CAS 2025/A/11342 Vadim Shpinev v. Football Club Pari NN

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Frans de Weger, Attorney-at-Law in Haarlem, The Netherlands

Arbitrators: Mr Kepa Larumbe, Attorney-at-Law in Madrid, Spain
Mr Marek Palus, Attorney-at-Law in Katowice, Poland

in the arbitration between

Vadim Shpinev, Russia

Represented by Mr Yury Zaytsev, Mr Mikhail Prokopets, Mr Ilya Chicherov, Mr Yury Yakhno, Mr Maksim Kozyrev and Ms Daria Lukienko, Attorneys-at-Law in Moscow, Russia

– Appellant –

and

Football Club Pari NN, Russia

Represented by Mr Nikita Federov, Ms Mariam Galoian, Attorneys-at-Law in Moscow, Russia, and Mr Luca Tettamanti, Attorney-at-Law in Lugano, Switzerland

– **Respondent –**

* * * * *

I. PARTIES

1. Vadim Shpinev (the "Appellant") is a Football Agent of Russian nationality, licensed by the Football Union of Russia (the "FUR").

2. Football Club Pari NN (the "Respondent") is a football club affiliated to the FUR, with its registered office in Nizhny Novgorod, Russia.

3. The Appellant and the Respondent are hereinafter jointly referred to as the "Parties".

II. INTRODUCTION

4. The present appeal arbitration proceedings concern an appeal lodged by the Appellant against a decision issued by the FUR Players' Status Committee (the "FUR PSC") dated 21 February 2025 (the "Appealed Decision").

5. In the Appealed Decision, the FUR PSC dismissed an appeal filed by the Appellant, against a decision of the FUR Dispute Resolution Chamber (the "FUR DRC") dated 24 September 2024. More particularly, the FUR DRC dismissed the Appellant's claim requesting that the Respondent be ordered to pay him an amount of 14.790.000,- Russian Rubles ("RUB") plus interest for intermediary services rendered for the Respondent in connection with the extension of the employment relationship with the player Mr Timur Suleymanov (the "Player" or "Suleymanov"). In Appeal, the FUR PSC upheld the decision of the FUR DRC.

6. In the present proceedings, the Appellant is challenging the Appealed Decision and requests the Court of Arbitration for Sport (the "CAS") to declare that the Appealed Decision is set aside and to order the Respondent to pay him an amount of RUB 14.790.000,- plus interest, whereas the Respondent seeks confirmation of the Appealed Decision.

III. FACTUAL BACKGROUND

7. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties and the evidence examined in the course of the proceedings and at the hearing. This background information is given for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.

A. Background facts

8. On 28 February 2023, the Parties concluded an intermediary services agreement (the "Intermediary Agreement").

9. According to Article 1.1 of the Intermediary Agreement, the Appellant undertook to provide the Respondent with intermediary services for the purpose of extending the employment relationship with Suleymanov until 31 May 2026.

10. Pursuant to Article 3.1 of the Intermediary Agreement, the Appellant was entitled to a fixed remuneration (the "Fixed Remuneration"), and an additional contingent remuneration (the "Additional Remuneration") under the following terms and conditions:

> "- *fixed remuneration – shall be paid by the Club to the Intermediary for rendering the intermediary services provided for in clause 1.1 of this contract;*
>
> *- additional contingent remuneration – paid by the club to the Intermediary in the event of the Player's transfer to another football club for a transfer compensation*."

11. According to Article 3.1.1 of the Intermediary Agreement, the Fixed Remuneration was set at RUB 10,700,000. The Appellant acknowledged that the Respondent duly paid the Fixed Remuneration.

12. Pursuant to Article 3.1.2 of the Intermediary Agreement, the amount of the Additional Remuneration is to be determined as follows:

> "*The amount of additional contingent remuneration to the Agent is the equivalent to 30% of the difference between the amount of remuneration that the club will receive from another football club under the relevant transfer agreement on the permanent movement (transfer of the Player to another football club (free of VAT due to the application of the simplified taxation system by the Agent) and the amount of the fixed remuneration in accordance with Clause 3.1.1 of this Agreement.*"

13. On 13 September 2023, the Respondent and the Russian Football Club Lokomotiv ("FC Lokomotiv") entered into a transfer agreement for Suleymanov, also signed by him, on a loan basis (the "Suleymanov Loan Agreement").

14. Article 8 of the Suleymanov Loan Agreement included a mandatory buy-out clause in the amount of RUB 60,000,000, which would be triggered once Suleymanov scored seven performance points for FC Lokomotiv ("Mandatory Purchase Option"). Said performance points are defined as *"under the system "goal + assist (pass) + penalty"*

15. On 28 November 2023, the Player scored 6 performance points for FC Lokomotiv.

16. In December 2023, FC Lokomotiv and the Respondent entered into a transfer agreement for the player Mr Konstantin Kobovich Maradishvili ("Maradishvili") on a loan basis from FC Lokomotiv to the Respondent until the end of the 2023/2024 season (the "First Maradishvili Loan Agreement").

17. On 14 February 2024, the Respondent and FC Lokomotiv concluded an additional agreement to the Suleymanov Loan Agreement (the "Additional Agreement"), which was not signed by the Player, and revised the Mandatory Purchase Option. Under the Additional Agreement, Article 8 of the Suleymanov Loan Agreement, which was the Mandatory Purchase Option, was amended to grant FC Lokomotiv the right to convert Suleymanov's loan into a permanent transfer for the amount of RUB 1,-. Furthermore, the requirement that Suleymanov had to achieve seven performance points for FC Lokomotiv was removed from the Mandatory Purchase Option.

18. On 1 March 2024, FC Lokomotiv confirmed that it triggered the Mandatory Purchase Option and thus the permanent transfer of Suleymanov.

19. On 15 March 2024, the Respondent and FC Lokomotiv entered into a second transfer agreement for Maradishvili from FC Lokomotiv to the Respondent on a loan basis until the end of the 2024/2025 season (the "Second Maradishvili Loan Agreement").

20. Under the Second Maradishvili Loan Agreement, the Respondent had the right to:

- A percent of the subsequent transfer of Maradishvili (Article 9);
- A preemptive right to a permanent transfer of Maradishvili in case of an offer from other football clubs (Article 10);
- A preemptive right to conclude another loan of Maradishvili in the 2025/2026 season (Article 11);
- A guaranteed payment of RUB 60,000,000 in the event that FC Lokomotiv terminates the Second Maradishvili Transfer Agreement prematurely for any reason other than the permanent transfer of Maradishvili to the Respondent (Article 13).

21. On 12 April 2024, the Appellant sent a letter to the Respondent, invoking Article 3.1.2 of the Intermediary Agreement and requested the following:

> *"Based on the foregoing, the Agent reminds you of the obligation to pay the Contingent Remuneration to the Agent within the terms set forth in Clause 3.1.2 of the Agreement and according to the Agent's bank details specified in Clause 8.7 of the Agreement, which amounts to (60,000,000 – 10,700,000) rubles x 0,3 = 14,790,000 (Fourteen million seven hundred and ninety thousand) rubles according to the Agent's calculation.*
>
> *In addition, the Agent requests within 10 days from the date of receipt of this letter to send to the Agent the documents confirming the amount due to the Club for the Player's transfer, as well as the schedule of its payment for the purposes of clarifying the calculation and deadlines for the payment by the Club in favor of the Agent."*

22. On 24 April 2024, Suleymanov achieved the seventh performance point for FC Lokomotiv.

23. On 3 May 2024, the Appellant sent a notice of default to the Respondent requesting payment of the Additional Remuneration.

24. On 13 May 2024, the Respondent sent a reply to the Appellant, by means of which it denied the Appellant's claim. The reply reads as follows:

> *"The equivalent of 30% of the difference between the Club's remuneration (transfer compensation and the Agent's Fixed Remuneration is negative because the transfer compensation for the Player's permanent transfer is less than the Agent's Fixed Remuneration.*
>
> *Hence, the condition for the payment of the Contingent Remuneration provided for in Clause 3.1.2 of the Agreement has not been triggered and therefore the Club's obligation to pay it has not arisen. The Club does not have any debts to the Agent."*

B. Proceedings before the FUR DRC

25. On 1 July 2024, the Appellant submitted a claim in front of the FUR DRC, seeking payment of the Additional Remuneration under Article 3.1 and 3.1.2 of the Intermediary Agreement.

26. On 17 July 2024, the Respondent filed its reply with the FUR DRC, requesting the proceedings to be dismissed due to the FUR DRC's lack of jurisdiction Alternatively, should the FUR DRC were to find that it had jurisdiction, the Respondent requested the dismissal of the Appellant's claims in full.

27. On 9 August 2024, the FUR DRC admitted FC Lokomotiv to the case as a third party not asserting independent claims.

28. On 24 September 2024, the FUR DRC issued a decision. The Appellant's requests were dismissed.

29. On 18 December 2024, the FUR DRC sent the full (reasoned) text of the FUR DRC decision to the Parties.

C. Proceedings before the FUR PSC

30. On 25 December 2024, the Appellant lodged an appeal before the FUR PSC against the decision of the FUR DRC.

31. On 3 February 2025, the Respondent submitted its answer on the merits of the Appellant's appeal.

32. On the same date, FC Lokomotiv submitted its written observations to the FUR PSC concerning the Appellant's appeal.

33. On 21 February 2025, the FUR PSC issued its decision (previously defined as the "Appealed Decision"), rejecting the Appellant's requests, which was notified to the Parties on 24 March 2025. The operative part of the Appealed Decision reads as follows:

> *"1) To dismiss the appeal of the FIFA football agent IE Shpinev V.V. against the decision of the Dispute Resolution Chamber No. 024-24 of 24 September 2024 (on the application of the FIFA football agent IE Shpinev V.V. with respect to ANO "FC "Pari Nizhny Novgorod" on the recovery of debt under the intermediary services agreement).*
> *2) The decision of the Dispute Resolution Chamber No. 024-24 of 24 September 2024 (on the application of the FIFA football agent IE Shpinev V.V. with respect to ANO "FC "Pari Nizhny Novgorod" on the recovery of debt under the intermediary services agreement) remains unchanged.*
> *3) To order the FIFA football agent IE Shpinev V.V. to pay to the RFU the fee for consideration of the case in the Committee in the amount of 30,000 (thirty thousand) rubles within 30 (thirty) days from the entry into force of this decision in accordance with Article 36 of the RFU Dispute Resolution Regulations."*

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

34. On 11 April 2025, the Appellant filed a Statement of Appeal with the CAS against the Appealed Decision, in accordance with Article R47 and R48 of the 2023 edition of the CAS Code of Sports-related Arbitration (the "CAS Code") and included the Respondent. In this submission, the Appellant suggested that these proceedings were submitted to a three-member Panel and nominated Mr Kepa Larumbe, Attorney-at-Law in Madrid, Spain, to serve as arbitrator.

35. On 23 April 2025, the CAS Court Office acknowledged receipt of the Appellant's Statement of Appeal. In this letter, the CAS Court Office also requested the Respondent to nominate an arbitrator within ten days, in accordance with Article R53 CAS Code.

36. On 30 April 2025, the CAS Court Office confirmed that the deadline for the Appellant to file his Appeal Brief had been extended until 22 May 2025.

37. On 9 May 2025, the CAS Court Office informed the Parties that pursuant to Article R53 CAS Code, the Deputy President of the CAS Appeals Arbitration Division would proceed with the appointment of the arbitrator *in lieu* of the Respondent.

38. On 22 May 2025, the Appellant filed its Appeal Brief against the Appealed Decision, in accordance with Article R51 CAS Code.

39. On 23 May 2025, the CAS Court Office acknowledged receipt of the Appellant's Appeal Brief and invited the Respondent to submit its Answer within twenty (20) days.

40. On 28 May 2025, the Respondent requested an extension to provide its Answer until 14 July 2025.

41. On 30 May 2025, the CAS Court Office acknowledged receipt of the Respondent's request and invited the Appellant to inform the CAS Court Office whether it agreed with the Respondent's request for an extension of the deadline to file its Answer.

42. On 10 June 2025, the CAS Court Office confirmed that the deadline for the Respondent to submit its Answer to the Appeal Brief had been extended until 14 July 2025.

43. On 15 July 2025, the CAS Court Office acknowledged receipt of the Respondent's Answer filed on 14 July 2025, and informed the Parties that they were no longer authorized to supplement or amend their requests or arguments, not to produce new exhibits, nor to specify further evidence on which they intend to rely, after submission of the Appeal Brief and of the Answer. Furthermore, the CAS Court Office invited the Parties to inform the CAS Court Office by 22 July 2025 whether they preferred a hearing to be held in this matter or for the Panel to render an award based solely on the Parties' written submissions.

44. On 17 July 2025, the Respondent informed the CAS Court Office that it did not consider a hearing to be necessary and, should a hearing be held, that it be held via videoconference.

45. On 21 July 2025, the Appellant informed the CAS Court Office that it considered a hearing to be necessary, preferably via videoconference.

46. On 22 July 2025, the CAS Court Office informed the Parties that pursuant to Article R54 CAS Code, and on behalf of the Deputy President of the CAS Appeal Arbitration Division, the Panel appointed to decide the case was constituted as follows:

President: Mr Frans de Weger, Attorney-at-Law in Haarlem, The Netherlands

Arbitrators: Mr Kepa Larumbe, Attorney-at-Law in Madrid, Spain
Mr Marek Palus, Attorney-at-Law in Katowice, Poland

47. On 29 July 2025, the CAS Court Office informed the Parties that, pursuant to Article R57 CAS Code, the Panel had decided to hold a hearing by videoconference and invited the Parties to inform the CAS Court Office by 5 August 2025, whether they would be available on 18 September 2025 for an online hearing. In addition, the CAS Court Office notified the Parties that the Panel had confirmed the participation of the two experts requested by the Appellant in its Appeal Brief.

48. On 5 August 2025, the Appellant informed the CAS Court Office that it, together with the two experts, would be available for the hearing on 18 September 2025.

49. On 6 August 2025, the CAS Court Office acknowledged receipt of the Parties' respective letters of 5 August 2025. The CAS Court Office noted that the Appellant would be available for the hearing on 18 September 2025.

50. On 28 August 2025, the CAS Court Office invited the Parties to inform the CAS Court Office by 4 September 2025 whether they would be available for an online hearing on 18 September 2025.

51. On 4 September 2025, the Appellant informed the CAS Court office that its representatives, together with the two experts, would be available to attend the hearing on 18 September 2025.

52. On 5 September 2025, the CAS Court Office noted that the Appellant would be available to attend the hearing on 18 September 2025. In addition, the CAS Court Office reminded the Respondent to inform the CAS Court Office by 8 September 2025, whether it would be available to attend the hearing on 18 September 2025.

53. On 9 September 2025, the CAS Court Office called the Parties to appear at the hearing, to be held by videoconference, on 18 September 2025.

54. On 15 September 2025, the CAS Court Office acknowledged receipt of the Appellant's signed Order of Procedure.

55. On 16 September 2025, the CAS Court Office acknowledged receipt of the Respondent's signed Order of Procedure.

56. On 17 September 2025, the CAS Court Office provided the final hearing schedule of 18 September 2025.

57. On 18 September 2025, a hearing was held by videoconference. At the outset of the hearing, the Parties confirmed that they had no objection to the nomination of the Panel.

58. In addition to the Panel and Mr Andrés Redondo Oshur, Counsel to the CAS, the following persons attended the hearing:

a) For the Appellant:

1) Mr Vadim Shpinev, Appellant;
2) Mr Mikhail Prokopets, Counsel;
3) Mr Yury Yakhno, Counsel;
4) Mr Maxim Kozyrev, Counsel;
5) Mr Nikolay Duvanov, Expert;
6) Mr Andre Movsesyan, Expert; and
7) Ms Nina Mantusova, Interpreter.

b) For the Respondent:

1) Mr Eugene Alkin, First Deputy General Director Respondent;
2) Mr Nikita Federov, Counsel;
3) Mr Mariam Galoian, Counsel; and
4) Mr Luca Tettamanti, Counsel.

59. The Parties were given full opportunity to present their cases, submit their arguments and answer the questions posed by the Panel.

60. Before the hearing was concluded, the Parties expressly stated that they had no objection to the procedure adopted by the Panel and that their right to be heard had been respected.

V. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

61. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every submission advanced. The Panel, however, confirms that it carefully heard and took into account in its decision all the submissions, evidence, and arguments presented by the Parties, even if they have not been specifically summarised or referred to in the present arbitral award.

A. The Appellant

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

- The Appellant maintains that the transfers of Suleymanov and Maradishvili are interrelated and should be regarded as an exchange of players.

- According to the Appellant, there is no common sense for the Respondent to have concluded the Additional Agreement. The Respondent waived the mandatory buy-out clause of RUB 60,000,000, which was highly likely to be triggered, without receiving anything in return, except for a nominal sum of RUB 1. The Appellant asserts that under no circumstances a party would voluntarily forgo RUB 59,999,999 without obtaining anything in return from the other party. Furthermore, the Respondent provided no justification for such a substantial reduction in Suleymanov's transfer value and failed to explain the rationale or any benefit for refusing a significant conditional payment.

- On the other hand, the benefit to FC Lokomotiv in this case is apparent: the initial condition of the Suleymanov Loan Agreement provided for the Additional Remuneration of RUB 60,000,000, which was reduced to RUB 1 by the Additional Agreement. As a result, FC Lokomotiv saved RUB 59,999,999. Moreover, FC Lokomotiv obtained the opportunity to purchase Suleymanov's rights at its sole discretion and ahead of schedule. Therefore, FC Lokomotiv derived a clear and substantial benefit from entering into the Additional Agreement.

- The Appellant submits that the amount of RUB 1 is purely symbolic. The Appellant is confident that the transfer values of Suleymanov and Maradishvili are not equivalent. According to the Appellant, Suleymanov's transfer value was EUR 1,000,000, while Maradishvili's transfer value was EUR 1,200,000. Consequently, the transfer compensation of RUB 1 merely conceals the true transfer value of Suleymanov.

- The above is supported by an expert opinion of Mr Movsesyan.

- Reference is also made to CAS 2020/A/7612, concerning the transfers of Ponce and Romagnoli from AS Roma to FC Spartak. In that case, although the transfer agreements were concluded separately, they nonetheless appeared to constitute a simulation.

- Furthermore, the penalty for FC Lokomotiv in the event of termination of the Maradishvili Second Loan Agreement and the initial mandatory buy-out clause in the Suleymanov Loan Agreement are identical. Therefore, the Appellant strongly believes that the RUB 60,000,000 initially specified in the mandatory buy-out clause was effectively "transferred" to the Maradishvili Second Transfer Agreement, both a set of rights acquired by the Respondent and via direct reference. This aligns with the Appellant's position that the contracts are interrelated. A one-month gap does not alter this analysis.

- The Appellant considers that the only reasonable explanation for the reduction of Suleymanov's transfer value to RUB 1,- is the Respondent's consideration under another transaction. The Respondent was initially entitled to receive RUB 60,000,000 if the mandatory buy-out clause had been activated, which was advantageous. The only disadvantage to the Respondent was that it would entail the obligation to pay the additional remuneration to the Appellant. Therefore, the Respondent had a clear objective to avoid payment of the additional remuneration, necessitating the exclusion of the payment under the initial mandatory buy-out clause and a direct swap of Suleymanov for Maradishvili.

- Had the mandatory buy-out clause been triggered and the Respondent received RUB 60,000,000, there would have been no doubt that the Respondent was required to pay the additional remuneration to the Appellant.

- While the Appellant does not dispute the principle of contractual freedom, such a freedom of contract is not absolute.

- The Respondent acted in bad faith by effecting the swap to avoid triggering the buy-out clause, and, consequently, to evade the payment of the additional remuneration.

- The mandatory buy-out clause should be considered a conditional transaction within the meaning of Article 157 of the Civil Code of the Russian Federation ("CC RF"), with the condition being that Suleymanov scores seven performance points for FC Lokomotiv. Given the Respondent's bad faith, the fact that Suleymanov could reasonably have achieved the seventh performance point at the time of the swap, and the provisions of Article 157 of the CC RF, the condition should be deemed fulfilled. This is also supported by CAS 2011/A/2344.

- Therefore, the Appellant submits that the initial buy-out clause was triggered, and as a consequence, the Respondent should have received a transfer compensation of RUB 60,000,000.

- As previously stated, FC Lokomotiv and the Respondent effected an exchange of players, which had economic value for them. Reference is made to CAS 2016/A/4821, which establishes that the value of an exchange for both clubs is not zero.

- Based on the facts and documents submitted, the Appellant reiterates that the transfer value should be assessed at RUB 60,000,000. This amount corresponds to the initial buy-out clause, which de facto took place, and should serve as the basis for valuation according to CAS jurisprudence. In the Ponce case, the Sole Arbitrator emphasized that the buy-out option is a key criterion for determining a player's transfer value. FC Lokomotiv and the Respondent themselves assigned a value of RUB 60,000,000 to Suleymanov in September 2023 when setting the buy-out clause.

- This assessment aligns with the expert opinion, which recognizes that the transfer values of Suleymanov and Maradishvili could be considered equivalent for the purposes of this matter.

- An analogy can be drawn with the assessment of the football players value for compensation upon termination of an employment contract. One method for such calculation is the "loss of transfer fee". In the present case, the compensation for premature termination was set at RUB 60,000,000. Accordingly, the Appellant concludes that the Respondent received a transfer compensation of RUB 60,000,000 for Suleymanov.

- Furthermore, the Appellant strongly disagrees with the FUR PSC's position that "*the wording of Clause 3.1.2 or other provisions of the Intermediary Agreement cannot be seen as an intention of the Parties to extend them, for example, to the exchange of*

registration rights to the Player and player of another club." According to the Appellant, the absence of the term "exchange" in Clause 3.1.2 of the Intermediary Agreement does not, by itself, lead to the conclusion that the condition for payment is not met. Moreover, the term "remuneration" accommodates the "exchange of players" scenario, entitling the Appellant to additional remuneration under the Intermediary Agreement.

- Finally, the Appellant submits that Article 3.1.2. of the Intermediary Agreement does not violate Article 20 of the FUR Regulations on the Status and Transfer of Players ("FUR RSTP"), as there is no link between the additional remuneration and the amount of any future transfer compensation. Even if Article 3.1.2 of the Intermediary Agreement violates Third Party Ownership (TPO) rules, the Appealed Decision correctly held that it remains enforceable.

- In conclusion, the Respondent is liable to pay the additional remuneration to the Appellant in the amount of RUB 14,790,000.

- Since the Intermediary Agreement does not stipulate an interest rate, Article 395 CC RF applies: "*In cases of unlawful withholding funds, evasion of their return, other delay in their payment, interest shall be payable on the amount of the debt. The amount of interest shall be determined by the key rate of the Bank of Russia in effect during the relevant periods. These rules shall apply unless a different amount of interest is established by law or contrac*t." Accordingly, the Respondent must pay interest on the additional remuneration determined at the key rate of the Bank of Russia for the period of default until the date of effective payment.

63. On this basis, the Appellant submitted the following requests for relief in its Appeal Brief:

(i) *The appeal filed by FIFA Football Agent Vadim Shpinev against the decision passed by FUR Players' Status Committee on 21 February 2025 in the case 002-25-K-024-24-P is upheld;*
(ii) *The decision passed by FUR Players' Status Committee on 21 February 2025 in the case 002-25-K-024-24-P is set aside;*
(iii) *Football club "Pari NN" is ordered to pay FIFA Football Agent Vadim Shpinev outstanding remuneration under Intermediary Services Agreement amounting RUB 14 790 000 (Fourteen million seven hundred ninety thousand Russian Rubles).*
(iv) *Football club "Pari NN" is ordered to pay FIFA Football Agent Vadim Shpinev interest for delay in payment in accordance with Article 395 of the Civil Code of the Russian Federation for each day of delay, calculated as from the day when the relevant payments should have been made to the day of effective payment inclusive.*
(v) *Football club "Pari NN" shall bear all costs incurred with the present procedure.*
(vi) *Football club "Pari NN" shall pay to FIFA Football Agent Vadim Shpinev a contribution towards his legal fees and other expenses, incurred in connection with the present proceedings, in an amount to be determined at the Panel's discretion."*

B. The Respondent

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

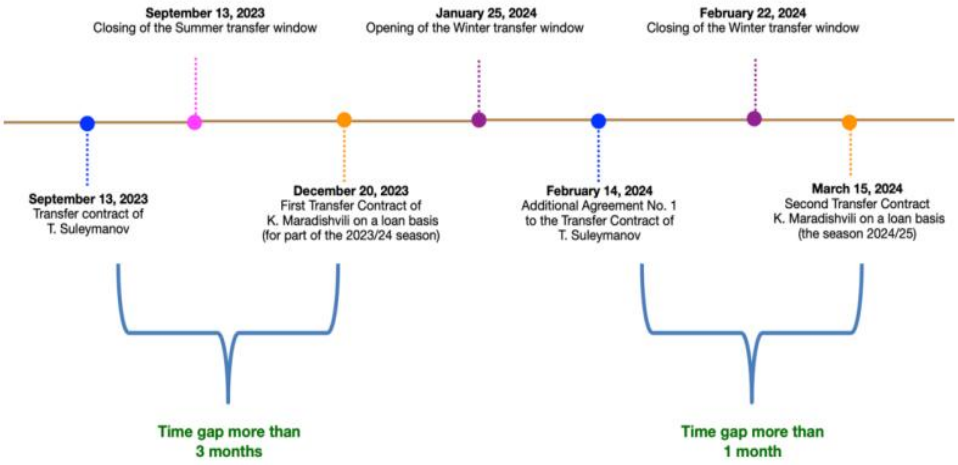
- The calculation of the additional remuneration is based on the transfer fee. The transfer fee received by the Respondent for Suleymanov's transfer was one RUB 1,-. Under these circumstances, the amount of the additional remuneration claimed by the Appellant would effectively be a negative value.

- The Appellant unjustifiably alleges that the Respondent received remuneration in kind, based on what it asserts to have been a "swap" of Suleymanov for Maradishvili.

- The Appellant refers to CAS 2016/A/4821, which identifies the following characteristics of a swap: (a) the consideration for acquiring the economic and registration rights to a player of one club is the provision of equivalent rights to a player of another club; (b) the players' market values must be equal, and neither party to the transaction pays additional compensation. The commentary to the FIFA Regulations on the Status and Transfer of Players also identifies similar indicators of swap.

- In the context of the interactions between FC Lokomotiv and Suleymanov, the following circumstances took place:

Criteria	T. Suleymanov	K. Maradishvili
Registration rights	100% – held by FC Lokomotiv	Temporarily held by FC Pari NN during the loan period; 100% held by FC Lokomotiv
Transfer compensation	1 rouble	0 roubles (free of charge)



- Accordingly, the factual circumstances of the present case do not satisfy the criteria for a swap.

- The Respondent further observes that during the summer 2023 and winter 2024 transfer windows, other players also transferred from FC Lokomotiv to the Respondent.

- Regardless of whether the actions of the Respondent and FC Lokomotiv are classified as a swap, the Respondent does not owe the Appellant any additional remuneration.

- The Appellant mistakenly assumes that the classification as a swap automatically gives rise to an obligation on the part of the Respondent to pay an additional remuneration. According to the Intermediary Agreement, such remuneration is payable to the Appellant only in the event of Suleymanov's permanent transfer to another football club for a transfer fee. Accordingly, in the absence of any monetary transfer fee paid by FC Lokomotiv to the Respondent, no obligation arises for the Respondent to pay the Appellant any additional remuneration.

- The Appellant wrongfully seeks to secure the Additional Remuneration in the precise amount of RUB 14,790,000, asserting that the rights allegedly received by the Respondent have a value of RUB 60,000,000. This valuation is not supported by any evidence and is inconsistent with the factual circumstances of the case.

- Moreover, the Appellant erroneously inflates the estimated value of the right to Maradishvili allegedly received by the Respondent, by relying on the existence of a sell-on-fee for Maradishvili's subsequent permanent transfer.

- Accordingly, any potential future transfer of Maradishvili to another club could not have triggered a sell-on fee payable to the Respondent. Furthermore, Maradishvili's loan to the Respondent ended upon expiry of the Maradishvili Second Loan Agreement, and Maradishvili returned to FC Lokomotiv. Therefore, the sell-on-fee has no impact on valuation, and the Respondent incurs no obligation to pay the Appellant.

- FC Lokomotiv made no attempt to terminate the transfer agreement early or recall Maradishvili. Accordingly the Appellant's allegation that "the inclusion of RUB 60,000,000 as penalty clause in the Maradishvili Second Loan Agreement is not a coincidence" is contradicted by the facts and amounts to speculation.

- The Appellant wrongfully asserts that the value of players is determined at the time of the swap and the key factor in valuation lies in the terms of the 2024 transfer agreements. However, if Suleymanov's valuation is determined based on the Additional Agreement, the amount of additional remuneration would be negative.

- FC Lokomotiv valued Suleymanov at RUB 1,-, and the Respondent accepted this offer. As a result, FC Lokomotiv and the Respondent concluded the Additional Agreement. Information regarding Maradishvili's market valuation confirms that at the time of his first loan to the Respondent, he was valued at RUB 0, with only three clubs, Ural, Baltika and the Respondent, showing interest in a transfer on a loan basis.

- The Appellant ignores the fact that FC Lokomotiv and the Respondent mutually agreed to amend the transfer fee for Suleymanov, in accordance with the principle of freedom of contract and their right to modify contract terms, consistent with Article 421 CC RF.

- Additionally, on 21 June 2025, FC Rostov announced the transfer of Suleymanov, with a reported fee of approximately EUR 400,000. Using the official exchange rate of the Russian Central Bank of EUR 1 = RUB 90, this corresponds to the transfer approximately RUB 36,000,000, confirming the Appellant's valuation of 60,000,000 is inaccurate.

- Following the Additional Agreement, FC Lokomotiv paid the Respondent only a compensation of RUB 1. Accordingly, any calculation of the Appellant's additional remuneration may only be based on the amount of the transfer fee actually received by the Respondent.

- The only scenario in which FC Lokomotiv could be obliged to pay the Respondent a transfer fee in a different amount, would be if the Additional Agreement were declared invalid. However, the validity of the Additional agreement has not been challenged by the Appellant.

- The Additional Agreement was concluded in the ordinary course of business between football entities. It was not intended to harm the Appellant and it does not constitute bad faith by the Respondent.

- The Respondent acknowledges that contractual freedom is not absolute and may only be restricted by law. Neither Russian law nor the FUR or FIFA regulations prohibited amending the Suleymanov Transfer Agreement or revising the buy-out clause.

- The Intermediary Agreement did not confer on the Appellant any right the determination of Suleymanov's transfer fee. The Appellant's claim seeks to limit the Respondent's right to determine the transfer fee, which constitutes a prohibited TPO under FUR and FIFA rules.

- The Appellant could have protected its interests through negotiation when concluding the Intermediary Agreement, – for example by securing a minimum guaranteed additional remuneration under various scenario's.

- The mandatory buy-out clause in the Suleymanov Loan Agreement envisaged that Suleymanov would join FC Lokomotiv on a permanent basis. The Respondent neither obstructed nor could have obstructed the fulfilment of this condition, which depended on FC Lokomotiv's coaching decisions and Suleymanov's performance.

- The Respondent's lawful exercise of its right to determine Suleymanov's transfer value jointly with FC Lokomotiv cannot be considered as bad faith.

- Case law establishes that the absence of a direct material benefit does not alone demonstrate the intent to harm a third parties. The permanent transfer of Suleymanov

is only related to Maradishvili's temporary transfer to the extent as to any other transfers from FC Lokomotiv to the Respondent. The value and purpose of the transaction exceeds purely financial or economic aspects.

- To classify a transaction as simulated, the intent of only one party is insufficient. The Appellant did not allege any intent by FC Lokomotiv to simulate the transaction. On the contrary, the Appellant acknowledged that FC Lokomotiv benefitted from the transaction.

- In view of the foregoing, the Respondent submits that the Appealed Decision of the FUR PSC is lawful and well-founded, having been adopted in accordance with the applicable laws and the relevant regulations of the FUR and FIFA.

65. On this basis, the Respondent submitted the following requests for relief in its Answer:

> *"1) Pursuant to Article 41.2 of the CAS Code, to join FC Lokomotiv as a third party to the proceedings, given that FC Lokomotiv participated in the proceedings before the FUR DRC and FUR PSC, and the decision in the present case affects its rights and interests.*
> *2) To dismiss in full the claims of the Agent.*
> *3) To uphold the decision issued by the FUR Player's Status Committee on 21 February 2025 in case No. 002-25-K-024-24-P.*
> *4) To impose all arbitration costs arising from this case on the Agent.*
> *5) To order the Agent to reimburse the Club for its legal fees and other expenses related to this appeal, and to bear any and all costs related to the arbitration."*

VI. JURISDICTION

66. Article R47 CAS Code provides as follows:

> *"An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.*
>
> *An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned."*

67. As the Appealed Decision concerns a decision of the FUR PSC, the Panel finds that in order to address the jurisdiction of the CAS, reference must be made to the statutes and regulations of the FUR.

68. In this regard, Article 46 of the FUR Statutes provides as follows:

> *"Article 46. Jurisdiction of dispute resolution*

> *1. RFU, its members, as well as the leagues, clubs, players, officials and other subjects of football, who recognize these Statutes, unless otherwise provided for by the legislation of the Russian Federation, shall not submit any dispute to the state courts, and unless it is specified for certain cases in these Statutes and in the FIFA, UEFA regulations. Any dispute shall be submitted to the jurisdiction of FIFA, UEFA or RFU. As the final judicial instance, such disputes shall be resolved either by the National arbitral tribunal indicated in the relevant article of these Statutes or by CAS […]"*

69. Article 47 of the FUR Statutes further provides:

> *"Article 47. CAS*
>
> *1. In accordance with certain provisions of the Statutes of FIFA, UEFA and RFU, any appeal against final and legally binding decisions of FIFA, UEFA and RFU may be heard by CAS. This sports arbitration court shall not, however, hear appeals in the categories of cases determined by FIFA, UEFA, RFU or against decisions taken by the independent National arbitral tribunal specified in Article 45 of the present Statutes.*
>
> *2. RFU shall ensure that any final decisions rendered by the bodies of FIFA, UEFA, or CAS are fully respected by its members, leagues, clubs, players and officials."*

70. Article 58(2) of the FUR Dispute Resolution Regulations further provides:

> *"2. Decision of the Committee may be appealed to CAS within 21 (twenty-one) days from the date of receipt of the Committee's decision with grounds by the parties, unless the arbitration agreement provides for an appeal to National Centre for Sports Arbitration (NCSA)."*

71. In view of the above, the Panel observes that the above provisions clearly provide a pathway to file an appeal with the CAS.

72. The CAS jurisdiction is furthermore not disputed and confirmed by the signature on the Orders of Procedure by the Parties.

73. It therefore follows that the CAS has jurisdiction to decide on the present dispute.

VII. ADMISSIBILITY

74. Article R49 CAS Code reads 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."*

75. Article 58 (2) of the FUR Dispute Resolution Regulations reads as follows:

> *"2. Decision of the Committee may be appealed to CAS within 21 (twenty-one) days from the date of receipt of the Committee's decision with grounds by the parties, unless the arbitration agreement provides for an appeal to National Centre for Sports Arbitration (NCSA)."*

76. In that regard, the Appealed Decision was notified to the Appellant on 24 March 2025 and the Appellant filed its Statement of Appeal on 11 April 2025. Therefore, the appeal was filed within the deadline of 21 days set by Article 58 (2) of the FUR Dispute Resolution Regulations. In addition, the Appeal Brief was filed on 22 May 2025, which falls within the 10-day deadline as set out in Article R51 CAS Code. Furthermore, the appeal complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee.

77. It therefore follows that the appeal is admissible.

VIII. APPLICABLE LAW

78. Article R58 CAS 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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.*"

79. Accordingly, and pursuant to Article R58 CAS Code, the Panel finds that the dispute shall be decided in accordance with the rules and regulations of the FUR, which is also in agreement between the Parties, in particular the FUR Statutes and the FUR Dispute Resolution Regulations and, subsidiarily, only insofar as necessary, Russian law.

IX. PROCEDURAL ISSUE

- *Rejoinder request*

Positions of the Parties and FC Lokomotiv

80. The Panel observes that the Respondent requested the CAS, in its Answer and later referred to in its letter of 5 August 2025, pursuant to Article R41(2) of the CAS Code, to join FC Lokomotiv as a third party to the present CAS proceedings. The Respondent requested that FC Lokomotiv be granted the opportunity to submit a written answer, given that FC Lokomotiv participated in the proceedings before the FUR DRC and the FUR PSC, and the decision in the present case affects its rights and interests. The Respondent further argued that FC Lokomotiv's participation is indispensable for a comprehensive examination of the case

and for the rendering of an objective decision and that the case cannot be fairly and properly heard or determined without its participation.

81. On 6 August 2025, the CAS Court Office invited the Respondent to provide the CAS Court Office with FC Lokomotiv's contact details by 16 August 2025. Separately, the Appellant was invited by the CAS Court Office to provide the latter with its position regarding the participation of FC Lokomotiv as a third party, also by 16 August 2025.

82. Per letter of 11 August 2025, after it had been provided on that same date with FC Lokomotiv's contact information details, the CAS Court Office invited FC Lokomotiv to present comments regarding the Respondent's request for FC Lokomotiv's participation.

83. On 18 August 2025, the Appellant objected to the Respondent's joinder request. The Appellant argued that the main criteria in order to allow a third party, *in casu* FC Lokomotiv, to participate in the present CAS proceedings, are not met. First, so argued the Appellant, the Respondent failed to provide convincing reasons for such request, also noting that the Appellant does not seek to challenge the validity of the Additional Agreement. The Appellant argued that the case concerns a dispute between the Appellant and the Respondent only and the Appellant does not seek any relief towards FC Lokomotiv. Therefore, so argues the Appellant, the first requirement to allow FC Lokomotiv as a third party is thus not met. Second, FC Lokomotiv is not bound by the arbitration agreement and, therefore, also the second requirement is not met. FC Lokomotiv was only a third party in the previous proceedings and not a party, which difference is extremely relevant. In fact, while a party is entitled to appeal, a third party is entitled to do so only if certain conditions are met, more specifically if its rights and obligations are affected, which also follows from Article 23 paragraph 5 of the FUR Dispute Resolution Regulations. The Appellant strongly believes that the Appealed Decision did not affect FC Lokomotiv's rights and obligations. Consequently, so argued the Appellant, FC Lokomotiv was not covered by the scope of the Appealed Decision.

84. On 21 August 2025, FC Lokomotiv presented its comments to the CAS Court Office in relation to the participation request and informed the CAS that it left the decision on the participation to the discretion of the CAS. It informed the CAS Court Office that the transfers of the Player and Maradishvili could not be regarded as "exchange transfers". Further to this, FC Lokomotiv argued that the Appellant did not dispute the validity of the Additional Agreement and therefore this agreement, in which FC Lokomotiv was granted the right to convert Suleymanov's loan into a permanent transfer for RUB 1, was valid.

85. On 22 August 2025, the Appellant submitted an unsolicited document in relation to the Respondent's joinder request and requested that FC Lokomotiv's position on the third party request must be declared inadmissible and excluded from the present case file.

86. On 27 August 2025, the CAS Court Office informed the Parties, on behalf of the Panel, that the Panel had decided to reject the Respondent's joinder request and that the Panel would defer the reasons for its decision regarding the Respondent's joinder request, to the final Arbitral Award. Accordingly, the Panel will address this procedural issue below.

Reasoning Panel

87. The Panel notes that Article R41(2) CAS Code, which is the provision that governs the application of the participation of a third party in CAS proceedings, which also applies to CAS appeal proceedings pursuant to Article R.54 of the CAS Code, provides as follows:

> *"If a Respondent intends to cause a third party to participate in the arbitration, it shall so state in its answer, together with the reasons therefor, and file an additional copy of its answer. The CAS Court Office shall communicate this copy to the person whose participation is requested and fix a time limit for such person to state its position on its participation and to submit a response pursuant to Article R39. It shall also fix a time limit for the Claimant to express its position on the participation of the third party."*

88. Furthermore, Article R41(4) of the CAS Code reads:

> *"A third party may only participate in the arbitration if it is bound by the arbitration agreement or if it and the other parties agree in writing.*

89. As a preliminary comment, the Panel notes that the Respondent merely asked to join FC Lokomotiv as a third party to the present proceedings and that the reasons provided for it to support its request, which is required by Article R41(2) CAS Code, were very limited.

90. Also, and the Panel does not want to leave this unmentioned either, not only were the reasons quite limited, the Panel observes that the Respondent did also not strongly insist on being a third party as it, by means of its letter of 22 August 2022, communicated to the CAS Court Office that it left the decision on the participation to the discretion of the CAS.

91. Be that as it may, and against the above provisions and having the positions of the Parties and FC Lokomotiv in mind, the Panel wishes to emphasise, as a starting point, that a third party may only participate as a party to the present CAS proceedings if it is bound by the same arbitration agreement binding the original parties to the dispute or that the third party and the original parties all agree in writing to such participation (see, *inter alia*, CAS 2021/A/8018; and MAVROMATI D./REEB M.; The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials, Article R41, page 324). The Panel emphasises that one of these conditions must be present to accept FC Lokomotiv as a third party.

92. With regard to the existence of any agreement among the Parties, the Panel observes that the Appellant explicitly opposed to the Respondent's request to join FC Lokomotiv to the present CAS proceedings and it is clear to the Panel that the Parties are not in agreement as to the participation of FC Lokomotiv as a third party. This condition is thus not met.

93. Now that the Parties are not in agreement as to whether FC Lokomotiv may participate as a party to the present CAS proceedings therefore depends on whether the club is bound by the same arbitration agreement binding the Appellant and the Respondent to the dispute.

94. Being mindful that FC Lokomotiv was only a third party and not a formal party in the previous FUR proceedings, the Panel notes, as a point of departure, that it derives from Articles 20 paragraph 1 and Article 21 paragraph 1 of the FUR Dispute Resolution Regulations that only the Appellant and the Respondent were entitled to appeal against the Appealed Decision before CAS. Therefore, as FC Lokomotiv had the status of third party in previous proceedings,

it only had a right to appeal against the Appealed Decision, as was also argued by the Appellant, and which follows from Article 23 paragraph 5 of the FUR Dispute Resolution Regulations, in the event that such a decision affected its right and obligations, thereby the Panel also having in mind the jurisprudence of the CAS regarding the participation of third parties in CAS proceedings and the strict prerequisite to be bound by the arbitration agreement (see, *inter alia*, CAS 2021/A/8356; and CAS 2021/A/8018).

95. Specifically analysing the arguments raised by the Respondent and FC Lokomotiv in order to support the participation request, the Panel fails to see how FC Lokomotiv is bound by the same arbitration agreement binding the Parties and why FC Lokomotiv's rights and obligations would be affected. In fact, the Panel notes that the Appealed Decision is only related to rights and obligations between the Appellant and the Respondent under the Intermediary Agreement. The Panel brings in mind that the Respondent, as set out above, also did not substantiate in whatsoever manner, and neither did FC Lokomotiv when it was asked to further provide its position on the participation request, why the rights and obligations of FC Lokomotiv were affected. The present matter concerns a contractual dispute between the Appellant and the Respondent and, again, the Panel fails to see how any outcome as to the present dispute will affect FC Lokomotiv's rights. In this regard, the Panel also takes into account that the Appellant does not seek relief towards FC Lokomotiv. Indeed, it is clear that all prayers for relief are directed exclusively against the Respondent.

96. The Panel finds, in view of the above, that FC Lokomotiv is not bound by the same arbitration agreement binding the Appellant and the Respondent to the dispute and is not covered by the scope of the Appealed Decision. The second condition is thus also not met.

97. Consequently, the Panel concludes that FC Lokomotiv cannot be allowed to participate as a party in the present arbitral proceedings and the Respondent's request is therefore denied.

98. As to the Appellant's specific request to exclude FC Lokomotiv's letter of 21 August 2025, wherein FC Lokomotiv provided its comments to the participation request, the Panel finds that such document must be declared inadmissible and excluded from the file insofar as it is not related to the Respondent's joinder request under Article R.41(2) CAS Code. Indeed, and the Panel agrees with the Appellant, that FC Lokomotiv (also) provided its opinion on the merits of the dispute which went further than what was requested by the CAS by means of its letter of 11 August 2025 in which FC Lokomotiv was invited to present its comments.

X. MERITS

A. The main issues

99. Having dispensed with the above procedural issue and having decided that FC Lokomotiv is no party to the proceedings, the Panel will now turn to the main issues to be resolved.

100. The Panel notes that the Parties are not in dispute as to the Fixed Remuneration in Article 3.1.1 of the Intermediary Agreement in the amount of RUB 10,700,000 which was received by the Appellant, but that the case centres around the question whether the Appellant is entitled to the Additional Remuneration under Article 3.1.2 of the Intermediary Agreement,

following the transfer of Suleymanov from the Respondent to FC Lokomotiv. The Appellant claims remuneration from the Respondent in the amount of RUB 14,790,000.

101. More specifically, on the one hand, the Appellant argues that Article 3.1.2 of the Intermediary Agreement is enforceable and that such issue has become *res judicata* now that the Respondent did not appeal against the Appealed Decision; that the real transaction was the exchange of the players Suleymanov and Maradishvili between the Respondent and FC Lokomotiv; and that the exchange between these players was made to prevent the occurrence of the condition that triggered the Mandatory Purchase Option and so to avoid payment of the Additional Remuneration to the Appellant's detriment. The Appellant takes the position that the above shall be construed against the Respondent in accordance with Article 157 CC RF and that the Mandatory Purchase Option is deemed to be triggered, all the foregoing resulting in payment of the Additional Remuneration of RUB 14,790,000.

102. On the other hand, the Panel notes that the Respondent argues that the issue of the enforceability has not become *res judicata*; that there was no exchange of the players Suleymanov and Maradishvili between the Respondent and FC Lokomotiv; that the Respondent did not cause harm to the Appellant and there was no bad faith from the side of the Respondent. As a consequence, the Respondent argues that the Appellant is not entitled to the Additional Remuneration under Article 3.1.2 of the Intermediary Agreement.

103. Having in mind the above positions of the Parties, the Panel points out that if Article 3.1.2 of the Intermediary Agreement is enforceable, it is relevant to establish whether the real transaction was the exchange of the players Suleymanov and Maradishvili between the Respondent and FC Lokomotiv (or at least the exchange of the Player for a portion of the rights to Maradishvili) and whether any exchange was made to prevent the occurrence of the condition triggering the Mandatory Purchase Option. Finally, the Panel will also make its analysis in light of Article 157 of the CC RF to see if the Mandatory Purchase Option is deemed to be triggered because of any bad faith from the side of the Respondent and, as such, payment of the Additional Remuneration was avoided to the Appellant's detriment.

104. In view of the above, the Panel shall answer the following questions in sequence:

a. Has Article 3.1.2 of the Intermediary Agreement become *res judicata* and, if not, is such provision enforceable?
b. If so, can the Appellant successfully demonstrate that there was an exchange of players and that it was made to prevent the occurrence of the condition triggering the Mandatory Purchase Option to avoid payment of the Additional Remuneration?
c. Can the Appellant successfully demonstrate that the Respondent acted in bad faith in the meaning of Article 157 CC RF as a consequence of which the Mandatory Purchase Option is deemed triggered?
d. What are the consequences?

105. With the above in mind, the Panel will now address the above issues in turn below.

B. Has Article 3.1.2 of the Intermediary Agreement become *res judicata* and, if not, is such provision enforceable?

106. The Panel observes that the Parties are in dispute as to whether Article 3.1.2 of the Intermediary Agreement is enforceable. The Panel takes note that the Appellant argues that such provision is enforceable. However, so the Appellant further argues, as the Respondent did not appeal against the Appealed Decision, the issue of enforceability became *res judicata* and the Respondent is not entitled to further address this issue in the present CAS proceedings. The Respondent, on the other hand, asserts that the issue of enforceability did not become *res judicata* and that Article 3.1.2 of the Intermediary Agreement violates with FUR and FIFA regulations regarding third party ownership (TPO) of players' economic rights. Consequently, so argues the Respondent, the Appellant cannot claim any rights under Article 3.1.2 of the Intermediary Agreement.

107. To start with, as to the issue of *res judicata*, the Panel does not agree with the Appellant that the Respondent was no longer entitled to address the issue of the enforceability of Article 3.1.2 of the Intermediary Agreement in the present CAS proceedings on the grounds that the latter, the Appellant argued, had not appealed against the Appealed Decision.

108. In this respect, the Panel brings in mind that the Appellant's requests had been dismissed in the proceedings before the FUR PSC. Put differently, the Respondent prevailed in these proceedings. Consequently, with the Panel having in mind that the authority of *res judicata* is, in principle, only attached to the operative part of the award and that the operative part of the Appealed Decision was fully in favour of the Respondent, there was no interest for the Respondent to appeal against the Appealed Decision (see, *inter alia*, CAS 2018/A/5868 and SFT 4A_256/2023, judgment of 6 November 2023). As a matter of fact, so the Panel finds, there was nothing at stake for the Respondent and there was no interest in challenging the decision adopted by the FUR PSC before the CAS. A respondent before CAS that prevailed in previous proceedings, similar as to the Respondent in the present case, does not have to bring a separate appeal if it wants to challenge circumstances which were asserted in the previous instance decision when it was not "aggrieved", which is required to have standing for lodging an appeal (CAS 2018/A/5628).

109. Consequently, and being mindful that standing to appeal may be granted only if there is a concrete and direct financial and/or legal interest (CAS 2015/A/4289), the Panel finds that the matter of the enforceability is not affected by *res judicata* and, also in light of Article R57 of the CAS Code, according to which the Panel has full power to review the facts and the law (the *de novo* principle that applies to CAS proceedings) on which basis the Panel is also able to review issues which were not contested before, the Respondent is entitled to further raise its arguments on this specific issue in the present proceedings before CAS.

110. Against this background, and having established that there is no matter of *res judicata* as to the enforceability of Article 3.1.2 of the Intermediary Agreement in the present CAS proceedings, the Panel has taken note of the positions of the Parties in relation thereto. In this regard, the Panel observes that the Parties are in dispute as to the question whether or not Article 3.1.2 of the Intermediary Agreement is in violation of Article 20 of the FUR RSTP, called "third party ownership of players' economic rights" thereby also referring to the

corresponding Article 18ter of the FIFA Regulations on the Status and Transfer of Players ("FIFA RSTP"), which provision is also related thereto. The Respondent argues that Article 3.1.2 of the Intermediary Agreement is in violation of these provisions and the Appellant, as a consequence thereof, cannot derive any rights from Article 3.1.2.

111. However, regardless of the question whether or not Article 3.1.2 of the Intermediary Agreement is in violation of the afore provisions, the Panel emphasises that even if there would have been any violation, Article 3.1.2 of the Intermediary Agreement is in principle still enforceable and does not affect its validity *per definition* should there be any such disciplinary breach, as was also correctly decided by the FUR PSC by means of its decision dated 21 February 2025. This approach, which was in its essence also not put into doubt by the Respondent as submitted at the hearing, is also further backed in CAS jurisprudence, from which it follows that if a contract violates with Article 18ter FIFA RSTP, this does not automatically mean it becomes invalid or unenforceable, but might however potentially lead to the imposition of disciplinary sanctions on the party in breach (see, *inter alia*, CAS 2018/A/6027; CAS 2021/A/8213 and CAS 2021/A/8306).

112. In this respect, the Panel takes note of Article 11 paragraph 3 of the FUR Football Agent Regulations, also referred to by the Parties to further support their positions on this aspect, from which it follows that the FUR DRC and the FUR PSC have the right to set aside provisions, and that the non-recognition and the non-application is possible, if they are in violation of the regulations of FUR, FIFA or the laws of the Russian Federation.

113. In this regard, the Appellant argues that Article 3.1.2 of the Intermediary Agreement should not be set aside as there is no violation with any of the regulations of FUR, FIFA or the laws of the Russian Federation. The Respondent, on the other hand, takes the position that Article 3.1.2 cannot be upheld, based on Article 11 paragraph 3 of the FUR Football Agent Regulations, as Article 3.1.2 is in violation of FIFA regulations, in particular the FIFA Football Agent Regulations ("FIFA FAR"), as argued at the hearing.

114. Whilst the Panel is aware that the FUR regulations do not specifically provide for any provisions that should affect the validity of Article 3.1.2 of the Intermediary Agreement, as was also acknowledged by the Respondent at the hearing and as also follows from the considerations of the FUR PSC in the Appealed Decision, nor that it was demonstrated by the Respondent that Article 3.1.2 of the Intermediary Agreement cannot be recognised under Russian law, the Panel is mindful that the Intermediary Agreement does refer to the FIFA regulations, as was also submitted by the Respondent at the hearing. In particular, as further argued by the Respondent, it follows from the FIFA FAR, more specifically Article 16 paragraph 3 lit. e, that an agent may not accept payment of any transfer compensation that is payable in connection with a player's transfer between clubs, which includes, without any limitation, any rights under Article 18ter of the FIFA RSTP.

115. The Panel is not blind to such provision, but does not follow the Respondent on this point. The Panel finds that the FIFA FAR, in particular Article 16 paragraph 3 lit. e, should not have its effect on the enforceability of Article 3.1.2 of the Intermediary Agreement. As a matter of fact, the Panel not only fails to see from which provision under the FIFA FAR it follows that Article 3.1.2 of the Intermediary Agreement should lead to the nullity of the

clause, let alone that Article 11 paragraph 3 of the FUR Football Agent Regulations also speaks of a right to set aside any provisions, but the Panel wishes to mention that it clearly follows from Article 2 of the FIFA FAR that these regulations govern the occupation of football agents within the international transfer system. In other words, as also follows from Article 2 of the FIFA FAR, the FIFA FAR only apply to representation agreements with an international dimension. What is more, the Panel observes that the FIFA FAR even explicitly mentions, in that same provision, that the national football regulations apply when the conduct is connected to a national transfer.

116. The Panel brings in mind that the matter at hand clearly concerns a national dispute, exclusively dealing with a national transfer. Therefore, and although certain reflex actions from the FIFA FAR can still be at play at national level, the Panel does not find, thereby recalling that the FIFA FAR exclusively regulates international transfers and is not directly applicable to the present case, as set out above, that, under such circumstances, Article 3.1.2 of the Intermediary Agreement should become invalid or unenforceable. As such, the Panel concurs with the FUR PSC that the conditions in Article 11 paragraph 3 of the FUR Football Agent Regulations are not met in this case.

117. Therefore, the Panel concludes that Article 3.1.2 of the Intermediary Agreement is not only not affected by *res judicata*, but is valid and such provision is therefore enforceable.

C. If so, can the Appellant successfully demonstrate that there was an exchange of players and that it was made to prevent the occurrence of the condition triggering the Mandatory Purchase Option to avoid payment of the Additional Remuneration?

118. Having established that Article 3.1.2 of the Intermediary Agreement is enforceable and the Respondent is entitled to further raise its arguments on this specific issue in the present CAS proceedings, the Panel will now address the issue of the exchange of the players Suleymanov and Maradishvili between the Respondent and FC Lokomotiv and, if such exchange had occurred, determine if it was made to prevent the occurrence of the condition triggering the Mandatory Purchase Option to avoid payment of the Additional Remuneration by the Respondent. The Panel will first focus on the existence of the exchange itself, and as a next step, subject to the existence of such exchange, whether such exchange was made to prevent the occurrence of the condition triggering the Mandatory Purchase Option to avoid payment of the Additional Remuneration by the Respondent.

119. Before specifically addressing this first question, so starting with the Panel's assessment whether there was an exchange, the Panel has a few preliminary observations to make.

- *Preliminary observations as points of departure*

120. First, the Panel observes that Article 3.1 of the Intermediary Agreement speaks of "transfer compensation" and that Article 3.1.2 of the Intermediary Agreement refers to "the amount of remuneration" that the Respondent will receive from another football club. Already for this reason, the FUR PSC decided, which was further supported by the Respondent in the present proceedings, that the term "remuneration" clearly refers only to receipt by the Respondent of a transfer fee in monetary form from a third-party club. Therefore, as was decided by the FUR PSC, the classification of transfers of the players Maradishvili Suleymanov between the

Respondent and FC Lokomotiv as an exchange is not a decisive factor in the case. However, the Panel does not agree with this too formalistic approach of the FUR PSC, also having in mind the established jurisprudence of the Dispute Resolution Chamber of the FIFA Football Tribunal (the "FIFA DRC") and the CAS (see, *inter alia*, FIFA DRC 7 June 2018, no. 0618269; CAS 2016/A/4821; and also CAS 2020/A/7612).

121. It follows from such jurisprudence that an exchange can imply an indirect financial agreement, because sporting qualities of players generally carry an economic value in the football employment market. Lack of monetary exchange does not presuppose *per definition* that transactions are devoid of intrinsic value (see, *inter alia*, CAS 2016/A/4821). On this aspect of the case, the Panel does not follow the FUR PSC and the Respondent.

122. By the same token, as a second observation, the fact that separate contracts between the Respondent and FC Lokomotiv have been concluded in relation to the players Suleymanov and Maradishvili, does also not in itself exclude the existence of an exchange. In other words, even if an exchange is not laid down in *one* transfer agreement, which is the case in the present matter, this still does not mean that no exchange took place. It would otherwise pave the way, so the Panel finds, for circumvention constructions by simply drafting separate transfer agreements. Therefore, these circumstances cannot be to the Appellant's detriment in the present proceedings and do not stand in the way for a potential exchange.

123. At the same time, which should also not be left unmentioned, and is a subsequent preliminary observation, the Panel does find that if the Appellant had wanted to receive a fee *in any circumstance*, and so even if the Player was part of an exchange and/or was released for an insubstantial fee, or no fee at all, the Appellant should have drafted, in light of the freedom of contract, the terms of the Intermediary Agreement accordingly. It should have done so in advance when concluding the Intermediary Agreement, all the more so in view of the characteristics of a sell on clause, which, from its very nature, does not provide for a guaranteed additional fee (CAS 2014/A/3508). Therefore, through Article 3.1.2 of the Intermediary Agreement, the Appellant could not acquire more than a mere expectation to a possible additional fee. On this point, the Panel agrees with the FUR PSC, that nothing prevented the Appellant in choosing among various methods for calculating the amount of the Additional Remuneration and negotiate the Intermediary Agreement on terms more favorable to it. By failing to do so, this does not mean that the Appellant forfeited any rights *automatically*, all the more so if a set-up of an exchange was construed with the aim to avoiding any payment obligations, which will be assessed by the Panel, but the risk – and that is an important point of departure in the present dispute between the Parties, i.e. that the Player is transferred for free or for a very low transfer fee – rests with the Appellant.

124. Again, it should not be fatal when the scenario of a potential exchange was not specifically envisaged in the Intermediary Agreement, but it would have assisted the Appellant in making his case. Moreover, and the Panel does not want to leave this unmentioned either, the present matter does not concern an employment related dispute involving an employee versus an employer, but it concerns a dispute related to an intermediary contract concluded between two equal parties, also bearing in mind that parties signing documents of legal significance, which so also applies to the Appellant, as a general rule, do so on their own responsibility being

liable to bear any legal consequences that might arise from the execution of such document (see, *inter alia*, CAS 2020/A/6679; and CAS 2019/A/6337).

125. Be that as it may, at the end it comes down to the fact whether the Appellant, as first step, can demonstrate that an exchange took place as this is strongly submitted by the Appellant and a substantial part of its position. In this regard, and as a further leading starting point and observation to make in the present matter, the Panel refers to the general rule and principle of law that a party asserting a right based on an alleged fact bears the burden of proving that such fact is indeed established (*actori incumbit probatio*), affirmed in longstanding CAS jurisprudence (see, *inter alia*, CAS 2016/A/4580) and further supported in Article 30 paragraph 1 of the FUR Dispute Resolution Regulations. Therefore, and before addressing the question whether an exchange took place, the Panel notes it is thus up to the Appellant in the present proceedings to demonstrate that an exchange took place.

126. By the same token and as a further preliminary finding, also to have this clear before addressing the arguments of the Parties in relation to the existence of an exchange or not, the Panel wishes to address the standard of proof as the Parties are also in dispute as to the required standard. In this regard, the Panel notes that it is also well-established practice that in the lack of any specific legal or regulatory requirement, in a civil dispute a CAS panel has to apply the usual standard of proof for civil matters, i.e. the one of comfortable satisfaction (see, *inter alia*, CAS 2020/A/7503, para. 95 and CAS 2018/A/6075, para. 46).

127. The Panel notes that nothing in the case file indicates the existence of any specific legal or regulatory provision prescribing a different standard of proof, not leaving unmentioned that also the FUR PSC applied the same standard of proof that finally led to the Appealed Decision. In the present case, thereby also having in mind Article 29 of the RFU Dispute Resolution Regulations from which it follows that the Chamber and the Committee shall evaluate the evidence to their inner conviction based on a comprehensive, full, objective and direct examination of the evidence available in the case, the Panel sees no reason to impose a higher or lower standard of proof than the one of comfortable satisfaction, as the case at hand between the Parties concerns essentially a matter of contractual nature. The Panel recalls that the "comfortable satisfaction" standard of proof may be defined "*[…] as being greater than a mere balance of probability but less than proof beyond a reasonable doubt (CAS 2014/A/3625, with further reference to CAS 2009/A/1920, CAS 2013/A/3258, CAS 2010/A/2267, CAS 2010/A/2172). In particular, CAS jurisprudence clearly established that to reach this comfortable satisfaction, the Panel should have in mind "the seriousness of the allegation which is made" (CAS 2014/A/3625, with further reference to CAS 2005/A/908, CAS 2009/A/1902)"* (see, *inter alia*, CAS 2022/A/8960).

128. Before now addressing the question of the exchange of players, the Panel, as a final preliminary observation, wishes to note that there is no clear guidance on when to speak of an exchange of players. The Panel agrees with the Appellant that further handholds have been given in CAS jurisprudence. For example, in CAS 2016/A/4812, an exchange is described as, at its essence, two sales contracts, where the rights on offer for transfer by one club constitute the consideration for the transfer of rights associated with another player to that same club. The Panel adheres to this definition and will, from such perspective, analyze the arguments presented by the Parties, more specifically the Appellant's position that an exchange took

place. In this regard, the Panel also observes and has taken good note of the fact that the Appellant strongly relies on the CAS award 2020/A/7612 (the "Ponce Award") to further support his position as in that case the CAS concluded that a contractual simulation had occurred as a result of the transfer of two players, artificially inflating the value of one and reducing that of the other compared to their actual market value, thereby infringing upon the rights of a third club. The Panel will therefore also have particular focus on the Ponce Award and will, throughout its considerations, make reference to this CAS award when discussing the Parties' arguments, which will now be addressed by the Panel in light of the first question whether an exchange of players has taken place.

- *The existence of an exchange or not*

129. To support his position that an exchange took place, the Appellant refers to media reports that highlighted the transfers of the players Suleymanov and Maradishvili between the Respondent and FC Lokomotiv as an exchange of players. The Panel observes that the Appellant is also aware that media reports in itself should not be considered as expert opinion on legal issues, as was acknowledged in the Appeal Brief, but the Panel notes that the Appellant asserts that these media reports were not challenged by the Respondent. That is true as far as it concerns the previous proceedings before the FUR. However, in the present CAS proceedings, the Respondent did put in doubt, quite extensively, the value of the media reports. Also against this background, the Panel is very reluctant to attach value to these media reports, all the more so because it cannot be considered as independent views. Anyway, the Panel is not convinced that the media reports should lead to the conclusion that an exchange took place in the present case or that those media reports, referred to by the Appellant, are helpful in making a judgment that an exchange took place.

130. As to the time frame in relation to the transfers of the players Suleymanov and Maradishvili, which is another element that will now be assessed by the Panel, the Panel observes that the Parties draw different conclusions from the fact that there is more than a one-month gap of the transfers of the players Suleymanov and Maradishvili between the Respondent and FC Lokomotiv. Indeed, it is true that there is, at the least, a one month gap between the conclusion of the Additional Agreement, concluded on 14 February 2024, and the Second Maradishvili Loan Agreement, concluded on 15 March 2024, thereby not leaving unmentioned that it was already on 13 September 2023 – so even more than three months before Maradishvili was transferred on a loan basis to the Respondent – that the Respondent and FC Lokomotiv entered into a first transfer agreement for Suleymanov on a loan basis. However, and also being aware that CAS jurisprudence regarding exchange of players mainly deals with exchanges taking place on one day and, at the least, in a more narrowed time frame, it is clear that there was some substantial time distance between the conclusion of the Additional Agreement and the Second Maradishvili Loan Agreement, i.e. more than a month, which makes it difficult for the Panel to establish that these transfers, even if one month will be considered, must be considered as an exchange.

131. This makes the present case between the Parties already significantly different when comparing with the circumstances in the Ponce Award as in that latter case there was a period of four days between the conclusion of the transfers of the two from AS Roma to Spartak Moscow. Again, in the present case there is a difference of, in any event, more than one month

between the Additional Agreement and the Second Maradishvili Loan Agreement. Again, these circumstances make the Panel reluctant to establish there was an exchange.

132. This is all the more so because also several other players were exchanged between the Respondent and FC Lokomotiv in 2024, which circumstance make the Panel decide that it cannot establish that an exchange have taken place. In fact, it is undisputed that also other transfers took place between the Respondent and FC Lokomotiv in July 2023 and so only two months prior to 13 September 2023 when the Player was transferred on a loan basis from the Respondent to FC Lokomotiv. This makes it difficult for the Panel to draw a clear line in terms of a specific time frame when an exchange must be considered as such and when not, thereby excluding certain transfers from being part of an exchange. As such, it can be called into question why transfers of any other players were not part of any exchange and why such transfers should be excluded. Therefore, under the circumstances of a time frame of at least more than one month and noting that several players other than Suleymanov and Maradishvili have also been exchanged between the Respondent and FC Lokomotiv previously, which is not in dispute between the Parties, the Panel is not convinced that, under those specific circumstances, an exchange of the transfers of Suleymanov and Maradishvili between the Respondent and FC Lokomotiv had taken place.

133. The most far-reaching argument of the Appellant, in the eyes of the Panel, which was another element for the Appellant to support its position that an exchange of the players took place is specifically related to the rights given to the Respondent, in particular the penalty of RUB 60,000,000 due by FC Lokomotiv to the Respondent in case of termination of the Second Maradishvili Loan Agreement. In this regard, the Appellant notes that the Additional Agreement, concluded on 14 February 2024, in which the Mandatory Purchase Option was amended to grant FC Lokomotiv the right to convert Suleymanov's loan into a permanent transfer for the amount of RUB 1, and the Second Maradishvili Loan Agreement, concluded on 15 March 2024, in which the Respondent and FC Lokomotiv entered into a second transfer agreement for Maradishvili from FC Lokomotiv to the Respondent on a loan basis, cannot be interpreted as independent. In fact, the Second Maradishvili Loan Agreement contains rights of economic and non-economic nature in favor of the Respondent, in particular that if FC Lokomotiv terminates the Second Maradishvili Loan Agreement, the Respondent will receive payment of RUB 60,000,000.

134. The Panel is fully aware that the amount of RUB 60,000,000 was also the same amount as was initially mentioned in relation to the Mandatory Purchase Option, which was amended by means of the Additional Agreement and now granted FC Lokomotiv the right to convert Suleymanov's loan into a permanent transfer for the amount of RUB 1. The Appellant "strongly believes", as literally follows from the Appeal Brief, that the amount of RUB 60,000,000 as was specified in the Mandatory Purchase Option, was "transferred" to the Second Maradishvili Loan Agreement. The Panel is however not convinced and finds that the Appellant did not demonstrate, to the comfortable satisfaction of the Panel, that the amount of RUB 60,000,000 was "transferred" to the Second Maradishvili Loan Agreement.

135. Indeed, it is true that it concerns the same amount, and this might raise some suspicion, next to the fact that the Additional Agreement was indeed not signed by the Player, but the Panel does not find that such circumstances justify the conclusion that an exchange between the

players Suleymanov and Maradishvili had actually taken place. What is more, thereby having in mind that the players more or less had the same value, which does not seem to be in dispute between the Parties, it is not entirely without merit that a similar amount was included in the Second Maradishvili Loan Agreement. In any event, the fact that the amount of RUB 60,000,000 was also the same amount as was mentioned in relation to the Mandatory Purchase Option does not lead *per definition*, so the Panel finds, to the conclusion that the Additional Agreement and the Second Maradishvili Loan Agreement are not independent and that an exchange had taken place. For sake of completeness, which is again a significant difference as compared to the Ponce Award in which payment was received, the Panel wishes to add on this point, which was also confirmed during the hearing, that the Respondent had not received any payment in this regard. As a matter of fact, it is undisputed that FC Lokomotiv had not terminated the Second Maradishvili Loan Agreement and the agreement finally came to its end due to expiry of the contractual term.

136. As set out above, the Appellant makes strong comparisons with the Ponce-case, also to support his position that an exchange took place, but the Panel sees significant differences, as discussed on some points before. Additionally, the Panel also wishes to note, which also makes the circumstances in the present case different than the factual circumstances in the Ponce Award, that in the latter award the facts under adjudication were different, as the case did not concern the possible existence of a players' exchange, but rather a contractual simulation consisting of reducing the price of one transfer and inflating the price of another, in comparison to their market values, to the detriment of a third party. It was decisive that the same fixed transfer fees were paid for players that were valued so differently by the acquiring club. This was successfully demonstrated by the appellant in the Ponce Award. The Panel recalls that not only in the Ponce Award much value was attached to the fact that there was a coincidence in the timing of the two agreements (16 and 20 June 2019), in contrast to a period of more than one month in the present dispute, but also the payment deadlines (which was a few days after the issuance of the ITC and June 2020 in both cases) strongly pointed in the direction of a contractual simulation. As such, these coincidences made it, together with further evidence provided by the parties, clear for the CAS in the Ponce Award to establish that there was an exchange.

137. There might also be coincidences in the present matter and the Appellant might strongly believe that an exchange took place, but at the end, in the eyes of the Panel, conclusive evidence is missing to make the judgment that an exchange took place. There is no further communication between the Respondent and FC Lokomotiv, such as WhatsApp messages or email correspondence, to support the existence of an exchange of players. Except for the experts, no further witness statements have been given. As a consequence, the Panel fails to see that the transactions regarding the players are actually interrelated, and at least, finds, to its comfortable satisfaction, that this is not sufficiently demonstrated by the Appellant.

138. At the end, when analyzing all the elements, the Panel is not comfortably satisfied, not by the elements itself and not in their combination, as set out above, that there was an exchange of the players Suleymanov and Maradishvili between the Respondent and FC Lokomotiv. The Panel recalls that, on balance, conclusive evidence is missing to support this position.

139. Now that the Panel has concluded that the Appellant has not successfully demonstrated that an exchange of players has taken place, it speaks for itself that the occurrence of the condition triggering the Mandatory Purchase Option was not prevented for that reason. However, the Panel observes that the Appellant also argues that the Mandatory Purchase Option shall be considered as a transaction under condition precedent within the meaning of Article 157 of the CC RF, and that given the Respondent's bad faith the Mandatory Purchase Option was also triggered for this reason, the Panel will also address that issue.

D. Can the Appellant successfully demonstrate that the Respondent acted in bad faith in the meaning of Article 157 CC RF as a consequence of which the Mandatory Purchase Option is deemed triggered?

140. The Appellant takes the position that the case at hand revolves around a simple issue, which is a bad faith action of the Respondent. In this regard, the Appellant argues that the avoidance of payment of the Additional Remuneration to the detriment of the Appellant shall also be construed against the Respondent pursuant to Article 157 CC RF which should lead to the conclusion that the Mandatory Purchase Option is deemed to be triggered, finally resulting in the payment of the Additional Remuneration in favour of the Appellant.

141. In this regard, the Panel observes that (the relevant parts of) Article 157 CC RF reads:

> *"1. A transactions is considered to be concluded subject to a condition precedent if the parties have made the emergence of rights and obligations dependent on circumstances which are unknown, whether they will occur or not.*
>
> *……..*
>
> *3. If the occurrence of a condition is prevented in bad faith by a party to whom the occurrence of the condition is disadvantageous, the condition shall be recognized as having occurred."*

142. Against the above provision, the Appellant asserts that the Mandatory Purchase Option shall be considered as a transaction under condition precedent within the meaning of Article 157 CC RF whereby the condition was that the Player scores seven performance points for FC Lokomotiv. In this regard, the Appellant takes the position that the condition that Suleymanov scores seven performance points should be considered to have occurred.

143. However, and to avoid any misunderstanding, the Panel first wishes to add that it is true that at the moment the Respondent waived the Mandatory Purchase Option already six performance points had been achieved only resting one to meet this threshold. Still, it was not *that* sure, at least not in the eyes of the Panel, that the seventh performance point was merely a formality, as is framed by the Appellant, and that it was without any doubt that the Player would have scored the seventh performance point, which is already supported by the fact that it was only near the end of the season, i.e. on 7 April 2024, the Player achieved the seventh performance point. Where the panel in CAS 2011/A/2344, referred to by the Appellant, felt comfortable to conclude that there was no doubt that the respective threshold would have been met, such absolute comfortability in this case is not present.

144. Be that as it may, the Panel is not comfortably satisfied, and it is not demonstrated as such, that the Respondent acted in bad faith, which is a requirement under Article 157 CC RF.

145. At the end of the day, so the Panel finds, it comes down to the question whether or not the Respondent had justifiable grounds to act the way it did or not, by waiving the Mandatory Purchase Option. The Panel observes that the Appellant is of the opinion that a transaction should be beneficial to both parties and that the Respondent waived the Mandatory Purchase Option in the amount of RUB 60,000,000 without receiving anything in return, which would make no sense, also arguing that in two FUR instances the Respondent did not provide any plausible and economically justified explanation for waiving such amount.

146. The Panel feels forced to act with reluctance on whether there were valid reasons for the Respondent to waive the Mandatory Purchase Option. The Respondent was not obliged to transfer the Player only for a (specific) or for the highest transfer fee possible. The Panel recalls it will have to act with restraint to judge on this point, since economic or sporting decisions by a club to release a player without or for an insubstantial fee, in principle, should not be reviewed by the Panel *ex post*. Even building on a positive, constructive and long-term relationship, as was argued by the Respondent, can be part of such decision. In fact, there can be multiple reasons not to accept a (significant) payment for the release of a player, for example to avoid further wage obligations or sporting reasons of whatever kind.

147. It was argued by the Respondent, in its written submissions, that it had no interest in increasing its wage bill due to the return of the Player from his loan. At the hearing, the general director of the Respondent, Mr Eugene Galkin, when confronted with the question why the Player was released for RUB 1, referred to the Ramadan period and the doubts as to whether the Player would be able to achieve the seventh performance point under the Mandatory Purchase Option. This may be a valid reason or not, but as long as this decision is not completely arbitrary, which does not seem to be the case, again bringing in mind the Panel's reluctant approach here, it is not up to the Panel in order to decide if the decision to waive the Mandatory Purchase Option by the Respondent could not have been taken.

148. The Panel agrees with the FUR PSC that football clubs are sporting organisations and its primary purpose is to achieve the best sports results. From that perspective, clubs are free to reassess their business understandings and to amend accordingly their contractual relationship on the understanding that in the Ponce Award – which is another difference as compared to the present case – the transfer agreements or transfer fees were not amended afterwards. The Panel notes that the Respondent was entitled to amend the terms subject to the absence of any fraudulent act, which was not the matter at hand (CAS 2016/A/4669).

149. In this respect, the Panel also notes that the Appellant does not dispute the principle of freedom of contract but takes the position that such freedom cannot be absolute and refers to Article 10 paragraph 1 of the CC RF, from which it follows that the exercise of civil rights solely with the intention of causing harm to another person, actions to circumvent the law for an unlawful purpose, as well as other knowingly dishonest exercise of civil rights (abuse of rights) is not permitted. However, that is exactly where the Panel has a different view than the Appellant as it is not comfortably satisfied that the Respondent had the intention of causing harm to the Appellant and acted in bad faith when it amended the contractual terms. In any

event, this is not sufficiently demonstrated by the Appellant. This also makes, so the Panel concludes, that the absence of direct material effect from a contract in itself does not automatically demonstrate that that contract was concluded solely with the intention of causing harm to any third parties or that a matter of bad faith is present.

150. There is also no provision in the applicable rules that prohibits the transfer of the Player for free of charge or for an insubstantial amount, as this, at the end of the day, is a decision to make by a club. Again, there was no obligation for the Respondent to transfer the Player for a certain minimum amount. Instead, and again, it is within the Respondent's discretion that holds the rights of the Player to define the terms and conditions of the subsequent transfer as it wishes. In any event, the Panel is not comfortably satisfied that the Respondent acted in bad faith when it waived the Mandatory Purchase Option. Therefore, the Panel finds that the Mandatory Purchase Option shall not be considered as a transaction under condition precedent within the meaning of Article 157 CC RF and, as such, the Mandatory Purchase Option is not deemed to be triggered resulting from the Respondent's bad faith.

151. It is true, and the Panel wishes to provide for such clarity, that the Parties had to employ their best efforts to safeguard the financial interests of their contractual partner. In the Panel's view there is however also no conclusive evidence on file that the Respondent did not undertake its best efforts to obtain a transfer fee for the Player, let alone that bad faith, which is again required under Article 157 CC RF, can be established from the side of the Respondent. What is more, it follows from Article 3.1.2 of the Intermediary Agreement that not only the Appellant, but even more so the Respondent would have also profited from a transfer fee. In fact, whereas the Appellant was entitled to 30%, the Respondent was still entitled to 70% of the difference between the amount it would receive and the amount of the Fixed Remuneration. Indeed, and the Panel is aware, that the Respondent saved RUB 59,999,999 when it decided to transfer the Player for RUB 1 instead of RUB 60,000,000, but on the other hand, the Respondent could have also earned more if a substantial transfer fee was paid to it. Thus, not to employ its best efforts in the context of a sell-on would have been – from the outset – also not directly in favor of the Respondent's economic interest.

152. Also, the fact that TransferMarkt portal considered the value of the Player to be EUR 1,000,000, which was argued by the Appellant, will also not make it any different as the Panel should also be very reluctant to let itself guided by such tool, also bearing in mind that such amount would then be difficult to rhyme with the Fixed Remuneration of RUB 10,700,000 and thus raises the question why the Fixed Remuneration was not significantly higher. Also on this point, the Panel sees a notable difference with the Ponce Award as in the Ponce case the appellant successfully demonstrated that the transfer compensations were clearly not corresponding to the market values of the players, which made it evident for the CAS in the Ponce case to conclude that a contractual simulation had actually occurred.

153. The Panel has also carefully listened to the experts that made statements at the hearing. However, whilst it is clear to the Panel that the experts expressed their strong doubts as to the construction, at the end of the day, they did not explicitly state that the Respondent acted in bad faith. They merely stated that they failed to see a plausible explanation for the Respondent to act as it did when it waived the Mandatory Purchase Option. In similar expressions, it was concluded that any interrelation or sham nature of the transactions shall not be excluded and

that a logical explanation cannot be find, but this is still something different, so finds the Panel, than explicitly taking the position that the Respondent has acted in bad faith, which is again, as is set out above, required under Article 157 CC RF.

154. In view of the above, the Panel finds that it is not demonstrated by the Appellant that the Respondent has acted in bad faith in the meaning of Article 157 CC RF as a consequence of which the Panel concludes that the Mandatory Purchase Option is not deemed triggered.

E. What are the consequences?

155. As a consequence, and in view of the above, the Panel concludes that the Appellant is not entitled to the Additional Remuneration as provided in Article 3.1.2 of the Intermediary Agreement, following the transfer of Suleymanov from the Respondent to FC Lokomotiv.

F. Conclusion

156. Based on the foregoing, and having taken into due consideration the regulations applicable, the evidence produced and all the arguments submitted, the Panel concludes that:

i. Article 3.1.2 of the Intermediary Agreement is not affected by *res judicata* and such provision is enforceable;

ii. The Appellant has not successfully demonstrated that there was an exchange of players and that it was made to prevent the occurrence of the condition triggering the Mandatory Purchase Option to avoid payment of the Additional Remuneration;

iii. The Appellant has not successfully demonstrated that the Respondent acted in bad faith in the meaning of Article 157 CC RF as a consequence of which the Mandatory Purchase Option is not deemed triggered; and

iv. The Appellant is, therefore, not entitled to the Additional Remuneration.

157. Any other prayers or requests for relief are dismissed.

XI. COSTS

(…)

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

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 11 April 2025 by Vadim Shpinev against Football Club Pari NN with respect to the decision issued on 21 February 2025 by the Players' Status Committee of the Football Union of Russia is rejected.

2. The decision issued on 21 February 2025 by the Players' Status Committee of the Football Union of Russia is confirmed.

3. (…).

4. (…).

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

Seat of arbitration: Lausanne, Switzerland

Date: 20 March 2025

THE COURT OF ARBITRATION FOR SPORT

Frans M. de Weger
President of the Panel

Kepa Larumbe	Marek Palus
Arbitrator	Arbitrator