Arbitration CAS 2020/A/6916 Lusaka Dynamos Football Club v. Dalitso Sailesi, award of 7 October 2021

Panel: Mr Edward Canty (United Kingdom), Sole Arbitrator

Football
Termination of the employment contract with just cause by the player
Standard of proof
Non-payment of salaries as just cause of termination
Misconduct as valid ground to reduce compensation
Financial viability as valid ground to reduce compensation
Prohibition from granting more than the parties' requests for relief

1. **The standard of proof which applies to proceedings of the FIFA judicial bodies is that the members of FIFA's judicial bodies decide on the basis of their "personal conviction". This standard has consistently been equalled to the standard of "comfortable satisfaction". It is a standard that is higher than the civil standard of "balance of probability" but lower than the criminal standard of "proof beyond a reasonable doubt".**

2. **The non-payment of salaries over a period of time, with the player having put the club on notice of its default in writing, is a just cause for the termination of a playing contract. The employer's payment obligation is his main obligation towards the employee. If, therefore, he fails to meet this obligation, the employee can, as a rule, no longer be expected to continue to be bound by the contract in future. Whether the employee falls into financial difficulty by reason of the late or non-payment, is irrelevant. The only relevant criteria is whether the breach of obligation is such that it causes the confidence, which the one party has in future performance in accordance with the contract, to be lost. This is the case when there is a substantial breach of a main obligation such as the employer's obligation to pay the employee. However, the latter applies only subject to two conditions. Firstly, the amount paid late by the employer may not be "insubstantial" or completely secondary. Secondly, a prerequisite for terminating the contract because of late payment is that the employee must have given a warning. In other words, the employee must have drawn the employer's attention to the fact that his conduct is not in accordance with the contract.**

3. **Article 17 of the FIFA Regulations on the Status and Transfer of Players (RSTP) is clear in setting out what can be used in mitigation and alleged misconduct is not included as a valid ground.**

4. **It is for a club to take responsibility for its own financial viability. If it chooses to enter into an employment contract to secure the services of a player, it cannot seek to reduce**

or evade its contractual obligations on the basis that in so doing it may impact upon its own financial viability. Such an argument is not one which is consistent with any right to mitigate amounts owing under Article 17 of the FIFA RSTP.

5. A CAS panel must adhere to the specific parameters of the party's request for relief and is unable to substitute an alternative relief irrespective of whether it would be correct based on the evidence before the CAS panel. It is not the CAS panel's job to argue a party's case for it, or to make good a failure of a party to argue a particular point or make a certain request, irrespective of whether the point or request could be well made out and would find favour with a CAS panel. The arbitral nature of the proceedings obliges the CAS panel to decide all claims submitted by the parties and, at the same time, prevents the panel from granting more than the parties are asking by submitting their requests for relief to the CAS, according to the principle of *ne ultra petita*.

I. PARTIES

1. Lusaka Dynamos Football Club (the "Appellant" or the "Club") is a football club with its registered office in Lusaka, Zambia. The Club is registered with the Football Association of Zambia ("FAZ"), which in turn is affiliated to the Fédération Internationale de Football Association ("FIFA"), and which is currently participating in the Zambia Super League (first division of the FAZ).

2. Mr Dalitso Sailesi (the "Respondent" or the "Player") is a professional football player of Malawian nationality, now playing for Nyasa Big Bullets Football Club in Malawi.

II. FACTUAL BACKGROUND

3. Below is a summary of the main relevant facts, as established on the basis of the Parties' written submissions and the evidence examined in the course of the present appeals arbitration proceedings[1]. This background is made for the sole purpose of providing a synopsis of the matter in dispute. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal analysis that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, this Award refers only to the submissions and evidence considered necessary to explain its reasoning.

[1] Several of the documents submitted by the Parties and referred to in this Award contain various misspellings: for the sake of efficiency and to facilitate the reading of this Award, not all of the misspellings have been identified with a [sic] or otherwise.

A. Background Facts

4. On 13 July 2017, the Club and the Player signed a playing contract valid for a period of five years, i.e. until 12 July 2022 (the "Playing Contract").

5. The Playing Contract stated, *inter alia*, as follows:

"SCHEDULE

c) By way of remuneration for services the Club shall pay for the Player:

i. Net Salary of ***United States Dollars Twenty-Four Thousand Only (US$24,000.00)*** *per annum (giving a monthly net pay* ***United States Dollars Two Thousand Only (US$2,000)*** *after all statutory obligations. For the avoidance of doubt, the net salary hereof shall not be reduced for any reason whatsoever and shall be subject to an increment as the Club and the Player may agree based on the Player's performance.*

ii. Signing Bonus of US Dollars ***Seven Thousand Five Hundred Only (US$ 7,500.00)*** *to be paid once annually for the duration of the contract on the 12th of July each year.*

iii. Winning bonus of ***Kwacha Four Thousand Only (K4,000.00)*** *per league or cup game won for which the player is named in the final team. This amount is subject to an increment as the Club and the player may agree based on the player's performance.*

iv. Scoring bonus of ***Kwacha Two Hundred Only (K200.00)*** *per goal scored by a playing member in favour of the Club for which the player is named in the final team. The amount is subject to an increment as the Club and the player may agree based on the player's performance"* (emphasis in original).

6. On 4 June 2018, the Team Manager of the Club produced an internal memo addressed to the Player but sent to the individual in charge of the Player's accommodation because the Player allegedly had not returned to Zambia as expected following international duty. The memo read as follows:

"SUBJECT: ***REPORTING LATE TO THE CLUB AND FINAL WARNING – YOURSELF***

It has come to my attention that every time you go to represent your country in international engagements you report back late. Remember that I verballed warned you at the beginning of the season when you reported late including after the game with Uganda. Further, even after you report late, you take time before starting actual training. You are denying the club your services. This note is therefore your final warning, in writing, in terms of your continued disregard or rules and regulations of the club as well as your roles itemized in the contract.

As soon as you return and see this memo, please report to me for briefing and a date for your appearance before the disciplinary committee for further action as this case is now beyond my jurisdiction.

If however you do not return to training or the club in general within 14 days of the date you were supposed to return to the club (2nd June 2018), you will be deemed to have breached the contract in line with FIFA Statutes" (emphasis in original).

7. On 7 June 2018, the Club wrote to the FAZ as follows:

"We have received disturbing but unconfirmed news about our player Dalitso Sailesi that he has decided to leave the club and join an unnamed Malawian or South African club without our permission or commission. We are not aware of his whereabouts as he has not been touch with the club for almost a week now after the COSAFA tournament ended in South Africa, where he went to represent his country. We have written a memo to him that he appears before the club disciplinary committee and this has been served at the hotel where he stays but he is yet to report to club officials.

We are therefore requesting the football association's assistance in investigating the truth about the player's whereabouts and his status since he cannot join another club abroad without your permission in terms of issuing him an ITC. We hope you can urgently contact your counterparts in Malawi and South Africa since these are ones who can tell where he really is.

Though this is not the first time the player has missed training or absconded the club, we are sure that this time there is a big problem because social media reports suggest he has no interest in returning to the club, which is against both his contractual obligations and also the permission he was given to travel out of the country.

Following your investigations, if the player is found to have abrogated his contract, we ask you to mete out punitive sanctions and other measures for the club to not be disadvantaged over what was a Malawian record for a play signed by a foreign player".

8. On 11 June 2018, the FAZ wrote to the Club as follows:

"We acknowledge receipt of your letter of last week dated Thursday 7th June 2018. My office has been informed of your concern and we shall open a file and investigations of the case.

You are therefore invited to appear before the Player Status Committee on a date to be communicated to you later but within a month from today. This will give you an opportunity to present your case to the Football Association of Zambia. You are requested to provide the following documentation: contract for the player, letter of permission for the player to leave the country, players work permit, player's ITC, players third party declaration, copy of his passport, statement of account for the player in terms of what he is owed and any other relevant documentation. Please also provide copies of all news reports detailing that the player wants to join other clubs.

By copy of this letter, we also invite the player to submit his defence including other issues he may have as we cannot take one side of the case only. If, however, we read the end of the grace period with the player not having submitted his defence, we shall hand over the file to the adjudication chamber of the Player Status Committee for determination of the status of the player".

9. Also on 11 June 2018, the Player's representative wrote to the Club on his behalf as follows:

"We do hereby give Lusaka Dynamos Football Club, ***15 Days Notice*** *from today, providing just cause to terminate the contract of Mr. Dalitso Sailesi, who today advised that he has not been paid his monthly salary on his due date for 4 months. He has advised that he last received a salary in January 2018. Please also note that he has not been paid his December 2017 salary and that there is a balance of his signing on fees unpaid for the 1st year of contract which ends on the 13th July 2018. He also has advised being owed 2 game bonuses.*

As per the new amendments to the Regulations on the Status and Transfer of Players enacted on the 1st of June 2018; "In the case of a club unlawfully failing to pay a player at least two monthly salaries on their due dates, the player will be deemed to have a just cause to terminate his contract, provided that he has put the debtor club in default in writing and has granted a deadline of at least 15 days for the debtor club to fully comply with its financial obligation(s)".

Having been requested by the player to oversee the transfer initially and to oversee his stay in Zambia, and that I am duly a paid up registered Intermediary by the Football Association of Malawi, I hereby represent Mr. Dailitso [sic] *Sailesi and give this notice with* ***27th June 2018*** *being the deadline.*

Please do note that such failures of payment will also compel me to seek intervention of FIFA, CAF and FAZ to re-evaluate the club's CAF Club Licensing standing and compliance and demand appropriate punishment which might include relegation from top flight football. Notification has been provided of the club's other cases with FIFA and FAZ cause of non-payment hence my decision to ask FAZ, CAF and FIFA to enquire into the club's licensing compliance regards the Financial criteria since checks on clubs are continuous" (emphasis in original).

10. Furthermore, the Player's representative also wrote to the Club on 27 June 2018 as follows:

"This letter serves as a notice to terminate Dalitso Sailesi's contract (attached) with Lusaka Dynamos Football Club, within 24hrs as per notice given to the club on 11th June, as per FIFA Circular 1625, on the Amendments of Transfer Regulations, on nonpayment of salaries.

Dalitso Sailesi is owed four (4) months salary, balance in signing on fees and win game bonuses in total amounting to US$ 10,200.00.

We did have communication with Mr. Bokani Soko as he had promised that the club will do its part by settling the said arrears, and had requested we send an invoice, which we did, but note that nothing has been done until today.

I even travelled from Malawi to Lusaka and made attempts to meet Mr. Soko, but even after promises were made, we still have not met.

As per attached letter of notice, we hereby advise that termination will be followed by us using legal means through FIFA and CAF to recover the said arrears.

We hereby attach the letter sent on the 11th June, the player's contract and his passport copy.

We do understand that Lusaka Dynamos FC has a lot of cases for nonpayment to players and coaches, and this will compel me to seek intervention of FIFA and CAF to re-evaluate the club's CAF Club Licensing

standing and compliance and demand appropriate punishment because such actions with proper financial criteria would not lead to such".

11. On 28 July 2018, the Player signed a playing contract with the Malawi club, Nyasa Big Bullets FC, valid for a period of three years from 1 August 2018 to 31 July 2021.

12. The new playing contract stated, *inter alia*, as follows:

> *"**1. DURATION***
>
> *This contract will be valid for thirty Six months. It will take effect from 1 August 2018 and elapse on 31 July, 2021.*
>
> ***2. CONTRACT***
>
> *This contract will be valid upon clearance of the player to Nyasa Big Bullets F.C. and the Club's obligations towards the Player after signing the main contract are as follows;*
>
> *(a) The Club agrees to pay the Player a salary of MK400,000.00 per month*
>
> *(b) The Player will be paid a game bonus of MK30,000.00 for a win and additional MK 25,000.00 for each goal scored to be paid month end.*
>
> *(c) The Player will be paid a game bonus of MK5,000.00 for a draw, at month end*
>
> *(d) The Club agrees to pay the player a training allowance of MK6,000.00 per week*
>
> *(e) The Club agrees to pay the player a travelling allowance of K5,000.00 when travelling outside the duty station*
>
> […]
>
> ***4. IMAGE RIGHTS***
>
> *(a) The Player will be paid MK7, 000,000.00 economic and image rights and Nyasa Big Bullets FC will hold his economic and image rights for 36 months.*
>
> *(b) No third party is at liberty to exploit the Player's rights without the knowledge of Nyasa Big Bullets FC"* (emphasis in original).

B. Proceedings before the FIFA Dispute Resolution Chamber

13. On 20 September 2018, following the above, the Player lodged a claim against the Club before the FIFA Dispute Resolution Chamber (the "FIFA DRC"), requesting that sporting sanctions be imposed on the Club and that the Club be ordered to pay the Player: outstanding remuneration in the amount of USD 14,500 and ZMW 8,000; compensation for breach of

contract in the amount of USD 124,000; default interest on the aforementioned sums; and legal costs of USD 5,000.

14. The Club partially disputed the Player's claim. The Club admitted *"to owing the* [Player] *the sum of USD 10,200 and ZMW 8,000 being the amount unpaid in winning bonuses"* but disputed that the Player was entitled to the other elements of his claim, specifically any payments for the period after the date he served notice to terminate the Playing Contract.

15. On 3 October 2019, the FIFA DRC rendered its decision (the "Appealed Decision"), with the following operative part:

> *"1. The claim of* [the Player] *is admissible.*
>
> *2. The claim of* [the Player] *is partially accepted.*
>
> *3. The* [Club] *has to pay to* [the Player] *outstanding remuneration in the amounts of USD 14,500 and ZMW 8,000, plus interest at the rate of 5% p.a. until the date of effective payment, as follows:*
>
> *a. as from 13 July 2017, on the amount of USD 2,500;*
>
> *b. as from 1 January 2018, on the amount of USD 2,000;*
>
> *c. as from 1 March 2018, on the amount of USD 2,000;*
>
> *d. as from 1 April 2018, on the amount of USD 2,000;*
>
> *e. as from 1 May 2018, on the amount of USD 2,000;*
>
> *f. as from 1 June 2018, on the amount of USD 2,000;*
>
> *g. as from 27 June 2018, on the amounts of USD 2,000 and ZMW 8,000.*
>
> *4. The* [Club] *has to pay to the* [Player] *compensation for breach of contract in the amount of USD 113,568, plus interest at the rate of 5% p.a. on the aforementioned amount as from 20 September 2018 until the date of effective payment.*
>
> *5. Any further claim lodged by the* [Player] *is rejected.*
>
> *6. The* [Player] *is directed to inform the* [Club], *immediately and directly, preferably to the e-mail address as indicated on the cover letter of the present decision, of the relevant bank account to which the* [Club] *must pay the amounts plus interest mentioned under III.3. and III.4. above.*
>
> *7. The* [Club] *shall provide evidence of payment of the due amounts in accordance with III.3. and III.4. above to FIFA to the e-mail address psdfifa@fifa.org, duly translated, if need be, into one of the official FIFA languages (English, French, German, Spanish).*

8. In the event that the amounts due plus interest in accordance with III.3. and III.4. above are not paid by the [Club] ***within 45 days*** *as from the notification by the* [Player] *of the relevant bank details to the* [Club]*, the* [Club] *shall be banned from registering any new players, either nationally or internationally, up until the due amounts are paid and for the maximum duration of three entire and consecutive registration periods (cf. art. 24bis of the Regulations on the Status and Transfer of Players).*

9. The ban mentioned in III.8. above will be lifted immediately and prior to its complete serving, once the due amounts are paid.

10. In the event that the aforementioned sums plus interest are still not paid by the end of the ban of three entire and consecutive registration periods, the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision".

16. On 16 March 2020, the grounds of the Appealed Decision were communicated to the parties.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

17. On 6 April 2020, the Club lodged an appeal with the Court of Arbitration for Sport (the "CAS") against the Appealed Decision, pursuant to Article R48 of the CAS Code of Sports-related Arbitration (edition 2019) (the "CAS Code"), naming the Player as the sole respondent. In this Statement of Appeal, the Club requested that the case be submitted to a Sole Arbitrator and that the matter be expedited in accordance with Article R52 of the CAS Code due to the potential registration ban imposed by the Appealed Decision. Furthermore, the Club stated that the Statement of Appeal should serve as its Appeal Brief, in accordance with Article R51 of the CAS Code.

18. On 15 April 2020, the CAS Court Office provided a copy of the Statement of Appeal / Appeal Brief plus enclosures to the Player and informed the Club that the Appealed Decision is not enforceable while under appeal to the CAS.

19. On 18 April 2020, the Club filed its Amended Statement of Appeal and Appeal Brief, withdrawing its request for an expedited procedure and instead requesting the matter be referred to mediation under the CAS Mediation Rules, whilst reserving the right to proceed with these arbitration proceedings. The CAS Court Office provided a copy of the Amended Statement of Appeal and Appeal Brief to the Player on 21 April 2020 and requested his agreement to it being admitted.

20. On 24 April 2020, the Player informed the CAS Court Office that he objected to the Amended Statement of Appeal and Appeal Brief, and that he agreed to the appointment of a Sole Arbitrator and requested that the time limit for the filing of his Answer be set once the Club had paid the advance of costs, pursuant to Article R55.3 of the CAS Code.

21. On 27 April 2020, FIFA informed the CAS Court Office that it renounced its right to request its intervention in the appeal proceedings before the CAS, further to Article R41 of the CAS Code.

22. Also on 27 April 2020, the CAS Court Office confirmed that the deadline for the Respondent to file the Answer had been suspended further to Article R55 of the CAS Code until the Appellant had paid its share of the advance of costs.

23. On 28 April 2020, the CAS Court Office provided a copy of the Club's letter sent on 27 April 2020 (but dated 20 April 2020) setting out its arguments for the admissibility of the Amended Statement of Appeal and Appeal Brief to the Player and requested his comments.

24. On 1 May 2020, the CAS Court Office provided a copy of the Player's letter, dated 30 April 2020, to the Club setting out the reasons for his objection to the admissibility of the Amended Statement of Appeal and Appeal Brief (and rejecting referring the matter to mediation) and requested the Parties to refrain from filing any further arguments on the admissibility issue, which would be determined by the Sole Arbitrator in due course.

25. On 29 May 2020, the CAS Court Office informed the Player that the Club had paid the advance of costs and indicated that the Player had twenty days to submit his Answer, pursuant to Article R55 of the CAS Code.

26. On 8 June 2020, the CAS Court Office informed the Parties, pursuant to Article R54 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, that the arbitral tribunal appointed to decide the present matter was constituted as follows:

    Sole Arbitrator: Mr Edward Canty, Solicitor in Manchester, United Kingdom

27. On 8 June 2020, the Player requested a two-week extension to file his Answer due to ongoing challenges posed by the Covid-19 pandemic which was granted, pursuant to Article R32 of the CAS Code and the CAS Covid-19 Emergency Guidelines. The Player also requested clarification as to the Annexes supplied compared to the list of Annexes set out in the Statement of Appeal / Appeal Brief.

28. On 12 June 2020, the Club requested clarification as to the Player's request, explaining the submission of some Annexes had been delayed due to the closure of both the Club's offices and the offices of the FAZ on account of the ongoing Covid-19 pandemic. In addition, it requested that the Parties be permitted to file a second round of submissions.

29. On 15 June 2020, the Player objected to both the filing of any Annexes not previously supplied and to a second round of submissions.

30. On 17 June 2020, the Sole Arbitrator requested a copy of the FIFA case file from FIFA.

31. On 19 June 2020, the Club provided copies of some of the missing Annexes listed in its Statement of Appeal / Appeal Brief, stating that additional documents would be supplied on 22 June 2020.

32. On 23 June 2020, the CAS Court Office sent copies of the Annexes provided to the Player, noting that no further documents were supplied on 22 June 2020.

33. On 23 June 2020, the Club filed the missing documents with the CAS Court Office sending these to the Player by letter of the same date and requesting its comments on the supply of the missing Annexes.

34. On 24 June 2020, the Player objected to the late filing of the Annexes and requested the deadline for his Answer to be suspended pending a decision on the admissibility of the Annexes by the Sole Arbitrator.

35. On 25 June 2020, the Club provided its comments on the admissibility of the Annexes it has supplied.

36. On 26 June 2020, the CAS Court Office suspended the deadline for the Player's Answer pending resolution of the admissibility of the Annexes.

37. On 1 July 2020, the CAS Court Office informed the Parties that the Sole Arbitrator had decided, pursuant to Article R56 of the CAS Code, that the Amended Statement of Appeal and Appeal Brief is not admissible and the missing Annexes filed by the Club are admissible. The Player was given a new deadline to file his Answer.

38. On 8 July 2020, the Player filed his Answer, pursuant to Article R55 of the CAS Code.

39. On 9 July 2020, the CAS Court Office asked the Parties to indicate if they would prefer a hearing to be held (and if so, whether they request it to be in-person or by video conference in light of the ongoing Covid-19 pandemic) or whether they were content for it to be determined based on the written submissions.

40. On 13 July 2020, FIFA provided a copy of the case file, a copy of which was provided to the Parties by the CAS Court Office on 14 July 2020.

41. On 13 July 2020, the Player informed the CAS Court Office that he did not consider it necessary for a hearing to be held and was content for the case to be determined on the basis of the written submissions.

42. On 15 July 2020, the Club informed the CAS Court Office that it relied on what it had previously indicated as regards a hearing (noting that in its Statement of Appeal / Appeal Brief it had requested that the case to be determined on the basis of the Parties' written submissions) but requested a hearing by video conference to address the issue of the admissibility of the Annexes it had supplied.

43. On 16 July 2020, the Player was invited to comment on the Club's request for a hearing by video conference with regard to the admissibility of its Annexes.

44. On 17 July 2020, the Player indicated that the hearing was unnecessary because a decision had already been issued by the Sole Arbitrator that the Annexes were admissible.

45. On 17 July 2020, the Club withdrew its request for a hearing to address the admissibility of its Annexes and confirmed its preference for the case to be determined on the basis of written

submissions. It repeated its request for a second round of submissions, limited purely to responding to the Player's Answer and not raising any new arguments.

46. On 17 July 2020, the Player informed the CAS Court Office that it did not wish for any further submissions to be allowed.

47. On 30 July 2020, the Parties were informed that the Sole Arbitrator had granted the Parties the opportunity to file a second round of submissions and the Club was requested to clarify an apparent error it made in its Statement of Appeal / Appeal Brief with regard to a date.

48. On 16 August 2020, the Club wrote to the CAS Court Office requesting a short extension of time to file its Reply to 17 August 2020, due to a clerical error in noting the deadline originally granted.

49. On 17 August 2020, the CAS Court Office requested comments from the Player on this request for a short extension.

50. On 18 August 2020, the Player objected due to the late submission of the Club's Reply.

51. On 18 August 2020, the CAS Court Office granted the Club a short extension to 19 August 2020 to file its Reply.

52. On 28 August 2020, the Player requested confirmation that the Club had filed its Reply in time.

53. On 28 August 2020, the CAS Court Office confirmed receipt of the Club's Reply by email on 19 August 2020 but noted it had no record of having received the same by courier (or uploaded to the CAS E-filing Platform) in accordance with Article R31 of the CAS Code and so requested the Club to provide proof that it had complied with this requirement.

54. On 8 September 2020, the CAS Court Office noted that it had not received a response from the Club before the deadline expired, nor any proof that it had complied with Article R31 of the CAS Code.

55. On 18 September 2020, the CAS Court Office requested the Player to set out his position with regard to the admissibility of the Club's Reply.

56. On 21 September 2020, the Player informed the CAS Court Office that the Club's Reply should be deemed inadmissible as it failed to comply with Article R31 of the CAS Code.

57. On 22 September 2020, the CAS Court Office requested the Club provide its comments on the admissibility of its Reply.

58. On 30 September 2020, the CAS Court Office informed the Parties that it had not received a response from the Club. Furthermore, it informed the Parties that the Sole Arbitrator had decided that the Club's Reply was inadmissible for its non-compliance with Article R31 of the CAS Code. The Player was asked if he wished to still file a Rejoinder.

59. On 3 October 2020, the Player indicated that he did not wish to file a Rejoinder.

60. On 5 October 2020, the Parties were informed that the Sole Arbitrator had considered the Parties' respective positions and, pursuant to Article R57 of the CAS Code, had decided there was no need to hold a hearing and that the case could be determined on the basis of the Parties' written submissions and evidence.

61. On 18 October 2020, the Club requested leave to file its Reply again, based on a change of circumstance relating to other disputes it had with other players (referenced in the Answer) and because the relevant Club official was not available to comply with the original deadline.

62. On 21 October 2020, the CAS Court Office requested the Player to provide his position regarding this request.

63. On 22 October 2020, the Player objected to the Club's request based on the fact that the Club had been given sufficient opportunity previously and that it was a further attempt to delay the proceedings, and the Player rejected the suggestion that the Club's previous failure had been due to unavailability given the Reply was filed by email but it had not also been sent by courier or uploaded to the CAS E-filing Platform.

64. On 28 October 2020, the Parties were informed that the Sole Arbitrator had decided not to grant another round of submissions or a new deadline for the Appellant to file its Reply, pursuant to Article R56 of the CAS Code.

65. On 2 December 2020 and 17 December 2020 respectively, the Player and the Club returned duly signed copies of the Order of Procedure to the CAS Court Office.

IV. SUBMISSIONS OF THE PARTIES

66. The Club's Statement of Appeal / Appeal Brief, in essence, may be summarised as follows:

- The Club and Player signed the Playing Contract on 13 July 2017 for a period of five years to 12 July 2022.

- It was agreed that the Player's salary would be:

> *"a. USD 2,000 as monthly salary;*
>
> *b. USD 7.500 as a signing bonus "paid once annually for the duration of the contract in the 12th July each year";*
>
> *c. Zambian Kwacha (ZMW) 4,000 "per league or cup game won for which the player is named in the* […] *team"".*

- The Club details an incident claiming the Player was late to return from international duty, when he returned to the Club on 30 March 2018, whereas he was due to return on 29 March 2018. The Player was given a verbal warning for his late return.

- Furthermore, the Club claims he missed a match on 2 April 2018 because he was late to return from international duty. In addition, it is claimed he left early, *"*[on] *or before the 20th May 2018…to feature for his national team in the COSAFA Senior Men's Tournament held in South Africa. He left earlier that the FIFA days for reporting for international matches albeit the tournament he was going to play in was not on* [the] *official FIFA calendar"*.

- At the conclusion of the Malawian national team's involvement in the tournament, the Club states that it *"learnt through social media that the* [Player] *had instead skipped camp and travelled to his home country and was not planning to return"*.

- The Club wrote a warning letter to the Player, dated 4 June 2018, giving him 14 days to return to the club or face sanctions for breach of contract. However, the *"letter was served on the Club Camp Manager who was in charge of the players abode. The player didn't make himself available to be served directly and didn't declare his location in Malawi"*.

- In addition, on 7 June 2018, the Club wrote to the FAZ asking for it to commence disciplinary proceedings against the Player and a reply was received confirming the commencement, and *"a copy of the same letter meant for the [Player] was served on the Camp Master for the Club to give the player at the earliest opportunity"*.

- Then, the Club alleges it *"heard"* on 12 June 2018 that the Player had written to the Club on 11 June 2018 informing it that *"five monthly salaries and the signing on fee for the first year of the contract were outstanding, as well as two game bonuses"*, giving the Club until 27 June 2018 to remedy this default, however *"the club claims that it was not properly served this letter and neither was the FAZ which is the institution which had registered the player"*.

- The Club claims that such an approach, through FIFA, was premature because there was a pre-existing procedure commenced at the FAZ.

- The Club then states that it *"read on social media"* that the Player had terminated the Playing Contract in writing on 27 June 2018; however, again, *"the club claims that it was not properly served this letter either and neither was the FAZ properly served"*.

- In response to the Appealed Decision issued on 3 October 2019, the Club claims it did not breach the Playing Contract and should not have been sanctioned by FIFA. In that regard, it asserts that FIFA *"was made to make a decision based on incomplete information and half-truths presented by the* [Player]*"*. In particular, the Player failed to inform FIFA that *"he had abandon station and so was n* [sic] *breach of the contract first and neglected to make himself available for training and games as agreed in the contract"*. He had also failed to inform FIFA that *"despite some payments coming late to him towards his contract"* the Player neglected to mention the Club had paid for his hotel accommodation despite the Playing Contract not requiring it to do

so. Finally, the Club states that the Player did not provide an accurate position to FIFA because he failed to mention that *"he did receive some payments between January and May 2018"*.

- The Club states that the Playing Contract demonstrates the Player *"breached the contract first and he should not have been awarded damages as a result"*. Furthermore, the Appealed Decision will encourage players to breach their contracts and pursue *"contract termination and compensation"* and finally, the Appealed Decision is *"excessive in its award and includes figures which should not have been awarded"*.

- As an alternative argument, the Club states that since it did not *"place any sanctions on"* the Player then it should only *"pay what was owed to the* [Player] *before the* [Player] *attempted to terminate the contract"*.

- The Club requests that the CAS implement an expedited procedure due to the short period of time before the transfer ban sanction would be implemented if it fails to pay the Player the sums awarded in the Appealed Decision.

- The Club also claims, as an alternative argument, that if it is accepted the Appealed Decision is correct, the sums should be reduced because the Club *"has satisfied the need for proof that some of the costs awarded to the* [Player] *should not stand … based on the half-truths and omission of information"* by the Player.

- Finally, the Club argues that it is *"not a profit-making club and it supports more than 80 families through players employed by it"* and therefore to uphold the Appealed Decision would punish the other players and families it supports and banning it from signing players would make the Club *"not viable and is likely to leave so many players unemployed"*. Furthermore, it claims these are *"historic issues"* and *"the current players are being handled with the best professional care possible"* meaning that the Club should only pay the Player *"funds owed prior to 30th May 2018 with interest"*.

67. Accordingly, the Club submitted the following requests for relief:

> *"1. To accept this appeal against the Decision rendered by the FIFA DRC.*
>
> *2. To adopt a preliminary award subjecting this matter to the expedited procedure to have a final award prior to the ban n* [sic] *30th April; and*
>
> *3. To adopt an award:*
>
> *a. annulling the Decision of the FIFA DRC; and*
>
> *b. declaring that the Appellant pay the Defendant only money owed to the Defendant up to 30th May 2020 with interest.*
>
> *4. In any event the Appellant requests that the Panel issue an award where:*
>
> *a. the Appellant and Respondent each pay half the cost of the CAS proceedings; and*

b. the Defendant pays the fees and costs in the amount of 2,000 CHF".

68. The Player's Answer, in essence, may be summarised as follows:

- The Club failed to pay the Player's salary of USD 2,000 per month for the months of December 2017, February 2018, March 2018, April 2018 and May 2018, the balance of USD 2,500 of the annual signing bonus of USD 7,500 for the first season (which was due 13 July 2017) and match bonuses of ZMW 8,000 for matches played on 28 April 2018 and 20 May 2018.

- The Player put the Club in default in writing on 11 June 2018, requesting payment of outstanding sums.

- Despite promises from the Club to make up the unpaid amounts and the Player's representative having travelled to the Club to meet to resolve this issue, the Club failed to do so or agree to meet, with the result that the Player terminated the Playing Contract with just cause on 27 June 2018. He filed a claim before the FIFA DRC on 20 September 2018 and the Appealed Decision in his favour was passed on 3 October 2019.

- As a preliminary point, the Player notes in the Club's Request for Relief in its Statement of Appeal / Appeal Brief that it asks for a decision to be passed by the CAS that the Club must only pay the amounts owed to the Player to 30 May 2020, which he assumes is an error and in the context of the remainder of the Statement of Appeal / Appeal Brief, should have read 30 May 2018.

- Therefore, the Player asserts that the sums which he put the Club in default in, and which formed part of the Appealed Decision, of USD 12,500 and ZMW 8,000, were no longer in dispute and admitted as payable by the Club.

- The Player rejects the Club's argument that he first breached the Playing Contract for the alleged delayed return to the Club following international duty in March and April 2018 because the Club had already breached the Playing Contract by not paying the full signing bonus in July 2017, the salary for December 2017 and February 2018, all of which fell due before the first alleged late return. Furthermore, the Player disputes that he returned late on either occasion and refers to the fact that the Club failed to produce any evidence whatsoever to demonstrate this.

- Regarding the alleged violation in June 2018, the Player refers to well-established CAS jurisprudence that demonstrates that a player is not bound to comply with a contract if the club has failed to abide by it, in this case by being in default by more than 5 months' remuneration (CAS 2013/A/3354).

- The Player further notes that he put the Club in default around that time in June 2018 and had the Club paid all outstanding remuneration he would have returned and complied with the Playing Contract; however, this did not happen, even though the Club accept the

outstanding remuneration at least is payable, and therefore it is the Club which was in breach and not the Player.

- The Player also rejects the argument that the Club's provision of hotel accommodation in some way was a substitute for the unpaid salaries because the Playing Contract did not provide for the payment of accommodation expenses. There was no agreement to this substitution and it is therefore irrelevant, with the Player also noting that the Club failed to provide any evidence of payment of the costs.

- Although the Club suggested that contrary to the Player's submissions, it did make payments during the period January 2018 to June 2018, however, the Player maintains that he never stated that he did not receive any payment in this period. He specifically refers to his claim before FIFA in which he does not claim the salary for January 2018 because he received this in February 2018. Turning to the payment documents the Club produced in evidence, the Player notes that these are either undated or relate to payments made in 2017 and therefore questions the validity of this evidence.

- In response to the Club's argument that the amounts awarded in the Appealed Decision were excessive, the Player rejects this. He claims he had just cause to terminate the Playing Contract and that the FIFA DRC correctly applied Article 17 of the Regulations on the Status and Transfer of Players (June 2018) ("RSTP") and awarded compensation based on the outstanding salaries, the residual value of the Playing Contract and three months additional compensation, and then such was mitigated by the value of the Player's new playing contract.

- The Player rejects the Club's argument that he failed to serve his notice / correspondence correctly, asserting that service by email is acceptable and effective. Furthermore, the Club failed to raise this at the FIFA level and in its submissions makes reference to being aware on 12 June 2018 of the contents of the Player's notice sent on 11 June 2018. It also accepted it was in default and the salaries were outstanding.

- The Club's argument that the FIFA DRC did not have jurisdiction because the dispute should have been settled by the FAZ Player Status Committee ("FAZ PSC") is also rejected by the Player. Again, the Club failed to raise this in the FIFA DRC proceedings and it is clear that the FIFA DRC does have jurisdiction based on Article 22 b) of the FIFA RSTP as it falls into the category of *"employment-related disputes between a club and a player of an international dimension"*. With regard to the further provisions of Article 22 b) of the FIFA RSTP, the Player claims that the Playing Contract did not have an express arbitration clause in favour of the FAZ PSC and nor had the Club *"proven that the Players' Status Committee of the FAZ is independent, guarantees fair proceedings and respects the principle of equal representation of players and clubs"*.

- Indeed, the Player notes that the composition of the FAZ PSC is determined by the members of the FAZ Executive Committee and Article 33 of the FAZ Constitution sets out that the members of the FAZ Executive Committee is decided by the FAZ Council. According to Article 22 of the FAZ Constitution, the Players' Union in Zambia does not

even have a vote in the Council, not to mind an equal one. The Players' Union is not even a member of the FAZ according to Article 10 of the FAZ Constitution.

- Finally, the Player addresses the arguments the Club raises that it is *"not a profit-making club"* and how it now treats its players as being irrelevant and incorrect. The Player makes reference to a number of other decisions by the FIFA DRC in favour of other players who had not been paid by the Club. The suggestion of the damage a transfer ban would have on the Club is both irrelevant and also within the control of the Club because it would not be imposed if it paid what it had been ordered to pay. The Player alleges the whole process is to seek to delay the inevitable payments which must be made, in the hope that players become financially desperate and sign settlements for lower amounts.

69. Accordingly, the Player submitted the following requests for relief:

> *"1. Reject the Appeal of the Appellant*
>
> *2. Confirm the decision of the FIFA DRC*
>
> *3. Order the Appellant to pay the full arbitration costs*
>
> *4. Order the Appellant to pay the Respondent an amount towards his costs".*

V. JURISDICTION

70. The jurisdiction of CAS, which is not disputed, derives from Article R47 of the CAS Code which states: *"[a]n 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".*

71. Article 58(1) of the FIFA Statutes (2019 edition) then provides that *"[a]ppeals against final decisions passed by FIFA's legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS* […]*".*

72. The Parties do not dispute the jurisdiction of the CAS and confirmed it by signing the Order of Procedure.

73. It follows that the CAS has jurisdiction to decide on the present dispute.

VI. ADMISSIBILITY

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

> *"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt*

of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document".

75. According to Article 58(1) of the FIFA Statutes, appeals *"shall be lodged with CAS within 21 days of receipt of the decision in question".*

76. The appeal, taking into account that it is directed against a decision notified to the Club on 16 March 2020 and was filed on 6 April 2020, was filed within the deadline of 21 days set by Article 58(1) of the FIFA Statutes. The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fee.

77. It follows that the appeal is admissible.

VII. APPLICABLE LAW

78. Article R58 of the CAS Code provides the following:

> *"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".*

79. Article 57(2) of the FIFA Statutes stipulates 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".*

80. The Sole Arbitrator is satisfied that primarily the various regulations of FIFA are applicable to the substance of the case, and additionally Swiss law, should the need arise to fill a possible gap in the various regulations of FIFA.

VIII. MERITS

81. The main issues to be determined are:

(i) What is the burden of proof and the standard of proof applicable to the present matter?

(ii) Did the FIFA DRC have jurisdiction to consider the claim at first instance?

(iii) Was the Player's termination of the Playing Contract with or without just cause?

(iv) What are the consequences that follow the termination?

A. What is the burden of proof and standard of proof applicable to the present matter?

82. Before assessing the main issues of the present dispute, the Sole Arbitrator deems it necessary to first establish the burden of proof and the standard of proof applicable to the present matter.

83. The concept of burden of proof has been considered in many CAS decisions and is well established CAS jurisprudence. It was set out in CAS 2007/A/1380 as follows:

> *"According to the general rules and principles of law, facts pleaded have to be proved by those who plead them, i.e., the proof of facts, which prevent the exercise, or extinguish, the right invoked, must be proved by those against whom the right in question is invoked. This means, in practice, that when a party invokes a specific right it is required to prove such facts as normally comprise the right invoked, while the other party is required to prove such facts as exclude, or prevent, the efficacy of the facts proved, upon which the right in question is based… This principle is also stated in the Swiss Civil Code. In accordance with Article 8 of the Swiss Civil Code "Unless the law provides otherwise, each party shall prove the facts upon which it relies to claim its right" (free translation from the French original version – "Chaque partie doit, si la loi ne prescrit le contraire, prouver les faits qu'elle allègue pour en déduire son droit")… It is well established CAS jurisprudence that any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. must give evidence of the facts on which its claim has been based… [T]he two requisites included in the concept of "burden of proof" are (i) the "burden of persuasion" and (ii) the "burden of production of the proof"… In order to fulfil the burden of proof, [a party] must, therefore, provide the Panel with all relevant evidence that it holds, and, with reference thereto, convince the Panel that the facts it pleads are true, accurate and produce the consequence envisaged by the* [party]. *Only when these requirements are complied with has the party fulfilled its burden and has the burden of proof been transferred to the other party"* (see also CAS 2005/A/968 and CAS 2004/A/730).

84. This concept was further explained in CAS 2011/A/2384 & 2386 as follows:

> *"Under Swiss law, the 'burden of proof' is regulated by Art. 8 of the Swiss Civil Code (the "CC"), which, by stipulating which party carries such burden, determines the consequences of the lack of evidence, i.e., the consequences of a relevant fact remaining unproven … Indeed, Art. 8 CC stipulates that, unless the law provides otherwise, each party must prove the facts upon which it is relying to invoke a right, thereby implying that the case must be decided against the party that fails to adduce such evidence. Furthermore, the burden of proof not only allocates the risk among the parties of a given fact not being ascertained but also allocates the duty to submit the relevant facts before the court/tribunal. It is the obligation of the party that bears the burden of proof in relation to certain facts to also submit them to the court/tribunal".*

85. Furthermore, it is well-established jurisprudence:

> *"*[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 (see also article 8 of the Swiss Civil Code, ATF 123 III 60, ATF 130 III 417). The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some facts and persuade the deciding body, it must actively substantiate its allegations with convincing evidence"* (see CAS 2003/A/506 and CAS 2009/A/1810 & 1811).

86. This position is further supported by the provisions of Article 12 para. 3 of the FIFA Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber which states:

"Any party claiming a right on the basis of an alleged fact shall carry the burden of proof. During the proceedings, the parties shall submit all relevant facts and evidence of which they are aware at that time, or of which they should have been aware if they had exercised due care".

87. It follows therefore that each party must fulfil its burden of proof to the required standard by providing and referring to evidence to convince the Sole Arbitrator that the facts it pleads are established.

88. The standard of proof which applies to proceedings of the FIFA judicial bodies is that the members of FIFA's judicial bodies decide on the basis of their "personal conviction" and CAS jurisprudence has consistently equalled this standard to the standard of "comfortable satisfaction". As set out in CAS 2011/A/2426, it is *"a standard that is higher than the civil standard of "balance of probability" but lower than the criminal standard of "proof beyond a reasonable doubt""*.

89. This is supported by and consistent with the Swiss Civil Code as set out in CAS 2014/A/3562:

"The Panel observes that according to Swiss Civil procedure law the standard of proof to be applied is in line with such jurisdiction (see STAEHELIN/STAEHELIN/GROLIMUND, Zivilprozessrecht, § 18, N 38) and fully adheres to the above-mentioned reasoning in CAS 2011/A/2426 and will therefore also give such meaning to the applicable standard of "personal conviction"/"comfortable satisfaction"".

90. Based on the foregoing, the Sole Arbitrator is content to adopt the standard of comfortable satisfaction, commonly adopted in CAS jurisprudence, as the standard of proof to apply in this case.

B. Did the FIFA DRC have jurisdiction to consider the claim at first instance?

91. Article 14 of the FIFA Statutes (2019 edition) determines that all member associations have to *"comply fully with the Statutes, regulations, directives and decisions of FIFA bodies at any time"*.

92. The FIFA DRC, as a rule, is competent to deal with an employment-related dispute with an international dimension, as set out in Article 22 (b) of the FIFA RSTP (supported by Article 24 (1)):

"FIFA is competent to hear:

…

(b) employment-related disputes between a club and a player of an international dimension; the aforementioned parties may, however, explicitly opt in writing for such disputes to be decided by an independent arbitration tribunal that has been established at national level within the framework of the association and/or a collective bargaining agreement. Any such arbitration clause must be included

either directly in the contract or in a collective bargaining agreement applicable on the parties. The independent national arbitration tribunal must guarantee fair proceedings and respect the principle of equal representation of players and clubs".

93. FIFA issued its Circular No. 1010, dated 20 December 2005, which set out the minimum procedural standard for an independent and duly constituted arbitration tribunal which comprised the following conditions and principles:

*"**Principle of parity when constituting the arbitration tribunal***

The parties must have equal influence over the appointment of arbitrators. This means for example that every party shall have the right to appoint an arbitrator and the two appointed arbitrators appoint the chairman of the arbitration tribunal. The parties concerned may also agree to appoint jointly one single arbitrator. Where arbitrators are to be selected from a predetermined list, every interest group that is represented must be able to exercise equal influence over the compilation of the arbitrator list.

Right to an independent and impartial tribunal

To observe this right, arbitrators (or the arbitration tribunal) must be rejected if there is any legitimate doubt about their independence. The option to reject an arbitrator also requires that the ensuing rejection and replacement procedure be regulated by agreement, rules of arbitration or state rules of procedure.

Principle of a fair hearing

Each party must be granted the right to speak on all facts essential to the ruling, represent its legal points of view, file relevant motions to take evidence and participate in the proceedings. Every party has the right to be represented by a lawyer or other expert.

Right to contentious proceedings

Each party must be entitled to examine and comment on the allegations filed by the other party and attempt to rebut and disprove them with its own allegations and evidence.

Principle of equal treatment

The arbitration tribunal must ensure that the parties are treated equally. Equal treatment requires that identical issues are always dealt with in the same way vis-à-vis the parties" (emphasis in original).

94. FIFA issued its Circular No. 119, dated 28 December 2007, which implemented FIFA's National Dispute Resolution Chamber (the "NDRC") Standard Regulations (the "FIFA NDRC Standard Regulations") which served as a guide for member associations to establish a national dispute resolution body in line with the principles of the FIFA DRC.

95. The FIFA NDRC Standard Regulations in Article 3 provide as follows:

"1. The NDRC shall be composed of the following members, who shall serve a four-year renewable mandate:

a) a chairman and a deputy chairman chosen by consensus by the player and club representatives from a list of at least five persons drawn up by the association's executive committee;

b) between three and ten player representatives who are elected or appointed either on the proposal of the players' associations affiliated to FIFPro, or, where no such associations exist, on the basis of a selection process agreed by FIFA and FIFPro;

c) between three and ten club representatives who are elected or appointed on the proposal of the clubs or leagues.

2. The chairman and deputy chairman of the NDRC shall be qualified lawyers.

3. The NDRC may not have more than one member from the same club.

4. The NDRC shall sit with a minimum of three members, including the chairman or the deputy chairman. In all cases the panel shall be composed of an equal number of club and player representatives".

96. The Sole Arbitrator has considered the facts in this case and is satisfied that the dispute between the Club and the Player is of an international dimension, as being between a club domiciled in Zambia and a player domiciled in Malawi. It is noted that neither party seeks to argue that the dispute is not of an international dimension.

97. The burden of proof falls on the party making the assertion, in this case, upon the Club, to demonstrate that the national dispute resolution body referred to by the Club, the FAZ PSC, satisfies the necessary requirements for it to displace the presumption that the FIFA DRC has jurisdiction to determine a dispute between a player and a club with an international dimension. However apart from adducing the FAZ Constitution, the Club has failed to put forward any argument or produce any evidence that it does indeed satisfy the requirements set out. Furthermore, it is noted that upon review of the FIFA case file, the Club challenged the competence of the FIFA DRC on the basis that the Playing Contract contained a choice of law clause (Zambian law) and this was analogous with an exclusive jurisdiction clause in favour of the Zambian Courts, an argument opposed by the Player and ultimately dismissed by the FIFA DRC.

98. Upon review of the Playing Contract it was noted, as the Player had asserted, that it did not contain any express provision whereby the parties agreed to submit any dispute to the FAZ PSC. Furthermore, there is no suggestion that there is *"a collective bargaining agreement applicable on the parties"* which includes such an arbitration clause in favour of the FAZ PSC and certainly the Club has failed to evidence the same.

99. For the sake of completeness, the question as to whether the Club has demonstrated that the FAZ PSC satisfies the requirements set out in FIFA Circular Nos. 1010 and 119 and the FIFA NDRC Standard Regulations can be considered.

100. In order to determine this, the only material to consider is the FAZ Constitution, a copy of which the Club adduced in evidence, as no other relevant evidence was supplied. Upon review of the FAZ Constitution, it is noted that the composition of the membership of the FAZ PSC,

which is one of the FAZ standing committees under Article 41, shall be made up of a chairman who must be a member of the FAZ Executive Committee and *"the members of each standing committee shall be appointed by the Executive Committee on the proposal of the President of FAZ"* (Article 41.2). There is no express provision guaranteeing equality of input for every interest group. The provisions for the composition of the Executive under Article 33 also fail to provide such assurances. In passing, it is noted that the Council of FAZ, which sits above the Executive Committee, as the *"supreme and legislative body of FAZ"* does provide the Players' Association to be granted two delegates and one vote, from a total of 132 delegates and 86 votes (Article 22.1).

101. On the evidence supplied by the Club, it is therefore not possible to verify whether or not the FAZ PSC satisfies the requirements set out in FIFA Circular No. 1010 of parity in the constitution of the arbitral panel whereby every interest group has equal input in the list of arbitrators or the requirements set out in the FIFA NDRC Standard Regulations that the members of a NDRC must comprise representatives elected or appointed by the players' representative body and by the clubs and leagues.

102. The Club has failed to provide evidence to prove that these mandatory requirements are met by the FAZ PSC to allow it to have jurisdiction in this case. Having established this, the Sole Arbitrator therefore determined that the FAZ PSC has no jurisdiction in this case and that the FIFA DRC was indeed competent to adjudicate and issue a decision on the proceedings.

C. Was the Player's termination of the Playing Contract with or without just cause?

103. It is the Club's position that the Player breached the Playing Contract by a series of events, beginning with his late return from international duty on 30 March 2018 instead of 29 March 2018 (for which the Club gave him a verbal warning), which meant he missed the Club's match on 2 April 2018, following which he left early for international duty on or around 20 May 2018 for the COSAFA tournament and then returned to Malawi after the tournament rather than return to the Club. The Club wrote to the Player on 4 June 2018 issuing him with a warning as to his conduct and requesting he returns to the Club within 14 days or he would face disciplinary action for breach of contract. This letter was provided to a club official in charge of the player accommodation because the Player was absent and not contactable.

104. The Player on the other hand maintains that the Club breached the Playing Contract by failing to pay certain outstanding salaries and other contractual entitlements totalling USD 12,500 and ZMW 8,000 as follows:

(a) December 2017 – USD 2,000;

(b) February 2018 – USD 2,000;

(c) March 2018 – USD 2,000;

(d) April 2018 – USD 2,000;

(e) May 2018 – USD 2,000;

(f) Balance of annual signing bonus due 13 July 2017 – USD 2,500;

(g) Match bonus for 28 April 2018 – ZMW 4,000; and

(h) Match bonus for 20 May 2018 – ZMW 4,000.

105. On 11 June 2018, the Player's representative wrote to the Club on his behalf putting the Club in default and on notice that they must pay the outstanding amounts within 15 days or the Player would terminate the Playing Contract citing just cause. This was sent by email to various Club officials. The Player's representative then sent a further letter on 27 June 2018 terminating the Playing Contract.

106. With regard to the allegation that he returned late from international duty, the Player disputes this and notes the Club failed to produce any evidence to support this.

107. Article 8 of the Swiss Civil Code states that a party has the burden of proving the facts underlying its claim(s) and it follows therefore that in the present case it is for the Club to establish that the Player returned late from international duty. The Club has failed to provide any contemporaneous evidence that this occurred, for instance correspondence sent to the Player at the time for late return and for failing to attend training. The earliest evidence provided is the Club's internal memo, dated 4 June 2018, addressed to the Player but delivered to the official in charge of the Club's players' accommodation because the Player was in Malawi. This was produced more than two months after the first alleged late return to the Club after international duty. Having established this, the Sole Arbitrator is unable to find that the Club has discharged this burden so as to prove the Player returned late from international duty in March 2018 and fundamentally breached the Playing Contract.

108. In contrast, the Parties are in agreement that certain of the salaries and other contractual entitlements remained unpaid over a period of time, going as far back as a proportion of the signing bonus due on 13 July 2017, the salary for December 2018 and for the period February 2018 to May 2018, and win bonuses for matches in April 2018 and May 2018.

109. The Sole Arbitrator noted that the Club accepted in its correspondence with FIFA dated 27 November 2018 that it owed the Player outstanding payments, *"[w]hile the Respondent admits to owing the Complainant the sum of US $10,200.00 and ZMW 8,000.00 being the amount unpaid in winning bonuses, the said Respondent denies liability fir* [sic] *salaries claimed after service by the Complainant of Notice to Terminate the Contract of Employment, confirmed by signed balance confirmation of 12th June 2018 by the player"*. It follows that this is sufficient to discharge the Player's burden to prove the facts underlying his claim for non-payment.

110. The Club has accepted it failed to pay outstanding salaries and other contractual entitlements to the Player, at least as far back as 13 July 2017, and that such remained unpaid as at the date of the Player's letter of termination (27 June 2018), nearly twelve months later. Crucially however, the Club makes no reference in its letter to FIFA, dated 27 November 2018, to any

allegations of breach of the Playing Contract by the Player, instead arguing against the jurisdiction of both the FIFA DRC and the Player's representative and disputing his entitlement to the residual value of the Playing Contract and any entitlement to costs and interest.

111. The question is whether the breaches that the Player puts forward were sufficient to terminate with "just cause".

112. It is recognised that the FIFA RSTP do not define what constitutes *"just cause"* and, in line with CAS jurisprudence, it is necessary to look to Swiss law and the way in which the jurisprudence has interpreted it to answer this question.

113. It was examined in CAS 2006/A/1062, noting *"[t]he FIFA Regulations do not define when there is such "just cause". One must therefore fall back on Swiss law. Pursuant to this, an employment contract which has been concluded for a fixed term can only be terminated prior to expiry of the term of the contract if there is 'good cause' (see also ATF 110 I 167). In this regard Art. 337(2) of the Code of Obligations ("CO") states – in loose translation: "Particularly any circumstance, the presence of which means that the party terminated cannot in good faith be expected to continue the employment relationship, is deemed to be good cause". The courts have consistently held that a grave breach of duty by the employee is good cause (ATF 121 III 467; ATF 117 II 72)".*

114. Furthermore, in CAS 2006/A/1180, it was held that *"[a]ccording to Swiss case law, whether there is "good cause" for termination of a contract depends on the overall circumstances of the case (…). Particular importance is thereby attached to the nature of the breach of obligation. The Swiss Federal Supreme Court has ruled that the existence of a valid reason has to be admitted when the essential conditions, whether of an objective or personal nature, under which the contract was concluded are no longer present (…). In other words, it may be deemed to be a case for applying the* clausula rebus sic stantibus. *According to Swiss law, only a breach which is of a certain severity justifies termination of a contract without prior warning (…). In principle, the breach is considered to be of a certain severity when there are objective criteria which do not reasonably permit an expectation that the employment relationship between the parties be continued, such as a serious breach of confidence (…). Pursuant to the established case law of the Swiss Federal Supreme Court, early termination for valid reasons must, however, be restrictively admitted".*

115. It is therefore well-established CAS jurisprudence that the termination of a playing contract must be for a sufficiently serious breach to justify termination with "just cause".

116. To reiterate, to examine whether this termination occurred with "just cause" it is necessary to revisit the accepted facts of the case: the Club accepts in its letter of 27 November 2018 that it failed to pay certain salaries to the Player, for a period of almost twelve months for the first default and in relation to unpaid salaries for a period in excess of four months. Furthermore, the Player had placed the Club on notice of its default in his representative's letter of 11 June 2018 and asked that such defaults are remedied within a period of 15 days, yet the Club failed to do so.

117. The non-payment of salaries over a period of time, with the Player having put the Club on notice of its default in writing, is supported by considerable CAS jurisprudence as being just cause for the termination of a playing contract.

118. By way of illustration, in CAS 2006/A/1180, the Panel held that the *"non-payment or late payment of remuneration by an employer does in principle – and particularly if repeated as in the present case – constitute "just cause" for termination of the contract (ATF 2 February 2001, 4C.240/2000 no. 3 b aa; CAS 2003/O/540 & 541, non-public award of 6 August 2004); for the employer's payment obligation is his main obligation towards the employee. If, therefore, he fails to meet this obligation, the employee can, as a rule, no longer be expected to continue to be bound by the contract in future. Whether the employee falls into financial difficulty by reason of the late or non-payment, is irrelevant. The only relevant criteria is whether the breach of obligation is such that it causes the confidence, which the one party has in future performance in accordance with the contract, to be lost. This is the case when there is a substantial breach of a main obligation such as the employer's obligation to pay the employee. However, the latter applies only subject to two conditions. Firstly, the amount paid late by the employer may not be "insubstantial" or completely secondary. Secondly, a prerequisite for terminating the contract because of late payment is that the employee must have given a warning. In other words, the employee must have drawn the employer's attention to the fact that his conduct is not in accordance with the contract (see also CAS 2005/A/893; CAS 2006/A/1100, marg. no. 8.2.5 et seq.)".*

119. It is clear in this case that the two conditions set out above are met because the Club failed to meet its payment obligations to a substantial degree, accepting at the time that it had so failed, and the Player through his representatives had put the Club on notice of its default in writing.

120. It is for all of these reasons, having duly considered the respective positions of the parties, that the Sole Arbitrator finds that the Club failed to fulfil its financial obligations towards the Player and that the Player's termination of the Playing Contract was with just cause.

D. What are the consequences that follow the termination?

121. It is relevant to note that the FIFA RSTP firstly apply to the case-at-hand, with Swiss law being applied if required to complete any gap or to provide any interpretation of the FIFA RSTP.

122. It follows therefore that Article 17 of the FIFA RSTP is relevant setting out, as it does, the principle that the party in breach pays compensation to the other party. It goes on to set out certain matters which should be taken into account, where relevant, in determining the appropriate levels of compensation, which includes the remuneration and other benefits due to a player under the breached contract and any new contract, which should be taken into account in mitigation.

123. Turning to the Club's arguments for further reduction in the amounts owing to the Player by way of compensation, these can be summarised to the following:

(a) reduce the compensation to just the amounts outstanding as at the date the Player terminated the Playing Contract;

(b) accommodation costs; and

(c) reduction to take into account the Club is *"not a profit-making club"* and the Appealed Decision would adversely affect other players.

124. The Club's first argument appears to be based in some way upon a reflection of what it alleges to be the Player's misconduct in returning to the Club late after international duty and the fact that since it did not sanction the Player, it follows that the award to the Player should be reduced to take this into account, such that it should be limited to the amount outstanding as at the date the Player terminated the Playing Contract.

125. The Sole Arbitrator dismisses this argument on the basis that it was within the Club's control at the time of any misconduct of the Player to take appropriate disciplinary action; the fact that it failed to do so cannot be used as valid grounds to reduce the Player's award. Article 17 of the FIFA RSTP is clear in setting out what can be used in mitigation and alleged misconduct is not included as a valid ground. In any event, it is noted that the Club failed to discharge its burden of proof of establishing the facts it seeks to rely upon (see again CAS 2007/A/1380) in terms of the Player misconduct.

126. The Club also argued that it had paid the Player's accommodation costs despite the Playing Contract not requiring it to do so and therefore this should be set off against the amount awarded to the Player. The Player's position was that there was no agreement to substitute his salary for any accommodation expenses and therefore it was irrelevant. The Sole Arbitrator has considered the respective Parties' positions, noting the Club failed to produce any evidence of actual payment of any accommodation expenses, instead simply stating that it had made payments and provided pictures of the hotel. There are no invoices provided nor any record of payments having actually been made.

127. The Sole Arbitrator therefore finds that the Club has failed to prove there was any agreement with the Player that the cost of the Player's accommodation could be set off against his salary and, in any event, failed to present any independent evidence to support the fact it had made any payments on his behalf. Therefore, as regards the alleged accommodation expenses, the compensation awarded to the Player should remain unaffected.

128. Finally, the Club argues that it is *"not a profit-making club"* and that if the Appealed Decision is upheld then it will impact the Club financially to the extent that it may leave the Club not viable and leave other players unemployed; therefore, in effect, it should be reduced to safeguard the financial viability of the Club for the future. Again, the Sole Arbitrator notes that the Club failed to adduce any evidence to support these assertions but notwithstanding that, it is for the Club to take responsibility for its own financial viability. It chose to enter into the Playing Contract to secure the services of the Player and it cannot seek to reduce or evade its contractual obligations on the basis that in so doing it may impact upon its own financial viability. For completeness, it is noted that, again, this argument is not one which is consistent with any right to mitigate amounts owing under Article 17 of the FIFA RSTP.

129. Therefore, in accordance with the well-established jurisprudence of both the FIFA DRC and the CAS, and the principle of *"pacta sunt servanda"*, the Club is liable to fulfil its contractual obligations to the Player under the Playing Contract, meaning that the contractual entitlements not paid as at the date of termination are payable in full, due to the Club's failure to substantiate any reduction it claimed. In addition, the Club is liable to pay compensation to the Player calculated as the residual value of the Playing Contract at the point of termination. This is confirmed in CAS 2015/A/4206 & 4209 which states, *"consistent with the well-established CAS jurisprudence, the injured party is entitled to a whole repatriation of the damages suffered according to the provisions of articles 337 b) and 337 c) of the SCO, pursuant to the principle of the "positive interest", under which compensation for breach must be aimed at reinstating the injured party to the position it would have been in, had the contract been fulfilled to its end (CAS 2012/A/2698; CAS 2008/A/1447; CAS 205[sic]/A/801; CAS 2006/A/1602)".*

130. Article 17 of the FIFA RSTP sets out that the value of the new playing contract the Player entered into with his new club should be taken into account in mitigation to reduce the amount awarded by way of compensation for breach of contract by the Club. It states as follows, *"in case the player signed a new contract by the time of the decision, the value of the new contract for the period corresponding to the time remaining on the prematurely terminated contract shall be deducted from the residual value of the contract that was terminated early (the "Mitigated Compensation"). Furthermore, and subject to the early termination of the contract being due to overdue payables, in addition to the Mitigated Compensation, the player shall be entitled to an amount corresponding to three monthly salaries (the "Additional Compensation"). In case of egregious circumstances, the Additional Compensation may be increased up to a maximum of six monthly salaries. The overall compensation may never exceed the rest value of the prematurely terminated contract".*

131. The Sole Arbitrator notes that this is the exact approach taken in the Appealed Decision and the Club has failed to satisfy the evidential burden it holds to justify any of the deductions it claims should be made, beyond those already made by the FIFA DRC.

132. At this point, it is necessary to highlight that there appears to be an error in the Appealed Decision in respect of the mitigation applied on account of the new playing contract.

133. The Sole Arbitrator notes from a review of the FIFA case file that on 28 August 2019, FIFA requested that the Player *"provide us an update of his employment situation* ***as of 27 June 2018 until this date*** *and to provide us with a copy of any related employment contract(s) …* ***by no later than 17 September 2019****. In this respect, we kindly refer Mr Dalitso Sailesi to art. 5 par.3 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber, which provides that "all persons party to proceedings are obliged to tell the truth" to FIFA's deciding bodies".*

134. In response, on 30 August 2019, the Player's representative sent a copy of the Player's signed playing contract with his new club, Nyasa Big Bullets FC, with a cover letter which stated *"please find enclosed a copy of the player's employment contract signed with the Malawi club, Nyasa Big bullets FC, valid as from 1 August 2018 until 31 July 2021".* A review of the enclosed contract confirms it is valid for a period of three years, from 1 August 2018 to 31 July 2021, as stated by the Player's representative.

135. However, for what can only be an error and consequential miscalculation, the Appealed Decision held the following:

> *"34. In continuation, the Chamber verified as to whether the Claimant had signed an employment contract with another club during the relevant period of time, by means of which he would have been able to reduce his loss of income. According to the constant practice of the DRC, such remuneration under a new employment contract shall be taken into account in the calculation of the amount of compensation for termination of contract with just cause in connection with the player's general obligation to mitigate his damages.*
>
> *35. The Chamber recalled that, on 28 July 2018, the Claimant concluded an employment contract with Nyasa Big Bullets FC, for the period from 1 August 2018 to 31 July 2019. The Chamber then established that for this period, the Claimant would have received a total amount of approx. USD 16,432. Consequently, the Chamber determined that the amount of compensation due to the Claimant after mitigation is USD 107,568".*

136. The figure applied in mitigation, USD 16,432, is the amount referable to one year's salary plus the amount payable for the Player's *"economic and image rights for 36 months"* under the new playing contract. It follows that there is no explanation as to the failure of the FIFA DRC to also take into account in mitigation the sums referable to the second and third years' salary and the Sole Arbitrator is left to conclude that this must have been a genuine error and therefore miscalculation of the amount in mitigation.

137. The first point to note is that the Club has not made any reference to the mitigation applied in the Appealed Decision in its submissions and therefore, it must be assumed, has not identified the miscalculation.

138. The Club does put forward in its submissions that *"the Decision under appeal is excessive in its award and includes figures that should not have been awarded even in a case where the Appellant was to be found to have breached the Contract first"*. However, the Club fails to develop this any further and provides no further explanation as to what *"figures … should not have been awarded"*. Furthermore, as an alternative argument, the Club states that *"if it is accepted that the FIFA DRC applied the correct criteria for awarding the damages to the Defendant, the Appellant submits that he has satisfied the need for proof that some of the costs awarded to the Defendant should not stand hence the need to reduce the award based on the half-truths and omission of information of the facts of the case by the Defendant"*. Again the Club does not identify any of the *"costs"* which should not stand due to the alleged *"half-truths and omission of information"* by the Player as being the level of mitigation applied due to the new playing contract. Indeed in this regard, reference is made just to the allegations that the Player was late to return at times from international duty and therefore unavailable for training and matches, the fact that his hotel accommodation was paid by the Club and that he did receive some payments from the Club between January 2018 and July 2018.

139. It is important to point out, for completeness, that no blame can be attributed to the Player, who not only disclosed the new playing contract when requested by FIFA, but also referenced its duration specifically on the cover letter sent to FIFA and also produced a copy of the new playing contract annexed to its Answer in these proceedings. It follows therefore that any

suggestion of *"half-truths and omission of information"* as being a reason to reduce the level of compensation cannot relate to the mitigation to be applied by virtue of the new playing contract.

140. This leads to an examination of what the Club has requested by way of relief in these proceedings and the effect this has on the correct way to address this miscalculation. Specifically, the Club's request for relief is as follows:

> *"**G. REQUEST FOR RELIEF***
>
> *The Appellant herein respectfully requests the Panel:*
>
> *1. To accept this appeal against the Decision rendered by the FIFA DRC.*
>
> *2. To adopt a preliminary award subjecting this matter to the expedited procedure to have a final award prior to the ban n [sic] 30th April; and*
>
> *3. To adopt an award:*
>
> *a. annulling the Decision of the FIFA DRC; and*
>
> *b. declaring that the Appellant pay the Defendant only money owed to the Defendant up to 30th May 2020 with interest.*
>
> *4. In any event the Appellant requests that the Panel issue an award where:*
>
> *a. the Appellant and Respondent each pay half the cost of the CAS proceedings; and*
>
> *b. the Defendant pays the fees and costs in the amount of 2,000 CHF".*

141. For clarity, the CAS Court Office wrote to the Parties on 30 July 2020 granting the right to a second round of written submissions and asked the Club to address in its Reply whether the reference in paragraph 3(b) to 30 May 2020, as the date by which the Club should be ordered to pay what was owed to the Player up to that date, was actually a typographical error and should instead be 30 May 2018. Unfortunately, the Club failed to file its Reply correctly which meant it was deemed inadmissible and hence there is no formal response from the Club on this point. However, the Club's Statement of Appeal / Appeal Brief does make reference earlier in the submissions to *"the Appellant should only pay the Defendant funds owed prior to 30th May 2018 with interest"* and furthermore, this date is consistent with the date the Club alleges the Player failed to return to the Club without permission following international duty whereas the date of 30 May 2020 bears no relevance to the case whatsoever.

142. There is CAS jurisprudence that a panel can make corrections where it is satisfied, based on both sense and context, that there is an obvious typographical error (see CAS 2009/A/1954, CAS 2015/A/3993, CAS 2016/A/4489, CAS 2017/A/5022, CAS 2017/A/5205, CAS 2017/A/5272). Therefore, the Sole Arbitrator is satisfied that this reference in the Club's Request for Relief of *"2020"* is a typographical error and should read *"2018"* instead.

143. The Sole Arbitrator notes that the specific requests for relief, ignoring costs for present purposes, are to annul the Appealed Decision, presumably in favour of the Club not being in breach or, in the alternative, to annul the Appealed Decision and substitute with an award that the Club only pays what was outstanding to the Player as at the (corrected) date of 30 May 2018 with interest. There is no alternative request for relief in the form of either reducing the compensation payable to the Player specifically due to the level of mitigation being incorrectly calculated in the Appealed Decision or even generally reduced because it is excessive.

144. The ability of a CAS panel to issue an award which is not consistent with a party's request for relief has been considered in detail in CAS jurisprudence and the basic principle is that a CAS panel must adhere to the specific parameters of the party's request for relief and is unable to substitute an alternative relief irrespective of whether it would be correct based on the evidence before the CAS panel. A distinction can be drawn with the general power conferred on CAS panels by Article R57 of the CAS Code which states, *"The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance"*. This is attributed consistently in CAS jurisdiction to afford CAS panels with the power to consider cases *de novo*. Notwithstanding this, CAS panels must show deference to the requests for relief put forward by parties and these two concepts can comfortably co-exist. It is not the CAS panel's job to argue a party's case for it, or to make good a failure of a party to argue a particular point or make a certain request, irrespective of whether the point or request could be well made out and would find favour with a CAS panel.

145. This concept is explored in CAS 2016/A/4384 which states as follows:

> *"118. With regard to the Appellant's contention that the amount of compensation granted by the FIFA DRC shall be further deducted with the alternative salaries payable to the Player under the employment contract with the club Spartak Trnava, the Panel observes that the Club failed to submit a specific request for relief in that sense.*
>
> *119. In fact the Appellant merely requested that the CAS annul the Appealed Decision.*
>
> *120. In this context, the Panel observes that, without prejudice to the provision of article R57 of the CAS Code, which confers the CAS the full power to review the facts and the law of the case, the Panel is nonetheless bound to the limits of the parties' motions, since the arbitral nature of the proceedings obliges the Panel to decide all claims submitted by the Parties and, at the same time, prevents the Panel from granting more than the parties are asking by submitting their requests for relief to the CAS, according to the principle of ne ultra petita.*
>
> *121. As a consequence, and irrespective of the merits of the Appellant's argument on the relevant point, the Panel has no power to amend the amount of compensation granted by the Appealed Decision".*

146. The importance of CAS panels abiding by the Parties' requests for relief is further considered in CAS 2017/A/5339:

> *"Requests for relief must be specified with enough precision in order for the Respondents to reply accurately to all parts of the claim. They must be worded in such a way that the appellate authority may, where appropriate,*

incorporate them to the operative part of its own decision without modification. As a general rule, when a payment is sought, the request should be expressly quantified (ATF 137 III 617 consid. 4.2 et 4.3 p. 618). In the present case, the main requests for relief contained in the appeal brief of Gaz Metan are so vague that the Panel is exposed to award more or something else than what it sought, in violation of the principle ne eat iudex ultra petita partium".

147. CAS 2017/A/5402 underlines the concept of limiting decisions to the requests of parties:

"The interdiction of ultra petita under which the court may not award a party anything more than or different from what the party has requested, nor less than what the opposing party has acknowledged, is well-established in Swiss rules of civil procedure (see Article 58 of the Swiss Civil Procedure Code). This also applies to the rules of mandatory law (GEHRI M., Art. 58 of the Swiss civil procedure code, in SPÜHLER/INFANGER (ed.), Schweizerische Zivilprozessordnung, (Basler Kommentar), Basel 2017, p. 366, para. 3 ad. Art 58 of the Swiss Civil Procedure code)".

148. Accordingly, irrespective of whether there is merit in recalculating the mitigation, given the requirement to frame an award based on the constraints of the parties' requests for relief, the Sole Arbitrator does not have the power to alter the amount of compensation from that set out in the Appealed Decision.

149. The Sole Arbitrator therefore rejects the Club's Appeal and upholds the Appealed Decision.

X. CONCLUSION

150. Based on the above, and having taken into account all the arguments put forward and the evidence supplied, the Sole Arbitrator finds, as already held in the Appealed Decision, that:

(a) the Club unilaterally breached the Playing Contract without just cause;

(b) the Club has to pay to the Player outstanding remuneration in the amounts of USD 14,500 and ZMW 8,000, plus interest at the rate of 5% p.a. until the date of effective payment, as follows:

- as from 13 July 2017, on the amount of USD 2,500;
- as from 1 January 2018, on the amount of USD 2,000;
- as from 1 March 2018, on the amount of USD 2,000;
- as from 1 April 2018, on the amount of USD 2,000;
- as from 1 May 2018, on the amount of USD 2,000;
- as from 1 June 2018, on the amount of USD 2,000;
- as from 27 June 2018, on the amounts of USD 2,000 and ZMW 8,000.

(c) the Club has to pay to the Player compensation for breach of contract in the amount of USD 113,568, plus interest at the rate of 5% p.a. on the aforementioned amount as from 20 September 2018 until the date of effective payment.

151. Accordingly, the Club´s appeal against the Appealed Decision dated 3 October 2019 is dismissed and the said decision upheld.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 6 April 2020 by Lusaka Dynamos Football Club against the decision issued on 3 October 2019 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is dismissed.

2. The decision passed on 3 October 2019 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is confirmed.

3. (…).

4. (…).

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