

CAS 2024/A/10839 Professional Club Botev Plovdiv v. Club Centre de Formation National de Football

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Kwadjo Adjepong, Solicitor, London, United Kingdom
Arbitrators: Mr Attila Berzeviczi, Attorney-at-law, Budapest, Hungary
Mr Ulrich Haas, Professor in Zurich, Switzerland and Attorney-at-law in Hamburg, Germany

in the arbitration between

Professional Football Club Botev Plovdiv, Plovdiv, Bulgaria

Represented by Mr Davor Lazić, Attorney-at-law, Zagreb, Croatia

Appellant

and

Club Centre de Formation National de Football, Abidjan, Côte d'Ivoire

Represented by Mr Anil Dinçer, Attorney-at-law, Istanbul, Turkey

Respondent

I. PARTIES

1. Professional Football Club Botev Plovdiv (the “Appellant” or “PFC Botev”) is a professional football club with its registered office in Plovdiv, Bulgaria. The Club is registered with the Bulgarian Football Union, which in turn is affiliated to the Union of European Football Associations (“UEFA”) and the Fédération Internationale de Football Association (“FIFA”).
2. Club Centre de Formation National de Football (“CFNF” or the “Respondent”) is a football academy club with its registered office in Abidjan, Côte d’Ivoire.
3. The Appellant and the Respondent together are referred to as the “Parties”.

II. FACTUAL BACKGROUND

A. Background Facts

4. Below is a summary of the relevant facts and allegations based on the parties’ written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations found in the parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.
5. On 21 February 2020, the Player entered a training contract with CFNF for the period from 21 February 2020 until 30 November 2022. The training contract set out a number of terms relating to the duration and content of the training; the financing of training fees; participation in future transfers; and insurance.
6. In March 2022, while the Player was at CFNF, he was scouted by FDC Vista Gelendzhik (“Vista”), an amateur club in Russia, for a trial period. CFNF states it understood this arrangement to be temporary and both CFNF and the Player was unaware of any formal registration with Vista.
7. In June 2022 a transfer agreement (“the Contract”) between PFC Botev and CFNF was drafted by the Appellant in relation to Abdoulaye Kinski David Traore (“the Player”). The Contract was signed by CFNF on 6 June 2022. The Player was introduced to PFC Botev by his agent, Mr Yves Tamegnon. The Contract included a 20% sell on clause, based on any future transfer fee received by PFC Botev, if the Player was transferred to another club. The Contract also stated, in error, that the Player was a “professional footballer”. However, there is no dispute between the Parties that, at the time, the Player was an amateur player. The Contract states:

“Whereas

- Abdoulaye Kinski David Traore born on 28.06.2003, the citizen of Cote D'Ivoire, passport No. xxxxxx846 and valid until 05.05.2026 (hereinafter to be referred to as "the player), is a professional football player.

- PFC Botev Plovdiv wishes to hire the Player as a professional football player starting from 01 August 2022.

- Abdoulaye Kinski David Traore. Will be automatically under a new contract signed with Botev from the date of confirmation of signed the bilateral agreement between "CFNF" and PFC Botev Plovdiv, under the conditions stated in this agreement thereafter referred as "Agreement")

Article 1: International

The Player will be transferred to PFC Botev Plovdiv from 01.07.2022.

Article 2: Indemnification amount

2.1 Future Transfer

In case of a Future transfer of the Player's registration from PFC Botev Plovdiv to a new club, PFC Botev Plovdiv will pay 20 % / twenty percent / % of the Net transfer fee to "CFNF".

PFC Botev Plovdiv shall provide Abdoulaye Kinski David Traore with all necessary information in relation to establishing the entitlement pursuant to this provision, including, but not limited to, providing a copy of the transfer or loan agreement in relation to the Future transfer.

For the avoidance of any doubts or misunderstanding:

Future transfer is a transfer made on a definitive basis to another club.

*The Transfer Fee is defined as the indemnification paid by the player or a third party to PFC Botev Plovdiv due to the early termination of the employment contract between PFC Botev Plovdiv and the Player minus the solidarity contribution indicated in FIFA Regulations and/or the regulations of the applicable Football Association. Payments to Intermediaries and/or the Player and/or taxes and levies **cannot** be deducted. In case the Net-indemnification amount with regard to the transfer of the Player from [the Respondent] to a third club will be paid in different instalments, the amounts due in accordance with this article is entitled to, will be paid in instalments on a pro rata basis accordingly.*

Article 3: Enforceability

This Agreement shall be signed and transmitted e-mail (scan) or post. A scanned copy of this Agreement containing facsimile signatures of the Parties shall be considered binding and enforceable". (Emphasis included)

8. On 20 July 2022, PFC Botev discussed the Player's passport and related matters with CFNF which led CFNF to assume that the transfer to PFC Botev was proceeding.
9. On 19 August 2022, PFC Botev entered a transfer instruction on the FIFA Transfer Matching System ("TMS") to transfer the Player from CFNF to PFC Botev, however on the same day PFC Botev cancelled the transfer instruction. PFC Botev claim that the ITC was cancelled because PFC Botev discovered that the Player was a "free agent" at the time and had been associated with Vista since March 2022.
10. On 30 August 2022, the Player was transferred to PFC Botev as a "free agent" due to his amateur status with Vista. CFNF states that it was not aware of the transfer of the Player from Vista to PFC Botev.
11. On 29 September 2022, Mr Alexey Balyberdin on behalf of PFC Botev sent a signed version of the Contract between PFC Botev and CFNF to the Player's agent Mr Yves Tamegnon.
12. On 11 August 2023, the Player was transferred from PFC Botev to SV Zulte Waregem, a professional football club based in Belgium, for a fixed transfer compensation of EUR 900,000. As set out in paragraphs 12 and 13 of the FIFA PSC decision of 28 June 2024, and the FIFA PSC case file, Clause 2 and Clause 3 of the Transfer Agreement between PFC Botev and FC Zulte Waregem states:

[Clause 2]

*"2.1 In consideration for the definitive transfer of the Player, the Buying Club shall pay to the Selling Club a fee of 900.000,00 EUR (nine hundred thousand euro) (hereinafter the "**Transfer Fee**"), exclusive of Value Added Tax.*

[...]

2.3 The Transfer Fee will be payable, taking into account the following payment schedule:

2.3.1. payment will be done at latest 5 working days after the Transfer Conditions are met: 450.000,00

2.3.2 On 20 September 2023: 450.000,00 EUR.

2.4. The Selling Club receive a Supplementary Transfer Fee, with a maximum of 300.000,00 EUR (excl. VAT) on the following condition:

*If the Buying Club realize the promotion to the Jupiler Pro League during the season(s) while the player is still under contract with the Buying Club, the Buying Club has to pay an additional amount to the Selling Club of 300.000,00 EUR (three hundred thousand euro) (hereinafter the "**Supplementary Transfer Fee**"). This supplementary Transfer Fee has to be paid by the Buying Club at the 31st of July at latest after the Buying Club realize the promotion to the Jupiler Pro League and after receiving an invoice from the Selling Club by wire transfer to the bank account of the*

Selling Club.”

[Clause 3]

“The Transfer Fee is exclusive of FIFA Solidarity Contribution and exclusive of FIFA Training Compensation. As a result, the Buying Club is responsible to pay the FIFA Solidarity Contribution and Training Compensation on top of the Transfer Fee. The Buying Club is not entitled to withhold (on a pro rata basis) the FIFA Solidarity Contribution and the Training Compensation due from any payment due of the Transfer Fee to the Selling Club.”(Emphasis included)

13. On 28 November 2023, CFNF sought payment of the 20% sell-on fee in the sum of EUR 180,000 within 10 days, however PFC Botev refused and states that the Contract was invalid due to the Player’s registration as an amateur with Vista prior to the transfer to PFC Botev.

III. PROCEEDINGS BEFORE THE FIFA PLAYERS STATUS CHAMBER

14. On 11 December 2023, CFNF lodged a claim with the FIFA Players’ Status Chamber (PSC) in relation to its right to the 20% sell-on fee under the Contract. The PSC ruled in favour of CFNF and found that PFC Botev’s actions were aimed to circumvent CFNF’s contractual rights.
15. PFC Botev disputed the claim arguing *inter alia* that the claim by CFNF had no legal basis.
16. On 28 June 2024, in the case Ref. Nr. FPSD-13001 the PSC made the following decision (“the Appealed Decision”):

Decision of the Players’ Status Chamber

1. *The claim of the Claimant, CF National FC, is accepted.*
2. *The Respondent, PFC Botev Plovdiv, must pay to the Claimant **EUR 180,000 as outstanding remuneration** plus 5% interest p.a. as from 11 December 2023 until the date of effective payment.*
3. *Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.*
4. *Pursuant to art. 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.

*5. 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.*

6. The final costs of the proceedings in the amount of USD 20,000 are to be paid by the Respondent to FIFA. FIFA will reimburse to the Claimant the advance of costs paid at the start of the present proceedings (cf. note relating to the payment of the procedural costs below.) (Emphasis included)

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

17. On 2 September 2024, the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport (“CAS”) challenging the Appealed Decision in accordance with Articles R47 and R48 of the 2023 edition of the Code of Sports-related Arbitration (the “CAS Code”). PFC Botev included CFNF as the First Respondent and FIFA as the Second Respondent.
18. On 12 September 2024, FIFA requested to be excluded from the proceedings.
19. On 16 September 2024, the Appellant accepted FIFA’s request to be excluded from the proceedings.
20. On the same date, the Appellant nominated Mr Attila Berzeviczi, Attorney-at-law in Budapest, Hungary, as arbitrator.
21. On 26 September 2024, the Respondent nominated Mr Ulrich Haas, Professor of law in Zurich and Attorney-at-law in Hamburg, Germany, as arbitrator.
22. On 25 November 2024, the CAS Court Office informed the Parties through a Notice of Formation of the Panel that, pursuant to Article R54 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the Arbitral Tribunal appointed to decide the procedure is constituted as follows:

President: Mr Kwadjo Adjepong, Solicitor in London, United Kingdom;
Arbitrators: Mr Ulrich Haas, Professor of Law in Zurich and Attorney-at-law in Hamburg, Germany
Mr Attila Berzeviczi, Attorney-at-law, Budapest, Hungary.
23. On 1 October 2024, the Appellant filed their Appeal Brief at CAS in accordance with Article R51 of the CAS Code.

24. On 10 November 2024 the Respondent filed its Answer at CAS, following an extension to the deadline to file the Answer, in accordance with Article R55 of the CAS Code.
25. On 6 January 2025, on behalf of the President of the Panel, the CAS Court office wrote to the Parties inviting them to provide a limited round of additional submissions relating to the alleged common ownership of PFC Botev and Vista. The Appellant was invited to provide its submissions by 16 January 2025 and the Respondent was to be given an opportunity to reply. In addition, the President of the Panel requested the attendance of the Player at a hearing.
26. On the same date, the CAS Court Office requested a copy of the entire FIFA case file.
27. On 16 January 2025 the Appellant filed its additional submissions in relation to the alleged common ownership of PFC Botev and Vista. On the same date a copy of the entire FIFA case file was made available.
28. On 20 January 2025 the Respondent was invited to reply to the Appellant's submissions in relation to the ownership of PFC Botev and Vista by 25 January 2025.
29. On the same date, the CAS Court Office requested a copy of the Player's amateur contract with CFNF dated 21 February 2020.
30. On 30 January 2025, following an extension to the deadline, the Respondent provided its reply to the Appellant's submissions relating to the common ownership between PFC Botev and Vista. On the same date the Respondent provided a copy of the amateur contract with the Player.
31. On 31 January 2025 and after considering the Parties' positions, the CAS Court Office informed the Parties that, in accordance with Article R57 of the CAS Code, the Panel had decided to hold an in-person hearing on 8 May 2025.
32. On 4 February 2025, the CAS Court Office provided the Parties with the Order of Procedure, which was duly signed and returned by the Respondent on 8 February 2025, and by the Appellant on 10 February 2025.
33. On 8 May 2025, a hearing was held at the CAS Court Office in Lausanne, Switzerland. At the outset of the hearing, the Parties confirmed that they had no objection to the constitution of the Panel. Also, the Parties confirmed that there were no preliminary matters to address.
34. In addition to the Panel and Mr Andrés Redondo Oshur (CAS Counsel), the following people attended the hearing in person, unless indicated otherwise:
 - For the Appellant:
 - 1) Mr Davor Lazić, Counsel,
 - For the First Respondent:

- 1) Mr Anil Dinçer, Counsel
- 2) Mr Bailly Serge Innocent, (“the Interpreter”) by videoconference.

35. The Panel heard opening and closing submissions from the legal representatives for the Parties. The President of the Panel instructed the interpreter and the witnesses to tell the truth, subject to the sanctions of perjury under Swiss law. The Panel heard oral evidence from the following witnesses by videoconference, who were subjected to examination and cross-examination as well as questions from the Panel:

- Mr Alexey Kirichek, CEO, PFC Botev;
- Mr Alexey Balyberdin, Deputy Head of Football Operations, PFC Botev; and
- Mr Abdoulaye Kinski David Traore, the Player, assisted by the Interpreter.

36. It was unfortunate that Mr Anton Zingarevich, the owner of PFC Botev, and Mr Yves Tamegnon, the Players agent, were not available to give evidence at the hearing. However, the Parties were given a full opportunity to present their cases, submit their arguments and answer questions posed by members of the Panel. After their closing submissions and before the end of the hearing, all Parties confirmed that their right to be heard had been respected. There were no objections raised as to the manner in which the Panel had conducted the hearing, and no procedural objections were made.

V. SUBMISSIONS OF THE PARTIES

A. The Appellant

37. The Appellant’s submissions, in essence, may be summarised as follows:

- The Player was never transferred from the CFNF to PFC Botev. Therefore, the Contract is invalid. The Appellant disputes any alleged obligation towards the Respondent arising from the Contract drafted by the Appellant and signed by the Respondent on 6 June 2022 as it was never in force.
- CFNF did not hold the Player’s economic rights and therefore could not transfer the Player’s rights to a third Party e.g. PFC Botev.
- From March 2022, the Player was associated with Vista, an amateur club in Russia. This is confirmed by the ITC status in the TMS and the FIFA correspondence of 15 December 2023. As a result, the Contract does not have any legal effect.
- At the end of August 2022, the Player was transferred from Vista to PFC Botev holding “free agent” status at the time of transfer.
- As the Player was a “free agent” in August 2022, there is no legal basis for the claim by CFNF of 20% of the transfer fee, based on the Contract.
- According to p.21 of Definitions of the Regulation on the Transfer and Status of Players (“RSTP”) “international transfer” is “the movement of the registration of a player from one association to another association”. In this case, there was no movement of the

registration of the Player as he was never registered with CFNF and it is not entitled to receive any fee/compensation.

- It is clear that CFNF is not entitled to the 20% of the EUR 900,000 transfer fee, as a sell on fee, arising from the sale of the Player from PFC Botev to the Belgian Club SV Zulte Waregem, because the Player was not transferred from CFNF to PFC Botev in the first place.
- The Electronic Player Passport (“EPP”) supports the fact the Player was never transferred from CFNF to PFC Botev. The EPP is an electronic document containing registration information of a player throughout their career with every club for which they have been registered from the age of 12 and serves as the basis for training rewards (training compensation and solidarity payments). In addition, all the clubs and associations connected with the Player’s registration have an active role in the formation of the documents. The EPP shows that no transfer was ever made from CFNF to PFC Botev and therefore no sell on fee is payable.
- The Contract was a bilateral agreement between PFC Botev and CFNF. The sell on fee is only triggered if a transfer takes place between PFC Botev and CFNF and a subsequent transfer from PFC Botev to SV Zulte Waregem. As there was no transfer from CFNF to PFC Botev, no sell on fee arises for the transfer of the Player from PFC Botev to SV Zulte Waregem.
- On 19 August 2022 the Appellant, in accordance with the TMS, entered a transfer instruction to transfer the Player from the Respondent to the Appellant. The transfer instruction was cancelled later that day as the transfer was impossible because CFNF held no rights to the Player. Article. 20 of the Swiss Code of Obligations (“CO”) provides that “*A contract is void if the terms are impossible, unlawful or immoral.*” In addition, Art. 23 and Art. 24 of the CO regulates contracts concluded in error such that a party to a contract would not have entered it had it known the true situation. This amounted to a “lack of object” and invalidates the transfer as is consistent with *Techiman City FC v GFA* (CAS 2017/A/5395).
- In accordance with Art. 13 of the FIFA RSTP where a professional footballer is transferred before the end of their contract, transfer compensation is usually paid. If amateur players move between clubs, issues such as compensation e.g. transfer compensation are unlikely to arise. As the Player was an amateur player with Vista, no transfer compensation is payable and no sell on fee is payable.
- Even if a sell on fee is payable, a 20% sell on clause is *laesio enormis* and would result in abnormal harm and a disproportionate financial burden on the Appellant.
- The only legitimate claim the Respondent might have relates to training compensation or solidarity contributions as defined by FIFA regulations. (See *FK Sarajevo v DSC Arminia* - CAS 2006/A/1167).
- The FIFA PSC decision was wrong in finding that, based on the estoppel principle, the Appellant’s “*attitude in fact constituted a breach of the principle of estoppel or venire*

contra factum proprium, as its conduct before the Claimant could reasonably have created the legitimate expectation that the parties were entering into a valid and binding agreement.” No legitimate expectation can be created where a party has no rights to receive or expect anything.

- When the Appellant realised that the sell on fee agreement was invalid, another solution was found. In June 2023, in Bulgaria a meeting took place between the Player’s agent, Mr Yves Tamegnon and Mr Alexey Balyberdin on behalf of PFC Botev. The solution was in the form of a Donation Agreement between PFC Botev and Académie Symbiose Foot d’Abobo. It was agreed, on the instructions of the Player’s agent, that if the Appellant sold the Player for more than a certain amount, the Académie Symbiose Foot d’Abobo, would receive EUR 100,000. The Donation Agreement was signed on 7 August 2023, when the Player was transferred to SV Zulte Waregem. The purpose of the Donation Agreement was to transfer money for the development of football in Africa.
- In its further submissions provided on 16 January 2025 on the alleged dual ownership of PFC Botev and Vista, the Appellant denied that Mr Anton Zingarevich, the owner of Lucid Holding and PFC Botev, had any ownership interest in Vista. The Appellant also denied that Mr Balyberdin had dual roles at Vista and PFC Botev, although the Appellant accepted that he worked at Vista before joining PFC Botev.

38. In their Appeal Brief the Appellant requested the following relief:

“1. The Appeal filed on 1 October 2024 by PFC Botev Plovdiv against the decision of the FIFA PSC Decision of 28 June 2024 in the case Ref. Nr. FPSD-13001 is upheld.

2. The decision of the FIFA PSC of 28 June 2024 in the case Ref. Nr. FPSD-13001 is amended as follows:

*‘The claim of the Claimant, CF National FC, is rejected.
The final costs of the proceedings in the amount of USD 20,000 are to be borne by the Claimant CF National FC.’*

3. The procedural costs in the amount of USD 20,000 incurred before the FIFA PSC and paid by PFC Botev Plovdiv to FIFA are to be reimbursed to PFC Botev Plovdiv by CF National FC.

4. The Respondent CF National FC is ordered to pay the following costs of the Appellant:

- CHF 10,000 legal costs,
- all courier fees, translation fees, travel and accommodation costs, at the end of proceedings before CAS (if applicable).”

B. The Respondent

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

- Extensive evidence demonstrates that PFC Botev and Vista operated in concert, under shared ownership and management, with the unified purpose of evading CFNF's contractual entitlement.
- Both PFC Botev and Vista operate under the corporate ownership of Lucid Football Holding, a sports investment group owned by Anton Zingarevich. The LinkedIn profile clearly shows Mr Zingarevich owns both Botev and Vista. Therefore, both clubs are managed by the same company and owner.
- Lucid Football Holding is known to have interests in various football clubs across Europe and Vista has served as a feeder club for PFC Botev. Vista acted as a training ground for young talent transferred to PFC Botev to evade legal and financial commitments owed to other clubs, including CFNF.
- There are shared personnel between PFC Botev and Vista. From August 2017 to June 2023, Mr Alexey Balyberdin was employed as Executive Director at Vista. After June 2023, he formally joined PF Botev where he is currently the Deputy Head of Operations. Mr Balyberdin played a critical role at both clubs during the key period in which the Contract was negotiated and executed. He represented both clubs and coordinated player movements and operational decisions that impacted the Player's registration and transfer pathway. His dual roles show that PFC Botev was fully aware of the Player's registration with Vista, his amateur status, and acted in bad faith to circumvent CFNF's contractual rights.
- Mr Balyberdin was involved with the Player's transfer and communications with the Player's agent from 2021. For example, in November 2021 Mr Balyberdin requested the Player's details for scouting purposes. This led CFNF to believe Vista's involvement was limited to a trial period. In reality, unbeknown to CFNF, Vista was strategically used later to register the Player as an amateur thereby sidestepping the professional transfer obligations owed to CFNF. Despite the Player being registered at Vista in March 2022, Mr Balyberdin continued to correspond with the Respondent via the Player's agent as if it did not impact the Contract to transfer the player from CFNF to PFC Botev.
- Mr Balyberdin recently altered his LinkedIn profile because it previously documented his employment history including his dual roles and responsibilities at Vista and PFC Botev. This had the effect of concealing his involvement with the two clubs and PFC Botev's strategy to use Vista as an intermediary.
- On 13 August 2024, the FIFA PSC found that PFC Botev acted in bad faith by using Vista's amateur registration to avoid paying the sell on fee owed to CFNF. The FIFA PSC noted (1) the dual role of Mr Balyberdin at the two clubs; (2) Mr Balyberdin's communications demonstrated full awareness of the Player's registration and amateur status with Vista, undermining PFC Botev's assertion that the Contract was invalid; (3)

PFC Botev's ongoing engagement with CFNF during the Player's transfer, despite knowing that the Player was registered with Vista, led CFNF to believe the Contract and right to a sell on fee was valid; and (4) PFC Botev's knowledge and intentional evasion of its obligations to CFNF under the Contract.

- Since 2021 there is a pattern of frequent transfers, as a feeder club, from Vista to PFC Botev on free transfers thus evading sell on fees, training compensation and other transfer obligations that arise in professional contracts.
- Internet research has revealed that there has been a FIFA investigation into Anton Zingarevich, the owner of PFC Botev, and his transfer practices and player movements from Vista to PFC Botev. In particular, the suspicious transfers of underage African players.
- PFC Botev is attempting to disregard an industry norm and is contrary to the principles of player development in football. The principle of *dubio contra stipulatorem* applies which dictates in contract law that any ambiguity within the contract should be interpreted against the drafter (i.e. against PFC Botev).
- The Appellant's argument that a donation of EUR 100,000 to an unrelated academy club in Africa releases it from its contractual obligation to CFNF is both legally unfounded and factually irrelevant.
- The above arguments relating to the joint ownership of PFC Botev and Vista and the dual roles of Alexey Balyberdin were reiterated by the Respondent in their further submissions provided on 30 January 2025.

40. In its Answer the Respondent requested the following relief:

*“1. **Dismiss Botev's Appeal in its entirety.***

*2. **Affirm the FIFA PSC Decision** requiring Botev to pay CFNF the sum of €180,000 as 20% of the Player's transfer fee, plus applicable interest from the date of breach.*

*3. **Order Botev to bear all procedural and legal costs** incurred by CFNF in these proceedings, including those before FIFA and CAS.” (Emphasis included)*

VI. JURISDICTION

41. Article R47 of the Code provides as follows:

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

42. The jurisdiction of CAS, which is not disputed, derives from Article 57(1) FIFA Statutes (2024 Edition), as it determines that *“Appeals against final decisions passed by FIFA’s legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question”*, and Article R47 of the CAS Code. The jurisdiction of CAS is not contested and is further confirmed by the Order of Procedure duly signed by the Parties.
43. It follows that CAS has jurisdiction to hear, adjudicate and decide on the present dispute.

VII. ADMISSIBILITY

44. Article R49 of the CAS Code provides as follows:
45. *In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late.*
46. Under Article 57 of the FIFA Statutes, decisions adopted by FIFA legal bodies, such as the FIFA PSC, can be appealed within 21 days from their notification.
47. The grounds of the Appealed Decision were notified to the Parties on 13 August 2024. The Appellant lodged his appeal on 2 September 2024, i.e. within the 21 days allotted under Article 57 of the FIFA Statutes.
48. Furthermore, the appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fee.
49. It follows that the appeal is admissible.

VIII. APPLICABLE LAW

50. Article R58 of the Code provides 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.”*
51. Pursuant to Article R58 of the CAS Code, CAS shall primarily apply the FIFA RSTP (May 2023 edition).
52. The Panel notes that the Parties have not included a choice-of-law clause in the Contract. Furthermore, Article 56(2) FIFA Statutes provides the following:

“The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law.”

53. Accordingly, the present dispute must be decided applying the FIFA rules and regulations, in particular the FIFA RSTP (May 2023 edition) and with Swiss law applying subsidiarily to fill any *lacunae* in the FIFA regulations.

IX. MERITS

54. Based on the above, the Panel observes that this dispute centres around the question of whether the Contract, signed by the Parties in 2022, is valid. In this regard, the Panel will consider the following issues:

- a. Is the Contract between PFC Botev and CFNF valid as a transfer agreement? Is it possible to pay transfer compensation in consideration of the release (rights) of an amateur player?
- b. Is the Contract between PFC Botev and CFNF as valid as other types of agreement?
- c. If the Contract is valid in any event, what are the financial consequences for the Parties?

A. The Applicable burden and standard of proof

55. The Panel, in considering whether the Contract is valid, needs to ascertain whether the burden of proof concerning whether the Contract was valid has been met based on the applicable standard of proof.
56. Swiss law, that is applicable subsidiarily, in particular, Article 8 of the Swiss Civil Code (SCC), states that: *“Unless the law provides otherwise, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact”*.
57. This position is supported by CAS jurisprudence which provides that *“In CAS arbitration, any party wishing to prevail on a disputed issue must discharge its ‘burden of proof’, i.e. it must meet the onus to substantiate its allegations and to affirmatively approve the facts on which it relies with respect to that issue.”* (See *inter alia* CAS 2009/A/1909).
58. As a result, the Panel observes that the burden rests with the Appellant to prove the facts that it submits support their submission that the Contract was invalid.

B. The validity of the Contract

59. The Appellant submits that the Player was never transferred from the CFNF to PFC Botev therefore the Contract is invalid.

1. *Did the Appellant err when executing the Contract in September 2022?*

60. The Appellant is of the view that from March 2022, the Player was registered with Vista, an amateur club in Russia and transferred to PFC Botev as a “free agent” in August 2022. Therefore, the Appellant submits that there is no legal basis for the Respondent’s claim of a 20% sell on fee when the Player was transferred to the Belgian Club, SV Zulte Waregem on 11 August 2023. The Appellant argues that pursuant to Art. 20 Art. 23 and Art. 24 of the CO the Contract was concluded in error and PFC Botev were unaware of the true situation i.e. that the Player held amateur status and was registered to Vista and not the Respondent. The Appellant submits that the connections between the PFC Botev and Vista, and the dual roles Mr Balyberdin had regarding Vista and PFC Botev are insignificant. The Appellant also submits that, if any financial obligations arose from the 20% sell on fee in the Contract, this was addressed by the Donation Agreement between Mr Balyberdin and Mr Tamegnon which paid EUR 100,000 to Académie Symbiose Foot d’Abobo.
61. In contrast, the Respondent submits that PFC Botev and Vista operated under shared ownership and management. In addition, the Appellant acted with the purpose of evading CFNF’s contractual entitlement. Moreover, Mr Balyberdin played a crucial role at both clubs during 2022 in which the Contract was agreed and therefore PFC Botev were fully aware of the Player’s registration with Vista, his amateur status, and acted in bad faith to circumvent CFNF’s contractual rights. In addition, the Respondent submits, it is common practice for academy clubs to develop amateur players to establish agreements with professional clubs including sell on fees. Therefore, the principle of *dubio contra stipulatorem* dictates that any ambiguity within the Contract should be interpreted against the drafter (i.e. PFC Botev). Furthermore, a donation of EUR 100,000 to an academy club in Africa, unrelated to the Respondent, does not release the Appellant from their contractual obligation to CFNF.
62. The Panel finds the Respondents arguments to be persuasive. The Parties do not dispute the fact that during the negotiations relating to the Contract, Mr Balyberdin acted – with authority – on behalf of Vista and PFC Botev and Mr Tamegnon acted on behalf of the Respondent. This is supported by the WhatsApp communications between Mr Balyberdin and Mr Tamegnon during the period when the Contract was being negotiated in 2022. The dual roles played by Mr Balyberdin meant he would have been aware that the Player was registered to Vista during the period when he was negotiating the Contract between the Appellant and the Respondent.
63. It is also clear that PFC Botev was bound by the actions of its representative Mr Balyberdin and that the representative’s knowledge must be imputed to PFC Botev. The view held by the Panel is backed by Swiss legal literature (cf. BSK-OR/WATTER, 7th ed. 2020, Art. 32 N. 24). The latter commentary provides as follows:
- “Willensmängel sind vom Vertretenen geltend zu machen. Da der Vertreter die Willenserklärung i.d.R. vor dem Hintergrund seines eigenen Wissens abgibt, gilt es die Rechtsfolgen grundsätzlich unter Beachtung des Wissens des Vertreters zu beurteilen, womit dessen Wissensstand ausschlaggebend ist. Für den Fall, bei welchem der Vertreter den wahren Sachverhalt kannte, [gilt,] dass dem Vertretenen eine Berufung auf Willensmängel verschlossen ist, wenn er sich irrte.”*

Free translation: Defects of consent must be asserted by the represented party. ... Since the representative generally makes the declaration of intent based on his own knowledge, the legal consequences must be assessed in principle with regard to the representative's knowledge, whereby his level of knowledge is decisive. ... In cases where the representative was aware of the true facts, the represented party is not entitled to invoke defects of consent if he was mistaken.

64. Mr Balyberdin was the person who, on behalf of the Appellant, arranged the Contract. When negotiating with the Respondent he acted - according to his testimony - on instructions of PFC Botev. It was also him who forwarded the signed copy of the Contract in September 2022 to the Respondent on the Appellant's behalf. Right from the start of the negotiations Mr Balyberdin intended to scout and transfer the Player for PFC Botev (and not for Vista). This follows – *inter alia* – from the WhatsApp conversation between Mr Balyberdin and the Player's agent on 19 May 2022 (i.e. before drafting the Contract) wherein Mr Balyberdin clearly stated that the Player shall be transferred to PFC Botev and not to Vista. It was also Mr Balyberdin who negotiated the 20% sell on fee for the Respondent. On 31 May 2022 the Appellant sent the draft Contract to Mr Tamegnon. On 18 June 2022 both parties sent a handshake emoji, via WhatsApp, which appears to indicate that the negotiations had concluded and the deal had been done. The Respondent signed and returned the Contract on 6 June 2022. Then, on 29 September 2022, the Appellant sent the Contract to the Respondent which included the Appellant's signature. As a result, the Respondent had a legitimate expectation that the Parties had entered a valid contract. Furthermore, Mr Balyberdin knew that the Player was not a professional and that he was registered with Vista when the Contract was executed in September 2022. Consequently, since PFC Botev's representative was aware of the true facts, it is not entitled to invoke defects of consent if it was mistaken.

2. *Are there any other reasons to invalidate the Contract?*

65. The fact that the Contract contained an error in the reference to the Player as a "professional" is in itself not sufficient to invalidate the Contract. There is no room to assume misrepresentation or forgery in the case at hand and, therefore the reference to a player as "professional" or "amateur" is not significant. This is particularly relevant in the circumstances of this case where both Parties were aware that the Player was an amateur signing their first professional contract with PFC Botev. Although the issue of compensation is unlikely to arise when a player moves from one amateur club to another amateur club, Annex 4 of the FIFA RSTP provides that the issue of compensation will arise when an amateur player acquires professional status for the first time. In this case, the reference to the word "professional" appears to be a simple error. CAS Jurisprudence also confirms that for an error to invalidate a contract it must be "material" or "fundamental" and a valid contract should have all the "*essentialia negotii*" i.e. the details of the parties and the remuneration etc. (See CAS 2016/A/4843 and CAS 2017/A/5172). In addition, Article 18 of the CO provides that there is no need to look behind the express wording of a contract unless uncertainty exists due to inexact expressions etc, which does not apply here, as the terms of the Contract are clear (see CAS 2012/A/3026). Article 18 of the CO also provides that consideration should be given to the intention of the parties, and if that is not possible, the ordinary meaning of the wording of the Contract should be taken into consideration (see CAS 2014/A/3816). Even if there is any uncertainty

concerning the intention of the parties, the ordinary meaning of the wording of the Contract is clear, i.e. that a 20% sell on fee was agreed between the Appellant and the Respondent.

66. It appears questionable – at least at first sight – whether the Contract is compatible with the RSTP. The RSTP are also applicable to the “international transfer of amateurs”. The latter follows – *inter alia* – from Annex 3 of the RSTP which provides that it “*is mandatory for associations and clubs to use TMS for the international transfer of professional and amateur players.*” In the case at hand the Contract is not named “transfer agreement”, but only “Agreement”. In essence, however, the purpose of the Contract is to transfer the Player from the Respondent to PFC Botev. This follows from the wording of the Contract that provides that “*PFC Botev wishes to hire the Player as a professional player ...*”.
67. Clause 2.1 of the Contract provides for a sell on fee in case the Appellant transfers the Player to “a new club”. Such sell on fee is – according to standing CAS jurisprudence – a variable transfer compensation fee. The RSTP define a transfer compensation as “*a compensation which a new club of a player pays, or commits to pay to a player’s former club, in exchange for the former club’s acceptance to release the player from a binding contractual relationship.*” It is true that in the case at hand the Player at the time of the execution of the Contract was under an amateur contract with the Respondent. However, it appears questionable, whether such an amateur contract is “binding” within the meaning of the RSTP, since a professional club can at any time sign an amateur player without the provisions of the RSTP dealing with contractual stability (Articles 13 et seq) applying. Articles 13 et seq RSTP only apply to contracts between professionals and clubs. Thus, the question arises whether the RSTP allow parties in these circumstances to agree on transfer compensation.
68. Whether Articles 13 et seq RSTP apply to the case at hand has no bearing – in the Panel’s view – on whether contracts between a club and an amateur are binding, if validly executed under the applicable law. In order to be “binding” within the above meaning, a contract needs to employ effects. This – in the view of the Panel – is clearly the case here, since the amateur contract provides for consequences (e.g. a monthly fee) between the Player and the Respondent. Furthermore, the amateur contract also provides for consequences under the RSTP in relation to third parties (e.g. the duty to pay training compensation in case the Player is transferred). Thus, in the view of the Panel the sell on fee agreed upon in the Contract fulfils all requirements of a “transfer compensation” within the meaning of the RSTP.
69. The Panel has contemplated whether the RSTP restricts the Parties’ autonomy to agree on a transfer compensation in case of a transfer of an amateur player, i.e. whether the consequences of such transfer shall be limited to the payment of training compensation. However, the Panel finds that there is nothing in the RSTP prohibiting the parties to an amateur transfer contract to agree in addition or *in lieu* of training compensation to a transfer compensation (be it variable or not). Consequently, the Panel finds that the Contract does not violate any principles under the RSTP and therefore – also from that perspective – must be determined to be valid.

3. *Does the Donation Agreement release the Appellant from its obligations?*

70. The Panel is of the view that the Donation Agreement between Mr Balyberdin and Mr Tamegnon, concluded on 7 August 2023, that resulted in the payment of EUR 100,000 to an academy club in Africa, unrelated to the Respondent, does not release the Appellant from their contractual obligation to CFNF. The Respondent was not a party to the agreement, and Académie Symbiose Foot D'Abobo is unrelated to CFNF. In addition, if the Appellant believed the Contract was invalid, it would appear unnecessary for PFC Botev to pay a donation of EUR 100,000 in lieu of the sell on fee in the Contract. On a side note, the Panel wishes to highlight that the Player's agent plays an ambiguous role in the execution of the Donation Agreement. The Panel would have liked to question the Agent about the contract and the Agent's intention. However, the Agent was not available at the hearing. Be it as it may, the Panel finds that the Donation Agreement and the payments made on its behalf have no bearing on the case at hand.

C. The financial consequences for the Parties

71. As a result of the above, the Panel finds that the Contract is valid and binding on the Parties. Accordingly, when the Player was transferred to the Belgian Club SV Zulte Waregem on 11 August 2023 for a transfer fee of EUR 900,000, the conditions of clause 2.1 of the Contract was triggered. The Respondent is therefore entitled to EUR 180,000 (i.e. 20% of EUR 900,000) in accordance with the legal principle of *pacta sunt servanda* i.e. the principle that agreements must be kept and are binding upon the parties to a contract. In addition, as ordered by the FIFA PSC, the Respondent is also entitled to interest on that amount at a rate of 5% p.a. from 11 December 2023 until the date of payment.

X. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by PFC Botev Plovdiv against the decision rendered by the FIFA Players' Status Chamber on 28 June 2024 on 2 September 2024 is dismissed.
2. The FIFA PSC decision of 28 June 2024 is upheld.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 1 September 2025

THE COURT OF ARBITRATION FOR SPORT

Mr Kwadjo Adjepong
President of the Panel

Prof. Dr. Ulrich Haas
Arbitrator

Mr Attila Berzeviczi
Arbitrator