



Arbitration CAS 2021/A/7909 Club Osmanlispor v. Sociedad Deportiva Huesca, award of 8 August 2022

Panel: Mr Cesare Gabasio (Italy), Sole Arbitrator

Football

Transfer with sell-on clause

Interpretation of a contract

Scope of a sell-on fee

Use of the word “sale” rather than “transfer”

1. The interpretation of a contract in accordance with Article 18.1 of the Swiss Code of Obligations aims at assessing the intention the parties had when they concluded the contract. In determining the intention of the parties it is necessary to look first to the words actually used or the conduct engaged in. However, the investigation is not to be limited to those words or the conduct even if they appear to give a clear answer to the question. In order to go beyond the apparent meaning of the words or the conduct by the parties, due consideration is to be given to all relevant circumstances of the case. This includes the negotiation, any subsequent conduct of the parties and usages.
2. The scope of a sell-on fee is to protect a club (the “old club”) transferring a player to another club (the “new club”) against an unexpected increase, after the transfer, in the market value of the player’s service. In other words, the new club agrees to share with the old club a portion of any profit made by the new club in connection with a player’s movement. In transfer contracts, for that reason, a sell-on clause is combined with the provision defining the transfer fee: overall, the parties divide the consideration to be paid by the new club in two components, *i.e.* a fixed amount, payable upon the transfer of the player to the new club and a variable, notional amount, payable to the old club in the event of a subsequent sale of the player from the new club to a third club. It follows that often sell-on clauses are referring to permanent transfers as triggering element for a participation of the old club in the profit made by the new club after the player’s transfer to a third club. However, the parties of a transfer agreement are free to decide on a case by case basis on which terms a sell-on clause shall be triggered.
3. The use, in a sell-on clause, of a wording referring to the “sale” of a player and not, in general, to the “transfer” of the same, can only lead to the conclusion that the real intention of the parties was to limit the application of such clause exclusively in the event of definitive transfer of the player. In fact, while the term “*transfer*” may include both a definitive and a temporary transfer, the word “*sale*” in the world of professional football can only refer to a definitive transfer.

I. PARTIES

1. Club Osmanlispor (“Osmanlispor” or the “Appellant”) is a football club with its registered office in Ankara, Turkey. It is a member of the Turkish Football Federation (the “TFF”), which itself is affiliated with the Fédération Internationale de Football Association (“FIFA”).
2. Sociedad Deportiva Huesca (“Huesca” or the “Respondent”) is a Spanish football club, with its registered office in Huesca, Spain. It is a member of the Royal Spanish Football Federation (the “RSFF”), which itself is affiliated with FIFA; The Appellant and the Respondent are referred together as the “Parties”.

II. INTRODUCTION

3. This appeal is brought by the Appellant against the Respondent, with respect to the decision rendered by the FIFA Players’ Status Committee (“FIFA PSC”) on 9 February 2021 (the “Appealed Decision”), regarding a dispute concerning the transfer of the player Serdar Gürler (the “Player”).

III. FACTUAL BACKGROUND

A. Background facts

4. Below is a summary of the main relevant facts, as established on the basis of the Parties’ written submissions on the file and relevant documentation produced in this appeal. Additional facts and allegations found in the Parties’ submissions may be set out, where relevant, in connection with the further 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, this Award refers only to the submissions and evidence considered necessary to explain its reasoning.
5. On 7 August 2018, the Appellant and the Respondent signed a transfer agreement for the permanent transfer of the Player, from the former to the latter (the “Transfer Agreement”).
6. The Transfer Agreement contains, *inter alia*, the following relevant terms:

“Article 1 Remuneration

1.1. Compensation Fee and Share of Future Sell

Huesca shall pay to OSMANLI a transfer fee for the Player of total Euro 2.300.000. – (in words: Two million and Three Hundred Thousand euros) + VAT if applicable for the transfer of the Player.

- *1.150.000 EUR shall be paid on the date of the signature of this agreement*
- *1.150.000 EUR shall be paid on 15.02.2019*

In addition to this amount, HUESCA is obliged to pay an extra 250.000 EUR (Two Hundred and Fifty Thousand Euro) to OSMANLI in the event that the Player plays at least 20 (twenty) official games for HUESCA with a minimum duration of 45 minutes.

Parties accept and undertake that the FIFA solidarity contributions and/or training compensation other than the amount stated herein regarding the transfer of the Player are not included in transfer compensation determined herein. In other words, HUESCA shall pay additional training compensation and/or solidarity other than the amounts stated in this contract.

In case the Player is transferred to a third club, HUESCA shall pay 20% (twenty percent) of the transfer fee that is received from the sale to OSMANLI within 7 (seven) days from the transfer date of the Player.

1.2 General Principles Regarding The Payments

(...).

Should the above mentioned payments not be paid in due time, for whatever reason, in addition to the principal due, there will be a lump sum penalty of 15% (fifteen percent) and HUESA shall be liable for that.

Article 5 Governing Law

This agreement shall be governed by the laws and regulations of FIFA.

FIFA shall have exclusive jurisdiction of all disputes arising from this Agreement, its execution and its interpretation, with the right to appeal to the Court of Arbitration for sports (CAS) in Lausanne/Switzerland. The language of the arbitration shall be in English”.

7. On 14 January 2019, the Player was transferred on a temporary basis from Huesca to the Turkish club, Götzepe AS, in consideration of a loan fee of EUR 400,000.
8. On August 2020, the Player was transferred on a permanent basis from Huesca to the Turkish club, Antalyaspor. The instruction entered in the TMS for said transfer was “engage out of contract free of payment”.
9. By correspondence dated 3 September 2020 and 10 September 2020, Osmanlispor requested Huesca the payment of the relevant sell-on fee (i.e. 20% of EUR 400,000). In the same correspondence, the Club also asked to be informed about the financial conditions of the transfer of the Player from the Respondent to Antalyaspor.
10. On 14 September 2020, Huesca replied to Osmanlispor denying owing any sell-on fee due to the fact that the Transfer Agreement referred only to a sell-on fee being due in case of “sale” of the Player, whereas the Player was transferred to Götzepe AS on a temporary basis.

11. On 18 September 2020, Osmanlispor informed Huesca that it would file a claim in front of FIFA.

B. Proceeding before the FIFA Players' Status Committee

12. On 18 September 2020, Osmanlispor filed a claim against Huesca in front of FIFA Players' Status Committee (the "FIFA PSC") requesting the following:

- To accept the claim in full.
- To condemn Huesca to pay in favour of Osmanlispor the outstanding sell-on fee amounting to EUR 80,000 plus 5% interest as from 21 January 2019 until the date of effective payment.
- To condemn Huesca to pay in favour of Osmanlispor as penalty in the amount of EUR 12,000 plus 5% interest as from 21 January 2019 until the date of effective payment.
- To inform Osmanlispor regarding the financial conditions of the Player's transfer to club Antalyaspor, afterwards, to allow Osmanlispor to submit an additional petition in order to specify the possible entitlements.
- To impose sanctions mentioned on the Article 24bis of the FIFA RSTP against Huesca.
- To establish that the costs of that proceeding shall be borne by Huesca.

13. On 10 October 2020, in its response submitted before the FIFA PSC, Huesca argued that pursuant to Article 1.1 of the Transfer Agreement the sell-on fee is due only in case of sale of the Player, whereas in the case at stake the Player was transferred on a temporary basis from the Respondent to Götzepe AS.

14. On 9 February 2021, the Single Judge of the FIFA PSC rendered the Appealed Decision with the following operative part:

"1. The claim of the [Club], Osmanlispor FK, is rejected.

2. This decision is rendered without costs".

15. On 31 March 2021, the grounds of the Appealed Decision were communicated to the Parties determining, *inter alia*, the following:

- The FIFA PSC acknowledged that on 7 August 2018 the Parties concluded a Transfer Agreement relating to the permanent transfer of the Player from the Appellant to the Respondent and that said agreement contained a sell-on clause.

- In addition, the FIFA PSC also observed that it remained undisputed between the Parties that the Player was transferred on loan from the Respondent to Götzepe AS.
- The foregoing having been established, the FIFA PSC noted that the Appellant lodged a claim before FIFA arguing that the abovementioned sell-on clause includes the temporary transfer. The Respondent, instead, in its reply stressed that Article 1.1. of the Transfer Agreement was only intended to apply in the event the Player was transferred on a permanent basis.
- The FIFA PSC, after having carefully examined the exact wording of the Transfer Agreement, held that the loan transfer of the Player cannot be considered as a “sale” and, hence, does not trigger the payment of the conditional fee as stipulated in the Transfer Agreement. If the Parties wanted the sell-on clause to include temporary transfers, they should have expressly stipulated so. In this regard, the FIFA PSC noted that the Parties had excluded a loan transfer from the scope of Article 1.1. par. 4 of the Transfer Agreement by choosing the specific term “sale”.
- Consequently, the FIFA PSC concluded that Article 1.1. par. 4 of the Transfer Agreement had not matured and, therefore, the Appellant is not entitled to receive the conditional payment from the Respondent.
- Furthermore, the FIFA PSC remarked that the subsequent transfer of the Player to Antalyaspor is not relevant to the outcome of the case at stake, insofar as it was free of charge.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

16. On 21 April 2021, the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (“CAS”) in accordance with Article 58 of the FIFA Statutes and Articles R47 and R48 of the Code of Sports-related Arbitration (2020 edition) (the “CAS Code”), against the Respondent with respect to the Appealed Decision. Furthermore, the Appellant requested that the appeal be decided by a Sole Arbitrator. The Appellant stated that its Statement of Appeal shall also be considered as the Appeal Brief in accordance with Article R51 of the CAS Code.
17. On 11 May 2021, the CAS Court Office informed the Parties of the failure of the Respondent to communicate its position on the issue of number of arbitrators within the time limit granted by the CAS. Consequently, in accordance with Article R50 of the CAS Code, the President of the CAS Appeals Arbitration Division decided the issue of number of arbitrators. Thereafter, President of the CAS Appeals Arbitration Division decided to submit this matter to a Sole Arbitrator.
18. On 14 May 2021, the Parties were informed in accordance with Article R50 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, that the Panel had been constituted as follows:

Sole Arbitrator: Mr Cesare Gabasio, Attorney-at-Law in Turin, Italy

19. On 19 May 2021, the Respondent filed its Answer pursuant to Article R55 of the CAS Code.
20. On 2 July 2021, the Sole Arbitrator, after having consulted the Parties, decided to hold a hearing, pursuant to Article R57 of the CAS Code.
21. On 19 July 2021, the Parties submitted a duly signed Order of Procedure to the CAS Court Office.
22. The hearing was held on 29 September 2021 by video-conference. At the beginning of the hearing, the Parties confirmed that they had no objections regarding the constitution of the Panel nor the way these proceeding has been conducted. After making their pleadings, the Parties confirmed that their right to be heard had been fully respected by the Sole Arbitrator.

V. PARTIES' SUBMISSIONS

23. The Appellant's submission, in essence, may be summarised as follows:
 - the Appellant argues that in two different occasions the Respondent recognised that the sell-on clause included in Article 1.1. of the Transfer Agreement applies also in case of loan of the Player.
 - In particular, the Respondent made some solidarity contribution payments in favour of Elazigspor and Kayseri Erciyesspor (i.e. clubs involved in training and education of the Player) over the amount of EUR 80,000, which is the sum resulting from the application of the sell-on clause to the loan of the Player from Huesca to Götzepe AS.
 - Also, the Appellant mentions that the Player at the end of the loan period to Götzepe AS signed a contract with another club (Antalyaspor) without playing any games for the Respondent. Therefore, the only transfer fee paid to the Respondent is EUR 400,000 (i.e. the amount paid by Götzepe AS to Huesca for the loan of the Player).
 - Furthermore, the Appellant is contesting the interpretation made by the FIFA PSC of Article 1.1. of the Transfer Agreement. According to the Appellant, the judicial body of first instance focused only on the word "sale" and did not take into consideration the meaning of the whole sentence and other words used in the relevant article, such as "In case the Player is transferred to a third club" and "transfer fee", which shows the real intention of the Parties (i.e. to apply the sell-on clause to any type of transfer, temporary or permanent).
 - Lastly, the Appellant contested also the interpretation of the word "sale", which does not describe the difference between selling something or loaning it. "Sale is a broad term that is used for any business relation between two parties which covers selling, loaning, trading or any

other trade related activities. In addition, meaning of “sale” in the English Dictionary (Cambridge) is also “an act of exchanging something for money”.

- In view of the above, the Appellant is of the opinion that the sell-on clause inserted in Article 1.1. of the Transfer Agreement shall apply also in the case at stake and, therefore, that the Respondent shall be condemned to pay the amount of EUR 80,000 as sell-on fee and EUR 12,000 as penalty.

24. The Appellant submitted the following requests for relief:

1. *“To grant a permanent relief reversing the appealed decision; to accept the Appellant’s claim, hence; to set aside the challenged decision passed by the Single Judge of the PSC of the FIFA,*
 - a. *To condemn the Respondent to pay in favour of the Appellant the outstanding sell-on fee amounting to EUR 80.000,00 – plus 5% interest as from 21 January 2019 until the effective date of payment,*
 - b. *To condemn the Respondent to pay in favour of the Appellant as penalty in the amount of EUR 12.000,00 – plus 5% interest as from 21 January 2019 until the date of effective payment,*
2. *To impose sanctions mentioned on the Article 24bis of the FIFA RSTP against the Respondent,*
3. *To condemn the Respondent as the only responsible of this trial and to establish that the costs of the arbitration procedure including legal fees and other expenses in connection with the present proceedings shall be borne by the Respondent.*

25. The submissions of the Respondent may be summarized as follows:

- Huesca argues that the transfer of the Player to Götzepe AS does not entail a sale. In case of sale the selling club cedes the player’s federative and economic rights to the new club while in case of loan the transferring club temporarily assigns the player’s federative rights for a specified time but does not assign the player’s economic rights.
- Furthermore, the Respondent disputes the concept of “sale” provided by the Appellant. In the world of professional football a sale occurs only when the transferring club loses the federative and economic rights over a player in favour of the new club.
- Based on the foregoing and taking into consideration the transfer agreement between Huesca and Götzepe AS, the Respondent claims that the transfer of the Player does not entail a sale as no economic rights was transferred to Götzepe AS.

26. The Respondent submitted the following requests for relief:

“the grounds developed by the appellant regarding its claim to qualify the transfer of the player Guler to GÖTZEPE by SD HUESCA as a sale cannot be accepted. Therefore, clause 1.1 of the contract signed between OSMANLISPOR and SD HUESCA is not applicable, and neither does any right to collect the 20% claimed”.

VI. JURISDICTION

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

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

28. The jurisdiction of CAS derives from Article 58.1 of the FIFA Statutes, which reads:

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

The Parties do not dispute the jurisdiction of the CAS and, moreover, confirmed it by signing the Order of Procedure. Furthermore, Article 5 of the Transfer Agreement provides that *“(…) FIFA shall have exclusive jurisdiction of all disputes arising from this Agreement, its execution and its interpretation, with the right to appeal to the Court of Arbitration for sports (CAS) in Lausanne/Switzerland. The language of the arbitration shall be in English”.*

29. In light of the foregoing, the Sole Arbitrator holds that the CAS has jurisdiction to hear the present dispute.

VII. ADMISSIBILITY

30. 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”.

31. Article 58 FIFA Statute provides a time limit of 21 days after notification to lodge an appeal against a decision adopted by one of FIFA’s legal bodies, such as the FIFA PSC.

32. The Appealed Decision was notified with grounds to the Appellant on 31 March 2021. The Appellant filed its Statement of Appeal on 21 April 2021, which is within the 21 days deadline allotted under the aforementioned provision.
33. Therefore, the appeal was timely submitted and is admissible.

VIII. APPLICABLE LAW

34. Article R58 of the CAS Code provides as follows:

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

35. Article 57.2 of the FIFA Statutes so provides:

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

36. In addition, the Sole Arbitrator notes that the Transfer Agreement also refers to FIFA regulations as applicable law.
37. Accordingly, the present dispute must be decided in accordance with the FIFA rules and regulations, such as in particular FIFA Regulations on the Status and Transfer of Players (the “FIFA RSTP”) as well as, subsidiarily, Swiss law.

IX. MERITS

38. The main issue in this arbitration, as raised by the Appellant, concerns the interpretation of the provision (the sell-on clause) contained in the Transfer Agreement. The Parties do not agree with the meaning of Article 1.1 para. 4 of the Transfer Agreement which provides that *“In case the Player is transferred to a third club, HUESCA shall pay 20% (twenty percent) of the transfer fee that is received from the sale to OSMANLI within 7 (seven) days from the transfer date of the Player”.* The Appellant is of the opinion that this provision applies to any transfer of the Player whereas the Respondent asserts that it should only apply to a definitive transfer.
39. The Sole Arbitrator remarks that the Transfer Agreement (and therefore the sell-on clause therein contained) has to be interpreted primarily on the basis of the FIFA rules and regulations, with Swiss law applying subsidiarily.

40. Since the FIFA Regulations do not provide any guidance as to how interpret contractual clauses and because Swiss law is subsidiary applicable, the Sole Arbitrator resorts to Article 18.1 of the Swiss Code of Obligations (“Swiss CO”), which determines the following:

“When assessing the form and terms of a contract, the true and common intention of the parties must be ascertained without dwelling on any inexact expressions or designations they may have used either in error or by way of disguising the true nature of the agreement”.

41. As a result, the interpretation of a contract in accordance with Article 18.1 Swiss CO aims at assessing the intention the parties had when they concluded the contract. In determining the intention of the parties it is necessary to look first to the words actually used or the conduct engaged in. However, the investigation is not to be limited to those words or the conduct even if they appear to give a clear answer to the question. In order to go beyond the apparent meaning of the words or the conduct by the parties, due consideration is to be given to all relevant circumstances of the case. This includes the negotiation, any subsequent conduct of the parties and usages.
42. As noted in CAS 2010/A/2098, the scope of a sell-on fee, which is a quite standard practice in the world of professional football, is to protect a club (the “old club”) transferring a player to another club (the “new club”) against an unexpected increase, after the transfer, in the market value of the player’s service. In other words, the new club agrees to share with the old club a portion of any profit made by the new club in connection with a player’s movement. In transfer contracts, for that reason, a sell-on clause is combined with the provision defining the transfer fee: overall, the parties divide the consideration to be paid by the new club in two components, *i.e.* a fixed amount, payable upon the transfer of the player to the new club and a variable, notional amount, payable to the old club in the event of a subsequent sale of the player from the new club to a third club.
43. It follows that often sell-on clauses are referring to permanent transfers as triggering element for a participation of the old club in the profit made by the new club after the player’s transfer to a third club. However, the parties of a transfer agreement are free to decide on a case by case basis on which terms a sell-on clause shall be triggered.
44. In the case at hand, the Appellant and the Respondent set in the Transfer Agreement a transfer fee (EUR 2,300,000) payable upon the permanent transfer of the Player to Huesca and the sell-on clause, providing that *“In case the Player is transferred to a third club, HUESCA shall pay 20% (twenty percent) of the transfer fee that is received from the sale to OSMANLI (...)”*.
45. The wording of this clause is clear in delimiting the scope of the sell-on fee. Article 1.1 of the Transfer Agreement, in fact, refers to the *“sale”* of the Player and not, in general, to the *“transfer”* of the same. The inclusion of the word *“sale”* within the sell-on clause can only lead to the conclusion that the real intention of the parties was to limit the application of such clause exclusively in the event of definitive transfer of the Player.

46. In fact, while the term “transfer” may include both a definitive and a temporary transfer, the word “sale” in the world of professional football can only refer to a definitive transfer.
47. The above is confirmed by CAS 2007/A/1219 which stated that “*The Transfer Agreement does not specify whether the transfer triggering the right of the Appellant to a certain sum is only a final transfer or not. In view of the Sole Arbitrator, it is hardly imaginable that the mutual consent of the parties was to limit such right to a final transfer and to exclude any transfer which was structured as a loan but was de facto in many ways similar and equivalent to a final transfer (...)*”.
48. In CAS 2007/A/1219 the sell-on clause contained in the transfer agreement provided that “*In case that [the Player] will be transferred from Borussia to another club within his time as a professional player, Sekondi will receive 15% of the net transfer fee resulting from this **transfer***” (emphasis added).
49. The wording of the sell-on clause mentioned in CAS 2007/A/1219 is wide enough to cover every kind of transfer, definitive or temporary. This point marks a decisive distinction between such case and the case at stake where the triggering element is not in general terms a “transfer”, but specifically a “sale”.
50. Furthermore, in CAS 2007/A/1219 the Sole Arbitrator argued that the transfer of the player from the respondent to the third club was *de facto* a final transfer even if structured as a loan, since the player never returned to the Respondent. In the present case, it cannot be said that the loan agreement between the Respondent and Götzepe AS conceals a final transfer since the Player returned to Respondent after the loan period and, more generally, there are no evidence that would point to such a situation.
51. The Appellant also argues that the Respondent made some solidarity contribution payment over the amount of EUR 80,000 (*i.e.* the sum resulting from the application of the sell-on clause to the loan of the Player) in favour of two different clubs (Elazigspor and Kayseri Erciyesspor) and, therefore, implicitly interpreted the sell-on clause applicable also in the event of loan of the Player.
52. However, in the opinion of the Sole Arbitrator, these payments do not lead to the conclusion that Huesca interpreted Article 1.1 para. 4 of the Transfer Agreement applicable also in the event of loan of the Player, for the following reasons.
53. The obligation of payment of the solidarity contribution does not arise from the Transfer Agreement since it is provided for in Article 1 Annexe 5 FIFA RSTP which states that “*If a professional moves during the course of a contract, 5% of any compensation paid within the scope of this transfer, not including training compensation paid to his former club, shall be deducted from the total amount of this compensation and distributed by the new club as a solidarity contribution to the club(s) involved in his training and education over the years (...)*”. In fact, the parties to a transfer agreement are only entitled to agree whether the solidarity contribution shall be deducted from the total amount of the transfer fee in accordance with the above cited provisions of the FIFA RSTP or, as occurred in the Transfer Agreement, it shall be paid “on top” of the transfer fee.

54. On 7 October 2019, in a dispute between Elazigspor and the Respondent, the latter received a proposal from the FIFA Administration with regard to the distribution of the solidarity contribution in connection with the transfer of the Player from the Appellant to the Respondent. In said proposal the FIFA Administration invited Huesca to correspond to Elazigspor the solidarity contribution over the amount resulting from the application of the sell-on clause to the loan of the Player to Götzepe AS (*i.e.* EUR 80,000) and Huesca paid the amount requested.
55. However, since it is Huesca's liability the payment of the solidarity contribution in accordance with Article 1, Annexe 5 FIFA RSTP above mentioned, such payment cannot lead to the conclusion that a definitive transfer took place given that the solidarity contribution should have been also paid in case of loans.
56. It is therefore not surprising that on 11 February 2020 Huesca made the payment of the solidarity contribution over the amount of EUR 80,000 also in favour of Kayseri Erciyesspor.
57. The correspondence between the Appellant and the Respondent confirms that these payments were made in compliance with the provision set forth under Article 1, Annexe 5 FIFA RSTP, and not by an extensive interpretation of the sell-on clause.
58. In particular, on 14 September 2020, when asked to correspond the amount resulting from the sell-on fee contained in the Transfer Agreement, the Respondent replied to the Appellant that "(...) *the interpretation adopted by [the Appellant] of the contract and that gives rise to the claim that [the Appellant] now practice, is not correct. Specifically, clause 1.1 says: In case the Player is transferred to a third club, HUESCA shall pay 20% (twenty percent) of the transfer fee that is received from the sale to OSMNLI within 7 (seven) days from the transfer date of the Player. Except for the error of the person who addresses them, the temporary assignment or loan of [the Player] to GOZTEPE was not a sale, as stated in the clause for the payment of that 20%. Therefore, this part does not recognize the origin of the claim made. (...)*".
59. Lastly and for the sake of completeness, the Sole Arbitrator notes that the subsequent transfer of the Player to Antalyaspor was free of charge and, therefore, not relevant to the outcome of the case at stake.
60. The Sole Arbitrator taking in due consideration the wording of the Transfer Agreement and after careful review of all means of evidence produced by the Parties, is of the view that the real and common intention of the Parties was to limit the application of Article 1.1 para. 4 of the Transfer Agreement only in case of definitive transfer of the Player. If the Parties wished to extend the application of the sell-on clause also in the event of temporary transfer of the Player, they should have manifested it in a different way.
61. In light of the foregoing, the Sole Arbitrator concludes that the Appellant is not entitled to receive neither the amount of EUR 80,000 as outstanding sell-on fee nor the amount of EUR 12,000 as penalty.

Conclusions

62. Based on the foregoing the Sole Arbitrator finds that:
- a. the Appellant's Appeal shall be dismissed;
 - b. the Appealed Decision shall be confirmed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 21 April 2021 by Club Osmanlispor against Sociedad Deportiva Huesca with respect to the decision rendered on 9 February 2021 by the Single Judge of the FIFA Players' Status Committee is dismissed.
2. The decision rendered by the Single Judge of the FIFA Players' Status Committee on 9 February 2021 is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.