



**TAS / CAS**

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

**CAS 2025/A/11715 Guy Carel Mbenza Kamboleke v. FIFA**

## **ARBITRAL AWARD**

delivered by the

**COURT OF ARBITRATION FOR SPORT**

sitting in the following composition:

Sole Arbitrator: Mr. Rui Botica Santos, Attorney-at-Law, Lisbon, Portugal

in the arbitration between

**Guy Carel Mbenza Kamboleke**, Republic of Congo

Represented by Mr. Luca Tettamanti, Mr. Tomás Pereda and Mr. Raphael Bourré, Attorneys-at-Law in Elite Law SA, Lugano, Switzerland

**- Appellant -**

v.

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

Represented by Mr. Miguel Liétard Fernandez-Palacios, Director of Litigation, and Mr. Alexander Jacobs, Senior Legal Counsel of FIFA Litigation Department, Coral Gables, Florida, USA

**- Respondent -**

\* \* \*

## **I. THE PARTIES**

1. Guy Carel Mbenza Kamboleke (the “Appellant” or the “Player”) is a professional football player with Congolese nationality, born on 1 April 2000 and currently registered with the Chinese Club Liaoning Tieren, which competes in the Chinese Second Division of professional football.
2. The *Fédération Internationale de Football Association* (the “Respondent” or “FIFA”) is the worldwide governing body of international football and exercises regulatory, supervisory and disciplinary functions over continental confederations, national associations, clubs, officials and players. FIFA is an association under Swiss law with its registered office in Zurich, Switzerland, and is the governing body for international football.
3. In this appeal proceedings (the “Appeal”), the Appellant and FIFA are collectively referred to as the “Parties”.

## **II. FACTUAL BACKGROUND**

4. Below is a summary of the main relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced during the present proceedings. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. This factual background information is given for the sole purpose of providing a synopsis of the matter in dispute. Although the Sole Arbitrator appointed has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in this award (the “Award”) only to the submissions and evidence it is considered necessary to explain his reasoning.

### **(A) Introduction**

5. This Appeal before the Court of Arbitration for Sport (the “CAS”) is directed against a decision of the FIFA Disciplinary Committee (the “FIFA DC”), which found that the Appellant had failed to comply with the CAS award issued in CAS 2023/O/9439 (the “CAS Award”). Within the CAS Award, the Appellant was held financially liable to reimburse Mr. Rabii Lafoui (the “Intermediary” or the “Creditor”) for the amounts awarded (*i.e.* USD 600,000 plus accrued interest at a rate of 5% per annum calculated from the relevant instalment due date).

**(B) Background of the dispute**

**(B.1) The Agreement between the Player and his Intermediary**

6. On 15 July 2022, the Appellant and the Intermediary entered into an intermediary agreement (the “Agreement”), establishing the terms and conditions governing the services provided by the Intermediary to the Appellant in connection with the negotiation and conclusion of an employment contract (the “Employment Contract”) between the Appellant and Al Tai Club, Saudi Arabia (the “Club”).
7. According to the Agreement, the Appellant agreed to pay the Intermediary a fixed net commission of USD 600,000 (six hundred thousand US Dollars), payable in six equal instalments of USD 100,000 (one hundred thousand US Dollars).
8. Clause 6 of the Agreement provides as follows:

*“6.1 – Any dispute arising from or related to the present contract will be submitted exclusively to the Court of Arbitration for Sport, Lausanne, Switzerland (“CAS”), and resolved definitely in accordance with the Code of sports-related arbitration. The Award published by the Court of Arbitration for Sports shall be final and binding to the Parties.*

*6.2 – In the event, the Player does not comply with the terms of the CAS Award, the INTERMEDIARY shall be entitled to enforce the said CAS Award against the PLAYER before the FIFA Disciplinary Committee or any other enforcement body in accordance with Art. 58 par.1 of the FIFA Statutes.*

*[...]”*

9. On 14 February 2023, as a result of the Appellant’s failure to fulfil its financial obligations, the Intermediary initiated arbitration proceedings before the CAS.

**(B.2) The CAS Award**

10. On 2 April 2025, the CAS Award was issued. The operative part is as follows:

*“[...]*

*Guy Carel Mbenza Kamboleke is ordered to pay to Rabii Lafoui*

- a. *US\$ 100,000 (one hundred and [sic] thousand US Dollars) due since 1 August 2022 plus a default interest at rate of 5% per annum from 2 August 2022 until the date of effective payment;*
- b. *US\$ 100,000 (one hundred and [sic] thousand US dollars) due since 7 September 2022 plus a default interest at rate of 5% per annum from 8 September 2022 until the date of effective payment;*
- c. *US\$ 100,000 (one hundred and [sic] thousand US dollars) due since 7 October 2022 plus a default interest at rate of 5% per annum from 8 October 2022 until the date of effective payment;*
- d. *US\$ 100,000 (one hundred and [sic] thousand US dollars) due since 5 August 2023 plus a default interest at rate of 5% per annum from 6 August 2023 until the date of effective payment;*
- e. *US\$ 100,000 (one hundred and [sic] thousand US dollars) due since 5 September 2023 plus a default interest at rate of 5% per annum from 6 September 2023 until the date of effective payment;*
- f. *US\$ 100,000 (one hundred and [sic] thousand US dollars) due since 5 October 2023 plus a default interest at rate of 5% per annum from 6 October 2023 until the date of effective payment.*

[...]"

**(C) Proceedings before the FIFA Disciplinary Committee**

- 11. On 2 May 2025, the Intermediary initiated disciplinary proceedings against the Player before the FIFA Disciplinary Committee (the "FIFA DC"), pursuant to Article 21 of the FIFA Disciplinary Code (the "FDC"), as a result of the Appellant's non-compliance with the CAS Award.
- 12. On 9 May 2025, the FIFA Disciplinary Committee (the "FIFA DC") opened disciplinary proceedings against the Appellant (the "First Disciplinary Proceedings").
- 13. On 16 May 2025, the Secretariat of the FIFA DC issued a final and binding confirmation letter (the "First Proposal"), setting out a proposal for resolution addressed to the Player.

14. On 22 May 2025, the Appellant informed the FIFA DC that he had not been properly notified of the First Proposal. The Secretariat of the FIFA DC acknowledged that the First Proposal had not been duly notified to the Appellant and that, as a result, he had not been aware of the First Disciplinary Proceedings. On behalf of the Chairperson of the FIFA DC, and in order to safeguard the parties' procedural rights, including the right to be heard, the First Disciplinary Proceedings were voided on the basis of Article 54(10) of the FDC and formally closed.
15. On the same date, the Secretariat of the FIFA DC initiated new disciplinary proceedings against the Player (the "Second Disciplinary Proceedings") and issued a new proposal (the "Second Proposal"), whereby the Player was required to: (i) pay the full amounts due under the CAS Award, (ii) pay a fine of CHF 10,000, and (iii) face a potential six-month ban from any football-related activity in the event of non-payment within 30 days from the date on which the Second Proposal became final and binding.
16. On 3 June 2025, the Appellant rejected the Second Proposal and submitted his position.
17. On 9 June 2025, the FIFA DC rendered its decision (the "Appealed Decision" or the "FIFA DC Decision"). The operative part is as follows:
  - “1. *The Respondent, Guy Carel Mbenza Kamboleke, is found responsible for failing to comply in full with the award issued by the Court of Arbitration for Sport on 02 April 2025 (Ref. CAS 2023/O/9439).*
  2. *The Respondent is ordered to pay to the Creditor, Rabii Lafoui, as follows:*
    - a. *USD 100,000 (one hundred and [sic] thousand US dollars) due since 1 August 2022 plus a default interest at rate of 5% per annum from 2 August 2022 until the date of effective payment;*
    - b. *USD 100,000 (one hundred and [sic] thousand US dollars) due since 7 September 2022 plus a default interest at rate of 5% per annum from 8 September 2022 until the date of effective payment;*
    - c. *USD 100,000 (one hundred and [sic] thousand US dollars) due since 7 October 2022 plus a default interest at rate of 5% per annum from 8 October 2022 until the date of effective payment;*

- d. USD 100,000 (one hundred and [sic] thousand US dollars) due since 5 August 2023 plus a default interest at rate of 5% per annum from 6 August 2023 until the date of effective payment;*
  - e. USD 100,000 (one hundred and [sic] thousand US dollars) due since 5 [September] 2023 plus a default interest at rate of 5% per annum from 6 September 2023 until the date of effective payment;*
  - f. USD 100,000 (one hundred and [sic] thousand US dollars) due since 5 October 2023 plus a default interest at rate of 5% per annum from 6 October 2023 until the date of effective payment.*
3. *The Respondent is granted a final deadline of 30 days as from notification of the present decision in which to pay the amount due. Upon expiry of the aforementioned final deadline and in the event of persistent default or failure to comply in full with the decision within the period stipulated, the present matter will, upon request of the Creditor, be resubmitted to the FIFA Disciplinary Committee so that a ban on any football-related activity may be imposed on the Respondent for a period of six(6) months.”*
18. The findings of the Appealed Decision were notified to the Appellant on 9 June 2025, and the grounds were notified on 4 August 2025.
- III. PROCEEDINGS BEFORE THE CAS**
19. On 25 August 2025, pursuant to Article R48 of the Code of Sports-related Arbitration (the “CAS Code”), the Appellant filed his statement of appeal (the “Statement of Appeal”) before the CAS against FIFA in relation to the Appealed Decision. Additionally, pursuant to Article R37 of the CAS Code, the Appellant submitted an application for provisional measures, requesting a stay of the Appealed Decision (the “Request for Stay”).
20. On 26 August 2025, FIFA stated that the Appealed Decision is of a financial nature and does not impose a sanction and so, is not enforceable while under appeal. Hence, the Request for Stay is entirely moot.
21. On 3 September 2025, the Appellant stated that it differs from FIFA’s interpretation and prefers to receive a ruling by the CAS on the Request for Stay.

22. On 9 September 2025, the CAS Court Office requested FIFA to confirm whether it objected to the Appellant's Request for Stay.
23. On 9 September 2025, FIFA reiterated its reasoning regarding the Request for Stay (see para. 20 above) and stated that should the Appellant maintain the Request for Stay despite it being without object, FIFA objects to it and asks that it be dismissed.
24. On 29 September 2025, within the extended time limit and in accordance with Article R51 of the CAS Code, the Appellant filed his appeal brief (the "Appeal Brief").
25. On 28 November 2025, the CAS Court Office, on behalf of the Deputy President of the CAS Appeals Arbitration Division, appointed Mr. Jerome Perlemuter, Attorney-at-law in Zurich, Switzerland, as the Sole Arbitrator.
26. On 3 December 2025, within the extended time limit and in accordance with Article R55 of the CAS Code, FIFA filed its answer (the "Answer").
27. On 4 December 2025, the CAS Court Office requested the Parties to inform whether they preferred a hearing to be held in this matter.
28. On 5 December 2025, the Appellant challenged the appointment of Mr. Jerome Perlemuter based on certain circumstances that allegedly raised doubts over his independence on this case. On the same day, considering the challenge and without accepting the reasons regarding the alleged lack of independence, Mr. Jerome Perlemuter resigned from the case.
29. On 8 December 2025, pursuant to Article R54 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office appointed the following Sole Arbitrator:  
  
Sole Arbitrator:        Mr. Rui Botica Santos, Attorney-at-Law, Lisbon, Portugal
30. On 15 December 2025, on behalf of the Sole Arbitrator, the CAS Court Office invited the Appellant to clarify whether he wished to maintain his Request for Stay in light of FIFA's position. The Parties were further invited to express their views on the potential implications of the Intermediary's absence from the Appeal, in light of the Appellant's arguments, and to provide their availability for a virtual hearing.

31. On the same date, FIFA responded, stating that it did not consider the participation of the Intermediary necessary, as the matter concerns a disciplinary infringement and FIFA's power to sanction it, thereby rendering the dispute strictly vertical in nature.
32. On 19 December 2025, the Appellant withdrew the Request for Stay and submitted that the Intermediary should participate in the Appeal.
33. On 29 December 2025, following consultation with the Parties, the Sole Arbitrator decided to hold a hearing by videoconference (CISCO Webex) on 25 February 2026 at 15:00 (Swiss time). The Parties were further informed that the Sole Arbitrator neither suggested nor considered it appropriate to include the Intermediary as a party to the proceedings. The Appeal was filed exclusively against FIFA, and, at that stage of the proceedings it was not possible to alter the subjective composition of the case. In any event, the Sole Arbitrator anticipated that the implications of the Intermediary's absence as a party would be addressed at the hearing.
34. On 12 January 2026, the Appellant informed the CAS Court Office that he had duly summoned the Intermediary to attend the hearing as a witness.
35. On 13 January 2026, the Intermediary's counsel informed the CAS Court Office that his client was unavailable to attend the hearing due to prior professional commitments. The counsel further submitted that the Intermediary was not a party to these proceedings, which are of a purely disciplinary nature between the Appellant and FIFA, and argued that this Appeal was not the appropriate stage to summon or cross-examine him as a witness. It was also contended that, by not designating the Intermediary as a respondent, the Appellant deprived him of his right to be heard in a matter affecting his legal interests, which, in the counsel's view, could warrant dismissal of the Appeal (*CAS 2020/A/6713*, para. 68). Finally, counsel submitted that any attempt to call the Intermediary as a witness at that stage lacked both factual and legal basis.
36. On 15 January 2026, the Appellant submitted that FIFA itself stated that the Intermediary's participation as a party was not necessary, given the strictly vertical nature of the dispute. The Appellant explained that the Intermediary had been invited to attend as a witness to clarify certain issues, particularly as he was involved in the underlying CAS proceedings leading to the CAS Award and initiated the disciplinary proceedings. The Appellant further argued that such participation would not prejudice FIFA and that the Intermediary's objections, including the reliance on *CAS 2020/A/6713*, were unfounded and irrelevant.

37. On 9 February 2026, the CAS Court Office sent the Order of Procedure to the Parties, which were subsequently signed by the Parties confirming CAS jurisdiction.
38. On 25 February 2026, a hearing was held via videoconference. In addition to the Sole Arbitrator and Mr. Francisco Mateo Pavía, CAS Counsel in charge of the proceedings, the following persons attended the hearing:

(i) For the Appellant

- Mr. Tomás Pereda – Legal Counsel
- Mr. Raphael Bourré – Legal Counsel
- Mr. Guy Carel Mbenza Kamboleke – Appellant
- Mr. Zheng Zecheng – Translator for the Appellant

(ii) For FIFA

- Mr. Alexander Jacobs – Legal Counsel

39. At the opening of the hearing, the Parties confirmed that they had no objections to the constitution of the Sole Arbitrator or to the procedural conduct of the proceedings up to that moment.
40. The Parties were given the full opportunity to submit their arguments during their opening and closing statements. The Appellant also had the opportunity to provide his statement as a party.
41. Before the conclusion of the hearing, the Parties confirmed that they had been granted the opportunity to present their case and arguments in a fair and equal manner, and that their right to be heard had been fully respected. The hearing was thereafter declared closed, and the Sole Arbitrator reserved his reasoned decision for the present written Award.

**IV. THE PARTIES' SUBMISSIONS**

42. The following summary of the Parties' positions is illustrative and does not necessarily comprise each contention put forward by the Parties. The Sole Arbitrator, however, has

carefully considered all the submissions made by the Parties, even if no explicit reference is made in what immediately follows.

**(A) The Appellant's Submissions**

43. In his Appeal Brief, the Appellant submitted the following prayers and requests for relief:

“[...]”

*I. The appeal filed by [the Appellant] is upheld.*

*II. On a primary basis, the [Appealed Decision] is annulled and/or set aside.*

*III. As a consequence, [the Appellant] is not obliged to comply with the [CAS Award] and / or no disciplinary sanction is imposed on the Player.*

*IV. On a subsidiary basis, the [Appealed Decision] is partially annulled and/or amended.*

*V. As a consequence, in case [the Appellant] fails to comply in full with the [CAS Award] no disciplinary sanction is imposed on him or the disciplinary sanction of a ban on taking part for 6 (six) months in any football related activity is either substantially reduced or replaced by a fair, just and proportionate sanction to be decided by the CAS taking into account all factual and legal arguments put forward by the Player in this arbitration procedure.*

*VI. FIFA shall bear all the procedural costs of this arbitration procedure.*

*VII. FIFA shall compensate [the Appellant] for all the legal fees and other costs incurred in connection with this arbitration in an amount to be determined at the discretion of the Panel/Sole Arbitrator, which shall not be less than CHF 20,000.”*

44. The Appellant puts forth the following arguments in support of his position, which are summarized hereunder:

**(A.1) FIFA cannot enforce the CAS Award**

45. The FIFA DC failed to consider that the CAS Award resulted from arbitral proceedings affected by serious procedural deficiencies, notably the violation of the Appellant's fundamental right to be heard.
46. The Appellant acknowledges that, in the present proceedings, CAS cannot reopen or review the merits of the CAS Award. However, the Appellant requests the Sole Arbitrator to recognize that the CAS Award was rendered in breach of fundamental procedural guarantees, as CAS failed to properly notify him of the proceedings. Notwithstanding the CAS correspondence dated 4 March 2024 confirming that all communications would be sent to the Appellant's address in Kuwait, subsequent notifications were sent to an incorrect email address, and any correspondence sent by post was likewise addressed incorrectly. As a result, the request for arbitration was received by a third party who neither informed nor forwarded it to the Player.
47. Consequently, the Appellant did not receive any submissions filed by the Intermediary, nor any procedural orders issued during the arbitration. The proceedings were thus conducted entirely without his knowledge or participation, culminating in the issuance of the CAS Award on 2 April 2025.
48. The Appellant only became aware of the arbitration and the CAS Award on 19 May 2025.
49. The Appellant emphasizes that, had he been given the opportunity to participate, the outcome of the arbitration would likely have been different. He would have demonstrated, *inter alia*, that the Intermediary lacked proper authority, was not registered within the FIFA agent's system, rendered no services in connection with the Employment Contract, and that the Agreement violated the applicable regulations of the Saudi Football Association. Furthermore, the commission claimed was manifestly disproportionate to the Appellant's actual earnings.
50. In light of the above, the Appellant submits that the CAS Award cannot constitute a valid basis for disciplinary enforcement and that, by relying upon such an award, FIFA acted *ultra vires* and in breach of fundamental principles of procedural fairness.
51. Accordingly, the Appellant requests the Sole Arbitrator to find that FIFA cannot enforce a decision arising from an arbitral proceeding that failed to respect due process.

**(A.2) Alternatively, no disciplinary sanction may be imposed**

52. The Appellant submits that, even if FIFA were entitled to enforce the CAS Award, no disciplinary sanction may lawfully be imposed. The Appellant’s arguments are structured around three principal issues: (i) violation of public order and personality rights, (ii) incompatibility with the limits of association autonomy, and (iii) breach of the principle *nulla poena sine lege*.

(A.2.1) Violation of public order and personality rights

53. The Appellant submits that the sanction contemplated by FIFA (a six-month ban from all football-related activities) violates Swiss public policy within the meaning of Article 190(2)(e) of the Swiss Private International Law Act (the “PILA”). According to jurisprudence of the Swiss Federal Tribunal (the “SFT”), an arbitral award or disciplinary measures is contrary to public policy where it disregards fundamental legal principles and values underpinning the Swiss legal order (SFT 132 III 389 consid. 2.2.3; SFT 4A\_370/2007 du 21 February 2008 consid. 5.1).
54. A sanction depriving a professional athlete of the ability to exercise his profession constitutes a serious infringement of his personality rights under Article 27 of the Swiss Civil Code (the “SCC”), as well as his economic freedom. Such a ban would likely result in the suspension or termination of the Appellant’s current employment relationship, thereby depriving him of his primary source of income and jeopardizing his professional career. Paradoxically, it would also prevent him from earning the income necessary to comply with the underlying financial obligation related to the CAS Award.
55. The Appellant further notes that the dispute concerns a purely economic claim arising from a private contractual relationship with the Intermediary and bears no connection to sporting integrity or the organization of competitions. Consequently, any restriction on his professional activity would be neither necessary nor proportionate to FIFA’s legitimate regulatory objectives.
56. It is also important to recall that the Intermediary has alternative means of enforcing the CAS Award, including recourse to ordinary courts or enforcement under the New York Convention. Any legitimate interests of FIFA can be adequately protected through such mechanisms. Resorting to disciplinary sanctions in respect of a purely commercial debt – particularly one affected by procedural irregularities – violates public policy and exceeds the proper scope of FIFA’s regulatory authority.

(A.2.2) The sanction falls outside the scope of association autonomy

57. The Appellant submits that FIFA’s disciplinary action exceeds the limits of association autonomy under Swiss law. Pursuant to Article 63 of the SCC and established CAS jurisprudence, an association’s sanctioning powers must be confined to measures necessary to safeguard its essential objectives, such as the integrity of competitions, regulatory compliance, and respect for its decisions (*CAS 2019/A/6278*).
58. The present Appeal, however, arises from an ordinary CAS award, rendered in a private contractual dispute between the Player and the Intermediary, a relationship falling outside FIFA’s core statutory purposes. The Appellant submits that the protection of the financial interests of intermediaries does not constitute one of FIFA’s fundamental objectives as defined in Article 2 of the FIFA Statutes.
59. Moreover, at the time of the alleged services, the Intermediary was not a licensed FIFA agent, and the Agreement itself appears to contravene several provisions of the applicable FIFA regulations governing intermediaries and agents. It is therefore inconsistent for FIFA to assert that enforcement of such type of agreements serves its regulatory purposes.
60. The imposition of a ban would disproportionately interfere with the Appellant’s economic freedom and threaten his livelihood without serving any overriding legitimate interest. Accordingly, FIFA’s action constitutes an excessive and unlawful interference with the Appellant’s personal rights and falls outside the permissible scope of association autonomy.

(A.2.3) Nulla poena sine lege – the Appellant did not violate any FIFA regulations

61. The Appellant further submits that FIFA lacks a clear legal basis to impose a disciplinary sanction in the present circumstances. Article 21(1)(f) of the FDC, read in conjunction with Article 6 of the FDC, refers to the failure to pay “*another person (such as a player, coach, or club)*” but does not explicitly include intermediaries among the protected creditors. Accordingly, the Appellant could not reasonably foresee that non-payment under an ordinary CAS award would give rise to disciplinary sanctions.
62. In addition, the Appealed Decision provides that a sanction “*may be imposed*”, thereby granting FIFA broad and undefined discretion, without specifying minimum or maximum limits or clearly defining the scope of “*any football-related activity*”. Such vagueness fails to meet the requirement of legal certainty and creates a risk of arbitrary enforcement. In extreme cases, it could even result in indefinite sanctions, contrary to the principle of *non bis in idem*.

63. Therefore, under Swiss law and CAS jurisprudence, the Appellant cannot be subjected to a disciplinary sanction in the absence of a clear and foreseeable legal basis.

**(A.3) The sanction is abusive and grossly disproportionate**

64. Should the Sole Arbitrator nevertheless find that a sanction may be imposed, the Appellant submits that the six-month general ban is manifestly excessive and must be reduced. CAS panels deciding *de novo* have full authority to review and adjust sanctions, including where there are merely “*somewhat disproportionate*” (CAS 2022/A/8695).
65. The Appellant reiterates that he never authorized or engaged the Intermediary, who provided no services in connection with his transfer. The commission claimed represents approximately 50% of the Appellant’s contractual remuneration for one season, far exceeding FIFA’s benchmark of 3% and clearly excessive. Imposing a six-month ban for failure to pay such a disputed and disproportionate amount would violate the principles of fairness and proportionality.
66. Furthermore, a blanket prohibition from “*any football-related activity*” exceeds the sanctions typically imposed even in more serious regulatory breaches. For instance, under Article 17(3) of the FIFA Regulations on the Status and Transfer of Players (the “FIFA RSTP”), breaches of contractual stability are generally sanctioned with a four-month ban on official matches, extendable to six months only in aggravating circumstances. By contrast, Article 21 of the FDC provides no comparable limits, resulting in excessive discretion incompatible with legal certainty and proportionality.
67. The Appellant further notes that he is a first-time offender with an unblemished disciplinary record, having consistently complied with his contractual obligations throughout his career.
68. In light of the foregoing, the Appellant respectfully requests that the Appeal be upheld and that any sanction be set aside or, in the alternative, reduced to a minimal and proportionate level.

**(B) FIFA’s Submissions**

69. In its Answer, FIFA submitted the following prayers and requests for relief:

“[...]

a) [...]

b) *confirm the Appealed Decision in its entirety; and*

c) *order the Appellant to bear the full costs of these arbitration proceedings.*

[...].”

70. FIFA puts forth the following arguments in support of its position, which are summarized hereunder:

**(B.1) The CAS Award is final and binding**

71. FIFA submits that the CAS Award is final, binding and enforceable. The Appellant neither alleges nor provides any evidence that he filed any application to set aside the CAS Award before the SFT pursuant to Article 190 of the PILA, notwithstanding that the alleged violations of the right to be heard and public policy could constitute potential grounds for annulment grounds under that provision.

72. Accordingly, FIFA contends that the Appellant elected not to challenge the CAS Award, and any arguments – whether directly or indirectly – seeking to undermine its validity are irrelevant in the present Appeal.

73. In this regard, FIFA refers to established CAS jurisprudence concerning disciplinary and enforcement proceedings under the FDC, which clearly delineates the scope of review of the FIFA DC. Such bodies are not competent to reopen or review the merits of the underlying decision whose non-compliance triggered the disciplinary proceedings. Rather, their task is limited to verifying whether the debtor has complied with the final and binding decision (*CAS 2006/A/1008*; *CAS 2008/A/1610*; *CAS 2013/A/3323*; *CAS 2017/A/5401*; *CAS 2022/A/8832 & 8833*).

74. FIFA further invokes the doctrine of *res judicata*, which precludes any re-litigation of matters already finally decided. According to CAS jurisprudence, *res judicata* under Swiss law excludes the competence of a second tribunal to reconsider a final decision (*CAS 2019/A/6483*) and forms part of Swiss procedural public policy (ATF 136 III 345 and ATF 128 III 191). In addition, a CAS panel called upon to decide disciplinary proceedings is not

competent to review a prior CAS award or assess whether it complied with principles such as legitimate expectations, good faith or predictability (*CAS 2012/A/3032*).

75. On this basis, FIFA submits that the Sole Arbitrator's mandate is strictly limited to examining whether the Appellant complied with the CAS Award, and not to reassessing its correctness or validity.

**(B.2) The Appellant's failure to comply with the CAS Award**

76. FIFA submits that the Appealed Decision constitutes a straightforward application of Article 21 of the FDC, as the disciplinary proceedings were initiated due to the Appellant's failure to comply with the CAS Award.
77. FIFA explains that the CAS Award was duly rendered and notified to the Appellant. Following the Appellant's non-compliance, the Intermediary requested the initiation of disciplinary proceedings on 2 May 2025. While the First Disciplinary Proceedings were annulled in order to safeguard the Appellant's procedural rights due to a notification issue, the Second Disciplinary Proceedings were subsequently initiated. In the course of those proceedings, the Appellant rejected the Second Proposal and submitted his position, following which the FIFA DC issued the Appealed Decision.
78. FIFA outlines the relevant framework of Article 21(1) of the FDC, emphasizing that a party who fails to pay amounts ordered by a FIFA body or by CAS may be subject to a fine, granted a final deadline for compliance, and under Article 21(1)(f) of the FDC, in the case of natural persons, may ultimately be sanctioned with a ban from any football-related activity for a specified period in the event of continued default.
79. FIFA further explains that Article 21 of the FDC is designed to ensure compliance with decisions within football regulatory system by means of disciplinary mechanisms that incentivize debtors to comply with financial obligations. While such proceedings may resemble enforcement in certain respects, FIFA characterizes them as disciplinary compliance mechanisms of strictly vertical nature, grounded in association law rather than traditional civil enforcement.
80. FIFA reiterates that neither the FIFA DC nor CAS in the present Appeal may entertain arguments relating to the merits of the CAS Award. The only relevant question is whether the Appellant has complied with the payment obligation or whether the debt has otherwise ceased to be due.

81. FIFA concludes that, in the present case, the Appellant has failed to comply with the CAS Award. No evidence of payment, no confirmation of receipt by the Intermediary, and no settlement agreement have been provided.

**(B.3) The alleged sanction and its proportionality**

82. With regard to the Appellant's submissions on sanctioning – namely, public policy, personality rights, association autonomy, *nulla poena sine lege*, and proportionality – FIFA submits that these arguments are premature and irrelevant.
83. FIFA emphasizes that the Appealed Decision does not impose any sanction on the Appellant. The FIFA DC expressly refrained from imposing a fine and merely provided for a conditional procedural consequence: should the Appellant fail to comply within the final deadline, the Intermediary may request that the matter be resubmitted to the FIFA DC, which may then consider the imposition of a ban. FIFA highlights that the Appealed Decision states that a ban “*may be imposed*”, not that it “*will*” or “*shall*” be imposed.
84. FIFA further submits that several cumulative conditions must be satisfied before any sanction could be contemplated, including continued default, a request by the creditor, and a subsequent decision by the FIFA DC following resubmission of the case. Accordingly, any assessment of the proportionality of a hypothetical sanction is premature in the present proceedings. FIFA adds that any future decision imposing a sanction would constitute a new appealable decision.
85. In light of the above, FIFA submits that no sanction has been imposed in the Appealed Decision that could be characterized as abusive or disproportionate, and that it is therefore unnecessary to address the Appellant's arguments concerning a sanction that does not yet exist.

**V. JURISDICTION**

86. In accordance with Article 186 of the PILA, the CAS has the power to decide upon its own jurisdiction.
87. Article R47 of the CAS Code states that:

*“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.”*

88. Article 49(1) of the FIFA Statutes (2024 Edition) states that:

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

89. Furthermore, Article 52 of the FDC (2025 Edition) states that:

*“Decisions passed by the Disciplinary and Appeal Committees may be appealed against before CAS [...].”*

90. FIFA, in turn, did not contest the jurisdiction of CAS to hear this dispute.

91. The Order of Procedure has been duly signed by the Parties, confirming the jurisdiction of the CAS. Therefore, the CAS has jurisdiction to hear this dispute.

## **VI. ADMISSIBILITY**

92. Article R49 of the CAS Code states that:

*“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. [...]”*

93. Article 50(1) of the FIFA Statutes (2024 Edition) states that:

*“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.”*

94. The Appealed Decision was notified to the Appellant on 4 August 2025, and the Statement of Appeal was filed on 25 August 2025, i.e., within the prescribed 21-day time limit. Furthermore, FIFA has not contested the admissibility of the Appeal.

95. In light of the above and considering that the Statement of Appeal was timely filed and complied with the requirements set out in Articles R47 and R48 of the CAS Code, the Appeal is admissible.

## **VII. APPLICABLE LAW**

96. Pursuant to Article R58 of the CAS Code, in an appeal arbitration procedure before the CAS:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in absence of such 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.”*

97. Article 49(2) of the FIFA Statutes (2024 Edition) provides as follows:

*“The provisions of the CAS Code [...] shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law.”*

98. The Parties do not dispute the applicability of FIFA regulations as the “applicable regulations” within the meaning of Article R58 of the CAS Code, with Swiss law being applied on a subsidiary basis, in the event that it is necessary to fill any gap or omission in the FIFA regulations.

## **VIII. MERITS OF THE APPEAL**

### **(A) PRELIMINARY ISSUES**

99. Pursuant to Article R57 (1) of the CAS Code, the Sole Arbitrator has the “*full power to review the facts and the law*”. As repeatedly stated under CAS jurisprudence, with reference to this provision, the CAS appeals arbitration procedure entails a *de novo* review of the merits of the case and is not confined merely to deciding whether the decision appealed was correct or not. Accordingly, it is the function of the Sole Arbitrator to make an independent determination as to the merits.

### **(B) THE SCOPE OF THE APPEAL**

100. Before entering into the merits of the present Appeal, the Sole Arbitrator deems it necessary to define the scope of review of the Appeal.
101. The present proceedings arise from an appeal against a disciplinary decision issued by the FIFA DC. As such, the object of the Appeal is not the CAS Award, but exclusively the legality and correctness of the Appealed Decision adopted by FIFA.
102. In this respect, the Sole Arbitrator recalls that, although Article R57 of the CAS Code grants CAS full power to review the facts and the law *de novo*, such power does not extend to matters that fall outside the object and scope of an appeal. The scope of the review is therefore necessarily limited to the content, legal basis, and effects of the Appealed Decision.
103. Accordingly, the Sole Arbitrator finds that the Appeal is limited to determining: (i) whether the FIFA DC had the required regulatory authority and competence to issue the Appealed Decision, (ii) the enforceability of the CAS Award, and (iii) the nature and the legal basis of the Appealed Decision, as well as whether the Appellant's arguments have merit and may affect its legality.
104. The Sole Arbitrator notes that it is not in dispute that the Appealed Decision constitutes a decision subject to appeal before the CAS, and that the present proceedings concern an appeal against a decision adopted within the framework of FIFA's disciplinary powers, reflecting a vertical dispute between FIFA and one of its members. CAS jurisprudence has consistently held that FIFA has standing to be sued in appeals against its disciplinary decisions, but that such standing does not allow CAS to alter or nullify the underlying obligation (*CAS 2015/A/4271* para. 52; *CAS 2018/A/5779* para. 51). Therefore, the participation of the beneficiary of the CAS Award (i.e. the Intermediary) is not required.

**(C) THE DECISION**

**(C.1) Does the FIFA DC have the regulatory authority and competence to issue the Appealed Decision?**

105. The Sole Arbitrator first examines whether FIFA had the regulatory authority and competence to render the Appealed Decision and to initiate disciplinary proceedings against the Appellant for the non-compliance of the CAS Award.

106. Under Article 21 of the FDC, FIFA judicial bodies are expressly empowered to act in cases where a party fails to comply with a final and binding decision issued by a FIFA body or by the CAS (including CAS awards resulting from ordinary proceedings).
107. The Sole Arbitrator observes that FIFA's authority to initiate disciplinary proceedings in respect of non-compliance with CAS decisions has evolved over time. Under the regulatory framework preceding the 2019 edition of the FDC, the relevant provision (then Article 64 of the FDC) referred primarily to the failure to comply with decisions of FIFA bodies and, where applicable, subsequent CAS appeal decisions. In other words, FIFA's compliance mechanism did not expressly extend to CAS awards rendered in ordinary proceedings. This position was expressly revised with the entry into force of the 2019 edition of the FDC on 15 July 2019, following FIFA Circular No. 1689, by which FIFA introduced a broadened compliance regime. Through this reform, the wording of the provision was amended to refer generally to "*CAS decisions*," thereby extending FIFA's disciplinary competence to include final CAS awards rendered in ordinary proceedings, subject to specific transitional limitations.
108. The above regulatory development is expressly maintained in the current framework applicable to the present case. In particular, Article 21(11) of the FDC (2025 Edition) provides that "*disciplinary proceedings for failing to respect a final CAS decision rendered in the context of ordinary proceedings may be initiated provided that the respective CAS procedure started after 15 July 2019.*" This provision confirms that FIFA's disciplinary bodies are competent to act in cases of non-compliance with CAS awards issued in ordinary proceedings falling within the temporal scope of the amended regime. It further empowers FIFA to grant a final deadline for compliance and, in the event of continued default, to adopt disciplinary measures against the non-compliant party.
109. CAS jurisprudence has consistently recognized that proceedings under Article 21 of the FDC constitute compliance-control mechanisms, rather than a review of the merits of the underlying decision (*CAS 2006/A/1008*, paras. 39-41; *CAS 2013/A/3380*, para. 81; *CAS 2017/A/5401*, para. 56).
110. Presently, it is undisputed that the CAS Award ordered the Appellant to pay specific amounts to the Intermediary. The Appellant does not dispute that he was aware of the CAS Award, that the respective CAS procedure started after 15 July 2019 and that he failed to comply with the decision. Once such non-compliance was established and following the request from the Intermediary to open disciplinary proceedings against the Appellant, FIFA

was entitled to activate its disciplinary compliance mechanism pursuant to Article 21 of the FDC.

111. The Sole Arbitrator further notes that the Appellant had also acknowledged and recognized FIFA's authority and competence as set out in the Agreement. In particular, Clause 6.2 of the Agreement (see para. 8 above) provides that in the event of non-compliance with a CAS award, the matter could be referred to the FIFA DC. In this respect, the Sole Arbitrator considers that the Appellant cannot be surprised that FIFA is entitled to apply its regulatory framework in circumstances of non-compliance, as this possibility was expressly contemplated and accepted by the Appellant at the time of concluding the Agreement.
112. The Sole Arbitrator finds that FIFA acted within its regulatory powers and as the official compliance authority when issuing the Appealed Decision. The FIFA DC neither exceeded its competence nor misapplied Article 21 of the FDC and the Appealed Decision constitutes a lawful exercise of FIFA's disciplinary powers and cannot be regarded as *ultra vires*.

(C.2) **The enforceability of the CAS Award**

113. The Sole Arbitrator now turns to the Appellant's arguments concerning the alleged procedural defects in the ordinary CAS proceedings that led to the CAS Award, namely particular violations of his right to be heard.
114. Pursuant to Article R59 of the CAS Code, a CAS award is final and binding upon its notification to the parties, subject only to the limited remedies available under Swiss law. Such remedies are exhaustively regulated by Article 190(2) of the PILA, which sets out the exclusive grounds upon which an international arbitral award may be challenged before the SFT.
115. Among those grounds, Article 190(2)(a), (d) and (e) of the PILA expressly provides that an award may be challenged if "[...] *the arbitral tribunal was improperly appointed or [...] constituted*", "[...] *the principle of equal treatment of the parties or the right to be heard was violated*" or "[...] *the award is incompatible with public policy*".
116. The above provision broadly covers the type of allegations raised by the Appellant in the Appeal. Swiss jurisprudence consistently confirms that the referred violations constitute a recognized and frequently invoked basis for setting aside arbitral awards (SFT 132 III 389; SFT 4A\_370/2007). However, if such recourse is not exercised within 30 (thirty) days from the date of notification of the award, pursuant to Article R59 of the CAS Code, read along

with Article 190(4) of the PILA and established Swiss jurisprudence (SFT 4A/392\_2010), the award becomes final and binding.

117. CAS jurisprudence and Swiss law are unequivocal that a final arbitral award that has not been set aside cannot be reviewed, corrected, or neutralized by another arbitral tribunal or disciplinary body (*CAS 2012/A/3032* para. 70; *CAS 2019/A/6483* paras. 117-120; ATF 136 III 345 at 2.1).
118. The Sole Arbitrator further notes that, irrespective of the remedies established under the PILA, the Appellant himself expressly acknowledged within his Appeal Brief that “[t]he Player wishes to remark (again) that he is aware that FIFA (and CAS now) cannot reopen and review again the merits of the CAS Award.” This statement unequivocally demonstrates that the Appellant was fully aware that, at this stage of the proceedings, it was procedurally impossible to challenge or alter the final and binding CAS Award (*res judicata*). Consequently, the Appellant’s arguments must be dismissed as inadmissible and irrelevant at this stage.

(C.3) **The Nature and Legal Basis of the Appealed Decision**

119. The Sole Arbitrator further notes that a substantial part of the Appellant’s submissions is devoted to challenging the legality and the alleged disproportionate nature of a 6 (six) month ban on all football related activity referenced in the Appealed Decision.
120. In this respect, the Sole Arbitrator considers it essential to clarify the scope and legal nature of the Appealed Decision.
121. As of this moment, the FIFA DC has not imposed any sporting sanction on the Appellant. Rather, the Appealed Decision granted the Appellant a final deadline to comply with the CAS Award and merely indicated that, in the event of continued non-compliance, and only upon request of the Intermediary, the matter may be resubmitted to the FIFA DC for consideration of potential disciplinary measures.
122. The Sole Arbitrator considers that the Appealed Decision should be understood as a formal warning to the Appellant that persistent failure to comply may, at a later stage, trigger serious disciplinary consequences. At present, however, the Appealed Decision does not impose any immediate sporting sanction on the Appellant but simply outlines the potential consequences should the unpaid amounts remain outstanding.

123. The potential indicated sanction in the Appealed Decision is conditional, hypothetical, and prospective in nature. It is contingent upon the cumulative occurrence of several future events, namely the Appellant's continued non-compliance and the submission of a formal request by the Intermediary. Should a sanction be imposed at a later stage, such decision, would constitute a new and independent appealable decision, capable of being challenged before the CAS.
124. For the sake of completeness, considering the Appellant's reliance on the principle *nulla poena sine lege* and on alleged limits to association autonomy, the Sole Arbitrator notes that Article 21(1) FDC is framed to secure compliance with "[...] [a] *final decision* [...] *passed by a body, a committee, a subsidiary or an instance of FIFA, or by CAS*", and authorizes measures against a party that fails to comply with a final and binding decision from a FIFA body or CAS.
125. The Appeal cannot serve as a substitute for an annulment action before the SFT, nor can it transform FIFA into a proxy defendant for the underlying financial dispute.
126. As a final observation, the Sole Arbitrator notes that several arguments advanced by the Appellant, such as the alleged violation of public order, the right to be heard and personality rights, could, in principle, have been raised before a competent state court in the context of enforcement proceedings under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "NYC"), as Article V of the NYC states that: "(1)(b) *The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or [...]* (2)(b) *The recognition or enforcement of the award would be contrary to the public policy of that country.*" However, the NYC is not applicable and neither the FIFA DC proceedings nor these CAS proceedings can be seen as an enforcement proceeding of the CAS Award.

**(D) Conclusion**

127. In light of the foregoing analysis, the Sole Arbitrator establishes the following:
- a. FIFA acted within its regulatory authority and competence when issuing the Appealed Decision pursuant to Article 21 of the FDC.
  - b. The CAS Award became final and binding after the Appellant failed to challenge it before the SFT within the applicable time limit.

- c. The Appealed Decision does not impose any sanction on the Appellant but merely reflects a formal warning at securing compliance with the CAS Award. The Appellant's arguments concerning potential future sanctions are premature and do not affect the legality or the enforceability of the Appealed Decision.
128. Accordingly, the Appeal is dismissed and the Appealed Decision confirmed.

**IX. COSTS**

(...)

## **ON THESE GROUNDS**

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

1. The appeal filed by Guy Carel Mbenza Kamboleke on 25 August 2025 with respect to the decision passed by the FIFA Disciplinary Committee on 9 June 2025 is dismissed.
2. The decision passed by the FIFA Disciplinary Committee on 9 June 2025 is confirmed.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 12 August 2026

## **THE COURT OF ARBITRATION FOR SPORT**

Rui Botica Santos  
Sole Arbitrator