as from 31 January 2023 until the date of effective payment.
51. 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.
52. 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.
53. 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.



54. 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 the amount of EUR 48,000 (i.e. the residual value from February to May 2023) serves as the basis for the determination of the amount of compensation for breach of contract.
55. 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. However, the player had remained unemployed.
56. Consequently, 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 EUR 48,000 to the Player, which was to be considered a reasonable and justified amount of compensation for breach of contract in the present matter.
57. 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 2 February 2023 until the date of effective payment.

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

58. 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.
59. 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.
60. Therefore, bearing in mind the above, the DRC decided that the Club must pay the full amount due (including all applicable interest) to the Player within 45 days of notification of the decision, failing which, at the request of the Player, 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 Club in accordance with art. 24 par. 2, 4, and 7 of the Regulations.
61. The Club shall make full payment (including all applicable interest) to the bank account provided by the Player in the Bank Account Registration Form, which is attached to the present decision.

62. 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**

63. 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.


64. 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.

65. 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/Counter-Respondent, **Roland Andras Ugrai**, is partially accepted.
2. The Respondent/Counter-Claimant, **Pendikspor Futbol A.Ş.**, must pay to the Claimant/Counter-Respondent the following amount(s):
  - **EUR 48,000 net as outstanding remuneration** plus 5% interest *p.a.* as from 31 January 2023 until the date of effective payment;
  - **EUR 48,000 net as compensation for breach of contract without just cause** plus 5% interest *p.a.* as from 2 February 2023 until the date of effective payment.
3. Any further claims of the Claimant/Counter-Respondent are rejected.
4. The counterclaim of the Respondent/Counter-Claimant is rejected.
5. Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.
6. 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.
7. The consequences **shall only be enforced at the request of the Claimant/Counter-Respondent** in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.
8. 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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