CAS 2024/A/10680 Diosgyör Futball Club Kft. v. Sergey Kuznetsov & Fédération Internationale de Football Association

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition

Sole Arbitrator: Mr Lars Hilliger, Attorney-at-Law, Copenhagen, Denmark

in the arbitration between

Diosgyör Futball Club Kft., Miskolc, Hungary

Represented by Mr Thomas Hochstrasser and Mr Boris Catzeflis, Niederer Kraft Frey Ltd, Zurich, Switzerland

Appellant

and

Sergey Kuznetsov, Hungary/Ukraine

Represented by Mr Georgi Gradev and Mr Marton Kiss, SILA International Lawyers, Sofia, Bulgaria

First Respondent

and

Fédération Internationale de Football Association (FIFA), Zurich, Switzerland

Represented by Mr Miguel Liétard Fernández-Palacios, FIFA Director of Litigation, and Mr Roberto Nájera Reyes, Senior Legal Counsel

Second Respondent

I. PARTIES

1. Diosgyör Futball Club Kft. (the "Club") is a professional football club based in Miskolc, Hungary. The Club is affiliated with the Hungarian Football Association (the "MLSZ"), which in turn is affiliated with FIFA.

2. Sergey Kuznetsov (the "Coach") is a professional football coach of Ukrainian and Hungarian citizenship. The Coach holds a UEFA A Licence.

3. FIFA is the world governing of football, whose headquarters are located in Zurich, Switzerland. FIFA is the governing body of international football and is recognised as such by the International Olympic Committee. It exercises regulatory, supervisory and disciplinary functions over continental confederations, national associations, clubs, officials and players worldwide.

4. The Appellant and the First and Second Respondents are collectively referred to as the "Parties".

II. FACTUAL BACKGROUND

A. Background facts

5. Below is a summary of the main relevant facts as established on the basis of the Parties' written and oral submissions and the evidence examined in the course of these proceedings. Additional facts and allegations found in the Parties' submissions may be set out, where relevant, in connection with the further legal discussion 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 he considers necessary to explain his reasoning.

6. On 24 August 2022, the Club and the Coach signed an employment contract valid from the date of signature until 30 June 2025 (the "Employment Contract"), pursuant to which the Coach was hired as the head coach of the Club's first team.

7. In May 2023, and through mutual agreement, the provisions of the Employment Contract were amended.

8. By letter of 31 January 2024, the Club unilaterally terminated its employment relationship with the Coach.

B. Proceedings before the FIFA PSC – (FPSD-13855) and before the FIFA DC – (FDD-18520)

9. On 28 February 2024, the Coach filed a claim against the Club with the FIFA Legal Portal. The Coach claimed the Club's payment of *"HUF 125,570,872 gross, plus interest of 5% p.a. as of January 31, 2024, until full payment."* for breach of contract.

10. The Coach provided the email address info@dvtk.eu as the Club's email address, which was the same email address as was found in the FIFA Transfer Matching System (TMS) under Contact Details for the Club.

11. As a result, FIFA opened a case against the Club.

12. On 1 March 2024, FIFA forwarded an opening letter to the Club via the FIFA Legal Portal and via email at info@dvtk.eu.

13. On 25 March 2024, and without having received any reply or reaction from the Club, FIFA sent out a closing letter to the Club as well as to the Coach – also via the Legal Portal.

14. On 28 March 2024, FIFA notified the parties via the Legal Portal about the constitution of the Single Judge of the FIFA Players' Status Chamber (the "FIFA PSC").

15. On 29 March 2024, the Single Judge of the FIFA PSC rendered her decision (the "Appealed Decision") and decided that:

"*1. The claim of [the Coach] is accepted.*

2. [The Club] must pay to [the Coach]the following amount(s):

- *Hungarian Forint (HUF) 125,570,872 as compensation for breach of contract without just cause plus 5% interest p.a. as from 31 January 2024 until the date of effective payment.*

3. Full payment (including all applicable interest) shall be made to the bank account indicated in the enclosed Bank Account Registration Form.

4. 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 Club] 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.

5. The consequences shall only be enforced at the request of [the Coach] 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.

6. This decision is rendered without costs."

16. On 12 April 2024, the findings of the Appealed Decision were notified to the Appellant and the First Respondent via the FIFA Legal Portal and, moreover, to the Appellant via email at info@dvtk.eu.

17. In the Note Related to the Findings of the Decision, the following, *inter alia*, was stated:

"*In accordance with art. 15 of the Procedural Rules Governing the Football Tribunal (hereinafter: the Procedural Rules), this correspondence only communicates the findings of the decision without grounds.*

Should any of the parties wish to receive the grounds of the decision, a written request must be received by FIFA, within 10 days of receipt of notification of the findings of the decision. Failure to do so within the stated deadline will result in the decision becoming final and binding and the parties being deemed to have waived their rights to file an appeal."

18. Neither the Club nor the Coach requested the grounds of the Appealed Decision within the 10-day deadline set by FIFA.

19. On 28 May 2024, the First Respondent requested that the FIFA general secretariat impose a transfer ban on the Club with immediate effect pursuant to the Appealed Decision until the payment to the Coach was received. The Coach once again identified info@dvtk.eu as the Club's email address in the FIFA Legal Portal, as per the TMS.

20. As a result, and on the same day, FIFA opened a new case against the Club (FDD-18520) and issued a letter to the Club forwarded via the FIFA Legal Portal stating as follows (the "DC Letter"):

"*Ref. no. FDD-18520 – Ref. no. FPSD-13855*

Implementation of registration ban

Dear Madam, Dear Sir,

We refer to the abovementioned matter as well as to the Decision passed by FIFA (the Decision).

In this context, it appears that, despite the Decision, the respondent, DIOSGYOR FUTBALL CLUB KFT. (the Respondent) has still not complied with its financial obligations towards Mr Sergii Kuznetsov (the Claimant).

In this regard, we wish to inform the parties that a ban from registering new players internationally has been implemented by FIFA.

Moreover, and in accordance with the aforementioned decision, the Hungarian Football Federation (in copy) is requested to immediately implement on the respondent the DIOSGYOR FUTBALL CLUB KFT., if not done yet, a ban from registering new players at national level.

We thank you for taking note of the above and for your valuable cooperation in this matter."

21. On 30 May 2024, the Club was informed by Hungarian Football Association about the DC Letter via the email address molnar.akos@dvtk.eu.

22. On 13 June 2024, the Club uploaded a letter dated 7 June 2024 to the FIFA Legal Portal, which reads, *inter alia*, as follows:

"*It is also a matter of fact with respect to the case that no emails were received to the email addresses of the primary and secondary contact person of our Club in connection with the Club TMS account in this matter and no attempt was made by FIFA to send any emails to such email addresses, attempts to do so were made only and exclusively to the email address info@dvtk.eu.*

Our Club ordered an IT investigation to be conducted about the matter, the outome of which was that the IT officer did not find any e-mails among the messages receved at the email *address info@dvtk.eu that appeared to be originating from FIFA, only and exclusively in the spam folder and therefore such messages were not properly received by the Club in accordance with the relevant rules. The IT expert has prepared an expert report on the matter, which I attach to*

In case you do not grant our request, in the light of the fact that, for reasons beyond our control, we only became aware of your decision on 30 May 2024, the 10-day time limit from which has not yet expired, we kindly request you to send us the justification for your decision so that we can appeal against it before the CAS."

23. On 14 June 2024, FIFA replied to the Club through the FIFA Legal Portal:

"*We hereby acknowledge receipt of the correspondence sent by the respondent and have taken note of this information therein provided.*

In this regard, we kindly refer the respondent to our previous communication and also to the Decision of the Players Status Chamber passed on 29 March 2024 which is final and binding, and we hereby confirm to the parties that the case remains open and the registration band imposed."

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

24. On 18 June 2024, the Club filed its Statement of Appeal with the Court of Arbitration for Sport (the "CAS") in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (the "CAS Code") against the Appealed Decision.

25. On the same date, the Club filed another Statement of Appeal with the CAS (CAS 2024/A/10703) with regard to the above-mentioned letter from FIFA dated 14 June 2024 informing the Club that FIFA would not provide the grounds of the Appealed Decision.

26. On 28 June 2024, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code. The Appeal Brief included a request for stay of the execution of the Appealed Decision.

27. On 28 June 2024 and 8 July 2024, the Second Respondent and the First Respondent, respectively, filed their Answers to the said request for provisional measures.

28. By letter of 18 July 2024 to the CAS Court Office, the Appellant wrote, *inter alia*, as follows:

"*On behalf of our client, Diosgyr Futball Club Kft. (the 'Appellant' or 'Club'), I would like to herewith inform you that yesterday, 17 July 2024, the Appellant has paid the amount of HUF 128'521'585 to the bank account of Mr Sergey Kuznetsov (the 'Coach'), in fulfilment of the Appealed Decision FPSD-13855 (Exhibit A22). The Coach has confirmed receipt of said amount, and FIFA has lifted the transfer ban as per the DC Decision FDD-1850 (Exhibit A23).*

For the above reasons, the Appellant herewith withdraws its request for a stay of the Appealed Decision and the DC Decision submitted as part of its Statement of Claim, dated 18 June 2024. […]".

29. On 21 August 2024, the First Respondent forwarded the following request to the CAS Court Office:

"*In light of the First Respondent's objection to CAS jurisdiction and the admissibility of the appeal expressed in the Answer to the Request for Provisional Measures […], I hereby respectfully request that the Sole Arbitrator, once appointed, render an interim decision bifurcating this proceeding in order to address and resolve the preliminary issues of CAS jurisdiction and the admissibility of the appeal.*"

30. On 22 August 2024, the CAS Court Office informed the Parties that Mr Lars Hilliger, Attorney-at-Law, Copenhagen, Denmark, had been appointed as Sole Arbitrator in these proceedings.

31. On the same date, the Second Respondent informed the CAS Court Office of its agreement with the request for bifurcation, while on 28 August 2024, the Appellant objected to the request, stating, *inter alia*, that "*the question of CAS jurisdiction cannot be resolved without addressing the question (on the merits) of the nullity of the [Appealed Decision]*".

32. On 28 August 2024, the Appellant filed a petition for challenge of the appointment of Mr Lars Hilliger as Sole Arbitrator.

33. On 29 August 2024, the First Respondent submitted, *inter alia*, that the challenge of Mr Lars Hilliger as Sole Arbitrator "*is unjustified and must be rejected*".

34. By letter of 2 September 2024, the Sole Arbitrator forwarded a confirmation stating, *inter alia*, that he was "*impartial and independent of all the parties and will remain so*", and on 3 September 2024, the Second Respondent requested that the challenge be rejected as it was based on "*groundless arguments and mere speculations*".

35. On 16 September 2024, and within the granted extension of time, the Second Respondent submitted its Answer in accordance with Article R55 of the CAS Code.

36. On 13 January 2025, the CAS Court Office forwarded to the Parties the Decision rendered by the Challenge Commission of the Board of the International Council of Arbitration for Sport in which the challenge against the Mr Lars Hilliger was dismissed and also confirmed to the Parties that the Arbitral Tribunal appointed to hear the appeal had been constituted as follows:

Sole Arbitrator: Mr Lars Hilliger, Attorney-at-Law, Copenhagen, Denmark

37. On 20 January 2025, the Appellant filed a submission maintaining the challenge of the Sole Arbitrator.

38. On 30 January 2025, the Parties were advised, *inter alia*, as follows:"

"- *The request for bifurcation filed by the First Respondent is denied on the grounds that the objections raised by the First Respondent are so intertwined with the merits that bifurcation would not be cost-effective and time efficient. […]*

- *The procedure CAS 2024/A/10703 is suspended until an Award has been issued in CAS 2024/A/10680.*"

39. On 5 February 2025, and within the granted extension of time, the First Respondent submitted his Answer in accordance with Article R55 of the CAS Code.

40. On 19 February 2025, the Appellant submitted an unsolicited submission in reply to the Answers of the Respondents. In this regard the Appellant stated, *inter alia*, as follows:

"*If the Sole Arbitrator is willing to accept this submission as a replica to the answers submitted by FIFA and the Coach, the Appellant is ready to proceed without a hearing. If not, the Appellant respectfully requests that a hearing be held at the occasion of which the Appellant will have the opportunity to reject the misstatements brought forward by FIFA and the Coach.*"

41. On 25 February 2025, the First Respondent objected to the admissibility of the Appellant's submission.

42. By letter of 5 March 2025 from the CAS Court Office, the Parties were informed as follows:

"*Pursuant to Article R56(1) of the Code of Sports-related Arbitration (the "Code"), in view of the First Respondent's objection and in the absence of exceptional circumstances, the submission filed by the Appellant on 19 February 2025 is inadmissible and will therefore not be included in the case file.*

Pursuant to Article R55(5) of the Code, in view of the First Respondent's objection to jurisdiction in his Answer, the Appellant and the Second Respondent are invited to file a written submission, strictly limited to the issue of CAS jurisdiction, within ***ten (10) days*** *from the receipt of this letter by email.*

Upon receipt of the submissions on jurisdiction, the Sole Arbitrator will decide whether to hold a hearing or not." (emphasis in original)

43. On 7 March 2025 and on 14 March 2025, the Second Respondent and the Appellant, respectively, filed their submissions on jurisdiction, and on 17 March 2025, the First Respondent wrote to the CAS Court Office as follows:

"*The Appellant's response to the jurisdictional objection exceeds the scope established by the Sole Arbitrator. Accordingly, the First Respondent respectfully requests that only the portions of the submission directly addressing the jurisdictional objection be admitted, while any additional arguments or comments falling outside the prescribed limits be deemed inadmissible, in accordance with Article R56 of the Code.*"

44. By letter of 18 March 2025, the Parties were informed that the Sole Arbitrator had decided to hold a hearing in this case, and by letter of 20 March 2025, they were informed as follows:

"*On behalf of the Sole Arbitrator, who has analysed the Appellant's submission in light of the First Respondent's request and subsequent clarification, the Parties are advised that the Appellant's entire submission is admitted to the case file on the grounds that it does not exceed the established scope.*"

45. The Parties all signed and returned the Order of Procedure.

46. On 8 May 2025, a hybrid hearing was held in Lausanne, Switzerland, and by Cisco WEBEX.

47. In addition to the Sole Arbitrator and Mrs Delphine Deschenaux-Rochat, Counsel to the CAS, the following persons attended the hearing:

<u>For the Appellant</u>:

Mr Boris Catzeflis – Counsel

Mr Gergely Sántha – Party representative (online)

Mr Ákos Molnár – Party representative (online)

Mr Attila Kondorosi – Witness (online)

For the First Respondent:

Mr Márton Kiss – Counsel (online)

Mr Yavor Petkov – Counsel (trainee) (online)

Mr Kaloyan Stefanov – Counsel (trainee) (online)

For the Second Respondent:

Mr Roberto Nájera Reyes – Counsel (online)

48. At the outset of the hearing, the Respondents confirmed that they had no objections to the constitution of the Sole Arbitrator, while the Appellant maintained its challenge of the appointment of the Sole Arbitrator.

49. The Sole Arbitrator heard the evidence of Mr Attila Kondorosi called by the Appellant, who was invited by the Sole Arbitrator to tell the truth subject to the sanctions of perjury under Swiss law. The Parties and the Sole Arbitrator had the opportunity to examine and cross-examine the witness.

50. The Parties were afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Sole Arbitrator.

51. After the Parties' final submissions, the Sole Arbitrator closed the hearing. The Sole Arbitrator took into account in his subsequent deliberations all the evidence and arguments presented by the Parties although they may not have been expressly summarised in the present Award.

52. Upon the closure of the hearing, the Parties stated that they had no objections in respect of their right to be heard and to have been treated equally and fairly in these arbitration proceedings.

IV. SUBMISSIONS OF THE PARTIES

53. The following summary of the Parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Sole Arbitrator, however, has carefully considered all the submissions made by the Parties, even if no explicit reference is made thereto in what immediately follows.

A. The Appellant

54. In its Appeal Brief, the Appellant submitted the following requests for relief:

"*1. The Challenged Decision, i.e. FPSD-13855 of the FIFA Players Status Chamber, be declared null and void.*
Alternatively,
The Challenged Decision, i.e., FPSD-13855 of the FIFA Players Status Chamber, be

annulled and set aside.

2. *The DC Decision, i.e. FDD-18520 of the FIFA Disciplinary Committee, be declared null and void.*
   Alternatively,
   The DC Decision, i.e.FDD-18520 of the FIFA Disciplinary Committee, be annulled and set aside.

3. *The costs of the present arbitration, if any, be borne by the Respondents.*

4. *The Respondents be obliged to pay a contribution to the legal costs of the Appellant in an amount to be determined by the Panel.*

5. *The costs of the present arbitration, if any, be borne by the Respondents.*

6. *The Respondents be obliged to pay a contribution to the legal costs of the Appellant in an amount to be determined by the Panel.*"

55. The Appellant's submissions, in essence, may be summarised as follows:

Admissibility

- The Appellant's appeal against the Appealed Decision and the DC Letter is in any case admissible.

CAS Jurisdiction

- The Appealed Decision was rendered by the FIFA PSC, which is FIFA's last instance chamber in accordance with Article R47 of the CAS Code.

- Pursuant to Article 56 par. 1 of the FIFA Statutes, a decision of the FIFA PSC may be appealed against before the CAS.

- The DC Letter was issued by FIFA in response to the Appellant's request to annul the Appealed Decision and constitutes an appealable decision.

- CAS has jurisdiction to hear the appeal against the two decisions, both *ratione temporis* and *ratione materiae*.

- However, as the said decisions are null and void, the Appellant's action does not constitute an appeal in the conventional sense. Rather, the Appellant defends itself by seeking a declaration or confirmation that the decision or decisions in question have no legal effect whatsoever and do not exist.

- That an appeal to the CAS is a way to request the setting aside of an adjudicatory body's decision in a case where such a body wrongfully accepted jurisdiction is confirmed by the CAS in CAS 2021/A/7775 (para. 143).

- The Appellant has not only requested a declaratory relief in respect of the two decisions in question, but also expressly requested the setting aside of the decisions as an alternative.

- Moreover, the Appellant does not have to observe any deadlines as the nullity of the Appealed Decision and the DC Letter must be observed by all legal authorities at all times.

- At what time the Appellant requested the grounds of the Appealed Decision and the Appellant filed its appeal is therefore irrelevant in the case at hand.

- In any case, and for the sake of good order, given the fact that the Appellant did not participate at all in the proceedings before FIFA, it must not be considered to have tacitly consented to the FIFA proceedings despite FIFA's lack of jurisdiction.

FIFA competence

- When filing his claim for financial compensation against the Club before FIFA, the Coach stated that he was of Ukrainian nationality (only) and the dispute had an "international dimension".

- In this regard, the Coach provided FIFA with a translation into English of the Employment Contract, which did not include the information about the Coach being a "Hungarian citizen", which information was included in the original version of the said contract, which was drafted in the Hungarian language.

- Pursuant to Article 22 (2)(c) of the FIFA Regulations on the Status and Transfers of Players (the "FIFA RSTP"), FIFA is only competent to rule on matters with an "international dimension".

- The dispute between the Club and the Coach does not have such an international dimension, since the Coach was (also) of Hungarian nationality, which nationality is not disputed.

- Pursuant to FIFA and CAS jurisdiction (CAS 2021/A/7694), a dispute cannot be deemed "international" if a coach is employed by a club in one of the countries of which he holds citizenship.

- Thus, FIFA did not have jurisdiction to hear the dispute between the Club and the Coach.

- The Coach acted in bad faith when deceiving FIFA by stating his nationality as Ukrainian and thus concealing his Hungarian citizenship so that FIFA would assume that the dispute between the Club and the Coach was an international matter subject to Article 22 (1)(c) of the FIFA RSTP.

- Actually, the Coach also lodged a claim regarding the same subject matter with the district court of the city of Győr, Hungary, which claim the Club has rejected in full. The court case is still pending.

Consequences of lack of FIFA competence

- FIFA is an association founded in accordance with Articles 60 et seq. of the Swiss Civil Code (the "SCC").

- Pursuant to Article 75 of the SCC, decisions of a body of an association can be appealed against (with a state court of an arbitral tribunal if the applicable regulations so provide), which is in line with Article 57 of the FIFA Statutes.

- However, a challenge of a FIFA decision in a matter where FIFA has no competence is not covered by FIFA rules and regulations, which is why Swiss law must apply to determine this issue.

- As a general rule, decisions of Swiss associations are appealable if they violate the law and/or the association´s statutes.

- However, it is a recognised principle under Swiss law that in case of a qualified violation of the law or the statutes, such a decision is not appealable, but null and void (see e.g. SFT 5A_205/2013, consid. 4).

- As such, and in light of this principle, it follows that a decision imposing a sanction on a member passed by an incompetent body is null and void, which has been confirmed by the SFT on several occasions (see e.g. SFT 144 IV 362, consid. 1.4.3 and SFT 145 III 436. consid. 4).

- As such, the Appealed Decision and, consequently, also the DC Letter are null and void and thus have no legal effects whatsoever.

- Nullity must be observed by the legal authorities (such as FIFA and the CAS) at all times, as the SFT has held on many occasions (see e.g. SFT 5A_205/2013, consid. 4 and SFT 144 IV 362, consid. 1.4.3).

- Since nullity must be observed by the legal authorities at all times, *inter alia*, the deadline for appeal to the CAS as per Article 57 of the FIFA Statutes does not apply.

- A party opposing a decision that is null and void does not lodge an appeal within the meaning of the FIFA Statutes and regulations. Rather, it defends itself by seeking a declaration or confirmation that the decision has no legal effect whatsoever and does not exist.

The communication by FIFA

- The opening letter of 1 March 2024 which eventually led to the Appealed Decision was forwarded to the email address info@dvtk.eu and thus never reached the Appellant as it was directed to a spam folder.

- Pursuant to Article 10 par. 1 of the FIFA Procedural Rules Governing the Football Tribunal (the "Procedural Rules"), "*[a]ll communications shall be undertaken via*

the Legal Portal operated by FIFA (Legal Portal) or the Transfer Matching System (TMS) ".

- The same article further provides that "*The contact details indicated in TMS are binding on the party that provided them*".
- In the "Contacts" folder in the FIFA TMS, the Appellant had indicated to email addresses: molnar.akos@dvtk.eu and petran.bettina@dvtk.eu, which are different from the info@dvtk.eu, to which FIFA forwarded its messages.
- It is not relevant for this type of messages which email address was indicated in the general section of the FIFA TMS.
- It follows that the Appellant had not received any FIFA message before it started to investigate the matter with the MLSZ that had informed the Appellant about the case on 30 May 2024.
- This means that if a 21-day period had existed for an appeal, the appeal period would have commenced on 31 May 2024 and would have expired on 22 June 2024, which means that the statement of appeal of the Appellant would have been filed on time.
- Moreover, the Appellant never received the grounds of the Appealed Decision, which is another obstacle for any possible deadline for appeal to start running.
- As such, this "appeal" before the CAS is not a usual appeal, but rather a request to have the Appealed Decision (and as a consequence also the DC Letter) declared null and void.

B. The Respondents

a. First Respondent

56. In his Answer, the Coach requested the CAS to:

"*1. Deny jurisdiction or, alternatively, render the appeal inadmissible or, more alternatively, dismiss it.*

2. Order the Appellant to bear all costs incurred with the present procedure.

3. Order the Appellant to pay the First Respondent a contribution towards his legal and other expenses determined at the Sole Arbitrator's discretion."

57. The Coach's submissions, in essence, may be summarised as follows:

Admissibility

- Articles 24 and 25 of the FIFA RSTP ensure the effective enforcement of financial decisions and prevent non-compliance tactics.

- Regarding whether the consequences of non-compliance with the payment deadline can be challenged when imposed – i.e. after 45 days have elapsed without full payment, including interest – such consequences are an automatic extension of the substantive decision. By the time they take effect, the decision is final and binding, precluding any further appeal.

- Consequently, a party cannot challenge these consequences once enforced. The only avenue for contestation is to appeal against the original decision before it becomes final, even if the objection pertains solely to the potential consequences rather than the financial orders.

- The Appealed Decision was properly notified to the Appellant via the FIFA Legal Portal on 12 April 2024, and the Appellant failed to request the grounds within the 10-day regulatory deadline.

- As a result, and pursuant to Article 15 par. 5 of the FIFA Procedural Rules, the Appealed Decision became final and binding.

- The time limit to appeal begins upon notification of the grounds of the decision, and therefore no time limit has ever begun to run.

- And even if it had, the 21-day appeal period under Article 57 par. 1 of the FIFA Statutes would have expired on 3 March 2024.

- The Club's alternative request to FIFA dated 7 June 2024, but filed on 13 June 2024, for the grounds of the Appealed Decision was untimely and therefore correctly disregarded by FIFA in accordance with Article 15 par. 5 of the FIFA Procedural Rules.

- As such, the appeal against the Appealed Decision, filed on 18 June 2024, is manifestly late and thus inadmissible.

- With regard to the DC Letter, it does not constitute a "*decision of a federation, association, or sports-related body*" under Article R47 of the CAS Code, as it was merely an administrative action based on the Appealed Decision (see e.g. CAS 2019/A/6406, para. 56, and CAS 2028A/A5933, para. 64).

- The DC Letter lacks "*animus decidendi*".

- CAS case law establishes that debtors cannot appeal against the enforcement of automatic sanctions – such as transfer bans, points deductions or relegation – each time they become enforceable under a final and binding decision. Allowing such appeals would undermine FIFA's enforcement system. (see e.g. CAS 2019/A/6406, para. 62, and CAS 2018/A/5933, para. 68).

- While the sanction in this case was not automatic and required the Coach's request, this does not alter the outcome. The sanctions were predetermined in the Appealed Decision.

CAS Jurisdiction

- As already mentioned above, the Appealed Decision was notified to the Appellant via the FIFA Legal Portal on 12 April 2024.

- The Appellant failed to request the grounds of the Appealed Decision within the applicable ten-day deadline, thereby waiving its right to appeal to the CAS under Article 15 par. 5 of the FIFA Procedural rules.

- Consequently, at the time of the appeal to the CAS on 18 June 2024, the arbitration clause in Article 56 par. 1 of the FIFA Statutes was no longer applicable.

- The waiver of the right to appeal under Article 15 par. 5 of the FIFA Procedural Rules is analogous to the waiver of the right to request provisional measures from state authorities or tribunals under Article R37 of the CAS Code.

- The Appellant's waiver of its right to appeal to the CAS is a jurisdictional issue, rather than a failure to comply with the deadline for appeals, which pertains to admissibility.

- The time limit to appeal begins upon notification of the grounds of the decision, which the Appellant failed to request in time.

- By waiving its right to appeal, the Appellant did not trigger the 21-day time limit under Article 57 par. 1 of the FIFA Statutes and instead, it effectively excluded CAS's jurisdiction under Article 15.5 of the FIFA Procedural Rules.

- As a result, the CAS does not have jurisdiction ratione temporis over the Appealed Decision.

- As to the DC Letter, and as already set out above, it does not constitute a "*decision of a federation, association, or sports-related body*" under Article R47 of the CAS Code, as it was merely an administrative action based on the Appealed Decision and did not alter the Appellant's legal position, as the sanctions were already determined in the Appealed Decision based on Article 25 of the FIFA RSTP.

- In any case, the Appellant never filed a separate Statement of Appeal against the DC Letter, and in its opening letter of 24 June 2024 regarding the Appellant´s appeal against the Appealed Decision, the CAS counsel correctly identified that the appeal had been filed against the Appealed Decision, and not against the DC Letter.

- Consequently, the CAS has no jurisdiction *ratione materiae* over the DC Letter.

The communication by FIFA

- In his claim against the Club filed via the FIFA Legal Portal, the Coach provided the email address info@dvtk.eu as the Club's email.

- The same email address is listed as the Club's email in the FIFA TMS.

- FIFA forwarded various communications to the Club via the FIFA Legal Portal, including notification of the Appealed Decision without grounds on 12 April 2024.
- The said email had been used in prior communications with the Club regarding another case before FIFA.
- It is not disputed that info@dvtk.eu is the Club's primary email address as registered in the TMS, and the communication by FIFA to this email address is in line with the applicable rules and established practice.
- Whether such communications ended in the Club's spam folder is irrelevant to whether such communications were in fact duly received by the Club, which is the case.
- It is not disputed by the Club that the communication from FIFA regarding the present dispute was in fact received in the Club's spam folder, which, according to the witness, the Club failed to check on a regular basis.
- Any failure to check a spam folder regularly constitutes negligence, as confirmed by the CAS (see e.g. CAS 2019/A/6253, para. 86, and CAS 2020/A/6918, para. 65).
- Moreover, pursuant to the FIFA Procedural Rules, all communication from FIFA must be undertaken via the FIFA Legal Portal or the TMS, and the Club was obliged to review the FIFA Legal Portal and the TMS once per day and is responsible for any procedural disadvantages arising from any failure to do so.
- Actually, FIFA was not even obliged to forward any email notification to the Club.

b. Second Respondent

58. In its Answer, FIFA requested the CAS to issue an award:

"*(a) rejecting the reliefs sought by [the Club];*

(b) declaring the appeal against the [Appealed Decision] inadmissible;

(c) in all cases, dismissing the appeal in full;

(d) in all cases, confirming [the Appealed Decision] and the Registration Ban Decision;

(e) ordering [the Club] to bear the full costs of these arbitration proceedings; and

(f) ordering [the Club] to make a contribution to FIFA's legal costs."

59. FIFA's submissions, in essence, may be summarised as follows:

Admissibility

- The Appellant only appealed against the Appealed Decision, and no appeal was ever filed with regard to the DC Letter.

- An appellant has the obligation to correctly identify in the Statement of Appeal the decision it wants to appeal, as confirmed in R48 of the CAS Code.

- In its Statement of Appeal, the Club identified the appealed decision as the one issued by the Football Tribunal on 29 March 2024 (i.e. the Appealed Decision), which was also attached to the Statement of Appeal as Exhibit A1.

- As an appeal was never filed against the DC Letter, the said letter has become final and binding.

- FIFA's primary position is that the appeal against the Appealed Decision is inadmissible, given that the Appealed Decision is now final and binding as none of the Parties requested the grounds of the said decision.

- Pursuant to Article 15 par. 5 of the Procedural Rules, "*Where no procedural costs are ordered, a party has ten calendar days from notification of the opreative part of the decision to request the grounds of the decision. Failure to comply with the time limit shall result in the decision becoming final and binding and the party will be deemed to have waived its right to file an appeal. The time limit to lodge an appeal begins upon notification of the grounds of the decision.*"

- Moreover, the Appealed Decision clearly stated that: "*Should any of the parties wish to receive the grounds of the decision, a written request must be received by FIFA, within 10 days of receipt of notification of the findings of the decision. Failure to do so within the stated deadline will result in the decision becoming final and binding and the parties being deemed to have waived their rights to file an appeal.*"

- As the Appellant did not request the grounds of the Appealed Decision within the deadline, it is clear that it waived its right to file an appeal, and the Appealed Decision therefore became final and binding.

- Moreover, the Appellant is prevented from challenging the Appealed Decision as it is against the principle of *venire contra factum proprium* as set out in, *inter alia*, CAS 2020/A/7252 BFC Daugavpils v. FC Kairat & FIFA (paras 159-164), which principles are applicable *mutatis mutandis.*

- In particular, (i) since the Appellant failed to request the grounds of the Appealed Decision, its right to challenge it is precluded; (ii) allowing the Club to do so would amount to a violation of the principle of *venire contra factum proprium* as, by failing to request the grounds of the Appealed Decision within the granted time limit, the Appellant induced legitimate expectations on the Coach and FIFA that it

accepted the outcome of the dispute; (iii) consequently, the CAS is prevented from reviewing the merits of the final and binding Appealed Decision.

- Moreover, and even if one were to consider that the Appellant did not waive itsright to appeal against the Appealed Decision (*quod non),* CAS should note that the Appellant also failed to appeal against the Appealed Decision within the relevant deadline of 21 days from the receipt of the decision pursuant to Article 57 of the FIFA Statutes and R49 of the CAS Code.

- The Appellant filed its appeal on 18 June 2024, i.e. 67 days after the notification of the Appealed Decision and 46 days after the expiration of its deadline to file the appeal.

- Moreover, and even if the Appellant's appeal against the Appealed Decision was to be considered admissible (*quod non*), it must be stressed that any declaratory relief before the CAS is, in general, inadmissible. Therefore, the Appellant's request for relief (i.e. to declare the nullity of the Appealed Decision with *ex tunc* effects) is simply inadmissible.

- Finally, the Appellant's allegations for annulling the Appealed Decision (i.e. that FIFA lacked jurisdiction) cannot in any case be considered at this stage because, as repeatedly established, the Club did not respond to the Coach's Claim and did not appeal the PSC Decision in time.

- In this respect, the Commentary on the FIFA RSTP (ed. 2023) states the following: "*Where a clear and exclusive jurisdiction clause has been agreed upon by the parties, the case will still be heard by the DRC provided that the international dimension is present and both parties agree (even tacitly) that the DRC adjudicates. A challenge to the competence of the DRC in principle must be invoked by the respondent, otherwise it is deemed that the jurisdiction of the DRC is accepted by both parties.*"

- Therefore, the Sole Arbitrator would firstly have to rule that the PSC jurisdiction is, at this stage, already fixed and unalterable because the Appellant did not object to it during the PSC proceedings despite having had the opportunity to do so. By not opposing, the Appellant tacitly accepted the jurisdiction of the PSC to rule on the matter, and, therefore, the CAS cannot modify it at this stage.

<u>CAS Jurisdiction</u>

- It is not contested by FIFA that the CAS has jurisdiction in relation to the appeal of the Appealed Decision filed by the Appellant pursuant to Article 50 par. 1 of the FIFA Statutes in accordance with Article R47 of the CAS Code.

<u>The communication by FIFA</u>

- Article 10 of the Procedural Rules establishes, *inter alia*, the following:

  "*Communications*

1. *All communications shall be undertaken via the Legal Portal operated by FIFA (Legal Portal) or the Transfer Matching System (TMS).*

2. *The specific procedural rules shall define which method of communication must be used for the procedure in question. Communications from FIFA to a party by any such method is considered a valid means of communication and sufficient to establish time limits and their observance.*

3. *Parties must review TMS and the Legal Portal at least once per day for any communications from FIFA. Parties are responsible for any procedural disadvantages that may arise due to a failure to properly undertake such review. The contact details indicated in TMS are binding on the party that provided them.*

[…]"

- Considering that FIFA notified the Coach's Claim and the Appealed Decision to the Appellant through the Legal Portal (and to the email address contained in TMS), such communications were valid and binding to establish any deadline (including the deadline to respond to the Coach's Claim and to appeal the PSC Decision before the CAS).

- Therefore, whether the Appellant received FIFA's automated email in its "*spam folder*" is irrelevant and, in any case, of no avail.

- On at least three different occasions, the Appellant was informed or warned about the implementation of the Legal Portal:

  - Since 25 April 2022, a general notice of the implementation of the Legal Portal was disseminated through FIFA Circular 1795. At that time, the Club was warned, for the first time, that it should create an account in the Legal Portal; however, it did not do so.

  - On 6 April 2023, via FIFA Circular 1842, a general second advance notice of the mandatory implementation on 1 May 2023 of the Legal Portal was circulated. Again, the Club was advised that it had to create an account on the Legal Portal and that "*the information entered in TMS* […] *is binding on the relevant party*" […] "*clubs are responsible for any procedural disadvantages that may arise due to a failure to properly undertake such review.*"

  - In the FAQ document issued by FFIA it was also clarified that "[*t]he contact details provided in the Legal Portal and/or in the TMS is binding on the party that has inserted it.*"

- However, in this particular case and since the Club did not open its account in the Legal Portal on its own, FIFA created an account for it on 28 February 2024 using the email address that the Club had entered in the TMS: info@dvtk.eu.

- On the same day, FIFA notified the Coach's Claim to the Club through the Legal Portal and to TMS's email (info@dvtk.eu). The e-mail clearly informed the Club, inter alia, as follows:

  "*In this respect, please be reminded that as of 1 May 2023, proceedings before the Football Tribunal are conducted exclusively through the FIFA Legal Portal (cf. article 10 of the Procedural Rules Governing the Football Tribunal).*

  In particular, we kindly inform you that your access to the Legal Portal has been recorded with the email address on which you are receiving this email. Therefore, you are invited to register and access the FIFA Legal Portal directly using these credentials.

  Should you wish to change your e-mail of registration in the Legal Portal, we kindly invite you to inform us accordingly via the Help Centre in the Legal Portal or via email to legal.digital.support@fifa.org, indicating the new e-mail address which shall be used for your registration. We wish to highlight that such change will affect all your claims (any past, pending and future).

  Lastly, please be equally informed that, in accordance with the User Manual and Terms of Service of the Legal Portal, as well of FIFA Circular no. 1842: (i) only one e-mail entry per party or legal representative can be entered in the system; and (ii) upon receipt of this email, you will have three days to create your own account and access the FIFA Legal Portal. Failure to do so will be to your detriment."

- Moreover, FIFA also notified the Club of the PSC Decision via the Legal Portal and the TMS's email (info@dvtk.eu) on 12 April 2024. That same email established that "*if you do not have a user account, you can easily register and consult the information related to your cases and make comments or attach documentation.*"

- As such, the three key issues regarding the communication have been demonstrated:

  - First, the Club was negligent not only on one but on at least three occasions. In particular, it was negligent (i) in failing to create an account in the Legal Portal when FIFA invited it to do so; (ii) in failing to review the Legal Portal every day as per Article 10 Procedural Rules; and (iii) in failing to review its "*spam folder*" and check if there were automated emails from FIFA.

  - Secondly, FIFA correctly notified the Club through the Legal Portal and to the email that the Appellant itself had entered in TMS: (info@dvtk.eu).

  - Thirdly, the information provided by the Appellant in TMS is the one that was valid and binding as far as the notifications are concerned, so the Club must be held responsible for its own negligence as established by FIFA regulations and circulars and CAS jurisprudence.

- It is not contested that the relevant e-mails from FIFA "at least" ended in the Club's spam folder".

- By entering into "at least" such spam folder, the e-mails entered into the sphere of control of the Club, and therefore, the Club could have become acquainted with the content of such e-mails as established in, *inter alia*, CAS 2022/A/8598 (paras 121-123) and CAS 2016/A/4651 (para. 48).

- Subsidiarily and only in the unlikely event that it could be considered that the Club was not properly notified through the Legal Portal or on the Appellant's email address listed in TMS (*quod non),* it is worth recalling that Article 11 of the Procedural Rules provides, *inter alia*, as follows:

  "*2. For a party that receives a communication via its member association, the time limit will commence four calendar days after receipt of the communication by the member association to which it is affiliated or registered, or on the date of notification of the party by the member association, whichever is sooner.*"

- Given that the Appealed Decision was also sent via the MLSZ, it must in any case be considered that the said decision was received by the Appellant on 16 April 2024 at the latest, giving the Club until 26 April 2024 – assuming arguendo that the Appealed Decision was to be considered notified through the federation – to request the grounds, which the Club failed to do.

FIFA competence

- The Appellant's arguments regarding FIFA competence are not correct.

- Given that the Coach has a different nationality (Ukrainian) than the Club's (Hungarian), the dispute had a default international dimension and, therefore, FIFA had jurisdiction to assess and decide the case, especially when the Club had the opportunity to raise any issue objecting to FIFA's jurisdiction (or the dispute's lack of international dimension) in due time (i.e., by responding to the Coach's Claim or by appealing against the PSC Decision in a timely manner).

- By not responding to the Coach's Claim, the Appellant renounced its right of defence and accepted the Coach's statements (i.e. that he was Ukrainian and that the dispute had an international dimension).

- In light of all the above, even if the Sole Arbitrator could (somehow) analyse the Appellant's arguments of its (inadmissible) appeal, it must be concluded that they must be rejected.

V. SCOPE OF THE PRESENT APPEAL PROCEEDINGS

60. The Sole Arbitrator initially notes that the Parties are in dispute regarding the scope of the Appellant's appeal and, thus, the scope of the present proceedings.

61. While the Appellant, on its side, submits that the present proceedings are covering (directly) both the Appealed Decision and the DC Letter, the Respondents, on their side, submit that the DC Letter was not covered by the original appeal and that the Appellant

never filed any separate appeal against the DC Letter. As such, it is submitted that the subject-matter of the present proceedings is only the Appealed Decision and not the DC Letter.

62. Without going into the question as to whether the DC Letter in itself constitutes an appealable decision, which is also in dispute between at least some of the Parties, the Sole Arbitrator finds that, based on the circumstances of the case, it is up to the Appellant to discharge the burden of proof to establish that that the present proceedings are covering (directly) both the Appealed Decision and the DC Letter.

63. In doing so, the Sole Arbitrator adheres to the principle established by CAS jurisprudence that "*in CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue. In other words, the party which asserts facts to support its rights has the burden of establishing them (..). The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some fact and persuade the deciding body, it must actively substantiate its allegations with convincing evidence" (e.g. CAS 2003/A/506, para. 54; CAS 2009/A/1810&1811, para. 46; and CAS 2009/A/1975, paras. 71ff)*."

64. However, the Sole Arbitrator finds that the Appellant has failed to adequately discharge its burden of proof to establish that this was in fact the case.

65. In this regard, the Sole Arbitrator initially notes that pursuant to R48 of the CAS Code, an appellant has the obligation to identify in the Statement of Appeal the decision(s) the appellant wants to appeal against.

66. In its Statement of Appeal of 18 June 2024, the Appellant stated, *inter alia*, as follows:

"*On behalf of [the Appellant], we hereby submit a Statement of Appeal pursuant to Article R48 of [the CAS Code] against [the Respondents] in connection with the Decision FPSD-13855 of the FIFA Players Status Chamber (the "Appealed Decision").*

[…]

2. The Appealed Decision

The Appealed Decision was passed on 29 March 2024 and received on 30 May 2024. A copy of the Appealed Decision is attached as Exhibit A1.

The Appealed Decision refers to a dispute between the Coach and the Appellant under the Employment Contract of 24 August […]."

67. In the confirmation letter of 24 June 2024 from the CAS Court Office to the Parties, the following, *inter alia*, was stated:

"*Statement of Appeal*

I acknowledge receipt of the Statement of Appeal filed with the Court of Arbitration for Sport (the 'CAS') on 18 June 2024 by email and courier by Diosgybr Futball Club (the 'Appellant') against Mr Sergey Kuznetsov (the 'First Respondent') and Fédération Internationale de Football Association (FIFA) (the 'Second Respondent') with respect to the decision rendered by the Players Status Chamber of the FIFA Football Tribunal on 29 March 2024. A copy of the Statement of Appeal is enclosed for the Respondents attention, by email and/or courier."

68. The Appellant never reacted to this letter with regard to the information about the appeal against (only) the Appealed Decision.

69. The Sole Arbitrator appreciates that the Appellant did in fact mention the DC Letter in its Statement of Appeal. However, the DC Letter was never referred to as a decision under appeal and was mainly referred to/dealt with as being null and void as it "*imposes a transfer ban on the Appellant on the basis of the (null and void) Appealed Decision.*"

70. Based on that, and without deciding on the possible consequences for the DC Letter of his final findings regarding the disputed validity of the Appealed Decision, the Sole Arbitrator finds that when filing its Statement of Appeal on 18 June 2024, the Appellant only validly appealed against the Appealed Decision, which is why the DC Letter does not fall directly within the scope of the present appeal proceeding and, accordingly, will not be further dealt with by the Sole Arbitrator in this award.

71. The fact that the Appellant, when signing and returning the Order of Procedure, tried to include "*the decision rendered by the FIFA Disciplinary Committee on 28 May 2024*" in its original appeal, does not alter this.

VI. JURISDICTION

72. The Sole Arbitrator initially notes that Article R47 of the CAS Code provides, *inter alia*, as follows:

"*An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.*

[…]"

73. Furthermore, Article 56 par. 1 of the FIFA Statutes (March 2022 edition) provides as follows:

"*Appeals against final decisions passed by FIFA's legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question.*"

74. In accordance with Article 186 of the PILA, the CAS has the power to decide upon its on jurisdiction (*Kompetenz-Kompetenz*), which is not disputed by the Parties.

75. Whereas the Appellant and FIFA does not dispute the jurisdiction of the CAS, the First Respondent submits that by failing to request the grounds of the Appealed Decision within the applicable ten-day deadline, the Appellant has waived its right to appeal to the CAS under Article 15 par. 5 of the Procedural Rules.

76. The Sole Arbitrator finds that the jurisdiction of the CAS in the present case derives from Article 56 par. 1 of the FIFA Statutes and Article R47 of the CAS Code.

77. It follows that the CAS has jurisdiction to adjudicate and decide on the present appeal.

78. The Sole Arbitrator notes in this regard, that he agrees with the Panel in CAS 2023/A/9780 that the matter regarding the failure to request the grounds of the Appealed Decision within the alleged applicable ten-day deadline, and any possible consequences hereof, are to be dealt with under Admissibility below.

VII. APPLICABLE LAW

79. Article R58 of the CAS Code provides as follows:

"*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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.*"

80. Article 56 par. 2 of the FIFA Statutes determines the following:

"*The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss Law.*"

81. Based on the above, and with reference to the filed submissions, the Sole Arbitrator is satisfied that the various regulations of FIFA are primarily applicable, in particular the FIFA RSTP and the Procedural Rules, and that Swiss law is subsidiarily applicable should the need arise to fill a possible gap in the various regulations of FIFA.

82. The Sole Arbitrator notes in this regard the Appellant's submission that the present matter must be decided based on Swiss law, since the regulations of FIFA are silent in respect of nullity of decisions passed by an incompetent FIFA body.

VIII. ADMISSIBILITY

83. Having established the scope of the present appeal proceedings, the applicable law and the jurisdiction of the CAS, the Sole Arbitrator notes that one of the main contentions between the Appellant and the Respondents revolves about the admissibility of the Appellant's appeal against the Appealed Decision.

84. While the Appellant submits that the appeal is admissible and that the Club was only duly notified about the Coach's claim and the Appealed Decision when informed about it by the MLSZ on 30 May 2024, the Respondents submit, *inter alia*, that the appeal is inadmissible, since the Appealed Decision had already become final and binding at the time of the appeal.

85. In this regard it is submitted, *inter alia*, that the Appellant was duly notified about the Coach's claim and the Appealed Decision in accordance with the applicable rules, and by failing to request the grounds of the Appealed Decision in time, the Appellant waived its right to appeal against the Appealed Decision, which then became final and binding.

86. Initially, and with regard to the question of whether the Appellant was duly notified by FIFA about the Coach's claim against the Club as filed via the Legal Portal on 28 February 2024 and of the findings of the Appealed Decision, the Sole Arbitrator notes that Article 10 and Article 11 of the Procedural Rules establishes, *inter alia*, the following:

"*Article 10: Communications*

1. All communications shall be undertaken via the Legal Portal operated by FIFA (Legal Portal) or the Transfer Matching System (TMS).

2. The specific procedural rules shall define which method of communication must be used for the procedure in question. Communications from FIFA to a party by any such method is considered a valid means of communication and sufficient to establish time limits and their observance.

3. Parties must review TMS and the Legal Portal at least once per day for any communications from FIFA. Parties are responsible for any procedural disadvantages that may arise due to a failure to properly undertake such review. The contact details indicated in TMS are binding on the party that provided them.

[…]"

"*Article 11: Time limits*

1. For a party that directly receives a communication, the time limit will commence the day after receipt of the relevant communication.

2. For a party that receives communication via its member association, the time limit will commence four calendar days after receipt of the communication by the

member association to which it is affiliated or registered, or on the date of notification of the party by the member association, whichever is sooner.

[…]"

87. The Appellant does not dispute the validity or the applicability of these provisions or of the FIFA Legal Portal as a valid means of communication, just as it is undisputed that since the Club did not open its account in the FIFA Legal Portal on its own, FIFA created an account for it on 28 February 2024 using the email address info@dvtk.eu, which email address the Club itself had entered in the TMS.

88. Furthermore, it is not disputed that on 28 February 2024 and 12 April 2024, respectively, FIFA notified the Club of the Coach's claim and the Appealed Decision without grounds through the FIFA Legal Portal and via info@dvtk.eu.

89. Finally, it is not disputed that the Club failed to "*review TMS and the Legal Portal at least once per day for any communications from FIFA*" in accordance with Article 10 of the Procedural Rules, nor that it was confirmed during the hearing by the witness that the emails forwarded by FIFA to the Club via info@dvtk.eu were eventually, and after this dispute arose, found in the Club's spam filter, which was not checked regularly by the Club before that.

90. The Sole Arbitrator notes in this regard that he finds himself satisfied that, *inter alia*, the Coach's claim and the Appealed Decision without grounds were communicated to the Club via the Legal Portal in accordance with the applicable rules, thus giving the Club the opportunity to obtain knowledge of their content.

91. Moreover, the Sole Arbitrator is satisfied that the Club was informed about this by FIFA via automatically generated emails to info@dvtk.eu, which is the email address the Club had inserted in the TMS as the official email address of the Club for such communication.

92. The Sole Arbitrator further notes that he finds no reason to doubt the information given by the witness, according to whom the relevant emails from FIFA were eventually found in a spam filter, which was never checked regularly by the Club.

93. However, and in accordance with CAS jurisprudence, *inter alia* CAS 2022/A/8598 (paras 121-123) and CAS 2016/A/4651 (para. 48), the Sole Arbitrator finds that by entering into a spam folder of the Club, the said emails entered into the "*sphere of control*" of the Club, which then could have become acquainted with the content of such emails.

94. The fact that the Club failed to check such a spam filter on a regular basis does not change that.

95. Having found that the Appealed Decision without grounds was duly notified to the Club on 12 April 2024, the Sole Arbitrator notes that it is undisputed that it was only by its letter uploaded to the FIFA Legal Portal on 13 June 2024 that the Club requested to

receive the grounds of the Appealed Decision and only on 18 June 2024 that the Club filed its appeal against the Appealed Decision.

96. Article 15 par. 5 of the Procedural Rules states that:

"*Where no procedural costs are ordered, a party has ten calendar days from notification of the operative part of the decision to request the grounds of the decision. Failure to comply with the time limit shall result in the decision becoming final and binding and the party will be deemed to have waived its right to file an appeal. The time limit to lodge an appeal begins upon notification of the grounds of the decision.*"

97. Moreover, the Appealed Decision clearly stated that: "*Should any of the parties wish to receive the grounds of the decision, a written request must be received by FIFA, within 10 days of receipt of notification of the findings of the decision. Failure to do so within the stated deadline will result in the decision becoming final and binding and the parties being deemed to have waived their rights to file an appeal.*"

98. Based on that, it is clear to the Sole Arbitrator that by only requesting the grounds of the Appealed Decision on 13 June 2024, the Club failed to respect the deadline set out in Article 15 par. 5 of the Procedural Rules, which meant that the Appealed Decision became final and binding.

99. In this regard, the Sole Arbitrator agrees with the Respondents that by failing to request the grounds of the Appealed Decision within the time limit explicitly set out in Article 15 par. 5 of the Appealed Decision, the Club is considered to have waived its right to file an appeal against the Appealed Decision to the CAS, as it had become final and binding.

100. The Sole Arbitrator notes in this regard that the Appellant submits that its appeal against the Appealed Decision submitted to the CAS on 18 June 2024 does not constitute an appeal in the conventional sense, as it is submitted that the Appealed Decision and the DC Letter are null and void because of FIFA's lack of jurisdiction, and it is further submitted that the Appellant is simply trying to seek a declaration or confirmation that the Appealed Decision and the DC Letter have no legal effect and do not exist.

101. Based on that, according to the Appellant, the Appellant does not have to observe any deadlines as the alleged nullity of the Appealed Decision and the DC Letter must be observed by all legal authorities at all times. Therefore, at what time the Appellant actually requested the grounds and filed its appeal is irrelevant to this case.

102. The Sole Arbitrator does not agree with the Appellant.

103. Without going into whether FIFA was correct in declaring itself competent to adjudicate the Coach's claim against the Club and without going into the possible consequences for the Appealed Decision of the alleged lack of FIFA jurisdiction, the Sole Arbitrator notes that any such alleged consequence (i.e. that the Appealed Decision and, thus, the DC Letter are null and void and that this should be observed by all legal authorities at

all times) would only be relevant if, in fact, the FIFA was not competent to adjudicate the Coach's claim against the Club.

104. However, by not requesting the grounds of the Appealed Decision in time but nevertheless proceeding with the appeal against the Appealed Decision more than 21 days after receiving the Appealed Decision, the Appellant failed to provide the CAS with the opportunity to actually analyse on which basis FIFA found itself competent to adjudicate the dispute between the Club and the Coach and, by extension, to decide whether the Club is potentially right in claiming that it does not need to respect any deadlines for an appeal to the CAS.

105. The Sole Arbitrator notes in this regard that the Appellant can only blame its own negligence for not having requested the grounds of the Appealed Decision in time.

106. Based on the above, the Sole Arbitrator finds that the Appealed Decision had become final and binding at the time of the Appellant's appeal before the CAS, based on which it follows that the present appeal against the Appealed Decision is inadmissible.

IX. CONCLUSIONS

107. Based on the foregoing, the Sole Arbitrator finds that the Appellant's appeal against the Appealed Decision is inadmissible.

X. COSTS

(…)

*****

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The CAS has jurisdiction to rule on the appeal filed on 18 June 2024 by Diosgyör Futball Club Kft against the decision rendered by the Players' Status Chamber of the FIFA Football Tribunal on 29 March 2024.

2. The appeal filed on 18 June 2024 by Diosgyör Futball Club Kft against the decision rendered by the Players' Status Chamber of the FIFA Football Tribunal on 29 March 2024 is inadmissible.

3. (…).

4. (…).

Seat of Arbitration: Lausanne, Switzerland
Date: 8 September 2025

THE COURT OF ARBITRATION FOR SPORT

Lars Hilliger
Sole Arbitrator