



**TAS / CAS**

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

**CAS 2025/A/11192 FC des Girondins de Bordeaux v. Real Sporting de Gijón SAD**

## **ARBITRAL AWARD**

**delivered by the**

## **COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

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

**in the arbitration between**

**FC des Girondins de Bordeaux, Bordeaux, France**

Represented by Mr Matthieu Barandas, Attorneys-at-Law with SELARL TGB, Bordeaux, France.

**Appellant**

**and**

**Real Sporting de Gijón SAD, Gijón, Spain**

Represented by Mr. Iñigo de Lacalle Baigorri and Mr. Álvaro Martínez San Segundo, Attorneys-at-Law with Senn Ferrero Asociados Sports & Entertainment, Madrid, Spain.

**Respondent**

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**I. PARTIES**

1. Football Club des Girondins de Bordeaux (the “Appellant” or “FC Bordeaux”) is a French football club based in Bordeaux. It competes in the Championnat National 2, the French fourth division for football and is affiliated to the French Football Federation, which, in turn, is affiliated with the Fédération Internationale de Football Association (“FIFA”). FIFA is the international governing body for football and is responsible for regulatory, supervisory, and disciplinary matters concerning national associations, clubs, officials, and players affiliated with its members.
2. Real Sporting de Gijón SAD (the “Respondent” or “RS Gijón”) is a Spanish football club based in Gijón, Asturias, Spain. It competes in the “LaLiga Hypermotion”, which is the Spanish second division for football and is affiliated with the Real Federación Española de Fútbol, which is also affiliated with FIFA.
3. FC Bordeaux and RS Gijón are hereinafter collectively referred to as the “Parties”.

**II. FACTUAL BACKGROUND**

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

**(A) Introduction**

5. This appeal (the “Appeal”) before the Court of Arbitration for Sport (the “CAS”) arises as a result of a confirmation letter which contained a decision issued by the FIFA Football Tribunal, with Reference No. FPSD-17556, stating that both Parties, whether expressly or tacitly, accepted the proposal made by the FIFA General Secretariat, and that consequently the same now became a final and binding decision (the “Confirmation Letter” or the “Appealed Decision”). The Confirmation Letter provides that, in essence, FC Bordeaux is required to pay to RS Gijón the amount of (i) EUR 1,500,000 net as outstanding remuneration plus 10% interest p.a. as from 4 August 2024 until the date of effective payment and (ii) EUR 75,000 net as contractual penalty (the aforementioned values are referenced, together, as the “Debt”).

**(B) Basic Context and Circumstances**

6. On 1 August 2023, the Parties and the player Mr Pedro Díaz Fanjul (the “Player”) entered into a transfer agreement (the “Transfer Agreement”) in order to transfer the Player to FC Bordeaux. The most relevant contractual clauses for the analysis of this appeal are essentially the following:

*“CLAUSES*

*1. Purpose; Parties’ Obligations*

*1.1. (...) Sporting the Gijón, with the Player’s express consent, hereby assigns and transfers (on a definitive basis) (a) 100% (...) of the Player’s Federative Rights, and (b) 51% (...) of the Player’s Economic Rights to Girondins de Bordeaux.*

*1.2. (...)*

*1.3. The Parties hereby expressly agree that in consideration for the definitive transfer of (a) 100% (...) of the Player’s Federative Rights, and (b) 51% (...) of the Player’s Economic Rights, Girondins de Bordeaux shall have to pay Sporting de Gijón the total amount of EUR€2,250,000.00 (...), NET, that is free of any taxes, charges, withholding, solidarity contribution due, as the case may be, to third clubs, training compensation due, as the case may be, to third clubs (...), payable, through the following payment schedule:*

*(i) EUR€750,000.00 (...), NET (...), payable 5 (...) calendar days upon FFF’s reception of the Player’s ITC by the RSFF and subject to the reception of a pertinent invoice by Girondins de Bordeaux at least 5 (...) calendar days before the corresponding due date;*

*(ii) EUR€800,000.00 (...), NET (...) and subject to the reception of a pertinent invoice by Girondins de Bordeaux at least 15 (...) calendar days before the corresponding due date, no later than July 15<sup>th</sup>, 2024; and*

*(iii) EUR€700,000.00 (...), NET (...) subject to the reception of a pertinent invoice by Girondins de Bordeaux at least 15 (...) calendar days before the corresponding due date, no later than July 15<sup>th</sup>, 2025.*

*(...)*

*1.7. Sporting de Gijón and Girondins de Bordeaux agree that if the latter (Girondins de Bordeaux) fails to comply with the timely payment of any of the Fixed Fee (...) and subject to a 10 (...) calendar-days’ default notice sent by Sporting de Gijón to Girondins de Bordeaux remained unsuccessful, then, Girondins de Bordeaux shall be irremediable obliged to pay Sporting de Gijón (A) a 5% (...) penalty on any and all outstanding amounts (hereinafter, the “**Penalty**”); and (B) an interest*

*in arrears at the rate of 10% (...) per annum over any outstanding amounts including, without limiting to the Penalty (hereinafter, the “**Interest in Arrears**”).*

*In addition, if the default is connected to the first of the second installment of the Fixed Fee and subject to a 10 (...) calendar-days’ default notice sent to Girondins de Bordeaux remained unsuccessful, then the benefit of time (payment schedule) will be lost and, consequently, all outstanding Fixed Fee amounts will be considered due and payable. In that case, the subsequent installments will be brought forward, considering automatically overdue, and immediately payable. For avoidance of any doubt, if Girondins de Bordeaux fails to comply with the timely payment of the Fixed Fee Installments, it will lose the benefit of the payment schedule, therefore it will be automatically obliged to pay the entire (outstanding) Fixed Fee, plus the Penalty and the corresponding Interest in Arrears.*

(...)

#### *15. Applicable regulations and arbitration*

*This Agreement is subject to applicable regulations and, subsidiary, Swiss Law.*

*Disputes arising out of this Agreement shall be submitted to the jurisdiction of the competent FIFA judicial body and resolved in accordance with the Applicable FIFA RSTP, with the appealing possibility to CAS.*

(...)

*Any procedure in front of the CAS shall be in English and the Parties waive their right to initiate a setting aside in front of Swiss Federal Tribunal.*

(...).”

7. Consequently, and following the completion of the transfer, the Player started providing his services for FC Bordeaux.
8. On 4 August 2023, and as per the Transfer Agreement, RS Gijón issued and sent to FC Bordeaux the invoice regarding the overall transfer fee of the transaction. The first instalment of the fixed fee has already been paid.
9. On 15 July 2024, the second instalment of the fixed fee in the amount of EUR 800,000 was due and payable as per Clause 1.3 of the Transfer Agreement that reads as follows:  
  
*“EUR€800,000 (...) NET (...) subject to the reception of a pertinent invoice by [the FC Bordeaux] at least 15 (fifteen) calendar days before the corresponding due date, no later than July 15<sup>th</sup>, 2024 (...).” (the “Second Instalment”)*
10. On 17 July 2024, RS Gijón sent a communication to FC Bordeaux requesting the payment of the Second Instalment. FC Bordeaux did not reply to this communication.

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11. On 24 July 2024, the Respondent sent a default notice granting 10 days to FC Bordeaux to execute the due payment of the Second Instalment. This communication also stated that failure to comply with the timely payment of the Second Instalment would result in the loss of FC Bordeaux's right to benefit from the agreed payment schedule and that interest and the contractual penalty would apply, namely as per Clause 1.7 of the Transfer Agreement:
  - €700,000 related to the third instalment (the "Third Instalment");
  - Contractual penalty: 5% on any and all outstanding amounts (the "Penalty"); and
  - Contractual Interest: 10% interest per annum over any outstanding amounts, including the Penalty (the "Interest in Arrears").
12. FC Bordeaux never replied to the communication sent by RS Gijón mentioned in the previous paragraph.

**(C) The FIFA Proceedings**

13. On 19 December 2024, the Respondent filed a claim before the Players' Status Chamber of the FIFA Football Tribunal (the "FIFA PSC"), in which it requested the following:

*"We hereby request the PLAYERS' STATUS CHAMBER OF THE FOOTBALL TRIBUNAL [FIFA PSC] to deem this WRITTEN APPLICATION to be filed on behalf of SPORTING [RS Gijón], together with the copies thereof and the documents thereto, and a CLAIM FOR PAYMENT UNDER THE FIFA REGULATIONS following the appropriate procedures, to issue, in due course, a RULING:*

*A. Accepting in full the claim for payment made by the Claimant [RS Gijón] against the Respondent [FC Bordeaux], for the payment of the amount of one million five hundred and seventy-five thousand euros (€1,575,000.00) net as established in clause 1.3 and 1.7 of the Transfer Agreement, plus a ten per cent (10%) interest per annum over the principal amount without penalty, i.e. ONE MILLION FIVE HUNDRED THOUSAND EUROS (€1,500,000.00), calculated from August 4th, 2024, until the effective date of payment.*

*B. Ordering the Respondent to pay the legal costs and all other expenses of these proceedings."*

14. On 8 January 2025, the FIFA General Secretariat, on behalf of the FIFA Football Tribunal, in accordance with Article 20 of the Procedural Rules Governing the Football Tribunal (the "FIFA Procedural Rules"), notified the Parties to inform if they accepted or rejected the following proposed settlement to the Parties:

***"The Respondent, FC Girondins de Bordeaux, shall pay the Claimant, Real Sporting de Gijón SAD:***

***- EUR 1,500,000 net as outstanding remuneration plus 10% interest p.a. as from 4 August 2024 until the date of effective payment; and***

**- EUR 75,000 net as contractual penalty.**

*Payment (including any applicable interest) shall be made within 45 days as from notification of the confirmation letter.”*

(the “Proposal”)

15. On 24 January 2025, the Respondent sent a letter to the FIFA General Secretariat stating that, since both Parties had accepted the Proposal, it would wait the issuance of a confirmation letter as soon as possible, as well as requested the reimbursement of the advance of costs paid by our client.
16. On the same day, the Head of Disputes & Regulatory Applications, on behalf of the FIFA Football Tribunal, issued and notified the Parties the Confirmation Letter, which constitutes the decision under appeal (and which is also referenced, in this Award, as the “Appealed Decision”), which reads as follows:

*“As both parties – explicitly or tacitly – accepted the proposal, we confirm that the following now constitutes a final and binding decision on all parties pursuant to the FIFA Regulations on the Status and Transfer of Players (hereinafter: the Regulations).*

### **DECISION**

***The Respondent, FC Girondins de Bordeaux, shall pay the Claimant, Real Sporting de Gijón SAD:***

***- EUR 1,500,000 net as outstanding remuneration plus 10% interest p.a. as from 4 August 2024 until the date of effective payment; and***

***- EUR 75,000 net as contractual penalty.***

*Payment (including any applicable interest) shall be made within 45 days as from notification of the confirmation letter.*

*Pursuant to art. 24 of the Regulations, 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.*

*The consequences shall only be enforced at the request of the Claimant in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations.*

*(...)”*

### III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

17. On 17 February 2025, the Appellant filed with the CAS a statement of appeal (the “Statement of Appeal”) in accordance with Article R47 and Article R48 of the Code of Sports-related Arbitration (the “CAS Code”), challenging the Appealed Decision, and naming only the Respondent as a Party. The Statement of Appeal was submitted in French language and the Appellant requested the suspension of the effects of the Appealed Decision as well as the appointment of a sole arbitrator.
18. On 27 February 2025, in accordance with Article R51 of the CAS Code, the Appellant filed its appeal brief (the “Appeal Brief”).
19. On 5 March 2025, the CAS Court Office, initiated the arbitral proceedings and among other matters, invited the Respondent to submit its observation in relation to the Appellant’s request to suspend the effects of the Appealed Decision and to file its answer within the applicable deadlines.
20. On 5 March 2025, the CAS Court Office informed FIFA that FC Bordeaux filed an appeal against the Appealed Decision, however, it had not been addressed against FIFA. In conformity with Articles R54 and R41.3 of the CAS Code, the CAS Court Office requested FIFA to inform if it wished to participate as a party in the present arbitration proceedings.
21. On 7 March 2025, the Respondent objected to the use of French as the proposed language for the current proceedings and requested that the present procedure be conducted in English, as this had been agreed between the Parties in Clause 15 of the Transfer Agreement. Furthermore, the Respondent requested the suspension of the deadlines set in the CAS Court Office letter dated 5 March 2025 until the whole file is submitted in English and that the time-limit for the filing of the Answer be in any case fixed after the Appellant paid its share of the advance of costs, as per Article R64.2 of the CAS Code. The Respondent also agreed to submit the present Appeal to a sole arbitrator and rejected CAS mediation.
22. On 11 March 2025, among other issues, the CAS Court Office confirmed that all deadlines set in the CAS Court Office letter dated 5 March 2025 were suspended until further notice.
23. On 12 March 2025, FIFA renounced its right to request its possible intervention in the present arbitration proceedings, under Articles R54 and R41.3 of the CAS Code.
24. On 13 March 2025, the CAS Court Office informed the Parties that FIFA renounced its right to request its possible intervention in the present arbitration proceedings.
25. On 14 March 2025, the Appellant informed the CAS Court Office that it accepted that the present proceedings be conducted in English.

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26. On 21 March 2025 and within the relevant time-limit, the Appellant submitted an English translation of the Statement of Appeal and the Appeal Brief, and the Respondent was thus invited to file its position on the Appellant's request for a stay before 31 March 2025.
27. On 31 March 2025, the Respondent clarified that the Appellant's request was not to stay the Appealed Decision but rather related to the suspension of its effects. The Respondent, furthermore, accepted the suspension of the effects of the Appealed Decision until the Appeal is resolved.
28. On 3 April 2025, and in view of the Respondent's agreement, the CAS Court Office, adopting the Respondent's terms, confirmed that *"(...) until the present appeal is resolved, the effects of the [Appealed] decision shall be suspended, meaning that the Respondent will not be able to enforce the said decision until it is final and binding (i.e. until the CAS has ruled on the admissibility of the appeal and whether it is afterwards upheld or not)"*.
29. On 22 May 2025, the CAS Court Office informed the Respondent that the Appellant had paid the advance costs in the present matter and invited it to submit its answer on or before 11 June 2025.
30. On 11 June 2025, in accordance with Article R55 of the CAS Code, the Respondent filed its answer (the "Answer"), together with an objection to the admissibility of the Appeal.
31. On 12 June 2025, the CAS Court Office invited the Parties to inform whether they prefer a hearing to be held in this matter or for the Sole Arbitrator to issue an award based solely on the Parties' written submissions. The Parties were also invited, pursuant to Article R56 of the CAS Code, to inform whether they required a case management conference with the Sole Arbitrator in order to discuss procedural issues, the preparation of the hearing and any issues related to the taking of evidence.
32. On 18 June 2025, in accordance with Article R54 of the CAS Code, the CAS Court Office, on behalf of the President of the CAS Appeals Arbitration Division, informed the Parties of the appointment of the sole arbitrator which would decide the present Appeal:

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

33. On 25 June 2025, the CAS Court Office invited FIFA to provide the CAS with a copy of the complete case file related to the Appeal.
34. On 26 June 2025, the CAS Court Office sent a communication to the Parties stating the following:
  - a. Acknowledging the Respondent's position that it did not consider it necessary to hold a hearing and the Appellant's silence in this regard;
  - b. The FIFA file (the "FIFA File") had been requested;
  - c. Invited the Appellant to clarify if Exhibit 9 of the Appeal Brief was missing because it was not filed and in the list of exhibits is marked as "reserved"; and



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- d. Invited the Appellant to submit its observations strictly limited to the exception of inadmissibility raised by the Respondent
35. On 2 July 2025, the Appellant submitted its observations concerning the exception of inadmissibility of the Appeal and clarified that Exhibit 9 of the Appeal Brief was not filed on purpose.
36. On 4 July 2025, and upon request from the Sole Arbitrator, FIFA delivered to the CAS the complete case file related to the Appeal.
37. On 9 July 2025, pursuant to Article R44.3, R56 and R57 of the CAS Code, the CAS Court Office sent the complete FIFA case file to the Parties. Furthermore, the Sole invited both Parties to provide their written observations strictly limited to the following matters:
  - a. The absence of FIFA from the current proceedings and its potential consequences on the Appellant's request for the annulment of the sporting sanctions;
  - b. On the FIFA File, considering that both Parties have decided to not hold a hearing; and
  - c. For the Respondent, on the new exhibits submitted by the Appellant related to the issue of inadmissibility of the Appeal.
38. On 28 and 31 July 2025 and within the relevant deadline, the Appellant and the Respondent respectively presented their written observations on the matters mentioned above. Basically, the Parties stated the following position:
  - (a) With respect to FIFA's non-participation in these proceedings:

The Appellant clarifies that it was FIFA itself that expressly declined to participate in the present proceedings and that the Sole Arbitrator has the full powers to review the facts and the law. The Respondent, for its part, submits that the Appealed Decision addresses a "horizontal dispute" only, and that, at this stage, there is no "vertical dispute" (i.e. disciplinary sanction) requiring examination, confirmation or cancellation. The Parties' arguments on this issue will be further developed in the Parties' submissions – Section IV of the Award.
  - (b) With respect to the FIFA File:

The Parties agree that the FIFA File contains no new or additional elements relevant to the assessment or resolution of the present case.
  - (c) With respect to admissibility of the Appeal:

The Respondent argues that the documents submitted by the Appellant in relation to this issue should be disregarded, as they are in French and were not submitted in the language of the proceedings. Additionally, the Respondent contends that the documents are irrelevant, asserting that:

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- (i) The Appealed Decision was notified to the Parties on 24 January 2025;
  - (ii) The time limit must be calculated from the day following receipt of the notification, irrespective of whether it is a working day;
  - (iii) An extension of the deadline to the next working day applies only to the final day of the time limit, which is not applicable in this case; and
  - (iv) It maintains that the final day of the deadline was 14 February 2025 and, therefore, the Appeal was untimely filed and must be deemed inadmissible.
39. On 4 August 2025, the CAS Court Office informed the Parties that, pursuant to Article R56 of the CAS Code, the written submissions phase of the proceedings was closed. Unless otherwise agreed by the Parties or ordered by the Sole Arbitrator on the basis of exceptional circumstances, the Parties were no longer permitted to supplement or amend their requests or arguments, submit new exhibits, or introduce additional evidence. Furthermore, the Parties were invited to confirm their position regarding the holding of a hearing.
40. On 13 August 2025, the Sole Arbitrator decided to admit the exhibits submitted in French without translation, considering that Article R29 of the CAS Code does not forbid this. Moreover, the Sole Arbitrator also noted that French is one of the CAS official languages, the documents at stake did not require any complex analysis and that the Respondent had already addressed these exhibits in its submissions of 31 July 2025.
41. On the same date, and on the basis of the Parties' mutual position that they did not believe it was necessary to hold a hearing, the CAS Court Office informed the Parties that the Sole Arbitrator, pursuant to Article R57 of the CAS Code, decided not to hold a hearing in this matter, since it considered itself to be sufficiently well-informed to decide this case solely on the basis of the Parties' written submissions. In consequence, the Sole Arbitrator issued an Order of Procedure that was duly signed and returned to the CAS Court Office by the Respondent (on 14 August 2025) and by the Appellant (on 19 August 2025). In the Order of Procedure, the Parties further confirmed that they agreed the Sole Arbitrator may decide the Appeal based on the Parties' written submissions and that their right to be heard had been respected.
42. On 21 November 2025, the Appellant submitted two documents, a Judgement of the Commercial Court of Bordeaux dated 24 June 2025, approving a recovery plan as well as a related letter of 26 May 2025.

#### **IV. THE PARTIES' SUBMISSIONS**

43. The following summary of the Parties' positions is illustrative and does not necessarily comprise each contention put forward by the Parties. The Sole Arbitrator, however, has carefully considered all the submissions made by the Parties, even if no explicit reference is made in what immediately follows.

**(A) FC Bordeaux's Submissions**

44. In its Appeal Brief, FC Bordeaux submitted the following prayers and requests for relief:

*“TO SUSPEND the effects of [the Appealed Decision].*

*CANCEL, the provisions of [the Appealed Decision] insofar as they prohibit [the Appellant] from registering new players in the event of non-payment of the debt in full within 45 days of notification.*

*TO CHARGE FIFA with the full costs or the proceedings before the CAS as well as the reimbursement of the costs and fees of the Appellant's lawyer.”*

45. FC Bordeaux put forth the following arguments in support of its position:

**(A.1) Admissibility of the Appeal**

46. Pursuant to the FIFA Statutes, the Appeal was lodged within 21 days of notification of the Appealed Decision.
47. Due to an error on FIFA's part, the Appellant experienced difficulties accessing the FIFA Legal Portal, which hindered the notification of the Appealed Decision on its issuance date (24 January 2025).
48. On 29 January 2025, the Appellant's Director General received a communication concerning another disciplinary case (FPSD-15937) but was unable to access the corresponding case files on the FIFA Legal Portal, a fact which he reported to FIFA via email.
49. On 5 February 2024, Mr. Voisin, an agent of the FIFA Clearing House, proposed a telephone meeting to address the issues. It was discovered that two access identifiers had been assigned to the Appellant, however, the identifier sent to the newly appointed Director General did not permit access to the relevant case materials.
50. As a result, the Appellant did not receive formal notification of the Appealed Decision until 5 February 2024, the date on which the time limit for filing the Statement of Appeal started to run. It further alleged that it, in good faith, not believed that it would receive any sanction or penalty as it informed FIFA about opening of the collective proceedings and requested the application of the insolvency exception on 3 October 2024.
51. Alternatively, even assuming that the Appealed Decision was received as early as 25 January 2025, the deadline would not begin to run until 26 January 2025. As this was a non-business day in France, the deadline would not expire until 15 February 2025 (Saturday), thereby triggering a deferral to the next working day, i.e. Monday, 17 February 2025.
52. In any event, even if the above considerations were not accepted, the CAS may still proceed with the examination of the case, given that the Respondent did not raise the objection regarding the admissibility of the Appeal.

(A.2) Acknowledgement of the Debt

53. The Appellant does not dispute the debt owed to the Respondent arising from the acquisition of the Player's federative rights and 51% of the Player's economic rights, as per the terms of the Transfer Agreement.
54. The Appellant acknowledges having tacitly reached an agreement with the Respondent under which it undertook to pay the following amounts:
- €1,500,000 net as exceptional remuneration, plus 10% interest per annum from 4 August 2024 until the date of actual payment; and
  - €75,000 net as a contractual penalty

(A.3) Legal impossibility for the Appellant to satisfy the Debt

55. The main issue to be considered is the Appellant's legal inability to satisfy the Debt.
56. At the end of the 2023/24 season, the Appellant encountered serious financial difficulties.
57. On 30 July 2024, the Commercial Court of Bordeaux (the "Court of Bordeaux") initiated judicial reorganization (redressement judiciaire) proceedings concerning the Appellant, and by order dated 25 July 2024, the Court of Bordeaux formally suspended all payments.
58. As a result of being under judicial reorganization, the Appellant is legally prohibited from making payments to so-called prior creditors, i.e. holders of claims arising prior to the initiation of the proceedings.
59. In a separate disciplinary matter, the Appellant had already informed FIFA of the opening of the reorganization proceedings and its inability to settle pre-existing debts.

(A.4) Necessity for reformation of the Appealed Decision

60. The FIFA PSC should have taken into consideration that the Appellant is undergoing reorganization proceedings and is judicially prohibited from making payments to its creditors.
61. CAS must recognize that the Appellant is legally unable to fulfill its payment obligations under the applicable provisions of French Law.
62. Accordingly, CAS should suspend the effects of the Appealed Decision and annul the disciplinary sanctions imposed.
63. FIFA should have taken into account the ongoing reorganization proceedings and the associated legal restrictions. Reorganization proceedings are not irrelevant in the context of enforcement actions within the meaning of Article 64 of the FIFA Disciplinary Code (the "FDC").
64. Although FIFA retains discretion to recognize or consider foreign insolvency procedures, even in the absence of formal recognition proceedings before the Swiss courts – Articles

166 et seq. of the Private International Law Act (the “PILA”) –, such discretion should be exercised in line with the purpose and spirit of insolvency law.

65. Furthermore, Article 59 of the FDC explicitly states:

*“Proceedings may be closed when:*

*(...)*

*b) a party is under insolvency or bankruptcy proceedings pursuant to the relevant national law and is legally unable to comply with an order.*

*(...)”*

66. Once the debtor demonstrates that the claim falls within an asset-protection procedure that legally prevents payment, both FIFA and CAS must close enforcement proceedings and refrain from imposing related sanctions.

(A.5) Relevant CAS jurisprudence

67. CAS jurisprudence consistently upholds that legal impossibility may exempt a party from complying with FIFA or CAS decisions when domestic insolvency law restricts their ability to do so. The following CAS decisions support this understanding:

- In CAS 2023/A/9368, FIFA correctly exercised its discretion under Article 55 FDC to close enforcement proceedings against a debtor under judicial protection.
- CAS 2017/A/5054 (para. 77), only through participation in the insolvency proceedings in France may claims be enforced and CAS awards granting the appellant’s request do not bind the French authorities and, in particular, do not oblige the liquidator to distribute anything to the appellant from the respondent’s estate.
- CAS 2015/A/4162 (para. 79), where the debtor is unable to freely dispose of its assets, it would be contrary to public policy to penalize the debtor (or liquidator) for failure to comply with a FIFA or CAS decision (see also STF 4A\_558/2011 of 27 March 2012).
- In CAS 2012/A/2750 (para. 121), it was explained that if the debtor is legally incapable of fulfilling its obligations, it cannot be deemed in violation of a FIFA decision.
- In CAS 2022/A/9072, the sole arbitrator from said case decided that disciplinary proceedings against the debtor club must be closed, and no sanctions may be imposed while a court-approved payment plan is in force.

(A.6) The insolvency proceedings and French Public Order prevent the payment

68. The insolvency procedure to which FC Bordeaux is subject is considered an issue of public policy under French Law and contained in Book VI of the French Commercial Code.
69. Article L. 622-7 of the French Commercial Code applies to all previous debts as soon as the judicial reorganization procedure is initiated, and it entails a ban on payment of debts prior to the judgment initiating collective proceedings. Consequently, and since RS Gijón's claim originated before 30 July 2024, which was the date on which the Commercial Court of Bordeaux initiated the judicial reorganization proceedings, it falls within the scope of this rule.
70. In this instance, it is important to note that the doctrine specifies the prior nature of a claim is not based on the date on which it becomes due, but on its operative event, which in this case corresponds to the Transfer Agreement.
71. It follows that the sums agreed with RS Gijón, resulting from the execution of the Transfer Agreement, have the status of prior claims and FC Bordeaux is prohibited from paying the same.
72. Any payments done in contravention of Article L. 622-7 of the French Commercial Code maybe be cancelled at the request of any interested party or the public prosecutor's office, under that same provision. Considering the creditor's interest in the insolvency of FC Bordeaux, this would be inevitable.
73. Moreover, payments made in violation of Article L 622-7 of the French Commercial Code may also lead to criminal procedures being opened on the basis of Article L. 654-8 of the French Commercial Code, this being a punishable offense for the persons responsible for said payments and for the knowing creditors.
74. Following the above, the judicial reorganization procedure initiated legally prevents FC Bordeaux from paying the sums agreed in the Transfer Agreement for the duration of the legal redress.

(A.7) FIFA's participation in the proceedings

75. The Appeal seeks the cancellation of the Appealed Decision, insofar as it prevents FC Bordeaux from registering new players in the event of non-compliance. For this reason, the drafting of the Appeal Brief meant that FIFA should be a party to the proceedings.
76. If FIFA rejected, as it did, to act as a party in the present proceedings, the CAS should be able to compel it to do so by, as per Article R41.4 of the CAS Code, and in line with provisions applicable to ordinary proceedings by analogy.
77. Moreover, if the Sole Arbitrator has the power to seek, at any time, the settlement of the dispute by conciliation, then this participation from the FIFA becomes even more important.

78. In any case, FIFA's failure to intervene in the case must not prevent the Sole Arbitrator from overturning the Appealed Decision, since it has full power to review the facts and the law, and the Appealed Decision does not immediately impose a sanction, but only conditions it to the event of non-payment.

**(B) FC Gijón's Submissions:**

79. In its Answer, FC Gijón submitted the following prayers and requests for relief:

“(…)

- A. *The Appeal filed by [the Appellant], is inadmissible in accordance with article 50 of the FIFA Statutes, as well as article R32 of the CAS Code, as the statement of appeal was lodged outside the designated timeframe for submission, as the deadline for filing a statement of appeal cannot be extended fully dismissed confirming the FIFA General Secretariat Decision and the entitlement of Sporting to perceive the sums.*
- B. *Subsidiary and in any event, the Appeal filed by [the Appellant], is fully dismissed confirming the FIFA General Secretariat Decision and the entitlement of Sporting to perceive the sums, as it is evident that there are no substantial material grounds upon which the non-payment can be justified, since the transfer agreement is valid and binding on the parties and the club's insolvency proceedings do not justify the non-payment.*
- C. *In any case, ordering [the Appellant] to pay the costs and other expenses of this arbitration.*
- D. *In any case, ordering [the Appellant] to pay the legal fees and other expenses incurred by the [Respondent] in an amount to be determined at the discretion of this Hon. Panel and not less than CHF 30,000.00.*

(…)”

80. FC Gijón puts forth the following arguments in support of its position:

**(B.1) Inadmissibility of the Appeal**

- 81. Article 50 of the FIFA Statutes (May 2024 Ed.) establishes that appeals against final decisions passed by the FIFA and its bodies have to be lodged with the CAS within 21 days of the receipt of the decision in question. The CAS Code, on Article R32, establishes that the time limit for filing a statement of appeal cannot be extended.
- 82. It follows that an extension of the deadline to file a statement of appeal is not possible, and it is not acceptable that this is admitted based on an alleged error in the allocation of access IDs to the FIFA Legal Portal.
- 83. In the case at hand, the Appealed Decision was notified on 24 January 2025 and, as a result, the time limit to file the Statement of Appeal would end on 14 February 2025.

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Since the Appeal was lodged on 17 February 2025, it has to be concluded that it was filed outside the designated timeframe for submission and, as such, it cannot be accepted.

84. There is abundant CAS jurisprudence in support of this position, namely, among others, CAS 2019/A/6294, in which it was determined that timelines for the filing of a statement of appeal cannot be extended, the reason for this being the necessity to handle the time limits in a strict manner for reasons of legal certainty.
85. In addition, there is also jurisprudence from the Swiss Federal Tribunal (the “SFT”), namely Case 4A\_690/2016, E. 4.2, in which it was decided that procedural formalities are necessary to ensure the access to justice and the principle of equal treatment of the parties, therefore a strict application of the provisions dealing with deadlines of appeal is necessary.
86. The new exhibits presented by the Appellant regarding its comments on the admissibility of the Appeal were not translated into English and, as such, shall be deemed as inadmissible.
87. In any case, FC Bordeaux directly acknowledged, in its observations, that the contacts by which the Appellant allegedly alerted FIFA to the fact that it was unable to receive notifications were related to a completely different case. In fact, the contacts were made with FIFA Clearing House staff, instead of someone in charge of the FIFA Legal Portal.
88. It follows that the evidence only showed FC Bordeaux had alleged issues when accessing a notification from 29 January 2025 from a completely different matter to the one under discussion in the present proceedings, and that they were in fact not contacting the correct support email available for these cases. In no way does it prove that the Appealed Decision was not correctly notified to the Appellant on 24 January 2025.
89. Moreover, none of the exhibits proves that the Appealed Decision was indeed received on 6 February 2025. The only allegation of this is based on the alleged phone interview proposed by a FIFA Clearing House agent to discuss the alleged difficulties of the Appellant in receiving a notification on a completely different matter.
90. In other words, there is no proof that FC Bordeaux was not notified on 24 January 2025, and there is no proof that it was actually notified on 5 or 6 February 2025.
91. The alternative calculation of the time limit provided by the Appellant in accordance with French Law shall also be dismissed, since Article 50 of the FIFA Statutes, establishing the time limits for lodging an appeal, makes no reference to business or non-business days and 24 January 2025 was indeed a business day. In addition, Article R32 of the CAS Code expressly states that official holidays and non-working days are included in the calculation of time limits.
92. Only when a deadline falls on an official holiday or non-business day in the location from where the document is to be sent may there be an impact, as in that case the final day of the time limit is transferred to the end of the first subsequent business day.



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93. However, counting from the day of receipt of the Appealed Decision, the last day of the time limit was not an official holiday or non-business day in France.
94. Finally, unlike the Appellant pleads, the Respondent has objected to the late filing of the Statement of Appeal from the very first submission, therefore the CAS jurisprudence in which it intends to rely on (CAS 2006/A/1183) is not applicable to the present case.
95. Considering the above, the Appeal must be deemed as inadmissible.

(B.2) Appellants' attempt to evade the payment of its obligations

96. According to the established jurisprudence of the CAS (see, among others, CAS 2016/A/4379, CAS 2008/A/1519 & CAS 2008/A/1520, CAS 2017/A/5215), as well as the history of decisions from the FIFA Football Tribunal, the “sacred” legal principle of *pacta sunt servanda* means that agreement must be respected by the parties in good faith.
97. Following the opinion of Prof. Hans van Houtte on the principle of *pacta sunt servanda*, it is clear that, despite the future's uncertain nature, parties are expected to foresee and plan ahead. In fact, the sanctity of a contract, according to Prof. Hans van Houtte, is a feature of contract law and it means that parties must adhere to terms of their contract, this justifying why arbitrators have to apply the terms of the contract to which the parties agree upon.
98. Across international arbitrations, the principle of *pacta sunt servanda* has been reaffirmed countless times, and it has always constituted an integral part of most legal systems, from Roman Law to the European Civil Codes, as well Common Law and even Islamic “Shari’a”. It is considered to be the cornerstone of the *lex mercatoria* and applied as a transnational principle of private law (see, among others, I.C.C. award No. 5485 (1987), Yb. Comm. Arb., 1989, 156 at 168.).
99. Following the introduction, the position of RS Gijón is that FC Bordeaux must respect and fulfill the terms of the Transfer Agreement – however, this clearly did not happen.
100. In fact, it is clear that
  - a) FC Bordeaux failed to pay the amount of EUR 800,000 net due on 15 July 2024;
  - b) In light of this, RS Gijón put FC Bordeaux in default by email on 24 July 2024;
  - c) FC Bordeaux was granted a deadline of ten days on 24 July 2024 to pay the aforementioned amount.
101. Considering the above, the Respondent acted in accordance with Article 12bis para. 3, of the Regulations on the Status and Transfer of Players (the “RSTP”). In addition, and as set out in Clause 1.7 of the Transfer Agreement, the failure to pay the Second Instalment would result in the automatic accrual of the Third Instalment (EUR 700.000 net), as well as the Penalty and applicable interest.
102. Consequently, and under Article 12bis of the RSTP, FC Bordeaux has to pay to RS Gijón the amounts mentioned in the preceding paragraphs (paras. 100 and 101), as was recognized in the Appealed Decision, in the amount of EUR 1,500,000 plus 10% interest

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p.a. over all outstanding amounts, as well as the Penalty, corresponding to a total of EUR 1,575,000.

103. In addition to the above, it must also be stated that the Appellant did not appear in the proceedings before the FIFA Football Tribunal, so their allegations on the Appeal cannot refer to anything which was not discussed within the context of the said previous proceedings.

(B.3) The Insolvency Proceedings

104. The Appellant's primary defense is based on the insolvency proceedings, and it does not contest the validity of the Transfer Agreement and the payment obligation thereof. However, this does not exempt FC Bordeaux from its financial obligations and RS Gijón has the right to receive the due sums regardless of the existence of insolvency proceedings before the Court of Bordeaux.
105. The Transfer Agreement was concluded on 1 August 2023, i.e. one year before the Appellant's failure to comply with the obligations agreed between the Parties. In fact, the due date of the Debt occurred prior to the initiation of the insolvency proceedings, as acknowledged by the Appellant in its Appeal Brief: *"the amounts due (...) are prior claims in the sense of French Law as collective proceedings insofar as they are linked to a transfer dated prior to 30 July 2024 (the date on which the judicial reorganization proceedings were initiated)."*
106. CAS has issued several rulings on this matter, namely, among others, CAS 2016/A/4675, in which the respective sole arbitrator emphasized that a recuperation plan and any insolvency proceedings might affect the enforcement of an award, but not its legal validity, which is to be assessed under Swiss Law. Moreover, while the FDC allows the FIFA to close proceedings when a party declares bankruptcy, this rule is not present in the FIFA Procedural Rules, applicable to the FIFA Players Status Committee and FIFA Dispute Resolution Chamber. As such, the sole arbitrator concluded that a recuperation plan was not relevant to the aforementioned dispute, despite the eventual effects it could have regarding the enforcement of the award.
107. Consequently, the opening of bankruptcy proceedings does not exempt FC Bordeaux from its financial obligations, nor can the financial challenges encountered by the Appellant affect the validity of the credit, which must be recognized.

(B.4) Applicable default interest

108. Regarding the default interest rate applicable, Clause 1.7 of the Transfer Agreement establishes a rate of 10% p.a. over any outstanding amounts, including the Penalty – however, it is established jurisprudence that interest cannot apply over a penalty payment and, as such, the Respondent accepts the Appealed Decision in this point.
109. Moreover, the Appealed Decision is correct in confirming that the interest of 10% p.a. is to be applied to the outstanding amount of EUR 1,500,000, calculated from 4 August

2024, that is ten calendar days after FC Bordeaux was put in default, until the effective date of payment.

(B.5) Absence of FIFA from the proceedings

110. The case at hand is a case of contractual breach, namely of the Transfer Agreement. As such, the main dispute concerns an “horizontal” issue.
111. There is no “vertical issue” since the Appealed Decision is not imposing any disciplinary sanctions. On the contrary, such sanctions will only be potentially imposed in the future if the Appellant does not comply with the Appealed Decision and if the Respondent so requests it to FIFA. Since this has not been requested yet, there is no disciplinary issue at stake at the moment and, consequently, no vertical dispute.
112. It follows that FIFA does not need to be summoned as a respondent in the present proceedings.

(B.6) Conclusions

113. The Appealed Decision shall not be subject to revision or modification, because the Appellant did not respect the applicable time limits to lodge its Appeal.
114. In any case, it must be confirmed that FC Bordeaux has breached the Transfer Agreement by failing to pay the Second Instalment on the due date and after being put in default. As a consequence, the Third Instalment became due, as well as the Penalty and the interest established, as per the above para. 11. By failing to pay the precedent amounts, FC Bordeaux has failed to comply with its payment obligation as per Clauses 1.3 and 1.7 of the Transfer Agreement, breaching the legal principles of *pacta sunt servanda* and violating Article 12 bis of the FIFA RSTP.
115. Therefore, FC Bordeaux must pay to FC Gijón the amount of EUR 1,500,000 net, plus the contractual penalty in the amount of EUR 75,000 and interest accrued on the amount of EUR 1,500,000, as established in Clause 1.3 and 1.7 of the Transfer Agreement.
116. The existence of insolvency proceedings in France regarding the bankruptcy of FC Bordeaux do not imply the absence of responsibility of the Appellant for the aforementioned overdue payables, nor does it affect the validity of the credits owed to RS Gijón as recognized in the Appealed Decision.
117. Finally, the above is also in line with the fact that the amounts due have been acknowledged as being owed within the context of the national insolvency proceedings.

**V. JURISDICTION**

118. Pursuant of Article 186 of the PILA, the CAS has the power to decide upon its own jurisdiction.

119. Article R47 of the CAS Code states the following:

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

120. Furthermore, Article 49(1) of the FIFA Statutes, Ed. May 2024<sup>1</sup> reads as follows:

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

121. The jurisdiction of CAS, which is not disputed by the Parties, derives from Article R47 of the CAS Code and Article 49(1) of the FIFA Statutes. Additionally, the jurisdiction of the CAS is confirmed by the Order of Procedure duly signed by the Parties.

122. Therefore, it follows that CAS has jurisdiction to hear this matter.

## **VI. APPLICABLE LAW**

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

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

124. Furthermore, Article 49(2) of the FIFA Statutes sets forth as follows:

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

125. The Parties do not dispute the applicability of the FIFA regulations as the “applicable regulations” within the meaning of Article R58 of the CAS Code, with Swiss law being applied on a subsidiary basis, in the event that it is necessary to fill any gap or omission in the FIFA Regulations. In fact, the Parties expressly agreed in Clause 15 of the Transfer Agreement (see para. 6 above) any dispute should be resolved in accordance with the applicable FIFA RSTP.

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<sup>1</sup> All subsequent references to FIFA Statutes refer to Edition May 2024.

126. Consequently, the Panel will primarily apply the relevant FIFA Regulations, particularly the FIFA RSTP and Swiss law on a subsidiary basis.

## VII. ADMISSIBILITY

### (A) Procedural Deadlines and Formal Notification of the Appealed Decision

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

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties.”*

128. Article 50.1 of the FIFA Statutes provides as follows:

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

129. The grounds of the Appealed Decisions were dated and uploaded to the FIFA Legal Portal on 24 January 2025. The Statement of Appeal was filed on 17 February 2025, which *prima facie* appears to fall outside the 21-day deadline for filing and appeal.
130. The Appellant contends that it was only able to access and acknowledge the Appealed Decision on 5 February 2025 due to an error in the allocation of access credentials on the FIFA Legal Portal. As a result, the 21-day time limit for lodging the Appeal, in accordance with the applicable rules, would only have begun its count on 6 February 2025. In the alternative, the Appellant submits that, even assuming the Appealed Decision was accessible on 24 January 2025, the time limit would not begin to run until 26 January 2025 – a non-business day in France – since the calculation should start on the day following the date of communication (Sunday, also a non-business day in France). Consequently, the deadline would fall on 15 February 2025 (a Saturday), and should be extended to the next working day, i.e. Monday 17 February 2025.
131. In its Answer, the Respondent argued that the Statement of Appeal was filed out of time, asserting that the 21-day period expired on Friday, 14 February 2025. It further maintains that, pursuant to Article R32 of the CAS Code, the appeal deadline is not extendable, and no sufficient evidence was provided to support the Appellant’s claim that it was unable to access the FIFA Legal Portal during the relevant period.
132. The admissibility of the Appeal is a threshold issue that may impact the Sole Arbitrator’s ability to consider the merits. Accordingly, the Sole Arbitrator will first address whether

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the Statement of Appeal was filed within the prescribed time limit under the applicable rules.

133. In this context, the Sole Arbitrator notes that the assessment requires consideration of two key elements:

- a) *Dies a quo* – i.e., the date on which the time limit begins to run; and
- b) *Dies ad quem* – i.e., the final date by which the action must be completed.

(B) Legal Framework for the Calculation of the Time Limit for Filing a Statement of Appeal

134. Final decisions passed by FIFA and its bodies are, in principle, subject to appeal before the CAS. According to Article 50.1 of the FIFA Statutes, such appeals must be lodged within 21 days of receipt of the decision by the addressee, an approach similar to that foreseen in Article R49 of the CAS Code.

135. To determine how this time limit should be calculated, the Sole Arbitrator refers to Article R58 of the CAS Code, which requires the application of the “applicable regulations” – in this case, those enacted by FIFA, since this calculation is still within the limits of the issue of actionability, following established legal doctrine: “(...) *the preclusion or exclusion of actionability is – in principle – subject to the law applicable to the merits (Art. 58 CAS Code). The same, of course, also applies to all questions in connection with calculating the time limit.*” (*The “Time Limit for Appeal” in Arbitration Proceedings before the Court of Arbitration for Sport (CAS)*”, Dr. Prof. Ulrich Haas, in CAS Bulletin 2/2011, p. 10)

136. Pursuant to Article 49.2 of the FIFA Statutes, the provisions of the CAS Code shall apply to appeal proceedings, with the CAS primarily applying the various regulations of FIFA, and subsidiarily, Swiss law.

137. In accordance with Article R32 of the CAS Code, time limits fixed by the CAS Code commence only on the day following receipt of the relevant notification by the CAS. Moreover, official holidays and non-working days are included in the calculation of such time limits.

138. While Article R32 of the CAS Code sets a general rule for time limits established by the CAS, which is of great value and must not be disregarded, the matter at hand involves the determination of how a time limit to appeal a decision rendered by a sports federation should be calculated. This is not a time limit fixed by CAS itself. As such, the appropriate approach must be found within the regulatory framework of the relevant federation – in our case, FIFA regulations and, additionally, Swiss law – since, pursuant to Article R58 of the CAS Code and Article 49.2 of the FIFA Statutes, those are the rules the CAS must apply.

139. In this regard, Article 11.1 of the FIFA Procedural Rules clearly states that “(...) [f]or a party that directly receives a communication, the time limit will commence the day after receipt of the relevant communication.” Furthermore, there is no indication in the FIFA Procedural Rules that public holidays or non-business days are excluded from the computation of time limits.

140. This interpretation is further supported by Article 77 of the Swiss Code of Obligations, which provides that, when a time limit is expressed as a number of days, the relevant act must be performed on the last of those days, excluding the day on which the event triggering the deadline occurred.

141. In addition, this approach has been confirmed by legal doctrine:

*“(...) Article R32 of the CAS Code is consistent with the Swiss law on the matter of computing deadlines. Under the Swiss CO, deadlines fixed per days start to run from the day following the receipt of the relevant communication, with the day of the receipt not included. (...)”*

*In general, the rules on time limits should be construed in such a way as to guarantee legal certainty. For the time limits provided in the FIFA Statutes, a usual practice consists in computing the time limits to the general provision of Article R32 of the CAS Code. If the federation’s provisions do not contain a provision as to how to compute the time limit, Swiss law may be applied to the calculation of the time limits.”*

(See Mavromati, Despina & Reeb, Matthieu, *The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials* (2nd ed., Kluwer Law International 2025), p. 472)

142. On the basis of the above, the Sole Arbitrator concludes that the time limit for filing a statement of appeal, under the CAS Code, the applicable FIFA regulations, and even in light of subsidiarily applicable Swiss law, begins to run on the day following receipt of the appealed decision by the addressee. This approach is further confirmed by well-established CAS jurisprudence (see, among others, CAS 2013/A/3165, para. 46-47 and CAS 2020/A/7075, para. 81) and no conflicting rule or principle exists that would justify a departure from this conclusion.

(C) Date of Notification of the Appealed Decision and the *Dies a Quo*

143. In light of the foregoing and having clarified applicable rules for calculating the time limit to file the Statement of Appeal, the central issue is determining when the Appellant can be deemed to have received valid notification of the Appealed Decision.

144. The Respondent contends that the notification occurred when the Appealed Decision was uploaded to the FIFA Legal Portal on 24 January 2025. It argues that no evidence has been presented to justify the Appellant’s failure to comply with the relevant time limit, as no proof has been provided of any actual inability to access the portal.

145. Conversely, the Appellant submits that it was only notified of the Appeal Decision on 5 February 2025, based on the following timeline:

- a. On 29 January 2025, FC Bordeaux’s General Manager, Mr Saint-André, attempted to access the FIFA Legal Portal in connection with another matter and encountered

technical difficulties. An email was immediately sent to FIFA requesting assistance, but no response was received.

- b. On 3 February 2025, Mr Saint-André followed up again with FIFA, reiterating the inability to access notifications.
  - c. On 5 February 2025, Mr Nicolas Voisin, a FIFA Clearing House Agent, contacted the Appellant by phone to discuss the access issues and revealed that two access credentials had been issued to FC Bordeaux. The credential used by the new Managing Director did not permit full access to case updates, including the Appealed Decision, of which the Appellant was aware. Following the phone conversation, Mr Voisin sent the Appellant a copy of a decision related to another case, at which point FC Bordeaux become aware of the Appealed Decision for the first time.
146. Having considered the above, the Sole Arbitrator must determine when the notification of the Appealed Decision to the Appellant took place, i.e. when it was received, since this is the decisive moment for defining the starting date of the time limit (see Article 11 of the FIFA Procedural Rules).
147. As highlighted by CAS 2006/A/1153, para. 10: “[s]s a basic rule, a decision or other legally relevant statement is considered as being notified to the relevant person whenever that person has the opportunity to obtain knowledge of its content irrespective of whether that person has actually obtained knowledge. Thus, the relevant point in time is when a person receives the decision and not when it obtains actual knowledge of its content (CAS 2004/A/574)”. This is further reinforced by the Swiss Federal Tribunal decision no. 4A\_89/2011.
148. The Sole Arbitrator notes that legal doctrine follows the same line of reasoning:
- “According to the CAS case law, the receipt is defined as the point in time of receipt of the decision (as opposed to the actual knowledge of the content of the decision, e.g. through the publication on the federation’s website). Receipt of the decision means that the decision must have come into the relevant party’s/representatives’ sphere of control. As seen above, it is not necessary to prove that such party actually took note of the decision, but it suffices to be given the possibility to take note of the decision. (...) In this respect, the receipt of the appealed decision in the spam folder of the email address of the appellant’s counsel is part of the business activity of such party, the recipient has a higher duty to control and check the emails regularly.”*
- (See Mavromati, Despina & Reeb, Matthieu, The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials (2nd edn, Kluwer Law International 2025), p. 471)
149. It follows that there are two requirements for the concept of “receipt” to be fulfilled, namely the (i) declaration must have entered the “sphere of influence” of the addressee and (ii) one can expect under the circumstances that the addressee takes note of it (see CAS 2019/A/6253, para. 82).



150. In the case at hand, it is clear that the Appealed Decision was sent to the Appellant's FIFA Legal Portal, therefore, and in accordance with the applicable regulations, it entered the sphere of influence of the same on 24 January 2025. The Appellant merely alleged, as was above scrutinized, that it was "unable" to access the Appealed Decision due to an error in the allocation of its access credentials, but it never contested that the same had been uploaded to the FIFA Legal Portal on 24 January 2025, nor presented any evidence to the contrary.
151. As for the second requirement, the Sole Arbitrator finds that the Appellant has not discharged its burden of proving that it was genuinely prevented from accessing the FIFA Legal Portal and, as a result, from becoming aware of the Appealed Decision.
152. It must be noted that, in accordance with FIFA Circular 1842, the use of the FIFA Legal Portal became mandatory for clubs (and other sporting agents) as of 1 May 2023, with an obligation for users to check the portal on a daily basis. Accordingly, the relevant FIFA regulations – particularly the FIFA Procedural Rules – were amended to reflect this requirement. Article 10 of the FIFA Procedural Rules provides:

*"1. All communications shall be undertaken via the Legal Portal operated by FIFA (Legal Portal) or the Transfer Matching System (TMS).*

*2. The specific procedural rules shall define which method of communication must be used for the procedure in question. Communications from FIFA to a party by any such method is considered a valid means of communication and sufficient to establish time limits and their observance.*

*3. Parties must review TMS and the Legal Portal at least once per day for any communications from FIFA. Parties are responsible for any procedural disadvantages that may arise due to a failure to properly undertake such review. The contact details indicated in TMS are binding on the party that provided them.*

*4. Any communication submitted in TMS by a member association on behalf of an affiliated club shall:*

- a) not be subject to the fulfilment of any conditions by the respective club;*
- b) be undertaken by the member association without delay, regardless of whether it agrees with the merits of the communication."*

(Emphasis added by the Sole Arbitrator)

153. Based on the above, it is evident that the Appellant, as a registered club, was under an obligation to use the FIFA Legal Portal and to check it daily for communications.
154. While this obligation is strict, there may be exceptional cases where a club is unable to comply due to circumstances beyond its control. If such circumstances can be credibly demonstrated, the presumption of notification may be rebutted. This interpretation is supported by the FIFA Procedural Rules, which tie the commencement of time limits to

the *receipt* of the communication – distinct from the mere act of opening or acknowledging a message – provided that the communication has reached the addressee.

155. In the present case, the Appellant has failed to provide convincing evidence that it was, for reasons not attributable to it, unable to access the FIFA Legal Portal and, as a result, unable to receive the notification of the Appealed Decision.
156. The Appellant asserts that it had been issued two access credentials, and that this somehow prevented access to the relevant section of the portal. However, the correspondence submitted was exchanged due to problems accessing a different matter and does not clarify whether the Appellant effectively lacked access to the correct credential or simply used the wrong one.
157. To substantiate its claim of being unable to access the portal, the Appellant should have demonstrated that it was unable to use the correct credential for reasons beyond its control. The Sole Arbitrator considers that, even if FIFA informed the Appellant that its emails relating to the consequences of the initiation of a judicial reorganization (*redressement judiciaire*) had been taken into account and that automatic notifications generated by the system could be ignored, FC Bordeaux had still a duty to safeguard and manage both credentials, particularly in light of the fact that it was involved in multiple contractual disputes stemming from its financial difficulties, and as such it had to be aware that decisions and important communications from FIFA were to be expected. Moreover, the Appellant does not assert that it lacked the necessary credentials to access the portal entirely.
158. Alternatively, the Appellant should have demonstrated that it tried to comply with its duty to review the FIFA Legal Portal at least once per day and given that the Appellant had been in contact with a FIFA support agent, it could have requested a written statement or certificate confirming that a technical issue or error beyond its control had indeed prevented access to the portal on 24 January 2025. In fact, if it had already discovered to have issues before that moment, namely after 24 January 2025, the Appellant should have contacted FIFA without any delay to be able to demonstrate those errors were not its fault.
159. However, the Appellant did not do so, nor did it take appropriate or timely diligences to clarify the notification date once it became aware that the Appealed Decision had been uploaded earlier to the FIFA Legal Portal.
160. Considering the above, the Sole Arbitrator has to reject the Appellant's argument that it was only notified of the Appealed Decision on 5 February 2025. Accordingly, it must be determined that the notification containing the Appealed Decision was received by the Appellant on 24 January 2025 and, as such, the *dies a quo* – i.e., the date from which the time limit to lodge the present appeal began to run – is 25 January 2025, the day following the presumed notification of the Appeal Decision, as per Article 11.1 of the FIFA Procedural Rules.

(D) When Did the Deadline to File the Statement of Appeal expire? The *Dies ad Quem*

161. Considering the above, particularly the established starting date of the 21-day time limit, it is now necessary to determine the final day for filing the Statement of Appeal, i.e. the *dies ad quem*.

162. In the present case, since the calculation of the time limit includes public holidays and non-working days (see above paras. 137-141), it is clear that the deadline expired on Friday, 14 February 2025. With respect to the final day of the time limit, it is important to consider the wording of Article 11.3 of the FIFA Procedural Rules, which corresponds to the principle set out in Article R32 of the CAS Code:

*“If the last day of a time limit coincides with an official public holiday or a non-working day in the place of domicile of the party required to comply, the time limit will expire at the end of the next working day.”*

163. It follows from this provision that a deadline may only be extended to the next working day if it falls on a public holiday or non-working day in the place of domicile of the Appellant. However, FC Bordeaux has provided no indication that 14 February 2025 was a public holiday or non-business day in France (and, indeed, public information confirms this).

164. Accordingly, there is no rule allowing the transfer of the deadline to Monday, 17 February 2025, the date on which the Statement of Appeal was actually lodged.

165. Furthermore, the time limit for filing the Statement of Appeal cannot be extended, as Article R32 of the CAS Code explicitly prohibits such extensions.

166. In view of the above, the *dies ad quem* occurred on Friday, 14 February 2025. Therefore, the Statement of Appeal was submitted out of time.

(E) May the CAS Continue with the Present Arbitration Proceedings?

167. The Appellant argues that pursuant to CAS 2006/A/1183, para. 9, the CAS may nevertheless proceed with the appeal despite its late filing, provided that the Respondent does not raise any objection.

168. The Sole Arbitrator, however, notes that more recent CAS jurisprudence has firmly established that:

*“[f]ailure to comply with the time limit to appeal results in the loss of the party’s substantive claim. The expiration of the time limit has a preclusive effect that should be controlled on the basis of the facts pleaded and proved by the parties and which CAS panels have no discretion to extend. The consequence for the statement of appeal not being filed timely is an automatic, self-executing one where the respondent’s silence, inactivity or even acquiescence cannot change.”* (see, among others, CAS 2020/A/7075, para. 77, which also references CAS 2016/A/4814).

169. In any case, and even assuming *arguendo* that a respondent's failure to object could allow a panel/sole arbitrator to proceed with the analysis of an appeal – which is denied – the Sole Arbitrator finds that such circumstances do not apply here, since RS Gijón explicitly contested the timeliness of the Appeal and did not, in any way, acknowledge or accept its admissibility.
170. It follows that, having determined the Statement of Appeal was filed out of time, the CAS cannot proceed with the present matter.

(F) Conclusion

171. Considering all of the above, the Sole Arbitrator finds that the Appellant, by filing its Statement of Appeal on 17 February 2025, has failed to comply with the 21-days' time limit prescribed in Article 50.1 of the FIFA Statutes and Article R32 of the CAS Code, rendering the Appeal inadmissible.

**VIII. COSTS**

(...)

## **ON THESE GROUNDS**

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

1. The appeal filed by Football Club des Girondins de Bordeaux on 17 February 2025 with respect to the Confirmation Letter issued by the FIFA Football Tribunal on 24 January 2025 is inadmissible.
2. (...).
3. (...).
4. (...).

Seat of arbitration: Lausanne, Switzerland

Date: 28 November 2025

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

Rui Botica Santos  
Sole Arbitrator