



Arbitration CAS 2020/A/6796 Andriamirado Aro Hasina Andrianamimanana & Kaizer Chiefs FC v. Fosa Juniors FC & Fédération Internationale de Football Association (FIFA), order of 16 June 2020

Panel: Mr Lars Hilliger (Denmark), President; Mr Corné Goosen (South Africa); Mr Rui Botica Santos (Portugal)

Football

Termination of the employment contract without just cause by the player

Enforceability of a decision of a financial nature

Suspension as irreparable harm for a player

Financial damage as irreparable harm for a club

1. **A decision of a financial nature issued by a private Swiss association is not enforceable whenever it is appealed against.**
2. **A decision to suspend a player does not automatically prevent the player from training together with his team and, in that way, maintaining his sporting skills. Further, the mere risk of not being able to participate in a single or a few matches, albeit it may or may not have a significant sporting impact on the result(s), is generally insufficient to establish irreparable harm as such. Any potential contractual interests of the player do not change that.**
3. **Financial damage is never considered as irreparable harm because such damage may be remedied by means of financial compensation.**

I. THE PARTIES

1. Mr Andriamirado Aro Hasina Andrianamimanana (the “Player” or the “First Appellant”) is a professional football player of Malagasy nationality. The Player is currently registered with the South African club Black Leopards FC. The Player’s nickname is Dax.
2. Kaizer Chiefs FC (“Kaizer Chiefs” or the “Second Appellant”) is a professional South African football club affiliated with the South African Football Association (the “SAFA”), which, in turn, is affiliated with the Fédération Internationale de Football Association.
3. Fosa Juniors FC (“Fosa Juniors” or the “First Respondent”) is a Malagasy football club affiliated with the Malagasy Football Association (the “MFA”), which, in turn, is affiliated with the Fédération Internationale de Football Association.

4. The Fédération Internationale de Football Association (“FIFA” or the “Second Respondent”) is the world governing body of football, whose headquarters are located in Zürich, Switzerland.

II. FACTUAL BACKGROUND

5. The elements set out below are a summary of the main relevant facts as established by the Panel on the basis of the decision rendered by the FIFA Dispute Resolution Chamber on 5 December 2019 (the “Appealed Decision”), the written submissions of the Parties and the evidence filed. Additional facts may be set out, where relevant, in the legal considerations of the present Order.
6. According to Fosa Juniors, on 1 November 2016, the Player and Fosa Juniors signed an employment contract entitled “*Contrat de Footballeur Professionnel*” (the “Employment Contract”), valid as from the date of signature until 31 October 2020.
7. Under the Employment Contract, the Player was entitled to receive the following remuneration:
- A monthly gross salary of Malagasy Ariary (“MGA”) 1,500,000, payable at the end of each month;
 - Accommodations, Transportation Restoration and Sports equipment, provided by Fosa Juniors.
8. On 7 June 2018, the Player and Kaizer Chiefs signed a document entitled Contract Proposal (the “Proposal”), under which the Player should join the said club for a two-year period starting from 1 July 2018 and with a one-year option.
9. With regard to the remuneration of the Player, the Proposal stated as follows (“R” being South African Rand (“ZAR”)):

“Salary (Gross)

R 60,000-00 from 1 July 2018 to 30 June 2019

R 65,000-00 from 1 July 2019 to 30 June 2020

R 70,000-00 from 1 July 2020 to 30 June 2021 – Option

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The club shall pay for the services of the player an amount of R 960,000-00 for the duration of the contract as follows:

R 280,000-00 on or before 31 July 2018

R 320,000-00 on or before 31 July 2019

R 360,000-00 on or before 31 July 2020 – Option

Bonuses

As per the club's bonus structures”.

10. By e-mail of 15 June 2018, Fosa Juniors wrote, *inter alia*, as follows to Kaizer Chiefs:

“[...] During the COSAFA Castle Cup, we heard information that Kaizer Chiefs scouted one of our players [the Player]. [...]

We would like you to know the [Fosa Juniors] stays open for serious offers. To avoid any troubles in this case, we suggest you, if you are interested by the player, to contact us by phone call or by mail. [...[e-mail and phone number inserted]]”.

11. On 29 June 2018, and without any reply from Kaizer Chiefs, Fosa Juniors wrote, *inter alia*, as follows to Kaizer Chiefs:

“Since our first email remains unanswered we allow ourselves to write you again, in particular viewing you have posted on your website that DAX signed up for your club and viewing there is the usual buzz around Dax's transfer.

We would like to state that DAX is under contract with Fosa till end 2019 and received a salary as fulltime football player, i.e. has no other job. He is a professional football player under FIFA rules. The [MFA] will confirm his status.

We understand that the reps of Kaizer Chiefs have approached Dax during the Cosafa Cup and a written offer has been made to Dax, a copy of which is in our possession.

We confirm that we are open to discuss a transfer from our club to Kaizer Chiefs provided that we can reach an agreement and all rules and regulations in respect of transfers will be respected”.

12. In its reply of the same day, Kaizer Chiefs replied, *inter alia*, as follows:

“[the Player] Dax was approached by Kaizer Chiefs regarding his availabilities for the upcoming 2018/2019 season.

Dax met with representatives from Kaizer Chiefs where he was accompanied by two members of the [MFA's] travelling party for the Cosafa tournament.

Dax along with the representatives offered the information that he was an amateur player, playing in an amateur league for an amateur club [Fosa Juniors].

He also said that he was free of any professional contract and was free to join a club of his choice, on receipt of a professional contract offer.

After discussions, he was later in the day presented with an offer from Kaizer Chiefs and agreed to this offer, duly signing a legally binding document, outlining in detail, the terms and conditions of this pre-contract agreement starting of July 1st 2018.

[...]

Our stance is very clear and is set out as follows:

- 1. Dax has signed a pre-contract with Kaizer Chiefs that comes into effect on July 1st 2018. Kaizer Chiefs will be processing the TMS and applying for ITC.*
- 2. We expect your corporation relating to the ITC or if you feel you have a dispute, we ask you to submit evidence via the TMS platform to substantiate your claims made in the media that Dax duly has a professional contract until 2020 with your football club.*
- 3. Should it be found that this is true and FIFA and [MFA] agree that Dax has a legally binding professional contract with Fosa Juniors, then Kaizer Chiefs will be left with no choice, other than to report the matter to FIFA and the MFA, requesting as per FIFA law, that the player is duly banned from signing two contracts with two football clubs. The FIFA rules are very clear on players who sign dual (two) playing contracts.*
- 4. If Fosa Juniors do not provide this evidence to support the claim, then we request that the ITC is granted and the player is released with immediately effect.*
- 5. If the player is not released and does not travel to South Africa, then we will apply to FIFA and the MFA, to have the player suspended from all football activities in Madagascar, due to the fact that as from July 1st 2018 he is duly contracted to Kaizer Chiefs.*

Of course, we don't want this situation to become a media frenzy (sic!) and we are always open to reasonable discussions, including any compensation request in order for good relationship to be established.

[...]".

- 13. On 4 July 2018, Kaizer Chiefs informed Fosa Juniors that "after consulting with our Board of Directors and Football Manager the compensation offered to Fosa Juniors is USD 25,000. Trusting you will accept our offer for which we wish to thank you in advance". (the "Offer").*
- 14. This Offer was rejected by Fosa Juniors on 5 July 2018 with the words "Thank you for coming back to us but your offer is far below the expectations of our Boards of Directors".*
- 15. On 7 August 2018, the Player and Kaizer Chiefs signed an employment contract (the "New Contract") valid as from 1 July 2018 until 30 June 2021, under which the Player was entitled to receive remuneration in accordance with the Proposal.*

16. According to the information available in the TMS, on 14 August 2018, SAFA requested the ITC from the MFA, which was rejected by the MFA since “*there has been no mutual agreement regarding the early termination of the employment contract between the former club and the professional player*”.
17. Still according to the information available in the TMS, on 12 September 2018, the Single Judge of the Players Status Committee passed a decision authorising the provisional registration of the Player with Kaizer Chiefs.
18. On 11 December 2018, Fosa Juniors lodged a claim with FIFA against the Player and Kaizer Chiefs for breach of contract, claiming payment of the total amount of EUR 150,000 plus 5% interest “*as from the abovementioned amount is due*”, corresponding to:
 - EUR 61,000 as the average between the remuneration due until the expiry of the [Employment Contract], which Fosa Juniors calculated as follows:
 - o MGA 82,000,000, equivalent to EUR 21,000, as the residual value of the [Employment Contract] between 1 July 2018 and 31 October 2020;
 - o EUR 100,000 which is the equivalent of ZAR 1,578,300, as “the remuneration under the New Contract”;
 - o Compensation due to the specificity of sport;
 - o Sporting sanctions to be imposed on the Player and Kaizer Chiefs;
 - o Legal fees reimbursement.

Fosa Juniors further requested the imposition of sporting sanctions on Kaizer Chiefs.

19. In support of its claim, Fosa Juniors submitted, *inter alia*, that
 - the Player had been registered with Fosa Juniors as a professional from April 2016;
 - the Player was under professional contract with the club and, by leaving it and signing another contract with another club, the Player therefore breached the Employment Contract;
 - Fosa Juniors did in fact receive an offer of USD 25,000 from Kaizer Chiefs for the transfer of the Player, which proves that Kaizer Chiefs recognised the status of the Player as a professional.
20. In his reply to the claim, the Player submitted, *inter alia*, that
 - He had never signed a professional contract with Fosa Juniors and that his alleged signature on the Employment Contract was forged;

- Fosa Juniors had never paid any of his expenses besides his salary, and he had never been paid more than the expenses he incurred for playing football.
21. In its reply to the claim, Kaizer Chiefs submitted, *inter alia*, that:
- The New Contract was the Player's first professional contract;
 - If the Player and Kaizer Chiefs were found liable, the compensation should be limited to EUR 32,546.18, which is calculated as being the average earnings between the Employment Contract and the New Contract.
22. The FIFA Dispute Resolution Chamber, after having confirmed its competence, and after a thorough analysis of all the documentation submitted by the Parties, concluded that the Player and Fosa Juniors concluded the Employment Contract on 1 November 2016.
23. With regard to whether or not the Player was to be considered a professional, the FIFA DRC referred to art. 2 (2) of the Regulations of the Status and Transfer of Players, which stipulates that "*A professional is a player who has a written contract with a club and is paid more for his football activity than the expenses he effectively incurs. All other players are considered to be amateurs*".
24. Based on the information and documents in its possession, the Chamber then concluded that the Player received a salary as per the criteria set out in the above-mentioned provision, even more as the Player did not provide any evidence in order to prove the contrary.
25. Furthermore, it recalled that Kaizer Chiefs offered the amount of USD 25,000 as transfer compensation to Fosa Juniors in order to register the Player as a professional.
26. Given these circumstances, and as it is undisputed that the Player and Kaizer Chiefs entered into the New Contract when the Player was still under contract with Fosa Juniors, the FIFA DRC had no other option but to conclude that the Player terminated the Employment Contract without just cause.
27. On 5 December 2019, the FIFA DRC rendered the Appealed Decision and decided, *in particular*, that:
1. *The claim of [Fosa Juniors] is partially accepted.*
 2. *[the Player] is ordered to pay to [Fosa Juniors], within 30 days as from the date of notification of this decision, compensation for breach of contract in the amount of MGA 157,572,000 plus 5% interest p.a. as from 11 December 2018 until the date of effective payment.*
 3. *[Kaizer Chiefs] is jointly and severally liable for the payment of the aforementioned compensation.*

4. *In the event that the aforementioned amount plus interest is not paid within the stated time limit, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.*
5. *Any further claim lodged by [Fosa Juniors] is rejected.*
6. *[Fosa Junior] is directed to inform [the Player] and [Kaizer Chiefs] immediately and directly of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received.*
7. *A restriction of four months on his eligibility to play in official matches is imposed on [the Player]. This sanction applies with immediate effect as of the date of notification of the present decision. The sporting sanction shall remain suspended in the period between the last official match of the season and the first official match of the next season, in both cases including national cups and international champions for clubs.*
8. *[Kaizer Chiefs] shall be banned from registering any new players, either nationally or internationally, for two next entire and consecutive registration periods following the notification of the present decision”.*

III. SUMMARY OF THE ARBITRAL PROCEEDINGS BEFORE THE CAS

28. On 24 February 2020, the Appellants filed their joint Statement of Appeal in accordance with Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the “CAS Code”) against the Decisions rendered by the FIFA Dispute Resolution Chamber (the “FIFA DRC”) on 5 December 2019 (the “Decision”).
29. On the same date, the Appellants filed their joint Request for Provisional Measures within the meaning of R37 of the CAS Code, requesting that the payment of compensation or any other amount in respect of the Appealed Decision and the implementation of sporting sanctions against the Appellants in compliance with the said decision be suspended until the finalisation of the CAS proceedings in *CAS 2020/A/6796 Andriamirado Aro Hasina Andrianamimanana & Kaizer Chiefs FC v. Fosa Juniors FC & FIFA*.
30. On 11 March 2020, the Second Respondent filed its Answer to the Request for Provisional Measures, requesting the CAS to reject the Appellants’ request for provisional measures.
31. The First Respondent did not file an Answer to the Request for Provisional Measures within the prescribed deadline, but on 30 March 2020, the First Respondent filed its Answer to the Appellants’ joint Appeal Brief.
32. By letter of 1 April 2020, and following the Appellants’ payment of their shares of the advance of costs, the Second Respondent was granted a 20-day deadline to file its Answer to the Appellants’ joint Appeal Brief. Later on, and with reference to the CAS Emergency Guidelines, this deadline was extended by two weeks.

33. On 15 April 2020, 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: Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark (President of the Panel), Dr Corné Goosen, Attorney-at-Law in Johannesburg, South Africa, and Mr Rui Botica Santos, Attorney-at-Law in Lisbon, Portugal.

IV. THE PARTIES' POSITIONS

A. The Appellants

34. The Appellants' position regarding their joint Request for Provisional Measures in terms of R37 of the CAS Code may be summarised briefly as follows:
- A stay of the Appealed Decision is necessary to protect the Appellants from irreparable harm,
 - Due to the Appealed Decision, the Player is prevented from providing his services to his current club, especially participating in official matches, thus losing market value at a very important stage of his career and having a decreasing effect on his monthly remuneration and possible bonuses,
 - At the same time, Kaizer Chiefs is prevented from building a strong squad for the next season, which – in a strong league as the South African league – presents a significant risk of relegation with huge financial consequences.
 - These negative consequences for the Appellants can never be recovered, especially in light of the brevity of the Player's career and the strong league in which Kaizer Chiefs is currently competing,
 - With regard to the likelihood of success on the merits of the appeal, it must be noted, *inter alia*, that the Player never signed any professional contract with Fosa Junior,
 - The Player was not under any contract with Fosa Juniors at the time of signing the employment contract with Kaizer Chiefs,
 - The Player never breached any contractual relationship with Fosa Juniors,
 - The Player never played as a professional with Fosa Juniors and was never registered as a professional with the MFA,
 - Kaizer Chiefs never induced the Player to breach any contractual relationship with Fosa Juniors,
 - Thus, the Appellants have reasonable chances to succeed on the merits of the appeal,

- Finally, the interests of the Appellants in having the Appealed Decision stayed clearly outweigh the interests of both Respondents,
- Fosa Juniors does not compete in the same league as the Appellants, and in case the appeal is dismissed, the club will still be entitled to receive the amount of compensation decided in the Appealed Decision plus interest, and
- Furthermore, FIFA will not suffer any financial harm or reputational damage if a stay is granted.

B. The Second Respondent

35. The Second Respondent's position regarding the Appellants' joint Request for Provisional Measures may be summarised briefly as follows:

- First of all, it is up to the Appellants to prove that 1) the requested stay is necessary to protect the Appellants from irreparable harm; 2) that their position is not obviously groundless and that they have reasonable chances for eventually winning the appeal; and 3) that their interests outweigh the interests of the Respondents.
- The Appellants have failed to prove any, let alone all, of these necessary cumulative conditions for being granted the requested stay of the Appealed Decision,
- With regard to any possible harm of a purely financial nature, such damage can be quantified and, thus, be awarded in the final decision on the merits of the appeal,
- In any case, the Appellants have failed to demonstrate or prove that any harm they would suffer would be of an irreparable nature should their request for provisional measures not be granted,
- With regard to the Player, it must be stressed that the Player is only prevented from playing official matches and not prevented from taking part in any other football activity, thus being able to maintain his skills during the suspension,
- Such prevention only from playing official matches for a four-months period does not mean that his career is irreparably impaired, which the Player also failed to demonstrate would be the case,
- Furthermore, it must be noted that the Player failed to even mention the possible importance of the Player participating in specific official matches, but instead seemed only focused on the alleged irreparable harm to his market value and future career options,
- With regard to Kaizer Chiefs, the club has failed to demonstrate the existence of any harm to the club following the ban on registration of new players that may be qualified as irreparable,

- In connection with the aim of the club to build a strong and competitive team for the next season, Kaizer Chiefs only presents a general and hypothetical argument lacking any evidentiary support,
- However, as established by consistent CAS jurisprudence, general allegations of potential harm do not suffice to establish irreparable harm, and the CAS has further established that any harm that can be financially compensated cannot be considered as irreparable harm,
- Furthermore, it must be stressed that a registration ban does not automatically prevent a club from planning ahead for the upcoming seasons, thus negotiating and signing contracts with possible new players, who can then be registered with the club once the registration ban has expired,
- As such, neither of the Appellants has clearly substantiated nor corroborated their allegations that they would suffer irreparable harm in the event the requested stay of the Appealed Decision is not granted, and for these reasons alone the request must be rejected,
- In addition hereto, the Appellants have failed to make a plausible case for themselves in relation to the appeal,
- The legal basis for the Appealed Decision is clear and provides no room for interpretation,
- Before the CAS, the Appellants rely on the same evidence and arguments as before FIFA, which should be assessed applying “comfortable satisfaction” as the applicable standard of proof,
- Based on these arguments and evidence, the FIFA DRC rightfully concluded that the Player was a professional and, as such, not free to sign a new contract with Kaizer Chiefs while bound to Fosa Juniors without consequences of any kind,
- Furthermore, Kaizer Chiefs never rebutted the presumption that it induced the Player to commit the breach of contract,
- Thus, the Appellants failed to discharge their burden to show that the appeal on the merits will have a good chance to succeed,
- Finally, and with regard to the balance of interests, it must be stressed that the interests of FIFA as the governing body of football prevail over any individual interests the Appellants may have with their application for provisional measures, not least linked to the paramount importance of the maintenance of contractual stability in football,

- If the requested stay of the Appealed Decision was granted, that would amount to a threat of irreparable harm to FIFA, the South African domestic football competition and the community of international football as a whole,
- As it is evident that FIFA has a predominant interest in maintaining and protecting contractual stability, the Appellants have failed to demonstrate that the balance of interests tilts in their favour,
- Consequently, the Appellants have not met any – let alone all – of the cumulative requirements for their request to be granted, and such request must therefore be dismissed.

V. CAS JURISDICTION AND ADMISSIBILITY OF THE APPEAL

36. In accordance with article 186 (1) of the Swiss Private International Law (“PILA”), the CAS has power to decide upon its own jurisdiction.
37. The extent of the jurisdictional analysis at this point is to assess whether, on a *prima facie* basis, the CAS can be satisfied that it has jurisdiction to hear the appeal. The final decision on jurisdiction will be made by the Panel in the Award.
38. Article R47 of the CAS Code states, *inter alia*, as follows: “*An appeal against the decision of a federation, association or sports-related body may be filed with the 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 him prior to the appeal, in accordance with the statutes or regulations of that body*”.
39. In the absence of a specific arbitration agreement, in order for the CAS to have jurisdiction to hear an appeal or a request for provisional and conservatory measures, the statutes or regulations of the sports-related body from whose decision(s) the appeal is made must expressly recognise the CAS as an arbitral body of appeal.
40. With respect to the Decision, the Appellants submits that the jurisdiction of the CAS derives from article 58 of the FIFA Statutes, which reads as follows:
“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”.
41. The Respondents have not disputed the jurisdiction of the CAS.
42. Based on that, the Panel confirmed that the CAS had jurisdiction to hear the appeal and this request for provisional measures.
43. The Decision was notified to the Appellants on 6 February 2020 and the Appellants’ joint Statement of Appeal was lodged on 24 February 2020, *i.e.* within the statutory time limit of 21

days set forth in Article R49 of the CAS Code, which is not disputed. Furthermore, the Statement of Appeal and the Appeal Brief complied with all the requirements of Articles R48 and R51 of the CAS Code.

44. It follows that the CAS has jurisdiction to decide on the Appeal and that the Appeal is admissible.

VI. LEGAL DISCUSSION

45. Initially, the Panel notes that pursuant to Article R37 of the CAS Code, the Panel is authorised to consider an application for provisional measures.

46. The Panel further notes that in accordance with the said Article and well-established CAS jurisprudence (*CAS 2007/A/1370-1376*; *CAS 2006/A/1088*; *CAS 2004/A/780*; *TAS 2004/A/708-709*; *CAS 2003/O/486*; *CAS 2002/A/378*; *CAS 2001/A/324*), when deciding whether an application for provisional relief should be ordered, a Panel must in general consider the following factors:

- a) whether the stay requested is necessary to protect an appellant from irreparable harm (“irreparable harm” test): an appellant must demonstrate that the requested stay is necessary in order to protect its position from damage or risks that would be impossible, or very difficult, to remedy or cancel at a later stage;
- b) whether an appellant has reasonable chances to succeed on the merits (“likelihood of success” test): an appellant must demonstrate that its position is not obviously groundless and that it has reasonable chances eventually to win the case;
- c) whether the interests of the party requesting the provisional measure outweigh those of the opposite party and of third parties (“balance of interests” test): the party requesting the provisional measure must demonstrate that the harm or inconvenience it would suffer from the refusal of the requested stay would be comparatively greater than the harm or inconvenience other parties would suffer from the granting of the stay.

47. These three requirements for granting provisional measures (*i.e.* irreparable harm, likelihood of success on the merits of the appeal and balance of interests) are cumulative.

48. Notwithstanding the above, under the constant jurisprudence of the CAS (see for instance the Order on provisional measures in the case *CAS 2004/A/780*), a decision of a financial nature issued by a private Swiss association is not enforceable whenever it is appealed against.

49. FIFA is a private Swiss association constituted under Swiss Private Law, having its seat in Zürich, Switzerland.

50. Item 2 of the operative part of the Appealed Decision is an order to pay an amount of money within a certain deadline, constituting a decision of a financial nature.

51. Therefore, the Panel considers that item 2 of the operative part of the Appealed Decision is not enforceable during the time of appeal and cannot be stayed. The request of the Appellants, in this regard, is moot and must therefore be dismissed.
52. Thus, the Panel will only deal with the Appellants' joint Request for Provisional Measures with regard to requested suspension of the implementation of sporting sanctions (items 7 and 8 of the Appealed Decision).

A. Irreparable Harm

53. The Panel finds that in the present matter, the requirement of irreparable harm is not met, neither with regard to the Player, nor with regard to Kaizer Chiefs.
54. With regard to the Player, the Appellants submitted, *inter alia*, that if the requested stay of the Appealed Decision is not granted, the Player is prevented from providing his services to his current club, especially participating in official matches, which will result in the Player losing his market value at a very important stage of his career. Furthermore, it will have a decreasing effect on his monthly remuneration and possible bonuses.
55. With regard to Kaizer Chiefs, the Appellants submitted, *inter alia*, that if the requested stay of the Appealed Decision is not granted, the club will be prevented from building a strong squad for the next season, which – in a strong league as the South African league – presents a significant risk of relegation with huge financial consequences for the club.
56. However, the Panel finds that both the Player and Kaizer Chiefs failed to substantiate how and why this would cause them irreparable harm.
57. For instance, the Player has failed to substantiate and explain whether this would prevent him from participating in particularly important battles, why precisely these coming months are of particular importance to his sporting development and market value and how the alleged decreasing effect on his monthly remuneration and possible bonuses comes into being.
58. Moreover, the Panel notes in this context that the Appealed Decision would not automatically prevent the Player from training together with his team and, in that way, maintaining his sporting skills, and the Panel further notes that the mere risk of not being able to participate in a single or a few matches, albeit it may or may not have a significant sporting impact on the result(s), is generally insufficient to establish irreparable harm as such. Any potential contractual interests of the Player do not change that.
59. Kaizer Chiefs has for instance failed to substantiate and explain why the forthcoming transfer windows are supposed to be particularly important to the club, for instance due to the necessity of having its present squad supplemented as a result of the upcoming expiry of other players' contracts etc.

60. Furthermore, the Panel recalls that according to CAS jurisprudence, financial damage is never considered as irreparable harm because such damage may be remedied by means of financial compensation (see for instance CAS 2014/A/3703).
61. Given these circumstances, the Panel therefore finds that the Appellants' submission regarding irreparable harm to the Player and to Kaizer Chiefs cannot be accorded sufficient weight to allow the Panel to grant the requested provisional measures.

B. Conclusion

62. On the basis of the Appellants failure to meet the criteria of irreparable harm, and since the three requirements for granting provisional measures (*i.e.* irreparable harm, likelihood of success on the merits of the appeal and balance of interests) are cumulative, and pursuant to the principle of procedural economy, the Panel finds no grounds for dealing with the remaining requirements and, consequently, considers that the Appellants' request for urgent provisional measures must be dismissed.

VII. COSTS

63. According to standard CAS practice, the costs of the present Order will be settled in the final award.

ORDER

The Court of Arbitration for Sport rules that:

1. The Request for Provisional Measures filed by Andriamirado Aro Hasina Andrianamimanana & Kaizer Chiefs FC on 24 February 2020, in the matter *CAS 2020/A/6796 Andriamirado Aro Hasina Andrianamimanana & Kaizer Chiefs FC v. Fosa Juniors FC & FIFA*, is dismissed.
2. The costs of the present Order shall be determined in the final award or in any other final disposition of this arbitration.