

Decision of the Players' Status Chamber

passed on 10 October 2023

regarding an employment-related dispute concerning
the coach Ricardo Camara Sobral "Cacau"

BY:

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CLAIMANT:

ASD Napoli Futsal, Italy

RESPONDENT:

Ricardo Camara Sobral Cacau, Brazil

I. Facts of the case

1. On 30 March 2023, ASD Napoli Futsal (hereinafter: *"the Club"* or *"the Claimant"*) and Ricardo Camara Sobral *"Cacau"* (hereinafter: the *Respondent* or *"Cacau"*) concluded a *"financial agreement"* for the position of *"technical coordinator"* valid as from the date of signature until 27 June 2023.
2. Accordingly, Mr Ricardo Cámara Sobral was entitled to a *"fee of 10,000"* (€) to be paid in three monthly instalments of EUR 3,333.
3. In addition, the contract stipulated that *"Team prizes will be identified for winning the championship"*.
4. Furthermore, the contract stated the following:
"The Technical Coordinator is required to maintain professional behavior within the Structures of the ASD Napoli Futsal Company and to respect the times established by the Company for Training and Competitions. Other behavioral specifications will be included in the "Internal Regulations" document. Training and competition sessions will be held at the Cercola Sports Center located in Via Matilde Serao snc Cercola (Naples)."
5. The Iraqi Football Association and *"Cacau"* concluded an employment contract as *"coach for the Iraqi national team for five-a-side football (FUTSAL) valid "for two years"*, by means of which the latter was entitled to USD 10,500 per month.
6. The Iraqi Football association stated that the aforementioned contract is valid as from 20 May 2023 until 20 May 2025.

II. Proceedings before FIFA

7. On 6 July 2023, ASD Napoli Futsal lodged a claim before against “Cacau” and the Iraqi Football Association before the FIFA Football Tribunal for breach of contract without just cause and requested both parties to jointly and severally compensate this breach with an amount “not lower than” EUR 100,000, as well as the imposition of disciplinary sanctions and the payment of procedural costs and legal fees.
8. Mr Ricardo Camara Sobral “Cacau” provided his reply only after the expiration of the deadline granted by FIFA:
9. The Iraqi FA was invited to provide its comments, but failed to do so.

III. Considerations of the Players' Status Chamber

a. Competence and applicable legal framework

1. First of all, the Single Judge of the Players' Status Chamber (hereinafter also referred to as *the Judge* or *Single Judge*) 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 6 July 2023 and submitted for decision on 10 October 2023. Taking into account the wording of art. 34 of the October 2022 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.
2. Subsequently, the Single Judge 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 (October 2022 edition), the Single Judge is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between an Italian club and a Brazil coach.
3. On this note, the Single Judge deemed necessary to clarify whether the Respondent is a coach in the sense of the Definitions section of the Regulations on the Status and Transfer of Players. In particular, the Judge recalled that, as per said text, a coach is defined as follows:

"28. Coach: an individual employed in a football-specific occupation by a professional club or association whose:

 - i employment duties consist of one or more of the following: training and coaching players, electing players for matches and competitions,*
 - ii making tactical choices during matches and competitions; and/or employment requires the holding of a coaching licence in accordance with a domestic or continental licensing regulation.*
4. In this respect, the Judge noted that the contract concluded between the Claimant and the Respondent describes the functions of the latter as "technical coordinator",
5. In the view of the coach, the fact that the Respondent subsequently concluded a contract with the Iraqi Football Association as its national coach for futsal indicated that he was qualified as a coach. In support of this conviction, the Judge also observed that the press articles attached by the Claimant refer to him as a coach.
6. In sum, although the Respondent's title as "technical coordinator" does not explicitly state "coach," his contractual duties, the coaching responsibilities mentioned in the definition as

described in the Regulations, altogether with his new contract in Iraq clearly indicate that he was working as a coach.

7. The Judge also observed that a second element of the claim is the role of the Iraqi Football Association (Iraqi FA). Indeed, the Judge noted that the Claimant nominated the Iraqi FA as a second respondent. Within this context, the Claimant compared the situation of the Iraqi FA to the role of a player's new club under art. 17 par. 2 Regulations on the Status and Transfer of Players, according to which if a professional (player) is required to pay compensation, the professional (player) and his new club shall be jointly and severally liable for its payment. However, the Single Judge observed that this provision is only applicable to players and not to coaches, insofar the specific elements pertaining to coaches are regulated in Annexe 2 of the Regulations on the Status and Transfer of Players. The Chamber thus noted that is no equivalent in Annexe 2 to this provision in relation to coaches. Hence, the Judge concluded that the Iraqi FA cannot be summoned as a Respondent due to a lack of regulatory basis.
8. Subsequently, the Single Judge 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 6 July 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

9. 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. Likewise, the Single Judge 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

10. 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

11. The Single Judge first noted that the parties concluded a “financial agreement” valid for three months, from 30 March 2023 until 27 June 2023. The Single Judge verified that said agreement contains all the essential elements (*essentialia negotii*) required for it to be considered a valid employment contract (incl. a salary and a specific duration).
12. Subsequently, the Single Judge observed that, during the term of this contract, the coach concluded a contract with the Iraqi FA, valid as from 20 May 2023 until 20 May 2025. The Judge verified that that said circumstance was duly confirmed by the Iraqi FA.
13. Therefore, regardless of any other issue, the Judge confirmed that it is clear that the coach signed a contract while he was still bound by a contract with the Claimant.
14. Consequently, by doing so, the Single Judge established that the coach unilaterally breached and terminated the contract with the Claimant without just cause. As a result, the Judge concluded that the Claimant is entitled to compensation.

ii. Consequences

15. Having stated the above, the Single Judge turned his attention to the question of the consequences of such unjustified breach of contract committed by the Respondent.
16. The Single Judge turned to the calculation of the amount of compensation payable to the Claimant by the coach in the case at stake. In doing so, the Single Judge firstly recapitulated that, in accordance with art. 6 par. 2 lit. d) of Annexe 2 of the Regulations, the amount of compensation, unless otherwise provided for in the contract, shall be calculated on the basis of the damages and expenses incurred by the club or the association in connection with the termination of the contract, giving due consideration, in particular, to the remaining remuneration and other benefits due to the coach under the prematurely terminated contract and/or due to the coach under any new contract, the fees and expenses incurred by the former club (amortised over the term of the contract), and the principle of the specificity of sport.
17. In application of the relevant provision, the Single Judge held that he 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.
18. In this regard, the Single Judge established that no such compensation clause was included in the employment contract at the basis of the matter at stake.
19. As a consequence, the Single Judge determined that the amount of compensation payable by the coach to the club had to be assessed in application of the other parameters set out in art. 6 par. 2 lit. d) of Annexe 2 of the Regulations. The Single Judge recalled that said

provision provides for a non-exhaustive enumeration of criteria to be taken into consideration when calculating the amount of compensation payable.

20. Bearing in mind the foregoing as well as the claim of the club, the Single Judge proceeded with the calculation of the monies payable to the coach under the terms of the contract until its term. In particular, the Judge noted that, from 20 May 2023 until 27 June 2023, one monthly salary with the Claimant remained due, i.e. EUR 3,333. Consequently, the Single Judge concluded that the amount of EUR 3,333 serves as the basis for the determination of the amount of compensation for breach of contract.
21. In continuation, the Single Judge verified the conditions of the employment contract of the coach with the Iraqi FA during the relevant period of time. According to the constant practice of the Single Judge as well as art. 6 par. 2 lit. d) of Annexe 2 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 due by a coach to his former club. In particular, the Single Judge explained that his standard practice is to calculate the average between the coach's remuneration with his former club and his remuneration with the new association, for the exact same period of time comprised between the early termination of the employment contract with the old club and the original expiry date of such contract.
22. In this respect, the Judge noted that, for this same period of time, the coach would earn USD 10,500 from the Iraqi FA; which is equivalent to approx. EUR 9,700.
23. Thus, the Single Judge concluded that between the date of early termination of the coach's contract with his former club and its the original expiry date, the average between his remuneration with the former club and his current remuneration amounts to approx. EUR 6,500 $[3,333+9,700 / 2]$.
24. Consequently, on account of all of the above-mentioned considerations and the specificities of the case at hand, the Single Judge decided that the coach must pay the amount of EUR 6,500 to the Claimant, which was to be considered a reasonable and justified amount of compensation for breach of contract in the present matter.

iii. Compliance with monetary decisions

25. 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 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.
26. In this regard, the Single Judge highlighted that, against coaches, the consequence of the failure to pay the relevant amounts in due time shall consist of a restriction on any football-

related activity up until the due amounts are paid. The overall maximum duration of the registration ban shall be of up to six months.

27. Therefore, bearing in mind the above, the Single Judge decided that the coach must pay the full amount due (including all applicable interest) to the club within 45 days of notification of the decision, failing which, at the request of the creditor, a restriction on any football-related activity for the maximum duration of six months shall become immediately effective on the coach in accordance with art. 8 par. 2, 4, and 7 of Annexe 2 of the Regulations.
28. The coach shall make full payment (including all applicable interest) to the bank account provided by the club in the Bank Account Registration Form.
29. 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

30. 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.
31. 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.
32. 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 Football Tribunal has jurisdiction to hear the claim of the claimant, ASD Napoli Futsal.
2. The claim of the Claimant, ASD Napoli Futsal, is partially accepted.
3. The Respondent, Ricardo Camara Sobral "*Cacau*", must pay to the Claimant the amount of **EUR 6,500 as compensation for breach of contract without just cause**.
4. Any further claims of the Claimant are rejected.
5. Full payment (including all applicable interest) shall be made to the bank account indicated in the 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 restricted on any football-related activity up until the due amounts are paid. The overall maximum duration of the restriction shall be of up to six months.
 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 six months.
7. 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.
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).

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