

# **Decision of the Dispute Resolution Chamber (DRC) judge**

passed in Zurich, Switzerland, on 13 December 2010,

by **Philippe Diallo** (France), DRC judge,

on the claim presented by the player,

**X,**

*as Claimant*

against the club,

**Y,**

*as Respondent*

regarding an employment-related dispute  
between the parties

## **I. Facts of the case**

1. In August 2007, the player, X (hereinafter: the player or Claimant) and the club, Y (hereinafter: the club or Respondent) signed an employment contract (hereinafter: the contract) valid as from 1 August 2007 until 31 May 2008.
2. In accordance with the contract, the player was entitled to receive *inter alia* the net amount of EUR 200,000 payable as follows: EUR 50,000 in advance and ten monthly salaries of EUR 15,000, as from August 2007.
3. On 24 June 2009, the player lodged a claim against the club in front of FIFA maintaining that the club had failed to pay his salaries for April and May 2008 in the total amount of EUR 30,000, in spite of having put the club in default in writing on 13 January 2009.
4. Therefore, the player asks that the club be ordered to pay the total amount of EUR 30,000, plus interest and reimbursement of costs relating to this matter.
5. After having received the player's claim, an alleged legal representative of the club (no power of attorney was presented) firstly replied that the records of the club do not indicate any outstanding debt of the club towards the player and that the club would proceed to analyse its archives and inform FIFA accordingly. No further communication was received by FIFA from this alleged representative.
6. The club was invited once more to present its position on the claim lodged against it by the player, along with a specific power of attorney and any documentation in support of its position. The club then only presented a power of attorney authorising another legal representative to act on its behalf in the matter at stake. FIFA reminded the club of the invitation to also present its position on the claim lodged by the player apart from the power of attorney, to which no response was received from the club.

## **II. Considerations of the DRC judge**

1. First of all, the DRC judge analysed whether he was competent to deal with the case at hand. In this respect, he took note that the present matter was submitted to FIFA on 24 June 2009. Consequently, the 2008 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: the Procedural Rules) is applicable to the matter at hand (cf. art. 21 par. 2 and par. 3 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 2010) he is competent to decide on the present litigation, which concerns an employment-related dispute with an international dimension between a player and a club.

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 (editions 2009 and 2010) and considering that the present claim was lodged on 24 June 2009, the 2008 edition of said Regulations (hereinafter: the Regulations) is applicable to the present matter as to the substance.
4. The competence of the Chamber and the applicable regulations having been established, the DRC judge entered into the substance of the matter. In this respect, the DRC judge acknowledged that the Claimant and the Respondent signed an employment contract in August 2007, a copy of which was presented by the Claimant along with his statement of claim, in accordance with which the player was entitled to receive *inter alia* the monthly remuneration of EUR 15,000 during 10 months as from August 2007.
5. The DRC judge noted that the player claims that the club failed to pay his salaries for April and May 2008 in the total amount of EUR 30,000 in spite of having put the club in default of such payment. Consequently, the Claimant *inter alia* asks to be awarded payment of the amount of EUR 30,000, plus interest.
6. The club, for its part, failed to present its response to the claim of the player, in spite of having been invited to do so. In this regard, the DRC judge highlighted that the correspondence received from an alleged legal representative of the Respondent (cf. point I./5. above) could not be taken into consideration in the light of the fact that no power of attorney had been presented (cf. art. 9 par. 1 lit. b) of the Procedural Rules), in spite of having been requested by FIFA to submit said document.
7. In any way, regardless of the foregoing, the DRC judge referred to art. 12 par. 3 of the Procedural Rules, which stipulates that any party claiming a right on the basis of an alleged fact shall carry the burden of proof, and pointed out that no documentary evidence corroborating the allegations contained in the aforementioned correspondence was presented.
8. Having failed to respond to the claim of the player, so the DRC judge, the Respondent renounced its right to defence and, thus, accepted the allegations of the Claimant.

9. Furthermore, as a consequence of the aforementioned consideration, the DRC judge concurred that in accordance with art. 9 par. 3 of the Procedural Rules, he shall take a decision upon the basis of the documents already on file; in other words, upon the statements and documents presented by the Claimant.
10. As stated above, in accordance with the employment contract presented by the Claimant, the Respondent was obliged to pay to the Claimant the amount of EUR 15,000 on a monthly basis during 10 months as from August 2007.
11. Taking into account the documentation presented by the Claimant in support of his petition to be awarded payment of his salary for April and May 2008 totaling EUR 30,000, the DRC judge concluded that the Claimant had substantiated his claim pertaining to outstanding salaries with sufficient documentary evidence.
12. On account of the aforementioned considerations, the DRC judge established that the Respondent, the club, Y, failed to remit the Claimant's monthly salaries for April and May 2008 in the total amount of EUR 30,000.
13. Consequently, the DRC judge decided that the Respondent, in accordance with the general legal principle of *pacta sunt servanda*, is liable to pay to the Claimant, X, outstanding salaries in the total amount of EUR 30,000.
14. 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 each of the outstanding monthly salaries as of the day following the day on which such salaries had fallen due.
15. Finally, the DRC judge decided that the Claimant's claim for legal costs is rejected in accordance with art. 18 par. 4 of the Procedural Rules and the respective longstanding jurisprudence of the Dispute Resolution Chamber.

### **III. Decision of the DRC judge**

1. The claim of the Claimant, X, is partially accepted.

2. The Respondent, Y, has to pay to the Claimant the amount of EUR 30,000 within 30 days as from the date of notification of this decision.
3. Within the same time limit, the Respondent, Y, has to pay to the Claimant default interest of 5% *p.a.* on the following partial amounts until the effective date of payment:
  - on EUR 15,000 as of 1 May 2008;
  - on EUR 15,000 as of 1 June 2008.
4. In the event that the aforementioned amount plus interest is not paid within the stated time limit, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.
5. Any further claim lodged by the Claimant is rejected.
6. 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.

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**Note relating to the motivated decision** (legal remedy):

According to art. 63 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:

Court of Arbitration for Sport  
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For the DRC judge:

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Jérôme Valcke  
Secretary General