CAS 2025/A/11672 Roberto Santilli v. Projekt Warszawa Sp. Z.o.o.

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Jasper Wauters, Attorney-at-Law, Geneva, Switzerland

in the arbitration between

Mr Roberto Santilli, Rome, Italy

Represented by Dr Stephan Netzle, Attorney-at-Law in Uster, Switzerland

Appellant

and

Projekt Warszawa Sp. Z.o.o., Warsaw, Poland

Represented by Mr Michal Gniatkowski, Attorney-at-Law in Poznan, Poland

Respondent

I. THE PARTIES

1. Mr Roberto Santilli (the "Appellant") is an Italian professional volleyball coach with more than 20 years of experience in coaching volleyball at the professional level.

2. Projekt Warszawa Sp. Z.o.o. (the "Respondent") is a professional volleyball club based in Warsaw, Poland, and competing in the PlusLiga – the highest-ranking men's volleyball league in Poland.

II. FACTUAL BACKGROUND

3. On 12 May 2022, the Parties signed a contract (the "Contract"), by which the Respondent engaged the Appellant as a coach for its professional volleyball team for the 2022/2023 and 2023/2024 season, corresponding to a fixed duration, according to §5 of the contract, of 1 August 2022 to 31 May 2024 or the last day of the Polish volleyball league.

4. According to §4 of the Contract, the base remuneration of the Appellant was fixed at EUR 80,000 net of tax for each of the two seasons.

5. The season 2022/2023 started on 30 September 2022. However, on 28 November 2022, the Respondent's Vice President and Sports Director, Mr Piotr Gacek, informed the Appellant via WhatsApp that he was relieved of his role as the first coach of the Respondent's team. Following an unsuccessful settlement attempt and related compensation proposal by the Respondent, the Respondent sent a formal notification to the Appellant dated 21 December 2022, by which the Respondent terminated the Contract unilaterally with immediate effect. The Respondent referred to "*dissatisfactory sporting results*", "*lack of adequate cooperation*" and "*lack of realistic prospects for improvement of the above*" as the justification for the termination.

6. On 25 January 2023, the Appellant filed a Complaint with the *Confédération Européenne de Volleyball* ("CEV"), claiming early termination of the Contract by the Respondent without just cause and requesting compensation in the amount of the residual value of the base remuneration under the Contract for the seasons 2022/2023 and 2023/2024, totalling EUR 122,064.80.

7. Around that same time in January 2023, the Appellant also engaged in discussions with the French volleyball club AS Cannes. The club was in a financially difficult period at the time, but a new investor had appeared who was planning to restructure the club. The Appellant became involved in the project and accepted a position as "High Performance Manager." While this position remained unpaid, the expectation was that it would turn into a remunerated position as soon as the financial difficulties would have been addressed and the related penalties that had been imposed by the French Volleyball League ("LNV") would be lifted. However, a series of decisions by the LNV maintained the penalties as the Club's financial situation did not sufficiently improve. The Appellant had some interactions with another club regarding a possible paid position and by October 2023 also reached out to an agent he had worked with in the past to signal his interest in a new paid position but not much appeared to be available on the market at that time.

Only by December 2023 would the LNV confirm that AS Cannes had sufficiently restructured its finances and it thus lifted its restrictions and penalties.

8. On 14 October 2024, more than a year and a half after the complaint was filed in January 2023 and equally 17 months after the last submission of the parties had been filed in early March 2023, the CEV issued its decision on the Appellant's complaint for compensation. It concluded that the Respondent had terminated the Contract without just cause and ordered that it pay compensation to the Appellant corresponding to the remaining remuneration for the 2022/2023 season (*i.e.*, EUR 42,064.8). However, the CEV dismissed the Appellant's complaint concerning the outstanding remuneration for the 2023/2024 season (EUR 80,000). The CEV held:

> "*With regard to the consequences of the termination of the Contract, taking into account the termination without just cause and ex aequo et bono considerations, the Coach shall be compensated for all damages suffered as a result of the unjustified early termination of the Contract. In principle, the Coach will be placed in the same financial position as if the Club had duly performed the contract without such termination. However, he must recognise that he would have had sufficient time to find employment for the 2023-2024 season. As he did not do so and did not provide any evidence that he was looking for a suitable position, this circumstance is taken into account in the calculation of the compensation as a duty to mitigate the damages.*"

9. On 31 October 2024, the Appellant filed a Request for Review with the Tribunal of the *Fédération Internationale de Volleyball* (the "FIVB") against the CEV's decision. The Appellant requested the FIVB Tribunal to confirm the CEV's decision concerning the Respondent's wrongful termination of the Contract and the Appellant's entitlement to indemnity. However, it requested that the FIVB Tribunal reverse the finding of the CEV regarding the amount of the compensation as the Appellant argued he had fulfilled his duty to mitigate and was entitled to compensation in the total amount of EUR 137,064.80. The Respondent, on the other hand, requested that the FIVB Tribunal uphold the CEV's decision.

10. On 24 July 2025, the FIVB Tribunal issued its decision, in which it partly dismissed the Request for Review by the Appellant:

> "*1. The Request for Review filed by Mr. Roberto Santilli is partly dismissed.*
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> *2. The decision rendered by the CEV dated 14 October 2024 (CC315-2023) is fully upheld, including the orders that*
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> *a) Projekt Warszawa Sp. z.o.o shall pay to Mr. Roberto Santilli the amount of EUR 42,064.80 net with five percent (5%) per annum interest calculated from 24 December 2022 until full payment;*
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> *b) Projekt Warszawa Sp. z.o.o shall pay to Mr. Roberto Santilli the amount of EUR 2,000.00 net as legal expenses; and*

c) Projekt Warszawa Sp. z.o.o shall pay to Mr. Roberto Santilli the amount of EUR 400.00 as reimbursement of the handling fee.

[…]"

11. The FIVB Tribunal first observed that considering the Parties' requests for relief, there was no dispute about the CEV's finding that the Respondent terminated the contract without just cause and that the Appellant was entitled to compensation in the amount corresponding to the outstanding remuneration for the 2022/2023 season.

12. However, with regard to the outstanding amount for the 2023/2024 season, the FIVB Tribunal dismissed the Appellant's request as it considered that the Appellant had failed to comply with his duty to mitigate as he could have done "much more" to find paid employment for that period. In particular, the FIVB Tribunal held as follows:

> "[*T*]*he FIVB Tribunal Judge observes that under general principles of fairness and justice, the law of damages as well as contract law and labour law, and according to jurisprudence of the FIVB Tribunal, any party has a duty to mitigate damages. Such mitigation duty corresponds to a duty to be active in trying to find a new job after a contract is terminated. A party (player/coach) should not merely sit idly by and wait to collect money from a club that he/she is not performing for. Thus, any amounts received by a party from another club (or similar organisation) after termination must be deducted from the amount requested from the breaching party. In addition, any amounts which the party might have earned by exercising reasonable care during the remaining term of the employment must also be deducted. Finally, the mitigation duty is subject to the circumstances of the case; for instance, a player cannot be expected to find another employment if the player was terminated too late into the season.*
>
> *[…]*
>
> *The Coach submitted evidence for discussions with the Italian club Gas Sales Bluenergy Piacenza for the head coach position 'during the summer of 2023'. However, he failed to provide evidence for his agent's further efforts allegedly made during the period March - September 2023. Discussions with just one club and unverified further efforts to find an employment as of December 2022 are not sufficient to fulfil his duty to mitigate damage. Moreover, it was the Coach's free choice to work (pro bono) for a second-league club in France and the same applies for his later (pro bono) engagement with the Vanuatu Volleyball Federation and his consultant position with the Australian company Suiko. Although all these engagements seem to be commendable, this does not fulfil his duty to mitigate damage, in particular for the 2023-2024 season, because he could have done much more*."

13. On this basis, the FIVB Tribunal upheld the CEV's decision and dismissed the Appellant's request of further compensation for the missed remuneration during the 2023/2024 season. It is this decision of the FIVB Tribunal that is the subject of this appeal proceeding.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

14. On 13 August 2025, the Appellant lodged a Statement of Appeal against the Respondent concerning the Decision of the FIVB Tribunal with the Court of Arbitration for Sport ("CAS"), pursuant to Article R48 of the Code of Sports-related Arbitration (2025 version) (the "Code"). The Appellant chose to proceed in English, to which the Respondent did not object.

15. On 20 August 2025, the FIVB informed the CAS that it did not intend to participate as a party in the present proceedings.

16. On 25 August 2025, the Appellant submitted his Appeal Brief.

17. On 26 August 2025, the CAS Court Office informed the Parties that the Respondent had failed to reply within the given deadline regarding the Appellant's suggestion for a Sole Arbitrator to decide the matter. The President of the CAS Appeals Arbitration Division then decided to submit the case to a sole arbitrator.

18. On 15 September 2025, the Respondent submitted its Response to the Statement of Appeal and to the Appeal Brief (the "Answer"). In its Answer, the Respondent called the following witnesses: Mr Andrzej Wrona (former player), Mr Piotr Graban (former coach), Mr Jakub Korpak (team manager) and Mr Piotr Gacek (vice-president of the Club).

19. By email of 16 September 2025, the CAS Court Office drew the attention of the Parties to Article R56 of the Code, according to which the Parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the appeal brief and of the answer, unless the Parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances.

20. On 6 October 2025, the Arbitral Panel was constituted pursuant to Articles R33, R52, R53 and R54 of the Code. Mr Jasper Wauters, attorney at law based in Geneva, Switzerland was appointed as Sole Arbitrator by the President of the CAS Appeals Arbitration Division.

21. Both Parties requested a hearing, which was scheduled for 19 November 2025.

22. By email of 27 October 2025, the CAS Court Office invited the Parties to provide the CAS Court Office, on or before 3 November 2025, with (i) the names of all persons who will be attending the hearing (including witnesses and interpreters, if any); (ii) their email addresses; and (iii) a back-up phone number.

23. On 3 November 2025, the Respondent submitted a list of witnesses to participate in the hearing. The list included the following names:

- Mr Gacek
- Mr Paramey
- Mr Kmita
- Mr Wojtaszek

24. Other than Mr Gacek, none of these witnesses had previously been named by the Respondent in its Answer of 15 September 2025.

25. On 3 November 2025, at the same time as it submitted its own list of witnesses, the Appellant objected to Mr Paramey, Mr Kimta and Mr Wojtaszek being heard as witnesses by the Respondent.

26. On 6 November 2025, the Sole Arbitrator informed the Parties that the Respondent's application to call additional witnesses was denied, pursuant to Articles R55(1) and R56(1) of the Code since: (a) the witnesses were not previously listed in the Answer; (b) the Respondent has not demonstrated any exceptional circumstances that would justify calling witnesses not previously identified in the Answer; and (c) the proposed testimony does not appear relevant to the issues in dispute. Accordingly, Mr Paramey, Mr Kmita and Mr Wojtaszek were not authorized to testify at the hearing.

27. By email of 6 November 2025, the Respondent submitted a reconsideration request concerning the denial of witnesses Mr Paramey, Mr Kmita and Mr Wojtaszek. The Sole Arbitrator denied the Respondent's application and maintained his decision denying the Respondent's application to call additional witnesses.

28. On 19 November 2025, the hearing took place via videoconference.

29. The following persons attended the hearing on behalf of the Appellant, who also participated himself in the hearing:

- Dr. Stephan Netzle, counsel
- Mr Meriaux, sports consultant, witness
- Mr Novi, sports agent, witness
- Mr Serniotti, head coach at AS Cannes from 2023 to 2025, witness

30. The following persons attended the hearing on behalf of the Respondent:

- Mr Michal Gniatkowski, counsel
- Mr Gacek, Vice President and Sports Director of the Respondent and witness

31. Prior to the opening statements of the Parties, the parties stated that they did not have any objections to the nomination of the Sole Arbitrator. However, the Respondent made a procedural objection concerning the Sole Arbitrator's decision not to admit certain of the witnesses that had been requested by the Respondent on 3 November 2025.

32. The Sole Arbitrator dismissed the Respondent's objection, referring to the reasons mentioned in its communication of 6 November 2025. As noted by the Sole Arbitrator at the hearing, the reasons for this decision are further elaborated in this Award.

33. Following the opening statements by the Parties, the Sole Arbitrator proceeded with the hearing of the witnesses. Those witnesses were cross-examined by the Parties and also the Sole Arbitrator posed some questions to some of the witnesses. The relevant statements of the witnesses and replies are briefly summarised in the following paragraphs.

Mr Meriaux (sports consultant, witness called by the Appellant):

34. Mr Meriaux confirmed that he was part of a group of people, including in particular the Appellant and Australian business man, Mr Carracher who wanted to invest into AS Cannes and restructure the club. Mr Meriaux explained that he knew the Appellant from his days as head coach of the Australian national volleyball team as did the new investor, Mr Carracher. Mr Meriaux was working at the time for the Paris Olympics and advised on the restructuring effort on the side without being remunerated for his advice.

35. Mr Meriaux stated that the role of the Appellant at AS Cannes was not that of a coach, but rather that of technical advisor or director of performance, which could support the coaching staff.

36. Mr Meriaux discussed the overall financial situation of AS Cannes during 2023 explaining that it was more serious than originally anticipated and explained that the club's financial difficulties became clearer during the summer of 2023 as the club was involved in a series of proceedings before the *Commission d'Aide et de Contrôle des Clubs Professionnels* ("CACCP") of the LNV. Mr Meriaux confirmed that by October 2023, it must have been clear to the Appellant that AS Cannes could not offer the Appellant a paid position for the 2023/2024 season.

37. Mr Meriaux stated that he never discussed financial remuneration related matters with the Appellant directly as that was not his role but he confirmed that the idea of the persons involved in the restructuring efforts of the club, including himself and the club's investor, Mr Carracher, was that the Appellant would receive a paid position at AS Cannes once its financial difficulties had been remedied.

Mr Novi (sports agent, witness called by the Appellant):

38. Mr Novi is an agent who assisted the Appellant in the past in finding suitable positions and who works with volleyball clubs as well as players and coaches. He testified about his relationship with the Appellant in the lead-up to the 2023/2024 season. Mr Novi explained that the Appellant approached him to help him find a paid position as head

coach in October 2023. Mr Novi explained that he reached out to volleyball club Olympiakos but did not receive a response. Mr Novi further stated that he screened the market but did not find any alternative job positions for the Appellant. Mr Novi explained that was not a big surprise because most clubs look for coaching staff in April/May so that the coach has the opportunity to work with the players before the start of the season. By October, most clubs will have filled their coaching positions. He also explained that, considering the highly qualified professional profile of the Appellant and his sporting merit as a coach, he could not look for just any coaching position available, but that it would have to be a position at a high-level club, which would correspond to the Appellant's professional qualifications.

39. Mr Novi further explained that finding a coaching position does not usually involve sending our resumes to all potential clubs, but that this rather includes screening the market for open positions and making targeted approaches. Doing so, Mr Novi explained, he did not find job alternatives for the Appellant after he was contacted. Mr Novi also noted that once a coach's contract is terminated early by his club, it becomes more burdensome to find him another club as it taints the profile of the coach in a way. The early dismissal of the Appellant by the Respondent had thus not been helpful to the chances of finding a new position for the Appellant, according to Mr Novi.

Mr Serniotti (head coach at AS Cannes 2023-2025, witness called by the Appellant):

40. Mr Serniotti was recommended by the Appellant to act as head coach of AS Cannes and signed an employment contract in April 2023. He testified about his work as head coach at AS Cannes and his professional relationship with the Appellant during their time together at the club. Mr Serniotti noted that he and the Appellant discussed technical matters concerning coaching and team activities in his role as High Performance Manager.

41. Mr Serniotti did not have discussions with the Appellant about the Appellant's own position, including whether he was remunerated at AS Cannes or expected to be so remunerated in the future.

Mr Gacek (Vice President and Sports Director of the Respondent, witness called by the Respondent):

42. Mr Gacek was the Vice President of the Respondent at the time of the termination of the contract and interacted regularly with the Appellant during his time as head coach at the Respondent. He mainly testified about the Appellant's performance when he was head coach at the Respondent. Mr Gacek stated that there had been a low level of communication between the Appellant and the players of the team, which Mr Gacek described as not exemplary of a good relationship between the team and its coach. Mr Gacek also noted that the Appellant did not appear to have sufficient trust in players and staff. Mr Gacek described the relationship between the coach and the players as being on two opposite sides. Mr Gacek noted that in the context of the Appellant's release as head coach, the club had offered the Appellant payment for the remainder of the 2022/2023 season. However, the Appellant did not accept this proposal and requested payment also for the 2023/2024 season.

43. Mr Gacek confirmed that the Respondent did not question the decision of the FIVB Tribunal confirming the CEV's decision that the Respondent terminated the contract with the Appellant without just cause.

44. Following the witness statements, the Appellant was given the floor. He explained that it was never his intention to just sit by idly during the remaining time of his contract after it was terminated early and that he was actively involved in the AS Cannes restructuring project with the expectation that it would involve a paid role for himself as High Performance Manager. He said that it was only by October 2023 that it became clear that the restructuring could take more time and that he decided to seek out other opportunities which he discussed with Mr Novi.

45. Following these interventions, the Sole Arbitrator raised a number of questions with the parties to clarify their legal positions.

46. At the end of the haring the parties expressed their satisfaction with the hearing and considered that their right to be heard was respected. The Respondent reiterated its objection to the refusal to hear certain witnesses that had not been identified in the Respondent's Answer.

IV. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF

A. The Appellant

47. The Appellant submits that the FIVB Tribunal correctly found that the Respondent terminated the Contract without just cause. While he does not question the FIVB Tribunal's decision to award compensation in the amount of the outstanding base remuneration for the 2022/2023 season, the Appellant challenges the FIVB Tribunal's decision by which it held that the Appellant was not entitled to further compensation for loss of his contractual base remuneration for the 2023/2024 season in the amount of EUR 80,000.

48. The Appellant submits that the Contract was for a fixed period of two sporting seasons and that the unlawful breach of that Contract entitles him to full compensation. The Appellant takes issue with the FIVB Tribunal's finding that he would have breached his "duty to mitigate" the damages resulting from the early termination of the Contract without just cause by not seeking paid employment during the second year of the Contract. He considers that he acted in good faith and complied with the duty to mitigate. According to the Appellant, while remuneration reasonably available must be taken into consideration when determining the amount of compensation following an unlawful termination of a contract, the duty to mitigate does not entail an obligation to proactively search for a new position. The Appellant contends that, given his professional qualifications and the circumstances at AS Cannes, it was reasonable for him to continue his unpaid role in the expectation of a paid position, and that he did not deliberately forgo other employment opportunities.

49. The Appellant explains that he formed part of a "rescue team", which sought to rehabilitate AS Cannes and bring it back to financial stability and, ultimately, sporting success. In his position as a High Performance Manager, the Appellant sought to help manage the club and its sporting decisions. According to the Appellant, his activity at AS Cannes was carried out with the purpose of creating a paid job position for himself. The Appellant noted that the intention of the persons involved in the restructuring was to increase the club's budget but that due to the precarious financial situation of the club at the time, the French rules governing clubs' finances prohibited a budget increase.

50. The Appellant argues that he had agreed with the principal new investor of the club, Mr Carracher, that once the club would be on a more solid financial basis and permitted to increase its budget, a paid position would be created for the Appellant.

51. On this basis, the Appellant requests the following:

"*(1) The CAS shall declare that the present Appeal is admissible, and the CAS has jurisdiction to decide the present dispute.*

(2) The CAS shall uphold item 2 and 3 of the FIVB-Decision.

(3) The Respondent shall pay the Appellant an amount of EUR 80,000.00 net, plus interest of 5% since 24 December 2022, until payment in full.

(4) The costs of this arbitration proceeding shall be borne by the Respondent.

(5) The Respondent shall pay a fair contribution to the legal fees and other expenses of the Appellant."

B. The Respondent

52. The Respondent considers that the ruling of the FIVB Tribunal upholding the CEV's decision is in line with the principle of fairness and provides a reasonable settlement under the principle of *ex aequo et bono*. The Respondent agrees that the Appellant was entitled to compensation as is clear from the fact that the Club did not appeal the decisions of either the CEV or FIVB Tribunals.

53. However, the Respondent considers that the Club should not be blamed for the fact that the Appellant was unable to find job offers that met his expectations or that he felt a moral obligation to help AS Cannes and thus decided to work without pay. Therefore, according to the Respondent, the decisions of the CEV and FIVB Tribunals fairly balanced the legitimate interests of both parties and fully complied with the principles of *ex aequo et bono* adjudication.

54. The Respondent recalls that the club justified the dismissal of the Appellant because of the team's insufficient performance. It argues that it cannot be so that as a result of the principle of *pacta sunt servanda* it would not be possible to terminate any contract early, even if the person whose contract was terminated failed to properly fulfil any of their contractual obligations or fulfilled them in an inadequate and questionable manner.

55. The Respondent further argues that the burden of proof rests with the person asserting a claim or attempting to prove a fact and that it is therefore not for the Respondent to prove that the Appellant insufficiently sought employment. Rather, according to the Respondent, it was on the Appellant to demonstrate that he looked for alternative employment, where he sought employment, under what conditions and with what results. It argues that the Appellant failed to present any new evidence in this regard. The Respondent asserts that the facts on the record show that the Appellant failed to actively look for a new paid position and did nothing to mitigate his loss.

56. On this basis, the Respondent requests the following:

"*1. The Respondent states that the Statement of Appeal of the Appellant should be dismissed by the CAS and the FIVB Tribunal Decision should be upheld.*

2. The costs of this arbitration proceeding shall be borne by the Appellant.

3. The Appellant shall pay a fair contribution to the legal fees and other expenses of the Respondent."

V. CAS JURISDICTION

57. Article R47(1) of the Code provides as follows:

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

58. In the present case, CAS jurisdiction derives from Article 20.12 of the FIVB Sports Regulations 2025, which reads as follows:

> "*Decisions of the FIVB Tribunal can only be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland and any such appeal must be lodged with CAS within twenty-one (21) days from the receipt of the decision. The CAS shall decide the appeal ex aequo et bono and in accordance with the Code of Sports-related Arbitration, in particular the Special Provisions Applicable to the Appeal Arbitration Procedure.*"

59. Moreover, the jurisdiction of CAS was not disputed by the Respondent and is confirmed by the Parties with the signature of the Order of Procedure.

60. Accordingly, the CAS has jurisdiction in the present case.

VI. ADMISSIBILITY OF THE APPEAL

61. Article R49 of the Code provides, in its relevant parts, 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.*"

62. The Statement of Appeal was filed within the deadline of 21 days provided by Article 20.12 of the FIVB Sports Regulations 2025. It complies with all other requirements of Article R48 of the Code, including the payment of the CAS Court Office fee.

63. Furthermore, Respondent has not raised any objection regarding the admissibility of the appeal.

64. The appeal is therefore admissible.

VII. APPLICABLE LAW

65. 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.*"

66. Article 20.12 of the FIVB Sports Regulations 2025 determines that the CAS "*shall decide the appeal ex aequo et bono and in accordance with the Code of Sports-related Arbitration, in particular the Special Provisions Applicable to the Appeal Arbitration Procedure*." Moreover, both Parties agreed that the Sole Arbitrator should decide this case *ex aequo et bono*.

67. The Sole Arbitrator notes that, in ordinary proceedings, Article R45 of the Code permits the CAS to decide matters *ex aequo et bono*. While no such express authorization is included in the specific rules for appeal procedures, Article R58 of the Code provides that the Panel shall decide the dispute according to the "applicable regulations" and, subsidiarily, to the rules of law chosen by the parties.

68. In the present case, these applicable regulations are the FIVB Sports Regulations 2025, as the appeal is directed against a decision of the FIVB Tribunal, which rendered its decision applying the FIVB Sports Regulations 2025. These in turn instruct the FIVB Tribunal to decide *ex aequo et bono*. Moreover, as stated above, Article 20.12 of the FIVB Sports Regulations 2025 specifically refers the CAS Panel to a decision *ex aequo et bono*.

69. Sustained CAS jurisprudence further recognizes that a CAS Panel is authorized to render a decision *ex aequo et bono* in appeal procedures in particular where the Parties have so agreed. For example, in a similar situation where the rules of the federation so provided and the parties so agreed, CAS Panels have held as follows:

> "*In substance, it is generally considered that the arbitrator deciding ex aequo et bono receives 'a mandate to give a decision based exclusively on equity, without regard to legal rules. Instead, applying general and abstract rules, he/she must stick to the circumstances of the case'*" (CAS 2009/A/1952, para. 12; CAS 2010/A/2234, para. 8; CAS 2009/A/1921, para. 10);
>
> and
>
> "*This conclusion is also confirmed by the provision of Article 187(2) PILA which expressly provide that 'the parties may authorize the arbitral tribunal to decide ex aequo et bono.' Such an authorization has taken place in FIBA's adoption of Article 17 of the FAT rules and in the Appellant's recognition of the FAT Rules*." (CAS 2010/A/2234, para. 8)[1]

70. The Sole Arbitrator further notes that Article 187(1) of the Swiss Federal Act on Private International Law ("PILA") provides that the arbitral tribunal must decide the case according to the rules of law chosen by the parties or, in absence of a choice, according to the rules of law with which the case has the closest connection. Article 187(2) PILA adds that the parties may authorize the arbitrators to decide "*en équité*". Article 187(2) PILA is translated into English as "the parties may authorize the arbitral tribunal to decide *ex aequo et bono*."

71. Considering these circumstances and the fact that the Parties in the present case not only agreed to, but requested a decision *ex aequo et bono*, the Sole Arbitrator renders his decision *ex aequo et bono*.

72. The FIVB Sports Regulations refer to the concept of "*ex aequo et bono*" in the context of dispute settlement before the FIVB Tribunal (Article 20.09) and in respect of the resolution of financial disputes between clubs, players, FIVB-licensed agents and coaches (Article 18.1(f)). According to these provisions, a decision *ex aequo et bono* involves "general considerations of justice and fairness without reference to any particular national or international law". Considering the volleyball-specific context of the present dispute, the Sole Arbitrator considers this definition as important guidance for the application of the principle of *ex aequo et bono* to the specific circumstances of the case at hand.

73. Moreover, this understanding of *ex aequo et bono* appears to be in line with the definition established under sustained CAS jurisprudence. Previous CAS panels held that the principle of *ex aequo et bono* requires a decision incorporating "*what is equitable and good*" (CAS 2020/A/6988, para. 131), according to the literal meaning of the expression.

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[1] Article 17 of the FAR rules provides as follows: "*Awards of the FAT can only be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland (…). The CAS shall decide the appeal ex aequo et bono and in accordance with the Code of Sports-related Arbitration, in particular the Special Provisions Applicable to the Appeal Arbitration Procedure*."

In addition, CAS Panels have considered that the arbitrator deciding *ex aequo et bono* receives "*a mandate to give a decision based exclusively on equity, without regard to legal rules. Instead, applying general and abstract rules, he/she must stick to the circumstances of the case*" (CAS 2009/A/1952, para. 12; CAS 2010/A/2234, para. 8; CAS 2009/A/1921, para. 10; CAS 2020/A/6988, para. 133). In a similar vein, Black's Law dictionary defines the term *ex aequo et bono* as "*in justice and fairness; according to what is just and good; according to equity and conscience*."

74. It is thus by applying such general considerations of justice and fairness that the Sole Arbitrator decides this dispute.

VIII. MERITS

A. Procedural objection regarding witnesses to be heard by the Parties

75. As a preliminary matter, the Sole Arbitrator considers it necessary to address the procedural objection by the Respondent with respect to the decision by the Sole Arbitrator not to hear certain witnesses at the hearing.

76. As explained above, in the Answer, under the heading "witnesses", the Respondent had listed four names of witnesses which it envisaged to call at the hearing. However, on 3 November 2025, in response to a request from the CAS Court office to confirm the final list of persons that would actually participate in the hearing, including witnesses, the Respondent submitted a list of witnesses only one of which, Mr Gacek, was actually included in the Answer. Three other names that appeared on the list of witnesses submitted on 3 November 2025, Mr Paramey, Mr Kmita and Mr Wojtaszek had not been included in the Answer.

77. The Sole Arbitrator recalls that Article R55(1) of the Code states that:

> "*Within twenty days from the receipt of the grounds for the appeal, the Respondent shall submit to the CAS Court Office an answer containing:*
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> - *[…]*
> - *any exhibits or specification of other evidence upon which the Respondent intends to rely;*
> - *the name(s) of any witnesses, including a brief summary of their expected testimony; the witness statements, if any, shall be filed together with the answer, unless the President of the Panel decides otherwise;*
> - *the name(s) of any experts it intends to call, stating their area of expertise, and state any other evidentiary measure which it requests.*"

78. Furthermore, Article R56 of the Code provides:

> "*Unless the parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the appeal brief and of the answer*."

79. Furthermore, Article R57 of the Code regarding the Scope of Panel's Review – Hearing provides as follows:

> "*The Panel has discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered. Articles R44.2 and R44.3 shall also apply*."

80. Article R44.2, third paragraph, which applies in appeal proceedings pursuant to Article R57 of the Code, provides:

> "*The parties may only call such witnesses and experts which they have specified in their written submissions*."

81. Articles R55(1), R56, R57 and R44.2(3) of the Code clearly establish the principle that the Parties' witnesses must be identified at the very latest in the Appeal Brief (for the Appellant) or in the Answer (for the Respondent). The Parties may only call such witnesses and experts which they have specified in their written submissions.

82. Article R56 of the Code provides for two exceptional cases in which the Parties are allowed to alter their submissions after the written stage of the procedure:

    i. Where the Parties so agree; or

    ii. the Panel authorizes it on the basis of exceptional circumstances.

83. In the present proceedings, these exceptions do not apply. The Appellant immediately objected to these witnesses being allowed to participate such that it is clear that there is no agreement between the Parties. In addition, neither in the communication of 3 November 2025, nor in subsequent communications or even at the time of the hearing did the Respondent even try to demonstrate the existence of exceptional circumstances which could justify that those witnesses be heard by the Sole Arbitrator even though they were not included in the Answer.

84. Accordingly, pursuant to Articles R57 and R44.2(3), R55(1) and R56 of the Code, the request to call additional witnesses, which had not been named in the Respondent's Answer of 15 September 2025 but only subsequently by email dated 3 November 2025, did not have any legal basis.

85. Moreover, and contrary to what the Respondent claims, the communication sent by the CAS Secretariat on 27 October 2025, by which it invited the Parties to provide the names

and contact details of persons attending the hearing, including witnesses, does not mean that Parties are authorized to identify witnesses other than those referred to in their written submissions. Rather, this invitation of a purely administrative character seeks to enable the CAS Court Office to better prepare the modalities of the hearing. This invitation does not derogate from the clear rules established by Articles R57, R44.2, 55 and 56 of the Code.

86. Accordingly, the request by the Respondent to call witnesses Mr Paramey, Mr Kmita and Mr Wojtaszek is rejected.

B. Scope of appeal

87. The Sole Arbitrator considers it useful to clarify the scope of the present appeal. As explained above, the Appellant only partially appealed the FIVB Tribunal's decision. The Appellant did not appeal the decision to the extent that it found that the Respondent had terminated the Contract without just cause and that the Appellant was entitled to compensation in the amount of the outstanding remuneration for the 2022/2023 season.

88. However, the Appellant challenged the FIVB Tribunal's decision to the extent that it found that the Appellant violated his obligation to mitigate the damages caused by the early termination of the Contract and therefore rejected his request to be awarded compensation for the 2023/2024 season in the amount of EUR 80,000.

89. In its Answer, the Respondent indicates that it does not dispute the FIVB's decision that that the Contract was terminated in a manner to require compensation:

> "*The termination of the contract was effective, which the Respondent does not dispute and did not dispute earlier in the proceedings. The Club agrees that the Respondent was entitled to compensation (which is clear from the fact that the Club did not appeal the decision in either of the previous instances).* ***These decisions fairly balance the legitimate interests of both parties and fully comply with the principles of ex aequo et bono adjudication.*** *This method of deciding the case between Roberto Santilli and Projekt Warsaw fulfills a concept of justice, mentioned by the Appellant in point 29 of the Appeal Brief*." (emphasis in the original)

90. Accordingly, there is no dispute between the Parties in the present case concerning:

- the FIVB Tribunal's finding that the Respondent terminated the Contract with the Appellant without just cause;

- the FIVB Tribunal's finding that the Respondent pay the Appellant compensation in the amount corresponding to the unpaid remuneration for the 2022/2023 season (*i.e.*, EUR 42,064.8).

91. No appeal has been raised by the Parties regarding the above two items. The present dispute is thus concerned exclusively with the remaining question of whether the

Respondent owes the Appellant additional compensation corresponding to the Appellant's base remuneration for the 2023/2024 season, amounting to EUR 80,000.

92. The subsequent assessment by the Sole Arbitrator will thus focus on the disputed aspect of this case, which relates to the amount of compensation due as a result of the termination of the Contract.

C. The amount of compensation due to the Appellant for the 2023/2024 season

93. The issue at the heart of the present dispute is the question whether the FIVB Tribunal was correct to limit the amount of the compensation for the early termination of the Contract to the first year of the Contract or whether compensation is also due for the second year of the Contract related to the 2023/2024 season.

94. The starting point for the Sole Arbitrator's analysis is the Contract that was signed between the parties in May 2022. The principle of *pacta sunt servanda* determines that validly concluded contracts are to be honoured by the Parties to the contract. This embodies an elementary and universally agreed principle fundamental to all legal systems. Relatedly, it is widely recognized that where a party breaches its contractual obligation, compensation is due as a remedy. In such a situation, the other party is generally to be placed in the position it would have been in if the contract had been properly fulfilled. The Sole Arbitrator thus considers that "general considerations of justice and fairness" (Article 20.09 FIVB Sports Regulations 2025) require the defaulting party to place the injured party in the position it would have been in had the breach of contract not occurred. The Sole Arbitrator notes that both the CEV Tribunal and the FIVB Tribunal reached a similar conclusion. In the case at hand, there is no dispute over the fact that the Respondent terminated the Contract without just cause and that it owes the Appellant compensation.

95. As a result, in principle, it is fair and equitable that compensation is due for the entire remainder of the Contract, thus including for the second year.

96. Given the fundamental nature of the principle of *pacta sunt servanda*, the Sole Arbitrator is reluctant to accept important limitations to the application of the principle in a particular case. Any such limitation would necessarily have to be an exception to the rule and thus needs to be applied restrictively.

97. In the current proceeding, the Appellant is appealing from the decision of the FIVB Tribunal that considered that the Appellant was under a "duty to mitigate" the damages resulting from the unlawful breach of the Contract by the Respondent. In application of this alleged "duty to mitigate", the FIVB Tribunal considered that it would be unfair to require the Respondent to compensate the Appellant for the second year of the Contract because it considered that the Appellant could have done "much more" to find gainful employment in that second year.

98. The Sole Arbitrator disagrees with the FIVB Tribunal's reliance on the "duty to mitigate" and with the way it applied this notion to the facts of this case.

99. First, contrary to the well-established nature of the principle of *pacta sunt servanda*, it is much less certain whether there exists such a basic principle of a "duty to mitigate" damages irrespective of specific legal requirements under the laws of a particular country and what that "duty" actually requires of a party. To the extent that there exists a principled "duty to mitigate", it is no other than the particular application of the general principle of good faith in a particular situation, whether contract-based or tortious. The good faith principle requires that even the injured party is to behave in a reasonable manner and cannot act in such a way as to aggravate the damage or to deliberately and intentionally forego ways in which the damage could be mitigated. No party is entitled to act in bad faith and benefit from it.

100. This same principle of good faith finds expression in the laws of certain countries. For example, as reflected in CAS Jurisprudence:

> "*[D]eriving from Article 337c (2) of the [Swiss Civil Code ("SCO")]: 'the duty of mitigation is related to the rule that the employee must permit a set-off against the amount of compensation for what he saved because of the termination of the employment relationship, or what he earned from other work, or what he has intentionally failed to earn. Such a rule implies that, in accordance with the general principle of fairness, the injured player must act in good faith after the breach by the club … This principle is aimed at limiting the damages deriving from breach and at avoiding that a possible breach committed by the club could turn into an unjust enrichment for the injured party. The wording of art. 337c (2) SCO, with reference to what the employee intentionally failed to earn, suggests that the duty to mitigate should not be considered satisfied when, for example, the player deliberately fails to search for a new club or unreasonably refuses to sign a satisfying employment contract, or when, having different options, he deliberately accepts to sign the contract with worse financial conditions, in the absence of any valid reason to do so' (CAS 2015/A/4346)*." (CAS 2020/A/6990, para. 170; (emphasis added) see also CAS 2020/A/7175, paras. 103-105)

101. In other words, any "duty to mitigate" is limited to an examination of good faith behaviour by the injured party in the specific circumstances of the situation.

102. Second, once it is established that the principle of *pacta sunt servanda* was breached, complete compensation (*restitutio in integrum*) is due. If the party that is responsible for breaching the contract such that it is required to pay compensation is of the view that the other party failed its good faith obligation and is thus not entitled to the normal full compensation, the burden of proof rests with the party breaching the contract, in accordance with the general principle of *actori incumbit probatio*. It is for the party that asserts a certain fact to carry the burden of proof of such facts. This principle is also well established in CAS jurisprudence: "*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. In other words, the party which asserts facts to support its rights has the burden of establishing them (..). The Code sets forth an adversarial system of arbitral justice, rather*

than an inquisitorial one. Hence, if a party wishes to establish some fact and persuade the deciding body, it must actively substantiate its allegations with convincing evidence (e.g. CAS 2003/A/506, para. 54; CAS 2009/A/1810 & 1811, para. 46; and CAS 2009/A/1975, paras. 71ff)" (CAS 2019/A/6670, para 93).

103. In this case, it was thus for the Respondent to demonstrate that the Appellant failed his good faith obligation during the time that followed the unlawful breach of the contract. This is fully consistent with established CAS Jurisprudence. For example, in CAS 2020/A/6994, the CAS held:

> "*The Panel observes that the Employment Contract was terminated on 26 December 2018, with the termination being effective as of 31 December 2018. Since the date of termination until the end of the 2019 season, the Coach remained unemployed. The Club sustains that the Coach failed to comply with his duty to mitigate the damages in accordance with long-standing CAS jurisprudence and Article 337c (2) of the SCO, as he did not become employed with another club after the termination of the Employment Contract. However, the Panel observes that the Club has failed to provide any evidence in support of such allegations. Based on the general principle of burden of proof, which lies on a party raising the argument (Article 8 of the Swiss Civil Code), it was for the Club to substantiate its claim in this respect. The Club has not demonstrated that the Coach deliberately refused to enter into an employment relationship or negotiations with other clubs after the termination of the Employment Contract.* […] *In the absence of any evidence that the Coach deliberately failed to find new employment after the termination of the Employment Contract, the Panel holds that there is no proof that the Coach has acted in bad faith or intentionally failed to mitigate the damages. Therefore, the Panel is of the opinion that no remuneration appears to exist which the Coach earned after the termination of the Employment Contract and by which he could mitigate the compensation owed to him by the Club.*" (CAS 2020/A/6994, paras. 162-166. See also CAS 2020/A/7605, paras. 230-232; CAS 2022/A/8685, para. 77)

104. It is with these principles in mind that the Sole Arbitrator examines the facts before him and determines what constitutes a fair and just outcome.

105. First, it is undisputed that the Respondent terminated the Contract without just cause. In principle, the Respondent thus owes the Appellant the contractually agreed amount of the Appellant's base remuneration as compensation, including the amount corresponding to the 2023/2024 season. This is so because, in the case of a breach of contract, the other party is generally to be placed in the position it would have been in if the contract had been properly fulfilled.

106. Second, the CEV and FIVB Tribunals considered that the Respondent does not owe compensation for the 2023/2024 season because they found that the Appellant failed to

comply with his duty to mitigate the damages by accepting and keeping an unpaid position at AS Cannes in the lead-up to the 2023/2024 season.

107. In particular, the CEV Tribunal considered that the Appellant had "*sufficient time to find employment for the 2023-2024 season*" but did not do so and "*did not provide any evidence that he was looking for a suitable position*". It considered that this circumstance is to be taken into account in the calculation of the compensation as part of his duty to mitigate the damages. Similarly, the FIVB Tribunal found that the "*mitigation duty corresponds to a duty to be active in trying to find a new job after a contract is terminated*" and that a party "*should not merely sit idly by and wait to collect money from a club that he /she is not performing for*". It found that "*it seems reasonable for a coach to find a new (paid) employment during half a year after termination and starting such employment at the beginning of a new season*". It discussed the evidence submitted by the Appellant about his efforts to find a new employment and his expectations of future paid work at AS Cannes but considered that "*although all of these engagements seem to be commendable, this does not fulfil his duty to mitigate damage, in particular for the 2023-2024 season, because he could have done much more*".

108. The Sole Arbitrator disagrees. As a preliminary matter, the Sole Arbitrator is also concerned about the time it apparently took for the CEV Tribunal to address this matter. This failure to provide a prompt resolution is all the more problematic in this case because the passage of time raised the issue of the alleged duty to mitigate which would not have been an issue had it not been for the CEV Tribunal waiting to issue its decision until October 2024. Relying on the alleged lack of action by the Appellant in the period after the filing of the claim, the CEV Tribunal refused to grant full compensation. The very slow pace of the proceeding regarding a fairly straightforward matter thus had a direct and determinative impact on the rights of one of the parties.

109. In any case, the Sole Arbitrator does not share the views of the CEV and FIVB Tribunals for a number of reasons.

110. To start, the CEV and FIVB Tribunals applied an overly expansive reading of the concept of the "duty to mitigate" which, as noted above is limited to a possible breach of the good faith obligation by the Respondent. Second, both Tribunals appeared to erroneously consider that the burden of proof was on the Appellant to demonstrate that he acted diligently in an effort to mitigate the damage, as no evidence from the Respondent to this effect appears to have been examined. Third, the Sole Arbitrator considers that their assessment of the facts on the record was incomplete and that the consequences attached to the finding that the Appellant failed his duty to mitigate are equally in error. In particular, at no point did the Tribunals examine if the facts supported a conclusion of bad faith or of the Appellant intentionally foregoing revenue or employment. Moreover, even if the Tribunals were of the view that the Appellant could have done more to find employment, they did not examine the extent of the remuneration the Appellant could have received, considering the specific circumstances of the case. They bluntly and erroneously decided that no compensation of any kind was due for the 2023-2024 season.

111. The Sole Arbitrator thus agrees with the Appellant that these decisions are in error and need to be set aside.

112. Turning to the evidence submitted by the parties in the context of this CAS proceeding, the Sole Arbitrator notes that the Appellant presented a credible story of what happened after the early termination of the Contract when the Appellant accepted an unpaid position as part of the rescue team of former French volleyball champion AS Cannes with a view to bringing it back to the first division and to restructure the club which included creating a new position for the Appellant as High Performance Manager. The Sole Arbitrator briefly recalls some of the facts that are supported by the evidence on the record.

113. In January 2023, the Appellant interacted with the leading personnel of AS Cannes, including its president, Mr Zaragoza, the club's new investor, Mr Carracher, as well as sports consultant Mr Meriaux with a view to bringing AS Cannes back to the top level. This core team, including the Appellant, set out to restructure and rebuild AS Cannes, which experienced severe financial difficulties at the time. The Appellant had a strong relationship with the principal new investor, Mr Carracher, as well as with Mr Meriaux, both of whom he knew from his days as head coach of the Australian national volleyball team.

114. During these discussions, the Appellant submitted a draft arrangement providing for consultancy services at AS Cannes in the role of "High Performance Manager" for the men's volleyball club 2023. The arrangement included a fee proposal establishing a base remuneration of EUR 5,300 per month.

115. It appears that in light of AS Cannes' precarious financial situation, no positive response was provided to the proposal. Nevertheless, and based on the prospect of a potentially paid position as soon as the financial situation of the club would have been consolidated, the Appellant started acting as "High Performance Manager" at the AS Cannes in March 2023, albeit without remuneration. In this role, the Appellant advised the club on the transfer of players and coaching staff and was involved in overseeing and developing a sporting strategy of AS Cannes for the season 2023/2024.

116. In May 2023, in his role as High Performance Manager, the Appellant contacted Mr Roberto Serniotti for a job as head coach at AS Cannes and following discussions with the Appellant, Mr Serniotti joined AS Cannes in a paid position as the head coach of the men's volleyball team.

117. Around that same time, the Appellant was contacted by Italian professional volleyball club Gas Sales Bluenergy Piacenza about a coaching position for the 2023/2024 season. However, the discussion did not go very far as the Appellant seemed committed to see the project at AS Cannes through. No negotiations regarding financial compensation related to such a potential coaching position took place.

118. It is important to put these discussions also in the context of what was happening at AS Cannes at the same time. The CACCP belongs to the Direction Nationale d'Aide et de Contrôle de Gestion ("DNACG"), which is the body responsible for financial control of clubs in professional French volleyball. In 2022, the CACCP had examined the club's difficult financial position and imposed a maximum wage bill of EUR 397,000 for the 2022/2023 season and partially banned the club from recruiting. It also required the club to clear its liabilities over three seasons following a particular payment schedule. The

CACCP also imposed a precautionary administrative relegation measure (subject to the successful completion of the 22/23 financial year).

119. Following an audit by the CACCP on 16 May 2023, the CACCP considered that the situation of the club had not developed positively and that it had failed to respect a number of the obligations previously imposed by the CACCP. In its decision of 3 June 2023 (communicated to the club on 27 June 2023), the CACCP confirmed the administrative relegation of the club to the federal division and refused to grant the club approval to continue to play in the Ligue B Masculine ("LBM") – the second tier French volleyball league – for the 2023/2024 season.

120. The club unsuccessfully appealed this decision to DNACG's Higher Council in July 2023. It appealed also this decision before the French National Olympic and Sporting Committee ("Comité national olympique et sportif français" or "CNOSF") which organized a conciliation hearing on 5 September 2023. During the hearing, AS Cannes made a number of commitments and was, in return, permitted to participate in the LBM championship for the 2023/2024 season.

121. In light of this agreement, the LNV Bureau requested the CACCP to re-examine the club's situation and, if necessary, to impose any budget or salary related constraints. Upon renewed examination of the club's financial position in October 2023, the CACCP found "significant issues" that could jeopardize the continuity of the club's activities or even constitute a state of insolvency. Accordingly, in its decision of 19 October 2023, the CACCP took note of the club's submitted payroll for the 2023/2024 season of EUR 435,000 and imposed a total ban on recruitment for the 2023/2024 season.

122. Moreover, the CACCP decided to exclude the club from the play-off stages of the LBM championship for the 2023/24 season and to foresee an administrative relegation, both as precautionary measures.

123. By the middle of October 2023, it thus became clear that despite the ambitious plans for the restructuring of AS Cannes, the club's financial position remained very problematic and it was not allowed to recruit new people. It was thus clear that the club was not– and would not be – in a position to provide the Appellant a paid position for the 2023/2024 season.

124. At that time, the Appellant contacted Mr Novi, a sports agent with whom the Appellant had already worked in the past as well and who he knew to have good contacts in the volleyball world. Mr Novi screened the market for job opportunities for the Appellant but did not succeed in finding him a paid position as the transfer market for coaches in professional volleyball usually closes in May/June such that it was difficult to find a volleyball club that was still looking to fill a position in October.

125. The Appellant continued to assist AS Cannes on a voluntary basis throughout the 2023/2024 season.

126. On 20 December 2023, upon another re-examination of the club's finances, the CACCP considered that the documents produced demonstrated significant efforts made by the

club and its investors over the last few months to establish the club's financial situation and to draw up an action plan. Moreover, the CACCP found that the club's forecast for 30 June 2024 would enable it to cover part of its liabilities. Considering in particular the guarantees provided by Mr Carracher, the CACCP thus decided on 20 December 2023 to cap the club's wage bill at the proposed amount of EUR 436,000 for the 2023/2024 season and to impose a partial recruitment ban for the 2023/2024 season. The CACCP noted that this decision meant that the club may not request any recruitment exceeding the wage bill cap.

127. Moreover, the CACCP decided to undo both the administrative relegation and the exclusion of the club from the play-offs of the LBM championship for the 2023/2024 season which had been taken as a precautionary measure in its decision dated 17 October 2023.

128. On 21 April 2024, AS Cannes won the LBM and was promoted to the first league (the so-called Marmara SpikeLigue) for the 2024/2025 season.

129. Throughout the summer of 2024, the Appellant assisted Mr Serniotti in managing the player market for the 2024/2025 season, but left the club before the 2024/2025 season started.

130. When asked the question by the Sole Arbitrator why the Appellant did not take up the paid position as head coach of AS Cannes himself rather than recommending Mr Serniotti, the Appellant explained that he could not do so as he did not meet the minimum requirements to obtain a license to coach in the LNV. He indicated that he had faith in the rescue project until the middle of October 2023 when an appeal against a negative decision of the LNV was unsuccessful and confirmed the dire financial situation of AS Cannes.

131. The evidence shows that the Appellant did contact an agent he worked with before and who he knew to have good contacts in the volleyball world and that this agent started sending out some feelers but was unable to find a suitable offer.

132. The Sole Arbitrator thus considers that the Appellant continued to participate in the world of volleyball at a high level and had a not unreasonable expectation that the 2021 French champion club AS Cannes would be able to offer him a paid position once the new investors would have succeeded in the planned financial restructuring of the club. In addition, he was in touch with other clubs and with an agent about possible alternative employment when it sounded unrealistic to find paid employment at AS Cannes.

133. The Sole Arbitrator is of the view that under the circumstances of the specific case, the Appellant could not reasonably have been expected to look for or accept just any job as a volleyball coach. The Appellant is a highly decorated professional volleyball coach with more than 20 years of experience in coaching volleyball at either national first leagues or in a coaching position at national volleyball teams (including in Australia and Germany). Among his sporting merits are several national championship wins as well as successes at the international level, *e.g.*, the win of the Bronze medal at the World Championships in Poland 2014 as Counselor and Assistant Coach for the German Senior National Team.

As explained above, the duty to mitigate applies within reasonable limits and depends on the circumstances of the individual case, including the type of work previously performed, age and previous training of the injured person, and difficulties in finding a new job. According to the uncontested statement of the Appellant, no suitable job offers were available to him in the lead-up to the 2023/2024 season. The Appellant explained that by the time it was clear that no paid position would be available to him at AS Cannes, no coaching position meeting his professional qualifications was available. This was confirmed by Mr Novi, who screened the market for job openings but did not succeed in identifying job opportunities for the Appellant.

134. Furthermore, according to the witness testimony of Mr Novi – which remained uncontested by the Respondent – the early termination of the contract by the Respondent had a detrimental impact on the reputation of the Appellant, which complicated the search for an alternative opportunity. This aggravating circumstance must be taken into account when assessing whether the Appellant's conduct was reasonable.

135. Finally, as noted above, considering the above circumstances, the Appellant's pursuit of his unpaid role as High Performance Manager at AS Cannes does not appear unreasonable. While the club faced severe financial difficulties in the lead-up to the 2023/2024 season, this does not *ipso facto* justify the assumption that the Appellant "sat on his hands" and unduly sought to enrich himself to the detriment of the Respondent. It was not unreasonable of the Appellant to expect that once budgetary restrictions imposed by the LNV would have been lifted, the budget would be increased, enabling a paid position for the Appellant. Nor does it seem unreasonable to have put his confidence in the new investor. After all, the decision by the LNV of 20 December 2023, which overturned the relegation decision for the 2023/2024 season, concluded that "*the documents produced demonstrate the significant efforts made by the club and its investors over the last few months to establish the club's financial situations, draw up an action plan and begin restructuring the club*". It further pointed to relevant investment and capability of the club to cover its liabilities. It does not therefore appear unreasonable by the Appellant to accept an unpaid role at AS Cannes in the legitimate expectation of a paid position, once the club's financial difficulties had been sorted.

136. In contrast, the Respondent provided no evidence of any kind related to the alleged lack of compliance by the Appellant of its stated "duty to mitigate". Nothing. This is all the more problematic since the burden of proof that an alleged duty to mitigate was violated by the Appellant rested with the Respondent. The Respondent chose instead to return time and again to the irrelevant story of why the Appellant had been dismissed and argued that it must be possible to terminate a contract early. The witness it called at the hearing testified only on one thing: the performance of the Appellant during his time at the Respondent. However, given that it was undisputed that the Contract had been terminated without just cause and thus unlawfully by the Respondent, the circumstances of the dismissal were not at issue in this proceeding.

137. It appears that the Respondent considers it can derive some degree of fairness out of the circumstances related to the dismissal of the Appellant considering essentially that it would be unfair to hold the Respondent to full compensation for having fired an allegedly underperforming coach. The Sole Arbitrator considers this understanding to be in error.

Once it is established that the Contract was terminated unlawfully, it is clear that the behaviour of the Appellant was not a justification for termination. Nor did the Respondent raise any matters that suggested that during his time with the Respondent the Appellant would have acted in bad faith such that a pattern of behaviour could have been established. That was never even argued. Whatever lack of sporting performance the Appellant may be blamed for in the eyes of the Respondent, it is not relevant to the question of whether the Appellant acted in good faith after the unlawful termination of the Contract.

138. The Respondent could have, but did not present evidence of volleyball clubs in Poland or other European countries that were changing coaches in the April/May 2023 or September/October 2023 period, which potentially could have contacted the Appellant. The Respondent could have, but did not present evidence on the number of agents that normally approach the Respondent when it is looking for a new coach to suggest that these could have approached the Appellant as well with job offers.

139. The Respondent could have, but did not present evidence on how coaches also get hired in the September/October window.

140. The Respondent could have, but did not present evidence on the average remuneration amounts of top level coaches to confirm that the Appellant would have been able to recover the entire amount of the 2023/2024 season that he was entitled to under the Contract also elsewhere.

141. Therefore, the Sole Arbitrator does not consider there to be any evidence that the Appellant, being the injured party, deliberately and intentionally refused to seek alternative employment, refused to sign a satisfactory contract or otherwise acted in bad faith. It is not for the injured party to go out of his way to find new employment with a view to mitigating the damage caused by the Respondent who simply bears the consequences of the unlawful termination of the contract. And if the Respondent considered that it should have been entitled to terminate the Contract early because of a lack of sporting performance, it could have, but again did not, include any sporting goals in the Contract that were required to be met within a certain period. The Respondent signed the Contract without any such clauses.

142. In sum, based on general considerations of justice and fairness, and taking into account the specific circumstances of the case, the Sole Arbitrator finds that the Appellant is entitled to the full amount of compensation he was entitled to under the Contract, including the missed base remuneration for the 2023/2024 season in the amount of EUR 80,000.

IX. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport pronounces that:

1. The appeal filed on 14 August 2025 by Mr Roberto Santilli against Projekt Warszawa Sp. Z.o.o. with respect to the decision issued on 24 July 2025 by the FIVB Tribunal is upheld.

2. The decision issued on 24 July 2025 by the FIVB Tribunal is confirmed, save for para. 2 (a) which is amended as follows:

   a) Projekt Warszawa Sp. z.o.o shall pay to Mr. Roberto Santilli the amount of EUR 122,064.80 (one hundred twenty-two thousand sixty-four euros and eighty cents) with five percent (5%) per annum interest calculated from 24 December 2022 until full payment;

3. (…).

4. (…).

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

Seat of arbitration: Lausanne, Switzerland
Date: 27 January 2026

COURT OF ARBITRATION FOR SPORT

Jasper Wauters
Sole Arbitrator