



**TAS / CAS**

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

**CAS 2025/A/11638 Espérance Sportive de Tunis v. Viorel Dinu**

## **ARBITRAL AWARD**

**delivered by the**

## **COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

**Sole Arbitrator:** Mr Benoît Pasquier, Attorney-at-law in Zurich, Switzerland

**between**

**Espérance Sportive de Tunis**, Tunisia

Represented by Mr. Walid Ben Salah, Attorney-at-law at Cabinet d'avocats Ben Salah, Tunisia

**and**

**Viorel Dinu**, Romania

Represented by Mr. Josep Francesc Vandellos Alamilla and Mr. Saksham Samarth, both attorneys-at-law, Spain

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**I. INTRODUCTION**

1. This appeal is brought by Espérance Sportive de Tunis against the decision rendered by the Players' Status Chamber (the "FIFA PSC") of the Fédération Internationale de Football Association ("FIFA") Football Tribunal on 24 June 2025 regarding an employment-related dispute arisen between the parties.

**II. PARTIES**

2. Espérance Sportive de Tunis (the "Club") is a professional football club based in Tunis, Tunisia. The Club currently competes in the Tunisian Professional League 1 and is affiliated with the Tunisian Football Federation (the "FTF"), which in turn is a member of the *Fédération Internationale de Football Association* ("FIFA").
3. Mr Viorel Dinu (the "**Assistant Coach**") is a professional football coach of Romanian nationality, born on 17 March 1980. The Assistant Coach holds an A Licence coaching qualification. At the time of these proceedings, the Assistant Coach was employed by the club Al-Hilal SC (Sudan).
4. The Club and the Assistant Coach are jointly referred to as the "**Parties**".

**III. FACTUAL BACKGROUND**

5. Below is a summary of the main relevant facts and allegations based on the Parties' written and oral submissions and documentation produced in these appeal proceedings. Additional facts and allegations may be set out, where relevant, in connection with the further legal discussion. 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 its reasoning.

**A. The Employment Contract**

6. On 21 November 2024, the Assistant Coach signed a fixed-term employment contract with the Club, valid from 5 November 2024 until 30 June 2026 (the "**Contract**").
7. According to Clause 3.1 of the Contract, the Club undertook to pay the Assistant Coach a monthly salary in the amount of EUR 7,000 net, payable in Tunisian Dinars. The relevant provision reads as follows:

*"3.1 – Salary: During the term of this contract, the Assistant Coach will receive a monthly salary equivalent to Seven thousand euros (€ 7,000,00) net payable in Tunisian dinars."*

8. Clause 3.2 of the Contract provides for various bonuses. In particular, Clause 3.2.1 stipulates match bonuses of EUR 2,000 per official match won, and Clause 3.2.3 stipulates title bonuses. Clause 3.2.3 reads as follows:

*"3.2.3 - Title Bonuses: The Assistant Coach is entitled to:*

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- ✓ Two (2) months' salary in case of winning the CAF Champions League;
- ✓ One (1) month's salary in case of winning the national championship;
- ✓ One (1) month's salary in case of winning the Tunisia Cup;
- ✓ One (1) month's salary in case of winning the Arabic Cup.

*All payments (salaries & bonuses) will be made in Tunisian dinars at the official exchange rate set by the Central Bank of Tunisia on the date of signing."*

9. Clause 3.3 of the Contract provides for certain benefits at the Club's expense, including accommodation in Tunis or its suburbs, a car, and one round-trip air ticket per sports season Tunis-Bucharest-Tunis.
10. Clause 6 of the Contract (the "**Termination Clause**") provides that the Contract may be terminated by the Club in the event of gross misconduct by the Assistant Coach. The relevant provision reads as follows:

***"Article 6: Termination Clause***

*This contract may be terminated by the Club in the event of gross misconduct by the Coach, with notification via registered mail with acknowledgment of receipt.*

*Gross misconduct includes, but is not limited to:*

- a) *Absence without valid reason or desertion of the Club's activities (training, camps, matches);*
- b) *Negligence in fulfilling his obligations;*
- c) *Any behavior incompatible with the status of a professional assistant coach."*

11. Clause 7 of the Contract (the "**Penalty Clause**") provides for compensation in the event of unilateral termination and reads as follows:

***"Article 7: Penalty Clause***

*The parties agree that any unilateral termination of this contract will result in compensation equal to two (2) months' salary, payable by the terminating party to the other.*

*This indemnity will be paid in Tunisian dinars at the official exchange rate set by the Central Bank of Tunisia on the date of signing.*

*This clause does not preclude an agreement between the Parties for different termination conditions."*

12. Clause 12 of the Contract provides that any dispute regarding the execution or interpretation of the Contract shall fall under the exclusive jurisdiction of FIFA.

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**B. Performance of the Contract and termination**

13. Following the conclusion of the Contract, the Coach performed his obligations and the Club duly paid the Assistant Coach's remuneration in accordance with the agreed terms.
14. On 17 March 2025, the Club sent a termination letter to the Assistant Coach via email, terminating the employment relationship with immediate effect, without mentioning any reason for the termination. The Club stated that it would pay the termination penalty in the amount of two salaries (EUR 14,000) pursuant to the Penalty Clause set forth in Article 7 of the Contract.
15. On the same day, the Assistant Coach, through his legal counsel, responded that he did not recognise the termination as he considered it unjustified and granted the Club a deadline of 48 hours to rectify the breach and reinstate him.
16. The Club did not react to the Assistant Coach's injunction.

**C. Post-termination events**

17. On or around 15 August 2025, the Assistant Coach signed a new employment contract with Al-Hilal SC (Sudan). The total remuneration of the Assistant Coach under this contract, as confirmed in these proceedings, is USD 10,000 (USD 1,000 per month for ten months), equivalent to approximately EUR 8,500.

**IV. PROCEEDINGS BEFORE THE PLAYERS' STATUS CHAMBER OF THE FIFA FOOTBALL TRIBUNAL**

18. On 8 April 2025, the Assistant Coach filed a claim before the FIFA PSC, seeking, inter alia, (i) compensation corresponding to the residual value of the Contract, (ii) title bonuses including those for the Tunisian Super Cup, national championship, Tunisia Cup, and CAF Champions League, (iii) reimbursement of travel expenses, and (iv) moral damages.
19. On 8 May 2025, the Club filed its response before the FIFA PSC.
20. On 9 May 2025, the FIFA general secretariat informed the Parties about the closure of the submission phase of the proceedings and invited the Assistant Coach to inform about his employment situation.
21. On 13 May 2025, the Assistant Coach confirmed that he had remained unemployed since the termination of the Contract. Additionally, the Assistant Coach submitted evidence that the Club had won the national championship on 11 May 2025.
22. On 29 May 2025, the Club confirmed having won the national championship but reiterated that a conditional bonus is dependent on the contractual relationship being ongoing at the time that the condition is met.
23. On 2 June 2025, the Assistant Coach submitted evidence that the Club had won the Tunisia Cup. On the same day, the Club responded stating that "*notwithstanding the PSC's position to*

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*admit such documents*", the Club's first match in the Tunisia Cup was played on 16 April 2025, which is one month after the termination of the Contract.

24. On 24 June 2025, the FIFA PSC rendered its decision (the "Appealed Decision").
25. On 11 July 2025, FIFA notified the grounds of the Appealed Decision to the Parties.
26. In essence, the FIFA PSC found that the Club had terminated the Contract without just cause. The FIFA PSC further found that Clause 7 of the Contract (the Penalty Clause) could not be applied, as the compensation of two months' salary was disproportionate in comparison to the residual value of the Contract and resulted in an outcome contrary to the principle of positive interest. Consequently, the FIFA PSC calculated compensation based on the residual value of the Contract in accordance with Article 6(2) of Annexe 2 of the FIFA Regulations on the Status and Transfer of Players (the "FIFA RSTP"). The FIFA PSC rejected the Assistant Coach's claims for title bonuses and moral damages. The FIFA PSC upheld the Assistant Coach's claim for reimbursement of flight expenses.
27. The operative part of the Appealed Decision reads as follows:

*"1. The claim of the Claimant, Viorel Dinu, is partially accepted.*

*2. The Respondent, Esperance Sp. De Tunis, must pay to the Claimant the following amount(s):*

- ***EUR 108,161.29 net as compensation for breach of contract***, payable in TND at the official exchange rate set by the Central Bank of Tunisia on the date of signing the "Engagement Contract – Assistant Coach", plus 5% interest per annum as from 17 March 2025 until the date of effective payment.
- ***TND 1,451 net as reimbursement*** plus 5% interest per annum as from 10 January 2025 until the date of effective payment.

*3. Any further claims of the Claimant are rejected.*

*4. Full payment (including all applicable interest) shall be made to the bank account indicated in the enclosed Bank Account Registration Form.*

*5. Pursuant to art. 8 of Annexe 2 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made within 45 days of notification of this decision, the following consequences shall apply:*

- 1. The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of up to three entire and consecutive registration periods.*
- 2. The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not made by the end of the three entire and consecutive registration periods.*

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*6. The consequences shall only be enforced at the request of the Claimant in accordance with art. 8 par. 7 and 8 of Annexe 2 and art. 25 of the Regulations on the Status and Transfer of Players.*

*7. This decision is rendered without costs.”*

**V. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

**A. Introduction**

28. In parallel to the present proceedings (CAS 2025/A/11638), the CAS Court Office also handled four related cases: CAS 2025/A/11635, CAS 2025/A/11636, CAS 2025/A/11637, and CAS 2025/A/11639. Cases CAS 2025/A/11635 and CAS 2025/A/11636 are cross-appeals arising from the same FIFA decision concerning the Club’s head coach and were formally consolidated pursuant to Article R52 of the CAS Code. CAS 2025/A/11637 and CAS 2025/A/11639 concern other members of the coaching staff whose respective employment contracts were also terminated on 17 March 2025. For reasons of procedural efficiency, the CAS Court Office coordinated the procedural calendar of all five cases, including uniform filing deadlines, a single hearing date, and the appointment of the same Sole Arbitrator. The present case (CAS 2025/A/11638) is the subject of a separate arbitral award.

**B. Statement of Appeal**

29. On 1 August 2025, the Club filed a Statement of Appeal with CAS against the Appealed Decision, in accordance with Article R47 et seq. of the Code of Sports-related Arbitration (the “CAS Code”). The Parties agreed to submit this matter to a Sole Arbitrator.

**C. Further proceedings**

30. On 15 September 2025, the Club filed its Appeal Brief. The Club’s Appeal Brief included a request for document production relating to the Assistant Coach’s subsequent employment contract.

31. On 27 October 2025, the CAS Court Office informed the Parties that Mr Benoît Pasquier, attorney-at-law in Zurich, Switzerland, had been appointed as Sole Arbitrator by the President of the CAS Appeals Arbitration Division. The Parties were reminded of their right pursuant to Article R34 of the CAS Code to challenge the arbitrator.

32. On 29 October 2025, the Assistant Coach filed his Answer, having been granted an extension until that date.

33. On 11 November 2025, on behalf of the Sole Arbitrator, the CAS Court Office invited the Assistant Coach to provide the documents requested by the Club in its Appeal Brief or to provide his comments thereto by 18 November 2025.

34. On 19 November 2025, upon consultation with the Parties, the CAS Court Office informed them that, pursuant to Article R57 of the CAS Code, the Sole Arbitrator had decided to hold a hearing by videoconference.

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35. On 8 January 2026, the CAS Court Office provided the Order of Procedure to the Parties. The Order of Procedure was duly signed by the Parties.
36. On 15 January 2026, the Assistant Coach provided Swiss legal doctrine on which he intended to rely during the hearing.
37. On 19 January 2026, the Club objected to the production of the Swiss doctrine by the Assistant Coach.
38. On 20 January 2026, the CAS Court Office, on behalf of the Sole Arbitrator, informed the Parties that the Swiss doctrine filed by the Assistant Coach on 15 January 2026 was admissible and that the reasons for this decision would be provided in the Award.
39. On 21 January 2026, a hearing was held by videoconference. At the hearing, the Parties had the opportunity to present their cases, submit their arguments and answer questions from the Sole Arbitrator. The following persons attended the hearing:

For the Club:

- Mr Walid Ben Salah, Counsel

For the Assistant Coach:

- Mr Viorel Dinu, Assistant Coach
- Mr Josep Francesc Vandellos Alamilla, Counsel
- Mr Saksham Samarth, Counsel

For CAS:

- Mr Benoît Pasquier, Sole Arbitrator
- Ms Amelia Moore, Counsel to the CAS

40. At the end of the hearing, the Parties confirmed that their right to be heard had been respected.
41. On 24 February 2026, the Assistant Coach submitted via email a copy of the award *CAS 2024/A/10666 Vedran Naglič v. Al Shabab Football Club* (the “Naglić Award”) which was recently published, issued on 22 December 2025, noting that said award was relevant for these proceedings. The Assistant Coach also mentioned that the filing of CAS jurisprudence “*is permissible and does not amount to supplementing one's argument or producing further evidence*”.
42. On the same day, the CAS Court Office acknowledged receipt of the submission and noted that further instructions may follow from the Sole Arbitrator.
43. On 25 February 2026, the CAS Court Office, on behalf of the Sole Arbitrator, informed the Parties that the Naglič Award, being in the public domain, was admissible. The Club was invited to file its comments, if any, on this award by 2 March 2026.

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44. On 2 March 2026, the Club filed its comments on the Naglić Award. In essence, the Club submitted that it does not support the position advanced by the Assistant Coach and that, on the contrary, its reasoning confirms the validity of the Club's position.
45. On 4 March 2026, the CAS Court Office acknowledged receipt of the Club's comments and transmitted them to the Sole Arbitrator for his consideration.

**VI. SUBMISSIONS OF THE PARTIES**

46. The following outline is a summary of the Parties' arguments and submissions which the Sole Arbitrator considers relevant to decide the present dispute and does not necessarily comprise each and every contention put forward by the Parties. The Sole Arbitrator has nonetheless carefully considered all the submissions made by the Parties, even if no explicit reference has been made in the following summary. The Parties' written and oral submissions, documentary evidence and the content of the Appealed Decision were all taken into consideration.

**A. The Club's Submissions**

47. The Club's submissions, as contained in its Appeal Brief dated 15 September 2025 and subsequent submissions, may be summarised as follows:
  - Clause 7 of the Contract, entitled "Penalty Clause", reflects the fundamental principle of contractual autonomy. Both Parties freely negotiated and accepted this mechanism as a balanced and predictable solution in case of early termination. CAS jurisprudence and Swiss contract law require that agreements freely entered into be respected (*pacta sunt servanda*).
  - Article 6(2) of Annexe 2 of the RSTP expressly provides that "*unless otherwise provided for in the contract, compensation [...] shall be calculated as follows [...]*". By incorporating Clause 7, the Parties deliberately exercised their right to provide otherwise. The regulatory framework makes clear that where parties have expressly agreed on compensation payable in the event of early termination, that contractual provision takes precedence over the default residual-value calculation.
  - Clause 7 is reciprocal: it imposes an identical compensation on whichever party is responsible for early termination. It is not a unilateral "potestative" clause favouring one side. CAS jurisprudence distinguishes between one-sided potestative clauses (invalid) and mutual liquidated damages provisions (valid). Clause 7 falls within the latter category. The Club relies on CAS 2024/A/10289 (Hajer FC v. Rodion Gačanin), where the Sole Arbitrator upheld a clause providing for two months' salary as compensation.
  - The Assistant Coach signed a new employment contract with Al-Hilal SC (Sudan) in August 2025. This new development must be taken into account to mitigate any damages.
48. In its Appeal Brief, the Club submitted the following requests for relief:

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- “ 1. *The Appeal of Esperance Sportive de Tunis is admissible.*
2. *The Appeal of Esperance Sportive de Tunis is upheld.*
3. *Set aside in full the decision of the FIFA Players’ Status Chamber (PSC) rendered on June 24, 2025 (ref. FPSD-18885).*
4. *Ruling de novo, the Sole Arbitrator finds that:*
- a. *Uphold the validity and enforceability of Clause 7 of the Employment Contract between the Appellant and the Respondent, and confirm that the Coach is entitled only to compensation equivalent to two months’ salary.*
- b. *Reject the Respondent’s claim for additional compensation beyond Clause 7 as unfounded and contrary to the principles of contractual stability, pacta sunt servanda, and Annex 2 of the FIFA RSTP.*
- c. *In the alternative, and should CAS find that compensation is due beyond Clause 7, recalculate such compensation strictly in accordance with Annex 2 of the FIFA RSTP, deducting all amounts earned or reasonably capable of being earned by the Respondent under his subsequent employment.*
5. *Order the Respondent to bear all costs of the arbitration, including the CAS administrative and procedural fees, and to reimburse the Appellant for its legal fees and expenses incurred in connection with these proceedings.”*

**B. The Assistant Coach’s Submissions**

49. The Assistant Coach’s submissions, as contained in his Answer dated 29 October 2025, may be summarised as follows:
- The Appealed Decision correctly concluded that the Club terminated the Contract without just cause. The Club has not challenged this finding in its appeal, and it has therefore become final and binding.
  - Clause 7 of the Contract is invalid, potestative, and disproportionate under Swiss law and CAS jurisprudence. It allows the Club to end the Contract early without just cause and without paying substantial compensation. This disproportionately favours the Club and puts the Assistant Coach in a worse position even when the Contract is terminated without any contractual infringement by him. The Contract was drafted entirely by the Club using a standard-form document. The Assistant Coach was not represented by legal counsel at the time of signing. No evidence has been produced by the Club to the contrary.
  - The residual value of the Contract at termination was EUR 108,161.29 net, meaning Clause 7 would deprive the Assistant Coach of approximately 87% of his total contractual entitlement (the penalty being EUR 14,000 against a residual value of EUR 108,161.29). This is manifestly disproportionate and contrary to Article 337c of the Swiss Code of Obligations (“SCO”). Citing CAS jurisprudence (CAS 2016/A/4605, CAS 2020/A/7011, CAS 2020/A/6961), the Assistant Coach argues that such clauses are null and void where

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they give the employer undue control over the employee and violate mandatory Swiss employment law provisions.

- The case CAS 2024/A/10289 (Hajer FC v. Gačanin) relied upon by the Club is distinguishable because in that case: (i) the coach was legally represented; (ii) both parties negotiated the clause “after long negotiation”; (iii) both parties found and wrote that the amount was “fair and proportionate”; and (iv) the contract had a relatively short duration (10 months). None of these conditions apply here. The ratio of liquidated damages to residual value in the present case is 1:7.7 (EUR 14,000 against EUR 108,161.29), compared to 1:4 in Hajer.
- The Assistant Coach acknowledges his subsequent employment with Al-Hilal SC (Sudan) and provides a calculation for mitigated compensation. Based on his new contract (USD 1,000 net per month for ten months), the deductible amount is EUR 8,500 (USD 10,000 total). Accordingly, the mitigated compensation amounts to EUR 99,661.29 net (EUR 108,161.29 minus EUR 8,500).
- The Club failed to reimburse the contractual benefit of a round-trip flight ticket as required by Clause 3.3 of the Contract. The reimbursement of TND 1,451 as awarded in the Appealed Decision is fair, proportionate, and in full conformity with pacta sunt servanda.

50. In his Answer, the Assistant Coach submitted the following requests for relief:

- “ 1) *Dismiss and reject the appeal lodged by the Appellant against the FIFA Players’ Status Chamber decision dated 24 June 2025 (ref. no. FPSD-18885).*
- 2) *To confirm and uphold the FIFA Players’ Status Chamber decision of June 24, 2025 (ref. no. FPSD-18885) in relation to the compensation for the termination of Contract without just cause less mitigation.*
- 3) *Based on para. 2 above, to order the Appellant to pay the Respondent an amount of EUR 99,661.29 NET (ninety nine thousand six hundred sixty one euros and twenty nine cents) along with an interest of 5% p.a. as from 17 March 2025 until the date of effective payment.*
- 4) *To confirm the Appealed Decision on the flight reimbursement claim.*
- 5) *In all cases to order the Appellant to pay the entire costs and expenses relating to the present arbitration proceedings.*
- 6) *In all cases to order the Appellant to pay the Respondent a contribution towards his legal costs incurred by him as a result of these arbitration proceedings in an amount to be determined at the discretion of the Sole Arbitrator.”*

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**C. The Naglič Award**

51. As previously mentioned, the Assistant Coach submitted on 24 February 2026 the award *CAS 2024/A/10666 Vedran Naglič v. Al Shabab Football Club*, which he considered as being relevant to the present proceedings.
52. In its comments on the Naglič Award filed on 2 March 2026, the Club submits the following:
- The reasoning in that case, when properly understood, confirms the validity of the Club's position.
  - The Sole Arbitrator in the Naglič Award assessed the validity of the compensation clause in light of the overall contractual equilibrium, which supports the Club's approach.
  - The contracts concluded with the Coach provided for substantial financial advantages, in particular a monthly salary of approximately EUR 35,000, which formed part of the economic balance negotiated between the parties.
  - The present case shall be distinguished from the Naglič Award on the basis that: (i) the contractual imbalance identified in the Naglič Award was reinforced by a specific clause entitling the club to claim the entire remaining fixed remuneration if the coach was absent for more than fifteen days, whereas no such clause exists in the present case; (ii) the substantial remuneration offered by the Club to its coaching staff formed part of the overall contractual equilibrium; and (iii) CAS awards do not constitute binding precedent.

**VII. JURISDICTION**

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

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

54. Article 49 of the FIFA Statutes provides as follows:

*“FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, member associations, confederations, leagues, clubs, players, officials, football agents and match agents.”*

55. In addition, Article 50(1) of the FIFA Statutes provides as follows:

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

56. Clause 12 of the Contract states the following:

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*“Any dispute regarding the execution or interpretation of this contract shall fall under the exclusive jurisdiction of FIFA.”*

57. The Appealed Decision refers to the CAS as the competent jurisdiction on appeal.
58. The jurisdiction of the CAS is not disputed by the Parties and was further confirmed by the Order of Procedure duly signed by the Parties.
59. Accordingly, the Sole Arbitrator is satisfied that the CAS has jurisdiction to adjudicate the present case.

**VIII. ADMISSIBILITY OF THE APPEAL**

60. Article R49 of the CAS Code provides as follows:

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

61. Article 50(1) of the FIFA Statutes provides that appeals against final decisions passed by FIFA's legal bodies shall be lodged with CAS within 21 days of receipt of the decision in question.
62. According to Article 15(5) of the Procedural Rules Governing the FIFA Football Tribunal, the time limit to lodge an appeal begins upon notification of the grounds of the decision.
63. The grounds of the Appealed Decision were notified to the Parties on 11 July 2025. The Club filed its Statement of Appeal on 1 August 2025, i.e. within the 21-day time limit prescribed by Article 50(1) of the FIFA Statutes and Article R49 of the CAS Code.
64. Furthermore, the Statement of Appeal complied with all requirements set out in Article R48 of the CAS Code.
65. The Assistant Coach has not raised any objection to the admissibility of the Club's appeal.
66. Accordingly, the Sole Arbitrator finds that the Club's appeal is admissible.

**IX. APPLICABLE LAW**

67. As the CAS is an arbitral tribunal with its seat in Switzerland, and as the Parties have their domicile or habitual residence outside of Switzerland (the Assistant Coach in Romania and the Club in Tunisia), pursuant to Article 176 of the Swiss Private International Law Act ("PILA"), Chapter 12 of this act (Articles 176 to 194 PILA) is applicable to the present arbitration.
68. Article 187(1) PILA provides:

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*"The arbitral tribunal shall decide the dispute according to the rules of law chosen by the parties or, in the absence of such a choice, according to the rules of law with which the case has the closest connection."*

69. According to Article R58 of the CAS Code:

*"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."*

70. Article 49(2) of the FIFA Statutes (edition 2024) provides:

*"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."*

71. In the present case, the Parties agree that the rules and regulations of FIFA are applicable. Given the date at which the Assistant Coach lodged his claim before FIFA (namely, 8 April 2025), the substantive matters of the case are regulated by the FIFA Statutes (edition 2024) and the FIFA Regulations on the Status and Transfer of Players (edition January 2025), in particular Annexe 2 thereof which governs employment-related disputes involving coaches.

72. Accordingly, the Sole Arbitrator shall apply the rules of FIFA, which is the federation whose decision has been challenged, as well as, and on a subsidiary basis, Swiss law, to which the relevant FIFA Statutes make explicit reference.

#### **X. MANDATE OF THE SOLE ARBITRATOR**

73. According to Article R57 of the CAS Code, the Sole Arbitrator has full power to review the facts and the law of the case. Furthermore, the Sole Arbitrator may issue a new decision which replaces the decision challenged or may annul the decision and refer the case back to the previous instance.

#### **XI. PRELIMINARY MATTER**

74. On 15 January 2026, the Assistant Coach submitted Swiss legal doctrine on which he intended to rely during the hearing. On 19 January 2026, the Club objected to the production of this doctrine. On 20 January 2026, the Sole Arbitrator informed the Parties that the Swiss doctrine was admissible.

75. On 24 February 2026, the Assistant Coach submitted a copy of the award *CAS 2024/A/10666 Vedran Naglić v. Al Shabab Football Club*.

76. The Sole Arbitrator's decision to admit the Swiss doctrine is based on the principle of *iura novit curia* – more precisely *iura novit arbiter* in arbitration proceedings (Coccia, in CAS

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Bulletin 2/2013, p. 14) – according to which the adjudicating body is presumed to know the law and shall determine himself the content of the applicable law (Noth/Haas, *in* Arbitration in Switzerland, 2nd ed., 2018, nr. 25 ad Article R44 of the CAS Code). Swiss legal doctrine does not constitute "evidence" in the strict sense, which is meant to support factual allegations, but rather serves as an interpretative tool to assist the adjudicator in understanding and applying the applicable law.

77. Furthermore, the Sole Arbitrator admitted the Naglič Award on the basis that it is in the public domain. CAS awards do not constitute "evidence" in the strict sense but serve as references to assist the adjudicator in understanding and applying the law. The Club was given the opportunity to comment on the award and availed itself of that opportunity. Accordingly, the Sole Arbitrator confirms that the Naglič Award is admissible and has been taken into consideration, together with the Club's comments thereon.
78. Accordingly, the Sole Arbitrator confirms that the Swiss doctrine and CAS jurisprudence submitted by the Assistant Coach on 15 January and 24 February 2026 are admissible.

## **XII. MERITS**

79. In light of the Parties' submissions and statements made during the hearing, the Sole Arbitrator will examine the following main issues:
- Did the Club terminate the Contract with or without just cause?
  - Is the Penalty Clause (Clause 7 of the Contract) valid and enforceable?
  - What are the financial consequences of the termination of the Contract?
  - Is the Assistant Coach entitled to reimbursement of flight expenses?

### **A. Termination of the Contract without just cause**

#### **i. The Parties' Positions**

80. The Assistant Coach submits that the Club terminated the Contract without just cause on 17 March 2025. The Assistant Coach maintains that he did not commit any breach of contract, let alone gross misconduct within the meaning of Clause 6 of the Contract. The termination letter sent by the Club on 17 March 2025 did not mention any specific reason for the termination, and the Club has failed to establish any valid ground that would justify the immediate termination of the Contract. The Assistant Coach further submits that by unlawfully terminating the Contract, the Club violated the principle of *pacta sunt servanda* enshrined in Article 13 and Article 3 of Annexe 2 FIFA RSTP.
81. The Club does not dispute that it terminated the Contract before the expiry of its term, nor does it allege that the Assistant Coach committed gross misconduct within the meaning of Clause 6 of the Contract. Rather, the Club relies on Clause 7 of the Contract, which provides for compensation in the event of unilateral termination. The Club submits that it exercised its contractual right to terminate the Contract early and refers to "*differences over sporting decisions and internal circumstances*" as reasons for the termination.

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82. The Sole Arbitrator notes that the Club has not challenged the finding of the Appealed Decision that the termination of the Contract was without just cause. This finding has therefore become final and binding in these proceedings. In any event, the Sole Arbitrator confirms this finding for the following reasons.

**ii. Legal framework**

83. Annexe 2 of the FIFA RSTP contains specific rules governing the employment of coaches. Article 2 of Annexe 2 FIFA RSTP provides that a coach must have a written contract with a club or an association, executed on an individual basis, and that such contract shall include the essential elements of an employment contract, such as *inter alia* the object of the contract, the rights and obligations of the parties, the status and occupation of the parties, the agreed remuneration, the duration of the contract and the signatures of each party.

84. The Sole Arbitrator notes that the scope provision of Annexe 2 RSTP states that it "*lays down rules concerning contracts between coaches and professional clubs or associations*" and that definition 28 of the RSTP reads as follows:

*“Coach: an individual employed in a football-specific occupation by a professional club or association whose:*

- i. employment duties consist of one or more of the following: training and coaching players, selecting players for matches and competitions, making tactical choices during matches and competitions; and/or*
- ii. employment requires the holding of a coaching licence in accordance with a domestic or continental licensing regulation.”*

85. As per Clause 4 of the Contract, the Assistant Coach duties are in particular to "*Lead the Team during all official (national and international) and friendly matches*". Furthermore, the Assistant Coach holds an A (coaching) Licence.

86. The Sole Arbitrator therefore concludes that, considering his duties under the Contract and the qualification he holds, the Assistant Coach shall be considered as a Coach as per the above definition in the RSTP.

87. Article 3 of Annexe 2 of the FIFA RSTP provides:

*"A contract may only be terminated upon expiry of its term or by mutual agreement."*

88. Article 4 of Annexe 2 of the FIFA RSTP, entitled "Terminating a contract with just cause," provides:

*"1. A contract may be terminated by either party without the payment of compensation where there is just cause."*

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*2. Any abusive conduct of a party aimed at forcing the counterparty to terminate or change the terms of the contract shall entitle the counterparty to terminate the contract with just cause."*

89. Article 6 of Annexe 2 of the FIFA RSTP provides:

*"1. In all cases, the party in breach shall pay compensation.*

*2. Unless otherwise provided for in the contract, compensation for the breach shall be calculated as follows:*

***Compensation due to a coach***

*a. In case the coach did not sign any new contract following the termination of their previous contract, as a general rule, the compensation shall be equal to the residual value of the contract that was prematurely terminated. [...]"*

90. The above provisions of the FIFA RSTP establish the general regulatory framework for the termination of coaches' contracts. A contract may only be terminated upon expiry of its term or by mutual agreement. Where a contract is terminated without just cause, the party in breach must pay compensation, which, as a general rule, shall be equal to the residual value of the contract that was prematurely terminated.

91. The Sole Arbitrator notes that the FIFA RSTP does not define with precision the concept of "just cause". As both Parties have referred to Swiss law in their submissions and as Swiss law applies subsidiarily to this dispute, the Sole Arbitrator will also refer to Swiss law, where necessary, to complement the provisions of the FIFA RSTP on issues not specifically, or not entirely, addressed therein, which is consistent with established CAS jurisprudence.

**iii. The termination of the Contract**

92. The Contract between the Assistant Coach and the Club fulfils the requirements set out in Article 2 of Annexe 2 of the FIFA RSTP, as well as those for an employment relationship under Article 319(1) SCO. The Contract was not disputed as being binding on the Parties. On the contrary, both Parties refer in their submissions to the relevant provisions of the Contract. Therefore, the Sole Arbitrator finds that the Contract is a valid employment contract.

93. The Contract was concluded on 21 November 2024, with an effective date of 5 November 2024, for a fixed term until 30 June 2026. In accordance with Article 3 of Annexe 2 of the FIFA RSTP, such a contract may only be terminated upon expiry of its term or by mutual agreement. This is consistent with Swiss law, pursuant to which fixed-term contracts cannot be terminated by the parties before the fixed term expires, unless there is just cause for an immediate termination or the parties reach a mutual agreement on the termination of the contract (Article 334(1) SCO).

94. On 17 March 2025, the Club sent a termination letter to the Assistant Coach, terminating the employment relationship with immediate effect. The termination letter stated that the Club would pay the termination penalty in the amount of two months' salary (EUR 14,000)

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pursuant to Clause 7 of the Contract. Notably, the termination letter did not mention any specific reason for the termination.

95. On the same day, the Assistant Coach's counsel responded by letter, expressly rejecting the termination. The counsel stated that the Assistant Coach did not recognise the termination as valid and granted the Club a deadline of 48 hours to rectify the breach and reinstate the Assistant Coach immediately. The Club did not respond to this demand and did not reinstate the Assistant Coach.
96. The CAS jurisprudence provides that, in the absence of definition of just cause in the FIFA regulations, reference should be made to Swiss law (ex. CAS 2006/A/1062; CAS 2008/A/1447; CAS 2013/A/3091, 3092 & 3093; CAS 2012/A/2698). Accordingly, the Sole Arbitrator refers to the relevant provisions of Swiss law and, in particular, to those of Article 337(2) SCO which provide: that "*good cause is any circumstance which renders the continuation of the employment relationship in good faith unconscionable for the party giving notice*". Based on CAS long-established jurisprudence, only a "material breach" of a contract can be considered as "just cause" for termination without consequences of any kind (CAS 2006/A/1062; CAS 2006/A/1180; CAS 2007/A/1210; CAS 2006/A/1100; CAS 2013/A/3091, 3092 & 3093). Such material breach occurs, in particular: "*When the main terms and conditions, under which it was entered into are no longer implemented. The circumstances must be such that, according to the rule of good faith, the party terminating the employment relationship cannot be required to continue it*" (CAS 2013/A/3091, 3092 & 3093; CAS 2012/A/2698).
97. The Club has referred to "*differences over sporting decisions and internal circumstances*" and "*legitimate sporting reasons*" in its submissions. However, as the CAS has consistently held, sporting dissatisfaction or poor performance of a team does not, by itself, constitute just cause for immediate termination of a coach's employment contract (CAS 2011/A/2596, para. 8 let. b) nr. 9), unless "*the poor results of the team is specifically agreed between a club and a coach as "just cause" for the termination of the employment agreement*" (CAS 2020/A/6798, para. 69).
98. Considering the above, the Club did not establish that the Coach committed any breach of sufficient gravity that would have made it impossible for the Club to continue the employment relationship in good faith.
99. Accordingly, the Sole Arbitrator confirms that the Club terminated the Contract without just cause within the meaning of Article 3 and Article 4 of Annexe 2 of the FIFA RSTP, as correctly found by the FIFA PSC in the Appealed Decision.

**B. Validity of the Penalty Clause (Clause 7 of the Contract)**

**i. The Parties' positions**

100. The Club submits that Clause 7 of the Contract is a valid and enforceable liquidated damages clause that should govern the financial consequences of the termination. The Club argues that: (i) the clause is reciprocal and applies equally to both Parties; (ii) Article 6(2) of Annexe 2 of the FIFA RSTP expressly provides that contractual provisions take precedence over the default residual-value calculation; (iii) the Assistant Coach is an experienced professional

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who was fully capable of appreciating the implications of Clause 7; and (iv) In CAS 2024/A/10289, the Panel upheld an almost identically worded clause.

101. The Assistant Coach submits that Clause 7 is invalid, potestative, and disproportionate because: (i) it allows the Club to terminate the Contract early without just cause and without paying substantial compensation; (ii) the Contract was drafted entirely by the Club and the Assistant Coach was not represented by legal counsel at the time of signing; (iii) the residual value of the Contract at termination was EUR 108,161.29 net, meaning the clause would deprive the Assistant Coach of approximately 87% of his total contractual entitlement; (iv) this is manifestly disproportionate and contrary to Article 337c SCO; and (v) the circumstances in CAS 2024/A/10289 are entirely different.

**ii. Legal framework**

102. Article 6 of Annexe 2 of the FIFA RSTP (edition 2024) provides:

*"1. A contract between a coach and a club may only be terminated upon expiry of the term of the contract or by mutual agreement.*

*2. In case of termination of a contract without just cause, and unless otherwise provided for in the contract, compensation shall be calculated as follows: a) as a general rule, the compensation due to a coach shall be equal to the residual value of the employment contract that was prematurely terminated."*

103. The wording "*unless otherwise provided for in the contract*" has been interpreted by CAS to mean that where parties have expressly agreed on compensation payable in the event of early termination, that contractual provision may take precedence over the default residual-value calculation. However, this contractual autonomy is not unlimited.
104. Under Swiss law, which applies subsidiarily to this dispute, Article 337c(1) SCO provides that *where an employer dismisses an employee with immediate effect without good cause, the employee is entitled to damages in the amount he would have earned had the employment relationship ended after the expiry of its agreed duration*. This provision is mandatory under Article 362(1) SCO and cannot be derogated to the detriment of the employee.
105. In CAS 2020/A/6798 the Panel explained the following:

*"73. Based on Article 362 para. 1 CO this Article 337c para. 1 CO (consequences of termination without just cause) is binding and mandatory and, therefore, it is not permissible to derogate to the detriment of the employee by an individual agreement as e.g. an employment contract.*

*74. The mandatory character given to Article 337c para. 1 CO, as stated before, means that the Coach as employee in our case cannot validly waive his claim of compensation defined in Article 337c para. 1 CO in case the Club as employer terminates the Employment Contract without just cause as far as the compensation agreed on in the Employment Contract is lower than the residual value of such contract."*

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106. Similarly, in CAS 2016/A/4605 (paras. 7.13 ff.), the Panel held that a liquidated damages clause was invalid where it created a disproportionate ceiling that negated the employee's economic protection, and where there was unbalanced power of bargain in the negotiation of the terms.
107. Furthermore, in CAS 2020/A/6961 (paras. 64-65), the Panel set out the interplay between the relevant provisions of the SCO protecting employees against unjustified dismissal. First, Article 341 SCO prohibits an employee from waiving claims arising from mandatory provisions during the employment relationship and for one month after its end. Second, Article 337c(1) SCO entitles an employee who is dismissed with immediate effect without good cause to damages in the amount he would have earned had the employment relationship ended on expiry of its agreed duration. Third, Article 362(1) SCO lists Article 337c SCO among the provisions from which no derogation to the detriment of the employee is permitted. Fourth, Article 362(2) SCO provides the legal consequence: any agreement that derogates from Article 337c(1) SCO to the employee's detriment is void.

**iii. The invalidity of Clause 7 of the Contract**

108. The Sole Arbitrator must determine whether Clause 7 of the Contract is a valid and enforceable liquidated damages provision.
109. This clause is, on its face, reciprocal: it provides that "*any unilateral termination of this contract will result in compensation equal to two (2) months' salary, payable by the terminating party to the other.*" However, as CAS jurisprudence has consistently held, formal reciprocity does not, by itself, render a clause valid. The decisive inquiry is whether the clause, if not simply void from the outset (CAS 2020/A/6961, paras. 64-65), is proportionate and does not deprive the aggrieved party of adequate compensation (CAS 2020/A/7305; CAS 2016/A/4605).
110. In the present case, the Contract had a duration of approximately 20 months (5 November 2024 to 30 June 2026). At the time of termination on 17 March 2025, approximately 15.5 months remained. The residual value of the Contract was EUR 108,161.29 net. Under Clause 7, the Club's liability would be limited to EUR 14,000, representing only approximately 13% of the Assistant Coach's total contractual entitlement. Clause 7 would therefore deprive the Assistant Coach of approximately 87% of what he would have earned had the Contract been performed until its natural expiry.
111. Applying the principles established by CAS jurisprudence and Swiss law, the Sole Arbitrator finds that Clause 7 is invalid. CAS panels have consistently held that where a contractual clause limits compensation to an amount significantly lower than the residual value of the contract, it derogates from Article 337c(1) SCO to the employee's detriment and is therefore void pursuant to Article 362(2) SCO (CAS 2020/A/6798, paras. 73-74; CAS 2020/A/6961, paras. 64-65). Furthermore, even a formally reciprocal clause may be incompatible with the general principles of contractual stability and considered null and void if it disproportionately favours one party and gives it undue control over the other (CAS 2020/A/7305; CAS 2016/A/4605). In the present case, Clause 7 would deprive the Assistant Coach of approximately 87% of his contractual entitlement, thereby negating the economic protection afforded to employees under Swiss law and undermining the principle of contractual stability.

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112. The present case falls squarely within this jurisprudence. A clause that allows the Club to terminate a 20-month contract at any time for a fixed sum of two months' salary (EUR 14,000), regardless of the remaining duration, is manifestly disproportionate and gives the employer undue control over the employee.
113. The Sole Arbitrator distinguishes the present case from CAS 2024/A/10289 (Hajer FC v. Rodion Gačanin), upon which the Club relies:
- First, the penalty clause may well be considered as invalid in accordance with the above Swiss law and CAS case law considerations.
  - Second, in that particular case, the contract had a relatively short duration (approximately 10 months), the parties explicitly acknowledged in writing that the clause was "*fair and proportionate*," the clause had been agreed "*after long negotiation*" and the coach was legally represented during negotiations. None of these mitigating factors are present here: the Contract had a duration of 20 months, there is no evidence that the Assistant Coach acknowledged the clause as fair and proportionate, no evidence of genuine negotiation has been produced, and the Assistant Coach was not represented by legal counsel at the time of signing. The ratio of liquidated damages to residual value in the present case is 1:7.7 (EUR 14,000 against EUR 108,161.29), compared to 1:4 in Hajer. These differences are not merely formal but substantive and fully justify a different outcome.
114. The Sole Arbitrator also takes note of the recent award CAS 2024/A/10666 (Vedran Naglič v. Al Shabab Football Club), in which the Sole Arbitrator found a compensation clause (three months' salary) null and void on the grounds that it created a "substantive imbalance" between the parties. While the Club submits that this award is distinguishable, the Sole Arbitrator observes that the fundamental principle underlying the Naglič Award, that a compensation clause must not be manifestly disproportionate, is directly applicable here. A clause limiting the Club's liability to EUR 14,000 for the premature termination of a contract with a residual value of EUR 108,161.29 is manifestly disproportionate by any standard.
115. For all these reasons, the Sole Arbitrator finds that Clause 7 of the Contract is disproportionate and void and cannot, therefore, be applied to determine the consequences of the termination without just cause. The Club's appeal, insofar as it seeks to uphold the validity of this clause, is therefore rejected.

**D. Compensation**

116. Having found that Clause 7 is invalid, the Sole Arbitrator must determine the compensation payable to the Assistant Coach pursuant to Article 6(2) of Annexe 2 of the FIFA RSTP.
117. Pursuant to this provision, compensation for termination without just cause shall, as a general rule, be equal to the residual value of the contract that was prematurely terminated. Where a coach signs a new contract following the termination, the income earned under that contract must be deducted to account for mitigation.
118. The Club does not contest the calculation of the residual value of the Contract as determined by the FIFA PSC. The Contract was terminated on 17 March 2025 and was due to expire on

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30 June 2026. Based on a monthly salary of EUR 7,000 net, the residual value amounts to EUR 108,161.29 net, as calculated by the FIFA PSC (comprising the salary for the remaining 14 days of March 2025 and the monthly salaries from April 2025 to June 2026).

119. The Club requests that the income earned by the Assistant Coach under his contract with Al-Hilal SC (Sudan) be deducted. The Assistant Coach does not contest this request. The Assistant Coach acknowledges that his new contract, signed on 15 August 2025 and valid until 15 June 2026, provides for a monthly salary of USD 1,000 net. The total remuneration under this contract is USD 10,000 for the ten-month period. The Assistant Coach submits that the deductible amount is EUR 8,500 (the euro equivalent of USD 10,000), which was not contested by the Club.
120. Accordingly, the Sole Arbitrator finds that the mitigated compensation is EUR 99,661.29 net (EUR 108,161.29 minus EUR 8,500), plus interest at 5% p.a. from 17 March 2025 until the date of effective payment. In accordance with the Appealed Decision and the contractual provisions, the compensation shall be paid in Tunisian Dinars at the official exchange rate set by the Central Bank of Tunisia on the date of signing the Contract.

**E. Flight reimbursement**

121. The Appealed Decision awarded the Assistant Coach TND 1,451 net as reimbursement for flight expenses, plus interest at 5% p.a. from 10 January 2025 until the date of effective payment.
122. Clause 3.3(iii) of the Contract provides that the Assistant Coach is entitled to "*one (01) round trip air ticket per sports season Tunis - Bucharest - Tunis.*"
123. The Club argues that it had already provided a flight ticket and that the Assistant Coach is not entitled to further reimbursement. However, the Club has not produced any evidence to support this assertion.
124. The Assistant Coach claims reimbursement for a round-trip flight ticket in the amount of TND 1,451 net (equivalent to approximately EUR 432). The Appealed Decision correctly found that the Club had failed to provide the contractual benefit and that the Assistant Coach was justified in purchasing the ticket at his own expense.
125. The Sole Arbitrator concurs with this finding and sees no reason to depart from the Appealed Decision on this point.

**F. Conclusion**

126. In light of the above analysis, the Sole Arbitrator concludes as follows:
- a. The Club terminated the Contract without just cause on 17 March 2025.
  - b. Clause 7 of the Contract (the Penalty Clause) is invalid under Article 337c (1) CO and cannot be applied to determine the consequences of the termination.
  - c. The Assistant Coach is entitled to compensation based on the residual value of the

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Contract, as mitigated by his earnings from subsequent employment with Al-Hilal SC (Sudan). The mitigated compensation amounts to EUR 99,661.29 net.

d. The Assistant Coach is entitled to reimbursement of flight expenses in the amount of TND 1,451.

127. Accordingly, the Club's appeal is rejected in its principal submissions (validity of Clause 7) and partially upheld only to the extent that the compensation awarded in the Appealed Decision is reduced to account for mitigation, element which was not available to the FIFA PSC at the time of its decision.

**XIII. COSTS**

(...)

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## ON THESE GROUNDS

### The Court of Arbitration for Sport rules that:

1. The appeal filed on 1 August 2025 by Espérance Sportive de Tunis against the decision issued on 24 June 2025 by the FIFA Players' Status Chamber of the Football Tribunal of the Fédération Internationale de Football Association (ref. FPSD-18885) is partially upheld.
2. The decision issued on 24 June 2025 by the FIFA Players' Status Chamber of the Football Tribunal of the Fédération Internationale de Football Association (ref. FPSD-18885) is confirmed, with the exception of point 2 of its operative part, which is amended as follows:  
  
*“2. The Respondent, Espérance Sp. De Tunis, must pay to the Claimant the following amount(s):*  
  
*- EUR 99,661.29 net as compensation for breach of contract, payable in TND at the official exchange rate set by the Central Bank of Tunisia on the date of signing the “Engagement Contract – Assistant Coach”, plus 5% interest per annum as from 17 March 2025 until the date of effective payment.*  
  
*- TND 1,451 net as reimbursement plus 5% interest per annum as from 10 January 2025 until the date of effective payment.”*
3. (...).
4. (...).
5. All other and further claims are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 26 May 2026

**THE COURT OF ARBITRATION FOR SPORT**

Mr Benoît Pasquier  
Sole Arbitrator