

# Decision of the Dispute Resolution Chamber

passed on 26 October 2023

regarding an employment-related dispute concerning  
the player Giovanni Piccolomo

## COMPOSITION:

**Clifford J. HENDEL (USA & France)**, Deputy Chairperson  
**Stella MARIS JUNCOS (Argentina)**, member  
**Jorge GUTIÉRREZ (Costa Rica)**, member

## CLAIMANT / COUNTER-RESPONDENT 1:

**Giovanni Piccolomo, Brazil & Italy**  
Represented by Dyego Tavares

## RESPONDENT / COUNTERCLAIMANT:

**U Craiova 1948 SA, Romania**

## COUNTER-RESPONDENT 2:

**Avaí FC, Brazil**  
Represented by CSMV Advogados

## I. Facts of the case

1. The parties to the dispute are:
  - a. the Brazilian/Italian player, Giovanni Piccolomo (hereinafter: *player* or *Claimant/Counter-Respondent 1*).
  - b. the Romanian club, U Craiova 1948 SA (hereinafter: *club* or *Respondent/Counterclaimant*), affiliated to the Romanian Football Federation (FRF).
  - c. the Brazilian club, Avaí FC (hereinafter: *Avaí* or the *Counter-Respondent 2*), affiliated to the Brazilian Football Confederation (CBF).
2. On 6 February 2023, the player and the club concluded an employment contract (hereinafter: *contract*) valid as from the same date until 30 June 2023.
3. According to the contract, the club undertook to pay the player the following amounts:
  - EUR 5,000 net as a sign-on fee.
  - EUR 8,000 net as “monthly fee”, payable by the 15<sup>th</sup> of each subsequent month, in local currency.
  - EUR 500 net as bonus if for each match won in case the player was listed in the starting line-up.
4. Clause IX of the contract reads as follows:

*“The [club] has the option to unilaterally extend the validity period of this contract for 2 (two) years, from 1 July 2023 – 30 June 2025 by means of a written notification, send to the RFF/PFL until 30 May 2023. In case the [club] takes up the rights to extend the validity period of this contract for 1 July 2023 – 30 June 2025, the parties negotiated the following financial terms:*  
(...)  
*C) In case, during the validity of the contract extension, the Player wishes to unilaterally withdraw from this contract, prior to the term for which the contract was concluded, under art. 1538, the New Civil Code, the parties evaluate in advance the damages due to the club at 2,500,000 EURO (two million five hundred thousand) net. This amount is certain, fixed and due within 30 days from the date on which the Player notifies his intention for unilateral termination.”*
5. Clause X of the contract reads as follows:

*“In case, during the performance of this [contract], as well as during the unilateral extension of the contract by the Club, the Player wishes to unilaterally withdraw from this contract, prior to*

*the term for which the contract was concluded, under art. 1538, the New Civil Code, the parties evaluate in advance the damages due to the club at 2,500,000 EURO (two million five hundred thousand) net. This amount is certain, fixed and due within 30 days from the date on which the Player notifies his intention for unilateral termination.*

*When the value for the penal clause was assessed, upon entering into the contract, the following were taken into account: the individual value of the [player], the increase of the team's value, due to the contribution of the [player], as well as the increase of the player's individual value by means of the national and international competitions he took part in.*

*The duration of the contract shall be understood as also the duration for which the contract is unilaterally extended by the club."*

6. Allegedly on 27 April 2023, the club wrote to the local professional league, with copies to the local league and the player, that it was activating the extension option under clause IX of the contract. It is to be noted that no proof of remittance/delivery has been filed by the club.
7. Allegedly on the same date, the player signed a declaration with the following content (hereinafter: *the declaration*). The player disputes this and states that the signature placed in the declaration is not his:

*"PICCOLOMO Giovanni, an Italian national, born on 4 April 1994, in Sorocaba, Brazilia, identified with passport ITA YB0922919, issued on 13 May 2017, by Ministro Affari Esteri e Cooperazione Internazionale, valid until 16 May 2027, was duly informed that the club notified the extension of my contract for the period 1 July 2023-30 June 2025 to the Professional Football League/Romanian Football Federation in Romania and I explicitly and unequivocally agree to this extension of my contract for the period 1 July 2023-30 June 2025.*

*This declaration was given in 3 (three) copies."*

8. On 5 June 2023 by correspondence dated 2 June 2023, the player wrote to the club and stated that since he had not received neither verbally nor in writing any notice regarding the extension of the contract under its clause IX, he would be fulfilling his contractual obligations until 30 June 2023.
9. In accordance with the information retrieved from the FIFA Transfer Matching System (TMS), on 15 June 2023 the player and Avai signed a document akin to a pre-contract, by means of which they *inter alia* undertook to sign an employment contract valid as from 17 July 2023 until 30 November 2023.
10. On 16 June 2023, the player wrote to the club and reiterated his previous correspondence.
11. On 20 June 2023, the club wrote to the player's lawyer and placed the player in default, stating as follows:

*"We are informing you and [the player] that the latter has failed to report to the squad reunion on 19 June 2023, for the 2023-2024 competition season, as duly informed.*

*We draw the attention of the Player to the contract entered into by the parties, to the rights and obligations therein and emphasize that the failure of the player to comply with the obligations contained in said contract shall result in disciplinary actions being taken against him.*

*Consequently, by virtue of this correspondence, we are hereby putting the [player] in default and do hereby notify the Player to report to the team urgently to carry out his obligations towards U Craiova 1948 SA".*

12. On the same date, the player replied to the club and while confirming that he had been absent, stated *inter alia* that he did not recognize any contractual extension since the club had not triggered clause IX of the contract within the time limit established therein. Thus, he denied any contractual breach.
13. On 22 June 2023, the club put the player in default for a second time, stating that he had been absent from training sessions, and recalling that he had a valid contract until 30 June 2025.
14. On 23 June 2023, the player wrote to the club and stated that he had been absent due to health conditions of his wife, who had suffered an abortion and would undergo a sensitive medical proceeding on 27 June 2023. At the same time, the player reiterated his position as to the extension of the contract, and presented a conciliation offer.
15. On 5 July 2023, the club put the player in default for a third time, stating that he had been absent without authorization since 18 June 2023, and thus informing him that it would "*apply the regulations in force for such disciplinary offense*".
16. On 17 July 2023, Avaí entered a transfer instruction in TMS to register the player, and contextually the player's International Transfer Certificate (ITC) was requested by the CBF and later rejected by the FRF at the request of the club.
17. On 19 July 2023, the Players' Status Chamber (PSC) authorized the registration of the player with Avaí, without prejudice to a decision by the competent body on the underlying contractual dispute between the parties.
18. On 25 July 2023, the player and Avaí signed a contract valid as from 17 July 2023 until 30 November 2023, for a monthly remuneration of BRL 27,000 plus a housing allowance of BRL 5,000.

## II. Proceedings before FIFA

19. On 20 July 2023, the player filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

### a. The claim of the player

20. According to the player:

- The contract stipulated that the club had the option to extend it for another two years, provided that it notified him by 31 May 2023. However, the club did not communicate with the player about the renewal of the contract, hence he sent an extrajudicial notification to the club stating that he would fulfil his contract until 30 June 2023.
- The extension option in the contract was invalid and violated the principle of contractual good faith and the FIFA Regulations on the Status and Transfer of Players (RSTP). The player submitted that the extension option gave the option only to the club to renew the contract without his consent, and that there was no legal provision for such a unilateral extension in the RSTP. As such, the player requests the Dispute Resolution Chamber (DRC) to declare the extension option null and void, and to reject the possibility of automatic renewal of the contract by the club.
- He is due his salaries of May and June 2023 for a total of EUR 16,000. As such, if the DRC finds that extension option is valid and was properly exercised by the club, he was still entitled to terminate the contract with just cause on the basis of articles 14 and 14bis of the RSTP.

21. As amended, the player requested as relief that Clause IX of the contract be declared null and void, as well as to be entitled to EUR 16,000 as outstanding remuneration plus “5% *moratorium interest*”.

### b. Reply and counterclaim of the club

22. In reply, the club filed a statement of defense as well as a counterclaim against the player and Avai.

### As to the contract extension

23. The club claims that it had extended the contract of the player for two years, with his consent and knowledge, by sending a notification to the player and the Professional Football League (PFL) before the expiry of the original contract. By the same token, the club asserts that the player signed a declaration on 27 April 2023, in which he expressly agreed to the extension of the contract duration for the period 1 July 2023 - 30 June 2025, under the financial terms previously agreed upon.

24. The club also argues that the extension option was clearly established and emphasized in the original contract (clause IX), and that it was negotiated and accepted by both parties, with the assistance of their professional agents. The club states that the extension option was proportional and reasonable, and that it was in line with the club's policy and the customs in the matter.
25. The club denies that the extension clause was null and void, as claimed by the player, on the grounds that it was unilateral, excessive, unclear, disproportionate, and abusive. To the contrary, the club maintains that the extension clause was valid and enforceable, and that it reflected the free will and mutual agreement of the parties.

### **As to the just cause**

26. Since the club deems that the contract had been extended, it argued that the player did not have just cause to terminate it by signing a new contract with Avaí – even more so because the player was absent for a prolonged period. The club asserts that the player was not owed any outstanding salaries or bonuses and claims that it had paid all the salaries and bonuses due to the player until the date of termination. It is to be noted however that in support of this, the club filed unclear documentation, in Romanian only.
27. The club denies that it had disrespected the player's professional dignity and career development, as stated in his claim. The club argues that it had always treated the player with respect and fairness, and that it had provided him with all the necessary conditions for his professional development.
28. The club also denies that it had violated any of its obligations under the contract or the applicable regulations. The club maintains that it had always acted in good faith and in compliance with its contractual and legal obligations.
29. The club challenges the player's claim that he had a just cause to terminate the contract due to two months of unpaid salaries and bonuses. The club argues that this claim is unfounded and unsubstantiated, as there is no evidence or proof of such unpaid salaries or bonuses.

### **As to the compensation claimed under the counterclaim**

30. The club maintains that it has a right to compensation for the breach of contract by the player, as provided by the contract and the applicable regulations. The club states that this right is independent of any fault or negligence on the part of the player.
31. As to the *quantum* the club invokes the buyout clause of EUR 2,500,000 as the agreed compensation for early termination by the player per clause X of the contract. The club argues that this amount is proportional and reasonable considering the player's skills, performance, market value, and the financial impact of his early termination on the club.

32. The club also claims that this amount is in line with the customs in the matter and the practice of other clubs in similar situations.

**c. Reply to the counterclaim by the player**

33. In his reply to the counterclaim, the player outlined the following:

- The player claims that he had just cause to terminate the contract with the club due to non-payment of salaries for May and June 2023, and that the club's unilateral extension of the contract was invalid and violated the principle of contractual stability and good faith.
- The player also disputes the authenticity of the declaration. He states in this respect that his signature was forged and filed an expert report outlining the same conclusion in support of this argument.
- The player denies that he missed training sessions with the club and explains that he had a family emergency that required his presence in Brazil.
- The player rejects the club's counterclaim for joint and several liability of his new employer, Avaí, and argues that he transferred to Avaí after notifying the club of his salary arrears and contractual nullity.

34. The player reiterated his request to have that his claim upheld, and equally sought that the club's counterclaim be dismissed as totally unfounded.

**d. Reply to the counterclaim by Avaí**

35. Avaí's position can be summarized as follows:

- The contract expired on 30 June 2023 and was not validly extended by the club, as the declaration presented by the same was forged and the notification to the Player was not done in accordance with the contractual terms.
- Avaí did not induce the Player to breach his previous contract, as it signed him as a free agent after the expiration of his contract and offered him a worse contract in financial and duration terms.
- The compensation sought by the club is excessive and disproportionate, as it does not reflect the Player's financial situation, professional background, or actual damage suffered by the club.

- Avaí requests that the counterclaim be dismissed in full or subsidiarily that no compensation or sporting sanctions be imposed on Avaí. Avaí also requests that the club cover all costs of the proceedings and reimburse its legal fees.

**e. Additional documentation requested by the FIFA general secretariat**

36. The FIFA general secretariat requested the club to provide it with the original of the declaration by 5 October 2023, to no avail. Only on 20 October 2023 the club however remitted the requested documentation to FIFA.

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

**a. Competence and applicable legal framework**

37. First of all, the 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 July 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.
38. Furthermore, 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. 1 lit. b) of the RSTP (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 Brazilian/Italian player and a Romanian club, with the involvement of a Brazilian club.
39. 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 RSTP (May 2023 edition), and considering that the present claim was lodged on 20 July 2023, the said edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

**b. Burden of proof**

40. 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 TMS.



### c. Merits of the dispute

41. 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

42. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that this is a claim of a player against a club for outstanding remuneration, with a counterclaim from said club for breach of contract.

43. The DRC started its deliberations by confirming that the primary issue to be tackled is whether the contractual extension is valid or not. In this respect, the Chamber recalled the contents of clause IX of the contract:

*“The [club] has the option to unilaterally extend the validity period of this contract for 2 (two) years, from 1 July 2023 – 30 June 2025 **by means of a written notification, send to the RFF/PFL until 30 May 2023.** In case the [club] takes up the rights to extend the validity period of this contract for 1 July 2023 – 30 June 2025, the parties negotiated the following financial terms: (...)”* (emphasis added).

44. Given the contents of the clause concerned, and in spite of the parties’ deep disagreement in this respect, the DRC concluded that the contract did not require – albeit unusually – that the extension option was communicated to the player, but in fact to the local league and the FRF. It followed, in the Chamber’s view, that the issue of the authenticity of the declaration allegedly signed by the player could be left open (even if the club has failed to provide FIFA with the original copy of the declaration within the granted time limit), because it was simply immaterial to the outcome of the dispute in that the contract made no reference to it.

45. As such, the Chamber highlighted that the club thus bore the burden to demonstrate that it had validly exercised the extension option under the contract. However, the Chamber noted that the club has not provided substantial evidence with respect to the remittance and delivery to the FRF and PFL of the contract extension notice, per the contents of clause IX of the contract. In particular, the evidence provided by the club, consisting of a copy of a notice addressed to the PFL, is not accompanied by the relevant proof neither of remittance, nor delivery.

46. In addition, the DRC highlighted that the screenshots provided by the club, supposedly extracted from the registration system of the PFL, were only filed in Romanian and unaccompanied by a relevant translation. As such, the DRC underlined that in accordance with art. 13 par. 1 and 3 of the Procedural Rules, any submission to FIFA and all the evidence upon

which a party intends to rely must be filed in the original language and, if applicable, translated into English, Spanish or French under penalty of – as in the case at hand - being disregarded.

47. Given the above, the DRC found that the club has not discharged its burden to demonstrate that the extension option under the contract had been properly – and timely - exercised. This led the Chamber to conclude that (a) the contract naturally expired on 30 June 2023 and (b) no further analysis on the validity of said clause needed to be made *vis-à-vis* the jurisprudence of the Football Tribunal in this respect, hence the DRC accordingly made no finding in connection thereto.
48. The DRC confirmed on the basis of the foregoing that the counterclaim of the club was entirely dismissed. It proceeded thus to examine the claim of the player, which addresses solely the outstanding remuneration for salaries regarding the months of May and June 2023.
49. The DRC underlined that in the case at hand the club also bore the burden of proving that it indeed complied with the financial terms of the contract concluded between the parties. However, the DRC was of the opinion that the evidence submitted by the club cannot corroborate its position that the amounts have been properly paid because said evidence was – equally to the previously mentioned screenshots – filed in Romanian only, without a corresponding translation. As such, the DRC firmly rejected the position of the club in this respect.
50. For the sake of completeness, the Chamber noted that the player was admittedly absent during certain periods of June 2023. However, the Chamber noted that the club has made no specific allegation in this respect *versus* its obligation to pay the salaries. In fact, the Chamber concluded that the club, by alleging that it had fully paid the player's remuneration for the period concerned, tacitly admitted that the player was entitled to the entirety of his remuneration for the month of June 2023.
51. Consequently, the Chamber decided to award the player's full salaries for May and June 2023, amounting to a total of EUR 16,000.
52. In addition, taking into consideration the Claimant's generic request as well as the constant practice of the Chamber in this regard, the latter decided to award the Claimant interest at the rate of 5% p.a. on the outstanding amounts as from 1 July 2023, i.e., one day after the natural expiration of the contract, until the date of effective payment.
53. By way of conclusion, the Chamber ruled the claim of the player partially accepted and the counterclaim of the club fully rejected.

## ii. Compliance with monetary decisions

54. 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.

55. 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.
56. 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.
57. 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.
58. 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**

59. 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.
60. 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.
61. 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 1, **Giovanni Piccolomo**, is partially accepted.
2. The counterclaim of the Respondent/Counterclaimant, **U Craiova 1948 SA**, is rejected.
3. The Respondent/Counterclaimant must pay to the Claimant/Counter-Respondent 1 EUR 16,000 as outstanding remuneration plus 5% interest p.a. as from 1 July 2023 until the date of effective payment.
4. Any further claims of the Claimant/Counter-Respondent 1 are 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/Counterclaimant 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 1** 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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