

Decision of the Players' Status Chamber

passed on 4 July 2023

regarding an employment-related dispute concerning
the coach Dušan Uhrin

BY:

Gregory DURAND (France)

CLAIMANT:

Dušan Uhrin, Czech Republic

Represented by Markéta Vochoska Haindlová

RESPONDENT:

Karmiotissa Polemidion, Cyprus

Represented by Panayiotis Georgiou

I. Facts of the case

1. On 5 September 2022, the Czech coach Dušan Uhrin (hereinafter: *the Claimant* or *the Coach*) and the Cypriot club Karmiotissa Polemidion (hereinafter: *the Respondent* or *the Club*) finalized their employment relationship and concluded a Termination Agreement (hereinafter "*the Agreement*").

2. Art. 3 of the Agreement reads as follows:

"3. The Club is obligated to pay to the Coach until the 10 September, 2022 the net amount of € 8,000,00 - payable to account: [bank details] for full and final settlement of any obligations of the Club towards to the Coach in relation to the employment of the Coach in accordance to the above agreements."

3. Art. 4 of the Agreement reads as follows:

"4. The Parties confirm that they do not have any financial or other claims for the fulfillment of the terms of the Employment agreement and internal regulations against each other, with the exception of those specified in paragraph 3 of these Agreement."

4. On 5 October 2022, the Claimant sent a default notice requesting the amount of EUR 8,000 to be paid within 14 days.

5. On 7 February 2023, the Claimant sent a default notice requesting the amount of EUR 8,000 plus interest to be paid within 10 days.

II. Proceedings before FIFA

6. On 26 April 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

7. The Claimant states that the Respondent has not paid the amount agreed and is in default in the total amount of EUR 8,000.

8. The Claimant filed the following requests for relief:

"1. The claim of the Coach is accepted.

2. The Club is ordered to pay to the Coach, as overdue payables, the amount of EUR 8,000 with the interest on late payment at the rate of 5 % per year from the amount of EUR 8,000 for the period from 11th September 2022 until the date of effective payment."

b. Position of the Respondent

9. In its reply, the Respondent adduces that notwithstanding the contents of art. 4 of the Agreement, after the conclusion of the Agreement, the Club was contacted by the former landlord of the Coach informing that the Claimant had left without paying an overdue amount of EUR 4,500.
10. As a result, the Respondent adduces that it paid the EUR 4.500, on 1 and 15 October 2023.
11. The Respondent sustains that the Claimant *"deliberately failed to disclose the non-payment of the supra expenses while he was clearly aware that such credit will be paid by the Club at the end"*. As a consequence, the Respondent deems that such amount shall be deducted.
12. The Respondent filed the following requests for relief:

- "a. Enforce its jurisdiction over the dispute at stake;*
- b. Deduct the amount EUR 4.500 from the payables that the Coach is entitled to;*
- c. Order the Club to pay the Coach the total amount of EUR 3.500"*.

c. Comments of the Claimant

13. The Claimant sustains that this is the first time that the Respondent raises this argument after two default notices by the Claimant (5 October 2022 and 7 February 2023), which remained unanswered.
14. The Claimant underlines that the documents submitted by the Respondent *"only show that they are somehow connected with some rent payments, but it is not possible to determine what the rent is for. It is even more impossible to take those receipts into account as those do not indicate any connection to the Coach."*
15. The Claimant concludes that *"the Respondent has failed to carry his burden of proof with respect to his allegations by failing to prove that he paid anything on behalf of the Claimant, and thus its request to reduce the amount owed cannot be accepted"*.
16. The Claimant reiterated his requests for relief.

III. Considerations of the Players' Status Chamber

a. Competence and applicable legal framework

17. First of all, the Single Judge of the Players' Status Chamber (hereinafter also referred to as *Single Judge*) analysed whether he was competent to deal with the case at hand. In this respect, he took note that the present matter was presented to FIFA on 26 April 2023 and submitted for decision on 4 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.

18. Subsequently, the Single Judge referred to art. 2 par. 1 and art. 24 par. 2 of the Procedural Rules and observed that in accordance with art. 23 par. 2 in combination with art. 22 par. 1 lit. c) of the Regulations on the Status and Transfer of Players (May 2023), he is competent to deal with the matter at stake, which concerns an employment-related dispute between a club / an association and a coach of an international dimension.
19. Subsequently, the Single Judge analysed which regulations should be applicable as to the substance of the matter. In this respect, he confirmed that, in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (May 2023), and considering that the present claim was lodged on 26 April 2023, the October 2022 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

20. The Single Judge 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.

c. Merits of the dispute

21. His competence and the applicable regulations having been established, the Single Judge entered into the merits of the dispute. In this respect, the Single Judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Single Judge emphasised that in the following considerations he will refer only to the facts, arguments and documentary evidence, which he considered pertinent for the assessment of the matter at hand.

i. Main legal discussion and considerations

22. The foregoing having been established, the Single Judge moved to the substance of the matter and took note of the fact that the parties strongly dispute the payment of certain financial obligations by the Respondent as per the Agreement, namely EUR 8,000.
23. In this context, the Single Judge acknowledged that his 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 latter had a valid justification for not having complied with its financial obligations.
24. The Single Judge first 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. However, the Respondent has admitted not having paid the amount requested, although it deems that the amount shall be reduced due to alleged payments to a third party (i.e. the alleged former landlord of the Claimant).
25. Nonetheless, the Single Judge noted that the evidence provided by the Respondent, namely handwritten payment receipts with no reference to the Claimant whatsoever or the identity of

the recipient of the amount or his connection with the Claimant does not discharge the Respondent's burden of proof in support of its allegations.

26. In view of the foregoing, especially the absence of proof of legitimate justification to any reduction of payment and bearing in mind the basic legal principle of *pacta sunt servanda*, which in essence means that agreements must be respected by the parties in good faith, the Respondent is held liable to pay the Claimant the outstanding amounts deriving from the contract concluded between the parties, namely EUR 8,000.
27. In addition, taking into consideration the Claimant's request as well as the constant practice of the Chamber in this regard, the Single Judge decided to award the Claimant interest at the rate of 5% p.a. on the outstanding amounts as from 11 September 2022 until the date of effective payment.

ii. Art. 12bis

28. In continuation, the Single Judge referred to art. 12bis par. 2 of the Regulations, which stipulates that any club found to have delayed a due payment for more than 30 days without a prima facie contractual basis may be sanctioned in accordance with art. 12bis par. 4 of the Regulations.
29. To this end, the Single Judge confirmed that the player put the club in default of payment of the amounts sought, which had fallen due more than 30 days before, and granted the club a 10-day deadline to cure such breach of contract.
30. Accordingly, the Single Judge confirmed that the club had delayed a due payment without a prima facie contractual basis. It followed that the criteria enshrined in art. 12bis of the Regulations was met in the case at hand.
31. The Single Judge further established that by virtue of art. 12bis par. 4 of the Regulations he has competence to impose sanctions on the club. On account of the above and bearing in mind that this is the 2nd offense by the club within the last two years, the Single Judge decided to impose a reprimand on the club in accordance with art. 12bis par. 4 lit. b) of the Regulations.
32. In this connection, the Single Judge highlighted that a repeated offence will be considered as an aggravating circumstance and lead to a more severe penalty in accordance with art. 12bis par. 6 of the Regulations.

iii. Compliance with monetary decisions

33. Finally, taking into account the applicable Regulations, the Single Judge referred to art. 8 par. 1 and 2 of Annexe 2 of the Regulations, which stipulate that, with his 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.
34. In this regard, the Single Judge 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.

35. Therefore, bearing in mind the above, the Single Judge 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. 8 par. 2, 4, and 7 of Annexe 2 of the Regulations.
36. 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.
37. The Single 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. 8 par. 8 of Annexe 2 of the Regulations.

d. Costs

38. The Single Judge 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 Single Judge decided that no procedural costs were to be imposed on the parties.
39. Likewise, and for the sake of completeness, the Single Judge recalled the contents of art. 25 par. 8 of the Procedural Rules and decided that no procedural compensation shall be awarded in these proceedings.
40. Lastly, the Single Judge concluded its deliberations by rejecting any other requests for relief made by any of the parties.

IV. Decision of the Players' Status Chamber

1. The claim of the Claimant, Dušan Uhrin, is accepted.
2. The Respondent, Karmiotissa Polemidion, must pay to the Claimant the following amount(s):
 - **EUR 8,000 as outstanding amount** plus 5% interest *p.a.* as from 11 September 2022 until the date of effective payment.
3. A **reprimand** is imposed on the Respondent (cf. art. 12bis of the Regulations for the Status and Transfer of Players).
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. 8 of Annexe 2 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 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

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