

**CAS 2022/A/8849 AFC Chindia Targoviste v. Yameogo Franck Alex Neeb – Noma Blaise**

**ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

Sole Arbitrator: Mr Kepa Larumbe, Attorney-at-law in Madrid, Spain

**in the arbitration between**

**AFC Chindia Targoviste, Romania**

Represented by Mr Mincu Paul Alexandru, Mr Lazăr Marius and Mr Ghergu Marcel,  
Attorneys-at-Law, Bucharest, Romania

**Appellant**

**and**

**Yameogo Franck Alex Neeb – Noma Blaise, Burkina Faso**

Represented by Mr Amir Hizem, Attorney-at-Law, Monastir, Tunisia

**Respondent**

## **I. PARTIES**

1. AFC Chindia Targoviste (the “Appellant” or the “Club”) is a club with its registered office in Târgoviște, Romania and registered with the Romanian Football Federation (the “RFF”), which in turn is also affiliated with the Fédération Internationale de Football Association (“FIFA”).
2. Mr Yameogo Franck Alex Neeb – Noma Blaise (the “Respondent” or the “Player”) is a Burkinabe professional football player.

## **II. FACTUAL BACKGROUND**

3. Below is a summary of the main relevant facts and allegations based on the Parties’ written submissions. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. This factual background information is given for the sole purpose of providing a synopsis of the matter in dispute. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this award (the “Award”) only to the submissions and evidence it considers necessary to explain its reasoning.
4. On 28 August 2019, the Appellant and the Respondent entered into an employment contract (the “Contract”) with duration until 1 June 2020.
5. Clause N of the Contract reads as follows:  
  
*“Any disputes regarding the conclusion, execution, modification, suspension or termination of the present individual employment contract are solved, as amicable as possible and if the consent is not reached, by the court materially and territorially competent according to the law.”*
6. On 28 May 2020, the Appellant and the Respondent concluded the first addendum (hereinafter, the “Addendum”) to the Contract and decided to extend the duration of the contract until 15 August 2020.
7. Article 3 of the Addendum reads as follows:  
  
*“If the club's senior team shall rank in a non-relegated position at the end of the 2019 – 2020 competition season, the employee will receive a net bonus amounting Ron 48.000 (forty – eight thousand), if the player will play 60% from the effective playing time of the competition season. If he will play less than 60%, the bonus awarded will be proportional to the actual time played.”*
8. On 14 August 2020 the Appellant and the Respondent agreed to conclude a second addendum according to which the Contract was extended until 15 June 2021.

9. On 6 August 2020, the RFF Emergency Committee decided to stop the championship League 1 (both play-off and play-out) and to freeze the ranking on the date of the decision. By the same decision, the competition system of League 1 was changed from 14 to 16 teams, starting with the next season (2020/2021). Before this decision, the clubs ranked 13<sup>th</sup> and 14<sup>th</sup> in League 1 were automatically relegated to League 2 for the 2020/2021 season, while the club ranked 12<sup>th</sup> in League 1, and the club ranked 3<sup>rd</sup> in League 2 would have played a play-off in order to determine a spot in League 1 for the 2020/2021 season
10. As a consequence of the changes on the competition format decided by the RFF Emergency Committee, the club ranked 14<sup>th</sup> in League 1, i.e., AFC Chindia Targoviste and the club ranked 3<sup>rd</sup> in League 2 (CS Mioveni) played a play-off in order to determine a spot in League 1 for the 2020/2021 season.
11. AFC Chindia Targoviste defeated CS Mioveni in the play-off and consequently, the Appellant was not relegated to League 2 for the 2020/2021 season.

### **III. PROCEEDINGS BEFORE THE FIFA FOOTBALL TRIBUNAL**

12. On 18 November 2021, the Player filed a claim before the FIFA Football Tribunal's Dispute Resolution Chamber (the "FIFA DRC") requesting the following:

*"We request FIFA DRC to pass a decision through which:*

*Order the Respondent to pay the total net amount of 48.000 lei, representing bonus rights due according to article 3 from the addendum no. 1 of the individual employment contract no. 69 from 26 August 2019 for the season 2019 – 2020;*

*Order the Respondent Club to the total net amount of 16.041 lei, representing bonus rights due according to article b) from the addendum no. 2 of the individual employment contract no. 69 from August 26, 2019 for the season 2020 – 2021;*

*Order the Respondent Club to the payment of the total net amount of 3950 lei, representing remaining bonus rights due according to article a) from the addendum no. 2 of the individual employment contract no. 69 from August 26, 2019 for the season 2020 – 2021;*

*Order the Respondent to pay interests of 5% /year for the above-mentioned amounts due to the player;*

*Order the Respondent to pay to the Claimant the amount of euro 2000 representing costs generated to the Claimant by the present procedure".*

13. On 8 March 2021, the FIFA DRC passed its decision (hereinafter, the "Appealed Decision"). The operative part of the Appealed Decision read as follows:

*“1. The claim of the Claimant, Yameogo Franck Alex Neeb, is admissible.*

*2. The claim of the Claimant is partially accepted.*

*3. The Respondent, AFC Chindia Targoviste, has to pay to the Claimant, the following amount(s):*

*- Romanian New Lei (“RON”) 48,000 as outstanding remuneration plus 5% interest p.a. as from 18 November 2021 until the date of effective payment.*

*4. Any further claims of the Claimant are rejected.*

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

*6. Pursuant to art. 24 of the Regulations on the Status and Transfer of Players (August 2021 edition), 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.*

*7. 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.*

*8. This decision is rendered without costs.”*

14. On 12 April 2022, the FIFA DRC notified the grounds of the Appealed Decision, determining, *inter alia*, the following:

- With regard to the competence of the FIFA bodies to deal with the dispute brought by the Player:

*28. Subsequently, the Single Judge referred to art. 2 par. 1 and art. 24 par. 1 lit. a) of the Procedural Rules and observed that in accordance with art. 23 par. 1 in combination with art. 22 par. 1 lit. b) of the Regulations on the Status and Transfer of Players (March 2022 edition), he is in principle competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Burkinabe player and a Romanian club.*

29. *In this respect, the Single Judge referred to clause N of the Contract, according to which: “Any disputes regarding the conclusion, execution, modification, suspension or termination of the present individual employment contract are solved, as amicable as possible and if the consent is not reached, by the court materially and territorially competent according to the law.”.*

30. *The Single Judge, after analysing the wording of the jurisdiction clause, concluded that such clause did not clearly and exclusively establish the competence of a specific court.*

31. *As a consequence, the Single Judge was of the opinion that the Respondent’s objection to the competence of FIFA to deal with the present matter has to be rejected and that the Dispute Resolution Chamber is competent, on the basis of art. 22 par. 1 lit. b) of the Regulations, to consider the present matter as to the substance.*

- With regard to the merits of the dispute:

“38. *Subsequently, the Single Judge underlined that the wording of the relevant clause does not aid in the case at hand since the Respondent did finish in relegation position but due to a change in the competition rules, it was not ultimately relegated. Hence, the Single Judge had to proceed to interpret the clause considering the true intention of the parties when negotiating and drafting such clause.*

39. *By interpreting the true intention of the parties as well as the common practice of the world of football, the Single Judge recalled the principle behind payment of bonuses, especially pre-defined and contractually agreed ones. As such, it observed that these are put in place by the parties on the basis that a club, with the help of a player’s performance, may reach a pre-defined goal, entitling such player to be remunerated for achieving such goal.*

40. *In casu, the Single Judge found that the intention of the parties was to reward the team performance in the event the club was not relegated to a lower division at the end of the season, which would have significantly harmed the Respondent’s financial interests. Thus, since it is clear and undisputed that the Respondent, by winning the play-off, remained in highest division for the subsequent season, the Single Judge found that the Claimant shall be entitled to the agreed bonus.*

41. *As a consequence, and in accordance with the general legal principle of pacta sunt servanda, the Single Judge decided that the Respondent is liable to pay to the Claimant the amount of RON 48,000 which was outstanding at the moment of the termination.”*

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

15. On 2 May 2022, in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (“CAS Code”), the Appellant filed its Statement of Appeal with the CAS.
16. On 23 May 2022, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
17. On 20 July 2022, the CAS Court Office, on behalf of the Deputy Division President, informed the Parties that the Panel appointed to decide the present dispute was constituted as follows:

Sole Arbitrator: Mr. Kepa Larumbe, Attorney-at-Law in Madrid, Spain.

18. On 10 August 2022, the Respondent filed its Answer in accordance with Article R55 of the CAS Code.
19. On 16 August 2022, the CAS Court Office informed the Parties that the Sole Arbitrator, after having consulted them and pursuant Article R57 of the CAS Code, deemed himself sufficiently well-informed to decide this case based solely on the Parties’ written submissions, without the need to hold a hearing.
20. On 19 August 2022, the CAS Court Office, following the request for evidentiary measures of the Appellant and pursuant Article R57 of the CAS Code, invited (i) FIFA to provide the CAS with a copy of the complete case file related to this appeal and, (ii) the RFF to inform of the following:

*“- to state which were the relegation positions according to the competition system of League I approved for the season 2019/2020.*

*- to state which was the applicable regulation in this respect at the beginning of the season 2019/2020 and on the date of 28.05.2020.*

*- to clarify if the teams ranked on 13 and 14 in the 1st League at the end of the season 2019/2020 were supposed to be relegated directly in the 2nd League.”*

21. On 22 August 2022, FIFA transferred the case file to the CAS.
22. On 7 September 2022, the RFF replied to the request for information (the “RFF Letter”).
23. On 13 September 2022, the Respondent filed its comments on the RFF Letter and on 22 September 2022, the Appellant filed its response to the Respondent’s letter.
24. On 20 October 2022, the CAS Court Office transmitted to the Parties the Order of Procedure, which was duly signed by the Parties. In doing so, the Parties confirmed CAS jurisdiction, that their right to be heard had been respected and consented to the panel issuing its award based on their written submissions.

**V. SUBMISSIONS OF THE PARTIES**

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

26. The Parties' requests for relief are as follows:

a) Appellant's Appeal Brief:

*"1. to accept the present appeal against the Challenged Decision;*

*2. to set aside the Challenged Decision;*

*3. to reject the Player's Claim mainly as inadmissible and in the alternative, as unfounded;*

*4. to condemn the Respondent to the payment in the favour of the Appellant of the legal expenses incurred;*

*5. to establish that the costs of the arbitration proceedings shall be borne by the Respondent."*

b) Respondent's Answer:

*"1- The full rejection of the club's appeal against the player regarding the decision of the FIFA Dispute Resolution Chamber number FPSD-4334.*

*2- The decision of the FIFA Dispute Resolution Chamber no. FPSD-4334 dated 12/04/2022 is fully confirmed:*

*-2- That the decision rendered by FIFA DRC be maintained, which imposed on the appellant the payment of Romanian Lei ("RON") 48,000 as outstanding remuneration plus 5% interest p.a. as from 18 November 2021 until the date of effective payment*

*-3- Be maintained the sanction mentioned in point 6 of the decision of FIFA RDC stipulated that:*

*Pursuant to art. 24 of the Regulations on the Status and Transfer of Players (August 2021 edition), if full payment (including all applicable interest) is not made within 45 days of notification of this decision, the following consequences shall apply:*

*1.The Club “Appellant” 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.*

*3.Charge the full arbitration costs to the appellant club “Chindia Târgoviște F.C”.”*

27. The Parties’ submissions may be summarised as follows:

a) The Appellant

- The FIFA DRC was not competent to deal with the claim submitted by the Player and should have declared it inadmissible in application of Article 3 of the Procedural Rules Governing the Football Tribunal and Article 22 of the FIFA RSTP.
- According to the provisions N (Dispute resolution) and O (applicable law) of the Contract the Parties agreed that the Romanian civil courts would be competent to deal with any dispute arising from the execution of the Contract.
- The Player is not entitled to receive the bonus contained in Article 3 of the Addendum to the Contract due to the fact that it was due for a certain ranking of the team, specifically any position except the 12th, 13th and 14th which were the relegation positions at the time the Addendum was agreed. It is no the same to rank in a non-relegation position and to not being relegated for an administrative decision.
- The RFF Appeal Commission has interpreted an identical clause in the same manner as the Appellant (Case n. 49/CR/2020).
- The true intention of the Parties when they agreed the bonus was to reward the Player for the team ending ranked above the relegation positions, what finally did not happen, although the relegation was not executed due to the change of the competition rules decided by the RFF.

b) The Respondent

- The FIFA DRC was competent to deal with the claim submitted by the Player for the reasons established in paragraph 28 of the Appealed Decision (see above paragraph 14), as clause N of the Contract did not clearly and exclusively establish the competence of a specific court.



- The Player is entitled to receive the bonus contained in Article 3 of the Addendum to the Contract, for the following reasons:
- The Club participated in League 1 in the 2020/2021 season, meaning that its position on the final ranking of the 2019/2020 season was a non-relegation position.
- As a result of participating in League 1 in the 2020/2021 season, the Club received TV rights and other benefits for playing the highest football competition in Romania.
- The Addendum was drafted and signed only in Romanian language. The Player was informed that the condition to receive the bonus was the remaining of the club in League I competition for the season 2020 –2021.
- The Club was not relegated to League 2 due to the sporting results, specifically for defeating CS Mioveni in the play-off matches for the maintenance/promotion in which the Player participated.
- The Club achieved the objective it was seeking when the bonus was agreed, i.e., avoiding relegation to League 2.

## **VI. JURISDICTION**

28. 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”.*

29. In addition, Article 56.1 of the FIFA Statutes states:

*“FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, member associations, confederations, leagues, clubs, players, officials, football agents and match agents.”*

30. Article 57.1 of the FIFA Statutes provides that:

*“1. 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”.*

31. The jurisdiction of CAS, which is not disputed by the Parties, is based on the above-mentioned provisions. In addition, the Parties confirmed the jurisdiction of CAS by signing the Order of Procedure.

32. The Sole Arbitrator considers that the CAS has jurisdiction over this dispute.
33. According to Article R57 of the Code, the Sole Arbitrator has full power to review the facts and the law of the case and can decide the dispute de novo. The Sole Arbitrator may issue a new decision which replaces the decision challenged, may annul the decision, or refer the case back to the previous instance

## **VII. ADMISSIBILITY**

34. Article R49 of the Code provides as follows:

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late”.*

35. It is undisputed that the appeal was filed within the 21 days set by Article 58(1) of the FIFA Statutes. The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fee.
36. It follows that the appeal is admissible.

## **VIII. APPLICABLE LAW**

37. 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”.*

38. Article 56.2 of the FIFA Statutes provides that:

*“2. 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”.*

39. CAS Panels have interpreted Article R58 of the Code as follows (CAS 2017/A/5465, 2017/A/5374, CAS 2018/A/5624, etc.):

*“Pursuant to Article R58 of the Code, in an appeal arbitration procedure before the CAS, the “Panel shall decide the dispute according to the applicable regulations and,*

*subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision". It follows from this provision that the "applicable regulations", i.e. the statutes and regulations of the sports organisation that issued the decision (here FIFA) are applicable to the dispute irrespective of what law the parties have agreed upon. In the Sole Arbitrator's view, the Parties cannot derogate from this provision if CAS retains jurisdiction which is the case here. To conclude, therefore, the Sole Arbitrator finds that Article R58 of the Code takes precedent over the direct choice-of-law clause contained in the Parties' agreements and that, thus, the FIFA rules and regulations apply primarily."* (para. 57, CAS 2017/A/5374; para. 57, CAS 2018/A/5624).

40. In the case at hand, the Appellant has directed part of the dispute to the jurisdiction of the FIFA DRC. The jurisdiction of the FIFA DRC can only be analysed in view of the FIFA regulations.
41. The Sole Arbitrator therefore finds that the relevant FIFA rules and regulations, and more specifically the FIFA Regulations on the Status and Transfer of Players (the "FIFA RSTP") as in force at the relevant time of the dispute shall be applied primarily, and Swiss law shall be applied subsidiarily.

## **IX. MERITS**

42. The first issue the Sole Arbitrator will address is the alleged lack of jurisdiction of the FIFA Football Tribunal's Dispute Resolution Chamber.
43. The jurisdiction of the FIFA DRC is defined in Articles 22 and 24 of the FIFA RSTP.

- Article 24.1 of the FIFA RSTP:

*"The Dispute Resolution Chamber (DRC) shall adjudicate on any of the cases described under article 22 a), b), d) and e) with the exception of disputes concerning the issue of an ITC".*

- Lit. a), b), d) and e) of Article 22 of the FIFA RSTP:

*"Without prejudice to the right of any player or club to seek redress before a civil court for employment-related disputes, FIFA is competent to hear:*

*a) disputes between clubs and players in relation to the maintenance of contractual stability (articles 13-18) where there has been an ITC request and a claim from an interested party in relation to said ITC request, in particular regarding the issue of the ITC, sporting sanctions or compensation for breach of contract;*

*b) employment-related disputes between a club and a player of an international dimension; the aforementioned parties may, however, explicitly opt in writing for such disputes to be decided by an independent arbitration tribunal that has been established at national level within the framework of the association and/or a collective bargaining agreement. Any such arbitration clause must be included either directly in the contract or in a collective bargaining agreement applicable on the parties. The independent national arbitration tribunal must guarantee fair proceedings and respect the principle of equal representation of players and clubs;”*

*c) (...);*

*d) disputes relating to training compensation (article 20) and the solidarity mechanism (article 21) between clubs belonging to different associations;*

*e) disputes relating to training compensation (article 20) and the solidarity mechanism (article 21) between clubs belonging to the same association provided that the transfer of a player at the basis of the dispute occurs between clubs belonging to different associations*

*f) (...);*

44. The competence described in lit. d) and e) of Article 22 of the FIFA RSTP must be disregarded since the dispute at hand is not related to training compensation or solidarity mechanism. Likewise, the Sole Arbitrator notes that the competence of Article 22.a) is limited to those cases in which the dispute is related to the request of an ITC and there has been a claim from an interested party in relation to said ITC, which is not the case in this arbitration.
45. Pursuant Article 22 b) of the FIFA RSTP, the requirements that a dispute must comply with in order to determine the jurisdiction of the FIFA DRC are the following: (i) to be an employment-related dispute, and (ii) international dimension. Both requirements are fulfilled. It follows that FIFA would be competent to hear the claim filed by the Player, but Article 22 of the FIFA RSTP provides the Parties the possibility to submit the dispute to a civil Court for employment related disputes. In order to do so, the Parties must establish a valid contractual choice-of-forum agreement to elect the competent forum or exclude the FIFA jurisdiction.
46. According to the longstanding CAS jurisprudence, the choice-of-forum clause must be previously agreed by the Parties and possess the features of being recognised as exact, precise and clear. Otherwise, the jurisdiction of FIFA must prevail.
47. Clause N of the Contract reads as follows:

*“Any disputes regarding the conclusion, execution, modification, suspension or termination of the present individual employment contract are solved, as amicable as*

*possible and if the consent is not reached, by the court materially and territorially competent according to the law.”*

48. The provision does not clarify which Court would be competent. In fact, it does not even specify whether it refers to a labour Court or to any other Court and it therefor suffers from being inexact, imprecise and unclear.

49. The Appellant argues that this provision must be connected to the law applicable to the Contract, which is described in clause O of the Contract, that reads as follows:

*“The provisions of this individual employment contract are completed with the provisions of Law no. 53/2003 –Labor Code and of the Internal Regulations applicable concluded at the level of the employer, Law on physical education and sports no. 69/2000, modified and completed, art. 14 of Law no. 287/2009, republished regarding the Civil Code, the laws and regulations of the Romanian Football Federation”*

50. The Appellant sustains that according to Romanian Labor Code (Law n° 53/2003) and Code of Civil Procedure, the dispute should fall within the jurisdiction of the Dambovitja Tribunal.

51. In the present case, the Sole Arbitrator notes that Clause O of the Contract makes reference to Romanian law and to the laws and regulations of the RFF. It is, thus, a choice-of-law provision. However, there is no parallelism between applicable law and jurisdiction. Hence, no choice-of-forum agreement can be inferred from the Parties’ choice of law. This is even more so because also this Arbitral Tribunal could apply Romanian law.

52. Notwithstanding the above, the Sole Arbitrator observes that Clause O of the Contract also makes reference to the laws and regulations of the Romanian Football Federation, on which the Appellant remained silent.

53. According to Article 25.1 of the “Regulament privind statutul și transferul jucătorilor de fotbal” (the “RFF RSTP”), the RFF Committees might be competent to deal with disputes between players and clubs:

*“Articolul 25. Litigii*

*1. Cluburile și persoanele supuse jurisdicției FRF/LPF/AJF pot să procedeze la negocieri în caz de neînțelegeri și dacă nu ajung la soluționarea lor pe cale amiabilă pot să recurgă la comisiile cu atribuții jurisdicționale ale FRF, LPF sau AJF, după caz”.*

English translation (free):

*“Article 25. Disputes*

*1. Clubs and persons subject to the jurisdiction of the FRF/LPF/AJF may proceed to negotiations in case of disputes and if they cannot reach an amicable settlement they may have recourse to the committees with the FRF, LPF or AJF, as appropriate”.*

54. Therefore, even in the event that clause N of the Contract should be interpreted in connection with clause O of the Contract (*quod non*), the Sole Arbitrator does not agree with the assertion of the Appellant that the Parties clearly agreed the jurisdiction of civil Courts, since it appears that both the civil and association’s (the RFF) jurisdiction could be applicable. This plurality of possible forums confirms the lack of clarity or ambiguity and uncertainty of the choice-of-forum clause and consequently, the jurisdiction of the FIFA bodies to deal with the claim of the Player against the Club.
55. Finally, the Sole Arbitrator agrees with “CAS 2020/A/7605 Mol Fehervar FC v. Joan Carrillo Milan & FIFA”, award of 28 September 2021 that established as follows: *“In a contract which is inserted in the context of the football business and with an international dimension, does not disqualify the view held here that the Parties wanted to refer to a two- tier system, whereby disputes are first resolved by the association tribunals of FIFA and subsequently by the CAS. The view of the Sole Arbitrator is also backed by the fact that the Parties did not contest the jurisdiction of the CAS, thus they clearly accepted the 2nd instance of the normal dispute resolution mechanism that applies in the football industry”.*
56. Having established the competence of FIFA to deal with the disputes related to the Contract, the Sole Arbitrator will address the merits of the dispute, i.e., whether or not the Player was entitled to receive the bonus payment contained in Article 3 of the Addendum to the Contract. Such provision reads as follows:
- “If the club's senior team shall rank in a non-relegated position at the end of the 2019 – 2020 competition season, the employee will receive a net bonus amounting Ron 48.000 (forty – eight thousand), if the player will play 60% from the effective playing time of the competition season. If he will play less than 60%, the bonus awarded will be proportional to the actual time played.”*
57. The Parties disagree on the interpretation of Article 3 of the Addendum. Summarizing, the Appellant considers that the spirit of the agreed bonus payment is to reward the Player for its participation on the sporting success of the Club. In the Club’s opinion, such sporting success never happened, since the Club was ranked in a relegation position at the end of the season and eventually it was not relegated due to the change on the competition format carried out by the RFF.
58. The Respondent, on the other hand, argues that the objective was indeed achieved, since the Club was not relegated to League 2.
59. It is not under dispute between the Parties that the Player played more than 60% of the effective playing time of the competition season.

60. In order to solve the dispute at hand, the Sole Arbitrator will firstly analyse the change in the competition format decided by the RFF, that was motivated by the Covid-19 pandemic's impact on the Romanian Football.
61. The decision of the RFF to stop the competition was taken on 6 August 2020, i.e. before the end of the competition. At that moment, the Club was ranked on the 14<sup>th</sup> position and as a result of such decision, the Club played a play-off against SC Mioveni (ranked 3<sup>rd</sup> in League 2). By winning the play-off, the Club was not relegated to League 2.
62. The Sole Arbitrator considers that the objective of the bonus clause was to reward the Player for the non-relegation of the Club as a result of the sporting performance of the team.
63. The Sole Arbitrator notes that two different scenarios are to be distinguished when it comes to analysing a change of the competition format, depending on the moment of such change: once the competition has ended or during the competition.
64. Under the first scenario, i.e. the change of the competition format is carried out once the competition has ended, all matches have been played under a pre-established competition format. In this case, the ranks are final, and the sporting performance of the team can be assessed.
65. Under the second scenario, i.e. the change of the competition format is carried out during the competition, not all matches have been played. In this case, the ranks might be final (depending on the terms of the administrative decision), but the sporting performance of the team cannot be assessed due to the premature termination of the competition.
66. In the case at hand, the change of the competition format was introduced during the competition. Despite the fact that the Club was ranked in a relegation position at that moment, it is uncertain the position which the Club would have ended in case the competition had taken place as originally planned. It is necessary to note that the final rank of the competition cannot be established until all matches have been played and all claims, if any, have been solved.
67. Additionally, the Sole Arbitrator notes that as a consequence of the change of the competition format, the Club played a play-off match in order to avoid relegation. Thus, the objective was not achieved solely due to an administrative decision of the RFF, i.e., by suppressing the direct relegation, but as a consequence of the sporting performance of the team that defeated SC Mioveni in the play-off.
68. Finally, the objective of the Club, which was no other than avoiding relegation to League 2 was achieved and this was, precisely, the aim of the variable retribution agreed by the Parties in Article 3 of the Addendum.
69. It follows that the appeal must be rejected.

**X. COSTS**

(...).

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**ON THESE GROUNDS**

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

1. The appeal filed by AFC Chindia Targoviste against the decision rendered by the FIFA Football Tribunal's Dispute Resolution Chamber on 8 March 2022 is dismissed.
2. The decision rendered by the FIFA Football Tribunal's Dispute Resolution Chamber on 8 March 2022 is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 5 July 2023

**THE COURT OF ARBITRATION FOR SPORT**

Kepa Larumbe  
Sole Arbitrator