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

CAS 2025/A/11399 Cătălin Sărmășan Football Management S.R.L. v. Fotbal Club CFR 1907 Cluj S.A.

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr. Nicolas Cottier, Attorney-at-law in Saint-Prex, Switzerland

in the arbitration between

Cătălin Sărmășan Football Management S.R.L., Oradea, Romania
Represented by Mr. Cătălin Sărmășan and Mr. Andrei Iordăchescu, Attorneys-at-law in Bucharest, Romania

Appellant

and

Fotbal Club CFR 1907 Cluj S.A. – CFR Cluj, Cluj Napoca, Romania
Represented by Ms. Simona Ferle, Legal Counsel, and Mr. Adrian Barstan, Legal Counsel in Cluj Napoca, Romania

Respondent

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I. THE PARTIES

1. Cătălin Sărmășan Football Management S.R.L. (the "Agent" or the "Appellant") is a Romanian legal entity legally represented by Mr. Cătălin Sărmășan who is an authorized FIFA Agent.

2. Fotbal Club CFR 1907 Cluj S.A. (hereinafter referred to as the "Club" or the "Respondent") is a professional football club affiliated to the Romanian Football Federation and the Romanian Professional Football League. The club participates in the First National League of the Romanian football, namely the Liga I.

II. FACTUAL BACKGROUND

3. On 23 July 2024, the Agent and the Club signed an agency agreement (the "Agreement").

4. The purpose of the Agreement was, in particular, "*to provide services for the benefit of the client (the principal), consisting of representing and negotiating the conclusion of a transfer agreement between Fotbal Club CFR 1907 Cluj S.A. (as the transferring club), Udinese Calcio (as the receiving club), and the player Răzvan Sava, born on 21 June 2002".*

5. In the event that the Agent fulfilled the object of the Agreement and a transfer agreement was concluded between the Club, Udinese Calcio (hereinafter referred to as "Udinese", and Mr. Răzvan Sava hereinafter referred to as the "Player", the Parties agreed that the Club would incur the obligation to pay for the services it had benefited from, as follows (emphasis in original):

"***III.1.*** *In exchange for the provision of the services indicated in Article 1.1 - namely, the representation of Fotbal Club CFR, the negotiation and conclusion of a transfer agreement - Fotbal Club CFR 1907 Cluj S.A. shall pay the agent a fee equal to 10% of any amount received by Fotbal Club CFR 1907 Cluj S.A. from Udinese Calcio for the permanent or temporary transfer of the player Răzvan Sava.*

III.2. *The 10% fee shall be calculated based on the amounts stipulated in the transfer agreement or its addenda, respectively on the amounts actually received by CFR as transfer compensation, excluding any solidarity payments or training compensation.*

III.3. *The 10% fee shall also be calculated on any future transfer compensation that Fotbal Club CFR 1907 Cluj S.A. may receive from Udinese Calcio in connection with a subsequent transfer - whether temporary or permanent - of the player to a third football club.*

III.4. *The payment of the fee due to the agent shall be made within 5 days from the date on which Fotbal Club CFR 1907 Cluj S.A. receives any amount as transfer compensation from Udinese Calcio for the transfer of the player Răzvan Sava, subject to receipt of the corresponding invoice from the agent, to the bank account indicated on page 1 of this agreement. The agent undertakes to issue the invoice within a maximum*

of 2 days from the notification sent by Fotbal Club CFR 1907 Cluj S.A. regarding the payment received from Udinese Calcio. Fotbal Club CFR 1907 Cluj S.A., in turn, undertakes to issue such notification within a maximum of 2 days from the receipt of any amount as transfer compensation from Udinese Calcio for the transfer of the player Răzvan Sava.

III.5. *In the event that the amounts due to Fotbal Club CFR are paid in instalments, the agent's fee shall be paid with priority, on a pro rata basis, from each instalment received by Fotbal Club CFR.*

III.6. *In the event of late payment of the service fee, a penalty of EUR 100 per day shall apply for each day of delay in the payment of any amount due under this Agreement. The penalty of EUR 100 per day shall accrue until the date of full payment.*

III.7. *Should Fotbal Club CFR 1907 Cluj S.A. fail to notify the agent of any payment received from Udinese Calcio within 2 days of receipt, Fotbal Club CFR 1907 shall owe penalties of EUR 200 per day of delay, calculated from the expiry of the 2-day deadline until the date the agent is notified.*

III.8. *The fee established under Article III.1 is a gross amount, meaning it includes all related taxes and costs, including VAT (if applicable), as well as all expenses incurred by the agent. The Club shall not be liable to pay any additional amounts".*

6. On 9 August 2024, the Club and Udinese signed a transfer agreement (hereinafter referred to as the "Transfer Agreement").

7. Clause 2 of the Transfer Agreement provides that "[o]*n the bases* [sic] *of the terms and the conditions of the present Contract and pursuant to the FIFA Regulations on the Status and Transfer of Players currently in force and/or any successor thereto (hereinafter, the "FIFA Regulations"), the Selling Club and the Player agree on the release and the definitive transfer of the Player to Udinese and Udinese agrees, subject to the terms and conditions hereof, to engage the services of the Player, in compliance with a separate Standard Professional Playing Contract (hereinafter, the "Playing Contract')".*

8. Clause 4 of the Transfer Agreement provides further that "[i]*n consideration for the definitive transfer and conditional upon the fulfilment of the conditions contained in the Clause 8, Udinese agrees to pay to the Selling Club subject to and in accordance with the terms thereof, an amount of EUR 2.537.500,00 (two million five hundred thirty-seven thousand five hundred//OO Euros) as unconditional transfer fee, payable as follows:*

1. EUR 507.500,00 (five hundred seven thousand five hundred//OO Euros), by 30th August 2024;

2. Further EUR 507.500,00 (five hundred seven thousand five hundred//OO Euros), by 30th March 2025;

3. Further EUR 507.500,00 (five hundred seven thousand five hundred//OO Euros), by 30th September 2025;

4. Further EUR 507.500,00 (five hundred seven thousand five hundred//OO Euros), by 30th March 2026.

5. Further EUR 507.500,00 (five hundred seven thousand five hundred//OO Euros), by 30th September 2026.

The unconditional transfer fee is inclusive of any solidarity payment or training compensation that Udinese has to pay in relation with this transfer".

9. On 2 September 2024, the Club received the first instalment from Udinese. It did not inform the Agent of this payment.

10. On 17 September 2024, the Club signed with the bank Internationales Bannkhaus Bodensee AG (hereinafter "IBB") a "*Purchase Contract of Claims arising under a Transfer Agreement*" (hereinafter the "IBB Agreement").

11. On 19 September 2024, a specific notice (hereinafter the "Specific Notice") was registered and published in the Romanian National Register of Secured Transactions, containing the following:

"***Description****: THE OBJECT OF THE ASSIGNED DEBT REPRESENTS: A) THE SECOND INSTALLMENT IN VALUE OF 482,125.00 EURO (IN WORDS: FOUR HUNDRED EIGHTY-TWO THOUSAND ONE HUNDRED TWENTY-FIVE EURO) NET, DUE AT THE 30TH OF MARCH 2025; B) THE THIRD INSTALLMENT IN VALUE OF 482,125.00 EURO (IN WORDS: FOUR HUNDRED EIGHTY-TWO THOUSAND ONE HUNDRED TWENTY-FIVE EURO) NET, DUE AT THE 30TH OF SEPTEMBER 2025; C) THE THIRD* [recte: THE FOURTH] *INSTALLMENT IN VALUE OF 482,125.00 EURO (IN WORDS: FOUR HUNDRED EIGHTY-TWO THOUSAND ONE HUNDRED TWENTY-FIVE EURO) NET, DUE AT THE 30TH OF MARCH 2026; THE FOURTH* [recte: THE FIFTH] *INSTALLMENT IN VALUE OF 482,125.00 EURO (IN WORDS: FOUR HUNDRED EIGHTY-TWO THOUSAND ONE HUNDRED TWENTY-FIVE EURO) NET, DUE AT THE 30TH OF SEPTEMBER 2026, AS PER A TRANSFER AGREEMENT FROM AUGUST 9, 2024, CONCERNING THE PERMANENT TRANSFER OF THE PROFESSIONAL FOOTBALER RAZVAN SERGIU SAVA, CONCLUDED BETWEEN THE ASSIGNOR AND THE ASSIGNED DEBTOR UDINESE CALCIO S.P.A., SEATED IN ITALY, VIA".*

12. The Club did not inform the Agent of an assignment of its claim against Udinese to any third party.

13. On 23 September 2024, in the absence of any communication from the Club, the Agent issued an invoice No. 0023/23.09.2024 for the amount of EUR 250,000 plus VAT.

14. On 24 September 2024, the Club sent an email to the Agent regarding its payment obligation towards the latter, which reads as follows:

"*Dear all,*

We acknowledge receipt of your email containing the invoice related to the agency agreement concerning the transfer of the player Răzvan Sava. However, we must inform you that we are obliged to refuse the registration of the invoice and to request its cancellation, as it was not issued in accordance with the contractual provisions.

In this regard, please reissue the invoice for the full amount due, with a breakdown of each instalment and its respective due date, in accordance with the TMS report and the provisions of Agency Agreement no. 412 of 23 July 2024, in particular Article III, items 3.1, 3.2, 3.4 and 3.5 thereof.

Thank you!

Best regards, Office - Fotbal Club CFR 1907 Cluj SA".

15. Between the end of September and the beginning of October 2024, several telephone conversations took place between Mr. Cătălin Sărmășan, representative of the Agent, and Mr. Neluțu Varga, the financial director of the Club.

16. On 11 October 2024, the Agent issued a new invoice No. 0029/11.10.2024 in the amount of EUR 241,062.5 plus VAT.

17. The amount of EUR 241,062.50 was calculated on the basis of the total transfer fee of EUR 2,537,500 and upon deduction of the 5% solidarity contribution due by the Club to third parties, resulting in EUR 2,410,625. Applying the 10% rate to this adjusted amount, the agent's fee was calculated at EUR 241,062.50.

18. The invoice No. 029/11.10.2024 was sent by email by the Agent to the Club together with a formal notice of default, which reads as follows:

"*NOTICE OF DEFAULT*
In which we request that, within 3 (three) days since the dispatch of the present notice, and no later than Monday, 14th of October 2024:
I. To make the payment of the invoice no. 0029/11.10.2024 enclosed herein, in amount of 1,199,502.89 lei + VAT, representing the compensation owed as per art. III.1 and III.2 from the mandate contract no. 412/23.07.2024.

II. To pay the sum of 4,200 EURO + VAT, representing default penalties afferent to the period between 03.09.2024 – 23.09.2024, as consequence of failure to abide by your contractual obligation to inform the attorney-in-fact.

In case the payment mentioned above under point I will not be made in due term, starting with 15.10.2024 until the actual payment, there will be default penalties charged in

quantum of 100 EURO/day, conformant with the provisions of art. III.6 from the mandate.

Considering what you have suggested, negligence and ill-will towards the obligation of payment of the attorney-in-fact, whom you have chosen not to inform about the collection of the receivables rights belonging to Fotbal Club CFR 1907 Cluj SA based on the permanent transfer agreement of the player Razvan Sava, and also of the prior conduct you have already displayed by neglecting for over a year the payment of the services you have benefited from, we hereby inform you about the following:

1. The permanent transfer of 23.08.2024 of the professional footballer Razvan Sava, from Fotbal Club CFR 1907 Cluj SA, as assignor club to Udinese Calcio S.p.A. as assignee club, with the involvement of Catalin Sarmasan is a clear aspect. The transfer being for good and valuable consideration, Fotbal Club CFR 1907 Cluj SA is, at this moment, the owner of an uncontested debt in amount of at least 2,537,500 EURO.

2. Pursuant to art. III.2 from the mandate no. 412/23.07.2024, concluded between Fotbal Club CFR 1907 Cluj SA as beneficiary and Catalin Sarmasan Football Management SRL as representative, it was established that:

"The percentage of 10% will be calculated by reference to the amounts mentioned in the transfer agreement or its addendums, respectively to the sums actually collected by CFR as transfer fees, excluding possible solidarities or formation compensations.

3. The percentage compensation of 10% will thus be calculated by deducting the 5% representing the solidarity contribution from the amount of 2,537,500 EURO, the result being a calculation basis in value of 2,410,625 EURO. So, the fix compensation, untouched by any condition, entitled to the agent –attorney-in-fact is in amount of 241,062.5 EURO.

4. At 30.08.2024 you have collected the sum of 507,500 EURO by direct payment from the assignee club Udinese Calcio S.p.A. Up to the present date, although aware of your obligation to inform the agent in at most 2 days' time since the date of collection, until today there is no such information, choosing to deny the payment without any clear factual explanation.

5. Due to the direct breach of your contractual obligations undertaken in the mandate, as per art. III.7 of the contract, we demand that you pay the amount of 4,200 EURO, representing penalties for not abiding by your obligation to send an information during the period 03.09-23.09.2024.

6. At 23.09.2024, as a result of information requested from the Italian counterpart we learned that you have cashed in the transfer fee without notifying the agent, thus, at 23.09.2024 the fiscal invoice no. 0023/23.09.2024 was issued and sent to you by e-mail.

7. Subsequent to your e-mail of 24.09.2024 in which you refused the payment of inv. 0023/23.09.2024 we have learned that there was also concluded a debt assignment

contract, not a loan agreement, by which you sold your receivables right you had towards Udinese Calcio S.p.A. to a third party, banking unit. Sometime in September you collected the full amount of the transfer fee entitled to Fotbal Club CFR 1907 Cluj SA as per the permanent transfer agreement concluded at 23.08.2024.

8. After breaching once more your obligation of information, we cancelled the invoice no. 0023/23.09.2024 and issued a new invoice no. 0029/11.10.2024 for the amount of 241,062.5 EURO + VAT, enclosed herein.

9. In view of the full collection by Fotbal Club CFR 1907 Cluj SA of the transfer fee related to the transfer of the player Razvan Sava to Udinese Calcio S.p.A., considering the fulfilment of the object of the mandate contract and the emergence of the payment obligation, we demand you the payment of the counter value of the fiscal invoice no. 0029/11.10.2024.

10. Considering the failure of Fotbal Club CFR 1907 Cluj SA to abide by their obligation to inform the agent, we considered to extend the payment term to three days and not five days since the date of collection, the collection dating from 30.08, respectively a date from September unknown to us, due to your fault.

11. Finally, we remind you the provisions of art. III.6 from the mandate, referring to the obligation of Fotbal Club CFR 1907 Cluj SA to pay default penalties of 100 EURO/day, obligation which, in case of nonpayment, will emerge at 15.10.2024.

12. Should the payment not be made in full by the specified term, the present notification is the first and last to be filed to you in order to settle this case amicably".

19. The invoice No. 029/11.10.2024 was not paid by the Club to the Agent.

20. On 30 October 2024, the National Dispute Resolution Chamber of the Romanian Football Federation ("RFF") (hereinafter the "NDRC") was called upon through the joint action of the Parties.

21. The Agent sought the following relief from the NDRC:

" ➢ *To oblige Fotbal Club CFR 1907 Cluj S.A. to pay the counter value of the invoice no. 0029/11.10.2024, in value of 1,199,502.89 LEI + VAT, representing the fee owed as per art. III.1 and III.2 from the mandate no. 412/23.07.2024;*

➢ *To oblige Fotbal Club CFR 1907 Cluj S.A. to pay the amount of 4,200 EURO + VAT as default fees in quantum of 100 EURO/day, calculated at 15.10.2024 (date of ending the delay notification term) until the effective coverage of the due debt.*

➢ *According to article III.6 from the mandate no. 412/23.07.2024, to oblige the Debtor Club to pay default fees amounting 100 euro/day of delay, calculate from 15.10.2024 (the date of expiry of the notice period and until the date of effective payment of the debt;*

➢ *Pursuant to art. 33, par. 10 from R.S.T.J.F., edition 2023, to establish the obligation of the debtor club to pay legal expenses generated for the plaintiff, representing lawyer's fee and counter value of the filing procedure fee".*

22. On 28 November 2024, the Club put forward the following argument in its statement of defense regarding the IBB Agreement (emphasis in original):

"[…] (33) *Considering the claims of the plaintiff that the rest of the transfer fee was collected through the conclusion of a debt assignment contract registered with the National Registry of Movable Property, we stipulate that they bend the truth and, anyway, do not present relevance to the settling of the present case, because:*
i. The debt assignment cannot be assimilated to the payment – in the sense that it cannot be deemed as payment received from Udinese Calcio;
ii. In fact, the juridical nature of the factoring contract we concluded is not that of a debt assignment agreement in the classic sense
(34) The juridical operations subsequent to the transfer, concluded by the undersigned through which we managed to obtain ***at cost*** *a credit from a third party by guaranteeing with the amounts we had to receive from Udinese Calcio as per the transfer agreement, represent distinct juridical proceedings, related to which the plaintiff is third party with no rights. The amounts corresponding to the 10% based on the Mandate will be received periodically, under the contractual provisions and due terms established in the transfer agreement, by reference to the dates when payments are going to be made by Udinese Calcio club".*

23. On 14 January 2025, the NDRC ruled on the claim filed by the Agent against the Club and issued its decision No. 793/14.01.2025 (hereinafter the "NDRC Decision"), by which the claim was only partially upheld, the NDRC holding that:

"Under the Agency Agreement registered with the Club under no. 412/23.07.2024, the parties agreed to a fee equal to 10% of any amounts to be received by Fotbal Club CFR 1907 Cluj S.A. from Udinese Calcio for the permanent or temporary transfer of the player Răzvan Sava.

Based on the provisions of the Transfer Agreement, the Chamber finds that, as of the date of adjudication of the present case, only one instalment is due out of the five instalments agreed upon by the Respondent Club and Udinese Calcio for the payment of the total transfer compensation of EUR 2,537,500.

Consequently, the Claimant is entitled to receive compensation equal to 10% of instalment no. 1, which was due on 30 August 2024, in the amount of EUR 507,500. From this amount, the 5% solidarity contribution (EUR 25,375) shall be deducted, resulting in a final amount of EUR 482,125.

By applying the 10% rate to the transfer compensation actually collected by the Respondent, namely EUR 482,125, the Claimant is entitled to a fee of EUR 48,212.50, in accordance with Article III.2 of the Contract, which provides that the 10% shall be calculated with reference to the amounts specified in the transfer agreement or its

addenda, or to the amounts actually received by the Respondent as transfer compensation.

With respect to the Claimant's assertion that the Respondent has fully collected the transfer compensation - on the basis of the payment of the first instalment by Udinese Calcio and the alleged conclusion of an assignment agreement whereby instalments II–V were transferred - the Chamber rejects this assertion on the grounds that the Claimant failed to provide evidence of the content of such an assignment agreement.

With regard to the VAT claimed by the Claimant, the Chamber finds that such amount is not owed, based on the provisions of Article III.8 of the Agency Agreement, which expressly states that the fee agreed upon by the parties is a gross amount, inclusive of all taxes.

With respect to the penalties claimed, the Chamber notes that there was an exchange of correspondence between the parties concerning the payment of the Claimant's fee; however, the parties disagreed on the amount upon which such fee should be calculated.

The basis for the obligation to pay default penalties lies in the Respondent's failure to comply with its obligation to make payment within the agreed time frame.

Nevertheless, in the present case, the Chamber does not find the Respondent to be at fault, as the failure to pay the fee was caused by the Claimant's conduct - namely, issuing invoices (invoice no. 23/23.09.2024 in the amount of RON 1,479,913.75 including VAT, and invoice no. 29/11.10.2024 in the amount of RON 1,427,408.44 including VAT) that claimed significantly more than what was contractually owed, despite the Respondent's request that the invoice be issued in accordance with the contractual provisions.

As the Respondent, Fotbal Club CFR 1907 Cluj S.A., who bears the burden of proving the fulfilment of the payment obligations claimed by the Claimant, failed to provide such evidence, and since the payment obligations have become due, the Chamber finds that a payment obligation arises under the Agency Agreement registered with the Club under no. 412/23.07.2024. For this reason, the Claimant's request is considered to be partially well-founded, and the Respondent Club is hereby ordered to pay the amount of EUR 48,212.50, representing the fee corresponding to instalment no. 1 of the transfer amount collected by the Respondent for the player Sava Răzvan".

24. The operative part of the NDRC decision reads as follows:

"Rules partly in favor of the claim of the plaintiff ***Cătălin Sărmășan Football Management SRL*** *against* ***Fotbal Club CFR 1907 Cluj SA****.*

Obliges the defendant ***Fotbal Club CFR 1907 Cluj SA*** *to pay the plaintiff* ***Cătălin Sărmășan Football Management SRL*** *the amount of 48,212.5 EURO representing compensation from the first installment collected by the defendant for the player* ***Sava Razvan****.*

Dismisses all the other claims of the plaintiff ***Cătălin Sărmășan Football Management SRL as unfounded****.*

Obliges the defendant Fotbal Club CFR 1907 Cluj SA to pay the plaintiff ***Cătălin Sărmășan Football Management SRL*** *trial expenses, respectively the procedure fee in amount of 2,488 lei and 7,470 lei as lawyer's fee"*[emphasis in original].

25. The Agent lodged an appeal before the Appeal Committee of the RFF (hereinafter the "Appeal Committee") against the NDRC Decision while the Club also lodged an appeal yet limited to the procedural costs fixed by the NDRC in its Decision.

26. On 11 March 2025, the Appeal Committee of the RFF ruled on the grounds of appeal raised by each of the Parties, in essence, as follows (emphasis in original):

"***The appeal of Fotbal Club CFR 1907 Cluj SA***
Mainly the request is to approve the appeal, to change partly the appealed decision in the sense of rejecting the request to oblige Fotbal Club CFR 1907 Cluj SA to pay trial expenses and, in subsidiary, admission of the appeal, changing partly the appealed decision in the sense of diminishing the amount of the trial expenses.
Considering the requests forwarded in principal, the appellant club shows that they admitted in their statement of defence to owe the plaintiff the amount of 48,212.50 EURO (VAT included), reason for which, as per art. 33.10 from RSTJF they should be exempted from the payment of trial costs. Moreover, CNSL stated in the motivation of the decision that there is no fault of Fotbal Club CFR 1907 Cluj SA, the non-payment of the fee being generated by the plaintiff's conduct.
In subsidiary, they show that the diminishing of trial costs is called for, considering that the writ of summons was partly approved (one of the three), admitted partly the demands of the plaintiff, Fotbal Club CFR 1907 Cluj SA is not deemed as guilty, the conduct of the plaintiff being the cause of this litigation between the parties.

The appeal of Cătălin Sărmășan Football Management SRL
(...)

Violation of the provisions of art. 32 par. 1 and 4 from RSTJF and art. 22 par. 2 and art. 293 Civil Procedure Code.

Although the conclusion of the agency agreement no. 412/23.07.2024, the conclusion of the permanent transfer agreement of 09.08.2024 and the conclusion of the debt assignment agreement between Fotbal Club CFR 1907 Cluj SA and Internationales Bankhaus Bodensee AG, concerning the assignment of the instalments 2 – 5 from the transfer agreement dated 09.08.2024 are certain elements of the case, uncontested by the parties, in the settlement of the first count of the writ of summons CNSL considered, wrongly so, that the plaintiff did not prove the content of the debt assigning agreement, knowing that there was filed to the case the Specific Approval 2024-091911456479537 published in the Movable Assets National Publicity registry where it is mentioned the object of the assigned receivable as being instalments 2 – 5 from the final transfer agreement signed at 09.08.2024.

Should CNSL have considered that it was necessary to find a copy of the debt assignment contract in the case file, they would have had the obligation, under provisions of art. 32 from RSTJF and art. 22 par. 2 from the Civil Procedure Code to demand from the respondent to file a copy of such document, having the regulatory and also legal obligation "to prevent any mistakes in pursuing the truth of the case."

Eluding the provisions of art. 1270 Civil Code – violation of the effects of the agency agreement no. 412/23.07.2024

Fotbal Club CFR 1907 Cluj SA has collected in full the transfer agreement in amount of 2,537,500 EURO (minus 5% solidarity contribution), the first installment from the club Udinese Calcio and the installments 2 – 5, by signing the debt transfer agreement with Internationales Bankhaus Bodensee AG, by payment by such assignee.
Since the date of conclusion of the assignment contract, Fotbal Club CFR 1907 Cluj SA is no longer creditor of Udinese Calcio in what the transfer agreement of 09.08.2024 is concerned, Fotbal Club CFR 1907 Cluj SA transferring to Internationales Bankhaus Bodensee AG all rights they had as assignor club, the security rights and all accessories of the assigned receivable, including the right to trial.

The amount of 1,928,500 EURO related to installments 2 – 5 cashed in by Fotbal Club CFR 1907 Cluj SA by signing the debt assignment contract with Internationales Bankhaus Bodensee AG is also a receivable generated from the transfer agreement, respectively still transfer fee for the transfer of the player Razvan Sava, by collection of which, Fotbal Club CFR 1907 Cluj SA has the obligation to pay, at their turn, the debt of the agent, under art. 1268 Civil Code.

Since 02.09.2024, the date of collection of the first installment, Fotbal Club CFR 1907 Cluj SA owes to the appellant – plaintiff the amount of 48,212.5 EURO +VAT, representing the 10% percentage applicable to the first installment of the fee, and also the sum of 192,850 EURO +VAT, afferent to the installments 2 – 5 from the transfer agreement, by cashing in, the latest at 30.09.2024 the balance of the fee, the debt due to the agent being exigible.

For non-performance in due time of the obligations undertaken towards the agent, Fotbal Club CFR 1907 Cluj SA owes default penalties.

In what the amount of 4,200 EURO is concerned, as a result of failure of Fotbal Club CFR 1907 Cluj SA to abide by their obligation to inform (art. III.7 from the agency agreement no. 412/23.07.2024), the appellant shows that the principal never informed the agent about the cashing in of the first installment from the transfer agreement, reason for which, at 02.09.2024 (date of collection of the first installment, as the defendant club admitted in the statement of defence on the merits) until the date of 23.09.2024 (date of issuing the first invoice by the appellant) owes to the agent default penalties of 200 EURO/day, as the parties agreed under art. III.7 from the mandate in discussion.

As per the default penalties owed for failure to pay the price, since 15.10.2024 until the actual payment, it is concluded that, in contradiction to the statements of the merits commission, Fotbal Club CFR 1907 Cluj SA never intended to pay the price for the services of the agent and never specified in the so-called request to issue an invoice the amount for which to redo the invoice, limiting themselves only to indicate generic contractual provisions […]".

27. In consideration of the grounds of appeal submitted by each of the Parties to the present case against the NDRC Decision, the Appeal Committee decided to dismiss both appeals, providing in essence the following reasoning:

"*Considering the above, Cătălin Sărmășan Football Management SRL must collect a compensation of 241,062.5 EURO, payable in 5 installments of 48,212.5 EURO each.*

By the writ of summons and the appeal made, Cătălin Sărmășan Football Management SRL requests the obligation of Fotbal Club CFR 1907 Cluj SA to pay the entire compensation in amount of 241,062.5 EURO + VAT, stating that through the conclusion of the debt assigning agreement with Internationales Bankhaus Bodensee AG they have fully cashed in the transfer fee, their debt towards Fotbal Club CFR 1907 Cluj SA being exigible.

In what the VAT payment is concerned, the Appeal Commission correctly concluded that this is not owed in view of the provisions of art. III.8 from the Mandate according to which the fee/compensation established by the parties is in gross amount, including taxes.

Concerning the statement of the appellant, made both in the writ of summons and in the appeal, that the debt which is the object of the present case is certain and exigible, the Appeal Commission concludes that the only certain and exigible debt is the amount of 48,212.50 EURO, afferent to the collection of the first installment of the transfer fee from Udinese Calcio, calculated according to art. III from the Mandate.

The legal operations subsequent to the transfer made by Fotbal Club CFR 1907 Cluj SA in which the appellant plaintiff is a third party, do not confer them the right to fully cash in the established compensation, the right to collection being generated successively, for each installment in part and simultaneously with the payment made by the club Udinese Calcio, respectively with the ceasing of the obligation of Udinese Calcio to pay the transfer fee.

The mandate executed by the parties is closely linked to the transfer agreement, which means that also its performance must be done by relation to the transfer clauses, implicitly the payment of the owed fee for the agent must be made according to the payment of money by Udinese Calcio for the transfer of the player Sava Razvan.

According to the provisions from the Transfer Agreement, the Appeal Commission concludes that at the date of solving the foregoing appeal, only one installment is due,

from the five installments agreed in the transfer agreement for the payment of the transfer fee in total amount of 2,537,500 EURO.

In conclusion, the appellant-plaintiff is entitled to the payment of a 10% fee from installment no. 1, due at 30.08.2024, in quantum of 507,500 EURO of which 5% will be cut off, representing the solidarity compensation (25,375 EURO), resulting the amount of 482,125 EURO, as correctly decided by CNSL.

Referring to the appeal reason concerning the obligation of Fotbal Club CFR 1907 Cluj SA to pay the sum of 4,200 EURO + VAT, as default penalties afferent to the period 03.09.2024 – 23.09.2024 owed under art. III.7 from the agency agreement no. 412/23.07.2024, as consequence of failure to inform the agent, the Appeal Commission considers it unfounded, because by execution of the transfer agreement as agent, the appellant was aware of the terms and obligations according to which the transfer fee would be paid.

About the appeal reason concerning the obligation of Fotbal Club CFR 1907 Cluj SA to pay default penalties of 100 EURO/day calculated since 15.10.2024 (date of ending the default notice term) and until the actual payment of the owed debt, under art. III.6 from the agency agreement no. 412/23.07.2024, the Appeal Commission holds that the fundament for obliging to pay default penalties consists in the fault of the debtor of not paying in due term. In the present case, from the correspondence between the Parties results that lack of payment of the fee was owed greatly to the conduct of the appellant-plaintiff which issued invoices (invoice no. 23/23.09.2024 – for the amount of 1,479,913.75 lei VAT included, invoice no. 29/11.10.2024 – for the amount of 1,427,408.44 lei VAT included) for a much larger amount than the owed one, although the respondent – defendant club asked them to issue an invoice according to the contractual provisions.

The appeal forwarded by Fotbal Club CFR 1907 Cluj SA is also unfounded, because although in the content of the statement of defence admits to having collected the first installment of the transfer fee, in the appeal they ask for the rejection in full of the writ of summons. The diminishing of the attorney's fee is not in question as it is in ratio with the complexity of the case and the work performed by them".

28. The operative part of the Appealed Decision reads as follows:

"Rejects the appeal presented by Fotbal Club CFR 1907 Cluj SA, seated in Cluj-Napoca, 23 Romulus Vuia Street, Cluj County, against the CNSL Decision no. 793/14.01.2025, against Cătălin Sărmășan Football Management SRL, seated in Oradea, 2 Merilor Street, Bihor County, with chosen seat for communication of procedure documents in Bucharest, Calea 13 Septembrie no. 90, JW Marriott-Grand Offices, office 2.09, district 5, as unfounded.

Rejects the appeal presented by Cătălin Sărmășan Football Management SRL, seated in Oradea, 2 Merilor Street, Bihor County, with chosen seat for communication of procedure documents in Bucharest, Calea 13 Septembrie no. 90, JW Marriott-Grand

Offices, office 2.09, district 5, against the CNSL Decision no. 793/14.01.2025, against Fotbal Club CFR 1907 Cluj SA, seated in Cluj-Napoca, 23 Romulus Vuia Street, Cluj County, as unfounded […]".

29. On 19 March 2025, the Club paid the amount of EUR 48,212.50, corresponding to the fee due under the Agreement following the payment of the first instalment of the transfer fee.

30. On 15 April 2025, the grounds of the Appeal Committee decision (hereinafter the "Appealed Decision") were communicated by the RFF to the Parties.

31. On 16 April 2025, the Agent received an email from the attorney-at-law of the IBB Bank with the following content:

> "*After consultation with the client, 1 would like to inform you that the client does not want to appear in legal proceedings by providing statements, irrespective of what the content of such statements is.*
>
> *Having said that, IBB has no objection for you to use the assignment contract and/or notification, which evidences the relevant payments and their due dates, before the CAS".*

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

32. On 6 May 2025, the Appellant filed a Statement of Appeal against the Respondent, with respect to the Appealed Decision with the Court of Arbitration for Sport (the "CAS"), pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (2023 edition) (the "Code"). The Appellant proposed in this Statement of Appeal that the dispute be referred to a sole arbitrator and that English be the language of the procedure.

33. On 9 May 2025, the CAS Court Office informed the Parties of the opening of the procedure and granted the Respondent a deadline to state whether it agreed with the appointment of a Sole Arbitrator and with English being the language of the proceeding.

34. On 16 May 2025, the CAS Court Office acknowledged receipt of the Respondent's confirmation that it agreed that English be the language of the procedure.

35. On 27 May 2025, the Appellant filed its Appeal Brief.

36. On 28 May 2025, the CAS Court Office notified the Appeal Brief to the Respondent and granted a deadline to the Respondent to file its Answer.

37. On 2 June 2025, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division had decided to submit the present case to a sole arbitrator.

38. On 13 June 2025, the Appellant informed the CAS Court Office in advance that it requested that a hearing be held.

39. On 24 June 2025, the CAS Court Office informed the Parties that, pursuant to Article R54 of the Code, the Arbitral Tribunal appointed to rule on this matter would be constituted as follows:

Sole Arbitrator: Mr Nicolas Cottier, Attorney-at-Law in Saint-Prex, Switzerland

40. On 27 June 2025, the Respondent filed its Answer.

41. On 30 June 2025, the CAS Court Office notified the Answer to the Appellant and invited the Parties to indicate if they requested a hearing and/or a case management conference ("CMC") to be held.

42. On 3 July 2025, the CAS Court Office sent the following instructions from the Sole Arbitrator to the Parties (emphasis in original):

"Having carefully reviewed the Appeal Brief and the Answer as well as the Exhibits attached to the Parties' written proceedings, the Sole Arbitrator deems necessary to review the agreement between the Respondent and IBB bank extensively mentioned by both parties. The Sole Arbitrator thus requests the Respondent to produce this document by ***17 July 2025***.

Within the same deadline, the Sole Arbitrator also invites the Parties to confirm whether any fee was paid to the Appellant in relation to the second instalment due on 30 March 2025.

Finally, the Sole Arbitrator also invites the Respondent to provide, within the same deadline, the "notice sent to Udinese Calcio" in relation to the agreement between the Respondent and IBB bank".

43. On 7 July 2025, the Respondent requested a CMC and a hearing to be held.

44. On 17 July 2025, the Respondent requested an extension of the deadline to produce a copy of the agreement signed between the Respondent and the IBB Bank and of the "notice sent to Udinese Calcio" in relation to the agreement between the Respondent and the IBB Bank.

45. On 27 July 2025, the Respondent requested a further extension of the deadline to produce the abovementioned documents.

46. On 30 July 2025, the CAS Court Office confirmed that a hearing would be held by videoconference on 19 August 2025.

47. On 31 July 2025, the CAS Court Office sent a letter to the Parties stating *inter alia* the following (emphasis in original):

"On behalf of the Sole Arbitrator, and with reference to the Respondent's request to dismiss the hearing of the Appellant's witnesses, i.e. of the President of the Respondent, Mr Marian Bagacean, and of the General Director of Udinese Calcio, Mr Franco Collavino, as well as of a representative of IBB, while the Sole Arbitrator considers that the Appeal Brief is sufficient to determine the expected testimony of the witnesses and that the Respondent's procedural rights are not impacted in this regard, for the sake of good order, the Appellant is requested to provide a brief summary of the expected testimony of the aforementioned witnesses, as per Article R51 of the Code, by ***6 August 2025****.*

Additionally, the Sole Arbitrator reminds the Parties that the party calling a given witness is responsible for ensuring that the witness is available for testimony. If a party has managerial or legal authority over that witness (e.g. the witness is an employee, official, or otherwise under that party's control), that party is expected to act in good faith and take reasonable steps to secure the witness's presence at the hearing.

Therefore, the Respondent has a duty to collaborate in ensuring the presence and testimony of Mr Marian Bagacean, General Director of the Respondent, at the hearing".

48. On the same day, the Respondent provided a copy of its correspondence with IBB regarding the IBB Agreement.

49. On 6 August 2025, the Sole Arbitrator noted the Respondent's request in this sense but decided that a CMC was not required and invited the Respondent to confirm whether it considered that there were any outstanding procedural issues to be addressed before the hearing.

50. On 8 August 2025, the Respondent confirmed that there were no procedural issues that needed to be addressed before the hearing.

51. The Appellant signed the order of procedure on 12 August 2025and the Respondent signed the order of procedure on 14 August 2025.

52. On 19 August 2025, a hearing was held.

53. In addition to the Sole Arbitrator and Ms Amelia Moore, Counsel to the CAS, the following persons attended the hearing:

a) For the Appellant:

- Ms Anca Mituica, Attorney-at-law.

b) For the Respondent:

- Ms Simona Sferle, Legal Counsel;
- Mr Adrian Barstan, Legal Counsel;
- Mr Bagacean Vasile-Marian, General Manager.

54. During this hearing, the Respondent explained in detail the reason why the documents requested had not been produced so far by the Respondent. The Respondent notably referred to various emails exchanged with the IBB Bank. The Sole Arbitrator explained the reasons why such documents were important for both Parties. Considering notably the Respondent's duty to participate to the administration of the evidence when it comes to documents in its possession and the possible consequences for the Respondent if it failed to do so, the Respondent confirmed that would produce within 24 hours the corresponding documents.

55. Based on the Respondent's confirmation, it was agreed that the Appellant would receive the notice of assignment sent by the Respondent to Udinese Calcio as well as the first and last pages of the IBB Agreement, and that the full unredacted version would be provided to the Sole Arbitrator.

56. It was also agreed that the hearing should be postponed, and that a new hearing would be held on 1 September 2025.

57. On 19 August 2025, the CAS Court Office sent a letter to the Parties stating *inter alia* (emphasis in original):

> *"*[…] *I acknowledge receipt of the Respondent's email and enclosures received at 12:14 CEST today. I note that the Respondent's email includes, as agreed during today's hearing, the notice of assignment sent by the Respondent to Udinese Calcio and the first and last page of the agreement between the Respondent and IBB Bank as well as the relevant confidentiality clause. I also confirm that a separate email was sent by the Respondent to the CAS Court Office at 12:13 CEST enclosing the complete and unredacted version of these documents along with the documents mentioned in the Respondent's enclosed letter.*
>
> *Additionally, on behalf of the Sole Arbitrator, as agreed during today's hearing, the hearing scheduled on 19 August 2025 is postponed to* ***1 September 2025 at 10:00 AM CEST****. A new hearing confirmation will follow shortly.* […]".

58. On 1 September 2025, a second hearing was held. In addition to the Sole Arbitrator and Ms Amelia Moore, Counsel to the CAS, the following persons attended the hearing:

a) For the Appellant:

- Ms Anca Mituica, Attorney-at-law.

b) For the Respondent:

- Ms Simona Sferle, Legal Counsel;
- Mr Adrian Barstan, Legal Counsel;
  Mr Bagacean Vasile-Marian, General Manager.

59. At the outset of the second hearing, the Respondent accepted that the Sole Arbitrator could refer to the relevant parts of the IBB Agreement and of its attachments in the award to be issued. Then the President of the Respondent was cross examined by the Parties. The Parties made oral pleadings and answered the questions asked by the Sole Arbitrator.

60. At the end of the hearing, the Parties confirmed that they had no objection to the way the proceedings had been conducted and that they considered that their right to be heard had been respected.

IV. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF

A. The Appellant (the Agent)

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

- The Appellant alleges first that the Respondent never informed it of the payments received from Udinese or the IBB Bank in related to the transfer of the Player. It stresses that it had to get the information and issue invoices on the basis of the information received from third parties;

- The Appellant explains further that the fee due following the payment by Udinese to the Respondent of the first instalment provided under the Transfer Agreement was paid only on 19 March 2025, namely with a delay of 193 days according to the terms and conditions of the Agreement;

- Coming now to the IBB Agreement, the Appellant submits that the latter provides for an assignment of the Respondent's claim against Udinese which is substantiated by the Specific Notice no. 2024-09191456479537-WCN, published in the Romanian National Register of Secured Transactions. The Appellant adds that it had stressed the impact of the IBB Agreement on the payment plan of the fees in its notice of default sent to the Respondent and that the latter remained silent following that;

- Still in relation with the IBB Agreement, the Appellant contends that the IBB Bank confirmed through its email of 16 April 2025 that the IBB Agreement was an assignment agreement and that it had no objection that the IBB Agreement be disclosed during the procedure before CAS;

- Coming to Romanian law, the Appellant explains that the terms "assigned debt", "assignor" and "assigned" are terms specific to the contract of assignment of debt, governed by Articles 1566 to 1586 of the Romanian Civil Code. The Appellant argues that the contract of assignment of debt is a type of transfer of debt, this being the main obligation assumed by the assignor;

- As the Respondent has assigned its claim against Udinese to the IBB Bank, IBB is the new creditor of Udinese and the right to collect the claim belongs to IBB;

- The Appellant stresses that the service fee due by the Respondent of EUR 241,062.50 is undisputed, as is the payment of EUR 48,212.50 which took place on 19 March 2025 and therefore the remaining balance of EUR 192,850.00.

- When it comes to the issue of the due date of the service fee, the Appellant puts forward that according to article III.1 of the Agreement, which is "*the source of the obligation to pay the Appellant's fee, the parties expressly provided that the price of the services of the agent is equal to 10% of any amount that Fotbal Club CFR 1907 Cluj SA will receive from Udinese Calcio for the permanent or temporary transfer of the player Răzvan Sava*". Arguing that the amount received by the Respondent from IBB is a "receivable arising from the Transfer Agreement", the Appellant claims that the service fee was due from the moment the Respondent received the amount due by the IBB Bank under the IBB Agreement;

- In this respect the Appellant argues further that the NDRC rejected its claim "only" because it found that the Appellant had failed to provide evidence of the content of the assignment agreement, failing to take into account that the Specific Notice provided such evidence and that Udinese's obligation to pay the transfer fee to the Respondent has been definitely settled following the assignment of the claim to IBB.

62. Based on the above submissions, the Appellant requests the Sole Arbitrator to:

"➢ *Admit the present Appeal and to annul the Decision no. 2 passed on 11 March 2025 by the Appeal Committee of RFF and partially the Decision no. 793 passed on 14 January 2025 by National Dispute Resolution* [sic] *of RFF;*

➢ *As a consequence, based on article III from the agency contract no. 412 concluded on 23 July 2024, to establish the obligation of the Respondent to pay the remaining price of the Appellante [sic] services amounting Euro 192,850.00 + Vat;*

➢ *Based on article III.4 from the agency agreement no. 412/23.07.2024 to establish the obligation to pay late payment penalties for breach of the obligation to provide information amounting 4200 euro + Vat, due for the period 03.09.2024 (one day after the date of receipt of the first installment) and until 23.09.2024 (when the agent issued invoice no. 0023/23.09.2024).*

➢ *Based on article III.6 from the agency agreement no. 412/23.07.2024 to establish the obligation to pay late payment penalties for non-payment of the first installment of the fee only as of October 15, 2024 (the day after the payment deadline communicated to CFR by the notice of default) until 18 March 2025 (the day before the payment of the fee for the first installment)*

➢ *To order the Respondents to pay the Appellant a contribution toward its legal and other costs generated by this case represented by translation costs, amounting 4000 Ron, attorney fee, amounting 5500 CHF, and arbitration costs paid to CAS".*

B. The Respondent (the Club)

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

- The Respondent claims first that the Appellant cannot claim the payment of the Romanian VAT above the amount due under the Agreement which clearly specifies that the service fee is VAT included;

- The Respondent then argues that the Appellant was constantly in bad faith during the procedure and issued two invoices which were legitimately rejected by the Respondent as they did not meet the terms and conditions of the Agreement;

- The Respondent puts forward that it is only when the Appealed Decision was issued that it could proceed with the payment based on a valid legal ground to do so;

- The Respondent then contends that the Appeal Committee and the NRDC where right in finding that "*the only certain amount was the amount of EUR 48,212.5 (already paid by the Respondent to the Appellant) representing the fee corresponding to the 1st instalment of the transfer fee received from Udinese Calcio, but the amount was not due until the moment of communication of a proper invoice, issued in accordance with the contractual provisions";*

- The Respondent stresses that the burden of proof principle refers to the obligation of a party in a legal dispute to prove the facts they assert in support of their case and considers that the Appellant failed to prove its arguments, the email of the IBB Bank containing only general and vague terms which do not prove the content of the IBB Agreement;

- Coming now to the legal arguments raised by the Appellant regarding the impact on the due date of the service fee following the alleged execution of an assignment agreement between the Respondent and IBB, the Respondent puts forward that "*the assignment of the receivables cannot be assimilated with the payment – in the sense that it cannot be considered that the Respondent received the payment from Udinese Calcio; in reality, the Respondent concluded a factoring contract and the legal nature of the factoring contract does not correspond to a classical assignment contract as the Appellant tried to present during the course of the proceedings".*

- The Respondent adds on this point that, in any event, the Appellant is a third party to the IBB Agreement and cannot hold any right from it;

- The Respondent argues further that it "*did not receive until the moment the AC issued the Appealed Decision any other payments from the debtor, Udinese Calcio, except for the first installment (...). Therefore, in view of the above-presented arguments corroborated with the provisions of the Transfer Agreement, the Respondent did not receive the entire transfer fee from Udinese Calcio as the Appellants pretends".*

- The Respondent contends that "*the claimant's right to request and collect the price arises at the same time as the Italian club's obligation to pay the transfer fee is extinguished".* The Respondent argues that as Udinese still has to pay the other instalments, the Appellant cannot claim the corresponding service fee;

- According to the Respondent, the factoring contract is an unnamed contract under the Romanian Civil Code and may be considered an atypical form of an assignment of receivables, particularly in light of the clauses concerning the liability undertaken by the Respondent towards IBB;

- The Respondent explains that it undertook, among other obligations, to guarantee with its own assets the performance of payments by Udinese Calcio, to pay penalties for late payment in the event that Udinese Calcio fails to comply with the agreed deadlines, and to indemnify IBB for any additional interest, fees, or commissions arising in connection with the conclusion and performance of the IBB Agreement;

- The Respondent adds that the IBB Agreement is a factoring agreement and claims that "*the factoring contract derives from the combination of a loan with an assignment of receivables by way of security. This atypical form of security concerns exclusively the assignor's right to dispose of its own claims and does not affect the rights and obligations of other parties arising from the original agreement (the source of the receivable) or from the ancillary contract. From this point of view the factoring contract concluded by the Respondent involved the assignment of receivables but the conclusion of the factoring contract cannot trigger the obligation of the Respondent to pay the entire price to the Agent";*

- The Respondent explains further that it did not assign all its rights deriving from the Transfer Agreement in the sense that it (1) "*undertook the obligation to collect, retain, and transfer to the banking contractual partner, Internationales Bankhaus Bodensee AG, within three working days, any amounts received from Udinese Calcio in connection with the transfer of the player Sava Răzvan, regardless of the method of payment*" and that it (2) "*is also obliged to initiate legal proceedings before the competent jurisdictional bodies for any claims arising from the Italian club's failure to comply with the contractual provisions".*

64. Based on the above submissions, the Respondent requests the Sole Arbitrator:

"*i. In principle, to state that the Decision no. 2 passed by the RFF`s Appeal Committee on 11 March 2025 is legal and founded and as result to fully reject the appeal of the Appellant.*

ii. For the effect of the above, to state that the Claimant shall be condemned to pay any and all costs of the present proceedings.

iii. To order the Appellant to pay the Respondent a contribution towards its legal fees and other costs generated by the case at hand, no less than CHF 5,000. uphold the DRC Decision".

V. CAS JURISDICTION

65. Article R47 (1) of the 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".*

66. Article 36.7 of the RFF Regulation on the Status and Transfer of Football Players (hereinafter the "RFF RSTFP", 2023 edition) provides that "*the Decisions of the Appeal Committee of the R.F.F. are final and enforceable at national level starting with the date in which a decision has been issued and can be appealed at Tribunal Arbitral of Sport in 21 days from the communication".*

67. It follows that CAS has jurisdiction to adjudicate and decide on the appeal, which is undisputed. The Parties confirmed their agreement on CAS jurisdiction by signing the Order of Procedure.

VI. ADMISSIBILITY

68. The grounds of the Appealed Decision were notified to the Appellant on 15 April 2025 and the Appellant filed its Statement of Appeal before CAS on 6 May 2025, *i.e.* within the deadline of 21 days set under Article 36.7 of the RFF RSTFP quoted above. The appeal also complied with all other requirements of Article R48 of the Code, including the payment of the CAS Court Office fee.

69. It follows that the appeal is admissible, which is also undisputed.

VII. APPLICABLE LAW

70. Article R58 of the Code provides as follows:

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

71. The present case deals with three agreements, namely:

1. The Agreement, which does not specify by which national law it is governed. As both parties to the Agreement are Romanian legal entities and the Agreement referred *inter alia* to the Romanian Civil Code and the competence of the courts of the Romanian Football Federation, the Sole Arbitrator deems appropriate to apply Romanian law to the Agreement.

2. The Transfer Agreement, which is governed by Italian law and the FIFA Regulations.

3. The IBB Agreement, which is governed by German law.

72. The Appeal Committee of the RFF, which issued the Appealed Decision, is an internal body of the RFF which is a Romanian association.

73. Given the above, the Sole Arbitrator finds that the present proceedings shall be governed by the RFF Regulations and, subsidiarily, Romanian law, subject to the issues related to the Transfer Agreement and the IBB Agreement which shall, if necessary, be solved according to Italian law and German law, respectively. This is undisputed by the Parties.

VIII. MERITS

A. The undisputed legal elements of the case and the VAT issue

74. The Sole Arbitrator stresses first that it is undisputed that the Appellant has the right to the agent fee set in the Agreement in a total amount of EUR 241,062.50, corresponding to 10% of the transfer fee under the Transfer Agreement minus 5% corresponding to the solidarity contribution according to the FIFA regulations, as provided under Article III.1 of the Agreement.

75. The calculation is as follows:

[EUR 2,537,500.00 (Transfer fee) - EUR 126,875 (Solidarity Contribution)]*10% = EUR 241,062.50

76. The Appellant admits that it issued two invoices with reference to the service fee, the second one replacing the first one.

77. This second invoice is based on the amount of EUR 241,062.50, to which the Appellant has then added the Romanian VAT of 19%, the amounts being expressed in Romanian currency.

78. Article III.8 of the Agreement reads as follows: "*The fee established under Article III.1 is a gross amount, meaning it includes all related taxes and costs, including VAT (if applicable), as well as all expenses incurred by the agent".*

79. Based on the clear wording of Article III.8 of the Agreement, the Sole Arbitrator concludes that the Appellant was not allowed to add the Romanian VAT to the amount of EUR 241,062.50 due under Article III.1 of the Agreement.

80. Considering the payment of EUR 48,212.50 made on 19 March 2025 by the Respondent, the latter owes the Appellant an amount of EUR 192,850 (EUR 241,062.50 – EUR 48,212.50), VAT included, corresponding to the amount requested by the Appellant in its Statement of Appeal and in its Appeal Brief.

B. The due date of the remaining amount of EUR 192,850 owed by the Respondent to the Appellant

81. Article III.5 of the Agreement provides that "*in the event that the amounts due to Fotbal Club CFR are paid in instalments, the agent's fee shall be paid with priority, on a pro rata basis, from each instalment received by Fotbal Club CFR".*

82. In a nutshell, the dispute between the Parties resides in that the Appellant claims that this article means that the agent's fee is due when the Respondent receives an amount linked to the Transfer Agreement independently from whom is paying such amount, whereas the Respondent claims that the amount must be received from Udinese, or that, at least, the due date for the agent's fee must correspond to the due date of each date of payment made by Udinese in relation with the Transfer Agreement.

83. The Sole Arbitrator notes first that the Specific Notice quoted above and provided by the Appellant to the NDRC and the Appeal Committee of the RFF, mentions clearly an assignment of debts and refers specifically to the last four assignments due by Udinese to the Respondent in relation to the Transfer Agreement dated 9 August 2024, which is also specifically referred to in the Specific Notice.

84. In this Specific Notice, the Respondent is mentioned as the "Assignor" and Udinese as the "Assigned Debtor".

85. The Sole Arbitrator concludes therefore that the Specific Notice proves that the Respondent is no longer the owner of the rights to the instalments or receivables and that Udinese, as the "Assigned Debtor", must pay the remaining amounts to a third party. In that sense, the service fee due to the Appellant cannot depend on payments made by Udinese to the Respondent as the Respondent does not own any claim against Udinese anymore.

86. The Respondent claims however that the IBB Agreement is a factoring agreement and insists on the fact that this "*factoring contract derives from the combination of a loan with an assignment of receivables by way of security".*

87. In other words, the Respondent argues that IBB lent money to the Respondent and that the receivables from Udinese were only a guarantee. If this were the case, this would mean that the Respondent is still the counterparty of the receivables from Udinese and that IBB is only the receiver of the instalments on behalf of the Respondent. Once the receivable is collected from Udinese by IBB, then the Respondent's loan would be

amortised by offsetting the amounts wired by Udinese to IBB, who collected the receivables on the Respondent's behalf.

88. If the Respondent were able prove the above, this could change the conclusion drawn from the clear wording of the Specific Notice. Yet, this requires analysing the IBB Agreement, which is the reason why the Sole Arbitrator requested, from the Respondent, a full copy of the IBB Agreement as well as of the documentation related to it, which were eventually produced by the Respondent.

89. As the Respondent agreed at the hearing that the relevant parts of the IBB Agreement and the documentation related to it be mentioned in the present award, the Sole Arbitrator will now quote the contractual elements on which his reasoning is based.

90. The Sole Arbitrator notes first the title of the IBB Agreement which is "*Purchase of Contract of Claims arising under a Transfer Agreement*" and the designation of the parties to the IBB Agreement as "the Seller" (the Respondent) and "the Purchaser" (IBB Bank). This wording reflects a transfer of ownership ("a Purchase") and not the contractual combination of a loan with a transfer of security as put forward by the Respondent in its Answer.

91. According to the Preamble of the IBB Agreement, the "*Seller is entitled* […] *to sell and assign the payment claims resulting from the Transfer Agreement".*

92. The IBB Agreement provides further in the Preamble that the "*Seller now offers to the Purchaser its claims for payment against* [Udinese] *of* (…) *all* [four] *Instalments together the "****Claim for Payment****"* (emphasis in original).

93. Coming now to the core of the IBB Agreement, the Sole Arbitrator quotes herewith the following parts of the relevant articles (emphasis in original omitted):

"*1. Object of the Purchase*

1.1 Seller hereby sells to Purchaser Seller's Claim for Payment against the Club.

1.2 The sale of the Claim for Payment shall take immediate effect.

(…)

2.2 The Purchase Price [of EUR 1,766,412.25] *shall be due for payment by September 20, 2024* (…) *provided that the following pay-out requirements* (…) *have been cumulatively met* (…)*:*

- *Submission of a Notification of Assignment and Waiver of Objections* (…) *signed by Seller* (…)*.*

- *Execution of a separate Assignment Contract (English/Romanian) for registration purposes of the assignment of the Claim for Payment with the Romanian "National Register of Mobility Publicity" (registration to be performed after the pay-out of the Purchase Price)* (…).

(…)

2.6 As Seller sells and assigns the Claim for Payment to Purchaser including all corresponding rights, Purchaser acquires all of Seller's claims against the Club in connection with the Claim for Payment, including but not limited to claims for penalties, default interest and acceleration of payments (…).

3. Seller assigns to Purchaser the Claim for Payment together with all corresponding rights. (…)

7.1 Purchaser hereby instructs and empowers Seller to collect the Claim for Payment on Purchaser's behalf.

7.2 Seller shall instruct the Club to make payments regarding the Claim for Payment only to the following account: (…)

7.3 Payments by the Club in cash, by check, transfer, to an account of Seller or bill of exchange shall be accepted by Seller acting as Purchaser's trustee. Both Purchaser and Seller agree that title to such payment instruments and Seller's claims on banks or post offices as a result of such payments shall, on receipt by Seller, pass directly to Purchaser. Seller shall transfer all such amounts received immediately to the account of Purchaser cited in clause 7.2 above (…).

8. Seller shall (…) *take all such actions as Purchaser may reasonably require to assist Purchaser* (…)

8.4 Seller's obligation set out in this clause to collect any receivables shall lapse in the event that the Club's inability of payment is proven or essential payments out of the Club's assets can no longer be anticipated. (…)

9. Purchaser shall bear Seller's reasonable legal costs that may arise in connection with disputes regarding the Claim for Payment between Seller and the Club (…).

11. Confidentiality

11.1 (…) *Seller is allowed to disclose the confidential information to the National Football Association, to UEFA and to FIFA or to state organs if it is imperative.* (…)".

94. A Notification of Assignment from IBB Bank to Udinese is attached to the IBB Agreement, with, in essence, the following content:

"*Herewith we would like to inform you, also in the name of Fotbal Club CFR 1907 Cluj S.A. that by a "Purchase Contract of Claims" and a corresponding "Assignment Contract" dated September 2024, Fotbal Club CFR 1907 Cluj S.A. assigned to Internationales Bankhaus Bodensee AG the following receivables including all corresponding rights:*

[mention of the remaining four instalments]

(…)

As the Accounts Receivables were assigned to Internationales Bankhaus Bodensee AG including all corresponding rights, Internationales Bankhaus Bodensee AG also acquires all claims against you in connection with the Accounts Receivables, including but not limited to penalties, default interest, and acceleration of payments, if any, in particular in case of delayed payment(s) of the above-mentioned Accounts Receivables.

(…).

The above mentioned payments of the Accounts Receivables (…) *have to be transferred at their respective maturity dates – with debt-discharging effect – only to the following account:*

[account details of IBB].

We make you aware that payments to other accounts will not have the effect of discharging the above mentioned debts. (…)".

95. The Notification of Assignment from IBB Bank to Udinese was countersigned by the Respondent which, as a consequence, confirmed the assignment of the claims to IBB.

96. The assignment contract in English and Romanian mentioned in the IBB Agreement (cf. clause 2.2 of the IBB Agreement copied above) was attached to it, duly signed by both parties to the IBB Agreement in order to be registered to the "National Registry for Mobile Publicity".

97. Based on the clear content of the IBB Agreement and of its attachments, the Sole Arbitrator does not see any contractual or legal argument which would reverse the proof provided by the Appellant by way of the Specific Notice. All the elements quoted above demonstrate that, contrary to the submissions made by the Respondent in its Answer, the IBB Agreement is not at all to be considered as a loan combined with a security, and that the IBB Agreement actually expressly and constantly refers to a purchase of receivables, namely the four instalments due by Udinese.

98. The change of ownership on those receivables was agreed between the Respondent and the IBB Bank and validly disclosed to Udinese. The assignment of debts is complete and was duly registered within the Romanian official registry as put forward by the Appellant before the NDRC and the Appeal Committee of the RFF.

99. Considering that the Respondent admits that it received the amount of the assignment that it wrongly qualifies as a "loan" and, in any event, never claims that the IBB Agreement was not properly executed by the bank, the Sole Arbitrator concludes that the Respondent received the amount agreed with IBB Bank on the date indicated in the IBB Agreement, namely 20 September 2024.

100. Article III.5 of the Agreement provides that "*in the event that the amounts due to Fotbal Club CFR are paid in instalments, the agent's fee shall be paid with priority, on a pro rata basis, from each instalment received by Fotbal Club CFR*".

101. It is undisputed that the Respondent received the first instalment from Udinese in the amount of EUR 482,125.00 on 2September 2024 (cf. para. 9 above) and it was proven to the entire satisfaction of the Sole Arbitrator that a second and final instalment in the amount of EUR 1,766,412.25 was received from IBB Bank on 20 September 2024, who owed the payment of this second instalment to the Respondent based on the IBB Agreement which was linked to the Transfer Agreement.

102. Given the clear wording of the Agreement, the Appellant's fee became due and must be paid from those two instalments, on a *pro rata* basis.

103. The Respondent claims that the payment should come from Udinese in order for the Appellant's fee to be due. Yet, from the moment the IBB Agreement was executed and the second instalment paid by the IBB Bank to the Respondent, the Respondent could of course not receive any further amount from Udinese so that, if one follows the line of reasoning of the Respondent, this condition put forward by the Respondent became – if it existed – in any event impossible, for reasons which were exclusively linked to the IBB Agreement. This situation being caused by the Respondent and the separate agreement it willingly signed with IBB Bank, this prevents the Respondent from raising this argument in order to avoid paying the fee due to the Appellant until the deadlines set in the Transfer Agreement have lapsed. Indeed, those deadlines are now only a matter between the IBB Bank and Udinese. No payment related to the Transfer Agreement can indeed be made to the Respondent as of the date of the IBB Agreement, *i.e.* 20 September 2024.

104. Based on the foregoing, the Sole Arbitrator finds that the Appellant's fee was due, *pro rata*, on 3 September 2024 in relation to the payment made by Udinese and on 20 September 2024 in relation to the payment made by IBB Bank.

105. This means that, given the payment made on 19 March 2025 by the Respondent, with respect to the payment made by Udinese, the Respondent owed the Appellant the amount of EUR 192,850, VAT included, which relates to the remaining amount of the transfer fee, as of 20 September 2024.

106. The Sole Arbitrator rejects therefore all submissions of the Respondent on this point and the Appealed Decision shall be set aside.

107. The Sole Arbitrator concludes as well that the Appellant's fee shall be calculated on the basis of the full amount of the transfer fee (as stipulated in the Transfer Agreement) upon deduction of the 5% solidarity contribution in accordance with Clause III.2. of the Agreement (cf. para. 75 *supra*), as the decision to proceed with the assignment of the four remaining receivables was taken by the Respondent without involving the Appellant who was never informed of the negotiations between the Respondent and the IBB Bank. It is therefore up to the Respondent to bear the full amount of the discount negotiated between the Respondent and the IBB Bank, which cannot validly be opposed to the Appellant in the framework of the Agreement.

108. In other words, the Respondent remains bound by the Agreement and the rules of calculation of the Appellant's fee agreed in it whereas the Appellant benefits from an earlier payment of its fee thanks to the execution of the IBB Agreement.

C. The Penalties for late notice and payment

109. The Sole Arbitrator notes first that the Respondent did not inform the Appellant of the instalments paid by Udinese and IBB.

110. As to the first instalment and the payment made by Udinese, the Appellant claims the amount of EUR 4,200 + VAT corresponding to the period from 3 September 2024, namely one day after the date of receipt of the first instalment, until 23 September 2024, namely the date of issuance by the Appellant of the first invoice.

111. Article III.7 of the Agreement provides that "*should Fotbal Club CFR 1907 Cluj S.A. fail to notify the agent of any payment received from Udinese Calcio within 2 days of receipt, Fotbal Club CFR 1907 shall owe penalties of EUR 200 per day, calculated from the* ***expiry*** *of the 2-day deadline until the date the agent is notified*" (emphasis added).

112. Considering that the Respondent received the amount from Udinese on 2 September 2024, the period of calculation of the penalty due by the Respondent should start on 5 September 2024 (as the 2-day deadline expired on 4 September 2024) so that the calculation made by the Appellant shall be reduced by two days, i.e. EUR 400, having in mind that the Appellant admits to have been informed of all payments as of 23 September 2024, obviously through other ways.

113. The amount of penalty due for late notice is therefore of EUR 3'800. As the Appellant claims the VAT on top of this amount, the Sole Arbitrator notes that nothing in the Agreement confirms that such penalty is subject to the Romanian VAT and that no element in the file confirms that this amount would be subject to Romanian VAT.

114. Separately, the Appellant claims that a penalty for late payment of the fee should apply in relation to the first instalment paid by Udinese, namely EUR 48,215.50, from 15 October 2024, i.e. the day after the deadline set by the Appellant in its Notice of Default, until 18 March 2025, i.e. the day before the payment of the fee related to the first instalment was made.

115. Article III.6 provides that "*in the event of late payment of the service fee, a penalty of EUR 100 per day shall apply for each day of delay in the payment of any amount due under this Agreement. The penalty of EUR 100 per day shall accrue until the date of full payment".*

116. The Respondent argues that the payment of the fee for the first instalment was suspended because the invoice issued by the Appellant was not correct. Indeed, the Appellant had added VAT to the total fee due under the Agreement.

117. The Sole Arbitrator finds the Respondent's submission irrelevant. The Agreement determined clearly the amount due to the Appellant and indicated the account number

of the Appellant so that the issuance of the invoice had solely an internal accounting purpose. In the present case, nothing in the Agreement justifies a suspension of the payment until a correct invoice be issued and the Appellant had simply to pay the amount due without the additional VAT, sending in parallel a request for correction of the invoice based on the clear wording of the Agreement. This letter and the Agreement were sufficient accounting documents to justify the correct execution of the payment by the Respondent.

118. In other words, the incorrectness of the invoice did not suspend the payment term of the Appellant's fee.

119. Considering the period of 154 days between 15 October 2024 and 19 March 2025, the Sole Arbitrator fixes the penalty due by the Respondent to the Appellant at EUR 15,400.

D. Conclusions of the Sole Arbitrator

120. Based on the requests for relief of the Parties, after having carefully reviewed the Appealed Decision and the submissions of the Parties, and for the reasons exposed in this award, the Sole Arbitrator concludes that the Respondent owes the Appellant the following amounts:

1) EUR 192,850, VAT included, as the remaining amount of the agent fee due for the services provided under the Agreement;

2) EUR 3,800 as a penalty for breach of the obligation to notify the Appellant of the payment of the first instalment of the transfer fee provided under the Transfer Agreement;

3) EUR 15,400 as a penalty for late payment of the agent fee due following the payment by Udinese of the first instalment of the transfer fee provided under the Transfer Agreement.

IX. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport pronounces that:

1. The appeal filed by Cătălin Sărmășan Football Management S.R.L. on 6 May 2025 against Fotbal Club CFR 1907 Cluj S.A. with respect to the decision rendered by the Appeal Committee of the Romanian Football Federation on 11 March 2025 is partially upheld.

2. The decision issued by the Appeal Committee of the Romanian Football Federation on 11 March 2025 is set aside.

3. Fotbal Club CFR 1907 Cluj S.A. owes Cătălin Sărmășan Football Management S.R.L. the following amounts:

    - EUR 192,850, VAT included, as the remaining amount of the agent fee due for the services provided under the Agreement in accordance with Article III.1 of the Agency Agreement dated 23 July 2025;

    - EUR 3,800 as a penalty for breach of the obligation to provide information in accordance with Article III.7 of the Agency Agreement dated 23 July 2025;

    - EUR 15,400 as a penalty for late payment of the agent fee due to Cătălin Sărmășan Football Management S.R.L. in accordance with Article III.6 of the Agency Agreement dated 23 July 2025.

4. (…).

5. (…).

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

Seat of arbitration: Lausanne, Switzerland
Date: 12 January 2026

COURT OF ARBITRATION FOR SPORT

Nicolas Cottier
Sole Arbitrator