

Decision of the Dispute Resolution Chamber

passed on 4 July 2024

regarding an employment-related dispute concerning
the player Leonardo Rodrigues Lima

COMPOSITION:

Frans DE WEGER (The Netherlands), Chairperson
Oleg ZADUBROVSKIY (Russia), member
Stefano SARTORI (Italy), member

CLAIMANT:

Leonardo Rodrigues Lima, Brazil
Represented by Bichara e Motta Advogados

RESPONDENT:

FC PAOK Thessaloniki, Greece

I. Facts of the case

1. On 4 July 2018, the Brazilian player Leonardo Rodrigues Lima (hereinafter, the *Claimant* or the *Player*) and the Greek club FC PAOK Thessaloniki (hereinafter, the *Respondent* or the *Club*) concluded an employment contract (hereinafter, the *Contract*) valid as from 4 July 2018 until 30 June 2023.
2. In accordance with Clause 4.4 of the Contract, the Club undertook to pay to the Player (hereinafter, jointly referred to as the *Parties*) a total remuneration of EUR 2,700,000 net in sixty monthly instalments, payable on the last day of each month as follows:
 - From July 2018 to June 2019: EUR 25,000 net per month; and
 - From July 2019 to June 2023: EUR 50,000 net per month.
3. Between June 2019 and July 2022, the Parties concluded a total of nine amendments to the Contract.
4. On 23 March 2021, the Parties concluded the eighth amendment to the Contract, by way of which they agreed on the following:

“The Parties agree to amend the Player’s Contract in terms of total amount to be paid to the Player according to article 4.4 of the Player’s Contract from 2.391.250 Euros net to 2.241.250 Euros net, and the amendment therefore of instalments 40th – 57th (as had been amended by the contract amendment of 31.04.2020).

Following the above, article 4.4 of the Player’s Contract is amended as follows:

4.4. The Player shall receive the total amount of Two Million Two Hundred Forty One Thousand Two Hundred Fifty Euros (2.241.250,00 €) net in fifty seven (57) instalments as follows:

(...)

45th instalment amount 42,000 Euro net payable on 30.06.2022.

46th instalment amount 41,600 Euro net payable on 31.07.2022.

47th instalment amount 41,600 Euro net payable on 31.08.2022.

48th instalment amount 41,600 Euro net payable on 30.09.2022.

(...)”.

5. On 7 May 2022, the Club sent a letter to the Player where it informed him that:

“Upon your oral request we would like to inform you that you are granted with a permission to be absent for personal reasons from the team’s obligations for the period from today until 10.05.2022, in order to travel to Brazil.

On 11.05.2022 you should be in Thessaloniki and participate in the team’s obligations”.

6. By the end of May 2022, and following the conclusion of the 2021/2022 season, the Player flew to Brazil for his vacation.
7. On 21 June 2022, the Club agreed to extend the Player's vacation until 24 June 2022 as per his petition, requesting the Player to be in Thessaloniki by 25 June 2022.
8. On 25 June 2022, the Club put the Player in default informing that:

"You were granted with a permission to be absent from the team's obligations for the period from 21.06.2022 until 24.06.2022, but to our great surprise, you did not present today for the team's training.

Your above behaviour constitutes breach of the terms of your player's contract.

Reserving all our legal rights, we request that you immediately return to join the team's obligations on Sunday 26.06.2022".

9. At the beginning of July 2022, the Club and Mr Tiago Ribero, the Player's agent, had the following WhatsApp conversation:

[Club]: *He was unjustifiably absent, you know that.*

[Mr Ribeiro]: *But that only entitles you to disciplinary action. But that's not the way we want to go. He's just getting more and more impatient.*

[Club]: *The club gave him 1 week and he hasn't shown up for two months.*

10. On 11 July 2022, the Parties concluded the ninth and last amendment to the Contract, in accordance with which they agreed on the following:

"Instalment 45th of article 4.4 (amounted to 42.000,00 Euros, payable on 30.06.2022) is cancelled, and a new instalment 45th is entered as follows:

45th instalment amount 42,000 Euro net payable on 29.07.2022".

11. Between 18 and 25 July 2022, the Player sent the following WhatsApp messages to Mr José Boto, Club's Director:

[18.06.2022 Player]: *Jose Boto good afternoon, how are you? Hope you are well and your family too. I come through this text to ask you to help me to resolve my situation. I understand that you do not want me there to participate in this season, but I need to follow my way, earn my money because many people depend on me. I know that you have a great relationship with the owners and I assure you that I will do my best so that in the near future I can be traded to some market where Paok can profit something with me! I ask you once again to believe in me and help me!*

[21.07.2022 Mr Boto]: *I'll help you calm down.*

[25.07.2022 Player]: *Good morning Boto, how are you? Sorry for the inconvenience again, but I'm getting anxious with my situation because the only one harmed is me, the clubs are closing their squads and I'm at home, training with a personal trainer! As I have a relationship of trust with you, I would like to know what is going on with my situation... because more than 60 days have passed and nothing has been resolved, I want to resume playing as soon as possible. Me and my family are sad at home not knowing what to do, I really hope for your help to be able to be released and move ahead with my dream.*

12. On 15 August 2022, the Emirati club Baniyas Football Sports Club sent an offer to the Club for the transfer of the Player in exchange of USD 1,000,000 net.

13. On 19 August 2022, the Player and Ms Maria Goncharova had the following WhatsApp conversation:

[Player]: *Hi Maria, just checking with you the situation. I was ready to go to Dubai, but apparently the deal hasn't been done. Can you please update me?*

[Ms Goncharova]: *Hello Leo! How are you! I sent info to boss. That there is possible deal and it's urgent. But he did not confirm. I guess he expects something else soon.*

[Player]: *I'm fine.. Thanks. Where? I need to know and solve it fast I can't take it anymore just training with personal! I want to solve my situation soon to play.*

[Ms Goncharova]: *I don't know. I hope we solve it really soon.*

14. On 9 September 2022, the Player texted again Ms Goncharova:

[Player]: *Hi Maria! I hope you are good. What happened with my situation???*

[Ms Goncharova]: *Hi Leo how are you? We had Russia very interested but it did not went through. They kept promise till last day... Unfortunately...*

[Player]: *I can't take it anymore without training and playing! And I'm already 3 months without receiving too! We have to make a healthy decision for both parties.*

[Ms Goncharova]: *Yes I know. We all are discussing it and I will provide you a decision. Approved by owner. Shortly.*

[Player]: *I can't stand being like this anymore, I'm just being harmed without playing and without training! I just want to play my football and be happy at PAOK or another club.*

[Ms Goncharova]: *Yes Leo I do understand really. I'll get back.*

15. On 26 September 2022, the Parties concluded the so-called "*Private agreement for the termination of a professional player's contract*" (hereinafter, the *Termination Agreement*).

16. According to the Termination Agreement,

"1. The Player is connected with PAOK FC by the Professional Football Player's Contract dated 04.07.2018, as it was amended by the agreements for the amendment of a professional player's contract dated 28.06.2019, 03.08.2019, 30.09.2019, 31.12.2019, 31.05.2020, 15.12.2020, 23.03.2020, 31.03.2020 and 11.07.2022 (hereinafter, all referred to as the Contract), with duration from 06.07.2018 until 30.06.2023, under its specific terms and conditions.

2. Already both parties agree by the present document to terminate mutually as from today 26.09.2022 and thereafter the aforesaid Contract, under the following terms and conditions:

3. PAOK FC declares that it has not any demand against the Player arising from the Contract and undertakes the obligation to pay to the Player the proportion of salary of September 2022 as well as the proportion of his salary bonuses until his leaving from PAOK FC and its payroll according to article 4.1 of the Contract, which will take place today 26.09.2022.

4. The Player declares that a) he resigns from claiming the instalments 45th – 47th of article 4.4 of the Contract which were payable on 29.07.2022 (as this instalment was added by the amendment of 11.07.2022), on 31.07.2022 and on 31.08.2022, amounted to 42,000.00 Euros net, 41.600,00 Euros net and 41.600,00 Euros net respectively, as well as the proportion of the instalment 48th (payable on 30.09.2022), and that b) after the payment of the above referred-in article 3-amounts, he has no demand or claim against PAOK FC, past, present or future, arising from the Contract, as well as from any other reason whatsoever".

17. On 10 January 2023, the Player and the Brazilian club Sao Bernardo FC-SP concluded an employment contract.

18. On 12 July 2023, the Player sent a communication to the Club where he stated, *inter alia*, the following:

"Having examined the above-mentioned termination, we hereby inform you that the waiver of the foregoing salaries (see clause 4 of the termination agreement) is absolutely null and void in accordance with article 341 of the Swiss Code of Obligations (SCO), as, while terminating an employment contract, a player cannot waive entitlements deriving from work already performed.

In this regard, we kindly request PAOK FC to proceed with the payment of the amount of EUR 161,600 (one hundred sixty-one thousand and six hundred Euros), corresponding to the 45th to the 48th instalment of the Player's employment contract, in the following bank account (...)"

19. The Player granted the Club with a 10-day deadline to comply with its financial obligations.

20. On 21 July 2023, the Club replied to the Player denying his allegations, and informing that it was him who rejected to travel back to Thessaloniki. The Club also stated that the Player had not waived any salaries for work already performed, as he ceased rendering his services as of May 2022.
21. On 5 January 2024, the Player sent a new communication to the Club where it stated the following:

“Even though it is true that the Player requested – and, as admitted in your letter, was duly authorised by PAOK FC – to go to Brazil in May 2022 “for personal reasons”, it shall be stressed that the majority of his stay in Brazil during May and June 2023 was actually due to the “paid leave absence” stipulated in Clause 4.12 of his employment contract. In other words, the Player stayed in Brazil until 21 June 2022 (a date which was later extended until 24 June 2022) because he had the right to so as his vacation period.

After 24 June 2022, the reason for the Player not to return to Greece was because PAOK FC itself informed that it did not count on him for the 2022/2023 season and that it would start looking for transfer opportunities, in order to release the Player definitively.

In the months that followed, the Player was indeed in Brazil, but remained working out with a personal trainer, in order to keep fit, and at all times available to return to Greece, should PAOK FC require him to”.
22. The Player granted the Club with a deadline until 12 January 2024 to pay the amount of EUR 161,600.
23. On 12 January 2024, the Club replied insisting on his position.

II. Proceedings before FIFA

24. On 14 March 2024, the Player filed the claim at hand before FIFA. A brief summary of the position of the Parties is detailed in continuation.
 - a. **Position of the Player**
25. According to the Player, after his return from the loan period, he resumed playing for the Club until the end of the 2021/2022 season. In this regard, he flew to Brazil by the end of May 2022 following the conclusion of the 2021/2022 season in Greece, for his vacation period. The Player argued that the Club agreed to extend this period until 24 June 2022 and that, due to personal reasons, he was unable to return to Greece by this date. The Player alleged that, despite the foregoing, the Club never opened disciplinary proceedings nor applied any sanction against him.
26. The Player argued that the Club instructed him not to return to Greece, and that he was informed that the Respondent no longer counted on his services and would therefore look for proposals to transfer him. Allegedly, the Club ordered him to stay in Brazil training with a physical trainer while it would look for opportunities to transfer him elsewhere. According to the Player, he complied with the Club’s instructions and started training with a physical trainer.

27. The Player alleged that during the period between May and September 2022 he complied in full with his contractual duties and that, on its part, *"the Club did not pay him any salaries, totalling almost four months of outstanding payments, as declared in Clause 4 of the Termination Agreement, and probably did not register him for competitions in Greece"*.
28. The Player further argued that the Respondent received several offers for his transfer, but none of them was ever accepted by it. In view of this, the Player asked for the assistance of the Club's Directors, Mr Boto and Ms Goncharova, in order to resolve his situation.
29. The Player alleged that it was this context that, being desperate to resolve the situation, he had no choice but to accept entering into the Termination Agreement.
30. According to the Player, when the Termination Agreement was signed, he had been training apart from the Club's first team for several months and without any opportunity to play official or friendly matches. Also, the Club had a debt towards him in the amount of EUR 161,600, corresponding to the 45th to the 48th instalments.
31. The Player alleged that, considering the WhatsApp conversations with the Respondent's Directors, he had just cause to terminate the Contract, in accordance with arts. 14 par. 1 and 2 and/or 14bis of the Regulations.
32. The Player did not have the necessary knowledge to proceed accordingly, and was therefore induced by the Respondent to sign the Termination Agreement.
33. According to the Player, the Termination Agreement constitutes a waiver that shall be considered null and void pursuant to arts. 341 and 339 of the Swiss Code of Obligations. The Player also referred to the jurisprudence of the Chamber in accordance with which waivers for work already performed are not valid.
34. The Player argued that in accordance with the jurisprudence of both FIFA and the CAS, *"even if the Player wanted to, under Swiss law he could not have validly waived the amounts that were due to him at the time of the mutual termination of the Employment Contract"*. Accordingly, the Player alleged that *"The amount of EUR 161,600.00 is, therefore, owed by the Club to the Player as outstanding remuneration"*.
35. The Player alleged he is entitled to EUR 161,600 plus interest, corresponding to the following instalments as per the Contract:
 - 45th instalment (June 2022): EUR 41,600
 - 46th instalment (July 2022): EUR 41,600
 - 47th instalment (August 2022): EUR 42,000
 - 48th instalment (September 2022): EUR 161,000, calculated *pro rata*.

36. The Player requested the following relief:

- a) *Admit the present claim, implementing a fast-track procedure for the resolution of the matter, pursuant to art. 12bis of the FIFA RSTP;*
- b) *Order the Respondent to pay the Claimant the following amounts:*
 - (i) *EUR 41,600 (forty-one thousand and six hundred Euros), plus 5% (five per cent) default interest as of 30 July 2022 until the date of effective payment;*
 - (ii) *EUR 41,600 (forty-one thousand and six hundred Euros), plus 5% (five per cent) default interest as of 1 August 2022 until the date of effective payment;*
 - (iii) *EUR 42,000 (forty-two thousand Euros), plus 5% (five per cent) default interest as of 1 September 2022 until the date of effective payment;*
 - (iv) *EUR 36,400 (thirty-six thousand and four hundred Euros), plus 5% (five per cent) default interest as of 27 September 2022 until the date of effective payment;*
- c) *Impose sanctions against the Respondent in accordance with art. 12bis of the FIFA RSTP; and*
- d) *Order the Respondent to bear all administrative and procedural costs related to this procedure (if any).*

b. Position of the Club

37. In its reply, the Club argued that with the different amendments to the Contract, the salary of the Player was scheduled as follows for the months between June and September 2022:
- 45th instalment: EUR 42,000 on 29 July 2022;
 - 46th instalment: EUR 41,600 on 31 July 2022;
 - 47th instalment: EUR 41,600 on 41 August 2022; and
 - 48th instalment: EUR 41,600 on 30 September 2022.
38. The Club argued that it played its last official match of the 2021/2022 season on 21 May 2022, and after this match all players went on annual leave, and were informed that they were to return by 20 June 2022.
39. The Respondent argued that it agreed to extend the annual leave of the Player until 24 June 2022, but that the Player never came back. According to the Club, the Player gave no reason in his claim as to why he was unable to comply with the request.
40. The Club argued that in July 2022, the Player's agent, Mr Ribeiro and the Club's officials had conversations about the future of the Player. According to the Respondent, it was evident that the Player had no intention to return to Greece. The Respondent argued that it did not impose any

disciplinary sanction on the Player because he had expressed his desire to find a new club, and it was willing to assist with finding a solution.

41. The Club denied having ordered the Player to stay in Brazil, or telling him not to return to Greece. In this respect, nothing prevented the Player from returning to Greece, as he was contractually obliged, and that it was the Player who was in breach of the Contract by not returning without any valid reason.
42. The Respondent argued that the Player provided with a Termination Agreement that was not signed by all the Parties. In this respect, it argued that the conclusion of the Termination Agreement was followed by an exchange of drafts with the Player's legal representatives, and was even concluded in Portuguese, the Player's native language, and before a public notary.
43. According to the Respondent, it was not until 12 July 2023, this is, ten months after the conclusion of the Termination Agreement, that the Player for the very first time started to argue that Clause 4 of the Termination Agreement constituted an illegal waiver of salaries for work already performed. Additionally, that between the conclusion of the Termination Agreement and the filing of the claim before FIFA, 17 months have passed. In this respect, for the Club it is unclear why the Player waited so long, given no new or relevant facts have emerged in this time.
44. As to the substance of the matter, the Club denied that Swiss law should apply in the case at hand.
45. The Respondent argued that the Player should be *estopped* from challenging the Termination Agreement's validity, as he freely and willingly signed it. In this respect, it alleged that the Player is in violation of the fundamental principle of *venire contra factum proprium* and a manifest abuse of right, given that he received ample legal advice before and at the moment of signing the Termination Agreement.
46. The Club alleged it is false that the Player was forced to sign the Termination Agreement, nor that he did not have the necessary knowledge. The Respondent referred to different decisions of FIFA and CAS awards which took into consideration the fact that the Parties were dully advised by lawyers, and also stressed the fact that the Player never raised any concerns as to the validity of the Termination Agreement.
47. According to the Club, *"the Player's behaviour clearly shows that he considered the Termination Agreement to be fully valid and binding thereby creating on PAOK a legitimate expectation that that was the case. Thus, he should be estopped from changing his course of action to the detriment of PAOK. The Claim must therefore be considered an abuse of right and be fully rejected"*.
48. Subsidiarily, the Respondent argued that the Termination Agreement does not constitute a waiver of salaries for work already performed. The Club insisted that the Player did not return to Thessaloniki for alleged personal reasons, and consequently he stopped rendering his services since May 2022. According to the Club, *"Indeed, this matter has absolutely nothing to do with a waiver of*

salaries for work already performed. Rather, it is a case where the Parties recognised that the Player was not entitled to part of his remuneration because he did not render any service to PAOK”.

49. The Respondent also denied that the Player had rendered any services from Brazil only because he trained with a personal trainer. In this regard, if he truly wanted to render his services, he would have fulfilled his obligation to return to Greece, as expressly requested.
50. Subsidiarily, the Respondent argued that, in case the Chamber considers the Termination Agreement as an invalid waiver, it was anyway reciprocated by him being released from a contract which he did not want to comply with.
51. The Respondent alleged it was it who had just cause to terminate the Contract when the Termination Agreement was concluded, due to the Player’s total work abandonment since May 2022.
52. The Club requested the following relief:
 - I. *The Claim filed by Mr Leonardo Rodrigues Lima against PAOK F.C. is rejected.*
 - II. *The costs of the proceedings, if any, shall be entirely born by Mr Leonardo Rodrigues Lima.*
 - III. *Mr Leonardo Rodrigues Lima shall be ordered to pay to PAOK F.C. a total amount of CHF 5,000 as a contribution towards its legal expenses incurred in connection with these proceedings.*

c. Replica of the Player

53. In his replica, the Claimant argued that the Club had explicitly acknowledged the truthfulness of all the evidence provided with the Player’s claim and, to a large extent, the description of the facts. Also, that he was not forced to sign the Termination Agreement.
54. The Player argued that it is irrelevant that he was not in Thessaloniki in the undisputed dates, as the Club never opened disciplinary proceedings or sanctioned him.
55. According to the Player, the crucial point is that, soon after warning him on 25 June 2022, the Club ordered him to stay in Brazil training with a physical trainer while it would look for transfer opportunities. The Player alleged that the WhatsApp conversation between him and Mr Boto demonstrates that the Respondent was no longer interested in his services.
56. It is in this context of *“strained circumstances – which the Club conveniently explored by asking him to waive his then outstanding salaries”* that the Termination Agreement was signed.
57. The Player argued that the Respondent did not proof, *inter alia*, the following allegations: a) that he had no intention to return to Greece and remained in Brazil on his own free will; b) that the Club did not order the Player to stay in Brazil; c) that the Player expressed his desire to find a new club; and

- d) that the Player did not render any services between May 2022 and September 2022 and, as such, had validly waived his salaries.
58. The Player did not deny that the signing of a written agreement should in principle bind its signatories. However, he argued that *"the present case does not involve an actual change in the Player's performance of the Termination Agreement, but the legitimate exercise of a right, in accordance with a mandatory provision of Swiss law"*.
59. The Player referred to the CAS jurisprudence cited by the Respondent and argued that, according to such jurisprudence, *"it is fundamental to be able to rely on the principle that a signature on a written contract binds the signatory to the terms of the contract (...). The above general rule will naturally not apply if the signature was obtained by mistake or misrepresentation, fraud, duress, undue influence or if the contract is vitiated by illegality"*.
60. The Player also argued the Club cannot rely on the legal principle of *venire contra factum proprium* and/or the abuse of rights in the present case, since its obligations derive from a mandatory rule, namely, the prohibition to waive salary for work already performed.
61. According to the Player, *"even though the principle of pacta sunt servanda may not be easily disregarded, in the present case the Player has neither "induced legitimate expectations" on, nor changed his "course of action to the detriment of" the Club. No estoppel may therefore be invoked"*.
62. The Player further argued that the fact that he took a few months to raise the invalidity of the waiver may not affect his entitlement to do so. He only found out about the invalidity of the waiver after retaining the services of the legal representatives acting on his behalf in this claim for an unrelated matter. Also, that the statute of limitations provided in the Regulations is two years since the event giving rise to the dispute.
63. As to the fact that the Player allegedly stopped rendering his services since May 2022, the Player argued that from 21 May 2022 until 24 June 2022 he was entitled to go on annual leave, *"hence, this period of time cannot be held as a period of non-performance of services, as the Club purports"*.
64. The Player argued that the Club recognized his entitlement to the monthly salary for June 2022 with the conclusion of the amendment on 11 July 2022, in accordance with which the Parties agreed that this instalment would be paid on 29 July 2022 instead of the initial payment date on 30 June 2022.
65. According to the Player, after 25 June 2022 the Respondent never complained about the Player's alleged absence, never asked him to return to Greece and never opened disciplinary proceedings, which would demonstrate that the Club instructed him to stay in Brazil.
66. The Player alleged that it is not true that he was not interested in continuing with the contractual relationship, given that he complied multiple times about his situation *"but, still, wasn't allowed to move to another club (as the Respondent refused all offers received), wasn't reintegrated to the team and wasn't paid his salaries"*. In this respect, the Player argued that he complied with all the instructions

and orders given by the Respondent between 25 June and 26 September 2022, and that it failed to demonstrate that it actively tried to reach him since 25 June 2022.

67. The Player also alleged that the Club could not validly rely on the principle *exceptio non adimpleti contractus*, as it only raised it in the current proceedings, "without demonstrating that they relied on it back in 2022 to withhold payment of the Player's salary for work already completed".
68. Finally, the Player denied that the Respondent had just cause to terminate the Contract.
69. The Player requested the Chamber to dismiss the Club's arguments and uphold the request for relief specified in his claim.

d. Duplica of the Club

70. In its duplica, the Club insisted that Swiss law should not be applicable at the case at hand, but rather the FIFA Regulations and, given the Player's and the Club's legitimate expectations, the mandatory provisions of Greek labour law.
71. In this respect, the Respondent argued that waivers are valid under Greek law, as confirmed by CAS in the award CAS 2011/A/2463.
72. The Respondent insisted that the Player should be *estopped* according to the legal principle *venire contra factum proprium*, and denied not having an interest worthy of protection, namely, being obliged to pay to the Player EUR 161,500 in spite of him having freely agreed that he had nothing to claim from the Club in relation to the Contract.
73. The Respondent also denied the context provided by the Player when negotiating and concluding the Termination Agreement.
74. The Club insisted on the fact that the Player was represented and assisted by a world-renowned sports lawyer and his agent, who reviewed the Termination Agreement without ever raising any issues as to the validity of its Clause 4. "However, 10 months later, the Player suddenly started challenging the validity of that clause", which constitutes a change of conduct.
75. According to the Respondent, "it follows therefore that, regardless of whether Clause 4 of the Termination Agreement is a waiver for work already performed and/or Swiss law applies to this matter, *quad non*, the Player shall be estopped from challenging the validity of that Clause on the basis of the VCFP Doctrine".
76. The Club rejected that it had the burden to prove that the Player had no intention to return to Greece, that it did order the Player to stay in Brazil, or that the Player did not render any services. In this respect, the Club argued it is for the Player to prove that he had a valid reason to stay in Brazil because it had "ordered" him to do so, and also that he "did" render any service to the Club between May and September 2022 in spite of not being physically at the Club.

77. According to the Respondent, “[T]he Player keeps relying on the (limited) messages exchanged with PAOK officials. As already explained in the Answer, the very first time that the Player contacted PAOK’s officials was at the end of July / beginning of August, namely when the Player had been absent without any authorisation for almost two months and at a time when PAOK had already concluded its preparation for the 2022/2023 season and had, in fact, started playing its first matches in European competitions. The reason for this is simple: the Player was initially perfectly happy with not returning to Greece because he believed he would find a new club and it was only once he realised his options were limited that he started contacting PAOK’s officials. This obviously does not mean that he wanted to return to Greece. Otherwise, he would have done so”.
78. The Club insisted on its subsidiarily arguments, as well as on its request for relief.

III. Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

79. First of all, the Dispute Resolution Chamber (hereinafter, also referred to as the *Chamber*) 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 14 March 2024 and submitted for decision on 4 July 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.
80. Subsequently, the Chamber referred to art. 2 par. 1 and art. 24 par. 1 lit. a) 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 Regulations on the Status and Transfer of Players (June 2024 edition), it is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Brazilian player and a Greek club.
81. 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 (June 2024 edition), and considering that the present claim was lodged on 14 March 2024, the February 2024 edition of said regulations (hereinafter, *the Regulations*) is applicable to the matter at hand as to the substance.
82. For the sake of completeness, the Chamber wished to recall to the Parties that when deciding a dispute before the Football Tribunal, FIFA regulations prevail over any national law the parties might have chosen. In this regard, the Chamber emphasised that the main objective of the FIFA regulations is to create a standard set of rules to which all the actors within the football community are subject to and can rely on (*cf.* art. 3 of the Procedural Rules).

83. This objective would not be achievable if the Chamber would have to apply the national law of a specific party on every dispute brought to it. By the same token, the Chamber wished to point out that it is in the interest of football that the cases are based on uniform criteria rather than on provisions of national law that may vary considerable from country to country. Therefore, the Chamber deemed that it is not appropriate to apply the principles of a particular national law, but rather the Regulations, general principles of law and, where existing, the Chamber's well-established jurisprudence.

b. Burden of proof

84. 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

85. 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

86. The above having been established, the Chamber moved to the substance of the present case, and took note of the fact that the Parties strongly dispute the Player's entitlement to the remuneration for the period between June to September 2022 after the conclusion of the Termination Agreement.

87. For the sake of clarity, the Chamber wished to recall that it was not disputed between the Parties that, by the end of May 2022, the Player travelled to Brazil for his annual leave, and did not come back to Thessaloniki in spite of the default notice sent by the Club on 25 June 2022.

88. Additionally, it was not disputed either that the Parties concluded several amendments to the initial Contract. In this respect, the two amendments that are relevant to the present dispute are the ones concluded on 23 March 2022 and the one concluded on 11 July 2022, which were the ones that amended the payment schedule of some of the salaries claimed.

i) March 2022 amendment

89. According to this amendment, the Parties agreed upon the following:

4.4. The Player shall receive the total amount of Two Million Two Hundred Forty One Thousand Two Hundred Fifty Euros (2.241.250,00 €) net in fifty seven (57) instalments as follows:

(...)

45th instalment amount 42,000 Euro net payable on 30.06.2022.

46th instalment amount 41,600 Euro net payable on 31.07.2022.

47th instalment amount 41,600 Euro net payable on 31.08.2022.

48th instalment amount 41,600 Euro net payable on 30.09.2022.

ii) July 2022 amendment

90. On the other hand, the amendment of July 2022 provided that:

Instalment 45th of article 4.4 (amounted to 42.000,00 Euros, payable on 30.06.2022) is cancelled, and a new instalment 45th is entered as follows:

45th instalment amount 42,000 Euro net payable on 29.07.2022.

91. Lastly, the Chamber took note of the fact that, on 26 September 2022 (i.e., four months after the Player flew to Brazil), the Parties concluded the Termination Agreement, in accordance with which:

1. *The Player is connected with PAOK FC by the Professional Football Player's Contract dated 04.07.2018, as it was amended by the agreements for the amendment of a professional player's contract dated 28.06.2019, 03.08.2019, 30.09.2019, 31.12.2019, 31.05.2020, 15.12.2020, 23.03.2020, 31.03.2020 and 11.07.2022 (hereinafter, all referred to as the Contract), with duration from 06.07.2018 until 30.06.2023, under its specific terms and conditions.*
2. *Already both parties agree by the present document to terminate mutually as from today 26.09.2022 and thereafter the aforesaid Contract, under the following terms and conditions:*
3. *PAOK FC declares that it has not any demand against the Player arising from the Contract and undertakes the obligation to pay to the Player the proportion of salary of September 2022 as well as the proportion of his salary bonuses until his leaving from PAOK FC and its payroll according to article 4.1 of the Contract, which will take place today 26.09.2022.*
4. *The Player declares that a) he resigns from claiming the instalments 45th – 47th of article 4.4 of the Contract which were payable on 29.07.2022 (as this instalment was added by the amendment of 11.07.2022), on 31.07.2022 and on 31.08.2022, amounted to 42,000.00 Euros net, 41.600,00 Euros net and 41.600,00 Euros net respectively, as well as the proportion of the instalment 48th (payable on 30.09.2022), and that b) after the payment of the above referred-in article 3-amounts, he has no demand or claim against PAOK FC, past, present or future, arising from the Contract, as well as from any other reason whatsoever.*

92. Based on the previous sequence of events, the Chamber acknowledged that the crux of the dispute lied in the assessment as to whether the Termination Agreement constituted a waiver of salaries for work already performed, as alleged by the Player, or it simply was a recognition that the Player was not entitled to the monthly instalments in dispute because he did not render any services to the Club during the relevant months, as argued by the Respondent.
93. In this context, the Chamber recalled that the first conclusion that follows from the jurisprudence of the Court of Arbitration for Sport (CAS), to which it adhered, is that waiving of salary for work already performed cannot be validly made (*cf.* CAS 2020/A/6727 and CAS 2016/A/4582).
94. *In casu*, the Chamber recalled that, according to the Player, the Club ordered him to stay in Brazil, and he dully performed his obligations and instructions given by training with a professional trainer. Consequently, and in spite of the conclusion of the Termination Agreement, the Player claimed being entitled to his monthly remuneration for the months of June to September 2022, period during which the Contract was allegedly performed.
95. The Chamber equally recalled that on its part, the Club argued that it never ordered the Player to stay in Brazil, that in fact it put him in default and requested him to travel back to Thessaloniki, and that it was the Player who refused to comply with its obligations for alleged and unjustified personal reasons. According to the Club, the Termination Agreement is not a waiver for work already performed, but rather an agreement freely entered into where the Parties recognised that the Player was not entitled to part of his remuneration because he did not render any services.
96. The Chamber further referred to art. 13 par. 5 of the Procedural Rules, in accordance with which "*A party that asserts a fact has the burden of proving it*". In view of the foregoing, and considering the claim of the Player, the Chamber stressed that it was for the Player to prove that he was ordered to stay in Brazil after the default notice from the Club dated 25 June 2022.
97. In this respect, the Chamber initially noted that, as argued by the Club, the Player (as well as the rest of the team) started their annual leave by the end of May 2022. The Chamber then noted that, as evidenced by the Player, on 21 June 2022, the Club allowed the Player to extend his vacation until 24 June 2022, requesting him to be in Thessaloniki by 25 June 2022.
98. The Chamber further observed that, as evidenced by the Parties, the Club put the Player in default on 25 June 2022, requesting the Player to immediately return by 26 June 2022, which he never did.
99. The Chamber then recalled the WhatsApp conversation between the Club and the Player's agent, Mr Ribeiro, where the latter acknowledged that the Player was unjustifiably absent, although he informed the Club that this would only entail it to start disciplinary actions.
100. The Chamber further acknowledged that only on 18 July 2022 the Player texted one of the Club's Directors, conversation that resumed on 25 July 2022 and where the Player stressed that "*I want to resume playing as soon as possible. Me and my family are sad at home not knowing what to do. I really hope for your help to be able to be released and move ahead with my dream*".

101. More than two weeks later, on 15 August 2022, the Player sent a WhatsApp to another Club's Director inquiring about the situation and urging to find a solution. This conversation was followed by another WhatsApp message on 9 September 2022, where the Player stressed that *"I can't take it anymore without training and playing! And I'm already 3 months without receiving too! We have to make a healthy decision for both parties. I can't stand being like this anymore, I'm just being harmed without playing and without training! I just want to play my football and be happy at PAOK or another club"*.
102. In the Chamber's view, even though it was quite strange that the Club never requested the Player to travel back after its default notice of 25 June 2022 (or at least it was not proven), neither of the WhatsApp conversations provided by the Player are enough to conclude that he was ordered to stay in Brazil, as alleged by himself. In other words, the Chamber considered that after the deadline granted by the Club to return to Thessaloniki expired (i.e., on 24 June 2022), he was not allowed to remain in Brazil. On top of that, the Chamber wished to emphasise that the Player did not provide any evidence as to the alleged personal reasons that made him stay in Brazil.
103. Consequently, and on account of the above, the Chamber considered that the Player did not comply with his burden to demonstrate that he was ordered to stay in Brazil as from 24 June 2022 or any close date. In other words, the Chamber stressed that the Player had no permission and/or authorisation to stay in Brazil as from 24 June 2022.
104. The above having been established, the Chamber also concluded that the Player did not demonstrate having rendered any services as from 25 June 2022 while he was in Brazil. In this respect, the fact that he hired a personal trainer was not enough for the Chamber to conclude otherwise, especially considering that his obligation was to return to Greece and reassume his duties with the rest of the team, as argued by the Club.
105. On account of all the foregoing, and after having carefully analysed the particularities of the case at hand, the Chamber concluded that the Termination Agreement could not be considered as a waiver of salaries for work already performed, at least for the period between 25 June 2022 and the conclusion of the Termination Agreement, as the Player did not succeed in proving that he was following the Club's instructions and/or that he rendered any services in Brazil.
106. Based on the foregoing considerations, the Chamber decided that the Player is not entitled to the claimed amounts corresponding to the months of July, August and September 2022, as no services were rendered during this period.
107. Notwithstanding the above-mentioned conclusion, the Chamber considered that the Player should indeed be entitled to the salary for the month of June 2022, calculated on a *pro rata* basis, month during which it has been evidenced not only that the Player was allowed to stay in Brazil, but also that he was on his annual leave, which the Club agreed to extend until 24 June 2022.
108. The Chamber wished to clarify that the above conclusion is also substantiated by the fact that, on 11 July 2022 (i.e., during the period where the Player was not allowed to stay in Brazil), the Parties

concluded an amendment by way of which the salary for the month of June 2022 (initially scheduled for 30 June 2022) would be paid on 29 July 2022. In other words, the Respondent confirmed the Player's entitlement to this monthly instalment regardless of the conclusion of the Termination Agreement.

109. Consequently, based on the well-established jurisprudence of both the Chamber and the CAS in accordance with which waivers of salary for work already performed are not valid, and also based in the legal principle of *pacta sunt servanda*, the Chamber concluded that the Player should be entitled to EUR 33,600 as outstanding remuneration for the monthly instalment of June 2022, calculated on a *pro rata* basis as follows:

$$(EUR 42,000 \times 24) / 30$$

110. In addition, taking into consideration the Claimant's 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 remuneration as from 30 July 2022 (i.e., day after the due date of the June 2022 salary as per the amendment of July 2022) until the date of effective payment.

ii. Compliance with monetary decisions

111. 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.
112. In this regard, the Chamber 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.
113. Therefore, bearing in mind the above, the Chamber 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 creditor, 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.
114. 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.
115. The Chamber 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

116. 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.
117. Furthermore, 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.
118. Lastly, the Chamber 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, Leonardo Rodrigues Lima, is partially accepted.
2. The Respondent, FC PAOK Thessaloniki, must pay to the Claimant the following amount(s):

EUR 33,600 as outstanding remuneration plus 5% interest *p.a.* as from 30 July 2022 until the date of effective payment.
3. Any further claims of the Claimant 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. 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 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).

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