TAS / CAS
TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2024/A/10841 Bogdan Ilie Vătăjelu v. Abha FC

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Jacopo Tognon, Professor and Attorney-at-law in Padova, Italy

in the arbitration between

Bogdan Ilie Vătăjelu, Craiova, Romania

Represented by Mr Sabin Liviu Gherdan, Gherdan & Associates, Cluj-Napoca, Cluj County, Romania

Appellant

and

Abha FC, Abha, Saudi Arabia

Represented by Mr Ahmed Al-Hodithy, President, Abha, Saudi Arabia

Respondent

I. PARTIES

1. Bogdan Ilie Vătăjelu (the "Appellant" or the "Player") is a professional football player, born on 24 April 1993 in Romania.

2. Abha FC (the "Respondent" or the "Club") is a professional football club based in Abha, Saudi Arabia. It is a member of the Saudi Arabian Football Federation ("SAFF") which in turn is affiliated with the *Féderation Internationale de Football Association* ("FIFA").

3. The Appellant and the Respondent shall hereinafter be jointly referred to as the "Parties", where applicable.

II. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced at the hearing on 25 February 2025. Additional facts and allegations found in the Parties' pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in his Award only to the submissions and evidence he considers necessary to explain his reasoning.

A. Background Facts

5. The Appellant is a professional football player from Romania who played for Universitatea Craiova (the "Former Club") between 2019 and 2024. While, the Respondent is a professional football club based in Saudi Arabia.

6. On 15 June 2023, the Player and the former club mutually terminated their employment relationship, as per Exhibit 4 of the Appeal Brief (the "Release Letter").

7. On the same date, the Respondent received a WhatsApp message from Mr Mohamed Ali Bouraoui, acting as a legal representative (the "Agent's Lawyer") on behalf of the Player's agent, Mr Cornel Teodorescu (the "Player's Agent").

   The message included the Player's CV from Transfermarkt, a copy of the Player's passport and a mandate granting exclusive authorisation to Mr Teodorescu to negotiate on behalf of the Player.

8. On 16 June 2023, Mr Abu Hathra, the Sporting Director of the Club sent Mr Akram, the "alleged agent of the Player, via WhatsApp, an offer for an employment contract ("Offer").

9. The Offer read as follows:

   "Dear M. Bodgan,

   We hope this letter finds you well. We are delighted to inform you that our club, Abha FC, is highly interested in securing your services as a free agent. We would like to present you with the following proposal:

1. Proposal details:

Term: one (1) year plus an option of one more option season at the discretion of the club.
Annual salary: USD 500,000

2. Additional Benefits:

Transportation and accommodation provided by the club.
Aircraft tickets: two (2) economic flight tickets per season for you and the same for your spouse preseason.
Match-Win-Bonus as per our internal rules.
Compensation for breach: 2 monthly salary.

Please note that this proposal is subject to the following cumulative conditions:

- *Providing a release letter or proof of the end of your contract with your former club (free agent).*
- *Passing a medical examination conducted by our club's medical staff in Saudi Arabia, and*
- *Signing an employment contract with Abha FC.*

We would like to emphasize that this proposal is not a binding employment offer, Abha FC reserves the right to withdraw from the deal without legal consequences if any of the aforementioned conditions are not met.

We kindly request that you respond to this proposal within 48 hours of receiving this letter, indicating your acceptance or rejection. If you choose to accept our proposal, we will proceed with the necessary arrangements to finalize the transfer and employment process".

10. Also on 16 June 2023, Mr Akram reverted via WhatsApp a signed copy of the Offer to the Club.

11. On 18 June 2023, the Club sent an email to the Player's Agent, in which, the Club withdrew the Offer based on the following reasons:

"We hope this message finds you well. We regret to inform you that we must withdraw our non-binding employment offer that was extended to you for the position with Abha FC. This notification comes after the expiration of the deadline, which occurred yesterday.

As per the conditions outlined in our initial offer, we required the receipt of proof regarding the end of your last contract with your former club within the specified deadline. Unfortunately, we did not receive the necessary documentation through the official means before the expiration of the deadline.

Due to the expiration of the deadline without receipt of the required proof, we are unable to proceed with the employment offer at this time.

(...) Should there be any change in circumstances or if you are able to provide the required proof through the official means at a later date, we would be open to reconsidering our offer".

12. On 19 June 2023, Mr Bouraoui, the lawyer of the Player's Agent, replied to the above email, as follows:

"I inform you that I had not received the offer referred to in your attached letter, by official means…

We have received the offer from Akram by WhatsApp. As I am sure you are that I am authorised by the official agent of the player.

If you are still interested by the above mentioned player we are ready to provide you all needed information upon receipt of an offer by official means".

13. On 20 June 2023, Mr Bouraoui sent another email to the Club stating, *inter alia*, the following:

"I *apologize for the delay in responding to your offer regarding the player, Mr Bodgan Ilie Vatajelu. Please accept my apologies for not meeting the deadline".*

Firstly, want to clarify that Mr Akram is not the official agent of the player. The official representative of the player exclusively in Saudi Arabia is [Mr Teodorescu]. Please direct any future communications or inquiries regarding the player through [Mr Teodorescu].

Furthermore, I have attached the proof of the player's release letter, which confirms his status as a free player. The letter, signed by his former club on June 16, 2023, serves as evidence of his availability for transfer.

If your club is interested in pursuing the opportunity of his transfer, I assure you that we are open to discussing a new offer. Please let us know your intentions and any updated proposals you may have".

14. On 23 June 2023, the Sporting Director of the Club replied via WhatsApp to a previous message sent by the Player and informed him about the following:

"Hello you are welcome Mr. Vatajelu. Sorry to answer late. Yes bro the committee decided to stop to sign you because we have 2 seats for only for the foreign players and we need striker and central defender now for that we decided to stop negotiation with your agent. And we wish all the best for you in the future".

15. On the same date, the Player replied *"Thank you for your answer Mr. Mohamed. Wish you all the best".*

16. Also on 23 June 2023, the Player and another Romanian club Universitatea Cluj concluded a second employment contract valid as from 26 June 2023 until 31 May 2025. According to Clause 4 of said contract, the Player would receive a monthly salary of EUR 12,500 net as from 26 June 2023 to 31 May 2024, and a monthly remuneration of EUR 13,000 net as from 1 June 2024 until 31 May 2025.

17. On 20 October 2023, the Player put the Respondent in default (the "Default Notice") informing, *inter alia*, that:

"Despite reaching an agreement between the Parties, your Club did not fulfil its obligations, which resulted in the Player incurring a 500.000 USD prejudice that your club will have to cover".

Further, the Player granted a deadline of three days to the Club to proceed with the payment of the above-mentioned amount.

18. On 22 October 2023, the Club replied to the Player, denying his allegations and informing him essentially that (i) the Offer did not constitute an employment contract; (ii) no acceptance of the Offer was received through official channels within the deadline provided; (iii) on 19 June 2023 the Club informed about the withdrawal of the Offer; (iv) the conditions provided in the Offer were not met, and (v) the Player's immediate signing with Universitatea Cluj reinforces the Club's stance that the Offer was never intended as a binding employment contract.

19. On 23 February 2024, the Player and Universitatea Cluj mutually terminated their employment contract.

20. On 24 February 2024, the Player and the Kazakhstani club Aktobe concluded an employment contract valid until 31 December 2025. According to Clause 3 of said contract, the Player is entitled to receive a monthly remuneration of KZT 8,035,000 net[1] through its entire duration.

B. Proceedings before the FIFA Dispute Resolution Chamber

21. On 27 March 2024, the Player lodged a claim before the FIFA Dispute Resolution Chamber (the "Chamber"' or "FIFA DRC"), concerning the alleged validity of the Offer and the consequences deriving from its alleged termination without just cause by the Club.

22. Subsequently, the Respondent submitted that due to the non-fulfilment of precedent conditions specified in the non-binding Offer, the Parties did not conclude an employment contract, therefore, the Player's claim should be rejected.

23. Consequently, the Dispute Resolution Chamber came to the following considerations:

- On the authenticity of the Player's signature, the Chamber concluded that there was no substantial evidence proving that the signature was forged. Rather, the Player explained that he signed via iPhone, resulting in the difference, if any, between the other signatures. Hence, the Chamber rejected the Club's allegation in this regard.

- The Chamber observed that the Offer included the parties and their role, the duration of the employment relationship, and the remuneration payable to the Player by the Club. Finally, the WhatsApp screenshots provided by the Player clearly demonstrated that he accepted the Offer and that it was duly signed by the Club's Professionalism Director.

- Based on this, the Chamber unanimously concluded that the Offer was, in principle, a valid and binding employment contract.

[1] Equivalent to USD 16,450 as stated in the Appeal Brief

- However, the Chamber noted that the Offer was conditioned not only to the Player accepting the Offer, but also to the proof of his free agent status and to the passing of a medical examination. The Chamber recalled that pursuant to art. 18 par. 3 of the FIFA Regulations on the Status and Transfer of Players (FIFA RSTP), "*The validity of a contract may not be subject to a successful medical examination* (…)". On that criterion, the Chamber disregarded this particular condition.

- Consequently, the Chamber, by majority, concluded that the Offer was only validly subjected or conditioned to the Player providing proof of his free agent status. Subsequently, the Chamber observed that from the WhatsApp conversation provided by the Player, it was visible that he indeed sent a signed copy of the Offer to the Club. However, there was no evidence as to the delivery of the termination agreement with his former club.

- Based on the above, the Chamber considered that, due to the absence of the relevant documentary evidence, the Player failed to demonstrate that he indeed shared the proof of his free agent status within the deadline stipulated in the Offer, which in turn rendered the Offer invalid.

- As such, in the Chamber's opinion, the Player did not prove to their satisfaction his allegations that a valid and binding employment contract was concluded between the parties on 16 June 2023.

- In the Chamber's view, the Player himself acknowledged that he did not comply with the deadline set in the Offer, and suggested to initiate further negotiations to "*discussing a new offer*" and/or "*updated proposals*". Moreover, when the Player was informed that the Club would finally not sign him, he accepted the Club's decision and signed a new employment contract with another club on the very same day. In other words, for the majority of the Chamber, the Player's own conduct showed that the Offer was never materialised.

- Thus, the Chamber concluded that on the basis of the documentation on file, it could not be established that the Player and the Club had validly entered into an employment relationship, which would have been subsequently terminated by the Club. Consequently, the Chamber, by majority, decided to reject the claim of the Player due to its lack of contractual basis

24. The Decision of the Chamber (the "Appealed Decision") is as follows:

"1. The claim of the Claimant, Bodgan Ilie Vătăjelu, is rejected.

2. This decision is rendered without costs."

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

25. On 2 September 2024, the Appellant lodged the Statement of Appeal before the Court of Arbitration for Sport (the "CAS") in accordance with Article R48 of the Code of Sports-related Arbitration (the "CAS Code") against the Respondent with respect to the decision

rendered by the FIFA DRC on 25 July 2024. The Appellant requested the proceedings to be conducted in English and for the appointment of a Sole Arbitrator.

26. On 12 September 2024, the Appellant filed his Appeal Brief in accordance with Article R51 of the CAS Code.

27. On 17 September 2024, the Respondent informed the CAS Court Office that it agreed to the appointment of a Sole Arbitrator.

28. On 3 January 2025, the Respondent filed its Answer to the Appeal Brief within the previously extended time limit.

29. On 6 January 2025, the CAS Court Office informed the Parties that the Arbitral Tribunal appointed by the Deputy President of the CAS Appeals Arbitration Division in the procedure was constituted as follows:

Sole Arbitrator: Mr Jacopo Tognon, Attorney-at-Law in Padua, Italy

30. On 13 January 2025, the Respondent informed the CAS Court Office that it preferred the Sole Arbitrator to issue an award based solely on the written submissions.

31. On 15 January 2025, the Appellant informed the CAS Court Office that he preferred a hearing to be conducted in person. Further, the Appellant requested an opportunity to respond to certain factual issues raised by the Respondent in its Answer.

32. On 16 January 2025, the CAS Court Office invited the Appellant to clarify whether his request should be understood as a request for a second round of written submissions or if he intended to address these issues during the hearing.

33. On 24 January 2025, in the absence of the Appellant's clarification, the CAS Court Office informed the Parties that if the Appellant's intention was to request a second round of written submissions, this request was rejected and the Appellant would have the opportunity to address any relevant issues during the hearing. Furthermore, the Sole Arbitrator had decided to hold a hearing via videoconference on 25 or 26 February 2025 and the Parties were requested to confirm their availability for the proposed dates.

34. On 27 January 2025, in view of the Parties' availabilities and on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties that a hearing will be held by videoconference on 25 February 2025 at 10:00 CET.

35. On 10 February 2025, the CAS Court Office acknowledged receipt of the Order of Procedure signed by the Parties.

36. On 25 February 2025, the hearing took place via videoconference. In addition to the Sole Arbitrator and Mr Giovanni Maria Fares, Counsel to the CAS, the following persons attended the hearing:

On behalf of the Appellant:

- Mr Bogdan Ilie Vătăjelu (Appellant)

– Mr Sabin Liviu Gherdan (Counsel)
– Ms Călina Oana Tejan (Counsel)

On behalf of the Respondent:

– Mr Boughrara Khaled Ben Mohamed (Counsel)

37. At the outset of the hearing, the Parties confirmed that they had no procedural objections as to the conduct of the proceedings and the appointment of the Sole Arbitrator. During the hearing, the Parties made submissions in support of their respective arguments. Furthermore, there were no witnesses called from either side.

38. During the hearing, the Appellant gave an oral statement, which may be summarised as follows:

– The Appellant asserts that the Club was aware that he was a free agent when the Offer was sent. He confirms that the signature on the Offer is indeed his.

– He was eager to play for the Club and waited for them to send the flight tickets after receiving the Offer. However, after signing, he received no further communication and thus, reached out to the Club directly to clarify the situation.

– At the time of receiving the Offer, he was in good shape and also received offers from few other clubs.

– He confirms that Mr Teodorescu and Mr Akram collaborated to negotiate his contract with the Club. Further, the Appellant states that he had no contact with Mr Mohamed Ali Bouraoui and thus he had no influence over Mr Bouraoui's communications with the Club.

– He claims that he had every intention to play for the Club and media reports about him cannot be relied upon, as he never provided any statements to the media and had no control over what was written.

39. At the closing of the hearing, the Parties confirmed that they had no objections on their right to be heard and that they had been given the opportunity to fully present their cases.

IV. SUBMISSIONS OF THE PARTIES

40. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every argument advanced by the Parties. The Sole Arbitrator has nonetheless carefully considered all claims made by the Parties, whether or not there is a specific reference to them in the following summary.

A. The Appellant's submissions

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

- The FIFA DRC rightly concluded that the Club's Offer constituted, in principle, a valid and binding employment contract, as it contained all the *essentialia negotii* required for a valid contract.

- Hence, the Respondent's claim stating that "the Offer was not officially received by the Player" should be rejected, given that the Player had sent a signed copy of the Offer to the Club – as acknowledged by the FIFA DRC.

- The FIFA DRC wrongly stated that the Offer was conditional not only on the Player accepting it but also on him providing proof of his free agent status and passing a medical examination.

- After having disregarded the condition of a successful medical examination in accordance with Article 18 para 3 of the FIFA RSTP, the FIFA DRC concluded that the Player did not provide evidence of his free agent status.

- In this regard, the Appellant argues that his claim before the FIFA DRC was rejected without any reference to the message from Mr Hathra, who stated that the Club's management had decided to *"withdraw the offer"* as they preferred to sign a striker and a central defender for the only two available spots for foreign players, rather than a left-back defender (being the Appellant).

- The Appellant contends that the Player had a 48-hour deadline to merely inform the Club whether he was interested - which he fulfilled. There was no requirement for him to provide a release letter or proof of the termination of his contract with Universitatea Craiova in a 48-hour window.

- The Club recognised that the Player was a free agent when the Offer was sent, as highlighted *"Abha FC is highly interested in securing your services as a free agent"*. This is further corroborated by a release letter signed between Universitatea Craiova and the Appellant, which confirmed that the Player became a free agent as of 15 June 2023. The following day, on 16 June 2023, the Club sent the Offer, which the Player accepted and signed the same day, well within the stipulated deadline.

- During the first instance proceedings, the Appellant submitted video evidence on his signature, to which the FIFA DRC concluded no forgery. Thus, the Appellant claims that the Club's arguments on forgery are submitted without evidence

- Based on the above, the Appellant submits that he fulfilled the condition of presenting a release letter in a timely manner and requests the Sole Arbitrator to conclude that a valid and binding employment contract was established between the Parties at the moment the Player returned the signed offer, without the need for any additional requirements to be fulfilled within the 48-hour window.

- Moreover, the alleged failure of the Player to prove his free agent status cannot lead to the invalidity of the contract, due to the fact that, if a player is under contract with another club while signing a new contract, they would be subject to sanctions in accordance with Article 17 of the FIFA RSTP.

- The Appellant acknowledges Mr Akram as his agent. The Player was aware of Mr Akram's role and authorized him to negotiate his contract with the Club. Further, there was no mandate/agreement signed between the Player and Mr Mohamed Ali Bouraoui. The Agent's lawyer did not represent the Player and likewise the Appellant was not responsible for any communication exchanged between Mr Bouraoui and the Club.

- The Appellant had to contact the Club directly, as he never received any follow-up after sending the Offer. Moreover, the only reason he didn't pursue the matter when the Club withdrew the Offer was because he was in good form at that time and had other offers at his disposal.

- The Appellant submits that the Respondent terminated the contract without just cause. This is collaborated by the evidence submitted by the Appellant in which the Club's representative Mr Hathra informed the Player that the Club will not respect the agreement due to change of team's needs and perspective.

- Nevertheless, the Respondent asserted that it withdrew the offer due to not receiving a timely response. However, this claim is contradicted by the above-mentioned evidence containing Mr Hathra's message.

- The Club changed its position by initially claiming that the Letter was an Offer and later arguing that it was a Pre-Contract. In reality, the Club failed to uphold its contractual obligations and is therefore liable for breach of contract. In any case, both arguments constitute a breach of contract, as the Appellant promptly informed the Club of his acceptance and fulfilled all the stipulated conditions. As a result, the Appellant is entitled to the whole amount of the contract based on the Club's fault for non-execution.

- The Appellant contends that all the requirements for a valid and binding contract were met in the agreement signed between the Parties on 16 June 2023. Specifically, the contractual relations between the Parties began when the Player accepted the Offer unconditionally. Followed by the Club's subsequent unjustified breach.

- In accordance with Article 17 of the FIFA RSTP, the Appellant mitigated his damages in the amount of USD 175,741.06, corresponding to his salaries from the Club Universitatea Cluj-Napoca.

- Lastly, the reason for the Club's withdrawal was based on strategical reasons, due to which, the Appellant incurred financial losses, as the offer from the Appellant's current club, Aktobe was three times lower in value compared to the Club's Offer.

- The Appellant submits that the Respondent's actions caused the Player damages in the amount of USD 324,258.94 (USD 500,000 minus USD 175,741.06) which must be paid as compensation by the Respondent.

- Thus, in the alternative, if the Sole Arbitrator does not accept the Appellant's principal requests, the Appellant submits that he should be awarded, at a minimum, the compensation for breach outlined in the offer, consisting of two monthly salaries. Since one salary is equivalent to USD 50,000 the total amount in this case should be USD 100,000.

42. The Appellant's request for relief is the following:

- *To order the Respondent to pay the Appellant, compensation for breach of contract in the amount of USD 324,258.94;*
- *In the alternative, to order the Respondent to pay compensation for breach outlined in the Offer, in the amount of USD 100,000;*
- *To order the Respondent to bear the costs of the present proceedings and to pay the Appellant a contribution towards legal and other costs, in an amount to be determined at the Sole Arbitrator's discretion, but no less than EUR 20,000.*

B. The Respondent's submissions

43. The Respondent's submissions, in essence, may be summarised as follows:

- The Respondent argues that the wording of the Letter clearly indicates that it is a proposal, not a binding offer. The phrasing and explicit disclaimers within it, establish that the proposal was intended to facilitate negotiations rather than create immediate enforceable obligations.

- Additionally, by reserving the right to withdraw, the Club demonstrated its intent to retain flexibility, which is incompatible with the definitive nature of an offer.

- The Respondent argues that there has been a confusion between the concepts "binding" and "non-binding" and that the Swiss Code of Obligations clearly defines each term. The Respondent submits that the Club's Offer was "non-binding" and the Player's proof of free agent status was a cumulative condition. On that note, the Parties never signed a contract as the Player failed to demonstrate his free agent status.

- The proposal explicitly states that its enforceability was contingent upon the fulfilment of specific cumulative conditions precedent. The Respondent argues that these conditions reinforce the document's nature as a proposal whereas a binding offer would not defer enforceability to the satisfaction of future conditions. Therefore, the inclusion of such conditions confirms that the proposal lacks the immediacy and finality required for an offer.

- Moreover, the language used throughout the Offer reflects a clear intent to negotiate rather than commit to an agreement. For instance, the letter requests a response within 48 hours to indicate acceptance or rejection. However, even acceptance of the proposal does not create binding obligations, as the fulfilment of conditions precedent remains necessary.

- The proposal lacks the characteristics of a binding offer, as it reserves the Club's right to withdraw. These provisions align with FIFA's Commentary on the RSTP 2023, which allows clubs to issue non-binding proposals to facilitate negotiations without creating binding obligations.

- According to said commentary, the existence of such disclaimers aligns the document with the characteristics of a pre-contract, as it lacks the finality and immediacy required of an employment agreement.

- The Respondent contends that the proposal letter is unequivocally non-binding, even though it contains several essential elements of a valid contract. The document's language, structure, and explicit disclaimers confirm its intent as a pre-contractual proposal rather than a definitive employment agreement. The inclusion of cumulative pre-conditions further emphasises that no binding obligations could arise until these conditions were fulfilled.

- Moreover, the FIFA DRC ruled that no proof of free agent was delivered to the Respondent within a 48-hour deadline or before the Club's withdrawal from the non-binding proposal.

- The Respondent argues that the Appellant made no attempts to provide proof of free-agent status, schedule a medical examination, or finalize a definitive employment contract. This lack of action strongly supports the conclusion that the Player did not view the proposal as a valid agreement requiring his compliance.

- The Player did not object to Abha FC's decision to withdraw. Despite contacting the Club, the player did not protest or attempt to enforce the alleged agreement.

- Finally, the lack of acceptance has significant legal and procedural implications under the FIFA RSTP and the Swiss Code of Obligations (SCO), according to which, a binding contract requires clear intent, fulfilment of conditions precedent, and mutual agreement on essential terms. The Player's failure to fulfils the proposal's conditions and his behaviour during the relevant period demonstrates that no such agreement existed.

- The Respondent points out that the alleged acceptance was orchestrated by Mr. Akram, who lacked proper authorization to act on the Player's behalf. Mr. Akram's actions, including fabricating the Player's signature, are void without a valid power of attorney or subsequent ratification by the Player.

- Contrary to the Appellant's submissions, Mr Akram was not authorised by the Player. The Respondent clarifies that the release letter was not sent by Mr Akram, but rather by Mr Bouraoui. Furthermore, the Player's CV and Transfermarkt link were sent by Mr Cornel.

- The Respondent argues that the Player had formally appointed Mr Teodorescu, a licensed FIFA agent, as his exclusive representative for all negotiations related to his transfer. This mandate was consistent with FIFA regulations, further reinforcing that Mr. Akram's involvement lacked legal standing. Similarly, the Club never recognized Mr. Akram as an intermediary in any capacity, ensuring his actions were entirely unauthorized.

- The Respondent demonstrated good faith by clearly outlining the conditions of the proposal and transparently communicating the withdrawal when those conditions were unmet. While, the Appellant failed to disclose the ongoing negotiations with

Universitatea Craiova, delaying the submission of proof of free agency, which highlights bad faith on his part.

- Moreover, at the time of the Offer, the Player did not disclose his serious injury to the Club. Additionally, the media reports concerning the Player's other offers indicate that he was not fully committed to the Club's Offer

- The release letter with Universitatea Craiova dated 15 June 2023, was executed only on 19 June 2023, meaning the Appellant was still contractually bound to his former club as on 16 June 2023. This impacted the fulfilment of the Club's condition requiring proof of the Player's free agency, rendering the alleged acceptance invalid.

- The Club was aware of the release letter only on 19 June 2023, as confirmed by the Club's official website and media reports – which is the actual date of when the Player became a free agent. Thus, they received the proof of free agent status only after expiry of the deadline

- The Respondent contends that the sequence of events clearly demonstrates that the Player suffered no loss or damage as a result of the Club's withdrawal. Instead, the Player's financial trajectory shows consistent growth, with each successive contract offering improved terms.

44. The Respondent request for relief is the following:

"In light of the foregoing arguments, factual evidence, and legal principles, the Respondent respectfully requests the following relief:

1. *That the present appeal lodged by Mr Bodgan Ilie Vătăjelu be rejected in its entirety.*
2. *That the FIFA Dispute Resolution Chamber's decision, which is being challenged, be confirmed in full.*
3. *That all costs associated with these proceedings, including but not limited to the procedural costs and legal expenses incurred by the Respondent, be born entirely by the Appellant, Mr Bodgan Ilie Vătăjelu.*
4. *That Mr Bodgan Ilie Vătăjelu be ordered to contribute to the Respondent's legal fees and other related expenses in an amount to be determined by the Sole Arbitrator."*

V. JURISDICTION

45. Article R47 para. 1 of the CAS Code provides as follows:

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

46. Article 57 para. 1 of the FIFA Statutes (2023 edition) provides as follows:

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

47. Similarly, the Appealed Decision provides for an appeal to CAS.

48. In light of the above, the jurisdiction of the CAS derives from Article R47 para. 1 of the CAS Code, Article 57 para. 1 of the FIFA Statutes, and is confirmed in the Appealed Decision itself. Furthermore, the jurisdiction of the CAS is not contested by the Parties and it is confirmed by the Order of Procedure duly signed by the Parties.

49. Therefore, the Sole Arbitrator finds that the CAS has jurisdiction to decide on the present dispute.

VI. ADMISSIBILITY

50. Article R49 of the CAS Code provides in its relevant part 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. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document."

51. Article 57 para. 1 of the FIFA Statutes quoted above provides for a time limit to lodge an appeal against a decision of the FIFA DRC. It states that an appeal must be filed within 21 days of receipt of the notification of the decision in question.

52. The grounds of the Appealed Decision were notified to the Parties on 12 August 2024. The Appellant filed his Statement of Appeal on 2 September 2024.

53. The Sole Arbitrator notes that the admissibility of the appeal is not, in principle, contested by the Parties.

54. The Sole Arbitrator concludes that the present appeal was filed within the 21-day time limit and is thus admissible.

VII. APPLICABLE LAW

55. The Sole Arbitrator firstly takes note that the Letter in dispute does not mention any provision related to the *rules of law* chosen by the Parties.

56. Secondly, the Appellant does not particularly refer to any applicable law, nevertheless, he makes abundant reference to the FIFA Regulations. While the Respondent refers to the FIFA Regulations, as well as the Swiss Code of Obligations.

57. In accordance with Article R58 of the CAS Code, which reads as follows:

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

58. By submitting their dispute to CAS, by signing the Order of Procedure and not filing any objections in this regard, the Parties have implicitly and indirectly chosen for the application of the conflict-of-law rule in Article R58 CAS Code, leading to the primary application of the regulations of FIFA (CAS 2020/A/7499).

59. Furthermore, FIFA's rules and regulations shall apply in football-related disputes. Specifically, the Appeal in the present case is directed against a decision issued by FIFA, which was passed in accordance with FIFA's rules and regulations (CAS 2014/A/3626).

60. Article 56 para. 2 of the FIFA Statutes provides as follows:

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

61. In case of appeals against decisions issued by FIFA, there is a tacit and indirect choice of law. In accordance with Article R58 of the CAS Code and Article 56 para. 2 of the FIFA Statutes, the dispute has to be decided according to the laws and regulations of the FIFA and, complementarily, Swiss law as the law of the country where FIFA is domiciled.

62. Therefore, the Sole Arbitrator shall decide the present case according to the relevant FIFA regulations, specifically the FIFA RSTP 2023 edition. Additionally, Swiss law shall also be applicable, as a subsidiarily, in order to fill any existing *lacunae* in the FIFA regulations.

VIII. MERITS

63. Prior to assessing the main issues at stake, the Sole Arbitrator deems it necessary to first establish the standard of proof applicable to the present case.

64. The Sole Arbitrator observes that the Appellant did not make any submission with respect to the above-mentioned criteria, whereas, the Respondent submitted that in accordance with the FIFA regulations and the Swiss Code of Obligations, the standard of proof applicable is comfortable satisfaction, as consistently applied in CAS proceedings concerning contractual disputes.

65. The Appealed Decision does not address this particular criterion. Nevertheless, CAS panels have consistently applied the standard of "comfortable satisfaction" which, on the standard of proof spectrum, sits in between the standard of *"beyond any reasonable doubt"* and the standard of *"balance of probabilities"* (CAS 2020/A/7180).

66. Further, the "comfortable satisfaction" standard has been regularly upheld in cases before CAS, when considering the FIFA RSTP (for instance in CAS 2012/A/2908, CAS 2019/A/6187 and CAS 2020/A/7605).

67. Thus, the Sole Arbitrator considers that the applicable standard of proof in this case is that of "comfortable satisfaction", given that the case at hand concerns essentially matters of contractual nature.

A. The legal issues to be decided

68. This appeal is based on the challenge brought by the Player against the Club concerning the Appealed Decision, in which the FIFA DRC determined that there was no valid and binding employment contract concluded between the Parties.

69. The Appellant principally contests that the FIFA DRC did not fairly consider the consequences leading up to the alleged unilateral termination by the Club. While the Respondent argues that the "Offer" was a proposal with a disclaimer emphasising that it was not a binding employment offer. Further, the Club submits that the Appellant failed to fulfil the conditions precedent which led to its subsequent withdrawal.

70. Bearing in mind the above, the main issues to be addressed by the Sole Arbitrator in deciding this dispute are the following:

(a) Is the Offer considered valid?

(b) If yes, does the Offer constitute a binding employment contract?

71. The Sole Arbitrator will address these issues in detail below.

(a) Is the Offer considered valid?

72. In order to assess the validity of the Offer, the Sole Arbitrator shall firstly examine the prerequisites or *essentialia negotii* required for a valid and binding contract.

73. The Sole Arbitrator notes that the FIFA RSTP does not explicitly define the terms "offer" or "*essentialia negotii*" under a specific article. However, the well-established jurisprudence of the FIFA DRC and subsequently CAS jurisprudence often rely on certain essential elements required for a valid and binding employment contract, such as – the date, clear description of the parties involved, the duration of the contract, remuneration payable by the employer and signatures of the parties.

74. In reference to CAS 2021/A/8292, para 110 reads as *"the Sole Arbitrator notes also that according to Article 1(1) and Article 2(1) of the Swiss Code of Obligations (SCO), an agreement is concluded only if the parties have, reciprocally and by mutual assent, expressed their common intent on all essential points. If an employment contract includes, inter alia, (i) a date, (ii) the names of the parties, (iii) the duration of the agreement, (iv) the position of the employee, (v) the remuneration components to be paid, and (vi) the signatures of the parties, it contains all essentialia negotii to be considered a valid and binding agreement between the parties (see, for example, CAS 2017/A/5164, paras 128 – 130)"*

75. In consideration of the above criteria, the Sole Arbitrator observes that, the letter in dispute contains the following: the date as on 16 June 2023; the names of the Parties with their description; the duration of the contract for one year; the remuneration with an annual salary

of USD 500,000; and finally, the signatures of the Parties. However, none of these elements are disputed by the Parties.

76. On the contrary, what is disputed by the Parties, are that (i) the Offer was sent through unofficial means i.e. not authorised by the Club; and (ii) the Player's signature was forged.

77. In this regard, the Respondent extensively argues on the role of Mr Akram, the alleged agent of the Player. The Club insists that Mr Akram, who acted as an agent to the Club's former head coach, unilaterally sent a non-binding proposal directly to the Player, without obtaining official authorisation from the Club. This unauthorised communication sent by Mr Akram bypassed the legal protocols of the Club, who intended to communicate with Mr Teodorescu alone, as the Player's Agent.

78. Additionally, the Club challenges the legitimacy of the Player's signature on the acceptance of the Offer by claiming that it was fabricated by Mr Akram. The Respondent points out to the WhatsApp chats submitted by the Player before the FIFA DRC and argues that there was a difference in the timing of when the signed offer was sent to the Club.

79. In order to assess the above-mentioned issues, the Sole Arbitrator shall examine the role of Mr Akram in the present case, in particular, focussing on whether the Offer he forwarded to the Player is valid and accurate.

80. The Player maintains that Mr Akram was his agent, from whom he received the Club's Offer. Consequently, the signed offer was sent back to the Club via Mr Akram. Additionally, the Player argues that Mr Akram's lack of authority did not impact the validity of his consent to join the Club.

81. The Respondent, on the other hand, argues on the lack of authority granted to Mr Akram, in particular that he is not a licensed FIFA agent. Furthermore, Mr Teodorescu was the sole agent authorised by the Player, as per the Exclusive Authorization Mandate, giving him exclusive authorisation.

82. Furthermore, the Respondent submitted evidence showing that Mr Akram was convicted in 2013 of crimes related to organised crime and bribery. According to the press release from the National Anti-Corruption Division of Romania, Mr Akram was charged with *inter alia* incitement to forgery in documents under private signature.

83. This matter was dealt in the Appealed Decision, wherein the Chamber found that the press release itself clarifies that "*By criminal decision no. 177 of 15.07.2019, the Hight Court of Cassation and Justice ordered the acquittal of the defendants (...) Akram Naser Abdel Rahman Bani Mustafa (...), for the offenses charged against them, since the deed does not exist, the deed is not provided for by the criminal law, or there is no evidence that a person committed the crime*".

84. In any event, the Sole Arbitrator does not consider it necessary to examine Mr Akram's alleged past criminal conduct, as such matters fall outside the jurisdiction of this tribunal. Moreover, given that neither Party called him as a witness in this matter, the Sole Arbitrator shall limit the assessment strictly to Mr Akram's role in the present proceedings.

85. The Sole Arbitrator finds that regardless of an exclusive authorisation between the Player and Mr Akram, his involvement in negotiating the Player's Offer letter cannot be ignored, as demonstrated by the communication exchanged between the Player, Mr Akram and Mr Teodorescu. Further, during the hearing, the Player confirmed that both agents collaborated in the negotiations with the Club.

86. On the question of whether the Offer constituted an official communication, in CAS 2010/A/2316, the panel notes that *"according to articles 13, 14 and 16 of the Swiss Code of Obligations (SCO), which apply not only to contracts but as well to offers (ATF 101 III 65), a contract – or an offer – is deemed to be made "in writing", when it is signed with the original signature of the party, as to an offer, or the parties, as to a contract, that are contractually bound by the document."*

87. Therefore, the Sole Arbitrator concurs with the findings of the FIFA DRC, particularly that the Offer was signed by the Club's Professionalism Director, dated, and was expressly addressed to the Player. Furthermore, the content of the Offer clearly demonstrates the Club's interest in engaging the Player.

88. Moreover, the FIFA RSTP do not strictly stipulate the exact mode of communication for offers or contracts. The only tangible expectation is that the communication be made through clear and verifiable means to prove its existence in case of disputes. In the same CAS 2010/A/2316 the Panel states the following: *"the Panel was of the opinion that the requirement of a transmission by registered mail (or electronic mail) has been foreseen by FIFA as a way to provide evidence and not as a condition of validity."*

89. In the present case, although the Offer lacked an active authorisation, it may still be regarded as a valid offer on the basis of a passive or tacit authorisation. Thus, the Sole Arbitrator is satisfied that the Offer originated from the Club, irrespective of whether it was transmitted by official means or otherwise.

90. Regarding the Player's signature, the Sole Arbitrator upholds the conclusion reached by the FIFA DRC, which found no substantial evidence indicating that the Player's consent had been forged.

91. Further, the Club did not submit any forensic report to support its claim of forgery. It follows that the Sole Arbitrator seconds the authenticity of the Player's signature which led to his acceptance of the Offer back.

92. For the sake of clarification, the *essentialia negotii* are not only relevant for assessing the existence of a binding contract but are also instrumental in determining whether an official communication or interest shown by a Club qualifies as a valid offer capable of forming a contract upon agreement. In other words, *essentialia negotii* are not only used to assess the validity of a contract, but also to determine whether a valid offer exists in the first place.

93. In light of the above, the Sole Arbitrator finds that the letter in dispute contains all the *essentialia negotii* required for a genuine Offer. Therefore, the Offer sent by the Club to the Player is considered valid.

(b) If yes, does the Offer constitute a binding employment contract?

94. Having determined that the Offer is indeed valid, the Sole Arbitrator nonetheless cannot overlook the conditions precedent and disclaimers set out in the Offer in order to further evaluate its binding nature and the alleged unilateral termination by the Club.

95. The conditions precedent mentioned in the Offer are as follows: (i) providing a release letter on the closure of the employment relationship with the Player's former club i.e. proof of the Player's free agent status; (ii) passing a medical examination conducted by the Club's medical staff in Saudi Arabia, and (iii) signing an employment contract with the Club.

96. Additionally, the Offer includes a disclaimer stating that the *"proposal is not a binding employment offer. Abha FC reserves the right to withdraw from the deal without legal consequences if any of the aforementioned conditions are not met"*. Along with a 48-hour deadline for the Player to indicate his acceptance or rejection.

97. The Parties strongly dispute the first condition concerning the Player's free agent status. The Appellant argues that the Club had already recognised the Player's free agent status as written in the Offer, which stated that the Club was *"highly interested in securing" the Player's services "as a free agent"*. This was also collaborated by the Release Letter, which confirmed that the Player became a free agent as of 15 June 2023.

98. The Respondent *inter alia* argued that the Appellant failed to submit the release letter i.e. proof of free agent status within the stipulated 48-hour deadline. The Respondent insists that this was a fundamental requirement for proceeding with the proposal and verifying the Player's eligibility for employment.

99. Similarly, the FIFA DRC concluded that the Player failed to provide proof of his free agent status within the agreed deadline and thus, rendered the Offer invalid.

100. After assessing the evidence submitted by the Parties, the Sole Arbitrator observes that the release letter submitted by the Appellant was signed on 15 June 2023. While the numerous media reports submitted by the Respondent suggests that the mutual termination of the contract between the Player and his former club was made official only on 19 June 2023.

101. The Sole Arbitrator notes that the release letter submitted by the Player is merely an English translation of the original Romanian document and lacks both the official stamp of the Club and the Player's signature. Likewise, the Player failed to provide the original document, thereby making it difficult to verify whether his employment with the former club had, in fact, concluded at the time of signing the Offer.

102. In any case, the Sole Arbitrator notes that the Player failed to provide evidence of fulfilling the first condition, namely, proof of his free agent status. The WhatsApp messages show that the Player returned only the signed Offer to Mr Akram and there is no indication in the case file that the Release Letter was also sent on the same day.

103. Nonetheless, the Sole Arbitrator is of the view that, although the Offer contains certain conditions, it did not require the Player to fulfil them within the prescribed 48-hour deadline. The Offer expressly states that the Player was only required to indicate his acceptance or rejection of the Club's proposal within that timeframe.

104. In this regard, the Sole Arbitrator finds that providing proof of the Player's free agent status was not a condition that had to be satisfied within the stipulated deadline. Thus, based on the literal interpretation of the disputed Offer, the Player duly complied with his obligation by returning the signed document, thereby confirming his acceptance.

105. Then, the Sole Arbitrator must examine whether the Player's mere acceptance of the Offer was sufficient to establish a binding contract between the Parties.

106. The Appellant argues that a valid and binding employment contract was established between the Parties at the moment the Player returned the signed Offer, without the need for any additional requirements to be fulfilled within the 48-hour window.

107. The Respondent argues that the Offer was not intended to be binding and the Club explicitly stated that it reserves the right to withdraw without any legal consequences.

108. On many occasions, FIFA and CAS jurisprudence shed light on the prerequisites required for an offer to be viewed as a binding contract. Some of these requirements are discussed in CAS 2018/A/5628, paras. 82-84, in which the Panel held that:

"82. […] First the panel notes that the offer fails to specify the "duration of the contract", in that it does not define the starting date. Indeed, according to Hellas Verona's interpretation, the alleged contract could have started either during the 2014 summer transfer window or sometime during the 2015 winter transfer window. On the other hand, the panel recognizes that in case of a contract which is subject to a suspensive condition, the uncertainty of the starting date is a built-in consequence of such condition.

83. Moreover, the Panel's hesitation is reinforced when looking at the well-known and publicly available FIFA's circular number 1171 dated 24 November 2008. The circular sets guidelines establishing minimum requirements for a professional football player contract "with the aim to cover the most important and essential rights and duties of both contractual partners (professional clubs and players)". Based on this circular, a contract should include, inter alia, a clear starting date:

> *"1.5 The agreement defines a clear starting date (day/month/year) as well as the ending date (day/month/year)".*

84. Furthermore, the contract should include the club's obligation towards the player as well as the player's obligations vis-à-vis the club."

109. Based on the above, the Sole Arbitrator notes that the Offer includes a proposed duration of the employment, which is merely indicated without a precise clarification of either a start or end date, as would be required for a binding employment contract. Moreover, the Offer does not include the Parties' obligations arising from the employment relationship. Both of these elements constitute essential components of an employment contract, which are absent in the Offer.

110. Furthermore, the FIFA Commentary on the RSTP 2023 edition highlights the importance of the wording of any invitation letter or similar correspondence sent to a player by an interested club. Wherein a relevant communication should make it clear that it does not constitute a

contractual offer, and that any further contract negotiations will occur only once certain conditions are met.

111. Indeed, the Offer in dispute explicitly states that it is not a binding employment offer. It is referred to as a "proposal" rather than a contract or an offer. Even after sending the letter, there is no supporting evidence to indicate that the Parties had a genuine intention to engage in further negotiations with a view to concluding a contractual agreement.

112. For the sake of clarification, the Sole Arbitrator shall address the remaining two conditions outlined in the Offer, in particular the second condition of passing a medical examination. Article 18 para 4 of the FIFA RSTP clearly stipulates that the validity of an employment contract cannot be made conditional upon the completion of a medical examination.

113. Accordingly, the Sole Arbitrator confirms the FIFA DRC's conclusion in the above-mentioned matter to disregard this provision when assessing the validity and enforcement of an employment contract.

114. Moreover, a club wishing to employ a player has to exercise due diligence and carry out all relevant medical examinations prior to entering into an employment contract with that player. Therefore, without conducting a medical examination, it is clear that the Club had no intention of entering into a binding employment contract with the Player at the time of sending the Offer.

115. While on the third condition of signing an employment contract with the Club – the Sole Arbitrator is of the opinion that such a condition becomes relevant only upon the actual conclusion of the employment contract itself. Consequently, it would have been impossible for the Player to cumulatively fulfil this requirement within the 48-hour deadline, further confirming that the Offer was not intended to be a binding contract.

116. As such, the fulfilment of the conditions precedent outlined in the Letter were prerequisites for the Parties to enter into a binding contract. Under Swiss law, parties are permitted to make the validity of a contract subject to the fulfilment of one or more conditions. Pursuant to Article 151(1) of the Swiss Code of Obligations, *"a contract is conditional if its binding nature is made dependent on the occurrence of an event that is not certain to happen"*.

117. Thus, the Sole Arbitrators finds that even though the first condition is an achievable obligation from the part of the Player, the last two conditions precedent are subject to the conclusion of the employment contract and not to the enforceability of the Offer itself. Nevertheless, the letter explicitly states that the 48-hour timeline requires for the Player to only indicate whether he accepted or rejected the Club's proposal and nothing else.

118. Ultimately, the Club's subsequent withdrawal of the Offer is justified, as the Club had expressly reserved the right to do so within the terms of the letter. Accordingly, the Player's arguments regarding the Club's intention behind the withdrawal are irrelevant, given that the Club did not exercise this right in bad faith.

119. In light of the above, the Sole Arbitrator is sufficiently satisfied that based on the clear wording of the Offer and evidence submitted before this Arbitral Tribunal, no binding employment contract was concluded between the Parties. The letter was only intended to be

an offer/proposal for a potential employment relationship, contingent upon the fulfilment of the conditions set forth therein.

B. Conclusion

120. Based on the above, and after having taken into due consideration the applicable rules, the evidence produced and the arguments submitted, the Sole Arbitrator concludes that:

i. The Offer contains all the *essentialia negotii* and therefore qualifies as a valid offer;

ii. Nevertheless, the Offer does not constitute a binding employment contract;

iii. Consequently, the Club did not commit any breach by withdrawing the Offer.

121. Finally, all other and further motions or prayers for relief are dismissed.

IX. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 2 September 2024 by Bogdan Ilie Vătăjelu against the decision rendered on 25 July 2024 by the FIFA Dispute Resolution Chamber is dismissed.

2. The Appealed Decision issued by the FIFA Dispute Resolution Chamber on 25 July 2024 is confirmed.

3. (…).

4. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 27 June 2025

THE COURT OF ARBITRATION FOR SPORT

Jacopo Tognon
Sole Arbitrator