



TAS / CAS

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

CAS 2022/A/8701 Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Sirketi v. Eduardo Fernandes Pereira Gomes & FIFA

ARBITRAL AWARD

delivered by

COURT OF ARBITRATION FOR SPORT

seating in the following composition:

President: Mr. Sofoklis P. **Pilavios**, Attorney-at-law, Athens, Greece
Arbitrators: Mr. Ulrich **Haas**, Professor of Law in Zurich, Switzerland and
Attorney-at-Law, Hamburg, Germany
Mr. José Juan **Pintó Sala**, Attorney-at-law, Barcelona, Spain

in the arbitration between

Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Sirketi, Izmir, Turkey
Represented by Messrs. Juan De Dios Crespo, Juan Crespo Ruiz – Huerta and Mrs. Emily Yu, Ruiz –
Huerta & Crespo Abogados, Valencia, Spain

- Appellant -

and

Mr. Eduardo Fernandes Pereira Gomes, Portugal
Represented by Mr. Nelson Soares, Nelson Soares Advogado Responsabilidade Limitada, Rua 25 de
Abril, n° 76 -1° Esq, Cruz de Pau, Amora, Portugal

- First Respondent -

and

Fédération Internationale de Football Association, Zurich, Switzerland
Represented by Mr. Miguel Lietard Fernandez – Palacios, Director of Litigation and Mr. Roberto
Najera Reyes, Senior Legal Counsel, FIFA, Zurich, Switzerland.

- Second Respondent –

I. PARTIES

1. Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi (the “Appellant” or the “New Club”) is a professional football club with its registered office in Izmir, Turkey. It is affiliated with the Turkish Football Federation (the “TFF”), which in turn is affiliated with the *Fédération Internationale de Football Association*.
2. Mr. Eduardo Fernandes Pereira Gomes (the “Player” or the “First Respondent”) is a retired professional football player of Portuguese and Cape Verdean nationality.
3. *Fédération Internationale de Football Association* (the “Second Respondent” or “FIFA”) is a private association under Swiss law and has its registered office in Zurich, Switzerland. FIFA is the world governing body of international football. It exercises regulatory, supervisory and disciplinary functions over national associations, clubs, officials and football players worldwide; The Player and FIFA shall be collectively referred to as the “Respondents”; The Appellant and the Respondents shall be collectively referred to as the “Parties”.

II. FACTUAL BACKGROUND

4. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties and the evidence examined in the course of the proceedings. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

A. Background facts

5. Following a decision passed by the FIFA Dispute Resolution Chamber (the “FIFA DRC”) on 9 April 2020, the Turkish football club Bucaspor Kulubu Dernegi (the “Original Debtor” or the “Old Club”) was ordered to pay the Player the amount of EUR 616,000 (six hundred sixteen thousand euros), plus interest at a rate of 5% *p.a.* until the date of effective payment, according to the terms provided therein (the “DRC Decision”). Additionally, the Original Debtor was ordered to pay the Player the amount of EUR 200,000 (two hundred thousand euros) as penalty.
6. At the time the DRC Decision was rendered, the Original Debtor was participating in the Turkish Regional Amateur League, having been relegated from the fourth and lowest tier of professional football in Turkey at the end of the sporting season 2018/2019. Despite said relegation, the Original Debtor has not been disaffiliated from the TFF until today.
7. On 6 August 2020, pursuant to point 6 of the DRC Decision and since the amounts due to the Player had not been paid, FIFA imposed a transfer ban on the Original Debtor for the following three entire and consecutive registration periods:
 - First registration period: 05/01/2021 until 01/02/2021
 - Second registration period: 17/06/2021 until 08/09/2021

- Third registration period: 12/01/2022 until 08/02/2022

B. Proceedings before the FIFA Dispute Resolution Chamber

8. On 4 February 2021, and in view of the fact that the amounts due under the DRC Decision had not yet been paid by the Original Debtor, the Player lodged a claim with FIFA requesting that the New Club be considered the sporting successor of the Old Club and the imposition of sanctions to the New Club. By means of its submissions, the Player provided a detailed account of facts and information, claiming that the Appellant is the sporting successor of the Original Debtor and therefore, the former shall be held liable for the financial obligations of the latter towards the Player. The information provided in this respect pertained, *inter alia*, to the clubs' name, logo, team colours, sporting facilities and administration. Said claim was notified to both the FIFA DRC and the FIFA Disciplinary Committee.
9. On 29 June 2021, and upon a request made by the FIFA Administration in the respect, the TFF argued that despite their similar names, the Original Debtor and the Club are two different legal entities that do not share the same sporting history. In essence, the TFF indicated that the Appellant, which was originally named "Tire 1922" ("Tire"), underwent several changes during the recent years in terms of its name and legal structure.
10. On 19 August 2021 and after having been invited by FIFA to provide its comments regarding a potential violation of Article 24^{ter} of the January 2021 edition of the FIFA Regulations on the Status and Transfer of Players (the "FIFA RSTP"), the New Club concurred with the information provided by the TFF and asserted that there is no connection between itself and the Original Debtor.
11. On 14 February 2022, the FIFA DRC issued its decision on the pertinent matter with the following operative part (the "Appealed Decision"):
12. *"The FIFA Administration concludes that the New Club shall be considered as the sporting successor of the [Original Debtor] for the aforementioned reasons.*
As such, it should serve the transfer bans imposed on the [Original Debtor]".
13. By means of the Appealed Decision, the elements that would reveal the sporting succession between the Appellant and the Original Debtor were examined in detail. In this regard, the FIFA DRC infers that both clubs share several common distinctive features, such as their name, history, sporting achievements, team colours, logos, players, registered address, stadium, and website, save only for their respective legal structure.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

14. On 4 March 2022, the Appellant filed a Statement of Appeal with CAS against the Appealed Decision in accordance with Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the "CAS Code"). Moreover, the New Club filed a Request for Provisional Measures within the meaning of Article R37 of the CAS Code, requesting that the payment of compensation or any other amount in respect of the Appealed Decision and the implementation

of sporting sanctions on the Appellant in compliance with said decision be suspended until the finalization of the present proceedings.

15. On 15 March 2022, FIFA provided further explanations about the content of the Appealed Decision. In essence, FIFA clarified that the transfer ban imposed on the Original Debtor by means of the DRC Decision was not meant to be served by the Appellant *ab initio* but instead, the New Club would serve only the remaining period i.e., until 17 June 2022. In light of the above, FIFA requested the CAS Court Office to confirm whether the Appellant wished to maintain the present Appeal and to suspend all the ongoing deadlines until the Appellant provided its position on the above matter.
16. On 18 March 2022, the CAS Court Office acknowledged that the Appellant maintained the present Appeal. By means of the same correspondence, the CAS Court Office noted that the request submitted by the Appellant regarding the stay of execution of the Appealed Decision appeared to be moot at this stage of the proceedings.
17. On 21 March 2022, the Appellant nominated Prof. Dr. Ulrich Haas, Professor of Law in Zurich, Switzerland and Attorney-at-Law in Hamburg, Germany as an arbitrator, in replacement of the arbitrator initially nominated by the Appellant.
18. On 28 March 2022, the Appellant filed its Appeal Brief pursuant to Article R51 CAS Code within the pertinent deadline.
19. On 29 March 2022, the Respondents jointly nominated Mr. Jose Juan Pintó Sala, Attorney-at-Law in Barcelona, Spain as an arbitrator.
20. On 12 May 2022, the CAS Court Office informed the Parties that, pursuant to Article R54 CAS Code, the President of the CAS Appeals Arbitration Division had decided that the arbitral tribunal appointed to decide on the matter at hand was constituted as follows:
 - President: Mr. Sofoklis P. Pilavios, Attorney-At-Law, Athens, Greece
 - Arbitrators: Mr. Ulrich Haas, Professor of Law in Zurich, Switzerland and Attorney-at-Law in Hamburg, Germany
 - Mr. Jose Juan Pintó Sala, Attorney-at-Law in Barcelona, Spain
21. On 24 May and 16 June 2022 respectively, and after several extensions granted in this regard, the Player and FIFA submitted their Answers pursuant to Article R55 CAS Code.
22. On 16 June 2022, the Appellant stated his preference for a hearing to be held on the matter at hand.
23. On 20 and 21 June 2022 respectively, the Respondents expressed their agreement for an award to be rendered on the present case on the sole basis of the Parties' written submissions.

24. On 14 July 2022, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing on the matter at hand.
25. On 10 November 2022, the Appellant filed the duly signed Order of Procedure.
26. On 11 and 14 November 2022 respectively, the Player and FIFA filed the duly signed Orders of Procedure.
27. On 22 March 2023, a hearing was held in Lausanne, Switzerland. At the outset of the hearing, the Parties confirmed not to have any objection or comments as to the constitution and the composition of the arbitral tribunal nor in respect of the conduction of the proceedings up to that moment.
28. In addition to the Panel and Antonio De Quesada, Head of Arbitration for CAS, the following persons attended the hearing:
 - For the Appellant:
 - 1) Mr. Juan De Dios Crespo Perez, counsel;
 - 2) Mr. Ercan Sevdimbaz, counsel;
 - 3) Mrs. Cihan Aktas, President of the Appellant;
 - 4) Dizodar Golde, translator;
 - For the First Respondent:
 - 1) Mr. Nelson Soares, counsel;
 - For the Second Respondent:
 - 1) Mr. Roberto Nájera Reyes, counsel;
 - 2) Mr. Alexander Jacobs, counsel;
29. The Parties had a complete opportunity to present their case, submit their arguments and answer the questions posed by the Panel.
30. Before the hearing was concluded, all the parties expressly stated that they did not have any objection with the procedure followed by the Panel and that they are satisfied and confirm that their right to be heard had been respected.
31. The Panel confirms that it carefully heard and took into consideration all the submissions, evidence and arguments presented by the Parties, even if they have not been specifically summarized or referred to in the present arbitral award.

IV. SUBMISSIONS OF THE PARTIES AND PRAYERS FOR RELIEF

A. Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi

32. The submissions of the Appellant, in essence, may be summarized as follows:

- The Original Debtor and the New Club were established during different years, and they are affiliated with the TFF under different registration numbers. They have both participated in the professional categories of Turkish football and even competed in the same division during the sporting season 2018/2019.
- While the Original Debtor recently changed its name from “Bucaspor Kulubu Derneği” to “Buca Gelistirme Spor Kulubu Derneği”, the Appellant has undergone several changes during the past years in terms of its name before assuming the name “Bucaspor 1928”. However, their respective names did not coincide during any sporting season and therefore, it is impossible that they have generated any confusion to the public opinion in this regard.
- The jersey colours of the Original Debtor were yellow and navy before being changed to orange, white and dark blue. On the other hand, the New Club has changed its jersey colours several times during the past years and it currently uses a combination of yellow and indigo.
- Both clubs have different logos, contact details and social media pages. Similarly, their respective offices are located in different addresses within the same region.
- The New Club uses the same stadium that had been used by the Original Debtor only due to a “shortage” of stadiums in the province of Izmir. In particular, said area has four stadiums to cover the needs of seven professional and amateur football clubs operating in the same region.
- Following the relegation of the Original Debtor to an amateur division, several of its players were registered with the Appellant solely for the purpose of maintaining their professional status without having to move from the greater area of Izmir. In fact, the New Club even paid a fee to the Original Debtor against the transfer of two of its players.
- Both clubs operate under separate administrations and there is no individual concurrently serving as a member of their boards.
- The New Club never acquired the federative rights or any assets of the Original Debtor and both clubs have always been treated as separate entities by the TFF.
- Given that the Original Debtor has already served the transfer ban imposed pursuant to the DRC Decision, any sanctions imposed on the Appellant for the same infringement would constitute a violation of the established legal principle *ne bis in idem*.

33. On this basis, the Appellant submits the following prayers for relief:

1. “[Accept] *this Appeal Brief against the [Appealed Decision];*
2. [Annul] *the [Appealed Decision] and issue an award determining that the Appellant is not the sporting successor of the [Original Debtor] and, therefore, not liable for the debts incurred by the [Original Club] towards the Player;*
3. [Fix] *a sum to be paid by the Respondents, in order to contribute to the payment of the Appellant legal fees and costs in the amount of CHF 20,000.00/- (twenty thousand Swiss Francs); and*
4. [Condemn] *the Respondents to the payment of the whole CAS administration costs and arbitrator fees.”*

B. Eduardo Fernandes Pereira Gomes

34. The submissions of the First Respondent, in essence, may be summarized as follows:

- At the end of the sporting season 2018/2019 and following the relegation of the Original Debtor to an amateur category, the then president of the club, Mr. Cihan Aktaş, acquired Tire that was participating in the fourth professional division of Turkish football. The intention of Mr. Aktaş was to continue the sporting activities of the Original Debtor while avoiding the fulfilment of its financial obligations.
- Once acquired control of Tire, Mr. Aktaş gradually transformed the entire sporting identity of said club by changing its name, logo and colours. In particular, Tire assumed the name “Bucaspor 1928”, changed its colours to dark blue and yellow in order to resemble the colours of the Original Debtor and adopted a logo that is identical to the logo of the Original Debtor.
- After the transformation of Tire’s sporting identity had been completed, Mr Aktaş publicly announced that the activities of the Original Debtor would be continued through the Appellant and urged the fans of the Original Debtor to henceforth support the Appellant. In fact, the Original Debtor has not participated in any football activity as of the sporting season 2020/2021.
- Contrary to the Appellant’s assertions, the New Club substituted the Original Debtor in using the Yeni Buca Stadi and it is currently the only club that uses said stadium as its home venue.
- Before assuming the presidency of the Appellant, Mr. Aktas was also the president of the Original Debtor’s board of directors.

- After the Original Debtor was relegated, seven of its players were transferred to the Appellant.
 - In view of the above, the established public perception is that the Appellant is the sporting successor of the Original Debtor, as it has been confirmed by several references in the Turkish media.
35. On this basis, the Player submits the following prayers for relief:

“a) Reject the appeal submitted by “Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi” against the decision passed by the FIFA’s in 14 February 2022;

b) Reject and dismiss all requests made by “Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi” in its appeal;

c) Confirm the challenged decision and its terms and recognize that “Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi” is the sporting successor of the Club “Bucaspor Kulubu Dernegi”.

d) Condemn “Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi” to support the totality of arbitration and administrative costs inherent to the current appeal and also a contribution towards the First Respondent’s legal fees and other expenses incurred in connection with the proceeding, as provided in article R.64.5 of the Code”.

C. FIFA

36. The submissions of FIFA, in essence, may be summarized as follows:

- Following the relegation of the Old Club to an amateur division, Mr. Cihan Aktaş and Mr. Mehmet Sevinç, which were the main stakeholders of the Original Debtor at that time, decided to transfer the sporting identity of Bucaspor to a new entity aiming to maintain its football activities while avoiding the fulfilment of its outstanding debts. For that purpose, they acquired control of Tire through CI Group.
- Following the acquisition of Tire by CI Group, Mr. Aktaş established himself as the president of the Club’s board and publicly announced that there was a new club with the name Bucaspor that the fans of the Original Debtor should support.
- The Appellant gradually adopted all the elements that constitute the sporting identity of the Original Debtor, including its name, logo, team colors, registered offices and stadium, as well as several of its former players and a former coach. At the same time, the Original Debtor, while formally remaining under the administration of Mr. Sevinç ceased every football activity. Currently, Mr. Sevinç publicly portrays himself as the Vice – President of the New Club.

- The Appellant also relies on the sporting history of the Original Debtor and it publicly portrays itself being the same Bucaspor as the Old Club with the purpose of profiting from the latter's fanbase. For that purpose, the Appellant also appropriated the social media accounts of the Old Club.
- In light of the above and in accordance with the established jurisprudence of CAS in this regard, the Appellant should be considered the sporting successor of the Old Club.

37. On this basis, FIFA submits the following prayers for relief:

“(a) [Reject] the requests for relief sought by the Appellant;

(b) [Confirm] the Appealed Decision;

(c) [Order] the Appellant to bear the full costs of these arbitration proceedings;

(d) [Order] the Appellant to make a contribution to FIFA's legal costs.”

V. JURISDICTION

38. The Appellant submits that the jurisdiction of CAS derives from Article 57(1) FIFA Statutes, as it determines 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 within 21 days of receipt of the decision in question”.
39. The Respondents state that jurisdiction of CAS to decide on the present matter is “uncontested”. Furthermore, the jurisdiction of CAS is further confirmed by the Parties by means of their signature on the Order of Procedure.
40. It follows that CAS has jurisdiction to decide on the present dispute.

VI. ADMISSIBILITY

41. The Panel notes that the present Appeal was filed within the deadline of 21 days set by Article 57(1) FIFA Statutes. Further, the present Appeal complied with all other requirements set in Article R48 of the CAS Code, including the payment of the CAS Court Office fee.
42. It follows that the Appeal is admissible.

VII. APPLICABLE LAW

43. Article R58 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”.

44. Pursuant to Article 56(2), of the FIFA Statutes, “[t]he 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”.
45. In principle, the Parties do not contest the primary application of the various FIFA Regulations and additionally, of Swiss Law on the present matter.
46. Under such circumstances, the Panel is satisfied that the various regulations of FIFA are primarily applicable, in particular the FIFA RSTP (edition January 2021), and subsidiarily Swiss law, should the need arise to fill a possible gap in the various regulations of FIFA.

VIII. MERITS

47. In light of the clarifications provided by the Second Respondent regarding the extent and the circumstances of the transfer ban imposed on the Appellant by means of the Appealed Decision, the Panel observes that the only contention among the Parties revolve around the issue of the alleged sporting succession between the Original Debtor and the New Club. The Appellant maintains that the two clubs remain until today two separate legal entities that do not share the same sporting history and operate independently from each other. In support of its view, the New Club *inter alia* highlights that the Original Debtor is still affiliated with the TFF and has the right to compete in the amateur categories of Turkish football, while the Appellant participates in a professional division. Therefore, it would be non-sensical for a professional football club to wish to be bound with, and assume the liabilities of, a football club that competes in the amateur divisions of Turkish football. The Respondents submit that after its acquisition by CI Group, the Appellant gradually appropriated all the elements that identify the Original Debtor as a sporting entity and therefore, serves as a vehicle for the continuation of the Original Debtor’s activities. In essence, the Respondents assert that the sole purpose of CI Group when acquiring Tire was to transfer the football and commercial activities of the Original Debtor to the New Club and maintain the historical entity of “Bucaspor”, while simultaneously avoiding the fulfilment of the Original Debtor’s financial obligations.
48. Before delving into the merits of the matter at stake, the Panel notes that this is not a “textbook” case of sporting succession as alleged by the Second Respondent, in the sense that the “sporting predecessor” in question was never disaffiliated from the TFF nor set under liquidation as in the majority of similar cases adjudicated by CAS. On the contrary, the Original Debtor is – at least legally speaking – an active entity that maintains its right to participate in the highest amateur category of Turkish football, despite not having demonstrated any football activities since the sporting season 2020/2021. In assessing whether said element warrants any further analysis, the Panel recalls that Article 24^{ter} (1) FIFA RSTP provides as follows:

“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”.

49. In view of the wording of the aforementioned provision, the Panel remarks that the draftsman of the pertinent regulations does not require that the previous club ceases to exist as a precondition for one to ascertain the succession between two football clubs. Rather, the Panel finds that sporting succession can also occur when a club transfers all the elements that constitute its sporting identity to a new entity, while continuing somehow to exist (but with a different identity). In reaching this conclusion, the Panel recalls that the concept of sporting succession was primarily created to avoid abuse of clubs trying to escape from their financial obligations. Abuse can take many different forms and the concept of sporting succession is designed, in principle, to catch them all and, consequently, is not limited to certain schemes that may be adopted for that purpose. Accordingly, the fact that the Original Debtor remains, at least formally, an active entity does not affect the assessment of the Panel in respect to the issue of the alleged sporting succession between the Original Debtor and the Appellant.
50. After having established the above, the Panel does not see any reason to depart from the established jurisprudence of CAS regarding the criteria that shall be taken into consideration in assessing whether sporting succession has occurred. As a matter of fact, there is ample CAS caselaw confirming that the identity of a football club is constituted by elements such as its name, colors, fans, history, sporting achievements, shield, trophies, stadium, roster of players, historic figures and so forth, that allow it to distinguish itself from all the other clubs (CAS 2007/A/1355, CAS 2011/A/2614, CAS 2011/A/2646, CAS 2012/A/2778, CAS 2016/A/4550 and CAS 2016/A/4576). Hence, *“the prevalence of the continuity and permanence in time of the sporting institution in front of the entity that manages it has been recognized, even when dealing with the change of management companies completely different from themselves”* (CAS 2013/A/3425, par.139).
51. Nevertheless, the elements taken into account by the various CAS Panels in determining the issue of sporting succession between two football clubs are not exhaustive, as also indicated from the wording of Article 24ter FIFA RSTP, where the phrase *“among others”* was inserted before the citation of the pertinent criteria. This entitles the Panel to take into account any other element it considers necessary in order to establish whether the Appellant is the sporting successor of the Original Debtor. In this regard, the existence of several elements can lead, in combination and while taking into account the particularities of the case, to the conclusion that the New Club has indeed succeeded the Original Debtor in the sense of Article 24ter (1) FIFA RSTP, although not all elements cited in said provision are met. The overall analysis is warranted, given that the Panel needs the full picture of both clubs in order to take a decision in this regard, as there is no *numerus clausus* that it has to follow in its analysis. Furthermore, Article 24ter (1) FIFA RSTP is silent on how to weigh the different aspects, more particularly whether one element can be set off by others. Finally, the provision does not state what the decisive moment in time is to assess the various elements. The assessment of whether sporting succession exists is therefore left to be decided in the hands of the adjudicatory body in each case.

52. In light of the above considerations, the Panel will proceed in the respective elements that constitute the sporting identity of the clubs in question, as presented by the Parties. Subsequently, the Panel will assess the overall analysis in order to determine whether the New Club is the sporting successor of the Original Debtor.

A. Name

53. As set out above, when acquired by CI Group the New Club was operating under the name “Tire 1922”; in this regard, the Panel notes that within the first months following said acquisition, the Appellant initially changed its name to “Ci Group Buca” before assuming the name “1928 Bucaspor”. Further, in May 2021 the TFF approved the request of the Appellant to operate under the name “Bucaspor 1928”. The Appellant submits that its name refers to the year 1928 as a tribute to the year when the first official sporting event in the area of Tire occurred and it is not to be associated with the founding year of the Original Debtor.

54. The Original Debtor operated since its incorporation under the name “Bucaspor Kulubu Dernegi” or “Bucaspor” before it was renamed as “Buca Gelistirme Spor Kulubu Dernegi”. As admitted by the Appellant, the Old Club was renamed as such during the month of August 2021 i.e., just after the New Club was granted permission to use its current name.

55. The Panel considers that the Appellant has failed to provide credible explanations for the consecutive changes in its name as of its acquisition by CI Group and henceforth. Rather, the Panel finds that ever since the change in ownership occurred, the New Club has constantly amended its sporting name in a manner to move closer and closer to the original name of the Old Club. In this respect, the Panel also rejects the argumentation brought forward by the Appellant according to which the addition of the year 1928 in its name has nothing to do with the Old Club; the Panel recalls that the Appellant was established in 1955 and whereas it used to include a year reference in its name, even before the change of its administration, said year reference was materially different. The Panel observes that the year 1928 has always been graphicly depicted in the logo of the Old Club and it is considered its founding year.

56. Against that background, the Panel concludes that by consistently adopting names that contain references to “Bucaspor” or the district of Buca and the year 1928, the Appellant attempts to appropriate the identity of the Original Debtor.

B. Logo / Crest / Emblem

57. The Panel observes that, while its previous logo was entirely different, the Appellant currently uses a logo (a yellow vine of grapes placed on a blue triangular shield) that is almost identical to the crest used by the Original Debtor until its relegation to an amateur category. In fact, the Panel finds that the New Club has introduced several logos over the course of the years following its acquisition by CI Group, all of which bear a strong resemblance to the original emblem of the Old Club.

58. The Panel also notes that since the Appellant has introduced its current logo, the Original Debtor decided to change its coat of arms for the first time in its history. Currently, the Original Debtor uses a logo that is materially different to its original emblem.

59. Accordingly, the Panel concludes that in choosing its logo, the Appellant could have distinguished itself from the Original Debtor, but it opted not to do so. The mere fact that the logo of the New Club may contain a few individual elements that were not included in the original logo of the Old Club does not suffice to alter the overall perception of the Panel in this respect according to which, the logos in question are in essence identical.

C. Team colors

60. The Panel remarks that pursuant to its submissions, the Appellant admits that the original team colors of the Old Club were yellow and navy blue before being changed to orange, white and dark blue on 16 July 2021.

61. It is undisputed between the Parties, however, that the Appellant currently uses the original colors of the Original Debtor, while prior to its acquisition by CI Group said club's colors were completely different i.e., red and white.

62. The Panel finds that the Appellant was under no circumstances obliged to use the colors of the Original Debtor and therefore, had it wished to be distinguished itself from the Old Club, it could have easily done so by opting not to change its original colors.

D. Players

63. The Panel notes that following the relegation of the Original Debtor at the end of the sporting season 2018/2019, the New Club managed to register as free agents six former professional players of the Old Club due to either the expiration or the mutual termination of their respective contracts with the Original Debtor, as well as a seventh player that was registered with the Original Debtor as an amateur.

64. In this respect, the Appellant submits that, except of the aforementioned players, there were two additional amateur players of the Original Debtor that were transferred to the New Club against a considerable transfer fee. According to the Appellant, if the New Club was to be considered the sporting successor of the Original Debtor, it would have acquired the registration rights of all the aforementioned players without any financial commitments. In support of its arguments, the Appellant further asserts that it is a common practice within the football industry for players to register with various clubs operating in the same region, especially when they were born in said region.

65. Whereas the Panel is mindful of the fact that several players across the football industry tend to transfer between clubs established in the same area, it is surprising to find that all registrations under examination took place right after the New Club's change of administration. Moreover, the Panel notes that the Appellant has failed to submit any evidence indicating that such "exchange" of players between the New Club and the Original Debtor had indeed been a common practice between said clubs even before the former was acquired by CI Group. Additionally, the Panel remarks that four of the players in question were only able to register with the New Club as free agents because the Original Debtor consented to the premature termination of their employment agreements. However, a transfer ban had already been imposed on the Original Debtor at that

time as admitted by the Appellant and therefore, it would only make sense for the Old Club to at least attempt to maintain all the players that were already in its squad.

66. Turning its attention to the two transfer agreements concluded between the Appellant and the Original Debtor, the Panel notes that both agreements pertain to the transfer of amateur players of the Original Debtor to the New Club against a considerable fee. In this respect, the Panel acknowledges that, in the majority of cases pertaining to sporting succession, the new club acquires the federative rights of the players of the previous club free of any financial commitments. Nevertheless, the Panel reiterates that an overall analysis of the clubs in question is warranted in order to determine whether sporting succession has taken place. Looking at the transfers overall (9 players) the Panel finds that they are substantial in number and mostly not at arm's length. Accordingly, the Panel finds that the payment of a fee to the Original Debtor for the transfer of two of its players weakens the importance of this element, but does not erase it when looking at the context of the overall picture created by the elements that constitute the sporting identity of these two clubs.

E. Stadium

67. It remains uncontested between the Parties that since its acquisition by CI Group, the Appellant has been using the New Buca Stadium as its home venue which is located in the province of Izmir. The Appellant further admits that said stadium was also the home venue of the Original Debtor until the cease of its sporting activities. However, the Appellant asserts that it uses the New Buca Stadium pursuant to a lease agreement concluded between the club and the Municipality of Buca, which is the owner of said stadium. Additionally, the New Club submits that it uses the New Buca Stadium due to a "*shortage of stadiums*" in the province of Izmir, in the sense that there are only four stadiums to cover the needs of seven professional and amateur football clubs operating within said region.
68. Nevertheless, the Panel notes that the Appellant already had access to a stadium, located in the district of Tire. In this respect, the Panel considers that the Appellant failed to provide substantiated explanations why it left its stadium and decided to move to a city located 82 kilometers away. Such move is all the more striking considering that the region the New Club moved to lacks a number of stadiums sufficient to cover the needs of all the clubs established in this region.
69. Under such circumstances, the Panel finds that this is an indicator of the Appellant's attempt to appropriate the sporting identity of the Original Debtor.

F. Category of competition

70. The Panel notes that during the sporting season 2018/2019, the Appellant and the Original Debtor were both participating in the fourth professional division of Turkish football. At the end of said sporting season, the Original Debtor was relegated to an amateur division in which it is entitled to participate until today, despite not having demonstrated any sporting activities since the beginning of the sporting season 2020/2021. In this respect, the Appellant submits that it would be non-sensical for a professional club to associate itself with a club participating in a lower division.

71. The Panel does not concur with the argumentation brought forward by the Appellant in this respect; the entire concept of sporting succession is premised on the principle that failing or otherwise inactive football clubs attempt to maintain their operations by either transferring their football identity to, or otherwise creating a new entity. In the vast majority of cases, said new entity participates in a higher football division than the previous club and enjoys the benefits therefrom. In the eyes of the Panel, what would be non-sensical for a football club that had been relegated to an amateur division and had accumulated a great amount in debt, just like the Original Debtor had, would be to transfer its sporting identity to a club with less sporting and commercial potentials than itself. At the same time, the new entity agrees to incorporate the sporting identity of the previous club usually for commercial reasons that pertain to the exploitation of the latter's fanbase and the commercial value of its brand name.

G. Sporting History

72. It remains uncontested among the Parties that until the acquisition of the Appellant by CI Group, the New Club and the Original Debtor were two separate entities on both a legal and a sporting level that did not share any sporting history.

73. Nevertheless, the Panel notes that following the winning of the championship title for the sporting season 2020/2021, which was its first major sporting achievement under the new administration, the Appellant publicly portrayed via its social media accounts that "*11 years of longing is over*". In this respect, the Panel remarks that it was in fact the Original Club that won its last major trophy eleven years prior to said title and there is no evidence whatsoever in the case file indicating that this reference actually pertains to the sporting history of the New Club. Further, the Panel recalls that the Appellant has been constantly using logos containing explicit references to the year 1928, which is considered that founding year of the Original Debtor.

74. Accordingly, the Panel finds that despite having the opportunity to distinguish itself from the Old Club, the Appellant opted to correlate its sporting achievements with the past achievements of the latter, thereby indicating a connection between the two clubs.

H. Coaching staff

75. The Second Respondent submits that following the acquisition of the Appellant by CI Group, Mr. Tolga Dogantez who also used to be the head coach of the Original Debtor, was appointed initially as the Sporting Director and within a few months as the Head Coach of the New Club.

76. The Panel finds that, just like the element "players", this criterion should also be assessed in the context of the overall analysis of the clubs in question and does not bear more weight than the others.

I. Shareholders / Stakeholders / Administration

77. It remains undisputed among the Parties that Mr. Mehmet Sevinç is the current president of the Original Debtor, while Mr. Cihan Aktaş occupies the office of the President in the Appellant's Board of Directors. Further, as set out above, the Appellant's shares are owned by CI Group, following an acquisition that occurred at the end of the sporting season 2018/2019.

78. Against that background, the Panel notes that Mr. Sevinç and Mr. Aktaş are both executives of the CI Group, with Mr. Aktaş being the Chairman of its Board. Further, the Panel finds that, even without officially being a member of its Board, Mr. Aktaş was heavily involved in the administration of the Original Debtor, before assuming its current position as the President of the Appellant's Board of Directors. In this regard, the Panel notes that following the relegation of the Original Debtor, Mr. Aktaş made several public statements on behalf of the latter, indicating that the debts of the Original Debtor would be erased as a result of its relegation to an amateur division and that he was working hard to prevent the creditors of the Original Debtor from "*getting a single lira from this club*". After the acquisition of the Appellant had been completed, Mr. Aktaş proceeded in stating in a public interview that it was not his intention to cease the operations of Bucaspor, as there was "*a team with the name of our district in its name*" and mentioned that "*all Buca should support 1928 Bucaspor*".
79. By the same token and despite not officially being a member of the Appellant's Board of Directors, the Panel observes that Mr. Sevinç publicly portrays himself as the Vice – President for the Appellant, while officially maintains his office as the President of the Original Debtor.
80. In the eyes of the Panel, even without sharing any other members of their respective Boards, the above facts demonstrate a genuine nexus between the natural persons that direct the clubs in question.

J. Legal Form

81. It remains uncontested that the Original Debtor was formed as an association, whereas the Appellant is registered as a single – member joint stock company. Accordingly, the legal form of the Original Debtor is clearly different from the legal form of the New Club, especially at the time the latter passed under the control of CI Group.
82. Accordingly, the Panel finds that there is no connection between the two clubs in terms of their legal form.

K. Headquarters

83. The Appellant admits that both itself and the Original Debtor have their registered offices within the area of Izmir, however located at different addresses.
84. The Panel finds that this is not a particularly important element, because changing headquarters is relatively easy for a club willing to abuse the concept of sporting succession and avoid mandatory financial obligations.

L. Website / Social Media Accounts

85. The Panel observes that there is contention among the Parties about the respective websites and social media accounts held by the clubs in question. In this respect, the Appellant asserts that both clubs hold separate social media accounts and that, as opposed to the Original Debtor, the New Club does not maintain an active website. On the other hand, the Respondents submit that the

Appellant has appropriated the social media accounts of the Original Debtor to take advantage of its fanbase.

86. In this respect, the Panel notes that the social media accounts under the name “Bucaspor” have been active as of 2011 *i.e.*, ten years before the Appellant changed its name as established above. Whereas nowadays said social media accounts refer to the activities of the Appellant, the Panel remarks that they also contain several references to the Original Debtor, especially during the years preceding the acquisition of the Appellant by CI Group. The fact that the Original Debtor – under its new sporting identity as addressed above – may have created new social media accounts, thereby aiming to distinguish itself from the Appellant does not alter the attempt of the latter to create the impression that it is the same Bucaspor as the Original Debtor and consequently, to exploit the fanbase of the Old Club.

M. Sponsors

87. It remains uncontested between the Parties that the company “Folkart”, which is the main sponsor of the Appellant, was also the main sponsor of the Original Debtor. In this regard, the Appellant asserts that said company has been the main sponsor of several football clubs in the region of Izmir, pursuant to a collective sponsorship agreement concluded between the company and the Sports Club Association Foundation of Izmir.
88. The Panel finds that this criterion does not bear more weight than the others in the attempt to establish whether the Appellant is the sporting successor of the Original Debtor. Indeed, it is common within the football market for several companies to be concurrently advertised by several football clubs or to opt to affiliate themselves with a new club from the same area in case their partnership with the previous club was not particularly successful in terms of revenue. In the eyes of the Panel, this element pertains more to the conditions of the football market and the marketing strategy adopted by each company, rather than the sporting identity of the respective football clubs.

N. TFF serial number

89. The Panel notes that the clubs in question are affiliated with the TFF under different registration numbers. According to the submissions of the Appellant in this respect, this is an indication that the two clubs are not identified, as they both maintain their membership with the national football federation independently from each other.
90. Nevertheless, the Panel is not convinced that this is an important element in assessing whether the Appellant is the sporting successor of the Original Club, in view of the circumstances of the matter at hand; whereas having different TFF serial numbers could have served as a pointer against the existence of sporting succession between the Appellant and the Original Debtor, the Panel recalls that both clubs remain affiliated with the TFF and therefore, it would be practically impossible for them to be registered with the national federation under the same serial number, while remaining separate legal entities.

O. Conclusion

91. Against the above factual background, the Panel finds that the Appellant is, when overall assessing all the relevant criteria, the sporting successor of the Original Debtor and it must be held liable for the financial obligations of the Old Club as a consequence thereof. It is evident in the eyes of the Panel that following the relegation of the Original Debtor to an amateur category and in light of its financial distress, Mr. Aktaş and Mr. Sevinç, who at that time were the main stakeholders of the Original Debtor, decided to transfer the activities of the Old Club to a new entity. This view is further corroborated by the public statements made by Mr. Aktaş during that period, according to which it was “*time to take radical decisions*”. Such a radical decision was the acquisition of a football club that was still competing in the professional categories *i.e.*, Tire.
92. Following its acquisition by CI Group, which is the company in which Mr. Aktaş serves as the Chairman of the Board, the Appellant gradually adopted all the elements that constitute the sporting identity of Bucaspor (in a close temporal connection): In particular, the New Club adopted the name, logo and colors of the Original Debtor, it relocated its headquarters in the city of Izmir and uses the same stadium that was used by the Old Club until the latter ceased its activities. Additionally, the Appellant managed to employ during the same registration period nine former players of the Original Debtor and within a few months its former head coach.
93. Further to this, there is no doubt that the Appellant has not only adopted the appearance of the Original Debtor, but it also publicly portrays itself as being the same club as the latter and seeks to avail itself of its fanbase. The fact that the Appellant associates its sporting achievements with the sporting achievements of the Original Debtor and appropriated the latter’s social media accounts underlines not only the reliance of the Appellant on the same “look and feel” as the Old Club, but also a line of sporting continuity that exists and remains unbroken. Given the importance that is attached to the public perception in cases of sporting succession, the question therefore arises as for the reasons the Appellant went to such lengths to appear as the successor of the Original Debtor if it did not want to appear as such in the minds of the public.
94. What is more, the Panel recalls that while the Appellant and Mr. Aktaş embarked on their campaign to adopt the sporting identity of Bucaspor, the Original Debtor – under the administration of Mr. Sevinç, a close associate of Mr. Aktaş – not only remained totally passive in this regard, but it also proceeded in changing its own distinctive features (name, logo and colors) for the first time in its history. Put differently, the Original Debtor has not only failed to react in the Appellant’s attempt to appropriate the sporting identity of Bucaspor but it also facilitated the Appellant in this respect by disassociating itself from the elements that distinguished Bucaspor from the other football clubs and transferring the players to a local rival. In the view of the Panel, this is exactly the kind of practice that the concept of sporting succession intends to neutralize, thereby preventing football clubs from avoiding their financial obligations.
95. Whereas the arguments raised by the Appellant regarding the different ownership, legal form and TFF serial number are fully noted and taken into account by the Panel, they do not prevail over the significant number of elements on the other side, as summed up above, that clearly point to the direction of the existence of sporting succession between the Appellant and the Original Debtor. In this regard, the Panel reiterates that the elements are not exhaustive and are merely

meant as indicative pointers in order to determine whether sporting succession exists. In this context, it is the combination of elements that exist in the present arbitration proceedings, as referred to above, that leads to the conclusion that the Appellant is the sporting successor of the Old Club. In addition, whether a football club is operated through a different legal entity does not bear relevance on whether sporting succession has taken place, given that a football club is “*a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it*” (CAS 2013/A/3425, par.139). Therefore, the arguments submitted by the Appellant that the latter is a different legal entity are of minor importance, at least not to the question as to whether it shall be considered the sporting successor of the Original Debtor.

96. In summary, the Panel underlines that a sporting successor should not be free to pick and choose which elements of the sporting identity of the previous club it wishes to adopt. In other words, the sporting successor cannot select only the positive commercial attributes without accepting that with said selection comes the responsibility to discharge any outstanding liabilities of the old club.

97. It follows that the Appellant is the sporting successor of the Original Debtor that therefore, it should be held liable for the financial obligations of the latter towards the Player.

IX. Conclusions

98. Based on the foregoing, the Panel finds that:

99. Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi is the sporting successor of Bucaspor Kulubu Dernegi.

100. Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi is liable for the financial obligations of Bucaspor Kulubu Dernegi towards Mr. Eduardo Fernandes Pereira Gomes as provided in the Appealed Decision.

101. All other and further motions and prayers for relief are dismissed.

X. COSTS

102. Article R64.4 CAS Code provides as follows:

“At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of arbitration, which shall include:

- *the CAS Court Office fee,*
- *the administrative costs of the CAS calculated in accordance with the CAS scale,*
- *the costs and fees of the arbitrators,*
- *the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale,*

- *a contribution towards the expenses of the CAS, and*
- *the costs of witnesses, experts and interpreters.*

The final account of the arbitration costs may either be included in the award or communicated separately to the parties. The advance of costs already paid by the parties are not reimbursed by the CAS with the exception of the portion which exceeds the total amount of the arbitration costs.”

103. Article R64.6 CAS Code provides the following:

“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.”

104. Having taken into account the outcome of the arbitration, in particular that the Appellant’s appeal was dismissed in its entirety, the Panel considers it reasonable and fair that the costs of the arbitration, in an amount that will be determined and notified to the parties by the CAS Court Office, shall be borne by the Appellant.

105. Furthermore, pursuant to Article R64.5 CAS Code and in consideration of the complexity and outcome of the proceedings as well as the conduct and the financial resources of the Parties, including the fact that FIFA did not render the services of any external counsel, the Panel rules that the Appellant shall bear its own costs and pay a contribution towards the Player’s fees and other expenses incurred in connection with these arbitration proceedings in the amount of CHF 5,000 while FIFA will bear its own costs.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 4 March 2022 by Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi against the decision issued on 14 February 2022 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is dismissed.
2. The decision issued on 14 February 2022 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is confirmed.
3. The costs of the arbitration, to be determined and served to the Parties by the CAS Court Office, shall be entirely borne by Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi.
4. Bucaspor 1928 Kulubu Ci Sportif Hizmetleri Anonim Şirketi shall bear its own costs and is ordered to pay to Mr. Eduardo Fernandes Pereira Gomes, the amount of 5,000 CHF (five thousand Swiss Francs) as a contribution towards his legal fees and other expenses incurred in connection with these arbitration proceedings.
5. FIFA shall bear its own costs.
6. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 27 October 2023

THE COURT OF ARBITRATION FOR SPORT


Sofoklis Pilayios
President of the Panel

Ulrich Haas
Arbitrator


José Juan Pintó Sala
Arbitrator