

CAS 2023/A/9487 Ismaily SC v. Diego Fernando and Club Nea Salamina Famagusta SC

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr. Patrick Stewart, Solicitor in Manchester, United Kingdom

in the arbitration between

Ismaily Sports Club, Egypt

Represented by its executive director, Mr. Mahmoud ElYassky.

- Appellant -

and

Diego Fernando Dorregaray, Argentina

Represented by Mr. Ricardo Alipaz of Alipaz Abogados, La Paz, Bolivia.

- First Respondent -

and

Nea Salamina Famagusta SC, Cyprus

Represented by Mr. Marios Orphanides of Orphanides, Christofides & Co LLC, Nicosia, Cyprus.

- Second Respondent -

I. PARTIES

1. Ismaily Sports Club (the “**Appellant**” or “**Ismaily SC**”) is a professional football club based in Ismailia, Egypt and is a member of the Egyptian Football Association (the “**SAFF**”), which in turn is affiliated to the Fédération Internationale de Football Association (“**FIFA**”).
2. Diego Fernando Dorregaray (the “**First Respondent**” or the “**Player**”) is a professional football player from Argentina.
3. Club Nea Salamina Famagusta SC (the “**Second Respondent**” or “**Famagusta SC**”) is a professional football club based in Cyprus and is a member of the Cypriot Football Association, which in turn is affiliated to FIFA.
4. Collectively, Ismaily SC, the Player and Famagusta SC are referred to as the “**Parties**”.

II. FACTUAL BACKGROUND

A. Background Facts

5. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, this award refers only to the submissions and evidence considered necessary to explain its reasoning.
6. On 14 January 2022, Ismaily SC and the Player entered into an employment contract (the “**Employment Contract**”) which included, *inter alia*, the following terms:
 - a) The duration of the Employment Contract shall be from January of season 2021/22 to the end of season 2025/26.
 - b) Ismaily SC shall pay the Player the total gross amount of USD 1,506,666 as follows:
 - i. For season 2021/22 – USD 173,333 payable as follows:
 - One instalment of USD 86,666 on 14 January 2022;
 - Five instalments of USD 10,666 on 1 February 2022, 1 March 2022, 1 April 2022, 1 May 2022 and 1 June 2022; and
 - One instalment of USD 33, 337 on 1 August 2022.
 - ii. For season 2022/23 – USD 293,333 payable in 12 instalments, with the first being on 1 September 2022 and the last being on 1 August 2023.

- iii. For season 2023/24 – USD 320,000 payable in 12 instalments, with the first being on 1 September 2023 and the last being on 1 August 2024.
 - iv. For season 2024/25 – USD 346,666 payable in 12 instalments, with the first being on 1 September 2024 and the last being on 1 August 2025.
 - v. For season 2025/26 – USD 373,333 payable in 12 instalments, with the first being on 1 September 2025 and the last being on 1 August 2026.
- c) *“The player should bear the taxes of this contract and any other remuneration according to the law, the club shall deduct taxes from the player dues and transfer them to the taxes under his responsibility.”*
- d) Ismaily SC shall also provide the Player with a housing allowance of EGP 7,000 per month.
- e) *“The player acknowledges that he has read all the terms of the financial and administrative regulation for the first football team and has received a copy of it. He also acknowledges that comply with all the obligations and penalties in this regulation.”*
7. Ismaily SC’s financial regulations for the first team (the “**Ismaily Financial Regulations**”) state, *inter alia*, as follows:
- “This regulation is complementary and complementary to the-player's contract with the club during the term of the contract and shall be deemed an integral part thereof.*
- C) Participation Rate:*
- 25% of the value of the player's contract is set aside and paid after the end of the season, in case he participates in 80% of the matches.”*
8. On 17 January 2022, Ismaily SC issued a cheque to the Player for USD 60,000 followed by a further cheque for USD 5,000 on 18 February 2022.
9. On 23 May 2022, the Player sent a default notice (the “**Default Notice**”) to Ismaily SC requesting to be paid USD 42,998 within 15 days and advising that Ismaily SC’s failure to do so would entitle the Player to terminate the Employment Contract “[...] *with just cause for outstanding salaries (Article 14 bis of the FIFA’s Regulations on the Status and Transfer of Players: Termination with Just Cause) and to claim all the damages caused by the breach of the CLUB that led to the termination of the contract (Article 17 of the aforementioned Regulations).*” According to the default notice, the USD 42,998 represented:
- a) US 21,666 of the 14 January 2022 instalment.
 - b) The 1 February 2022 instalment of USD 10,666.

- c) The 1 March 2022 instalment of USD 10,666.
10. On 27 May 2022, the Player sent a notice to Ismaily SC which asserted, *inter alia*, that:
- a) Communications from Ismaily SC resulted in the Player and his translator to “fear for his and his family’s physical integrity”.
 - b) Ismaily SC was withholding the Player’s passport and that the club should return it to the Player immediately.
 - c) The Player was being excluded from the main squad without explanation and should be reintegrated immediately.
 - d) The Player had been prevented by Ismaily SC from staying at the same hotel as the main squad when he refused to sign blank documents without a translator being present.
11. On 5 June 2022:
- a) Ismaily SC invited the Player to a meeting on the following day.
 - b) The Player sent a default notice requesting the return of his passport and to be paid USD 42,998 as previously requested.
12. On 7 June 2022:
- a) Ismaily SC sent a notice to the Player asserting that the Player had attended a meeting with the club, together with his translator, on 6 June 2022 and declined to accept payment of USD 21,325 in accordance with the Employment Contract and the Ismaily Financial Regulations. Ismaily SC further asserted that the Player had closed his local bank account, contrary to the Ismaily Financial Regulations, and was planning to leave Egypt under the false pretence of outstanding payments due. Ismaily SC warned the Player that, if he left Egypt without their permission, they would seek financial compensation, including the value of the Employment Contract, pursuant to FIFA regulations.
 - b) The Player responded to Ismaily SC’s notice by making, *inter alia*, the following allegations:
 - i. He was still owed USD 40,000 net in overdue salaries – i.e. five instalments of USD 10,666 payable on 1 February 2022, 1 March 2022, 1 April 2022, 1 May 2022 and 1 June 2022. The Player gave Ismaily SC a further five days to pay.
 - ii. Ismaily SC continued to refuse to return his passport.
 - iii. Ismaily SC had deducted the cost of hotel accommodation from his salary, despite the club choosing the hotel.

- iv. He was being forced to train away from the squad and was being asked to sign documents without the support of a translator.

13. On 9 June 2022, Ismaily SC responded to the Player's communication of 7 June 2022 as follows:

- a) They attached a settlement statement which sought to explain how the settlement amount of USD 21,325 had been calculated (the "**Settlement Statement**").
- b) They confirmed they would provide a tax certificate showing that the amounts paid to the Player were net of income tax at 25%.
- c) In accordance with the Ismaily Financial Regulations, they claimed they were entitled to withhold 25% of the contractual amounts due to the Player under the Employment Contract and only obliged to release them at the end of the season if the Player had participated in 80% of official matches.
- d) They alleged that the Player's calculation of the outstanding amount due was wrong. Specifically:

"[...] the net value of the [Employment] Contract for the Player for the first half season is USD 130,000 [i.e. 75% of \$173,333] and he received 50% on signing the contract for net value USD 65,000 and USD 37,500 to be on hold and will be released at the end of the season 2021/2022 on 31 of August 2022, and he will be entitled to receive this amount if the player participate for (sic) 80% of matches as per Ismaily SC terms and conditions of regulations".

- e) With respect to the hotel costs, they noted that the Player's accommodation allowance was EGP 7,000 per month which equates to USD 445 (based on the exchange rate at the date of signing the Employment Contract). They claimed that it was the Player's choice to stay in a hotel costing USD 2,000 per month and that they were entitled to deduct hotel costs from the Player's salary, less the USD 445 monthly accommodation allowance. Accordingly, they were entitled to deduct USD 1,500 from his monthly salary.
- f) They denied requiring the Player to train alone or forcing him to sign documents without the assistance of a translator.
- g) With respect to the Player's passport, they explained that they hold the passports for all players as they are required for administrative reasons such as arranging travel and accommodation. As demonstrated when the Player previously returned to Argentina, they return the passport to a player when required.
- h) They offered to settle the Player's claim for USD 24,000 and would make a cheque available for collection by the Player '*without any force*' at any time from today.

14. Ismaily SC gave the Player a cheque dated 12 June 2022 for USD 30,000 and the Player signed a declaration dated 12 June 2022 (the “**Waiver**”) confirming that: (i) he had received all amounts due under the Employment Contract for season 2021/22 “*after deducting due taxes and expense beard (sic) by the club on behalf of me*”; and (ii) all prior notices sent by the Player to Ismaily SC were cancelled.
15. On 19 June 2022, the Player notified Ismaily SC that: (a) he had signed the Waiver under duress; (b) he had tried to cash the cheque but had been unable to because Ismaily SC did not have sufficient funds in their account; (c) accordingly, the Waiver was null and void and he was terminating the Employment Contract with just cause; and (d) he was still awaiting Ismaily SC to return his passport.
16. On 20 June 2022, Ismaily SC responded to the Player’s notification of 19 June 2022 by: (a) contesting the Player’s grounds for terminating the Employment Contract; and (b) confirming that they would return the Player’s passport within 48 hours.
17. On 23 June 2022, Ismaily SC delivered the Player’s passport to the Argentinian Embassy in Egypt.
18. On 29 June 2022, the Player entered into an employment contract and image rights contract with Famagusta SC for a total remuneration of EUR 110,000.

B. Proceedings before the FIFA Dispute Resolution Chamber

19. On 2 August 2021, Ismaily SC filed a claim against the Player and Famagusta SC with the FIFA Dispute Resolution Chamber (the “**FIFA DRC**”) claiming that the Player had terminated the Employment Contract without just cause.
20. Ismaily SC’s claim contained the following requests for relief:
 - “1. [Ismaily SC’s] *claim to be held admissible*
 2. *The Player’s termination of the [Employment Contract] is without just cause*
 3. *The Player has breached the [Employment Contract] through his bad faith acts*
 4. *[Ismaily SC] is entitled to financial compensation from the Player of total amount of USD 2,753,623*
 5. *[Famagusta SC] shall be sanctioned by a sporting sanction 6 months.*
21. The Player contested Ismaily SC’s claim and made a counterclaim for outstanding salaries and compensation. The Player filed the following requests for relief:

“By virtue of all of the above, this Court is requested to reject all the arguments and petitions presented by [Ismaily SC], and in accordance with the regulations in force and

application of the aforementioned precepts and the jurisprudence of this court, to order the [Ismaily SC] to:

- 1. To pay the sum of USD 1,373,998, to Player*
 - a. USD 1,320,665 as compensation for termination with just cause for non-payment of wages*
 - b. USD 53,330 for wages due for the months of February to June 2022.*
 - 2. To pay 5% interest from*
 - a. 5% on the 1,320,665 from 19th June 2022*
 - b. 5% on the 10,666 corresponding to the February payment, from 1 February 2022*
 - c. 5% on the 10,666 corresponding to the March payment, as from 1 March 2022*
 - d. 5% on the 10,666 corresponding to the April payment, as from 1 April 2022*
 - e. 5% on the 10,666 corresponding to the May payment, as from 1 February 2022 (sic)*
 - f. 5% on the 10,666 corresponding to the May payment, as of 1 February 2022 (sic)*
 - 3. Provide the tax certificates proving the payment of the withholdings made on the amounts paid to the player.*
 - 4. That [Ismaily SC] be condemned to the appropriate sporting sanctions due to the termination with just cause during the protected period in accordance with art 17.4 of the RETJ.*
 - 5. That, in accordance with article 24bis of the RETJ, when [Ismaily SC] is ordered to pay the sum claimed, at the same time it should stipulate the consequences of the failure to pay them on time; consequences which should be included in the operative part of the decision and which should be "the prohibition to register new players, both at national and international level, until the amounts owed are paid", for up to three complete and consecutive periods and additionally impose fines for the failure to pay.*
 - 6. Order [Ismaily SC] to pay the PLAYER an amount equivalent to USD 20,000 as a contribution to legal costs.*
 - 7. [Ismaily SC] is ordered to pay all legal costs of these proceedings."*
22. Ismaily SC contested the Player's counterclaim and amended its requests for relief as follows:
- "1) To admissible this claim. (sic)*

- 2) *To Consider that the Player's termination of the contract is without just cause.*
 - 3) *To Condemn the Player and the new club jointly or individually to pay Al Ismaily Club an amount of USD (2,753,623) plus 5% interest, as compensation due to termination of the Contract without just cause.*
 - 4) *The Player shall be sanctioned by a sporting sanction 6 months according para 3 article 17 of FIFA RSTP.*
 - 5) *The New Club shall be sanctioned by sporting sanction banning from registering any new player whether national or international for two transfer window, as the new club induced the player to terminate his contract prior to its expiry date with Al Ismaily SC, according to para 4 article 17 of FIFA RSTP.*
 - 6) *To reject the counter-claim.*
 - 7) *Alternatively, if it is ruled that the Player terminated the Contract with just cause, he should not be entitled to any compensation of any kind whatsoever.*
 - 8) *Alternatively, if any compensation has to be awarded to the Player, it shall be significantly mitigated as detailed and explained above.*
 - 9) *As a consequence of the above, to condemn the Player to pay all expenses and costs of the present proceedings, if any."*
23. Famagusta SC denied having induced the Player to terminate the Employment Contract and made the following requests for relief:
- "1. Reject the Claim of the Claimant as described in para 50 sub-paras 1, 2, 3, 5 & 6.*
 - 2. Declare that the first respondent has terminated its contract with the Claimant with just cause.*
 - 3. Declare that the second respondent did not induce the player to terminate its contract with the Claimant."*
24. On 15 December 2022, the FIFA DRC issued the following decision (the "**Appealed Decision**"):
- "1. The claim of the Claimant / Counter-Respondent, Ismaily SC, is rejected.*
 - 2. The counterclaim of the First Respondent / Counter-Claimant, Diego Fernando Dorregaray, is partially accepted.*
 - 3. Ismaily SC has to pay to Diego Fernando Dorregaray, the following amount(s):*
 - USD 53,330 as outstanding remuneration plus 5% interest p.a. as follows:*

On USD 10,666 from 1 February 2022 until the date of effective payment;

On USD 10,666 from 1 March 2022 until the date of effective payment;

On USD 10,666 from 1 April 2022 until the date of effective payment;

On USD 10,666 from 1 May 2022 until the date of effective payment;

On USD 10,666 from 1 June 2022 until the date of effective payment;

- USD 1,308,007 as compensation for breach of contract without just cause plus 5% interest p.a. as from 4 October 2022 until the date of effective payment.

4. *Any further claims of the parties are rejected.*
5. *Full payment (including all applicable interest) shall be made to the bank account indicated in the enclosed Bank Account Registration Form.*
6. *Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made within 45 days of notification of this decision, the following consequences shall apply:*
 1. *Ismaily SC shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of up to three entire and consecutive registration periods.*
 2. *The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not made by the end of the three entire and consecutive registration periods.*
7. *The consequences shall only be enforced at the request of Mr Dorregaray in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.*
8. *This decision is rendered without costs.”*

25. On 9 February 2023, the grounds of the Appealed Decision were communicated to the Parties.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

26. On 2 March 2023, pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (1 February 2023 edition) (the “**Code**”), the Appellant filed a Statement of Appeal at the Court of Arbitration for Sport (the “**CAS**”) in which it challenged the Appealed Decision and requested that the case be considered by a panel of three arbitrators. The Statement of Appeal named the Player, Famagusta SC and FIFA as respondents.

27. On 6 March 2023, the CAS Court Office: (i) acknowledged receipt of the Statement of Appeal; and (ii) invited the Appellant, within three days, to nominate an arbitrator and provide proof of filing of the Statement of Appeal by courier.
28. On 8 March 2023, Ismaily SC advised the CAS Court Office that: (i) they now wished to have the case considered by a sole arbitrator; and (ii) they had filed their Statement of Appeal by courier on 4 March 2023. Ismaily SC provided proof of filing.
29. On 13 March 2023, the CAS Court Office notified the Player, Famagusta SC and FIFA of the appeal.
30. On 15 March 2023, FIFA requested to be excluded from the case on the basis that: (i) FIFA is not a party to the relevant dispute; and (ii) the appeal contains no substantial request against FIFA in respect of which the Appellant would have standing.
31. On 28 March 2023, the Appellant agreed to exclude FIFA from the appeal and the CAS Court Office confirmed their exclusion.
32. On 21 March 2023, Famagusta SC agreed to the appointment of a sole arbitrator.
33. On 13 April 2023, Ismaily SC submitted their Appeal Brief within the relevant deadline as extended.
34. On 20 June 2023, Famagusta SC submitted their Answer within the relevant deadline as extended.
35. On 25 July 2023, the Player submitted his Answer within the relevant deadline as extended.
36. Within their respective Answers, the Respondents challenged the admissibility of the appeal on the grounds of late submission of the Appeal Brief.
37. On 28 July 2023, the CAS Court Office invited the Parties to advise whether they preferred for a hearing to be held or for the Sole Arbitrator to determine the case based on the Parties' written submissions alone.
38. On 31 July 2023, Famagusta SC advised that they did not consider a hearing to be necessary.
39. On 2 August 2023:
 - a) Ismaily SC and the Player expressed their preference for a hearing to be held.
 - b) The Player requested that the Sole Arbitrator make a preliminary ruling on whether Ismaily SC submitted the Appeal Brief within the relevant deadline.

40. On 22 August 2023, Mr. Patrick Stewart, Solicitor in Manchester, United Kingdom, was appointed as the Sole Arbitrator.
41. On 21 September 2023:
- a) The CAS Court Office informed the Parties that the Sole Arbitrator rejected the Respondents' objections to the admissibility of the Appeal Brief.
 - b) The CAS Court Office requested that the Appellant and the First Respondent explain why they considered a hearing to be necessary.
42. On 11 October 2023, the First Respondent advised that he would submit to the judgement of the Sole Arbitrator with respect to the necessity of a hearing. The Appellant did not respond to the request for further explanation from the CAS Court Office.
43. On 21 November 2023:
- a) The CAS Court Office advised the Parties that the Sole Arbitrator considered himself sufficiently well-informed to decide the case based on the Parties' written submissions and issued the Order of Procedure.
 - b) The First Respondent signed the Order of Procedure.
44. On 22 November 2023, the Second Respondent signed the Order of Procedure.
45. On 28 November 2023, the Appellant returned the Order of Procedure, whilst noting that they disagreed with the Sole Arbitrator's decision to determine the case based solely on the Parties' written submissions.

IV. SUBMISSIONS OF THE PARTIES

46. The following summary of the Parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Sole Arbitrator, however, has carefully considered all the submissions made by the Parties, even if no explicit reference is made in this Section IV of the award.

A. Submissions of the Appellant

47. Ismaily SC made the following requests for relief:

“1. To accept this appeal against the Appealed Decision.

2. To adopt an award annulling the Appealed Decision and declaring that:

2.1. The Player terminated the [Employment] Contract without just cause

2.2. The Player and the Second Respondent, jointly and severally, shall pay to the Appellant a compensation of USD 1,636,891 as a result of the Player's termination of the [Employment] Contract with the Appellant without just cause.

2.3. Alternatively, if the Player got deemed (sic) to have terminated with just cause, he should not be entitled to any compensation.

2.4. Alternatively, if the Player shall be entitled to any compensation, it shall be significantly mitigated with 75%.

2.5. Awarding any such other relief as the Sole Arbitrator may deem necessary or appropriate The Appellant expressly reserves its right to amend or supplement the requests for relief as expressed above in its further written submission to be filed before the Court of Arbitration for Sport.”

A. Calculation of the settlement amount for season 2021/22

48. To recap, pursuant to the Employment Contract Ismaily SC agreed to pay the Player USD 173,333 for season 2021/22, payable as follows:

- a) The first instalment of USD 86,666 on 14 January 2022;
- b) The second instalment of USD 10,666 on 1 February 2022;
- c) The third instalment of USD 10,666 on 1 March 2022;
- d) The fourth instalment of USD 10,666 on 1 April 2022
- e) The fifth instalment of USD 10,666 on 1 May 2022;
- f) The sixth instalment of USD 10,666 on 1 June 2022; and
- g) The seventh instalment of USD 33, 337 on 1 August 2022.

49. Ismaily SC argued that, in order to settle the Player's claim for outstanding salaries relating to season 2021/22, they required to pay the Player USD 21,325. They set this out in the Settlement Statement provided to the Player on 9 June 2023. Ismaily SC made, *inter alia*, the following further submissions to explain why this calculation was correct:

- a) On 17 January 2022, Ismaily SC issued a cheque to the Player for USD 60,000 followed by a further cheque for USD 5,000 on 18 February 2022. This equated to USD 86,666 net of Egyptian income tax at 25% - i.e. the first instalment for season 2021/22.
- b) Ismaily SC was entitled to deduct income tax at 25% when paying salary to the Player. The Default Notice failed to take this into account. For example, it stated

that USD 21,666 of the first instalment remained overdue as at 23 May 2022, whereas the shortfall actually represented deductible income tax. Ismaily SC noted that the FIFA DRC had erred in the Appealed Decision by wrongly concluding they were not entitled to make deductions for income tax. Ismaily SC noted that, according to the terms of the Employment Contract: (i) the contract value is a gross amount; (ii) the Player “*should bear the taxes*” and; (iii) Ismaily SC should “*deduct taxes from the player’s dues and transfer them [to the tax authorities]*”.

- c) Ismaily SC were also entitled to deduct USD 7,500 from the Player’s salary *in lieu* of hotel expenses they incurred on behalf of the Player. Contrary to the Player’s allegations (in his letter of 27 May 2022), he was not forced to stay in the Mercure Hotel because the club removed him from the normal team hotel. The Player preferred this hotel as it was more luxurious than the club’s choice of hotel. The Player’s monthly accommodation allowance of EGP 7,000 equates to approximately USD 445, whereas the actual hotel costs were approximately USD 2,000 per month. Ismaily SC paid the Player’s hotel bill on the basis that they would meet USD 500 of the monthly bill and the balance of USD 1,500 would be deducted from his salary.
- d) In accordance with the Employment Contract, 25% of the Player’s annual salary was withheld until the end of the season and would only be paid if the Player had participated in 80% of matches during that season. The sixth and seventh salary instalments represented this withheld amount and, according to the Settlement State, were not payable.
- e) Ismaily SC were also entitled to deduct EGP 50,000 (approximately USD 3,175) as a financial penalty following the refusal of the entire squad (including the Player) to take part in a second training session on 28 March 2022. The sanction was made in accordance with clause 4 of the Ismaily Financial Regulations (incorporated by reference into the Employment Contract) which states, *inter alia*, as follows: “*Absence without permission to impose a fine of 50,000 for the players of the contract worth more than three hundred thousand pounds for the season.*” Neither the Player nor any other member of the squad contested the fine at the time. The penalty was referenced in the Settlement Statement and the Player did not challenge the penalty when that was sent to him on 9 June 2022.

B. The Player acted in bad faith by refusing to accept payment of the settlement amount

- 50. Ismaily SC alleged that the Player deliberately thwarted their attempts to pay the outstanding salaries due within the 15 day period stipulated in the Default Notice of 23 May 2022. They disputed the Player’s claim that he was unable to cash the club’s USD 30,000 cheque because of insufficient funds in their bank account. They claimed to have EGP 3,010,295 (approximately USD 97,000) in the relevant bank account on the relevant date (i.e. 19 June 2022) and alleged that the Player declined the option to cash the cheque in EGP.

C. In any event Ismaily SC is protected by the Waiver

51. Ismaily SC made, *inter alia*, the following submissions with respect to the Waiver:

- a) The Player signed the Waiver dated 12 June 2022, which was two days after the club gave him a cheque for USD 30,000 in order to settle the dispute. He is an experienced professional footballer who was receiving legal advice on his dispute with the club. In the Waiver, the Player confirmed that he had received all amounts due to him as of 12 June 2022 and those amounts represented all sums due to him for season 2021/22.
- b) If the Player genuinely believed that the Waiver was conditional upon him cashing the cheque, then he should have insisted on that being expressly stated in the Waiver. Ismaily noted CAS 2017/A/5172 in which the panel found as follows

“80. [...] This is all the more true, considering that both parties are experienced in transfer negotiations. It is, thus, a party’s duty to check whether the terms in the agreement that is being signed correspond to its intentions. If the latter is not the case, it can be expected from a party experienced in such type of transactions that it objects to the wording used by the other party [...]”

D. The Player terminated the Employment Contract without just cause

52. Ismaily SC made, *inter alia*, the following submissions:

- a) As they attempted to pay the Player all sums due in order to ensure the stability of the contractual relationship, Ismaily SC should be considered as having discharged their obligations. They cited CAS 2017/A/297 in which the panel stated as follows:

“113. In the specific circumstances of the matter under review, the Panel is satisfied to accept that the Club made an amount of VEF 230,100 available to the Player on 3 June 2015 by issuing a cheque for this amount. This cheque was issued for the same contractual dispute between the Player and the Club, regardless of the fora where such proceedings took place (i.e. the NDRC and the FIFA DRC). The Panel finds that the Club cannot be held liable for the Player’s possible failure to cash such cheque.”

- b) Given the terms of the Waiver, in which the Player confirmed that all of his prior notices were cancelled, he should have sent a new default notice with respect to any alleged issues. In the absence of such a notice: (i) Ismaily SC was left with the understanding that all issues were resolved; and (ii) any subsequent termination of the Employment Contract by the Player was done without firstly

having served a valid default notice. They cited CAS 2018/A/6017 in which the panel stated as follows:

“6. If a player does not give a prior warning to the club about his alleged dissatisfaction with the club’s conduct, thereby preventing the latter from the opportunity to possibly change its course of action and preventing a termination on this basis, the player has no “just cause” to terminate his employment contract with the club.”

E The consequences of the Player terminating without just cause

53. Ismaily SC made, *inter alia*, the following submissions:

- a) The Player terminated the Employment Contract without just cause on 19 June 2022.
- b) Ismaily SC is entitled to the following:
 - i. Damages equating to the residual value of the Employment Contract, being the salary payable in respect of August 2022 (USD 33,337), season 2022/23 (USD 293,333), season 2023/24 (USD 320,000), season 2024/25 (USD 346,666) and season 2025/26 (USD 373,333).
 - ii. Damages with respect to the unamortised value of the transfer fee with respect to the Player’s registration (USD 250,000), which equates to USD 222,222 (on the basis that the club benefitted from the Player’s registration for half of a season instead of four and a half seasons).
 - iii. Pursuant to FIFA and CAS jurisprudence which takes into account the specificity of sport, additional compensation equivalent to six months’ salary – i.e. 6 x USD 8,000 - which equals USD 48,000.

F. In the alternative, the consequences of the Player terminating with just cause

54. Ismaily SC made, *inter alia*, the following submissions if, in the alternative, the Player is found to have terminated the Employment Contract with just cause:

- a) The Player should not be entitled to any compensation given the Player’s contributory actions. They cited FIFA DRC decision Ref. Nr. 13-01312 and CAS 2014/A/3626 in support of their position.
- b) In the alternative, if the Player is awarded compensation, it should be significantly mitigated by 75% to take into account the Player’s contributory actions.

- c) In the alternative, if the Player is awarded compensation, no “Additional Compensation” should be awarded pursuant to sub-paragraph ii of Article 17.1 of the FIFA Regulations of the Status and Transfer of Players (the “FIFA RSTP”) given the club’s attempts to settle the matter and the Player’s actions in preventing the club from making payment to him.
- d) In the alternative, if the Player is entitled to “Additional Compensation” pursuant to sub-paragraph ii of Article 17.1 of the FIFA RSTP, then it should not exceed three months’ salary given the absence of egregious circumstances.

B. Submissions of the First Respondent

55. The Player made the following requests for relief:

“A. To completely Dismiss the Appeal filed by the Club Ismaily SC against the FIFA decision,

B. To upheld (sic) the FIFA decision appealed, condemning the Club to pay

- USD 53,330 as outstanding remuneration plus 5% interest p.a. as follows:

On USD 10,666 from 1 February 2022 until the date of effective payment;

On USD 10,666 from 1 March 2022 until the date of effective payment;

On USD 10,666 from 1 April 2022 until the date of effective payment;

On USD 10,666 from 1 May 2022 until the date of effective payment;

On USD 10,666 from 1 June 2022 until the date of effective payment;

- USD 1,308,007 as compensation for breach of contract without just cause plus 5% interest p.a. as from 4 October 2022 until the date of effective payment.

A. To Condemn the Club to pay all CAS costs including the administrative expense and the Sole Arbitrator fees and expenses, as well as all and any other costs and expenses incurred as a result of this arbitral proceeding.

B. Condemn the Club to pay 40,000 US as contribution to the legal costs and expenses of the Player.”

A. Preliminary matter – Admissibility of the appeal

56. The Player made the following submissions with respect to the admissibility of the appeal by the Appellant:

- a) The extended deadline by which the Appellant was required to file their Appeal Brief was 13 April 2023. The Appellant e-mailed their Appeal Brief to the CAS Court Office after expiry of the deadline.
- b) While the Appellant claims to have sent a hard copy of the Appeal Brief to the CAS Court Office by courier prior to the deadline, the only evidence which the Appellant has provided in this regard is a manually completed receipt from ABS Express Courier which lacks any mark of authenticity such as a signature of receipt from the courier company.
- c) Accordingly, the Appellant has failed to meet the burden of proof with respect to timely submission of the Appeal Brief and the appeal should therefore be dismissed.

B. Ismaily SC engaged in abusive conduct

57. The Player submitted that, independent from his right to terminate the Employment Contract for outstanding salaries, he was entitled to terminate on grounds of abusive conduct involving the following:

- a) In February 2022, Ismaily SC changed their coach following a poor run of results. The new coach blamed the club's foreign players for the poor results and instructed them to train separately from the first team. The Player referred to a sworn statement as evidence in support of this (i.e. "*Exhibit No. 1 and Video No. 1 recorded on date 23 June 2022*"). While "*Video No. 1*" was included with the Player's Answer as filed with the CAS, the sworn statement was not.
- b) Ismaily SC withheld the Player's passport throughout his time in Egypt. On 24 May 2022, the Player contacted the Argentinian to seek their help in recovering his passport from the club.
- c) The Player was asked to sign documents and accept reduced amounts by way of outstanding salaries which would have prejudiced his position, despite him requesting the club to communicate only with his lawyer. The Player referred to a sworn statement as evidence in support of this (i.e. "*Video No. 2*") but this was not included with the Player's Answer as filed with the CAS.

C. The Player's salary was constantly in arrears or outstanding

58. The Player submitted that Ismaily SC were constantly in arrears with respect to the salary payable under the Employment Contract. Other than payment of the first instalment of USD 86,666 (USD 65,000 net of tax) which was due on 14 January 2022, Ismaily SC did not pay any further instalments. Even the first instalment was paid late, with USD 60,000 paid on 17 January 2022 and USD 5,000 on 18 February 2022. Notwithstanding that the February, March, April and May salary instalments had not been paid, the Player waited until 23 May 2022 before sending Ismaily SC a formal

notice. Even then, the Player only demanded payment of the February and March instalments.

59. On 2 June 2022, Ismaily SC issued the Player with a cheque for USD 21,325 even though the gross amount outstanding at this point was USD 53,330. The Player rejected this cheque. The Player alleged that Ismaily SC then: (i) sent the Player several letters accusing him of trying to engineer a plan to terminate the Employment Contract and leave Egypt; and (ii) also attempted to pressure the Player into settling for USD 21,325 by meeting him without his lawyer being present.
60. The Player contested Ismaily SC's claim in paragraph 28 of the Appeal Brief that they attempted to transfer USD 21,325 to the Player on 6 June 2022 and noted that the club has not provided any evidence to support this claim.
61. The Player further submitted as follows:
 - a) He did not reject USD 21,325 because he wished to terminate the Employment Contract. He rejected it because USD 21,325 was far lower than the amount actually owed.
 - b) If he was intent on terminating the Employment Contract, as alleged by Ismaily SC, he could have done so on 7 June 2022 when he received an aggressive letter from the club. Instead, his response to that letter (also dated 7 June 2022) was to give the club five days to pay: (i) USD 40,000, being the net sum due (after 25% tax deduction) to honour instalments two, three, four, five and six for season 2021/22 which were all overdue; or (ii) USD 24,000, being the net sum due (after 25% deduction) to honour instalments two to four inclusive.
 - c) On 12 June 2022, the Player agreed to meet with Ismaily SC. During that meeting, they agreed a final settlement amount of USD 30,000 and the club provided the Player with a cheque to this value. Contrary to the club's claims, this did not represent a change of position on the Player's part.
62. With respect to the Player's attempt to cash the cheque, the Player submitted that he presented the cheque to the bank on 19 June 2022 and was told by the bank's employee that there were insufficient funds in the club's account to honour it. At the Player's request, the bank provided a certificate confirming this.
63. With respect the disciplinary sanction which Ismaily SC claimed they were entitled to make, the club only informed the Player about it after he sent the Default Notice on 23 May 2022.

D. Ismaily SC submitted insufficient evidence

64. The Player submitted that Ismaily SC have not satisfied their burden of proof in several respects, including *inter alia* as follows:

- a) They have not provided any evidence as to their right to pay the hotel bills and then recover the amounts by way of salary deduction.
- b) They have not provided any evidence to show that the Player was offered the option to accept payment of the 12 June 2022 cheque in local currency.

E. The effect of the Waiver

65. The Player made, *inter alia*, the following submissions with respect to Ismaily SC's argument that, by signing the Waiver, the Player had lost his right to bring a financial claim against Ismaily SC:

- a) Ismaily SC and the Player cannot be considered to have equal experience in negotiating contracts. The Player signed the Waiver without the benefit of legal advice.
- b) The Player signed the Waiver at the same time as receiving the cheque and did so on the assumption that the cheque would be cashed by the bank. He did not foresee that the cheque would be rejected due to lack of funds.
- c) It is clear the Player gave the Waiver in exchange for being paid USD 30,000. Pursuant to the doctrine *exceptio non adimpleti contractus*, where there is a contract containing reciprocal obligations, a party may be excused for non-performance of its reciprocal obligation. In this case, Ismaily SC did not perform its obligation to pay the Player UDS 30,000.
- d) Contrary to the club's position, the Player did not intentionally cause the failure of the Bank to cash the cheque for USD 30,000. The club have not provided any evidence to show that the Player was offered the option to accept payment in local currency and, in any event, he was not obliged to accept payment in EGP.
- e) Contrary to the club's alternative position, Ismaily SC were not deemed to have fulfilled their obligations under the Waiver simply by making the 12 June 2022 cheque available to the Player. They relied on CAS 2017/A/5297 in support of their position but that case dealt with a situation where the player never attempted to cash the club's cheque.

F. The Player terminated with just cause

66. The Player referred to the following:

- a) Articles 14 and 14bis of the FIFA RSTP which address termination with just cause.

- b) Article 337 of the Swiss Code of Obligations which addresses the right of an employer or employee to terminate the employment relationship for good cause.
 - c) The definition of just cause according to consistent CAS jurisprudence since it was addressed by the panel in CAS 2006/A/110.
67. The Player submitted that the conduct of Ismaily SC met the necessary threshold which entitled the Player to terminate the Employment Contract with just cause. He referred, *inter alia*, to the following:
- a) The Player was excluded from training for four months.
 - b) The Player was not paid for five months.
 - c) The Player was deprived of his passport for months without valid reason.
 - d) The club made improper deductions from his salary.
 - e) Even after agreeing to settle with Ismaily SC for a reduced amount of USD 30,000, the club's cheque could not be cashed.

C. Submissions of the Second Respondent

68. Famagusta SC responded to the Appellant's allegation that they had induced the Player to breach the Employment Contract in contravention of Article 17.5 of the FIFA RSTP.

A. Preliminary matter – Admissibility of the appeal

69. Famagusta SC made the following submissions with respect to the admissibility of the appeal by the Appellant:
- a) Like the Player, they submitted that the Appeal Brief was filed after expiry of the filing deadline.
 - b) The Appellant's appeal does not challenge the FIFA DRC's finding that Famagusta SC did not induce a breach of the Employment Contract and therefore there is no standing for Famagusta SC to be sued by the Appellant.

B. The circumstances in which Famagusta SC signed the Player

70. Famagusta SC made, *inter alia*, the following submissions with respect to the timeline:
- a) On 24 July 2022, an agent proposed the Player to them as a free agent.
 - b) On 29 July 2022, they entered into an employment contract with the Player with a duration from 29 July 2022 to 31 May 2023. The gross remuneration payable

to the Player was EUR 4,491.86 per month (EUR 4,000 net) over 10 equal instalments (i.e. EUR 40,000 net in total). On the same date, the Player and Famagusta SC also entered into a separate image rights agreement under which the Player was paid EUR 106,000 in 10 equal instalments.

- c) Famagusta SC contacted Ismaily SC on 9, 10 and 11 August 2022 without any response. The Player's lawyer then made them aware of the dispute between the Player and Ismaily SC.
- d) On 17 August 2022, the Player gave a written declaration confirming that the Famagusta SC had not induced a breach of the Employment Contract.

C. The legal position

- 71. Famagusta SC argued that the current case lacks the necessary criteria for inducement of breach. They cited, *inter alia*, CAS 2007/A/1358, CAS 2013/A/3365 and CAS 2013/A/3366 in which it was found that an inducement is “*an influence that causes and encourages a conduct*”.
- 72. Famagusta SC referred to the following as evidence of the absence of any inducement:
 - a) They did not have any contact with the Player during the Employment Contract (a fact which is uncontested by the Appellant).
 - b) The Player earned less with Famagusta SC than he would have earned had he remained with Ismaily SC, which points to the absence of any premeditation by the Player and Famagusta SC.

V. **JURISDICTION**

- 73. Article R47 of the Code provides as follows:

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

- 74. Article 57 (1) of the FIFA Statutes (May 2022 Edition) provides as follows:

“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.”

- 75. The Parties do not dispute the jurisdiction of CAS and confirmed it by signing the Order of Procedure.

76. It follows that the CAS has jurisdiction to decide the present dispute.

VI. ADMISSIBILITY

77. Article R49 of the Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties.”

78. Article 57 (1) of the FIFA Statutes requires appeals to be lodged within 21 days of receipt of the decision in question.

79. Article 15(5) of the FIFA Procedural Rules Governing the Football Tribunal (edition June 2022) provides as follows:

“Where no procedural costs are ordered, a party has ten calendar days from notification of the operative part of the decision to request the grounds of the decision. Failure to comply with the time limit shall result in the decision becoming final and binding and the party will be deemed to have waived its right to file an appeal. The time limit to lodge an appeal begins upon notification of the grounds of the decision.”

80. The FIFA DRC rendered the Appealed Decision on 15 December 2022 and notified its grounds to the Parties on 9 February 2023. The last day of the 21-day period by which the Appellant was required to have filed the Statement of Appeal was therefore 2 March 2023. The Appellant submitted its Statement of Appeal on 2 March 2023 and it was therefore submitted in a timely manner.

81. The admissibility of the appeal was challenged by the Respondents on the basis that the Appellant submitted the Appeal Brief after the relevant deadline of Thursday 13 April 2024. On 21 September 2023, the CAS Court Office notified the Parties that the Sole Arbitrator had decided to reject the objection to the admissibility of the Appeal Brief and that the reasons would be explained in the Award.

82. The reasons for the Sole Arbitrator’s decision are as follows:

- a) Pursuant to Article R31 of the Code, written submissions must be filed by courier. Article R32 of the Code provides as follows:

“[...] The time limits fixed under this Code are respected if the communications by the parties are sent before midnight, time of the location of their own domicile or, if represented, of the domicile of their main legal representative, on the last day on which such time limits expire [...]”

- b) The Appellant e-mailed the Appeal Brief to the CAS Court Office at 00:14 on 14 April 2023 (Egyptian time). As such, it initially appeared that the Appeal Brief had been submitted after the relevant deadline. However, on 20 April 2023, the Appellant provided the following evidence that they had actually sent the Appeal Brief by courier on 13 April 2023: (i) a “payment receipt” document from local courier firm, ABS Co, dated 13 April 2023 (the “**ABS Document**”); and (ii) a tracking document from the international courier firm, UPS, dated 15 April 2023.
- c) The Respondents challenged the validity of the ABS Document. In his Answer, the First Respondent submitted, *inter alia*, as follows:

“The sole piece of evidence presented, a receipt from ABS Express Courier, could easily have been manually completed by anyone, and it is worth noting that the receipt lacks any signature or acknowledgment of receipt from the courier company.

Additionally, the only computer-generated document indicating the date of document submission clearly states that it was sent on April 15, 2023, which is beyond the established deadline.”

- d) The Second Respondent made materially similar arguments in their Answer.
- e) The ABS Document is *prima facie* valid, in that it states that ABS received a payment from the Appellant’s legal advisor on 13 April 2023 for making a shipment to Switzerland. While the Respondents have expressed concerns as to the document’s validity, the Sole Arbitrator notes that: (i) they have not provided any evidence to support their concerns; and (ii) failing any such evidence and submission, it is not for the CAS to investigate whether the ABS Document is a forgery. In these circumstances the Sole Arbitrator has no reason to consider that the Appeal Brief was not filed within the relevant deadline.

83. Accordingly, the Appellant’s appeal to CAS is admissible.

VII. APPLICABLE LAW

84. 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.”

85. FIFA is the body which issued the Appealed Decision and it is domiciled in Switzerland. Furthermore Article 56(2) of the FIFA Statutes (May 2021 Edition) provides as follows:

“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.”

86. Accordingly, the Sole Arbitrator is satisfied that the various regulations of FIFA (and specifically the FIFA RSTP) shall apply and that Swiss law shall apply additionally to fill in any gaps or lacuna when appropriate.

VIII. MERITS

87. According to Article R57.1 of the Code, a panel has “*full power to review the facts and the law*”. As repeatedly stated in the CAS jurisprudence (e.g. CAS 2007/A/1394), by reference to this provision the CAS appeals arbitration procedure entails a *de novo* review of the merits of the case, and is not confined merely to deciding whether the ruling appealed was correct or not. Accordingly, it is the function of the Sole Arbitrator to make an independent determination as to merits.

88. In light of the facts and the circumstances of the case, as well as considering the Appellant’s contentions in support of its claims, the Sole Arbitrator considers that the main issues to be resolved are the following:

- a) What is the applicable burden and standard of proof?
- b) Is the Waiver enforceable?
- c) Did the Player validly terminate the Employment Contract with just cause for outstanding salaries pursuant to Article 14bis of the FIFA RSTP?
- d) If not, did the Player have any other grounds to terminate the Employment Contract with just cause pursuant to Article 14 of the FIFA RSTP?
- e) If the Player terminated the Employment Contract with just cause:
 - i. What level of compensation should be awarded to the Player?
 - ii. Should Ismaily SC be subject to sporting sanctions?
- f) If the Player terminated the Employment Contract without just cause:
 - i. What level of compensation should be awarded to Ismaily SC?
 - ii. Should the Player or Famagusta SC be subject to sporting sanctions?

A. What is the applicable burden and standard of proof?

89. The FIFA Procedural Rules governing the Football Tribunal govern the organisation of the following chambers: (i) the FIFA DRC; (ii) the FIFA PSC; and (iii) the FIFA Agents' Chamber. Article 13(5) of those rules (both the May 2021 Edition and June 2022 edition) state as follows:

“A party that asserts a fact has the burden of proving it.”

90. Furthermore, the concept of burden of proof has been considered in many CAS decisions and is well established CAS jurisprudence. It was set out in CAS 2007/A/1380 as follows:

“According to the general rules and principles of law, facts pleaded have to be proved by those who plead them, i.e., the proof of facts, which prevent the exercise, or extinguish, the right invoked, must be proved by those against whom the right in question is invoked. This means, in practice, that when a party invokes a specific right it is required to prove such facts as normally comprise the right invoked, while the other party is required to prove such facts as exclude, or prevent, the efficacy of the facts proved, upon which the right in question is based. [...] It is well established CAS jurisprudence that any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. must give evidence of the facts on which its claim has been based. [...] The two requisites included in the concept of “burden of proof” are (i) the “burden of persuasion” and (ii) the “burden of production of the proof”. In order to fulfil the burden of proof, the Club must, therefore, provide the Panel with all relevant evidence that it holds, and, with reference thereto, convince the Panel that the facts it pleads are true, accurate and produce the consequence envisaged by the Club. Only when these requirements are complied with has the party fulfilled its burden and has the burden of proof been transferred to the other party” (see also CAS 2005/A/968 and CAS 2004/A/730).

91. In CAS 2003/A/506, it was held:

“[In] CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue... Hence, if a party wishes to establish some facts and persuade the deciding body, it must actively substantiate its allegations with convincing evidence.”

92. It follows therefore that each Party must fulfil its burden of proof to the required standard by providing and referring to evidence to convince the Sole Arbitrator that the facts it pleads are established.

93. As to the question of what the standard of proof is, the Sole Arbitrator makes the following observations:

- a) Neither the Swiss Private International Law Act nor the Code prescribe a “standard of proof” applicable to CAS proceedings.
- b) According to legal authorities, the parties to CAS arbitration proceedings are entitled to enter into a separate agreement on the evidential procedures to be followed, provided that these do not depart from mandatory procedural requirements of the Code. See the chapter entitled “Evidentiary Issues Before CAS” by Rigozzi/Quinn which is contained in “International Sports Law and Jurisprudence of the CAS - 4th Conference CAS & SAV/FSA Lausanne 2012, Editions Weblaw 2014” edited by Bernasconi M. (“Rigozzi/Quinn”). In this case, the Parties have not agreed, or otherwise expressed a view as to, the standard of proof to be applied.
- c) Consistent CAS jurisprudence has upheld the right of a sports-governing body to set its own standard of proof (see, for example, CAS 2011/A/2426 and CAS 2011/A/2625). The regulations applicable to this case (i.e. the FIFA RSTP) are silent on this.
- d) Where no applicable standard of proof is specified in the applicable regulations, CAS jurisprudence confirms that the Sole Arbitrator has the discretion to determine the appropriate standard although, as indicated in CAS 2010/A/2172, the Sole Arbitrator should at least consider consistent CAS jurisprudence in similar fields when exercising this discretion. The Sole Arbitrator notes that previous CAS panels have generally applied the “comfortable satisfaction” standard when considering cases involving the FIFA RSTP. See, for example, CAS 2012/A/2908, CAS 2019/A/6187 and CAS 2020/A/7605. As explained by the panel in CAS 2011/A/2426, that standard is considered to be “*higher than the civil standard of “balance of probability” but lower than the criminal standard of “proof beyond a reasonable doubt”*”.
- e) The following FIFA regulations adopt the standard of comfortable satisfaction:
 - (i) Article 35 of the FIFA Disciplinary Code (for the standard of proof to be applied in FIFA disciplinary proceedings);
 - (ii) Article 48 of the FIFA Code of Ethics (for the standard of proof to be applied by FIFA’s Ethics Committee);
 - and (iii) Article 68(1) of the FIFA Anti-Doping Regulations (for the standard of proof to establish an anti-doping rule violation).

94. In light of the above observations, the Sole Arbitrator considers it most appropriate to apply the standard of “comfortable satisfaction”.

B. What is the effect of the Waiver?

95. Ismaily SC sought to argue that the Waiver served as proof of the club having fulfilled its financial obligations towards the Player in respect of season 2021/22, even in circumstances where the Player was unable to cash the USD 30,000 cheque issued to him by the club.

96. While the Waiver did not make reference to the settlement amount of USD 30,000 or stipulate that the Player's agreement to waive claims against Ismaily SC was conditional upon him receiving such amount, the Sole Arbitrator does not accept Ismaily SC's argument for the following reasons:
- a) It is beyond coincidence that both the cheque and Waiver were dated 12 June 2022 and it can reasonably be concluded that the club issued the cheque to the Player in return for him signing the Waiver.
 - b) It would be entirely inconsistent with the Player's prior conduct for him to waive his claim for outstanding salaries without being compensated for doing so.
 - c) Ismaily SC submitted that, as an experienced professional footballer who was receiving legal advice, the Player should have insisted on including wording which made clear that his waiver of claims was conditional upon receipt of the settlement amount. It is self-evident that Ismaily SC (a long-established professional football club) and the Player (a non-Egyptian who had been in the country for only a few months and whose legal advisor was based in Bolivia) were materially unbalanced in terms of their respective business experience at the time of entering into the Waiver. Accordingly, the Sole Arbitrator does not accept that the Player was in a position to negotiate a comprehensive legal document which protected his interests.
 - d) The Waiver was on the headed letter paper of Ismaily SC, and therefore would have been drafted by the club. It would be contrary to the principle of "*in dubio contra stipulatorem*" for the club to benefit from omissions in the drafting.
97. Accordingly, notwithstanding the terms of the Waiver, the Sole Arbitrator does not consider it to be enforceable as the Player was not compensated for entering into it.

C. Did Ismaily SC terminate the Employment Contract with just cause pursuant to Article 14bis?

98. Article 14bis of the FIFA RSTP provides as follows:

"1. In the case of a club unlawfully failing to pay a player at least two monthly salaries on their due dates, the player will be deemed to have a just cause to terminate his contract, provided that he has put the debtor club in default in writing and has granted a deadline of at least 15 days for the debtor club to fully comply with its financial obligation(s). [...]"

99. Ismaily SC and the Player engaged in protracted and fractious communications with respect to outstanding salaries. However, these concerned the quantum, rather than the existence, of outstanding salaries. Ismaily SC did not dispute that they had only paid the Player the first instalment due on 14 January 2022. In their submissions, Ismaily SC

referred to documents (including *inter alia* the letter and Settlement Statement sent to the Player on 9 June 2022) which set out their position as to the salaries already paid to the Player and the salaries still outstanding. Their position can be summarised as follows:

- a) The total salaries payable by Ismaily SC to the Player for season 2021/22 were USD 173,333 gross (USD 130,000 net of tax).
- b) Pursuant to the Ismaily Financial Regulations (which were incorporated into the Employment Contract by reference), Ismaily SC were entitled to withhold payment of 25% of the total salaries payable for a season until the end of that season and only pay them if the Player has participated in at least 80% of the club's matches. Accordingly, the sixth and seventh instalments of the salaries payable (representing USD 44,003 or 25% of the total) were scheduled for payment after the end of season 2021/22.
- c) Ismaily SC paid the Player the first instalment of USD 86,666 gross (USD 65,000 net) in two instalments on 17 January 2022 and 18 February 2022.
- d) Ismaily SC did not pay any further instalments prior to the Player issuing the Default Notice on 23 May 2022. Upon receipt of the Default Notice, they offered to pay USD 21,325 which was calculated as follows:

USD 32,000 – This represents the net amount of the second, third, fourth and fifth instalments of salaries due for season 2021/22. Each instalment was for USD 10,666 gross (USD 8,000 net) and unconditional on matches played.

LESS

USD 3,175 – This represents a disciplinary sanction for the Player allegedly refusing to participate in training on 28 March 2022.

LESS

USD 7,500 – This represents hotel expenses which Ismaily SC claims to have incurred on behalf of the Player and to have been entitled to deduct from his salary.

100. Accordingly, Ismaily SC acknowledged in their own submissions that there were four months of outstanding salaries as at the date of the Default Notice.
101. For Article 14bis of the FIFA RSTP to apply, the Sole Arbitrator must be satisfied that the Player provided Ismaily SC with written notice of their default and gave them at least 15 days to fully comply with their financial obligation(s).

102. The Player's position in this regard can be summarised as follows:

- a) On 23 May 2022, he issued a Default Notice which notified Ismaily SC that they had failed to pay him at least two monthly salaries on their due dates (i.e. the instalments due in February and March 2022). He gave the club 15 days to make payment of the relevant amounts, failing which he would terminate the Employment Contract with just cause for outstanding salaries pursuant to Article 14bis of the FIFA RSTP.
- b) On 19 June 2022, the Player terminated the Employment Contract after Ismaily SC's bank failed to honour a cheque for USD 30,000 which the club had issued to the Player to settle all claims for outstanding salaries, including the February and March 2022 instalments referenced in the Default Notice.

103. Ismaily SC put forward an alternative position which can be summarised as follows:

- a) The outstanding salaries referred to in the Default Notice were wrong as the Player calculated them based on gross amounts.
- b) Between the date of the Default Notice and the date of the Waiver, the Player claimed for amounts which the club considered to be in excess of the actual amounts outstanding. This was due to the Player's failure or refusal to take into account the following: (i) the club's entitlement to deduct income tax and hotel expenses in excess of the Player's contractual accommodation allowance; (ii) the deduction of a financial sanction for refusal to take part in training; and (iii) the sixth instalment of salary was conditional on the Player participating in 80% of the club's matches for that season.
- c) They reluctantly agreed to settle the Player's claim for outstanding salaries for season 2021/22 for USD 30,000 – i.e. for USD 8,675 more than they considered was due.
- d) On 19 June 2023, when the Player was unable to cash the club's cheque for the settlement amount of USD 30,000, he should have issued a fresh default notice to the club for that amount, giving them 15 days to comply with their obligation.

104. The Sole Arbitrator observes that there was considerable confusion on the Player's part with respect to the quantum of outstanding salaries, despite the Player having the benefit of legal advice. For example:

- a) As noted by Ismaily SC, the Player initially failed to take income tax deductions into account. This resulted in the Default Notice wrongly demanding payment of USD 42,998 *in lieu* of the balance of the first salary instalment (which, in

fact, had already been paid in full) and the gross amounts of the second and third salary instalments.

- b) On 7 June 2022, the Player changed his position and demanded payment of USD 40,000, being the net amounts of the second, third, fourth, fifth and sixth salary instalments (payable in February, March, April, May and June respectively). The Player included the June instalment, despite it being conditional on the Player having participated in at least 80% of the club's matches. It is evident from the Player's Answer that he understood and accepted the concept of conditional salary, even if he did not grasp the precise detail of the Ismaily SC Financial Regulations. At paragraph 24 of his Answer, the Player states as follows: *"In accordance with the Employment Contract, the Club had the obligation to pay 10.666 US every month from February 1st and until June 1st, plus a payment of 33.337 US on August 1st, corresponding to a 20% (sic) of the total amount of that season, to be paid only if the Player had played more than 80% of the games."* In the same correspondence, the Player also gave Ismaily SC the option of paying the lesser amount of USD 24,000.
- c) On 9 June 2022, Ismaily offered to settle for USD 24,000 in line with the Player's demand of 7 June 2022.
- d) The Player entered into the Waiver dated 12 June 2022 and Ismaily SC issued a cheque of the same date to the Player for USD 30,000. It is reasonable to assume that this was the result of the Player once again changing his position on the quantum of outstanding salaries.

105. The Player terminated the Employment Contract on 19 June 2022. Accordingly, to constitute termination with just cause pursuant to Article 14bis of the FIFA RSTP, the Player was required to have issued a default notice to Ismaily SC on or before 4 June 2022. The only relevant document issued by the Player to Ismaily SC prior to that date was the Default Notice. The question to be answered therefore is whether the Default Notice satisfied the terms of Article 14bis by granting *"a deadline of at least 15 days for [Ismaily SC] to fully comply with its financial obligation(s)"*? The Sole Arbitrator makes the following observations in this regard:

- a) It is well established in CAS jurisprudence and Swiss law that termination of a contract should always be an action of last resort (an *"ultima ratio"* action). See, for example, CAS 2014/A/3684 and CAS 2014/A/3693. As explained by the panel in CAS 2018/A/6029, this principle is intended to ensure that the defaulting party is given a chance to comply with its obligations and, if it accepts the claim is legitimate, to rectify the situation.
- b) On 7 June 2022, the Player re-stated Ismaily SC's outstanding financial obligations, setting out the position net of tax and demanding a lower amount of either USD 40,000 or USD 24,000. By doing so, he effectively acknowledged

that the original Default Notice was incorrect (to the detriment of Ismaily SC) and no longer valid.

- c) Accordingly, it must be concluded that the Player failed to satisfy the terms of Article 14bis and did not terminate the Employment Contract with just cause for outstanding salaries in accordance with Article 14bis.

106. On 19 June 2022, when the Player was unable to cash the cheque for USD 30,000, the correct course of action (and consistent with the principle of *ultima ratio*) would have been for him to notify Ismaily SC of the issue and give the club an opportunity to remedy it before 29 June 2022.

107. Ismaily SC alleged that the Player deliberately failed to cash the USD 30,000 cheque on 19 June 2022 by refusing to follow the bank's process for cashing US dollar cheques into local currency. The Sole Arbitrator makes the following observations:

- a) Ismaily SC provided a bank statement in evidence which showed that, on the date that the Player attempted to cash the cheque (i.e. 19 June 2022), their bank account with the Commercial International Bank was EGP 1,101,295 in credit and then EGP 3,010,295 in credit later that day following a deposit of EGP 2,000,000. According to www.xe.com, the USD:EGP exchange rate on 19 June 2022 was 1 USD = EGP 18.7229. Accordingly, the USD equivalent in their bank account was USD 58,820 then USD 160,781. However, the Sole Arbitrator notes that the bank account number on the cheque (100006812931) does not match the bank account number on the bank statement (100052711268).
- b) Ismaily SC also provided an attestation from the Commercial International Bank which confirmed that Article 510 of Egyptian Trade Law no. 17/1999 states as follows: "*If the cheque is issued in a foreign currency in Egypt and the debtor has no balance to fulfill (sic) its amount, the cheque can be cashed based on the Egyptian currency according to the currency conversion rate on the date of submitting the cheque, unless the beneficiary refuses this process*". This attestation does not confirm whether the bank actually offered that option to the Player and (if the bank did) whether the Player declined it. In any event, the Employment Contract obliged Ismaily SC to pay the Player in USD, so the Player was not under any obligation to accept payment in EGP.
- c) The Player provided a document evidencing that the Commercial International Bank had rejected the USD 30,000 cheque because of insufficient funds in Ismaily SC's account number 100006812931.
- d) There was no economic incentive for the Player to engineer an exit from Ismaily SC in order to join Famagusta SC. The residual value of the Employment Contract (USD 1,366,660) was materially higher than the financial terms he entered into with Famagusta SC (approximately USD 117,000).

- e) Accordingly, the Sole Arbitrator is comfortably satisfied that the Player attempted to cash the cheque for USD 30,000 on 19 June 2022 and that the reason the Commercial International Bank refused to do so was because Ismaily SC had insufficient USD in the relevant bank account. Nevertheless, by terminating the Employment Contract immediately, rather than giving Ismaily SC the opportunity to rectify matters, the Player failed to comply with the criteria of Article 14bis of the FIFA RSTP.

D. Did the Player terminate the Employment Contract with just cause pursuant to Article 14?

108. Article 14 of the FIFA RSTP provides as follows:

“1. A contract may be terminated by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions) where there is just cause.

2. Any abusive conduct of a party aiming at forcing the counterparty to terminate or change the terms of the contract shall entitle the counterparty (a player or a club) to terminate the contract with just cause.”

109. The Player alleged various instances of abusive conduct and grounds for terminating the Employment Contract for just cause. These included, *inter alia*, the following:

- a) In February 2022, Ismaily SC changed their coach following a poor run of results. The new coach blamed the club’s foreign players for the poor results and instructed them to train separately from the first team for the remainder of the season. Ismaily SC denied this. The Player referred to a sworn statement as evidence in support of this (i.e. *“Exhibit No. 1 and Video No. 1 recorded on date 23 June 2022”*). As already mentioned in this Award, the sworn statement is missing from the evidence actually filed by the Player.
- b) Ismaily SC withheld the Player’s passport throughout his time in Egypt. On 24 May 2022, the Player contacted the Argentinian embassy to seek their help in recovering his passport from the club. The club claimed that: (i) they hold the passports for all players as they are required for administrative reasons; and (ii) as demonstrated when the Player previously returned to Argentina, they return the passport to a player when required.
- c) In his letter of 27 May 2022 to Ismaily SC, the Player complained that he was not permitted to stay in the hotel used by the remainder of team because he refused to sign a blank document and therefore had to book his own hotel. In his letter of 7 June 2022, the Player somewhat inconsistently complained about the club deducting hotel costs from his salary for a hotel which the club had chosen. Ismaily SC denied the Player’s allegations and claimed that the Player had chosen to stay in the Mercure Hotel as it was more luxurious than the team-hotel.

- d) The Player was asked to sign prejudicial documents without the support of a translator, despite him requesting the club to communicate only with his lawyer. The Player referred to a sworn statement as evidence in support of this (i.e. “*Video No. 2*”). As already mentioned in this Award, this is missing from the evidence actually filed by the Player. Ismaily SC denied this.
 - e) The Player was wrongly accused of concocting a scheme to leave the club under false pretenses.
 - f) Ismaily SC were constantly in arrears with respect to the salary payable under the Employment Contract.
110. The burden of proof for establishing just cause to terminate pursuant to Article 14 of the FIFA RSTP sits with the Player. However, he has submitted insufficient evidence for the Sole Arbitrator to be comfortably satisfied as to the existence of just cause and/or abusive conduct.

E. Consequences of terminating the Employment Contract with just cause

111. As it has been determined that the Player terminated the Employment without just cause, it is not necessary to consider this issue any further.

F. Consequences of terminating the Employment Contract without just cause

112. Article 17 of the FIFA RSTP provides as follows:

“1. In all cases, the party in breach shall pay compensation [...] compensation for the breach shall be calculated with due consideration for the law of the country concerned, the specificity of sport, and any other objective criteria. These criteria shall include, in particular, the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period.

[...]

2. [...] If a professional is required to pay compensation, the professional and his new club shall be jointly and severally liable for its payment [...]

3. In addition to the obligation to pay compensation, sporting sanctions shall also be imposed on any player found to be in breach of contract during the protected period.
[...]

4. “In addition to the obligation to pay compensation, sporting sanctions shall be imposed on any club found to be in breach of contract or found to be inducing a breach of contract during the protected period. It shall be presumed, unless established to the

contrary, that any club signing a professional who has terminated his contract without just cause has induced that professional to commit a breach [...].”

113. Accordingly, the following issues require to be considered: (i) the quantum of compensation to be awarded to Ismaily SC; (ii) whether sporting sanctions should also be imposed on the Player; and (iii) whether sporting sanctions should be imposed on Famagusta SC.

I The quantum of compensation to be awarded to Ismaily SC

114. When calculating the compensation due, a judicial body must establish the damage suffered by the injured party, taking into consideration the particular circumstances of the case, the arguments raised by the parties and the evidence produced. A judicial body shall be led by the principle of the so-called “positive interest” – i.e. it will aim at determining an amount which shall basically put the injured party in the position that the same party would have had if the contract was performed properly. It is the party requesting compensation who must state their case and bears the burden of proof.

115. The Sole Arbitrator notes the following excerpts from FIFA’s “Commentary on the RSTP” with respect to Article 17 of the FIFA RSTP:

“According to the [FIFA] DRC jurisprudence [...] the compensation payable by the player to their previous club is calculated based on the average remuneration due to the player under their previous contract and their new contract over the remaining term of the contract that was prematurely terminated. Any non-amortised fees and expenses paid or incurred by the former club are then added to the value of the two contracts. Typically, “fees” for calculation purposes will include the transfer fee paid to acquire the player’s services, as well as fees paid to agents in relation to the transfer concerned.

On a few occasions, considering the particular circumstances of a case, the [FIFA] DRC has deviated from the general formula described above, based on the specificity of sport.

[...]

CAS jurisprudence on the calculation of compensation due to a club in the event of a breach of contract regularly stresses a wide margin of discretion when applying article 17.2. By the same token, it is commonly agreed that the list of criteria in article 17 is not exhaustive. Consequently, the way article 17 is applied remains highly dependent on the individual Panel hearing the case..

[...]

While certain elements and principles do recur, thus providing the basis for established jurisprudence, [various CAS] decisions all took new factors into account that had not been considered in previous judgments. It must therefore be concluded that each case

has its own characteristics, and that different Panels may adopt different approaches to the cases before them. [...]”

116. Ismaily SC submitted that compensation should be quantified as follows: (i) the residual value of the Employment Contract; plus (ii) the unamortised value of the transfer fee paid by Ismaily SC to secure the Player’s registration; plus (iii) a further amount based on the specificity of sport. The Sole Arbitrator makes the following observations with respect to this quantification methodology and the manner in which Ismaily SC have applied it:
- a) Based on a termination date of 19 June 2022, Ismaily SC calculated the residual value of the Employment Contract to be USD 1,366,660, comprising: (i) for season 2021/22 - One instalment of USD 33,337, payable on 1 August 2022; (ii) for season 2022/23 – USD 293,333; (iii) for season 2023/24 – USD 320,000; (iv) for season 2024/25 – USD 346,666; and (v) for season 2025/26 – USD 373,333. According to the Ismaily Financial Regulations, the final instalment of 2021/22 and 25% of all further salaries were conditional upon the Player participating in 80% of Ismaily SC’s matches. Clearly that conditionality could not be met. Accordingly, the Sole Arbitrator considers that the residual value of the Employment Contract was USD 999,999.
 - b) Ismaily SC did not take into account the remuneration due to the Player under the new contract with Famagusta SC – i.e. EUR 110,000, which equates to USD 116,997 based on an exchange rate of EUR 1 = USD 1.0636.
 - c) Ismaily SC paid a transfer fee of USD 250,000 for the Player. On the basis that the club benefitted from the Player’s registration for half of a season, instead of four and a half seasons, the unamortised fees were USD 222,000.
 - d) Ismaily SC also claimed an amount equal to six months’ salary (USD 48,000) based on the specificity of sport “*bearing in mind the fact that the Player terminated [...] within the protected period, and given his bad faith and all his malicious acts*”. While the Employment Contract was terminated during the protected period, the Sole Arbitrator is not comfortably satisfied that the Player acted in bad faith or with malice. Indeed: (i) as at 19 June 2022, there were four instalments of outstanding salaries due to the Player, with the earliest dating from 1 February 2022; and (ii) the Player’s attempt to cash the club’s cheque for USD 30,000 was unsuccessful due to a lack of funds in the club’s bank account. The only reason the Player is not considered to have terminated the Employment with just cause for outstanding salaries is his failure to give Ismaily SC sufficient notice to remedy the issue.
117. While acknowledging that this case has its own characteristics, the Sole Arbitrator considers the following CAS jurisprudence to be relevant to the current case:
- a) CAS 2008/A/1519 & 1520 (the “Matuzalem” case) - The panel observed that, “*while the information on the remuneration under the existing contract may*

provide a first indication on the value of the services of the player for that employing club, the remuneration under the new contract may provide an indication not only on the value that the new club/clubs is/are giving to the player, but possibly also on the market value of the services of the player [...]” Indeed, the panel ultimately established the value of the player’s services based solely on his remuneration under his new contract and the residual value of the prematurely terminated contract was viewed as an expense saved by the player’s club. The panel also considered the fees and expenses paid or incurred by the former club, amortised over the term of the contract until the date of the termination.

- b) CAS 2015/3955 & 3956 (the “Maazou” case) – The panel rejected the former club’s entitlement to compensation following the early termination of a contract by a player without just cause on the basis that the club itself bore a significant measure of responsibility for the termination. In this instance, the club admitted not having paid the player the equivalent of two-and-a-half months’ salary and that they had informed him he would no longer be considered part of the squad.

118. Applying the methodology adopted in “Matuzalem” to the current case, then the compensation payable to Ismaily SC comprises the following elements:

- a) The remuneration element – The value that Famagusta SC and the Player gave to the services of the Player for the remaining term of the Employment Contract was USD 116,997 multiplied by four seasons, which equals USD 467,988.
- b) The value of the services that the former club no longer enjoys or (alternatively) the missed transfer fees suffered by the former club – In both instances a third party offer provides a useful indication as to the market of a player’s registration. In this case, Ismaily SC did not provide evidence of any such offer. Furthermore, the following factors suggest that the Player’s transfer value would have been negligible at the relevant time: (i) the Player accepted a material reduction in remuneration; and (ii) Famagusta SC did not pay the Player any form of signing-fee.
- c) The residual value of the Employment Contract - Due to the termination of the Employment Contract, Ismaily SC was no longer required to pay any salary to

the Player. The corresponding amount (in this case USD 999,999) represents saved expenses rather than financial damages.

- d) The unamortised value of fees and expenses paid by Ismaily SC – As already established, Ismaily SC incurred USD 222,000 of unamortised transfer fees with respect to the Player.
- e) Any other objective criteria – No Party referenced any other objective criteria and the Sole Arbitrator does not consider there to be any.
- f) The law of the country concerned - No Party submitted any legal arguments according to which a national law could have an effect on the calculation of the compensation due. Accordingly, the Sole Arbitrator is not in a position to consider this criterion.
- g) The specificity of sport – A solution should take into account not only the interests of the player and clubs involved, but more broadly the whole football community. Factors taken into account by the panel in Matuzalem included *inter alia*: (i) the time remaining on the existing contract up to a maximum of five years, with an early termination potentially being considered more disruptive to the wronged party; and (ii) the status and behaviour of the Player. In this case, while the Player terminated the Employment Contract only six months into a four and a half-year term, he remained with the club and continued to train and be available for selection until the end of season 2022/23 despite not having been paid any salary for four months. On this basis, the Sole Arbitrator considers that no additional compensation is justified under this criterion.

119. The Sole Arbitrator considers that no compensation should be awarded to Ismaily SC on the basis that the saved expenses which Ismaily SC has benefitted from (USD 999,999) exceed the compensation to which they are entitled under the relevant heads of loss, being: (i) the remuneration element of USD 467,988; plus (ii) the unamortised value of fees and expenses paid by Ismaily SC of USD 222,000.

II Should the Player or Famagusta SC be subject to sporting sanctions?

120. The Appellant did not request the imposition of sporting sanctions. As established in CAS jurisprudence (see, for example, CAS 2016/A/4826) there is no legal basis, whether in the FIFA RSTP or otherwise, for the victim of a termination of contract without just cause to request that sporting sanctions as foreseen in Article 17 of the FIFA RSTP be imposed upon the party/parties at fault. Only FIFA has the power to impose such sanction(s), and FIFA is not a party to this case.

121. Accordingly, neither the Player nor Famagusta SC shall be subject to sporting sanctions.

G. Conclusions

122. In summary, the Sole Arbitrator finds as follows:

- a) The Player terminated the Employment Contract without just cause.
- b) However, Ismaily SC shall not be awarded any compensation as their financial savings exceed their losses.
- c) No sporting sanctions shall be imposed on the Player or Famagusta SC as FIFA is not a party to this appeal and only FIFA has the power to impose sporting sanctions.
- d) Ismaily SC's appeal is partially accepted.
- e) The Appealed Decision shall be set aside and replaced by the following:
 - i. The Player terminated the Employment Contract without just cause.
 - ii. Ismaily SC's are not awarded any financial compensation as they did not suffer any financial loss as a consequence of the termination.

IX. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Ismaily Sports Club against the decision issued on 15 December 2022 by the Dispute Resolution Chamber of the Fédération Internationale de Football Association is partially upheld.
2. The decision issued on 15 December 2022 by the Dispute Resolution Chamber of the Fédération Internationale de Football Association is set aside and replaced by the following:
 - a) Diego Fernando Dorregaray terminated the employment contract with Ismaily Sports Club of 14 January 2022 without just cause.
 - b) Ismaily SC are not awarded any financial compensation as they did not suffer any financial loss as a consequence of the termination.
 - c) No sporting sanctions shall be imposed on either Diego Fernando Dorregaray or Club Nea Salamina Famagusta SC as the Fédération Internationale de Football Association is not a party to this appeal and only it as the power to impose sporting sanctions.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 27 May 2024

THE COURT OF ARBITRATION FOR SPORT

Mr. Patrick Stewart
Sole Arbitrator