

Decision of the Dispute Resolution Chamber

passed on 4 April 2024

regarding an employment-related dispute concerning
the player Djavan Lorenzo Anderson,

BY:

Lívia SILVA KÄGI (Brazil), Deputy Chairperson
Stella MARIS JUNCOS (Argentina), member
Jorge GUTIÉRREZ (Costa Rica), member

CLAIMANT:

1. FC Magdeburg, Germany
Represented by Joachim Rain

RESPONDENT I:

Djavan Lorenzo Anderson, Netherlands
Represented by Litigation Centrefield Llp

RESPONDENT II:

Oxford United, England
Represented by Litigation Centrefield Llp

I. Facts of the case

1. On 2 August 2022, the German club, 1. FC Magdeburg (hereinafter: *Claimant* or *Magdeburg*) and the Dutch player, Djavan Lorenzo Anderson (hereinafter: *player* or *Respondent I*) negotiated a possible employment contract.

2. On 7 August 2022, a Dutch agent, Mr Haatrecht sent the player a picture of a handwritten note in Dutch via WhatsApp, which was translated by the Claimant as follows:

Term: Season 2022/2023 and season 2023/2024 plus an automatic extension for one more season in case of 20 appearances in the season 2023/2024.

Basic salary of € 20.000,- gross (+/- € 13.000,- net)

Second year of the contract, 2. Bundesliga: € 30.000,- gross

1. Bundesliga € 40.000,- gross

....

The player replied to the agent via WhatsApp: *"Hi Win under these conditions I agree"*.

3. On 22 August 2022, the player travelled to Magdeburg in order to undergo a medical examination.

4. On 23 August 2023, the player signed the following documents, which are dated 9 August 2023 (due to the fact that the player was supposed to sign them on this date, but due to a COVID infection, the date of the signing was postponed):

- *"declaration not to hold shares in other clubs/cooperations that are competing in the league"*
- *"Annex data protection";*
- *"Declaration pursuant § 13 No. 2 f) of the licence regulations for players that the player has not been registered for more than two other clubs after July 1st, and not played official matches for more than one other club after July 1st";*
- *"License contract between the player and the German Football League";*
- *"Arbitration agreement";*
- *"Report about the medical conducted on August 22nd, 2022".*

5. On 23 August 2022, the player took part in a training session in Magdeburg with the assistant coach. On this occasion he got some training kit from the club and chose his shirt number.

6. On 23 August 2022, Magdeburg exchanged correspondence with the player's current club, Lazio, regarding the transfer of the player. Such correspondence contains an unsigned draft of a transfer agreement.

7. On 23 August 2022, the club sent a draft for the final contract to the player stating: *“Attached are the contracts with the request for review and approval”*.
8. On 25 August 2022, the player contacted Magdeburg’s assistant coach via WhatsApp and: *“excused for what happened and explained that he had an offer from a club in the UK, he couldn’t refuse, since it was a big difference for him and he needed to think about his family also”*.
9. On 1 September 2022, the player signed an employment contract with the English club, Oxford United FC valid as from 1 September 2022 until 30 June 2023, including a weekly salary of GBP 5,250 (approx. EUR 6,000 per week, total duration is 43 weeks and corresponds to EUR 258,000).

II. Proceedings before FIFA

10. On 10 October 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

11. In its claim, the Claimant requested payment of EUR 550,806.45 plus 5% interest *p.a.* as of 16 October 2022 as compensation for breach of contract.
12. In this framework, Magdeburg argued that the player concluded a valid employment contract with the club on 7 August 2022 when agreeing to the terms proposed and later on when signing the annexes to the contract.
13. The club further held that the player completed his medical with the club and took part in a training session with the club.
14. Magdeburg maintained that the player already had signed the annexes to the contract and an appointment for the signature of the contract was set, when the player all of a sudden got another offer, which he chose to accept.
15. The claimed compensation is composed as follows:
 - EUR 450,806.45 as total salaries the player would have received with Magdeburg;
 - EUR 100,000 as *“additional compensation”* since the salary with Oxford United FC must be significantly higher.
16. The Claimant also held that the Oxford United FC is jointly and severally liable to pay the compensation.

b. Position of both Respondents

17. In its reply, the Respondents rejected the claim.
18. The player acknowledged having had negotiations with Magdeburg. He confirmed having travelled to Magdeburg on 22 August 2022, but he denied having concluded a contract.
19. According to the player, no contract was concluded and he subsequently signed a contract with Oxford United FC.
20. The player and Oxford United held that their first contact was on 6 August 2022, where an initial offer was made, which was rejected by the player.
21. The player confirmed having received the WhatsApp from Mr Haatrecht on 7 August 2022, but he denied that he was empowered by him to act on his behalf in the negotiations with Magdeburg.
22. On account of the above, he maintained that he did not understand such WhatsApp as offer that he could accept. According to him further negotiations were needed in order to conclude an employment contract.
23. His confirmation via WhatsApp was solely a showing that *"he was open to continuing negotiations"*. However, no further terms were agreed.
24. During his stay at Magdeburg's facilities he signed the documents alleged by the Claimant, however he pointed out that those were not presented as part of the contract to him.
25. The medical check-up was not the final one, according to the player.
26. Regarding the training session, he declined to take part in such a session before a contract was concluded, but he agreed to a *"one-on-one session with the assistant coach"* after the other players had left.
27. He further denied having chosen a shirt number, but maintained that he was provided with some kit in order to take part in the training session with the assistant coach.
28. According to the player, he was provided with a contract draft on 23 August 2022 on 12.54 pm. Such draft was never signed.

III. Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

29. 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 10 October 2023 and submitted for decision on 4 April 2024. 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.
30. 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 club and a player.
31. 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 (February 2024 edition), and considering that the present claim was lodged on 10 October 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

32. 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

33. 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

34. The foregoing having been established, the Chamber moved to the substance of the matter, and took note of the fact that the matter at hand concerns a claim of a club against a player and his new club for breach of contract.
35. In this context, the Chamber acknowledged that its task was to decide if the parties had entered into valid and binding contractual relationship and if such contract was breached.
36. The DRC noted that according to Magdeburg, a valid and binding employment relationship was concluded with the player before he subsequently decided to join the English club.
37. In this framework, the members of the Chamber acknowledged that the German club's main arguments are that the player agreed per WhatsApp to the proposed terms and conditions, he travelled to the club's facilities, underwent a medical and joined for a training session while getting his training equipment. The club further submitted some signed documents (allegedly annexes to the contract), while the main contract was not yet signed but sent for approval to the player on 23 August 2023.
38. The DRC subsequently turned to the arguments of the Respondents, which both denied that the player entered into a valid and binding employment relationship. The player confirmed that he went to Germany but held that this was part of the negotiations which was confirmed by the club sending him the final contract draft on 23 August 2023, which he decided to reject.
39. Taking into account the documentation on file, the Chamber stated that it is undisputed that the parties were concretely negotiating a contractual relationship, however, according to the DRC, it is not established that the player had already accepted the terms and conditions when sending his Whatsapp message. The club confirmed that it sent the final contract draft "*for approval*" to the player, which was not signed eventually.
40. According to the Chamber's jurisprudence that either a signed contract or compelling evidence for a contractual relationship must be established and since the burden of proof lies with the club which alleges the existence of such contractual relationship, the members of the Chamber rejected the claim, mainly since the club itself confirmed that the actual contract should have been signed on 23 August 2023 when it was sent to the player for "*approval*".


d. Costs

41. 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.
42. 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.
43. 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, 1. FC Magdeburg, is rejected.
2. 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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