Arbitration CAS 2021/A/8214 Altay SK v. Andreas Tatos, award of 27 January 2022

Panel: Mr Lars Hilliger (Denmark), Sole Arbitrator

Football
Termination of an employment contract with just cause by a player
Procedure for termination under Article 14bis RSTP
Burden of proof and documents provided in a foreign language
Overdue payables and compensation for breach of contract
Player's standing to be sued (alone) and presence of FIFA as a party to the proceedings
Consequences of the default by the debtor
Typos in the operative part of the appealed decision

1. **A fixed-term employment contract may be unilaterally terminated with just cause by a player for outstanding salaries, provided that he has put the club in default pursuant to Article 14bis of the FIFA Regulations on the Status and Transfer of Players (RSTP). Such termination may occur through the sending of a formal termination letter or the filing of a claim to the relevant dispute resolution body or arbitral tribunal, in particular the FIFA Dispute Resolution Chamber (DRC).**

2. **The club shall bear the burden of proof that it had actually fulfilled its payment obligations under the contract(s) at the time of the player's termination of the employment relationship. This is not the case if the documents that it provides for this purpose are not translated into English, contrary to the Sole Arbitrator's instructions and Article R29 of the CAS Code.**

3. **The player who terminates his contract with just cause can claim compensation under Article 17 RSTP. In addition to the overdue payables on the date of termination, he is entitled to receive the remaining salary due for the total period of his employment contract, in application of the principle of "positive interest". He is only eligible for bonuses if he effectively participated in the relevant event and has a duty to mitigate damages and find a new club.**

4. **The player who avails himself of the binding effect of the FIFA DRC's decision, and concludes that his former club's appeal should be dismissed, cannot rely on his lack of standing to be sued (alone) if the said dispute resolution body acted in an adjudicatory capacity to resolve a strictly contractual matter.**

5. **Article 24bis RSTP does not leave any margin of discretion to establish the potential consequences in the event of default by the debtor. Indeed, such consequences result from the automatic application of Article 24bis RSTP, which provides that the FIFA DRC *"shall"* decide on the consequences of the failure to pay, that such consequences**

"shall" **be included in the findings of the decision and that, against a club, the consequences consist in a ban from registering any new players up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods.**

6. **A CAS panel may correct any typos contained in the operative part of the challenged decision, including the applicable currency.**

I. PARTIES

1. Altay SK (the "Appellant" or the "Club") is a professional Turkish football club affiliated with the Turkish Football Federation, which in turn is affiliated with the Fédération Internationale de Football Association ("FIFA"). The Club is currently participating in the Turkish Süper Lig, which is the tier-1 league of Turkish football.

2. Mr Andreas Tatos (the "Respondent" or the "Player") is a professional football player of Greek nationality. The Player is currently registered with the Greek football club Xanthi FC, which is currently participating in the Greek Super League.

II. FACTUAL BACKGROUND

A. Background Facts

3. Below is a summary of the relevant facts and allegations as established by the Sole Arbitrator on the basis of the decision rendered by the FIFA Dispute Resolution Chamber (the "FIFA DRC") on 20 May 2021 (the "Appealed Decision"), the written submissions of the Parties and the evidence adduced. Additional facts and allegations found in the Parties' written submissions and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Sole Arbitrator refers in this Award only to the submissions and evidence he considers necessary to explain his reasoning.

4. On 18 January 2019, the Club and the Player entered into a Professional Football Player's Employment Contract (the "First Contract"), valid as from 18 January 2019 until 31 May 2020.

5. On 29 January 2020, the Parties signed an Amendment Agreement to the First Contract (the "Agreement") modifying the remuneration of the Player.

6. The Agreement stated, *inter alia*, as follows:

"[…] *II. SUBJECT*

The subject of this "Amendment Agreement" is the amendment of the Professional Football Player Agreement, which is in force between the parties, starting on 18.01.2019 and ending on 31.05.2020, only the fees for the 2019-2020 football season.

III. PROVISIONS

l. The Professional Football Player Agreement dated 18.01.2019 and ending 31.05.2020, which was signed between the parties, is still valid.

2. With this Amendment Agreement, the parties have amended and updated by amending the "3- Payments and Provisions" section of the Professional Football Player Agreement.

- *Guarantee fee of the player in the 2019-2020 Football Season has been replaced and from now on it will be 270,000 Euros (two hundred and seventy thousand Euros).*
- *41.000 Euros of 270.000 Euros were paid, and the remaining guarantee fee of the player from the 2019-2020 season is 229.000 Euros.*
- *The guarantee fee of 229.000 Euros (two hundred twenty nine thousand Euros) will be paid in the following ways.*

  - 45.800 Euros (forty five thousand eight hundred Euros) in advance,
  - 31.600 Euros (thirty one thousand six hundred Euros) with a check due 31 March 2020,
  -31.600 Euros (thirty one thousand six hundred Euros) with a check due on May 15, 2020,
  - 60.000 Euros (sixty thousand Euros) will be paid on 30 June 2020,
  - 4x15.000 Euros (fifteen thousand Euros) In February-March-April-May, a total of 60.000 Euros (sixty thousand Euros) will be paid in the first week of each month.

If the player scores 10 or more goals in TFF 1st League competitions during the 2020-2021 football season, an additional payment of 10,000 Euros (ten thousand Euros) will be made to the player.

*4 * 3000 TL (three thousand Turkish liras) will be paid rent in February-March-April-May.*

They have decided to amend the relevant article in the form of this amendment agreement and made changes in the player's wage.

All other articles of the contract are still valid.

3. All other provisions in the Professional Football Player contract will remain in effect […]*".*

7. On 30 January 2020, the Parties signed a new Professional Football Player Agreement (the "Second Contract"), valid as from 1 June 2020 until 31 May 2021.

8. The Second Contract stated, *inter alia*, as follows:

"[…] *For the 2020-2021 Season.*
The total amount of 270.000 EURO (Two Hundred Seventy Thousand Euro) will be paid as follows.

€50.000 (fifty thousand euro) on 31st August 2020,
€30.000 (thirty thousand euro) on 31st October 2020,
€30.000 (thirty thousand euro) on 31st December 2020,
€40.000 (forty thousand euro) on 28th February 2021,
€20.000 (twenty thousand euro) on 30th May 2021,
€100.000 (One Hundred Thousand Euro) shall be paid to the Football player as a monthly wage of €10.000 (ten thousand euro) for ten months beginning from 01.06.2020 until 01.05.2021 in the first week of each month.

[…]

- *A rental payment of 3,000 TL (three thousand Turkish liras) will be made to the football player for 12 months starting from June 2020 until May 2021.*

- *In the 2020-2021 Football season, if the football player plays 8 matches and above in the first 11 matches in the TTF 1st League Competitions, an additional payment of 10,000 Euros (ten thousand Euros) will be made to the player.*

- *If the football player scores 10 or more goals in the TTF 1st League Competitions in the 2020-2021 Football season, an additional payment of 10,000 Euros (ten thousand euros) will be made to the player.* […]*".*

9. By letter of 8 July 2020, the Player put the Club in default (the "Default Notice"), stating as follows:

"[…] *As you are fully aware, The Player signed with the Club on 18th January, 2019, an employment contract for professional football player for a period of one and a half year/ that is from 18.01.2019 till 31.05.2020 [football season[s] 2018 - 2019 and 2019 - 2020].*

In accordance with article "3" of the contract named "Payments and Special Conditions", the Club agreed to pay the player the following amount[s] that is:

- *Payment for 2018 - 2019 - total guarantee payment of 155.000 euro.*

  65.000,00 euro paid in advance
  50.000,00 euro will be paid by check with maturity of 31.05.2019
  The Player shall be paid 8.000,00 euro the first week of each month, for a total of 5 months, beginning from the date 01.01.2019 up to and including the date 01.05.2019.

- *Payment for 2019 - 2020 - guarantee payment of 350.000 euro.*

  85.000,00 euro will be paid in August 2019
  82.500,00 euro will be paid in November 2019.
  82.500,00 euro will be paid in January 2020.

  The Player shall be paid 10.000 euro the first week of each month, for a total of 10 months, beginning from the date 01.09,2019 up to and including the date 01.06.2019.

However, even if the Club is contractually obliged to pay the Player the above-mentioned amounts of money on specific dates, it has not paid the Player until today and most of the afore-mentioned amounts for football season 2019 - 2020 are still pending. The above happens even though the Player complained many times to the Club starting from 30th August 2019 onwards for the delay on the payment of the amounts set in the employment contract.

That means that the Club must pay the Player, in accordance with article "3" of the contract for football season 2019 - 2020, the following amounts beginning from August 2019 till now. These are:

[a] 85,000,00 euro in August 2019 and 82.500,00 euro in November 2019 for contract installments, and

[b] 10.000,00 euro, the first week of each month, starting from September 2019 till December 2019 and, in total, 40,000,00 euro for monthly salaries.

Therefore, the amount owned by the Club to the Payer, for the time being, is - deducting the amount of 30.683,18 euro paid by the club to the Player on September 15th, 2019 - euro one hundred seventy six thousand eight hundred sixteen and eighty [85.000,00 + 82.500,00 40.000 - 30.683,18 = 176.816,82] two. The amount of 30.683,18 was deducted from contract instalment of August 2019 coming to the amount of 85.000,00 euro and, therefore, the residue amount from that instalment is [85.000,00 ~ 30.683,18 = 54.316,82] euro 54.316,82.

For this reason and in compliance with the content of article 14bis of Regulations on the status and transfer of players Of FIFA [edition: June2018].

For this reason and as the Club failed unlawfully to pay the Player two [2] consequent contract instalments and four [4] monthly salaries, these of:

a] 54.316,82 euro in August 2019 and 82.500,00 euro in November 2019 as contract installments, and

b] 10.000,00 euro, the first week of each month, starting from September 2019 till December 2019 and, in total, 40.000/00 euro.

Therefore, the amount owned by the Club to the Player, for the time being, is, deducting the amount of 30.683,18 euro paid by the club on September 15th, 2019, euro one hundred seventy six thousand eight hundred sixteen and eighty [85.000/00 + 82.500,00 + 40.000 - 30.683,18= 176.816,82] two, plus interest rate.

For this reason and, as the Club is in arrear[s] on its payments and, consequently, in breach of the terms of the contract dated 18th January, 2019.

For the above reason[s] and, by reserved all my legal rights I ask, by the present,

The Club to pay me [i.e. the Player] the afore – mentioned outstanding amounts of a] 54.316,82 euro in August 2019 and 82.500,00 euro in November 2019 as contract installments, and b] [4 months x 10.000,00 € each month] 40.000,00 euro, which is the total amount for months September, October,

November and December 2019, each of an amount of 10.000,00, and, in total, euro one hundred seventy six thousand eight hundred sixteen and eighty [85.000,00 + 82.500,00 + 40.000 - 30.683,18 = 176.816,82] two, plus interest rate from the date next to the date of payment of each amount, within a period of fifteen [15] days, from the date of receipt of the present notice of termination - default notice, in compliance with the content of article 14bis of Regulations on the Status and Transfer of Players of FIFA [edition: June 2018]" (emphasis omitted).

10. On 10 August 2020, and without any reaction from the Club, the Player filed a claim against the Club with the FIFA DRC, requesting, *inter alia*, the *"termination of contractual obligations with just cause"* based on the Club's alleged breach of its contractual obligations.

11. Subsequently, the Player informed FIFA that he had signed a new employment contract with the Greek football club Xanthi FC, valid as from 29 September 2020 until 30 June 2022.

12. According to the said new contract, the Player was entitled to receive the following remuneration:

a) EUR 870 as monthly salary payable by the end of each month, for 12 months a year;

b) Half of the player's salary as a Christmas gift;

c) Half of the player's salary as an Easter gift;

d) EUR 148,237.50 net payable in 11 instalments as follows: 1) EUR 4,000 on 30 September 2020; 2) EUR 4,000 on 31 October 2020; 3) EUR 4,000 on 31 January 2021; […] 5) EUR 4,000 on 31 March 2021; 6) 20,000 on 31 July 2021; 7) EUR 3,000 on 31 August 2021; 8) EUR 34,079.16 on 31 October 2021; 9) EUR 3,000 on 31 January 2022; 10) EUR 34,079.16 on 31 March 2022 and 11) EUR 34,079.18 on 31 May 2022.

13. On 5 November 2020, the Single Judge of the FIFA Players' Status Committee authorised the provisional registration of the Player for his new club.

B. Proceedings before the FIFA Dispute Resolution Chamber

14. In his claim lodged against the Club before FIFA on 10 August 2021, the Player, *inter alia*, requested the payment of EUR 172,000 as outstanding remuneration plus interest from the respective due dates. The requested amount broke down as follows:

- EUR 60,000 as monthly salaries related to the months from February until May 2020 (cf. the Agreement);
- [EUR] 12,000 as accommodation related to the months from February until May 2020 (cf. the Agreement);
- EUR 100,000 as remuneration payable on 1 June 2020 (cf. the Second Contract).

15. In addition, the Player requested the payment of the total amount of EUR 290,000 as compensation for the contractual breach by the Club based on the Second Contract, which amount broke down as follows:

1) EUR 170,000 as the second contract's instalments (i.e. EUR 50,000 due on 31 August 2020; EUR 30,000 due on 31 October 2020; EUR 30,000 due on 31 December 2020; EUR 40,000 due on 28 February 2021 and EUR 20,000 due on 30 May 2021);
2) EUR 100,000 as monthly salary (i.e. EUR 10,000 payable each month from 1 June 2020 until 1 May 2021) in accordance with the second contract;
3) EUR 10,000 as bonus if the player has between 8 and 11 participations in football matches of season 2020-2021; and
4) EUR 10,000 as bonus if the player achieves 10 or more goals in football season 2020-2021.

16. Finally, as mentioned in para. 10 above, the Player requested FIFA to declare the Second Contract unilaterally terminated with just cause due to the outstanding salaries.

17. The FIFA administration replied to the Player, *inter alia*, as follows:

"Either party to an employment contract between a professional player and a club may terminate the contract if they deem to have a just cause for such a termination. In case of a dispute, it would be up to the competent decision-making body to establish whether a contractual breach occurred, with or without just cause, who is to be deemed responsible and what the consequences of such a breach would be (cf. article 17 of the Regulations)".

18. In support of his claim, the Player submitted that many of the payments submitted by the Club were made to a person named "Metin Cetin" and not to the Player in a total amount of TRY 390,000 (i.e. TRY 120,000 + TRY 270,000). These payments were made by the Club as a commission fee to the Player's manager.

19. Furthermore, the Club had failed to provide a detailed reference to each payment allegedly made.

20. Instead of paying the Player the amount of EUR 270,000, it paid only EUR 96,616.40, and beyond 10 June 2020 no more payments were made by the Club.

21. As a result of the Club's failure to pay the Player, the Player was entitled to outstanding remuneration and compensation for breach of contract.

22. In its reply to the claim, the Club submitted, *inter alia*, that it had met its financial obligations to the Player and, accordingly, made timely payments up until the Player terminated the Contract.

23. In this respect, the Club enclosed a list of payments written in the Turkish language and requested the dismissal of the claim.

24. Having established its competence to deal with the matter, the FIFA DRC referred to the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (the "FIFA Procedural Rules") and recalled the basic principle of burden of proof, according to which any party claiming a right on the basis of an alleged fact carries the

respective burden of proof, and the FIFA DRC further concluded that since the claim was filed on 10 August 2020, the January 2020 edition of the FIFA Regulations on the Status and Transfer of Player (the "Regulations") was applicable to the matter at hand.

25. The FIFA DRC then recalled the facts of the case and found that on 10 August 2020, by lodging his claim against the Club before FIFA after having forwarded the Default Notice to the latter, the Player terminated the employment relationship between the Parties.

26. With regard to the substance of the matter, the FIFA DRC took note of the fact that the Parties were disputing whether the Player on 10 August 2020 had just cause to unilaterally terminate the Contract in view of the alleged outstanding salaries and which Party was responsible for the early termination.

27. Combined with the fact that the FIFA DRC was entrusted with the task of determining whether or not, on that date, the Club was in arrears with its financial obligations to the Player and whether this could provide the Player with a reason to validly terminate the Contract on the said date, the FIFA DRC would also have to decide on the consequences for the Party that caused the unjust breach of the employment relationship.

28. In this respect, the FIFA DRC took note of the Club's allegation that it had no overdue payables to the Player.

29. The FIFA DRC then recalled the basic principle of burden of proof, as stipulated in Article 12 par. 3 of the FIFA Procedural Rules, according to which a party claiming a right on the basis of an alleged fact carries the respective burden of proof.

30. In that regard, the FIFA DRC noted that the documents submitted by the Club as proof of its alleged payments were all written in the Turkish language and not translated into one of the official FIFA languages (English, French, German and Spanish).

31. As a result, the FIFA DRC stated that it should disregard the untranslated evidence presented by the Club.

32. In addition, the FIFA DRC noted that the Player had put the Club in default for the payment of more than two monthly salaries (i.e. four monthly salaries, accommodation and additional payments), granting the Club 15 additional days to remedy the default (cf. Article 14bis of the Regulations), without receiving any reply from the Club.

33. Moreover, the FIFA DRC noted that on 10 August 2020, upon the Player's request, the employment relationship was declared terminated by him, invoking Article 14bis of the Regulations, since the Club had still not paid the relevant outstanding remuneration.

34. Bearing this in mind, the FIFA DRC noted a) that the Player acted in accordance with Article 14bis of the Regulations; b) that after the Default Notice the Club did not pay the outstanding remuneration; and c) that the termination of the contractual relationship occurred on 10 August 2020, i.e. more than 15 days after the Default Notice was given.

35. Thus, the FIFA DRC concluded that the Player had just cause to terminate the employment relationship with the Club and that the Club was to be held liable for the early termination of the employment relationship with just cause by the Player.

36. With regard to the consequences of such termination, the FIFA DRC took into consideration the issue of unpaid remuneration at the moment when the Contract was terminated and decided that, in accordance with the general legal principle of *pacta sunt servanda*, the Club was liable to pay the Player the amount of EUR 60,000, corresponding to four monthly salaries of EUR 15,000 each, i.e. in the period between February and 2020 (cf. the Agreement), the amount of EUR 12,000 as accommodation related to the same period and the same Agreement, EUR 20,000 as outstanding remuneration related to the months of June and July 2020 (cf. the Second Contract) and January 2021, and TRY 6,000 as outstanding rental payment for the same period and the same Second Contract.

37. Furthermore, and in line with its constant practice, the FIFA DRC decided to award the Player interest at the rate of 5% p.a. on the outstanding amounts as from the relevant due dates.

38. Secondly, the FIFA DRC took into consideration Article 17 (1) of the Regulations since the Club was liable to pay compensation to the Player for breach of contract.

39. With regard to the calculation of the amount of compensation for breach of contract in the case at stake, the FIFA DRC first summed up that, in accordance with Article 17 (1) of the Regulations, the amount of compensation must be calculated, in particular and unless otherwise provided for in the contract at issue, with due consideration for the law of the country concerned, the specificity of sport and any other objective criteria, including, in particular, the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, and depending on whether the contractual breach falls within a protected period.

40. Since the Second Contract did not contain a provision under which the Parties had agreed beforehand on an amount of compensation payable by the parties to the contract in the event of breach of contract, the FIFA DRC proceeded with the calculation of the monies payable to the Player under the terms of the Second Contract until the natural expiry of the Contract and concluded that the amount of EUR 250,000 should serve as the basis for the final determination of the amount of compensation for breach of contract in the case at hand.

41. Furthermore, the FIFA DRC verified whether the Player had signed an employment contract with another club within the relevant period of time, which would have enabled him to reduce his loss of income.

42. The FIFA DRC noted that the Player had in fact signed a new employment contract with the Greek club Xanthi FC, valid as from 29 September 2020 2021 until 30 June 2022, according to which the Player was entitled to a total amount of EUR 23,830 for the overlapping period of time.

43. In determining the mitigated amount, the FIFA DRC noted that only the overlapping period should be taken into consideration.

44. The FIFA DRC then turned its attention to Article 17 (1) (ii) of the Regulations, according to which a player is entitled to an additional compensation of three salaries, subject to the early termination of the contract being due to overdue payables, and decided to award the Player additional compensation corresponding to EUR 23,830.

45. Furthermore, the FIFA DRC took note of the Player's request for EUR 20,000 as bonuses being a part of his claim for compensation. However, the FIFA DRC highlighted that, in accordance with its well-established jurisprudence, bonuses should only be granted in case the player effectively participated in the event triggering the relevant bonuses.

46. As a result, the FIFA DRC decided to reject the said request.

47. Finally, the FIFA DRC decided that, in the event that the Club does not pay the amount due to the Player within 45 days from the moment when the Player communicates the relevant bank details to the Club, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods will be applicable to the Club in accordance with Article 24bis (2) and (4) of the Regulations.

48. On 20 May 2021, the FIFA DRC rendered the Appealed Decision and decided, *inter alia*, that:

"1. The claim of [the Player] is partially accepted.

2. [The Club], has to pay to [the Club], the following amounts as outstanding remuneration:
- EUR 15,000 plus 5% interest p.a. from 7 February 2020 until the date of effective payment;
- EUR 15,000 plus 5% interest p.a. from 7 March 2020 until the date of effective payment;
- EUR 15,000 plus 5% interest p.a. from 7 April 2020 until the date of effective payment;
- EUR 15,000 plus 5% interest p.a. from 7 May 2020 until the date of effective payment;
- EUR 3,000 plus 5% interest p.a. from 1 March 2020 until the date of effective payment;
- EUR 3,000 plus 5% interest p.a. from 1 April 2020 until the date of effective payment;
- EUR 3,000 plus 5% interest p.a. from 1 May 2020 until the date of effective payment;
- EUR 3,000 plus 5% interest p.a. from \ June 2020 until the date of effective payment;
- EUR 10,000 plus 5% interest p.a. from 7 June 2020 until the date of effective payment;
- EUR 10,000 plus 5% interest p.a. from 7 July 2020 until the date of effective payment;
- Turkish Lira (TRY) 3,000 plus 5% interest p.a. from 1 July 2020 until the date of effective payment and
- TRY 3,000 plus 5% interest p.a. from 1 August 2020 until the date of effective payment.

3. [The Club] has to pay to [the Player] the amount of EUR 250,000 as compensation.

4. Any further claims of [the Player] are rejected.

5. […]

6. […]

7. *In the event that the amount due, plus interest as established above is not paid [the Club] within 45 days, as from the notification by [the Player] of the relevant bank details to [the Club], the following consequences shall arise:*

   1. *[The Club] shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods. The aforementioned ban mentioned will be lifted immediately and prior to its complete serving, once the due amount is paid. (cf. art. 24bis of the Regulations on the Status and Transfer of Players).*
   2. *In the event that the payable amount as per in this decision is still not paid by the end of the ban of the three entire and consecutive registration periods, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee.*

8. *This decision is rendered without costs"* (emphasis omitted).

49. On 19 July 2021, the grounds of the Appealed Decision were communicated to the Parties.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

50. On 9 August 2021, the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport (the "CAS") in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (the "CAS Code") against the Appealed Decision.

51. On 26 August 2021, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.

52. By letter of 30 August 2021, the Respondent stated, *inter alia*, that he had no standing to be sued as the appeal should have been directed against the association which issued the Appealed Decision, i.e. FIFA. Furthermore, the Respondent requested that the Appellant be ordered *"to identify the rules and regulations that it intends to rely on"*.

53. In addition, the Respondent requested that all exhibits filed in a language other than English be dismissed.

54. By letter of the same date, the CAS Court Office wrote, *inter alia*, as follows to the Appellant:

"[…] *With reference to Article R55(5) of the Code of Sports-related Arbitration, the Appellant is invited to comment, by 9 September 2021, on the Respondent's objections to standing to be sued.*

The Appellant is invited to comment, within the same deadline, on the Respondent's request for suspension/extension of the time limit to file his Answer, pending a decision on the Respondent's requests (a) that all exhibits filed in a language other than English be dismissed; and (b) that the Appellant be ordered to identify the rules and regulations on which it intends to rely. In the meantime, the Respondent's time limit to file his Answer is suspended until further notice from the CAS Court Office […]*"*.

55. On 22 September 2021, and in accordance with Article R54 of the CAS Code, the Parties were informed by the CAS Court Office that the Panel had been constituted as follows:

Sole Arbitrator: Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark.

56. By letter of 30 September 2021, since the Appellant had not replied to the letter of 30 August 2021, the CAS Court Office informed the Parties as follows:

"On behalf of the Sole Arbitrator, the Respondent is invited to address the issue of lack of standing to be sued in his Answer on the merits. Accordingly, the suspension of the Respondent's time limit to file his Answer is lifted with immediate effect.

Separately, the Parties are reminded that in accordance with Article R29 of the Code of Sports-related Arbitration, the present proceedings shall be conducted exclusively in English. Accordingly, documents written in any language other than English shall be accompanied by a translation. If such documents are not translated into English, the Sole Arbitrator will decline to consider them.

Finally, the Sole Arbitrator reminds the Parties that, pursuant to Article 8 of the Swiss Civil Code, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact. The Sole Arbitrator will assess in the final Award whether the Parties have met their respective burden of proof".

57. On 17 October 2021, the Respondent filed his Answer in accordance with Article R55 of the CAS Code.

58. By letter of 27 October 2021, the Parties were informed that the Sole Arbitrator deemed himself sufficiently well-informed to decide this case based solely on the Parties' written submissions without the need to hold a hearing, which was in line with the preference of the Parties.

59. Both Parties duly signed and returned the Order of Procedure, confirming, *inter alia*, the jurisdiction of the CAS to hear this dispute.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellant

60. In its Appeal Brief, the Appellant requested the CAS:

"1- To decide that the termination made by the Player is without just cause,

2- To adjudicate that Second Respondent shall not make any payment to the Player under the name of unpaid salaries, rental fees and compensation,

3- To fix a sum of CHF 4.000.- (Four Thousand Swiss Francs Only) to be paid by the Respondent to the Appellant, to help the payment of its legal fees and costs".

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

- According to the Contract, the guarantee payment to the Player was EUR 229,000 for the period from 18 January 2019 until 31 May 2020.

- On 29 January 2020, the Parties signed the New Contract taking effect on 1 June 2020 and valid until 31 May [2021].

- According to the New Contract, the guarantee payment to the Player should be EUR 270,000.

- From the beginning of the employment relationship, the Appellant acted in line with the employment law and rules, and the Appellant made all the payments to the Player on due dates and had no overdue and unpaid debt to the Player until the termination date. The Sole Arbitrator should recalculate all the payments made by the Club.

- Nevertheless, the Player terminated the employment relationship and the contractual relationship without having just cause.

- As a general principle of law and according to the well-established jurisprudence of FIFA and the CAS, no party is liable to pay any compensation in case the relevant party acts in line with the contract and makes payment on due dates as written therein.

- As such, the Appellant has no obligation to pay any unpaid remuneration and compensation.

B. The Respondent

62. In his Answer, the Respondent submitted the following prayers for relief:

"In summary,
The Respondent would respectfully request that the Sole Arbitrator find that the Appeal is without merits and substance.

Consequently, and on a primary basis,
- *The Respondent would respectfully request that the Sole Arbitrator dismiss the Appeal as the Respondent does not have standing to be sued and the correct Respondent (FIFA) has not been identified.*
- *Order the Appellant to pay all costs and disbursements arising out of this Arbitration, to the total of €19,000.*

In the alternative,
- *The Respondent would respectfully request that the Sole Arbitrator dismiss the Appeal.*
- *Uphold the DRC's Decision to hold the Appellant liable for the following outstanding amounts to the Respondent:*
  i. €60,000 as monthly salaries related to the months from February until May 2020 (cf the agreement).
  ii. €12,000 as accommodation related to the months from February until May 2020(cf the agreement).
  iii. €20,000 as outstanding remuneration related to the months of June and July 2020 (cf the second contract).

iv. Turkish Lira (TRY) 6,000 as 'rental payment' corresponding to the months of June and July 2020 (cf the second contract).
v. 5%p.a. interest on the aforementioned amounts as from the relevant due dates and until the date of effective payment,
vi. €250,000 compensation for breach of contract.
- *Order the Appellant to pay all costs and disbursements arising out of this Arbitration to the total of €19,000".*

63. The Respondent's submissions, *in essence*, may be summarised as follows:

i) Standing to be sued:

- The Appealed Decision was issued by the FIFA DRC. The principle in Article 75 of the Swiss Civil Code (the "SCC") implies that an appeal, in principle, must be directed against the association that rendered the challenged decision (see CAS 2020/A/7586).

- This is also in line with the purpose of the said article, which is to protect a member of an association from unlawful infringement by the association.

- Article 75 of the SCC must be interpreted in a broader sense and therefore encompasses any decision of the association, irrespective of its nature, be it disciplinary or administrative.

- Article 75 of the SCC has consistently been interpreted by Swiss legal doctrine and jurisprudence to mean that it is the association which has the capacity to be sued.

- As such, this appeal should have been lodged against FIFA as the entity which issued the Appealed Decision.

- This is supported by the fact that the majority of the Club's requests for relief are directed, either directly or indirectly, against FIFA, which has not been called/named in these proceedings.

- As the appeal is not directed against FIFA but against the Player who has no standing to be sued, the appeal is without merits, is frivolous and must therefore be dismissed.

ii) Merits:

- In any case, and if the Sole Arbitrator finds that the Player has standing to be sued, the appeal should be dismissed for lack of substance and merits.

- The Club never contested the existence, nor the nature, of the contractual relationship between the Parties.

- On 8 July 2020, the Player put the Club in default for outstanding remuneration and granted the Club an additional deadline of 15 days for payment of the outstanding amount. The Club never reacted to this default notice.

- On 10 August 2020, the Player lodged his claim before FIFA and requested the termination of the contractual relationship with just cause.

- The burden of proof related to the existence of a legal interest worthy of protection lies with the party that wishes to rely on such a fact. As such, the burden of proof for the alleged payments made by the Club to the Player lies with the Club.

- The Club has failed to meet and discharge the required burden of proof, as it has failed to adduce corroborating evidence to prove its allegations.

- Both before FIFA and during the present proceedings, the Club failed to show that it made payments corresponding to the requested outstanding amount. The Club only submitted some documents in the Turkish language without providing any further specification, and the said documents were not translated into English.

- As such, the Club did not fulfil its payment obligations to the Player and, thus, violated the principle of *pacta sunt servanda*.

- Article 14bis of the Regulations is directly applicable to this dispute and gives the Player the right to terminate the contractual relationship with just cause.

- As a result, the Club is liable for this termination and liable to pay the outstanding amounts to the Player.

- Moreover, Article 17(1) of the Regulations is applicable, which gives the Player the right to claim compensation for breach of contract corresponding to all claims arising out of the employment relationship, reduced by any amount he saved as a consequence of the termination and which he earned through other work in accordance with the principle of *positive interest*.

V. JURISDICTION

64. Article R47 of the CAS Code provides, *inter alia*, 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".

65. With respect to the Appealed Decision, the jurisdiction of the CAS derives from Article 58 par. 1 of the FIFA Statutes. In addition, neither the Appellant nor the Respondent objected

to the jurisdiction of the CAS, and both Parties confirmed the CAS jurisdiction when signing the Order of Procedure.

66. It follows that the CAS has jurisdiction to decide on the appeal of the Appealed Decision.

VI. ADMISSIBILITY

67. 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".

68. It follows from Article 58 of the FIFA Statutes that:

"Appeals against final decisions passed by FIFA's legal bodies and against decisions passed by confederations, members or leagues shall be lodged with CAS within 21 days of receipt of the decision in question".

69. The grounds of the Appealed Decision were notified to the Appellant on 19 July 2021, and the Appellant's Statement of Appeal was lodged on 9 August 2021, i.e. within the statutory time limit of 21 days set forth in Article R49 of the CAS Code and in Article 58 of the FIFA Statutes, which is not disputed.

70. Furthermore, the Statement of Appeal and the Appeal Brief complied with all the requirements of Articles R48 and R51 of the CAS Code.

71. It follows that the appeal is admissible.

VII. APPLICABLE LAW

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

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

73. Article 57 par. 2 of the FIFA Statutes determines the following:

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

74. Based on the above, and with reference to the filed submissions, the Sole Arbitrator is satisfied that the various regulations of FIFA are primarily applicable and that Swiss law is subsidiarily applicable should the need arise to fill a possible gap in the various regulations of FIFA.

VIII. MERITS

75. As a preliminary issue, the Sole Arbitrator notes that the Player has requested to have the appeal dismissed as the Player does not have a standing to be sued and since the correct respondent in this dispute, i.e. FIFA, has not been identified in these proceedings.

76. The Player submits, *inter alia*, that the principle in Article 75 of the SCC implies that an appeal, in principle, must be directed against the association that rendered the challenged decision (see CAS 2020/A/7586), and as such, this appeal should have been lodged against FIFA as the entity which issued the Appealed Decision. This is supported by the fact that the majority of the Club's requests for relief are directed, either directly or indirectly, against FIFA, which has not been called/named in these proceedings.

77. The Club did not submit any argument in this regard.

78. The Sole Arbitrator initially notes that the question of whether or not a party has standing to sue (or to be sued) is – according to well-established CAS jurisprudence (cf. CAS 2020/A/6694; CAS 2016/A/4602; CAS 2013/A/3047; CAS 2008/A/1639) – an issue of substantive law.

79. As such, the Sole Arbitrator refers to Article 75 of the Swiss Civil Code (the "SCC"), which reads as follows:

> *"Any member who has not consented to a resolution which infringes the law or the articles of association is entitled by law to challenge such regulation in court within one month of learning thereof".*

80. Although the wording of Article 75 of the SCC is ambiguous with regard to challenges against decisions made by an association other than resolutions of a general assembly, it is uncontested that the said provision applies *mutatis mutandis* to decisions of other organs of the association. The wording of Article 75 of the SCC implies that an appeal, in principle, must be directed against the association that rendered the challenged decision (cf. BGE 136 III 345, no. E.2.2.2; RIEMER H.-M., BK-ZGB, Art. 75, no. 60; SCHERRER/BRÄGGER, BSK-ZGB, Art. 75, no. 21).

81. However, CAS jurisprudence allows for an exception to the above rule, in particular where the appealed decision is not of a disciplinary nature, i.e. where the sports association merely acts as an adjudicatory body in relation to a dispute between its members. Thus, when deciding who is the proper party to defend an appealed decision, CAS panels proceed by a balancing of the interests involved and by taking into account the role assumed by the association in the specific circumstances. Consequently, one must ask whether a party *"stands to be sufficiently affected by the matter at hand in order to qualify as a proper respondent within the meaning of the law"* (cf. CAS 2017/A/5227, para. 35). Similarly, the CAS panel in 2015/A/3910 held as follows:

"[T]he Panel holds that in the absence of a clear statutory provision regulating the question of standing to be sued, the question must be resolved on basis of a weighing of the interests of the persons affected by said decision. The question, thus, is who […] is best suited to represent and defend the will expressed by the organ of the association" (para. 138).

82. In the present case, and based on the Club's submissions, the Sole Arbitrator understands that the appeal is (at least in essence) directed against the findings of the FIFA DRC on the contractual and monetary issues of the decision in the contractual dispute between the Club and the Player.

83. And even if the Appealed Decision includes the potential risk of a disciplinary sanction against the Club in case of the Club's non-compliance with the Appealed Decision, the requests for relief and the submissions by the Club do not deal with this issue specifically.

84. In this particular case, the Sole Arbitrator finds that the FIFA DRC acted in an adjudicatory capacity, i.e by resolving a contractual dispute between the Parties in a so-called horizontal dispute.

85. As such, the standing to be sued with regard to the contractual issues of the dispute will rest with the Player who avails himself of the binding effect of the Appealed Decision, which is why the request of the Player to have the appeal dismissed due to the lack of standing to be sued is denied.

86. With regard to the facts of the case, the Sole Arbitrator notes that it is undisputed that the Parties signed the First Contract, the Agreement and the Second Agreement, the latter valid from 1 June 2020 until 31 May 2021, and that, according to the Agreement and the Second Contract, respectively, the Player was entitled to receive, *inter alia*, the following amounts as remuneration for the work performed under these contracts:

i) the Agreement

- *"Guarantee fee of the player in the 2019-2020 Football Season has been replaced and from now on it will be 270,000 Euros (two hundred and seventy thousand Euros).*
- *41.000 Euros of 270.000 Euros were paid, and the remaining guarantee fee of the player from the 2019-2020 season is 229.000 Euros.*
- *The guarantee fee of 229.000 Euros (two hundred twenty nine thousand Euros) will be paid in the following ways.*

  - 45.800 Euros (forty five thousand eight hundred Euros) in advance,
  - 31.600 Euros (thirty one thousand six hundred Euros) with a check due 31 March 2020,
  -31.600 Euros (thirty one thousand six hundred Euros) with a check due on May 15, 2020,
  - 60.000 Euros (sixty thousand Euros) will be paid on 30 June 2020,
  - 4x15.000 Euros (fifteen thousand Euros) In February-March-April-May, a total of 60.000 Euros (sixty thousand Euros) will be paid in the first week of each month.

If the player scores 10 or more goals in TFF 1st League competitions during the 2020-2021football season, an additional payment of 10,000 Euros (ten thousand Euros) will be made to the player.

*4 * 3000 TL (three thousand Turkish liras) will be paid rent in February-March-April-May".*

ii) the Second Contract

"[…] *For the 2020-2021 Season.*
The total amount of 270.000 EURO (Two Hundred Seventy Thousand Euro) will be paid as follows.

€50.000 (fifty thousand euro) on 31st August 2020,
€30.000 (thirty thousand euro) on 31st October 2020,
€30.000 (thirty thousand euro) on 31st December 2020,
€40.000 (forty thousand euro) on 28th February 2021,
€20.000 (twenty thousand euro) on 30th May 2021,
€100.000 (One Hundred Thousand Euro) shall be paid to the Football player as a monthly wage of €10.000 (ten thousand euro) for ten months beginning from 01.06.2020 until 01.05.2021 in the first week of each month.

[…]

- *A rental payment of 3,000 TL (three thousand Turkish liras) will be made to the football player for 12 months starting from June 2020 until May 2021.*

- *In the 2020-2021 Football season, if the football player plays 8 matches and above in the first 11 matches in the TTF 1st League Competitions, an additional payment of 10,000 Euros (ten thousand Euros) will be made to the player".*

87. It is further undisputed that the Player fulfilled his obligations under these contracts until 10 August 2020 when the Player, following a written default letter to the Club due to the Club's alleged non-payment of the Player's salaries, unilaterally and prematurely, terminated the contractual relationship between the Parties by filing his claim with FIFA.

88. However, the Parties disagree over whether the termination of the contractual relationship by the Player was with or without just cause and, accordingly, what the financial consequences of this termination, if any, should be for the Parties.

89. Thus, the main issues to be resolved by the Sole Arbitrator are:

a) Did the Player terminate the contractual relationship with or without just cause?

b) What are the financial consequences for the Parties of the early termination of the contractual relationship?

A. Did the Player terminate the contractual relationship with or without just cause?

90. To reach a decision on this issue, the Sole Arbitrator has conducted an in-depth analysis of the facts of the case and the information and evidence gathered during the proceedings,

including the information and evidence gathered during the proceedings before the FIFA DRC.

91. Initially, the Sole Arbitrator notes that the Player in his claim before FIFA submitted that, on the date of the Player's termination of the contractual relationship, i.e. 10 August 2020, the Club was in default with its payments of the following amounts to the Player:

- EUR 60,000 as monthly salaries related to the months from February until May 2020 (cf. the Agreement);
- [EUR] 12,000 as accommodation related to the months from February until May 2020 (cf. the Agreement);
- EUR 100,000 as remuneration payable on 1 June 2020 (cf. the Second Contract).

Based on that, the Player was entitled to terminate the contractual relationship with just cause.

92. The Club, on the other hand, submits that it has fulfilled all its payment obligations to the Player pursuant to the two contracts and that the termination of the contractual relationship was consequently made without just cause.

93. Based on the facts of the case and the Parties' submissions, the Sole Arbitrator finds that it is up to the Club to discharge the burden of proof to establish that it had in fact fulfilled its payment obligations pursuant to the Agreement and to the Second Contract at the time of the Player's termination of the contractual relationship, i.e. on 10 August 2020.

94. In doing so, the Sole Arbitrator adheres to the principle of *actori incumbit probatio*, which has consistently been observed in CAS jurisprudence, and according to which *"in CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue, In other words, the party which asserts facts to support its rights has the burden of establishing them (..) The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some fact and persuade the deciding body, it must actively substantiate its allegations with convincing evidence"* (e.g. CAS 2003/A/506, para. 54; CAS 2009/A/1810 & 1811, para. 46 and CAS 2009/A/1975, para. 71ff).

95. However, the Sole Arbitrator finds that the Club has not adequately discharged the burden of proof to establish that it had in fact fulfilled its payment obligations pursuant to the Agreement and the Second Contract at the time of the Player's termination of their employment relationship.

96. In this regard, the Sole Arbitrator notes, *inter alia*, that the Parties were in fact reminded by letter of 30 September 2021 from the Sole Arbitrator:

"that in accordance with Article R29 of the Code of Sports-related Arbitration, the present proceedings shall be conducted exclusively in English. Accordingly, documents written in any language other than English shall be accompanied by a translation. If such documents are not translated into English, the Sole Arbitrator will decline to consider them.

Finally, the Sole Arbitrator reminds the Parties that, pursuant to Article 8 of the Swiss Civil Code, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact. The Sole Arbitrator will assess in the final Award whether the Parties have met their respective burden of proof".

97. Based on the above, the Sole Arbitrator attaches particular importance to the failure by the Club to produce sufficient evidence to document the alleged payments of the outstanding amount.

98. The documents submitted by the Club during these proceedings as alleged evidence of such payments are all written in the Turkish language, and the Sole Arbitrator, in accordance with Article R29 of the CAS Code, has consequently declined to consider them.

99. The Sole Arbitrator therefore agrees with the conclusions of the FIFA DRC that the Club was apparently in default with its payments to the Player of EUR 60,000 as monthly salaries related to the months from February until May 2020 (cf. the Agreement); four months of payment for accommodation related to the months from February until May 2020 (cf. the Agreement); EUR 20,000 as outstanding remuneration related to the months of June and July 2020 (cf. the Second Contract); and TRY 6,000 as outstanding rental payment for the same period (cf. the same Second Contract).

100. With regard to the question of whether the Player, based on the above, had just cause to terminate the contractual relationship on 10 August 2020, the Sole Arbitrator notes that Article 14 (1) of the Regulations states as follows:

"A contract may be terminated by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions) where there is just cause".

101. Furthermore, Article 14bis of the Regulations has the following wording:

"In the case of a club unlawfully failing to pay a player at least two monthly salaries on their due dates, the player will be deemed to have a just cause to terminate his contract, provided that he has put the debtor club in default in writing and has granted a deadline of at least 15 days for the debtor club to fully comply with its financial obligation(s). Alternative provisions in contracts existing at the time of this provision coming into force may be considered".

102. Moreover, the Sole Arbitrator notes that, according to the CAS jurisprudence:

"the non-payment or late payment of remuneration by an employer does in principle - and particularly if repeated […] - constitute 'just cause' for termination of the contract […]; for the employer's payment obligation is his main obligation towards the employee. If, therefore, he fails to meet this obligation, the employee can, as a rule, no longer be expected to continue to be bound by the contract in future. Whether the employee falls into financial difficulty by reason of the late or non-payment, is irrelevant. The only relevant criteria is whether the breach of obligation is such that it causes the confidence, which the one party has in future performance in accordance with the contract, to be lost. This is the case when there is a substantial breach of a main obligation such as the employer's obligation to pay the employee. However, the latter applies only subject to two conditions. Firstly, the amount paid late by the employer may not be 'insubstantial' or completely secondary. Secondly, a prerequisite

for terminating the contract because of late payment is that the employee must have given a warning. In other words, the employee must have drawn the employer's attention to the fact that his conduct is not in accordance with the contract" (see CAS 2006/A/1180, para. 26).

103. In the present case, the Sole Arbitrator finds that the Club failed to comply with a major part of its payment obligations, i.e. more than four months' remuneration.

104. Furthermore, the Player did in fact warn the Club in writing about the possible consequences of its breach of obligations by his Default Notice of 8 July 2020.

105. The said letter pointed out not only the Club's breach of its obligations, but also quite clearly and unambiguously referred to Article 14bis of the Regulations, according to which *"a player will be deemed to have a just cause to terminate his contract, provided that he has put the debtor club in default in writing and has granted a deadline of at least 15 days for the debtor club to fully comply with its financial obligation(s)".*

106. Based on these facts, the Sole Arbitrator finds that the Club was in breach of its contractual obligations to the Player, that it had been duly warned about the possible consequences and that the Player therefore had just cause to terminate the Parties' contractual relationship on 10 August 2020.

B. What are the financial consequences for the Parties of the early termination of the contractual relationship?

107. The Sole Arbitrator notes that since the Parties' contractual relationship was terminated with just cause by the Player, the Sole Arbitrator has to address (i) the Player's claim for payment of the outstanding remuneration and (ii) the Player's claim for compensation for breach of contract.

108. With regard to the Player's claim for payment of the outstanding remuneration, and in view of the fact that it is undisputed that the Player fulfilled his obligations under the contracts until the termination date and in accordance with the general principle of *pacta sunt servanda*, the Sole Arbitrator finds that the Club should have fulfilled its contractual obligations to the Player until the date of termination of their contractual relationship on 10 August 2020.

109. As set out above, at the time of the Player's termination of the contractual relationship on 10 August 2020, the Club was in default with its payments to the Player of EUR 60,000 as monthly salaries related to the months from February until May 2020 (cf. the Agreement); four months of payment for accommodation related to the months from February until May 2020 (cf. the Agreement); EUR 20,000 as outstanding remuneration related to the months of June and July 2020 (cf. the Second Contract); and TRY 6,000 as outstanding rental payment for the same period and the same Second Contract.

110. The Sole Arbitrator agrees with the FIFA DRC that the Club is therefore clearly obligated to pay this amount to the Player as outstanding remuneration.

111. However, with regard to the outstanding amount of rent related to the month from February until May 2020, the Sole Arbitrator notes that the Agreement states as follows regarding the Club's obligation to pay the rent on behalf of the Player: *"4 * 3000 TL (three thousand Turkish liras) will be paid rent in February-March-April-May".*

112. Thus, in the Sole Arbitrator's opinion, the FIFA DRC made a typo when deciding that the amount due to the Player for the said period is to be paid in euros and not in Turkish Lira.

113. As such, the Sole Arbitrator finds that the outstanding amount to the Player related to the rent for the months from February until May 2020 (cf. the Agreement) is correctly to be set out as TRY 12,000 and not EUR 12,000 as set out in the Appealed Decision.

114. With regard to the interest rate, the Sole Arbitrator sees no reason to deviate from the Appealed Decision concerning the interest rate and therefore confirms that the Player is entitled to receive interest on the outstanding remuneration as set out in the Appealed Decision.

115. With regard to the Player's claim for compensation for breach of contract, and since the Club is held liable for the early termination of the Parties' contractual relationship due to its breach of contract, the Sole Arbitrator finds that the Player is entitled, subject to Article 17 (1) of the Regulations, to receive financial compensation for breach of contract in addition to the above-mentioned payments of outstanding remuneration.

116. Article 17(1) of the Regulations states as follows:

"In all cases, the party in breach shall pay compensation. Subject to the provisions of article 20 and Annexe 4 in relation to training compensation, and unless otherwise provided for in the contract, compensation for the breach shall be calculated with due consideration for the law of the country concerned, the specificity of sport, and any other objective criteria. These criteria shall include, in particular, the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period. Bearing in mind the aforementioned principles, compensation due to a player shall be calculated as follows:

i. in case the player did not sign any new contract following the termination of his previous contract, as a general rule, the compensation shall be equal to the residual value of the contract that was prematurely terminated;

ii. in case the player signed a new contract by the time of the decision, the value of the new contract for the period corresponding to the time remaining on the prematurely terminated contract shall be deducted from the residual value of the contract that was terminated early (the "Mitigated Compensation"). Furthermore, and subject to the early termination of the contract being due to overdue payables, in addition to the Mitigated Compensation, the player shall be entitled to an amount corresponding to three monthly salaries (the "Additional Compensation"). In case of egregious circumstances, the Additional Compensation may be increased up to a maximum of six monthly salaries. The overall compensation may never exceed the rest value of the prematurely terminated contract.

iii. Collective bargaining agreements validly negotiated by employers' and employees' representatives at domestic level in accordance with national law may deviate from the principles stipulated in the points i. and ii. above. The terms of such an agreement shall prevail".

117. With reference to the foregoing, the Sole Arbitrator finds that it is undisputed that no agreement has been concluded between the Parties on the amount of compensation payable in the event of breach of contract, and the Sole Arbitrator also notes that the Parties do not disagree that the Player, for the remainder of the period of the Second Contract, would have been entitled to receive a salary of EUR 250,000 from the Club.

118. Finally, it is undisputed that the Player, after the termination of the contractual relationship with the Club, signed a new employment contract with the Greek football club Xanthi FC, valid as from 29 September 2020 until 30 June 2022, according to which the Player should receive a total remuneration of EUR 23,830 for the overlapping period between this new contract and the Second Contract.

119. Initially, the Sole Arbitrator notes, in consistency with the well-established CAS jurisprudence, that the injured party is entitled to a whole reparation of the damage suffered according to the principle of *"positive interest"*, under which compensation for breach must be aimed at reinstating the injured party to the position it would have been in had the contract been performed until its expiry (CAS 2012/A/2698; CAS 2008/A/1447).

120. Moreover, the Sole Arbitrator observes that Article 337c para. 1 and 2 of the Swiss Code of Obligations ("SCO") provides the following:

"(1) Where the employer dismisses the employee with immediate effect without good cause, the employee is entitled to damages in the amount he would have earned had the employment relationship ended after the required notice period or on expiry of its agreed duration. (2) Such damages are reduced by any amounts that the employee saved as a result of the termination of the employment relationship or that he earned by performing other work or would have earned had he not intentionally foregone such work".

121. In view of the above, the Sole Arbitrator is satisfied to note that the Player has the right to have his compensation determined under the provisions of Article 17 (1) of the Regulations in the light of the principle of "*positive interest*" as specified above and with due consideration to the duty to mitigate damages according to Swiss law, which is consistent with CAS jurisprudence (CAS 2005/A/909-910-911; CAS 2005/A/801; CAS 2004/A/587).

122. Based on the circumstances of this particular case, the Sole Arbitrator agrees with the FIFA DRC in the calculation of the amount of compensation granted to the Player in the Appealed Decision for the Club's breach of contract.

123. Further, the Sole Arbitrator sees no reason to deviate from the Appealed Decision concerning the additional compensation awarded to the Player pursuant to Article 17 (1) (ii) of the Regulations, i.e EUR 23,830, subject to the early termination of the contractual relationship being due to overdue payables.

124. As such, the Sole Arbitrator confirms that the Player is entitled to receive compensation for breach of contract in the amount of EUR 250,000 as set out in the Appealed Decision.

125. Finally, the Sole Arbitrator notes that the Club did not raise any specific arguments against the ban from registering any new players which will be imposed in case the Club fails to pay the amounts due within the prescribed deadline. Accordingly, the question whether the Respondent has standing to be sued with respect to the consequences imposed by the FIFA DRC in case of non-compliance, or whether the appeal should have been directed (also) against FIFA, can be left open.

126. In any case, the Sole Arbitrator notes that Article 24bis of the Regulations does not leave any margin of discretion to establish the potential consequences in the event of default by the debtor. Indeed, such consequences result from the automatic application of Article 24bis of the Regulations, which provides that the FIFA DRC *"shall"* decide on the consequences of the failure to pay, that such consequences *"shall"* be included in the findings of the decision and that, against a club, the consequences consist in a ban from registering any new players up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 9 August 2021 by Altay SK against the decision rendered by the FIFA Dispute Resolution Chamber on 20 May 2021 is partially upheld.

2. The decision rendered by the FIFA Dispute Resolution Chamber on 20 May 2021 is confirmed, except for paragraph 2 of the operative part, which is amended as follows:

"Altay Sports Club, has to pay to Mr Andreas Tatos, the following amounts as outstanding remuneration:

- *EUR 15,000 plus 5% interest p.a. from 7 February 2020 until the date of effective payment;*
- *EUR 15,000 plus 5% interest p.a. from 7 March 2020 until the date of effective payment;*
- *EUR 15,000 plus 5% interest p.a. from 7 April 2020 until the date of effective payment;*
- *EUR 15,000 plus 5% interest p.a. from 7 May 2020 until the date of effective payment;*
- *Turkish Lira (TRY) 3,000 plus 5% interest p.a. from 1 March 2020 until the date of effective payment;*
- *TRY 3,000 plus 5% interest p.a. from 1 April 2020 until the date of effective payment;*
- *TRY 3,000 plus 5% interest p.a. from 1 May 2020 until the date of effective payment;*

- *TRY 3,000 plus 5% interest p.a. from \ June 2020 until the date of effective payment;*
- *EUR 10,000 plus 5% interest p.a. from 7 June 2020 until the date of effective payment;*
- *EUR 10,000 plus 5% interest p.a. from 7 July 2020 until the date of effective payment;*
- *TRY 3,000 plus 5% interest p.a. from 1 July 2020 until the date of effective payment and*
- *TRY 3,000 plus 5% interest p.a. from 1 August 2020 until the date of effective payment".*

3. (…).

4. (…).

5. All other motions or prayers for relief are dismissed.