



TAS / CAS

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

Arbitration CAS 2023/A/9438 Yala Bolasie v. Çaykur Rizespor A.Ş., award of 27 October 2023

Panel: Mr Lars Hilliger (Denmark), President; Mrs Anna Bordiugova (Ukraine); Mr Jordi López Batet (Spain)

Football

Contractual dispute

“Net” term

True and common intention of the parties

Obligation to pay taxes

Burden of proof

1. Even if the term “*net*” in an employment contract would have a clear literal (i.e. unambiguous) meaning, it must be assessed whether or not the parties truly intended to attribute such a meaning to this specific term.
2. Pursuant to Article 18 of the Swiss Code of Obligations (SCO), 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. This provision is based on the assumption that the parties have concluded a contract and, in principle, do not dispute its effectiveness. As such, Article 18 par. 1 of the SCO rules that the content of the agreement must be construed according to the true intentions of the parties. Thus, the parties’ subjective will has priority over any contrary declaration in the text of the contract. In case a common subjective will of the parties cannot be ascertained, the content of the contract must be determined by application of the principle of mutual trust.
3. Parties to a contract are obligated, as a starting point, to pay their own taxes originating from such a contract unless differently agreed upon.
4. 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.

I. INTRODUCTION

1. This appeal is brought by Yala Bolasie (the “Player” or the “Appellant”) against the Decision of the FIFA Dispute Resolution Chamber (the “FIFA DRC”) of 7 December 2022 (the “Appealed Decision”) regarding a contractual dispute between the Player and Çaykur Rizespor A.Ş (the “Club” or the “Respondent”).

II. PARTIES

2. Mr Yala Bolasie is a professional football player of Congolese nationality, born on 24 May 1989. The Player is currently not under contract with any professional football club.
3. Çaykur Rizespor A.Ş is a professional football club based in Rize, Turkey. The Club is affiliated with the Turkish Football Federation (the “TFF”), which in turn is affiliated with the Fédération Internationale de Football Association (“FIFA”).
4. The Player and the Club are hereinafter collectively referred to as the “Parties”, where applicable.

III. FACTUAL BACKGROUND

A. Background facts

5. Below is a summary of the main relevant facts as established on the basis of the Parties’ written and oral submissions and the evidence examined in the course of these proceedings. 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 Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the award only refers to the submissions and evidence the Panel considers necessary to explain its reasoning.
6. In the summer of 2021, the Player became a free agent as his employment contract with the English football club Everton FC expired.
7. On 21 August 2021, and following a period of negotiations between the Parties, the Player and the Club entered into a Pre-Contract (the “Pre-Contract”) stating, *inter alia*, as follows:

“[...]

II – SUBJECT OF THE PRE CONTRACT

This Pre-Contract is prepared for the Parties to define the terms of the possible Employment Contract. Both Parties are well aware that this Contract is not the actual contract which will govern the employment relationship between the Parties. With this Pre Contract, parties show their intent to sign a binding Employment Contract after agreeing on certain terms.

III – CONDITIONS OF THE PRE CONTRACT

[...]

3.2. *The Club is considering to pay the below mentioned amounts; the principles, calculation methods and due dates will be defined in the Employment Contract.*

For the season 2021-2022 a total of [...] EUR ([...] Euros) in net:

- [...] EUR ([...] Euros) as fix payment
- [...] EUR ([...] Euros) in total as salary to be paid in ten equal installments
- [...] EUR ([...] Euros) per super league match payment

For the season 2021-2022 a total of [...] EUR ([...] Euros) in net:

- [...] EUR ([...] Euros) as fix payment
- [...] EUR ([...] Euros) in total as salary to be paid in ten equal installments
- [...] EUR ([...] Euros) per super league match payment

The Club would have an option to extend the Employment Contract for one more season, in this case;

For the season 2023-2024 a total of [...] EUR ([...] Euros) in net:

- [...] EUR ([...] Euros) as fix payment.
- [...] EUR ([...] Euros) in total as salary to be paid in ten equal installments
- [...] EUR ([...] Euros) per super league match payment

[...]

3.5. *All the amounts are net.*

[...]”.

8. On 27 August 2021, the Player and the Club signed a Professional Player’s Contract (the “Contract”), valid from the day of signing until 31 May 2023.

9. The Contract stated, *inter alia*, as follows:

“[...]

Net Monthly Salary (Not less than minimum wage): Minimum wage

3.1.

FOR 2021 - 2022 SEASON

In Total: [...] EUR ([...] Euros) in net

Fix Payment: Club shall pay [...] EUR ([...] Euros) in net as fix payment. The payment of [...] EUR ([...] Euros) will be made within 7 days of this contract being signed by both parties.

Salary: Club shall pay a total of [...] EUR ([...] Euros) in net as salary in ten monthly installments. The monthly salary shall be [...] EUR ([...] Euros) in net and will be paid between the dates of 31st of August 2021 and 31st of May 2022 in monthly basis. The payments shall be made at the end of each month with the first monthly salary being paid by no later than 31 August 2021 and the tenth monthly salary being paid by no later than 31 May 2022. Minimum wage is included in the monthly salary. No payment will be done for the months of June and July 2022.

Per match payment: [...] EUR ([...] Euros) in net will be paid per each league game to the Player on the principles of per match payment defined below.

FOR 2022 - 2023 SEASON

In Total: [...] EUR ([...] Euros) in net

Fix Payment: Club shall pay [...] EUR ([...] Euros) in net as fix payment. The payment will be made on or before 31.08.2022.

Salary: Club shall pay a total of [...] EUR ([...] Euros) in net as salary in ten monthly installments. The monthly salary shall be [...] EUR ([...] Euros) in net and will be paid between the dates of 31st of August 2022 and 31st of May 2023 in monthly basis. The payments shall be made at the end of each month with the first monthly salary being paid by no later than 31 August 2022 and the tenth monthly salary being paid by no later than 31 May 2023. Minimum wage is included in the monthly salary.

Per match payment: [...] EUR ([...] Euros) in net will be paid per each league game to the Player on the principles of per match payment defined below.

FOR 2023 - 2024 SEASON (If extended in accordance with 3.24)

In Total: [...] EUR ([...] Euros) in net

Fix Payment: Club shall pay [...] EUR ([...] Euros) in net as fix payment. The payment will be made on or before 31.08.2023.

Salary : Club shall pay a total of [...] EUR ([...] Euros) in net as salary in ten monthly installments, The monthly salary shall be [...] EUR ([...] Euros) in net and will be paid between the dates of 31st of August 2023 and 31st of May 2024 in monthly basis, The payments shall be made at the end of each month with the first monthly salary being paid by no later than 31 August 2023 and the tenth monthly salary being paid by no later than 31 May 2024. Minimum wage is included in the monthly salary.

Per match payment: [...] EUR ([...] Euros) in net will be paid per each league game to the Player on the principles of per match payment defined below.

3.2. For each season during the term of the Contract:

- If the Player scores or assists a combined total of 10 (ten) goals in super league games in a season, then the Player shall be entitled to receive [...] EUR in net ([...] Euros) as bonus. The ayment (sic) shall be made at the same time as the monthly salary immediately after the target is achieved.*

• *If the Player scores or assists a further 5 (five) goals in super league games in the same season, then the Player shall be entitled to receive [...] EUR ([...] Euros) more in net as bonus. The payment shall be made at the same time as the monthly salary immediately after the target is achieved.*

• *If the Player scores or assists a further 5 (five) goals in super league games in the same season, then the Player shall be entitled to receive [...] EUR ([...] Euros) more in net as bonus for that season. The payment shall be made at the same time as the monthly salary immediately after the target is achieved.*

3.3. Per match payment stipulated under this contract shall be calculated as follows:

- *The Player shall be entitled to receive the whole amount if the Player begins the game with the starting 11,*
- *The Player shall be entitled to receive 75% amount if the Player is fielded during the match,*
- *The Player shall be entitled to receive 50% of the amount if the Player is listed but not fielded.*
- *Per match payments will be made at the end of each month.*

3.4. All the amounts stated in this agreement are net.

[...]

3.22 If the Player wants to terminate this Contract other than for just cause, then he is entitled to terminate it by paying net [...] EUR ([...] Euros) to the Club during the transfer periods declared by TFF. [...].

[...]”.

10. In July 2022, the Player, apparently for the first time, became aware from one of his teammates and further through his advisors that players employed in Turkey earning an annual income higher than TRY 650,000 (in 2021) were required to file an annual tax declaration. Based on that, the Player engaged the services of a local tax expert and filed a (late) tax declaration for 2021, as the deadline for filing had already expired on 31 March 2022.
11. On 29 July 2022, and following the filing of his tax declaration for 2021, the Turkish tax authorities issued an accrual slip to the Player, indicating accrued taxes of TRY [...] in total, equivalent to TRY [...] as income tax for the year 2021, TRY [...] as penalty for late filing and TRY [...] as stamp duty. This amount fell due on 13 August 2022.
12. By letter of 2 August 2022, via his counsels, the Player requested the Club to cover the accrued taxes and reimburse his legal fees in this connection, stating, *inter alia*, as follows:

“[...]

3. Following the filing of our Client’s annual tax declaration, the tax authorities have demanded payment of the following: [...] TL by way of income tax and [...] TL by way of compensation for late filing – making a total [...] TL (i.e. € [...]). In light of the Club’s clear contractual obligation, please make immediate payment of the following sums into our Client’s bank account:

- a. € [...] – income tax bill and penalty fee (for onward payment to the tax authorities); and
- b. € [...] – being the fees of Turkish firm, Nazali Tax & Legal for the preparation and filing of the tax return.

5. Payment of the above sums must be paid without delay seeing as interest is accruing on the tax bill at a rate of 2,5% per month. The relevant documents from the tax authorities are attached to this letter for the Club's information".

13. On the same date, the Club rejected the Player's request, stating, *inter alia*, as follows:

"[...] According to Turkish Income Tax Law, individuals are obligated to pay their own tax incurred from their income. Football clubs are only obligated to pay withholding tax for the Players. The Club paid the withholding tax for Mr. Bolasie and did not deduct this amount from the Player's receivables. All the amounts stated in the Employment Contract paid in net to Mr. Bolasie's bank account. Our Club has no obligation to pay the Player's neither the income tax nor for the services he has taken from Nazali Tax & Legal".

14. By email of 8 August 2022, the Player put the Club in default, stating, *inter alia*, as follows:

"[...] For the Club to now suggest that "net" has any other meaning to the club and/or Mr Bolasie is entirely disingenuous. In fact, we have been made aware of other clubs in Turkey expressly drawing the applicable tax regulation to the attention of the player and/or the agent in order for the situation to be transparently addressed at the outset. Instead, the Club in this situation has left the Player (i) at risk of a substantial fine with the Turkish tax authorities, and (ii) receiving a reduced "net" amount to that agreed by the Club. In the circumstances, the Club is in breach of its contract with the Player.

The contract is explicit that the amount Mr Bolasie will receive under the contract is the amount 'net'. In plain English, and as would be universally understood within the football industry, that means that the amount the Player would receive following deduction of all taxes is the 'net' amount. Mr Bolasie has not received the amount 'net' because he has now discovered he has an additional liability to the Turkish tax authorities, and this sum must therefore be paid by the Club on behalf of Mr Bolasie, or the Club must reimburse Mr Bolasie for the sum paid over to ensure that his salary amount remains 'net'. Fortunately, the issue has been discovered in time for Mr Bolasie to file a tax return in Turkey prior to receiving a substantial penalty for late filing, but nevertheless interest is accruing and growing at the high rate of 5% per month.

[...]

We put you on notice that the 30-day period stipulated in Article 12bis of FIFA's Regulation on the Status and Transfer of Players began to run from 2 August 2022. For the avoidance of doubt, should payment not be forthcoming, our Client will be pursuing a claim before FIFA. [...]"

15. By email of 12 August 2022, the Club reiterated its position, stating, *inter alia*, as follows:

"[...] We do not believe that this issue would be considered as a "financial obligation" of the Club hence would not fall into Article 12bis. However, of course you have the right to present the matter to FIFA. This is a professional matter regarding the interpretation of the Employment Contract. Mr. Bolasie is a valuable player

for the Club and it will be solved eventually. Meanwhile, I would like to kindly advise Mr. Bolasie to pay the tax amount in order to avoid paying further interest. [...]”.

16. On 19 August 2022, the Club unilaterally obtained a statement from the local tax authority based on facts given by the Club on the subject matter according to domestic law. This statement reads, *inter alia*, as follows:

[...] If the wages earned by footballers exceed the amount of the fourth bracket outlined in Article 103 of the Income Tax Law (TL 650,000 for 2021, TL 880,000 for 2022), such wage income must be declared by the footballers in annual income tax declaration, and the tax that is deducted by withholding must be offset from the calculated tax and the accrued remaining tax must be paid. In cases in which a declaration is not submitted late, fines are issued by the tax office to the footballers, and in cases where the accrued tax is not paid on time, interest is charged to the athlete.

Accordingly, in cases where an annual income tax declaration for wage income must be filed by your players, your players are solely responsible for the conduct of tax duties such as filing the declaration and paying the accrued tax, your Club is not responsible for this”.

17. On 25 August 2022, the Player received a declaration envelope from the Turkish tax authorities containing a penalty notice in the amount of TRY [...] for the late payment of his taxes.
18. On 6 September 2022, and allegedly after negotiating a reduction of the Player’s tax liability with the Turkish tax authorities, the Player paid TRY [...] to the Turkish tax authorities.
19. On the same date, the Player put the Club in default, granting a 10-day time limit to remedy the default, stating, *inter alia*, as follows:

[...] You have now delayed due payment to our Client of € [...] plus interest for over 30 days. For your information, seeing as payment was not made by you immediately following our Letter of Demand, our Client was issued with a further penalty of [...] TL by the tax authorities (the relevant documentation is appended to this letter). This further penalty arose due to your failure to pay our Client the above monies when they fell due.

Without prejudice to the fault that it is the Club's responsibility to cover any tax liability arising from the Contract of Employment, over the preceding days, Nazali (our Client's tax lawyers) have been negotiating with the tax authorities to seek to reduce the total tax liability. In order to avoid any further penalties being issued to our Client, our Client was advised to, and did, pay the Turkish tax authorities [...] TL / € [...] (please see attached payment receipt). It is not acceptable that our Client has been forced to make this payment without first receiving the relevant sums from the Club. A further penalty fee is currently being negotiated between the tax authorities and Nazali and will need to be paid to the tax authorities in due course. The precise amount of this penalty is yet to be determined, but as soon as it is fixed we shall be notifying the Club to request payment.

Pursuant to Article 12bis (3) we hereby put you on notice that you have 10 days from the date of this letter to effect payment of € [...] ([...] TL). If payment is not received by the deadline stipulated we are instructed to bring a claim against the Club before FIFA (under Article 12bis) [...]”.

B. Proceedings before the FIFA Dispute Resolution Chamber

20. On 21 September 2022, the Player lodged a claim before the FIFA DRC, requesting payment of TRY [...] (or EUR [...]) plus 5% p.a. interest as from 2 August 2022 until the date of effective payment, plus prospective interest on the late payment estimated at EUR [...] and finally various legal fees of EUR [...].
21. In support of this claim, the Player submitted, *inter alia*, that the Contract clearly stipulated that all payments are “*net*” and, thus, must correspond exactly to the amount which is received in the Player’s bank account or is anyway collected by the Player.
22. Furthermore, the Player submitted that it is the Club’s duty to settle the Player’s tax liability, given that the Club is incorporated in the jurisdiction where the tax falls due and is thus assumed to be familiar with the relevant tax implications.
23. Finally, the Player submitted that the Club failed to make the respective payment after having been put in default.
24. In its reply to the FIFA DRC, the Club submitted, *inter alia*, that it acted in accordance with the domestic legal provisions and the Contract by paying the Player the sums stipulated in the Contract, while arguing that Turkish law mandates that employees with an income of more than TRY 650,000 p.a. must pay their income tax on their own and, accordingly, the Club had no responsibility or possibility when it comes to filing of the Player’s tax declarations. In this regard, the Club submitted that it had received confirmation by the local tax authority that in accordance with the Turkish legal provisions on tax, clubs have no responsibility when it comes to filing of tax declarations of football players.
25. In addition, the Club stressed that the Player was fully aware of the potential tax implications as the Contract was allegedly drafted on the advice of a Swiss-qualified lawyer who was well versed in the application of taxes in professional football contracts and therefore rejected the claim in its entirety.
26. The FIFA DRC initially analysed whether it was competent to deal with the case and found that the October 2022 edition of the Rules Governing the Procedures of the Players’ Status Committee and the Dispute Resolution Chamber (the “Procedural Rules”) was applicable.
27. The FIFA DRC further observed that, in accordance with Article 23 (1), as read with Article 22 (1)(b), of the FIFA Regulations on the Status and Transfer of Players (the “FIFA RSTP”) (October 2022 edition), it was competent to deal with the matter at stake, which concerned an employment-related dispute of an international dimension.
28. Having established its competence to deal with the matter, the FIFA DRC concluded that since the claim was filed on 21 September 2022, the July 2022 edition of the FIFA RSTP is applicable to the matter at hand as to substance.

29. Moreover, and with reference to the Procedural Rules, the FIFA DRC 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.
30. In this context, the FIFA DRC acknowledged that its task was to determine whether the Club could be held liable to reimburse the Player for costs incurred on the basis of income tax pursuant to the contractual provisions regarding the payment of the Player's remuneration.
31. The FIFA DRC then recalled the facts of the case and took into account that clauses 3.1 and 3.4 of the Contract indeed specified that the remuneration payable to the Player should be considered "*net*" and that there was no provision in the Contract referring to the payment of any applicable tax.
32. In light of the above, the FIFA DRC held that the Club acted in accordance with the Contract as it remained uncontested that the amounts stipulated in the Contract were paid in full by the Club to the Player as prescribed, and the FIFA DRC further held that no specific tax liability could be deduced from the provisions.
33. The FIFA DRC further stated that the Player provided no evidence that the Club had accepted the responsibility to pay the Player's taxes separately from the Contract.
34. Consequently, the FIFA DRC concluded that the Player failed to meet the burden of proving that he was entitled to reimbursement of his tax bill in accordance with Article 13 par. 5 of the Procedural Rules. Hence, the FIFA DRC rejected the Player's claim.
35. On 7 December 2022, the FIFA DRC rendered the Appealed Decision and decided that:
 1. *The claim of the Claimant, Yala Bolasie, is rejected.*
 2. *The decision is rendered without costs*".
36. On 24 January 2023, the grounds of the Appealed Decision were notified to the Parties.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

37. On 14 February 2023, Mr Yala Bolasie filed his 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.
38. On 31 March 2023, and within the granted extension of time, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
39. On 30 May 2023, and within the granted extension of time, the Respondent submitted its Answer in accordance with Article R55 of the CAS Code.

40. On 1 June 2023, the CAS Court Office informed the Parties that, pursuant to Article R54 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the Arbitral Tribunal appointed to hear the appeal was constituted as follows:

President: Mr Lars Hilliger, Attorney-at-Law, Copenhagen, Denmark

Arbitrators: Dr Anna Bordiugova, Attorney-at-Law, Kyiv, Ukraine

Mr Jordi López Batet, Attorney-at-Law, Barcelona, Spain.

41. By letter of 13 June 2023, the Parties were informed that the Panel had decided to hold a hearing, and by letter of 20 June 2023, they were informed that the hearing would be held in Lausanne on 14 September 2023.

42. The Parties both signed and returned the Order of Procedure, confirming, *inter alia*, the jurisdiction of the CAS to hear this dispute.

43. On 14 September 2023, a hearing was held at the CAS Court Office in Lausanne, Switzerland.

44. In addition to the Panel and Mr Giovanni Maria Fares, Counsel to the CAS, the following persons attended the hearing:

For the Appellant:

Mr Yala Bolasie – Appellant (remotely);

Ms Melanie Schaerer – Counsel;

Ms Isabel Falconer – Counsel;

Ms Liz Ellen – Counsel (remotely);

Mr Vaikash Vyas – witness (remotely)

For the Respondent:

Mr William Sternheimer – Counsel;

Mr Ben Cisneros – Counsel;

Ms Anil Gürsoy Artan – Counsel;

Mr Marko Lavs – Paralegal (remotely).

45. At the outset of the hearing, the Parties confirmed that they had no objections to the constitution of the Panel.

46. The Panel heard the evidence of the Appellant, Mr Yala Bolasie, and of Mr Vaikash Vyas, a witness called by the Appellant, the latter being invited by the Panel to tell the truth subject to the sanctions of perjury under Swiss law. The Parties and the Panel had the opportunity to examine and cross-examine the witness and the Appellant.

47. The Parties were afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Panel.
48. After the Parties' final submissions, the Panel closed the hearing. The Panel took into account in its subsequent deliberations all the evidence and arguments presented by the Parties although they may not have been expressly summarised in the present Award.
49. Upon the closure of the hearing, the Parties stated that they had no objections in respect of their right to be heard and to have been treated equally and fairly in these arbitration proceedings.

V. SUBMISSIONS OF THE PARTIES

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

A. The Appellant

51. In his Appeal Brief, the Player requested that the CAS:

"a. Sets aside in its entirety the [the Appealed Decision].

b. Makes a declaration that "net" payment in [the Contract] should be taken to mean that the Club is responsible for any and all tax liabilities related to the Player's income under [the Contract]. A consequence of such a declaration would be that the Club is (i) responsible for all additional tax liabilities, penalties, interest and related costs to date, and (ii) would be responsible for any additional tax liabilities, penalties, interest and related costs for the remained of [the Contract].

c. In respect of point b above, orders the Club to pay to the Player the following:

- i. A principal sum of EUR [...] (TL [...]);*
- ii. An interest payment which is subject to determination by the tax authorities (expected to be in the region of EUR [...]) but the Club would have to pay whatever interest payment was set down);*
- iii. Interest on EUR [...] at a rate of 5% per annum from the date on which the monies fell due (2 August 2022) until the effective date of payment;*
- iv. The Player's tax accountant fees of EUR [...] in respect of preparing and filling the Player's declaration for 20221 and negotiating with the tax authorities; and*
- v. The Player's fee for legal representation at first instance before FIFA and on appeal before CAS".*

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

- The present dispute essentially pertains to the interpretation to be given to the term “*net*” which is repeatedly mentioned in the Contract.
- The term “*net*” is very clear and should not be subject to interpretation.
- Furthermore, it has been established by jurisprudence that, in the context of football contracts, “*net*” means “*after taxes*”.
- In any case, should the term “*net*” be subject to interpretation, Article 18 of the Swiss Code of Obligations (“SCO”) would be applicable.
- As such, and in accordance with Swiss law and Swiss case law, a two-step assessment is made when interpreting contracts. First, the real and common intention of the parties is sought, and if such a real and common intention of the parties cannot be established or the parties’ interpretation are divergent, one must then look at the objective interpretation of the contract by applying the principle of trust.
- With regard to the grammatical interpretation of the word “*net*”, the word is very clear and is universally understood to mean an amount left after the deduction of any applicable charges, expenses and taxes.
- This line of interpretation has been confirmed by FIFA and the CAS finding that if contracts refer to “*net*” amounts, this means that the club shall cover all relevant taxes and that the player can in good faith expect that he is not liable for the payment of taxes.
- In CAS 2012/A/2806, para 72, the Panel considered that “*the proper interpretation of ‘net amount’ is ‘without any deduction’, in the sense that the agreed net amount must exactly correspond to the amount which is received in the creditor’s bank mount or is anyway collected by the creditor*”.
- Moreover, in CAS 2017/A/5164, para 134, the Panel found that “*‘net salary’ is not an uncommon feature of employment contracts in professional football. Under such an arrangement, the employer, who is domiciled in the country where the employment contract is concluded and is familiar with its tax implications, assumes the responsibility to discharge the tax obligations arising from income owed to the employee under such employment contract*”.
- As such, the Appealed Decision is erroneous as it does not acknowledge the common understanding of “*net*” in sports contracts.
- The word “*net*” can only mean “*after tax*”, based on which the Panel shall establish that the Club is to be held liable for the reimbursement of the income tax paid by the Player, plus interest and fees in this connection.
- However, if the Panel should not find the term “*net*” sufficiently clear, the true and common intention of the Parties must be sought in accordance with Article 18 par. 1 of the SCO.

- The word “*net*” used in the Contract is sufficiently clear to express the Parties’ true and common intention.
- At all times, during the negotiations between the Parties and upon the signature of the Contract, the Player made it clear to the Club that he would only accept a “*net*” offer, i.e. that the salary indicated as “*net*” in the Contract corresponding to the amount he would receive after deduction of any applicable taxes.
- This is also supported by the testimony of Mr Vyas, who confirms that the Club was very well aware of what the Player understood by “*net*”, and never mentioned that any taxes would be deducted from the amounts set out in the Contract.
- Nevertheless, the amount that the Player ended up paying as income tax for the year 2021, i.e. almost EUR [...], constitutes a substantial reduction of his income, which is also the case for the income tax the Player is to pay for the year 2022. In addition, the Player has paid another substantial amount to his tax expert.
- As such, the Player is in fact receiving less than the agreed “*net*” amount, which was obviously neither his, nor the Parties’ intention.
- Moreover, the Club never raised the fact that the Player would be required to submit an annual tax declaration, let alone that he would be required to pay income tax on the “*net*” salary set out in the Contract.
- As such, the Player could legitimately believe that it was understood between the Parties that “*net*” did not mean anything else than an amount after deduction of any applicable taxes and that, according to the will of the Parties, the Club would be liable for the payment of any taxes.
- This is not changed by the fact that the Player is required by law to file an annual tax declaration and to pay the relevant income tax to the authorities, which simply implies that the Club must reimburse the Player for the corresponding amount.
- This in in line with Article 328 of the SCO, according to which the Club, as the employer, has a duty of care towards the Player to protect the latter from a financial loss, which also includes an obligation to provide administrative assistance in official dealings in connection with the employment relationship.
- Based on the above, the Club had a duty to inform the Player on tax declaration obligations prior to the conclusion of the Contract, and as it failed to do so, one can only conclude that the Club had agreed to take over the responsibility to pay the relevant income tax and, consequently, is now liable to reimburse the Player for the corresponding amount.
- Moreover, and with regard to the objective interpretation of the Contract in accordance with the principles of trust or good faith, it must be stressed that “*net*” is a perfectly clear concept generally speaking, but also in the context of football contracts.

- The interpretation of “net” in football contracts given by FIFA and the CAS is particularly relevant, and unless the Club would have alerted him that “net” would mean something else, the Player could only believe, in good faith, that the indication of a “net” salary in the Contract indeed corresponded to the common understanding and practice in football contract, as already mentioned.
- On the contrary, the Club’s divergent interpretation of “net” is clearly made in bad faith, is opportunistic and violates the principles of trust.
- Moreover, it must be stressed that in another employment contract between the Club and another player in which the salary is also stated as “net”, it is specifically stated as follows: *“All the amounts stated at the hereby agreement is net. The Club shall pay withholding tax incurred in Turkey. Moreover, when the Player pays his yearly income tax born from this Contract to the Turkish Tax Authorities. Then he will submit the documents evidencing the payment to the Club. The Club shall pay the amount, which is paid to the Turkish Tax Authorities, to the Player within 30 days following the receipt. The Club shall not be responsible for any tax payable outside the territory of Republic of Turkey”*.
- As such, it is clear that the Club is in fact reimbursing other players who are required to file an annual tax declaration, which mechanism follows from the agreement to pay the salaries “net”, and that the Club is aware of this obligation.
- Based on that, there are no valid reason why the Club should not reimburse the Player for the income tax paid to the Turkish tax authorities.
- Since the Player has had to pay income tax in the total amount of TRY [...], the Player has, de facto, received less than the contractually agreed amounts.
- The Club must therefore be condemned to reimburse the difference to the Player in order to meet its financial obligations towards the Player.
- Furthermore, the Club is responsible for all additional penalties, interest and related costs incurred so far in this matter.
- Equally, the Club would be responsible for any and all tax liabilities, penalties and related costs for the remainder of the Employment Contract, including for the fiscal year 2022, for which the Player has already received the respective tax bill from the Turkish tax authorities.

B. The Respondent

53. In its Answer, the Club requested the CAS to:

“(a) dismiss the Player’s appeal in full;

(b) uphold the [Appealed Decision] in full; and

(c) *order the Player to:*

- (i) *reimburse legal costs and other expenses incurred by the Club in relation to this appeal in the amount of at least CHF [...]; and*
- (ii) *bear any and all costs of the arbitration”.*

54. The Club’s submissions, in essence, may be summarised as follows:

- The Club agrees that the present dispute essentially pertains to the interpretation to be given to the term “*net*”, which is repeatedly mentioned in the Contract.
- However, contrary to the Player’s understanding, the word “*net*” used in the Contract simply means that the amounts stipulated in the Contract would be paid to the Player without any deduction by the Club in respect of tax, expenses or otherwise.
- However, the tax liability to which the Player’s claim relates is a liability which is personal to the Player, owed to the Turkish tax authorities, as a matter of Turkish law, and is not a liability falling on the Club.
- Thus, by paying the Player’s salary as stipulated in the Contract, net of the relevant deduction made by the Club at source, the Club has complied with the Contract, based on which the Player’s appeal must be dismissed in its entirety.
- The Parties seem to agree on the applicable principles of interpretation, according to which the term “*net*” must be subject to interpretation in accordance with Article 18 of the SCO, based on which the first step would be, if possible, to ascertain the common intention of the Parties.
- If the common intention of the Parties cannot be established, the consistent jurisprudence of the SFT and the CAS dictates that the Contract must then be interpreted objectively, according to the requirements of good faith. See i.e. CAS 2015/A/4057, para 68.
- Initially it is noted that the Club agrees with the Player that “*net*” means “*free from all charges or deductions*”.
- The Contract requires the Club to pay the Player “*net*” amounts, primarily net payments of EUR [...] per month, by way of salary, and in accordance with the definition adopted by the Parties, such payments must be made without deducting any charges or deductions.
- This is precisely what the Club has done, and these payments are not disputed by the Player. As such, the Club actually paid withholding tax in respect of the Player’s salary by way of deduction from the grossed-up amounts under the Contract before paying the net amounts stipulated in the Contract to the Player in full.

- However, the Player submits that not only does “net” mean “*free from all charges or deductions*”, it also means “*after tax*”, i.e. the amount the Player is left with once he has satisfied all his personal tax liabilities in respect of the amounts received from the Club. Such interpretation is entirely inconsistent with the adopted dictionary definitions.
- The Contract does not additionally require the Club to indemnify the Player in respect of his potential tax liabilities in relation to the Contract.
- The CAS jurisprudence relied on by the Player does not suggest that there is a general principle that clubs must pay players’ personal tax liabilities when making “*net*” payments.
- On the contrary, CAS jurisprudence makes it clear that “*net*” amounts are payments made without any charges or deductions by the paying party.
- The key question is whether the relevant liability falls upon the payee or the payer. If the liability falls upon the payer, i.e. if the club is required to pay a player’s taxes directly by making deductions at source, the payer will be responsible for meeting the liability in addition to the payment of the net amount stipulated in the contract. However, if, as in the present contract, the liability falls upon the payee, i.e. the player is required to pay his own taxes out of his own money, the payer is only liable to pay the amount stipulated in the Contract. This is confirmed by CAS jurisprudence in CAS 2006/A/1018 paras 23 - 28.
- If it was the intention of the Player that the Club should be responsible for any additional payment or reimbursement, the Player should have included such a provision in the Contract, which he failed to do, even if legally and commercially represented in the negotiations between the Parties.
- According to Turkish law, (i) the Club was, and remains, liable to pay withholding income tax on the Player’s (gross) salary under the Contract, and (ii) given that the Player has earned over the relevant threshold in each of the relevant years, the Player was, and remains, personally liable to file an annual tax declaration and to pay additional income tax in respect of his earning under the Contract.
- The Club has complied with its tax obligations under Turkish law by making deductions from the Player’s gross salary under the Contract and paying these amounts to the relevant tax authority.
- It was not possible for the Club under Turkish law to pay the Player’s additional personal income tax liability directly by way of deductions from gross salary, or otherwise. And under Turkish law, the Player’s additional tax liability is the Player’s exclusive responsibility, including the requirement to submit an annual personal tax declaration.
- In order for the Player to succeed in this appeal, he would have to satisfy the Panel that the Club was also required under the Contract to indemnify the Player in respect of his additional tax liability (including penalties, interest and associated costs).

- The word “*net*” in the Contract cannot correctly be interpreted to imply such an additional obligation on the Club, and there is simply no basis for making such a finding.
- In this regard, it must be noted, *inter alia*, that there was never any discussion between the Parties before entering into the Contract as to their respective tax obligations.
- The Player admits that the reason for the Parties not to discuss this issue during the negotiations was the fact that the Player did not know that he would bear personal liability for income tax under Turkish law at the time when the Contract was signed. It is thus inconceivable to suggest that the Parties’ common intention was that the Club would indemnify the Player in respect of his personal tax liability.
- In any event, even on an objective interpretation of the Contract, it is clear that the Contract does not have the meaning advanced by the Player. As the obligation to pay the additional income tax was on the Player, it was for the Player to negotiate an indemnity clause to shift this burden onto the Club.
- The fact that the Club signed a contract with a different player with a different wording does not change that, for the mere reason that the Club is under no obligation to offer the same terms to each of its players. Some players manage to negotiate a shift of their additional tax burden, some players, like the Player, do not.
- Furthermore, it must be stressed that the Club has no duty to advise the Player on his tax obligations during the negotiations and thus, by not doing so, the Club did not act in bad faith, as wrongfully submitted by the Player.
- In any case, the Player, who had experience in such negotiations, was duly commercially and legally represented, based on which the Club could reasonably assume that the Player was aware of the effect of Turkey’s income tax laws. Moreover, the Player could have sought local tax advice, which he failed to do.
- Finally, and even if the Club is assumed to be liable to indemnify the Player in respect of his personal tax liability under Turkish law, any such indemnity could not reasonably extend to the payment of penalties or interest to the tax authorities in respect of any late payment of taxes and/or any associated costs incurred by the Player. It was the sole responsibility of the Player to submit his annual income tax declaration and to pay the tax accordingly, and the Club cannot in any case be responsible or liable for the Player’s failure to do so in a timely manner.
- Nor is there any basis for the Player’s claim for interest on the principal sum paid to the tax authorities from the date on which the sum allegedly fell due.

VI. JURISDICTION AND ADMISSIBILITY

55. The present arbitration is governed by Chapter 12 of the Swiss Private International Law Act (“PILA”), which provides in Article 186 par. 1 that the Panel is entitled to rule on its jurisdiction (“Kompetenz-Kompetenz”).

56. Article R47 of the CAS Code reads 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”.

57. Article 57 (1) of the FIFA Statutes (2022 edition) 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”.

58. In addition, neither the Appellant nor the Respondent objected to the jurisdiction of the CAS, and the Parties confirmed the CAS jurisdiction when signing the Order of Procedure.

59. With regard to admissibility, Article R49 of the CAS Code provides, *inter alia*, 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. [...]”,

and as already set out above, it follows from Article 57 par. 1 of the FIFA Statutes that appeals filed against final decisions passed by FIFA’s legal bodies must be lodged with CAS within 21 days of receipt of the decision in question.

60. The grounds of the Appealed Decision were notified to the Appellant on 24 January 2023, and the Appellant’s Statement of Appeal was lodged on 14 February 2023, i.e. within the statutory time limit of 21 days set forth in Article R49 of the CAS Code and in Article 57 of the FIFA Statutes, which is not disputed.

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

62. It follows that the appeal of the Appealed Decision is admissible and that the CAS has jurisdiction to decide on it.

VII. APPLICABLE LAW

63. 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”.

64. Article 56 par. 2 of the FIFA Statutes provides 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”.

65. Furthermore, it follows from Clause 9 of the Contract, *inter alia*, that “[i]n case of any disputes arisen [sic] from this contract ... Swiss law and FIFA Regulations shall be applicable”.
66. Based on the above, and with reference to the filed submissions, the Panel 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.
67. However, the Panel notes that the present dispute concerns, at least to some extent, the respective tax obligations of the Parties in respect of the Player’s salary under the Contract, and that such tax obligations are related to Turkish law, given that tax obligations in general are matters of national law and since the Contract is a contract for employment in Turkey.
68. As such, and to the extent necessary, the Panel will take into consideration Turkish law as well, which appears to be in line with the Parties’ understanding.

VIII. MERITS

69. Initially, the Panel notes that the factual circumstances of this case are in essence undisputed by the Parties, including the fact that on 27 August 2021, the Player and the Club signed the Contract valid from the day of signing until 31 May 2023, according to which the Player was entitled to receive, *inter alia*, the following remuneration from the Club:

“FOR 2021 - 2022 SEASON

In Total: [...] EUR ([...] Euros) in net”

and

“FOR 2022 — 2023 SEASON

In Total: [...] EUR ([...] Euros) in net”.

70. The Contract further states, *inter alia*, that “*All the amounts stated in this agreement are net*”.
71. It is further undisputed that for the 2021-2022 season, the Player received from the Club the agreed amount of EUR [...]. Nor is it disputed that the Club did in fact pay withholding tax in

respect of the Player's salary by way of deduction from the grossed-up amounts under the Contract before paying the amount of EUR [...] to the Player.

72. Finally, it is undisputed that in July 2022 the Player filed a late tax declaration for 2021, following which the Turkish tax authorities issued an accrual slip to the Player, indicating accrued taxes of TRY [...] in total, equivalent to TRY [...] as income tax for the year 2021, TRY [...] as penalty for late filing and TRY [...] as stamp duty.
73. In this regard, the Parties are apparently in agreement that pursuant to the Turkish Income Tax Law, if the salary earned by a professional football player exceeds certain amounts (TRY 650,000 for 2021 and TRY 880,000 for 2022), such salary income must be declared by the football player in an annual tax declaration, and the withholding tax that is deducted by the player's club must be offset from the calculated tax and the accrued remaining income tax must be paid.
74. However, the Parties disagree whether the Player is entitled under the Contract to have such additional income tax payment reimbursed by the Club for the reason that all payments according to the Contract are "net".
75. While the Player on his side submits, *inter alia*, that the term "net" is very clear and should not be subject to interpretation and that, in any case, it has been established by jurisprudence that, in the context of football contracts, "net" means "after taxes", the Club on its side submits, *inter alia*, that "net" used in the Contract simply means that the amounts stipulated in the Contract must be paid to the Player without any deduction by the Club in respect of taxes, expenses or otherwise, which was in fact the practice followed.
76. Thus, the main issues to be resolved by the Panel are:
 - A) Is the Player entitled pursuant to the Contract to have his income tax payment to the Turkish tax authorities for 2021 reimbursed by the Club, and, in any case,
 - B) What are the financial consequences of the Panel's finding under A), if any, including whether the Club is responsible for covering any additional tax liabilities, penalties, interest and related costs for the remainder of the Employment Contract?

A) Is the Player entitled pursuant to the Contract to have his income tax payment to the Turkish tax authorities for 2021 reimbursed by the Club?

77. The Panel initially notes that the Player is of the view that the term "net" used in the Contract is very clear and should not be subject to interpretation.
78. The Panel does not agree with the Appellant on this point.
79. As set out in CAS 2017/A/5172, para 69, "Swiss Law does not follow a concept of 'sens clair' (cf. SFT 111 II 287 and 99 II 285). Reference is made also to SFT 127 III 444 para. b) where it was held as follows:

'A cet égard, la jurisprudence récente a nuancé le principe selon lequel il y aurait lieu de recourir à des règles d'interprétation uniquement si les termes de l'accord passé entre parties laissent planer un doute ou sont peu

clairs. On ne peut ériger en principe qu'en présence d'un "texte clair", on doit exclure d'emblée le recours à d'autres moyens d'interprétation. Il ressort de l'art. 18 al. 1 CO que le sens d'un texte, même clair, n'est pas forcément déterminant et que l'interprétation purement littérale est au contraire prohibée. Même si la teneur d'une clause contractuelle paraît claire à première vue, il peut résulter d'autres conditions du contrat, du but poursuivi par les parties ou d'autres circonstances que le texte de ladite clause ne restitue pas exactement le sens de l'accord conclu'.

free translation: *In this respect, recent case law has modified the principle according to which the rules of interpretation should apply only if the terms of the agreement between the parties leave room for doubt or are unclear. One cannot state that in the presence of a "clear text" one must exclude all other means of interpretation. It derives from Article 18 para. 1 CO that the meaning of a text, even a clear one, is not necessarily determining and that the purely literal interpretation is on the contrary prohibited. Even if a contractual clause appears clear at first view, it can result from the conditions of the contract, from the objectives sought by the parties or from other circumstances that the text of such contractual clause does not convey exactly the content of the agreement that was concluded".*

80. Consequently, even if the Panel was to find that the term "net" would have a clear literal (i.e. unambiguous) meaning, the Panel must assess whether or not the Parties truly intended to attribute such a meaning to this specific term.
81. In the case at hand, and based on the circumstances, there may be room for doubt as to the true meaning of the term "net", not least since it appears that the Parties were not both in full knowledge of the applicable tax rules when signing the Contract.
82. As such, and in line with the Parties' submissions regarding a possible interpretation of the term in question, the Panel finds that the Contract must be interpreted in accordance with the principles of Swiss law.
83. In this regard, the Panel notes that Article 18 of the SCO stipulates as follows (free translation):

"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".
84. Article 18 of the SCO is based on the assumption that the Parties have concluded a contract and, in principle, do not dispute its effectiveness, which is the case in this matter. The dispute rather concerns the content of the agreement reached.
85. As such, Article 18 par. 1 of the SCO rules that the content of the agreement must be construed according to the true intentions of the parties. Thus, the parties' subjective will has priority over any contrary declaration in the text of the contract. In case a common subjective will of the parties cannot be ascertained, the content of the contract must be determined by application of the principle of mutual trust (CAS 2017/A/5172, para 73). In SFT 127 III 444 para. b), the Swiss Supreme Court indicated as follows (free translation):

"To determine if there has been an agreement between the parties one must first seek their true and common intention (art. 18 para.1 SCO). The judge must therefore first establish the true will of the parties, empirically

as the case may be, based on clues. If he cannot establish the true will or he finds that one of the parties did not understand the true will expressed by the other party, the judge will seek the meaning that the parties could and should have given to their respective declarations in accordance with the rules of good faith (application of the principle of trust)”.

86. As a preliminary remark, the Panel observes that the Club is a professional football club playing in the first league of Turkish football and the Player is an experienced professional football player with comprehensive experience of football transfers throughout his career. Furthermore, the Player was represented by lawyers, although not Turkish-qualified, during the drafting and signing of the Contract.
87. The Panel further notes that neither the Pre-Contract nor the Contract contains any definition of the term “*net*”, combined with the fact that the Parties do not dispute that they did not discuss the meaning of the said term during their negotiations before signing the Contract.
88. While the Panel on the one hand finds no reason to doubt that the Player, as explained during the hearing, was of the understanding that pursuant to the Contract, he would not be required to pay any Turkish taxes arising from his contractual remuneration from the Club, the Panel on the other hand notes that neither the Player nor his advisors, during the negotiations and the drafting of the Contract, apparently had sufficient knowledge of the Turkish tax system to understand that the Player was to file a personal tax declaration and, based on the circumstances, would be obligated to pay income tax directly to the Turkish tax authorities. The Panel also notes that the Player decided not to engage the service of Turkish tax advisors to assist him in this process of negotiation and drafting of the Contract.
89. Moreover, the Panel notes that the Club, during the negotiations and the drafting of the Contract, was aware of such an obligation on the Player and that the Club did not inform the Player accordingly.
90. In this regard, the Panel further notes that it is not disputed that the Club in other contracts with other professional football players did include a provision regarding the meaning of the term “*net*” and that such provisions also state that the Club was to reimburse such players for any personal yearly income tax that was to be paid directly by the players to the Turkish tax authorities. However, according to the Club, and since such a provision was never requested by the Player, the matter was neither discussed between the Parties, nor inserted as a provision in the Contract.
91. Based on the above, the Panel finds no basis for concluding that the Parties had in fact reached a mutual and common understanding of the meaning of the term “*net*” in the Contract.
92. As such, and in accordance with the principles set out above, the Panel now has to seek the meaning the Parties could and should have given to their respective declarations in accordance with the rules of good faith.
93. In this regard, the Panel initially notes that CAS panels, *inter alia* in CAS 2012/A/2806, para 72, have considered that “*the proper interpretation of ‘net amount’ is ‘without any deduction’, in the sense*

that the agreed net amount must exactly correspond to the amount which is received in the creditor's bank account or is anyway collected by the creditor".

94. And based on the lack of sufficient knowledge of the Turkish tax regime, the Panel appreciates that the Player could find himself in a situation where he understood the term “*net*” to be interpreted as stated by him and that the Club, to a certain degree in good faith, should have expected this to be the case, not least in a situation where the Club chose not to discuss the issue directly with the Player before signing the Contract.
95. This is even more true as the Club did include a provision regulating this issue in its contracts with other professional football players and that the Club must have understood that the Player would only accept “*a net offer*”, as explained by the Player during the hearing.
96. On the other hand, the Panel finds that if the Player had been advised sufficiently by advisors hired by him on the issue of the personal income tax pursuant to the Turkish tax regime before the signing of the Contract, the Player could not in good faith have expected that the term “*net*” would automatically mean that he was to be reimbursed by the Club for any private payable income tax originating from his contractual remuneration from the Club. This is even more true since no definition of the term “*net*” was included in the Contract. For the sake of good order, the Panel does not find that Article 328 of the SCO is applicable to this situation.
97. In this regard, the Panel finds that the Player’s ignorance concerning the issue of the personal income tax pursuant to the Turkish tax regime should not put the Player in a more favourable situation than would have been the case if the Player, prior to the drafting and signing of the Contract, had engaged an advisor with sufficient knowledge of the Turkish tax system in order to safeguard his interests in the upcoming employment relationship, not least since he was already professionally represented by lawyers, even if qualified in other jurisdictions..
98. In other words, the Panel finds that the Club’s possible lack of diligence with regard to making sure that the Player was in full understanding of the Club’s understanding of the term “*net*” in the Contract based on the Turkish tax rules is mirrored by the Player’s possible lack of diligence by not engaging an advisor with sufficient knowledge of the Turkish tax system in order to safeguard his interests in the upcoming employment relationship and ensuring that he fully understood the consequences of the terms of the Contract.
99. Thus, as the Panel finds that the meaning of the term “*net*” is not clear from a direct assessment of what the Parties in good faith should have believed to be the intention of the other party, and also does not find that the principle of *in dubio contra stipulatorem* is applicable in a decisive manner in the present situation, the Panel turns to assess which interpretation of the term “*net*” seems to be the more reasonable and adequate based on the circumstances of the case.
100. In this regard, the Panel initially notes that parties to a contract are obligated, as a starting point, to pay their own taxes originating from such a contract unless differently agreed upon.
101. In this case, the Parties are in agreement regarding the Club’s obligation to pay the withholding tax regarding the Player without any deduction in the net amounts set out in the Contract. However, they are in disagreement over the obligation to finally pay/reimburse the personal

income tax of the Player pursuant to Turkish tax rules originating from the Player's contractual remuneration from the Club.

102. Based on the facts of the case, and on the Parties' submissions, the Panel finds that it is up to the Player to discharge the burden of proof to establish that it was agreed between the Parties that the Club should reimburse the Player for any personal income tax payable by the Player and originating from the Player's contractual remuneration from the Club.
 103. In doing so, the Panel adheres to the principle established by CAS jurisprudence that "*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, paras. 71ff)*".
 104. However, the Panel finds that the Player has failed to adequately discharge its burden of proof to establish that this was in fact the case.
 105. In addition to the above-mentioned considerations, the Panel further notes that it finds that a deviation from the starting point regarding a party's obligation to pay its own taxes must be clear in order for the Panel to base a decision on it.
 106. As such, the Panel notes that the Contract neither contains a definition of the term "*net*", nor contains any provision regarding a possible reimbursement by the Club of any taxes or other expenses incurred by the Player and originating from the employment relationship, even if this is the case in other contracts between the Club and its players.
 107. And even if the Panel appreciates that the grammatical understanding/interpretation of the term "*net*" in the world of football is generally to be understood as "*without any deduction*" of taxes, charges and expenses, the Panel notes that the term "*net*" is also applied in clause 3.22 of the Contract regarding the Player's "buy-out" in a manner where an understanding of the term meaning "*without any deduction*" of taxes, charges and expenses does not make particular sense to the Panel, which to some extent questions the Parties' intentional use of the term in the Contract.
 108. Based on the above, the Panel finds there is no sufficient basis for concluding that the Parties agreed that the Club should in fact be responsible for reimbursing the Player for the private income tax payable by the Player pursuant to the applicable Turkish tax rules.
- B) What are the financial consequences of the Panel's finding under A, including whether the Club is responsible for covering any additional tax liabilities, penalties, interest and related costs for the remainder of the Employment Contract?**
109. As the Panel rejects the Player's claim regarding the Club's alleged duty to discharge the Player of his tax liability regarding his personal income tax pursuant to the applicable Turkish tax

rules, the Panel also rejects the Player's additional claims against the Club, which all arises from the alleged, and now rejected, duty of the Club.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr Yala Bolasie on 14 February 2023 against the decision of the FIFA Dispute Resolution Chamber issued on 7 December 2022 is dismissed.
2. The decision of the of the FIFA Dispute Resolution Chamber issued on 7 December 2022 is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.