

Decision of the Dispute Resolution Chamber (DRC) judge

passed on 13 October 2015,

by **Theo van Seggelen (Netherlands)**, DRC judge,

on the claim presented by the player,

Player A, Country B,

as Claimant

against the club,

Club C, Country D

as Respondent

regarding an employment-related dispute
between the parties in connection with overdue payables

I. Facts of the case

1. On 1 July 2014, the Player of Country B, Player A (hereinafter: *Claimant*), and the Club of Country D, Club C (hereinafter: *Respondent*) signed an employment contract valid as from the date of signature until 31 December 2014.
2. In accordance with the employment contract, the Respondent undertook to pay to the Claimant *inter alia* a monthly salary of EUR 1,400 by no later than the 25th of the following month.
3. By correspondence dated 10 July 2015, the Claimant put the Respondent in default of payment of the amount of EUR 4,200 setting a time limit of 10 days in order to remedy the default.
4. On 18 August 2015, the Claimant lodged a claim against the Respondent in front of FIFA asking that the Respondent be ordered to pay to him overdue payables in the amount of EUR 4,200 corresponding to his salary for October, November and December 2014, plus 5% interest *p.a.*, as well as to reimburse the Claimant's legal costs.
5. In reply to the claim, the Respondent acknowledged the amount of EUR 4,200 due to the Claimant. The Respondent further held that considering "*the entry of a new shareholder*" into the club, it needed time to proceed to the payment of the relevant amount.

II. Considerations of the DRC judge

1. First of all, the DRC judge analysed whether he was competent to deal with the matter at hand. In this respect, he took note that the present matter was submitted to FIFA on 18 August 2015. Consequently, the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (edition 2015; hereinafter: *Procedural Rules*) are applicable to the matter at hand (cf. art. 21 of the Procedural Rules).
2. Subsequently, the DRC judge referred to art. 3 par. 2 and par. 3 of the Procedural Rules and confirmed that in accordance with art. 24 par. 1 and par. 2 in conjunction with art. 22 lit. b of the Regulations on the Status and Transfer of Players (edition 2015) he is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Player of Country B and a Club of Country D.
3. Furthermore, the DRC judge analysed which regulations should be applicable as to the substance of the matter. In this respect, he confirmed that in accordance with art. 26 par. 1 and par. 2 of the Regulations on the Status and Transfer of Players (2015), and considering that the present claim was lodged on 18 August 2015, the 2015 edition of said regulations (hereinafter: *Regulations*) is applicable to the matter at hand as to the substance.

4. The competence of the DRC judge and the applicable regulations having been established, the DRC judge entered into the substance of the matter. In this respect, the DRC judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the DRC judge emphasised that in the following considerations he will refer only to the facts, arguments and documentary evidence, which he considered pertinent for the assessment of the matter at hand.
5. Having said this, DRC judge acknowledged that the Claimant and the Respondent signed an employment contract valid as from 1 July 2014 until 31 December 2014, in accordance with which the Claimant was entitled to receive from the Respondent, *inter alia*, a monthly salary of EUR 1,400 payable on the 25th of the following month.
6. The Claimant lodged a claim against the Respondent in front of FIFA, maintaining that the Respondent has overdue payables towards him in the total amount of EUR 4,200 corresponding to his salary for October, November and December 2014.
7. In this context, the DRC judge took particular note of the fact that, on 10 July 2015, the Claimant put the Respondent in default of payment of the aforementioned amount, setting a time limit of 10 days in order to remedy the default.
8. Consequently, the DRC judge concluded that the Claimant had duly proceeded in accordance with art. 12bis par. 3 of the Regulations, which stipulates that the creditor (player or club) must have put the debtor club in default in writing and have granted a deadline of at least ten days for the debtor club to comply with its financial obligation(s).
9. Subsequently, the DRC judge took into account that the Respondent, for its part, acknowledged the amount of EUR 4,200 as overdue payables and explained that the “*entry of a new shareholder*” into the club postponed the payment of the said amount.
10. In this regard, the DRC judge considered that the argument raised by the Respondent cannot be considered a valid reason for the non-payment of the monies claimed by the Claimant. In other words, the reason brought forward by the Respondent in its defence does not exempt the Respondent from its obligation to fulfil its contractual obligations towards the Claimant.
11. Consequently, the DRC judge decided to reject the argumentation put forward by the Respondent in its defence.
12. On account of the aforementioned considerations, the DRC judge established that the Respondent failed to remit the Claimant’s remuneration in the total amount of EUR 4,200 corresponding to his salary for October, November and December 2014.

13. In addition, the DRC judge established that the Respondent had delayed a due payment for more than 30 days without a *prima facie* contractual basis.
14. Consequently, the DRC judge decided that, in accordance with the general legal principle of *pacta sunt servanda*, the Respondent is liable to pay to the Claimant overdue payables in the total amount of EUR 4,200.
15. In addition, taking into account the Claimant's request as well as the constant practice of the Dispute Resolution Chamber, the DRC judge decided that the Respondent must pay to the Claimant interest of 5% *p.a.* on the amount of EUR 4,200 as from 18 August 2015 until the date of effective payment.
16. Furthermore, as regards the claimed reimbursement of legal expenses, the DRC judge referred to art. 18 par. 4 of the Procedural Rules as well as to his long-standing and well-established jurisprudence, in accordance with which no procedural compensation shall be awarded in proceedings in front of the Dispute Resolution Chamber. Consequently, the DRC judge decided to reject the Claimant's request relating to legal expenses.
17. Moreover, the DRC judge decided that any further request filed by the Claimant is rejected.
18. In continuation, taking into account the consideration under number II./13. above, the DRC judge referred to art.12bis par. 2 of the Regulations which stipulates that any club found to have delayed a due payment for more than 30 days without a *prima facie* contractual basis may be sanctioned in accordance with art. 12bis par. 4 of the Regulations.
19. The DRC judge established that by virtue of art. 12bis par. 4 of the Regulations he has competence to impose sanctions on the Respondent. Bearing in mind that the Respondent duly replied to the claim of the Claimant and in the absence of the circumstance of repeated offence, the DRC judge decided to impose a warning on the Respondent in accordance with art. 12bis par. 4 lit. a) of the Regulations.
20. In this connection, the DRC judge wished to highlight that a repeated offence will be considered as an aggravating circumstance and lead to more severe penalty in accordance with art. 12bis par. 6 of the Regulations.

III. Decision of the DRC judge

1. The claim of the Claimant is partially accepted.
2. The Respondent has to pay to the Claimant, within 30 days as from the date of notification of this decision, overdue payables in the amount of EUR 4,200, plus interest at the rate of 5% *p.a.* as from 18 August 2015 until the date of effective payment.

3. In the event that the amount due to the Claimant is not paid by the Respondent within the stated time limit, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.
4. Any further request filed by the Claimant is rejected.
5. The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittance is to be made and to notify the DRC judge of every payment received.
6. A warning is imposed on the Respondent.

Note relating to the motivated decision (legal remedy):

According to article 67 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 21 days of receipt of notification of this decision and shall contain all the elements in accordance with point 2 of the directives issued by the CAS, a copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS (cf. point 4 of the directives).

The full address and contact numbers of the CAS are the following:

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For the DRC judge:

Marco Villiger
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Encl: CAS directives