CAS 2025/A/11286 Ngezi Platinum Stars Football Club v. Benjani Mwaruwari & FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr. Andrew Mercer, United Kingdom

in the arbitration between

Ngezi Platinum Stars Football Club, Mhondoro, Zimbabwe

Represented by Mr. Lyrique Du Plessis and Mr. Eben Koen of BDP Attorneys, Cape Town, South Africa

Appellant

and

Mr. Benjani Mwaruwari, England

Represented by Mr. Ndabezinhle Nyathi of Touchwood Intermediaries Oy, Helsinki, Finland

First Respondent

and

Fédération Internationale de Football Association (FIFA), Zurich, Switzerland

Represented by Mr. Roberto Najera Reyes, Senior Legal Counsel at FIFA in Florida, United States of America

Second Respondent

I. PARTIES

1. Ngezi Platinum Stars Football Club is a football club based in Zimbabwe (the "Club" or "Appellant").

2. Mr. Benjani Mwaruwari is a football coach (the "Coach" or "First Respondent").

3. The *Fédération Internationale de Football Association* is the international governing body of football with its headquarters in Zurich, Switzerland ("FIFA" or the "Second Respondent").

4. The Coach and FIFA are referred to collectively as the "Respondents".

5. The Appellant and the Respondents are referred to collectively as the "Parties".

II. FACTUAL BACKGROUND

A. Background Facts

6. Below is a summary of the relevant facts and allegations based on the Parties' written and oral submissions, pleadings and evidence adduced in the course of the present proceedings and at the hearing. Additional facts and allegations found in the Parties' written and oral submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in this Award only to the submissions and evidence he considers necessary to explain his reasoning.

7. On 17 March 2022, the Coach and the Club concluded an employment contract (the "Contract").

8. On 25 July 2022, the Club unilaterally terminated the Contract.

9. On 25 August 2022, the Coach sent a letter to the Club requesting full compensation based on the residual value of the Contract.

B. Proceedings before the Players' Status Chamber of the FIFA Football Tribunal

10. On 14 March 2024, the Coach filed a claim before the Players' Status Chamber of the FIFA Football Tribunal (the "FIFA PSC").

11. In his claim, the Coach identified himself as being a *"British Citizen"* and a *"British coach"* and stated that he was *"based in England"*. The Coach argued that the FIFA PSC was competent to hear the case since the matter was an employment-related dispute with an international dimension for the purposes of Paragraph 1 (c) of Article 22 of the FIFA Regulations on the Status and Transfer of Players ("FIFA RSTP").

12. On 18 March 2024, FIFA notified the Club of the Coach's claim and invited it to provide its position by no later than 7 April 2024.

13. The Club did not provide any reply by the deadline set by FIFA.

14. On 12 April 2024, FIFA acknowledged the Club's lack of reply and informed the Coach and the Club that the submission phase of the case was closed and that no further submissions would be admitted to the file.

15. On 22 October 2024, the Club filed a submission in the case with FIFA in which it stated that the Coach is a Zimbabwean national. For this reason, the Club challenged the competence and jurisdiction of the FIFA PSC on the basis that there was no international dimension for the purposes of Paragraph 1 (c) of Article 22 of the FIFA RSTP.

16. On 24 October 2024, FIFA replied to the Club to reiterate the position set out in its letter dated 12 April 2024 that the submission phase of the dispute was already closed.

17. On 5 November 2024 and 6 December 2024 (after rectification), the FIFA PSC issued the operative part of its decision in which the Coach's claim was partially accepted (the "Appealed Decision"). In particular, the Club was ordered to pay the Coach the amount of USD 570,000 as compensation for breach of contract plus 5% interest per annum as from 14 March 2024 until the date of effective payment (the "Relevant Amount").

18. On 11 March 2025, the FIFA PSC notified the grounds of the Appealed Decision to the Club and the Coach.

19. In the grounds of the Appealed Decision, the FIFA PSC relevantly stated that:

- In accordance with Paragraph 1 (c) of Article 22 of the FIFA RSTP, the FIFA PSC was competent to deal with the Coach's case which concerns an employment-related dispute with an international dimension between an English coach and a Zimbabwean club.

- The Club had not provided any reply to the Coach's claim. Therefore, in accordance with Paragraph 1 of Article 21 of the Procedural Rules Governing the Football Tribunal (the "Procedural Rules"), the decision would be taken on the basis of the documentation already in the file (i.e. statements and documents provided by the Coach).

- The Club had terminated the Contract without just cause.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

20. On 24 March 2025, the Appellant filed its Statement of Appeal, challenging the Appealed Decision.

21. Amongst other matters, the Appellant proposed that the case be heard by a sole arbitrator and suggested a nomination in this regard. Subsequently, the Respondents confirmed

that they did not object to the matter being submitted to a sole arbitrator, however, they did not accept the Appellant's nomination. Pursuant to Article R54 of the Code of Sports-related Arbitration (the "Code"), the matter was therefore required to be decided by the President of the CAS Appeals Arbitration Division or their Deputy.

22. The Appellant filed its Appeal Brief on 30 April 2025 (having been granted an extension of time).

23. In the Appeal Brief, the Appellant indicated that it intended to call the Club's chief executive, Ms. Amanda Lieto, and the Club's board member and legal counsel, Mr. Garikai Bera, as witnesses.

24. The Deputy Division President decided that the matter would be decided by a sole arbitrator. In this regard, the appointment and constitution of Mr. Andrew Mercer as Sole Arbitrator was duly communicated to the parties on 4 June 2025.

25. For completeness, it is noted that during the earlier stages of the CAS proceedings, certain issues arose with the delivery of correspondence addressed to the First Respondent (i.e. as a result of the apparent provision of an incorrect email address by the Appellant). The First Respondent made several submissions on this issue, notably in correspondence dated 12 April 2025, 22 May 2025, 27 May 2025, 29 May 2025 and 17 June 2025 in which it was, *inter alia*, alleged that such matters constituted procedural irregularities which had prejudiced the First Respondent's case and called into question the admissibility of the appeal. On 28 May 2025 and 2 June 2025, the CAS confirmed to the Parties that the full bundle of documents had since been correctly delivered to the First Respondent, that any alleged procedural and timing issues had been remedied (including regarding the deadline for the submission of the First Respondent's Answer), and that the First Respondent had not suffered any procedural disadvantage in the conduct of the proceedings. The First Respondent was asked to raise any further arguments on this topic in its Answer for the consideration of the Sole Arbitrator. In particular, the CAS Court Office stated (emphasis in original):

"[…]

The CAS Court Office notes that the email address provided by the Appellant (on 26 March 2025) for the First Respondent is incorrect. As a result, the CAS Court Office letters sent by email between 31 March 2025 and 21 May 2025 were not received by the First Respondent, including the CAS Court Office letter dated 30 April 2025 granting the Respondents a 20-day time limit to file the Answer from receipt of such letter by email. Considering that the First Respondent did not receive the CAS Court Office letter dated 30 April 2025 for the abovementioned reason, such time limit never started to run for the First Respondent.

In light of the above, the First Respondent will find hereafter a link to access 1) all correspondence between the CAS Court Office and the Parties in this procedure to date, 2) the Appellant's Statement of Appeal, and 3) the Appellant's Appeal Brief: [link] *(valid for 30 days).*

*In light of the above, the First Respondent is invited to file his Answer within **twenty (20) days** upon receipt of this letter by email.* […]".

26. On 17 June 2025, the First Respondent filed his Answer.

27. On 12 August 2025, the Second Respondent filed its Answer (having previously been granted several extensions of time).

28. Subsequently, the Appellant requested that a hearing be held in the case. The Respondents objected to this request.

29. Pursuant to Article 57 of the Code, the Sole Arbitrator decided to hold a hearing. This decision was communicated to the Parties on 21 August 2025 and, subsequently, an online hearing was scheduled for 21 October 2025.

30. In the interim, Orders of Procedure were duly executed and submitted by the Parties. It is noted that, in its signed Order of Procedure, the First Respondent reserved its position on the matters referred to in Paragraph 25 of this Award (i.e. regarding alleged inadmissibility/procedural irregularities).

31. On 2 October 2025, the First Respondent submitted an objection to the inclusion of the Appellant's witnesses at the hearing, alleging that their testimony was irrelevant to the dispute and that their inclusion amounted to an attempt to introduce new evidence. The Appellant was granted an opportunity to respond.

32. On 6 October 2025, the Appellant communicated that it considered the First Respondent's objection to be a violation of its procedural rights and that the First Respondent's statements constituted additional statements that should be disregarded.

33. On 7 October 2025, the First Respondent made a further submission to the CAS.

34. On 8 October 2025, the Parties were advised that the Sole Arbitrator had determined that the Appellant's witnesses could be presented at the hearing, to be available for cross and re-direct examination (if any) and any issues relating to their testimony (admissibility, relevance, etc.) could be addressed at the hearing. It was further noted that all unsolicited/late arguments and submissions outside of the scope of the (procedural) matter at hand would not be taken into account by the Sole Arbitrator.

35. On 19 October 2025, the First Respondent requested the opportunity to make a further submission to the CAS outlining its arguments for the hearing. On 20 October 2025, this request was dismissed by the Sole Arbitrator.

36. On 21 October 2025, a hearing was held by videoconference. Besides the Sole Arbitrator and Ms. Amelia Moore, CAS Counsel, the following persons also attended:

For the Appellant:

- Mr. Lyrique Du Plessis, counsel
- Mr. Eben Coen, counsel

- Ms Charlé Stone, candidate attorney
- Mr Lubelo Scott, candidate attorney Ms. Amanda Lieto, witness
- Mr. Garikai Bera, witness

For the First Respondent:

- Mr. Ndabezinhle Nyathi, counsel
- Mr. Benjani Mwaruwari, the Coach

For the Second Respondent:

- Mr. Roberto Najera Reyes, counsel

37. At the outset of the hearing, the Parties confirmed that they had no objections with respect to the Sole Arbitrator hearing the appeal.

38. At the proposal of the Appellant, the Parties agreed to accept the written testimonies of the witnesses on the record and that the witnesses would be available for questioning by the Respondents.

39. At the hearing, the parties were given a full opportunity to present their cases, submit their arguments and answer any questions from the Sole Arbitrator.

40. At the close of the hearing, the Parties confirmed that they had no objections as to how the proceedings were conducted and that their right to be heard had been respected.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellant

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

- The Appellant asks the CAS to determine the matter *de novo* (afresh) with the benefit of the full facts and arguments. It contends that the FIFA PSC, had it been apprised of the full facts of the matter, would not have taken the same/any decision.

- The Appellant declines to engage with the merits of the Coach's dismissal/termination. It confirms that those issues fall beyond the scope of its CAS appeal.

- The Appellant's primary allegation is that the FIFA PSC did not have jurisdiction to hear the dispute between the Coach and the Club as the dispute does not have an international dimension. The Coach is of Zimbabwean nationality, which is the same as the Club's. Accordingly, there is no international dimension for the purposes of Paragraph 1 (c) of Article 22 of the FIFA RSTP, and the FIFA PSC did not have jurisdiction to hear the dispute.

- Any foreign worker is required by national Zimbabwean law to have a work permit to work in Zimbabwe as a foreigner. The Coach was not required to obtain such a permit as the Coach is a Zimbabwean national. Hence, for the purposes of his employment, he was a Zimbabwean.

- The Coach was required to submit certain registration forms in Zimbabwe ('Zimbabwe Connect') which were subsequently sent to the Zimbabwe Football Association ("ZIFA") for the purposes of registration in football. In his registration forms, he stated that he is a Zimbabwean national, provided details of a Zimbabwean identity document and stated an address in Zimbabwe. He also provided his Zimbabwean passport which included details of his birthplace in Zimbabwe (it being the case that he had only subsequently acquired his British nationality later in life). These declarations were made in the context of formal registration for participation in professional football in Zimbabwe and confirm his Zimbabwean identity for both registration and employment purposes.

- The Coach has represented Zimbabwe internationally as a player and has clearly made his choice as regards his *"sporting nationality"*.

- The Coach acted in bad faith by failing to disclose the details of his Zimbabwean nationality and his employment and registration(s) in Zimbabwe to the FIFA PSC. This conduct is inconsistent with the Swiss Code of Civil Procedure and the Procedural Rules. In particular, Article 12 (2) of the Procedural Rules requires that *"[a] party shall always act in good faith, tell the truth, and cooperate with any request for information made by a chamber or the FIFA general secretariat"*.

- The Appellant relied on the information supplied by the Coach legitimately and in good faith when deciding whether or not to proceed with the Contract. The Coach presented himself, through signed registration forms and identity documents, as a Zimbabwean national. Considering the Coach's declarations that he was Zimbabwean for the purposes of registration and employment, in conjunction with his production of a Zimbabwean passport and identity number, the Appellant lawfully relied on the information made available to it by the Coach in accordance with Zimbabwean law and the applicable registration regime.

- However, in the context of the FIFA PSC proceedings, the Coach's position regarding his nationality materially changed. Upon signing the registration forms and during the course of his employment with the Appellant, the Coach represented that he was a Zimbabwean national, supplying a Zimbabwean identity document, passport and local address. However, in the proceedings before the FIFA PSC, he adopted a contradictory position, suggesting that he was to be treated as a British national. Further, the Coach's position at the time of registration was that no work permit was required on the basis that he was Zimbabwean. However, the Coach now seeks to portray himself as a foreign national who was employed in Zimbabwe, thereby altering the fundamental basis of the employment relationship in order to bring the matter within the scope of the FIFA PSC's international jurisdiction.

- The Appellant legitimately relied on the Coach's representations. The Coach, however, changed these positions to the Appellant's detriment, in violation of the principle of *venire contra factum proprium*. By violating this principle, the Coach was estopped from relying on his changed position(s) to sustain his claim against the Appellant. As such, the Appellant cannot be obliged to pay the claim pursuant to the Appealed Decision to the Coach, as he is and was estopped from having any claim against the Appellant based on his changed position.

42. The Appellant's requests for relief are as follows:

"Based on the factual and legal contentions to be put forward in the Appeal Brief, the Appellant respectfully requests CAS to:

i. *Admit the present appeal;*

ii. *Uphold the present appeal and set aside the Appealed Decision, replacing it by an Arbitral Award, stipulating that the Player Status Committee of the FIFA Football Tribunal did not have jurisdiction to deal with the First Respondent's claim as the requirements set out in Art. 22 par. 1 sub-c were not met;*

iii. *Confirm that the FIFA DRC did not have jurisdiction;*

iv. *Order the Respondents jointly to bear any and all costs and fees of the present appeal; and*

v. *Order the Respondents jointly to pay the Appellant a contribution towards legal fees and other expenses incurred in connection with the proceedings, pursuant to article R64.5 of the CAS Code, in an amount to be fixed by the Panel at its own discretion".*

B. The First Respondent

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

- The present appeal before the CAS is inadmissible due to violations of Articles R31, R28 and R64.2 of the Code, as well as Swiss law. The Appellant's provision of an incorrect email address caused the non-delivery of CAS correspondence during the period March 2025 to May 2025, prejudicing the First Respondent's ability to meet certain procedural deadlines and prepare his case.

- The international dimension for the purposes of Paragraph 1 (c) of Article 22 of the FIFA RSTP is established by the Coach's British nationality and UK residency. In particular, the Contract specifies the Coach's address in the UK, includes details of his British passport and provides for two annual return air tickets to/from the UK. A copy of the Coach's British passport is provided by the First Respondent, which bears the same number as that noted in the Contract.

- The Coach's address has remained consistent before, during and after the Contract period. He is registered with the English Football Association and is affiliated with

the Professional Footballers' Association in England (the "PFA"). These associations have lasted since 2004, and he has played for multiple English football clubs as a British national. He holds a UEFA A coaching licence which he earned *"from his country of domicile"*. The Coach is currently studying at a UK university under a PFA scheme. The Coach's registration with ZIFA was just an administrative matter of local compliance and does not negate his British sporting nationality since dual nationals may register with multiple associations. ZIFA recognised his coaching qualifications from England and engaged with the English Football Association.

- The Coach's failure to apply for a permit under the Zimbabwe Immigration Act was the fault of the Club, as the Contract required facilitating the Coach's UK-based employment arrangement, and is not evidence of the Coach's exclusive Zimbabwean status.

- The Coach did not act in bad faith. He disclosed his British identity, and the Contract is premised on his British nationality.

- The Club's silence during the FIFA PSC proceedings constituted a waiver of jurisdictional objections. By failing to contest the FIFA PSC's competence, the Club tacitly accepted the FIFA PSC's jurisdiction, barring CAS review.

44. The First Respondent's requests for relief are as follows:

"Primary Relief

8.1.1 Declare the appeal inadmissible (CAS Code Articles R31, R28, R64.2).

8.1.2 Confirm the PSC award of USD 570,000 plus 5% interest from March 14, 2024.

8.1.3 Award costs of USD 14,500, reflecting pro bono legal preparation..

8.1.4 Impose procedural costs on Ngezi for providing an incorrect email. Alternative Relief

8.2.1 Confirm FIFA's jurisdiction under RSTP Article 22(1)(c).

8.2.2 Uphold the USD 570,000 award plus 5% interest from March 14, 2024. Procedural Relief

8.3.1 Suspend proceedings pending resolution of notification issues.

8.3.2 Disclose the source of the incorrect email (benjiza@hotmail.com) within 10 days and assess the damage to the First Respondent".

C. The Second Respondent

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

- It is uncontested that the Club duly received the Coach's claim to the FIFA PSC and had the opportunity to reply. Therefore, despite having the opportunity to participate in the first-instance proceedings, the Club failed to provide its position due to its own fault or negligence. Indeed, the notification sent by FIFA to the Club on 18 March 2024 even states that the Coach is from England.

- FIFA clearly communicated to the Club on 12 April 2024 that the submission phase of the matter had closed and no further submissions would be accepted, and this was reiterated on 24 October 2024 after FIFA received an unsolicited submission from the Club.

- As a consequence of not participating in the first instance (FIFA PSC) proceedings, the jurisdiction of FIFA is already fixed and unalterable, and the Appellant is prevented from raising this issue.

- In this regard, the Second Respondent points to Page 447 of the FIFA Commentary on the FIFA RSTP – 2023 edition (the "Commentary") which states the following (emphasis added by the Second Respondent):

  "Where a clear and exclusive jurisdiction clause has been agreed upon by the parties, the case will still be heard by the DRC provided that the international dimension is present and both parties agree (even tacitly) that the DRC should adjudicate. In other words, despite the existence of a jurisdiction clause in the contract, if a claim is lodged before the FT and the respondent does not challenge the jurisdiction of the FT, the DRC will accept jurisdiction to hear the matter. A challenge to the competence of the DRC in principle must be invoked by the respondent, otherwise it is deemed that the jurisdiction of the DRC is accepted by both parties".

- As a consequence of not participating in the first instance (FIFA PSC) proceedings, the Appellant accepted the Coach's allegations before the FIFA PSC, including the fact that he is British and that the dispute has an international dimension.

- In any event, the dispute does have an international dimension. The Appellant's suggestion that if a club and a coach share a nationality (despite the latter having others) then the international dimension of the despite will be cancelled is incorrect.

  Page 444 of the Commentary states that (emphasis added by the Second Respondent):

  "An employment-related dispute between a club and a player is generally deemed to have an international dimension whenever the player is of a nationality other than that of the country in which their club is domiciled".

  Therefore, FIFA will have default jurisdiction as long as a player/coach has *"a"* (i.e., at least one) different nationality from the relevant club's residence. In other words, even if a player/coach and a club share the same nationality, the international

element of the dispute will remain if the coach/player has another nationality that is different from the relevant club's.

- Further, only if a respondent contests the international dimension of a dispute will FIFA have to conduct a further review. In those cases, to finally determine whether FIFA shall retain its default jurisdiction or not, FIFA needs to review, *inter alia*, the nationality under which the player/coach was registered before the federation with the relevant club. However, the Club did not contest the international element of the dispute during the first instance (FIFA PSC) proceedings, which is why FIFA confirmed that the Coach had British nationality.

- Given that the Coach has a different nationality (British) than the Club's (Zimbabwean), the dispute had a default international dimension. Therefore, the FIFA PSC had jurisdiction to assess and decide the case, especially when the Club had the opportunity to raise any issues and challenge any claims. By not answering the Coach's claim, the Club renounced its right of defence and accepted the Coach's position (i.e., that he was British and that the dispute had an international dimension).

- The Appellant is prevented from filing evidence before the CAS at this stage, as it had the opportunity to do so during the first instance (FIFA PSC) proceedings. Thus, the present appeal should be limited to the Appellant's arguments and considerations but should rightly disregard all evidence that could have been filed before the FIFA PSC.

  The Appellant was duly invited during the FIFA PSC proceedings to provide its position concerning the present matter along with any documentary evidence in support of its argumentation, yet it chose not to provide anything.

  According to Article R57 of the Code, *"[t]he Panel has discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered"*.

- The Appellant has not contested owing the Relevant Amount as compensation for breach of Contract. Given that the jurisdiction of FIFA was not contested during the first instance (FIFA PSC) proceedings and is fixed at this point, the compensation to the Coach should be confirmed as the Appellant does not contest it.

46. The Second Respondent's requests for relief are as follows:

"... FIFA respectfully requests CAS to:

(a) Reject the Appellant's appeal in its entirety;

(b) Confirm the Appealed Decision in full;

(c) Order the Appellant to bear all costs incurred with the present procedure;".

V. JURISDICTION

47. Article R47 of the Code provides as follows:

"An appeal against the decision of a federation, association or sports-related body may be filed with 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".

48. The Appellant relies on Article 50 (1) of the FIFA Statutes – 2024 Edition (the "FIFA Statutes") which provides as follows:

"Appeals against final decisions passed by FIFA and its bodies shall be lodged with CAS within 21 days of receipt of the decision in question".

49. The jurisdiction of the CAS is not contested by the Respondents.

50. The jurisdiction of the CAS has further been confirmed by the Parties by means of their signatures on the Order of Procedure.

51. It follows that the CAS has jurisdiction to hear the present case.

VI. ADMISSIBILITY

52. Article R49 of the Code provides as follows:

"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against".

53. More specifically, Article 50 (1) of the FIFA Statutes provides as follows:

"Appeals against final decisions passed by FIFA and its bodies shall be lodged with CAS within 21 days of receipt of the decision in question".

54. The Sole Arbitrator notes that the FIFA PSC issued the Appealed Decision on 5 November 2024 and 6 December 2024 (after rectification) and that the grounds of the Appealed Decision were notified to the parties on 11 March 2025. Considering that the Appellant filed its Statement of Appeal on 24 March 2025 (i.e. within the deadline of 21 days set out in the FIFA Statutes), and that the Statement of Appeal further complied with the requirements of Article R48 of the Code, the Sole Arbitrator is satisfied that the present appeal was filed in time and is admissible.

55. The Sole Arbitrator considered the First Respondent's arguments regarding admissibility (as referred to in Paragraphs 25 and 43 of this Award). However, he decided that they lacked any merit. Looking at the procedure followed, he concurred with the CAS that that any alleged procedural and timing issues had been remedied, and

that the First Respondent had not suffered any procedural disadvantage in the conduct of the proceedings.

VII. APPLICABLE LAW

56. Article R58 of the Code provides as follows:

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

57. Article 49 (2) of the FIFA Statutes provides as follows:

"The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law".

58. The Sole Arbitrator therefore rules that the present dispute shall be decided principally according to the FIFA RSTP and the Procedural Rules, with Swiss law applying subsidiarily.

VIII. MERITS

59. The Appellant claims that there is no international dimension for the purposes of Paragraph 1 (c) of Article 22 of the FIFA RSTP, and the FIFA PSC did not have jurisdiction to hear the dispute. In reply, the Respondents argue that – as a consequence of not participating in the FIFA PSC proceedings - the jurisdiction of FIFA is already fixed and unalterable, and the Appellant is prevented from raising this issue.

60. Article R57 of the Code establishes that the *"Panel has full power to review the facts and the law"*. CAS panels have repeatedly referred to Article R57 granting them the power to examine all facts and legal issues of a dispute and to hold a trial *de novo.* However, the Sole Arbitrator does not consider that this can be interpreted without limit.

61. Indeed, there is extensive CAS jurisprudence in support of the Respondents' arguments that: (i) an appellant cannot object to FIFA's jurisdiction before the CAS when it failed to raise this issue during the first instance procedures; (ii) a plea of lack of jurisdiction needs to be raised before the first instance body at FIFA in order to be raised at the CAS; and (iii) where an appellant does not participate during first instance proceedings then FIFA's jurisdiction must be confirmed (notably, *CAS 2012/A/2899 Perspolis (Piroozi) Athletic and Cultural Club v. Fédération Internationale de Football Association (FIFA) & Joao Arnaldo Correia Carvalho*, *CAS 2015/A/3883 Al Nassr Saudi Club v. Jaimen Javier Ayovi Corozo*, *CAS 2021/A/7859 NK Inter Zapresic v Serder Serderov & FIFA*, *CAS 2020/A/7267 Larissa v Gordan Petric & FIFA*, *CAS 2024/A/10725 Anorthosis*

Famagusta FC v Erik Sabo and *CAS 2021/A/8079 SC East Bengal v Jaime Santos Colado*).

62. The aforementioned cases explore these principles in detail and are consistent, and the Sole Arbitrator sees no basis on which to deviate from this established approach in the present case. Further, the Sole Arbitrator is also concerned that taking a contrary view opens the door to bad faith conduct on the part of actual/alleged debtors (for example, to complicate or frustrate proceedings or cause strategic delays by drawing out proceedings). Indeed, it is vital to uphold key procedural principles of this nature in order to safeguard legal certainty and judicial efficiency, and the stability of legal proceedings in football. If there are no consequences for deliberate non-participation, a party may very well take advantage of the situation to the detriment of the other party(ies).

63. Accordingly, the Sole Arbitrator follows the prevailing view and confirms that the Appellant is precluded from objecting to the FIFA PSC's jurisdiction in the present case.

64. Linked with this, the Second Respondent considers that the Appellant is prevented from filing evidence at this CAS instance, as it had the opportunity to do so during the first instance proceedings. Hence, in its opinion, all evidence that could have been filed before the FIFA PSC should be disregarded.

65. Relevantly, Article 57 of the Code states that the *"Panel has discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered"*. There is thus a wide margin of discretion to exclude evidence that was already available, but not adduced, at the first instance. Notwithstanding the foregoing, the Sole Arbitrator recognised that he must have valid reasons to do so.

66. On this occasion, the Sole Arbitrator was unimpressed with the conduct of the Club which was fully aware of the FIFA PSC proceedings and represented by legal counsel throughout the process, and seemingly had an abundance of evidence in its possession in advance of and during the FIFA PSC proceedings on which it is now seeking to rely (notably, a copy of the Coach's Zimbabwean passport and certain registration documents).

67. The Appellant's evidence in the present proceedings could certainly have been presented/discovered for the purposes of the FIFA PSC proceedings and the Sole Arbitrator considers the Appellant's conduct as amounting to bad faith and an abuse of process (again, noting similar concerns to those mentioned in Paragraph 62 of this Award). In light of the foregoing, the Sole Arbitrator decides that it should be excluded.

68. Further, it is noted that the Appellant's evidence principally relates to the alleged lack of international dimension, which is the Appellant's primary allegation. As such, the Sole Arbitrator considers that his decision regarding evidence is logically consistent with his conclusion that the jurisdiction of FIFA is already fixed and unalterable, and the Appellant is prevented from raising this issue. With this in mind, even if such evidence was to be admitted, it would not have been helpful considering the Sole

Arbitrator's prior determination that the Appellant is precluded from objecting to the FIFA PSC's jurisdiction in the present case.

69. With the aforementioned issues having been decided, the Appellant is not left with much of a case to argue. The Appellant declined to engage with the merits of the Coach's dismissal/termination. In fact, it confirms that those issues fall beyond the scope of its appeal to the CAS. As for its other arguments, in the opinion of the Sole Arbitrator, there is no evidence of bad faith on the part of the Coach who relied on legitimate documentation and facts before the FIFA PSC. Further, it is not for the Coach to make arguments in support of the Club's position before the FIFA PSC in an adversarial context - the Club was given ample opportunity to do so and chose not to, without explanation.

70. In light of the foregoing, the appeal filed by the Appellant is dismissed.

71. For the sake of good order, the Sole Arbitrator underlines that he could find no fault with the FIFA PSC's decision that it was faced with an employment-related dispute between a coach and a club with an international dimension for the purposes of Paragraph 1 (c) of Article 22 of the FIFA RSTP, and thus that it was competent to hear the case.

- In his claim, the Coach identified himself as being a *"British Citizen"* and a *"British coach"* and stated that he was *"based in England"*. The Contract contained details of a British passport number and a UK address, as well as the obligation on the Club to provide return plane tickets to the UK.

- There was no position from the Club on file since the Club did not provide any reply to the Coach's claim within the deadline set. Whether or not this is taken as tacit acceptance of the Coach's British nationality and that the dispute had an international dimension, it certainly left the FIFA PSC with no counter arguments to consider. In accordance with Paragraph 1 of Article 21 of the Procedural Rules, the decision was to be taken based on the documentation already in the file (i.e. the statements and documents provided by the Coach only).

- Given that the Coach has a different nationality (British) than the Club's (Zimbabwean), the dispute had a default international dimension. Nobody did (or has since) contested that the Coach has British nationality.

- In light of the foregoing, it is impossible to see how the FIFA PSC could have come to any other conclusion and the Sole Arbitrator agrees with the reasoning in the Appealed Decision on this point in full.

72. Without prejudice to the foregoing but for the sake of completeness, the Sole Arbitrator also considered the matter of dual nationality. In this regard, Pages 444 to 446 of the Commentary state, *inter alia*, that (emphasis added by the Sole Arbitrator):

"For employment-related matters involving players or coaches, however, internationality is a somewhat more complex aspect. An employment-related dispute

between a club and a player is generally deemed to have an international dimension whenever the player is of a nationality other than that of the country in which their club is domiciled. This means that, for example, an employment-related dispute between a Brazilian player and a Brazilian club will not normally fall within FIFA's jurisdiction, whereas an employment-related dispute between a Brazilian player and a Malaysian club will normally fall within FIFA's jurisdiction. In other words, contrary to standards that may apply under international private laws, it is not the domicile of the player that is decisive, but only their nationality.

…

The same principles apply, in principle, to disputes between clubs/member associations and coaches (albeit coaches are not registered in the same manner as players). To establish the international dimension of a dispute, the coach will need to hold a nationality other than that of the country where the club/association is based (e.g. a dispute between a Spanish coach and a Mexican club or a dispute between a Moroccan coach and the Saudi Arabian Football Federation (SAFF) would be covered). In cases where a coach holds dual nationality and one of those nationalities is the same as the nationality of their counterparty (club or association) in a dispute before FIFA, the decisive element in determining whether the dispute has an international dimension will be the nationality mentioned in the employment contract. Accordingly, had the parties entered into the employment contract as nationals of the same country, the dispute would not have met the international dimension requirement and FIFA would have had no jurisdiction to hear it".

Considering the foregoing, even if the Coach's dual nationality were to be considered in this case (and, regardless of the aforementioned considerations around the admissibility of evidence, no Party has seemingly contested that the Coach has both British and Zimbabwean nationality in their written and oral statements), the Sole Arbitrator opines that he would still have concluded that the matter had an international dimension. Applying the Commentary, the details of his British passport and British address in the Contract point to British being the nationality of the Coach *"mentioned in the employment contract"* (noting that there is no reference to him having any Zimbabwean nationality). Thus, the *"decisive element"* would appear to have been satisfied. Further, the Coach maintains residency and strong football ties in England (including registration with the English Football Association and PFA). His desire/need to frequently return to the UK is also underlined by his negotiation of flights in the Contract – this is common in so called 'expat' contracts for individuals to return to their domicile.

73. Finally, it is again underlined that the Appellant has not contested any matters relating to the termination of the Contract or that it owes the Coach the Relevant Amount as compensation for breach of Contract. The compensation to the Coach is therefore confirmed as per the Appealed Decision.

IX. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Ngezi Platinum Stars Football Club on 24 March 2025 with respect to the decision rendered by the Players' Status Chamber of the FIFA Football Tribunal on 5 November 2024 (rectified on 6 December 2024) is dismissed.

2. The decision rendered by the Players' Status Chamber of the FIFA Football Tribunal on 5 November 2024 (rectified on 6 December 2024) is confirmed.

3. (…).

4. (…).

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

Seat of arbitration: Lausanne, Switzerland
Date: 23 February 2026

THE COURT OF ARBITRATION FOR SPORT

Andrew Mercer
Sole Arbitrator