



TAS / CAS

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

CAS 2024/A/10877 Abha Football Club v. Grzegorz Kurdziel

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Oliver Jaberg, Attorney-at-Law in Aarau, Switzerland

in the arbitration between

Abha Football Club, Abha, Saudi Arabia

Represented by Mr Boughrara Khaled Ben Mohamed, Attorney-at-law in Ottawa, Canada

- Appellant -

and

Mr Grzegorz Kurdziel, Sosnowiec, Poland

Represented by Mr Mateusz Stankiewicz, Attorney-at-law in Kraków, Poland

- Respondent -

I. PARTIES

1. Abha Football Club (“the Appellant” or “the Club”) is a professional football club, affiliated to the Saudi Arabian Football Federation (the “SAFF”), which in turn is a member of the *Fédération Internationale de Football Association* (“FIFA”).
2. Mr Grzegorz Kurdziel (“the Respondent” or “the Coach”) is a Polish football coach.
3. The Appellant and the Respondent are hereinafter jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

A. Background Facts

4. Below is a summary of the relevant facts and allegations based on the decision rendered by the FIFA Dispute Resolution Chamber (“FIFA DRC”) on 10 July 2024 (“the Appealed Decision”), the Parties’ written submissions and oral pleadings as well as on the evidence adduced. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he only refers in his Award to the submissions and evidence he considers necessary to explain his reasoning.
5. The Parties concluded an employment contract (the “Contract”) valid from 1 July 2023 until 30 June 2024. The Respondent was employed as part of the coaching team, led by Mr. Czeslaw Michniewicz (the “Head Coach”). The Respondent was employed as an assistant coach as per the Contract.
6. According to para. 3 of the Appealed Decision, the Contract stipulated *inter alia*, the following:
“[...]

IX. Compensation and Termination: *By mutual consent, the parties have expressly and irrevocably agreed that in the event of a breach of this contract, the party in breach or terminating the contract shall be required to pay the other party an amount equivalent to two (2) months' salary as compensation.*

[...]”

7. On or around 12 July 2023, the Club sent a “*Club Acquisition Approval Form (Foreign Players Only)*” regarding the acquisition of the player Gregorz Krychowiak, which was approved and signed by the President of the Club, the Respondent, the Sporting Director of the Club and the Finance Director of the Club to the Saudi Pro League (the “SPL”).
8. On or around 22 July 2023, the Club sent a “*Club Acquisition Approval Form (Foreign Players Only)*” regarding the acquisition of the player Francois Kamano, which was

approved and signed by the President of the Club, the Respondent, the Sporting Director of the Club and the Finance Director of the SPL.

9. On or around 23 July 2023, the Club sent a “*Club Acquisition Approval Form (Foreign Players Only)*” regarding the acquisition of the goalkeeper Ciprian Tătărușanu, which was approved and signed by the President of the Club, the Respondent, the Sporting Director of the Club and the Finance Director of the Club to the SPL.
10. On or around 26 July 2023, the Club sent a “*Club Acquisition Approval Form (Foreign Players Only)*” regarding the acquisition of the player Fabian Noguera, which was approved and signed by the President of the Club, the Respondent, the Sporting Director of the Club and the Finance Director of the Club to the SPL.
11. On or around 1 August 2023, the Club sent a “*Club Acquisition Approval Form (Foreign Players Only)*” regarding the acquisition of the player Karl Toko Ekambi, which was approved and signed by the President of the Club, the Respondent, the Sporting Director of the Club and the Finance Director of the Club to the SPL.
12. Between 14 August 2023 and 1 October 2023, the Appellant played 8 matches, of which the Appellant lost six and won two.
13. On 1 October 2023, the Club unilaterally terminated the Contract with the Respondent, via the Head Coach and stated the following:

“Dear Mr. Czeslaw,

We are writing to inform you that your employment with Abha FC will be terminated effective September 30, 2023. This decision has been made after careful consideration due to a series of first team performance issues, including six (6) losses after Week 8 of the season.

In accordance with your employment contract, you will receive compensation equivalent to two (2) months' salary as compensation for breach of contract, along with your return ticket.

Before your departure, we kindly request your signature on a financial release document, which will be provided to you by the financial department. This release is a standard procedure and ensures the proper disbursement of your compensation and your return air ticket.

We appreciate your contributions and wish you well in your future endeavors.

*Sincerely,
Mohamed Al-Qahtani
Professionalism director”*

14. On 2 October 2023, the Club sent an E-Mail containing a “*termination and release document*” to the Head Coach, requesting him to sign and return it.

15. On 3 October 2023, the Head Coach replied to the Appellant stating:

*“Dear Sir of [sic] Madam of Abha F.C.
with reference to the draft agreement sent by the Club, I present my reservations below.*

1. The date: September 30 (match day), indicated in the agreement is not correct. I and my staff learned about my release from the obligation to work for the Club from the club's translator and social media on October 1, 2023.

However, information from the Club about releasing me from my duties to employees was sent to me by e-mail on the evening of October 1, 2023.

2. Even though the Club publishes media information about the termination of my contract, I remain an employee of the Club. I would like to point out that the coaching contract may be terminated before its expiry date only by mutual agreement between the parties, which has not occurred to date. However, there are no circumstances entitling the Club to unilaterally terminate the contract.

3. The financial equivalent for terminating the coaching contract should be set at the amount of the monthly remuneration for the nine months remaining until the expiry of the contract (from October 2023 to the end of June 2024). Only the dates and method of payment can be negotiated.

Due to the above reservations, I refuse to sign the agreement in the proposed version by the Club, because it does not comply with the agreed contract terms and FIFA Regulations.

For this reason, I am asking you to prepare a mutual agreement in accordance with the contract terms and FIFA regulations.

I understand the situation and am willing to reach a mutual agreement including termination of the contract that will respect the interests and rights of both parties and will be in line with the principle of contractual stability.

I am expecting a new proposal to terminate the contract, which please also send to my legal representative: [...].”

16. On the same day, the Appellant replied to the Head Coach stating:

“Dear coach,

We acknowledge your email from October 3, 2023.

Apologies for the error in our previous communication. The contract was terminated with immediate effect as of October 1, 2023, i.e., the date of receipt of the email notice. The September 30, 2023, date was a typographical mistake.

The club's decision to terminate the contract was driven by the six losses within eight weeks and our genuine apprehensions about potential relegation. This move was essential given the observed inability to rectify the situation, even after multiple advance warnings were given each week. Such performance significantly diverges from our agreed-upon targets.

Clause 11 of our contract was formulated in line with the general principle of proportionality and the principle of balance of rights of both parties. It expressly and irrevocably sets the compensation, providing benefits to either party with equivalent rights in favor of the other. This mutual agreement ensures clarity, fairness, and equilibrium for both parties in situations like these. In determining the compensation due to premature termination, we are strictly adhering to Clause 11, in accordance with Article 6 para.2 of Annexe 2 of the FIFA RSTP. As stipulated, the compensation for an unjustified breach, if deemed so, has been predetermined as two months' salary.

We value the contributions you made during your tenure and trust that this resolution adheres to our contractual obligations and is in line with FIFA regulations, embodying the principles of fairness and balance.

Our financial department will contact you regarding the compensation disbursement and return ticket.

Thank you for your understanding and for your contributions to Abha F.C.

*Regards,
Abha fc”*

17. On 11 October 2023, the Parties entered into a “Contract Termination and Financial Release”, which stated the following:

WHEREAS, the Parties had previously entered into an employment contract on 8 June 2023, hereafter referred to as ***“the Contract”***;

WHEREAS, the CLUB has decided to unilaterally terminate said Contract effective as of the 1st day of October, 2023, without any just cause;

WHEREAS, both parties now wish to formally document the terms of that termination and fully and finally resolve any and all issues between them, whether arising out of said Contract or otherwise;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. Unilateral Termination: The Contract between the COACH and the CLUB was unilaterally terminated by the CLUB effective as of October 1, 2023, without any just

cause. Neither party shall have any further obligations toward the other under said Contract, except as specifically provided in this Agreement.

2. Compensation for Early Termination: *The CLUB agrees to compensate the second party a sum equivalent to three (3) months' salaries for the early termination of the Contract without just cause. This amount totals \$ [...] USD ([...] USD) net of Tax in Saudi Arabia.*

3. Mode of payment: *The payment outlined in Section 2 shall be executed exclusively via bank transfer to the designated Saudi bank account detailed below:*

[...]

4. Return Air Ticket: *The CLUB shall provide the second party with a return air ticket to return to his country, in line with the terms previously agreed upon.*

5. Certificate of income: *The CLUB commits to furnishing the second party with an English certification upon the signing of this contract, which attests to the tax-exempt status of his earnings in Saudi Arabia until the date of termination.*

6. Release: *Upon full receipt of the compensation as detailed in section 2, and in conjunction with the successful provision of both the air ticket return and the income certificate as outlined in clauses 4 and 5, the Second Party hereby irrevocably and unconditionally releases and forever discharges the CLUB, its agents, representatives, employees, successors, and assigns, from all claims, actions, demands, rights, causes of action, obligations, and liabilities, whether known or unknown, suspected or unsuspected, both at law and in equity, that arise out of or are in any way related to the employment of the Second Party, including, but not limited to, any alleged breach of the employment contract, any alleged violations of employment rights, or any other potential grounds for liability. This release encompasses any and all claims arising out of or in any way connected with any aspect of the Second Party's employment with the CLUB or the termination of that employment. By executing this release, the Second Party acknowledges and agrees that he has no further recourse against the CLUB and that he has been compensated to his satisfaction for all matters relating to his employment and the termination thereof.*

7. Conditions of Release: *This Release is contingent upon the timely payment to be credited to the second party's designated account, as outlined in in Sections 2 and 3 , and the Club's adherence to the obligation stipulated in point 4 and 5. In case of any deviation or non-compliance with the terms set out in this Release, provisions from the original Contract shall prevail and be enforced. Furthermore, upon meeting its obligations, the Club is required to promptly send an email with the Certificate of income proof or confirmation, validating the successful completion of the payment by no later [sic] October 20th, 2023.*

6. [sic] Entire Agreement: *This Release contains the entire agreement between the Parties supersedes all prior negotiations, understandings, and agreements between the Parties.*

IN WITNESS WHEREOF, *the Parties hereto have executed this Release as of the date first above written.*

The CLUB

The Assistant COACH

BY: MR. FAHD AHMAD ALMOFARAH

*GRZEGORZ WLADYSLAM
KURDZIEL”*

18. On 16 October 2023, the Club sent a letter to the Respondent and stated the following:

“Dear Mr KURDZIEL,

We hereby inform you that, by unilateral decision, Abha fc has chosen to terminate the contract, originally entered into on June 9th, 2023, effective as of 15 October 2023.

In acknowledgment of this early termination, Abha fc will provide compensation equivalent to two (2) monthly salaries. This compensation serves as settlement for the early termination of our agreement and is intended to cover any claims or obligations arising from this decision or related to the employment contract.

Kindly attend to the club financial department to receive the following:

- 1. Your salary for the partial month of October, specifically for the 16 days in October 2023.*
- 2. Compensation due to the early termination of the contract.*
- 3. An additional amount of [...] EURO intended to cover the costs of your return ticket.*

We deeply value the time and effort you dedicated during your tenure with Abha team and aim to uphold our commitments with the utmost integrity.

We wish you all the best in your future endeavors.

Best regards,

*FAHD AHMAD ALMOFARAH
Vice President of the club”*

19. Following the termination of the Contract, the Appellant paid the sum of 2 monthly salaries to the Respondent, as stipulated in Clause 9 of the Contract.
20. As per para. 6 of the Appealed Decision, on 22 November 2023 [the Appealed Decision mentions 2024 which likely is an error], the Respondent requested payment from the Club

in the amount of USD [...] net, setting a time limit expiring on 29 November of the same year, in order to remit payment. Said amount corresponded to (i) USD [...] net as compensation for the unilateral termination of the contract equal to the residual value of the contract as of 17 October 2023 until its expiry, (ii) USD [...] net as a contractual penalty equivalent to two monthly salaries for each alleged violation, and (iii) USD [...] corresponding to a match bonus.

21. Between 6 October 2023 and 27 May 2024, the Appellant played 26 matches, of which the Appellant lost 14 matches, won 7 matches and drew 5 matches.
22. The Appellant ended the 2023/2024 season in 16th position out of 18 and was subsequently relegated to the Saudi First Division League, which is the second tier of professional football in Saudi Arabia.
23. On 4 January 2024, the Appellant sent an E-Mail to the Head Coach stating the following:

“Subject: Termination and Compensation Details for Technical Staff

Dear Sirs,

We are writing to formally notify you of Abha fc's unilateral decision to terminate the contract with the head coach Mr. CZESLAW and his technical staff, a team of 4 members i.e., Mr Vlad, Mr PAWEL, Mr. KURDZIEL, MR GERARD, initially executed on the start of June, 2023. The termination is effective as of October 15, 2023, deviating from the initially agreed-upon date of October 1, 2023.

In recognition of this early termination, Abha fc has undertaken to provide comprehensive compensation for each member of the technical staff. Additionally, the club has paid more than half of the monthly salary (16 days), addressing the termination of the contract from October 15, 2023, instead of the original date of October 1, 2023. This decision aligns with the compensation clauses agreed upon in the contract, specifically tailored for cases of early termination.

Furthermore, as part of the compensation package, each member of the technical staff is entitled to receive two (2) monthly salaries, as stipulated in the contract. This commitment aligns with the clauses by means of which the parties had beforehand agreed upon compensation payable in the event of a breach of contract.

Attached, please find the 15 proof of payment dated October 17, 2023, made through National transfer wires initiated from Abha FC's account at Saudi National Bank (Al Ahli NCB) to the individual Saudi Bank accounts of each staff member, as requested, one day before their departure. This fulfills the request made before their leave on the subsequent day of October 18, 2023.

There are 3 proof of payment documents for each technical staff member, including the head coach, consisting of the following:

- 1. A first transfer payment equivalent to half of the October compensation, covering 16 days and exceeding more than half of the monthly salary.*
- 2. Another separate payment was made on October 17, 2023, equivalent to a compensation equal to 2 monthly salaries as compensation for the breach of contract i.e; Early termination.*
- 3. A third payment specifically designated as compensation to cover the costs of the return air ticket, amounting to the equivalent of EUR [...] for each technical staff member.*

An essential aspect of the compensation arrangement is the club's commitment to not deduct the IQAMA costs previously advanced by the club for the technical staff of Mr CZESLAW, totaling approximately [...] SAR, for each member of the technical staff of Mr. CZESLAW. It is noteworthy that the contract explicitly places the responsibility for these IQAMA costs on the technical staff, i.e. The contract explicitly assigns the responsibility for these IQAMA costs to each member of the technical staff, including Mr.CZESLAW technical.

The above compensation package for each technical staff was designed to settle any claims or obligations arising from the termination, effectively covering the early termination of our agreement.

We believe that this detailed information provides clarity on the termination and compensation processes for each member of the technical staff. If you require any further documentation or clarification, please do not hesitate to reach out to us promptly.

Thank you for your understanding and cooperation in this matter.

*Best Regards,
Mohamed Al-Qahtani
Professionalism Director*

*P.S. The transfer of SAR [...] instead of SAR [...] for Mr. ZESLAW's October compensation stems from necessary adjustments to correct an overpayment in the preceding months. Mr. CZESLAW inadvertently received SAR [...] for both July and August, Salary exceeding the correct amount of SAR [...] ([...] USD * 3.75). As a result, a deduction was made to rectify the overpayment. The adjusted compensation for 16 days in October totaled SAR [...], leading to a final transfer of SAR [...]. This amount reflects the net payment, factoring in the overpayment correction and accounting for potential deductions like IQAMA and related costs, as outlined in the compensation arrangement i.e. the IQAMA costs are SAR [...].”*

B. Proceedings before FIFA

24. On 29 March 2024, the Respondent filed a Statement of Claim before the Players' Status Chamber of the FIFA Football Tribunal (hereinafter: "FIFA Players' Status Chamber") against the Club requesting, *inter alia*, the following:

"The Coach claims for payment of the sum of:

1) USD [...] along with the statutory interest in the rate of 5% p.a. from 17 October 2023 until the date of payment, as a compensation for termination of the Contract without just cause;

2) USD [...] along with the statutory interest in the rate of 5% p.a. from 17 October 2023 until the date of payment, as a compensation for breaches of the Contract;

Please apply the consequences for failure to pay relevant amounts in due time under article 24 FIFA RSTP."

25. In its reply, the Club rejected the claim, arguing that the coaching staff had failed to reach the sporting goals for the season, which led to the termination on 1 October 2023 and not 16 October 2023, as expressed by the Coach.
26. On 10 July 2024, the Single Judge of the Players' Status Chamber of the FIFA Football Tribunal (hereinafter: the "Single Judge") passed the appealed decision (Ref. FPSD-14249 the "Appealed Decision").
27. On 27 August 2024, the grounds of the Appealed Decision was communicated to the Parties. Its findings stated the following:

"1. The claim of the Claimant, Grzegorz Kurdziel, is partially accepted.

2. The Respondent, Abha, must pay to the Claimant the following amount(s):

- PLN [...] plus 5% interest p.a. as from 21 June 2023 until the date of effective payment;

- USD [...] as compensation for breach of contract without just cause plus 5% interest p.a. as from 17. October 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.

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.”

28. In essence, the Single Judge concluded that a coach’s unsatisfactory performance cannot be a valid reason for an employer to cease paying due salaries or terminate an employment contract, as this is a purely unilateral and subjective evaluation by the club. Furthermore, the Single Judge concluded that such a determination, even if expressed as a clause or condition in a contract, is of a clearly potestative nature as it leaves the decision of terminating the employment contract at the sole discretion of the club, provided that the same club assesses the coach’s performance as unsatisfactory at any time.
29. The Single Judge decided that the Club had terminated the Contract without just cause as of 1 October 2023 and was liable for such breach, as the settlement agreement was not binding amongst the parties and shall be disregarded.
30. As a consequence, the Single Judge determined that, since the Respondent had remained unemployed since the unilateral termination of the Contract, and in application of Article 6 (2) (a) of Annexe 2 RSTP, the Club was liable to pay to the Respondent compensation for breach of contract in the amount of USD [...], *i.e.*, 9 times USD [...], as the residual value of the Contract from October 2023 until June 2024. However, since the Club already paid the Respondent’s salary for half of October 2023 (USD [...]) and two monthly salaries pursuant to the compensation clause in the Contract (2 x USD [...]) equalling USD [...]), the Single Judge decided to take the foregoing into account and finally award the Respondent USD [...] plus interest on said compensation at the rate of 5% p.a. as of 17 October 2023 until the date of effective payment.
31. In addition, the Single Judge noted that the Respondent also requested a reimbursement for the flight purchased to join the club. In this respect, the Single Judge recalled the evidence provided by the Respondent which established that the Respondent indeed incurred this expense, in addition to the language in the contract establishing that the club would pay for two round-trip tickets. To this end, the Single Judge noted that the club appeared to have only paid for the return ticket. Hence, the Single Judge concluded the Respondent should be awarded the amount of PLN [...] as a flight reimbursement plus interest on this amount at the rate of 5% p.a. as of 21 June 2023 until the date of effective payment.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

32. On 17 September 2024, the Appellant filed its Statement of Appeal against the Respondent with respect to the Appealed Decision, pursuant to Article R48 of the Code of Sports-related arbitration (2023 edition) (the “Code”).
33. On 25 September 2024, the CAS Court Office notified FIFA of the Appeal and invited FIFA to comment on its intent to participate in the CAS proceedings.
34. On 1 October 2024, the Deputy President of the CAS Appeals Arbitration Division decided, pursuant to Article R50 para. 1 of the Code, to submit the present case to a sole arbitrator.
35. On 7 October 2024, FIFA renounced its right to participate in the CAS proceedings.
36. On 8 October 2024, the CAS Court Office acknowledged that FIFA renounced its right to request its possible intervention in the present case and informed the Parties thereof.
37. On 25 November 2024, after having granted numerous extensions, the CAS Court Office, on behalf of the Deputy Division President, informed the Parties that the Appellant was granted an exceptional extension to file its Appeal Brief until 2 December 2024. The CAS Court Office also advised the Appellant that no further extensions will be granted and that any future requests will be strictly disregarded.
38. On 2 December 2024, the Appellant filed its Appeal Brief, pursuant to Article R51 of the Code and within the time limit granted by the CAS Court Office, however without annexes.
39. On 3 December 2024, the CAS Court Office acknowledged receipt of the Appeal Brief and informed the Parties, that the annexes had not been provided. The CAS Court Office also included the following remarks in its letter to the Parties:
“Pursuant to Art. R31 of the Code of Sports-related Arbitration, “the filing is valid upon receipt of the facsimile or of the electronic mail by the CAS Court Office provided that the written submission and its copies are also filed by courier or uploaded to the CAS e-filing platform within the first subsequent business day of the relevant time limit”. Therefore, the annexes must be submitted within the prescribed deadline.

Should the Appellant experience any difficulties with the e-filing platform, it is requested to promptly verify its access with the CAS Court Office and provide us with proof of any technical issues.

Alternatively, the Appellant may submit the annexes via courier, as per the provisions of R31.

Please be reminded that it is the Parties’ responsibility to ensure the timely and complete submission of all necessary documents, in accordance with the CAS Code”.

40. On 3 December 2024, the Appellant requested an exceptional 24-hour extension to submit the annexes to the Appeal Brief, on the pretence of experiencing urgent technical difficulties, but failed to provide proof thereof.
41. On 4 December 2024, the Appellant filed several annexes 1, 2-1, 2-2, 2-3, 2-4, 3-1, 3-2, 3-3, 4-1, 4-2, 4-3, 4-4, 5-1, 5-2, 5-3, 5-4, 6, 8-1, 8-2, 14-2, 15, 16, 17, 18, 19, 20, 22 and 23-1 via E-Mail to the CAS Court Office and uploaded them to the e-filing platform.
42. On 17 December 2024, the Respondent requested an extension to file the Answer to the Appeal Brief and requested access to the Appellant's annexes as annexes 7, 9, 10-1, 10-2, 11, 12, 14-1 and 22 were shared with the Respondent in the form of a Google Drive link without having been granted access. Furthermore, the requested documents had not been made available to the Respondent on the CAS e-filing platform.
43. On 18 December 2024, the CAS Court Office granted a 10-day extension to Respondent. With regard to the request concerning the annexes, the CAS Court Office informed the Respondent that the documents provided were as they were submitted by the Appellant through the e-filing platform and that the documents sent to Respondent reflected what the Appellant had submitted.
44. On 13 January 2025, the Respondent submitted its Answer to the Appeal Brief, pursuant to Article R51 of the Code and within the time limit granted by the CAS Court Office.
45. On 16 January 2025, the Deputy President of the Appeals Arbitration Division appointed Mr Oliver Jaberg as Sole Arbitrator in the present proceedings.
46. On 27 January 2025, the CAS Court Office informed the Parties, on behalf of the Deputy President of the CAS Appeals Arbitration Division, that the Arbitral Tribunal appointed to decide this case was composed as follows:

Sole Arbitrator: Mr Oliver Jaberg, Attorney-at-law in Aarau, Switzerland
47. On 19 February 2025, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to hold a hearing in this matter via videoconference, pursuant to Article R57 of the Code.
48. On 3 March 2025, the CAS Court Office, on behalf of the Sole Arbitrator, issued the Order of Procedure, which was duly signed by the Club and the Respondent on 10 March 2025.
49. On the same date, the CAS Court Office provided the Dial-in information (Webex link) for the conduction of the hearing to the Parties.
50. On 17 March 2025, the Appellant requested the appointment of an independent expert to provide *“unbiased analysis on the management of the team, particularly the technical and administrative decision leading to the club's relegation and its financial implications.”* In addition, the Appellant requested the Sole Arbitrator to appoint a neutral

interpreter, proficient in Arabic and English and listed 8 individuals, who would be attending the hearing on behalf of the Appellant.

51. On 18 March 2025, the CAS Court Office invited the Respondent to comment on the Appellant's request for the appointment of an independent expert. In addition, the CAS Court Office requested that the Appellant provide written witness statements by 28 March 2025 for each of their witnesses it intends to hear during the hearing. *In fine*, the CAS Court Office reminded the Parties that any person requiring the assistance of an interpreter must arrange for the attendance on an independent interpreter and their own expense.
52. On 24 March 2025, the Respondent objected to the Appellant's request regarding the appointment of an independent expert.
53. On 27 March 2025, the Appellant requested an extension until 10 April 2025 to provide its witness statements, which was granted by the Sole Arbitrator.
54. On 15 and 16 April 2025, the Appellant provided two witness statements (Mr Epassy and Mr Baqry) and an expert report.
55. On 20 May 2025, a virtual hearing was conducted via Webex. Before the hearing commenced, the platform sent an automated reminder to all participants.
56. In addition to the Sole Arbitrator and Mr Francisco Mateo, CAS Counsel, the following persons attended the hearing:
57. For the Appellant, the following persons were present:
 - Mr B. Khaled Ben Mohamed Boughrara, Legal representative
 - Dr Ahmed Alhoudaithy, President of the Club
 - Mr Fahed Al Mufrah, Vice President of the Club
 - Mr Saad Bguir – Ex-Captain of the first team
 - Mr Devis Epassy
58. For the Respondent, the following persons were present:
 - Mr Mateusz Stankiewicz, Counsel
 - Mr Czeslaw Michniewicz, Respondent (CAS 2024/A/10875)
 - Mr Pawel Primel, Respondent (CAS 2024/A/10876)
 - Mr Grzegorz Kurdziel, Respondent (CAS 2024/A/10877)
 - Mr Gerard Juszczak, Respondent (CAS 2024 /A/10901)
59. At the beginning of the hearing, the counsel for the Appellant mentioned that not all participants had received the invitation to the online hearing and that the Appellant and its witnesses had been provided with the log in link only on the morning of the hearing. As a consequence, the Appellant mentioned that its witnesses were experiencing difficulties to log in. The Sole Arbitrator informed the Appellant that the Parties and all persons listed for the hearing had been duly informed of the meeting and been provided

with the log in details well in advance of the hearing. The counsel for the Appellant disputed this.

60. After waiting for an additional 15 minutes, the Appellant's witnesses did not log in to the hearing. Counsel for the Appellant requested the CAS to aid its witnesses in downloading the application necessary for joining the hearing. The Sole Arbitrator informed the Appellant that it was not the responsibility of the CAS to ensure that the Parties' witnesses were able to log in to the hearing in time, but that it was the Parties' responsibility. However, the Sole Arbitrator suggested to wait another 10 minutes for the witnesses of the Appellant to join the hearing. The Respondent opposed such break as the Appellant had displayed manifold dilatory tactics during the lead up to the hearing and that this technical issue was only another tactical attempt to derail the hearing.
61. The Sole Arbitrator decided to continue with the opening statements and to see if by the end of the opening statements, the witnesses were able to log in.
62. The Parties raised no additional preliminary issues. Both Parties confirmed that they had no objection to the appointment of the Sole Arbitrator to preside over this case.
63. After both Parties held their opening statements, the Sole Arbitrator informed the Appellant that the CAS Court Office provided the Dial-in information to both Parties in March 2025 and that the CAS Court Office also reminded the Parties on 18 March 2025 that it was the responsibility of the Parties that their attendees and witnesses would be able to connect to the hearing.
64. Thereafter the Sole Arbitrator asked the Appellant again, if its witnesses were now able to connect to the hearing, which the Appellant denied. The Sole Arbitrator then decided to continue the hearing without hearing the Appellant's witnesses. After a short break, Mr Saad Bguir, witness for the Appellant, was able to connect and the Sole Arbitrator decided to hear Mr Bguir. However, since the Appellant failed to provide an official interpreter, and since Mr Bguir was unable to speak English, the Sole Arbitrator decided to not hear Mr Bguir. Later, Mr Devis Epassy, witness of the Appellant was able to connect, but Mr Epassy left the waiting room again, before he was called up by the Sole Arbitrator to testify. Thereafter, and in view of the fact that the witnesses concerned did were not available to testify during the hearing, the Sole Arbitrator decided to not hear any witnesses and invited the Parties to hold their closing statements.
65. At the end of the hearing, the Sole Arbitrator asked the Parties, if the hearing was conducted correctly and if the procedural rights of the Parties had been respected. The Counsel for the Appellant raised an objection as the President of the Appellant was unable to speak. The President of the Appellant interjected and asked why Mr Epassy and Mr Bguir were not allowed to provide witness testimony. The Sole Arbitrator explained that the witnesses could only be heard if there is an independent interpreter available. Mr Mateo informed the attendees that Mr Epassy joined again during the closing statements but left the lobby again during the closing statement. The Sole Arbitrator confirmed that Mr Epassy was not in the lobby. The Sole Arbitrator acknowledged that the Appellant was of the opinion that its right to be heard had not been respected. The Counsel for the

Respondents confirmed that the procedural rights, including the right to be heard of the Respondents had been fully respected. As a final remark, the President of the Appellant mentioned that the Head Coach had destroyed the Club and caused the relegation of the Club and that the Club's board members were facing possible prison sentences because of the Head Coach.

66. On the same day, the Appellant submitted post hearing clarifications and requested the following:

“In light of the above, and to preserve the Appellant's right to be heard (Article R44.1), we respectfully request that the Panel:

1. Admit and retain full evidentiary weight for the written witness statements of Mr. Epassy and Mr. Bguir;

2. Acknowledge the procedural good faith of the Appellant and both witnesses;

3. Draw no adverse inference from their absence or limited participation, as the barriers were procedural and beyond the Club's control;

4. Permit, if required, the submission of written clarifications from the witnesses on any specific factual issues raised during deliberations.

This submission is made to ensure that all valid and lawfully submitted evidence is considered on its merits, consistent with the flexible and fair evidentiary philosophy of CAS.”

67. On 21 May 2025, the CAS Court Office invited the Respondent to provide its response to the Appellant's submission by 26 May 2025.
68. On 22 May 2025, the Respondent asked the Sole Arbitrator to find that Mr. Bguir's failure to testify stemmed from the Appellant's omission to provide interpretation, to note Mr. Epassy's verified absence, to dismiss the evidentiary value of both witness statements given the lack of cross-examination, and to confirm that the hearing complied with the CAS Code and procedural fairness.

IV. THE POSITION OF THE PARTIES

69. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every contention put forward by the Parties. The Sole Arbitrator, indeed, has carefully considered all the Parties' written and oral submissions. With respect to the presentation of witnesses by the Appellant, the Sole Arbitrator notes that the Appellant was granted ample opportunity to present its witnesses at the hearing. Nevertheless, the Appellant did not arrange for an independent interpreter for Mr Bguir, and Mr Epassy failed to make himself available to testify at the designated time. The Sole Arbitrator therefore finds that the fact that the Appellant's witnesses were ultimately not heard during the hearing is attributable to the Appellant.

A. The Position of the Appellant

70. In its Appeal Brief, the Appellant requested the following:

“PRAYER FOR RELIEF

The Appellant respectfully requests the Panel to grant the following relief:

- 1. Set aside and annul the decision issued on 10 July 2024 by the Single Judge of the FIFA Players’ Status Committee in Case Ref. No. 14249.*
- 2. Declare that the reimbursement of PLN [...] i.e. [...] USD as airfare requested by the Respondent constitutes unjust enrichment, as the Appellant has already fulfilled its contractual obligations by paying an amount exceeding the cost of one round-trip ticket as stipulated in the contract.*
- 3. Declare that the Appellant fulfilled its contractual obligations in compliance with national financial regulations, the approved contractual terms, and the Financial Efficiency and Sustainability Committee’s policies.*

Alternatively

- 4. Partially set aside and annul the decision issued on 11 [sic] July 2024 by the Single Judge of the FIFA Players’ Status Committee in Case Ref. No. 14080 [sic] and Limit [sic] any compensation due to the Respondent to the amounts already paid by the Appellant, including two-and-a-half months’ salary for each Respondent.*
- 5. Annul claims for compensation exceeding the two-and-a-half months’ salary already paid to each Respondent.*
- 6. In the alternative, reduce the compensation awarded to the amount already paid—two-and-a-half months’ salary—reflecting the contributory negligence and bad faith actions and harm and irreparable damage caused by the Respondents under Article 44(1) SCO.*

In Any Event

- 7. Recognize that the Appellant acted in good faith by meeting and exceeding its contractual obligations, including compliance with national financial regulations and adherence to the Financial Efficiency and Sustainability Committee’s policies.*
- 8. Order the Respondents to reimburse the Appellant for all arbitration costs incurred in the proceedings including the advance on costs paid to CAS.*
- 9. Order the Respondents to reimburse the Appellant’s legal fees and expenses, amounting to USD 10,000 for legal representation and other procedural costs.*

10. Order the Respondents to pay a contribution towards the Appellant's legal and procedural costs, to be determined at the discretion of the Panel, taking into account the procedural barriers caused by Respondent 1's bad faith and obstructionist actions.

11. Declare that the compensation clause in the contracts is proportionate to the circumstances of the case and aligns with objective criteria for premature termination with just cause.

The Appellant respectfully submits that the compensation already paid, including two-and-a-half months' salary per Respondent, satisfies the contractual terms, national bargaining agreements, and financial policies governing the relationship between the parties.

The claims for additional reimbursement and compensation are without merit and should be dismissed or reduced accordingly."

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

- On 9 June 2023, the Club entered into an employment contract with the Respondent. The Contract was valid from 1 July 2023 to 30 June 2024. The Contract stipulated a total salary of USD [...] for the Respondent and was approved by the Saudi Ministry of Sport.
- According to the Contract, the Respondent was entitled to a monthly salary of USD [...].
- The Appellant asserts that the Contract was fully governed by the financial regulations of the Ministry of Sport, requiring prior approval from the Financial Efficiency and Sustainability Committee before any contractual relationship could be established. This Contract, including its compensation clauses, was designed to ensure fiscal responsibility, compliance with the Club's approved budget, and alignment with national legal requirements.
- Clause 9 of the Contract reflected a mutually agreed framework for liability in case of breach, serving not only as a contractual safeguard but also as a necessary basis for the Club to seek Ministry-approved payments. Thus, the Appellant maintains that all contractual terms, particularly those related to compensation and termination, were valid, binding, and lawfully executed within the constraints of the governing regulatory and financial framework.
- The Appellant argues that Clauses 14 and 15 of the Contract with the Head Coach were also relevant and applicable to the Respondent. Clause 14 of the Head Coach's contract outlines a comprehensive set of performance targets that were mutually agreed upon by the parties, emphasising both competitive success and strategic development. These objectives include reaching the final of the King Cup, securing a top 1st to 6th position in the league, and finishing the season in a qualifying spot for a prestigious tournament. Additionally, the Head

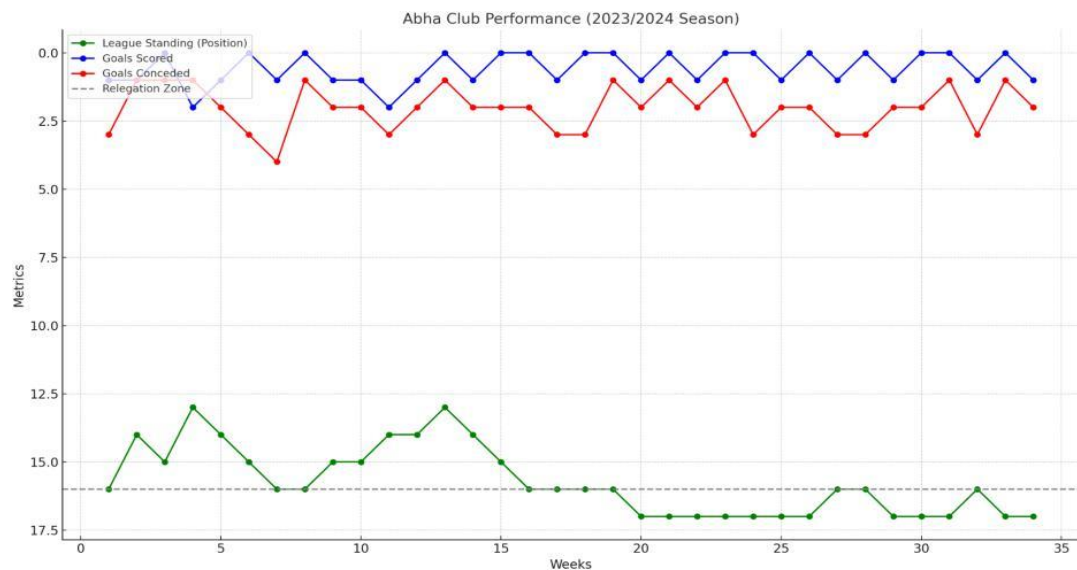
Coach was expected to develop team resilience, implement a unified playing style, supervise the U23 squad, and ensure a top 6 league standing by mid-season. The clause also required the Coach to deliver consistent positive results and to position the team among the top 5 in both offensive and defensive rankings. This detailed list of benchmarks clearly defined the expected standards of performance and accountability under the contract.

- The Appellant underscores that Clause 15 of the Head Coach's contract provides for regular performance evaluations of both the Head Coach and his technical staff (the Respondent) by Club management. These evaluations encompass coaching effectiveness, tactical acumen, player development, team management, and communication skills. Additionally, the Appellant highlights that the total financial package – USD [...] annually for the Head Coach and USD [...] annually (combined) for his staff – was explicitly approved by the Saudi Ministry of Sport. This approval forms part of a broader regulatory framework aimed at enforcing national financial policies and sustainability goals. The integrated nature of the coaching team directly supporting the Head Coach, reinforces the collective responsibility for achieving team performance targets and justifies the structured oversight and budgetary controls applied.
- The Appellant submits that the first major instance of mismanagement by the Respondents occurred during the pre-season training camp in Turkey for the 2023/2024 season. Despite the Club's high expectations and the Ministry-approved recruitment budget, the Respondents made questionable decisions that directly contravened repeated warnings from Club management, team captain Mr Saad Bguir, and the Sports Director. They committed the Club to inflated contracts for underperforming players, leading to premature depletion of the annual budget and causing significant harm to team morale and tactical balance. By Week 8 of the league season, the Club had suffered four consecutive losses and plummeted to 16th place, a relegation position. The Appellant emphasises that these actions left the Club without financial flexibility to remedy the situation in the next registration window, despite ample internal opposition and warnings. The Appellant contends that this pattern of conduct represents a clear breach of the Head Coaches' obligations to act in the Club's best sporting and financial interests.
- The Appellant submits that the coaching team consistently ignored repeated verbal warnings from Club management, the Sports Director, and team captain Mr Bguir regarding poor recruitment and tactical decisions during the 2023/2024 season. These decisions, including the replacement of key players like Mr Atouchi and Mr Epassy with underperforming and expensive signings such as Fabian and Tătărușanu, directly undermined team performance, morale, and financial stability. The Appellant highlights that Mr Bguir's role as captain and witness to multiple technical meetings lends credibility to the Club's claims, showing that the Respondents acted against the best interests of the team despite clear and credible internal objections.

- The Appellant submits that despite repeated and credible warnings from the Club's management, Sports Director, and team captain Mr Bguir, the coaching team persisted in tactical and recruitment decisions that led to consistent defeats, financial exhaustion, and loss of team morale. By Week 8, the team was in an irreversible relegation position due to poor signings and disregard for internal objections.
- The Appellant further submits that on 1 October 2023, the coaching team was terminated under valid contractual clauses, with two months' salary offered in accordance with their agreements. In good faith, the Club offered an additional half-month's salary to reach an amicable settlement. The technical staff accepted this; however, the Head Coach refused to sign, delaying approval from the Financial Efficiency Committee and obstructing resolution.
- Between October 3 and October 11, 2023, the Club proposed a settlement agreement that included two-and-a-half months' salary for the Respondent. This offer exceeded the contractual terms and required approval from the Financial Efficiency Committee (FESC) for the additional half-month overpayment. However, while the Respondent signed the settlement agreement on October 12, 2023, the Head Coach refused to sign, thereby obstructing the process of seeking financial approval for the proposed overpayment.
- Despite this, the Club issued a second termination notice on 16 October 2023, confirming payment of all owed amounts – including salaries and airfare – within the approved contractual and budgetary framework. Yet, the Head Coach escalated the matter to FIFA and demanded excessive compensation far beyond what was contractually due, while simultaneously blocking finalisation of the overpayment he himself had requested.
- These actions, the Appellant submits, clearly demonstrate bad faith, deliberate obstruction, and unjust enrichment by the coaching team, particularly the Head Coach, and should be given due weight in adjudicating the matter.
- The Appellant submits that the termination of the Head Coach and his technical staff on 1 October 2023 was based on objective, contractually grounded failures in leadership and performance. From Week 1 to Week 8 of the 2023–2024 Saudi Pro League season, Abha Club, under the Respondent's management, suffered consistent underperformance culminating in four consecutive losses and a drop to 16th place in the standings. Despite repeated warnings from club officials and players, the Respondent made recruitment decisions that depleted the budget and destabilised the squad – deregistering key players like Mr Atouchi and Mr Epassy to register underperforming, overpaid replacements. The team conceded 16 goals and scored only 5 in the first 8 weeks, reflecting tactical and technical failures in violation of Clause 2 of the Contract. Their lack of effective training sessions, inability to develop coherent game strategies, and failure to deliver competitive results breached their core contractual responsibilities. Given the urgent threat of relegation and the irreparable breakdown of team cohesion, the

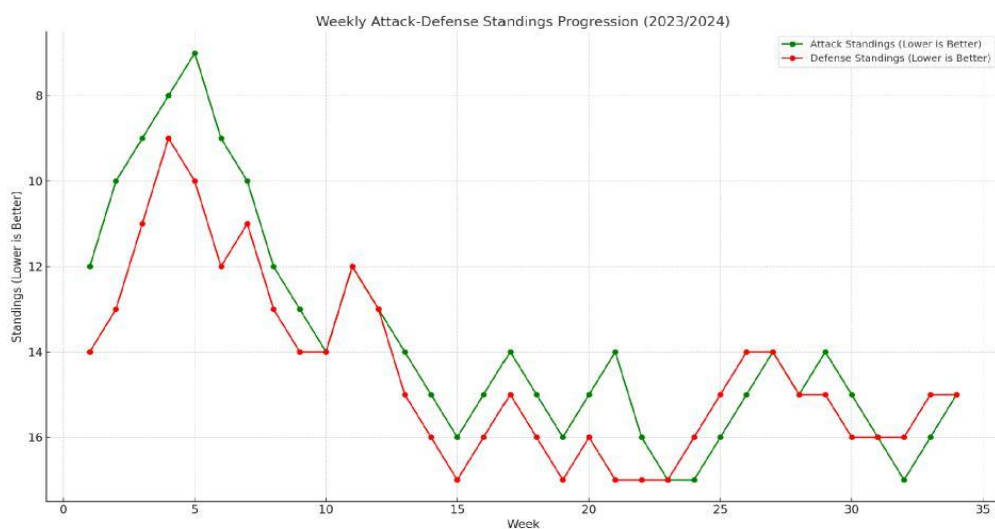
Club's decision to terminate the Respondent's Contract was both lawful and necessary.

- The Appellant submits that the Respondent – as part of the Head Coach's technical staff – further breached his contractual duties by failing to foster a positive and supportive environment for player development – a core responsibility of the Head Coach. His actions resulted in a fractured team culture, with Saudi players voicing concerns over favouritism toward foreign recruits and inequitable treatment. Additionally, the disruptive conduct of the Polish midfielder, left unaddressed by the Head Coach, damaged morale and team unity. These failures undermined the Respondent's obligation to fulfil his duties, further justifying his termination.
- The Appellant submits that the Respondent – as part of the Head Coach's technical staff – failed to meet contractual obligations regarding team management and communication. The Contract requires effective collaboration with coaching staff and open communication with players, staff, and club officials. However, the Respondent failed to address internal conflicts among players and staff, which worsened by Week 5 and led to a complete breakdown of trust within the team. Additionally, the Respondent did not provide regular, actionable updates to the club's administration, further eroding confidence in his leadership. These shortcomings substantiate the decision to terminate the Respondent's Contract.
- The Appellant submits that the Respondent – as part of the Head Coach's technical staff – failed to uphold the ethical conduct and sportsmanship required by his role. The Head Coach was obligated to promote the highest standards of ethics, fair play, and serve as a role model for the team. However, the toxic environment and fractured team culture under the Respondent's leadership directly contravened these standards. The Respondent's failure to lead by example and instil integrity and respect undermined the Club's values and long-term objectives. This failure further justifies the Club's decision to terminate the Respondent's Contract.
- The Appellant submitted multiple diagrams in its Appeal Brief including detailed remarks to each one, which were all individually analysed by the Sole Arbitrator and which are, in part, displayed below:



“This diagram illustrating Abha Club's performance during the 2023/2024 season has been successfully generated. It includes:

- *League Standing: Tracking weekly positions in the league (lower is better).*
- *Goals Scored: Weekly offensive output.*
- *Goals Conceded: Defensive vulnerabilities per week.”*



“One of the most critical issues was the respondents’ mishandling of the club's defensive setup. The replacement of Amine Atouchi, a key leader in defense, with Fabián Noguera, proved detrimental. The lack of leadership and cohesion in the defense led to the team conceding 16 goals in 8 matches, an average of 2.0 goals per match – well above the league's top defensive teams. This destabilization highlighted the respondents' poor judgment in prioritizing player decisions.”

- The Respondent – as part of the Head Coach’s technical staff – was contractually obligated to analyse opponents, develop strategic game plans, and implement effective tactics for Team A. However, their tenure was marked by a lack of tactical adaptability and incoherent strategies, particularly with players they personally selected while sidelining others by cancelling contracts based on preference rather than performance. This mismanagement was reflected in repeated defensive lapses – such as the 0–4 defeat to Al-Wehda in Week 7 – indicating poor preparation and ineffective defensive organization. Likewise, the team’s offensive shortcomings, including multiple goalless matches, revealed a clear failure to design effective attacking plans and set pieces. These consistent failures to fulfil key responsibilities significantly undermined the team’s competitiveness and further justified the decision to terminate the Respondent’s contract.
- The Appellant argues that the Respondent – as part of the Head Coach’s technical staff – through mismanagement caused offensive failures, defensive weaknesses, erosion of team morale, which lead to the Appellant’s relegation and a financial crisis.
- The recruitment of PACE-financed players Fabián Noguera and Ciprian Tătărușanu, intended to boost team performance, instead led to inflated contracts and financial strain. Noguera underperformed after replacing Mr Atouchi, while Tătărușanu, brought in for Mr Epassy, conceded 84 goals. The Respondent’s lack of transparency and oversight in these signings burdened the club with costly, underperforming players and significant debt.
- The decision to register Ciprian Tătărușanu as Abha FC’s primary goalkeeper for the 2023/2024 season, while de-registering Mr Epassy, reflects a major lapse in managerial judgment. Despite his experience, Tătărușanu’s age, physical limitations, and poor performances made him an ill-suited choice, contributing directly to the team’s relegation and causing significant financial and sporting damage to the club.
- Abha Club’s defensive struggles during the 2023/2024 Saudi Professional League season were stark, especially when compared to league champions Al Hilal. Abha conceded 87 goals across the season – an average of 2.56 goals per match – whereas Al Hilal allowed only 23 goals, averaging just 0.68 per match. This significant gap in defensive performance underscores the extent of Abha’s tactical and structural shortcomings, which played a central role in their relegation. The termination of the Respondent’s contract on October 1, 2023, was both necessary and justified, given their failure to meet core performance objectives. Missteps in recruitment – particularly replacing defensive leader Mr Atouchi with the underperforming Mr Fabián Noguera – led to a disorganized back line that conceded 16 goals in just the first 8 matches. This poor decision-making in player selection and resource allocation not only weakened the team defensively but also confirmed the absence of a viable recovery under the Respondent’s management.

- The decision to terminate the Respondent on 1 October 2023 was based on clear, objective evidence of their failure to meet key contractual performance targets. By Week 8, the team had fallen to 16th place and was firmly lodged in the relegation zone – a direct consequence of poor strategic decisions, including the misallocation of resources to underperforming players like Noguera and the defensive disruption following Mr Atouchi's departure. Compounding these issues, the Respondent's financial mismanagement – particularly the approval of inflated contracts – drained the club's budget and severely limited its ability to make necessary adjustments during the season, ultimately threatening both competitive performance and long-term financial stability.
- Clear and objective evidence supports the decision to terminate the Respondent's Contract. Key performance metrics – including goals scored, goals conceded, and league standings – highlighted a consistent failure to meet contractual targets. Financial records revealed inflated contracts awarded to underperforming players, further weakening the team's competitiveness. Visual data, such as weekly goal trends and standings progression, illustrated a sustained decline under the Respondent's leadership. Compared to league leaders, the gap in both performance and results was stark, underscoring the Respondent's inability to close that margin. In addition, poor financial decisions – particularly the misallocation of resources toward high-cost, low-impact players – drained the club's budget and prevented timely interventions. This combination of tactical, performance, and fiscal failures left the club vulnerable both on and off the pitch. Therefore, the termination was not only justified but necessary to protect the club's sporting and financial integrity and to lay the foundation for future recovery.
- The Respondent's tenure at Abha Club was marked by severe financial mismanagement, which directly contributed to the Club's relegation, operational instability, and long-term financial distress. Pre-season recruitment decisions drained the Club's budget, as underperforming players were signed on inflated contracts. Notable examples include:

Fabián Noguera, signed for USD 2.85 million, failed to replace the leadership and reliability of Mr Atouchi.

Mr Ciprian Tătărușanu, earning up to USD 3.4 million with bonuses, conceded 87 goals – the worst in club history.

Mr François Kamano, signed for EUR 4.8 million, made no goal or assist contributions.

These financial commitments exhausted resources and blocked opportunities for mid-season adjustments. Compounding this were costly terminations of key players – Mr Atouchi (USD 870,000) and Mr Epassy (USD 700,000) – who were unjustifiably replaced by weaker performers.

The club's relegation to Division 1 further intensified financial losses:

Broadcasting and government support dropped by 90%.

Sponsorships were lost or downgraded.

Matchday revenues declined due to lower attendance and engagement.

Revenues fell from SAR 132.1 million (2023) to SAR 95 million (2024), while expenses rose to SAR 140.2 million, driven by player salaries, termination fees, and relegation-related costs. The imbalance between income and spending created an unsustainable financial model.

Non-current liabilities rose to SAR 9 million, and the club lacked the resources to recover or implement tactical changes mid-season. Even after the respondents' termination on 1 October 2023, the financial damage they caused proved too deep to reverse. Their mismanagement left Abha FC in a vulnerable position, both competitively and financially.

- The Respondent's Contract was governed by Ministry of Sport financial rules and Article 2 Annex 2 of the FIFA Regulations on the Status and Transfer of Players (the "RSTP"), ensuring fiscal responsibility and contractual stability. Termination requires just cause, confirmed by multiple warnings about poor decisions and failure to meet targets.
- Clause 9 capped termination compensation at two months' salary, limiting the Club's financial risk. The Respondent's claim for nine months breaches this agreed and regulatory framework.
- FIFA and CAS rulings support enforceable compensation clauses balancing fairness and predictability. Clause 9 was essential for contract approval, aligning with Ministry policies and protecting the Club from unsustainable liabilities.
- The Respondent's poor recruitment, team disruption, and underperformance led to relegation and financial harm. Invoking Clause 9 was a lawful, necessary response to mitigate losses and uphold contractual integrity.
- The Single Judge's dismissal of Clause 9 threatens financial stability and disregards regulatory safeguards. The Club's termination was justified and compliant with both FIFA rules and Ministry policies.
- The claim that Clause 9 is a potestative clause is unfounded, as it represents a mutually agreed, balanced, and reciprocal provision ensuring financial predictability for both the Club and the Respondent, fully compliant with FIFA regulations, Ministry budget limits, and Swiss contract law. The clause requires the breaching party to pay two months' salary as compensation, avoiding unilateral or arbitrary decisions, and aligns with Article 2 Annex 2 RSTP and CAS precedents (CAS 2015/A/4039 and CAS 2017/A/5242 Esteghlal FC v. Pero Pejić) that uphold such clauses as fair and enforceable. Its fixed compensation cap is proportional and reasonable, reflecting the Respondent's

underperformance and the Club's financial constraints, and has been consistently applied in prior Ministry-approved contracts. The Respondent's demand for nine months' salary exceeds this agreed limit and threatens the Club's financial sustainability. Therefore, Clause 9 is a necessary and lawful safeguard, and the objection to it as potestative lacks merit.

- The termination of the Respondent's Contract on 1 October 2023 was a lawful and necessary act of *ultima ratio*, taken only after repeated and severe leadership failures caused irreversible sporting and financial harm to Abha FC. Key missteps included the exclusion of captain Mr Atouchi, which weakened squad morale and cost the Club USD 870,000 in residual pay; the deregistration of top goalkeeper Mr Epassy, replaced by 38-year-old Ciprian Tătărușanu on an inflated USD 1.6 million salary despite his poor form; and the recruitment of other underperformers on bloated contracts. These decisions led to the league's worst defensive record – 87 goals conceded – and left the Club in 16th place with no realistic recovery path. Financially, the inflated and residual contracts drained the budget, blocked essential reinforcements, and pushed the Club into operational crisis. Termination was the only viable means to prevent further damage and uphold the Club's sporting and financial stability.
- Under Article 44(1) of the Swiss Code of Obligations (the "SCO"), damages may be reduced or denied where the harmed party contributed to the loss. Here, the Respondent acted in bad faith and with gross negligence, directly worsening the Club's financial and sporting harm. Reckless recruitment, budgetary disregard, refusal to cooperate in settlement efforts, and an exaggerated FIFA claim all demonstrate contributory fault. As such, compensation should be limited to what has already been paid: two months' salary for early termination, half a month's salary in advance, and USD [...] for flights – an amount exceeding the cost of a return ticket. The Respondent's conduct led to relegation, financial crisis, and operational instability, justifying a reduction in any further award.

B. The Position of the Respondent

72. In its Answer to the Appeal Brief, the Respondent requested the following:

"Prayers for relief"

Based on the factual and legal arguments explained and specified above, the Respondent hereby submits the present answer to the appeal with the petition for the order the following prayers for relief:

- 1) that the appeal is rejected in totum;*
- 2) that the appealed Decision is confirmed in totum;*
- 3) that the Appellant is ordered to bear the costs of the arbitration;*
- 4) that the Appellant is ordered to pay a contribution towards the Respondent's legal fees*

including the legal fees of the Respondent's attorney and other expenses in the present arbitration, in an amount deemed proportionate by the Honorable Tribunal."

73. The Respondent's submissions, in essence, may be summarized as follows:

- The Appellant had no grounds to unilaterally terminate the Contract.
- According to the jurisprudence of the FIFA Football Tribunal and the CAS, poor sporting performance by a team does not constitute just cause for terminating a coaching contract. Thus, all of the Appellant's arguments are legally irrelevant.
- Sporting performance is subjective and cannot justify termination with just cause. Failure to meet contractual sporting targets, even if agreed, does not warrant dismissal without consequences. According to FIFA's RSTP Commentary and established jurisprudence, such clauses are potestative and abusive, offering one-sided control and unfairly disadvantaging the employee. Therefore, the termination should be deemed without just cause.
- During the 2023/2024 season the Appellant changed the coaching staff 3 times and each coaching staff gained roughly the same number of points being on average around 1,00 point per game which was finally not enough to keep the Respondent in the Saudi Pro League. The Respondent's staff in 9 games won on average 1,00 point, George Timis a caretaker for one game also gained 1,00 points, the next staff of Mr Youssef Manai also gained on average 1.00 point whereas the last coaching staff of Mr Pitso Mosimane gained on average of 1,20 points. As for defensive performance in 9 official games (8 in the league, 1 in the cup) under coach Michniewicz the team conceded on average 1,55 goals whereas in 28 official games conducted after the dismissal of the Coach Michniewicz and his staff (26 in the league 2 in the cup) the team conceded on average 2,71 goals.
- The Appellant fails to provide resources in terms of sporting quality for any of the set sporting goals which were overambitious and therefore cannot lead to lawful termination of the Contract.
- Sporting performance cannot constitute just cause for terminating a coach's Contract, as consistently held in FIFA and CAS rulings. Just cause requires a serious contractual breach, not subjective dissatisfaction with results. Team performance depends on many external factors – injuries, opponents, team dynamics – beyond the coach's and his staff's control. Cases like CAS 2020/A/6798 Galatasaray Sportif Sınai ve Ticari Yatirimlar A.S. v. Igor Tudor confirm this position. Accepting performance as just cause would undermine contractual stability and fairness, allowing arbitrary dismissals based on hindsight. FIFA's RSTP and its 2023 Commentary stress that the principles protecting players also apply to coaches, reinforcing that performance alone cannot justify termination (FIFA Commentary on the Regulations on the Status and Transfer of Players, 2023 edition, annexe 2, articles 3 to 8, 2. Substance of

the rules; A. fundamental principles: what is just cause?; b. Poor (sporting performance).

- A coaching contract requires professional diligence, not guaranteed results. Under FIFA's RSTP Commentary (FIFA Commentary on the RSTP, 2023, Annex 2, p. 568) and decisions like Mendes Pereira (PSC, 18 August 2022), termination based solely on failure to achieve specific, collective, or overly ambitious sporting goals is invalid, as it relies on subjective criteria. While performance targets may serve as incentives, they cannot justify unilateral termination – especially when unrealistic given the team's resources. In this case, the Respondent – as part of the coaching team – fulfilled his duties professionally, managing training, preparation, and resources diligently. No evidence indicates negligence or breach. Even if targets were relevant, results must be viewed in light of actual constraints, as FIFA prioritises effort over outcome.
- The Appellant's reliance on player transfers and individual performances as just cause for termination is unfounded. Even if the Respondent were involved – which is denied – player performance cannot justify unilaterally ending a coach's Contract. Moreover, the Club retained final authority over all transfers and signings, with the Respondent's role being strictly consultative. Transfer approvals required sign-off from the president/CEO, sporting director, and finance director. It is therefore unreasonable to hold the Respondent accountable for outcomes stemming from decisions ultimately made by the Club's management.
- Even if FIFA's well-established standards were to evolve and allow sporting performance as just cause, it would still need to be proven that the Respondent was directly responsible for the underperformance due to incompetence – which was clearly not the case here. The Respondent's tenure must be assessed within the broader systemic issues affecting the Club, which continued after his dismissal. The fact that two subsequent coaches also failed to improve results strongly indicates deeper structural problems, not individual coaching deficiencies. In fact, the Club's performance worsened, ultimately resulting in relegation.
- At the time of termination, the Appellant was only missing one point in order to not be relegated.
- As previously noted, the Respondent fulfilled his contractual duties during his tenure, and the fact that subsequent coaches faced similar struggles under comparable conditions further supports the conclusion that the underlying challenges were systemic and beyond his control.
- The Appellant's submissions contain several factual inaccuracies that undermine their credibility and good faith, including: falsely claiming eight clean sheets in the 2022/23 season when there were only three; overstating goals conceded in the first eight matches as 16 instead of 14; exaggerating consecutive losses from

four to six; wrongly asserting concerns over Fabian Noguera's preseason performance despite him not playing in friendlies; and misrepresenting the Week 1 matchday lineup by blaming the Head Coach for Tătărușanu's absence, when it was the Club's administrative failure that rendered him ineligible at the last minute. These errors suggest either careless misrepresentation or deliberate attempts to mislead the Tribunal, seriously weakening the Appellant's case.

- Clause 9, which limits compensation to two months' pay upon termination, is disproportionate and should be set aside, with compensation calculated under general FIFA RSTP rules.
- The Contract, signed by a Polish coach and a Saudi club, does not refer to Saudi law nor involve any collective bargaining agreement applicable to the Coach. Article 6(2)(c) of Annex 2 to the FIFA RSTP states that collective bargaining agreements override the RSTP provisions. However, in this case, the Appellant has not proven that such an agreement existed or that the Respondent was a party to it. The Minister of Sport's approval only affects the relationship between the Club and the Saudi state and does not apply to the Respondent personally.
- The fixed one-year contract was unilaterally terminated nine months early, yet Clause 9 limits compensation to just two months. This violates FIFA's established jurisprudence (Djordjevic 25 October 2022 REF FPSD-6613, Gacancin 5 December 2023 REF. FPSD-12204, Hukic 28 March 2023 REF. FPSD-8603, Kahla 8 November 2022 REF FPSD-7161, Koopman 19 April 2022 REF FPSD-4386, Kopic 11 April 2023 REF. FPSD-9289, Mekkaoui 21 June 2022 REF FPSD-3423, Rezic 13 September 2023 REF. FPSD-9940, Salazar 31 March 2023 REF. FPSD-8613, Sertic 13 September 2023 REF. FPSD-10291, Tribulietx Santolaya 25 October 2022 REF FPSD-6561, Bustos 13 December 2022 REF FPSD-6971, Bunjak 10 January 2023 REF FPSD-7674, Braz Marques 31 March 2023 REF. FPSD-8650, Alves Morais 9 May 2023 REF. FPSD-9184) emphasizing annual settlements and proportionality. Such liquidated damages clauses must be reciprocal; if they disproportionately favour the club – who can easily find a replacement while the coach faces limited employment options – they are invalid. The clause here protects the Club's interests only, illustrating its unilateral nature and lack of fairness.
- In this case, the Respondent was dismissed nine months before the Contract's end but, according to the Appellant, is only entitled to two months' compensation. This clearly lacks mutuality and proportionality, as confirmed by well-established FIFA and CAS jurisprudence (CAS 2016/A/4605; CAS 2020/A/7011). While parties may agree on liquidated damages clauses for termination without just cause, such clauses are invalid if they disproportionately favour one party and undermine contractual stability.
- Here, the club can easily replace a coach, while the dismissed Respondent faces significant difficulty finding new employment. Given the limited number of clubs compared to licensed coaches, unfair compensation clauses harm the Respondent's earning potential, violating the principle of reciprocity.

- Clause 9 is potestative – its fulfillment depends entirely on the Club’s decision – making it invalid under Swiss law and FIFA jurisprudence. Potestative clauses unduly limit the rights of the other party and cause unjustified disadvantage, violating principles of fairness and contractual stability.
- The dispute arises because the Appellant failed to respect the principle of *pacta sunt servanda* (contracts must be served) by terminating a fixed-term contract without just cause.

V. JURISDICTION

74. Article R47 of the Code provides as follows:

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

75. It is undisputed between the Parties that CAS has jurisdiction to adjudicate the matter at hand, which they confirmed by their signature of the Order of Procedure.

76. The Sole Arbitrator is satisfied that, also according to Article 50 (1) of the FIFA Statutes, CAS has jurisdiction to hear this case and decide on the matter.

VI. ADMISSIBILITY

77. Article R49 of the Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late”.

78. According to Article 50 (1) of the FIFA Statutes, appeals “shall be lodged with CAS within 21 days of receipt of the decision in question”.

79. The Sole Arbitrator notes that all requirements mentioned in the provisions set out above are fulfilled. In particular, both the Statement of Appeal and the Appeal Brief were filed in a timely manner. However, the Exhibits to the Appeal Brief were filed too late, *i.e.* on 4 December 2025. Technically, this would lead to inadmissibility of the Exhibits to the Appeal Brief. However, the Sole Arbitrator notes that the Appellant incurred technical difficulties when filing the Appeal Brief and the corresponding Exhibits.

80. In order to safeguard the Appellant’s right to be heard and also bearing in mind that the outcome of the present case is eventually not affected by the Appellant’s Exhibits, the Sole Arbitrator decided to admit the Appellant’s Exhibits.

81. Furthermore, the Sole Arbitrator notes that the appeal complies with all other formal requirements of Article R48 of the Code, including payment of the CAS Court Office fee.
82. The appeal is therefore admissible.

VII. APPLICABLE LAW

83. Article R58 of the Code provides as follows:
“The Panel shall decide the dispute according to the applicable regulations and 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 application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.
84. In addition, Article 49(2) of the FIFA Statutes states the following: *“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”.*
85. With regard to the governing law, the Contract holds:

“X. Governing Law and Dispute Resolution: This agreement shall be governed by and construed in accordance with the laws of Saudi Arabia, FIFA Regulations and Swiss Laws. Any dispute arising out of or in connection with this agreement shall be referred to and finally resolved by arbitration under the rules of the FIFA Tribunal of Football. Appeals against the decision of the FIFA Tribunal of Football shall be made to the Court of Arbitration for Sport (CAS).”
86. Both Parties frequently referred to the FIFA RSTP in their written and oral submissions and no Party ever referred to Saudi Arabian Law in connection with the Contract.
87. According to Article 187(1) PILA, *“[t]he arbitral tribunal shall rule according to the law chosen by the parties or, in the absence of such a choice, according to the law with which the action is most closely connected”.*
88. In view of the foregoing, the Sole Arbitrator concludes that the present dispute is to be resolved according to the corresponding FIFA regulations, in particular the FIFA RSTP, and that Swiss law shall be applied subsidiarily.

VIII. PROCEDURAL ISSUES – APPELLANT’S RIGHT TO BE HEARD

89. In advance of the hearing, the Appellant informed CAS that it intends to call, amongst others, Mr Saad Bguir and Mr Devis Epassy as witnesses in order to provide witness testimony during the hearing.

90. At the beginning of the hearing, the Appellant complained that its witnesses were not provided with the dial-in information for the virtual hearing by the CAS Court Office and were experiencing technical difficulties in logging into the system to attend the virtual hearing.
91. In this context, the Sole Arbitrator first points out that the Parties were provided with the dial-in information in due time in advance of the hearing, on 3 March 2025. Since Mr Bguir and Mr Epassy are not a party to the proceedings but party-appointed witnesses, it lies in the exclusive responsibility of the respective party to provide its witnesses with the correct dial-in information (duly shared with the parties by CAS) and ensure their availability during the hearing. Thus, in the case at hand, it was in the Appellant's sole responsibility to ensure that the witnesses it called to appear at the hearing would be provided with the correct dial-in information the Appellant had received from CAS, that the witnesses are familiar with the technical prerequisites in order to attend the virtual hearing, that they are able to log in at the correct time with a stable internet connection, and that they attend the hearing as required.
92. Moreover, it is worth noting that both witnesses were in fact able to log in to the system at some stage during the hearing. Specifically, Mr Epassy entered the "lobby" (virtual waiting room) of the virtual hearing during the Parties' closing statements, i.e. after the evidentiary proceedings were closed. However, he logged off again before the CAS Counsel could even have let him enter the virtual hearing room. Considering all the circumstances and specificities surrounding the virtual hearing, Mr Epassy was not in the lobby during the evidentiary proceedings and failed to be available so that the Sole Arbitrator could have called him up to provide testimony during the evidentiary proceedings. In view of the above, the Sole Arbitrator concludes that it is not a flaw caused by CAS which would have led to a violation of the Appellant's right to be heard. Quite to the opposite, it was in the responsibility of the Appellant to ensure that Mr Epassy would log in and be available as a witness until he would be called by the Sole Arbitrator. However, the Appellant and the witness did not ensure compliance with this obligation.
93. Moreover, also Mr Bguir (witness called by the appellant) was also able to log in during the hearing. However, Mr Bguir was unable to speak English and the Appellant failed to provide an independent interpreter. According to Article R44.2 of the Code, "[a]ny person heard by the Panel may be assisted by an interpreter at the cost of the party which called such person." According to Article R29 of the Code, the CAS working languages are French, English and Spanish. It was clear to the Parties from the outset, that the proceedings were conducted in English. In addition, the CAS Court Office reminded the Parties on 18 March 2025 that it was in their responsibility to organise a neutral and independent interpreter if they were in need of such. At the hearing, counsel for the Appellant and the Appellant's president offered to act as interpreters for Mr Bguir. However, the Sole Arbitrator did not admit such interpretation as neither the Appellant's counsel nor its president could be considered neutral and independent interpreters in accordance with the Code. Since the Appellant did not provide a neutral and independent interpreter during the hearing and, consequently, there was no possibility to translate Mr Bguir's testimony, the Sole Arbitrator decided to not hear Mr. Bguir as a witness. It was in the responsibility of the Appellant to ensure the presence of a neutral and independent

interpreter. The Appellant knew about the hearing date, its responsibility to provide an interpreter and that Mr Bguir would be in need of such interpreter. The fact that Mr Bguir could not be heard lies thus in the exclusive responsibility of the Appellant and it can therefore not infer that its right to be heard had been violated by CAS.

94. The Sole Arbitrator is thus of the opinion that the Appellant's right to be heard had been fully satisfied by CAS, and that the appellant can, in particular, not infer that its right to be heard would have been violated because its witnesses were not duly heard.

IX. MERITS

95. According to Article 13 para. 5 of the Procedural Rules Governing the Football Tribunal, a party that asserts a fact has the burden of proving it. The allocation of the burden of proof by this provision is in line with the general rule of Article 8 of the Swiss Civil Code, and its application to disputes such as the present one has been confirmed by CAS many times (see, e.g., CAS 2020/A/7605, para. 220).
96. Also, the Parties did not make any submissions why this principle should not apply or should be mitigated (cf. CAS 2020/A/7612) in the present case, and the Sole Arbitrator cannot make out any reasons for this either.
97. Accordingly, the Parties bear the burden of proving, to the comfortable satisfaction of the Sole Arbitrator, that the conditions for their respective claims are met, in line with the corresponding legal basis, in particular the applicable FIFA regulations and, subsequently, Swiss law.
98. The Sole Arbitrator notes that the existence of the employment relationship and its original duration are not disputed by the Parties.
99. Against this background, the following issues will be addressed by the Sole Arbitrator:
- a) *Whether the employment relationship was terminated with or without just cause*
 - b) *The nature and consequences of Clause 9 of the Contract*
 - c) *Financial Consequences*

A. Whether the employment relationship was terminated with or without just cause

100. Since the Respondent was employed by the Appellant, Annexe 2 of the FIFA RSTP is applicable (Article 1(2)(b) Annexe 2 FIFA RSTP).
101. According to Article 3 Annexe 2 FIFA RSTP, a contract may only be terminated upon expiry of its term or by mutual agreement. According to Article 4(1) Annexe 2 FIFA RSTP, a contract may be terminated by either party without the payment of compensation where there is just cause. Article 6(1) Annexe 2 FIFA RSTP holds that "*in all cases, the party in breach shall pay compensation*".

102. According to the Commentary on the RSTP (2023 edition), and “[i]n line with the DRC’s consistent jurisprudence, in a 2016 award CAS confirmed that poor (sporting) performance is not a just cause for a club to unilaterally terminate a contract, even if it is included as such in the contract signed between a professional player and their club. This decision is in line with the general approach taken by the DRC and PSC according to which the right of a party to terminate a contract with just cause cannot be recognised if the decision as to whether the relevant circumstance occurred depends on the subjective view of the party (i.e. in this case, the club) that decides to cite it as grounds for the premature termination of the contract.” (Commentary on the RSTP, 2023 edition, p. 135).
103. Furthermore, “[t]he PSC has also confirmed that the long-standing jurisprudence with respect to players and termination based on poor (sporting) performance is also applicable to coaches. In two recent cases [PSC decision of 19 April 2022, Koopman, PSC decision of 25 January 2022, Ibela Ignambi], the PSC held that the poor (sporting) performance of a coach (or, more precisely, the team under their responsibility) *per se* was not a valid reason to cease paying due salaries or to terminate an employment contract, as this is a purely unilateral and subjective evaluation. Equally, a clause that generically entitles the employer to terminate a contract based on unsatisfactory performance of a coach is potestative in that it provides for an obligation of which fulfilment is subjective and can only be assessed by one party. It follows that such clauses cannot be upheld, given the imbalance of bargaining power of the employer and employee, and the limitation of rights it places on the employee [PSC decision of 8 November 2022, Findlay]. In a case of 2022 [PSC decision of 18 August 2022, Mendes Pereira], the PSC was called upon to analyse the justification of a termination by a member association based on the failure of a coach to achieve contractually stipulated sporting goals. The parties agreed that the employer would be entitled to unilaterally terminate the contract without consequences if two cumulative targets were not reached: (i) it was mathematically impossible for its national team to qualify for the FIFA World Cup Qatar 2022; and (ii) it was eliminated from the continental competition at an early stage. While assessing the contractual provisions, the PSC underlined that employers can provide necessary incentives to encourage employees to perform to the best of their abilities to reach a certain sporting goal. Nevertheless, in light of the principle of contractual stability, a contract cannot be unilaterally terminated solely due to the non-achievement of a specific, collective and (overambitious) sporting goal as such occurrence would amount to enabling a dismissal for poor performance based on the assessment of subjective criteria.” (Commentary on the RSTP, 2023 edition, p. 568).
104. In addition, the Sole Arbitrator recalls CAS longstanding jurisprudence in accordance with which “only material breaches of a contract can possibly be considered as “just cause” for the termination of the latter” (CAS 2018/A/6005, para. 66). Accordingly, “the breach at the basis of the unilateral termination shall be of such intensity that a continuation of the contractual relationship could not be expected from the party terminating the contract” (CAS 2013/A/3091, 3092 & 3093). Moreover, the Sole Arbitrator also recalls that a breach of contractual obligation does not *per se* justify the termination of a contract (CAS 2013/A/3091, 3092 & 3093). In any case, as per constant CAS jurisprudence, “[...] for a party to be allowed to validly terminate an employment contract, it must have warned the other party, in order for the latter to have had the

chance, if it deemed that the complaint to be legitimate, to comply with its obligations (CAS 2013/A/3091, 3092 & 3093).” (cf. in particular also CAS 2022/A/9279, para. 106).

105. The Appellant argues that the Respondent’s poor (sporting) performance has led to the early unilateral termination of the Contract. Furthermore, the Respondent’s mismanagement allegedly led to the relegation of the Club. However, the Appellant did not submit any arguments or facts which would prove that the Respondent breached material obligations contained in the Contract or any other duties of care towards the Appellant in the sense of the FIFA RSTP or Swiss Law. On this basis alone, the Sole Arbitrator holds that the Appellant failed to submit any evidence which would prove that it had had just cause to unilaterally terminate the Contract before the end of its term.
106. Furthermore, the Sole Arbitrator wished to refer to well-established CAS case law, whereby the fact of underperforming, for a certain period of time, ought not - on its own - to be considered just cause for contract termination. In particular, he referred to the award in CAS 2007/A/1322, in which the Court ruled that “*A sporting ground such as the weak performance of a coach does not give rise to “just cause” for the termination of a contract. A coach does not owe a particular outcome, rather only the rendering of services.*” (similarly CAS 2011/A/2596, CAS 2011/A/2597, CAS 2018/A/6029).
107. In the Sole Arbitrator’s view, the Appellant’s dismissal cannot be justified solely on the basis of failing to achieve a specific collective sporting objective, as such an outcome does not necessarily reflect the Respondent’s personal performance and often lies beyond the Respondent’s individual control.
108. The underlying principle is that a contract between a coach and a sports club or association is one based on due diligence and professional effort, rather than on the guarantee of a particular sporting outcome. In other words, the contractual obligation of the coach is to perform their duties to the best of their ability, not to ensure specific results on the field. Consequently, mere periods of underperformance cannot, in themselves, justify termination for just cause.
109. In addition, and for the sake of completeness only, the Sole Arbitrator holds that the Respondent is a qualified and seasoned Goalkeeper Coach. The fact that the Appellant was unable to remedy its predicament within 26 matches after the tenure of the Respondent leads the Sole Arbitrator to conclude that the Appellant’s poor performance does not lie within the responsibility of the Respondent. Furthermore, and considering the Appellant’s allegations in such respect, the Sole Arbitrator recalls that all players which the Appellant employed during the tenure of the Respondent had been approved by three high ranking officials of the Appellant. Thus, it was in the power of the Club to veto such employment at any time had it been obvious from the outset that the newly employed players would not deliver the desired performance.
110. Consequently, the Sole Arbitrator decides that the Appellant terminated the Contract without just cause.

B. The nature and consequences of Clause 9 of the Contract

111. The Sole Arbitrator refers to his remarks in paras. 102 *et seqq.* above and repeats that “*a clause that generically entitles the employer to terminate a contract based on unsatisfactory performance of a coach is potestative in that it provides for an obligation of which fulfilment is subjective and can only be assessed by one party. It follows that such clauses cannot be upheld, given the imbalance of bargaining power of the employer and employee, and the limitation of rights it places on the employee* [PSC decision of 8 November 2022, Findlay] (Commentary on the RSTP, 2023 edition, p. 568).

In CAS 2022/A/9279 para. 102, the CAS held that “[w]hile the Sole Arbitrator accepts that parties to a contract shall be free to determine under which circumstances a contract can be terminated by a party with just cause, he is also mindful that CAS jurisprudence places some limitations on any deviation from general principles governing football contracts (see CAS 2015/A/4042; CAS 2017/A/5056 & 5059).

Furthermore, the Sole Arbitrator considers this provision to be a deviation from the general principles enshrined in the FIFA Regulations. The Sole Arbitrator finds that, in principle, nothing prevents parties from defining when and under which circumstances a party may terminate the Employment Contract with just cause. For if the parties are free to arrange in the employment contract the method of compensation for breach of contract, then, in principle, the same must apply to specifying when there is “just cause” (CAS 2006/A/1180). Such deviation may in principle not be potestative, i.e. the conditions for termination may not be unilaterally influenced by the party wishing to terminate the contract”.

112. In the same case, the sole arbitrator noted that the respective clause in dispute was potestative, since it was “*only for the benefit of the Club, since it gives to the latter an undue measure of control and a disproportionate predominant position over the Player. In fact, the Club could in theory deny its agreement for even justified and absolutely necessary leaves for the Player simply with the intent of creating a circumstance which would justify the termination of the Contract.*” (CAS 2022/A/9279, para. 104). Consequently, the sole arbitrator found that the disputed clause was null and void (para. 105).
113. Clause 9 of the Contract holds that “[b]y mutual consent, the parties have agreed that in the event of a breach of this contract or early termination without just cause, the party in breach or terminating the contract shall be required to pay the other party an amount equivalent to two (2) months' salary as compensation..”
114. Even though Clause 9 was concluded “by mutual consent”, there is hardly any imaginable situation in which the Respondent would benefit from Clause 9. The opposite is true for the Appellant, as was demonstrated in the case at hand. This becomes apparent when connecting Clause 9 with Clause 14 of the Contract of the Head Coach, which stipulates overambitious sporting targets as part of the Respondent’s contractual obligations.

115. In addition, in application of the principle of *contra preferentem*, the fact that Clause 9 was stipulated by the Appellant must be interpreted in favour of the Respondent. The Sole Arbitrator further notes that Clause 9 is in clear violation of Article 6(2)a of Annexe 2 of the FIFA RSTP, without any clear benefit for the Respondent. In fact, Clause 9 is not reciprocal and fully in favour of the Appellant. Furthermore, the Appellant has a much higher bargaining power than the Respondent. It follows that Clause 9 of the Contract is abusive, potestative and thus invalid. It does not have any bearing on the Appellant's duty to fully compensate the Respondent in accordance with Article 6(2)a of Annexe 2 of the FIFA RSTP.

C. Financial Consequences

116. Taking the above into account, the Sole Arbitrator moves to calculate the outstanding salaries and the compensation due to the Respondent. However, and since the Respondent requested the confirmation of the Appealed Decision and as the Appealed Decision only dealt with the claim for compensation, the Sole Arbitrator will refrain from analysing or calculating unpaid salaries and will move directly to calculating the claim for compensation.
117. Since the Respondent was employed by the Appellant, Annexe 2 of the FIFA RSTP is applicable (Article 1(2)(b) Annexe 2 FIFA RSTP).
118. According to Article 3 Annexe 2 FIFA RSTP, a contract may only be terminated upon expiry of its term or by mutual agreement. According to Article 4(1) Annexe 2 FIFA RSTP, a contract may be terminated by either party without the payment of compensation where there is just cause. Article 6(1) Annexe 2 FIFA RSTP holds that “*in all cases, the party in breach shall pay compensation.*”
119. In this context, “[a]ccording to Swiss jurisprudence (ATF 133 III 659 consid. 3.2.) as well as CAS jurisprudence (TAS 2008/A/1491) the employee who has terminated the employment contract with just cause can claim the loss of earnings consecutive to the termination of the employment relationship, which is equivalent to the amount an employee who has been unjustly dismissed with immediate effect can claim in application of Article 337c (1) and (2) SCO [...]. Thus, in theory, the Respondent is entitled to compensation corresponding to what he would have earned had the Contract been fulfilled to its expected date of expiry, pursuant to the so-called doctrine of restitution (CAS 2015/A/4161)” (see CAS 2020/A/7175, para. 98).
120. In the case at hand, the total duration of the Contract was 12 months. The monthly remuneration agreed between the Parties was USD [...] net of tax in Saudi Arabia. It follows that the Contract had a total value of USD [...] net.
121. Since the Appellant failed to submit any evidence with regard to the payments it had made to the Respondent and since the Respondent requested the confirmation of the Appealed Decision, the Sole Arbitrator moves to confirm the findings of the Single Judge of the FIFA Football Tribunal. In the Appealed Decision, the Single Judge held that since the Respondent had remained unemployed since the unilateral termination of the Contract,

and in application of Article 6 (2) (a) of Annexe 2 RSTP, the Club was liable to pay to the Respondent compensation for breach of contract in the amount of USD [...], *i.e.*, 9 times USD [...], as the residual value of the Contract from October 2023 until June 2024. However, since the Club already paid the Respondent's salary for half of October 2023 (USD [...]) and two monthly salaries pursuant to the compensation clause in the Contract (2 x USD [...] equalling USD [...]), the Single Judge decided to take the foregoing into account and finally award the Respondent USD [...] plus interest on said compensation at the rate of 5% p.a. as of 17 October 2023 until the date of effective payment.

122. In addition, the Single Judge notes that the Respondent also requested a reimbursement for the flight purchased to join the club. In this respect, the Single Judge recalls the evidence provided by the Respondent which established that the Respondent indeed incurred this expense, in addition to the language in the contract establishing that the club would pay for two round-trip tickets. To this end, the Single Judge notes that the club appeared to have only paid for the return ticket. Hence, the Single Judge concludes that the Respondent should be awarded the amount of PLN [...] as a flight reimbursement plus interest on this amount at the rate of 5% p.a. as of 21 June 2023 until the date of effective payment.
123. In view of the above, the compensation thus equals USD [...] plus interest on said compensation at the rate of 5% p.a. as of 17 October 2023 until the date of effective payment, and PLN [...] as a flight reimbursement plus interest on this amount at the rate of 5% p.a. as of 21 June 2023 until the date of effective payment.
124. The Appealed Decision is thus to be confirmed in full.

D. Final Conclusion

125. In consideration of all evidence on file and the submissions made by the Parties, the Sole Arbitrator concludes that the Appeal is dismissed in its entirety, and the Appealed Decision is to be confirmed.

X. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Abha Football Club on 17 September 2024 against the decision issued on 10 July 2024 by the Players' Status Chamber of the FIFA Football Tribunal is dismissed.
2. (...).
3. (...).
4. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 12 January 2026

THE COURT OF ARBITRATION FOR SPORT

Oliver Jaberg
Sole Arbitrator