



**TAS / CAS**

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

**CAS 2024/A/10783 Shaanxi Union Football Club v. Moses Orwohicho Ogbu**

## **ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

Sole Arbitrator: Mr. José Juan Pintó Sala, Attorney-at-Law in Barcelona, Spain

*Ad hoc* Clerk: Mr. Alejandro Naranjo Acosta, Attorney-at-Law in Barcelona, Spain

**in the arbitration between**

**Shaanxi Union Football Club**, Binzhou City, PR China

Represented by Mr. Luca Tettamanti & Mr. Tomás Pereda, Attorneys-at-law at Elite Law in Lugano, Switzerland

**Appellant**

**and**

**Moses Orwohicho Ogbu**, Nigeria & Sweden

Represented by Mr. David Mikhail & Mr. Karl Ole Möller, Attorneys-at-law at Nordia Law in Stockholm, Sweden and Mr. Georgi Gradev & Mr. Márton Kiss, Attorneys-at-law at Sila International Lawyers in Sofia, Bulgaria

**Respondent**

## **I. PARTIES**

1. Shaanxi Union Football Club (the “New Club”) is a Chinese professional football club with its registered office in Binzhou City, PR China. The Club is affiliated to the Chinese Football Association (the “CFA”), which, in turn, is affiliated to the Fédération Internationale de Football Association (“FIFA”), the world governing body of football.
2. Moses Orwohicho Ogbu (the “Player”) is a Nigerian and Swedish professional football player; The New Club and the Player are hereinafter referred to as the “Parties”.

## **II. FACTUAL BACKGROUND**

3. Below is a summary of the main relevant facts, as submitted by the Parties in their written submissions, pleadings and evidence examined in the course of the present proceedings. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties, it refers in the Award only to the submissions and evidence it considers necessary to explain its reasoning.

### Factual background on the New and Old Club

4. In October 2013, the New Club was founded in the city of Xi’an under the name of Xi’An Huilong FC.
5. On 8 April 2016, the club Shaanxi Chang’an Athletic Football Club Co., Ltd (the “Old Club”) was established on the Xi'an Municipal Administration for Market Regulation with the registered address of 3rd Floor, Athletes Service Center, Shaanxi Provincial Sports Training Center, No. 303, Zhangba East Road, Zhangba Street Office, High-tech Zone, Xi'an City, Shaanxi Province. The Old Club competed in the China League 1, the second tier of China’s organized football system.
6. On 30 March 2020, the New Club completed its commercial registration in the Binzhou Municipal Administration for Market Regulation under the name of “Binzhou Huilong Football Club Co., Ltd” with the registered address of Gaocun, Longgao Town, Binzhou City, Xianyang City, Shaanxi Province (opposite Gongliu Community) third floor.
7. On the same date, the New Club, under the name of “Binzhou Huilong Football Club”, was registered with the Shaanxi Provincial Association. The New Club competed within the mentioned association until the end of the 2022 season, given that for the 2023 season the New Club was promoted to the Chinese Football Association Member Association Champions League (the “CMCL”), *i.e.* the highest level of amateur football

in China and the only one organized by the CFA. Such league is the fourth tier of China's organized football system.

8. The New Club, by the name Binzhou Huilong Football Club Co., Ltd trained and played its home games at its facilities in Xianyang, which is a district inside the city of Xi'an.
9. On 6 April 2023, the CFA confirmed the cancellation of the license granted to the Old Club due to, *inter alia*, overdue payables.
10. On 9 April 2023, the Old Club issued a letter that informed, *inter alia*, the following:

*"Although [the Old Club] cannot appear as a professional team in China, [the Old Club] still tries to make various attempts, hoping to give back to all the fans who love [the Old Club] football. In the future, we will seriously study and summarize, formulate new planning goals, strive to compete the debt restructuring of [the Old Club], and focus on local competitions in Shaanxi, youth football development and commercial integration. [...]"*

*At the beginning of 2023, [the Old Club] took the lead in releasing [the Old Club] membership program, which received the attention of the whole society and the support of more than 10,000 members. We look forward to the continuation of professional football in Shaanxi, and please look forward to the birth of the first real membership club in China."*

11. On 10 May 2023, the Old and the New Club signed an agreement for the transfer of the social media accounts of Weibo, WeChat and Douyin of the Old Club to the New Club for a fee of YUAN 10,000 (the "Social Media Agreement"). After concluding the Social Media Agreement, the New Club decided to not use the acquired Weibo and Douyin account.
12. It is registered in the National Enterprise Credit Information Publicity System of PR China, that on 10 May 2023, the Old Club changed its name from Binzhou Huilong Football Club Co., Ltd. to Shaanxi Chang'an United Football Club Co., Ltd.
13. On 20 May 2023, the New Club issued the following public statement titled "*Our name is Shaanxi Chang'an United!*":

*"Thanks to the fans and friends waiting, this time we have seen Shaanxi fans tears shed training ground cannot bear to say goodbye; heard Shaanxi fans continue to yearn for the hometown to welcome professional teams; feel the determined of Chinese football reform and the opportunity to continue to improve; the most important thing is that the bran continues to emerge the magnificent, exciting red wave. Under the appeal of Shaanxi fans and the guidance of provincial sports bureau, provincial football*

*management center and other leading organizations, Shaanxi Changan United Football Club was established. (...)*

*The story that belongs to Shaanxi never ends, Shaanxi fans have been writing the legendary chapter that belongs to the northwest wolf. The best fans bring us great confidence, we look forward to working with Shaanxi fans to explore innovation, build our own team, hand in hand on the new journey of football development."*

14. On 1 June 2023, the New Club launched a campaign to interested parties to submit proposals for the new logo of the New Club. It is read in such campaign: *"[i]n order to better promote the football profession in Shaanxi, polish the brand of "Shaanxi Chang'an United", tell the story of "Northwest Wolf", and reflect the spirit of union and membership model, Shaanxi Chang'an United Football Club is now soliciting new team emblems from the society."*
15. On 17 June 2023, the New Club changed its training facilities from Xianyang, which were inside the city of Xi'an, to Fengdong Football Sport Park which is also based in Xi'an.
16. On 4 July 2023, the New Club published 4 logos, designed by different third parties, to a final voting round to select the New Club's new logo.
17. On 17 July 2023, the New Club announced the final logo in accordance with the voting results. In such announcement the New Club stated *"...the studio, 898 brand communication and the club jointly made appropriate modifications to the work according to the opinion of the fans, the objective needs of development, etc., and completed the final team emblem..."*
18. On 14 August 2023, the New Club obtained the approval from the Weinan Sports Bureau (local government of Weinan, a district of Xi'an) to use the Weinan Stadium after 17 September 2023. The Old Club, prior to its disaffiliation, played its home games in such stadium.
19. The New Club finished third in the CMCL season 2023, thus being promoted to the Chinese League 2 2024 season (the "CL2") i.e. the third tier in China's organized football system.
20. On 20 October 2023, upon confirmation of the promotion of the New Club to CL2, the New Club announced in its social media *"From March 29th to October 29th, Shaanxi has a professional team again after 214 days!..."*. The Player translates such announcement as *"after 214 days of the people's Shaanxi team back to the professional league"*

21. On 24 January 2024, the CFA informed the New Club of its approval of changing its name from Binzhou Huilong Football Club Co., Ltd to Shaanxi Union Football Club Co., Ltd since such name complied with the requirements of the Management Regulations for Professional Clubs and Team Names of the CFA.

Factual background of the Player's Claim

22. On 26 August 2022, the Player and the Old Club entered into an employment agreement (the "Employment Agreement") valid from the signature date until 31 December 2023.
23. According to Article 3 of the Employment Agreement, the Old Club undertook to pay the following amounts to the Player:
- USD 250,000 net as annual salary for the year 2022.
  - USD 550,000 net as annual salary for the year 2023.
24. Similarly, according to the Annex of the Employment Agreement the Parties stipulated, *inter alia*, the following bonuses:
- USD 1,500 net per goal scored, taking into account that 2 assists are equivalent to 1 goal.
  - USD 20,000 net as an appearance bonus if the Player played at least 20% of the total league playing time in the 2022 season.
25. On 29 March 2023, the Old Club announced its dissolution. Additionally, the Player argues that on 31 March 2023 the Old Club, by phone, terminated the Employment Agreement.
26. On 1 April 2023, the Player signed a new employment agreement (the "New Employment Agreement") with the Chinese club Shijiazhuang GongFu Football Club valid from the signature date until 31 December 2023.
27. According to the New Employment Agreement the Player was entitled to a monthly remuneration of USD 16,000 net.
28. On 1 September 2023, the Player sent a default notice to the Old Club requesting the payment of USD 475,290 net.
29. On 25 September 2023, the Player filed a claim against the Old Club before the FIFA Football Tribunal. In such claim the Player requested to be awarded USD 463,832 as

outstanding remuneration and USD 405,996 as compensation for breach of contract.

30. On 28 October 2023, the CFA informed FIFA that *“since 6 April 2023, Shaanxi Chang'an Athletic FC [The Old Club] has been disqualified from registering with the Chinese Football Association [the CFA], therefore the said club is not affiliated to our association any longer and it does not actively participate in any of the competitions organized under the auspices of the Chinese Football Association [the CFA].”*
31. On 30 October 2023, the FIFA general secretariat informed the Player that *“our services and decision-making bodies cannot deal with cases of clubs which are not, or no longer, affiliated to the relevant member association and/or which are not, or no longer, actively participating in any competition organized under the auspices of a member association”*. Therefore, the Player's claim was closed based on Article 8.1 lit b) of the Procedural Rules Governing the FIFA Football Tribunal.
32. On 17 November 2023 and in the context of the unrelated procedure FDD-16517, the CFA informed FIFA that *“[b]ase on the information/documentations available, there's no successor relationship between the Shaanxi Chang'an Athletic FC and Shaanxi Chang'an Union FC.”*

### III. PROCEEDINGS BEFORE THE FIFA FOOTBALL TRIBUNAL

33. On 15 November 2023, the Player filed a claim against the New Club before the Dispute Resolution Chamber of the FIFA Football Tribunal (the “DRC”). In such claim, the Player's request for relief were the following:
  - “(a) declares that the DRC has jurisdiction to rule on the present dispute;*
  - (b) consider Shaanxi Chang'an Union Football Club as the new sporting successor of Shaanxi Chang'an Athletic FC;*
  - (c) condemns the club Shaanxi Chang'an Union Football Club to pay USD 463,832 net of applicable taxes, as outstanding remuneration plus interest at a rate of 5% (five per cent) per annum as from the respective payment due date until the date of effective payment, corresponding to all salaries between 26 August 2022 and the end of March 2023 and the bonuses as stated in the employment agreement;*
  - (d) condemns the club Shaanxi Chang'an Union Football Club to pay USD USD 405,996 as compensation for breach of contract plus interest at a rate of 5% (five per cent) per annum as from the respective payment due date until the date of effective payment, corresponding to the mitigated compensation between April 2023 and December 2023, as well as additional compensation; and,*
  - (e) imposes any available disciplinary sanctions on the club Shaanxi Chang'an Union Football Club.”*
34. On 13 June 2024, the DRC issued the Decision FPSD-12679 (the “Appealed Decision”)

ruling as follows (emphasis in the original):

- “1. *The claim of the Claimant, Moses Orwohicho Ogbu, is partially accepted.*
2. *The Respondent, Shaanxi Chang'an Union Football Club, is the sporting successor of Shaanxi Chang'an Athletic Football Club*
3. *The Respondent must pay to the Claimant the following amount(s):*
  - ***USD 62,500 net as outstanding remuneration plus 5% interest p.a. as from 16 September 2022 until the date of effective payment;***
  - ***USD 62,500 net as outstanding remuneration plus 5% interest p.a. as from 16 October 2022 until the date of effective payment;***
  - ***USD 62,500 net as outstanding remuneration plus 5% interest p.a. as from 16 November 2022 until the date of effective payment;***
  - ***USD 62,500 net as outstanding remuneration plus 5% interest p.a. as from 16 December 2022 until the date of effective payment;***
  - ***USD 45,833 net as outstanding remuneration plus 5% interest p.a. as from 16 January 2023 until the date of effective payment;***
  - ***USD 45,833 net as outstanding remuneration plus 5% interest p.a. as from 16 February 2023 until the date of effective payment;***
  - ***USD 45,833 net as outstanding remuneration plus 5% interest p.a. as from 16 March 2023 until the date of effective payment;***
  - ***USD 30,500 net as outstanding remuneration plus 5% interest p.a. as from 31 March 2023 until the date of effective payment;***
  - ***USD 45,833 net as outstanding remuneration plus 5% interest p.a. as from 16 April 2023 until the date of effective payment; and***
  - ***USD 268,497 net as compensation for breach of contract without just cause plus 5% interest p.a. as from 31 March 2023 until the date of effective payment.***
4. *Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.*
5. *Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made **within 45 days** of notification of this decision, the following **consequences** shall apply:*
  1. *The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of up to three entire and consecutive registration periods.*
  2. *The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not made by the end of the three entire and consecutive registration periods.*
6. *The consequences **shall only be enforced at the request of the Claimant** in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.*
7. *This decision is rendered without costs.*

35. On 19 July 2024, the DRC notified to the Parties the grounds of the Appealed Decision,

which can be summarized as follows:

- The DRC referred to the award CAS 2016/A/4550 which stated that “*a club is a sporting entity identifiable by itself, which as a general rule transcends the legal entitled that operate it*”, rationale that has already been confirmed by a numerous CAS awards like CAS 2018/A/5618, CAS 2020/A/6884, CAS 2020/A/7092 and CAS 2020/A/7290.
- Additionally, the DRC, before stating that the existence of a sporting succession should be assessed on a case-by-case basis, recalled the Articles 21 (4) of the FIFA Disciplinary Code 2023 Edition (the “FIFA DC”) and 25 (1) of the FIFA Regulations on the Status and Transfer of Players May 2023 edition (the “RSTP”).

#### Different legal/administrative forms

- The Parties do not dispute that the origins of the New Club are linked to Binzhou Huilong Football Club Co., Ltd, nevertheless, the chamber emphasizes that CAS 2020/A/7920 determined that “*whether a club in operated through a different legal entity does not bear relevance on whether the sporting succession has taken place i.e. ‘a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it’ (CAS 2013/A/3425 at. Par. 139)*”.
- Accordingly, the DRC stated that the analysis of the sporting succession is based on the external appearance of the sporting continuity from the perspective of the football community and not only from the legal perspective. Therefore, the technicalities of the legal operation with respect to the contents of the Chinese law are not decisive in the matter at hand or at least are not sufficient to counterbalance the other elements to be analysed from a sporting perspective. Consequently, the New Club’s position could not succeed.

#### Criteria for sporting continuity

- It was clear to the DRC that the Old and the New Club have almost identical names. While it is true that the name of the clubs has a connection to the city, the DRC placed significant weight on the fact that the management of the New Club took proactive measures to change its name from Binzhou Huilong Football Club Co. It is also clear to the DRC that such similarity could reasonably influence public perception.
- The Old and the New Club have similar colors and logo. The New Club’s logo appears to be a modern version of the Old Club’s logo.
- Even if one considers that the wolf is a common symbol in Chinese tradition, the New Club’s choice of symbol and figurative name, *i.e.* the northwestern wolf, brought it even closer to the Old Club.
- The New Club could not explain the intention of the purchase of the Old Club’s media accounts other than to benefit from the same fan base and local connection. The DRC was not persuaded by the New Club’s explanation that such transaction was purely commercial and alien to any sporting continuity. On the contrary, the DRC considered that the Player had sufficiently demonstrated that the New Club made several references to the Old Club in its official channels in an attempt to engage with its



community.

- The New Club hosts its matches in the same stadium as the Old Club. Despite the claim of convenience and the need to find a new venue, it remained unclear for the DRC the reason why the New Club decided to move its headquarters from the original location of Binzhou Huilong Football Club Co. Ltd if it did not intend to continue with the Old Club's history and/or fan base.
- The Old and New Club share common representatives, shareholders and sponsor, their managers have publicly promoted their umbilical connection to engage the fan base.
- At least 10 players were transferred from the Old to the New Club. The DRC could not follow the New Club's position regarding the players' desire to stay in the city, especially considering the number of people involved and that they were transferred for free to an amateur club at that time; the same *rationale* applies to the coaching staff and other members of the staff.
- Based on the above, the DRC decided that the New Club is the sporting successor of the Old Club.

#### Consequences of the Sporting Succession

- Once the sporting succession has been established, the DRC determined that the New Club shall be obliged to fulfill any outstanding financial obligations of the Old Club towards the Player, irrespective of whether the Player has previously filed a claim against the Old Club.
- The Player's allegations regarding outstanding remuneration and breach of contract at the end of March 2023 due to the Old Club dissolution remained undisputed.
- The New Club insisted in its submissions that several of the Old Club employees were hired by the new management but did not mention any attempt to negotiate with the Player. The DRC decided that the termination of the Employment Agreement was without just cause and the New Club is liable to the consequences of the breach.
- The DRC decided that the Player is entitled to his unpaid salaries, plus interest as from the respective due dates. The DRC further noted that the Player had also provided evidence that he had successfully met the requirements for the goals/assist bonuses in the amount of USD 10,500 net and the appearance bonus in the amount of USD 20,000 net. Nevertheless, given that there was no specific indication of the due date for these concepts, the DRC determined that interest in these amounts accrues from the date of the termination *i.e.* 31 March 2023.
- By applying Article 17 (1) of the RSTP, the DRC observed that the Employment Agreement did not contain a compensation clause in the event of breach of contract. Consequently, the DRC concluded that the salaries from April to December 2023 (in total USD 421,497 net) serve as the basis for the determination of the amount of compensation for breach of contract.
- Moreover, the DRC found that the Player had mitigated his damages in the total amount of USD 144,000 net due to his employment agreement with Shijiazhuang GongFu Football Club.
- Finally, taking into account the Player's request and the DRC's consistent practice,

the latter decided to award the Player interest on the compensation for breach of contract at the rate of 5% p.a. from the termination date (31 March 2023) until the date of effective payment.

#### **IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

36. On 7 August 2024, the New Club filed a Statement of Appeal with the Court of Arbitration for Sport ("CAS"), pursuant Article R48 of the Code of Sports-related Arbitration 2023 edition (the "CAS Code"), directed against the Player, to challenge the Appealed Decision. In such Statement of Appeal, the New Club requested to submit the present Appeal to a Sole Arbitrator.
37. On 9 August 2024, the CAS Court Office informed FIFA that the Appeal was not directed against it but, pursuant Article R41.3 of the CAS Code, if FIFA intended to participate as a party in the present arbitration, it should file with the CAS an application to this effect within 10 days.
38. On 12 August 2024, the Player informed the CAS Court Office that he did not agree to submit this matter to a Sole Arbitrator.
39. On 16 August 2024, FIFA stated that it did not know the scope and extent of the Appeal and requested the 10 days deadline to be fixed after it was provided the Appeal Brief of the New Club.
40. On 19 August 2024, the CAS Court Office advised FIFA that the 10-day limit to communicate whether it intends to participate in this procedure would run as of the notification of the Appeal Brief.
41. On 27 August 2024, the CAS Court Office informed the Parties that the Deputy Division President, pursuant Article R50 of the CAS Code and taking into account all the circumstances of the case, had decided to submit it to a sole arbitrator.
42. On 18 September 2024, within granted extended deadline, the New Club filed its Appeal Brief pursuant Article R51 of the CAS Code.
43. On 2 October 2024, the New Club indicated that should FIFA intended to participate as intervening party of the procedure, the New Club contended that such participation was precluded considering that the time-limit of 10 days -pursuant Articles R41.3 and R54 of the CAS Code- to file its application "since the arbitration became known" had expired. The New Club mentioned the abovementioned apart from FIFA's lack of standing to sue/be sued. Furthermore, the New Club alleged that FIFA was the judging body of first instance thus fully informed about the content of this dispute and became

aware of this arbitration from the CAS Court Office notification on 9 August 2024.

44. On the same date, FIFA informed that it renounced to intervene in the present arbitration proceeding. Additionally, FIFA argued that, given that the present Appeal was not directed against it, the CAS could not review the sporting succession matter but only its consequences, *i.e.* (i) whether the Employment Agreement was terminated without just cause by the Old Club, (ii) the outstanding remuneration and, (iii) the amount of compensation.
45. On 21 October 2024, the New Club objected FIFA's considerations of its letter of 2 October 2024 and argued that the case could be analysed and decided by the CAS on its merits. On the same date, the Player informed that he considered FIFA's letter of 2 October 2024 admissible and concurred with its substance.
46. On 1 November 2024, within granted extended deadline, the Player submitted its Answer to the Appeal Brief, pursuant to Article R55 of the CAS Code.
47. On 26 November 2024, the CAS Court Office, pursuant Article R54 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, informed the Parties that the Panel appointed to decide the case was composed by:

Sole Arbitrator: Mr. José Juan Pintó Sala, Attorney-at-Law in Barcelona, Spain

48. On 4 December 2024, the CAS Court Office informed the Parties, after having consulted them, that the Sole Arbitrator decided to hold a hearing by videoconference in the present case, pursuant to Article R57 of the Code.
49. On 13 December 2024, the Order of Procedure was issued and sent to the Parties by the CAS Court Office. In the same letter, the Parties were informed that Mr. Alejandro Naranjo Acosta, Attorney-at-Law in Barcelona, Spain, had been appointed as *ad hoc* Clerk in this procedure.
50. On the same date, the Order of Procedure was duly signed and returned by the Parties.
51. On 18 February 2025, the hearing was held by videoconference. In addition to the Sole Arbitrator, Mr. Antonio de Quesada, CAS Head of Arbitration, and the *ad hoc* Clerk, the following persons attended the hearing:

For the New Club:

- Mr. Huang Shengua, chairman and legal manager of the New Club.
- Mr. Luca Tettamanti & Mr. Tomas Pereda, legal counsels.
- Mr. Roy Chu, legal expert provided by the New Club.

- Mr. Zhipeng Zhao, interpreter.

For the Player:

- Mr. Moses Orwohicho Ogbu, the Player.
  - Mr. Marton Kiss, Mr. Yavor Petkov, Mr. Karl Ole Möller, Mr. David Mikhail and Mr. Kaloyan Stefanov, legal counsels.
52. At the outset of the hearing, the Parties confirmed not to have any objection or comments as to the constitution and the composition of the Panel nor in respect of the conduction of the proceedings up to that moment.
53. The Parties had a complete opportunity to present their case, submit their arguments and question the legal expert. At the closure of the hearing, both Parties confirmed that they did not have any objections as to the procedure conducted by the Sole Arbitrator and that their respective rights to be heard had been fully respected.
54. On 28 April 2025, the New Club filed new evidence to the proceedings.
55. On 1 May 2025, the Player objected to the admissibility of the new evidence filed by the New Club.
56. On the same date, the CAS Court Office the Parties that it would be for the Sole Arbitrator to decide whether to admit the New Club's new evidence pursuant Article R56 of the CAS Code.

## **V. THE PARTIES' SUBMISSIONS**

57. The following summary of the Parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by them. The Sole Arbitrator, however, has carefully considered, for the purposes of the legal analysis which follows, all the submissions made by the Parties, even if there is no specific reference to those submissions in the following section.

### **A. THE NEW CLUB'S POSITION**

58. In its Appeal Brief, the New Club requested the following prayers for relief (emphasis added in the original wording):

*"Shaanxi Union Football Club respectfully requests CAS to rule as follows:*

- The appeal filed by Shaanxi Union Football Club is admissible*
- The appeal filed by Shaanxi Union Football Club is upheld.*

*iii. The FIFA DRC Decision is annulled and/or set aside.*

*As a consequence:*

*iv. Shaanxi Union Football Club is not the “sporting successor” of Shaanxi Chang'an Athletic FC, thus it shall not have to pay any amount to Mr Moses Orwohicho Ogbu;*

*v. Moses Orwohicho Ogbu shall bear all the procedural costs of this arbitration procedure.*

*vi. Moses Orwohicho Ogbu shall compensate Shaanxi Union Football Club for all the legal fees and other costs incurred in connection with this arbitration in an amount in an amount to be determined at the discretion of the Sole Arbitrator, but which not be lower than CHF 20,000.”*

59. The New Club's submissions to support the aforementioned prayers for relief can be, in essence, summarized as follows:

a. General Context

- Official name of the Club

60. The Player and FIFA had erroneously named the New Club as Shaanxi Chang'an Union Football Club. The New Club never used that name in official competitions nor has been registered under that name.

61. The official name of the New Club in the 2023 season was Binzhou Huilong Football Club. The New Club only used unofficially the name Shaanxi Chang'an Union Football Club on a temporary basis from May 2023 until December 2023 on its social media.

62. The name of the New Club was only changed to Shaanxi Union Football Club on 24 January 2024 when the CFA approved such change.

- Geographical, historical and cultural background

63. Shaanxi is one of the 4 provinces that form the region known as Northwestern China. Chang'an was the traditional name of the Xi'an, the current capital of Shaanxi.

64. Given the great historical importance of Chang'an, the majority of Chinese citizens have more attachment to such name than to Xi'an.

65. The New Club had its registered address at Binzhou city but the seat of its trainings and home games was Xianyang, a district of Xi'an.

66. Chinese beliefs are based on nature, where plants and specially animals play an essential role. The population of Northwestern China identify themselves with the figure of the Northwestern wolf that inhabits the region. Local companies and clubs of other sports include the figure of a wolf in their names, logos and slogans.

67. In the CAS case CAS 2023/A/9386, two Chinese clubs from the province of Liaoning shared similar names, colours and sponsor, and include a tiger in their logos, as it is common in the east northern region of China. In the mentioned case, FIFA considered that sporting succession had occurred, but then CAS determined that there was not sporting succession despite those similar elements.

- Sporting and regulatory background

68. The CFA issued in 2018 the CFA Naming Policy with the purpose of helping clubs to create a greater connection with their local community and be less dependent to their shareholders.

69. According to this policy, clubs participating in CFA competitions were required to amend their names within June 2021 by removing any commercial reference to its shareholders or commercial partners and comply with the following composition: “geographical name” + “name of the club” + “Football Club” + “Co. Ltd”.

70. For the geographical name, the CFA required clubs to include the name of the city or province where the respective club was competing and, concerning the name of the club, clubs shall comply with the following minimum criteria:

- It shall have no link to the name of the shareholders, controllers or affiliated third parties nor include the name or reference of any brand, product or service of the aforementioned parties.
- It shall have some cultural and/or historical link to the region where the club is seated.

71. As a result of the abovementioned, nowadays in China there are founded clubs of the same region with similar names e.g. Shanghai Port, Shanghai Shenhua and Shanghai Jiading or Qingdao Hainiu, Qingdao WC and Qingdao RL.

b. Factual context of the case

72. Despite that the Old Club failed to obtain the sporting license since the 2023 season, it is still registered as a limited liability company (Ltd.) under the High-tech Zone Branch of Xi'an Municipal Administration for Market Regulation. To date, the Old Club has not been declared bankrupt or under any insolvency procedure.

73. On 24 April 2023, the New Club was acquired by Mr. Zhang Wei who did not have any prior relation with the Old Club. Moreover, the management structure of the New Club had no relation with the one of the Old Club.

74. On 26 September 2023, the New Club changed its shareholding structure as the local entity Shaanxi Qin Ying Culture Sports Co., Ltd acquired 65% of the New Club's

shares.

75. After the restructuring of ownership and management, the New Club remained in the same sporting category (the 4<sup>th</sup> tier) and did not replace the Old Club (the 2<sup>nd</sup> tier).
76. The New Club had a short lifespan and always in amateur football. That is why after 23 April 2024 and with the upcoming sporting season, the New Club built a competitive squad, coach team and the whole structure of the Club.
77. The first team of the New Club for 2023 season was formed by 32 players with 11 former players of the Old Club that were registered as free agents one month after the Old Club's dissolution. Additionally, only 2 to 4 players were part of the starting eleven of the New Club during the first stage of the 2023 season.
78. The New Club also hired a new coach team, in which 2 members out of 5 were formers employees of the Old Club (the third assistant and the goalkeeper coach).
79. In addition, the New Club hired around 10 new administrative staff members, 2 medical team members and 2 team leaders to complete the New Club's staff. Among them, 2 members of the medical staff and 1 team leader were prior members of the Old Club.
80. The New Club had at the time a small fanbase given that, in its short lifespan, it had only played in regional tournaments that are not televised. Accordingly, a strategy was designed to become the representative club of Shaanxi province. Such intention was made public with the statement of 20 May 2023.
81. As per the intention to become the representative club of Shaanxi, the name Binzhou Huilong FC did not represent the whole province or its values but a very small part, as Binzhou is a minor city in the Shaanxi province with not much historic, cultural or industrial relevance; Huilong means in Chinese "brilliant, dragon".
82. Additionally, Binzhou was merely the city in which the New Club had its registered address since it had always trained and played games in Xianyang (inside the city of Xi'an) and then in Fengdong Football Sport Park (also inside Xi'an), it is to clarify that neither of the named facilities were used before by the Old Club.
83. Consequently, the New Club decided to establish a name with a strong meaning and connection with the local community and football fans of Shaanxi province, as well as with the fans of the city of Xi'an, that is where the vast majority of its fans came from and where it was training and playing its home games since 2020.
84. Accordingly and complying with the CFA Naming Policy, the unofficial name of the

New Club for the 2023 season was:

- Shaanxi: to comply with the CFA Naming Policy geographical name criteria and to represent the province of Shaanxi.
  - Chang'an: as a cultural link to the region, also complying with the CFA Naming Policy and to connect with the local community of Xi'an. Also, it is where the New Club had its training facilities and played its official games.
  - Union: as a link with the Chinese community, union in Chinese means the power of SINO-L (Sino-L is a Chinese expression that means "of or connected with China").
85. Regarding the New Club's jerseys, the New Club used a red jersey for home games before and after the Old Club's dissolution. The New Club used red jersey as it is a sign of patriotism in China and represents the Communist Party and the Chinese flag, also it is a sign of good luck and fortune.
86. As for the away games' jerseys, the New Club set them in white colour, which totally differs from the yellow colour used by the Old Club.
87. The New Club also implemented a membership system by means of which the fans could take part in some decisions of the Club.
88. The New Club set up new social media accounts in different platforms as Weibo, Douyin (TikTok), Instagram, X (former Twitter) and YouTube. Then, to reach as many local and national football fans as quickly as possible, the New Club signed the Social Media Agreement buying the Old Club's accounts of Weibo, WeChat and Douyin, however the New Club eventually decided not to use the Weibo and Douyin account acquired from the Old Club but kept using its own.
89. Regarding the new team logo, the New Club launched the activation campaign in July 2023, in such the New Club was in charge of filtering the works that would pass to the final round of votes. For the final rounds the New Club selected the following 4 logos that followed (as requested by the New Club) the same colour patterns, elements that connect with Shaanxi and Xi'an/Chang'an (such as the silhouette of Xi'an or the northwestern wolf):





90. The logo that won the campaign (the first option) was the most voted one and, due to its originality and emotional engagement with the local community, it encompasses the northern wolf, the silhouette of the ancient city wall of Xi'an (Chang'an) and the word "Union" which stands for the SINO-L (that stands for "connected with China").
91. The New Club did not participate in the design or the final choice of the logo.
92. The New Club wanted to establish in a proper stadium, as it was hosting its home games at its training facilities. On 14 August 2023, the New Club obtained the approval from the Weinan Sports Bureau (local government of Weinan, a district of Xi'an) to use the Weinan Stadium after 17 September 2023.
93. The New Club managed to be sponsored by 12 brands during 2023 and 2024, among those the kit supplier Lining Sport, which also sponsored the Old Club. Lining Sport was already a sponsor of the New Club before 2023.

c. Merits of the dispute

- Burden & standard of proof

94. Article 13.5 of FIFA Procedural Rules states that a "*party that asserts a fact has the burden of proving it*", just as CAS long-standing jurisprudence like CAS 2007/A/1380 and CAS 2020/A/7175.
95. As per the standard of proof, pursuant CAS case law (CAS 2021/A/8079), it should be comfortable satisfaction.
96. Accordingly, in the present matter the Player has the burden to proof with solid evidence that the New Club is the sporting successor of the Old Club.
97. Moreover, the result of the Appealed Decision is a potential "death sentence" to the New Club, as it will not be able to bear the financial consequences of this case and the other that will follow to enforce the Old Club's debts.

- No abuse or fraud by the New Club

98. FIFA and CAS share the view that the concept of sporting succession was mainly established to avoid abuses by clubs that set up a new entity to avoid financial responsibilities, thus cleaning their balance sheets, or to commit any sort of fraud to escape previous commitments against third parties (FIFA Circular 1681 of 11 July 2019, CAS 2020/A/7092 and CAS 2020/A/7183).
99. The New Club has no financial, corporate, sporting or legal link with the Old Club, thus

there is no abuse from the New Club.

100. The New Club already existed in the province of Shaanxi and the city of Xi'an along with the Old Club. The New Club was not set up nor moved to Shaanxi or Xi'an when the Old Club entered in financial difficulties.

- Lack of proactivity by the Player

101. To decide whether the potential sporting successor club, the New Club, has a debt, it is fundamental to analyse the degree of diligence of the Player (as creditor) against the Old Club (as debtor).

102. A careless and negligence performance of the creditor and/or passive attitude should have led to the discontinuation of the relevant proceedings and their closure or, in second instance, to uphold the New Club's position (CAS 2011/A/2646).

103. In the CAS case CAS 2020/A/6884 was stated that:

*"In particular, there should be no doubt, so the Sole Arbitrator finds, that a creditor is expected to be vigilant and to take prompt and appropriate legal action in order to assert his claims. In principle, no disciplinary sanctions can be imposed on a club as a result of succession, should the creditor fail to claim his credit in the bankruptcy proceedings of the former club, as there is a theoretical possibility he could have recovered his credit, instead of remaining passive. As was decided by these panels in the above-referenced CAS jurisprudence, in such instances it is necessary to examine whether a creditor has shown the required degree of diligence to recover the amounts he is owed. On the other hand, as was also clearly considered by the panel in CAS 2019/A/6461, there is no blanket rule whether or not a creditor has shown the required degree of diligence. This assessment should be made based on the specific circumstances of the case"*

104. FIFA has established a protection mechanism that intends to veil for the football stakeholders interest and entitles to impose financial responsibilities and sanctions to the sporting successor of a club that is no longer registered in the relevant federation, this mechanism shall be considered as a subsidiary procedure that cannot and must not be seen as an opportunity for creditors (the Player *in casu*) to refrain from pursuing the recovery of debts owed to them from the original debtor.

105. The requirement of due diligence is just a manifestation of the principle that a creditor should not benefit from its own negligence. To that end, if the creditor is reckless in collecting its credit, then FIFA should not offer him/her any form of protection.

106. There was a clear (at least theoretical) possibility for the Player to receive his claimed money (or at least part of it). However, he remained passive against the Old Club, not

showing any minimum degree of diligence before filing a claim against the New Club.

107. Even though the Old Club lost its license, it still exists and is operative under the Xi'an commercial registry and has not yet declared bankruptcy or insolvency. The Player could have filed a claim before the relevant courts in China.
108. There have been similar cases opened before the ordinary courts in China, whereby foreign players and coaches have claimed overdue payables or breach of contract against their disaffiliated prior clubs, and the relevant courts ruled favourable and enforceable decisions in favour of the claimants.
109. The New Club note that the Player has been living in China since at least 26 February 2021, when he registered with the Chinese club Wuhan Three Towns FC, and he still lives in China playing with another Chinese club.
  - The New Club is not the sporting successor of the Old Club
110. The CAS long-standing jurisprudence establishes that to determine whether a club is the sporting successor of another, not only non-exhaustive objective criteria under FIFA regulations must be met, but also further subjective criteria of the offence (CAS 2020/A/7092, CAS 2020/A/7183 and CAS 2020/A/6873).
111. In a nutshell, the objective elements would consist of the intention by a “new club” to continue the activity of an “old club” for all practical purposes, and the subjective elements on the intention of the “new club” to fraud the competition, particularly the principle of sporting merit, as well as to fraud creditors such as players or other parties.
112. This makes evident that a decision on sporting succession cannot be taken only on pure appearances, such as to share similar logos, name, colours, stadium, etc. as such finding would lead to unfair and improbable results.
113. In the case CAS 2020/A/6873, the panel stated:

*“According to the Panel, the concept of sporting succession should be applied very carefully and only in a restrictive way. As a matter of fact, the club found to be sporting successor will have to take over the liabilities and commitments of the original debtor and may have to assume debts or obligations of significant magnitude. Just the outstanding salaries of the staff and players could amount to considerable sums. In addition, the sporting successor may have to defend disciplinary charges based on the transactions (e.g. employment contracts) in which it was never involved. Under these circumstances, it is striking that the concept of sporting successor is implemented in disciplinary regulations as its implications encompass important civil consequences, similar to the ones observed in mergers, consolidations or asset acquisitions.”*

114. The approach followed by FIFA is narrow and superficial, since it mainly considers objective conditions (relying on appearances) when taking its decision on the present dispute, by merely analysing a list of non-exhaustive criteria set in articles 21.4. DC and 25.1 of the FIFA RSTP.
115. The New Club addresses the following elements to demonstrate that the Appealed Decision shall be overturned:
  - Important elements:
116. As already seen, the New and Old Club had different owners, shareholders and management at all times.
117. The New Club did not replace the Old Club in any competition or category, nor acquired any federative license or similar rights that might have granted any sporting advantage.
118. The New Club has never requested to a third party any credit that belonged to the Old Club such as solidarity contribution or training compensation.
119. The New Club has not used any historical element of the Old Club as a) they have different foundation dates (and the New Club was founded with a different name), b) the New Club does not refer to any player, coach or emblematic member to be related to the Old Club, c) the New Club did not acquire trophies or sporting merit of the Old Club.
120. In its public statements, the New Club refers to “Shaanxi fans” or “Shaanxi team” when referring to the football fans of Shaanxi province, as well as to itself as “Shaanxi team” being the main football club and only representative of Shaanxi in football competitions in China.
121. Regarding the New Club’s statement of 20 October 2023, it meant that the province of Shaanxi would have again a professional team after 214 days, because since the disaffiliation of the Old Club there was no professional team in the province of Shaanxi. Again, this statement shows no link to the Old Club and, on the contrary, demonstrates that the New Club considers it as a different club.
122. Also, any reference to the “northwestern wolf” does not have any connection whatsoever with the Old Club, the fact that both clubs shared that figure cannot be detrimental to the New Club.
123. Although the New Club signed 11 players that were previously registered with the Old Club, such transfer only happened one month after the latter’s disaffiliation and as free

agents. In addition, after the acquisition of the New Club by Mr. Zang Wei, it was needed to improve the level of the team. Accordingly, the New Club hired 28 players in 3 days.

124. If the New Club was the sporting successor of the Old Club, the signature of these discarded players could not have any purpose for the Old Club to eliminate its debts and/or get rid of its underperforming players. In addition, if the New Club was the sporting successor it would have immediately transferred those players to the New Club priorly to its disaffiliation to guarantee that no other third club would “steal” those players.
125. Also, it is unlikely that the public would perceive the New Club as the sporting successor of the Old Club with only an average of 3 secondary former players of the latter in the starting XI of the New Club.
126. Only 2 out of 5 members of the new coaching team of the New Club were members of the Old Club, and those were not even the main coach nor their 2 main assistants who are the ones that appear on TV and on the pitch. Accordingly, the public would never perceive the New Club as the successor of the Old Club due to this criterion.
127. It is proven that the CFA did not treat the New Club as the sporting successor of the Old Club.
  - Relevant elements:
128. The New and Old Club do not share the registered address. Equally, they do not share the training facilities as the New Club’s training facilities were firstly in Xianyang, Xi’an, and then at the Fengdong Football Sport Park, while the Old Club’s training facilities were at Shaanxi Provincial Sports Training Center.
129. The New Club has never been officially named as “Shaanxi Chang’an Union Football Club”, it passed from “Binzhou Huilong Football Club” on the 2023 season to “Shaanxi Union Football Club” since January 2024. The New Club merely used the name “Shaanxi Chang’An Union Football Club” in 2023 on its social media accounts for commercial purposes.
130. The New Club recalls that it would had just made no sense to keep using its prior name (Binzhou Huilong Football Club) when (i) there was no club bringing the name of Shaanxi province and/or Xi’an (Chang’an) in national competitions, (ii) the New Club was not training and playing games in Binzhou, but in Xi’an (Chang’ an), and (iii) the New Club had to comply with the criteria under CFA Naming Policy.

131. Whether the New Club would have really intended to associate itself with the Old Club by means of the name, it would have included individual elements specifically related to the latter like its year of foundation, among others, or even the word “Athletic”.
132. Both clubs have the same legal form but it is due to their commercial nature, practically all football clubs in China have the legal form of limited liability companies (Co. Ltd.).
133. Regarding the team colours of the New and Old Club, the only resemblance that may exist between both clubs is with the home games uniform, red in both clubs, while the colours of the away games uniform, as well as the colours used in the merchandising and other materials used by the clubs in their social media etc. differ. However, the reason why the New Club shares the red color with the Old Club in its home games uniform is because the New Club’s home game uniform was already red before the Old Club’s dissolution. To punish the New Club for continuing to wear the same colours at its home game matches would not be fair nor reasonable.
134. The New Club believes that, contrary to the view of FIFA, the logos of both clubs are significantly different. The contention of the Appealed Decision that the new logo appears to be a modern version of the Old Club’s logo is flawed and subjective:



135. The color composition of both logos is completely different. The style and design of the logos are also completely different. On one hand, the new Club’s logo includes (i) a white background, a (ii) stylized red “S” inside (referring to Shaanxi), with the shape of a castle on its top, (ii) a black “C” in the edge of the logo (referring to Chang’an), (iii) the wording UNION in black on the top inserted within the shape of the castle, and a (iv) vector design of a wolf in black in the middle.
136. On the other hand, the Old Club’s logo includes (i) a blue background, (ii) two red and white lines on its edges without any apparent meaning or clear definition, (ii) a separate banner on the top with the wording ATHLETIC Football Club (with also Chinese wordings on the top), and (iii) a white wolf in a realistic representation.
137. If the New Club would be the successor of the old Club, first, it would have not made any campaign for third parties to design a logo but it would have just designed a

modernized logo with the same colours, wordings and design as the previous one, just changing the graphics and; second, it would had not let the members to choose the final logo and face the risk that they would choose a logo with no connection to the Old Club.

138. The only common element of both logos is the figure of a wolf (with its design differences), which is understood under the special meaning in Shaanxi's culture, it is logical that the New Club's members eventually decided to vote for that logo, as a sign of identity and connection with the club.
139. Regarding the acquisition of sporting assets, it is denied, and there is no evidence that may prove, that the New Club acquired trophies, sporting achievements, federative license or any other sporting asset.
140. Regarding the social media accounts, the existence of the Social Media Agreement shows that both Clubs are separate entities with no successor relationship, as otherwise it is obvious that it could have not signed any agreement, not to mention to exchange any payment between each other.
141. The New Club amended the content of the acquired WeChat platform in due time, including always its own materials, to avoid any potential association between both clubs. The social media platforms of the New Club do not contain any material of the Old Club, nor make any reference to the latter.
142. The New Club recall that the reason why they used the WeChat platform of the Old Club was to reach as many football fans as quickly as possible, since the league was about to start and it was the most time-effective manner to achieve this goal in the short term, also considering that the Old Club was not going to use that account anymore.
143. Only 1 of 6 social media accounts is shared by the Old and New Club. Although it may be likely that part of the current New Club's fanbase includes some former fans of the Old Club's, the New Club must emphasize that it currently counts with a fanbase significantly bigger than the Old Club's prior fanbase.
144. Regarding the clubs' members, the number of membership the New Club has is almost the double than the Old Club, and keeps growing despite it is a club playing in an amateur competition two (2) levels lower than the Old Club and has circa 20 times more fanbase in social media.

- Minor elements:

145. The Old and New Club had different headquarters and training facilities. Regarding the

stadium for home games, the New Club has used the Weinan Stadium (previously used by the Old Club) only after 17 September 2023 due to approval by the Weinan Sports Bureau, not an agreement between the New and Old Club. It cannot be expected that the New Club, who had no stadium, could not use the Weinan Stadium (one of the main stadiums in the city of Xi'an) that remained vacant and is property of the municipality of Weinan, not the Old Club.

146. As for the sponsor, 1 out of 12 sponsors of the New Club was also a sponsor of the Old Club. Such sponsor is Lining Sports, the kit supplier, which sponsored the New Club even before the Old Club's dissolution.
147. 3 out of more than 10 new staff members of the New Club were former employees of the Old Club. It was something totally convenient and normal for all parties involved, since *inter alia* (i) the league was about to start, (ii) there were not many capable professionals available in the market, (iii) the Old Club's former employees had experience working in football, (iv) they had also just lost their jobs unexpectedly before the league started and (v) they all lived in Shaanxi province.

## **B. THE PLAYER'S POSITION**

148. In his Answer to the Appeal Brief, the Player presented as prayers for relief to:
- “1. Dismiss the Appellant's appeal and confirm the Appealed Decision.*
  - 2. Order the Appellant to bear all costs incurred with the present procedure.*
  - 3. Order the Appellant to pay the Respondent a contribution towards his legal and other expenses determined at the Sole Arbitrator's discretion.*
149. The Player's submissions to support the aforementioned prayers for relief may be, in essence, summarized as follows:
- a. Sporting Succession
150. As per the wording of Article 25 (1) of the RSTP, there is no precondition that the previous club cease to exist to assert the succession between 2 clubs. CAS jurisprudence finds that sporting succession can also occur when a club transfers all the elements that constitute its sporting entity to a new entity while continuing somehow to exist (but with a different identity) (CAS 2023/A/9808 and CAS 2022/A/8701). As a general rule, a club is a sporting entity identifiable by itself that transcends the legal entity that operates it (CAS 2023/A/9386).
151. It is well settled CAS jurisprudence that it is relevant to determine the sporting succession based on the objective factors of Article 25 (1) of the RSTP and particularly those which, in the eyes of the public, retain the club's sporting identity (CAS



2023/A/9512 and CAS 2020/A/6884).

152. On the case 2020/A/7481 the sole arbitrator considered that *“the way in which a new club presents itself is an important factor and must be considered when determining whether or not sporting succession has occurred. The public perception is of relevance and, in the Sole Arbitrator’s view, carries more importance than the details of the specific legal entity which is used to run the new club”*
153. Even if abuse is absent or cannot be demonstrated, Article 25 (1) of the RSTP can still apply. In other words, malicious intent or abuse does not constitute a *conditio sine qua non* to conclude that sporting succession occurred (CAS 2020/A/7290, CAS 2020/A/7543 and CAS 2020/A/6884).
154. The following facts support the conclusion that there is a sporting succession between the New and the Old Club:
  - Name:
155. The Old Club was disaffiliated on 29 March 2023, only one and a half month later the New Club changed its name to Shaanxi Chang’an Union Football Club.
156. The New Club admits that it is named Shaanxi Chang’an Union Football Club across social media during some months of 2023 because *“its previous name did not have any engagement with the whole community of Shaanxi”*.
157. The New Club evidently chose the closest name to the Old Club to affiliate itself and reap the consequent benefits, including exploiting the commercial name of the Old Club.
158. The CFA Naming Policy was issued in 2018 and to be fulfilled by summer 2021, thus the New Club had already complied in 2020 with such regulations under the name Bianzhou Huilong Football Club.
159. The New Club would have changed its name irrespective of the CFA Naming Policy as it already changed its name before the CFA approved the New Club to change its name.
160. The New Club has not explained why an alternative name have not sufficed to achieve the purpose of gaining fans and recognition as “Chang’an United” or “Xi’an United”. Given the Chinese history, culture and tradition, the New Club’s choice of name so closely related to the Old Club can only conclude that it was done with the purpose of creating an external impression that the New Club has succeeded the old Club.
161. Regarding the New Club’s reference to the case CAS 2023/9386, the Player argues that

a) there is no *stare decisis* in CAS proceedings (CAS 2021/A/8446, b) each case of sporting succession must be assessed individually (CAS 2023/A/9386), c) the referenced case is different from the present dispute as the deadlines for clubs to change their names to comply with the CFA Naming Policy has not yet passed and therefore the re-naming process was made 2 months prior to the clubs disaffiliation.

- Team Colours:

162. It is unequivocal that the main colours of the Old and New clubs are black, white and red. The Old Club has also used blue and both clubs have also used yellow. The slight differences stem from the New Club rebranding.

- Logo:

163. The New Club's logo is nothing more than a redesign of the Old Club's logo. The relevance of the logo is higher when considering that in the election of the logos, 3 of the 4 logos were considerably more distant from the Old Club's logo, yet the fans voted for the logo that had more resemblance with the Old Club's logo. The fact that the New Club neither participated in the election nor in the design of the logo reinforces that the fans see in the New Club the successor of the Old Club.

164. Furthermore, the historical logos of the New Club substantiate the above:



165. The New Club's logo from 2013 to 2023 was clearly distant from the Old Club's logo. However, in the first half of 2023 the New Club used the same logo as the Old Club except for the mascot. Then the New Club used a modernised version of the Old Club's logo.

166. Although the New Club argued that all the changes were motivated by the Chinese

culture, it did not explain why the former logos were inadequate from a cultural point of view.

- Acquisition of assets/social media:

167. On 10 May 2023, *i.e.* the same date in which the New Club changed its name to “Shaanxi Chang’an Union Football Club”, the New Club purchased 3 social media accounts from the Old Club: Weibo, Douyin (TikTok) and WeChat.

168. The New Club admits that its fanbase includes some of the Old Club’s fans. The New Club cannot state that the public does not perceives it as the Old Club’s successor when it also believes that the Old Club’s fans migrated to the New Club.

- Category of competition:

169. Even though the New and Old Club competed in different categories, it is important to contextualize how the New Club achieved the promotion in 2023, accordingly it is to be referred the players section below.

- Players:

170. The more players continue playing for the new club, the more likely it is that the club is considered the sporting successor of the old club (CAS 2020/A/7092). The Parties agree that 11 players from the Old Club joined the New Club, such registration was made one month after the Old Club’s disaffiliation.

171. Although the New Club downplays the significance of those 11 players out of 28 player squad (39% of such squad), the New Club hired 11 players who recently played 2 tiers higher than the competition category of the New Club, 4 of them were part of the starting eleven and the New Club ultimately was promoted to the third tier in Chinese organized football.

- Staff (Technical, Administrative and Medical):

172. The New Club admits that 5 staff members joined it from the Old Club. However, in the New Club Answer in the FIFA proceedings, the New Club admitted that 6 staff members joined it from the Old Club. Those 6 staff members that previously worked in a higher division contributed to the sporting success of the 2023 season achieving the promotion.

- Shareholders/owner/management:

173. Mr. Zhang Wei is a businessman from Xi’an that attempted to save the Old Club by

injecting his own funds as well as created a membership system. When Mr. Zhang Wei realized he could not save the Old Club, he acquired the New Club and implemented his vision for the membership system. Currently he is the trustee of the 35% of the shares held by the New Club's members.

- Fans/Public perception:

174. The New Club made deliberate changes within a month after the Old Club's disaffiliation to resemble the latter as close as possible, namely a) changing its name, b) changing its logo (chosen by the fans), c) keeping the colours of the Old Club, d) playing in the same stadium, e) taking a significant number of the Old Club's players and staff members, f) purchasing the Old Club's social media accounts. The New Club does not hide that his motivation was to connect with the local community and football fans.

- Other elements:

175. The New and Old Club have the same legal form.

176. Given that the Old Club was only 7 years old when it was disaffiliated there is not much history, particularly not many sporting achievements. However, when the New Club launched its new logo campaign, it stated that "*entries need to show the spirit of Shaanxi Football inherited by Shaanxi Chang'an United Football Club*".

177. The CFA considerations regarding the succession are not relevant given that they were made in an unrelated procedure, there is no *stare decisis* in CAS proceedings, and sporting succession shall be decided in a case-by-case basis. Besides, football federations are more likely to protect their member's interests.

178. The New Club uses the same stadium as the Old Club. The New Club does not suggest that there were no alternative stadiums, for example the Old Club used until 2019 the Shaanxi Provincial Stadium in Xi'an.

179. The New Club confirms that it uses the same kit sponsor as the Old Club: Lining Sport. There is no evidence that Lining Sport was the kit supplier before the succession. In conclusion, the New Club is circumventing its financial obligations through a new entity, this action cannot be accepted as it infringes the integrity of competitions and fair play, also it is detrimental to players and other clubs and contravene the FIFA Statutes.

b. The Player's diligence

180. The RSTP does not impose due diligence as a condition for the sporting succession provision, therefore, incorporating such a requirement *per se* would be contrary to the

principle of legal certainty.

181. In the award CAS 2020/A/7290 was stated that such dispute *“does not concern a matter related to the imposition of a disciplinary sanctions. Therefore, the Sole Arbitrator finds that the required degree of diligence from the First Respondent in terms of the above-cited jurisprudence, as was argued by the Appellant, does not apply to the present case.”*
182. The cases of sporting succession do not necessarily involve the insolvency of the old club, which is why due diligence was not incorporated in Article 25 (1) of the RSTP nor Article 21 (4) of the DC. The requirement of diligence comes into play only if the principal debtor is undergoing insolvency or bankruptcy proceedings, which is not the present case. Moreover, the matter at hand does not concern the imposition of disciplinary sanctions, hence the requirement of due diligence does not apply.
183. For completeness, the Player acted diligently in recovering his credit. After FIFA informed the Player that the Old Club was no longer affiliated to the CFA, the Player filed a new claim against the New Club within 16 days. The New Club’s reliance in other cases before Chinese Courts bears no relevance to the present dispute.

## VI. JURISDICTION

184. The CAS jurisdiction derives from Article R47 of the CAS Code that 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.”*
185. Article 56 (1) of the FIFA Statutes, May 2022 edition (the “FIFA Statutes”) reads as follows:
- “FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, member associations, confederations, leagues, clubs, players, officials, football agents and match agents.”*
186. Moreover, the Parties expressly confirmed CAS jurisdiction in their submissions, which is further confirmed by the Order of Procedure, duly signed and returned by the Parties.
187. Consequently, the Sole Arbitrator concludes that CAS has jurisdiction to adjudicate and

decide the present Appeal.

## **VII. ADMISSIBILITY**

188. 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 in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against.”*

189. Article 57 (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.”*

190. Additionally, the Appealed Decision confirmed that

*“According to article 57 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.”*

191. The Sole Arbitrator notes that the admissibility of the Appeal is not contested by the Parties. The grounds of the Appealed Decision were notified to the Parties on 19 July 2024 and the Statement of Appeal was filed on 7 August 2024, *i.e.* within the time limit required both by the FIFA Statutes and the CAS Code.

192. Consequently, the Sole Arbitrator finds that the Appeal filed by the Club is admissible.

## **VIII. APPLICABLE LAW**

193. Article R58 of the CAS Code reads 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 that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

194. In addition, Article 56 (2) of the FIFA Statutes establishes 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.”*

195. Moreover, the New Club stated that *“the Sole Arbitrator shall apply the FIFA RSTP and Swiss law to decide this dispute.”*. By its turn, the Player indicated that *“the Panel shall primarily apply the various regulations of FIFA, particularly Article 25 of the FIFA Regulations on the Transfer and Status of Players (“RSTP”) June 2024 edition. Only if the RSTP requires interpretation shall the Panel additionally apply Swiss law.”*
196. Accordingly with the abovementioned, the Sole Arbitrator confirms that the present dispute shall be resolved based on the applicable FIFA regulations and, subsidiarily, on Swiss Law.

## IX. MERITS

197. The present arbitration concerns the Appealed Decision ordering the New Club, as sporting successor of the Old Club, to pay to the Player the amount of money of USD 732,329 plus respective interests as outstanding remuneration and compensation for breach of contract without just cause. On one hand, the Club requests the Appealed Decision to be set aside. On the other hand, the Player seeks its confirmation.
198. As a preliminary issue, the Sole Arbitrator will assess the dispute between the Parties around FIFA’s communication of 2 October 2024 regarding the scope of review of the present procedure. FIFA argues that, given that the present Appeal was not directed against it, the Sole Arbitrator could not review its decision related to the sporting succession. The New Club, in turn, argued present dispute is of horizontal nature and FIFA does not have a personal and concrete legitimate interest and thus lacks standing to be sued.
199. Therefore, the Sole Arbitrator has to determine the nature of the dispute (horizontal, vertical or dual nature) in order to assess whether he can decide on the sporting succession of the New Club despite not being FIFA a party to this procedure.
200. The Sole Arbitrator refers to the Arbitral Award CAS 2020/A/7144 which relevant part reads as follows:

*“43. [...] Vertical disputes, are characterized by the fact that the association issuing the decision thereby shapes, alters or terminates the membership relation between itself and the member concerned. Vertical disputes typically arise in disciplinary, eligibility or registration contexts”.*

*“44. [...] horizontal disputes do not affect the actual membership sphere, i.e. the participation rights of a member in the co-management of the federation’s affairs or the usage rights of an individual member with respect to the associations’ facilities. Instead, horizontal disputes originate in a legal relationship amongst individual members. Examples of horizontal disputes are conflicts relating to the performance*

*or termination of employment contracts (between clubs and players or coaches), agency contracts (between clubs and agents) or transfer contracts (between clubs) [...]"*

*"51. [...] an association's competence when deciding horizontal disputes is very different from the powers exercised in vertical disputes. The association only intervenes in horizontal disputes if the claim is brought before its association tribunal by one of the members. Thus, it cannot alter the relationship between the parties ex officio, but only intervenes upon a specific request of the parties. In addition - and very different from vertical disputes - once the association tribunal has exercised its (adjudicatory) function, the association's powers are at an end.[...]"*

201. In addition, the Sole Arbitrator observes that in a large quantity of sporting succession cases the creditor is usually trying to enforce to the successor an already final and binding FIFA or CAS decision, which ultimately, pursuant Article 21 (4) of the DC, triggers disciplinary proceedings as per the failure to respect such decision.
202. However, as seen in the factual background, the previous FIFA procedure before the DRC that lead to the Appealed Decision was not of disciplinary nature nor concluded in a disciplinary sanction toward the New Club. The Appealed Decision is a first-instance decision which resolved a financial dispute between the Parties. As a consequence, the dispute is of horizontal nature in which FIFA only performed as an adjudicatory body. Therefore, the Sole Arbitrator considers that he can decide on the sporting succession of the New Club and if the former is liable for outstanding remuneration and compensation for breach of contract in favour of the Player without being FIFA a party to this procedure.
  - The New Club's new evidence
203. On 28 April 2025, the New Club submitted new evidence comprising media articles regarding a new club founded in Shaanxi, "Shaanxi Northwest FC", along with an explanation of certain elements of such club and its relevance to this case.
204. The New Club argues that the information about the existence of Shaanxi Northwest FC became public only after December 2024, *i.e.* after the submission of the Appeal Brief which constitutes an exceptional circumstance. Moreover, the evidence is relevant to the assessment of the case and linked with the arguments developed by the New Club. Lastly, the new evidence is publicly available, and its insertion does not harm the Player.
205. The Player objected the admission of such evidence and argued that (i) Shaanxi Northwest FC has not been named as a respondent in the proceedings, (ii) the New Club is introducing new arguments unrelated to the dispute but concerning an uninvolved third party, (iii) the New Club has not demonstrated how media articles published after



December 2024 constitute "exceptional circumstances" as it acknowledges that the new evidence existed at least since November 2023 and throughout the 2024 season, thus, the timing of the media articles does not justify their admissibility (the hearing of the present procedure took place on 18 February 2025, at least one piece of the new evidence dates 21 December 2024, *i.e.* nearly two months before the hearing, and (iv) the submitted media articles lack dates (except for one), include no source links and original copies have not been provided, rendering it impossible to verify their authenticity.

206. The Sole Arbitrator firstly recalls that Article R56 of the CAS Code determines:

*“Unless the parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the appeal brief and of the answer.”*

207. The Sole Arbitrator observes that among the new evidence there are 2 media articles that are dated of 21 December 2024 and 11 March 2025. Moreover, in the latter media article it is mentioned that Shaanxi Northwest FC was founded on 13 November 2023 by the name Shaanxi Guoli Youth Football Club and renamed Shaanxi Northwest FC at the beginning 2024 season. In addition, the Sole Arbitrator notes that the New Club argued that Shaanxi Northwest FC used the Weinan Stadium for the 2024 season.

208. With all, the Sole Arbitrator considers that it is not an exceptional and unknown circumstance the existence of Shaanxi Northwest FC when it has been existing since the sporting season 2024 and, mostly, sharing stadium with the New Club in such season. Even if the media articles were published on 21 December 2024 and 11 March 2025, and only submitted to the file on 28 April 2025, for the New Club, the existence of Shaanxi Northwest FC is no new news.

209. In consequence, the Sole Arbitrator considers that the submission of new evidence by the New Club does not comply with the requirements of R56 and it is inadmissible.

#### A. Merits of the dispute

210. Having the abovementioned conclusion and based on the Parties' submissions and prayers for relief, the Sole Arbitrator identifies that is entrusted to decide on a) is the New Club the sporting successor of the Old Club?; b) is the Player entitled to the payment of outstanding remuneration and compensation for breach of contract?; c) has the Player been diligent with its potential credit?

211. The Sole Arbitrator addresses the mentioned matters as follows:

a. Is the New Club the sporting successor of the Old Club?

212. Despite that the Parties differ in the interpretation of the facts, *i.e.* if sporting succession has occurred or not, they agree that these matters shall be assessed in a case-by-case basis by analysing different elements pursuant the non-exhaustive list provided by Article 25 (1) of the RSTP that states:

*“The sporting successor of a debtor shall be considered the debtor and be subject to any decision or confirmation letter issued by the Football Tribunal. The criteria to assess whether an entity is the sporting successor of another entity are, among others, its headquarters, name, legal form, team colours, players, shareholders or stakeholders or ownership and the category of competition.”*

213. The Sole Arbitrator agrees with the Parties view and the long-standing CAS jurisprudence that determines that *“the concept of “sporting successor” has to be analysed on a case-by-case basis and should be applied in a restrictive way”* (CAS 2021/A/8061), therefore it proceeds to address the principal elements discussed and evidenced in the file:

- Name

214. As seen, the Old Club’s name was “Shaanxi Chang’an Athletic Football Club” while the New Club’s name, after being changed from “Binzhou Huilong Football Club” and commercially used in 2023 “Shaanxi Chang’an Union Football Club”, is “Shaanxi Union Football Club”.

215. The New Club justifies such facts and resemblance arguing that a) The New Club was never officially registered as “Shaanxi Chang’an Union Football Club”, it was only used commercially; b) the New Club launched a rebranding for representing the entire province of Shaanxi and city of Xi’an (previously named Chang’an); c) the new name needed to comply with the CFA Naming Policy.

216. By its turn, the Player argued that a) the New Club changed its name only a month and a half after the Old Club’s disaffiliation; b) the New Club did changed its legal name to “Shaanxi Chang’an Union Football Club” and not only used it commercially; c) the logo of the New Club is based on the initials S, C and U of Shaanxi Chang’an United; d) the New Club did not explained why an alternative name as “Chang’an United” or “Xi’an United” would not suffice to the purpose of gaining fans.

217. As an initial remark, the Sole Arbitrator notes from the evidence provided by the Parties, and specially the New Club, that it is registered that the New Club did change on 10

May 2023 its legal name to “Shaanxi Chang’an Union Football Club” as registered in the Binzhou Municipal Administration for Market Regulation.

218. The Sole Arbitrator deems it necessary to remark on the context in which the change of name took place. The New Club changed its name very soon after the disaffiliation of the Old Club. In its submissions, the New Club also states that such rebranding campaign aimed to represent the entire province of Shaanxi in a moment when its representative club and the name “Shaanxi” was no longer occupied, lastly, the Sole Arbitrator also recognizes the limitations that the CFA Naming Policy may entail.
219. With all, the Sole Arbitrator observes that the New Club discarded several options for its name like preserving its old name or complying with the geographical criteria with other available options like using the name of Xi’an (capital of Shaanxi), the location of its registered address, the location of its training center (and by that time location of its home-games), etc. The New Club decided to change its name using the geographical criterion used by the Old Club (Shaanxi) and additionally added the traditional name Chang’an, that was also used by the Old Club.
220. Furthermore, even assuming the New Club’s argument that the name “Shaanxi Chang’an Union Football Club” was only used commercially, such commercial strategy after the Old Club disaffiliation until the final change to the name “Shaanxi Union Football Club” served to establish a continuity between the Old and the New Club.
221. In consequence, the Sole Arbitrator considers that this criterion is fulfilled in favour of the sporting succession between the Old and New Club.
- Logo
222. Regarding the several arguments posed by the Parties on the issue of whether the New Club’s final logo is a modern version of the Old Club’s logo, the Sole Arbitrator considers that certainly there are common elements that are identified in both logos namely the protagonism of a wolf, the castle silhouette, the general shape of the logo and the letters on top of it (either Athletic or Union); however and ultimately, both logos can be distinguished.
223. Moreover, the Sole Arbitrator deems it necessary to put into context how the New Club arrived at the new logo. Since the public statement of 20 May 2023 and in other communications like the logo campaign launched by the New Club, the Sole Arbitrator identifies that in such communications the New Club was not using its old logo (and obviously not the new one still pending to be selected) but the Old Club’s logo by changing the letters in top of the logo and the wolf for a dragon (recalling that a dragon

was used in the previous version of the New Club's logo).

224. The inclusion of such in-between version of the Old and New Club's logo by that time, *i.e.* 2023 before the selection of the New Club's logo, establishes a continuity between the Old and New Club and their logos until the final version that is used by the New Club.
225. For the sake of completeness, the Sole Arbitrator also considers that a public campaign for the design and selection of the logo, although being a well-thought commercial campaign, does not relieve the New Club from the responsibility of the final result on the selection of the logo. Moreover, and in the context of the present dispute in which an amount of fans were left without their supported club, the selection of a logo with the mentioned common elements with the Old Club's logo reaffirms the connection between the two clubs.
226. Finally, the Sole Arbitrator observes that, when published the new logo, the New Club declared that *"the studio, 898 brand communication and the club jointly made appropriate modifications to the work according to the opinion of the fans, the objective needs of development, etc., and completed the final team emblem ..."*
227. In consequence, this criterion is fulfilled in favour of the sporting succession between the Old and New Club.
- Team colours
228. The Parties agree that the main colour of the Old and New Club, especially for home games, is the same: red.
229. However, the New Club alleges that the New Club already used red in its home games kit before the Old Club's disaffiliation and the colours used in the away games and merchandising are different between the two clubs. The Player considers that both clubs used mainly red, black and white and both used also yellow.
230. From the evidence provided in the file, the Sole Arbitrator observes that red was the predominant colour between both clubs.
231. Although a change of colour of the New Club could have been possible in the rebranding of the New Club, mostly if critical identity elements like the name and logo were being changed, the Sole Arbitrator considers that it is not expectable or enforceable that the New Club changes its main colour to differentiate itself to the Old Club, especially considering that the New Club was using such colour before the Old Club's disaffiliation.

232. Accordingly, this criterion is not fulfilled in favour of the sporting succession between the Old and New Club.

- Reliance in the Old Club's history

233. Even if the Old Club had only 7 years of existence and no major sporting achievements as stated by the Player, it is true that the Old Club did not referred to historical elements of the Old Club like its foundation date, trophies, or historical representatives (players, coaches or other members).

234. The Sole Arbitrator considers that the public statement made by the New Club on 20 May 2023 needs to be examined under the context of the disaffiliation of the Old Club that occurred only one month ago and under the rebranding or creation of the New Club, particularly considering its selected new name. Under such context, the correlation between both clubs is made, especially with phrases like *"Thanks to the fans and friends waiting, this time we have seen Shaanxi fans tears shed training ground cannot bear to say goodbye"*

235. Accordingly, the Sole Arbitrator finds that -referring to historical elements- even if the New Club did not make a crystal-clear campaign as successor of the Old Club, its public statements, given the sportive context of the province of Shaanxi in 2023 lead to the correlation between both clubs. An example of such mixed statements can also be found in the logo campaign launched by the New Club by stating that *"[t]he entries need to show the spirit of Shaanxi Football inherited by Shaanxi Chang'an United Football Club..."*

236. In consequence, this criterion is fulfilled in favour of the sporting succession between the Old and New Club.

- CFA consideration

237. It is proven and undisputed that the CFA declared that it did not consider the New Club as the sporting successor of the Old Club. In this matter, the Player argued that such consideration was made by the CFA in an unrelated procedure.

238. The Sole Arbitrator observes that indeed the CFA declaration was made in an unrelated procedure of which no information was provided in the file of the present case; however, in principle, it is to be expected that the CFA would not change its conclusion depending on the procedure in which it is consulted. In the same line, it is expectable that, for internal affairs in China, the CFA's consideration that no sporting succession had occurred to remain the same.

239. The Sole Arbitrator considers that this criterion is not fulfilled in favour of the sporting succession between the Old and New Club.

- Category of competition

240. The Parties do not dispute that when the Old Club got disaffiliated (2023) it was competing in the China League 1 *i.e.* the second tier of China's organized football system, while the New Club competed in the fourth and third tier in China's organized football system for the years 2023 and 2024 respectively.

241. Despite the Player's allegation that the New Club's promotion needs to be contextualized with the "players" criterion, it is undeniable that the New Club had not benefited from the category in which the Old Club was competing. Accordingly, this criterion is not fulfilled in favour of the sporting succession between the Old and New Club.

- Players.

242. Regardless of their sportive importance, it is undisputed by the Parties that, for the 2023 season, the New Club signed 11 players that became free agents after the disaffiliation of the Old Club.

243. The Sole Arbitrator understands the specific circumstances of such signings argued by the New Club, *i.e.* after the mentioned players became unemployed they found a solution with the New Club that played in the same area as the Old Club.

244. However, the Sole Arbitrator does not leave unnoticed that such 11 players passed from a club of the second tier of Chinese football (a professional league) to play two tiers lower (in an amateur league) remarking the high volatility as a football player, like the Player himself which is of Nigerian and Swedish nationality but played for the Old Club in China. Moreover, the inclusion of 11 players from one club to another is unusual, given the particular circumstances of the case, it leaves the sense of continuity between the Old and New Club.

245. Lastly, even if the New Club argued that such signings were rushed by the proximity of the start of the competition, no satisfactory explanation was given of the lack of such quantity of players or any parallel with the previous squad that had achieved the promotion in the 2022 season.

246. Under the abovementioned considerations, the Sole Arbitrator deems fulfilled this criterion in favour of the sporting succession between the Old and New Club.

- Social Media

247. It is undisputed by the Parties that the Old and New Club concluded the Social Media Agreement by which the New Club acquired the Old Club's account in Weibo, Douyin (TikTok) and WeChat. Nevertheless, the New Club argues that, besides it did not use the Weibo (TikTok) and Douyin accounts, such purchase was only to reach football fans as fast as possible, and its own accounts have grown largely bigger than the Old Club's ones, which proves that the New Club is not perceived as the Old Club.
248. In this regard, the Sole Arbitrator identifies the importance nowadays of social media in the sport industry as a direct communication channel between a club and its fans, football supporters in general, and the sports industry overall. So it is that the proper New Club further explained its campaign to gain fans and followers in distinct social media platforms.
249. Moreover, the Sole Arbitrator observes that if the New Club got interested in the Old Club's social media accounts (even if ultimately it only used one of the purchased ones), it was either for its already settled fan base of the Old Club and/or the potential that such social media account had. In either case, such assets were valuable to the Old Club.
250. In addition, the Sole Arbitrator recalls the context in which the Social Media Agreement occurred, in which fans were left without their supported club and then found that another one is communicating with them in the social media account that was previously owned by their club. Then the connection between the Old and New Club is established.
251. Consequently, this criterion is fulfilled in favour of the sporting succession between the Old and New Club.

- Shareholders and Management

252. It is undisputed by the Parties and also duly proved that Mr. Zhang Wei is a shareholder of the New Club and has also held the position of Director of such club. However, the Player alleges that before Mr. Zhang Wei's relation with the New Club, he tried to save the Old Club, and it was also argued at the DRC proceedings that Mr. Zhang Wei was the previous vice-president of the Old Club.
253. The Sole Arbitrator notes that, although being duly proven and undisputed by the Parties the current relation of Mr. Zhang Wei with the New Club, there is no evidence regarding Mr. Zhang Wei's relation with the Old Club. In other words, the Sole Arbitrator cannot conclude that Mr. Zhang Wei was the vice-president of the Old Club.
254. In conclusion, the criterion of shareholders and management is not fulfilled in favour of

the sporting succession between the Old and New Club.

- Technical, administrative and medical staff

255. As submitted by the Parties, 2 out of 5 members of the coach or technical staff had a background in the Old Club and 3 out of more than 10 members of the administrative and medical staff also worked before for the Old Club.

256. Regarding the members of the coach staff, the Sole Arbitrator values the New Club's argument that such members were not the ones more usually exposed to the public, making it difficult that such members to give the New Club a sense of continuity from the New Club. Moreover, the same argument regarding public perception is also applicable to the members of the administrative and medical staff, adding that the latter have become recently unemployed and the New Club was hiring in positions that did not exist before.

257. Under those considerations, the Sole Arbitrator considers that this criterion is not fulfilled in favour of the sporting succession between the Old and New Club.

- Headquarters

258. It is duly undisputed by the Parties that the New and the Old Club have different headquarters and registered addresses. The Sole Arbitrator considers that this criterion is not fulfilled in favour of the sporting succession between the Old and New Club.

- Stadium/Training center

259. It is undisputed by the Parties that the Old and the New Club had always different training facilities (in which also the New Club held its home games). Additionally it is also proven that the New Club moved to play its home games in the Weinan Stadium since 17 September 2023, where the Old Club also held its home games. In addition, the Parties did not dispute that the Weinan Stadium was not property of the Old Club but to the municipality of Weinan.

260. The Sole Arbitrator observes that in the file there is no information on the available stadiums that could be used by the New Club or the reasons why the Weinan Stadium was finally chosen to host the home games of the New Club. However, the Sole Arbitrator considers that nothing prevented the New Club from using suitable and available facilities, bearing in mind that the Weinan Stadium was not property of the Old Club and was not used by it. Even if playing the home games could also set links between the New and Old Club, the Sole Arbitrator considers that this criterion is not fulfilled in favour of the sporting succession between the Old and New Club.



- Reliance on credits

261. The New Club alleges that it has never received nor requested to a third party a credit of the Old Club. From the file provided, the Sole Arbitrator finds no objection to such allegation, remarking however, that there is also no known credit that the Old Club could have left. In any case, this criterion is not fulfilled in favour of the sporting succession between the Old and New Club.

- Legal form

262. The Parties do not dispute that the Old and New Club have the same legal form. However, the New Club alleges that practically all football clubs in China have the legal form of limited liability companies (Co. Ltd.).

263. Although the Sole Arbitrator recognizes that national commercial regulations may have triggered that both clubs have the same legal form, which reduces its importance to assessing the sporting succession, this criterion is fulfilled in favour of the sporting succession between the Old and New Club.

- Sponsors

264. The Parties did not dispute that Lining Sport, kit supplier, was a sponsor for both clubs. Moreover, the Player did not dispute the New Club's allegation that Lining Sport was only 1 out of 12 sponsors it had.

265. The Sole Arbitrator does not find it expectable that a club renounces to a sponsor just to avoid being linked to another club, even less considering that it is a kit supplier and, accordingly, a sponsor of numerous other clubs. This criterion is not fulfilled for sporting succession between the Old and New Club.

#### Final Assessment on the sporting succession

266. For the analysis of the abovementioned considerations, the Sole Arbitrator deems necessary to recall relevant concepts that have been established along CAS jurisprudence regarding sporting succession.

267. The long-standing CAS jurisprudence to determine the identity of a sporting entity, e.g. the panel of the case 2017/A/4550 (and also quoted in multiple CAS awards, e.g. CAS 2018/A/5618 and CAS 2020/A/7290) recalled that:

*“CAS jurisprudence considers that “a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it” (CAS 2013/A/3425 at par. 139). The full reasoning of the Sole Arbitrator in the particular CAS case is the*

following:

*“The Sole Arbitrator highlights that the decisions that had dealt with the question of the succession of a sporting club in front of the CAS (CAS 2007/A/1355; TAS 2011/A/2614; TAS 2011/A/2646; TAS 2012/A/2778) and in front of FIFA’s decision-making bodies (...), have established that, on the one side, a club is a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it. Thus, the obligations acquired by any of the entities in charge of its administration in relation with its activity must be respected; and on the other side, that the identity of a club is constituted by elements such as its name, colours, fans, history, sporting achievements, shield, trophies, stadium, roster of players, historic figures, etc. that allow it to distinguish from all the other clubs. Hence, the prevalence of the continuity and permanence in time of the sporting institution in front of the entity that manages it has been recognised, even when dealing with the change of management companies completely different from themselves” (original text in Spanish). ”*

268. Furthermore, the principle *cuius commoda eius et incommode* has also been applied in sporting succession cases, in this regard, the Sole Arbitrator in the case CAS 2024/A/10325 explained:

*“... The justification for the concept of sporting succession is based on the legal maxim *cuius commoda, eius et incommode*, “meaning that the one who seeks and obtains a benefit [i.e. using the Old Club’s name, logo, crest, history, etc.] must also accept the possible burdens which flow from that benefit [i.e. be held liable for the debts of the Old Club]” (CAS 2020/A/7424, para. 126 and references). Or put differently, “the Club should not be free to pick and choose which elements of sporting succession it wishes to adopt; it cannot select all the positive commercial attributes without also accepting that with that comes the responsibility to discharge any outstanding liabilities from the Old Club” (CAS 2020/A/7481 para. 105).[...]*

*“It is recalled that, at the heart of the concept of sporting succession, is the New Club’s intent to be perceived by the public as a continuation of the original club, inheriting its identity and market recognition. This deliberate effort to benefit from the original club’s goodwill carries the corresponding duty to address the unpaid debts left behind in compliance with the principle *cuius commoda, eius et incommode*. The concept of sporting succession aims to ensure that any club benefiting from the legacy of a previous entity also inherits its financial responsibilities toward football stakeholders.”*

269. Similarly, the importance of public perception has also been taken into consideration while assessing sport succession, e.g. in the case CAS 2020/A/7290 the sole arbitrator indicated that “as opposed to the concept of legal succession, that in the context of sporting succession it is of relevance to determine this concept in light of the eyes of the general public. In other words, so the Sole Arbitrator finds, the picture the alleged sporting successor presents to the general public is of relevance. A parallel can be drawn with the “sporting name” of a club, which is the name under which a club appears in public. The Sole Arbitrator will attach much weight to these circumstances

*in the present arbitration.”*

270. Nevertheless, such public perception by itself is not sufficient as determined by the award 2024/A/10325 in which the sole arbitrator declared:

*“In a significant number of CAS awards, the situation was dealt with by listing criteria to determine if sporting succession had occurred. In these cases, the mere appearance that the new club took over the administration of the old club and effectively replaced it in the eyes of the football-related and the general public is not sufficient. Were considered as decisive to demonstrate sporting succession, objective factors such as the transfer of the federative rights of the old club to allow the new club to continue in the same league, the acquisition of assets of the old club and some continuity of players (for instance, CAS 2020/A/7092; CAS 2020/A/7423). In other cases, much value was attached to “public perception”, which was considered as a very relevant criteria (CAS 2020/A/6884 para. 142; CAS 2020/A/7290 para. 91; CAS 2020/A/7481 para. 94; CAS 2020/A/7543 para. 112). In a recent decision, it was held that “It seems reasonable though, to approach the issue from the perspective of the wider football market. It is the market perceptions, in other words, that matter most, when deciding on sporting succession”, with great relevance given to the name and colours of the clubs concerned (CAS 2020/A/6831 paras. 121 and 126).”*

271. Lastly, the Sole Arbitrator observes that the New Club insistently argued that several criterions that were pointed in favour of the sporting succession were due to the rebranding that the New Club was implementing in order to engage with the local community and represent the Shaanxi province (with the recent absence of the Old Club).
272. The Sole Arbitrator considers that, in its intention to represent the Shaanxi province in the opportunity that the Old Club had been recently disaffiliated, the New Club indeed sought to be related to the Old Club and create the impression as its successor. In other words, the New Club sought benefits in being perceived as the continuance or inheritance of the Old Club and effectively changed important elements of its identity in order to achieve such public perception of succession. For the sake of completeness, the Sole Arbitrator is aware that other relevant elements were not in favour of the sporting succession, however, in the specific circumstances of the present dispute, the important identity elements to identify a club that the New Club changed, adopted or referred by the latter are sufficient to consider the New Club as the sporting successor of the Old Club.
273. The Sole Arbitrator emphasizes that searching to represent the Shaanxi province is not a reprehensible conduct. Nevertheless, if the New Club tried to achieve such representation through identity elements of the Old Club, *i.e.* enjoying the benefits of the Old Club, it would then be liable for the Old Club’s potential debts. Moreover, the

Sole Arbitrator remarks that being related to the Old Club was a risk that the New Club decided to take as it was possible to develop a rebranding strategy avoiding identifiable elements of the Old Club.

274. Furthermore, the Sole Arbitrator remarks that no abuse was identified in the New Club's conduct, however such conduct is not a condition *sine qua non* for a sporting succession to occur as CAS has indicated, e.g. the panel of the case CAS 2024/A/10325 indicated:

*"The rationale behind the implementation of the concept of sporting succession is namely the promotion of contractual stability, the protection of competitions and to "avoid that a football club can essentially be 'replaced' in all its traits while managing to escape the fulfilment of the financial duties that were pending at the time of the succession" (CAS 2020/A/7092, para. 38). However, fraudulent or "shady practices" by parties trying to avoid payments, do not constitute a conditio sine qua non in order to conclude that sporting succession occurred. In other words, sporting succession can exist even in the absence of such practices (CAS 2020/A/7290 para. 88; CAS 2020/A/7543 para. 96)."*

b. Is the Player entitled to the payment of outstanding remuneration and compensation for breach of contract?

275. Having stated that the New Club is the sporting successor of the Old Club, the Sole Arbitrator analyses the potential consequences of such declaration.
276. The Player alleges that he is entitled to outstanding remuneration with its respective interests and compensation for breach of his Employment Agreement; it is to be taken into account that it is to be deducted to such amounts the sum obtained through its employment agreement with Shijiazhuang GongFu Football Club.
277. The Sole Arbitrator observes that the New Club had not objected nor denied the entitlement of such concepts claimed by the Player.
278. In this regard, the Sole Arbitrator recalls the wording of Article 25 (1) of the RSTP that determines that "[t]he sporting successor of a debtor shall be considered the debtor and be subject to any decision or confirmation letter issued by the Football Tribunal."
279. In consequence the New Club is, in principle, liable for the debts in favour of the Player as stated in the Appealed Decision.

c. Has the Player been diligent with its potential credit?

280. Even though it is not explicitly mentioned in FIFA regulations, the Sole Arbitrator notes that, following long-standing CAS jurisprudence since the award CAS 2011/A/2646, a certain degree of diligence of the creditor is required in sporting succession matters

before imposing an obligation to the sporting successor.

281. The Sole Arbitrator observes that such analysis is particularly important when considering that sporting successors are usually sanctioned for not complying with a previous CAS or FIFA decision that imposed a financial obligation to its predecessor, however, as the creditor's negligence had impede or at least contributed that such credit remain unpaid, sporting successor should not be sanctioned with the payment of such credit and neither with an additional sanction imposed by FIFA for not complying with a FIFA or CAS decision.
282. Notwithstanding the above, as recalled in the preliminary issues of the Merits section, the present proceedings involve a dispute that has not been previously resolved by FIFA or CAS, *i.e.* the Appealed Decision is not of a disciplinary nature for the non-compliance of a previous FIFA or CAS decision.
283. In other words, the Player's diligence has not impeded nor contributed to the non-payment of a recognized credit given that this is the first opportunity in which such entitlement will be recognized or not.
284. To enlighten this matter, the Sole Arbitrator considers it is worth recalling the considerations made in the award CAS 2020/A/7290 in which the sole arbitrator argued:

*"Indeed, the Sole Arbitrator is aware and remarks that, in the past, CAS panels have also dealt several times with the question if the creditor showed the required degree of diligence, which obligation does not arise from the FIFA Regulations. In fact, it is well-established jurisprudence to assess this aspect in the context of a possible contribution to a breach of Article 64 FDC (edition 2011 or 2017)/Article 15 FDC (edition 2019).*

*More specifically, the approach taken by CAS panels does not only follow from CAS 2011/A/2646, to which the Appellant referred, but also from other CAS jurisprudence (see, inter alia, CAS 2019/A/6461, CAS 2020/A/6884 and CAS 2020/A/6745). The Sole Arbitrator fully concurs with the general stance taken in such jurisprudence regarding the required degree of diligence.*

*In particular, there should be no doubt, which also follows from the above jurisprudence and to which approach the Sole Arbitrator also fully adheres, that a creditor is expected to be vigilant and to take prompt and appropriate legal action to assert his claims. In principle, no disciplinary sanctions can be imposed on a club as a result of succession, should the creditor fail to claim his credit in the bankruptcy proceedings of the former club, as there is a theoretical possibility he could have recovered his credit, instead of remaining passive. As was decided in the above CAS jurisprudence, in such instances it is necessary to examine whether or not a creditor has shown the required degree of diligence in order to recover the amounts he is owed. On the other hand, as was also considered by the panel in CAS 2019/A/6461, the Sole Arbitrator is mindful that there is no blanket rule whether or not a creditor has shown*

*the required degree of diligence.*

*Notwithstanding the above, the Sole Arbitrator notes that the present dispute significantly differs from the aforementioned CAS jurisprudence. As a matter of fact, the present dispute does not concern an appeal of a decision of the FIFA DC. Instead, the Appealed Decision concerns a decision of the FIFA DRC. In the Appealed Decision it was decided that the Appellant is responsible for the consequences of the Old Club's contractual breach of the Private Agreement. In other words, by means of the Appealed Decision the Appellant was not sanctioned as a result of a failure to comply with a final and binding decision of the FIFA DC. As such, it does not concern a matter related to the imposition of disciplinary sanctions. Therefore, the Sole Arbitrator finds that the required degree of diligence from the side of the First Respondent in terms of the above cited jurisprudence, as was argued by the Appellant, does not apply to the present case.*

*For the sake of completeness, the Sole Arbitrator recognises and adds that this could have been different in case the FIFA DRC had rendered a decision in light of Article 24bis of the FIFA RSTP, but this is not the case and such decision was not rendered.*

*Consequently, and in view of the reasons as set out above, the Sole Arbitrator concludes that the required diligence in view of the well-established CAS jurisprudence, such as CAS 2011/A/2646, does not apply to the present case. Any failure in terms of such required degree of diligence cannot be considered a valid reason for the Sole Arbitrator to decide that the First Respondent forfeited its right to receive the outstanding amounts as claimed from the Appellant in the present dispute.*

*Although the required diligence in light of the well-established CAS jurisprudence, as set out above, does not apply to the present dispute, the Sole Arbitrator agrees with the First Respondent that a certain level of diligence is still required. Therefore, as set out above, the Sole Arbitrator finds it of relevance that, as the First Respondent argued, the First Respondent made use of the legal remedies available to him, which he did by means of the claim he filed against the Old Club before the FIFA DRC. This claim was filed in time, more specifically on 29 May 2014, and so within the two years deadline of Article 25(5) of the FIFA RSTP..."*

285. The Sole Arbitrator fully concurs with the abovementioned considerations. Accordingly, in the present dispute, it is noted that the Player, after having left the Old Club (and the Shaanxi province) and as a Senegalese and Swedish player, used in due time the legal remedy that was available to him and presented a claim before the DRC.
286. Moreover, after being notified of the closure of such proceedings given the disaffiliation of the Old Club, the Player continued to pursue his claim by filing it before the DRC against New Club as successor of the Old Club. In consequence, the Sole Arbitrator considers that in the particular circumstances of this case, the Player acted with diligence to claim his credit.
287. In conclusion, the Appealed Decision is hereby confirmed. All other prayers for relief are rejected.

**X. COSTS**

(...)

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The Appeal filed by Shaanxi Union Football Club against the decision rendered on 13 June 2024 by the Dispute Resolution Chamber of the FIFA Football Tribunal is dismissed.
2. The decision rendered on 13 June 2024 by the Dispute Resolution Chamber of the FIFA Football Tribunal is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 30 May 2025

## **THE COURT OF ARBITRATION FOR SPORT**

José Juan Pintó Sala

**Sole Arbitrator**

Alejandro Naranjo Acosta

*Ad hoc Clerk*