



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2024/A/10269 Cristian Stancu Ionuț v. Fotbal Club Rapid 1923 SA & Romanian Football Federation

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Cesare Gabasio, Attorney-at-Law, Turin, Italy

in the arbitration between

Cristian Stancu Ionuț, Popești – Leordeni, Romania

Represented by Mr Păna Cosmin Răzavn, Attorney-at-Law, Bucharest, Romania

- Appellant -

and

Fotbal Club Rapid 1923 SA, Bucharest, Romania

Represented by Mr Marian Mihail, Attorney-at-Law, Bucharest, Romania

- First Respondent -

and

Romanian Football Federation, Bucharest, Romania

Represented by Mr Adrian Stangaciu, Legal Counsel, and Mr Paul-Filip Ciucur, Attorney-at-Law,
Bucharest, Romania

- Second Respondent -

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I. PARTIES

1. Cristian Stancu Ionuț (the “Appellant” or the “Player”) is a Romanian former professional football player.
2. Fotbal Club Rapid 1923 SA (the “New Club” or “First Respondent”) is a Romanian professional football club, affiliated to the Romanian Football Federation, which, in turn, is affiliated to the *Fédération Internationale de Football Association* (“FIFA”).
3. The Romanian Football Federation (the “Second Respondent” or “RFF”) is the organizing authority of football in Romania, which, in turn, is affiliated to FIFA.
4. The New Club and the RFF shall be jointly referred to as the “Respondents”, where applicable.
5. The Appellant and the Respondents shall be jointly referred to as the “Parties”, where applicable.

II. FACTUAL BACKGROUND

6. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced in these proceedings. References to additional facts and allegations found in the Parties’ written submissions, pleadings, and evidence will be made, where relevant, in connection with the legal analysis that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Award only refers to the submissions and evidence it deems necessary to explain its reasoning.

A. Backgrounds facts

7. On 3 September 2012, in the case *CAS 2011/A/2613*, Stancu Ionuț Cristian vs. S.C. Fotbal Rapid București SA (the “Original Debtor”), the Court of Arbitration for Sport (the “CAS”) upheld the Player’s Appeal against the decision passed by the Recourse Commission (Board of Appeal – the “Recourse Commission”) of the Romanian Professional Football League on 15 September 2011, deciding that the Original Debtor had to pay to the Player the amount of EUR 65,079, plus EUR 755 of interest which became due on 31 December 2011 and plus interest from 31 December 2011 at the rate of 5% *p.a.*.
8. On the same 3 September 2012, the grounds of the award in the case *CAS 2011/A/2613* (the “CAS Award”) were notified to the Player and the Original Debtor. Since no appeal was filed against the CAS Award, it became final and binding.
9. After the CAS Award was issued, on an unspecified date of 2012 the Original Debtor went into bankruptcy.
10. The Player registered his claim into the bankruptcy proceedings of the Original Debtor and had been admitted as a creditor for the amount of Romanian LEU 365,132.00.

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11. As the relevant amounts had not been paid, on 19 September 2022, the Player filed before the RFF Disciplinary and Ethics Committee (the “Disciplinary Committee”) an application for disciplinary sanctions against the New Club, as sporting successor of the Original Debtor, stating that the New Club did not comply with the payment obligations ruled by the CAS Award.
12. Following the opening of disciplinary proceedings, the New Club requested the Player’s application to be dismissed, being unfounded.
13. On 12 April 2023, the Disciplinary Committee passed a decision on the matter (the “First Decision”), stating as follows:

“Dismisses as unfounded the plea of lack of the capacity to be sued, the untimeliness of application and the limitation of the substantive right to action/disciplinary liability relied on by Fotbal Club Rapid 1923 SA.

Dismisses the action brought by Stancu Ionut Cristian against Fotbal Club Rapid 1923 SA, as unfounded”.

14. The Player lodged an appeal against the First Decision before the Recourse Commission.
15. On 2 November 2023, the Recourse Commission passed a decision on the matter (the “Appealed Decision”), stating as follows:

“Admit the objection of inadmissibility of the appeal lodged by Stancu Ionut Cristian. Dismisses as inadmissible the appeal lodged by Stancu Ionut Cristian, in contradiction with Fotbal Club Rapid 1923 S.A. against the CDE Decision no. 579/CDE/2023.

Orders the appellant Stancu Ionut Cristian to pay to Fotbal Club Rapid 1923 S.A. the amount of 3,694.8 lei representing the court costs in the appeal (2,504.8 lei lawyer’s fee and 1,190 lei translation).

Final and enforceable domestically

The decision can be appealed to the TAS within 21 days from its notification”.

16. The Appealed Decision was notified to the Appellant on 12 December 2023.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

17. On 2 January 2024, the Appellant filed a statement of appeal with the CAS in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (the “CAS Code”) with respect to the Appealed Decision, requesting the case to be submitted to a sole arbitrator. In his statement of appeal the Appellant named Fotbal Club Rapid 1923 SA as First Respondent and the Romanian Football Federation as Second Respondent.
18. On 8 January 2024, the First Respondent disagreed with the Appellant’s request to submit the case to a sole arbitrator, observing that the procedural matter raised by the Appellant would have been better to be resolved by a panel, as it was not part of the CAS jurisprudence.

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19. On 11 January 2024, the CAS Court Office informed the Parties that in the light of the Parties' disagreement about the appointment of a sole arbitrator, it will be for the President of the CAS Appeals Arbitration Division, or her deputy, to decide the issue in accordance with Article R50 of the CAS Code, taking into account the circumstances of the case.
20. On 1 February 2024, the Appellant filed his Appeal Brief in accordance with Article R51 of the CAS Code, within the extended time limit granted by the CAS Court Office.
21. On 28 February 2024, the Appellant filed an application for legal aid.
22. On 19 September 2024, the CAS Court Office informed the Parties that a confidential Order on Legal Aid was rendered by the Athlete's Commission of the International Council of Arbitration for Sport, granting the Appellant's request for Legal Aid for CAS arbitration costs. In the light of the above the CAS Court Office informed the Parties that in accordance with Article R55 of the CAS Code, the Respondents shall submit their Answers within twenty days upon receipt of the letter by courier.
23. On 17 October 2024, the First Respondent filed its Answer in accordance with Article R55 of the CAS Code, within the extended time limit granted by the CAS Court Office.
24. On 18 October 2024 the Second Respondent filed its Answer in accordance with Article R55 of the CAS Code, within the extended time limit granted by the CAS Court Office.
25. On 29 November 2024, the Parties were informed that the President of the CAS Appeals Arbitration Division appointed Mr Cesare Gabasio as Sole Arbitrator in accordance with Article R54 of the CAS Code.
26. On 13 December 2024, after having consulted the Parties, the Sole Arbitrator decided to hold a hearing by video-conference, pursuant to Article R57 of the CAS Code.
27. On 13 January 2025, the CAS Court Office, on behalf of the Sole Arbitrator, issued the Order of Procedure, which was duly signed by the Parties. By signing the Order of Procedure, the Parties confirmed the CAS jurisdiction to hear the appeal and agreed to the use of videoconferencing as a means of conducting the hearing and the fact that such means shall not be used as a ground in and by itself to challenge and seek the annulment of the award.
28. On 15 January 2025, a video-hearing took place, with the participation, in addition to the Sole Arbitrator and Ms Amelia Moore, Counsel to the CAS, of the following persons:

For the Appellant: Mr Cristian Stancu Ionuț, party, and Mr Păna Cosmin Răzavn, attorney-at-law.

For the First Respondent: Mr Marian Mihail, attorney-at-law and Mrs Diana Florescu, legal counsel.

The Second Respondent did not attend the hearing.

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Witnesses:

- Mr Dan Filotu, summoned by the First Respondent.

29. The Parties were given a full opportunity to present their case, submit their arguments/submissions and answer the questions posed by the Sole Arbitrator and at the conclusion of the hearing expressly confirmed that their right to be heard was fully respected.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellant

30. In his Statement of Appeal, the Appellant submitted the following requests for relief:

“Mainly

- I. *The Decision no. 17 passed on 02 November 2023 by the Recourse Commission of the Romanian Football Federation is set aside and the request of Mr. Stancu Ionuț Cristian with respect to the enforcement of the Decision from 03.09.2012 issued by the Court of Arbitration for Sport is admitted, with the following consequence:*
 - *FOTBAL CLUB RAPID 1923 SA is found guilty of failing to comply with the Decision from 03.09.2012 issued by the Court of Arbitration for Sport and the RFF Discipline and Ethics Commission is obliged to sanction the Club in accordance with the RFF Regulations until the full payment of the amount granted by the mentioned CAS decision.*

Alternatively

- II. *The Decision no. 17 passed on 02 November 2023 by the Recourse Commission of the Romanian Football Federation is annulled and the case is sent for retrial to the RFF Recourse Commission, which will adjudicate on the merits of the appeal filed by Mr. Stancu Ionuț Cristian against Decision no. 579 of 12 April 2023 issued by the RFF Discipline and Ethics Commission in file 579/CDE/2023*

At any rate

- III. *The Club FOTBAL CLUB RAPID 1923 SA shall bear the costs of this arbitration and reimburse any and all advances of costs paid by Mr. Stancu Ionuț Cristian.*
- IV. *The Club FOTBAL CLUB RAPID 1923 SA shall compensate Mr. Stancu Ionuț Cristian for the legal and other costs incurred in connection with these proceedings in an amount to be determined at the discretion of the Panel”.*

31. The submissions of the Appellant, in essence, may be summarized as follows.

- The appeal against the First Decision is admissible, being irrelevant that Article 116 of the RFF Disciplinary Code states that the appeal can be lodged by the person sanctioned by the decision of first instance or by the Secretary General of RFF. To this regard, the Appellant affirms that: (i) the Appellant shall be considered as “sanctioned”, by the fact

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that he is the creditor of a significant amount of money towards the First Respondent, as sporting successor of the Original Debtor, being unlawful denied both by the Disciplinary Committee and the Recourse Commission the applications of the sports rules related to the obligations of the sporting successor; (ii) the Appellant, as creditor, was directly affected by the decision of the Disciplinary Committee, having a tangible financial interest in being established that the First Respondent is the sporting successor of the Original Debtor; (iii) the Appellant was a party before the Disciplinary Committee, as the disciplinary proceedings were initiated at the initiative of the Player and the latter participated in the relevant procedure, made submissions and conclusions and was notified of the First Decision with the indication of the appeal, the deadline and the committee competent to hear the appeal on the merits.

- The First Respondent holds the status of sporting successor of the Original Debtor, fulfilling all the criteria laid down in Article 15 of the FIFA Disciplinary Code (ed. 2019), as also confirmed by several awards issued by the CAS. In particular: (i) it adopted the same name, colour and logo as the Original Debtor; (ii) it plays in the same stadium where the Original Debtor used to play its matches; (iii) the First Respondent embraces the history of the Original Debtor, thus presenting it on its website and in 2023 promoted the event celebrating the 100th anniversary of the club's foundation. Therefore, the First Respondent is to be considered as a non-compliant party in respect of the CAS Award issued against the Original Debtor and subject to disciplinary sanctions set out in Article 85 of the RFF Disciplinary Code.
- Article 15 of the FIFA Disciplinary Code (ed. 2019) and/or Article 21 FIFA Disciplinary Code (ed. 2023) are applicable in the matter at stake, taking into account that: (i) it is irrelevant that Article 85 of the RFF Disciplinary Code does not expressly provide for sporting succession, since the RFF Regulations are automatically supplemented/completed by the provisions of the FIFA Disciplinary Regulations pursuant to Article 123 of the RFF Disciplinary Code; (ii) according to Article 15(4) and Article 71 of the FIFA Disciplinary Code, the liability of the sporting successor is one of the principles of these Regulations, which must be applied to all members; (iii) according to Article 6(4), letter b), of the RFF Statute and to Article 14 of the FIFA Statute, commission members are obliged to respect and have to comply with the statutes, regulations, directives and decisions of FIFA and UEFA, as well as the decisions of the CAS; (iv) Article 57 of the RFF Statute provides that the RFF judicial commissions “*shall apply exclusively the statutes, regulations and directives of the RFF, UEFA and FIFA, and the legislation in force*”.
- The Appellant acted with due diligence in taking actions to recover his credit towards the Original Debtor, having registered his credit in the insolvency proceedings of the Original Debtor.
- The First Decision dismissed the exception raised by the First Respondent regarding the limitation for disciplinary liability, “*because the 5-year period is calculated from the time of refusal of the payment obligation, which for Fotbal Club Rapid 1923 S.A. is August 24, 2018 the date of its affiliation to the Romanian Football Federation*”. Since the First Respondent did not appeal against this ruling, the settlement of the exception has the force of *res iudicata*.

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B. The First Respondent

32. The First Respondent submitted the following requests for relief:

“The Respondent asks the Court to dismiss the appeal, uphold the Appealed Decision and order the Appellant to bear the costs of the current arbitration as well as the Respondent’s expenses incurred in connection with these arbitration proceedings.

Should the Court consider that the initial appeal in front of the National Appeals Committee was admissible, the First Respondent requests that the Court defer the matter back to the Committee for an adjudication on the merits of the appeal (See para 85.II of the Appeal Brief).

The Respondent also names the witness it intends on calling (the statement being enclosed), Mr. Dan Filoti, whose credentials are explained by himself in his statement”.

33. The submissions of the First Respondent, in essence, may be summarized as follows.

- The appeal lodged by the Player against the First Decision was inadmissible, since Article 116(2) of the RFF Disciplinary Code clearly states that the appeal may only be filed by either the sanctioned party or the General Secretary.
- The Appellant’s initial claim against the First Respondent was inadmissible, as (i) the FIFA Disciplinary Code could not be applied *de plano* to the case, as both parties are Romanian-based and the initial decision was passed by a Romanian instance, thus making the RFF Disciplinary Code the sole applicable law; (ii) Article 15(4) of the FIFA Disciplinary Code mentions a CAS decision, when CAS is a first instance, while the Appellant’s claim was based on a CAS appeal decision which modified a Romanian Recourse Commission Decision.
- The Appellant’s claim was time-barred, being applicable the relevant limitation of liability of five years set out both in Article 46(1) of the RFF Disciplinary Code and Article 10(1), letter c), of the FIFA Disciplinary Code (ed. 2019). In particular, according to the First Respondent, the period of five years started to run from the date of the incorporation of Academia Rapid, which played in the Romanian 4th league in the 2017-2018 season, as the First Respondent took over the sporting right of Academia to enlist in the Romanian 3rd league in the next season 2018-2019.
- The Appellant did not act in a diligent manner to recover his credit, as he remained passive towards the First Respondent for more than five years after the date of incorporation.

C. The Second Respondent

34. The Second Respondent submitted the following requests for relief:

A. *to establish that the Romanian Football Federation, as Second Respondent, lacks standing to be sued in this procedure;*

B. *to establish that the Appellant lacks interest to sue in this procedure;*

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- C. *to consider this appeal inadmissible with respect to the principle “electa una via”;*
- D. *to dismiss the appeal lodged by the Appellant against the challenged Decision no. 17 from 2nd November 2021 rendered by the Board of Appeal of the Romanian Football Federation;*
- E. *to maintain and consider the challenged Decision undisturbed;*
- F. *to order the Appellant to pay all costs, expenses and a contribution to the legal fees relating to the arbitration proceedings before CAS encumbered by the Second Respondent”.*

35. The submissions of the Second Respondent, in essence, may be summarized as follows.

- The Second Respondent has no standing to be sued, since the Appellant never claimed any rights against the RFF and did not bring any evidence that might trigger the liability of the RFF for the Appealed Decision.
- The Appellant lacks legal interest to lodge the appeal against the Appealed Decision, because his interest and outcome could be reached by following the insolvency procedure of the Original Debtor.
- The FIFA Disciplinary Code is not applicable in the present proceedings, because (i) the matter is of domestic nature and is primarily governed by the RFF Disciplinary Code, which does not mention the sporting succession, and (ii) Article 15 of the FIFA Disciplinary Code regulates a particular situation and cannot be considered as a generale principle of the FIFA Disciplinary Code. Moreover, in the Second Respondent’s opinion, there are big chances that the Player could recover the full amount of his credit towards the Original Debtor from the bankruptcy procedure.
- Should the RFF Disciplinary Code be deemed supplemented with the Article 15(4) of the FIFA Disciplinary Code regarding sporting succession, the principle *nulla poena sine lege scripta et certa* would have been violated.
- The Appellant’s initial request in front of the Disciplinary Committee was time-barred, as promoted after the lapse of five years set out in Article 46 of the RFF Disciplinary Code, as the First Respondent is the successor of Academia Rapid, that started to play in the Romanian 4th league in the 2017/2018 season.

V. JURISDICTION

36. The Appellant relies on Articles 18, 57 and 75 of the RFF Statutes, as conferring jurisdiction on the CAS, confirmed by the operative part of the Appealed Decision. The jurisdiction of the CAS is not contested by the First Respondent nor by the Second Respondent and has been confirmed by the Parties through the signature of the Order of Procedure.
37. It follows that the CAS has jurisdiction to decide on the present dispute.

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38. Under Article R57 of the CAS Code, the Sole Arbitrator has the full power to review the facts and the law.

VI. ADMISSIBILITY

39. The appeal is admissible as it complies with all the requirements set forth by Articles R47 and R48 of the CAS Code and the Appellant submitted it within the deadline provided by Article R49 of the CAS Code as well as by Article 57(7) of the applicable RFF Statutes.
40. The grounds of the Appealed Decision were notified to the Appellant on 12 December 2023. The Appellant filed his Statement of Appeal with CAS on 2 January 2024 and filed his Appeal Brief on 1 February 2024, within the extended time limit granted by the CAS Court Office.
41. In accordance with Article R55 of the CAS Code, the First Respondent and the Second Respondent filed their Answers respectively on 17 and 18 October 2024, within the extended time limit granted by the CAS Court Office.

VII. APPLICABLE LAW

42. Article R58 of the CAS Code provides the following:

“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

43. The Appellant states that the applicable rules and regulations are the statutes, regulations and directive of the RFF and FIFA. In support of this assertion, the Appellant invokes the following rules:

- Article 6 of the RFF Statutes:

“1. The RFF is affiliated to FIFA and UEFA and is recognized by them, according to their Statutes, as the sole authority of the football association in Romania.

2. The Romanian Football Federation, Professional Football League, affiliated members, players, officials and members of Romanian Football Federation Commissions are bound in their activity: (...) b) to comply with the statutes, regulations, directives and decisions of FIFA and UEFA, as well as the decisions of the Court of Arbitration for Sport in Lausanne; (...) e) to comply with any other duties incumbent upon them in accordance with the provisions of the FIFA and UEFA Statutes and Regulations”.

- Article 11(4) and Article 14(1) of the FIFA Statutes, which state the obligation of member associations to comply with the statutes, regulations, directives and decisions of FIFA bodies, as well as the decisions of the CAS.

44. The First Respondent and the Second Respondent submit that the present case is governed by the RFF Statutes and regulations and, where applicable, by Romanian law.

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45. The Sole Arbitrator finds that, pursuant to Article R58 of the CAS Code, the present dispute is primarily to be decided based on the RFF Statutes and the various rules and regulations of the RFF, with Romanian law applying subsidiarily in the event that the interpretation of the RFF rules and regulations is required. The RFF Statutes and regulations refers to the application of rules and regulations of FIFA and UEFA, as well as to the CAS decisions. The interchange between these different set of rules in the specific matter at hand will be discussed in more detail below.

VIII. MERITS

46. The main issues to be resolved by the Sole Arbitrator are:
- A. Does the Appellant have standing to challenge the Appealed Decision?
 - B. Does the RFF have standing to be sued?
 - C. Did the Appellant have the standing to sue, *id est* the right to lodge the appeal, against the First Decision?
 - D. Can the First Respondent, as sporting successor of the Original Debtor, be considered as a non-complying party under Article 85 of the RFF Disciplinary Code in respect to the CAS Award?
 - E. Was the initial claim filed by the Appellant time-barred?
 - F. Did the Appellant act with due diligence in taking actions to recover his credit towards the Original Debtor?
47. The Sole Arbitrator will address these issues in turn below.
- A. Does the Appellant have standing to challenge the Appealed Decision?**
48. The Appellant's standing to appeal is contested by the Second Respondent who argues that the Appellant, by registering his credit in the insolvency proceedings of the Original Debtor, has already chosen a procedural path against the latter.
49. The Sole Arbitrator preliminary observes that, according to the jurisprudence of the CAS, confirmed by the Swiss Federal Tribunal, "*standing to sue and standing to be sued are to treated as an issue of merits, and not as a question for the admissibility of the appeal*" (CAS 2019/A/6646; CAS 2018/A/5888; CAS 2017/A/5359; CAS 2008/A/1639). Therefore, the lack of quality to sue leads to the dismissal of the claim as unfounded.
50. The Sole Arbitrator acknowledges that the Appellant is not directly impacted by the Appealed Decision, but finds nevertheless that the Appellant has a direct, personal and actual interest in the outcome of the disciplinary proceedings against the First Respondent.
51. The disciplinary system provided for by the national disciplinary codes, included the RFF Disciplinary Code and, at international level, by the FIFA Disciplinary Code is aimed to ensure

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compliance of all direct and indirect FIFA members with the laws and football regulations and the decisions of national associations, FIFA's bodies and CAS. Taking into account that this system exclusively works on the basis of sanctions against offenders, but offers no single tool which a creditor could use to directly enforce a payment claim against his debtor, the disciplinary proceedings represent a tool which has been of tremendous benefit over the last years to football creditors, providing a serious inducement to their respective debtors to pay all debts on time in order to avoid increasingly severe sanctions (CAS 2020/A/6922; CAS 2020/A/6713).

52. , *"While not having a direct effect, a different decision"* of the disciplinary body *"would have a substantial effect on the Appellant's situation"*. In fact, taking into account that the payment of the overdue to the creditor is the only means available to avoid disciplinary sanctions, an according decision *"would have been widely equivalent to a legal compulsion in favour of the Appellant"* (CAS 2020/A/6922).
53. In the Sole Arbitrator's opinion, such principles can be applied in the matter at stake. Had the RFF Disciplinary Committee imposed a disciplinary sanction on the First Respondent, as sporting successor of the Original Debtor, then the Appellant would have had at his disposal an effective instrument to enforce the CAS Award, as the New Club would have been induced to comply with the CAS Award in order to avoid the concrete application of disciplinary sanctions.
54. The Sole Arbitrator also notes that the Appellant craves the payment of a salary amount which was promised to him, but never paid. Taking into account that the salary is the amount that the employees, such as the Appellant, rely on to be paid for the coverage of their living expenses and their entire livelihood, the settlement of the overdue amount is therefore of high personal importance for the Appellant.
55. The Sole Arbitrator considers, on the contrary, irrelevant that the Appellant registered his credit in the insolvency proceedings of the Original Debtor. In fact, on the one hand, the disciplinary system is an alternative to the ordinary justice system, with the consequence that the admission of a claim in the insolvency proceedings does not preclude disciplinary action against the non-complying party or its sporting successor; on the other hand, by initiating the disciplinary proceedings against the First Respondent, the Appellant seeks a different and additional advantage, since, if the liability of the First Respondent, as sporting successor of the Original Debtor, were established, the Appellant could have more chances to obtain the enforcement of the CAS Award.
56. In light of the foregoing considerations, the Sole Arbitrator concludes that the Player appears to be sufficiently affected by the Appealed Decision and to have a tangible interest of financial nature, that legitimates him to challenge the Appeal Decision.

B. Does the RFF have standing to be sued?

57. As already pointed out, the question of who has standing to sue or to be sued is a question of merit, implying that, if the RFF's standing to be sued is denied, then the Appeal, although admissible, must be dismissed as unfounded with respect to the RFF.

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58. The Second Respondent claims that there are no legal provisions that entitle the Player to sue the RFF, as the RFF cannot be held liable for the decisions of its judicial bodies.
59. According to CAS doctrine “*a party has standing to be sued only if it has some stake in the dispute because something is sought against it, and is personally obliged by the dispute at stake*” (MAVROMATI/REEB, The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials, 2015, p. 411, nr. 65).
60. As set forth in CAS jurisprudence, different solutions must be followed depending on whether the case at stake is a horizontal or a vertical dispute. Horizontal disputes do not involve particular prerogatives or disciplinary powers by the judicial body issuing the decision, while vertical disputes “*are characterized by the fact that the association issuing the decision thereby shapes, alters or terminates the membership relation between itself and the member concerned. Vertical disputes typically arise in disciplinary, eligibility or registration context. In all these cases the proper party to defend the decision on appeal and, thus, having standing to be sued is the association that has issued the decision*” (CAS 2022/A/8758; CAS 2021/A/8331; CAS 2021/A/8433).
61. In the Sole Arbitrator’s opinion the present dispute can be qualified as a “vertical dispute”, even if it is aimed at enforcing a decision in an “horizontal dispute”, as it has a disciplinary nature. Taking into account that the RFF is the entity competent to potentially impose sanctions on the First Respondent on the basis of the RFF Disciplinary Code, “*the presence of the RFF as a party in these proceedings is a prerequisite for the potential imposition of sanctions on the Club*” (CAS 2021/A/8331) and, consequently, the Player correctly directed his appeal against the RFF (CAS 2020/A/6922).
62. To the extent that RFF argues that it cannot be held liable for decisions of its judicial bodies, the Sole Arbitrator finds that such argument should be dismissed. The Disciplinary Committee and the Recourse Commission are internal bodies that form part of the RFF organisation as a whole. The Appellant cannot call the RFF internal bodies or its members as respondents in these proceedings. Rather, the entity to be sued is the RFF.
63. On this basis the Sole Arbitrator finds that the RFF, even if it was not a party in the proceedings before the Disciplinary Committee nor before the Recourse Commission, has standing to be sued.

C. Did the Appellant have the standing to sue, *id est* the right to lodge the appeal, against the First Decision?

64. Article 116(2) of the RFF Disciplinary Code states that “*the petition for appeal may be made by the person sanctioned by the decision of the Disciplinary Committee of the RFF/PFL and the General Secretary of the RFF/PFL*”.
65. Despite the literal wording of such a provision, the Sole Arbitrator finds that the Player had in any case the right to lodge the appeal against the First Decision.
66. The Player was a party of the proceedings before the Disciplinary Committee. He was expressly named as the “*plaintiff*”, submitted the application for sanctions against the New Club and

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actively participated to the proceedings by submitting written defences and documents, participating at the hearing that took place on 8 March 2023 and expressing conclusions.

67. As already stated by the CAS jurisprudence, *“even if art. 120, par. 4 DR effectively limited the right to appeal only to the person sanctioned or the Secretary General, this Panel cannot ignore that the Club had really reached the status of “party” in the previous proceedings (since it actively participated in it) so that in this particular case the Panel determines that it has the standing to sue”* (CAS 2015/A/3880).
68. Reference should also be made to the above-mentioned arguments regarding the personal and actual interest of the Player in the outcome of the disciplinary proceedings against the New Club and to the purpose of the disciplinary provisions, which represent an effective mean at the disposal of creditors to enforce the decisions passed by the sporting judicial bodies.
69. Consequently, taking into account that the Player participated as a “party” in the proceedings before the Disciplinary Committee and that the rejection of his application for disciplinary sanctions against the New Club affected his financial and personal interests, the Sole Arbitrator concludes that the Player had standing to lodge the appeal against the First Decision and, thus, his appeal was fully admissible.

D. Can the First Respondent, as the sporting successor of the Original Debtor, be considered as a non-complying party under Article 85 of the RFF Disciplinary Code in respect to the CAS Award?

70. The Appellant, on the assumption that the First Respondent is the sporting successor of the Original Debtor, requested the RFF to sanction the New Club in accordance with Article 85 of the RFF Disciplinary Code, for not complying with the CAS Award.
71. Article 85 of the RFF Disciplinary Code, headed *“Refusal or omission to apply the judgment”*, provides as follows:
 - “1. *The club that fails to pay another person or the RFF/PLF/AJF executes the determined obligations within 30 days from the date of the decision notification, an amount of money, in whole or in part, although there is a final decision to this effect by a jurisdictional body of the RFF/PFL/AJF and/or TAS:*
 - a. *will be obliged to pay a penalty from 3,000 to 7,000 lei and will be granted a grace period of 5 days for the full execution of payment obligations;*
 - b. *will be prohibited from transferring and/or signing players as a transferee club and points will be deducted. The deduction of points will be applied to the points accumulated in championship by the team of the highest category, and every 15 calendar days of delay in payment, calculated from the date of expiry of the grace period, the team in question will be deducted 2 points.*
 - c. *The sanctions mentioned in point b) apply for 90 days, after which the team if the club in question will be excluded from all current competitions and relegated to the lower category.*
 2. *If the club does not execute its payment obligation within 30 days of relegation of the highest category team, the club will be excluded from all RFF/PLF/AJF competitions.*

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3. [...]
4. *Decisions handed down by FIFA/UEFA judicial bodies or by the Court of Arbitration for Sport are enforced by the Disciplinary and Ethics Board of the RFF, in accordance with the provisions of art. 85, paragraph 1, of these Regulations”.*
72. The First Respondent did not dispute being the sporting successor of the Original Debtor, but argues that it cannot be held liable for the Original Debtor’s financial obligations, because (i) the RFF Disciplinary Code does not contain any provisions regarding the sporting succession, nor the liability of the sporting successor; (ii) Article 15(4) of the FIFA Disciplinary Code may not be applied *de plano* to the case, as both parties are Romanian-based and the initial decision was passed by a Romanian instance; and (iii) the CAS decision mentioned by Article 15(4) of the FIFA Disciplinary Code is a first instance decision, while the Appellant’s claim was based on a CAS appeal decision which modified a Recourse Commission decision.
73. Being undisputed that the First Respondent is the sporting successor of the Original Debtor, the Sole Arbitrator is requested to ascertain whether the First Respondent could be considered a non-complying party according to Article 85 of the RFF Disciplinary Code.
74. The concept of “*sporting succession*” is not expressly recognised by the RFF Disciplinary Code as such, but, according to the Appellant’s arguments, the concept is nonetheless applicable based on the subsidiary application of the FIFA Disciplinary Code pursuant to the provisions set out in Article 123 of the RFF Disciplinary Code and/or based on the application of general principles set forth in the *lex sportiva*.
75. The Sole Arbitrator preliminarily notes that the FIFA Disciplinary Code is not directly applicable in the matter at hand, because the matter is of domestic nature and is primarily governed by the RFF Disciplinary Code. CAS jurisprudence has expressed itself in this sense, stating that “*the FIFA rules are not, ipso facto, directly applicable at the level of a national federation. This can only be the case if they are incorporated by the national federation rules in one way or the other. Indeed, FIFA regulations do not constitute imperative State Law, but private regulations which apply based on a contractual or similar basis*” (CAS 2012/A/2900). The CAS jurisprudence has also added that “*in the context of international football, the National Federations, such as SAFA, and their members, such as the NSL, have certainly the general obligation to respect the regulations of their supervisory bodies (such as CAF and FIFA, see art. 2.6 and 13.1.1 of the SAFA Constitution), but this does not mean that all the regulations implemented by these bodies are directly applicable to the National Federations and their members. On the contrary, FIFA leaves a certain discretion to the National Federations to deal with their affairs, in particular with regard to the purely national matters*” (CAS 2021/A/8331; CAS 2014/A/3276).
76. Article 123 of the RFF Disciplinary Code, headed “*The purpose of the disciplinary regulation. Omissions*”, provides as follows:
 - “1. *This Regulation governs each subject to which the text or meaning relates its provisions.*
 2. *If there are any omissions in these regulations, the decision-making bodies will take the decision in accordance with the provisions of the FIFA and UEFA regulations.*

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3. *In judging cases, decision-making bodies are guided by the solutions already pronounced in sports doctrine and jurisprudence.*
 4. *In solving the cases, the provisions of the common law are applied in addition.*
 5. *In the absence of the rules and practice referred to in this Article, the decision-making bodies shall take decisions in relation to the general rules assimilated from the ordinary law, taking into account the principle of specificity of sports law”.*
77. The Sole Arbitrator finds that Article 123 of the RFF Disciplinary Code is clear in the sense that: (i) in case of omissions in the RFF Disciplinary Code, the application of FIFA and UEFA regulations takes precedence over the application of Romanian ordinary law; (ii) the RFF decision-making bodies shall apply the principles affirmed by the sports doctrine and case-law, included the CAS jurisprudence.
 78. In the Sole Arbitrator’s opinion, the concept of “*sporting succession*”, provided forth by Article 15(4) of the FIFA Disciplinary Code and by the CAS jurisprudence, should be applied in the present proceedings, although it is not expressly mentioned in the RFF Disciplinary Code.
 79. The lack of express reference to such a concept in the RFF Disciplinary Code appears to be a mere omission in the sense of Article 123(2) of the RFF Disciplinary Code, rather than a deliberate and conscious choice of the RFF.
 80. At the time the RFF Disciplinary Code entered into force in July 2014, the concept of “*sporting succession*” was already affirmed by the CAS jurisprudence and, although it was not formally recognised in the FIFA Disciplinary Code, was clearly part of the “*sports doctrine and jurisprudence*”. Indeed, as outlined by the CAS jurisprudence, Article 15(4) of the FIFA Disciplinary Code, ed. 2019, which formally introduced such a concept, “*is a codification of the jurisprudence of the FIFA DC and CAS prior to the implementation of this provision. It is therefore not material whether the FIFA Disciplinary Code 2017 or FIFA Disciplinary Code 2019 is applied to the matter at hand*” (CAS 2021/A/8061; CAS 2020/A/7092).
 81. Taking into account that the national associations, in adapting their own disciplinary provisions with FIFA disciplinary codes, generally reproduce the formal provisions stated in the FIFA regulations and that the concept of “*sport succession*” was not expressly provided for by the FIFA disciplinary code (ed. 2011) in force when the RFF Disciplinary Code was issued in July 2014, it seems reasonable to assume that RFF simply omitted to include such a provision, without taking on this regard any deliberate decision of not introducing it.
 82. The Sole Arbitrator also notes that Article 123(3) of the RFF Disciplinary Code expressly mentions “*the solutions already pronounced in sports doctrine and jurisprudence*” and obliges the RFF decision-making bodies to be guided by such solutions. This provision represents a further element demonstrating that the concept of sporting succession is to be considered “*incorporated by the national federation rules*” (CAS 2012/A/2900) and, therefore, applicable in the present proceedings.
 83. The Sole Arbitrator took in full consideration the arguments raised by the Respondents in order to demonstrate that the sporting succession could not be applied in the matter at stake, but he finds them unfounded.

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84. In the Sole Arbitrator's opinion, the domestic nature of the dispute – due to the Romanian nationality of both the Player and the Original Debtor – that led to the CAS Award is irrelevant. The sporting succession is, in fact, a principle having a typical domestic nature: it occurs and is exhausted within one and the same country, without being characterised by any element of internationality: indeed, in order to ascertain the sporting succession, the two clubs (the original club and the successor one) should be identified as the “same team”, having, *inter alios*, their respective headquarter in the same city and using the same stadium, with therefore total overlap at local territorial level. Therefore, the Respondent's assumption that such a concept could only apply with regard to cross-border disputes cannot be accepted and, indeed, could lead to discriminatory treatment between domestic and international creditors.
85. It is as well irrelevant that the Appellant's claim was proposed against a CAS appeal decision which modified a Recourse Commission decision. Once it is established that the provision of Article 15 of the FIFA Disciplinary Code complements the RFF Disciplinary Code, it is clear that the concept of sporting succession can also be applied with regard to a CAS appeal decision originating from “national” decisions, in the case at stake those of the RFF judicial bodies, which have been appealed before the CAS.
86. As regards the alleged violation of the *nulla poena sine lege scripta et certa* principle, the Sole Arbitrator finds that sanctioning the First Respondent under Article 85 of the RFF Disciplinary Code, as sporting successor of the Original Debtor, does not violate such a principle.
87. It has been established several times in CAS case law that the *nulla poena sine lege* principle applies in disciplinary cases such as the present. “*For a sanction to be imposed, sports regulations must proscribe the misconduct with which the subject is charged, i.e. nulla poena sine lege (principle of legality), and the rule must be clear and precise, i.e. nulla poena sine lege clara (principle of predictability). [...] According to the principle of predictability, the offences and sanctions of a sport organizations must be predictable to the extent that those subject to them must be able to understand their meaning and the circumstances in which they apply*” (CAS 2023/A/9364).
88. In the Sole Arbitrator's opinion, the sporting succession does not constitute, strictly speaking, a “sanction”, but a principle by virtue of which the sporting successor is held liable for the obligations of the club it succeeded, without introducing any new elements to the original disciplinary provision or to the sanctions for the non-complying party. Indeed, the misconduct is always the same, *i.e.* failure to comply with a decision issued by a decision-making body of the sports justice system, as are the sanctions provided for the non-compliance.
89. The First Respondent, as sporting successor of the Original Debtor, was expected to fully understand in the given circumstances that, by identifying itself with the Original Debtor, it would have been liable for its payment obligations towards the Appellant and obliged to comply with the CAS Award. It was equally aware of the sanctions against the non-compliant party as they are provided for in Article 85 of the RFF Disciplinary Code.
90. The Sole Arbitrator also notes that the First Respondent never disputed being the sporting successor of the Original Debtor and, indeed, it was fully aware of the sporting succession with the Original Debtor, so much so that it even included a reference to the founding date of the previous club in its name (“1923”). Pursuant to the legal principle *ignorantia legis neminem*

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excusat, the First Respondent may not escape its liability merely because it ignored the legal consequences of identifying itself with the Original Debtor.

91. Therefore, the Sole Arbitrator finds that the principles of legality and predictability are fully respected.
92. In the light of the foregoing, the Sole Arbitrator holds that the concept of “sporting successor” provided forth by Article 15(4) of the FIFA Disciplinary Code and by the CAS jurisprudence, should be applied in the present proceedings. Therefore, the First Respondent, as sporting successor of the Original Debtor, should be sanctioned under Article 85 of the RFF Disciplinary Code for not complying with the CAS Award.

E. Was the initial claim filed by the Appellant time-barred?

93. Both Respondents objected that the Appellant’s initial application before the Disciplinary Committee was time-barred, as filed after the lapse of five years set out in Article 46(1) of the RFF Disciplinary Code.
94. This objection, raised by the First Respondent before the Disciplinary Committee, has been rejected by the First Decision as follows: *“With reference to the limitation of the substantive right to seek the imposition of penalties (the limitation of disciplinary liability) based on the provisions of Article 46, section 1, second sentence of the Disciplinary Regulation, the Committee notes that the 5-year period provided for by the Regulation shall be calculated from the time when the disciplinary offence was committed, namely from the time when the payment obligation was refused. According to the Plaintiff’s claims, the right to seek the application of disciplinary sanctions arose at the time when FOTBAL CLUB RAPID 1923 SA was affiliated to RFF, i.e. on August 24. 2018, and not at the time when FOTBAL RAPID BUCARESTI SA refused to pay the penalty because the Plaintiff claims, FOTBAL CLUB RAPID 1923 SA is the “successor” of FOTBAL RAPID BUCARESTI SA”.*
95. Since the First Respondent did not appeal the First Decision, the matter should be considered as *res iudicata*, without any power of review by the Sole Arbitrator.
96. For the sake of completeness, the Sole Arbitrator notes in any case that the five-year period began to run from August 2018, when the New Club succeeded the Original Debtor and was affiliated to the RFF, in accordance with the statements of the First Decision.
97. The First Respondent states that, in summer 2018, it *“bought, at a public auction organised by the Old Rapid’s trustee, a portfolio of intellectual property rights containing, among others, the Old Rapid’s logo”* and that *“it was granted the right to use the name Fotbal Club Rapid in the Romanian FA’S competitions, in consideration of the IP rights acquired by the Old Rapid”*. The First Respondent also acknowledged that the sporting succession occurred *“in the summer 2018”*.
98. The date of incorporation of Academia Rapid and the fact that it played in the Romanian 4th League in the 2017-2018 season are therefore irrelevant, as – according to the arguments raised by the same First Respondent – Academia Rapid never succeeded the Original Debtor, nor has any evidence been provided by the First Respondent to this regard. The witness Mr Dan Filotu did not provide any relevant argument on this matter

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99. Consequently, the Sole Arbitrator finds that, in any case, the Appellant's claim should not be time-barred, as the Appellant started the proceedings against the First Respondent on 19 September 2022, *i.e.* within the five-years period that began to run from summer 2018.

F. Did the Appellant act with due diligence in taking actions to recover his credit towards the Original Debtor?

100. In the Sole Arbitrator's opinion, the Appellant promptly took actions before the competent RFF bodies to obtain recognition of his credit towards the Original Debtor. After the Original Debtor went into bankruptcy, the Appellant filed his claim into the bankruptcy proceedings of the Original Debtor and had been admitted as a creditor for the amount of Romanian LEI 365,132.00. In the light of these circumstances there is nothing to suggest that the Player remained passive or uninterested in pursuing his claim.
101. Although the Appellant registered its credit in the bankruptcy proceedings of the Original Debtor, the Appellant's claim is anyway admissible. Indeed, taking into account that the present claim has been brought against the First Respondent, *i.e.* a different subject in respect of the Original Debtor, the *electa una via non datur recursus ad alteram* principle cannot be applied.
102. Besides, it is irrelevant that the claim against the First Respondent was brought four years after its incorporation. Since the timeliness of the action brought against the First Respondent should be affirmed by the mere fact that it was filed – as stated above – within five years from the sporting succession, no consequences can accrue to the Appellant.
103. For the sake of completeness, the Sole Arbitrator finally notes that the Respondents did not give any evidence that the Appellant could have “*big chances*” of recovering his credit from the bankruptcy proceedings of the Original Debtor, not even submitting any information in relation to the value of the Original Debtor's assets.
104. In the light of the above considerations the Sole Arbitrator finds that the Appellant did act in a diligent manner in recovering the credit granted by the CAS Award.

G. Conclusions

105. Based on the foregoing analysis and after having taken into due consideration all the specific circumstances of the case, the evidence produced and arguments submitted by the Parties, the Appeal is upheld, as the Sole Arbitrator concludes that:
- a) the Appellant has standing to challenge the Appealed Decision;
 - b) the RFF has standing to be sued;
 - c) the Player had standing to lodge the appeal against the First Decision and, thus, his appeal was fully admissible;
 - d) the First Respondent, as sporting successor of the Original Debtor, should be considered as a non-complying party under Article 85 of the RFF Disciplinary Code in respect to the CAS Award;
 - e) the Appellant's initial claim before the Disciplinary Committee was timely filed;
 - f) the Appellant acted with due diligence in taking actions to recover his credit towards the Original Debtor.

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106. As stated by the well-established CAS jurisprudence (CAS 2021/A/8334; CAS 2020/A/6950, CAS 2020/A/6916), *“without prejudice to Article R57 of the CAS Code, which confers CAS with the full power to review the facts and the law of the case, a CAS panel is nonetheless bound to the limits of the parties’ motions, since the arbitral nature of the proceedings obliges the panel to decide all claims submitted by the parties and, at the same time, prevents the panel from granting more than the parties are asking by submitting their requests for relief to the CAS, according to the principle of ne ultra petita”*.
107. The Sole Arbitrator notes that the Appellant, in his prayers for relief, requested (i) mainly, to find the First Respondent guilty of failing to comply with the CAS Award and to declare that the RFF Disciplinary Committee is obliged to sanction the First Respondent in accordance with the RFF Regulations until the full payment of the amount granted by the CAS Award; (ii) alternatively, to send the case back to the Recourse Commission for retrial.
108. In the grounds of the Appeal Brief, the Appellant never expressly requested the Sole Arbitrator to apply sanctions against the First Respondent. Indeed, the Appellant’s defences mainly focus on the admissibility of the appeal against the First Decision, the applicability of Article 15 of FIFA Disciplinary Code, the New Club being the sporting successor of the Original Debtor and the compliance with the limitation of disciplinary liability.
109. The Sole Arbitrator is aware that reasons of procedural economy, the value and the complexity of the present dispute would not justify a referral of the case back to the RFF Recourse Commission, speaking in favour of CAS resolving all disciplinary aspects of the present proceedings. Nevertheless, taking into account that, according to the Appellant’s prayers for relief, the latter asked the sanctions to be imposed by the RFF Disciplinary Committee or, alternatively, by the Recourse Commission, the Sole Arbitrator believes that he could not impose sanctions against the New Club, without incurring in *ultra petita*.
110. Therefore, pursuant to Article R57 of the CAS Code, the Sole Arbitrator annuls the Appealed Decision and refers the case back to the Recourse Commission (Board of Appeal), which should follow and apply the statements and principles set out in the present award.
111. All other and further motions or prayers for relief are dismissed.

IX. COSTS

(...)

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ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Cristian Stancu Ionuț against the decision issued by RFF Recourse Commission (Board of Appeal) on 2 November 2023 is upheld.
2. The decision issued by RFF Recourse Commission (Board of Appeal) on 2 November 2023 is annulled and the matter is referred back to the RFF Recourse Commission (Board of Appeal), which shall issue a formal decision on the merits, determining the sanctions to be imposed on Fotbal Club Rapid 1923 SA pursuant to Article 85 of the RFF Disciplinary Code on the basis of the followings:
 - a) the appeal filed by Cristian Stancu Ionuț against the decision issued by the RFF Disciplinary and Ethics Committee on 12 April 2023 is admissible;
 - b) Fotbal Club Rapid 1923 SA, being the sporting successor of Fotbal Rapid București S.A., is found guilty of failing to comply in full with the decision passed by the CAS on 3 September 2012 (case CAS 2011/A/2613, Stancu Ionuț Cristian vs. S.C. Fotbal Rapid București S.A.) according to which Fotbal Rapid București S.A. was ordered to pay to Cristian Stancu Ionuț the amount of EUR 65,079, plus EUR 755 of interest which became due on 31 December 2011 and plus interest from 31 December 2011 at the rate of 5% p.a.;
 - c) the Cristian Stancu Ionuț's initial claim filed on 22 September 2022 before the RFF Disciplinary and Ethics Committee is not time-barred;
 - d) Cristian Stancu Ionuț acted with due diligence in taking actions to recover his credit from the Original Debtor;
 - e) the disciplinary proceedings against Fotbal Club Rapid 1923 SA, as the sporting successor of Fotbal Rapid București S.A., is admissible, not being applicable the the *electa una via non datur recursus ad alteram* principle.
3. (...).
4. (...).

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5. (...).
6. All other motions or prayers for relief are dismissed.

Lausanne, 12 May 2025

THE COURT OF ARBITRATION FOR SPORT

Cesare Gabasio
Sole Arbitrator