

# Decision of the Dispute Resolution Chamber

passed on 26 October 2023

regarding an employment-related dispute concerning  
the player Frane Ikic

**BY:**

**Clifford J. Hendel (USA & France), Deputy Chairperson**  
**Jorge Gutiérrez (Costa Rica), member**  
**Stella Maris Juncos (Argentina), member**

**CLAIMANT / COUNTER-RESPONDENT:**

**Frane Ikic, Croatia**  
Represented by Dupovac Feđa

**RESPONDENT / COUNTERCLAIMANT:**

**FK VELEŽ Mostar, Bosnia and Herzegovina**  
Represented by Sanel Masic

**INTERVENING PARTY:**

**Buxoro FK, Uzbekistan**

## I. Facts of the case

1. On 1 July 2022, the Croatian player, Frane Ikić (hereinafter: *Claimant / Counter-Respondent* or *player*) and the Bosnian club FK Velež Mostar (hereinafter: *Respondent / Counter-Claimant* or *club*) concluded an employment contract (hereinafter: *contract*) valid as from 1 July 2022 until 31 May 2024.
2. According to the contract (including the annex), the Respondent undertook to pay the Claimant the following monies:
  - Bosnian Mark (BAM) 6,825 as monthly salary during 2022/2023 season;
  - BAM 8,775 as monthly salary during 2023/2024 season;
  - BAM 11,700 as signing bonus, payable until the start of the season;
  - BAM 5,850 as instalment due at the beginning of the second season.
3. According to the contract, the monthly salary fell due on the “10th day of the month for the previous month of work”.
4. On 31 August 2022, the club’s president requested the club’s disciplinary commission to implement “suitable sanctions” against the players and staff due to the poor sporting results.
5. On 1 September 2022, the disciplinary commission decided to sanction players and staff with a reduction of 30% of the August 2022 salary due to the poor sporting results.
6. On 2 September 2022, the decision was notified to players and staff and everyone accepted it in writing, apart from the Claimant and another player.
7. On 26 December 2022, the player contacted the club suggesting a mutual termination against payment of all outstanding remuneration plus 4 salaries for 2023.
8. Between 26 December 2022 and 29 December 2022 exchanged correspondence and agreed on a meeting for 30 December 2022.
9. On 18 January, according to the club, the player showed up at the club’s premises, but refused to accept payment for his salary related to August 2022.
10. On 19 January 2023, the player put the club in default and requested payment of BAM 20,325, corresponding to partial salaries for August, November and December 2022 (3x BAM 4,825) as well as a part of the sign-on fee (BAM 5,850). The Claimant requested payment within 15 days.

11. On 27 January 2023, according to the club, the player collected the salary related to December 2022.
12. On 28 January 2023, according to the club, the player sent a draft of a modified annex to the contract to the club.
13. On 10 February 2023, the player terminated the contract with the club due to the outstanding remuneration and due to his demotion to the reserve team without justification.
14. On 10 February 2023, the club replied to the player stating: *"We are attaching an official note related to the 08/22 salary. The amount of the salary for 11/22 is ready in the official premises of the Club and the aforementioned can collect it whenever he wants. It was not paid because at that moment the player was by the preparation process in Turkey. The salary for 01/23 will be paid during this month, following the normal dynamics of salary payments in the Club"*.
15. On 6 July 2023, the player signed an employment contract with the Uzbek club, Buxoro FK valid as from 6 July 2023 until 21 December 2023, including a monthly salary of USD 8,000 (approx. BAM 14,000).

## II. Proceedings before FIFA

16. On 13 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

17. the player lodged a claim against the FK Velez Mostar in front of FIFA and requested payment of the following monies:
  - BAM 14,475 as outstanding remuneration (partial salaries for August, November 2022 and January 2023; 3x BAM 4,825);
  - BAM 5,850 as outstanding signing-bonus;
  - BAM 132,600 and EUR 3,000 as compensation for breach of contract (residual value).

The player requested interest of 5% p.a. as of the due dates.

18. In his claim, the player argued that he had just cause to terminate the contract as more than two monthly salaries remained outstanding without justification.
19. Moreover, the player held that as of 10 January 2023, he had been forced to train alone, without a coach or a *"tailored training program"*.

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

20. In its reply, the club rejected the player's claim and lodged a counterclaim against the player requesting payment of BAM 17,211 as compensation for breach of contract, plus 5% interest p.a. as of 10 February 2023.
21. The club denied that at least two monthly salaries were outstanding at the moment of the termination.
22. In this regard, the club pointed out that the default notice referred to the salary of December 2022, whereby the termination notice listed January 2023 as outstanding, which only fell due on 10 February 2023 and was therefore not yet *"overdue"*.
23. As to the salary for August 2022, the club pointed out that the reduction of 30% was imposed, which shall be deducted. Further, the club maintained that this amount (BAM 2,493.50) was available to him but he *"refused to pick it up"*.
24. Additionally, the club held that the player is only entitled to half of the sign-on fee claimed as the other half was remitted on 22 July 2022.
25. Taking into account the above, the club acknowledged a debt in the amount of BAM 10,325, which is less than two monthly salaries and therefore no just cause to terminate the contract.
26. Subsequently, the club denied that the player was demoted to a reserve team stating that the club does not have a reserve team. Furthermore, the club pointed out that the player was part of the team in the training camp in January 2023 and early February 2023, which shows that he was not demoted.
27. Moreover, the club pointed out that the player submitted a modified annex to *"activate"* the second year of the contract, which was *"conditional"*. According to the club, the annex was only valid until 31 May 2023, and a possible compensation shall therefore be limited to a total amount of BAM 33,293.

### **c. Player's reply to the counterclaim**

28. In his reply to the counterclaim, the player rejected the club's claim and reiterated his position.
29. The player argued that the club did not dispute that the salaries for August and November 2022 remained outstanding.

30. As to the difference from the default notice to the termination notice, the player held that the obligation of the club was to fully remedy the default, which it failed to do so. Payment of one monthly salary does not make a difference.
31. Furthermore, the player stated that the salary of January 2023 also fell due in the meantime.
32. The player rejected the deduction of his salary for August 2022. He requested that the decision of the disciplinary committee shall be disregarded as it did not follow due process., failed to proof that he was indeed notified and is disproportionate.
33. The player insists that he remained entitled to the claimed sign on fee (BAM 5,850) since the alleged proof for payment does not refer to such payment.
34. Moreover, the player insisted that he was demoted to the reserve team, even though he was part of the training camp.
35. The player stated that the wording of the contract is clear and that the contract would run until 31 May 2024.

#### **d. Position of the new club**

36. Buxoro FK submitted its position and rejected the club's counterclaim.
37. In its submission, Buxoro FK endorsed the player's position and argued that he terminated the contract with just cause since it neglected its primary duty of remitting the player's remuneration.
38. Furthermore, Buxoro FK pointed out that it did not induce the player to the alleged breach of contract while referring to the gap between the termination and the conclusion of the contract with the player.

### **III. Considerations of the Dispute Resolution Chamber**

#### **a. Competence and applicable legal framework**

39. 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 13 April 2023 and submitted for decision on 26 October 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.

40. 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 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 and a club.
41. 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 13 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**

42. 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**

43. 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**

44. 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 circumstances of the player's contract termination.
45. In this context, the Chamber acknowledged that its task was to decide if the player had just cause to terminate the contract on 10 February 2023 or not, and to decide on the consequences thereof.

46. The members of the DRC noted that the matter at hand concerns a claim of a player against a club for breach of contract, including a counterclaim of the club.
47. The Chamber duly noted, that according to the player, he terminated the contract with just cause due to outstanding remuneration and since he was demoted to the reserve team.
48. The DRC took also notice of the club's argumentation that less than 2 monthly salaries were outstanding at the moment of termination and that the player had therefore no just cause. The club denied having demoted the player to the reserve team.
49. In this framework, the Chamber started to analyse the alleged outstanding remuneration at the moment of termination (10 February 2023).
50. The player argued that the following amounts were outstanding:
  - BAM 4,825 (partial salary of August 2022): Club argued that this salary was reduced by 30% due to the decision of the club's disciplinary committee.
  - BAM 4,825 (partial salary of November 2022): Acknowledged by the club.
  - BAM 4,825 (partial salary of January 2023): Acknowledged by the club. The club only held that it was not "overdue" since it became due on 10 February 2023 only.
  - BAM 5,850 as outstanding signing bonus: The club held that it remitted half of the claimed fee on 22 July 2022.
51. Regarding the alleged fines imposed on the player, the DRC wished to emphasize that there is no evidence on file, that a due disciplinary process was followed by the club and that the player's right to be heard was respected.
52. Furthermore, and irrespective of the foregoing consideration, the Chamber wished to point out that the imposition of a fine, or any other available financial sanction in general, shall not be used by clubs as a means to set off outstanding financial obligations towards players. Consequently, the DRC decided to reject the club's argument in this connection.
53. Due to the receipt submitted by the club, the Chamber decided to take into account the partial payment of the sign-on fee on 22 July 2022.
54. Taking into account the above, a total amount of BAM 18,050 remained outstanding at the moment of the termination.
55. It has to be 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 club failed to submit proof for the above-mentioned amount.

56. Consequently, on account of the above, considering that the club had thus repeatedly and for a significant period of time been in breach of its contractual obligations towards the player, we propose to decide that the player had just cause to unilaterally terminate the employment contract on 10 February 2023 and that, as a result, the club is to be held liable for the early termination of the employment contact with just cause by the player.
57. The allegation of the player that he was demoted to the reserve team is not substantiated enough as there is no supporting evidence on file and the club denied it.
58. On account of the above, the Chamber decided to reject the club's counterclaim.

## ii. Consequences

59. 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.
60. The Chamber observed that the outstanding remuneration at the time of termination, amount to BAM 18,050 (as established above).
61. 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.* BAM 18,050.
62. In addition, 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 at the rate of 5% *p.a.* on the outstanding amounts as from the respective due dates until the date of effective payment.
63. 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.



64. 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.
65. 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.
66. 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.
67. Before calculation the compensation for breach of contract, the DRC wished to establish the duration of the contract as the club held that the second year was "*optional*". The DRC analysed the wording of the contract, which is clearly referring to 31 May 2024 as the end date and the annex also contains provisions for the season 2023/2024. The Chamber pointed out that in case the parties wished to limit the duration to 31 May 2023, they should have clearly stated so. Taking into account the contract, the Chamber concluded that the parties were bound until 31 May 2024.
68. Consequently, the Chamber concluded that the amount of BAM 126,500 serves as the basis for the determination of the amount of compensation for breach of contract. Such amount corresponds to:
- BAM 24,125 as salaries as of February 2023 until June 2023;
  - BAM 58,500 (salaries July 2023 and December 2023, and instalment 2<sup>nd</sup> season);
  - BAM 43,875 (Salaries as of January 2024 until May 2024);
69. 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.
70. Indeed, the player found employment with Buxoro FK. In accordance with the pertinent employment contract, the player was entitled to approximately BAM 14,000 per month. Therefore, the Chamber concluded that the player mitigated his damages completely between July and December 2023. Therefore, the Chamber deducted BAM 58,500.

71. Subsequently, the Chamber referred to art. 17 par. 1 lit. ii) of the Regulations, according to which a player is entitled to an amount corresponding to three monthly salaries as additional compensation should the termination of the employment contract at stake be due to overdue payables. In the case at hand, the Chamber confirmed that the contract termination took place due to said reason *i.e.* overdue payables by the club, and therefore decided that the player shall receive additional compensation.
72. In this respect, the DRC decided to award the amount of additional compensation of BAM 20,475, *i.e.* three times the monthly remuneration of the player.
73. 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 BAM 88,475 to the player (*i.e.* BAM 126,500 minus BAM 58,500 plus BAM 20,475), which was to be considered a reasonable and justified amount of compensation for breach of contract in the present matter.
74. 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 10 February 2023 until the date of effective payment.

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

75. 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.
76. 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.
77. 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.

78. 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.
79. 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.

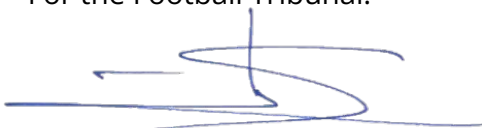
#### **d. Costs**

80. 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.
81. 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.
82. 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, Frane Ilic, is partially accepted.
2. The Respondent / Counter-Claimant, FK Velez Mostar, must pay to the Claimant the following amount(s):
  - **Bosnian Mark (BAM) 8,400 as outstanding remuneration** plus 5% interest *p.a.* as from 11 September 2022 until the date of effective payment;
  - **BAM 4,825 as outstanding remuneration** plus 5% interest *p.a.* as from 11 December 2022 until the date of effective payment;
  - **BAM 4,825 as outstanding remuneration** plus 5% interest *p.a.* as from 11 February 2023 until the date of effective payment;
  - **BAM 88,475 as compensation for breach of contract without just cause** plus 5% interest *p.a.* as from 10 February 2023 until the date of effective payment.
3. Any further claims of the Claimant / Counter-Respondent 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. The claim of the Respondent / Counter-Claimant is rejected.
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 / Counter-Claimant 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

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**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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