



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

MEDIA RELEASE

THE COURT OF ARBITRATION FOR SPORT (CAS) DISMISSES THE APPEALS FILED BY JAKA ČUBER POTOČNIK AND 1. FC KÖLN

THE APPEAL FILED BY NK OLIMPIJA LJUBLJANA IS VERY PARTIALLY UPHELD

Lausanne, 21 December 2023 – The Court of Arbitration for Sport (CAS) has ruled on the appeals filed by NK Olimpija Ljubljana (Olimpija), Jaka Čuber Potočnik (the Player) and 1. FC Köln GmbH & Co. KGaA and 1. Fußball-Club Köln 01/07 e.V. (together: FC Köln) against the decision issued on 1 February 2023 by the Dispute Resolution Chamber of the FIFA Football Tribunal (the Challenged Decision).

The appeals filed by FC Köln and the Player are dismissed in full. The appeal filed by Olimpija is very partially upheld. The Challenged Decision is confirmed with the exception of the compensation indemnity payable by the Player to Olimpija for the breach of contract which has been increased from EUR 51,750 to EUR 60,000, considering that the breach occurred less than 8 months after the signature of the contract between the Player and Olimpija, i.e. during the so-called “Protected Period” of the contract.

In the Challenged Decision, the Player was found to have committed a severe breach of contract (unilateral termination of contract without just cause) against his former club Olimpija and sanctioned with a four-month period of ineligibility and a compensation payment of EUR 51,750 to said club (for which the Player’s new club FC Köln, is also jointly and severally liable). In addition, FC Köln, was banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods.

Three appeals were filed at the CAS against the Challenged Decision (1) by Olimpija against the Player and FC Köln, (2) by FC Köln against Olimpija and FIFA, and (3) by the Player against Olimpija and FIFA.

In its appeal, Olimpija sought an increased compensation payment of EUR 2’507’200 from the Player and FC Köln for breach of contract without just cause as well as an order requiring FC Köln to pay it the amount of EUR 69,972.60 as training compensation. This appeal was partially-upheld as the CAS Panel ordered an increased compensation payment of EUR 60,000. The appeals of FC Köln and the Player, in which they sought *inter alia* the annulment of the Challenged Decision, were dismissed.



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All three arbitration procedures were referred to the same Panel of CAS arbitrators which held a hearing at the CAS headquarters on 19 and 20 September 2023. Following the hearing, the Panel deliberated and determined that the Player's contract with Olimpija (the Olimpija Contract) had been validly concluded, and that the grounds invoked by the Player to terminate such contract had no legal or factual basis, lacked specific timeframe, did not constitute a "just cause", and were undermined by the chronology of events. In particular, the CAS Panel noted that FC Köln, by making various contacts with the Player's agent, failing to exercise due diligence and subsequently signing the Player, voluntarily took the risk of exposing itself to a charge of inducement to breach of contract and its resulting sporting sanction. In principle, this type of situation should be avoided as it undermines the principle of contractual stability. As such, a strict application of Article 17(4) of the FIFA RSTP (Regulations on the Status and Transfer of Players) was considered justified in this matter.

Having established that the Player had no legitimate reason to leave and had breached the Olimpija Contract the CAS Panel went on to evaluate the financial and sporting sanctions to be imposed on the Player and FC Köln. Here the CAS Panel's evaluation was also consistent with the Challenged Decision and the sanctions imposed in such decision were confirmed, with the small exception of the compensation payment for breach of contract.

The Arbitral Award is currently subject to a confidentiality review and, depending on the outcome, will be published on the CAS website in due course.

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