CAS 2024/A/11034 Yukatel Adana Demirspor A.Ş. v. Pape Abou Cissé & FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Dr Marco Balmelli, Attorney-at-Law in Basel, Switzerland
Arbitrators: Mr Daan de Jong, Attorney-at-Law in Utrecht, the Netherlands
Mr Manfred P. Nan, Attorney-at-Law in Amsterdam, the Netherlands

in the arbitration between

Yukatel Adana Demirspor A.Ş., Turkey
Represented by Mr Juan de Dios Crespo, Attorney-at-Law in Valencia, Spain

- Appellant -

and

Pape Abou Cissé, Senegal
Represented by Mr Laurent Menestrier, Attorney-at-Law in Marseille, Spain

- First Respondent -

and

Fédération Internationale de Football Association, Switzerland
Represented by Mr Miguel Liétard Fernández-Palacios and Mr Rodrigo Morais, FIFA Litigation Department, Miami, United States of America

- Second Respondent -

I. PARTIES

1. Yukatel Adana Demirspor A.Ş. (the "Appellant" or "Club") is a professional football club with its registered seat in Adana, Turkey. It is affiliated to the Turkish Football Federation (the "TFF"), which, in turn, is affiliated to the Fédération Internationale de Football Association (the "FIFA").

2. Mr Pape Abou Cissé (the "First Respondent" or "Player"), is a professional football player of Senegalese nationality.

3. FIFA (or the "Second Respondent") is an association under Swiss law and has its registered office in Zurich, Switzerland. FIFA is the international sports governing body for the sport of football and exercises regulatory, supervisory and disciplinary functions over national associations, clubs, officials and players worldwide.

II. FACTUAL BACKGROUND

A. Facts of the case

4. Below is a summary of the main facts established on the basis of the decision rendered by the FIFA Dispute Resolution Chamber (the "FIFA DRC") on 23 September 2024 (the "Appealed Decision"), the written submissions of the Parties and the evidence examined in the course of the proceedings. This background is set out for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be referred to, where relevant, in connection with the later legal discussion. While the Panel has considered all the facts, allegations, legal arguments and evidence available in the present proceedings, only the submissions and evidence necessary to explain the reasoning of the award will be referred to in the following paragraphs.

5. On 15 September 2023, the Player and the Club concluded an employment contract valid until 30 June 2026 (the "Employment Contract").

6. On 7 May 2024, the Player put the Club in default for outstanding salaries amounting to EUR 354'248.14. Despite further reminders, the Club failed to fulfil its payment obligations.

7. On 21 May 2024, the Player proposed a payment schedule (the "Payment Schedule") to avoid filing a claim before FIFA, stipulating that "[i]*f the club doesn't pay only one payment deadline, the club accepts that the contract is breaken* [sic] *for just reasons, and the player will be free in 10 days (this rule is available after the first payment* [sic]". The Club, in response to the conditions fixed by the Player, replied "[w]*e are ok with this conditions* [sic]".

8. On 24 May 2024, the Club paid EUR 50,000.00, the first instalment under the Payment Schedule. However, the Club failed to pay the second instalment of EUR 250,000.00, which was due on 29 May 2024.

9. On 10 June 2024, the Player sent a unilateral termination notice, stating that the Club's failure to pay the agreed instalments rendered the payment agreement void. However, he offered the Club another opportunity to avoid a claim before FIFA by adhering to a new payment schedule, with a first instalment due on 14 June 2024. The Player also included the following clause in its proposal: "[i]*f the club doesn't pay only one payment deadline, the totality of the sums due under the contract will be due, i.e., an amount of EUR 2,635,000 until 30 June 2026, less the sums which have been paid under this agreement*".

10. The Club responded on 11 June 2025 that it agreed with the proposed terms, with the exception of the above-mentioned clause.

11. That same day, the Player replied by e-mail informing the Club that, while he agreed to remove such clause, he emphasised that he "[…] *insist*[s] *on the fact that* ***this agreement will only come into force only*** [sic] ***after the first payment of 250,000 Euros which must be in the player's bank account no later than Friday June 14*** *(it being specified that the club is committed to done* [sic] *as quickly as possible even before this deadline of June 14)*[sic]." (the "Provision").

12. On 13 June 2024, the Player sent a reminder regarding the 14 June 2024 payment deadline.

13. As no payment was made by the Club, the Player informed the Club on 26 June 2024 that he considered the Employment Contract unilaterally terminated with just cause effective 14 June 2024, due to the Club's failure to meet its payment obligations.

14. On 1 October 2024 the Player concluded a new contract with Al Shamal Sports Club ("Al Shamal"), a professional football club affiliated to the Qatar Football Association (the "QFA"). This new contract was prematurely terminated by mutual agreement on 10 November 2024.

B. Proceedings before the FIFA Dispute Resolution Chamber

15. On 19 June 2024, the Player lodged a claim before FIFA seeking outstanding remuneration and compensation for breach of contract.

16. On 23 September 2024, the FIFA DRC passed the Appealed Decision, which reads, in its operative part, as follows:

"*1. The claim of the Claimant, Pape Abou Cisse, is partially accepted.*

2. The Respondent, Yukatel Adana Demirspor A.S., must pay to the Claimant the following amount(s):

- EUR 381,748.14 as outstanding remuneration;
- EUR 2,197,500 as compensation for breach of contract.

3. Any further claims of the Claimant are rejected.

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

5. *The Respondent shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision.*

6. *If full payment (including all applicable interest) is not made within 30 days of notification of this decision, the present matter shall be submitted, upon request of the Claimant, to the FIFA Disciplinary Committee.*

7. *This decision is rendered without costs.*"

17. On 4 November 2024, the FIFA DRC notified the grounds of the Appealed Decision to the Appellant and the Player.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

18. On 25 November 2024, the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS") pursuant to Article R48 of the Code of Sports-related Arbitration (the "CAS Code") against the First Respondent and Second Respondent regarding the Appealed Decision. In its Statement of Appeal, the Appellant submitted a Request for the Stay of the Appealed Decision (the "Request").

19. On 27 November 2024, the CAS Court Office notified the Parties of the Statement of Appeal and the Request and invited the Respondents to file their respective comments on the latter.

20. On 4 December 2024, the First Respondent filed its Reply to the Request.

21. On 15 December 2024, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.

22. On 24 December 2024, the Second Respondent filed its Reply to the Request.

23. On 27 December 2024, the CAS Court Office informed the parties that, as the Appellant had not yet paid the advance of costs for the procedure—requested on 3 December 2024—no Panel could yet be constituted. Consequently, the Request for a Stay would be decided by the President of the CAS Appeals Arbitration Division (the "Division President"). On the same date, Counsel for the Appellant announced that the payment of the advance of costs would be made that day and requested that the CAS "*wait before taking any decision*". The CAS Court Office informed the Counsel for the Appellant that, in any event, it could not guarantee that a decision from the Panel would be rendered before the start of the transfer window, as requested by the Appellant. The Counsel for the Appellant subsequently stated that the "*decision can be taken a bit later (within the transfer window anyway)*".

24. On 14 January 2025, the CAS Court Office asked the Appellant to confirm whether it would prefer an Order to be issued by the Division President on the same day or by the Panel at a later date. The Appellant confirmed that it preferred the Order to be issued by the Panel.

25. On 15 January 2025, the CAS Court Office informed the Parties that the Arbitral Tribunal appointed to hear the present matter was constituted as follows:

President:	Dr Marco Balmelli, Attorney-at-Law in Basel, Switzerland
Arbitrators:	Mr Daan De Jong, General Counsel Football Club Utrecht, Utrecht, the Netherlands Mr Manfred P. Nan, Attorney-at-Law in Amsterdam, the Netherlands

26. On 20 January 2025, the CAS Court Office notified the Parties of the Order on the Request (the "Order") by which the Panel dismissed the Request.

27. On 7 February 2025, the First Respondent filed his Answer in accordance with Article R55 of the CAS Code, after the CAS Court Office granted him a time extension on 28 January 2025.

28. On 14 February 2025, the Second Respondent filed its Answer in accordance with Article R55 of the CAS Code, after the CAS Court Office granted them a time extension on 28 January 2025 and again on 10 February 2025.

29. On 26 February 2025 the CAS Court Office informed the Parties that the Panel decided that no hearing would be held in the matter at hand and that it would decide the case based on the Parties' submissions. The Parties were further informed that the Panel had granted them the opportunity to file a second round of submissions.

30. On 17 March 2025, the Appellant filed its second submission (the "Reply") after having been granted a time extension on 26 February 2025.

31. On 27 March 2025, the First Respondent filed his Rejoinder (the "Player's Rejoinder") after having been granted a time extension on 19 March 2025.

32. On 3 April 2025, the Second Respondent filed its Rejoinder ("FIFA's Rejoinder") after having been granted a time extension on 18 March 2025.

33. On 14 April 2025, the CAS Court Office informed the Parties that the evidentiary proceedings were closed as of 4 April 2025, i.e. the date of the conclusion of the second round of submissions.

34. The Parties, on 21 June 2025, signed the Order of Procedure.

IV. SUBMISSIONS OF THE PARTIES

35. The following outline of the Parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by the parties. The Panel has, however, carefully considered all the submissions made by the Parties, even if no explicit reference has been made in what immediately follows. The Parties' written submissions and the content of the Appealed Decision were all taken into consideration.

36. The submissions regarding the Request will not be summarized hereafter as they have been duly addressed in the Order.

A. Appellant

37. The Appellant filed the following requests for relief:

"The Appellant requests that the Panel issue an award as follows:

1. To accept the Appellant's appeal.

2. To issue an order on provisional measure according to which the effects of the Decision adopted by the FIFA DRC (FPSD-14997) passed on 23 September 2024 and notified on 4 November 2024 is [sic] *declared as temporarily suspended until the Court of Arbitration for Sport issue* [sic] *a final award in this matter.*

3. To set aside in its entirety the Decision adopted by the FIFA DRC (FPSD-14997) passed on 23 September 2024 and notified on 4 November 2024 or,

subsidiarily

To reduce the amount of compensation as per point 2 of the Decision to EUR 1,000,000.00, besides setting aside point 5 and 6 of the Decision or,

To reduce the amount of compensation as per point 2 of the Decision to EUR 1,406,537.54, besides setting aside point 5 and 6 of the Decision.

4. Independently of the type of the decision to be issued, the Appellant requests the Panel:

a. to fix a sum of 20,000 CHF to be paid by the Respondents to the Appellant to contribute to the payment of its legal fees and costs; and

b. order the Respondent to pay the entirety of the administration costs and fees.

5. The Appellant reserves the right to amend the request for relief in case the Player found new employment during the present appeal. [sic]"

38. The Appellant's submissions, in essence, may be summarized as follows:

- In the Appeal, the Appellant states that they entered into a mutual termination agreement (the "Termination Agreement") with the Player under which the Player would be entitled to a total sum of EUR 1,000,000.00 payable in six tranches between 14 June 2024 and 30 October 2024. The Termination Agreement was agreed on after the Player agreed to remove the clause saying "[i]*f the club doesn't pay only one payment deadline, the totality of the sums due under the contract will be due, i.e., an amount of EUR 2,635,000 until 30 June 2026, less the sums which have been paid under this agreement"* and therefore superseded the Employment Contract.

- The Provision was not included in the Termination Agreement and therefore did not constitute a condition precedent to the validity of the Termination Agreement.

- By filing a claim to the FIFA DRC based on the Employment Contract, the Player disregarded the Termination Agreement and the provision of Art. 12bis of the FIFA Regulations of the Status and Transfer of Players (the "RSTP").

- Subsidiarily, the amount of Compensation shall be reduced to EUR 1'000'000.00.

- Subsidiarily, the amount of the Compensation shall be reduced to EUR 1'406'537.54 due to the duty to mitigate damages and the principle *ne iudex eat ultra petita partium.*

- In their Reply the Appellant, besides repeating the arguments of the Appeal Brief, referred to the Player's premature termination of the new contract the Player entered with Al Shamal. Such premature termination should not affect the Player's duty to mitigate damages and the whole remuneration for the period of 1 October 2024 until 30 June 2025 amounting to QAR 843'250.00 must be deducted from the compensation, if any is to be awarded. In addition to that, the remuneration that would have been owed by Al Shamal under the new contract for the 2025/26 season, i.e. further QAR 843'250.00, must also be deducted from any compensation awarded as the Player would otherwise be unjustly enriched.

B. First Respondent

39. The First Respondent filed the following requests for relief:

"Confirm the decision adopted by the FIFA DRC;

Consequently,

Confirm that the Employment Contract had been unilaterally terminated by the Player with just cause;

Condemn the Club to pay him EUR 381,748.14 as outstanding salaries;

Condemn the Club to pay him EUR 2,197,500 as compensation ;

Subsidiarily,

Condemn the YUKATEL ADANA DEMIRSPOR A.S CLUB to pay Mr. Pape Abou CISSE the sum of 2 003 467 Euros after deduct the sums received in his new Qatari club AI Shamal Sports club [sic]*, i.e. the sum of 194 033 Euros;*

Independently of the type of the decision to be issued,

Condemn the Appelant to to [sic] *pay the entirety of the legal fees and costs,*

Condemn the Appelant [sic] *to pay the entirety of the administration costs and fees.* [sic]*"*

40. The First Respondent relies, in essence, on the following arguments:

- The Player stipulated the Provision for the validity of the Termination Agreement in his email dated. Due to the non-compliance of the Appellant with the stipulated Provision, i.e. the failure to pay the amount of EUR 250,000.00 by 14 June 2025, the Termination Agreement never came in force. The Player therefore was right in acting according to Art. 14bis RSTP and based on the Employment Contract.

- As the Player had not been paid more than two monthly salaries and he notified the club with respect thereto on 7 May 2024, he acted in accordance with Art. 14bis RSTP by filing his complaint with the FIFA DRC on 19 June 2024.

- The behaviour of the Appellant towards the Player regarding its payment obligations towards him caused the Player material and personal damage for which he shall be compensated. The respective compensation amounts to EUR 2,197,500.00. Alternatively, should the CAS not find the just mentioned compensation to be awarded to the Player, such compensation may only be reduced in the amount of EUR 194,033.00, i.e. the amount the Player earned under his employment contract with Al Shamal, which was, however, terminated already on 10 November 2024.

- In the Player's Rejoinder, the First Respondent rejected the Appellant's arguments and repeated his arguments from his Answer. However, he submitted the signed mutual termination agreement with Al Shamal and expressly repeated that the maximum amount to be deducted from the compensation shall be EUR 194,033.00, i.e. the sum he effectively received from Al Shamal.

C. Second Respondent

41. The Second Respondent filed the following requests for relief:

"Based on the foregoing, FIFA respectfully requests CAS to issue an award on the merits:

(a) rejecting the reliefs sought by the Appellant and dismissing the appeal in full, with the exception of the Appellant's request that the Panel reduces the compensation awarded to the Player by mitigating it with the value of the Al Shamal Employment Contract, to which FIFA does not oppose and leaves to the discretion of the Panel;

(b) confirming the Appealed Decision, with the exception of the Appellant's request that the Panel reduces the compensation awarded to the Player by mitigating it with the value of the Al Shamal Employment Contract, to which FIFA does not oppose and leaves to the discretion of the Panel; and

(c) ordering the Appellant to bear the full costs of these arbitration proceedings and to pay a contribution to FIFA's legal fees and other expenses in an amount to be determined by the Panel."

42. The Second Respondent's submissions, in essence, may be summarized as follows:

- The Termination Agreement did not come into force as the Player did not fully and unconditionally accept the Appellants counteroffer, but rather added – in the very same mail

to which the Appellant referred to for its argumentation of a validly concluded Termination Agreement – a clear and unequivocal condition for the entry into force of the Termination Agreement (referring to the Provision). The email of the Player must therefore be deemed a new offer.

- As the Appellant remained silent to the new offer of the Player, no Termination Agreement was concluded, and the Employment Contract was not terminated therewith.

- The Appellant failed to demonstrate or even allege in what way the Player refused to enter into a new employment contract, which would include also the 2025/26 season or award him a better salary than the contract the Player concluded with Al Shamal. The damage to the Player was exclusively caused by the Appellant's breach of payment obligations. A reduction of the awarded compensation in the amount of a hypothetical future income should therefore be rejected.

- The FIFA DRC did not breach the principle of *ne iudex eat ultra petita partium* as it awarded the Player a total sum of EUR 2'579'248.14 while he requested a total sum of EUR 2'685'000.00 in his claim before the FIFA DRC. By allocating the awarded sums differently than the Player in his claim in a way that he was awarded EUR 2,197,500.00 as compensation instead of the claimed EUR 2,000,000.00 but awarding only EUR 381,748.14 under the title of outstanding remuneration instead of the claimed EUR 685,000.00, the total sum awarded to the Player is still a lower than the amount he claimed, which under the respective jurisprudence of the CAS and the Swiss Federal Tribunal is in accordance with the principle of *ne iudex eat ultra petita partium*.

- The Appellant failed to specifically contest the sporting sanctions which the FIFA DRC imposed on them, which follows to the Panel's inability to review the sanctions. Further, as the Appellant has been found liable multiple times for breaching employment contracts with players without just cause and as the breach of contract in the matter at hand had happened during the "protected period" as defined under cf. 7 of the Definitions of the RSTP, the imposed sanctions are justified.

- In FIFA's Rejoinder, the Second Respondent rejected the Appellant's arguments and referred to its Answer. Referring to the Appellant's argument of the Player being responsible for the termination of the contract with Al Shamal and bearing the burden of proof to have made the best efforts to mitigate damages, FIFA rejected those arguments and stated instead that it is the Appellant who must prove the Player's intention to refrain from work that could have mitigated the damage.

V. JURISDICTION, ADMISSIBILITY, APPLICABLE LAW

A. Jurisdiction

43. Article R47 of the CAS Code provides 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."

44. The jurisdiction of CAS, which is not disputed, derives from Article 50 para. 1 of the FIFA Statutes as it determines that "*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*".

45. The Parties further confirmed the jurisdiction of CAS by signing the Order of Procedure.

46. It follows that CAS has jurisdiction to decide on the present dispute.

B. Admissibility

47. Article R49 of the CAS Code provides as follows:

"*In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against.*"

48. In addition, Article 50 para. 1 of the FIFA Statutes states:

"*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.*"

49. The grounds of the Appealed Decision were notified to the Parties on 4 November 2024 and the Statement of Appeal was filed on 25 November 2024, i.e. within the 21 days set by Article 50 para. 1 of the FIFA Statutes. The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fee.

50. It follows that the Appeal is admissible.

C. Applicable Law

51. Pursuant to Article R58 of the CAS Code:

"*[t]he 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.*"

52. The Panel notes that Article 49 para. 2 of the FIFA Statutes stipulates 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.*"

53. The Panel will decide the present dispute primarily in accordance with the FIFA Regulations and, subsidiarily, in accordance with Swiss law in case of any lacuna in the FIFA Regulations.

VI. MERITS

A. Overview and scope of the Appeal

54. According to Article R57 para 1 of the CAS Code, the Panel has "*full power to review the facts and the law*". As provided for in the CAS jurisprudence, the CAS appeals arbitration procedure thus entails a *de novo* review of the merits of the case as it is not confined to merely ruling whether the appealed decision is to be upheld or not. It is the role of the Panel to establish the merits of the case independently.

55. The main question of the case at hand is whether the Appellant and the Player have concluded a valid termination agreement and therefore the Employment Contract between the two parties has been superseded by such. If so, the Player would have no claim based on the Employment Contract and the Appeal should be upheld.

B. The (possible) conclusion of the Termination Agreement

56. The relevant correspondence between the Appellant and the Player to be examined in light of the just elaborated question, is the one between 10 June 2024 and 13 June 2024 and particularly the Player's email dated 11 June 2024 in which he insisted "[…] *on the fact that* ***this agreement will only come into force only*** [sic] ***after the first payment of 250.000 Euros which must be in the player's bank account no later than Friday June 14*** *(it being specified that the club is committed to done as quickly as possible even before this deadline of June 14)*[sic]".

57. As the applicable Regulations, namely the RSTP, do not contain any provisions regarding the valid conclusion of a contract or a termination agreement, the Panel will therefore refer to Swiss law to answer the question.

58. Accordingly, it must be examined whether the Player accepted the Appellant's offer by returning the signed and amended Termination Agreement, or whether his correspondence amounted to a counteroffer due to the Provision he introduced.

59. Before proceeding to the legal discussion, the Panel wishes to clarify that it is not in dispute that:

    i. the Player has set out the Provision in his mail dated 11 June 2024;

    ii. the Appellant never answered said mail; and

    iii. the Appellant never made the payment of EUR 250'000.

60. With regards to the binding and valid conclusion of a contract, Article 1 of the Swiss Code of Obligations (hereinafter "CO") reads as follows:

"[1] *The conclusion of a contract requires a mutual expression of intent by the parties.*

[2] *The expression of intent may be express or implied."*

61. As a general rule the acceptance of an offer must be unequivocal and unconditional in order to bring the legal consequence of a valid and binding conclusion of a contract. If the offeree alters the offer with respect to material aspects, it does not constitute acceptance but rather a counteroffer. By adding a formal condition precedent to such a counteroffer, the willingness of the respective party to be bound itself is made subject to this condition (*BSK OR I-ZELLWEGER-GUTKNECHT, Art. 3 N 22 ff.*).

62. Further, regarding conditions precedent, Article 151 CO states that:

"[1] A contract is conditional if its binding nature is made dependent on the occurrence of an event that is not certain to happen.

[2] The contract takes effect as soon as this condition precedent occurs, unless the parties clearly intended otherwise."

63. That said, it must be further stated, that under Swiss law the interpretation of contracts is done primarily by determining whether a concordant will of the contractual parties can be found (so-called natural or actual consensus (*natürlicher oder tatsächlicher Konsens*) and, subsidiarily, if no such natural or actual consent exists, it shall be determined based on the principle of trust (*Vertrauensprinzip*) how the respective party was allowed to understand the other party's statement of intent and whether there is a so-called normative consensus (*normativer Konsens; BSK OR I-ZELLWEGER-GUTKNECHT, before Art. 1 N 76 f.*) .

64. At the Appellant's request, the Player removed the passage that reads as follows: "[i] *f the club doesn't pay only one payment deadline, the totality of the sums due under the contract will be due, i.e., an amount of EUR 2,635,000 until 30 June 2026, less the sums which have been paid under this agreement*" and sent the altered agreement to the Appellant with the Provision in the respective email.

65. In the Provision, the Player stipulated the condition that the Appellant shall pay a first tranche amounting to EUR 250,000.00 by 14 June 2024 to the Player's account, otherwise he would not consider the Termination Agreement to be valid.

66. The Provision was drafted clearly and manifested the Player's will to only be bound by the attached agreement if the conditions of the Provision were met. It must have been therefore obvious to the Appellant that the Termination Agreement was subject to the condition precedent that the payment of the first tranche was made by them in due time.

67. In addition to the just said, it must also be considered that the Player reached out to the Appellant before the amount of EUR 250,000.00 was due, i.e. on 13 June 2024, reminding the Appellant, that he considered the timely payment of EUR 250,000.00 to be a crucial condition with respect to his willingness to commit and – should the Appellant fail to meet the conditions of the Provision – he would consider the proposed Termination Agreement void.

68. In light of the above, the Appellant cannot rely on the argument, that the condition was not included in the document of the Termination Agreement, as this is of no legal relevance. All the more so, as the Appellant, as established by the facts, never replied to the Player's correspondence and never signed the respective document.

69. The Player's intention to be bound by the proposed agreement only in the event of timely payment of EUR 250,000.00 was therefore evident from the respective correspondence and was also evident to the Appellant in good faith.

70. Accordingly, it must be concluded that:

i. the Provision constitutes a condition precedent in the sense of article 151 CO, which was never met by the Appellant;

ii. the contractual parties therefore did not enter into a binding and valid termination agreement superseding the Employment Contract;

iii. the Employment Contract remained in force and the rightfulness of the Player's termination thereof is to be examined in light of Article 14 f. RSTP.

C. Rightfulness of the termination

71. In view of the above, it must now be determined whether the Player has terminated the Employment Contract for just cause according to Article 14 f. RSTP.

72. As the Player terminated the Employment Contract for outstanding salaries it shall first be examined whether the Player acted in accordance with Art. 14bis RSTP.

73. The Player's email dated 7 May 2024, where he put the Appellant in default for an amount of EUR 354,248.14, did not specify any deadline for the payments to be made. However, the Player's email – while uncontestably being a default notice – did cite the relevant Regulations of the RSTP, namely Article 14bis RSTP.

74. As it will be shown further below, it is not necessary to decide whether the FIFA DRC had rightfully ruled that the email dated 7 May 2024 does not specify a payment deadline and therefore does not meet the formal conditions according to Article 14bis RSTP, because – even if that would not be the case – the Player had just cause to terminate the Employment Contract prematurely based on the provisions set out in Article 14 para. 1 RSTP, as it reads as follows:

"A contract may be terminated by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions) where there is just cause. In general, just cause shall exist in any circumstance in which a party can no longer reasonably and in good faith be expected to continue a contractual relationship."

75. While neither the RSTP nor the Commentary on the FIFA Regulations on the Status and Transfer of Players (the "Commentary") provide for a definition on just cause, it is however declared, that such termination may only be considered as *ultima ratio,* as the Commentary states on p. 129:

"The Regulations do not provide a definition, nor a defined list of what would generally be considered a just cause. It is impossible to capture all potential conduct that might be considered just cause for the premature and unilateral termination of a contract. However, over the years, jurisprudence has established several criteria that define, in abstract terms, which combinations of circumstances should be considered just causes.

[…]

The termination of a contract should always be an action of last resort (an "ultima ratio" action)."

76. In addition, according to Swiss case law, whether there is "just cause" (motif légitime) to terminate a contract must be determined based on a comprehensive evaluation of all circumstances specific to the case (ATF 108 II 444, 446; ATF, 2 February 2001). Particular weight is given to the type and seriousness of the contractual breach at issue

77. In cases involving less serious breaches, Swiss law recognises that immediate termination may still be warranted, but only if the misconduct continues despite a prior formal warning (ATF 130 III 213, para. 3.1, p. 221). It is important to note that the severity of the breach alone does not automatically justify dismissal for cause. The decisive factor is whether the circumstances underlying the termination have fundamentally broken the mutual trust essential to the employment relationship (see ATF 130 III 213, para. 3.1, p. 221; ATF 127 III 153, para. 1c, p. 157 et seq.)

78. Accordingly, the key question is whether, in the present matter, the Appellant's behaviour was sufficiently serious to meet the threshold required under Swiss law for the Player to validly terminate the contract.

79. The Player, after the conditions of the Provision were not met, informed the Appellant by email dated 26 June 2024, that he considered the Employment Contract terminated as of 14 June 2024, i.e. after the deadline to meet the condition precedent had passed without result. He further explained therein that a claim before the FIFA DRC was made on 19 June 2024. The termination was also confirmed by the TFF on 26 June 2024.

80. As all the potential termination dates are in the same month (14/19/26 June 2024), the Panel will not have to determine in a final and binding way which of the dates is to be considered the Termination date, but it is however to be clarified that the Agreement has been terminated in June 2024.

81. Further, as established by the facts of the case at hand, the Player put the Appellant in default by email dated 7 May 2024 in which he asked the Appellant to pay the outstanding and due amount of EUR 354,248.14. Then the Player and the Appellant concluded the Payment Schedule on 21 May 2024. While the Appellant paid the first instalment of EUR 50,000.00 according to the Payment Schedule in due time, it failed to pay the other instalments.

82. Therefore, considering the provisions of the Employment Contract and the payments undisputedly made, the outstanding amount for the time between the signing of the Employment Contract, i.e. 15 September 2023, and the termination, which in any case did not happen later

than 26 June 2024, amounts to EUR 381,748.14, which corresponds to the amount calculated by the FIFA DRC (Appealed Decision para. 53) for said period.

83. This said, the reason for the Player's termination being the unpaid and just mentioned amount, it must be examined whether this constitutes just cause under Article 14 para. 1 RSTP. In this regard, the Commentary on p. 153 reads as follows:

"The DRC held that, notwithstanding the non-applicability of article 14bis, the persistent non-payment of not insubstantial amounts, in particular salaries, was just cause for the player to terminate the contract. In that case, an amount equivalent to almost three months' salary was overdue."

84. It is undisputed that the Appellant had not paid the amount of EUR 381,748.14, a sum equivalent to approximately four and a half monthly salaries under the terminated Employment Contract. In light of this material breach, the Panel finds that the Player could no longer reasonably be expected to continue the employment relationship. Consequently, the Player had just cause to unilaterally and prematurely terminate the Employment Contract, in accordance with Article 14 para. 1 RSTP, even if he did not fully comply with the formal requirements set out in Article 14bis RSTP.

D. Compensation

85. First it shall be clarified that the Commentary deems the provision of Article 17 para 1 RSTP applicable in cases, where a party terminates the respective contract *with* just cause (Commentary, p. 169 f.):

"*Although the title of article 17 suggests that this provision only addresses the consequences of a contract termination without just cause, its scope of application goes further.*

More broadly, article 17 governs the consequences of a breach of contract. The term "breach of contract" encompasses scenarios where: (1) a contract is terminated either by a professional player or the club, without just cause; or (2) where one party seriously breaches its contractual obligations, so that the counterparty is entitled to terminate that contract with just cause.

The consequences defined in article 17 are potentially twofold: the party in breach may be liable to pay financial compensation and, in addition, FIFA may impose sporting sanctions on that same party."

86. Therefore, in the light of the abovementioned, the Appellant shall compensate the First Respondent according to Article 17 para. 1 RSTP, which states that:

"In all cases, the party that has suffered as a result of a breach of contract by the counterparty shall be entitled to receive compensation. Subject to the provisions of article 20 and Annexe 4 in relation to training compensation, and unless otherwise provided for in the contract, compensation for the breach shall be calculated taking into account the damage suffered, according to the "positive interest" principle, having regard to the individual facts and circumstances of each case, and with due consideration for the law of the country concerned.

Bearing in mind the aforementioned principles, compensation due to a player shall be calculated as follows:

[…]

ii. In case the player signed a new contract by the time of the decision, the value of the new contract for the period corresponding to the time remaining on the prematurely terminated contract shall be deducted from the residual value of the contract that was terminated early (the "Mitigated Compensation"). […]"

87. This said, the compensation calculated based on Article 17 para. 1 RSTP presents as follows:

88. Firstly, to determine the residual value of the Employment Contract, its Article 3 must be considered. As a result, the residual value estimates at a total of EUR 2,197,500, based on the following numbers:

i. Two monthly salaries for June and July 2024 of EUR 85,000 each;

ii. Ten monthly salaries for the season 2024/2025, i.e. from September 2024 to June 2025, of EUR 90,000 each;

iii. Ten monthly salaries for the season 2025/2026, i.e. from September 2025 to June 2026, of EUR 95,000 each;

iv. Three times the guaranteed bonus payments being EUR 50,000 each, amounting to EUR 150,000; and

v. The accommodation allowance for twenty-two months amounting to EUR 27,500.00.

89. Secondly, as the Player signed a new contract with Al Shamal (the "New Contract"), the aforementioned sum shall be mitigated according to Article 17 para. 1 ii. RSTP by the amount the Player has earned under the New Contract.

90. While the Player concluded the New Contract, it was however mutually terminated on 10 November 2024 (the "Al Shamal Termination Contract"). The Player therefore received the following payments under the New Contract and the Al Shamal Termination Contract:

i. a signature bonus amounting to QAR 182,500 or EUR 45,625 as per the exchange rate of 0.25 on 1 November 2024, i.e. the date the payment was due;

ii. the salary for the month of October 2024 in the amount of QAR 164,250 or EUR 41,062.50 as per the exchange rate of 0.25 on 31 October 2024, i.e. the date the payment was due;

iii. a severance payment in the amount of QAR 383,250 or EUR 99,645.00 as per the exchange rate of 0.26 on 8 December 2024, i.e. the date the payment was due.

91. The total amount received by the Player under the New Contract and the Al Shamal Termination Contract amounts therefore to QAR 730,000.00, which corresponds to EUR 186,332.50 as per

the respective exchange rates. This amount shall be subtracted from the compensation owed to the Player. Therefore, the total amount of the compensation amounts to EUR 2,011,167.50.

92. In its Appeal Brief and its Reply, the Appellant further asks for additional mitigation of a potential compensation based on a hypothetical income of the Player for the 2025/2026 season. The Appellant particularly states that the Player violated the duty to mitigate damages by terminating the New Contract after only one month and therefore the compensation must be further mitigated pursuant to Article 337c para. 2 SCO, which reads as follows:

"[…] *Such damages are reduced by any amounts that the employee saved as a result of the termination of the employment relationship or that he earned by performing other work or would have earned had he not intentionally foregone such work."*

93. In addition, the CAS jurisprudence has also determined that (*CAS 2022/A/9289* para. 54 f.):

"*Furthermore, the duty to mitigate should not be considered satisfied when, for example, the Player deliberately fails to search for a new club or unreasonably refuses to sign a satisfying employment contract, or when, having different options, he deliberately accepts to sign a contract with worse financial conditions, in the absence of any valid reason to do so (see CAS 2015/N4346). The duty to mitigate according to Article 337c(2) CO in case of a termination by the club without just cause is acknowledged in caselaw (see e.g. CAS 2016/N4852; 2006/A/1062).*

On the other hand, the Sole Arbitrator holds that the duty to mitigate the damage may not result in a shift of the financial risk resulting from a termination of a contract without just cause. Therefore, a club terminating a well-paid contract may not ask the Player to sign an equal employment contract with another club. Only if the Club can prove that the Player was acting in bad faith or that the Player did not take sufficient measures to mitigate the damage, the duty to mitigate the damage may be considered violated."

94. In the case at hand the Appellant failed to demonstrate and prove to the sufficient satisfaction of the Panel, that the Player acted in bad faith, deliberately refrained from finding a new employment or intentionally terminated his new contract with Al-Shamal.

95. This said, no further mitigation must be made to the above sum and the Appellant shall pay the amount of EUR 2,011,167.50 under the title of compensation according to Art. 17 para. 1 ii RSTP.

E. Sporting Sanctions

96. The Appellant does not substantially oppose the sporting sanctions imposed on it, being a ban to register new players for two consecutive registration periods. The Panel will therefore not examine this point further but conclude that the imposed sanction will be upheld as the Second Respondent provided sufficient reasons, particularly the repeatedly made claims against the Appellant due to unpaid amounts, and that the conditions according to Art. 17 para. 4 RSTP are met.

97. For the sake of completeness, it shall be stated that one of the two registration periods for which the ban has been imposed on the Appellant has already passed and therefore the sporting sanction will be upheld for the registration period in summer 2025.

F. Conclusion

98. The Panel concludes the following:

i. The Appeal is partially upheld.

ii. The Appellant is required to pay the outstanding amounts of EUR 381,748.14 and a mitigated compensation of EUR 2,011,167.50 to the First Respondent.

iii. The Appellant's ban to register new players remains in force for the registration period during summer 2025.

VII. COSTS

(…)

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

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed by Yukatel Adana Demirspor A.Ş on 25 November 2024 against the decision rendered on 23 September 2024 by the FIFA Dispute Resolution Chamber is partially upheld.

2. The decision rendered by the FIFA Dispute Resolution Chamber on 23 September 2024 is confirmed, except for paragraph 2 of the operative part, which is amended as follows:

   Yukatel Adana Demirspor A.S., must pay to Pape Abou Cissé the following amount(s):

   - EUR 381,748.14 as outstanding remuneration;

   - EUR 2,011,167.50 as compensation for breach of contract.

3. (…).

4. (…).

5. All other motions or prayers for relief are rejected.

Seat of arbitration: Lausanne, Switzerland
Date: 5 August 2025

THE COURT OF ARBITRATION FOR SPORT

Dr. Marco Balmelli
President of the Panel

Mr Daan de Jong
Arbitrator

Mr Manfred P. Nan
Arbitrator