

Decision of the Players' Status Chamber

passed on 26 July 2023

regarding a dispute concerning the transfer of the player Player C

BY:

Natalia Chiriac, Moldova

CLAIMANT:

Club A, Country A

Represented by

RESPONDENT:

Club B, Country B

Represented by

I. Introduction

1. The relevant natural or legal persons to this dispute are:
 - the Country C player, Player C (hereinafter: **the player**);
 - the Country A club, Club A (hereinafter: **Club A** or **the Claimant**);
 - the Country B club, Club D (hereinafter: **the Old Club**);
 - the Country B club, Club B (hereinafter: **the New Club** or **the Respondent**);
 - the Country B club, Club E (hereinafter: **Club E**); and
 - the Country B club, Club F (hereinafter: **Club F**).
2. Notwithstanding the above, only Club A and the New Club are parties to in the case at hand.
3. In short, Club A employed the player until November 2019 and, upon transferring of his services to the Old Club, became entitled to 50% of amounts earned by the Old Club in subsequent transfers of the player (*i.e.*, sell-on fee). In the claim at hand, Club A requests to be awarded its share of the sell-on fee regarding (*i*) the temporary transfer of the player to Club E; and (*ii*) the definitive transfer of the player to Club F.
4. In parallel, the parties dispute the occurrence of sporting succession between the Old Club and the New Club, as well the latter's liability to any pending financial obligations.

II. Facts of the case

5. In 2017, the player entered into an employment relationship with Club A.
6. On 2 January 2019, Club A and the Old Club entered into a loan agreement by means of which the services of the player were temporarily transferred from the former to the latter from 1 January until 31 December 2019.
7. The abovementioned loan agreement established *inter alia* the following, quoted *verbatim*:

"2.4. The fixed salary obligations of [the Old Club] vis-à-vis the Player for the Loan Period is EUR 475,000 gross on aggregate (i.e. six times the amount of EUR 37,500 gross monthly for the period 1.1.2019 – 30.6.2019 and six times the amount of EUR 41,667 gross monthly for the period 1.7.2019 – 31.12.2019).

2.5. Club A shall have no financial obligations whatsoever vis-à-vis the player in respect of the Loan Period and the Player is hereby granting Club A full and final discharge in respect thereof.

2.6. [The Old Club] shall have an option for a permanent transfer of the registration of the Player from Club A to [the Old Club] as per 31/12/2019 as follows:

- (a) Such option to be executed by [the Old Club] to Club A in writing on or before 1 December 2019.
- (b) Fixed Transfer Fee: USD 1,500,000 payable by [the Old Club] to Club A in one instalment prior to the permanent transfer of registration of the Player.
- (c) Contingent Transfer Fee: in the event that [the Old Club] permanently and/or temporarily transfers the player's registration to another football club (the 'subsequent transfer(s)'), [the Old Club] shall pay to Club A such sum or sums as represent 50% of any and all compensation actually received by [the Old Club] from the subsequent transfer(s).

2.7. Save for the position on FIFA Solidarity payments set out in clause 2.8 below, all sums due to Club A under this Agreement shall be paid by [the Old Club] to Club A in full without set off or deduction of any kind or nature whatsoever so that the sums specified in this Agreement are the sums received by Club A in cleared funds on or before the due date for each payment.

2.8. The parties agree and acknowledge that in relation to the Solidarity Contributions payable pursuant to art. 21 and Annex 5 of the FIFA Regulations:

- (a) All fees payable under this agreement are inclusive of any Solidarity Contributions due to Club A; and
- (b) In relation to Solidarity Contributions payable to third party clubs or associations, [the Old Club] shall deduct the applicable Solidarity Contributions from all payments due to Club A under this Agreement and shall pay all Solidarity Contributions due in accordance with the FIFA Regulations".

8. On 29 November 2019, the Old Club exercised its option to definitely purchase the services of the player from Club A. Consequently, the parties entered into a transfer agreement (hereinafter: **the Club A Agreement**) including the following recitals:

"WHEREAS

1. *Club A and the player are bound by a professional player employment agreement ('Club A Employment Agreement').*
 2. *Club A and [the Old Club] signed a temporary transfer agreement on 2 January 2019 ('Temporary Transfer Agreement') regarding the loan of the player from Club A to [the Old Club] for the Loan Period (1/1/2019 – 31/12/2019).*
 3. *Pursuant to article 2.6 of this transfer agreement ('Transfer Agreement'), [the Old Club] has an option for a permanent transfer of the registration of the player from Club A to [the Old Club] as per 31/12/2019, to be executed by [the Old Club] in writing on or before 1 December 2019 for a Fixed Transfer Fee of USD 1,500,000 payable in one instalment prior to the permanent transfer of registration of the player and a Contingent Transfer Fee equal to 50% of any and all compensation actually received by [the Old Club] from any Subsequent Transfer(s); i.e. any permanent and/or temporary transfers of the Player's registration from [the Old Club] to another football club.*
 4. *It is hereby confirmed in writing that [the Old Club] decided to execute the said option for a permanent transfer of the registration of the player from Club A to [the Old Club] as per 31/12/2019 ('the Transfer') and that [the Old Club] decided to enter into a professional player employment agreement with the player ('Club D Employment Agreement'); subject to the conditions of this Transfer Agreement".*
9. Clauses 2 and 3 of the Club A Agreement read as follows:

"Article 2 – Financial conditions

2.1. Fixed Transfer Fee

In consideration for the Transfer, [the Old Club] undertakes to pay Club A a fee fixes by mutual agreement of the parties in the gross amount of 1,500,000 USD (one and a half million US Dollars), VAT excluded if applicable, before deduction of the solidarity contribution referred to in Article 21 and Annex 5 of FIFA's Regulations ('Transfer Fee') in one instalment on or before 31 December 2019 at the latest.

2.2. Future Transfer

In the even that the player is further transferred by [the Old Club] to any other football club ('Subsequent Transfer(s)' as defined in the Temporary Transfer Agreement), then [the Old Club] shall pay to Club A such sums or amounts as represent 50% (fifty percent) of any and all compensation(s) actually received by [the Old Club] in connection with the Subsequent Transfer(s).

Article 3 – Terms of payment Transfer Fee

3.1. *Transfer Fee*

3.1.1. *It is expressly agreed between the parties that the Transfer Fee comprises and includes any training and educational allowances which may be due to Club A as a result of the Transfer, pursuant to Article 20 and Annex 4 of FIFA's Regulations for the Status and Transfer of Players ('FIFA's Regulations').*

3.1.2. *[The Old Club] shall deduct from the Transfer Fee, the due amount of solidarity contribution and pay the requisite amounts of solidarity contribution to all clubs who are entitled to receive the same, in accordance with Article 21 and Annex 5 of FIFA's Regulations (the 'Solidarity Contribution').*

3.1.3. *The Solidarity Contribution shall be paid by [the Old Club] to all the training clubs, including Club A, in relation to the years of registration of the player with it, in accordance with the provisions of Article 1 of Annex 5 of the FIFA Regulations.*

3.1.4. *Club A shall send [the Old Club] two invoices: one relating to the Solidarity Contribution payable to Club A in accordance with clause 3.1.1 above, and one relation to the Transfer Fee referred to in clause 2.1 above less Solidarity Contribution. The Transfer Fee shall be payable whether or not the Player is then a registered player of [the Old Club] at the time of the scheduled payment.*

3.1.5. *Payments by [the Old Club] to Club A shall be made to Club A's bank account as follows:*

X
X
X

Temporary transfer of the player from the Old Club to Club E

10. On 20 January 2020, the Old Club and Club E entered into a loan agreement by means of which the services of the player were temporarily transferred from the former to the latter (hereinafter: ***the Club E Agreement***).

11. Pursuant to the Club E Agreement:

- Club E undertook to pay the Old Club a total sum of EUR 150,000, payable in three instalments of EUR 50,000 each, due respectively by 22 January 2020, 20 February 2020, and 20 March 2020; and
- Club E undertook to loan to the Old Club two of its players: Mr Player G and a player to be mutually agreed upon between the parties until the beginning of the Country B national championship (2020 edition), Second Division.

Transfer of the player from the Old Club to Club F

12. On 19 March 2021, the Old Club, the player and Club F entered into another transfer agreement according to which the player's services were definitively transferred from the Old Club to Club F, together with 50% of his economic rights (hereinafter: **the Club F Agreement**).
13. The recitals section of the Club F Agreement reads *inter alia* as follows (freely translated by Club A):

“(ii) [The Old Club] and Club A share [the player]’s economic rights in the proportion of 50% (fifty percent) for each, by agreement signed between them on 29 November 2019, pursuant to FIFA regulations”.
14. Clause 1 of the Club F Agreement read as follows (freely translated by Club A):

“CLAUSE ONE – ONEROUS ASSIGNMENT OF FEDERATIVE AND ECONOMIC RIGHTS

1.1. [The Old Club], as holder of federative rights and part of the economic rights arising from the sporting link of [the player], with whom he maintains an employment contract duly registered with the Country B Football Federation – XXX, assigns and transfers in an onerous and definitive manner to the Club F the federative rights and 50% (fifty percent) of [the player]’s Economic Rights.

1.2. With the transfer of 50% (fifty percent) of [the player]’s Economic Rights to Club F, [the Old Club] and Club A remain together with 50% (fifty percent) of [the player]’s Economic Rights in future onerous transfer (definitive or temporary), from [the player] to other sporting entities, which must be paid to [the Old Club] in the same manner as the receipt by the CLUB F, which assumes the full obligation to transfer its share to Club A in the same manner as the receipt”.
15. Under clause 2 of the Club F Agreement, Club F undertook to pay the Old Club a transfer fee of EUR 2,000,000, payable as follows:
 - a. EUR 600,000 upon release of the registration of the player with Club F;
 - b. EUR 400,000 by 15 May 2021; and
 - c. EUR 1,000,000 by 15 January 2022.
16. On 15 April 2021, Club A issued an invoice of EUR 1,000,000 against the Old Club corresponding to 50% of the transfer fee established in the CLUB F Agreement.

17. On 21 May and 24 June 2021, Club A sent the Old Club a reminder for payment of the outstanding amounts per the Club F Agreement.
18. On 15 October 2021, Club A put the Old Club in default and requested payment of EUR 500,000 corresponding to the two first instalments per the Club F Agreement within 10 days.
19. In December 2021 and following a change in Country B Law authorizing the creation of a new corporate structure for clubs (hereinafter: **the Country B Law**), the Old Club's management approved the creation of a new entity to run the Old Club's football assets, namely the New Club. The operation was reported in the official website of the Old Club, as well as in the sporting media.
20. On 17 January 2022, Club A lodged a claim before the FIFA Players' Status Chamber (**PSC**) against the Old Club, which was filed under ref. no. FPSD-XXXX. In short and alike in the claim at hand, Club A requested to be awarded its sell-on fee over the remuneration earned by the Old Club under both the Club E Agreement and the Club F Agreement.
21. During the abovementioned proceedings and before a decision was passed by the PSC, the Country B Football Federation (**XXX**) confirmed to FIFA that the Old Club was no longer affiliated and ceased to participate in the competitions organized under the auspices of that association. Consequently, the case file was closed by the FIFA general secretariat based on art. 9.1, lit. b) of the Procedural Rules Governing the Football Tribunal.
22. On 15 February 2022, Club A put the Old Club in default for payment of its share over all the three instalments of the Club F Agreement. It granted an additional deadline of 10 days for the default to be cured.
23. On 11 May 2022, the name of the Old Club in the FIFA Transfer Matching System (**TMS**) was updated to the one of the New Club (*i.e.*, Club B).
24. On 2 September 2022, Club A put both the Old Club and the New Club in default. Contextually, it requested, within the following 10 days, (i) payment of EUR 1,000,000 per the Club F Agreement; and (ii) the disclosure of the Club E Agreement to calculate its share of the applicable sell-on fee.

III. Proceedings before FIFA

25. On 20 February 2023, Club A filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

a. Claim of Club A

Sporting succession

26. In its claim, Club A initially argued that the New Club is the sporting successor of the Old Club, therefore shall be jointly liable to its financial obligations. In this respect, Club A referred to the FIFA regulations and the jurisprudence of the Court of Arbitration for Sport (**CAS**) and made *inter alia* following remarks concerning the criteria for assessing the occurrence of sporting succession:

- Name of the clubs: the names of the Old Club and the New Club are “*practically identical*”. Moreover, the clubs bear the same website and users in social media;
- Management: the president of the Old Club is a member of the Board of Directors of the New Club, corroborating the element of common management. Furthermore, the address of the Old Club’s administration is the same as the one used in official documentation concerning the New Club;
- Colour, brand, and symbol: the Old and the New Club share the same visual identity and exactly the same logo, as shown below. Moreover, the official website reads that “*the club’s board approved the transformation of its football operations into a Football Joint Stock Company, keeping the same brand and symbol*”:

X

- Fans: the New Club uses the same accounts in social media as the Old Club, therefore profit from the pre-existent fanbase. Furthermore, (i) the shared fanbase of the clubs was also publicly confirmed by the New Club’s CEO, XXX (hereinafter: **XXX**); and (ii) the New Club uses the same anthem and mascot as the Old Club;
- History, sporting achievements, and trophies: the New Club openly states that it was founded on XX.XX.XXXX (*i.e.*, the founding year of the Old Club). Likewise, its website shows the same sporting achievements, which clearly precede the creation of the New Club, thus were earned by the Old Club. The history and idols (including XXX) also match;
- Stadium: the New Club uses the same stadium as the Old Club For its games, namely XXX, popularly known as “XXX”;
- Same leagues: the New Club plays the same league as the Old Club, entailing that the sporting continuity was not interrupted.

27. In conclusion, Club A stated as follows, quoted *verbatim*:

"51. It is clear that a new entity (i.e. [the New Club]) was set up with the specific purpose of continuing the exact same activities as the old entity (i.e. [the Old Club]). Therefore, [the New Club] is without any doubt (either the same or) the sporting successor of [the Old Club]. In fact, if [the New Club] would have wanted to avoid any risk of being considered the sporting successor of [the Old Club], it could have distinguished itself from [the Old Club], but it clearly opted not to do so.

*52. Once the sporting succession is established, according to the FIFA and CAS case law, the successor is held liable for the debts generated and not fulfilled by the previous club being replaced, and this on the basis of the sporting continuity of the club in the light of *lex sportiva*. Furthermore, the FIFA DRC found it for example not coherent that the new club would be responsible for respecting the old club's obligation towards its players but not towards any other *bona fide* third party. Along these lines, the DRC did not consider it valid for the new club to acquire only the assets that are directly linked with a club, i.e. the logo, the name, the stadium, its players, but not its liabilities.*

53. If a club is considered to be a sporting successor of a non-compliant club and once this is established, the sporting successor shall be considered a non-compliant party.

54. The effect of the conclusions above is that [the New Club] is, as a matter of principle, liable to meet the financial obligations of [the Old Club]".

Sell-on fee and requests for relief

28. Having established the above, Club A also recalled the contents of the Club A Agreement and, in particular, the New Club's obligation to comply with the sell-on clause therein included. It also highlighted that the wording of the recitals section and clause 2 of such contract is clear to establish that the sell-on would apply to any and all subsequent transfers of the player.
29. According to Club A, it is entitled to 50% of the remuneration earned by the New Club with the transfers of the player's services to Club E and Club F.
30. Club A's requests for relief were as follows, quoted *verbatim*:

"76. In view of the above, the xxx – on behalf of Club A – would like to request the assistance of the FIFA PSC to ensure that:

- i. [The New Club] will be obliged to immediately pay to Club A the First Instalment, Second Instalment and Third Instalment, being a total amount of EUR 1,000,000.- (in words: one million Euros);*
- ii. [The New Club] will be obliged to immediately pay to Club A an interest rate of 5% per annum, as from the date the First Instalment respectively the Second*

Instalment respectively the Third Instalment became due until the date of effective payment;

iii. [The New Club] will be obliged to pay all additional costs in this respect, such as the costs of this FIFA proceedings and all other procedural costs made by Club A in this regard; and iv. an additional sanction will be imposed upon [the New Club], such in accordance with Article 12bis par. 4 of the RSTP.

77. Moreover, Club A asks your Chamber to instruct [the New Club] to submit and/or disclose the agreement with Club E regarding the loan transfer of the Player in this procedure and to order that Club D shall be obliged to immediately pay to Club A 50% of any compensation paid by Club E to [the New Club] in this respect”.

b. Amendment to the claim of Club A

31. On 28 February 2023, the FIFA general secretariat:
 - informed Club A that the Old Club was no longer affiliated to the Association Country B, therefore could not be a party to a dispute before of the Football Tribunal (cf. art. 9 of the Procedural Rules Governing the Football Tribunal). Consequently, Club A was invited to amend its claim and withdraw any request made against the Old Club; and
 - Disclosed the main financial provisions included in Club E Agreement, as well as requested Club A to amend its claim and specify the amount in dispute.
32. On 3 March 2023, Club A informed that its claim should only be pursued against the New Club (*i.e.*, as the sporting successor of the Old Club). Furthermore, Club A requested to be additionally awarded its share of sell-on fee over the Club E Agreement, namely: (*i*) EUR 75,000 plus interest; and (*ii*) 50% of the market value of the two players exchanged between the Old Club and Club E.
33. On 6 March 2023, the FIFA general secretariat referred to art. 18 par. 1 of the Procedural Rules Governing the Football Tribunal and reiterated its invitation for Club A to specify the amount in dispute and provide a corresponding breakdown.
34. On 14 March 2023, Club A submitted additional comments as to the amount in dispute and, in particular, the sell-on fee claimed in line with the Club E Agreement. Based on the jurisprudence of the Dispute Resolution Chamber (**DRC**) concerning the calculation of the solidarity compensation in case exchange of players, Club A argued that the amount due by the New Club should be calculated in light of the player’s market value at the time he was loaned to Club E, namely in January 2020.

35. In light of the above, Club A thoroughly recalled all the negotiations involving the rights in or around such date, as follows:
- In 2017, the transfer of the player from the Country C club, Club H, to Club A for a total fee of EUR 3,650,000 (*i.e.*, EUR 730,000 amortized for a year);
 - In 2019, the loan of the player from Club A to the Old Club, for a loan fee of EUR 475,000; and
 - In 2020, the transfer of 50% of the player's economic rights from Club A to the Old Club against payment of compensation of USD 1,500,000 (*i.e.*, EUR 668,453 for 100% of the economic rights, converted and amortized for a year).
36. Therefore, Club A requested to be awarded the average of the abovementioned amounts (EUR 624,484) *minus* the amount already fixed in the Club E Agreement (EUR 150,000), arriving at EUR 474,484 **plus** 50% of EUR 150,000.
37. Club A's final requests for relief, as amended, were as follows:

"i. the Respondent shall pay to the Claimant 50% of any and all compensation(s) actually received by the Respondent in connection with the subsequent transfers of the Player;

ii. more in particular, the Respondent will be obliged to immediately pay to the Claimant the amount due in connection with the Player's transfer on a permanent basis from Club D to Club F as well as the applicable interest rate, which amounts are specified in par. 76 of our statement of claim;

iii. more in particular, on the basis of the (financial details provided by FIFA regarding the) loan agreement between Club D and Club E, the Respondent will be obliged to immediately pay to the Claimant the following amounts in connection with the Player's loan transfer from Club D to Club E:

(a) 50% of the loan fee EUR 150,000 – i.e. EUR 75,000. Since this amount was apparently paid in three instalments, the Claimant is entitled to receive:

- *50% of EUR 50,000 – i.e. EUR 25,000, due since 22 January 2020;*
- *50% of EUR 50,000 – i.e. EUR 25,000, due since 20 February 2020;*
- *50% of EUR 50,000 – i.e. EUR 25,000, due since 20 March 2020; and*
- *an interest rate of 5% per annum, as from the date the aforementioned instalments became due until the date of effective payment.*

(b) 50% of the amount of EUR 474,484 (as is specified in this letter) – i.e. EUR 237,242. According to transfermarkt.com, the Player was transferred on a loan basis from [the Old Club] to Club E on 17 January 2020. This amount is thus due since 17

January 2020, on the basis of which the Claimant is also entitled to receive an interest rate of 5% per annum as from 17 January 2020 until the date of effective payment”.

c. Reply of the New Club

38. On 14 April 2023, the New Club Filed its reply to the claim.

Admissibility: Statute of Limitations

39. The New Club challenged the admissibility of the claim *vis-à-vis* the status of limitations per art. 23 par. 3 of the FIFA Regulations on the Status and Transfer of Players (**RSTP**).
40. Per the New Club’s interpretation of the Club A Agreement, Club A would only be entitled to the sell-on fee over the transfer of the player to Club E, which took place on 20 January 2020, rendering Club A’s claim thus time-barred.
41. Furthermore, it argued that there is no regulatory basis for the interruption of the prescription, entailing that the claim should be ruled inadmissible.

Substance: the sporting succession

42. Irrespective of its position as to the admissibility of the claim, the New Club also entered into the substance of the matter.
43. Initially, the New Club stated that it is not the legal and sporting successor of the Old Club. In this regard, the New Club argued that it was created in strict observation of the Country B Law and under the scrutiny of the national tribunals. As such, there was not any abuse or intention to contravene the system, as protected by the concept of sporting succession.
44. Furthermore, the New Club pointed out to the objective differences between the two clubs, which can be summarized as follows:
- Name: not identical. While the Old Club is named Club D, the New Club is named Club B;
 - Legal form: the Old Club was a non-profit civil association, whereas the New Club is now a Joint Stock Company;
 - Address: both clubs have different registered addresses;
 - Ownership and management: as an association, the Old Club was owned by its members. Nevertheless, the New Club is now under the ownership of the company XXX. Likewise, they possess different president and directors, including XX.

45. In conclusion, the New Club stated the following as to the sporting succession, quoted *verbatim*:

“11. From the abovementioned elements and the evidence attached to the Claim by Club A:

- a) There is no indication that [the New Club] was set up with the specific purpose of escaping the obligations entered into by [the Old Club].*
- b) Both entities co-exist and have distinct founders, name, shareholders, management, executive bodies, different registration no. In the mercantile registry and different registered address.*
- c) The XXX stadium is not the property of [the New Club] or [the Old Club], but of the XXX government, so this is no indicative by any means.*

12. Therefore, it can be concluded that both entities are completely distinct legal entities, fully active and with patrimonial and management autonomy of their respective businesses.

13. From all the above elements in conjunction with the application of the mandatory Country B law that we will further develop in the next section, we can conclude that [the New Club] shall not be considered [the Old Club]’s sporting or legal successor”.

46. Alternatively, even if considered that there was sporting succession, the New Club pointed out that:

- the Old Club is under a Judicial Reorganization process also regulated by the national law. Therefore, assigning credits to Club A would contravene the *par conditio creditorum* principle;
- per the Country B Law, the New Club shall not inherit any liability from the Old Club; and
- the New Club was not a party to the Club A Agreement, Club E Agreement or the Club F Agreement, therefore is not informed about its fixtures or liable to the obligations therein included.

Substance: the sell-on fee

47. Alternatively, the New Club also challenged Club A’s entitlement to the sell-on fee based on the wording of the Club A Agreement. In its view, the sell-on fee would only apply exclusively over the subsequent transfer of the player, hence the loan to Club E.

48. In parallel, the New Club argued that on 15 October 2021, Club A put it in default and requested only the amounts per the Club F Agreement, hence was also stopped to request additional remuneration now per the Club E Agreement.
49. The New Club's conclusions on this topic were as follows, quoted *verbatim*:

"a) From the literal interpretation of the relevant clauses and the intention of the parties (although [the New Club] was not a party), it is crystal clear that both [the Old Club] and Club A agreed on the application of the sell-on clause only to the first subsequent transfer, in case the temporary loan of the player to Club E.

b) Concerning this loan to Club E, Club A has failed to demonstrate that [the Old Club] received any fee for this temporary loan, so has not discharge its burden of proof.

c) Equally, the conduct of Club A in accordance with its letter of 15 October 2021 (Exhibit N to the Claim) is contrary to its own acts, and the doctrine of venire contra factum proprium".

Quantum claimed and the requests for relief

50. As a last *petitum*, the New Club also challenged the *quantum* claimed by Club A as follows:
- Based on clauses 2.6 and 2.7 of the loan agreement previously concluded between the parties, any potential sell-on fee should be calculated considering the profits of the Old Club as follows:
 - Transfer fee between the Old Club and Club F: EUR 2,000,000
 - Transfer fee between the Old Club and Club F (*minus* solidarity contribution): EUR 1,900,000
 - Transfer fee between Club A and the Old Club: EUR 1,500,000
 - Profit: EUR 400,000
 - **Total sell-on fee (50%): EUR 200,000**
 - It was Club A's responsibility to prove that the solidarity contribution should not be deducted, therefore, in the failure of doing so, only 95% should be taken into consideration.
 - No specific remark was made by the New Club regarding the *quantum* claimed as sell-on over Club E Agreement, besides the allegation that such amount was time-barred.
51. The New Club also claimed that no sporting sanctions were applicable.
52. The requests for relief of the New Club were as follows, quoted *verbatim*:

- "a) [The New Club] shall not be considered [the Old Club]'s sporting or legal successor.*
- b) The claim filed by Club A shall be rejected as it is against mandatory Country B law.*
- c) In the alternative, the claim shall be declared inadmissible insofar as it is time-barred.*
- d) In the further alternative and entering the merits:*
- *The claim cannot be dealt under Art. 12bis of the FIFA RSTP;*
 - *On a subsidiary basis, the claim of Club A shall be limited to the first and immediate subsequent transfer of the player to Club E;*
 - *In the further alternative, the amount requested shall be adapted and limited;*
 - *In all cases, no sporting sanction shall be imposed on [the Old Club]"*.

IV. Considerations of the Players' Status Chamber

a. Jurisdiction and admissibility of the claim

53. First of all, the Single Judge of the PSC (hereinafter: **the Single Judge**) analysed whether she was competent to deal with the case at hand. In this respect, she took note that the present matter was presented to FIFA on 20 February 2023 and submitted for decision on 26 July 2023. Taking into account the wording of art. 34 of the March 2023 edition of the Procedural Rules Governing the Football Tribunal (hereinafter: *the Procedural Rules*), the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
54. Subsequently, the Single Judge referred to art. 2 par. 1 of the Procedural Rules and observed that in accordance with art. 23 par. 2 in combination with art. 22 lit. g) of the FIFA RSTP (May 2023 edition), the PSC and its Single Judge are – in principle – competent to deal with the matter at stake, which concerns a contractual dispute opposing clubs belonging to two different member associations.
55. Notwithstanding the above, the Single Judge acknowledged that the New Club challenged the admissibility of Club A's claim and alleged that it should be deemed (at least partially) time-barred insofar as it pertains to the Club E Agreement.
56. In particular, the Single Judge took into consideration the New Club's argumentation according to which the *"event(s) giving rise to dispute"* at stake *i.e.*, the date(s) triggering the statute of limitations, are the due dates of payment of each financial obligation per the Club E Agreement. In addition, it deems that the time limit set out in art. 25, par. 5 of the

FIFA RSTP was not interrupted by the first claim lodged by Club A before the PSC, hence has already elapsed.

57. While analysing the above, the Single Judge firstly highlighted the jurisprudence of both the Football Tribunal and CAS shows that the definition of the “*event giving rise to the dispute*” is, in specific cases such as the ones concerning sporting succession, subject to interpretation.
58. In this respect, the Single Judge adhered to the conclusion reached in the recent CAS XXXX/X/XXXX, summarized as follows:

*“In a case involving a succession of clubs, the “event giving rise to the dispute” to be considered when trying to determine whether or not a claim introduced by a player against the new club is time-barred, **is not the contractual violation by the old club, but the new club’s date of affiliation to its national federation, as it is from that specific moment in time that the player is in the position to initiate proceedings against the new club before the FIFA Dispute Resolution Chamber (DRC).** Indeed, only as from that specific moment, when the new club starts actively participating in a competition organised under the auspices of the national federation, is the FIFA DRC, also in consideration of the party requirement according to the relevant applicable law, in particular under Article 6 of the Rules Governing the Procedures of the Players’ Status Committee and the Dispute Resolution Chamber, able to deal with the case” (emphasis added).*

59. In the particular case at hand, the Single Judge highlighted that the following events were decisive for her analysis:

Date	Event
20 January 2020	Conclusion of the Club E Agreement
22 January 2020	Due date: 1st instalment
20 February 2020	Due date: 2nd instalment
20 March 2020	Due date: 3rd instalment
17 January 2022	First claim against the Old Club before the PSC
Around December 2021 and the beginning of January 2022	Creation of the New Club in line with the Country B Law. Disaffiliation of the Old Club.

60. On this note, the Single Judge noted that the first claim by Club A was lodged within the 2 years’ period set out in the Regulations. Nevertheless, such claim was subsequently closed due to the disaffiliation of the Old Club, which cannot be held against the creditor (*i.e.*, Club A).
61. Consequently, the Single Judge determined that the event giving rise to this dispute at hand was no longer the debt *per se*, but rather the date of the affiliation of the alleged sporting successor (*i.e.*, the New Club) to the relevant federation (*i.e.*, the Country B

Association). Determining otherwise, in the Single Judge's, would lead to the situation that an alleged sporting successor could avoid payment obligations by waiting two years as from the event that gave rise to the dispute in order for a possible claim of the creditor to be time-barred.

62. In conclusion, while considering that the New Club was created and became affiliated to Country B Association in the beginning of 2022 and the claim *sub judice* was lodged on 20 February 2023 by the player, the Single Judge decided that it is not time-barred in line with art. 23 par. 3 of the FIFA RSTP.
63. The Single Judge also wished outline that the above-mentioned *rationale* sufficed to establish the admissibility of the claim, reason why no further analysis as to interruption of the time limit under the Swiss Law – such as raised by the New Club – was needed.
64. It followed that the claim of Club A is entirely admissible.

b. Applicable legal framework

65. Subsequently, the Single Judge analysed which regulations should be applicable as to the substance of the matter. In this respect, she confirmed that, in accordance with art. 26 par. 1 and 2 of the FIFA RSTP (May 2023 edition) and considering that the present claim was lodged on 20 February 2023, the October 2022 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

c. Burden of proof

66. The Single Judge recalled the basic principle of burden of proof, as stipulated in art. 13 par. 5 of the Procedural Rules, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof. Likewise, the Single Judge stressed the wording of art. 13 par. 4 of the Procedural Rules, pursuant to which she may consider evidence not filed by the parties, including without limitation the evidence generated by or within the TMS.

d. Merits of the dispute

67. The competence and the applicable regulations having been established, the Single Judge entered into the merits of the dispute. In this respect, the Single Judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Single Judge emphasised that in the following considerations she will refer only to the facts, arguments, and documentary evidence, which she considered pertinent for the assessment of the matter at hand.

i. Main legal discussion and considerations

68. The foregoing having been established, the Single Judge moved to the substance of the matter, and took note of the fact that it pertains to a claim for sell-on fee lodged by Club A against the New Club.
69. In particular, the Single Judge underlined that Club A is now pleading against the New Club insofar as, in its opinion, the latter is the sporting successor of the Old Club. The occurrence of sporting succession is strongly disputed by the New Club, who also objects (in a subsidiary manner) to Club A's entitlement to the amounts claimed on the basis of: (i) the wording of the Club A Agreement and the behaviour of the creditor; and (iii) the inconsistencies in the *quantum* claimed by Club A.
70. Against this background, the Single Judge acknowledged that her task was to determine the following:
- a. Is the New Club the sporting successor of the Old Club?
 - b. If affirmative, over which agreement(s) is the sell-on clause applicable?
 - c. Is Club A entitled to any outstanding remuneration?

71. The Single Judge moved then to the analysis of each topic in turn.

A. IS THE NEW CLUB THE SPORTING SUCCESSOR OF THE OLD CLUB?

72. As a point of departure, the Single Judge recalled the case law of the Football Tribunal related to the particular issue of sporting succession as well as made reference to case ref. no. CAS XXXX/X/XXXX, which *mutatis mutandis* could be applied to the present matter. Indeed, in said Award (and while confirming a previous decision of the FIFA DRC), CAS established that a club is a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it. The Single Judge felt comfortable to follow this reasoning as it reflects the general case law in respect of sporting succession, and saw equally no particular reason to depart from this well-established practice.
73. Moreover, she referred to CAS XXXX/X/XXXX, which included the following reasoning, with which the Single Judge concurred:

*"The Sole Arbitrator highlights that the decisions that had dealt with the question of the succession of a sporting club in front of the CAS (CAS XXXX/X/XXXX; TAS XXXX/X/XXXX; TAS XXXX/X/XXXX; TAS XXXX/X/XXXX) and in front of FIFA's decision-making bodies (...), have established that, on the one side, a club is a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it. Thus, the obligations acquired by any of the entities in charge of its administration in relation with its activity must be respected; and on the other side, that **the identity of a club is constituted by elements such as its name, colours, fans, history, sporting achievements, shield,***

trophies, stadium, roster of players, historic figures, etc. that allow it to distinguish from all the other clubs. Hence, the prevalence of the continuity and permanence in time of the sporting institution in front of the entity that manages it has been recognised, even when dealing with the change of management companies completely different from themselves” (freely translated from Spanish, emphasis added).

74. Such *rationale* was also confirmed by a significant number of CAS awards that, *inter alia*, address the criteria to determine if sporting succession has taken place, regardless of the legal form and management under which the respective clubs have operated (e.g., CAS XXXX/X/XXXX, CAS XXXX/X/XXXX, CAS XXXX/X/XXXX, and CAS XXXX/X/XXXX).
75. Although not directly applicable to the matter at stake, the Single Judge recalled that art. 21 par. 4 of the FIFA Disciplinary Code (2023 edition) and article 24ter par. 1 of the Regulations also enlighten FIFA’s approach regarding the recognition of a sporting successor and constitute, to some extent, a codification of the jurisprudence on the topic. Said provisions read as follows, for ease of reference:

Article 21, par. 4 of the FIFA Disciplinary Code:

“The sporting successor of a non-compliant party shall also be considered a non-compliant party and thus subject to the obligations under this provision. Criteria to assess whether an entity is to be considered as the sporting successor of another entity are, among others, its headquarters, name, legal form, team colours, players, shareholders or stakeholders or ownership and the category of competition concerned”.

Article 24ter, par. 1 of the Regulations:

“The sporting successor of a debtor shall be considered the debtor and be subject to any decision or confirmation letter issued pursuant to this article. The criteria to assess whether an entity is the sporting successor of another entity are, among others, its headquarters, name, legal form, team colours, players, shareholders or stakeholders or ownership and the category of competition concerned”.

76. On this specific topic, CAS XXXX/X/XXXX reads as follows:

*“For the sake of clarity and avoidance of any misunderstanding, the Sole Arbitrator further recognises that the elements as referred to in Article 15 (4) of the 2019 edition of the FDC and Article 24ter(I) of the FIFA RSTP are not exhaustive, as clearly follows from the words “among others”. The Sole Arbitrator feels forced to lay emphasis on this. ***In other words, the existence of several elements in light of these provisions can lead, in its combination, and so even if not all elements are met in a specific case, to the conclusion that a club has to be considered as a “sporting successor”. The overall package of elements is decisive (see also CAS XXXX/X/XXXX).*** As was also clearly stated*

*in CAS XXXX/X/XXXX, on which the Appellant heavily relies, the Sole Arbitrator considers himself not bound by prior decisions of the FIFA DC, FIFA DRC or the CAS. In fact, because **such analysis is to be made on a case-by-case basis, i.e. elements present in a certain case may tip the balance in one direction, whereas the elements present in a lesser or higher degree in another case, may tip the balance in the opposite direction**" (emphasis added).*

77. Therefore, guided by the case law of both the Football Tribunal and CAS, the Single Judge determined that the occurrence of sporting succession shall be assessed in a case-by-case basis, bearing in mind the existence of sports continuity / permanence from a pragmatic point of view. Said analysis is based *inter alia* on non-exhaustive and non-cumulative criteria defined by the jurisprudence (and, to some degree, codified in the FIFA regulations).
78. With the above in mind, the Single Judge acknowledged that, *in casu*, the New Club challenged its identification as the sporting successor of the Old Club based essentially on: (i) the lack of abuse and/or intention to deviate from financial obligations of the Old Club *i.e.*, its alleged good faith and compliance with the Country B Law; and (ii) the absence of sporting continuity *vis-à-vis* the defining elements of each relevant club and the paradigms set out in the jurisprudence.

A.1. THE LACK OF ABUSE/FRAUDULENT CONDUCT FROM THE NEW CLUB AND THE CLUB B LAW

79. First and foremost, the Single Judge established straightaway that the obligation resting with the successor to pay the predecessor's previous debts is not dependent on whether the reasons triggering the operation *ab initio* were legitimate or suspicious, but on the fact that a new club takes over the old club sportive distinctive traits. Likewise, a finding of sporting succession does not have to derive necessarily from a fraudulent conduct, nor does the counterparties have to prove the existence of "*fraud*" from the sporting successor.
80. In other words, the jurisprudence of the Football Tribunal and CAS are solid to determine that fraudulent practices by parties trying to avoid payments do not constitute a *conditio sine qua non* to conclude that sporting succession occurred. Conversely, sporting succession can exist even if there is absence of such practices (*cf.* CAS XXXX/X/XXXX).
81. By the same token, the Single Judge underscored that the existence of a *lex specialis* in the national framework, such as the Country B Law, authorizing the clubs to change its legal form is also not decisive for the analysis. In this respect, when deciding a dispute before the Football Tribunal, FIFA's regulations prevail over any national law chosen by the parties. The main objective of the FIFA regulations is to create a standard set of rules to which all the actors within the football community are subject to and can rely on. This

objective would not be achievable if the Football Tribunal would have to apply the national law of a specific party on every dispute brought to it.

82. Consequently, the Single Judge was firm to decide that the New Club's position in this regard should be rejected. Along the same lines, the Single Judge deemed that the New Club's allegations in the sense that it did not take advantage of the Old Club's eventual credits and assets – besides being questionable – were not necessarily relevant to this dispute as they are not decisive for the analysis of the sporting succession, which is based on different criteria.

A.2. THE CRITERIA FOR SPORTING CONTINUITY

83. Having established the above, the Single Judge moved to the issue of the sporting continuity, a crucial element to the issue of succession. In doing so, she turned her attention to the documentation brought forward by the parties together with their submissions and noted that each of them referred to specific criteria to support their respective position as to the occurrence (or not) of the sporting succession.
84. After a thorough analysis of the evidence on file, the Single Judge considered that the following elements as pivotal for the analysis at hand:
- In spite of the efforts to try to portray a different reality, it was clear that the New Club keeps identifying itself simply as "Club D" or "Club D";
 - according to the information submitted by Club A and not challenged by the New Club, through their media channels, the two clubs also share the same history and there is no indication whatsoever of discontinuity of the Old Club;
 - both the New Club and the Old Club use the same colour, name, anthem, social media accounts, mascot, and the exact same logo;
 - the New Club uses the same website as Old Club and it makes reference to events and achievements occurred before its foundation, but contemporaneous to the history and achievements of Old Club;
 - the New Club holds its matches in the same stadium as the Old Club. In this respect, the Single Judge took into consideration of the New Club's explanation as to the state ownership of the stadium, but even so considered as an additional indication of the sporting succession, combined with all the other elements of the case;
 - the New Club inherited the Old Club's license and position in the second division of the national championship organized by Country B Association. The New Club could not provide any reasonable reason why it would be entitled to such license

other than continuing with the sporting activities of the Old Club;

- the New Club took over the same TMS account as the Old Club. Despite alleging that it constitutes a different entity, it remained evident for the Single Judge that the New Club assumed the Old Club's management and sporting assets including but not limited the services of its squad; and
 - the New Club and the Old Club share common representatives. In particular, the evidence on file shows that the previous president of the Old Club is part of the Board of Directors of the New Club, as well as the latter's managers repetitively and publicly manifested its umbilical link with the Old Club to engage the fanbase.
85. While considering the above, the Single Judge was satisfied with the conclusion that there were sufficient elements to establish that the New Club deliberately relied on the identity and image of Old Club to be considered the same club. Had the New Club not wished to take advantage of the past sporting merit and history of the Old Club, it could have simply departed from it. However, it did exactly the opposite.
86. Within this specific factual background, the arguments regarding the ownership and legal entities were also fully noted by the Single Judge. Nevertheless, she deemed that they were not conclusive and could not *per se* prevail over the significant number of other elements that – *contrario sensu* to the position of the New Club – clearly point out in the direction of sporting succession. The Single Judge also remarked that, as described by the award in CAS XXXX/X/XXXX: “*whether a club in operated through a different legal entity does not bear relevance on whether the sporting succession has taken place i.e. ‘a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it’ (CAS XXXX/X/XXXX at. Par. 139)*”.
87. Put simply, the analysis is based on the external appearance of the sports continuity from the football community's point of view, and not from the legal perspective alone. Therefore, the technicalities involving the legal operation *vis-à-vis* the contents of the national law – in particular, the Country B Law – were also not decisive on the matter at hand, or at least are not sufficient to counterbalance the other elements analysed and tip the balance back in favour of the New Club.

A.3. THE ISSUE OF THE JUDICIAL REORGANIZATION OF THE OLD CLUB

88. The sporting succession having been established; the Single Judge determined that the New Club should then be liable to comply with Old Club's pending financial obligations towards Club A.

89. At this point, the Single Judge noted that the New Club referred to the fraud of creditors due to the ongoing Judicial Reorganization procedure involving the Old Club and pending before the national courts. Nevertheless, she underscored that such argumentation was also flawed because any possible liability and/or sanction would be imposed on the New Club (as the sporting successor) of the Old Club and not the opposite. Likewise, there was not any proof of impediment of any kind for the New Club to perform payments.
90. The Single Judge was furthermore convinced that Club A acted diligently in order to pursue the credit *sub judice*. In particular, she highlighted that Club A put both the Old Club and the New Club in default in more than one opportunity and Club A had already filed a previous claim before the PSC concerning the same amounts. In addition, and as opposed to the allegations of the New Club to the contrary, the Single Judge stressed that there was no valid reason for Club A to seek relief once again against the Old Club as its credits and liabilities were assigned to the New Club – now the Respondent.
91. Consequently, the Single Judge concluded that the New Club’s position to this extent should also be rejected.

A.4. INTERIM CONCLUSION: SPORTING SUCCESSION

92. Based on all the above-mentioned considerations, the Single Judge decided that the New Club is the sporting successor of Old Club.
93. The Single Judge felt furthermore comforted with her decision by recalling that such conclusion was also in line with the previous decision rendered by the FIFA DRC regarding the same matter (case. ref. no. FPSD-XXXX), whereby even the Country B Association confirmed the occurrence of sporting succession.
94. Consequently, the Single Judge moved to the analysis of the constellation of contracts signed by and between the parties and the applicable consequences.

B. IF AFFIRMATIVE, OVER WHICH AGREEMENT(S) IS THE SELL-ON CLAUSE APPLICABLE?

95. In continuation, the Single Judge turned to the analysis of the Club A Agreement and observed that the parties dispute whether the sell-on clause should be applicable (a) exclusively to the subsequent transfer of the player (*i.e.*, the loan to Club E); or (b) to all subsequent transfers (*i.e.*, additionally including the Club F Agreement).
96. In this regard, the Single Judge deemed that the wording of par. 3 of the recitals of the Club A Agreement, as well as its clause 2.2, were clear and unequivocal to establish that the option (b), *supra*, was the correct answer. For ease of reference, the Single Judge recalled that the cited provisions read as follows, quoted *verbatim*:

“RECITALS:

[...]

3. Pursuant to article 2.6 of this transfer agreement (*‘Transfer Agreement’*), [the Old Club] has an option for a permanent transfer of the registration of the player from Club A to [the Old Club] as per 31/12/2019, to be executed by [the Old Club] in writing on or before 1 December 2019 for a Fixed Transfer Fee of USD 1,500,000 payable in one instalment prior to the permanent transfer of registration of the player and a Contingent Transfer Fee equal to 50% of any and all compensation actually received by [the Old Club] from any Subsequent Transfer(s); i.e. any permanent and/or temporary transfers of the Player’s registration from [the Old Club] to another football club.

[...]

Article 2 – Financial conditions

[...]

2.2. Future Transfer

In the even that the player is further transferred by [the Old Club] to any other football club (‘Subsequent Transfer(s)’* as defined in the Temporary Transfer Agreement), then [the Old Club] shall pay to Club A such sums or amounts as represent 50% (fifty percent) of any and all compensation(s) actually received by [the Old Club] in connection with the Subsequent Transfer(s)”.*

97. On this note, the Single Judge observed that the New Club went on length to explain the methods of interpretations of the abovementioned clauses as well as the lessons of the doctrine and jurisprudence regarding sell-on clauses. Nevertheless, she decided that its entire argumentation was immaterial to solve the present dispute because:

- the Club A Agreement expressly mentions that Club A would be entitled to the percentage applying over all the subsequent transfers (*in claris non fit interpretatio*);
- there is no limitation either in the FIFA regulations or in the jurisprudence for similar cases concerning the parties’ agreement on applying the sell-on clause to more than one subsequent transfer (*i.e.*, sell-on over sell-on); and
- pursuant to the recitals section and clause 1 of the Club F Agreement, the Old Club itself acknowledged Club A’s entitlement to part of the player’s economic rights. In case the sell-on clause was limited to the Club E Agreement, there would

be any valid reason for the Club F Agreement to acknowledge the existence of such constellation (*i.e.*, the “pool” of economic rights).

98. In light of the foregoing and once again in opposition to the argumentation of the New Club, the Single Judge decided that the sell-on clause included in the Club A Agreement should be applied over both the Club E and the Club F Agreements.

C. IS CLUB A ENTITLED TO ANY OUTSTANDING REMUNERATION?

99. Taking all the abovementioned considerations into account, the Single Judge finally decided that Club A should be entitled to the following amounts.

C.1. THE CLUB E AGREEMENT

100. Club A requested to be awarded a total of EUR 312,242 under the Club E Agreement, broken down as follows:
- 50% of the fixed compensation of EUR 150,000 (*i.e.*, EUR 75,000);
 - 50% of the player’s market value at the time of the conclusion of the contract, bearing in mind that he was exchanged for other two players (*i.e.*, around EUR 474,484 out of which 50% was due to Club A).
101. In this respect, the Single Judge considered that it was crystal clear that Club A should be entitled to half of the fixed compensation (*i.e.*, EUR 75,000), which she decided to award based on the general legal principle of *pacta sunt servanda*.
102. Nevertheless, the Single Judge stressed that the same straightforward conclusion could not be applied to the calculation of the market value of the player due to the exchange of team members.
103. Concerning this topic, the Single Judge recalled that the Football Tribunal and CAS had already analysed the topic of player’s exchange in the context of claims for solidarity contributions, such as invoked by Club A. At this point, the Single referred to the Commentary to the RSTP – Edition 2021, p. 346-7 and concurred that: (*i*) there is an undeniable value associated to the swap of players; and (*ii*) for the calculation of the *quantum* involved in the deal, the market value of the exchanged players should be considered as equal.
104. While considering the above in combination with the concrete elements of the case at hand, the Single Judge concurred with Club A that, due to the specific contractual arrangement between the parties, the sell-on fee due by the New Club could be determined by establishing the player’s market value provided that the *player’s market value = the 2 swapped players + EUR 150,000*. In addition, the Single Judge was also of the

opinion that the calculation of the player's market value based on his previous transfers appeared to be reasonable and proportionate, and most important, was not specifically challenged by the New Club.

105. In particular, the Single Judge found it pivotal that the New Club limited itself to establish that (i) the amounts claimed under the Club E Agreement were barred by the statute of limitations; or, alternatively, (ii) Club A was *estopped* to request them insofar as they were not mentioned on one of its default notices. Nevertheless, the Single Judge considered that (i) there was no prescription, as determined in the admissibility section, *supra*; as well as (ii) the principle of *venire contra factum proprium* was not applicable because, regardless of its first notice, Club A put the New Club in default for the remuneration under Club E Agreement and pursued the same claim against the Old Club in front of FIFA. Moreover, the Single Judge added that the Old Club bore a responsibility to disclose the terms of the Club E Agreement and failed to do so, hence could not benefit from its tort either.
106. Thus, as the New Club Failed to place any alternative argumentation (such as for the other topics) regarding the *quantum* claimed as sell-on fee under the Club E Agreement, the Single Judge considered that it tacitly accepted the figures as proposed by Club A.
107. Consequently, the Single Judge decided that Club A should be entitled to EUR 75,000 (*i.e.*, 50% of the fixed compensation of EUR 150,000), plus EUR 237,242, as claimed.
108. Taking into consideration Club A's request as well as the constant practice of the PSC in this regard, the Single Judge considered that Club A should also be entitled to default interest over the outstanding remuneration. Due to the specific factual framework of the case and especially the matter of sporting succession; the Single Judge decided that 5% interest *p.a.* should arise as from the date of the claim (*i.e.*, 20 February 2023) until the date of effective payment.

C.2. THE CLUB F AGREEMENT

109. Subsequently, the Single Judge turned her attention to content of the Club F Agreement.
110. In this regard, she underlined that whilst Club A claimed to be entitled to 50% of the fees received by the Old Club under the Club F Agreement, the New Club argued (at a subsidiary basis) that such calculation should be made strictly over the profit effectively enjoyed by the club and deducted of solidarity contribution.
111. Again, the Single Judge deemed that the arguments of the New Club had no bearing in the present case *vis-à-vis* the wording of the contracts concluded by the parties. In particular, she highlighted that clause 2.2 of the Club A Agreement establishes that the so-called "future transfer fee" represents 50% "of any and all compensation(s) actually received by Club D in connection with the Subsequent Transfer(s)" (emphasis added). The same wording was also mentioned in the loan agreement previously concluded between the parties.

112. The Single Judge underlined that there was no mention whatsoever to the concept of “profit” and/or the widely known idea of “*plusvalia*”, as argued by the New Club. Therefore, she determined that the calculation should be made in observance of the entire compensation received by the Old Club.
113. At this point, the Single Judge concurred with the New Club to the degree that, by referring to “*compensation actually received*”, the deduction of the solidarity compensation should be taken into account if sufficiently proved by the interested party (*i.e.*, by the New Club). As opposed to its allegations and in line with the well-established jurisprudence of the Football Tribunal, the Single Judge determined that New Club bore the burden of proof to demonstrate that the solidarity contribution was paid to the player’s training clubs, hence should be deducted. Establishing otherwise, in the Single Judge’s view, would be synonym to submitting Club A to a *probation diabolica*: it would have to advance evidence that the Old Club paid amounts to third parties without having any access to its financial records.
114. In light of the foregoing, the Single Judge concluded that that none of the deductions made by the New Club was contractually based and/or was supported by documentary evidence. Thus, she decided that the sell-on fee due to Club A should be calculated over the entire remuneration agreed upon by the parties in the Club F Agreement (*i.e.*, EUR 2,000,000).
115. Accordingly, the Single Judge determined that Club A should be entitled to the EUR 1,000,000 sought. In addition, alike for the Club E Agreement, she established that 5% interest *p.a.* over such amount should arise as from the date of the claim until the date of effective payment.
116. By way of conclusion, the Single Judge set out that the claim of Club A was entirely admissible and partially accepted.

ii. Art. 12bis of the Regulations

117. Subsequently, the Single Judge referred to art. 12bis par. 2 of the Regulations, which stipulates that any Club Found to have delayed a due payment for more than 30 days without a *prima facie* contractual basis may be sanctioned in accordance with art. 12bis par. 4 of the Regulations.
118. To this end, the Single Judge confirmed that Club A put the New Club *et al* in default of payment of the amounts sought, which had fallen due form more than 30 days, and granted it with 10 days to cure the breach of contract.
119. The Single Judge further established that by virtue of art. 12bis par. 4 of the Regulations she has competence to impose sanctions on clubs. On account of the above and bearing in mind that this is the second offense by the New Club within the last two years, the Single

Judge decided to impose a reprimand on the New Club in accordance with art. 12bis par. 4 lit. b) of the Regulations.

120. The Single Judge also highlighted that a repeated offence will be considered as an aggravating circumstance and lead to more severe penalty in accordance with art. 12bis par. 6 of the Regulations.

iii. Compliance with monetary decisions

121. Finally, taking into account the applicable Regulations, the Single Judge referred to art. 24 par. 1 and 2 of the Regulations, which stipulate that, with its decision, the pertinent FIFA deciding body shall also rule on the consequences deriving from the failure of the concerned party to pay the relevant amounts of outstanding remuneration and/or compensation in due time.
122. In this regard, the Single Judge highlighted that, against clubs, the consequence of the failure to pay the relevant amounts in due time shall consist of a ban from registering any new players, either nationally or internationally, up until the due amounts are paid. The overall maximum duration of the registration ban shall be of up to three entire and consecutive registration periods.
123. Therefore, bearing in mind the above, the Single Judge decided that the New Club must pay the full amount due (including all applicable interest) to Club A within 45 days of notification of the decision, failing which, at the request of Club A, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods shall become immediately effective on the New Club in accordance with art. 24 par. 2, 4, and 7 of the Regulations.
124. The New Club shall make full payment (including all applicable interest) to the bank account provided by Club A in the Bank Account Registration Form, which is attached to the present decision.
125. The Single Judge recalled that the above-mentioned ban will be lifted immediately and prior to its complete serving upon payment of the due amounts, in accordance with art. 24 par. 8 of the Regulations.

e. Costs

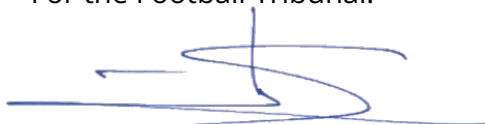
126. Finally, the Single Judge referred to art. 25 par. 2 and Annexe 1 of the Procedural Rules, according to which in proceedings before the PSC including its Single Judge, procedural costs in the maximum amount of USD 25,000 are levied. Equally, she confirmed that costs are to be borne in consideration of the parties' degree of success in the proceedings and are normally to be paid by the unsuccessful party.

127. Taking into account that (i) the amount in dispute in the case at hand exceeds USD 200,000, as well as (ii) the responsibility of the failure to comply with the payments as agreed in the Club A Agreement can be fully attributed to the New Club; the Single Judge concluded that the later has to bear the costs of the current proceedings amounting to USD 25,000.
128. Subsequently, the Single Judge reverted to art. 25 par. 3 and 6 of the Procedural Rules and determined that the advance of costs paid by Club A should be reimbursed in full.
129. Lastly, the Single Judge rejected any other requests for relief made by any of the parties.

V. Decision of the Players' Status Chamber

1. The claim of the Claimant, Club A, is admissible and partially accepted.
2. The Respondent, Club B, is the sporting successor of Club D.
3. The Respondent must pay to the Claimant **EUR 1,312,242 as outstanding remuneration** plus 5% interest *p.a.* as from 20 February 2023 until the date of effective payment.
4. Any further claims of the Claimant are rejected.
5. A **reprimand** is imposed on the Respondent.
6. Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.
7. Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made **within 45 days** of notification of this decision, the following **consequences** shall apply:
 1. The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of up to three entire and consecutive registration periods.
 2. The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not made by the end of the three entire and consecutive registration periods.
8. The consequences **shall only be enforced at the request of the Claimant** in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.
9. The final costs of the proceedings in the amount of **USD 25,000** are to be paid by the Respondent to FIFA. FIFA will reimburse to the Claimant the advance of costs paid at the start of the present proceedings (cf. note relating to the payment of the procedural costs below).

For the Football Tribunal:



Emilio García Silvero

Chief Legal & Compliance Officer

NOTE RELATED TO THE APPEAL PROCEDURE:

According to article 57 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.

NOTE RELATED TO THE PUBLICATION:

FIFA may publish this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 17 of the Procedural Rules Governing the Football Tribunal).

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