

Decision of the Players Status Chamber

passed on 19 April 2022

regarding an employment-related dispute concerning the coach Miguel Angel Ramirez Medina

BY:

Farah Mohammed (New Zealand), Single Judge of the PSC

CLAIMANT:

Miguel Angel Ramirez Medina, Spain

Represented by Mr Jesús Ortega & Guillermo López

RESPONDENT:

Sport Club Internacional, Brazil

Represented by Cravo, Pastl e Balbuena Advogados

I Facts

1. On 26 December 2020, the coach Miguel Angel Ramirez Medina and Sport Club Internacional concluded a “Contract Promise for the Conclusion of an Employment contract as Professional Football Coach”.
2. Said agreement stipulated the following:
 1. *El ENTRENADOR INTERNACIONAL (...) una vez cumplidas todas las exigencias y condiciones establecidas para este acuerdo, atendiendo a todos los presupuestos legales y normativos, se obligan a celebrar antes del próximo día 15/02/2021 , dentro de los términos de la legislación laboral vigente y las demas normas legales pertinentes a la especie, el correspondiente Contrato de Trabajo de Tecnico Profesional de Futbol par el plaza de 15/02/2021 hasta 31/12/2022. Para ello, el ENTRENADOR se compromete a facilitar cualquier instrumento y documento que sea necesario para tal fin.
(...)*
 2. *Las partes acuerdan, desde este momento, que el ENTRENADOR recibira, en concepto de salario, por el perfodo completo de la relacion contractual antes mencionada, o sea, de 15/02/2021 a 31/12/2022, la cantidad bruta mensual de R\$ 528.000,00 (quinientos veintiocho mil reales), al cual debera ser pagado en su totalidad, de acuerdo con la ley, a mas tardar el quinto dfa habil del mes siguiente a la expiracion de cada mes cumplido contractualmente.*

Free translation into English:

3. *The INTERNATIONAL COACH (...) once all the requirements and conditions established for this agreement have been fulfilled, in accordance with all the legal and regulatory requirements, undertake to enter into the corresponding Employment Contract for Professional Football Coach for the period from 15/02/2021 to 31/12/2022 before 15/02/2021, within the terms of the labour legislation in force and the other legal regulations relevant to the species. To this end, the TRAINER undertakes to provide any instrument and document that may be necessary for this purpose.
(...)*
4. *The parties agree, as of this moment, that the COACH will receive, as salary, for the full term of the contractual relationship mentioned above, that is, from 15/02/2021 to 31/12/2022, the gross monthly amount of R\$ 528.000,00 (five hundred and twenty-eight thousand reais), which shall be paid in full, in accordance with the law, no later than the fifth working day of the month following the expiration of each month contractually fulfilled.*
5. On 5 July 2021, the parties concluded a “Transactional Agreement” indicating the following:

*“en fecha 11 de junio de 2021 , el SC Inter comunica al Sr. Miguel Angel Ramirez y su Cuerpo Tecnico, su decision unilateral y sin justa causa de rescindir el Contrato Laboral, dando asi, por finalizada , cualquier tipo de relación que les pudiera unir a la fecha .(...) con el objeto de evitar una indeseada y tediosa litigación ante cualquier órgano judicial y/o 3nnual3vo, las partes – de 3nnua fe – han alcanzado un acuerdo para transigir todas las cuestiones derivadas de la extincion anticipada del vinculo laboral, 3nnual por el cual suscriben el presente ACUERDO TRANSACCIONAL
(...)
Primero. – ACUERDO INDEMNIZATORIO*

El SC Inter y el Sr. Miguel Angel Ramirez han acordado que, como consecuencia de la rescisión unilateral y sin justa causa del Contrato Laboral llevada a cabo por SC Inter, este club abonara al Sr. Miguel Angel Ramirez las siguientes cantidades en concepto de indemnización:

SC Inter indemnizara al Entrenador con la cantidad neta de tres millones novecientos veinticuatro mil doscientos doce reales con cincuenta centavos (R\$ 3.924.212,50) cuantía que Annual ser abonada en los siguientes plazas:

Primer pago: 1.765.895,62 R\$ netos antes del 21 de julio de 2021 .

Segundo pago: 1.177.263,75 R\$ netos antes del 02 de septiembre de 2021 .

Tercer pago: 981.128,12 R\$ netos antes del 02 de noviembre de 2021."

Free translation into English:

"On June 11, 2021, SC Inter communicates to Mr. Miguel Angel Ramirez and his Technical Staff, its unilateral decision and without just cause to terminate the Employment Contract, thus terminating any type of relationship that could unite them to date. (...) in order to avoid unwanted and tedious litigation before any judicial and/or sporting body, the parties – in good faith – have reached an agreement to settle all issues arising from the early termination of the employment relationship, for which reason they enter into this TRANSACTIONAL AGREEMENT. (...)

First. – COMPENSATION AGREEMENT

SC Inter and Mr. Miguel Angel Ramirez have agreed that, as a consequence of the unilateral termination without just cause of the Employment Contract carried out by SC Inter, this club will pay Mr. Miguel Angel Ramirez the following amounts as compensation:

SC Inter will compensate the Coach with the net amount of three million nine hundred and twenty-four thousand two hundred and twelve reais and fifty cents (R\$ 3.924.212,50) amount to be paid in the following instalments:

First payment: R\$ 1,765,895.62 net before 21 July 2021.

Second payment: R\$ 1,177,263.75 net before 02 September 2021.

Third payment: R\$ 981.128,12 net before 02 November 2021."

6. The transactional agreement further stipulated the following in its third clause:

"Adicionalmente a lo mencionado con anterioridad, una vez el presente ACUERDO TRANSACCIONAL haya entrado en vigor, las partes expresa e irrevocablemente han acordado que, en caso de que SC Inter no pague alguno de los siguientes pagos previstos (Segundo y Tercer pago), o se retrase más de cinco (15) días desde la fecha de pago, se producirá automáticamente un vencimiento anticipado de la totalidad de las cuantías recogidas en el Pacto Primero y que quedasen por percibir, de manera que SC Inter deberá abonar todas las cantidades que, recogidas en el Pacto Primero, quedasen por percibir en términos de globalidad, y ello dentro de los diez (10) días siguientes.

Adicionalmente, partes pactan irrevocablemente que se aplicará un 5% de interés Annual a cada cuantía impagada, a aplicarse desde el momento en que se incumpla cualquier plazo de pago, y aplicando dicho interés, a su vez, a la cuantía final que correspondiera en función del vencimiento anticipado derivado del impago de algún plazo.

SC Inter reconoce expresamente se conocedor del contenido y alcance del presente Pacto, entendiéndolo con rotundidad las consecuencias que del mismo se derivan."

Free translation into English:

"In addition to the aforementioned, once this TRANSACTIONAL AGREEMENT has entered into force, the parties have expressly and irrevocably agreed that, in the event that SC Inter fails to

pay any of the following scheduled payments (Second and Third Payment), or is more than five (15) days late as of the payment date, SC Inter shall automatically become due in advance of the totality of the amounts set out in the First Agreement and which remain to be received, so that SC Inter shall pay all the amounts set out in the First Agreement which remain to be received in global terms, and this within the following ten (10) days.

In addition, the parties irrevocably agree that 5% annual interest shall be applied to each unpaid amount, to be applied from the moment any payment instalment is missed, and applying said interest, in turn, to the final amount that would correspond according to the early maturity derived from the non-payment of any instalment.

SC Inter expressly acknowledges that it is aware of the content and scope of this Agreement, and fully understands the consequences arising from it".

3. On 8 November 2021, the legal representative of the coach sent a default notice and requested the payment of an outstanding amount of BRL 2,055,959.87, detailed as follows:

Miguel Ángel		Amounts	Interest 3 rd instalment	Interest 3 rd instalment	Total
Total	100%	3.924.212,50			
Paid	48%	1.883.622,00			
Due	52%	2.040.590,51	9.724,52	5.644,85	2.055.959,87

4. The coach informed FIFA that he concluded an employment contract with the American club, Charlotte FC, valid as from the date of signature until 31 December 2024.
5. According to art. IV 1 of the contract, the coach was entitled to the following:
- USD 25,000 per month between 1 August 2021 until 30 November 2021;
 - USD 50,000 per month between 1 December 2021 until 31 December 2022;
 - USD 52,083.33 per month between 1 January 2023 until 31 December 2023;
 - USD 54,166.67 per month between 1 January 2024 until 31 December 2024;
6. On 3 December 2021, Miguel Angel Ramirez Medina lodged a claim before FIFA for outstanding remuneration and requested the following:
- BRL 2.040.590,51 corresponding to the amounts stipulated in the Transactional Agreement signed on 5 July 2021, plus 5% interest p.a. as from the due dates and "applying for this alculacion the accelerated maturity of the amounts due"
 - Imposition of costs on the Respondent in the maximum amount of CHF 25,000.
 - To impose on Sport Club Internacional the corresponding disciplinary sanctions.
7. The Claimant explained that it indeed received the first instalment, but that the club defaulted on the second one.
8. In its reply to the claim, the Respondent proposed the following settlement:
"The payment of the amount of BRL 2,040,590.51 (two million, forty thousand and five hundred ninety Brazilian Reais, and fifty-one cents) in 36 (thirty-six) equal and successive instalments of BRL 56,683.07 (fifty-six thousand, six hundred and eighty-three Brazilian Reais and seven cents), with the first instalment to be paid on 25 January 2022."

9. As to the substance, the Respondent explained that it “always acted in good faith” but the “negative financial consequences of the COVID-19 only allowed [it] to perform, timely, the first instalment.”
10. The Respondent specified that, “on 19 March 2020, the Brazilian Government recognized, by means the Legislative Decree n. 6 of 2020, the National State of Public Calamity, as from this date until 31 December 2020. The Respondent considered that it was under force majeure and therefore wished to “to gently ask to FIFA to not condemn the Respondent to pay the amount asked by the Claimant until the State of Public Calamity persists in the State of Rio Grande do Sul” or “alternatively, the Brazilian club shall not be condemned the to pay any interests on the amounts claimed.
11. The Respondent further considered that the coach has a duty to mitigate his damages and therefore his new contract should be taken into account.
12. In his replica, the Claimant insisted in his initial request.
13. The Claimant further rejected the existence of any force majeure and noted that the transactional agreement was signed, in any case, after the outbreak of the pandemic.
14. The Claimant rejected any proposal to reschedule the payments that were agreed upon in the transactional agreement.
15. In its duplica, the Respondent considered that “*the Brazilian law shall be considered by FIFA as a proof of the existence of State of Public Calamity and, as consequence, of the existence of force majeure situation.*”
16. The Respondent further considered that the Respondent had a duty to mitigate his damages.
17. The Respondent further considered that a new payment plan was agreed as per the following WhatsApp conversation:



II Considerations of the Players Status Chamber

a. Competence and applicable legal framework

1. First of all, the Players Status Chamber (hereinafter also referred to as *Single Judge*) analysed whether she was competent to deal with the case at hand. In this respect, she took note that the present matter was presented to FIFA on 03 December 2021 and submitted for decision on 19 April 2022. Taking into account the wording of art. 34 of the October 2021 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.
2. Subsequently, the Single Judge referred to art. 2 par. 1 and art. 24 par. 2 of the Procedural Rules and observed that in accordance with art. 23 par. 2 in combination with art. 22 par. 1 lit. c) of the Regulations on the Status and Transfer of Players (August 2021 edition), she is competent to deal with the matter at stake, which concerns an employment-related dispute between a club / an association and a coach of an international dimension
3. Subsequently, the Single Judge analysed which regulations should be applicable as to the substance of the matter. In this respect, she confirmed that, in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (August 2021 edition), and considering that the present claim was lodged on 03 December 2021, the February 2021 / August 2021 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

4. The Single Judge 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 Single Judge stressed the wording of art. 13 par. 4 of the Procedural Rules, pursuant to which she 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

5. Her competence and the applicable regulations having been established, the Single Judge entered into the merits of the dispute. In this respect, the Single Judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Single Judge emphasised that in the following considerations she will refer only to the facts, arguments and documentary evidence, which she considered pertinent for the assessment of the matter at hand.

i. Main legal discussion and considerations

6. The Single Judge first observed that, on 26 December 2020, the parties concluded an employment contract with the conditions listed in point I. 1. above.
7. Thereafter, the Single Judge took note that, on 5 July 2021, the parties concluded a “Transactional Agreement” according to which, inter alia, the Respondent committed to pay to the Claimant the amount of BRL 3,924,212.50 in three instalments, under the conditions listed in point I. 3 and 4 above.
8. Subsequently, the Single Judge observed that the Claimant lodged a claim before FIFA, by means of which he requested the payment of an outstanding amount of BRL 2.040.590,51 corresponding to the amounts stipulated in the Transactional Agreement signed on 5 July 2021, plus 5% interest p.a. as from the due dates and “applying for this calculation the accelerated maturity of the amounts due”.
9. On the other hand, the Single Judge acknowledged the position of the Respondent, according to which it fundamentally acknowledged a debt of BRL 2,040,590.51, although requested to pay said amount in 36 instalments, with the first one to be paid on 25 January 2022.
10. In this respect, the Single Judge also noted that the Respondent explained that “it “always acted in good faith” but the “negative financial consequences of the COVID-19 only allowed [it] to perform, timely, the first instalment.”
11. In relation to this last argument, the Single Judge noted, however, that the transactional agreement was concluded on 5 July 2021, i.e. significantly after the outbreak of the pandemic in March 2020. As a result, the Single Judge considered that, at that stage, the Respondent was already aware of the (financial) consequences of the pandemic, and therefore, signed the transactional agreement at its own risk and peril. Consequently, the Single Judge rejected the argument of the Respondent in this regard
12. In addition, the Single Judge observed that the Respondent argued that a new payment schedule was agreed between the parties via “WhatsApp” messenger.
13. In this regard, and after duly examining the documentation on file, the Single Judge considered that, under any circumstance, said evidence cannot be taken into account as a form of amendment of the contractual relationship, and therefore must be rejected.
14. The Single Judge also took note the Respondent’s argument, according to which the coach had to mitigate his damages.
15. However, in accordance with the jurisprudence of the Football Tribunal in this regard, the Single Judge noted that no such mitigation is applicable to settlement agreements, as they constitute contracts that are mutually agreed between the parties. The Single Judge therefore considered that there are no specific grounds to allow the parties to deviate from the contractual provisions.

16. Furthermore, the Single Judge also noted that the transactional agreement included an acceleration clause. Therefore, given that the Respondent fundamentally acknowledged its debt, the Single Judge established that the Claimant is entitled to the total amount of BRL 2,040,590.51 as outstanding remuneration.
17. Therefore, in strict application of the principle of *pacta sunt servanda*, the Single Judge established that the Respondent shall pay to the Claimant the total amount of BRL 2,040,590.51.
18. Moreover, taking into account the request of the Claimant as well as the contents of clause 3 of the transactional agreement, the Single Judge of the PSC decided to award 5% interest p.a. over said amount as from 18 September 2021.

ii. Compliance with monetary decisions

19. Finally, taking into account the applicable Regulations, the Single Judge referred to art. 8 par. 1 and 2 of Annexe 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.
20. In this regard, the Single Judge highlighted that, against coaches, the consequence of the failure to pay the relevant amounts in due time shall consist of a restriction on any football-related activity up until the due amounts are paid. The overall maximum duration of the registration ban shall be of up to six months.
21. Therefore, bearing in mind the above, the Single Judge decided that the coach must pay the full amount due (including all applicable interest) to the club within 45 days of notification of the decision, failing which, at the request of the creditor, a restriction on any football-related activity for the maximum duration of six months shall become immediately effective on the coach in accordance with art. 8 par. 2, 4, and 7 of Annexe 2 of the Regulations.
22. The coach shall make full payment (including all applicable interest) to the bank account provided by the club in the Bank Account Registration Form, which is attached to the present decision.
23. The Single Judge 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. 8 par. 8 of Annexe 2 of the Regulations.

d. Costs

24. The Single Judge 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 Single Judge decided that no procedural costs were to be imposed on the parties.
25. Furthermore, the Single Judge recalled the contents of art. 25 par. 8 of the Procedural Rules, and decided that no procedural compensation shall be awarded in these proceedings.

III Decision of the Players Status Chamber

1. The claim of the Claimant, Miguel Angel Ramirez Medina, is partially accepted.
2. The Respondent, Sport Club Internacional, has to pay to the Claimant, the amount of **BRL 2,040,590.51 as outstanding remuneration** plus 5% interest p.a. as from 18 September 2021 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. 8 of Annexe 2 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. 8 par. 7 and 8 of Annexe 2 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 58 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 20 of the Procedural Rules).

CONTACT INFORMATION

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