



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2025/A/11626 Sport Club Corinthians Paulista v. FC Midtjylland A.S & FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Dr Marco Balmelli, Attorney-at-Law in Basel, Switzerland

in the arbitration between

Sport Club Corinthians Paulista, Brazil

Represented by Sergio Ventura Engelberg, Attorney-at-Law in São Paulo, Brazil

- Appellant -

and

FC Midtjylland A.S, Denmark

Represented by Centrefield LLP, 7 Constance Strees, Knot Mill, M15 4JQ in Manchester,
United Kingdom

- First Respondent -

and

Fédération Internationale de Football Association, Switzerland

Represented by Mr Miguel Liétard Fernández-Palacios and Mr Roberto Nájera Reyes, FIFA
Litigation Department, Miami, United States of America

- Second Respondent -

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I. PARTIES

1. Sport Club Corinthians (the “Appellant” or “Corinthians”) is a professional football club with its registered seat in São Paulo, Brazil. It is affiliated to the Brazilian Football Confederation (the “CBF”), which, in turn, is affiliated to the Fédération Internationale de Football Association (the “FIFA”).
2. FC Midtjylland A.S (the “First Respondent” or “Midtjylland”), is a professional football club with its registered seat in Herning, Denmark. It is affiliated to the Danish Football Association (the “DBU”), which, in turn, is affiliated to the FIFA.
3. FIFA (the “Second Respondent” or “FIFA”) is an association under Swiss law and has its registered office in Zurich, Switzerland. FIFA is the international sports governing body for the sport of football and exercises regulatory, supervisory and disciplinary functions over national associations, clubs, officials and players worldwide.

II. FACTUAL BACKGROUND

A. Facts of the case

4. Below is a summary of the main facts established on the basis of the decision rendered by the FIFA Players’ Status Chamber (the “FIFA PSC”) on 25 June 2025 (the “Appealed Decision”), the submissions of the Parties and the evidence examined in the course of the proceedings. This background is set out for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be referred to, where relevant, in connection with the later legal discussion. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence available in the present proceedings, only the submissions and evidence necessary to explain the reasoning of the award will be referred to in the following paragraphs.
5. On or around 20 July 2024, the Appellant and the First Respondent (the “Contractual Parties”) concluded a “International Transfer Agreement” (the “Transfer Agreement”) regarding the permanent transfer of the Player, Charles Rigon Matos, a Brazilian citizen born 19 June 1996 (the “Player”). The Contractual Parties agreed on a transfer fee of EUR 1’600’000.00 (the “Transfer Fee”), which should have been paid by the Appellant in three instalments as follows:
 - EUR 400’000.00 payable within five days after the Transfer Agreement was signed by both Contractual Parties;
 - EUR 400’000.00 payable by 20 August 2024; and
 - EUR 800’000.00 payable by 15 March 2025.
6. Beside the clause regarding the Transfer Fee and the payment modalities, the Contractual Parties agreed further on the following provisions:

“Failure to make payment

10. *IF SCC fails to make any payment due to FCM by the date for payment then the total Transfer Fee (less any instalment(s) previously paid) and any outstanding contingent payments shall become immediately due and payable without notice. Due to eventual bank issues or restrictions that it may occur in the payment due date, FCM grants to SCC a grace period of 5 (five) days prior to the acceleration payment.*
11. *In addition, each time SCC fails to make any payment due to FCM by the date for payment then SCC is obligated to pay to FCM an additional compensation of EUR 200.000 (two-hundred-thousand euros) plus interest.*
 - a. *For the avoidance of doubt, in case SCC fails to pay make the payments set out in Clause 2.1 and Clause 2.2 by the date for payment, then SCC is obligated to pay to FCM an additional compensation of EUR 400.000 (four-hundred-thousand euros) plus interest.*
 - b. *Due to the lately, well-known issues with SCC obeying its payment obligations as well as the difficulties SCC is facing being granted a bank guarantee, the parties have agreed on adding this mechanism to the Transfer Agreement.*
12. *Interest shall accrue on an overdue amount(s) at the rate of 12% (twelve percent) per annum. Such interest shall accrue on a daily basis from the date of default until the actual date of payment of the overdue amount(s). SCC shall pay the interest together with the overdue amount(s)”.*
7. On 26 July 2024, after the Contractual Parties agreed that the payment of the first instalment may be done one day after the contractually agreed deadline, such instalment was paid by Corinthians.
8. On 21 August 2024, again after being granted two additional days by Midtjylland, Corinthians provided the proof of payment of the second instalment, which was done on 20 August 2024.
9. On 18 March 2025, the First Respondent informed the Appellant by e-mail that the third and last instalment was not paid on time. The First Respondent therefore granted the Appellant a deadline until 19 March 2025 to provide proof of the payment.
10. On 24 March 2025, again by e-mail, the First Respondent sent the Appellant a default notice regarding the outstanding third instalment.
11. On 23 April 2025, the First Respondent sent the Appellant a written default notice (the “Default Notice”). In this Default Notice, Midtjylland set a deadline until 5 May 2025 for the Appellant to pay (i) the remaining third instalment amounting EUR 800’000.00 (the “Last Instalment”), (ii) the contractual compensation fee according to clause 11 of the Transfer Agreement amounting EUR 200’000.00 (the “Contractual Penalty”) and (iii) the interest that has accrued on both of the aforementioned sums of 12% *per annum* (together

the “Outstanding Amounts”). Further, Midtjylland announced that if the Outstanding Amounts are not paid within the deadline, it will commence proceedings before the FIFA Football Tribunal.

B. Proceedings before the FIFA Players’ Status Chamber

12. On 15 May 2025, Midtjylland lodged a claim before FIFA, requesting payment of the Outstanding Amounts.
13. On 25 June 2025, the FIFA PSC passed the Appealed Decision, which reads, in its operative part, as follows:

- “1. *The claim of the Claimant, FC Midtjylland, is partially accepted.*
2. *The Respondent, Sport Club Corinthians Paulista, must pay to the Claimant the following amount(s):*
 - **EUR 800,000 as outstanding amount plus 12% interest per annum as from 16 March 2025 until the date of effective payment.**
 - **EUR 200,000 as contractual penalty.**
3. *Any further claims of the Claimant are rejected.*
4. *A reprimand is imposed on the Respondent.*
5. *A fine in the amount of USD 60,000 is imposed on the Respondent, which must be paid to FIFA within 30 days of notification of this decision. Such fine must be paid to the following bank account with a clear reference to the case FPSD-19248:*

*UBS Zurich
Account number 230-366677.61N (FIFA Players’ Status)
Clearing number 230
IBAN: CH12 0023 0230 3666 7761 N
SWIFT: UBSWCHZH80A*

6. *Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.*
7. *Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made **within 45 days** of notification of this decision, the following **consequences** shall apply:*
 1. *The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum*

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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.*
 8. *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.*
 9. *The final costs of the proceedings in the amount of **USD 25,000** are to be paid by the Respondent to FIFA. FIFA will reimburse to the Claimant the advance of costs paid at the start of the present proceedings (cf., note relating to the payment of the procedural costs below)''.*
14. On 9 July 2025, the FIFA PSC notified the grounds of the Appealed Decision to the Appellant and the First Respondent.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

15. On 29 July 2025, the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS") pursuant to Article R48 of the Code of Sports-related Arbitration (2025 edition) (the "CAS Code") against the First Respondent and Second Respondent regarding the Appealed Decision.
16. On 5 August 2025, the CAS Court Office notified the Parties of the Statement of Appeal.
17. On 11 August 2025 and within the relevant time-limit, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
18. On 15 resp. 18 August 2025, the CAS Court Office informed the Parties that the initial time limit for the Respondents to file their Answers was set aside and that a new timeline would be fixed upon the Appellant's payment of its share of the advance of costs.
19. On 23 September 2025, the First Respondent submitted a request for security of costs in the sum of CHF 4'000.00 to be paid into a CAS escrow account, in accordance with Article R37 CAS Code.
20. On 29 September 2025, the CAS Court Office informed the Parties that the First Respondent's request is dismissed as the CAS does not have an escrow account.
21. On the same day and further to the Parties' agreement to appoint a sole arbitrator in this case, the CAS Court Office informed the Parties that the Arbitral Tribunal appointed to hear the present matter was constituted as follows:

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22. On 8 October 2025 and within the relevant timeline, the First Respondent filed its Answer in accordance with Article R55 of the CAS Code, after the CAS Court Office granted it a time extension on 26 September 2025.
23. On 14 October 2025 and within the relevant timeline, the Second Respondent filed its Answer in accordance with Article R55 of the CAS Code, after the CAS Court Office granted it a time extension on 29 September 2025.
24. On 10 November 2025 and after having been duly consulted, the Parties were informed that the Sole Arbitrator deems himself sufficiently well-informed to decide the case at hand based on the Parties' written submissions and therefore decided not to hold a hearing.
25. On 28 November 2025 and within the relevant timeline, the Parties provided the CAS with the duly signed Order of Procedure. By signing the Order of Procedure, the Parties confirmed their agreement that the Sole Arbitrator decide the matter based solely on their written submissions and that their right to be heard had been respected.
26. On 2 December 2025, the Parties were informed by the CAS Court Office that, according to Article R59 CAS Code, the evidentiary proceedings closed on 28 November 2025.

IV. SUBMISSIONS OF THE PARTIES

27. 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 has, however, 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 content of the Appealed Decision were all taken into consideration.

A. Appellant

28. The Appellant filed the following requests for relief:

- (i) *“To fully dismiss and annul the decision issued by the FIFA PSC since it violates the principle of reasonableness and contractual stability, as well as the matter of excessive onerousness and the jurisprudence of this Court, to set aside the obligation of Corinthians to pay to FCM the amount of EUR 800,000 plus interest and contractual penalty of EUR 200,000;*
- (ii) *set aside the penalty fine of USD 60,000 imposed by FIFA against the Appellant in the terms of article 12bis of FIFA Regulations;*
- (iii) *To condemn the Respondent to the payment of the legal expenses incurred by the Appellant; and*

(iv) *To establish that the costs of the ongoing arbitration will be borne by the Respondent”.*

29. The arguments provided by the Appellant are the following:

- The contractual stability of the Transfer Agreement is not at harm in the present case as the Appellant already paid two instalments of the Transfer Fee which amount to fifty percent of the total amount of EUR 1’600’000.00.
- The Contractual Penalty is an excessive sanction that violates the “*principles of justice and equity*”. The Appellant argues that the case at hand is of exceptional nature and therefore, according to CAS jurisprudence, as they have already paid two instalments, “*no financial prejudice is observed in this scenario*”.
- Further, the Appellant argues that they currently adhere to collective payment plans regulated by the Brazilian Civil Court and by the Resolution Chamber of the CBF. The obligation to pay the Outstanding Amounts could result in the collapse of the Appellant’s finances, which they are determined to reorganize.
- Lastly, and referring to the sanction imposed by the FIFA DRC, the payment of a fine in the amount of USD 60’000.00 (the “Fine”), the Appellant argues that the First Respondent failed to send the Default Notice to the correct e-mail addresses as stipulated in clause 20 of the Transfer Agreement. Such failure results in the Appellant not being put in default and therefore not having “*overdue payables*” as defined under Article 12bis para. 3 RSTP. As such, they cannot be sanctioned under Article 12bis para. 2 and 4 RSTP and the Fine must be lifted.

B. First Respondent

30. The First Respondent’s prayers for relief are as follows:

- I. This Answer is admissible and well-founded;*
- II. The Appellant’s Appeal is dismissed in its entirety and the Appealed Decision is upheld in full;*
- III. The Appellant must pay the costs of these appeal proceedings in full; and*
- IV. The Appellant must pay in full, or, in the alternative a contribution towards, the legal costs and expenses of the First Respondent, pertaining to these appeal proceedings before the CAS pursuant to Article R64.5 of the CAS Code”.*

31. Midtjylland’s arguments may be summarized as follows:

- The Appellant’s claim that the non-payment of the Last Instalment does not harm the contractual stability nor violate the principle of *pacta sunt servanda* must be refuted as the non-payment is clearly a wilful disregard towards the contractual obligation agreed upon in the Transfer Agreement. It must be deemed obvious that the Appellant

cannot ignore its remaining contractual obligations by arguing to have fulfilled already half of them.

- The financial issues of the Appellant, i.e. the fact that they must adhere to payment plans to repay the debts accumulated “*over the last years*”, cannot justify the non-payment of the Outstanding Amounts. The Appellant should have been aware of its financial situation when entering into the Transfer Agreement and their “*poor financial planning/lack of financial management*” cannot result in the First Respondent’s impossibility to claim the Outstanding Amounts. Further, the relevant CAS jurisprudence states that financial difficulties may not justify the failure to pay contractually agreed amounts. Lastly, the payment plans do not preclude the Appellant to pay the Outstanding Amounts.
- The Contractual Penalty is not excessive. It was knowingly and willingly agreed upon by the Contractual Parties and must therefore be respected. The reduction of a contractual penalty by a court is reserved for “*exceptional cases*” and cases in which the respective penalty is “*grossly unfair*”. Further, under the jurisprudence of the Swiss Federal Tribunal (the “SFT”), the reduction of a contractual fine generally contradicts the principle of contractual freedom and loyalty and the judicial interference must therefore be justified by a “*massive imbalance*” between the parties. As there is no such imbalance in the case at hand, no judicial interference would be justified.
- Further, according to PSC jurisprudence, penalties are only considered to be disproportionate when exceeding 50% of the principal outstanding amount. In the case at hand, the Contractual Fine represents only 25% of the last instalment and cannot be regarded as extensive.
- Regarding the Appellant’s argument that the Default Notice was not sent to the correct addresses as per clause 20 of the Transfer Agreement, the First Respondent claims that it is not contested that the Default Notice was received by Corinthians and that according to the Commentary on the RSTP (the “Commentary”) it is not required to use the contacts stipulated in the respective agreement, but a “*correct*” address. Additionally, the correspondence regarding the payments since 25 July 2024 was sent to and from the addresses to which the Default Notice was sent.

C. Second Respondent

32. FIFA, the Second Respondent, filed the following requests for relief:

“(a) *rejecting the reliefs sought by the Appellant;*

(b) confirming the Appealed Decision; and

(c) ordering the Appellant to bear the full costs of these arbitration proceedings”.

33. FIFA reasons its requests with the following arguments:

- The Contractual Parties entered freely into the Transfer Agreement and such must be respected. Therefore, the Appellant may not excuse themselves for not having paid the Outstanding Amounts.
- Relying on CAS jurisprudence, FIFA further claims that the financial hardship, which the Appellant allegedly faced, falls into its own responsibilities and cannot be invoked to justify the non-payment of the Outstanding Amounts. Additionally, FIFA states that the financial hardship has not been proved by the Appellant.
- Regarding the alleged excessiveness of the Contractual Fine, FIFA – again referring to CAS jurisprudence – posits that such is not excessive, as it provides for 12.5% of the total Transfer Fee and according to the cited jurisprudence, a contractual penalty up to 20% and 30% of the overdue amount were considered proportionate. The same applies to the interest rate of 12% *per annum* as the SFT and the CAS have established an interest rate up to 18% *per annum* to be in line with Swiss law.
- The sporting sanction, i.e. the Fine, was rightfully imposed on the Appellant as all the conditions of Article 12bis RSTP are met *in casu*. The argumentation, the Default Notice being sent to other e-mail addresses than the ones stipulated in the Transfer Agreement, cannot be heard as it was the Appellant who initiated the correspondence between the Contractual Parties by using the e-mail addresses to which subsequently the Default Notice was sent. The Appellant’s claim contradicts the principle of *venire contra factum proprium* and, additionally, is irrelevant, as under Swiss doctrine and jurisprudence – which has been also established under CAS jurisprudence – the moment when a person receives the notice is relevant and not when it obtains knowledge thereof. As the Appellant did not only have the opportunity to receive the Default Notice but effectively did so, the usage of the e-mail addresses may not result in the Default Notice not being correctly sent.
- Lastly, FIFA stipulates that the Fine is – which is not contested by the Appellant – proportionate, particularly under the circumstances that the Appellant must be regarded as a repeated offender.

V. JURISDICTION, ADMISSIBILITY, APPLICABLE LAW

A. Jurisdiction

34. Article R47 of the CAS Code provides as follows:

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

35. The jurisdiction of CAS, which is not disputed, derives from Article 50 para. 1 of the FIFA Statutes as it determines that “*Appeals against final decisions passed by FIFA’s*

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

36. The Parties further confirmed the jurisdiction of CAS by signing the Order of Procedure.
37. It follows that CAS has jurisdiction to decide on the present dispute.

B. Admissibility

38. Article R49 of the CAS 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”.

39. In addition, Article 50 para. 1 of the FIFA Statutes states:

“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”.

40. The grounds of the Appealed Decision were notified to the Parties on 9 July 2025 and the Statement of Appeal was filed on 29 July 2025, i.e. within the twenty-one days set by Article 50 para. 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.
41. It follows that the Appeal is admissible.

C. Applicable Law

42. Pursuant to Article R58 of the CAS Code:

“[t]he 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”.

43. Clause 24 of the Transfer Agreement reads as follows:

“THIS [sic] Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the FIFA Regulations and the laws of Switzerland”.

44. Additionally, Article 49 para. 2 of the FIFA Statutes stipulates the following:

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“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”.

45. The Sole Arbitrator will decide the present dispute primarily in accordance with the FIFA Regulations and, subsidiarily, in accordance with Swiss law in case of any lacuna in the FIFA Regulations.

VI. MERITS

A. Overview and scope of the Appeal

46. According to Article R57 para 1 of the CAS Code, the Sole Arbitrator has “*full power to review the facts and the law*”. As provided for in the CAS jurisprudence, the CAS appeals arbitration procedure thus entails a *de novo* review of the merits of the case as it is not confined to merely ruling whether the appealed decision is to be upheld or not (e.g. CAS 2007/A/1394 p. 6; CAS 2022/A/9219, para. 74; CAS 2022/A/8882, para. 132). It is the role of the Sole Arbitrator to establish the merits of the case independently.
47. Regarding the CAS’ *de novo* power, such may also heal any procedural defects that may or may not have occurred before the previous deciding body (with further references CAS 2019/A/6409, para. 123 et seq.).
48. The questions of the case at hand are whether:
- i. the Appellant is obliged to pay the Outstanding Amounts; and
 - ii. the sporting sanction, the Fine, was rightfully imposed on the Appellant.

B. The Outstanding Amounts

a. The Last Instalment

49. The Sole Arbitrator initially notes that it is undisputed that (i) the Contractual Parties entered into the Transfer Agreement regarding the Player, (ii) the Transfer Fee amounts to EUR 1’600’000.00 and (iii) two of three instalments, which together amount to fifty percent of the total Transfer Fee, i.e. EUR 800’000.00, have been paid by the Appellant. Finally, it is not disputed that the Last Instalment has not been paid by the Appellant.
50. The Appellant argues that they faced financial hardship and therefore could not pay the Last Instalment. They would endanger their alleged ongoing financial reorganization, if they were to pay the Outstanding Amounts.

However, such argumentation cannot be heard. Financial issues cannot justify the non-compliance with contractual obligations. This is well established under CAS jurisprudence. In CAS 2022/A/8917, para. 60(i), the Sole Arbitrator stated what follows:

“In light of the foregoing, the Sole Arbitrator notes that:

- i. financial difficulties are not an excuse for a failure to pay a debt or a justification in law to obtain the modification of agreed financial terms. The principle that the lack of financial means to satisfy an obligation of payment does not excuse the failure to make the required payment is well established in the CAS jurisprudence (ex multis CAS 2006/A/1008; CAS 2014/A/3533; CAS 2016/A/4402; CAS 2017/A/5496; CAS 2018/A/5802). Any loss of revenues, therefore, that the Club may have sustained because of the COVID-19 pandemic cannot justify its failure to pay the amounts due to the Player under the Second Settlement Agreement;”.*

51. The Sole Arbitrator will therefore not examine whether Exhibit Nr. 2 of the Appeal Brief sufficiently proves the Appellant’s alleged financial hardship, as even if this would be the case, such findings would not alter the fact that the Appellant is obliged by the Transfer Agreement to pay the Last Instalment.

b. The Contractual Penalty

52. After having established that the Appellant cannot excuse themselves from paying the Last Instalment, the Sole Arbitrator now turns to the question whether the Contractual Penalty must be paid as well.

53. It can initially be established that it is undisputed that the Transfer Agreement contains the following provision:

“11. In addition, each time SCC fails to make any payment due to FCM by the date for payment then SCC is obligated to pay to FCM an additional compensation of EUR 200.000 (two-hundred-thousand euros) plus interest”.

54. As already mentioned, it is not under dispute that the Last Instalment was not paid and the Sole Arbitrator just established that the non-payment cannot be justified by the Appellant’s arguments (see above para. 49 et seq.).

55. Clause 11 of the Transfer Agreement undoubtedly establishes the obligation of the Appellant to pay an “*additional compensation*” of EUR 200’000.00 for every time they fail to pay an instalment in due time. For the sake of completeness, the Sole Arbitrator wishes to recall that the payment of the Last Instalment should have been made on 15 March 2025.

56. Considering the undisputed facts at hand as well as the wording of clause 11 of the Transfer Agreement, the Sole Arbitrator finds the Contractual Penalty to have been triggered by the non-payment of the remaining EUR 800’000.00.

57. However, the Appellant argues against the obligation to pay the Contractual Fine by claiming that it is excessive. According to the Appellant, the payment of already fifty percent of the total Transfer Fee results in the case at hand being exceptional, justifying the omission of the Contractual Penalty. The Respondents on the other hand argue that

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the Contractual Penalty was freely and willingly agreed upon and that the circumstances *in casu* do not justify a reduction of the Contractual Penalty.

58. As the relevant FIFA regulations, particularly the RSTP, do not contain provisions regarding contractual penalty clauses, Swiss law is applicable to this question. The Swiss Code of Obligations (“SCO”) refers to contractual penalties in its articles 160 et seq. Article 163 stipulates the outline for the amount of the contractual penalty, its potential nullity and when such penalty may be reduced. The provision reads as follows:

¹ *The parties are free to determine the amount of the contractual penalty.*

² *The penalty may not be claimed where its purpose is to reinforce an unlawful or immoral undertaking or, unless otherwise agreed, where performance has been prevented by circumstances beyond the debtor’s control.*

³ *At its discretion, the court may reduce penalties that it considers excessive”.*

59. It follows from the just cited provision that the debtor of a contractual penalty is generally bound by his suspensive commitment to pay the penalty in case of non-performance of the primary duty (BSK OR I-Widmer/Costantini, Nr. 3 to Art. 163). The authorization of the judge to reduce excessive penalties provided by Article 163 al. 3 SCO represents an interference with the principle of contractual freedom and is reserved for cases in which the contractual penalty is so high, that it exceeds any reasonable limit, rendering it incompatible with law and equity (BSK OR I-Widmer/Costantini, Nr. 10 to Art. 163; SFT decision 4A_227/2020, E. 4.1). When deciding on the excessiveness or proportionality of a contractual penalty, the judge (or, *in casu*, arbitrator) must consider the facts of the case at hand (SFT decision 4A_227/2020, E. 4.1).
60. Those principles have also been recognized by the CAS jurisprudence (e.g. CAS 2015/A/4139, para. 52 et seq.):

“52. *According to the Swiss Federal Tribunal, a penalty is excessive when the stipulated amount is unreasonable and flagrantly exceeds the amount admissible with regard to the sense of justice and equity (ATF 133 III 43, para. 3.3.1). The doctrine prescribes that it is not sufficient that the penalty be too important to be reduced: the penalty shall flagrantly exceed any amount admissible with regard to the sense of justice and equity. The excess shall exceed what is reasonable. The quantum of the penalty shall not be justifiable (COUCHEPIN G., La clause pénale – Etude générale de l’institution et de quelques applications pratiques en droit de la construction, 2008, para. A.2.1. p. 169).*

53. *When deciding whether a reduction of the penalty fee is admissible, and if so, to what extent, the Panel should take into account all the circumstances of the case, in particular a series of criteria, such as (i) the creditor’s interest in the other’s party compliance with the undertaking (ii) the severity of the default or breach, (iii) the intentional failure to breach the main obligation, (iv) the business*

experience of the parties and (v) the financial situation of the debtor (Decision of the Swiss Federal Tribunal, 16.01.2002, 4C.249/2001).

54. *Higher amounts are appropriate for penalties that are not only intended as liquidated damages but, in addition, prevent the debtor from breaching its contractual obligation in the first place (punitive function of a penalty clause)*".
61. Bearing the criteria established by jurisprudence and doctrine in mind, the Sole Arbitrator notes that the Contractual Parties expressly stated in the Transfer Agreement that "[d]ue to the lately, well-known issues with SCC obeying its payment obligations as well as the difficulties SCC is facing being granted a bank guarantee, the parties have agreed on adding this mechanism [the Contractual Penalty] to the Transfer Agreement".
62. The Contractual Penalty was, therefore, implemented to protect particularly the First Respondent's – i.e. the creditor's – interests. Such interests are "*the main criterion to be taken into consideration to evaluate the quantum of the penalty ("la quotité de la peine")*", as the latter is the expression of the creditor's will to strengthen the main obligation". (CAS 2015/A/4139, para. 56).
63. Further, the Sole Arbitrator notes that there is no disparity in the status of the Contractual Parties: both Clubs play in their domestic top tier league and have participated several times in international competitions, the Appellant even having won such. Both Contractual Parties must therefore be considered at least equally experienced in negotiating international transfers, if not to assume that the Appellant is even more experienced.
64. Additionally, the Sole Arbitrator notes that the financial situation of a debtor may only justify a reduction of a contractual penalty in cases of "*extreme disproportion between the penalty and the financial position of the debtor*" (CAS 2015/A/4139, para. 64). While the Appellant does allege facing financial hardship, these claims are made to justify the non-payment of the Last Instalment and not regarding the excessiveness of the Contractual Penalty. However, the Sole Arbitrator holds that that could neither be the case as in the present matter no such extreme disproportion can be found from the evidence at hand.
65. Lastly, the severity of the violation of the primary contractual obligation should be examined. The Appellant did not comply with the essential contractual obligation on their part, the payment of the *full* Transfer Fee in due time as agreed upon in clause 2 of the Transfer Agreement. After the failure of the Appellant to fulfil its obligation under clause 2.3 of the Transfer Agreement, the First Respondent contacted the Appellant by e-mail on 18 March 2025, i.e. three days after the last instalment was already due, granting them one additional day to pay the sum of EUR 800'000.00. As such payment did not occur in due time, the First Respondent proceeded and sent the Default Notice on 23 April 2025. It is therefore evident that the Appellant intentionally and even after being granted additional timelines chose not to comply with its primary and essential contractual obligation. The Appellant's contractual breach must therefore be considered severe.

66. Considering all of the above, along with the relevant jurisprudence established by the CAS and the SFT, as well as legal doctrine, the Sole Arbitrator concludes that no exceptional circumstances exist in the present case that would warrant an interference with the principle of contractual freedom. Furthermore, the Sole Arbitrator finds that the Contractual Penalty is proportionate to the interests it aims to protect, as well as to the total Transfer Fee and the Last Instalment.

c. The sporting sanction

67. The Appellant claims that the sporting sanction, i.e. the Fine, was not rightfully imposed. They argue that the First Respondent did not use the e-mail addresses mentioned in clause 20 of the Transfer Agreement what results in them not being put in default. As they were not put in default, the conditions to sanction them under Article 12bis RSTP were not met.

68. Article 12bis RSTP in its relevant parts reads as follows:

“12bis Overdue payables

- 1. Clubs are required to comply with their financial obligations towards players and other clubs as per the terms stipulated in the contracts signed with their professional players and in the transfer agreements.*
- 2. Any club found to have delayed a due payment for more than 30 days without a prima facie contractual basis may be sanctioned in accordance with paragraph 4 below.*
- 3. In order for a club to be considered to have overdue payables in the sense of the present article, the creditor (player or club) must have put the debtor club in default in writing and have granted a timeline of at least ten days for the debtor club to comply with its financial obligation(s).*
- 4. Within the scope of its jurisdiction (cf. article 22 to 24), the Football Tribunal may impose the following sanctions:*
 - a) a warning;*
 - b) a reprimand;*
 - c) a fine;*
 - d) a ban from registering any new players, either nationally or internationally, for one or two entire and consecutive registration periods. [...]”.*

69. Initially, the Sole Arbitrator notes that the burden of proof regarding the question whether the Appellant was put in default according to Article 12bis al. 3 RSTP lies with the First Respondent:

“The burden of proving compliance with these formal requirements lies with the creditor. If the creditor provides documentary evidence that the default notice was properly sent either physically or electronically to the debtor club (i.e. to a correct postal address, fax number or email address), and the debtor club claims not to have received the notification, the burden then shifts to the debtor club to prove that the default notice did not reach them”. (Commentary, p. 115, with further references).

70. Further, the Sole Arbitrator does also note that the Appellant does not claim to not having received the Default Notice at all, but that it received it on the wrong e-mail address.

71. Clause 20 of the Transfer Agreement, on which the Appellant insists, reads as follows:

“Notices

20. *ANY notice to be given pursuant to this Agreement shall be in writing and addressed to the party concerned at the address shown above (or such other address as notified by the parties in writing from time to time) and may be sent by: (i) personal by hand delivery or courier service; or (ii) email. Any such notice shall be deemed duly given as follows: (i) in the case of personal hand delivery or courier service at the time when a representative of the party signs to confirm receipt of the relevant delivery; or (ii) in the case of email at the time of sending from the sender’s computer system provided that the email was sent to the party’s correct email address as set out below (or such other email address as notified by the parties in writing from time to time) and the sender did not receive a notice of non-delivery. Where notice is served by email, the relevant email address for service is as follows:*

▪ *If to FCM: [X.]@[...].dk*

▪ *If to SCC: [A.]@[...].com.br and [B.]@[...].com.br”.*

72. From the evidence at hand, the Sole Arbitrator notes that the Default Notice was effectively sent by e-mail to Andre Lavieri ([...].[...].com) and not to the e-mail addresses mentioned in the Transfer Agreement. However, it was Mr Lavieri who initiated contact via his e-mail address with the First Respondent, when he wrote them on 25 July 2024. The initial e-mail from Mr Lavieri was not sent to [X.]@[...].dk, but to [Y.]@[...].dk. The subsequent communication between the Contractual Parties was sent from and to Mr Lavieri’s e-mail address.

73. Having considered all of the above, for the Appellant to argue that the Default Notice was sent to a wrong e-mail address would contradict the principle of *venire contra factum proprium*. The First Respondent had legitimate grounds to assume that it was sending the Default Notice to the right recipient after the communication relating to the Transfer Agreement between the Contractual Parties occurred via the respective e-mail address and was initiated from the sphere of the Appellant, *nota bene* also to a “wrong” e-mail address. While maybe a cautious creditor would have sent the Default Notice *also* to the

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e-mail addresses stipulated in the Transfer Agreement, the First Respondent was not obliged to do so anymore and the Default Notice must be considered duly sent.

74. Having established that the Default Notice was duly sent and – which is not disputed – received by the Appellant, the Sole Arbitrator finds the conditions of Article 12bis al. 3 RSTP to be met. Therefore, a sanction according to Article 12bis para. 2 and 4 RSTP may be imposed on the Appellant.
75. As the Appellant did not contest the proportionality of the sporting sanction and the evidence submitted before the Sole Arbitrator does not provide for any reason to challenge such proportionality, the Sole Arbitrator concludes the Fine to be in line with the principles established under Article 12bis RSTP.

C. Conclusion

76. Having said all of the above, the Sole Arbitrator concludes that:
- (i) the Last Instalment, i.e. EUR 800'000.00, is owed by the Appellant and that it is not exempt from paying it;
 - (ii) the Contractual Fine has been duly incorporated into the Transfer Agreement and that it is neither excessive or disproportionate and the criteria for it be payable is met; and, lastly
 - (iii) the Default Notice was duly sent to and received by the Appellant resulting in the Fine being imposed in accordance with Article 12bis RSTP.
77. The Sole Arbitrator also notes that the Appellant did not contest the amount of the interest rate, i.e. 12% *per annum*, which is due on the Last Instalment. Following this and with respect to the principle of procedural economy, the Sole Arbitrator refrains from examining the proportionality of the interest rate.
78. Therefore, the Appeal is dismissed and the Appealed Decision is upheld.

VII. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed by Sport Club Corinthians Paulista on 25 June 2025 against the decision rendered on 25 June 2025 by the FIFA Player's Status Chamber is dismissed.
2. The decision rendered by the FIFA Player's Status Chamber on 25 June 2025 is upheld.
3. (...).
4. (...).
5. All other motions or prayers for relief are rejected.

Seat of arbitration: Lausanne, Switzerland
Date: 31 March 2026

THE COURT OF ARBITRATION FOR SPORT

Dr Marco Balmelli, Attorney-at-Law
Sole Arbitrator